

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  
GEORGIA STATE CAPITOL BUILDING  
ROOM 341  
ATLANTA, GEORGIA 30334

WEDNESDAY, NOVEMBER 16, 2011  
10:00 A.M.

PRESIDING OFFICER: BRIAN P. KEMP  
SECRETARY OF STATE

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APPEARANCES:

Brian P. Kemp, Secretary of State, State of Georgia

Tex McIver, Member and Vice Chairman, State Election Board

David J. Worley, Member, State Election Board

Ralph F. Simpson, Member, State Election Board

L. Kent Webb, Member, State Election Board

ALSO PRESENT:

Ann Brumbaugh, Esquire

Chris Harvey, Esquire

Lee Brooks, Esquire

## PROCEEDINGS

**SECRETARY KEMP**: Anyone who would like to address us in our public comment period, if you would fill a card out -- we have cards there in the back -- just so we can make sure we call on everyone who would like to address us. We'll allow anyone that wants to speak in the public comment period, we'll give you two minutes. We've got a busy agenda today so I'm going to be pretty strict on that two-minute period.

If you are here for a specific case that is on our agenda, we will give you an opportunity to address the board when we call that case. So don't feel like you need to speak to us during public comment about a specific case that's on our agenda; only if you have an issue that you wanted to let the board hear about. Other than things that are on our agenda today, you can speak to us during the public comment period. But you will have to fill a card out.

Also, I just wanted to remind everyone that this is a meeting that basically serves as an essential probable cause inquiry. The way this works, the Inspector General has 15 minutes to present the case to the board. The respondent will then have five minutes to present any argument or evidence to the board specific to that case. So we will do that when we call the individual cases. But, again, anybody that wants to address us in the public comment period, please go ahead and fill a card out.

Okay. That being said, I will go ahead and call the Wednesday, November 16 State Election Board meeting to order. I'll call on Mr. Simpson to give us the invocation and we'll stand and he will lead us in the Pledge of Allegiance. Mr. Simpson.

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(Invocation)

- - -

(Pledge of Allegiance)

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**SECRETARY KEMP**: Thank you very much, Mr. Simpson. We will now start with our public comment period. Just for a note of clarification for our public comment speakers and for people who are here today that want to address the board with specific cases, when we call your case, we're going to let you come up front. We are going to have a microphone at this first desk on my left, your right. We will have that microphone on so if you do want to address us, you'll be able to do that from there.

We do have one public comment request this morning and at this time, I will call Garland Fabarito. Mr. Fabarito, are you with us? You can come forward. When he gets going, Tommy, you can start the clock. Just pull that microphone out right there, Mr. Garland. You can sit or stand.

**MR. FABARITO**: Thank you, Mr. Chairman. I think this is the first meeting you've had in Atlanta this year and I wanted to bring your attention to a couple of things that have transpired this year. In 2011 there was a Cobb SPLOST and our unverifiable voting equipment recorded a margin of victory for that SPLOST of 79 votes. However, there were 95 blank voting forms in that race and that was the only thing on the ballot. So it's very suspicious as to why people would come in, register, get the card, go to the machine, and then not actually cast a vote in that highly contested race.

The same thing happened almost identically in 2005 in Cobb. The people of Cobb have now been assessed over \$1.5 billion in new taxes on highly questionable, unverifiable voting in those two systems. Exactly the same thing -- turning in blank voting ballots on the election and 114 votes of a deciding margin.

In public comment a couple of years ago we raise these questions. Unbeknownst to us, the Inspector General opened an investigation but did not investigate anything and closed it without contacting any of the individuals who expressed concerns. The investigator in that case has since been -- who did not investigate -- has been arrested and charged with a variety of things: drug paraphernalia, shooting her husband, and also unauthorized (unintelligible) badge.

So there's a lot of questions about this. I just wanted to bring it to the attention of the board and these folks are still on staff.

**SECRETARY KEMP**: Thank you very much. Anyone else wish to address us in the public comment period? Hearing none, before we move on to the minutes, I just wanted to give the board these figures -- I'm sorry. We do have one more. I apologize. CeCe Anderson?

**MS. ANDERSON**: Yes.

**SECRETARY KEMP**: Welcome.

**MS. ANDERSON**: Good morning. I am CeCe Anderson, a women's and children's advocate --

**SECRETARY KEMP**: If you don't mind, ma'am, if you could use that microphone right there. We have somebody recording the transcript so if you could just speak as

loudly as you can.

**MS. ANDERSON**: Is it on?

**SECRETARY KEMP**: It's on.

**MS. ANDERSON**: Thank you, sir. Good morning. I am CeCe Anderson, a women's and children's advocate and also a grassroots organization. I am here for two things. I would like to know whether or not I could receive the outcome of the elections in the last past five years and also I have some complaints that I have been observing around the state, since I do travel around the state and has seen several different infractions that have happened in the elections. They are too numerous to name right now unless you are going to give me an hour to make a comment about it. I do have it in writing and I wanted to submit it to someone this morning.

**SECRETARY KEMP**: Okay. Is that all you have?

**MS. ANDERSON**: Yes, Sir.

**SECRETARY KEMP**: You can submit that to Mr. Culligan.

**MS. ANDERSON**: Okay.

**SECRETARY KEMP**: Can I have a motion by the board to accept the documents?

**MR. WEBB**: I'll move.

**MR. McIVER**: Second.

**SECRETARY KEMP**: Mr. Webb moves; Mr. McIver seconds. Any discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: I would tell you, as well, and the rest of the audience, anyone that needs elections results information or data from our office, they can simply go to our website or call the main number, which is 404-656-2881 and ask for the Elections Division. They'll be glad to help you with those types of requests. Also, as far as complaints, you can always submit anything in writing to us. And also we do have on our website our stop voter fraud website where you can email us information or

complaints. We also have a 1-800 hotline number and we certainly appreciate and want our citizens to help protect the elections process. So we'd be glad to review any information that any of you have in regards to issues like that. Anyone else for public comment?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I wanted to just share a few figures with the board real quick. As you all know, back in August of 2010 we started doing a consent calendar on some of our cases to try to move these cases along and get caught up with some lingering cases that we had. It's actually been a year since we started doing that not counting today's meeting. I just wanted to give you some quick figures.

During that timeframe, we've had the chief investigator present 127 cases to us; we've had the Attorney General's office present 82 cases to us. So we've taken up 209 cases. Of those 209, 80 of those we have taken care of and resolved or closed on the consent calendar. I wanted to thank Chris Harvey and his whole team and Ann Brumbaugh. I think we have shown that we have been moving a lot of cases trying to get older cases closed and I think you'll see as we take up our agenda today that most of our cases that we're dealing with are recent.

So I'm proud of the work that's going on there and we'll continue to push along so we're not dragging these cases out and we're being as efficient as we can even in these tough budget times with some of the limited resources we've got. So I just wanted to make the board aware of that and we're going to continue to track this type data as we go so we can keep you all abreast of our progress on that and make sure we're all being held accountable for doing good, efficient work.

With that, we need to approve several sets of minutes so we'll move on to that. The first one is Number 1 in your tabs which would be the minutes from the Monday, August 8, 2011 meeting. Do we have any changes to the minutes or motion to approve?

**MR. WORLEY**: I make a motion to approve.

**SECRETARY KEMP**: We've got a motion to approve. Is there a second?

**MR. WEBB**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of approving the minutes from the

August 8, 2011 meeting, please signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

The next set of minutes if from the Wednesday, September 21 State Election Board meeting. Do we have any changes to those minutes or a motion to approve?

**MR. WORLEY**: I make a motion to approve those minutes, as well.

**MR. WEBB**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of approving the minutes from the Wednesday, September 21, 2011 meeting, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

The last set of minutes we need to approve is from Thursday, October 6, 2011. Any discussion or changes to those minutes?

(Whereupon, there was no response)

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

**MR. WORLEY**: So moved.

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

**MR. WEBB:** Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries and we have approved all three of the minutes from August 8, September 21, and October 6 meetings.

We will now move on to the Inspector General report and some of our previous consent cases that we're bringing back. Mr. Harvey?

**MR. HARVEY:** Thank you, Mr. Chairman. The first case is Hancock County, 2010-34. This case was presented in February in Macon. It was divided into two sections. We had Edith Ingraham and we had Judge Marva Rice. Judge Rice was bound over to the Attorney General's office. Edith Ingraham, who at the time was the chief registrar, agreed to sign a consent order, which I have and the board has already accepted. They have also provided a remedial plan to prevent the reoccurrence of voting machines not being ready for early voting. I would submit that to the board and recommend that this case be closed as regards Ms. Ingraham.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Is anyone else here today to speak in regards to this case? Anyone else?

(Whereupon, there was no response)

**SECRETARY KEMP:** Seeing none, do we have a motion?

**MR. WEBB:** So moved.

**MR. McIVER**: Second.

**SECRETARY KEMP**: Okay. We've got a motion to approve the consent order and a second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

We will move on to SEB case 2010-110.

**MR. WEBB**: Mr. Secretary, point of order. I think that the motion is to close the case in regard to Edith Ingraham. The consent order would be for Judge Rice and that will be handled under Tab 40.

**SECRETARY KEMP**: Okay. Let me go back and have Mr. Webb restate that motion and let's re-vote on that and make sure we're clear on what we're doing. Thank you.

**MR. WEBB**: I apologize for not being clear. The motion is to close the case with regard to Edith Ingraham and we'll deal with the consent order for Judge Rice under Tab 40. But the motion is to close the case in regard to Edith Ingraham.

**SECRETARY KEMP**: Okay. We've got the motion corrected. Do we have a second?

**MR. SIMPSON**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of the motion, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and I apologize for that non-clarification on my part. Okay. Mr. Harvey?

**MR. HARVEY**: The next case is DeKalb County, 2010-110. This case involved poll workers being late to the polls. As far as DeKalb County goes, DeKalb County has agreed and has signed a consent order. They have also provided a remedial plan that involves an advance early phone tree to notify poll managers and election officials in case there are problems with the polls opening. I would submit this consent order to the board with the remedial plan with the recommendation that it be accepted and the case be closed.

**MR. SIMPSON**: This is to DeKalb County?

**MR. HARVEY**: That is correct.

**SECRETARY KEMP**: Mr. Kemp. Any other questions for Mr. Harvey? Is there anyone else here wishing to speak in regards to this case?

**MR. HARVEY**: Mr. Simpson, just to clarify, the consent order actually is DeKalb County and Rosalynn Smith, who is the assistant poll manager. The other individuals are being taken care of by the AG's office. So it would be DeKalb County and the assistant poll manager, Rosalynn Smith.

**MR. SIMPSON**: So moved.

**SECRETARY KEMP**: Mr. Kemp. So we are moving to accept a consent order?

**MR. SIMPSON**: Yes.

**SECRETARY KEMP**: So we've got a motion to accept the consent order by Mr. Simpson. Do we have a second?

**MR. WEBB**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

We will now move on to our consent cases. The way this works, for those of you who haven't been involved in this process, we've got a number of cases on our agenda under new consent cases that unless someone wishes to specifically discuss one of these cases, we will vote on these in a block. At this time, I will ask any members of the State Election Board if they would like to pull any of the cases off.

(Whereupon, there was no response)

**SECRETARY KEMP**: They do not. Is there anyone else here who wishes to speak to one of these cases?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I will now accept a motion to vote on these on the consent calendar.

**MR. KELLER**: Mr. Chairman, I have one of these consent cases here that I would like to address the board on.

**SECRETARY KEMP**: Which case would you like to discuss with us?

**MR. KELLER**: 00036.

**SECRETARY KEMP**: Thirty-six. Okay.

**UNIDENTIFIED**: If I could ask a question. When you're voting on the block, does that include closing the file? I'd like the City of Baconton -- to ask that that file be closed rather than --

**SECRETARY KEMP**: Mr. Harvey, what is the recommendation on --

**MR. HARVEY**: The recommendation is for closure on all these consent cases.

**UNIDENTIFIED**: Thank you.

**SECRETARY KEMP**: We would be voting to close these cases, which means that these cases will be over with. If you do not want us to close this case, if there's a reason you want to address us to keep the case open, we'll be glad to let you do that.

MS. JONES: Mr. Chairman, I just wanted to speak because I am the one that's a party to the case that he wants to speak about.

**SECRETARY KEMP**: Okay. We'll pull that off the calendar. We're going to pull SEB case number 2011, number 36, Meriwether County -- we will pull that off of our consent calendar. If there's no other objections to the rest of the consent calendar, I will be accepting a motion to close those cases. Just to list those cases, it's 2099, number 53, City of Fitzgerald; 2010, number 1, Ben Hill County; 2010, number 10, City of Baconton; 2011, number 14, Paulding County; 2011, number 44, Montgomery County. With that, I will accept a motion to close.

**MR. WEBB**: Mr. Secretary, I make a motion to dismiss the cases as listed.

**SECRETARY KEMP**: We've got a motion by Mr. Webb. Do we have a second?

**MR. WORLEY**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we have dismissed those cases.

Mr. Harvey, can you give us a little background on 2011, number 36?

**MR. HARVEY**: Yes, Mr. Chairman. Our office received in July an allegation that a candidate had provided false information on a notice of candidacy. The complainant said that the candidate owed back taxes, and therefore when she signed her candidacy affidavit, she was providing false information. Our investigation revealed there were no back taxes adjudicated in any of the localities that were mentioned in Georgia or Florida and therefore we found no violation.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, y'all can make your way to the front. Anyone qualified to address us on this case, you will have 5 minutes. You have to use 5 minutes, but you can if you would like to address the board. If you don't mind, please state your name and your address for the record.

**MR. KELLER**: Mr. Chairman, I am Frank Keller, Charles Frank Keller, from Greenville Georgia, 1502 Gay Road, Greenville, Georgia 30222. I appreciate you letting me speak to you this morning. This case is the result of last year. I was on the board of commissioners in Meriwether County and I decided to apply for reelection and I did. My opponent in this primary election signed a standard affidavit, which I have a copy of, and I understand it's a standard printed form of a declaration of candidacy and affidavit that is used all over the state. And she signed on April 26 that -- this form had her signature notarized, of course, stating that she did not owe taxes at that time, which that's incorporated in this -- by the way, please interrupt me anytime and I will be glad to -- if I lose you on anything.

The fact of the matter, though, is at the time she signed this case [sic] there was a state tax lien on file in Coweta County for sales tax that her business owed to the State of Georgia, and she is the primary owner and officer of that business. She also, at that time, and the taxes were in default, real property taxes, ad valorem taxes, in Bay County, Florida on a condominium that she and her husband owned and that had gone to foreclosure. The property have been bought in foreclosure by an investment group that -- this is the two things: one, the state tax lien was on file and had been on file for many months, if not years, in Coweta County; and the other thing, the property tax had already gone to foreclosure and a FIFA had been issued and the property levied on for the taxes in Bay County, Florida for the condominium.

So to say that the tax had not been, as Mr. Harvey stated, had not been adjudicated, in my opinion, is somewhat ridiculous because a FIFA and a levy on property is a court proceeding and it would have to be adjudicated in some manner, Constitutionally or -- in order for those things to happen.

Now, I've been living in Greenville all my life. I grew up there in the 50s and somewhere back in the 50s -- I don't know if you will appreciate this story or not, but the guy that owned the Standard station in Greenville at that time had a bear in a cage and we little boys would get sticks and go up there and poke at the bear just to hear him growl. Well, I don't know if you keep up with the news, but Mr. Dick Yarbrough's column yesterday in the paper was doing the same thing to our Speaker of the House, Mr. David

Ralston. He was poking at Mr. Ralston, I guess just to see if he could get him to crawl and this goes on forever.

One of the sticks that the media uses, one of those sticks his poking at them -- our politicians -- for not paying their taxes on time. As a matter of fact, a small part of Mr. Dick Yarborough's column yesterday -- I don't know if it if you read it -- did mention that Mr. Ralston's taxes were late. So he was just poking. The reason I came up here and the reason I was telling you this story from the 50s and reminding you of this is that I want -- I want this board to address this issue of taxes instead of just passing it by or dismissing it as almost happened. I want you to either sharpen the stick for the media so they can poke at our politicians for not paying their taxes when they're supposed to order either I want you to say to me and to the rest of the people in Georgia that it doesn't matter if politicians pays his taxes or not because we deserve -- I was a County Commissioner for four years prior to this year. I was active in the ACCG so I went to meetings all over the state -- am I getting to be a burden to you; I'm sorry.

**SECRETARY KEMP**: No, but your time is up. Let me see if anybody on the board as a question for you.

**MR. KELLER**: Would anybody like to stop me? I'd like to finish if I can.

**SECRETARY KEMP**: Well, you just need to wrap up because your time is up and I think we get the point of your comments.

**MR. KELLER**: Oh, what I was going to say is all of these commissioners that I met over these four years, when this issue came up I started calling them and asking them to you have to pay taxes; do you have to pay your taxes to be qualified to be a public official or to run, and every one of them says that, yes, you do have to pay your taxes. So I am reasonably sure that out of almost 10,000,000 people in this state, most of them are very well convinced that a politician has to pay his taxes in order to run for office and hold that office and that is the reason I would like for Ms. Ford to please -- I would like for the onus to be all you, the burden to be on you to settle this case and address this case without dismissing it.

Thank you very much.

**SECRETARY KEMP**: Any questions from the board for Mr. Keller?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here today. Is there anyone else wishing to speak in regards to this case? I would just remind you, if you would, to state your name and address for the record.

**MS. JONES:** Thank you, Mr. Chairman. I am Nancy Jones. I live at 1062 Stribling Road, Woodbury, Georgia. To the board, I want to thank you for the opportunity to be here this morning. I was not expecting to have to speak, however, the evidence is proven and I want you all to know that the allegations of this case went before the Superior Court in Meriwether County on November 1, 2010, and it was an order dismissing this petition accordingly. There was no finding in there. The Court further finds that the Petitioner has failed to carry its burden of proof by a preponderance of the evidence on the allegations made in the petition. Furthermore, after considering the motion to dismiss filed by the Respondent, the Court hereby grants the Respondent's motion to dismiss.

I want you all to know that this case has already been heard and the judge has dismissed it.

**SECRETARY KEMP:** Thank you, Ms. Jones. Any questions for Ms. Jones from the board?

(Whereupon, there was no response)

**MS. JONES:** Would you like to have a copy of this --

**SECRETARY KEMP:** If you have one, that would be great. Do we have a motion to accept?

**MR. WORLEY:** So moved.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have a motion in a second. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP:** All opposed, same sign. That carries. Thank you. Mr. Harvey?

**MR. HARVEY:** Yes, sir.

**SECRETARY KEMP:** Is there anything else you would like to add in regard to this? This board, I don't believe we even have jurisdiction over this, anyway.

**MR. HARVEY:** Well, if there was an adjudication of back taxes, there could be an issue with signing a candidacy affidavit. We never found any evidence of an adjudication of back taxes.

**SECRETARY KEMP**: What about Mr. Keller's point that there was a FIFA? Is that not considered an indication?

**MR. HARVEY**: My understanding is --

**SECRETARY KEMP**: Or are you going based on what the Superior Court says?

**MR. HARVEY**: At this point we are going on what Coweta County tax assessors and Bay County, Florida provided with no information on adjudicated taxes.

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

**MR. SIMPSON**: Do you have a statutory reference for this requirement that taxes be adjudicated?

**MR. HARVEY**: I can find it.

**MR. WEBB**: Mr. Secretary, I think that the issue at hand is that Mr. Keller is stating that Ms. Jones signed her affidavit when she ran for office which included the statement that all of her taxes were paid in full. Just picking up on the details that were provided, I understand there was an adjudication in this case that was brought by Mr. Keller in Superior Court. What I also heard was that Ms. Jones has a business that owed taxes in Coweta County and the business would be responsible for the taxes, not Ms. Jones; that she is the sole owner of that company. And I'm not sure if the affidavit addresses taxes that are due in another state, but it seems like it would be taxes that are due under Georgia. I'm not sure if that will apply to states outside. So -- this is all speculation, but I'm assuming that's why the case was in Superior Court.

**SECRETARY KEMP**: Mr. Keller, did you want to address us -- if you don't mind, come on back up. We'll give you just a minute. Just state your name and address again for the record.

**MR. KELLER**: Charles Frank Keller, 1502 Gay Road, Greenville, Georgia 30222. Mr. Chairman, the filing that Ms. Jones submitted to you was the result of (unintelligible) filing which was -- the case was dismissed because it was the wrong filing. It was a (unintelligible) filing and there was no evidence presented in that court other than her attorneys saying this was the wrong filing. So the case was dismissed on a technicality which had nothing to do with this proceeding, in my opinion. Thank you very much.

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

**MR. McIVER**: What was it you'd have us do, Mr. Keller?

**MR. KELLER:** I would want you to find Ms. Jones in -- that she erred, you know. That she -- false swearing is what it amounts to on her affidavit for candidacy. As far as -- I don't know what this board does as far as asking, so I can't address what you -- I'm somewhat prejudiced. I mean, do you want me to recommend a -- I recommend 30 days in the electric chair, if that's what you're asking. I'm being very facetious, but I don't have any idea of what -- with all due respect, I don't know what your board does in a case like this and I don't know what you're finding is. Normally, we would usually give a verdict before we get into any penalty phase in court. Of course, I realize this is not court.

**MR. WEBB:** Mr. Keller, you said you have the affidavit of candidacy signed with you in your hand?

**MR. KELLER:** Yes, sir.

**MR. WEBB:** Can I see that for a second, please?

**MR. HARVEY:** Mr. Simpson, the applicable code appears to be 21-2-8 with a reference to the Georgia Constitution.

**MR. McIVER:** Mr. Webb, we're going to need to admit that.

**MR. WEBB:** Motion to accept.

**MR. SIMPSON:** Second.

**SECRETARY KEMP:** We've got a motion to accept the affidavit and a second from Mr. Simpson. All in favor of accepting the document for discussion, signify by saying "Aye".

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** The motion carries.

**MR. KELLER:** Mr. Chairman, are there any other questions? Thank you very much.

**MR. SIMPSON:** Mr. Chairman, we've looked at this Constitutional provision Mr. Keller was referring to, and specifically, this Constitutional provision says if such person has been finally adjudicated by the court of competent jurisdiction to owe those taxes, if

that has happened, the person would be ineligible to hold public office. That's the Georgia Constitutional provision.

I think with what we've seen, we have not seen any evidence that she has been adjudicated by a court of competent jurisdiction and that's what the language of the Georgia Constitution specifies, so I will move to dismiss this case.

**SECRETARY KEMP**: We've got a motion to dismiss. Do we have a second?

**MR. WEBB**: I'll second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and the case is dismissed.

We will now move on to re-presentations. Mr. Harvey, case number 2008, number 54, Telfair County.

**MR. HARVEY**: This case was first presented in June of last year involving allegations that Mr. Joe Hamilton was illegally assisting voters and that the County did not provide sufficient privacy during early voting. At that meeting, where there were some people that spoke that made allegations of illegal handling of ballots, improper accounting of ballots, improper procedures in tabulation, the board asked us to go back and review those new allegations.

Investigator O'Neill went back and interviewed everybody who made an allegation and essentially found that nothing could be substantiated that was reported to the board as far as additional allocations with vote tabulation. The County attorney provided a detailed document explaining step-by-step what happened with tabulation and it appears that there were no additional violations that were brought at that meeting.

That being said, however, the original violations appear to still be valid. There are

multiple witnesses that said Mr. Joe Hamilton entered the -- was standing around the tables that had no privacy and sitting around next to people pointing out who they should vote for and telling them who they should vote for. That was witnessed by several officials at Telfair County. The county is also -- it appears to be in violation of 21-2-385 in that they failed to provide suitable places of privacy for the electorates when they were casting their absentee ballots.

The third allegation is difficult. Ms. Beulah Dollar had a P.O. box and she had several family members that lived at that address. She did collect absentee ballots from the mailbox to give to people that lived at her address. However, there is no evidence that she otherwise possessed them. I know this board has a very strict policy in possession of absentee ballots. I don't know if the board would consider this a violation or not without any evidence that there was any other handling.

But based on this, it is recommended that Joe Hamilton and the Telfair County board of registrars, Billie Vaughn, be bound over to the Attorney General's office and I would leave it to the board's discretion on Ms. Dollar and whether Ms. Dollar violated 21-2-574 by processing ballots temporarily.

**SECRETARY KEMP**: And what about Mr. Walker and Mrs. Walker who were listed as respondents?

**MR. HARVEY**: There were no allegations found to substantiate violations on their part.

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

**MR. WEBB**: Mr. Harvey, just a point of clarification. With regard to Ms. Dollar, the other individuals that received the absentee ballots, or the absentee ballots were mailed to them and went to her P.O. box, all she did was pick up the mail and take it to the residence where everybody lived?

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

**MR. WEBB**: Thank you.

**SECRETARY KEMP**: Any other questions for Mr. Harvey? Anyone else wish to speak in regard to this case? Just to remind you, give us your name and address for the record. Welcome.

**MR. MARCHANT**: Mr. Chairman, my name is Joey Marchant and I represent Telfair County, County attorney for Telfair County.

**SECRETARY KEMP**: If you don't mind, please spell your last name.

**MR. MARCHANT**: M-A-R-C-H-A-N-T.

**SECRETARY KEMP**: Thank you.

**MR. MARCHANT**: My physical address is 231 Highland Lakes Drive, Eastman, Georgia 31023. My mailing address is P.O. Box 4218, Eastman, Georgia 31023. I am appearing today on behalf of the former registrar, Ms. Billie Vaughn, who is now retired; the Telfair County Board of Registrars; the former probate judge, Ms. Walker, Ms. Diane Walker; the current Clerk of Superior Court, Mr. Gene Johnson; the current probate court, Ms. Betty Johnson. Mr. and Ms. Johnson are not listed as respondents, however they were -- there were allegations made against them at the previous meeting when the board considered this case. So I am appearing for them as well.

As far as the allegations at the meeting, as far as the counting of votes that involved former Judge Walker, Mr. Johnson, and Judge Johnson, I don't suppose I need to address those as there was not enough evidence to go forward. All those individuals to maintain that the allegations made are false. I was present for the County and I've submitted an affidavit that we do maintain those were false.

As far as the remainder of the case, the initial case that was brought, Telfair County admits that we did not provide adequate privacy during the advance voting period. Just by way of explanation, not necessarily mitigation, I don't suppose, but by way of explanation, this was a period of time but we had our main courthouse under renovation and that was supposed to be a temporary thing. It got stretched out longer than it should have due to some issues with construction. But our registrar's office really didn't have appropriate space at the time and what was alleged as far as there being a table provided and there were people sitting at the table with no partitioning, we realize that was not acceptable.

Going forward from that case with future elections, we went ahead and put some cubicles with partitioning in place immediately. And the election that occurred since then, we actually constructed a new room in that temporary courthouse and we only allow four voters at a time and use the cubicle. So we feel like we have corrected the matter and we would ask that the board consider severing the case between Mr. Coates and the County and allowing us to enter into a consent order with some plan for remediation going forward. We would ask the board to consider that.

**SECRETARY KEMP**: Any questions?

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else?

**MR. McLAUGHLIN**: Members of the board, my name is Ashley McLaughlin, M-C-L-A-U-G-H-L-I-N. My home address is 102 West Bruce Street, McRae, 31055.

**SECRETARY KEMP**: Hold that mic just a little bit closer.

**MR. McLAUGHLIN**: Mailing address is P.O. Box 429, again, McRae, Georgia 31055. I am here on behalf of Mr. Joe Hamilton and Mr. Hamilton is actually here present in the room. He came up this morning. Just by way of getting a bearing in on how we came in contact with this matter, a hearing was held back in 2009 for which Mr. Hamilton received notice that the hearing was to take place. But based on some assurances from the complainants that they were not actually coming because the results of the election ended up being in their favor, we elected not to come; it wasn't financially worthwhile to come. Of course, since the time, things have changed.

Basically, as summarized here a few moments ago by Mr. Harvey, the executive summary of the results of the investigation as provided to me, on the last page where it references potential violations, specifically that Mr. Hamilton entered to the voting compartment while another was voting and unlawfully attempted to influence voters, it's a little tough to deal with that allegation because we were under the impression that one of the problems was there were no voting compartment's; that it was open flat tables. The other allegation that he unlawfully attempted to influence voters -- and it's problematic dealing with these things because in the first hearing, as reported in the verbatim minutes, references were made to unnamed individuals, particularly with regard to one of the complainants who alleged that just generally a man was pregame carloads of people to the polls, which is neither unlawful or uncommon.

We assume, just from the nature of those allegations and resulting summary of potential violations, that those had to be or were probably attributed to Mr. Hamilton or that's who was in mind. That's who the man may have been. Of course, I assume a lot of things that turn out to be incorrect. But basically, I'm here today on behalf of Mr. Hamilton to categorically deny the same and I'm sure if the board desires the same, he could do the same. Mr. Hamilton categorically denies unlawfully assisting any voters; trying to influence any voters. He does openly and freely admit to assisting voters and signed all the documentation as required and presented by the registrar in order to do that, which, by the way, because it was held -- this election also included a federal candidate was seeking office. The number of individuals that he could assist was unlimited. He categorically denies attempting to influence voters.

Mr. Hamilton is a member of the Telfair County Democratic Party and prior to this -- this has had sort of a chilling effect on his whole outlook on elections and I think it's sort of a slippery slope and one of the problems with these types of things -- that is the whole goal of parties in these organizations is to get people to the polls to vote for, hopefully, candidates that they want to get elected. That's what you do when you're trying to get

somebody elected.

Each person that was assisted, there is on file the appropriate documentation in regard to that person. One of the big issues that we take with this problem is the secret vote is not something that becomes less significant the smaller the community you live in. Sometimes I think it becomes more important and I am sure that some of the assisted voters would be a little reluctant to tell a candidate for office that they didn't vote for that candidate if asked directly. So I know that's part of Mr. Harvey's job and he's probably really good at sifting through that.

I think that if you examine the -- Mr. Hamilton cannot control the environment. He can control what Telfair County's history may have been with this board or that we were going to undergo renovation and there weren't private accommodations.

Several of the remarks -- and I'm just going to speak to these two: unlawfully attempting to influence voters, I don't know how you assist voters without communicating with the voters about who was on the ballot, particularly those that can't read or who have difficulty understanding what's on the page. In fact, it's a problem because it destroys the whole secret ballot process, if one were to compare the votes with the voters that were assisted, one would learn that a substantial number of those voters actually voted for the complainants.

But another issue on the side -- and I'll go ahead and wrap this up -- one of the complainants themselves actually admitted to entering the voting compartment herself and walking up behind Mr. Hamilton then observing him pointing to a valid and identifying candidates. To me that would seem to be the same -- I don't know how that constitutes a violation and I don't know how that is any better than what Mr. Hamilton is alleged to have done.

I have here in my possession signed statements from the individual voters that were assisted -- the ones we could reach -- and like I said, Mr. Hamilton is here and I'm sure he would --

**SECRETARY KEMP**: You want us to accept those affidavits?

**MR. McLAUGHLIN**: I do and I will note that they are handwritten. I was in a jury trial yesterday but didn't have time to --

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

**MR. WORLEY**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: We have a motion and a second. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: The motion carries. We will accept those documents. Any questions for Mr. McLaughlin?

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak in regard to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any board members have anything else?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I am ready for a motion.

**MR. WORLEY**: Mr. Secretary, I make a motion to dismiss the case against Beulah Dollar.

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

**MR. WEBB**: Second.

**SECRETARY KEMP**: We have a motion and a second. Any other discussion on the motion for Ms. Dollar?

(Whereupon, there was no response)

**SECRETARY KEMP**: We have a motion to dismiss the allegation on Ms. Dollar and a second. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Do we have another motion to deal with

the Walkers?

**MR. SIMPSON**: Procedurally, can we separate out the County and go back --

**SECRETARY KEMP**: Yes. You can pull out anything you want to.

**MR. SIMPSON**: There's an offer of a consent order. Can your office do that?

**SECRETARY KEMP**: Let me do this if you all don't mind. Do we anybody who would like to make a motion in regards to Ronnie Walker and Diane Walker who Mr. Harvey recommends we dismiss the case?

**MR. WEBB**: Mr. Secretary, I make a motion to dismiss the case against Ronnie Walker and Diane Walker.

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

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

**SECRETARY KEMP**: Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: I've got a motion to dismiss and a second to dismiss the allegations against Ronnie Walker and Diane Walker. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Mr. Simpson?

**MR. SIMPSON**: What would be the proper procedure? To refer to Ms. Brumbaugh to see if she can work out a consent order or --

**SECRETARY KEMP**: Well, you can make whatever motion you want. If the board wants to get a deal together to accept a consent order we can do that. We could refer it to Ms. Brumbaugh and let her work it out. The Chair's personal opinion on this matter would be to refer the rest of this to Ms. Brumbaugh where I think she can actually wade through the back and forth and talk to the individuals that were or were not present and,

you know, figure out exactly what is going on down there and then she can work with all the parties involved to bring resolution and if we can't, we can bring it back -- you know, we can certainly -- if they don't want to agree with that, they will have the right to a formal hearing. That would be, I think in this case, my suggestion.

**MR. SIMPSON**: Then I would make a motion that we refer it to Ms. Brumbaugh.

**SECRETARY KEMP**: So the motion to refer to the AG's office will be for Mr. Hamilton, the chief registrar, Billie Vaughn, and the county board of registrars?

**MR. SIMPSON**: That's right.

**SECRETARY KEMP**: Okay. We've got a motion to refer those three respondents. Do we have a second?

**MR. WEBB**: Second.

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

**MR. McIVER**: Yes, I do.

**SECRETARY KEMP**: Mr. McIver?

**MR. McIVER**: It occurs to me where the County itself has come forward to indicate they're willing to sign or enter into a consent decree with some appropriate form of remediation that we should relieve them of the burden of appearing and deal with them separately. I would be more inclined to have that go to the law department, principally I assume Ms. Brumbaugh, but the law department just to work out the formality of the consent decree and whatever is appropriate by way of remediation and bring that back before us. It does occur to me that a hearing is very much in order for Mr. Hamilton and the actions of those associated with him.

I would be inclined to bifurcate or split this particular matter just so as to relieve the County of the burden of going through a hearing.

**SECRETARY KEMP**: They wouldn't have to have a hearing.

**MR. SIMPSON**: They can work out a consent order before the hearing and that would solve that issue and whoever was to blame would show up for the hearing. Is that correct?

**MS. BRUMBAUGH**: Yes. I handle each respondent individually so sometimes some people sign consent orders and some people go to hearings depending on whether we can

reach a resolution or not. So there is no need to -- you can send them all over to me and I handle them individually, if that makes sense.

**MR. McIVER**: Well, in that event, I'd want the record to reflect that at least one board member believes they should be handled in a summary fashion and that the others, based on your reaction to the offenses, may or may not be bound over for hearing.

**MS. BRUMBAUGH**: Okay.

**SECRETARY KEMP**: Let the record reflect that. Are there any other discussion from the board?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we've got a motion to refer these three respondents to the AG's office and a second. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Motion carries and we can refer those up to the AG's office.

Mr. Harvey, 2009 case, number 20.

**MR. HARVEY**: This case was originally presented and referred back to the investigations division. Channel 2 did a summary report of people who were in the Cobb County jail in October of 2008 and ran that against voter lists and people that had holds with ICE, Immigration Customs Enforcement. At that meeting, three cases were resolved and out of 14 individuals there was some concern expressed by the board that most of these individuals were registered through the Department of Driver Services and that there was no conclusive evidence that they had intentionally requested to register. Department of Driver Services has refined their process whereas now someone has to sign an actual form that says that they registered to vote and check the appropriate box.

The first 14 people that you see on page 2 were either naturalized Americans, they were citizens, or they had been deported. So there was no evidence that they intentionally registered to vote while in a status that would not allow them to vote. So I recommend that those first 14 peoples' cases be dismissed.

We did find, however, that four individuals registered prior to becoming a citizen and in

some cases voted prior to becoming a citizen. Ms. Qasim Cheema was registered in 2005 before he became a citizen. In that, he registered by hand. He voted in 2008. Mr. Duncan Giathi registered -- he was a naturalized citizen and he voted before he became a full citizen. Mr. Fawad Khan likewise voted before he became a citizen. And Craig W. Stephenson, who is not a United States citizen, registered to vote by hand, however he has not voted.

So it is recommended that the four, Qasim Cheema, Duncan Giathi, Fawad Khan, and Craig Stephenson be bound over to the AG's office on charges that are listed.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: I assume you notified these four individuals of our proceedings?

**MR. HARVEY**: Yes, sir.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, any motion from the board?

**MR. WORLEY**: I make a motion to bind those four cases over to the Attorney General's office.

**SECRETARY KEMP**: We have a motion by Mr. Worley to bind over Mr. Cheema, Mr. Giathi, Mr. Khan, and Mr. Stephenson. Do we have a second?

**MR. SIMPSON**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. I believe we need a motion to dismiss the other 14.

**MR. SIMPSON**: So moved.

**SECRETARY KEMP**: Okay. We've got a motion by Mr. Simpson to dismiss the other 14 respondents. Do we have a second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: We have a second. Any other discussion?  
(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of dismissing the other 14 in this case, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and those four [sic] are dismissed.

Mr. Harvey, on to our new cases. 2010, number 6, the City of Cordele.

**MR. HARVEY**: This case involved an election in which case the complainant made five allegations. Several of the allegations, I believe, are not within the purview of the State Election Board. One of the allegations was that Crisp County had not pre-cleared the election with the Justice Department after annexation by the city of Cordele. That appears not to be something that the State Election Board has jurisdiction over. One of the concerns was that when the election was taking place, there was a part of downtown that was blocked off -- a road in front of the voting place was blocked off for Christmas tree lighting. The complainant suggested that that was deterring people from voting. There were signs indicating that people can go to the other street and enter. So it doesn't seem like that is a sustained serious complaint as far as blocking people's access for voting.

The additional allegations, however, were that family members of the candidate assisted people while he was on the ballot and in some cases illegally possessed absentee ballots. Based on that, I would recommend that Gail Wade be bound over for illegal assisting; Kay Williams be bound over for illegal assisting and also illegal possession of absentee ballots.

The other issue is the chief registrar and the board of elections rejected ballots that were assisted by these folks, which does not appear to be a legal reason for rejection. The fact that somebody illegally assists doesn't necessarily correlate with a reason to reject the ballot. But those ballots were rejected and it is recommended that those parties be bound over on those violations. I believe there is someone here to speak on that.

**SECRETARY KEMP**: Are those that we have under the first part of the response, those are all county and city folks?

**MR. HARVEY**: Yes, sir.

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

(Whereupon, there was no response)

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

**MR. COTTON**: Mr. Chairman, my name is Thomas Cotton. I want to ask you a couple of questions, if I can, so I will know how to proceed. There has been substantial --

**SECRETARY KEMP**: Mr. Cotton, if you wouldn't mind, just give us your address for the record.

**MR. COTTON**: That's one of my questions. It is already in your file. Do I have to give it to you again?

**SECRETARY KEMP**: We have someone recording the transcript.

**MR. COTTON**: Oh. Sorry about that.

**SECRETARY KEMP**: Thank you.

**MR. COTTON**: The addresses 119 12th Avenue East, Cordele, Georgia 31015 or Post Office Box 897, Cordele, ZIP 31010.

**SECRETARY KEMP**: Thank you.

**MR. COTTON**: My full name is Edwin, middle initial T, Cotton. Now, is it all right if I talk?

**SECRETARY KEMP**: Yes, sir. You go right ahead.

**MR. COTTON**: All right. I would like to know, though, before getting into this, is the investigatory file that Mr. Hernandez has put together, is it in your respective individual possessions?

**SECRETARY KEMP**: Mr. Harvey, do you want to address that?

**MR. HARVEY**: They have the executive summary and report of investigation, but they don't have the entire file with all the exhibits.

**MR. COTTON**: They don't. All right. I gave affidavits to Mr. Hernandez -- original affidavits to Mr. Hernandez -- and I have listened to those that appeared before me and they have tendered affidavits. I have copies of the affidavits that you have the originals of. Can I tender these affidavits?

**SECRETARY KEMP**: Yes.

**MR. COTTON**: Okay.

**SECRETARY KEMP**: If the board will make a motion to accept those affidavits as I'm sure we will.

**MR. SIMPSON**: So moved.

**SECRETARY KEMP**: I have a motion. Do we have a second?

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We have a motion and a second. All in favor of accepting the affidavits, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and we will accept the documents.

**MR. COTTON**: Give them to you, Mr. Chairman?

**SECRETARY KEMP**: Yes.

**MR. COTTON**: This is the affidavit of Ms. Williams and this is the affidavit of Gail Wade. I also have an affidavit of myself regarding -- I don't know if this is necessary, but while I'm here I guess I might as well do this -- regarding some of the other allegations that were made by the complainant and (unintelligible).

Now, I don't know where we can go with this. I need to tell you another couple of things. This gentleman here is Jerome Outlaw. He is my chairman of the Crisp County Board of elections. Our elections supervisor is a lady by the name of Brenda Turner who was supposed to be here. Actually, I've been getting up every few minutes -- I've probably annoyed you people -- because I have been looking. They haven't come and Jerome just appeared a few minutes ago and tells me that Ms. Turner had a death in the family and therefore she is not here. She was planning to address the charges regarding that which you contend they did wrong; that the elections personnel did wrong. I was going to talk to you about Gail Wade and Ms. Williams. Therefore, I'm a little --

**SECRETARY KEMP**: Let me ask you this. If you feel like Ms. Turner needs to be here to address the board, I think if she has had a death in the family and couldn't get here today, I'm sure the board might be sympathetic to moving this to our next meeting if that's what you like to do.

**MR. COTTON**: Would it be possible to move it to this idea of a consent order so that we don't have to make this long trip back up?

**SECRETARY KEMP**: Well, that's a decision that the board would make. You could certainly request anything you would like of us.

**MR. COTTON**: Well, my two ladies --

**SECRETARY KEMP**: I will tell you that if we proceed, you know, we are going to probably act today. I can't promise that we are, but if you are wanting Ms. Turner to be here, now would be the time to ask us not to proceed with this case that we will move on if the board sees fit and we can address this at another meeting. Or if you want to go ahead and speak on behalf of your clients, we can move forward.

**MR. COTTON**: Let me ask you this. Can we bifurcate this thing such that Turner and Jerome reappear at the next meeting and Wade and Williams are dealt with here today?

**SECRETARY KEMP**: I would assume that we can do that.

**MR. McIVER:** We would have to do it by motion. He would need make a request and state the grounds.

**SECRETARY KEMP:** Well, we can certainly -- I think it appears that the board is willing to do that if you would like to request of us now to hold off on part of his case dealing with Ms. Turner and the County, we could consider that.

**MR. COTTON:** That's what I would like to do, Mr. Kemp, if at all possible because inasmuch as she was coming, I don't even know quite what --

**SECRETARY KEMP:** Does the board have a motion to remove the respondent Ms. Turner and the City of Cordele, Crisp County Board of elections, the chairman, Mr. Outlaw, off of the agenda today due to Ms. Turner having a death in the family and we can address that at our next meeting?

**MR. SIMPSON:** So moved.

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

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Any more discussion? Anyone else wishing to speak in regards to this motion?

**SECRETARY KEMP:** Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** We will deal with that, Mr. Harvey, at our next meeting. Now, Mr. Cotton, if you want to address Ms. Wade and Ms. Williams.

**MR. COTTON:** Ms. Wade is the wife of our chairman that was involved in the election that's under scrutiny here. Ms. Williams is the sister-in-law. They were both actively involved in campaigning. We're talking about eight total votes. I realize that one total vote is probably --

**SECRETARY KEMP:** One too many.

**MR. COTTON:** Yes. And that would not be looked upon with any sort of -- I don't

know what. I'm thinking that the total votes were 150 points -- that there was 150 points difference. There were eight --

**SECRETARY KEMP**: Let me just tell you, Mr. Cotton, we are not concerned about the results of the election. We are concerned with potential violations of the law. So if you would like to speak to that, please.

**MR. COTTON**: These ladies in these affidavits have acknowledged that they did wrong.

**SECRETARY KEMP**: Okay.

**MR. COTTON**: They did not know -- they did not realize they were doing anything wrong and I guess I'm just kind of throwing them on the mercy of this committee.

**SECRETARY KEMP**: All right. Any questions for Mr. Cotton?

**MR. WORLEY**: I just want to be clear. You are representing those two women?

**MR. COTTON**: Yes. And they have been totally cooperative. I think that Mr. Harvey will state such. These are two cornerstone members of the First Methodist Church choir and they almost had a coronary when Mr. Hernandez appeared at their door wanting to talk with them about these issues that they didn't even realize that were out there. They talked to personnel at the elections office, Mr. Kemp, and apparently didn't understand what they were told. They thought they could assist 10 people and that's, I think, stated in this affidavit. They just acknowledge their wrong and I recommend that you issue a letter of reprimand. Whatever you can do that's the least consequential.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Thank you. Anyone else wishing to speak in regard to this case? Yes, sir.

**MR. YOWE**: Good morning, Mr. Chairman and the board. I am Antoine Yowe. Since this election, I have relocated --

**SECRETARY KEMP**: Mr. Yowe, if you don't mind, spell your last name and give us your address.

**MR. YOWE**: It's Y-O-W-E.

**SECRETARY KEMP**: Okay. Thank you. And what's your address?

**MR. YOWE**: Since the election I've relocated to 213 Barker Road in Simpsonville, South Carolina.

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

**MR. YOWE**: First of all, I just want to say that I understand that this proceeding today, that there are certain jurisdictions that you do not have. I do want to point out that our local municipality had not been in compliance with a federal law for 20 years. As well, I would like to point out the fact that ignorance of the law is no excuse. We all have to obey each law that is passed down by our state and our government on a daily basis and if we continue to allow people to break the laws that we call insignificant, then we will begin to live in the world that is lawless.

So I am asking this panel to hold the stated individuals accountable and take some harsh action and send a message, not only back to South Georgia, but to Georgia that if you break the law, regardless of your social status, regardless of what position you are in the church, you will be held accountable. Thank you.

**SECRETARY KEMP**: If you don't mind, I have a question for you. The federal law that you referenced that the city has been violating, has it been dealt with in this case or is it something different?

**MR. YOWE**: Since the charges have been made our city have went back and got the Department of Justice to approve the annexation. I would like to point out in a Superior Court case one of the things that was handed down by the judge was for our city and municipality to make sure in all elections moving forward that we have been pre-cleared for the election. But this election that we just had, I just recently found out that there have been some reports to the Department of Justice that there were some things that were not pre-cleared that went on in the election.

**SECRETARY KEMP**: Hang on one second. Mr. Harvey, is that what you were referencing earlier that we didn't have jurisdiction over?

**MR. HARVEY**: That's correct. Not -- are you talking about the election of last week?

**MR. YOWE**: Well, the election in 2000 -- I think it was 2009 or 10. The Department of Justice had not pre-cleared, under the 1965 Voting Rights Act -- had not pre-cleared Crisp County -- Cordele -- not Crisp County -- Cordele in over 20 years.

**SECRETARY KEMP**: So that's what you're saying we don't have jurisdiction over as the State Election Board?

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

**SECRETARY KEMP**: Okay.

**MR. YOWE**: And those that were able to vote in that election were far greater number than eight. But, however, it's still just one -- that one person break the law.

**SECRETARY KEMP**: Any questions from the board for Mr. Yowe?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for taking the time to be here today. Anyone else wishing to speak in regard to this case?

**MR. COTTON**: Mr. Kemp, do I get a rebuttal?

**SECRETARY KEMP**: I will give you just a minute. If you don't mind, state your name and quickly your address again for the record and use the microphone, please.

**MR. COTTON**: Tom Cotton, attorney for the city of Cordele. Regarding the preclearance that Mr. Yowe referenced, that is addressed in my affidavit also. The city had not, for 20 years prior to this election, gotten -- had not even applied for pre-clearance on annexation. That's what we are talking about. There were like 400 properties that had been brought into the city and not properly handled. We had -- we, meaning myself, my staff, and part of the city -- had spent a month or six weeks prior to the election in getting all of this together and done and we had all of these annexation pre-clearance requests in the office of the Department of Justice prior to this election that happened in November.

**SECRETARY KEMP**: We really -- we don't have jurisdiction on that so I'm going to just go ahead and move on.

**MR. COTTON**: Okay.

**SECRETARY KEMP**: Anyone else wishing to speak in regard to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, to have a motion by the board?

**MR. McIVER**: I move we bind over the remainder of this case. We certainly want to include Ms. Wade and Ms. Williams --

**SECRETARY KEMP**: I think that's who we would be binding over; correct, Mr. Harvey?

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

**SECRETARY KEMP**: Just these two individuals: Ms. Wade and Ms. Williams. We have a motion by Mr. McIver. Do we have a second?

**MR. WORLEY**: Second.

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

**MR. SIMPSON**: What about the registrar and the board of elections?

**SECRETARY KEMP**: We've already taken a motion to hold them until the next meeting because Ms. Turner could not be here today.

**MR. HARVEY**: They have been separated out.

**SECRETARY KEMP**: All right. We have a motion and a second. Is there any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we're voting to bind over Ms. Wade and Ms. Williams to the Attorney General's office. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

All right. Mr. Harvey, 2010, number 13, Jenkins County.

**MR. HARVEY**: This case involves a municipal election in Millen. This case was brought to the attention -- a voter went to vote on election day and was told that she had already voted absentee. She knew she had not so she went to the voting office and found out that her daughter had actually completed an absentee ballot application and then signed her -- voted and signed her absentee ballot for her.

When we spoke to the daughter, the daughter indicated that candidate Walter Thomas had come to their home seeking to get absentee ballot applications. He told them, hey, it's fine to fill in your mom's name and sign your mom's name. A couple of days later when the ballot came, he came back and told them, hey, it's fine for you to vote the ballot and sign your mom's name. Give it back to me and I'll take it. So she did that. There were actually two daughters, Shavon Kimbrough and Rahesha Kimbrough. One signed the ballot application for the mother and the other signed the ballot. We know in that case Walter Thomas left with the ballot.

Based on that, we went and pulled the absentee ballot envelope and absentee ballot applications and we found multiple cases where Walter Thomas, Evelyn Reese, and John Washington assisted voters who either did not need assistance or did not qualify for assistance; assisted more people than they were allowed to; and in some cases, may have filled out ballot envelopes in the apartment of Mr. Thomas, or Mr. Thomas's home.

Evelyn Reese, who is a neighbor to Mr. Thomas indicated to the investigator that she may have signed as assisting somebody in one of the stacks of absentee ballot envelopes that she saw at Mr. Thomas's house. There were people that she was signed as having assisting that said she didn't assist me; I don't know who she is. She's never been at my house.

So on the -- there's a chart at the end of the executive summary that lists the voters that voted absentee and who they received assistance by. And Walter Thomas and Evelyn Reese are clearly the most culpable, I believe, in the violations. We recommend that Walter Thomas, Evelyn Reese, John Washington, Shavon Kimbrough, and Rahesha Kimbrough all be bound over on the charges stated. In addition, the chief registrar accepted the absentee ballot from the original complainant without verifying the signature. So our recommendation is that all these respondents be bound over to the AG's office.

**SECRETARY KEMP**: Mr. Harvey, the registrar, she made the original complaint?

**MR. HARVEY**: No, sir. The original complaint is the woman whose daughters voted her absentee ballot for her.

**SECRETARY KEMP**: Okay.

**MR. HARVEY**: I take that back.

**SECRETARY KEMP**: I was thinking the complainant was the registrar.

**MR. HARVEY**: You're correct; I stand corrected.

**SECRETARY KEMP**: So she make the complaint and then had -- was it just one ballot that she didn't check the voter registration card on?

**MR. HARVEY**: As far as we know. Yes, sir.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to speak in regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: No one else? All right. I will accept a motion. I would like to know the board's thoughts on potentially a letter of instruction versus binding over for the registrar since she did make the complaint. But I'm open to whatever.

**MR. HARVEY**: Mr. Secretary, I would like to just add also, there were apparently three absentee ballots that were not certified when they came in -- technically marked as they came in, which is also a violation. It's listed in the report. But there was just the one we know of where it appears she did not check the signature.

**SECRETARY KEMP**: Any other discussion or motion?

**MR. SIMPSON**: I move that we separate out the case against the chief registrar and registrar's office from the other respondents.

**SECRETARY KEMP**: We don't really need a motion to do that. You can just make a motion to deal with whoever you want to.

**MR. SIMPSON**: Okay. Well, I move that we bind over the case against everyone as charged except the chief registrar and the Jenkins County registrar's office.

**SECRETARY KEMP**: We've got a motion by Mr. Simpson to bind over Mr. Thomas, Mr. Washington, Ms. Reese, Ms. Kimbrough -- Rasheed Kimbrough [sic]. Do we have a second?

**MR. WEBB**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of referring to the AG's office, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Do we have a motion to deal with Ms. Becton?

**MR. McIVER**: Well, I'll move that it be bound over to the AG's office for the specific guidance of the appropriate consent order being negotiated that adds the provision requiring re-training so that these actions do not occur again.

**SECRETARY KEMP**: We have a motion from Mr. McIver. Do we have a second?

**MR. WEBB**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Ms. Becton is referred over with the instructions in the motion.

All right, Mr. Harvey, moving on to 2010, number 33; is that right?

**MR. HARVEY**: That's correct. This case involves the Honorable Christina Graham, Superior Court Judge in Chattooga County. It is essentially a question of law more than a question of fact. In 2005 Judge Graham became an inactive member of the Georgia Bar by paying inactive member dues. When she completed her qualification -- her candidacy affidavit prior to running for office in 2008, she signed that she was qualified to hold the

office. The question is essentially whether an inactive member of the bar is qualified to hold the position of Superior Court Judge.

There are code sections cited in the report that, frankly, most of the members of the election board members would be more familiar with than I. We did find an unofficial opinion from Mr. Dennis Dunn in the State of Georgia AG's office essentially saying that a person seeking judicial office requiring the practice of law would have to be a member of the State Bar and be in good standing with the bar rules. I will leave that to the board's discretion and wisdom to apply that law.

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

(Whereupon, there was no response)

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

**MR. BONDURANT**: My name is Emmett Bondurant. My address is 1201 West Peachtree Street, Atlanta, Georgia 30309. I represent Judge Connelly. As a matter of law, there is nothing false in this affidavit. If one reads the investigator's report, as a member of the bar she should have been aware of the requirements to practice law in the State of Georgia, meaning that she should have understood that a judge had to be engaged and authorized to be in the active practice of law. As a matter of Georgia law under the code section, Superior Court judges are prohibited from practicing law as a matter of law.

But even more fundamentally, the requirements and the qualifications for office for the Superior Court are set forth in the Constitution. There is a single requirement set forth in the Constitution and that is that a candidate for a Superior Court judge has been admitted to the bar for seven years. It's undisputed that Judge Connelly was admitted in 1978 and actively practiced law until 1992 when she was first appointed and re-elected multiple times.

The Constitution further provides that the General Assembly could provide other requirements. The General Assembly has by requiring an age requirement and a county of residence requirement and adding that the practice of seven years must be active practice. She had seven years of active practice; in fact, she had 14. But there is no requirement under Georgia law that she be an active member of the State Bar or quote, a member in good standing. Moreover, if one reads the other two provisions in the State Constitution, which I cited in a letter to each of you, dealing with the Attorney General and dealing with district attorneys, the Constitution expressly requires that they be active members in the State Bar. Why is that? Unlike Superior Court judges, in order to perform the duties of those offices, they must actively practice law. A Superior Court judge, on the other hand, is prohibited from actively practicing law.

Finally, this has nothing to do with her qualifications for office. The affidavit is correct. She met all the qualifications. Any issue about payment of bar dues is simply a matter for the State Bar, which accepted her bar dues in 2010 and she paid the back dues as an active member covering years 2005 to 2009 and paid active member dues in 2010 and 2011. The State Bar has accepted it so this is really not an election matter. This is a matter, if for anyone, it's for the State Bar and the State Bar has taken no action whatsoever about the complainant throughout this entire period. There is no case law anywhere that has said that a judge must be an active member of the State Bar at the time he or she runs for office or holds the office. None. And so the affidavit is clearly correct.

Moreover, if you want a simple example, under the way the Constitution is written and the statutes are written, if a lawyer has practiced for seven years, during which time you would have to be an active member, you could become an inactive member. My wife would be a good example. She practiced law for 20 years, decided to go into the ministry, and is now a Presbyterian minister, but is still an inactive member of the bar. She could qualify to run because there is no requirement that she be an active member of the State Bar in order to run for the office.

So the complaint is based on a misunderstanding of the law as the complaint itself reflects. She should know the requirements of practicing law. She does. As a Superior Court judge she cannot practice law. Therefore, we would urge the complaint be dismissed as unfounded.

**SECRETARY KEMP**: Any questions for Mr. Bondurant? Mr. McIver?

**MR. McIVER**: Mr. Bondurant, it's a great pleasure to have you appear before us, sir.

**MR. BONDURANT**: Thank you, sir.

**MR. McIVER**: Someone of your standing on the Georgia Bar. It's a great compliment to the Judge as well that she would have you here. First, are you promising us that your wife is going to run for the Superior Court?

**MR. BONDURANT**: I would like for her to come back and practice law if I had my choice, but she sees a higher calling. Thank you.

**MR. McIVER**: I lost a staff member to the ministry recently and I don't know how you respond to that. When God calls you don't say, well, no this is more important. So your argument today, then, is that -- is this matter properly before us or not?

**MR. BONDURANT**: On its face, the complaint is not well stated. But also if there were anything to deal with about whether she paid the proper amount of dues, that is a matter exclusively not for the election board, but for the State Bar. So it really is two

arguments. There is no election violation because there is no false statement. She was fully qualified under the Constitutional laws of the state of Georgia to run.

**MR. SIMPSON**: Isn't there some statute that requires an objection to the qualifications of candidates be filed within so many days of an election or filing of notice of candidacy?

**MR. BONDURANT**: I believe that also to be the case and no objection was filed.

**MR. SIMPSON**: It will put it in the jurisdiction of the Superior Court if the statute provides for that relief. Is that correct?

**MR. BONDURANT**: If somebody filed an objection on that basis and it went to a Superior Court, I would expect the Superior Court to dismiss it for exactly the same reasons.

**MR. SIMPSON**: I mean the fact that the statute provides for that remedy, does that take it out of our jurisdiction?

**MR. BONDURANT**: Candidly, I don't know the answer to that question, but intuitively, I would say it would take it out of the jurisdiction if there were such a complaint. That would put it in the Superior Court. But in the absence of a complaint, certainly I think you would have jurisdiction to deal with false statements and affidavits of candidates. If a candidate certified -- as one of the earlier cases that you heard -- that they were qualified to run what they had been adjudicated but were still liable for taxes, then that would be a violation of that affidavit. But here it's a purely factual matter, or a purely legal matter. The question is what she signed the affidavit that says I'm qualified for office, was that a true statement or not? It was a true statement because as a matter of fact she was qualified to run for the office and active membership in the State Bar is not a condition of her running for office.

I hope that answers your question. I may have told you more than you wanted to know.

**SECRETARY KEMP**: Anybody else? Anyone else wishing to speak in regard to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: If not, I'm ready for a motion.

**MR. McIVER**: I move that we close this matter. I have an argument at the appropriate time, but for now, I'll make the motion.

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

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have a motion and a second. Any other discussion? Did you want to make an argument?

**MR. McIVER:** Perhaps it's not necessary, but my view is this is more a question of the bar and how the Georgia Bar how the Georgia Bar will deal with this matter, no so much us. Since we do not have an a question before us of the objection to candidacy or the veracity of the candidate's affidavit, in my judgment, it does not fall within the purview of the SEB, but rather the Georgia Bar should, in this instance, indicate how they treat the status of somebody that's inactive.

For example, I'm a member of other state bars and I'm inactive in those bars (unintelligible) qualify for practice before their courts. But those statutes are very clear as to what my privileges are and it's largely appearances more than anything else that I can function as a member of the bar and in what regard and that's the way I interpret Georgia's. So for those reasons and others that may be apparent, I would hope that our motion is favorably ruled upon here.

**SECRETARY KEMP:** Mr. Worley?

**MR. WORLEY:** Well, I would vote to dismiss the case as well because I don't believe as a matter of law that the judge made a false statement because she appears to have met all of the qualifications of the office. I did look at the cases that Mr. Harvey had cited and Mr. Dunn's unofficial opinion of the Attorney General and those cases seem to be based on statutory requirements that someone be a member of the bar for a certain number of years preceding an election and that is specifically stated in the statutes in relation to those offices. That's not the case here and I'm in agreement that there is no requirement in the Constitutional statute that someone be an active member of the bar to run for the Superior Court.

**SECRETARY KEMP:** Do y'all think it would be worthy of us addressing this with the elections advisory council? Is there language in the code that would make sense to clean up this or do you think the law is speaking the right direction now?

**MR. SIMPSON:** I think it's a matter for the State Bar to address. And I think there will be a lot of lawyers who are surprised that you don't have to be an active practicing attorney to qualify to be a Superior Court judge. But I think on close inspection, as we've seen here today, that's the case. But if the State Bar or Judiciary thinks that should be changed, that's a matter for those on the legislative council and the legislature. It's not a matter for us. I think that would be the way to do it.

**SECRETARY KEMP**: Well, for those folks that have an influence with the bar, if there's anything we can do in the Secretary of State's office that they think needs to be done legislatively to clear this up where we don't have to spend time on these type things in the future, we're certainly willing to do that.

Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of dismissing this case, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

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

All right, Mr. Harvey. Moving on to case number 2010, number 66, Ben Hill County.

**MR. HARVEY**: Yes, sir. This involves the August 10, 2010 runoff election. At one precinct they were using the new scanners that are used for drivers licenses to check people in to vote. At that precinct, Frances Young, who is the manager, thought that optic scanner replaced the voter certificates so there were no voter certificates that were done at their precinct. It's recommended that -- the executive summary has citations for Cindy Dunlap as the elections supervisor for not providing adequate training and also the individuals -- we've got the state board rule listed, but also I would add the state law 21-2-431 and 21-2-432 for not using voter certificates for the precinct.

I received a letter from the attorney for Ben Hill and I don't know if she is present. She is present. So I recommend that respondents be bound over on the charges stated. In addition, as I said, 21-2-431 and 21-2-432 that are not listed in the summary.

**SECRETARY KEMP**: Any questions for Mr. Harvey? Yes ma'am.

**MS. SAWYER**: Good morning. My name is Toni Sawyer. My mailing address is Law Offices of John T. Croley, Junior, P.O. Box 650, Fitzgerald, 31750. As Mr. Harvey stated, I am the County attorney for Ben Hill County and I am here on behalf of Ben Hill County; the Ben Hill board of registration and elections; and Ms. Cindy Dunlap, who is the supervisor of the elections office.

As Mr. Harvey stated, this goes back to August 10, 2010, special election for sales by the drink. Ms. Frances Young was actually the assistant poll manager at one of our voting precincts. She failed to take voter certificates. Actually, she failed to take them out of the box; she just didn't do it. At the end of the day, our supervisor, Ms. Dunlap, contacted Ms. Young because she noticed there were no voter certificates for the 25 people that voted at this precinct. She contacted Ms. Young. Ms. Young said she didn't provide any voter certificates. Ms. Young was called and the next day and Ms. Dunlap and the chairman of the board of registration and elections spoke with Ms. Young again. She again admitted she did not give any voter certificates.

I do want to make sure you understand it was only 25 people. It's a real small county. She could've called. But Ms. Young did state that she did not provide voter certificates at that time. Ms. Young was notified that she was going to be let go and that a complaint was going to be filed and that's exactly what our office did.

There was adequate training prior to the election. All the poll workers were trained. In addition to the fact that there was a new scanning system, Ms. Young was very familiar with voter certificates because she has worked with us for years prior to the August 10, 2010 election and we do have in storage voter certificates where she has signed off on them before.

I stand before you today and respectfully request that you bifurcate this complaint and hold Ms. Young accountable for her actions. She was well aware of what she was supposed to do. Our board gave adequate training. Ms. Young, as I stated before, as provided for certificates in previous elections which she signed off on and I would just request that you please dismiss this complaint as to And Hill County, the board of registration and elections, and Ms. Dunlap.

**SECRETARY KEMP**: Any questions for Ms. Sawyer? Is there anyone else wishing to speak regarding this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any thoughts from the board? I will just add that I know Ms. Dunlap; I have seen her at our many training sessions and I know they're very diligent about attending that and doing what they're supposed to do. I have visited there several times and I certainly would think that a letter of instruction and maybe some direction from the board to make sure the counting assures us the proper training is going on may be in order. I'm certainly willing to bind over Ms. Young ordeal with her how ever the board would like. I want to see with the direction of the board will be.

**MR. SIMPSON**: I move to bind over Ms. Young.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: All right. We've got a motion to bind over Ms. Young and a second. Any other discussion?

**MR. WEBB**: I'm sorry. Can we get a clarification of the motion.

**SECRETARY KEMP**: The motion was to bind over Ms. Frances Young to the AG's office and we had a motion and a second. Is Ms. Young here? I want to make sure we allow her to speak if she wanted to. Okay. Any other discussion on this motion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of binding over, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

Do we have a motion dealing with Ms. Dunlap and the board of elections? I'll make a motion that we sent a letter of instruction to the board of elections and Ms. Dunlap in regards to this matter and also require the County to submit to us so that we are assured that the proper training is going on with the poll workers where we won't have this happen again in Ben Hill County.

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

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

**MR. McIVER**: May I offer an amendment that they be required to submit a training program for which your office, Mr. Secretary, would determine (unintelligible).

**SECRETARY KEMP**: Do you want to make a substitute motion? Would an amendment be in order?

**MR. McIVER**: I will just move to amend and see if we get a second.

**SECRETARY KEMP**: All right. We've got a motion to amend. I will second that. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Now we're going to vote on the amended motion. Everybody clear on the board with the amended motion is? Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: All in favor of the amended motion that was seconded by myself signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

**MS. SAWYER**: Thank you.

**SECRETARY KEMP**: All right. Case 2010, number 127, Screven County.

**MR. HARVEY**: This case involves the 2010 general election runoff. We had monitors doing inspections of voting places. A monitor went to two precincts in Screven County and found out that they had only two poll workers working at the time. It was brought to the attention of Judge Brown who said that she was only staffing with two because of budgetary constraints. However, she did correct the problem and added the third additional poll worker after being advised by our office.

We've got Screven County and Judge Brown cited under 21-2-90 for not staffing precincts with a chief poll manager and at least two managers. I don't know if the board is interested in a consent order or referring to the AG's office.

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

**MR. WORLEY**: Mr. Harvey, it's unclear to me from your report whether they had only two poll workers at the two precincts that were brought to your attention or they had only two poll workers at every precinct in the county.

**MR. HARVEY**: I know they had only two poll workers at every precinct. One second, please. I don't believe we know the answer to that question, Mr. Worley.

**SECRETARY KEMP**: Mr. McIver?

**MR. McIVER**: Mr. McIver . What is your recommendation for this, Mr. Harvey?

**MR. HARVEY**: Our recommendation would be that they be bound over to the attorney general's office.

**SECRETARY KEMP**: Mr. Simpson?

**MR. SIMPSON**: There is a statement in your report that said payroll records for personnel staffing would suggest three workers were present after Judge Brown was notified.

**MR. HARVEY**: That is correct. She corrected the problem.

**MR. SIMPSON**: She corrected the problem immediately?

**MR. HARVEY**: Yes, sir.

**SECRETARY KEMP**: But that was after our investigator --

**MR. HARVEY**: That is correct.

**SECRETARY KEMP**: All right. Anyone else wishing to address us on this case? Is there anybody here from Screven County?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. I guess we're ready for our motion.

Mr. McIver. I move to bind it over.

**SECRETARY KEMP**: I will second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of binding over to the attorney general's office, signified by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

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

All right, Mr. Harvey. 2010, number 128, Chatham County.

**MR. HARVEY**: This case involved the November, 2010 general election in Chatham County. The allegation by the voter was that she was not afforded sufficient privacy in casting her vote; that the DRE machines were too close together to where the check-in table was; and the people standing in line could see how she was voting. The investigation revealed -- she also provided a photograph that might be helpful to the board if the board would like to see a photograph of the polling place.

**SECRETARY KEMP**: We don't need a motion to accept our own document, do we?

**MR. HARVEY**: I don't believe so. The explanation of Chatham County was that they were using a school and had previously been using a much larger space. When they got there to set up, they were put in a much smaller room and they do the best that they could with the space they were given. That being said, however, it does appear that there were not six feet between the potential voters at the DRE machines.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, anyone else wishing to speak? If you don't mind, just state your name and address for the record.

**MR. BRIDGES**: My name is Russell Bridges and I'm the elections supervisor for Chatham County. The address is 1117 Eisenhower Drive, Savannah, Georgia. We received this complaint two days after the election. We were not notified by the voter on the day of the election so we were not afforded an opportunity to go out and actually inspect the site. Had we gotten this complaint from the voter during the operating day, we would have sent some of our staff out to measure this.

I reviewed this picture and, you know, quite honestly, when I received the picture in the mail, I was rather concerned that a voter was taking pictures inside a polling place. The poll manager and I had a discussion about this after I received it. Since I was not aware of it, I wanted to get the facts of the case. The voter attempted to take pictures inside the

polling place several times and he did stop her. However, this was sort of a parting shot heading out the door.

Had she contacted us and we had a chance to measure this out to see if there was a problem, we would have taken steps to correct it at that time. In my view -- you all have the picture; I didn't bring a copy with me -- it's really not conclusive that they are within six feet. If you look at where the machines are placed, it is beyond where the line is. The backs of those voters in line for the check-in table are to the back, or back to the machine, and the line starts off to the right of it. There may be some room for a judgment call here, but I don't feel like it is within six feet. Again, had we been afforded an opportunity, we would have corrected it.

The poll manager had never set up in this room. He came in at 6:00 in the morning and was informed by the school that they had relocated him to the health education room. So I think he did an admirable job. Once we did receive this, we did work with him and adjust for the runoff that followed on November 30 and had no further complaints. But this one voter was the one person that took exception to this issue from the complaint that was addressed to you, sir, you will note that there were several other things that she found exception with, also.

**SECRETARY KEMP**: And that was after you all told her she couldn't take her picture in the polling location?

**MR. BRIDGES**: Yes, sir. So I think the manager did quite a job in managing this person who was in the poll for about 15 minutes creating some measure of consternation. But, you know, she challenged the person at the express poll when they took her receipt and they wrote a number: What are you writing this for; this is privacy. These types of things. I do not believe we have a true violation here and, again, we have no way of checking since we were not afforded that opportunity on that day.

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

**MR. McIVER**: Mr. Bridges?

**MR. BRIDGES**: Yes, sir.

**MR. McIVER**: Thank you for coming all the way today.

**MR. BRIDGES**: It's a long trip.

**MR. McIVER**: We've done the reverse. We know.

Obviously, one of our obligations is to ensure the integrity of voting and wrapped around that is making sure that it is simple and people know who is really in charge. So my concern here is, if I could use an example, say your poll manager arrives and the school official shows them a room that is ridiculously small -- janitor closet or something that absolutely wouldn't do. What is the authority of the parties here? What authority does the poll manager have? What should he have done given even a worse facility to this? And I will close by asking is this something that we need to clean up by way of legislation? We regularly ask the Legislature to assist us in making this code more understandable and more simple in this regard. But I see the conflict here of the school official versus election official. Perhaps you could help me with that.

**MR. BRIDGES:** Well, in this case had the poll manager been shown, say, a janitor's closet, he would have taken exception to that. When he saw the room, he judged that there was sufficient space, albeit significantly smaller than the cafeteria that he is normally used to. In looking at the photo, there is sufficient space in there for him to manage it. The line is outside -- the primary line is outside the door of the poll it and everything is arranged inside. He had no problems with the flow or managing the voters. In fact, if you look in the picture, you will see one voter off in the back of the poll who is actually waiting to get to a machine. They're probably 10 to 15 feet back from the machine. So there was adequate space.

Had he, however, had exception, he would have raised that exception at that point in time and should he encounter any difficulty, he would have contacted us. We have an extremely good working relationship with the school system. We have contacts and we have people that give us emergency contact information. We would have taken immediate steps that morning had there been a problem. We have it in most of our polling places where we have backup contact information should there be a problem.

**MR. McIVER:** So the training of the poll manager is such then that if they are not satisfied with the room, which can be a very subjective decision, I'm sure, but if they are not satisfied with the room there is a procedure or protocol in place for them to correct that?

**MR. BRIDGES:** Again, if they went in and the person said this is where you're going to be and they walked in and they said there's no way we could do this, yes. The first thing they would've done is the same thing: if they can't find a suitable spot, they would have notified us and we would have worked with them to remedy it, either by setting up in a hallway or another area of the school. But we would have found some way to make it work.

**MR. McIVER:** My last question, then, is what is your position? For example, do you feel there has been any violation of the code here; State election code?

**MR. BRIDGES:** Actually, I don't believe so because I believe in the past, prior to this poll manager being in this facility, that we had used the space one time before, but that was with a different poll manager who set it up. But this poll manager, again, when he walked in and the coach said this is where we're going to put you, he did not perceive a problem and I think in the letter the forwarded to us -- I believe Mr. Harvey has a copy of that letter -- he said that, you know, it was small, but he was able to make it work. But most of the time if a site -- and school systems really don't relocate us that often, but they have. Most of the time, if it's like a church that's going to put us in an alternate location, they give us notice and we go out and review the location and if we need to, we adjust the layout of that poll before the election.

But, again, on election day, if they encounter some problems with it, most of the time they are going to do the best they can to accommodate us and they really do work with us well.

**SECRETARY KEMP:** I think this would be an issue, Ms. Ford, that we could address in training over the next year as part of our normal training to make sure that election superintendents are making sure their poll workers know that if they experience something like that on election day to call and make sure somebody knows what's going on where we won't have a problem if there are changes like that.

**MR. SIMPSON:** The only objective requirement you have is that the machines cannot be closer than six feet together; is that correct?

**MR. BRIDGES:** Well, six feet from a voter approaching a machine. So in this case, the line from the entry to the poll to the check-in table -- those people waiting in line should not be within six feet of the machine. But the machines have to face the interior of the poll so the poll manager can stand in the room and see everything from one perspective and they have to be able to see the screen in the machine. That's what it states in the --

**MR. SIMPSON:** Say you're walking down to the third machine on the wall. As you walk down, you can see every machine until you get there and see who's voting on the machines, can't you?

**MR. BRIDGES:** If you are close enough behind them. If you walk up close enough behind a voter in you stand between him in an angular perspective, you could see over their shoulder. But the machines are also designed that from an angle they are harder to read. If you ever stand two or three feet behind someone who is out on the machine -- and I have personally witnessed this we have our staff preparing machines -- I'll stand behind them looking over their shoulders sometimes and it is harder to read the screen. But if I get close enough, yes, I can make out what it's saying.

But a poll manager's job in a polling place on election day, if they see somebody kind of lollygagging along behind the voters, their job is to move them along and they don't let them do that. They hold them -- as I say, you can see somebody queued for a machine and they are adequately behind. So they give them a card and we don't hand out a lot of cards ahead. If you are next in line and you have your card and you're waiting on a machine to clear, we don't have a lot of people behind you holding cards waiting on a machine. In that way we don't have people encroaching on others.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: I'm prepared to take a motion.

**MR. McIVER**: I move we close this case.

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

**SECRETARY KEMP**: We've got a motion to close and a second. I want to just also tell you, Mr. Bridges, we appreciate what you're doing and thank you for coming so far today. That gives us some good insight on continuing to train and we will do that. We appreciate you being here.

All in favor of the motion to close, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries. We're going to take one more case before we go to lunch. Case number 2010, number 105, DeKalb County, the Wilson case.

**MR. HARVEY**: Yes, sir. This case revolves around a then-Supreme Court candidate, Matt Wilson. The facts revealed that he registered to vote for the first time in 1988 in DeKalb County where he has resided. He has voted there 20 times up until November of 2004. He changed his address on his driver's license to his office, which is in Fulton County. He then, in 2006, voted six times in Fulton County. In June, 2010, he reregistered to with DeKalb County when he filed his candidacy and affidavit to run and

then proceeded to vote in Fulton County in June and then in 2010 he voted three more times in DeKalb County. So there are several cases where he has voted where he doesn't live and it is recommended that -- well, it's also indicated that in filling out voter certificate where you put your -- where you live, it should indicate your address as opposed to a mailing address. So it is recommended that the listed violations be bound over to the Attorney General's office.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to address us?

**MR. BROADBEAR**: No question. I'm Mike Broadbear. My office address is 4330 Georgetown Square, Suite 500, Atlanta, Georgia 30328. I am the attorney for Matt Wilson. I was not aware of what the recommendation of the gentleman was going to be. I would ask if you can to move this to the next meeting of the board so we can have time to prepare.

**SECRETARY KEMP**: That's normally not what we do, but we will be glad to hear any argument you have. Basically, taking it to the Attorney General's office where they are going to actually look at all the facts of the case and get both sides of the story and take appropriate measures. Obviously, if you don't agree with that, there is -- you always have the opportunity to get the hearing. Am I correct on that, Ms. Brumbaugh?

**MR. BROADBEAR**: If that's the case, may I proceed?

**MR. WORLEY**: Mr. Secretary, I thought it was our policy that if an attorney requests a continuance, we would automatically give them one continuance.

**SECRETARY KEMP**: Well, I think normally we do that prior to the meeting. I don't remember it being the day of the meeting.. But if that's the case, I'm willing to reconsider that. We've certainly done that, I know, Mr. Harvey, when we've had -- prior to the meeting if people have had conflicts or need more time and couldn't appear. I don't know about the day of.

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

**MR. WORLEY**: Well, obviously it's up to the board to decide. It seems if Mr. Broadbear asked yesterday for a continuance we would have given it to him. It doesn't seem entirely unreasonable to give him --

**SECRETARY KEMP**: Well, I agree, but I also agree that if you do it the day of, you have other people that may be for or against in the matter that may be here as well or people that have traveled to hear the case from another county.

**MR. WORLEY**: And I appreciate that. But if there aren't any of those people here today other than Mr. Broadbear -- I don't know if Mr. Wilson is here or not.

**MR. BROADBEAR**: Mr. Wilson is here. Yes.

**MR. WORLEY**: But if there isn't anyone else wanting to talk about it, I would think it would be appropriate to grant a continuance.

**SECRETARY KEMP**: Mr. McIver, do you have anything?

**MR. McIVER**: David, in all deference, perhaps I favor that position, but I would like to hear Mr. Broadbear stand in his place, as we stated in law school, and make your proffer, sir. Tell us what it is you will be presenting if you are properly prepared to do so and from there we can make a determination.

**MR. BROADBEAR**: I will proceed to do that if you want me to do that; I'll be happy to.

**SECRETARY KEMP**: Let me just ask you this. Why would you need a continuance? I mean, what will be the difference if we were not sending it to the AG's office versus just hearing your arguments? We could hear your arguments and decide not to send it to the AG's office. That is simply the recommendation of our chief investigator. It's not the will of the board.

**MR. BROADBEAR**: My primary concern is that there were certain documents that were filed that I don't have copies of. We went to look for the copies that we might have had, we found we don't have them for some reason or another. They're not in our office; they are not where we thought they were. I would like to have time to go to the Secretary of State's office and find out where these documents -- such as we think that he filed a document protesting the concept of voting at that particular place at that particular time because he was a resident of another county. He filed those documents. Apparently, there is no record of that in the Secretary of State's office, or maybe there is. But it was not uncovered during the investigation and I would like to follow up on that. I would like to find out where, if any, of those documents are available. I thought that -- like I said, we started preparing yesterday and, again, that particular file just was not there.

**SECRETARY KEMP**: Mr. Harvey, when did we send notice of summons?

**MR. HARVEY**: About a month ago; usually 30 days before the meeting.

**MR. SIMPSON:** Would the fact that whether or not we grant a continuance have anything to do with your ability to provide that information to Ms. Brumbaugh during the course of her investigation; isn't that correct? You could still deal with her and provide any additional evidence you might have that you would like for her to consider while she is making a determination as to how to proceed with the case. We are just making a finding -- as I understand it we are just making a finding of probable cause, is that right, as to whether or not it should be bound over for further investigation and action?

**MR. McIVER:** Judge Simpson, as I hear him, he's wanting an opportunity to persuade us there isn't enough probable cause. He seems to be asking for that opportunity.

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

**MR. McIVER:** Therefore, I would support Mr. Worley's position here of making sure you feel that you're properly prepared. Now, I'm a little disappointed in a month you can't determine you're missing documents, but the reality is we put great pressure here on moving our docket along. There have been issues in the past Secretary Kemp has set the world on fire by moving our docket much better and you can see he's disappointed even now. But I do tend to take Mr. Worley's position and --

**SECRETARY KEMP:** Well, if that's what y'all want to make a motion on, I'd rather deal with that motion now instead of letting him proceed to save some time.

**MR. WORLEY:** I would make a motion to continue this case to our next regularly scheduled meeting.

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

**MR. McIVER:** Second.

**SECRETARY KEMP:** We have a motion and a second to continue this case to the next meeting. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP:** Is there anyone else wishing to speak on this matter before we move on the motion?

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, we have a motion and a second. All in favor, signify by saying "Aye."

(Whereupon, the vote was taken)

**SECRETARY KEMP**: All opposed, same sign. "Aye."

The motion carries and we will continue the case.

All right. We will break for lunch and we will reconvene at 1:15.

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(Whereupon, a lunch break was taken)

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**SECRETARY KEMP**: Welcome back, everybody. I'll take a motion to go from our executive session and continue our regular State Election Board meeting.

**MR. WEBB**: So moved.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: I've got a motion and a second. All in favor signify by saying "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: All opposed, same sign. The motion carries, and we are now back at our regular SEB meeting.

Mr. Brooks, welcome, and I think we're on case 2011, number 5, Jeff Davis County.

**MR. BROOKS**: Yes, sir. Mr. Secretary, members of the board, this case is Jeff Davis County. There is no election involved in this particular case. It was reported to us through the elections supervisor.

The elections supervisor for Jeff Davis County reported that Kenneth Nash Murphy had been employed as a part-time employee in the office, the election office there. His mother, Myra Murphy, was the Clerk of Superior Court, and she was -- there was a discussion about whether or not she was actually going to run for office in that particular election.

He understood that if she ran for election, he would not be able to continue working in that particular office because there may be a conflict there. His mother did decide to run for

the clerk's office, and he was ultimately terminated from his position there.

As part of his duties as a clerk in that office, he had access to the computer system there. He created documents, changed documents, worked on documents there. When word came down he was going to be terminated from employment, he went into the computer system and deleted a series of documents that had to do with the elections and they were documents that he had not created. They were documents that the election officials had created and put in the system. He simply went in there as a disgruntled employed and started deleting files.

Over 300 files had been deleted from the system, and there was some concern that he had a password for the general server. But after we conducted our investigation, we determined that he did not have those passwords and was not able to access the general server.

We recommended he be bound over to the Attorney General's Office for violating 21-2-597, in that he intentionally interfered with the performance of the election duties when he deleted those files.

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

(Whereupon, there was no response)

Hearing none, anyone else wishing to speak?

**MR. MURPHY**: I do.

**SECRETARY KEMP**: Yes, sir. Come on up. If you will, just use that mic right there and give us your name and address for the record, please.

**MR. MURPHY**: It's Kevin Nash Murphy, 25 Southland Road, Hazlehurst, Georgia, 31539. I think, first of all, I want to apologize to the board for what I've done, and that I accept responsibility for what I've done. But when I went into the system, I thought what I was deleting were just form letters that I had created myself to send out to voters, and every time I would send out something to voters, I would make a copy of the letter and staple it to the back of the voter card. That was the main procedure. And when I deleted that, I thought I was deleting the things that I had created.

It was my understanding that when they went into the program to bring everything back up that I had deleted, they brought everything back up that was ever deleted off the computer. There was no way for them to bring up just what I had deleted. That was my impression.

But I want to be very clear that I accept responsibility for what I've done, and that I'm sorry for wasting the board's time on something so stupid as this. I understand this was really stupid, and it was an act of supreme arrogance on my part and I never thought I'd be in a situation like this, but here I am. And also it was my understanding that everything that was deleted was recovered, so I guess that's one good thing.

That's all I have to say. Thank you very much.

**SECRETARY KEMP** : Well, I'll say this. I know this is a -- you know, when I first saw this case, it was very troubling, obviously. I'm sure that the board along with myself take these type of thing very serious, but I will say this, I think it shows a lot that you took time to come here today and let the board know that you are sorry and apologetic. And I'm sure the board will take that into consideration as they continue to deliberate. Did anyone else have any questions?

**MR. MURPHY, SENIOR**: I'm Nash's father; I'm Wayne Murphy.

**SECRETARY KEMP**: Give us your address, please.

**MR. MURPHY, SENIOR**: 25 Southland Road, Hazlehurst, Georgia, 31539.

**SECRETARY KEMP**: Give us that one more time. She's trying to get that there.

**MR. MURPHY, SENIOR**: 25 Southland Road, Hazlehurst, Georgia, 31539. I want to say, he's just -- he just got out of college, and they wanted him to help them, kind of go over there and streamline all this and kind of get everything on the computer is what it was.

So he worked on these -- on these form letters for about a month, trying to get these form letters. He was promised over and over that he was going to get a full-time, but they would come up -- and my wife was going to run for election, and they never would take that he was terminated or nothing like this, you know. He wouldn't be able to work there anymore, and so -- and so he got upset. So he went and deleted the form letters that he designed. That's what his intentions was.

So when Todd come to recover it, he says I can't not just pull up the form letters. I got to pull up everything that's ever been deleted. And he says -- and he fixed this thing up where he could bring it home to his house in Macon, Georgia. He designed it where he could pull it from Jeff Davis Courthouse to his house in Macon, Georgia. He pulled up everything, but we already knew that he could not just pull up the form letters. He had to pull up everything that had ever been deleted off of that hard drive.

And the main concern is my son has just graduated from Georgia Southern. He got a

four-year degree, and he really -- I mean, if there anything you can do to keep this from going on his record, I mean, his life -- I mean, his future is -- is at stake. That's the main concern.

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

**MR. McIVER:** I have one of young Mr. Murphy. How old are you, Mr. Murphy?

**MR. MURPHY:** I'm 23 now. I was -- I just -- I'm 24 now. I had just turned 23 when all this happened.

**MR. McIVER:** Twenty-three. What did you major in at Georgia Southern?

**MR. MURPHY:** I majored in history.

**MR. McIVER:** Have you had any other encounters with situations like this or with the law?

**MR. MURPHY:** No, sir. This is the first -- I never went to the principal's office in high school, so this is a new experience.

**MR. McIVER:** Well, not that you'd know it, but my law practice is limited to employment law. When you work for somebody and create something, that becomes the property of the employer, not you. Perhaps that's a lesson you've learned here today.

**MR. MURPHY:** Yes, sir. It is.

**MR. McIVER:** Just one second. No. Nothing else. Thank you.

**SECRETARY KEMP:** Anybody else?

**MR. WORLEY:** I had a question.

**SECRETARY KEMP:** Mr. Worley.

**MR. WORLEY:** How many documents did you delete from the files?

**MR. MURPHY:** I'm not sure how many because the way it worked, when I would type a letter, I would just sent out to a voter. I would never -- I would never save that one person. Sometimes I would save it; sometimes I wouldn't save it. It just depended on the -- on the kind of day, how I wanted to do it. There was never any set standard of how I was supposed to do that.

**MR. WORLEY:** So do you have any idea about how many?

**MR. MURPHY:** I really don't. I would probably estimate -- I'd call it maybe 20 or 30, but it could be more. I'm not -- I'm not certain.

**MR. WORLEY:** Okay. And were there anything other than letters to voters that you deleted?

**MR. MURPHY:** That's what I keep going over and over. If I had deleted something else without knowing it because the whole computer system, it was not -- it wasn't organized. It was the County computer. Everybody had -- you know, everybody had stuff on it, and it's just hard to try and remember. I'm not trying to avoid the question. It's just so hard to remember.

This has been -- this happened in December, and this has dragged on for almost a year and I don't -- it's just hard to try to -- to try to move on when this is hanging over your head, and I'm just I guess at my wits end. That's where I'm at.

**MR. SIMPSON:** You indicated there were over 300 files?

**MR. BROOKS:** Yes, sir. The investigation indicates that Christopher Beasley ran a delete recovery program on the computer. There were 332 documents recovered when he ran that program. I'm not going to say he deleted 332 document. But there were 332 documents that were recovered from that delete program. Some of the documents that were recovered were letters, felon letters notifying people that they were felons and wouldn't be able to vote; people who had deceased; appointment letters of poll workers; missing identification information letters; checklists for poll workers and poll managers; and then summaries for poll workers are some of the documents that are listed as being part of the recovery that they recovered from the deleted files.

**MR. MURPHY, SENIOR:** Let me state that everything that was recovered. They got everything back. It still is wrong what he did. I'm not going to deny that at all but, you know, the thing is what his intention was and what I'm saying that deleting the form letters he had -- he designed. And they told us that there's no way to just pull up those letters he designed. They had to pull up everything that was ever deleted off that hard drive.

**MR. SIMPSON:** You realized when you created a document in that office it was a public record, didn't you?

**MR. MURPHY:** No, sir. I did not know that.

**MR. SIMPSON:** You work in a public office, a board of elections office. Documents

on their computer, county computer system, you didn't realize that was a public record?

**MR. MURPHY**: Well, I understand that now, sir, but I also want to state that every time I sent out a letter, I would make a copy of the letter before I sent it out and staple it to the back of the voter card. The same thing with felons or deceased letters. That was the proper procedure that the supervisor set up. Anytime you send out a letter for any reason, you make a copy and staple it to the back of the voter card because the county is not that big. We still have the paper card system, so that we were able to do that.

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

**MR. WEBB**: Mr. Murphy, are you employed now?

**MR. MURPHY**: No, sir. I'm not.

**MR. WEBB**: What are your career ambitions?

**MR. MURPHY**: Well, at the moment I suppose I am quasi-employed somehow. I'm working with my grandparents. They have a deer processing business that's seasonal, and that's what I'm doing right now. And what I hope to do, if I'm being perfectly honest, is that I enter Catholic the church (inaudible) and according to how this goes, I hope to enter the Franciscan Order. That's -- this has taught me a big lesson, and that's what I intend to do. Thank you.

**SECRETARY KEMP**: Any other questions? Mr. McIver, you have anything else?

**MR. McIVER**: Only of Mr. Brooks.

**MR. BROOKS**: Yes.

**MR. McIVER**: Do you have a recommendation for the board?

**MR. BROOKS**: Our recommendation is it be bound over to the AG's office.

**MR. McIVER**: Anything beyond that?

**MR. BROOKS**: No, sir.

**MR. McIVER**: That's all.

**SECRETARY KEMP**: All right. Anybody else wish to speak on regard to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, now got any thoughts?

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

**MR. WEBB**: Second.

**SECRETARY KEMP**: Got a motion and a second to bind over to the Attorney General's Office. Any other discussions?

**MR. WORLEY**: I would be in favor of binding this over so that the Attorney General's Office can compare it to other similar cases or other violations of this code section to come up with an appropriate recommended disposition.

**SECRETARY KEMP**: I think that's the appropriate thing to do. I will tell the Murphys today, you have done yourself some good standing up to this. It is, as I said earlier, a serious matter. You know, thankfully the documents were recovered and this wasn't something else that, you know, somehow hurt the integrity of the voter rolls or the elections, which is something that this board has fought mighty hard to make sure doesn't happen and a lot of our local folks working in our elections office, as well.

But I will tell you this, I think this board is sympathetic to people that will own up to mistakes and problems and show up and explain that to the board and I'm sure that Ms. Brumbaugh and the Attorney General's Office will be in touch with you, and she also hears and understands the board's thoughts. We've made comments, and I know she'll be glad to work with you all to reach a solution that we can all agree on. With that we'll go ahead and vote on the motion, if there's no other discussion. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries, and we will bind it over to the Attorney General's Office. Thank y'all for being here today.

All right. Mr. Brooks, 2011, number 6.

**MR. BROOKS**: Yes, sir. This is involving Gwinnett County. The election involved in this particular case was the November 5, 2002 general election. The allegation in this

particular case is that Mr. Chivore told a coworker that he had voted in the 2010 general election, and the coworker believed him not to be a citizen of the United States.

Investigation confirmed that Mr. Chivore was born in Zimbabwe, Africa and he arrived in the United States in 1998. He started attending college at Georgia State University and participated in a voter registration right on campus at that particular time, using his driver's license as identification. A few weeks later he received a voter registration card, and he voted in the November 5, 2002 general election.

Mr. Chivore stated that as he progressed through college he realized that he should not have voted because he was not a citizen, and he didn't participate in any other process. He was deleted from the voter registration files in 2006. He did not vote in the general election in 2010, but he did vote in the 2002 election.

We recommend it be bound over to the Attorney General's Office for 21-2-561 and 571. When he registered vote knowing he didn't have the qualifications to and in voting he didn't have qualifications to vote.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Anyone else wish to speak? Yes, sir.

**MR. CHIVORE**: Yes, Mr. Chairman. I would like to say I'm very sorry for what --

**SECRETARY KEMP**: If you would, just state your name real clearly and your address for the recorder.

**MR. CHIVORE**: Oliver Chivore, 1454 Oglethorpe Drive, Suwanee, 30024.

**SECRETARY KEMP**: Thank you.

**MR. CHIVORE**: Mr. Chairman, I would like to say I'm very sorry. I take ownership for what I did. I came to the United States as a refugee. I was very uninformed and confused as to what the law of the land was. I participated in the voter's registration. I did indicate to them that I was not a United States citizen, but they took my ID anyway. And when I received the voter's registration card, I took it that it was verification by the authorities that I was indeed eligible to vote. I am still a refugee at this time.

I have since studied the laws of the land through Georgia State University, Emory and Mercer University and have since started a family. I am very sorry. It was just -- I have no explanation for it. There was no intent of maliciousness or anything. Thank you.

**SECRETARY KEMP**: Let me ask you who was doing the voter registration drive at the time you registered? Do you remember?

**MR. CHIVORE**: I think it was the student's union; Kappa. I think that's what it was. All they did was just take the ID and put down on a list.

**SECRETARY KEMP**: Any other questions?

**MR. McIVER**: What's the nature of your refugee status?

**MR. CHIVORE**: I came from Zimbabwe, and I was facing persecution over there and my family; political.

**MR. McIVER**: Was it asylum or was it education?

**MR. CHIVORE**: Asylum, yes.

**MR. McIVER**: Asylum.

**MR. CHIVORE**: Yes.

**MR. McIVER**: So you and your family were in fear of some retribution in Zimbabwe?

**MR. CHIVORE**: Yes, at the time. I've since had a family, and I'd like to say I'm very grateful for the United States for giving me this opportunity. I didn't have any malicious intentions at all.

**MR. McIVER**: You have a beautiful country. I'm maybe one of the few that have been there.

**MR. CHIVORE**: It is beautiful.

**MR. McIVER**: No other questions.

**SECRETARY KEMP**: Anyone else? Okay. Thank you. Anyone else wishing to speak in regards to this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I'll be glad to take a motion.

**MR. McIVER**: I'll move to bind it over.

**SECRETARY KEMP**: We have a motion to bind it over to the Attorney General's Office.

**MR. WEBB**: Second.

**SECRETARY KEMP**: And a second. Any other discussion? Mr. Worley:

**MR. WORLEY**: I'm going to vote to bind it over because it seems to be a -- I'm actually not sure whether it's a violation of the statute that's cited here because it seems to require intent, and I'm not sure, based on the evidence that we have that there is intent. But I would like the Attorney General's Office to look into that and give us some determination.

**SECRETARY KEMP**: You got that, Ms. Brumbaugh?

**MS. BRUMBAUGH**: I do.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of binding it over signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries, and Ms. Brumbaugh will be in touch with you. Thank you for being here today.

All right, Mr. Brooks, 2011, number 9, Paulding County.

**MR. BROOKS**: Yes, sir. There is no election involved in this particular case. This is a mandatory report by law where the supervisor of elections and voter registration in Paulding County reported to us that she had 21 individuals on a list who had attempted to register to vote, and she was cross-referencing and that she found out they were convicted felons, currently under sentence.

During the investigation, two of the 21 individuals applied for a driver's license through Driver Services, and their registration was submitted through Driver Services. There was

no indication that they intentionally tried to register, or that they knew that they were being registered. In fact, when interviewed they said their intent was not to register. But of the other 19, we were able to obtain certified copies of the convictions and verified each person on that list was currently under sentence -- it was an active sentence when they were attempting to register to vote.

I believe you have a chart in your packets there of the 19 individuals we are recommending be bound over to the Attorney General's Office based on the charges in the chart.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to speak? Mr. Brooks, the column where it says marked yes and then next to that it says signed, and you got the yes or no in the boxes.

**MR. BROOKS**: Yes, sir.

**SECRETARY KEMP**: What exactly is that now?

**MR. BROOKS**: They actually marked the registration indicating that they want to be registered and signed the form saying that they understood all the questions for registration.

**SECRETARY KEMP**: So the people on the second page in the middle there you got an N by, they did not?

**MR. BROOKS**: They didn't.

**SECRETARY KEMP**: They marked no, but then they signed.

**MR. BROOKS**: They marked yes but did not sign. Marked yes that they -- they wanted to register to vote, but they didn't sign saying they were eligible to vote.

**SECRETARY KEMP**: Well, this -- it looks like these are saying that they didn't; that three of them did not mark, did not mark the yes, I guess, but they did sign. Maybe I'm not following you. What's the difference between the Y and N on the marked yes column?

**MR. BROOKS**: The first column where it has marked on the form, the registration form where they're asked do they want to register to vote, they marked yes.

**SECRETARY KEMP**: Okay. So John Elrod, Samantha Serrano, and Justin Stone said that they did not want to register to vote?

**MR. BROOKS**: Right.

**SECRETARY KEMP**: Okay. And then what did they do next?

**MR. BROOKS**: They signed the form and -- because of the way the form is with Driver Services, in our opinion it may have been a suggestion that they were signing for the driver's license as opposed to registering to vote.

**SECRETARY KEMP**: But your recommendation is that we send those three people over even though they said that they wouldn't want to register to vote?

**MR. BROOKS**: I think those are the ones that we're saying not to bind. There was 21 total; 19 of them were the ones we were going to send over. I don't believe those were the ones that we're going to send over.

**SECRETARY KEMP**: Well, it would be 14 people above those three, and then you got the last two where there's nothing in the boxes. I'm just trying to make sure we know.

**MR. BROOKS**: The last two we weren't able to find the original applications from DES.

**SECRETARY KEMP**: Okay.

**MR. BROOKS**: But there was a registration, I believe, with Paulding County where they indicated they were attempting to register to vote.

**SECRETARY KEMP**: And then the two above those, they actually said they wanted to register to vote, but then they never signed the form, correct?

**MR. BROOKS**: Correct.

**SECRETARY KEMP**: Okay. Any other questions? Anyone else wish to speak in regards to this?

(Whereupon, there was no response)

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

**MR. WEBB**: I would like to make a motion that we bind all 19 over to the Attorney

General's Office and let Ms. Brumbaugh which ones are a true violation; which ones should be dismissed.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: I've got a motion and a second. I fully agree. I think Ms. Brumbaugh, you can kind of get to the bottom of who was doing what with intent or not and let the board know. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and we will bind those folks over.

All right. 2011, number 11, Hall County.

**MR. BROOKS**: Yes, sir. This involves Hall County. The allegation in this particular case is that the registrar for Hall County --

**SECRETARY KEMP**: Let me -- let me stop you here just a minute. Have we got everybody from Hall County that needs to be here? Okay. Go right ahead.

**MR. BROOKS**: Again, the allegation was that the registrar for Hall County had not been properly appointed to her position and was serving in an interim capacity. The investigation determined that Ms. Sosebee had been appointed as a chief registrar in June of 2006 and she would serve out the term of office until 2009. At that particular point in time the Hall County grand jury would be required to make -- at least provide names to the Superior Court judge there for the appointment to the registrar.

In looking back at Hall County grand jury finding, there was no recommendations from the grand jury to the presiding judge to make that appointment. It was also determined during this time that Ms. Sosebee was serving in an interim capacity. They weren't conducting their monthly meetings as required by law. There were some personnel issues: the deputy registrar had resigned and another member of the board had indicated they were going to resign. So they really didn't have a quorum to meet and they weren't conducting those monthly meetings.

It's our recommendation that we bind over the Honorable Judge Andrew Fuller and Charlotte Sosebee on 21-2-12(A) and 212(B) as it relates to the appointment of county registrars. We do have an order from Hall County that we received yesterday and ask that it be entered into the record.

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

**MR. WORLEY**: And what is the order about?

**MR. BROOKS**: The order is the appointment of Charlotte Sosebee to the position of registrar.

**MR. WORLEY**: And when was that done?

**MR. BROOKS**: November 11th of this year.

**MR. SIMPSON**: Why would you want to bind over a Superior Court judge?

**MR. BROOKS**: Responsibility is to -- it's his responsibility to appoint the registrar.

**MR. SIMPSON**: I know there were circumstances, and I think he explained why he did it.

**SECRETARY KEMP**: Well, I think we may can hear from these folks here if we want. Any other questions for Mr. Brooks?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. You all want to address the board?

**JUDGE FULLER**: Good afternoon to the board members. My name is Andy Fuller. My address is 3962 Wind Drift Circle, Gainesville, Georgia, 30506. I have the pleasure of serving as the Chief Superior Court Judge for the Judicial Circuit that is known as the Northeastern Judicial Circuit which includes Hall County, and I'd like to take just a moment to tell you what developed in this situation and the way the Court was operating.

In 2006, we unexpectedly had our 27-year veteran chief registrar resign as a result of a county buyout program, a retirement program. When that occurred, then the Court immediately began to look at a replacement of chief registrar and find someone to best serve a population of 180,000 people. In taking that action in December of 2006, the Court entered an order that designated Charlotte Sosebee as the interim chief registrar. The order clothed Ms. Sosebee with the full authority of the law that the chief registrar

had and stated that that position would be until the termination of the regular term of our retired registrar or until (unintelligible) and affirmative order of the Court.

From a practical basis, I'd like to take just a couple minutes to tell you how that happens and what happens. Our veteran registrar, who was excellent as a chief registrar, ran the office in a very physically conservative and operationally conservative fashion. Had only two employees in the office, and, unfortunately, none were prepared to assume the role as the chief registrar in a county of our size. As a result thereof, after the appointment of Charlotte, or after choosing Charlotte as the likely candidate, we chose to do the following.

As a result of Hall County having personnel guidelines, we followed those personnel guidelines. We advertised the position, and we sought applicants. We had several applicants but only two qualified under the job description that we put forward. Of the two qualified, Charlotte was one of those. We interviewed both of those candidates, and Charlotte was by far the most qualified candidate. However, the Court was faced with a situation with Charlotte as our designated chief registrar. Charlotte had never run or managed an election locally, statewide, or nationally, except as an employee of the chief registrar. She had never managed an office and all the aspects of managing an office that goes with that: personnel requirements, supervisory authority, budget management. And Charlotte had never had any experience in dealing with the government and all that goes with that in the operation of an office. You have both the board of elections and a board of registrars.

As the result of that, I then began to look at the responsibility that I had with the grand jury, feeling that judicially the authority was there for Ms. Sosebee to continue to serve in an interim capacity as our chief registrar, and in going to a grand jury, when you look at this practically, the statute for a county of my size, when I go to the grand jury to make a presentation, it is a practical presentation. The statute requires that you provide a list of names to serve as registrar in which the Court will pick one as the chief registrar, and when you do have a county of 180,000 people, you've got to expect to receive responsible grand jurors that I've historically received, whether before the grand jury as a District Attorney or as the judge, and the response is how do we do that.

In fact, in November when we used the November term to do this, the grand jurors questioned do we just pull the people out of thin air. So it's a dilemma from the Court's perspective because then I have to represent -- and the grand jury wants me to represent who the Court would recommend be on that list. In doing so the Court wants to have absolute confidence that I'm providing to the grand jury a list of names that will include someone who can serve in a quality fashion as our chief registrar. Otherwise, I would be doing the citizens a disservice.

And thus, that's the reason that I have allowed the situation to develop as I have. So that

we have and interim chief registrar in Charlotte Sosebee, who has been on the job every day and done the job every day. Charlotte has reached the point that she is appointed as the chief registrar, but I discussed with Charlotte on several occasions and here in front of you -- it's not a criticism of Charlotte. Charlotte was a work in progress and there were many issues that developed in the course of the years, the Court wanted to attend to it before I was confident to make a recommendation to the grand jury, all the while thinking that judicially I had the inherent authority to have an Interim chief registrar and not be an abrogation of the statute that has been assigned as 21-2-212.

With that, that's the practical aspect of where we find ourselves as far as the appointment of Charlotte. Now, obviously, I had the opportunity to receive notice of today's hearing, and in an effort to make sure, given that the investigator indicated that there was non-compliance with the statute, the Court utilized the November term of the grand jury to take the matter before the grand jury, and with confidence stated to the grand jury, as they asked for a recommendation, I asked that Charlotte's name be on that list. Charlotte's name was on that list, and Charlotte has been appointed as our chief registrar. I just wanted to give you a little background on that.

Also, in a county of our size, in an effort to deal in a fashion that is consensus, we also have a board of elections. That board of elections is dictated by local law that was passed by the General Assembly that sets forward how the board of elections will be selected, and the board of elections statute does allow for interim appointment of the director of elections. And Charlotte is also our director of elections as well as the executive secretary on the board of elections. And, thus, the Court has tried to work in unison with the County Commission to reach a point where one person would serve in that capacity.

And not to take anymore of your time, I will address the other issue very quickly. We've had registrars. The registrars, much to my chagrin, were evidently not attending meetings. And, thus, I will let Charlotte address that if you ask for her to do so. She was conducting the meetings, and she was conducting her meetings along with the deputy registrars, but our registrars were not attending.

Our registrars have voiced on occasion, well, I don't want to continue to serve; I want to continue to serve. But ultimately, when you reach the point last week when I was going before the grand jury, I had to ask the registrars to come in and either sign a statement they're going to continue and work, or they're going to resign. I provided them that opportunity. The statute requires them to resign before they can be replaced, and Charlotte, I think, did the best thing she could in continuing to operate with the registrars in the situation that she found herself. And I'll let her speak more directly to that. And I'll be glad to field any questions.

I would ask that the board not forward this to the Attorney General. There has been one goal of mine of the Superior Court of Hall County during this process, and that is to

provide the citizens of Hall County the best possible chief registrar and I don't need to tell it to you, a county the size of Hall County, though it's not the largest, it takes somebody that knows the business of voters' rights, voters' elections, and I've heard all day today. And I did not want to put myself in a position of making a recommendation to the grand jury and then turning around have having to file notice for a hearing within which I felt I made a wrong decision. Now many may argue that over the course of the years that past it was too long, but I go back to my interpretation of the statute and the authority of the Court to appoint Charlotte as interim.

**SECRETARY KEMP**: Thank you, Judge. Any questions?

**MR. WORLEY**: I had a couple questions, Your Honor. The original order appointing Ms. Sosebee as the interim registrar indicated that she should hold office until such later time as the Court appointed a --

**JUDGE FULLER**: That was -- that was my recollection.

**MR. WORLEY**: -- an official registrar. Okay.

**JUDGE FULLER**: I'll stand corrected if I'm wrong, but that's my recollection. I have a copy of that and can better answer that for you. I just don't have it in front me.

**MR. WORLEY**: And then at several times in your commentary you said that "we" decided or "we" did this. Were you consulting with the other Superior Court judges, or was that the board of registrars that you were referring to?

**JUDGE FULLER**: I was consulting with the other Superior Court judges, but this is clearly statutorily my responsibility.

**SECRETARY KEMP**: I got one question for you. This is hypothetical, but if Ms. Sosebee decided to leave and you had to find a new person, would the process be the same?

**JUDGE FULLER**: Well, I've lived and learned from this, Mr. Secretary. My decisions are analyzed frequently by appellate courts, and I'm never one to deny that I'm wrong in an analysis of a statute or a legal situation. And I discovered from reading the complaint, or at least the report that I received from your investigators, the Court certainly would react differently.

**SECRETARY KEMP**: Well, thank you. And I'm sure we may hear from the complainant, which is how we ever got to looking into this in the first place, but I think that was some of the concern about length of time. You can honestly appreciate, you know, our -- from our office's perspective of having, you know, a cohesive operation

going on, on the county level, but as much as there is going on in elections right now. I can't speak for the citizen that filed the initial complaint, and they may speak to that, but I was just curious if that were to happen again, you know.

**JUDGE FULLER**: The answer is no, Your Honor -- Mr. Secretary, for the reason I mentioned, and because we're implementing a training ground for hopefully in the future. And if I may mention -- I'm sorry. From the Court's perspective, this is somewhat of a lifetime appointment. That's the way it's intended to be, and Charlotte is rather young but has had the job what --

**SECRETARY KEMP**: Congratulations on your lifetime appointment.

**MR. SIMPSON**: Judge, during the period of time she served as an interim, had there been any complaints about irregularities or improper management of elections during her tenure to your knowledge?

**JUDGE FULLER**: No.

**SECRETARY KEMP**: Well, let me -- let's finish with the Judge, and then we'll see if Ms. Sosebee wants to speak to us. Anything else for the Judge? Thank you, Judge. I appreciate you being here this afternoon.

**JUDGE FULLER**: You're welcome.

**SECRETARY KEMP**: Ms. Sosebee, do you want to address this?

**MS. SOSEBEE**: Just to say -- my name is Charlotte Sosebee, and I live at 2074 El Dorado Drive, Gainesville, Georgia, 30507, and I have a mailing address of P.O. Box 601, Gainesville, Georgia, 30503.

I am honored to stand before you today, and as director of elections and chief registrar of Hall County elections and voter registration. And I just wanted to add that we did conduct the meetings. Though we did not conduct the meetings with the registrars, I did have some chief registrars in my office who served during those monthly meetings. We went through approvals and disapprovals of the voter registration applications, and, fortunately, we did not have the necessity for a hearing. So I just wanted to make that known. Of course, now we have a board. So we're going to do things better.

**SECRETARY KEMP**: Any questions for Ms. Sosebee? Mr. Simpson?

**MR. SIMPSON**: During your time as interim, did you have any complaints about the process of elections, or irregularities with the process, or anything like that?

**MS. SOSEBEE**: No, sir. I didn't.

**SECRETARY KEMP**: Any other questions? Mr. Webb.

**MR. WEBB**: Quick question. Are you in support of the other members of the board?

**MS. SOSEBEE**: Yes. I am. Of both boards, as a matter of fact.

**MR. WEBB**: Is everyone participating now?

**MS. SOSEBEE**: Yes.

**SECRETARY KEMP**: Any other questions for Ms. Sosebee? Okay. All right.

**JUDGE FULLER**: For the record, what I'll do in answer to your question, I intend to seek a meeting with the County Commission to try to seek local legislation to combine the boards, so that there will not be two entities in resistance.

**SECRETARY KEMP**: You let us know if we need to work with the fine delegation from Hall County. We'll be glad to do that.

**MR. McIVER**: The Legislature has been very receptive to those requests.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Hearing none, any suggestions from the board; motions?

**MR. WORLEY**: I make a motion to close this case.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Well, we got a motion and a second to close. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: All opposed, same sign. That motion carries and it is dismissed.

We appreciate you all being here today.

All right. Mr. Brooks, 2011-12, Clayton County.

**MR. BROOKS:** Yes, sir. There was no election involved in this particular case either. It was a voter registration issue. The allegation in this particular case was that a deceased person had registered to vote using the online service with the Department of Driver Services.

On February 1, 2011, Clayton County officials received a voter registration card for a Geri Gail Higgins. They were checking registration cards, and it was determined that Ms. Higgins had renewed her driver's license on January 26, 2011 and when they checked the records, they determined that she had been deleted from the system on April 7, 2009 because she had deceased. That information was reported to us. Clayton County confirmed through the probate judge's office that she had passed away March 10, 2009.

During our investigation we were able to obtain the person that sent the email address information. We were able to go talk to them, and the person said that they went online and filled it out. It was her sister and she was looking for a memento or a souvenir for her sister in passing. The investigator asked her for her driver's license. She opened her billfold, and the dead sister's driver's license was the first one there,

So we recommend that she be bound over for 21-560-61 and 61. The Department of Driver Services and Clayton County District Attorney's Office had initially indicated it did not want to pursue prosecution on this particular case, but a formal recommendation or a letter from the board encouraged them to pursue the particular matter.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none -- yes, ma'am.

**MS. DAWSON:** My name is Donna Dawson and I live at 965 (inaudible) Brown Road, Jonesboro, Georgia, 30238. My sister Geri Higgins did pass away on March 9th -- I'm sorry -- March 10, 2009, and I was the executor for her estate to close out everything. So I have all of her credentials in my possession.

Months later, my sister's only son announced that he was -- his fiancée was giving birth to my sister's first grandchild, and my mother keeps memory books for all four kids as well as her six grandkids. So my mother offered up the memory book to give to my nephew and her new great-grandchild. So I had taken all of my sister's credentials to put into the memory book along with photos and captions, and she -- my sister and I lived

together for seven years. And we had taken our driver's license pictures at the same time, so we would often tease about our hairdos on the driver's license picture.

Well, I went to get the credentials, the driver's license was lost, so the statement that I renewed the license is in error. I went online to order a \$5 set of lost replacement license, and in the process, which was the day before my great-niece was born -- we were en route to Birmingham -- to complete the order I did not consciously select for her to vote to cause any malicious intent or hardship on myself.

So I am truly sorry for this \$5 replacement license that I requested for, and at this point the only thing I can say is I'm sorry. But I had not intent of voting on behalf of my sister or using her license for credentials. And for the record, her license was not on top of mine. There's only one slot available in my wallet for licenses, and that's where my mine was. Her license was in a credit card slot in my wallet because it had just come and I had put it in here to take over to Birmingham, which is where my nephew, his fiancée, and the baby lived to put in the memory book.

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

**MR. McIVER**: Was the license that you've referred to in the name of your sister, was it a current license or expired?

**MS. DAWSON**: Yes. It was -- they were to expire 2012. Both she and my license are to expire in 2012.

**MR. McIVER**: So it's been current since her death?

**MS. DAWSON**: They were -- no. They were -- they were -- the date that had been assigned was the expiration date when we got them renewed again four years ago. We've --I've only been here eight and a half years.

**MR. McIVER**: Well, has your sister, your deceased sister's license been renewed since her death?

**MS. DAWSON**: No. They have not been renewed. I had only requested a lost replacement set. It was not a renewal to extend her expiration date.

**MR. McIVER**: No other questions.

**SECRETARY KEMP**: Mr. Simpson?

**MR. SIMPSON**: Did you vote using that license with that registration?

**MS. DAWSON:** No.

**MR. SIMPSON:** That voter registration?

**MS. DAWSON:** No. The last time she and I both voted together was in 2008.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Anyone else wishing to speak in regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, I'll accept a motion.

**MR. SIMPSON:** I move to close this case.

**SECRETARY KEMP:** I've got a motion to close.

**MR. WEBB:** I'm going to second.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Well, I've got a motion to close and a second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none --

**MR. WORLEY:** I'm sorry, Mr. Secretary. I'm pretty slow.

**SECRETARY KEMP:** Glad to discuss it.

**MR. WORLEY:** Well, I mean, I just think on the face of it, there's no violation of 21-2-561 since she didn't register to vote, and it doesn't appear to me that ordering a copy of a driver's license, even if it's done on behalf of a deceased person, falls under the under statutory provisions that have been cited.

**SECRETARY KEMP:** So you did that online?

**MS. DAWSON:** Yes, sir.

**SECRETARY KEMP:** So you had all the information you needed I guess to be able to do that online. Obviously, you got the license.

**MS. DAWSON:** Yes. I was the executor of her estate, so I had everything: all her credentials of all sorts and membership cards. I closed everything out.

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

**MR. WORLEY:** No. Thank you.

**MR. WEBB:** I agree with Mr. Worley. I'm not sure that there's a violation of code sections here. I think it was an innocent request. It just turned out to trigger some other matters that was kind of unintended. I don't think it was an intent to do so. However, sometimes our emotions get the best of us and best intentions turn out to be bad decisions down the road in hindsight. So I'm going to vote to close this matter.

**SECRETARY KEMP:** Anyone else?  
(Whereupon, there was no response)

**SECRETARY KEMP:** We've got another motion and a second to close.  
All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

**MR. McIVER:** Aye.

**SECRETARY KEMP:** The motion carries. We have closed the case.

All right, 2011, number 17, Hancock County.

**MR. BROOKS:** This involves Hancock County's November 20, 2010 general election runoff. This particular allegation was Morris Berry voted twice during the same election, once during the absentee early advanced voting period and once in person on election day. There was also a second violation that she violated her oath of office by assisting voters during the election while being appointed to the commission of the voter review panel representative.

The investigation determined that Morris Berry by absentee ballot on November 19, 2010

and then appeared on election day, or voted in person November 30. The first vote, November 19, was not recorded by the election official, which allowed Ms. Berry to register and vote a second time on November 30. The (inaudible) not registered. They couldn't explain how the first vote didn't get recorded in the system, which would have prevented Morris Berry from voting the second time.

This next paragraph where it says -- talking about Sheila Bryant, she was appointed to the voter panel of representative position and delivered absentee ballot applications to individuals. It should say that there was no evidence of fraud, deceit or abuse in violation of law associated with her actions as opposed to saying there was.

We're recommending that it be bound over, Morris Barry, for 21-572 and 562. And then Hancock County board of registrars, 589-2 for not counting that first absentee vote.

**SECRETARY KEMP**: Mr. Brooks and Mr. Harvey, I got a note here that we wanted to take this case up after 2:00, and I assume everybody is here that we need.

**MR. BROOKS**: Yes, sir.

**SECRETARY KEMP**: Okay. All right. Any other questions for Mr. Brooks?

**MR. WEBB**: Mr. Brooks, was the absentee ballot done in person, or was it mailed in as part of early voting where the voter should have been polled if they had voted?

**MR. BROOKS**: It was done in person on the (unintelligible) machine at the registrar's office.

**MR. WEBB**: Thank you.

**SECRETARY KEMP**: Let the record show that Mr. McIver is setting out on leave for just a few minutes. Any other questions for Mr. Brooks?

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to speak? If you would, give us your name and address for the record.

**MS. KALE**: My name is Theresa Kale, 7334 Highway 15, Sparta, Georgia. I was a candidate in this election. After the election, I got copies of all the absentee applications, copy list of the voters. I'm the one that found that Mr. Barry had voted twice. Also in looking at the applications, both absentee applications, there was a lot of them that was incomplete, dates not filled in, signatures not witnessed.

Since then we've had Senate Bill 173 passed in Hancock County. We now have a board of elections and registrars. In our election last week we had over 100 applications. Absentee applications were not completed, not witnessed, not dated. It's just an ongoing problem in Hancock County. I would like to ask that Hancock County be retrained in how to run an election, and maybe we can get some help down there so we can move forward. Thank you.

**SECRETARY KEMP**: Thank you, Ms. Kale, for being here today. Any questions for her?

**MR. WEBB**: Ms. Kale, how did you find that Mr. Morris -- Ms. Berry had voted twice?

**MS. KALE**: I took a copy of all the registered -- I mean, a copy of all the listed voters, and then I took a copy of everybody that had voted on absentee. It took a lot of hours of sitting there to compare. I mean, it was just a lot of days and nights just doing it.

**MR. WEBB**: It's just in my experience that when you have the voter roll, you actually go into the poll and you vote, they underline you've been checked, and if you've voted absentee before, there would have been a mark on there. They must have not --

**MS. KALE**: I mean, I just took the list of the voters that had voted in the poll, and I went down that list and then I went down the list of the absentee applications, and I just sat and compared. I mean, it was numerous hours that I worked on trying to find the different things that we can help our community and our county to get better at doing and have more fair elections.

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

(Whereupon, there was no response)

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

**MS. HILL**: My name is Aretha Hill. My address is 377 Hancock Street, Sparta, Georgia, 31087. At that time I was chief deputy registrar. Ms. Morris did come to my office, and she voted early vote. Ms. Morris voted on 11/19/2010. She was number 16 on our subsystem. Now, she (unintelligible) on the subsystem as well as the (unintelligible). We also do an update on the express poll. Now, by Ms. Morris being one of the early voters to vote, Secretary of State also do a update. And the final update, they normally let us know (unintelligible) so by she being one of the first to come in the office to vote, she should have been updated on the express poll. Once we get the update, we also go back and check. We do like a manual check of every absentee person coming for early voting plus the absentees. So, I mean, if it's error on the registrar's part, I do apologize for it, but the way we check, it's just so hard to believe that we made that error.

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

(Whereupon, there was no response)

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

**MS. WADDELL**: Good evening. My name is Jeannette Waddell. I was chief registrar at the time during this particular election and we acknowledge that there was -- that we did not completely do all of our due diligence in preventing Ms. Morris from voting a second time. We accept full responsibility for that. The office staff will work diligently to check their work and recheck their work to be sure that, that does not happen again.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Anybody else?

**MS. SHEAFFER**: Yes, sir.

**SECRETARY KEMP**: Yes, ma'am.

**MS. SHAFFER**: Good afternoon. My name is Lee Shaffer, and my address is 3635 Peachtree Industrial Boulevard, Duluth, Georgia, and I just need to make one -- ask one quick question. Ms. Sheila Bryant was named in this action, and it's my understanding that are no proposed violations now alleged against her. Is that correct?

**SECRETARY KEMP**: Mr. Brooks?

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

**MS. SHAFFER**: Okay. So it was just a typo?

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

**MS. SHAFFER**: Okay. I just wanted to make sure. Thank you very much.

**SECRETARY KEMP**: So in our respondents for this case, Mr. Brooks, we've got Ms. Barry, Ms. Waddell, and the Hancock board of registrars. And then Sheila Bryant, is your recommendation to close the case?

**MR. BROOKS**: Yes, sir. The only respondents we have violations on were Morris

Barry for voting twice and the Hancock County board of registrars are the only respondents that we have.

**SECRETARY KEMP**: So we don't have a violation for Ms. Waddell, chief registrar?

**MR. BROOKS**: Only in the capacity of Hancock County board of registrar's office.

**SECRETARY KEMP**: Okay. All right. Anyone else wishing to speak?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Hearing none, can we have a motion? I move we bind over Morris Barry and the Hancock County board of registrars to the AG's Office?

**MR. SIMPSON**: Second.

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

**MR. WORLEY**: Does that include Ms. Waddell, who is also --

**SECRETARY KEMP**: It does not. Just Ms. Barry and the Hancock board of registrars. We got a motion and a second. Again, I'm going to let the record reflect Mr. McIver is not here for the vote. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and they are bound over.

All right. Next case is 2011, number 19, Cherokee County.

**MR. BROOKS**: Yes, sir. There was no election involved in this particular case, either. Heidi Brown, who lives at 1104 Lady Slipper Way in Canton, received a precinct card in the mail that did not belong to her or to anyone who lived at that address. She contacted the Cherokee County election officials, who ultimately challenged the elector to remove that person from the list of eligible voters.

Our investigation determined that Sarah Beth Barkley applied for a driver's license and placed the 1104 Lady Slipper Way address on the application. She also indicated that she wanted to register to vote. She stated that she did want to register to vote. She completed

the application. She did not reside at that particular address at that time. She resided at 116 Ridgeview Drive in Ball Ground. Ms. Brown had resided at her address on Slipper Way for the past six years.

Ms. Brown had resided at her address on Slipper Lane for the past six years. Ms. Barkley has submitted a letter to us that we would submit to the board indicating that, that her mother used live at Lady Slipper Lane and she just put that address on there when applying for her driver's license.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: No questions. Anyone else wishing to speak in regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I'm ready for a motion.

**MR. WORLEY**: I move to bind over the case.

**SECRETARY KEMP**: I've got a motion to bind over, do we have a second? I'll second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of binding over to the AG's office, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We have moved to bind the case over to the Attorney General's Office.

All right. Mr. Brooks, 2011, number 38, the City of Waverly Hall.

**MR. BROOKS**: Yes, sir. This involves a special mayoral election on March 16, 2010. There were two allegations in this particular case. One of them was the City of Waverly Hall had not adequately staffed the early voting period with three workers. And the second allegation was that Donna Williams, who was the city clerk and the elections superintendent, was instructing voters on who to vote for and who not vote for in the voting area.

In conducting the investigation, we determined that the City of Waverly Hall had two workers assigned to early voting period and Donna Williams' office is across the hall from the voting area. She was counting herself as the third worker; if there was an issue or they got busy then she would come over and help. But they did not have anyone there, or didn't have three people there at all times.

We also determined that we received statements from the chief of police and one of the chief majors there that gave a statement saying they heard Donna Williams instructing voters on who to vote for and who not to for. Both of them indicated that this took place on election day and that Donna Williams had instructed those voters to vote for the person who was opposing the complainant in this particular election.

We recommend that this case be bound over to the Attorney General's Office.

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

**MR. BROOKS**: Excuse me. Mr. Chairman, we do have a response from Donna Williams here if the board's interested in seeing that response.

**SECRETARY KEMP**: Anyone wishing to speak in regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I'll take a motion.

**MR. SIMPSON**: I move that we bind over.

**SECRETARY KEMP**: I got a motion, do we have a second?

**MR. WORLEY**: I'll second.

**SECRETARY KEMP**: I got a motion and a second, any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of binding over to the Attorney General's Office, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

All right. Mr. Brooks, 2011, number 40, the City of Marshallville.

**MR. BROOKS**: And before we get into the facts of the case, there's -- we need to make amendment to this particular one. After the investigation was completed we received a phone call from Joanne White who indicated that she did have copies of the ad that she provided to Patsy Cannon for the advertisement of the election. We looked at those and determined that she did have the -- that she did send the ads to Ms. Cannon and that she should not be listed as a respondent in this particular case.

**SECRETARY KEMP**: All right. So we need to -- we need to take who off as a respondent?

**MR. BROOKS**: Joanne White.

**SECRETARY KEMP**: We still got the city cited, correct?

**MR. BROOKS**: Yes, sir.

**SECRETARY KEMP**: All right.

**MR. BROOKS**: In this particular -- it was the election on November 20, 2011, general election. The allegation indicated was that the City of Marshallville had changed the qualifying date in this election and failed to advertise the qualifying dates during the period that was specified by law.

During the investigation we determined that the City of Marshallville had contracted with Macon County board of elections to conduct that municipal election. The City of Marshallville originally indicated that the qualifying date would be August 29 until September the 2, 2011. It later changed to August 30, 31 to September the 1st. In order to be in the conformance with the other municipalities of the county they changed those dates to that.

Ms. White stated she had sent the advertisements to Patsy Cannon in an email. And originally there was some confusion about whether or not they could produce those emails or whether those emails were there. We later were able to get those. Ms. Cannon says that she mailed the advertisements to the Citizen Georgia newspaper which was a legal organ of the county, but the advertisement for the City of Marshallville did not appear but the advertisements of the other cities did.

Ms. Cannon didn't have a copy of that email and the advertisement that she sent to them, but Joanne White was able to produce that, that ad and it appears she did send the advertisements to the legal organ at that time.

**SECRETARY KEMP**: So there's -- correct me if I'm wrong but there's three elections going on and only two of them got published --

**MR. BROOKS**: Yes.

**SECRETARY KEMP**: -- on time, correct?

**MR. BROOKS:** Yes.

**SECRETARY KEMP:** Anyone else wishing to speak? Any other questions for Mr. Brooks?

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. Brooks, since nobody stands up to speak in regards to the City and Ms. Cannon, what's your idea of a recommendation? Is this a minor violation for letter of instruction?

**MR. BROOKS:** Mr. Chairman, the City of Marshallville and Joanne White, I don't believe there is a violation there. I think they have fulfilled their requirements. With Patsy Cannon, I simply think it was an error made and it just didn't get sent over from the county.

**SECRETARY KEMP:** They evidently sent two of them, just not all three?

**MR. BROOKS:** Well, the City of Marshallville and Joanne White are the ones responsible for the City of Marshallville. The other cities were set up to Patsy Cannon, too, because they were contracted to run the elections for all the municipalities in the county. So the City of Marshallville is the only one that didn't get advertised; the other ones did.

But as far as the City of Marshallville and Joanne White, I think they fulfilled their requirements by sending it to Patsy Cannon. Patsy Cannon just erred in not getting -- making sure that advertisement to the legal organ.

**SECRETARY KEMP:** I want to make sure we do this in the proper way. Is it the board's take that we need to have a motion to dismiss against the City of Marshallville and Joanne White or do we not? Are we -- are you saying that they are not respondents so we don't need to address them?

**MR. BROOKS:** It would be fair if we could take a motion to dismiss it from this particular one.

**SECRETARY KEMP:** All right. Anyone else wishing to speak in regard to this matter?

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, anybody like to make a motion dealing with the City of Marshallville and Joanne White?

**MR. SIMPSON:** I move that the case be dismissed against them.

**SECRETARY KEMP:** All right, we've got a motion to dismiss and a --

**MR. WEBB**: Second.

**SECRETARY KEMP**: -- Mr. Webb. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we have dismissed the City of Marshallville and Joanne White.

Now, we're on to Patsy Cannon. So, Mr. Brooks, basically, Patsy got the information and sent two of the ads over but failed to send the third?

**MR. BROOKS**: Yes, sir.

**SECRETARY KEMP**: So basically, just a human error?

**MR. BROOKS**: Yes, sir. And we would probably -- a letter of instruction would be sufficient to correct this.

**SECRETARY KEMP**: Does anybody on the board have any other thoughts on how we should proceed on this? I mean, I personally, could live with a letter of instruction.

**MR. WEBB**: Then I'll make a motion that we issue Patsy Cannon, an election supervisor, a letter of instruction.

**SECRETARY KEMP**: And I'll second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of issuing a letter of instruction to Patsy Cannon, Macon County elections supervisor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we will send a letter of instruction.

**MR. BROOKS**: Mr. Chairman, that concludes our portion of the hearing today.

**SECRETARY KEMP**: Mr. Brooks, it seems that you're a little more efficient than Mr. Harvey. Don't know what to make of that.

**MR. BROOKS**: I certainly appreciate that.

**SECRETARY KEMP**: I know that Mr. Harvey's been under the weather this week. I'm sure that may had something to do with it.

We'll move on to the Attorney General's report. Tommy, will you, or somebody, run out there and see if Mr. McIver -- let them know that we're moving on to the Attorney General reports. And we have been voting on these in block. Mr. Waters, let Mr. McIver know if he wants to pull anything off, we need to know what it is.

Just to let everyone -- remind everyone -- the way we've been doing the Attorney General reports, too, we've been voting on all the orders that Ms. Brumbaugh has for us that no one objects to in block. So if there is a member of the audience that would like to pull off one of these cases to have Ms. Brumbaugh give us an update on that before we act, you're personally welcome to do that. Is there anyone in the audience that would like to do that at this time? Commissioner Stone?

**COMMISSIONER STONE**: I would like to make a comment when the case for Chatham County comes up.

**SECRETARY KEMP**: All right. To do that, we'll have to pull that case off. So we're going to pull off -- have we just got one Chatham County case?

**MS. BRUMBAUGH**: Yes.

**SECRETARY KEMP**: Okay. We will pull off SEB Case 2008, number 64. It t will come off the Attorney General's consent calendar.

Anyone else in the audience wish to pull off a case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay, Hearing none. Any of the board Members wishing to pull off the case?

**MR. WEBB**: Yes, Mr. Secretary, I would like to pull off SEB case number 2008-37, Twiggs County. It's under Tab 31.

**SECRETARY KEMP**: All right. We'll pull off 2008, number 37, Twiggs County.

**MR. WEBB**: Also, case 2009-55, City of Bartow. That's Tab 35.

**SECRETARY KEMP**: All right. We'll pull that off. 2009, number 55, City of Bartow.

MR WEBB: And my final case is SEB case number 2010-23, Hall/White County.

**SECRETARY KEMP**: All right. 2010, number 23? Is that correct, Mr. Webb?

**MR. WEBB**: Yes.

**SECRETARY KEMP**: All right. And we'll pull that off. Anybody else?

**MS. BRUMBAUGH**: Mr. Chairman, I would like to discuss 2010-82, Paulding County, number 43.

**SECRETARY KEMP**: All right. We'll pull of 2010, number 82. Anybody else?

I'd like to pull off 2010, number 34, Hancock County.

Do we know where Mr. Waters is? Is he still looking for Mr. McIver? Tommy, you want to check on them? I heard that Mitt Romney was in the halls earlier, so he may have -- he may be talking to those folks out there.

Tell you what. Mr. Webb needs to step out for a minute. Why don't we just take a five-minute break? Well, let's just -- we'll come back at 2:45; how about that?

- - -

(Whereupon, a break was taken)

- - -

**SECRETARY KEMP**: All right. We're going to go ahead and get going. We want to get Mr. Simpson past Eagle's Landing exit on 575 before the witching hour so we will reconvene.

I think the first order of business would be to vote on the consent orders that we are not going to pull off the consent calendar. Are you all clear about those?

Let me just go through and tell you the ones we're going to pull off the consent calendar: 2008-37, Twiggs County; 2008-64, Chatham County; 2009-55, City of Bartow; 2010-34, Hancock County; 2010-82, Paulding County; 2010-23, Hall/White County. Those are the cases that we will not be voting to -- on the motion on the Attorney General's consent calendar.

Did I include everything that everybody wanted?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing no objection, I will take a motion for the remaining

cases that are on the consent calendar. We'll vote on those and block.

**MR. McIVER**: I'll move.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: All right. We have a motion to accept the consent orders on the cases that remain on the Attorney General's report on our consent calendar. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

**SECRETARY KEMP**: All right. We'll now call the individual cases that we pulled off the consent orders, the first one being, 2008, number 37, Twiggs County. Ms. Brumbaugh?

**MS. BRUMBAUGH**: Yes. Twiggs County respondents in this case are Greg Stone and Doyle Stone. Doyle Stone is Greg Stone's father. In the 2008 July 15 July primary election, Greg Stone was the candidate for Twiggs County Sheriff and there were allegations that both father and son went around collecting absentee ballots from elderly electors; assisting absentee ballots -- assisting with absentee ballots from elderly electors. Both of the Stones have agreed to consent orders each in the amount of \$300 for violations with three different electors.

Doyle Stone unlawfully assisted Helen Wimberly with her absentee ballot and Syreatha Basely. And he unlawfully possessed Hennie Lou Washington's ballot and his fingerprints were found on Hennie Lou Washington's ballot.

Greg Stone, his fingerprints were found on Helen Wimberly's ballot, on Syreatha Basely's ballot and, on Martha McCord's ballot.

And so the consent orders reflect \$100 for each one of these per violation; per elector.

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

**MR. WEBB**: Ms. Brumbaugh, how did you come up with the civil penalty?

**MS. BRUMBAUGH**: I followed the kind of rule of thumb that this -- the board has followed, really since before I started, where when we absentee ballot violations it's \$100 per ballot or per elector. So in each case there were three different electors whose ballots had been -- that the law had not been followed on those ballots, so each respondent agreed to pay \$300 civil penalty.

**MR. WEBB**: In the original complaint wasn't there more than just three ballots per person?

**MS. BRUMBAUGH**: In the original complaint there were; there were more like six. There were two people who were members of -- I think, they were in a nursing home and there was some question as to whether they're -- they gave somewhat inconsistent statements regarding what had happened and I didn't feel that we could prove those cases if we went to hearing.

There was another gentleman named, Roosevelt Lyden. There was more evidence regarding Mr. Lyden and that, you know, perhaps the Doyles -- the Stones had unlawfully assisted with his ballot; several people said he was not disabled and he should have been able to do this on his own.

This was a negotiation between, you know, with the Stones and their attorney and this was the -- this is what we have negotiated and agreed upon.

And so there were -- when you look at the consent orders there are -- is the issue of handwriting. To prove that at a hearing, would require -- I think this handwriting analysis was done at Quantico in Virginia. So to prove some of these allegations would require flying in the handwriting analysis from Quantico, Virginia and getting them to Twiggs County, Georgia. So there was -- that was sort of some of the considerations that went into the specific presentation in this case.

**SECRETARY KEMP**: Any other questions? Is there anyone else wishing to speak in regards to this?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I'll be glad to accept a motion on the Twiggs County case, 2008, number 37.

**MR. McIVER**: Move to accept.

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

**MR. SIMPSON**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was taken)

**SECRETARY KEMP**: All opposed, same sign. That motion carries --

**MR. WORLEY**: Aye. I'm opposed.

**SECRETARY KEMP**: All right. Let the record show that Mr. Worley was opposed. So the motion carries 4-1; is that correct? All right, sorry about that.

On to 2008, number 64, Chatham County, Tab 32.

**MS. BRUMBAUGH**: The Chatham County case, we last considered this case in May in Savannah. I'm not sure how many members -- I think at least three of the board Members were there; two of them may not have been.

At that time we had subpoenaed all of the original 20 respondents to the meeting and conducted basically an evidentiary hearing and we were able to close the case against all but four of the respondents. At the end of the May meeting the respondents that were left were John McMasters, Edwin Morris, Alexia Williams, and Kim Ross.

At that May meeting, Kim Ross appeared and John McMasters' mother-in-law appeared and they both told substantially the same story which was, everyone met at John McMasters' mother-in-law's house and Edwin Morris brought some petitions which had been filled out and he handed these petitions to Alexia Williams and Kim Ross and said you need to sign these petitions as circulators before you get paid.

And so these girls -- Alexia was about 20 at the time; Kim is older. Kim had testified, I was just trying to make a little extra money and I think I made about \$100. They did what they were told. They signed as circulators of these petitions they had not circulated. McMasters' mother-in-law notarized the signatures and everything was turned into the Chatham County's registrar's office.

Because McMasters and Alexia Williams did not show up at the hearing at the May meeting, I then went down -- per the board's guidance, I went down to Savannah at the beginning of August and I deposed John McMasters and Alexia Williams and they both independently told me the same -- well, basically, the same story: that Kim Ross and McMasters' mother-in-law had said. There was this meeting; these petitions were filled out; I was told to sign it. I, you know -- I was just trying to make a little extra money. I signed these petitions; I didn't circulate them. And then, low and behold, a year later, I find out that I have signed petition as circulators that contain forgeries.

Additionally, Edwin Morris -- so it began to appear that Edwin Morris was really the mastermind of this whole situation. Edwin Morris had recruited two groups of people. He recruited people who signed those petitions who actually put the forgeries on

those petitions. And we still don't know who those people are. And then he recruited Kim Morris and Alexia Williams to sign those petitions as circulators. And we don't have any evidence that McMasters was involved in this conspiracy.

So given the story that four people have told independent of each other that is, you know, consistent, I have presented two -- I'm presenting two consent orders today and I'm recommending that John McMasters' case be closed for lack of evidence.

Regarding Alexia Williams, I am -- she has submitted a consent order for a \$300 civil penalty, cease and desist and public reprimand. Again, she was 20 years old. She wasn't really politically motivated. She just wanted to make some money. And she only made about \$100, you know, from doing this. So she's agreeing to pay a civil penalty that's three times the profit she made in this case.

Edwin Morris, over the course -- since this happened in the summer of 2008, he has suffered two strokes; he is incapacitated; he cannot speak. He is a very ill, ill man. He lives with his parents when he's not in the hospital. He has agreed to a \$10,000 civil penalty, suspended upon his agreeing not participate in elections for 10 years. He will not engage in any election campaigning or consulting work. He will additionally cease and desist for many other violations of the election code and he shall accept a public reprimand.

So my recommendations are to close the case against John McMasters for lack of evidence, and to accept the consent orders against Alexia Williams and Edwin Morris.

And that still leaves Ms. Ross's case outstanding. I have attempted to contact her over the summer and the fall given the address that she gave on the record at the May meeting. My letters are coming back, but since she gave us an address I feel like I can go down to Savannah, have a hearing, and if she doesn't show up we should be able to get a default judgment against her.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Anyone else wishing to speak? Ms. Stone, welcome back.

**COMMISSIONER STONE**: My name is Helen (unintelligible) Stone. I live at 9974 Whitfield Avenue, Savannah, Georgia, 3146.

I really appreciate the State's patience with this. This is the fifth time that I have been before you and I think you all have done an outstanding job. However, it's very sad in a way because Edwin Morris does not know me. John McMasters and his friend Jeff (unintelligible) were the real instigators in this whole case. They were the ones that got Edwin Morris involved in this because they were sitting commissioners when I ran

against Mr. (unintelligible) and they wanted to make certain that someone was on the ballot to run against me.

I understand that the lack of evidence to him and Mr. McMasters on this case is probable at best. It's just very sad because he -- I can tell you right now, if Edwin Morris were to walk into this room he probably wouldn't even know who I am. And that's the sad part of this case. And it troubles me that the person that was really sort of behind it is not going to receive any penalty because this has cost you all a lot of time and money and it's cost Chatham County some time and money. And for that reason and that reason alone, I'm very saddened by that.

But I would like to offer a suggestion. And I have spoken with one of my State senators who's in agreement with this, Senator Buddy Carter. And I'm just going to offer this because going forward, I don't want this to happen to anybody else. And it would seem to me that when you go out with these petitions to have an independent candidate put on a ballot, if when you knock on someone's door and you ask them to sign this petition, just as we did with the voting polls, if someone had to show some form of ID saying I am who I am when I sign this petition, we might not be in this boat again.

So I'm just going to take the time and I will submit this to read what I've asked a Chatham County attorney to draft for me and I would like for it to go into your record and for you to consider this.

It says: I would request that the Secretary of State or the State board of elections ask the General Assembly to enact legislation so that anyone circulating a petition to be used for a nomination of candidates, a referendum, or for other election-related matters, require that the person or persons circulating the petition verify the identification of these signing said petitions. Specifically, circulators should be required to confirm the signature's identity by use of either a voter identification card, driver's license, voter registration card, or any other form of identification deemed appropriate by the General Assembly. Requiring a person circulating a petition to verify the identity of the person signing the petition would take care of issues similar to the issues in this case in that the identity of the person signing the petition would, in fact, be known. In addition, such legislation should include a provision such that these -- those circulators who fail to comply with verification requirements could face the risk of criminal prosecution. This simple requirement of mandating that persons circulating petitions to identify the signers would go a long way in preventing fraudulent petitions which contain phony names, names of deceased persons, and persons not even qualified to execute the petition.

And I will submit this to you all and ask that you consider so that you don't have to go through this in the future; people whose names were forged won't have to go through that again; and people running for office won't have to go through it. Thank you.

**SECRETARY KEMP**: Do you have a copy of that, Commissioner Stone? Do we have a motion to accept?

**MR. McIVER**: Move.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Got a motion and a second to accept. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of accepting the document, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and we will accept the document. Thank you. Commissioner?

**MR. GELLATLY**: Thank you, Mr. Secretary and the members of the board.

**SECRETARY KEMP**: Commissioner, if you don't mind?

**MR. GELLATLY**: Certainly. My name is David M. Gellatly, G-E-L-L-A-T-L-Y. I live at 718 Winter Road, Savannah, 31419 and I'm currently a Chatham County Commissioner and have been going on 12 years.

I do thank the board for your patience. I think the case has been investigated as the best as it can. I think -- I commend the Attorney General's Office efforts on this also. The only thing that I would like to comment on and offer -- and it's critically important -- I'm doing this so it's on the record.

It's critically important to know that this isn't just something one or two people got together and decided to forge signatures. This was well orchestrated. It was well orchestrated by a man that's very intelligent and sometimes devious and that I've known personally for a long time; that would be John McMasters. He personally got all the petitions together, collected them from the Chatham County voters group and actually got the petitions, the affidavits notarized and actually passed out the petitions and then actively collected the petitions.

I think he's, as I stated, a smart man. He knew exactly what he had when had Mr. Morris employed. He's a well-known individual in Savannah. It's well-known and established that he paid, or not he, necessarily, but Mr. Morris was paid \$3 per signature. So it's a profit motivator. Maybe, that, too, needs to be taken a look at as far as state law is concerned. Do we really want to be paying for signatures? Is that a good thing? And it

certainly wasn't a good thing in this case.

I think I have mentioned before that I have 40 years in law enforcement and I understand what it takes to make a case. I also want to say that personally looking at this petition myself, in its entirety, there were probably as many as 200 signatures on there that nobody was contacted. Someone just sat down and had a bogus list, sat down at the kitchen and just wrote those signatures down for \$3 apiece. And there's something terribly, terribly, terribly wrong when that occurs in our State of Georgia.

Before I came here in 1980, and I came here as the Chief of Police of Savannah at the time, my last six years of being Chief of Police was in Madison, Illinois, which was 21 miles from downtown Chicago; that's how they did it there. But by God, that is not the way we should do in the State of Georgia. We are so much better than they are. And I'm just hoping that we can learn from this and that there must be a half a dozen ways that we can tighten up the laws where this doesn't occur, or if it does occur that it makes it easy on our very qualified investigators and our qualified Attorney General's Office to make a solid case and a criminal prosecution.

This is a horrible thing that's occurred and has been carried out or carried over for several years and I don't think that justice was served in this. But after saying that, I do agree that it was thoroughly investigated and we did it under the best we could do with the existing laws, rules, and regulations. But I hope that we can improve on it because this is terribly wrong. This is the way they do it in Chicago; this is not the way we do it in Georgia. Thank you.

**SECRETARY KEMP**: Thank you. Any questions for either one of the Commissioners? All right.

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Let me just say I appreciate y'all's diligence in this matter and Ms. Brumbaugh's, for that matter, and the board's. I know this has been a long haul. Certainly, I think the board would agree that we wish we had more information or more evidence, you might say. But I think we took an unprecedented measure when we subpoenaed people and we came and had our meeting to -- in Savannah. I think that sent a message, not only to the community down there but, also, to all the elections officials that were in attendance of that meeting about how seriously we take voter fraud and absentee ballot fraud in the State of Georgia and as a board, and we will continue do that.

We certainly need our citizens and elected officials and everyone else involved in the

elections process to help us with that and that's why we created our Stop Voter Fraud website and our 1-800 hotline number where any citizen, any Georgian, or any person that sees potential election fraud violation going on can report back to us.

Even though we sometimes don't get the outcome that want I think people know that we will investigate. We will continue cases until that last rock is turned over and we will continue to do that in this case until we can track down Ms. Ross as a witness.

With that I will be ready for a motion if anyone has one.

**MR. McIVER**: I'd just like to add, Mr. Secretary, I for one, really appreciate your tenacity. I wish more people felt as passionately about the integrity of our voting process as you did and you have been a great example for me.

**SECRETARY KEMP**: Thank you, Mr. McIver. Do we have a motion to accept the consent orders for Edwin Morris and Alexia Williams? And then to dismiss respondent John McMasters?

**MR. WEBB**: I so move.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Mr. Simpson seconds. Any other discussion?

**MR. McIVER**: Would someone please give me just a brief explanation on McMasters again?

**MS. BRUMBAUGH**: Mr. McMasters, according to the evidence I have from Mr. McMasters' mother-in-law, who is the Notary of these petitions, from Alexia, and from, and then also from Mr. McMasters himself -- both Alexia and Mr. McMasters gave me their stories independent of each other, independent -- they didn't come to the meeting and May so they were unaware of what other people were saying. With the evidence we have -- the testimony of these four people would be that there is a meeting after all of these petitions have been filled out. That meeting is at John McMasters' mother-in-law's house -- the Notary. John McMasters comes in one car; Edwin Morris comes in another car; Alexia Williams comes in a third car; Kim Ross comes in a fourth car. Morris brings the petitions. Morris hands the petitions to Alexia Williams and Kim Ross and Morris says you have to sign these petitions as circulator or you don't get paid.

I even had -- at the deposition of Alexia Williams I gave her the petitions and I said tell me which ones you circulated yourself and tell me which ones you just signed it without highlighting or flags or anything, the ones she said she circulated herself were ones that did not contain forgeries on them. So she was handed these petitions that had forgeries on them, she and Kim Ross were told they had to sign them before they get paid by Edwin Morris and they sign them. They gave them back to Edwin Morris and Edwin Morris paid them. That is one of four different people tell me.

And so John McMasters is present at that meeting, but not one of those four people say, yes, John McMasters was the one that paid me; yes, John McMasters was the one that brought me the petitions; yes, John McMasters said wink, wink, nod, nod -- now we've accomplished our goal. I think common sense -- as Ms. Stone said, you have to wonder about how could he not know. Unfortunately, how could he not know is not evidence and I have to bring in evidence that puts somebody who was directly on the scene saying yes, he was involved; yes, he had knowledge; yes, he said this or did this. I don't have that. I have four people all independently saying -- not giving me anything. So based on that, that is my recommendation to close Mr. McMasters' case.

**SECRETARY KEMP**: Thank you, Ms. Brumbaugh. Mr. McIver, anything else?

**MR. McIVER**: Well, of course, troubled about McMasters at least on the circumstances available to us going completely free and closing the case on him. I would be willing to entertain discussion of at least a cease and desist and a letter of instruction for him. I mean, we're not reprimanding him because we find evidence to do so, but you can issue a letter of instruction for being late to this meeting. That can be instructive. And a cease and desist, as well. I would like to see something with respect to Mr. McMasters.

**SECRETARY KEMP**: I'm certainly open to that. Commissioner Stone, that you have something more to add?

**COMMISSIONER STONE**: There was one link. Mr. McMasters was the one that turned all these petitions in to the elections board and got the receipt for it. We have copies of the receipt. So there is a way to --

**SECRETARY KEMP**: The problem is, though, the link doesn't necessarily mean that we can prove he knew those were fraudulent even though we may in our minds no legal perspective. Is that your understanding, Ms. Brumbaugh?

**MS. BRUMBAUGH**: Yes. We have to prove some element of knowing. That's always been one of the biggest problems in this case. Certainly we given the evidence that I've outlined, we have circumstantial evidence of knowing on Edwin Morris' part. He comes in with these petitions, the petitions have forgeries on them, he sets up another bunch of women to sign them. You know, he is orchestrated something we are the two hands don't know the other one is doing. So we have circumstantial evidence of him knowing that these petitions have forgeries on them.

There has never been any question that McMasters was recruited Morris. McMasters admits that. I knew Morris from a previous campaign related subsidence is suggested to Osborne that he hire Morris. No, there is no dispute that these documents get passed on to McMasters and he takes them to the Chatham County registrar's office. The problem is there is no evidence -- there's not even any evidence of a discussion. You know, if we had -- if at that meeting at his mother-in-law's house somebody had said, hey, there's forgeries on these petitions, and he had heard that, we could impute some kind of

knowing to him. We could say, yes, you should have been responsible for this. But we don't have that and we have four different people giving a very similar story. Yes? I'm sorry.

**MR. SIMPSON**: I'm just going to say I agree with Mr. McIver that this does not go down well. But, remember, McMasters is presumed innocent and no evidence means no evidence. I don't see how you can issue a letter of instruction, a reprimand or anything when our counsel is sitting here telling us we have no evidence. It doesn't go down very well; none of us like it. He may or may not be involved, but we still can't pursue or take action against him, I don't believe, unless we have some evidence and if we don't have it, we don't have it.

**SECRETARY KEMP**: Mr. McIver?

**MR. McIVER**: Ms. Brumbaugh, on the circumstances here before us today, may we issue a letter of instruction and a cease and desist order to this gentleman?

**MS. BRUMBAUGH**: I think it's within your discretion to issue a letter of instruction. That is a unilateral document. It has no legal weight. But it is certainly within the discretion of the board to do this. A cease and desist -- you could probably put it in the letter that we recommend that you cease and desist. We could write it in a way that -- again, it is a unilateral, non-binding document and it is within your discretion to issue a unilateral, non-binding document. Just remember that's what it is. We have done it -- we haven't had a case that compares with these facts. We have issued a notice of instruction in the past and we have voted today to -- you I voted today to do it a few times. So it is certainly within your discretion, but it doesn't -- it does send a signal of disapproval. But we cannot ever go after Mr. McMasters and say here is this letter of instruction we sent you, therefore, you are obligated and you are in contempt of this document.

**MR. McIVER**: But in many ways would've stigmatized him; we would have attacked him with a wrong in our view in giving him a letter of instruction.

**MS. BRUMBAUGH**: Yeah, it certainly depends on the text of the letter and how it's phrased. There is a wide -- there are many ways of writing a letter of instruction.

**MR. WORLEY**: If I may, Mr. Secretary, I don't believe we should be in the business of stigmatizing people if we don't think we can prove they did something wrong.

**SECRETARY KEMP**: Commissioner Stone?

**COMMISSIONER STONE**: May I just ask a question. Since you have one more person to depose, could the case of Mr. McMasters just to be held open the case in the additional information comes forward?

**MS. BRUMBAUGH**: Well, we're not going to depose Ms. Ross. Ms. Ross came to the May meeting; she testified at the May meeting. Her story was consistent with the other

peoples' and it did not implicate Mr. McMasters. So what I expect to do with Ms. Ross is sent the case for hearing, take another trip to Savannah, and probably Ms. Ross will show up. But she put her address on the record in May and that is enough -- I have a good address on her and if she doesn't show up, we get a default judgment on her. I think at this point we have testimony that is under oath and on the record from four different people saying -- no one is giving a shred of evidence that Mr. McMasters had knowledge of the forgeries. So there is no further investigation to do. There's really no evidence against him and we probably just need to resolve this today.

**SECRETARY KEMP**: Mr. Webb?

**MR. WEBB**: I would not be in favor of a letter of instruction containing a cease and desist because a cease and desist is stating do not do this act again that we are saying we don't know he did an act. The only thing I could think of is to Mr. McMasters -- was he aware that Ms. Ross and Ms. Williams were signing petitions they did not circulate?

**MS. BRUMBAUGH**: He says he didn't know that.

**MR. WEBB**: Mr. Morris, for that matter, didn't even say that Mr. Masters instructed him to do so or committed any act on himself. I think if we can't get Mr. Morris to stay Mr. McMasters did commit some act, then I think that pretty much seals the case and that Mr. McMasters should be dismissed.

**SECRETARY KEMP**: Okay. We've got a motion on a second to accept the consent orders on Alexia Williams and Edwin Morris and dismiss the case of John masters. Is there any other discussion?

**MR. WEBB**: One more final point. Ms. Williams agreed to a \$300 fine?

**MS. BRUMBAUGH**: Yes.

**SECRETARY KEMP**: Yes, she signed. She's already signed the consent agreement?

**MS. BRUMBAUGH**: Yes. That's in your notebook.

**SECRETARY KEMP**: All right. We've got a motion and a second. All in favor, signify by saying "Aye."

(Whereupon, the vote was taken)

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

**MR. McIVER**: Aye.

**SECRETARY KEMP**: We have one no vote; the motion carries. We have accepted the consent orders for Alexia Williams and Phil Morris. We have dismissed the case on John McMasters and we will continue to pursue Ross. Thank you all for your diligence. Have

a safe trip back.

All right. Ms. Brumbaugh. Our next case we wanted to pull out was 2009, number 55, City of Bartow; that's number 35 in your book.

**MS. BRUMBAUGH:** In this case, there were six absentee ballots cast in the November 3 to 2009 municipal election for this City of Bartow and there were just a myriad of problems. The respondents, who were all City of Bartow -- respondent Scarborough was the town clerk and elections superintendent and respondent Everetts were running the City of Bartow municipal election. None of them were trained. None of them contacted the Jefferson County registration clerk, Chandrelle Evans to verify the signatures on the applications for these six absentee ballots. And then they just kind of handed the ballots to family members of these six electors. Then the absentee ballots came back; respondents again failed to compare the signatures on the absentee ballots with the signatures on the applications or the registration cards.

And then there were additional violations specific to several of the six ballots which are spelled out in more detail in the consent order. Again, consistent with the -- we have an absentee ballot -- absentee ballot mismanagement or fraud is usually \$100 per ballot. They agreed to a \$600 consent order for the six absentee ballots.

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

**MR. WEBB:** Ms. Brumbaugh, I am not clear on who is being fined \$600. Are they each being fined \$600?

**MS. BRUMBAUGH:** No. It is a \$600 total.

**MR. WEBB:** Is it split three ways?

**MS. BRUMBAUGH:** Well, I suspect that John Murphy -- this was handled by John Murphy, who, I guess, is the city attorney for the City of Bartow. So I expect that the City of Bartow will pay the \$600. I didn't get that specific in my negotiations, but that's my assumption.

**MR. SIMPSON:** How can you enforce it if you don't know who is supposed to pay what?

**MS. BRUMBAUGH:** Well, typically this is -- we often do consent orders this way and we don't -- they agree. I mean, ultimately, they are on the hook. I don't think they're going to be cutting personal checks; I don't know that for sure. But ultimately, Ms. Scarborough and the Everetts are the ones -- they are the respondent; they're the ones assigned the consent order so ultimately we could go after them. But my expectation is the check will actually come from the City of Bartow.

**MR. SIMPSON:** Well, you might correct that by adding the words jointly and severally

after to -- and to pay jointly and severally \$600.

**MS. BRUMBAUGH**: I'm sorry. I couldn't hear you.

**MR. SIMPSON**: If you put some language in there that says that order is joint and several, the payments could be made jointly and severally. That way you could enforce the whole \$600 against any of them are all of them.

**MS. BRUMBAUGH**: I can do that in the future.

**MR. SIMPSON**: Okay.

**MR. WEBB**: The Everetts, their actions were committed in their capacity as poll managers?

**MS. BRUMBAUGH**: Yes.

**MR. WEBB**: All right. Thank you.

**SECRETARY KEMP**: Anything on this one? Anyone else here wishing to speak in regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, do we have a motion to accept this consent order?

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

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We've got a motion to accept in the second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and we have accepted the consent order for the City of Bartow.

The next case is 2010, number 34, Hancock County, tab number 39, I believe. Number 42 tab. Ms. Brumbaugh?

**MS. BRUMBAUGH**: Yes, this case came before the board in the February meeting in

Macon. Judge Rice, who is no longer involved in elections in Hancock County is my understanding, she was the probate judge and the elections superintendent. She was responsible for express poll testing. She did not sign the L & A forms in a timely manner that the express polls had undergone logic and accuracy testing. She agreed to pay \$500 civil penalty, to cease and desist, and to accept a public reprimand. A couple of other times we've had some L & A issues come up and I have recommended a \$500 fine and the respondents have agreed the board has accepted it. So I have kind of gone with the \$500 fine on L & A violations.

**SECRETARY KEMP**: Any questions for Ms. Brumbaugh? Mr. McIver?

**MR. McIVER**: Ms. Brumbaugh, are there any restrictions on -- once a judge always a judge, I think -- Judge Rice returning to the election process in Hancock County?

**MS. BRUMBAUGH**: There are no -- she would either have to get a job or be appointed to the board. So she would have to impress someone else with their qualifications. She can't just --

**MR. McIVER**: Agreed. But there is no restriction on her serving in this capacity in the future?

**MS. BRUMBAUGH**: No.

**SECRETARY KEMP**: There has been legislation, I think, Mr. McIver, that will combine the board. I believe that's right in Hancock County, which takes that duty away from the probate judge's office. Anyone else?

**MR. WORLEY**: Ms. Brumbaugh, how many cases have we had involving Hancock County in recent years? Do you know roughly?

**MS. BRUMBAUGH**: I am personally aware of two and if I flip through my chart --

**SECRETARY KEMP**: Mr. Harvey, have we got any open cases?

**MR. HARVEY**: Yes, sir. We have several open cases in Hancock County.

**MR. WORLEY**: And to Mr. Harvey or Ms. Brumbaugh, and has Judge Rice been a respondent or is she a respondent in these cases?

**MR. HARVEY**: I believe in some pending there's potential that she's a respondent. I believe the most recent is after her tenure as elections superintendent ended.

**MS. BRUMBAUGH**: She was a respondent several years ago in a case.

**SECRETARY KEMP**: Anything else, Mr. Worley.

**MR. WORLEY**: No.

**SECRETARY KEMP**: Ms. Brumbaugh, did you have anything else?

**MS. BRUMBAUGH**: No.

**SECRETARY KEMP**: Any other discussion? Ma'am, you wanted to speak?

**MS. SHAFFER**: Thank you, Mr. Secretary. Lee Shaffer on behalf of Judge Marva Rice of Hancock County. My address is 3635 Peachtree Industrial Boulevard in Duluth, Georgia. Just to set the record straight, Marva Rice has been named a respondent. That was once in 2004 and that was resolved. There have been other investigations subsequent to the passage of SB173, which specifically removed -- (unintelligible) board of registrars and board of elections. We are not aware of any other investigation. We've not been named as a respondent at all.

**SECRETARY KEMP**: When you say "we" you're speaking on behalf of Ms. Rice?

**MS. SHAFFER**: I'm speaking on behalf of Judge Rice, yes, sir.

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

**MR. McIVER**: Ms. Shaffer, we're honored to have you here today.

**MS. SHAFFER**: Well, thank you very much.

**MR. McIVER**: One that's such an expert in elections as you. I know you're no stranger to these proceedings.

**MS. SHAFFER**: I've been here a few times.

**MR. McIVER**: Always a pleasure to have you come. Things go smoother when you're here.

**SECRETARY KEMP**: Hopefully the leadership in Hancock County, Georgia know we're a little tired of getting to see them so often.

**MS. SHAFFER**: Well, in April of this year, I resigned as -- I had been their county attorney since '01. So this is my last -- I think it's going to be my last time before the board on behalf of Hancock County and Judge Rice, as well.

**SECRETARY KEMP**: We'll figure out a way to send that another way.

**MS. SHAFFER**: There you go.

**SECRETARY KEMP**: Any other discussion? Do we have a motion to accept the consent order?

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

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor signify by saying "Aye."

(Whereupon, the vote was taken)

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

**MR. WORLEY**: Aye. I'm opposed.

**SECRETARY KEMP**: Let the record show Mr. Worley's opposed. So that motion carries on a 4-1 vote and we have accepted the consent order.

We're on to our last case, 2010, number 23, Hall/White County, number 52.

**MS. BRUMBAUGH**: Actually, I wanted to talk about 2010-82, which is tab number 43, just quickly.

**SECRETARY KEMP**: Oh, yes. Paulding County. What tab is that again?

**MS. BRUMBAUGH**: Tab number 43.

**SECRETARY KEMP**: Okay.

**MS. BRUMBAUGH**: These cases were referred to my office in August. There were just two respondents: Christine Cruz and Horace Robert Parmer who had allegedly registered to vote while on probation for felonies. I sent out consent orders but both of the consent orders came back, you know, undeliverable, bad addresses. So my recommendation to the board was to close the cases because we couldn't prove notice if we had to send these cases to a hearing.

After Mr. Harvey's office sent notice to Ms. Cruz, she contacted me. So she has been getting our letters. She does have an address we can contact her. And we can still pursue the case against Ms. Cruz. So I would ask that the board close the case against Horace Robert Parmer for lack of a good address, but that we keep the case against Ms. Cruz open to pursue the fraudulent registration.

**SECRETARY KEMP**: Any questions for Ms. Brumbaugh? Anyone else here wishing to speak regarding this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: I'm ready for a motion.

**MR. SIMPSON**: So moved.

**SECRETARY KEMP**: So we have a motion to close against Horace Robert Parmer and a motion to keep the case open for Christine Cruz.

**MS. BRUMBAUGH**: Yes.

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

**MR. WORLEY**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. All right. Now the last case, SEB 2010, number 23, Hall/White County, number 52 in your book.

**MS. BRUMBAUGH**: This case is really strange, honestly. The victim in this case, a man named Charles Bailey, was originally registered to vote in Hall County. He moved to White County. He transferred his registration to White County and he received a White County precinct card. Hall County then destroyed his Hall County registration card, but at some point after that, they checked their cards in their office against a printout of voters and Charles Bailey was still on this list of voters. So Hall County recreated a registration card for Mr. Bailey which transferred his registration back to Hall County.

Charles Bailey got notice of this, said, no, I live in White County, and then Hall County deleted him entirely from the voter registration database instead of transferring his registration back to White County. Mr. Bailey went to vote last November and he was not registered. So, obviously, he wasn't very happy about that.

At the February meeting, the board referred only the Hall County part of this to me. The White County part did not come to me and this is a consent order signed by Ms. Sosebee, who was here earlier, in addition to Vanda Edwards and they have agreed to a \$200 civil penalty, a cease and desist, and a public reprimand.

**SECRETARY KEMP**: Any question for Ms. Brumbaugh?

**MR. WEBB**: Ms. Brumbaugh, who has to pay the \$200?

**MS. BRUMBAUGH**: Hall County will pay. They're both Hall County employees.

This was negotiated through the Hall County attorney's office; this is William Blaylock who is the Hall County attorney.

**MR. WEBB**: All right. Just for future reference if you could clarify that in future orders that would be great. And how did you arrive at the \$200 amount?

**MS. BRUMBAUGH**: I just did \$100 for the fact that they first destroyed his registration card -- no. First they recreated his registration card, which was a violation of 21-2-562(A) in that they were creating a false document. And then they deleted his registration entirely from the voter registration database and they didn't give him three days' notice before they did that. And, you know, as I said, in two years I haven't seen anything close to this. It was somewhat difficult even figuring out the trail of actions and how this had happened. Two hundred dollars was what was agreed upon, but if the board feels that something more is needed, that's certainly reasonable.

**MR. WEBB**: I'm satisfied.

**SECRETARY KEMP**: Anybody else? Anyone else wishing to speak in regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: I'm ready for a motion.

**MR. WEBB**: Move to accept the consent order.

**SECRETARY KEMP**: I've got a motion to accept the consent order.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Got a second by Mr. Worley. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of accepting the consent order, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

Now we've got some initial decisions. SEB case 2009, number 29, Talbot County.

**MS. BRUMBAUGH**: Yes. These two cases involve the same allegations but very different facts and different initial decisions. My assessment of these cases are very

different. Talbot County -- both of them involve people who voted twice, or attempted to vote twice.

The first case is Talbot County, 2009-29, and Mr. Raines voted twice, once by an absentee ballot and then once he came into the registrar's office with a woman named Sugar Momma, whom I believe we may see at some point on other cases.

Mr. Raines was illiterate; he was very apologetic for what he did. It wasn't clear to me that he even understood completely what he did. He had a -- the clerk of Talbot County, when she found out what was happening that day, volunteered to serve as his character witness, which in 10 years of doing trials and hearings I've never seen. She testified very eloquently to his mental condition, like I said, his lack of literacy, his capacity issues. And the judge wrote a very long decision about how, you know, Mr. Raines didn't understand and since he didn't understand what he was doing, then he couldn't have had the intent to fraudulently commit these actions, which is what the code requires.

At the hearing -- usually when we do consent orders in these cases, a consent order where you admit that you've voted twice, people agree to \$1000 civil penalty. I explained that to the judge and I recommended, really, just a \$100 civil penalty because I felt that Mr. Raines needed to understand how serious this was and not do it again. The judge, as I said, wrote a very extensive decision saying that Mr. Raines hadn't violated the code at all. In reading the transcript again, I tend to agree with the judge that Mr. Raines was not really able to understand what was happening.

The second case, 2010-63, is very different. This case, James William Brewer --

**SECRETARY KEMP**: Ms. Brumbaugh, do you think we should go ahead and move on the first case?

**MS. BRUMBAUGH**: We can do it that way; that's fine.

**SECRETARY KEMP**: Anybody got any questions on that? On that first case?

**MR. McIVER**: I've got some discussion.

**SECRETARY KEMP**: Anyone wishing to speak on Talbot County case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, Mr. McIver?

**MR. McIVER**: Well, as I've spoken before in a couple of earlier meetings, I'm very troubled by Judge Kennedy's decision at OSAH. And to determine that there's no violation of law when we have double voting and an election code that seems to be particular intolerant on that subject. So I've read and reread her description, even her citation to Black's law dictionary, which we all learn much about in law school, and still I find it troubling that there isn't any kind of violation whatsoever.

So my opinion is that some sort of action should be taken by the SEB -- I'm certainly willing to discuss that -- against Mr. Raines and perhaps he understands it and perhaps he doesn't. But I'm concerned about taking no action where there, in my view, has been a violation of the code.

**SECRETARY KEMP**: Ms. Brumbaugh, what would be our options here? Do we just make a motion to disagree with the initial decision and then put our own penalty in there? What's the procedure for this?

**MS. BRUMBAUGH**: What we would do is you all would vote to modify the -- reject the initial decision and you would vote on the terms that you think are appropriate. Then I would write it up and you would sign it.

**SECRETARY KEMP**: Any other discussion?

**MR. SIMPSON**: It looks like to me the primary actor in here is Sugar Momma. It looks like maybe she's taking advantage of this guy or manipulated him. And to me that's more egregious than just the -- you know, the man did not understand what he was doing; could not comprehend it and he's being manipulated. That's the real -- looks like to me that's the point of attack. That's where we ought to go rather than to punish him. That's just my personal thoughts.

**MR. McIVER**: Have you promised us we'd have another opportunity to --

**MS. BRUMBAUGH**: I've been told by Mr. Harvey that Sugar Momma will be appearing before you all at some point. They have an investigation. Sugar Momma is the wife of a councilman down there. Is that what her --

**MR. HARVEY**: I don't recall exactly what her role is --

**MR. McIVER**: I think she's a council member.

**MR. HARVEY**: Our investigation is still open.

**MS. BRUMBAUGH**: Initially, when he started talking about Sugar Momma I was envisioning grandma who lives down the street and wants to make sure everybody votes. And then cross-examination, turns out Sugar Momma was definitely not trying to get votes voted as much as getting candidates elected. There was -- that line had been crossed with Sugar Momma.

**SECRETARY KEMP**: Ms. Brumbaugh, we're going to have to get you out of Atlanta more.

**MR. McIVER**: Well, the transcript reflects she's a city councilwoman.

**MS. BRUMBAUGH**: Oh, she is the city councilwoman. Okay.

**SECRETARY KEMP**: We can always reject the initial decision and do a letter and cease and desist.

**MS. BRUMBAUGH**: You could reject the initial decision and we could issue a final order finding that he did violate the code, but in light of the testimony that we issue a cease and desist and public reprimand and no civil penalty. You could certainly do something like that.

**MR. SIMPSON**: Can we find mitigating circumstances? Can we just handle it that way and say we find a violation, but because of mitigating circumstances -- without enumerating those -- rather than follow the usual guidelines for penalty, can we make an exception in this case and give a letter of instruction or reprimand or something like that?

**MS. BRUMBAUGH**: Sure. We did that for people who were on the board in January of 2010, the Laura Gallegos case. We ended up doing something like that where we said, yes, we find that she violated the code, but we're not going to issue any sanctions against her. We could do something like that.

**MR. SIMPSON**: How do I make a motion to do that? Just say that?

**MS. BRUMBAUGH**: I guess you could say I motion to reject the initial decision and substitute a final order which finds Mr. Raines technically in violation of the code, but does not sanction him. That would probably cover it and then I could write it up.

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

**MR. WEBB**: I'll second.

**SECRETARY KEMP**: We've got a motion and a second. Mr. McIver?

**MR. McIVER**: I think it should be more, but I'm going to be bound by the wisdom of my brothers.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none -- is everybody clear on that motion? Absolutely. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Ms. Brumbaugh will get that written up

for us.

The next initial decision is 2010, number 63, DeKalb County.

**MS. BRUMBAUGH:** Yes. This case, as I stated earlier, presents the same violations, but very different testimony. Ms. Maxine Daniels, who is the election director for DeKalb County is here if you want to hear from her. She was actually the person -- the main fact witness. She dealt with Mr. Brewer as he was attempting to vote twice and she also testified at the hearing.

Essentially, Mr. Brewer voted August 6, 2010 in the Republican primary runoff. That was a Friday. On Tuesday, August 10, which was the actual election day, Mr. Brewer came into a DeKalb County precinct and said he wanted to vote again. DeKalb County caught this immediately. They had kept their paperwork and records up-to-date and the precinct manager said, I'm sorry, you can't vote; you voted on August 6.

Mr. Brewer wouldn't listen to the precinct manager and demanded to speak to Ms. Daniels' office and ultimately spoke to Ms. Daniels after he continued to argue with her deputy. Mr. Brewer was convinced that someone had voted for him on Friday, August 6, and Ms. Daniels finally said, well, you're alleging identity fraud, and because that is a very serious offense, I will report this to the State election board and I will make them aware that you think someone voted in your name.

As soon as Ms. Daniels suggested that officials needed to get involved and that someone could be held responsible for behavior, Mr. Brewer changed his tune and thought, well, maybe I did vote on August 6.

The signatures on everything are consistent. Mr. Brewer, at the hearing, admitted that, yes, he had done -- he had voted on August 6 and then he tried to vote on August 10. He had an extended explanation as to his health and his stress, none of which he brought any documents in to support. There was a lot of discussion about ADD and depression. There were not medical records; there were no prescriptions; there was nothing to back up his claim that he voted twice because he had ADD and depression.

I found him -- despite what the initial said, this is an initial decision by Judge Oakley who has presided over a number of election board cases and typically returns initial decisions almost immediately. This one was actually written the same day as the hearing and they are typically perhaps not the most detailed or thoughtful decisions. Judge Oakley said that -- in paragraph 6 of the Findings of Fact, she said the respondent attributed his presentation at the poll for the purposes of casting a ballot and his ensuing conversations with elections officials to his forgetfulness, which was exacerbated by an excessive level of stress. The elections officials who spoke with the respondent by telephone described him as insistent. However, there is credible evidence to support a finding that the respondent comported himself in a respectful and gentlemanly manner during the time he was present at the polling place for the election.

She then said she found that he had violated the code and in her decision she wrote: the petitioner seeks the imposition upon the respondent of a fine in the amount of \$1000 with issuance of a cease and desist order and public reprimand. That is actually incorrect. I asked for at least \$1000. I explained to her that \$1000 was what we did on consent orders and given his testimony and Ms. Daniels' testimony, that \$1000 was not sufficient in this case.

I will add that Ms. Daniels testified that she had no doubt that he was trying to vote twice because she had never seen anybody else like this in nine years and that she felt that his behavior was intentional and fraudulent.

Judge Oakley ignored that testimony and instead said that the record is devoid of evidence to support a conclusion that the respondent's conduct constituted an intentional willful obstruction of the Georgia Election Code of the severity to merit the imposition of a fine in the amount of \$1000. The respondent expressed remorse and was apologetic for his actions.

I think Mr. Brewer tried to vote twice. I think he tried to bully everyone in DeKalb County and it was only when Ms. Daniels said we'll report the situation that he got a little scared. And now he tried to get out of it. I think \$1000 is not sufficient. I don't think \$100 is even remotely sufficient. And I think that Judge Oakley's order is not characteristic of the testimony in the case. I would recommend at least \$1000 in this case.

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

**MR. McIVER**: In addition to \$1000, I assume cease and desist?

**MS. BRUMBAUGH**: Cease and desist and public reprimand, which she included. But she only recommended a fine of \$100.

**MR. McIVER**: But we're going to need to bring our own to this thing instead of adopting hers.

**MS. BRUMBAUGH**: Right.

**SECRETARY KEMP**: Ms. Daniels, surely you've got something to say after you've been waiting all day long.

**MS. DANIELS**: Yes, sir. Good afternoon. Thank you for your time. My name is Maxine Daniels. I'm director of registration and elections for DeKalb County at 4380 Memorial Drive, Suite 300, Decatur, 30032.

In this particular instance, when I spoke with this gentleman on election day, I was the third election official to talk to him. The gentleman at the poll had spoken to him and said, Mr. Brewer, we show that you voted absentee already. He didn't know at that time that our records showed he had voted absentee.

When our manager called and spoke to our office, he was referred to our absentee manager who pulled Mr. Brewer's records, reviewed his signatures from the current election as well as the previous election as well as his registration. All signatures were pretty much identical. So she went back to Mr. Brewer and said to him that our records show that you voted on Friday and that your signature seems to be consistent with your signature that we have on record for you voting in the July primary as well as what we have on your registration card.

Mr. Brewer still insisted at that time that he did not vote Friday at our office. At that point, the manager asked me to talk to him and I did. I spoke to him and said let me get an understanding. I got the same documents, I reviewed those documents, and then I spoke with Mr. Brewer. I said, Mr. Brewer, first of all I've reviewed the documents and it appears pretty clearly that it is your signature on this document of last Friday that you voted. He says, no, I did not vote. He was very insistent he did not vote. I said, sir, are you certain of that? He says, I'm very certain that I did not. I need to vote here because I did not vote.

So I said since you allege that someone else voted in your place -- he said, I didn't vote at your office; I didn't vote at your office. I said, okay. What we'll do is -- my only recourse is to allow you the opportunity to vote. We will let you vote a provisional ballot today and then we will investigate and find out what's going on. Because of the fact that you are alleging voter fraud, this has to be referred to the Secretary of State's Office, the election board, because you're alleging voter fraud; that someone used your name and information to vote on your behalf.

Then he said, well, wait. What do you mean? I said, well, sir, you're alleging voter fraud and so it is my duty to report this. He said, well, wait, wait, wait. Maybe I did vote; maybe I did vote on Friday. Yeah, yeah. I think I did. That's all right. And then he left.

Now, I was very, very disturbed by that because I've been involved with elections for almost 10 years now. We've had people who have voted early in election cycles -- 45 days -- they've forgotten; old people; that type of thing. But this gentleman voted on Friday. Given the explanation that he's forgetful, by the time the second person said something you, if he knew he was forgetful, he'd start saying maybe I did. But only upon my mentioning that I was going to ask it to be investigated did he back away and say that he had -- he may have in fact voted. Oh, yeah. He did vote. So to me it was an obvious attempt to vote twice. It was an obvious attempt to test us to see if our processes worked. It was an obvious attempt to circumvent the law and be just completely unlawful.

After I finished that conversation with him, I was very upset that anybody would attempt to do that and just a complete disregard for our processes and to think if we didn't have a process in order to even know that he was doing that. I was a little angry because I felt that was just an egregious attempt to circumvent the law and vote more than once.

**SECRETARY KEMP**: Thank you, Ms. Daniels. Good work on y'all's part. Anybody

have any questions or comments?

**MR. SIMPSON**: Just think of \$1000 -- this seems like an aggravated situation. What would be wrong with \$1500?

**SECRETARY KEMP**: I'm thinking \$2000 myself.

**MR. WORLEY**: I'd be willing -- in fact, I'd like to make a motion that we reject this decision, find Mr. Brewer guilty, and impose a \$2000 fine.

**MR. SIMPSON**: Second.

**MR. WORLEY**: Plus a public reprimand and cease and desist and all the other things we usually --

**SECRETARY KEMP**: So the motion is for a cease and desist, public reprimand and \$2000 fine by Mr. Worley. Seconded by Mr. Simpson. The motion also includes rejecting the initial decision by Judge Oakley. Any other discussion? Ms. Brumbaugh, do we have any way other than just rejecting the initial decision to send a message to Judge Oakley or do you think that she will --

**MS. BRUMBAUGH**: I don't think rejecting this initial decision will send her a message. I'm not sure that they find out about when boards reject their initial decisions.

**SECRETARY KEMP**: Would it be appropriate for us to send a letter just letting her know how disappointed we are with that decision?

**MR. WORLEY**: I wouldn't think so.

**SECRETARY KEMP**: My lawyer friends that I serve with on the State Election Board have overruled my idea.

**MR. McIVER**: Just to comment on that, the head of that department of OSAH is General Max Wood and he's a former U.S. Attorney, Middle District of Georgia and has quite a pedigree for prosecution and judging and I would recommend that perhaps you write him a letter, and with all due respect, you might say SEB-2, OSAH-0. I know him to be a very smart man trying to do a very hard job. I assume with that information he might be able to take more action than we would.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

I believe that does it for the cases we have. Any old or new business from the board?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, do we have a motion to adjourn?

**MR. SIMPSON**: So moved.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Motion and a second. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

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(Whereupon, the hearing was concluded)

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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  
COVERDELL LEGISLATIVE OFFICE BUILDING  
ROOM 606  
18 CAPITOL SQUARE, SW  
ATLANTA, GEORGIA 30334

MONDAY, AUGUST 8, 2011  
10:00 A.M.

PRESIDING OFFICER: BRIAN P. KEMP  
SECRETARY OF STATE

DEBORAH L. MERIDETH, CCR  
HAPPY FACES COURT REPORTING SERVICES  
P.O. BOX 1063  
TUCKER, GEORGIA 30085  
(770) 414-9071

APPEARANCES:

Brian P. Kemp, Secretary of State, State of Georgia

Tex McIver, Member and Vice Chairman, State Election Board

David J. Worley, Member, State Election Board

Ralph F. Simpson, Member, State Election Board

L. Kent Webb, Member, State Election Board

ALSO PRESENT:

Ann Brumbaugh, Esquire

Chris Harvey, Esquire

Lee Brooks, Esquire

Ms. Ann Hicks

## PROCEEDINGS

**SECRETARY KEMP**: Good morning, everyone. I want to call the State Election Board Meeting on Monday, August the 8, 2011, at 10 a.m., to order. With that, I'm going to call on Vice Chairman McIver to lead us in the Invocation and the Pledge of Allegiance.

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(Invocation)

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(Pledge of Allegiance)

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**SECRETARY KEMP**: Thank you, Mr. McIver. Our next order of business is our public comment, as I had mentioned earlier, and we'll call these folks up to have public comment. Jessica, or Tommy, I guess, will be keeping the time and we'll allow you, in just a few minutes, to address us on any issue that you would like to talk to us about. Our first person for public comment is Donald Gilliam. If you'll just come up to this podium.

**MR. GILLIAM**: Mr. Chairman?

**SECRETARY KEMP**: Yes, sir.

**MR. GILLIAM**: I may have mistook your purpose.

**SECRETARY KEMP**: Okay.

**MR. GILLIAM**: I'm up here for a hearing.

**SECRETARY KEMP**: Okay.

**MR. GILLIAM**: Because I'm going to make my comment after the charges have been made, if that's in order.

**SECRETARY KEMP**: Yes, sir, absolutely. We'll call on you then. Thank you, so much.

**MR. GILLIAM**: Thank you.

**SECRETARY KEMP**: Do we have anyone else that wishes to address us during the public comment period?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Seeing none, we will move on to the approval of the minutes. We've got two sets of minutes, one from the -- our May 24 meeting and then one from the June 21 meeting. Members of the board, I'll be glad to take a motion or any comments.

**MR. McIVER**: If there are no comments I'll move to approve.

**MR WEBB**: Second.

**SECRETARY KEMP**: I've got a motion to -- is that to approve both sets?

**MR. McIVER**: I'm sorry; only May 24.

**SECRETARY KEMP**: Okay. We've got a motion and a second to approve the minutes of the May 24, 2011 meeting. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Have a motion on the June 21 minutes?

**MR. McIVER**: I'm prepared to make the same motion, provided there are no comments from other members of the board.

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, proceed, Mr. McIver.

**MR. McIVER**: I move that we approve the minutes of the meeting of June 21, 2011.

**SECRETARY KEMP**: We've got a motion, do we have a second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: Okay. We've got a motion by Mr. McIver and a second by Mr.

Webb to approve of the minutes for the June 21, 2011 meeting. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. We'll now move into our Inspector General reports. Let me just remind the audience, and first of all, I want to thank you all for being here today. I want you to understand that this part of the meeting serves essentially 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, to afford the parties an opportunity for a hearing on the matter. The Inspector General will have 15 minutes to present the case to the board. The respondent will then have five minutes to present any argument or evidence to the board specific to the case that is before the board today.

Please be aware that, although you may be -- you may present any argument or evidence you wish during the allotted time, this is not a time for the respondents to argue their cases. Respondents will be provided an ample opportunity to present their side of the story at the hearing, which is afforded to each respondent that wishes one following the referral of the case. Our job here is to make sure that we are listening to everyone that's involved on both sides of these issues, and we'll do that in a very thoughtful and respective way and we would hope that you would do that the same as us as we move through these cases.

That being said, again, let me welcome you here today. And Mr. Harvey, you can take it away with case number 2010, 78.

**MR. HARVEY**: Thank you, Mr. Secretary. This case was a case that was presented at the February 24 meeting involving Fulton County. Case 2010, 78. It involves a voter who voted in the primary and was given the wrong ballot. She wanted one party and got the other party. She voted before she realized the difference. Fulton County, at that meeting, agreed to enter into a consent order and provide additional training to their personnel regarding selecting ballots and giving them to the voters. Fulton County has presented a signed consent order and provided plans for remedial training for their election officials. And at this point, I would recommend that -- I present this to the board and you consider approval.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else here wishing to speak in regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Let me just remind you, as well, as you come up, if you are here to speak, just make sure to speak clearly into the microphone so our reporter can make sure that she gets the transcript in good order. And we also need, before you speak, just state your name and address for the record. Thank you.

**MR. WESTMORELAND**: Mr. Secretary and Chairman, I'm Sam Westmoreland, Interim Director of the Fulton County Department of Registrations. I wanted to express my sincere thank you to this Board for allowing us the opportunity to prepare and to carry through a remedial plan in this particular instance. We appreciate you bearing us through this process and we appreciate the attitude that the board has taken in helping counties to fix our problems and move forward with them. Thank you, Mr. Secretary.

**SECRETARY KEMPS**: Thank you. Thank you for being here today, Mr. Westmoreland. Any questions for Mr. Westmoreland?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you, very much.

**MR. WESTMORELAND**: Thank you.

**SECRETARY KEMP**: Looking forward to continuing to work with you. Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

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

**MR. WEBB**: I'm sorry, Mr. Chairman. Could I ask Mr. Harvey a quick question?

**SECRETARY KEMP**: Yes, sir.

**MR. WEBB**: Mr. Harvey, why is this case being held in the Inspector General Report -- in the Attorney General's Report? Sorry.

**MR. HARVEY**: These cases were cases where the respondents at the meeting agreed to consent orders, and so, a consent order was prepared by the elections division and then, I

guess, negotiated with the elections division and are now being presented to you.

**MR. WEBB**: Thank you.

**MR. SIMPSON**: I move we approve the consent order.

**MR. WEBB**: Second.

**SECRETARY KEMP**: Okay. I've got a motion to approve the consent order and a second, any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Motion carries. Okay, Mr. Harvey, case number 2010, 110, DeKalb County.

**MR. HARVEY**: This case was also presented at the February 24 SEB meeting. At the time, DeKalb County was present, and they agreed to a consent order. The facts of the case were that the Stone Mountain precinct didn't open on time. The poll workers were late arriving. They had left the express poll at the house and had to go back and get it. Although the doors were open at 7:00, the machines were not up and functional at 7:00, and they didn't become operational till about 7:24 a.m. DeKalb County was prepared to pass out provisional ballots until that time.

The original consent order that was prepared by the elections division cited two violations: the first, with the election officials not being at the precinct at the designated time, an hour before the opening; and also, the poll not opening at 7:00. DeKalb County, I believe, was willing to accept the consent on the first violation in terms of the employees not being there; however, they were not willing to accept or admit they violated the law regarding the precinct opening at 7:00 because their argument was that the doors were open and people were allowed in. Although the machines weren't set up, they considered that precinct being open. So while a consent was prepared, there were negotiations back and forth with the elections division and, ultimately, we do not have a signed consent order from DeKalb County on this case and, therefore, would recommend that it be bound over to the Attorney General's Office at this point for further action.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay, hearing none, anyone else wish to speak?

**MS. RASPBERRY**: Yes. Secretary of State, members of the board. My name is Brenda Raspberry, and I'm an attorney with the DeKalb County Law Department, at 1300 Commerce Drive, 5<sup>th</sup> floor, Decatur, Georgia 30030. And I appreciate your time. I just wanted to just make a couple of comments. First, let me say that I was not present at the hearing February 24. My supervisor, the Chief Assistant, Dewayne Pritchett, was present, and Ms. Maxine Daniels, who is here with us today, was also present, to the extent that hearing from Ms. Daniels might be helpful. But as I understand it, we -- the county certainly appreciates the board's willingness to enter into a remedial plan with us, and when we left here and we started talking to Secretary of State's Office, we made every -- our best effort to try to enter into a consent order. What it appears that happened, to me, happened, at least as I understand it, is in talking to Ms. Daniels and in reviewing the transcript from the hearing, it looks like the board did not make a specific finding on whether or not the polls were open. It -- I don't -- when I read through the transcript -- and it looks like Mr. Evans and Mr. McIver were the members of the board who made comments on the record -- it's clear in there that there was a remedial plan, and the remedial plan would cover the issue of how to make sure that the poll workers got there on time. But when you read the transcript, it seems to be silent on whether or not the board made a determination about whether or not the polls were open, which was a second issue that was on the violation.

And so that's where the problem has come in with DeKalb County entering into a consent in the Secretary of State's Office because the Secretary of State's Office seems to be saying that there was a clear finding by the board. that the polls weren't open, and we don't see . . . we don't see that, and Ms. Daniels can talk about that more succinctly because she was here. So what we would ask is that the board give us clarification and tell us what the board did find, if anything, on the second issue as to whether or not the polls were open at seven. So that's what we would ask for today, if the board is willing to do that. And Ms. Daniels can speak on that more because she was here and also about the implications of whatever the finding is.

**MS. DANIELS**: Good morning. My name is Maxine Daniels. I'm the Director for DeKalb County Voter Registration and Elections. My address is 4380 Memorial Drive, Decatur, Georgia. First of all, I would like to just go on record as saying that I respect the authority and the findings of this august body and I apologize for taking up your time for coming back with something that seems to have been resolved the last time.

However, when Mr. Pritchett who was our attorney, and I left, we were of the understanding that the finding was that DeKalb County had violated the code requiring that our poll workers be here at an hour beforehand. We do not see anything in the transcript nor recall the board specifically saying that we had violated the Section 21-2-4 -- excuse me 21-2-403 -- that we did not open on time. And we did not feel like they found that because 21-2-418(h), as in Harry, specifically says that you can use provisional vote, provisional ballots, to open up -- to vote in a poll at a time when the voting machines are not available. And we did that at 7:00 on that day, and the findings of the investigation actually stated that: that at 7:00 we offered the voters provisional ballots. Now, the voters chose not to vote on the provisional ballots; however, we were ready at 7:00 with provisional ballots. And so according to 21-2-418(h), the poll was open.

Now, my concern -- I -- some people say that this is a trivial matter, and again, I apologize for taking up your time to do this, but I don't think it's a trivial matter because every county in the state uses provisional ballots as their emergency procedure in case there's a problem with their voting machines. So if this Board finds that, in fact, we were not open at 7:00 because we offered provisional ballots instead of using the machines, then we should have gone before the Superior Court, gotten an extension for the time that we were not open and every time that any other county, any other precinct in the state, has a problem with their machines then they would be considered not to be open.

And so I felt that it was important enough to come here today, take a chance on angering the board a little bit for taking their time, but it was important enough to get clarification on this matter because I think it has far reaching effects. It's not just a matter of whether DeKalb County opened on that morning. If in fact, the board finds that, we are ready to sign a consent order; that's not an issue. As I said before, I respect very much your findings and will go along with it. However, I don't think that it should be something that should be just inadvertently determined. I want to make certain that the board did mean to find us, in fact -- that we had violated the failure to open at 7:00. So I respectfully submit that you all clarify that, if you will. And if that's your finding, we're willing to sign it. Thank you.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Okay. Hearing none, anyone else wishing to speak in regards to this matter? Mr. Harvey.

**SECRETARY KEMP:** Mr. Harvey, Mr. McIver has a question for you.

**MR. McIVER:** Mr. Harvey, state again the position of the IG department in this

instance.

**MR. HARVEY**: The consent order is that the precincts were not open at 7:00; not open and functional as is required in the code.

**MR. McIVER**: Do you have a retort to Ms. Daniels' remarks here that they were open for provisional ballots, but --

**MR. HARVEY**: Well, I guess my retort would be that the code provides for mechanical breakdown or emergencies for provisional ballots. I'm certainly not an attorney and not an expert on the law, and it would seem that human error on the part of the election officials not providing the machines may or may not constitute an emergency, and so we presented to the board for consideration. I think it's -- when you talk about operational, yes, the doors were open, people could come inside. You might get into a time issue. If it had taken two hours to get the things, would that have been reasonable? And it's really, from our perspective, those are the facts. It took about 24 minutes for the machines to get up and running, and if the board considers that open and operational then I believe we can certainly amend the consent order.

**MR. McIVER**: Do you know if anybody was denied the opportunity to vote?

**MR. HARVEY**: I believe they were not. I don't believe there's any evidence that anybody was denied the right to vote.

**MR. McIVER**: That concludes my questions. Thank you.

**SECRETARY KEMP**: Any other questions? Mr. Webb.

**MR. WEBB**: Mr. Harvey, has anyone ever relied on Section 21-2-418(h) before, to your knowledge?

**MR. HARVEY**: I guess the closest time there was a case not terribly long ago, I believe it was Sumter County, where they didn't have a handicap accessible precinct and so they took a provisional ballot out to a person. I would imagine, certainly in the history of elections in Georgia, there have been cases where polls have not opened on time. We've cited, I believe, other counties for not opening on time, and other counties have gone and gotten court extensions, as DeKalb County mentioned.

**MR. SIMPSON**: Don't we have two or three other cases where polls did not open on time and we have recommended consent orders FOR today, on those cases? There's one in DeKalb and there's one in Chatham. They're in the notebook.

**MS. BRUMBAUGH:** Yes.

**MR. SIMPSON:** Tab 56 is the one that's Chatham. And then tab . . . tab 60 is another one; it's a DeKalb County case. And the DeKalb County case comments on Screven County.

**SECRETARY KEMP:** Ms. Brumbaugh.

**MR. SIMPSON:** So isn't this another -- we've got two DeKalb County cases today where they did not open on time.

**MS. DANIELS:** No, sir. It's the same case, just listed twice; same case, listed twice.

**MR. WEBB:** Well, I think the -- excuse me, but I think the consent order under tab 60 is related to the individuals, not the county.

**MS. BRUMBAUGH:** Yes. What happened was, at the February meeting in Macon, the County, Ms. Daniels agreed to a consent order that stayed with the elections division, whereas the individuals who were actually at the precinct, and who actually, you know, the time between seven and 7:24 did not. . . did not start using the machines until 7:24. That came to me. So that is part of this case, this tab 60. I negotiated a consent order, which is sort of a hybrid, I guess, of what the issues, position being taken here. The individuals agreed that they had violated 21-2-405(a), which simply says they weren't there an hour ahead of time. The language of the consent order first says, as a result, the Stone Mountain precinct was not operational until 7:24. This was a violation of 405, which requires managers to arrive at least one hour before. And then I sort of rephrased it again. Actually, I rephrased it again and I included a violation of 403. And then the next sentence I said, was: "Because precinct 11 did not open at 7:00 a.m., respondents are in violation of 21-2-403, which requires that precincts open at 7:00 a.m. on Election Day." So the individuals that were at that precinct agreed that they had violated both 405 and 403 and agreed that their precinct was not open at seven, even if they could take provisional ballots.

**MR. SIMPSON:** Does not that create a precedent, that by not being operational, it was not open? I mean, we've got one consent order that says that. And then now, if we adopt their position here, it would be contrary to the other consent order.

**MS. BRUMBAUGH:** Well certainly this consent order is still -- you haven't accepted it yet. But yes, if you were to accept this consent order, that would be kind of the position of the board. The Chatham County case, which I think you mentioned at 56, is very similar. And again, in that case -- again, they agreed that it was a violation of 403 and that three polling stations in Chatham County failed to open at 7:00 a.m. The polls that opened late were Old Courthouse, which opened at 7:05; New Covenant Seventh Day-

Adventist, which opened at 7:30; and Temple of Glory, which opened at 7:30. So those are two cases where -- that could serve as a precedent for this issue, if the board accepts those two consent orders. The third one, Screven County, I think they literally didn't have a key to the polling place, so that isn't really the same narrow issue that we're presented with here.

**MR. SIMPSON**: Would a motion to clarify our findings to say that by not being operational, the polls were not open? If that term was used in the statute, would that, would that correct the problem?

**MS. BRUMBAUGH**: I think that it would.

**MR. SIMPSON**: If we -- if we decided to do that?

**MS. BRUMBAUGH**: Yes.

**MR. SIMPSON**: I'll make that motion.

**MR. WEBB**: I'll second.

**SECRETARY KEMP**: Okay. If you don't mind, Mr. Simpson, can you clearly state that motion?

**MR. SIMPSON**: I don't know whether I can or not.

**SECRETARY KEMP**: Being the great legal mind that you are.

**MR. SIMPSON**: I move that we modify our findings earlier to clarify them to find, specifically, that the polls were not open because the machines were not operational at 7:00 in DeKalb County.

**SECRETARY KEMP**: So what -- what is -- what is our action now that we're making a motion for?

**MR. SIMPSON**: That we would just modify those findings and --

**SECRETARY KEMP**: And still try to enter into a consent.

**MR. SIMPSON**: Then try to enter into a consent order.

**MS. DANIELS**: And we're willing to enter such a consent order now that it's clarified. We're just asking for clarification.

**MR. WEBB**: And I think that's an excellent point. I'm very concerned about a slippery slope, where all of sudden everybody's saying, well, we were there an hour before; we just didn't get the polls open in time. People could use provisional ballots. I don't think we want to get into that quagmire. I think it's better to go on the record to state that when it says under section 403 that the polls must be open, that means the equipment has to be operational and that people just can't be waiving provisional polls and saying we met that standard.

**MS. DANIELS**: Thank you. I appreciate your time.

**MS. RASPBERRY**: Thank you.

**SECRETARY KEMP**: Any other discussions?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. We've got a motion by Mr. Simpson and a second by Mr. Webb. All in favor signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Motion carries. All right. Mr. Harvey, we're going to move onto the new investigation consent calendar.

**MR. HARVEY**: Sir, we've got, I believe we've got one more on those previous consent --

**SECRETARY KEMP**: Oh, I'm sorry; yes, Coweta County. I apologize. So our previous consent case is 2010, number 76, Coweta County.

**MR. HARVEY**: This case was also presented in February in Macon. The facts were that, in placing voters in their proper voting districts, in Coweta County there were two neighborhoods with the name of Kingsbrook; one of them had an 'e' on the end and one of them did not. And some of the people with 'e' were put in the ones without the 'e.' At the meeting Coweta County agreed to enter into a consent order and provide a remedy for that. Coweta County has provided a consent order and has provided a remedial plan that involves verifying voting addresses with the county GIS, Geographical Information System, which they've done now and which they will do every six months to make sure their voting records are accurate. And I would recommend that this be presented to the

board for consideration for acceptance.

**SECRETARY KEMP**: Thank you, Mr. Harvey. Any questions for Mr. Harvey from the board?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, does the board have any other discussion or a motion for the Chairman?

**MR. WEBB**: I make the motion that we approve the consent order.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Okay. We've got a motion by Mr. Webb to approve the consent order and a second by Mr. Worley. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Now, we'll move into the new investigation consent cases. And the way these consent cases work is that unless there is someone in the audience or someone on the board that objects to these findings that we have here before us, we'll just vote on these in block, which helps us save some time for some of our less controversial cases, I guess you could say. Now, if there is someone here that doesn't agree with this or would like to address the board or if any of the board members have a case that they want to hear more about, they have the right to pull the case and we'll put it on a regular calendar. But if not, we'll vote on these consent cases in block. Mr. Harvey, do you want to give us a quick update?

**MR. HARVEY**: By summarizing each case?

**SECRETARY KEMP**: Well, I don't think you need to summarize each case but is there anything that you want to comment on before we take these up?

**MR. HARVEY**: No, sir. There's nothing that I need to add --

**SECRETARY KEMP**: Okay.

**MR. HARVEY**: -- other than the summaries.

**SECRETARY KEMP**: Any member of the board have any of these cases that they would like to pull off the consent calendar?

(Whereupon, there was no response)

**SECRETARY KEMP**: Seeing none, is there anyone in the audience that wishes to address us on any of these following cases: Number 2011, number 4, Crawford County; 2010, number 42, Carroll County; 2010, number 51, Dougherty County; 2009, number 17, Wayne County?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Hearing none, I'll take a motion to approve the consent calendar.

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

**SECRETARY KEMP**: Mr. McIver moves.

**MR. WEBB**: Second.

**SECRETARY KEMP**: Mr. Webb seconds, any other discussions?

**MR. WEBB**: I think for a point of clarification is that the motion of the consent cases is to dismiss each of these.

**SECRETARY KEMP**: That's correct. Okay. We've got a motion and a second to dismiss the cases on the consent calendar. All in favor signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries. We'll now move on to re-presentations of SEB cases, the first one being, number 2010, 23, City of Bowman. Mr. Harvey.

**MR. HARVEY**: Mr. Secretary, members of the board. This case was also presented in February in Macon. It involves the municipal election in Bowman in 2009. The basic allegation is that the elections superintendent and city clerk encouraged and allowed two people to vote within the city who no longer lived in the city. Mr. Rickard Pikron and Ms. Pamela Pikron had moved out of Bowman and they were allegedly encouraged to vote, and they did, in fact, vote in the Bowman municipal election.

The other allegation is that, again, with that, the election superintendent, Ms. Pat Winslett was also alleged to conspire to get them to vote. There was an allegation about a notice of candidacy and affidavit that was signed in a previous election that was unsubstantiated. At that meeting an attorney for, I believe it was the Pikrons, came forward and addressed the board and said that there had been -- he had found four additional people who had voted in the city that were not listed as respondents, and he wanted to make sure that we were aware of that. So we went back and we checked out the four people who were -- who voted in the election who were presented to us and there were two couples. One couple we found were the Varians. Arthur and -- let's see, the Varians had voted in the municipal election. Prior to the runoff however, they had moved out of the City of Bowman and they did not subsequently vote in any runoff election.

The other two people who were alleged to have voted were Arthur and Jennifer Lane. The investigation determined that their residence was on an extension of a road that was mistakenly placed, which mistakenly placed them in the City of Bowman. They actually did not live in the City of Bowman, however, they were assigned to vote in the City of Bowman and they did, in fact, vote in the election. It appears that, as far as we know, that was a mistake on the registrar's department.

There was also an allegation that Charlotte Ward, the registrar, had approved of the arrangement for the Pikrons to vote. The investigation found, upon speaking again with Charlotte Ward was that the scenario of people having moved away and then returning to vote had been presented to her before the election in a hypothetical sense as in, if somebody were to do this, would this be allowed? She remembered having a conversation like that without any specifics. She does not acknowledge telling Ms. Winslett that the Pikrons could, in fact, specifically, vote.

The allegations are as listed. The only additional allegation that we found for potential violation was that Ms. Ward is in violation of 21-2-226 by failing to have the Lanes in their proper polling place. The other violations that were mentioned at the first meeting all stand and they involve voting in unauthorized elections, conspiracy to commit voter

fraud, and false information. I take that back; I don't believe we have a false information charge. We do have additional violations on failure to enter information on absentee ballots when they're certified and returned.

So it's our recommendation, at this time, that this case be bound over to the Attorney General's Office for further action.

**SECRETARY KEMP**: And that's on all the respondents?

**MR. HARVEY**: Correct.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Hearing none, anyone else wish to speak?

**MR. DAUGHTRY**: Yes, sir. May it please the board. My name is Bill Daughtry and I'm a County Attorney for Elbert County, and I represent Elbert County Elections Superintendent, Charlotte Ward, who's the chief registrar -- I'm sorry, Charlotte Ward, who's the chief registrar for Elbert County. These were allegations raised during the investigation of the City of Bowman. And there's only one potential violation contained in the investigative report against Ms. Ward, which alleges that Ms. Ward violated 21-2-226(b) by failing to have Arthur and Jennifer Lane in their proper polling place. I would like to give a little additional information on this. Information in our records indicate that Mr. and Ms. Lane were registered in the City of Bowman precinct in 2000. Ms. Ward did not become chief registrar until 2009. So this was a mistake, a mistake that was committed nine years before Ms. Ward took office.

Every year, Ms. Ward sends voter lists to the Bowman city clerk, by name, as instructed as part of her training, and the mistake was not caught for, you know, the previous nine years. However, last year, in 2010, Ms. Ward decided to send voter lists to the city clerk by name and by address so that they could double-check and have additional safeguard in place. And as part of that change, by sending voter lists by address, the city clerk caught the address as being outside the city limits. Actually, it turns out that the property line of the Lanes is within city limits but the driveway of their house is outside the city limits, so of course, they should not have been registered in the Bowman City elections. This was a mistake that was actually caught by Ms. Ward and by Pat Winslett, the Bowman city clerk, because of the additional safeguards that were put into place by Ms. Ward.

Since that time, Ms. Ward has shared with surrounding counties the idea of, you know, double-checking voter lists with the city clerks, not only, alphabetically by name, but also alphabetically by street because that is a good safeguard and this is a mistake that was

caught before this investigation even begun. It was caught by Ms. Ward so, technically, you know, a violation might have occurred on Ms. Ward's watch, or at least the first partial year of her tenure as chief registrar. However, she was the one, she and city clerk, Pat Winslett, were the ones that caught this mistake and corrected it. It's my contention they should be commended. And as to the single violation, or potential violation against Ms. Ward, I respectfully request that violation be dismissed.

I do have some additional information to add that did not result in a potential violation against Ms. Ward, but it pertains to the other allegations in the City of Bowman investigation. That during the 2009 Bowman general election, Pat Winslett, the Bowman city clerk, approached or called Ms. Ward with a hypothetical question about, you know, a voter who had moved, a registered voter who had moved out of the district, asked her, hypothetically, if a voter moves out of their district can they vote one more time? It was Ms. Ward's opinion, her understanding of the law, the general rule of the law, that you could vote one more time as long as you filled out a change of address form first at the time you are voting or prior to voting. And, of course, that led to the allegations, the main allegations in this case against the City of Bowman and Ms. Winslett.

I reviewed the code section 21-2-218(d) and (e), and, of course, the code section is somewhat confusing, that if the person who moves from one address to another address within the same city or county, then, of course, they can vote one more time regardless of how much earlier that it was that they had moved. However, if they move to another city then they cannot do so unless they moved in the previous 45 days. And so, you know, the information that Ms. Ward, or the answer that Ms. Ward gave Pat Winslett could have been correct or incorrect. Under the facts of these circumstances, it was incorrect because they had moved outside the city. They did not move from one address within the city to another address.

And of course, you know, this question came up on election day, I think that a lot of city clerks and registrars are put on the spot on election day with, you know, questions that need to be answered immediately and, you know, Ms. Ward was, you know, gave the best answer she could give. But it turns out that under the facts of this particular circumstance, it was incorrect advice. But I understand that Pat Winslett did reasonably rely on that advice. You know, it was an answer that could have been correct or incorrect, but it's my contention that there was no intent to defraud the voters or commit any violation of the code section. Of course, you know, that was not raised as a potential violation against my client Ms. Ward, however. The registration of Arthur and Jenny Lane was the only potential violation, and as I said before, I respectfully request that that potential violation be dismissed.

**SECRETARY KEMP:** Mr. Daughtry, if you don't mind, would you give us your address for the record.

**MR. DAUGHTRY:** Yes. P.O. Box 6267, Elberton, Georgia 30635.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Hearing none, any other -- anyone else wish to speak in this case?

**MR. KIDD**: Yes, sir.

**SECRETARY KEMP**: Morning.

**MR. KIDD**: Good morning, Mr. Secretary, Commissioners. My name is Doug Kidd, K-I-D-D. My address is 13033 Jones Street, Lavonia, Georgia 30553. I am the City Attorney for the City of Bowman, Georgia. The City of Bowman, Georgia has been listed as a respondent in this case, and we would ask the board at this time to dismiss the charges against the city or in the alternative, to allow the City to enter into a consent order.

Some facts that I think the board should consider is that the city hired Pat Winslett as their city clerk prior to the 2009 municipal elections, which is the elections in contention here in this case. The city paid for Ms. Winslett to go to the appropriate training. She took all the training that the law requires for sitting clerks and -- or, excuse me -- election administrators. The city had no knowledge at the time of these events. However, when they did find out, after the fact, the city immediately suspended Mrs. Winslett from administering elections in the city and the city contracted with Elbert County Probate Judge, Suzanne Sexton, to administer the 2010 elections, and Ms. Sexton did do that at the time. And likewise, Judge Sexton is also going to administer the elections at, the municipal elections in 2011. And so the situation's cleared up. The city does not want to hire a full-time elections administrator. They prefer to contract out with the Probate Court. I think that's something that this Board will allow, and so that's what they're -- contend that they will do until this is cleared up.

However, the city would like to get it cleared up and move on and be able to hire a full-time elections administrator. And we ask that because there's no real actual knowledge on cities that have these events before they occur, we ask that the -- they be dismissed as a respondent in this case. However, if the board will not dismiss against the city, we would ask for consideration for a consent order, extra training for administrators of elections or things like that, but we'd be open for anything else that y'all have. Thank you.

**SECRETARY KEMP**: Thank you, Mr. Kidd. Any questions for Mr. Kidd?

**MR. McIVER**: Yes, sir.

**SECRETARY KEMP**: Mr. McIver.

**MR. McIVER**: Let me express my ignorance, sir, and ask the population of Bowman, please?

**MR. KIDD**: It's less than, 1,000.

**MR. McIVER**: With a town that size, do you think it's practical to have a full-time election administrator?

**MR. KIDD**: Well, I perhaps, misspoke. The city clerk doubles as the election administrator for the city.

**MR. McIVER**: I mean, that may be a job I'd apply for.

**MR. KIDD**: It might be. So it would be the city clerk.

**MR. McIVER**: No other questions.

**SECRETARY KEMP**: Anybody else?

(Whereupon, there was no response)

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

**MR. DAUGHTRY**: Mr. Chairman. I'm sorry. There was one other matter that I forgot to mention.

**SECRETARY KEMP**: If you don't mind, just state your name and address for the record again where we can keep everything straight. Thank you.

**MR. DAUGHTRY**: My name is Bill Daughtry. Address P.O. Box 6267, Elberton, Georgia 30635. As I mentioned earlier, as to the advice given by our chief registrar, Charlotte Ward, to the Bowman city clerk, Pat Winslett -- a couple of other situations came up last year involving electors who had moved out of the county. One elector had actually moved out of the state and desired to still vote in elections, and so on October 14 Charlotte Ward emailed Jenna Cooper, who I understand, is a liaison with your office, with that question. One was an identical situation. Ms. Cooper emailed back: "It does get a bit confusing. Technically because of the provisions that are made in paragraph (d) and (e), all three of the situations you refer to below could be allowed to vote in the Elbert County precinct they're registered in one last time. That is not to say, however,

that they cannot be challenged.”

And so there is some confusion, I believe, among everyone, including myself as an attorney, in understanding this code section and what circumstances electors can still come back and vote after they moved their address.

**SECRETARY KEMP**: Okay. Thank you. Any other questions for Mr. Daughtry?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Hearing none, what’s the pleasure of the board?

**MR. WEBB**: Mr. Secretary, can I ask -- Mr. Chairman, can I ask that Mr. Harvey point of clarification?

**SECRETARY KEMP**: Yes, sir.

**MR. WEBB**: Do the allegations against the Pikrons also continue?

**MR. HARVEY**: Yes, sir.

**MR. SIMPSON**: I have a question for Mr. Harvey.

**SECRETARY KEMP**: Mr. Simpson.

**MR. SIMPSON**: Mr. Harvey, can -- is it practical to split these cases out and deal with the City of Bowman and then with Ward and then the Pikrons in separate matters? Because it seems like to me, and because the status of the law, it might be something that would be better served with a consent order rather than trying to litigate this.

**MR. HARVEY**: My understanding is that, that is -- that has been done, and I don’t see any reason why it couldn’t be done in this case.

**MR. SIMPSON**: But, I mean, it could work. You would have the ability to work with each of the separate parties for a consent order.

**MR. HARVEY**: If that’s what the board chooses to do, absolutely.

**MS. BRUMBAUGH**: Typically, if there’s going to be any fines, civil penalties, it needs

to come to my office for administrative prosecution. That's what the statutes say. The consent orders, where they have stayed with the elections division, there were several that came out of the February meeting in Macon, they did not involve any fines, and the people were present to agree that yes, we want to do this. So that's sort of the two conditions under which they stay with the elections division.

**MR. SIMPSON**: So, moving it to the Attorney General's Office does not preclude working out a consent order that's appropriate to the case?

**MS. BRUMBAUGH**: Right. The majority of the cases end up as consent orders.

**MR. SIMPSON**: Okay.

**MS. BRUMBAUGH**: That come to my office.

**MR. SIMPSON**: All right. Thank you.

**SECRETARY KEMP**: Mr. McIver.

**MR. McIVER**: Mr. Harvey, unlike, Mr. Kidd, I'm having trouble finding where Bowman, the City of Bowman, other than being a respondent, has been identified by you or your folks, as violators of the polls. So must we deal with the City of Bowman?

**MR. HARVEY**: That's certainly your choice. We generally include the city or county, if there's a city or county election official involved, as a potential respondent. In some cases they're excluded by the board and in some cases the board will levy a penalty against them. But you're correct; there's no specific action that the City of Bowman took except through one of its employees.

**MR. McIVER**: Well, maybe in the future it might be helpful if you were to say something along the lines of Ms. Winslett, an employee or agent of the city, so on, and so forth. I see the city as a respondent but I don't see them dealt with in a potential violation section, leading me to believe that you didn't think that it violated the section, the entity, in this case, the city.

**MR. HARVEY**: I understand.

**MR. McIVER**: That's the conclusion that I've heard. In fact, I agree with Mr. Chair, with Mr. Simpson that we probably at least ought to bifurcate, if not trifurcate, this matter; just deal with them individually making Ms. Brumbaugh's job a little more palatable.

**SECRETARY KEMP**: Very good. Any other questions? Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: The Chair will entertain some motions.

**MR. SIMPSON**: I move we dismiss the case against the City of Bowman.

**MR. McIVER**: I second.

**SECRETARY KEMP**: We've got a motion and a second to dismiss the case against the City of Bowman. Is there any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and the City of Bowman case has been dismissed. Okay. Do we have any further motions?

**MR. McIVER**: I would move that we bind over the -- Ms. Winslett, the section of the potential of violation involving Ms. Winslett and Ms. Ward. Although Mr. Daughtry very skillfully argued that, I think that she is in violation of the code or there's a chance it would be a fine so I'd bind both those over.

**SECRETARY KEMP**: Okay. We've got a motion to bind over the rest of the allegations. Do we have a second or discussion?

**MR. WEBB**: Mr. Chairman, does that include the Pikrons? That was not mentioned if we're separating the Pikrons out.

**MR. McIVER**: I've not considered that, nor had I considered the Varians or the Lanes. We know the Lanes voted. I believe the report was the Varians had not voted. I'd be open to an amendment.

**SECRETARY KEMP**: We notified both of those?

**MR. HARVEY**: Yes, sir.

**SECRETARY KEMP**: Okay. So we're -- you can add those to the motion. Why don't you restate? You want to restate your --

**MR. McIVER**: Well, I was going to offer Mr. Webb the opportunity, if he wants, to amend.

**MR. WEBB**: Well, I would follow Mr. Simpson's lead and bifurcate --

**SECRETARY KEMP**: Hold on. Hold on, just a second. Yes, ma'am?

**MS. WINSLETT**: My name's Pat Winslett. I live 748 Ridgeview Road, Lavonia, Georgia 30553. I have a work order where the Varians moved to Tennessee in August before the election. So they were actually gone for three months prior to the election. Because I have where that -- they called and asked to change their address. Then later, after the election, they moved to North Carolina.

**MR. SIMPSON**: Who are you talking about?

**MS. WINSLETT**: The Varians.

**MR. SIMPSON**: The Varians. Okay.

**MS. WINSLETT**: Yes.

**MR. SIMPSON**: Thank you.

**MR. WEBB**: Mr. McIver, my suggestion would be to keep your motion intact as it is and then we move to deal with the individual cases next.

**SECRETARY KEMP**: Okay. Hold on for just one second. Is that all you have?

**MS. WINSLETT**: Yes.

**SECRETARY KEMP**: Thank you, very much. Let me just remind the audience that when I call for anyone else wishing to speak and we start dealing with motions and everything else, we're not going to have any more public comments. So if you're here and you have something to bring to the board, we certainly want to hear from you, but once we get into our motion-making and deliberations, I'm not going to be yielding the mic anymore. I just want to make sure that everyone is aware of that. All right. Mr. Webb, I'm sorry about that.

**MR. WEBB**: Yeah, that's fine. My suggestion to Mr. McIver is to keep his motion

intact and we'll deal with the other parties individually.

**MR. McIVER**: We need a second to my motion.

**SECRETARY KEMP**: Can you restate . . . can you restate the motion for us?

**MR. McIVER**: Yes, sir. I move that the board bind over the sections of this case involving Ms. Winslett and Ms. Ward.

**MR. SIMPSON**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of the motion signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Okay. The Chair will entertain a further motion or motions.

**MR. WEBB**: I would make a motion that the allegations against the Pikrons be bound over to the Attorney General's Office.

**SECRETARY KEMP**: Okay. We've got a motion on Mr. Webb to bind the Pikrons over to the AG's Office. Do we have a second?

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We've got a motion on the second, any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of binding over, signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

**MR. SIMPSON**: Mr. Chairman, I move that we dismiss the case against the Varians.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Mr. Simpson moves that we dismiss the case against the Varians; Mr. Worley seconds. Any other discussion?

**MR. HARVEY**: Mr. Chairman, if I may. I don't believe the Varians are cited. Our events revealed they did not violate the election law.

**MR. SIMPSON**: Okay.

**SECRETARY KEMP**: So we don't need to do that.

**MR. HARVEY**: They're not --

**SECRETARY KEMP**: We've addressed all the respondents, correct?

**MR. HARVEY**: Correct.

**MR. WEBB**: Mr. Harvey, does that apply to the Lanes as well?

**MR. HARVEY**: Correct. The Lanes and the Varians were not found to have violated the election.

**MR. SIMPSON**: I'll withdraw that motion.

**SECRETARY KEMP**: Okay. Motion's withdrawn and I think we've addressed everybody now, haven't we?

**MR. HARVEY**: Yes, sir.

**SECRETARY KEMP**: All right. We'll move on to another re-presentation, case number 2011, number 7, Baldwin County.

**MR. HARVEY**: Mr. Chairman, Members of Board, if you recall, this is the case of Maria Barnfield. Barnfield was a Ukrainian immigrant to the United States. She was registered to vote when she renewed her driver's license. She did not request to register to vote, however, she was registered inadvertently. She then voted two times in 2004, in the Presidential Preference Primary and then in the November the 4 General Election. I'm sorry. In 2008, I believe. Both elections were in 2008.

At the meeting in Savannah, her husband spoke on her behalf and indicated that she had been told by an immigration attorney that she was allowed to vote in the elections and so the board asked us to investigate that allegation. What we found in further conversation, further communication with the Barnfields, is that all the communication with the attorney took place after the elections as part of her immigration hearing, and it's possible that one of the immigration attorneys may have said, "I think you might be able to vote if you're not a citizen." The fact that she'd already voted twice, she was not relying on that advice to cause her actions to vote. So it's recommended that -- the facts are still not in dispute and that that case be bound over to the Attorney General's Office.

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

**MR. SIMPSON**: She did sign an affidavit requesting to vote after she knew she was not eligible to vote; did she not?

**MR. HARVEY**: I'm sorry. Ask that again, please?

**MR. SIMPSON**: She signed an affidavit saying, you know, when she applied for a ballot to vote in person, saying that she was eligible to vote, when in fact, she was not.

**MR. HARVEY**: Correct. She signed two voter certificates.

**SECRETARY KEMP**: Anyone else here wishing to speak to us in regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Is Mr. and Ms. Barnfield here, do they wish to present to the --

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, is there a motion?

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

**SECRETARY KEMP**: Okay. We've got a motion by Mr. Worley to bind this case to the AG's Office; do we have a second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: Mr. Webb seconds, any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and we'll bind that over. Okay. Now, we'll move on to our new cases, 2008, number 26, City of West Point.

**MR. HARVEY**: Mr. Secretary, Members of the board, this case involves a November 2007 general election in the City of West Point. In 2008 our office was contacted by complainant Freddie Higgins who alleged that City Councilman Donald Gilliam was buying votes, was paying people to vote for him. He had claimed that he had seen lots of absentee ballots in Mr. Gilliam's house and that there are many witnesses who would testify to this and would corroborate this. At that point our office elected to get the GBI involved. The GBI did a thorough investigation. They found that there were a lot of cross-complaints in this. This is a small town, local election. Mr. Higgins has a -- is not new to the criminal justice process, had been requesting money in order to work for Mr. Gilliam. Mr. Gilliam took it as an extortion attempt, or as a bribe attempt. I don't think there's any evidence that, any hard evidence that that actually happened.

As a result of the investigation we found that there were several people associated with Mr. Gilliam who violated the absentee ballot law, the election law, in terms of illegally assisting, failing to sign absentee ballots and illegally possessing absentee ballots, including our complainant, Mr. Higgins. We did not find any evidence of voters being paid. We did not find the level of violation that was initially alleged by the complainant and this case was presented to the district attorney and District Attorney Skandalakis reviewed the file and decided not to opt for criminal prosecution, which is one of the reasons for the delay in getting here.

So now we present this case to you, and if you look at the last page of the executive summary, you'll see the specific violations, the respondents Freddie Higgins, Donald Gilliam, with the specific violations in terms of unlawful possession of ballots. We do have a charge of conspiracy because it does appear that there was a . . . there was a concerted effort to return these absentee ballots to Mr. Gilliam, at least some of these to Mr. Gilliam. And at this point, we recommend all these respondents be bound over to the Attorney General's Office for further action.

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

**MR. McIVER**: I have one.

**SECRETARY KEMP**: Mr. McIver.

**MR. McIVER**: Mr. Skandalakis chose not to indict or was it no billed?

**MR. HARVEY**: I believe he chose not to indict. He did not present it to the grand jury is my understanding.

**SECRETARY KEMP**: If my recollection's right, that's happened to us before?

**MR. HARVEY**: Yes, sir.

**MR. WEBB**: Mr. Harvey, with regards to the elect violations, could you help me with Linda Young. There was a list of violations, section 21-2-385(b), Failure to Sign Oath Rendering Assistance, and I couldn't find who she'd rendered assistance to.

**MR. HARVEY**: Janice Billings. It's about four pages from the end. Janice Billings was interviewed and indicated Linda Young. Once her ballot arrived, Ms. Billings indicated she contacted Linda Young and asked her to come and help her complete the ballot. Although, based on the report, it looks like she's not specifically alleging that she assisted; she gave advice as to who to vote for. That might be -- that might be, the genesis of that charge, and I'm not sure at this point that I would hold firm to that. That's negotiable.

**MR. WEBB**: Seems like that would be more of a violation of 21-2-568(a)(2) or (a)(3).

**MR. HARVEY**: If that happens -- depending on how that happened, that -- I believe you're correct. That would be a more appropriate charge. The other point is that the signatures on the ballot and the application were different, which led us to believe that perhaps Linda Young had assisted, although Miss Billings said she had not. There were cases where individuals, you know, were not interested in cooperating, not interested in providing answers, also.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Hearing none, anyone wishing to speak? Mr. Gilliam, if you would just give us your name and address for the record, before you get started.

**MR. GILLIAM**: Thank you, Mr. Chairman and fellow board members and this great election committee. My name is Donald Gilliam. My address is 706 Avenue J, West Point, Georgia 31833. And Mr. Chairman, I appreciate that you pronounced my name right.

**SECRETARY KEMP**: Got lucky.

**MR. GILLIAM**: I didn't find out it was Gilliam until I was in Connecticut and a Yankee told me it was not Gillam, it was Gilliam. So I know my name now. Thank you for that remark.

Mr. Chairman and fellow board members, for four years -- it's quite a small town, population 3,500. Four years, and I want to ask this board respectfully, how would anybody in here feel if your name has been mud-slinging in the air for four years almost? Slander: I received \$100,000; I've been indicted for election fraud. Here's the latest right here in the LaGrange Daily News: State Panel to Elect to Discuss West Point Voter Fraud. Even with Mr. Harvey's communication, the Secretary of State with Agent Hunt's communication, with DA Skandalakis, and everybody's communication, you'll find in this report here that it appears like I've already been indicted without the right to have a fair trial. It's not alleged fraud. Alleged means that there's a possibility -- am I correct in saying that; there may be some lawyers in here -- versus fraud stated. That means that I've been convicted. We don't operate like that in the American justice system to me. We're a Democracy and you're proven innocent -- you're innocent until proven guilty, according to our Constitution.

Now, my first question to Mr. Harvey is that in this letter here he said the original complainant is Freddie Higgins, but in his first meeting he said that the original complainant is former Mayor Billy Head. So I don't know who my accusers are. So there're two different complainers here and I really don't know whose complaining. Am I (inaudible)? I have the evidence here from --

**SECRETARY KEMP**: Councilman, let me be asking the questions, if you don't mind. If you'll just present your side of the story.

**MR. GILLIAM**: Well, I have -- I'll be happy to do that. And the first thing I want to

say is that here's a ballot here, ladies and gentlemen, that came from my office that was returned by the Troup County Voter Registrar in the election of 2009. And do you have the GBI -- the GBI agent was up here investigating this election four days before the election and they was scaring people away from the polls. And this ballot here, that I -- my granddaughter got a hold to it, she's four years old, it's a little special-- I want to turn over to this Board. They called and said they apologize for going to the registrar's office. They forgot to put a return address on their ballots, and people was calling me for having an investigation with the Troup County Voter Registrar because this election was clearly influenced --

**SECRETARY KEMP**: Councilman, let me -- we got to keep things moving here. We'll be glad to accept that document, if you would like.

**MR. GILLIAM**: I would appreciate it, Mr. Chairman.

**SECRETARY KEMP**: Do we have a motion by the board to accept the document?

**MR. McIVER**: I move.

**MR. WEBB**: Second.

**SECRETARY KEMP**: Second. Got a motion and a second. All in favor of accepting, signify by saying "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: Mr. Harvey, if you'd get the document -- if you would, Councilman, just talk to the -- I'm going to give you another minute to sum up what you want us to know about this case, and we're going to keep moving on. If there's other allegations that we need to look into, you can certainly let Mr. Harvey or anyone in our office know and we'll be glad to do that.

**MR. GILLIAM**: Sir, I appreciate that. I might if you give me a little more time. I mean, this investigation been going on for four years and it's hard for me to summarize everything that's happened within a minute or two, and I've been -- as I said --

**SECRETARY KEMP**: Well, that's why, as I explained earlier, that this is a probable cause hearing and that you have the ability, should we move this to the Attorney General's Office, to have a hearing in front of the OSA Court.

**MR. GILLIAM**: Mr. Chairman, if I ask a question now, so if I'm referred, that would not be double jeopardy? I've already been tried one time. If I'm referred to the Attorney General's Office that would not be considered double jeopardy?

**SECRETARY KEMP**: Not under my understanding; no, sir.

**MR. GILLIAM**: Thank you, sir. Mr. Chairman, in the first investigation that was done by Agent Hunt, to me, on Thursday, June 28, Special Agent Terrell Hunt came in, he acted like he was my brother or family member. He stated in his investigation that I was not a target, that I didn't need a lawyer that it was not a criminal investigation and that he felt like this election -- this hearing that he's doing would go nowhere and said I didn't need a lawyer. All right.

The second interview with him, he said it was done at the courthouse in LaGrange. Mr. Chairman, that was done at my house. And we went to LaGrange, he did the same thing, stated I was not a target, threw his hands up in the air and said, "I'll just be glad when this is over." This is either in Exhibit 26 and 52. I've said -- I said you may have these -- this is a copy a full filing of the GBI report.

And as far as the case itself goes, DA Skandalakis told me, said, "Mr. Gilliam, we don't have enough evidence to prosecute you," number one. Number two, I was star witness in a convicted felon of drug and jail -- Freddie Higgins. And number three, like I said, I feel like I probably should investigate him, Mr. Chairman, because these letters that he wrote of extortion to me and the mayor said I probably should be prosecuting him. So that's how that case was developed.

**SECRETARY KEMP**: Okay. Do you have anything further to add in the specifics to the allegations against yourself?

**MR. GILLIAM**: Yes, sir. And I'm trying to recant all of this, Mr. Chairman.

**SECRETARY KEMP**: You don't have to recant all of it. We just want you to -- we want you to address the issues that we have yourself before us. We're not concerned with what the DA's doing or anybody else at this hearing.

**MR. GILLIAM**: Okay. What I'm saying is . . . what I'm saying, Mr. Chairman, is my rights have been violated ever since. If you look at Article 6 of the Constitution and in this correspondence with Mr. Lagrua (phonetic) and DA Skandalakis they say we should move with deliberate speed as fast as possible and keep this investigation quiet because we don't want the general public to be aware of it. After first interview it was all over town with Ms. Slaughter. So it wasn't no quiet thing as he was trying to say.

Unidentified person -- everything I can tell you, ladies and gentlemen, I'll tell you the names and who the people are and so forth. And as far as Mr. Higgins here, I have the letter -- Chairman, I just wonder if Mr. Harvey have, or you all have these letter of extortions. I have them here now and it says his purpose was to get \$1,000 from me and the Mayor Head because he needed a lawyer and he didn't know what to do. Ladies and

gentlemen, this fine boy, he did not have a lawyer, he had a public defender and he was trying to raise his \$1,000, these \$2,000 to pay for his probation violation. He's on probation violation for drugs, that's what the purpose of this letter is, and I have the copies of it if the board don't have copies of it.

**SECRETARY KEMP**: Mr. Harvey, do we have copies of those letters?

**MR. HARVEY**: I believe -- is that from the GBI file?

**MR. GILLIAM**: Yes, sir.

**MR. HARVEY**: Then we have the GBI files.

**SECRETARY KEMP**: Okay. We got the file. Anything else you would like to add?

**MR. GILLIAM**: And so, mister -- ladies and gentlemen, in the end Mr. Higgins came to me after Agent Hunt went to him the last time, in September of '08. He was mad, he was frustrated cause he said the agents came into his grandmother's house without a warrant. That's on record. Agent Hunt and Sergeant Dunkin, with the police department in West Point, they came to my aunt's house, Ellen Graham, without a warrant; that is true. They violated her rights asking for Freddie Higgins. Talking to a juvenile who was under 13 years old and go and bust into somebody's house, that was wrong.

And so my other thing of it is, I mean, I was supposed to have, ladies and gentlemen, the Sixth Amendment, my rights have been violated. The Fifth Amendment, Agent Hunt told Mr. Higgins last interview, "You don't have to have a lawyer." Mr. Higgins was mad then because they went to his grandmother's house and my aunt. And he said, "But you have the right to have legal counsel." Now, he's telling a convicted felon that he had a right to a lawyer, and in my interview he said that I don't need a lawyer and that nothing -- it was a general inquiry that had -- I'm not a target. But if I'm not a target why we got an investigation here if I'm not a target, ladies and gentlemen? And he said that I was frustrated, came to me and apologized. And I'll call names. He said Billy Head gave me \$4,000, Sowanna (phonetic) Scroggins -- this is in that report, ladies and gentlemen; if you want both of these documents I have them. But the front lady for him, she -- it's in the record that she was transporting him back and forth to Atlanta, Secretary of State. Sowanna Scroggins did not witness anything and yet she's tied in with a DVD recording. She's even -- I didn't see anything in this that's telling me she told Agent Harvey this. But Freddie Higgins confided in me.

Ladies and gentlemen, we don't go into facts what I heard, she said. We can step outside, we can hang over here in the wind, but you can't see it. A court of law it's based on facts, and all these things about, I heard, Mr. Malone, everything else and her -- Ms. Scroggins, to me, should not have been a part of this election if she didn't -- this

investigation -- if she didn't witness not one thing, and she -- GBI says sources of information. How can you be a source of information, in this report here, if you hadn't seen nothing? That's almost unbelievable to me. And he says that I told -- he says Agent Hunt told him Freddie Higgins -- I'm telling you he apologized to me in the end after the run-in with Agent Hunt because he bust in his house and said what the problem is. I apologize to you, obviously a different situation. My --

**SECRETARY KEMP**: Okay. All right. Any --

**MR. GILLIAM**: So this is what -- and Billy Heard, Mayor Head, former mayor, I heard that Martha Shipman said this. I heard.

**SECRETARY KEMP**: All right. Councilman, that's the process we're in, is gathering information and proceeding to where we look at all the evidence. Your time is up. Has anybody got any questions for Mr. -- Councilman? Mr. McIver.

**MR. GILLIAM**: My final -- my final thought, Mr. Chairman, I feel like since my rights have been violated, that the case against me should be dismissed immediately 'cause I was not afforded my rights to have an attorney, I was denied the right to a speedy trial. In the case of Supreme Court versus Arizona in, I think 1966, says you have a right to legal counsel and anything you say against yourself could be deemed as self-incrimination. None of my rights were read, so based upon all my rights being violated -- and you'll see in your reports here that Agent Hunt did not advise me that I was a criminal target and that I need a lawyer before I spoke to him, or counsel. I think the case should be dismissed based upon my rights: the Fifth Amendment, the Sixth Amendment and the right to legal counsel was violated according to the Supreme Court in 1966.

**SECRETARY KEMP**: Okay. Thank you. Mr. McIver, do you have a question?

**MR. McIVER**: No, sir, I don't.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none. Thank you, sir. Anyone else wishing to speak on this matter? Anyone else?

(Whereupon, there was no response)

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

**MR. GILLIAM**: My final thought, Mr. Chairman, is -- if I could say my final thought --

**SECRETARY KEMP**: We thank you, sir. Your time is -- I have been very liberal with letting you go on.

**MR. GILLIAM**: I wondered if I could enter this into evidence, what I'm telling you here, if you don't have a copy of the GBI report.

**SECRETARY KEMP**: We've got a copy of the GBI report but we'll be glad to take that if you would like us to.

**MR. GILLIAM**: Thank you, sir.

**SECRETARY KEMP**: Okay. Thank you.

**MR. GILLIAM**: Thank the board.

**SECRETARY KEMP**: Okay. Anyone else wishing to speak on regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Hearing none, do we have a motion or any discussion by the board?

**MR. WEBB**: Yes, Mr. Chairman. Mr. Harvey, some of the allegations that are listed here, if they're not identical, would the Attorney General's Office be able to deal with those specifically referenced to the wrong section of the code?

**MR. HARVEY**: Yes, sir. And once it's bound over, I believe the AG can modify any violations that need to be modified.

**MS. BRUMBAUGH**: Yes. If the statute is not cited accurately and there are other equivocal statutes.

**MR. WEBB**: And with regard to certain counts, if the counts resolve say, 10 versus 11, would that adjustment be made, as well?

**MR. HARVEY**: I believe so.

**MS. BRUMBAUGH**: Yes.

**MR. WEBB**: Thank you.

**SECRETARY KEMP**: Okay. Got a motion?

**MR. McIVER**: I move we bind this matter over.

**MR. WEBB**: Second.

**SECRETARY KEMP**: I've got a motion by Mr. McIver and a second to bind over to the Attorney General's Office. Any other discussion?

**MR. WEBB**: Yes. Mr. McIver, would you be willing to modify your motion to remove Lula Gilliam from that?

**MR. McIVER**: I didn't hear any discussion on that. Is there a reason why I would do that?

**MR. WEBB**: My understanding from reading the case is that she was -- Mr. Slaughter picked up a absentee ballot and took it to Mr. Gilliam's house. He was not there. Mrs. Gilliam received it and held it for Mr. Gilliam. So I would be willing to remove her from the allegations.

**MR. McIVER**: I hadn't heard that argued by the IG.

**SECRETARY KEMP**: Mr. Harvey, you got anything to add on that count?

**MR. HARVEY**: Just that that's correct. Mr. Slaughter delivered to Mr. Gilliam's home, he wasn't home, so his wife accepted. So she was in possession of it.

**MR. McIVER**: And this is a no tolerance statute.

**MR. HARVEY**: That's the way the board has applied it before.

**MR. GILLIAM**: My wife did not know anything about it, Mr. Chairman. She --

**SECRETARY KEMP**: Mr. Gilliam, we're in our deliberations now. I'm not going to allow any more public comment at this time. Thank you, though.

**MR. GILLIAM**: Okay.

**SECRETARY KEMP**: Okay.

**MR. McIVER**: I appreciate your observation, Mr. Webb. I'm going to leave my motion the way it is and we'll see how it survives with the board.

**SECRETARY KEMP**: All right. We've got a motion and a second. Any other

discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of the motion to refer to the AG's office, signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and the case is referred. All right, Mr. Harvey, 2009, number 42, City of Wadley.

**MR. HARVEY**: This municipal election involved multiple allegations. A lot of them had to do with the absentee ballot process. There are allegations that women, two women were assisting and retrieving absentee ballots and illegally possessing them. There's also an allegation that absentee ballots were not being mailed out in a timely manner, that voters who had not provided photo ID were allowed to vote, that a mother was in possession of her son's absentee ballot and she went to turn it in, and lastly that the poll, the absentee ballot poll was understaffed and it only had two workers in it during absentee voting.

It was determined that Shirley Samples was in violation of possession of absentee ballots after she took the ballots of the three voters, Annie Sherrod, Lizzy Williams and Mattie Hannah. The City of Wadley and the absentee ballot clerk and the election superintendent were cited for not mailing out absentee ballots in a timely manner and also not requiring voters who were classified as MIDR with providing photo identification when they voted.

Janice Smith did have her son's absentee ballot. He was out of town so she hand-delivered it to the, attempted to hand-deliver to the registrar's office. And lastly, the city is and the election superintendent are in violation for failing to have three poll workers at the absentee ballot precinct. We recommend this case be bound over, as well.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, is there anyone else wishing to speak in regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Hearing none, do we have a motion?

**MR. SIMPSON**: Move we bind it over.

**SECRETARY KEMP**: Got a motion by Mr. Simpson to bind to the Attorney General's Office. Do we have a second?

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Got a second by Mr. Worley, any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of binding over signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Next case 2009, number 55, City of Bartow.

**MR. HARVEY**: This case involved another municipal election in November of 2009. In this case the City of Bartow, the election superintendent city clerk contracted with Buford and Jane Everett handled the operation. Essentially, it turned into an absentee ballot nightmare. Fortunately, they only had six absentee ballots; unfortunately, they handled almost none of them correctly. They were given to people upon request without written applications; they were received and not marked as being certified. The Everetts did not have the training as required. Also, Ms. Hargrove, the city clerk for Bartow, did not have the election training that's required.

There's a table at the back of the objective summary that shows the six absentee ballots and the different ways they were violated in terms of getting assistance, method of return, being properly certified, absentee ballot being signed. It was basically, an absentee ballot nightmare, fortunately, on a small scale, and we recommend that this case and all the respondents be bound over to the Attorney General's Office.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, anyone else wishing to speak to us in regards to this case?

MS. SCARBORO: Good Morning.

**SECRETARY KEMP**: Good morning.

**MS. SCARBOROUGH**: I'm Susan Scarborough. I am the City Manager for the Town of Bartow. We are a very small town and I did contract with B.J. and June Everett to run my election because I am the only person in the office. The absentee ballots, there were six that were requested. I'm not sure exactly how the requests were made for all of them. I know that there were three that were -- the requests for the absentee ballots were brought in or were taken to the people requesting the ballots. And I know that one of the absentee ballots was actually mailed in; one of them was brought in by a family member because the person wishing the absentee ballot is disabled; and the third one was brought in by me because it was my mother-in-law and we live in the same household, so I brought it in when I came in. The other ones, I do not remember exactly how they got in. B.J. and June Everett accepted all of the ballots that came in. Whether they certified them or not, I am not positive because I did not stay with them during the whole election, during the whole advance voting or anything because I had other duties to do, being the only person in the office.

I also want to state that myself and the Town of Bartow want to offer full cooperation with the resolution of these stated violations so we can be in compliant (sic). And as far as the training, I did get a waiver, a waiver petition from Wesley Traylor for the 2009 election and I have since attended some classes at Kennesaw State University and some classes online. We are a town of less than 300 people, and with me being the only person in the office, you know, I can't oversee everything that happens. That's why that I contracted it out with the two people who handle the county elections.

Since I've been city clerk -- I started in 1995 -- we have only had three elections, one in 2001, and then all the other ones have either been in addition with another election that had been happening or we had no one that had qualified so we did not actually have to hold an election. So, we have limited funds for training, but I've done the best that I could.

**SECRETARY KEMP**: Thank you for being here this morning. Any questions for Ms. Scarborough?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you. Anyone else wishing to speak in regards to this case, to this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, any other discussions or motions for the board?

**MR. McIVER**: I have a question.

**SECRETARY KEMP**: Yes, sir.

**MR. McIVER**: I'll ask you to direct this question where it belongs, Mr. Chairman or Mr. Culligan, but are there any guidelines that people like Ms. Scarborough should follow when she's contracting out such a function as manning an election?

**SECRETARY KEMP**: Direct that to Ms. Hicks.

**MS. HICKS**: Yes, sir. The law allows for a municipality to contract with the county elections officials to conduct all their election process or conduct all the elections process with the exclusion of qualifying. I understand that she contracted with individuals. And I understood that the terms stated that the individuals worked for the county; they were county election officials or were they poll workers?

**MS. SCARBOROUGH**: They were election officials.

**MS. HICKS**: They were election officials. So the law does make a provision for them to contract with the county.

**MR. McIVER**: I'm very familiar with that because in my county, for example, the city contracted with the county and then didn't pay the bill. Those situations can become difficult, as well.

**MS. HICKS**: Yes.

**MR. McIVER**: But are there any other guidelines?

**MS. HICKS**: Yes, sir. We have --

**MR. McIVER**: In this instance, sounds like the contract was with the individuals as opposed to the county, the entity of the county.

**MS. HICKS**: And I don't know how to contract Ms. Hannah. But I understand like you . . . like you're saying it, that the contract was with the individuals. Now, you know, we always state, and the law states, that the individuals, whoever is conducting the election, must go through the certification training. Yes, sir.

**MR. McIVER**: No other questions.

**SECRETARY KEMP**: Mr. Simpson.

**MR. SIMPSON**: When a city contracts, like this was done, does the city manager have any responsibility or duties with regard to conduct -- to the conduct of the election? I mean, it seems to me like if she's contracted with independent contractors to perform all the duties and requirements of the election then, what then is her liability for, I mean, we've got some she failed to become certified, but she's the city manager. She's contracted with somebody. Now, if that person fails to become certified then it doesn't seem like that should be charged against her. I'm having -- of course, I'm new and I'm having difficulty understanding how we deal with these contracted out elections.

**MS. HICKS**: Yes, sir. As I understood her to say -- you're the city clerk, correct?

**MS. SCARBOROUGH**: Yes.

**MS. HICKS**: Not the city manager?

**MS. SCARBOROUGH**: Well, I'm both.

**MS. HICKS**: Okay. Well, being the city clerk, if the municipality has not designated an election superintendent, then by law it defaults to the city clerk to be the election superintendent. So then, as I understand, she contracted with the county at that point because -- and I don't know all the circumstances of the case -- but as I understood her to say, she had requested a waiver not to hold the election because you had not received the adequate training? I don't know that. In which the law does make a provision for the election superintendent and the city to request, or the county, to request a waiver if they do not have the sufficient time to obtain the training during the year in which they're appointed as the election superintendent. In this case, if she contracted individually with the county, I don't know how the contract -- I don't know if she contracted with the county to conduct the election or did she contract individually with individuals that worked for the county.

**MR. SIMPSON**: Well, really my question could be boiled down to say that once she contracts with other people, does she have any responsibility then? If she's obtained this waiver you're talking about, does she have any responsibility with regard to the conduct of the election? I mean, that seems to be -- we're trying to impose liability on her when

she's obtained other people to take care of it for her. So that's my question, is how do we get, how do we bridge that gap that we've got an independent contractor and we're trying to impose liability on a person that's contracting with these folks to conduct the election? Just because they mess it up or don't do something correct, how do we get to impose liability on her? It's not a straight (inaudible) situation. I don't know what -- have we dealt with that before, Ms. Brumbaugh?

**MS. BRUMBAUGH:** Well, we have a consent order this afternoon on the people who were contracted. It's tab 52. It's the City of De Soto, and it's the same situation where the City of De Soto contracted with the Sumter County elections supervisor and Sumter County didn't do it correctly and so the election supervisor from Sumter County signed a consent order. And I, in my summary, I recommended that you all dismiss the case against the City of De Soto on the theory that you're saying: that once they contracted out with the county, it was the county's responsibility. So that's -- so you aren't dealing with that issue this afternoon.

**MR. SIMPSON:** Well, if that -- if that's the way we're handling it then I would move to dismiss the case against Ms. Scarborough.

**SECRETARY KEMP:** Mr. Worley.

**MR. WORLEY:** I appreciate what Mr. Simpson is saying but I'm not sure that that's the right way to handle it because I don't think we can or should totally absolve the -- according this contracted out the election of responsibility for, in some way, for the conduct of that election; otherwise, I think you're going to have lots of cities washing their hands of any responsibility to make sure they pick an appropriate person to administer the election. So I think that's a dangerous way to go.

**SECRETARY KEMP:** Mr. McIver.

**MR. McIVER:** Mr. Chairman, I would go further than Mr. Worley. For example, the contracting was done. Surely, at least in my view, this doesn't absolve you of your responsibility as an election official for the city. But then, if you discover that the people to whom you've contracted the election are not performing correctly, and it's certainly either before or during the election, you clearly have some responsibility at that point to act. I certainly agree with Mr. Worley perhaps even more strongly than he feels that that responsibility cannot be sent down the road with a signature in the form of a contract.

**SECRETARY KEMP:** Anyone else?

(Whereupon, there was no response)

**SECRETARY KEMP:** So we've got a motion? Did you make a motion?

**MR. SIMPSON**: I just I did.

**SECRETARY KEMP**: Do you want to rescind or --

**MR. SIMPSON**: I'll withdraw it.

**SECRETARY KEMP**: All right. Mr. Simpson withdraws his motion but I think he makes some very valid points. Okay. Anyone else?

**MR. McIVER**: I will move to bind over.

**SECRETARY KEMP**: Okay. We've got a motion by Mr. McIver to bind over. Do we have a second?

**MR. WEBB**: I'll second.

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

(Whereupon, there was no response).

**SECRETARY KEMP**: Okay. Hearing none, All in favor of the motion signify by saying, "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: all opposed, same sign.

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and it is bound over. All right, next case is 2010, number 82, Stone Mountain.

**MR. HARVEY**: Mr. Secretary, members of the board. This case involves the November 2009 municipal election in the City of Stone Mountain. The allegation was that a lot of voters were being turned away from the polls. We did an investigation and what we found was that there were numerous voters, I believe 33 all told, who had attempted to vote in the City of Stone Mountain not realizing they didn't live in the City of Stone Mountain. All but, I believe, two of these folks had a Stone Mountain address as a mailing address, and I spoke to about half of them on the phone since this announcement's gone out and their story is pretty consistent: I was driving by the street; I saw all these people outside the polling place talking about the election, waiving us in,

saying vote for this person; and so they just sort of turned in and said, oh, it must be an election, so I'll vote; I'll do my duty. And they went in and they completed a voter's certificate. And when they turned it in, it was discovered they were, in fact, not City of Stone Mountain residents. Like I said, all but two of them had Stone Mountain addresses, although not in the city. There are two individuals that have Lithonia addresses, which is a little bit harder to believe that they might have thought they would be entitled to vote in a Stone Mountain election. There's also one individual who actually did live in the City of Stone Mountain who was not allowed to vote. They were not found in the system and they were not allowed to vote.

So we've got all the respondents listed for attempting to vote when they're not registered. We've got DeKalb County and the poll manager cited for not allowing a registered voter to vote. And then the two respondents that lived in Lithonia, we've got them cited for the same thing. It's my thought that the people who voted, I'm sorry, who attempted to vote in Stone Mountain, with the Stone Mountain address, might be resolved with a letter of instruction from the board. The rest of the cases, I recommend be bound over to the Attorney General's Office.

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

**MR. McIVER**: I have one.

**SECRETARY KEMP**: Mr. McIver.

**MR. McIVER**: Ms. Edmonson, one of the complainants, is she the former head of the Georgia Track Club? Do you know about that?

**MR. HARVEY**: I don't know, sir.

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

(Whereupon, there was no response)

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

**MS. RASPBERRY**: Yes. My name is Brenda Raspberry, Mr. Secretary and members of the board. I'm with the DeKalb County Law Department, the County Attorney's Office and our address is 1300 Commerce Drive, Fifth Floor, Decatur, Georgia 30030. And just want to say a few words and Ms. Daniels, who is the director of the DeKalb elections office, may also want to speak.

In reviewing the notice that DeKalb County received from the elections office, we noted that in the allegations it mentions electors Lorene Shields and Antonio Lamar were not

allowed to vote at the polling places. And then based on information that DeKalb County provided to the elections office, prepared by Ms. Twyla Hart with the election supervisor, we determined that Antonio Lamar and Lorene Shields were not eligible to vote in the City of Stone Mountain municipal election cause they were not -- they're not residents of the City of Stone Mountain municipality. Because, you know, there is Stone Mountain, unincorporated DeKalb; I have to live in Stone Mountain, unincorporated DeKalb, but I don't reside in the City of Stone Mountain; I reside in unincorporated Stone Mountain. So but in any event, when -- if those are the two individuals that the state is referring to, we did our research and determined that neither of those individuals resided in the City of Stone Mountain to be eligible to vote in the election.

Now, Mr. Harvey mentioned that there was an individual who was not allowed to vote in -- for the City of Stone Mountain, but DeKalb County has not been informed of who the State is talking about in order for us to be able to investigate. That's what I'm trying to say: we haven't been able to investigate the information, specifically related to the individuals that, that the Secretary, I'm sorry, that Mr. Harvey was talking about. So therefore, we would like an opportunity to get the person's name so we can investigate. We would ask that the case be . . . be --

**SECRETARY KEMP:** Continued.

**MS. RASPBERRY:** -- continued. I'm sorry. I can't even -- I'm thinking of all the county courtroom words. But, yeah, that the case be continued and that, you know, that the county get an opportunity to have the name of the individual that allegedly we did not allow to vote. I mean, there's an individual we have in mind but we don't want to put this out there if that's -- we don't know who the State is talking about. But probably more so than that, the County maintains that we did not violate 21-2-593, which is a felony offense, because there's no evidence that there -- of any -- anyone that we did not allow -- there is no evidence that we did not allow a duly registered voter, who was a resident of the City of Stone Mountain, to vote in the November, 2009 election. We don't have any evidence of that to be able to respond to the charges today.

And Ms. Daniels also wanted me to note that in the violations, as listed in the notice, that she's listed as the Director in November 2009 and she was not the director at that time; it was Linda Larimore. So to the extent that the board is considering bringing charges against Ms. Daniels, individually, you know, we would ask that this be modified and that her name be taken off of this because, again, she was not the director of the elections in 2009. And of course, therefore, we're asking that this not be bound to the AG's Office because we would like to know the name of the individual who allegedly wasn't allowed to vote as a duly registered voter.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Thank you, very much. Mr. Harvey, do you have anything that you would like to add?

**MR. HARVEY**: I can clarify. The two individuals you mentioned are not -- were not cited for attempt-- for being denied to vote. The two names you mentioned, I don't recall off the top of my head.

**MS. RASPBERRY**: Well, it said the electors Lorene Shields and Antonio Lamar were not allowed to vote at a polling place --

**MR. HARVEY**: Right.

**MS. RASPBERRY**: -- during the election. That's . . . that's what's in the notice. So are we saying that they are not an issue anymore?

**MR. HARVEY**: Correct. They're not an issue.

**MS. RASPBERRY**: Okay.

**MR. HARVEY**: The voters specifically that were not allowed to vote is Lela Ruiz, R-u-i-z.

**MS. RASPBERRY**: Okay. So is -- and so Mr. Harvey, are we saying that that's the individual that was not allowed to vote and that's the reason why it's being bound over to the AG's office? Is that what we're saying? I'm sorry.

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

**MS. RASPBERRY**: Okay. Well, given that we thought you were talking about Ms. Ruiz, but we didn't . . . we didn't want to say that because there was so many people on the list. What we determined in looking at our records, that Ms. Ruiz was not an eligible voter on November -- at the November 2009 election, meaning that our records show that Ms. Ruiz had filled out an application to vote and her address is 1083 Rainkin, R-a-i-n-k-i-n, Street in Stone Mountain 30083. But she did not -- and it was -- and this was completed October 5 of 2009. But she did not complete her application because she didn't sign it. And we can present a copy of that to the board. Here again, right here is a copy of her application that she submitted, but she didn't sign it.

So in response to this, October 14, 2009, the DeKalb voter registration office sent a letter to Ms. Ruiz saying: "Thank you for submitting your voter registration application; however, the application is incomplete. Please complete the application and answer the

questions and sign it so that you'll be able to vote." So DeKalb County sent her this letter October 14, 2009. And it also appears that the Secretary of State sent Ms. Ruiz a letter October 19, 2000 -- 2009 -- I'm sorry; trying to talk too fast -- saying that she was not eligible to vote. So given that she was not eligible to vote, because her application was incomplete, the County is not in violation of 21-2-593 because she was not a registered voter for the City of Stone Mountain. So therefore, we would ask that the board dismiss these charges at this time. And we'd be -- I'm happy to present a copy of her application and a copy of the . . . of the letter that we sent to her indicating that she was not eligible to vote because her application wasn't signed.

And also I'd like to say, under the election code section 21-2-220(d), it states that if an individual has an incomplete application and not -- and a signature is considered to be a part of what they -- complete application -- if it is an incomplete application, the person is not eligible to vote. And so, therefore, our position is at the November, 2009 election, Ms. Ruiz was not eligible to vote because she was not in compliance with 21-2-220(d). So, therefore, it was appropriate for DeKalb County to not permit her vote in the City of Stone Mountain election. So, therefore, we ask that the board dismiss these charges and I'm happy to present a copy of these documents to the board.

**SECRETARY KEMP**: Do we have motion to accept the documents?

**MR. WORLEY**: So moved.

**MR. McIVER**: Second.

**SECRETARY KEMP**: Got a motion and a second, all in favor signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and we'll -- you can just hand those documents to Mr. Harvey.

**MS. RASPBERRY**: Okay.

**SECRETARY KEMP**: Do you have anything you'd like to add, Mr. Harvey?

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

**MS. RASPBERRY**: I'm sorry. There's also the -- there's a letter to the Secretary of State but it doesn't have the letterhead, it's computer generated, if I may get this Mr. Harvey, but this is from the Secretary of State's Office also saying that she was not eligible. It was sent in October but it doesn't have a letterhead on it.

**SECRETARY KEMP**: So if these documents, which I assume they are true and correct, what violations would these impact, Mr. Harvey?

**MR. HARVEY**: Well, I think the -- assuming these are correct, I think -- Ms. Raspberry?

**MS. RASPBERRY**: Yes, Raspberry.

**MR. HARVEY**: -- has a point. There is a mention in the report of a -- actually, the DeKalb County election supervisor, Ms. Hart, in going over this with our investigator, pointed out that she should have been allowed to vote a provisional ballot if her registration was questioned. I don't know that we have a specific case where a provisional ballot was refused or was asked for or was offered. There's no evidence that she requested a provisional ballot and it was denied. There's also no evidence that she was offered a provisional ballot and refused. So, I don't know the answer. Had she voted a provisional ballot, my understanding is she would have been able to complete the voter registration and vote.

**SECRETARY KEMP**: Thank you. Any other questions for Ms. Raspberry?

(Whereupon, there was no response)

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

**MS. RASPBERRY**: Ms. Daniels decided not to speak.

**THE COURT REPORTER**: I'm sorry, what were the other two names?

**MS. RASPBERRY**: You had a question?

**THE COURT REPORTER**: The spelling of those two names; not Ms. Ruiz, but the other two names.

**MS. RASPBERRY**: Do I do that now?

**SECRETARY KEMP**: If you could, you can go ahead.

**MS. RASPBERRY**: The other two names; I'm sorry. It's Lorene Shields, L-O-R-E-N-

E, S-H-I-E-L-D-S and Antonio Lamar is A-N-T-O-N-I-O, L-A-M-A-R.

**THE COURT REPORTER:** Thank you.

**SECRETARY KEMP:** Okay. Anyone else who wishes to -- yes, ma'am, come on up. If you would just state your name and address for the record, please.

**MS. JONES:** Good morning, Mr. Secretary and the board. My name is Beverly Jones and I live at 909 Stone Mountain -- 909 Third Street, Stone Mountain, Georgia 30083. I am a citizen of Stone Mountain and also the candidate that that was running for mayor in this particular election.

I would like to say that this election was such a nightmare and I was a part of it from the very beginning. I was the second person in line at this election and one of the poll workers came up to me shouting out my opponent's name, asking me if I was Sharon Fryerson, who was one of the opponents in the election. That was the beginning of this nightmare in November. There were various irregularities that I witnessed during this election.

I will start off with Mr. Antonio Lamar. This was later in the day when we found out that he went to the polls, he was pulled aside in the line and he was asked what street do you live on. When he told him what street he lived on, he was told that that street was not allowed to vote in the City of Stone Mountain. This didn't happen once; it happened several times. Unfortunately, I didn't find out some of this information until later in the day. Ms. Lorene Shields. Oh, I'm sorry, going back to Mr. Antonio Lamar. He came over to me and told me what was happening. I looked on my list to find out if that street was voting. He lived in the city limits of Stone Mountain, in an apartment complex. He said that he and several others were in line. He could not gather up the other people because they had already gone. I looked on my voter's registration list. I found out it was an apartment complex and that that was duly in the City of Stone Mountain.

The same incident occurred with Ms. Lorene Shields. She was told the exact same thing. These two people do not know each other, have never had any contact with each other, but they were being told that only if you lived in the village of Stone Mountain that you were only allowed to vote. Both of these parties not only went back to the vote once, they went twice and they were turned around twice at the polls.

Also, there were no provisional ballots offered to anyone. I also witnessed another young lady that I tried to run behind her and get her name, she went to the middle school, which was the precinct that was where the voting was taking place. When she got there, they made her go to the Sue Kellogg Library, which was not one of the precincts at the time. They had people running all over town. Now, I feel that this is such a travesty in our judicial system. Also, I just think that the City of Stone Mountain has just made history.

We have many cities that are trying to get people to the polls and from my understanding, 33 people just drove by and went to vote. So I just think that's amazing just to even conceive that something like that would happen.

We also had people who did absentee ballots who have lived in the city all their lives. One lady was a paraplegic. Her vote, her ballot was written down that she lived in Coweta County. So there were many, many things that were happening in the course of the day with this election.

I appeal to you, Mr. Secretary, I appeal to the board, I pray that this would be bound over to the Attorney General. I don't understand how so many people have sacrificed their life. Many people have died and been beaten up brutally just for the right to vote. And again, this is such like -- I feel that this is an old injustice that just happened in Stone Mountain again. You know, we might not have the documentation because our people got away, but still there was an injustice that happened in Stone Mountain and we need to stop this. And I think that if one person was denied their right to vote, that was one person too many. So I appeal to you all to please take these charges seriously.

I have called and I've gone to the board meeting with the State Elections and I reported this immediately so it could be on record. It was reported before the election was over. We tried calling the media. We just wanted some type of documentation during the course of the day that these actions was taking place because I didn't want to come out as being a sore loser. But I have witnessed; I will sign an affidavit to these things being happening all day long.

Also, we had about five people that was directed to the Memorial Drive voters -- to the registrar's office. They were also at the precinct and they told them, "No, you're not voting here. Please go to Memorial Drive." That's not even a voting precinct. So they were scattering people all day all over the city. And I just know that some, even though we don't have those people names because they were in their cars, some were walking, but it was an injustice that happened that day. Please, I'm begging you, to bound this over to the Attorney General.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, anyone else --

**MR. WORLEY**: I've got --

**SECRETARY KEMP**: I'm sorry. Mr. Worley.

**MR. WORLEY**: I have a question for Mr. Harvey.

**MR. HARVEY**: Yes, sir.

**MR. WORLEY**: This material we've been provided in the case of Mr. Lamar and Ms. Edmonson made a complaint and Mr. Lamar's been referred to by the testimony just now. But there doesn't seem to be any discussion in the report of whether he was actually eligible to vote or whether Ms. Shields was eligible to vote.

**MR. HARVEY**: I was going to respond to that. They were specifically investigated. It was found that Mr. Lamar renewed his driver's license and changed his address to a previous address that was in a different county, in Butts County, so he didn't realize he was doing that. He actually changed his voter's registration prior to the election. So although he didn't move, he re-registered in different places.

Ms. Shields had moved. Since -- she had registered outside of the city, had moved into the city. So at the time she was -- on Election Day, she was living in the City of Stone Mountain; she was not registered to vote in the City of Stone Mountain. Another individual, Mr. Wood, again, same situation: he was renewing his driver's license, used a different address and he didn't realize that he was -- he marked the forms. These are individual errors. And when we talked to them afterwards they realized that that this is why I was told I wasn't on the voter list.

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

**MR. WORLEY**: No. Thank you.

**SECRETARY KEMP**: Any other questions? Okay. Yes, ma'am.

**REV. PARKER**: My name is Reverend Orea Parker. I'm Pastor of Saint Paul AME Church, 821 Third Street, Stone Mountain, Georgia.

**SECRETARY KEMP**: Could you spell your last name for us, please?

**REV. PARKER**: Parker, P-A-R-K-E-R.

**SECRETARY KEMP**: All right. Thank you, ma'am.

**REV. PARKER**: I came to make a statement. Reverend Lorene Shields is a member and on staff at Saint Paul AME Church, and following the election she came to bible study very upset by the way the election was handled. She said, I think in her statement, that she felt that she was back in the civil rights era of being denied the right to vote, and I thought that she should have been offered a provisional vote, if her vote -- if her status

was not certain.

On the day of the election, I was at the site of the poll of the election and I did personally talk with Mr. Antonio. And when he came out and said that he was not allowed to vote; he was very upset. I urged him and asked that he would go back and ask them if -- to have them check again because I know the apartments that they live in, and they are in the city. He went back and he came back and said still, they would not let him vote. So I was going to walk over there with him because I didn't think that was right. And at that time it was the closing of the polls, so we could not get in. But he was not, evidently, allowed a provisional vote as well. And I thought that that would be the proper action to have been taken.

One other person is also -- I have a member -- the person that was slated to be in another county is a member of my church and she's lived all of her life, over 83 years, in Stone Mountain. And yet her -- I understand that her ballot was labeled as being in a different county.

So there are many different disparities that have taken place. I went to the hearing before the -- before the voting was over we, went down to talk with the election board, consider about some of these disparities because we thought that they were wrong. I, too, feel that for anyone to be denied the right to vote -- I come from the civil rights era. We fought too hard, and for these things to happen in 2011 -- I don't mean to get choked up about this but it is very sensitive to me when our rights are taken. And I do ask that the board consider very strongly that when one person is denied, and then to come and learn that the polls opened late on this very time -- I don't know. If we did more research, we don't know if there were other people that may have voted but did not get the opportunity. I do ask that you consider this injustice. I'm sorry about emotion but it is very . . . it is very sensitive to me.

**SECRETARY KEMP:** We can appreciate that and we appreciate you taking the time to come before this Board to let us know your thoughts today.

**MR. HARVEY:** Mr. Chairman, if I may. Ms. Shields actually did vote a provisional ballot and filled out a change of address form at the precinct, so she was offered a provisional ballot.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Any other discussion among the board?

(Whereupon, there was no response)

**SECRETARY KEMP**: The Chair will be glad to entertain the motion or motions.

**MR. WORLEY**: Mr. Chairman, I would make a motion that the portion of case number 2010, 0008 that relates to DeKalb County be dismissed because I think DeKalb County has explained the one remaining issue.

**SECRETARY KEMP**: Okay. We've got a motion to dismiss from Mr. Worley. Is there a second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: Got a motion and a second, any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. That motion carries and the DeKalb County part has been dismissed.

**MR. HARVEY**: Mr. Chairman, if I may. I've got two letters here from people who sent letters requesting I present this statement to the Election Board. They're two of the voters who voted with the Stone Mountain address who don't live in the city. And I told them that if they wrote a letter I would present it to the board for your consideration.

**SECRETARY KEMP**: What's the recap of the letter say?

**MR. HARVEY**: Essentially, I didn't realize I didn't live in the city. I wasn't trying to vote illegally. Both letters essentially say the same thing: I didn't realize I couldn't vote in the election.

**SECRETARY KEMP**: Okay. Bring those up to us.

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

**SECRETARY KEMP**: Okay. We've got a motion to accept.

**MR. WEBB**: Second.

**SECRETARY KEMP**: And a second. All in favor signify by saying, "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: Motion carries. Okay. Any other motions?

**MR. McIVER**: I move to bind over the remainder of the case.

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

**SECRETARY KEMP**: Okay. Would that include the 38?

**MR. McIVER**: Yes.

**SECRETARY KEMP**: All right. We've got a motion and a second to bind the rest of them over, any other discussion?

**MS. BRUMBAUGH**: Just to remind the board that the statutes voting by a (inaudible) by elector, they are specific intent statutes. And given the fact that we don't -- everybody lives in Stone Mountain; they have Stone Mountain addresses. There's no allegation that they lie on their voter's certificate and give false addresses. They're writing letters saying we didn't know we couldn't vote in Stone Mountain because we lived in unincorporated Stone Mountain and not the City of Stone Mountain. It may be difficult to prove that element of specific intent. I believe that Mr. Harvey's recommendation was a letter of instruction and that might be a more efficient way to handle those people.

**SECRETARY KEMP**: Mr. Harvey, the reasoning behind the letter of instruction, how many of those folks did you interview?

**MR. HARVEY**: We contacted almost all of them -- I don't know that we got every single person -- either through mail or by telephone and about half of them called me after getting their notices about this meeting. And to a person, their story was almost the same, that I didn't realize -- some of them said I was just driving down the street and saw an election, so I turned in to vote. Other people thought they were eligible to vote in the city. There was some concern, I think, initially, when the complaint was made, that maybe somebody was trying to funnel people or jam the ballot box with voters. There's no evidence that there was any kind of --

**SECRETARY KEMP**: So you didn't see any correlation, like all of these people lived in the same neighborhood, or --

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

**SECRETARY KEMP**: -- anything that looked suspicious to you. It was more just they were riding down the road and saw a bunch of campaign signs, people waving signs?

**MR. HARVEY**: Correct. We had various sex, race, age. There didn't seem to be any kind of connection between any of the individuals.

**MR. McIVER**: I still think the Law Department should work that out.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. We've got a motion and second to refer the remaining of this case to the AG's office. All in favor signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we refer that. All right, Mr. Harvey, 2010, number 17, City of Jonesboro.

**MR. HARVEY**: This is essentially a challenge. Mr. Stanley Byars voted by absentee ballot in Jonesboro during the 2008 general election, the allegation that he was not qualified to do so because he had previously lived in the City of Riverdale. There was candidacy challenge that was filed and there was a hearing. The facts and the timeline are that until January 31 of 2007, or thereabouts, Mr. Byar's -- at that point his divorce decree became final and he no longer lived in Jonesboro. In September 8, I'm sorry, September 23 of 2008, he voted absentee in Jonesboro. On August 28 of 2009, he changed his voter registration. And then in September 3 of 2009, he claimed to have lived in Riverdale for two years. So the allegation is that he, on one hand, he's saying he lives here for candidacy purposes; on the other hand, he says he's living there for residency or voting purposes and the two don't match up. So the allegation is that he violated 21-2-571, voting in an election without the qualifications, and 21-2-562, false information on the absentee ballot application regarding the address.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Anyone wishing to speak?

**MR. BYARS**: Yes, sir. Good afternoon, Mr. Chairman, Board. My name is Stanley Byars and that's B-Y-A-R-S. I live in Riverdale, Georgia. My post office box 960990, and that's Riverdale, Georgia 30274.

Basically, I'm here to -- first thing I'd like to find, I'm puzzled. All right? I have a complaint here made by a Michelle Bruce; I'm assuming that's Mickey Bruce. This is the fifth time that I've had to go before a hearing and this is the fourth time that this person hasn't been here to let me see at least who they are. As far as these -- I see here where it says potential violations; I'm really confused. I mean, we have a date here. I thought that I did everything according to the law and I'm basically confused.

So what I'd like to do here is just basically get some clarification. I was in the county. I was married. I don't see where me being married and divorced had anything to do with any elections. I was in, and I proved my residency requirements of 12 months in the city of Riverdale. I did that. I qualified. Nobody else said nothing. I thought it was all right. I went down to see people that knew about elections. And as far as I knew, I was perfectly legal. So again, I'm looking for some clarification because, you know, I don't know about the rest of you but I happen to work for a living and I don't have time to be going to these complaints and allegations for no reason at all. So, again, sir, I would like some more clarification.

**SECRETARY KEMP**: Thank you, any questions for Mr. Byars?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Mr. Harvey, you got any rebuttal?

**MR. HARVEY**: Just that when he filed his Notice of Candidacy and affidavit in Riverdale in September of 2009, he said that he had been a legal resident there for two years, which would have put him living in Riverdale when he voted in Jonesboro in 2008.

**MR. BYARS**: Question.

**SECRETARY KEMP**: Yes, sir.

**MR. BYARS**: The requirements for running for city council in the city of Riverdale, sir, is what? What is the residency requirement?

**MR. HARVEY**: I don't know.

**MR. BYARS**: Well, sir, to my understanding it was one year. If I'm not mistaken it's 12 months. And I thought it was the -- it was on the matter that you settled. It says -- I mean, correct me if I'm wrong, but 12 months: one, two is 12.

**MR. WEBB**: Mr. Harvey, if understand the issue correctly, Mr. Byars was no longer residing in, is it Forest Park --

**MR. HARVEY**: Jonesboro.

**MR. WEBB**: -- after January 2007, but yet in November of 2008 he voted in Jonesboro.

**MR. HARVEY**: Correct.

**SECRETARY KEMP**: So it doesn't have anything to do with the candidacy; it's where he voted when he wasn't registered.

**MR. HARVEY**: Correct. The candidacy is essentially the evidence that he was living in Riverdale when he voted in Jonesboro. This is not a candidacy challenge for his candidacy in Riverdale.

**MR. BYARS**: Again, clarification. Did I miss something here? I apologize if I did miss anything. But if I'm reading this right, it said the investigation also determined that Mr. Byars resided at the Jonesboro address until the -- January 31, 2007. Now, it says here that, you know, me and my wife split up. But we were at some time or another in the same residency. But I mean, we wasn't going to stay there together because, well, we're going through a divorce and that would be kind of nasty. But it doesn't say here that I actually moved out and I don't even remember the dates. This is why I'm asking for clarification.

**MR. WORLEY**: Mr. Secretary, can I ask a question?

**SECRETARY KEMP**: Yeah, Mr. Worley.

**MR. WORLEY**: Mr. Byars, when did you stop living in Jonesboro?

**MR. BYARS**: When did I stop living in Jonesboro? Sir, I don't remember the exact dates. I know that this did happen; my wife and I, we did go through a divorce and I never, hey, I didn't want to argue with her. You know, I found out a long time ago -- I've

been married times and I understand what a housekeeper is: I got divorced and she kept the house. That was the bottom line. I don't remember the exact dates that the decrees were written up or the exact date that I moved out. But I do know that from the time that I moved out until the time that I tried to qualify for city council in Riverdale, had been a couple of years later, and I don't see how that had anything to do with me running for city council.

**MR. WORLEY**: Well, do you understand that the issue is that you voted in Jonesboro in November 2008, and we want to know whether you lived in Jonesboro.

**MR. BYARS**: Well, I have no. . . I have no doubt about that. Maybe I did, and maybe I didn't. And I'm not saying that. I'm not the one that's accusing me; somebody else is, and I'm asking for clarification. I think that what I need to do

**MR. WORLEY**: I think the accusation is that you were not living in Jonesboro in November 2008 when you voted in Jonesboro.

**MR. BYARS**: Okay.

**MR. WORLEY**: Can you clarify that for us?

**MR. BYARS**: If -- I state this to you, again. I came for clarification. If I wasn't living in Jonesboro and you say I was living somewhere else or there was some other situations or circumstances, fine; clarify it and tell me what was up. I don't, you know, I don't see - well, you know, I went just trying to do a citizen-type thing and go forward and run for election. And I don't see where the dates jive up.

**MR. WORLEY**: Mr. Harvey, based on your investigation, where was Mr. Byars living in November 2008 when he voted in Jonesboro?

**MR. HARVEY**: Based on the information he provided in his candidacy affidavit, he'd been living in Riverdale for two years. I can't say where he was living but by his own admission, I guess, or by his own acknowledgement, he was living in Riverdale for the two years prior to that, which would not be Jonesboro.

**MR. WORLEY**: Thank you.

**MR. BYARS**: I met the one-year requirement. I know that for sure. How much -- how many months over that I'm not sure. But I know that I met the qualifications of 12 months to be eligible to run for city council in Riverdale. I don't think it was two years; I'm not sure. But I know that that was exactly what it was for 12 months.

**SECRETARY KEMP**: Okay. Mr. Simpson.

**MR. SIMPSON**: Mr. Harvey, the findings indicate that he signed the notice of candidacy on September 3 of 2009.

**MR. HARVEY**: Yes, sir.

**MR. SIMPSON**: Even if the requirement was 12 months that means he would have been living in Riverdale in November of 2008, right? September to September.

**MR. HARVEY**: Yes, sir.

**MR. SIMPSON**: So he would have been living in Riverdale in September of 2008.

**MR. HARVEY**: Yes, sir.

**MR. SIMPSON**: But he voted in Jonesboro in November of 2008.

**MR. HARVEY**: Yes, sir.

**MR. SIMPSON**: Okay. Now you understand?

**MR. BYARS**: No, you got me on that. What was that again? You said in 2008?

**MR. SIMPSON**: You said that the notice was 12 months. You signed the notice on September 3, 2009.

**MR. BYARS**: Uh-huh (affirmative).

**MR. SIMPSON**: That means you were living in Riverdale on September 3, 2008. You were not living in Jonesboro at that time. But you voted in Jonesboro after having moved to Riverdale. That's the issue for clarification.

**MR. BYARS**: Okay. If I do take that and understand that then -- like I said, I'm looking for clarification. I don't understand. I thought I did everything by the book.

**SECRETARY KEMP**: Okay, any other questions for Mr. Byars?

**MR. BYARS**: Do I have any other questions?

**SECRETARY KEMP**: Sir?

**MR. BYARS**: You asked me if I had any other questions. I'd just like to know too, again too, this same person that, that filed this complaint, I have -- this is the fifth time. I

think you can understand that I'm about tired of this same person in filing these complaints. It's getting to me. Now it's a form of harassment. I have to leave from Clayton County to come out here, parking and the whole-nine-yards. This is coming out of my pocket and the person that is accusing me is not even here.

**SECRETARY KEMP**: Well, I can certainly understand your frustration on that but I will tell that, you know, we accept anonymous complaints and we look into them and if we find potential violations, then it will come before the State Elections Board. And I think that for anybody that's been to these proceedings and has watched this bipartisan board, they know that we do not come in here predisposed on our decisions. That we listen to the citizens and the evidence and take appropriate actions and we'll continue to do that. But thank you for your comments. Okay. Anyone else wishing to speak?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any other discussion or motions?

**MR. WORLEY**: I move to bind this case over to the Attorney General.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Okay. We've got a motion and a second to bind over to the Attorney General. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of the motion signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, the case is bound over. I tell you what, why don't we break for lunch. Do we need to go into Executive Session, Ms. Brumbaugh?

**MS. BRUMBAUGH**: I think we might.

**SECRETARY KEMP**: What I would like to do is take a motion for the board to enter into Executive Session and we will do that and break for lunch and return here at 1:15. Do we have a motion?

**MR. WEBB**: So moved.

**MR. McIVER**: Second.

**SECRETARY KEMP**: We've got a motion by Mr. Worley and a second by Mr. McIver. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and we will go into Executive Session. Thank you.

- - -

(Whereupon, the board retired to Executive Session  
and a lunch break was taken)

- - -

**SECRETARY KEMP**: Okay. Let me call us back to order. Do we have a motion?

**MR. McIVER**: I move we adjourn from executive session.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Okay. We've got motion and a second to move out of executive session and back to our regular meeting. All those in favor signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. That motion carries. We are now back at our regular SEB meeting and will continue with the investigative reports. Mr. Harvey, 2010, number 122.

**MR. HARVEY**: This case also involves DeKalb County. A voter, Stephen (inaudible) Jackson, went to vote in November of 2010 and was told he was not registered to vote in

DeKalb County. It turned out under investigation that a different Stephen Jackson, Stephen Andrew Jackson, was registered in Clayton County. Clayton County inadvertently pulled the wrong Stephen Jackson and so he was not allowed to vote in the election on November 2 of 2010. He contacted DeKalb County and they fixed the problem. They couldn't update the express poll but they assured him that he could go back to his precinct and he could vote and everything would be okay. DeKalb County says they sent him a letter that they encouraged him to take to his precinct saying, essentially, we've fixed him, but he's not in the system; allow him to vote. He claims he never got that letter. DeKalb County provided us an unsigned version of that letter. And when he went to vote in the runoff election, he was again told he could not vote and although he voted provisionally the first time, this time he was offered no provisional ballot and basically said it's not worth it, it's not going to be counted anyway. So we've got Clayton County and DeKalb County cited for failing to keep a voter in their proper voting districts.

**SECRETARY KEMP:** Any questions for Mr. Harvey? Anyone else wishing to speak?

**MS. EVERETT:** I'm Pamela Everett. I am with the law firm of Freeman Mathis and Gary, 661 Forest Parkway, Suite E, Forest Park, Georgia 30168. Basically, we don't deny that Clayton County made an error in transferring Mr. Jackson to our rolls. What happened is we had another voter, same first name spelled differently, same last name, same date of birth, and we made an error and transferred him. However, once we were notified by DeKalb County that he was not our voter, we turned that voter back over to DeKalb County. So we don't understand why Ms. Bright is being charged with all the allegations. We do understand the one with regard to 21-2-26(a) because we did fail to transfer, or register, the correct voter. However, once that error was caught, we believe that that should have been DeKalb County's job to fix whatever other issues they were with the voter. So we would be willing to accept a letter of instruction. Ms. Annie Bright, who is the elections director, has trained her staff now that they are not only to look at the first name, they are to look at the middle initial to ensure that everything that's on that voter registration card is what we put into the system.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Thank you. Anyone else?

**MS. RASPBERRY:** Yes. Once again, Brenda Raspberry, DeKalb County Law Department, County Attorney's Office, 1300 Commerce Drive, Fifth Floor, Decatur, Georgia 30030. As the counsel for Clayton County has indicated, and as we understand it, Clayton County did make an error in apparently removing Stephen Jackson, the person in this case, from DeKalb County to Clayton County without our knowledge. And as Mr.

Harvey said that when Mr. Jackson attempted to vote in the November 2, 2010 election, his name was not found on the list of registered voters for DeKalb County and so he was provided a provisional ballot and he did, in fact, vote by provisional ballot, and we have evidence of that, and I know that is not exactly the issue today. But we do have a copy of the provisional ballot showing that he did vote provisional ballot -- by provisional ballot during the November, 2010 election.

And then we do also have today with us a copy of the letter that was sent to Mr. Jackson where DeKalb County registration told him that we were aware that -- we had become aware that Clayton County had inappropriately removed him from DeKalb and pulled him to Clayton; it was unbeknownst to us and that when we were notified of it, we took steps that we could take by sending him this letter dated November 12, 2010, and also sent a voter eligibility letter, which I have here, letting Mr. Jackson know that he was eligible to vote in the DeKalb runoff election that was, I think, November 30 and that he could take this to the poll with him and that he could vote at the runoff election.

Now, DeKalb County -- also, we don't have evidence that Mr. Jackson came to the runoff election and attempted to vote. But the investigators have informed us that he did come and vote and we did offer him a provisional ballot and that he refused to vote by provisional ballot. And so -- and DeKalb County's position is that we did what we were supposed to do. And once we found out -- because it was unbeknownst to us that he had been taken from DeKalb and put into Clayton -- we did the paperwork and we brought him back into DeKalb. We notified him of -- that we had made the change when he -- now, I will say -- well, what happened to his name; why wasn't it on the list for the November 30 election? Apparently, there was not anything in writing at the poll for the poll workers to look at to say, okay, here's . . . here's a written list to show that he's been pulled back into DeKalb County, so to speak, or transferred back to DeKalb County. But we did offer him a provisional ballot to give him the opportunity to vote. And so, it's our position that DeKalb County did not violate the code sections that are mentioned in the charge letter, that is 21-2-70, 21-2-26(a) and 21-2-228(a). It's our position that we did not violate those code sections in the election code, and that we ask that the board dismiss the charges.

And to the extent there is any concern about whether or not there should have been something in writing -- I'm just trying to sort of get to the issue -- if anybody thinks there should have been something in writing at the polls and that could have been something we could have done better, we have established yet another process to have a supplemental report that we provide to the poll workers or the poll manager, so that they -- it's like another check, check and balance, so to speak, where they can have -- look at a written, a supplemental report to the actual computer printout that they have. We've provided -- this is an additional step DeKalb County has done to just make sure that it's in writing, yet again, in addition to what we'd already notified Mr. Jackson of by the voter eligibility letter -- I'm sorry; trying to talk too fast again -- we had already notified him by

voter eligibility letter and our position is that that was sufficient for him to know that he could vote by provisional ballot and that to the extent there was still confusion with Clayton County, we would correct the confusion and his vote would have been counted. But he chose not to go with that option.

And then we have taken an additional step, just as another check and balance, to have a supplemental report which would have had his name written, which is something new we've done, but we're saying the statute didn't require us to do that. But again, DeKalb County is always interested in all people being able to cast their vote and to never be in a position where someone is saying they were denied their right to vote. So again, we'd ask that the charge just be dismissed and that's really it. And a letter of instruction to the extent that there's any concern about the supplemental report.

**SECRETARY KEMP:** Ms. Raspberry, weren't the poll workers notified at that precinct about this situation and that if he came in he should be allowed to vote? Do you have any knowledge of that?

**MS. RASPBERRY:** Now, Ms. Daniels will be able to speak to that. But what we do know is that -- and Ms. Daniels can give this further -- is that our poll workers are notified if someone is . . . is come to the polls and there is any question about their registration, is any confusion about the names, whatever, that they be given a provisional ballot and that way it protects the rights of the voters and it covers the County. So you get the provisional ballot and you cast your vote. If, after we do our investigation it's determined, well, it was a Clayton County mix-up and it's fixed and his vote counts for the runoff, if it's determined that he didn't meet the eligibility requirements, then the provisional ballot wouldn't count. But it's my understanding that he was -- that the workers were told to give him a provisional ballot and, as Mr. Harvey said, he was offered a provisional ballot but decided not to cast it.

**SECRETARY KEMP:** It was my understanding the workers were told to let him vote because of this situation.

**MS. RASPBERRY:** To let him -- I'm sorry; I didn't mean to --

**SECRETARY KEMP:** To let him vote.

**MS. RASPBERRY:** To let him vote by machines?

**SECRETARY KEMP:** Uh-huh (affirmative). Maybe Ms. Daniels could help --

**MS. RASPBERRY:** Ms. Daniels can probably shed some light on that.

**SECRETARY KEMP:** Ms. Daniels, hold on one second. Does anyone else have a

question for Ms. Raspberry?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay.

**MS. DANIELS**: And I'm not sure that I -- the question is that, in this situation --

**SECRETARY KEMP**: If you don't mind, just give us your name.

**MS. DANIELS**: Oh, yes. Maxine Daniels, Director for DeKalb County Voter Registration and Elections, 4380 Memorial Drive, Decatur 30032. The policy is that if -- as we go to a runoff election, as you all know the electors list by law does not change from the election to the runoff, so that the list that that's sent on the express poll is the same list that's sent for the election, as well as the, what we call the supplemental list that's provided by the State from the system, is also not changed because, according to law, it's the same electors list. However, in this particular instance, what we generally do and what we've done in the past, which we thought was to the letter of the law, was that we would provide the voter a letter saying you are eligible to vote and our poll workers are instructed when they receive that letter, to allow the voter to vote, write their name on the supplemental list, and allow the voter to vote.

In this particular instance, we provided Mr. Jackson -- we mailed Mr. Jackson that letter, which he says he did not receive. You know, I cannot dispute that. However, we felt like we did -- the follow-up, though, had Mr. Jackson, or any voter, goes to the poll and states to our poll worker, "Well, I talked to someone at your office and they said I should vote," the first thing they do is pick up the phone, we say let them vote, they add to the list, everything is fine.

Now, what is interesting about this case, and I'm not trying to allege (sic) anything, but what is interesting is we searched all of our records. We could not find a rejected certificate for Mr. Jackson when he went on November 30, nor could we find a (inaudible) certificate or any attempt for him to fill out any paperwork. So now -- and her, the allegation or the statement that Ms. Raspberry was saying was that we can't find any documentation that Mr. Jackson even went to our poll. He said he did; that's fine. But I find it hard to believe that a person who was told that he should vote who had a problem the first time, would not ask our poll worker to call us and they would not do that, because that's what we do. We had very few -- we had 63 voters in that poll on that day, so it wasn't like they were really, you know, crowded and couldn't do that. We're not -- our phones were not being overly burdened that they could not get through to us. And we tell the poll worker as a last resort, if you can I get to us about the eligibility of a voter, you let them vote provisional ballot because at least then we will have that which we can count.

So now, as far as Mr. Jackson is concerned, we know we did not provide anything to the precinct on the supplemental electors list or anything in writing that said that this voter was eligible. We provided it to him and then we had a fallback position that they if someone goes and appears they can always call and get documentation or, as a very last resort -- so it's a three-step process -- as a very last resort, he could vote provisional ballot.

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

**MR. WEBB**: Yes, Ms. Daniels, when a voter shows up at the poll and signs the supplemental list and is allowed to vote, how are they allowed to vote, electronically or provisional ballot?

**MS. DANIELS**: Electronically. If there's any way that we can show that they are eligible on election day either through, you know, adding them to the supplemental list, giving them a voter certificate or a voter eligibility letter or that the person calls us and says, "Is this person eligible to vote?", once their eligibility is determined, then, yes, if it is yes, they will always vote on the voting machines.

**MR. WEBB**: But the person isn't listed in the database of the express poll, correct?

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

**MR. WEBB**: But you can still issue a voting --

**MS. DANIELS**: Yes.

**MR. WEBB**: -- ballot?

**MS. DANIELS**: Yes. Our processes allow that, yes, sir.

**MR. WEBB**: Thank you.

**SECRETARY KEMP**: Anybody else; any other questions?

(Whereupon, there was no response)

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

**MS. RASPBERRY**: If I could, Mr. Secretary, we have letters --

**SECRETARY KEMP**: If you would, just state your name again for the record.

**MS. RASPBERRY**: I'm sorry. Brenda Raspberry, DeKalb County Law Department on behalf of DeKalb County. We have a copy of the letter that we sent to Mr. Jackson and the voter eligibility letter if that would be of assistance to the board in making its decision.

**SECRETARY KEMP**: We've seen that letter; we have that.

**MS. RASPBERRY**: And the voter eligibility letter, as well?

**MR. WEBB**: We have it; we have it.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Any questions or discussion, motions?

**MR. McIVER**: Question, Mr. Harvey.

**MR. HARVEY**: Yes, sir.

**MR. McIVER**: What evidence do you have that he was issued a provisional ballot in the runoff? Didn't it say that he appeared and was offered but did not vote?

**MR. HARVEY**: No, he did vote a provisional ballot in the --

**MR. McIVER**: In the runoff?

**MR. HARVEY**: No, I'm sorry. In the runoff --

**MR. McIVER**: November 30 runoff.

**MR. HARVEY**: We have his statement, I believe. I don't think we have any --

**MR. McIVER**: That he was offered a ballot but chose not to vote?

**MR. HARVEY**: Yes, sir. That's what he reported to us.

**MR. McIVER**: Thank you.

**SECRETARY KEMP**: Any other discussion, motion? Mr. Harvey, do you have any thoughts on the two violations for the Clayton County part?

**MR. HARVEY**: Well, I think Clayton County clearly transferred him improperly. As far as the citations, the 21-2-70 is sort of a blanket, you know, you're supposed to conduct elections and do your job according to the law. So that's sort of a very wide net you can cast. And then as far as 228 goes, 228 folds in pretty well with 226. So I think 226 and 228 could be put together, or 228 could be stricken completely.

**MR. WEBB**: Mr. Harvey, was there any issue with the other Steven Jackson concerning his right to vote?

**MR. HARVEY**: Not that was reported to us, no; not that we're aware of.

**MR. McIVER**: I move to bind the case over.

**SECRETARY KEMP**: Okay. We've got a motion to bind everything over to the Attorney General's office. We have a second? I'll second. Any other discussion?

**MR. WORLEY**: I'm going to vote against that motion to bind it over because I don't think DeKalb County has done anything wrong here. I mean, they appeared to follow the letter of the law and there really seems to be some question as to whether Mr. Jackson showed up for the runoff at all based on evidence that they have. So I would prefer -- my preferred resolution of this would be that a letter of instruction be sent to Clayton County and DeKalb County be dismissed.

**SECRETARY KEMP**: Any other discussion?

**MR. WEBB**: I only partially agree with Mr. Worley. I would bind over Clayton County and I would dismiss the claims against DeKalb County because I'm not sure if there is anything more they could have done connected to the situation.

**MR. SIMPSON**: I sort of feel the same way. I have a hard time finding some violation on the part of DeKalb County.

**MR. McIVER**: What troubles me is we have a statement from Mr. Jackson himself saying he went there. Anyway, that's the reason for my motion.

**SECRETARY KEMP**: I mean, it's a clear case I think of each side has a different story; one of them has been in person, one of them has been by statement. That's why I seconded it because I think Ms. Brumbaugh could get to the bottom of this. We can vote and if it doesn't pass, we can do something different. We've got a motion and a second to refer to the Attorney General. All in favor signify by saying "Aye."

**MR. McIVER**: Aye.

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

**MR. WEBB**: No.

**MR. SIMPSON**: No.

**MR. WORLEY**: No.

**SECRETARY KEMP**: Okay. The motion fails. Do we have another motion?

**MR. WEBB**: I will make the motion that the allegations against DeKalb County be dismissed and that the remainder of the case be bound over to the Attorney General's office.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Okay. We've got a motion and a second. Any other discussion? So we are -- this vote will be to dismiss DeKalb and then bind over the Clayton County part of the case?

**MR. WEBB**: Correct.

**SECRETARY KEMP**: Not sure we got it clear on the record. All right. All in favor of that motion signify by saying "Aye."

**MR. WEBB**: Aye.

**MR. SIMPSON**: Aye.

**MR. WORLEY**: Aye.

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

**MR. McIVER**: Aye.

**SECRETARY KEMP**: Aye. Motion carries and we will move on to the Paulding County case, 2010, number 43.

**MR. HARVEY**: This case is very similar in facts to the case with Mr. Byers. This is a case where Neil Craig Prewitt filed a candidacy affidavit to run for Senate District 33 in Cobb County and this was in 2010 and they had a residency challenge. At the challenge he testified that he had moved to Cobb County in early 2007 and remained there until the current time. The problem was that in 2008 on two occasions he voted back in Paulding

County. So he had moved from Paulding County in early 2007 into Cobb County and then continued voting on two occasions in Paulding County. And that's where the charges come from.

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

(Whereupon, there was no response)

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

**MR. PREWITT**: Good afternoon, Mr. Secretary, fellow board members, citizens. My name is Neil Craig Prewitt. I had -- I currently live at 4791 Brownsville Road, Powder Springs, Georgia. In 2007, early 2007, I had a microdiscectomy on my back. I had MRSA staph infection and that required a subsequent operation to bridge the staph infection. Now, this was when I was living in the house in Paulding County, 334 Brookside Drive. Well, I was pretty much bed-bound; I couldn't get around the house. I almost died. The staph infection got into my bloodstream. I don't know if you guys know anything about it, but it's awful. I'm still not fully recovered from that.

But my father owns a house in Powder Springs, okay. It's right across from the house that I grew up in and I decided that it would be easier if I convalesced in that house. It's a little two bedroom, one bath house. My wife and daughter was not happy about it at all, but at least there was no steps and I was able to get around somewhat better. I was bound to a wheelchair and with that MRSA staph infection, I had a pic line in my arm and a nurse come by the house twice a day for six months to give me intravenous IV antibiotics. Seventy percent of the people that get that in their bloodstream die, so it's a wonder that I'm standing here, much less that I ran for the State Senate in 2010.

But when it come around -- for 10 months I was pretty much bed-bound. So when it come time to vote in 2010, or 2008 -- now, you said I voted twice. Can you tell me was that the runoff or what was that?

**MR. HARVEY**: Apparently. One was in October, which I guess would have been early voting, and then November 20 runoff.

**MR. PREWITT**: Okay. Well, even considering my physical condition at the time, I know how important it is to exercise my right to vote. Well, I can't remember if I was in a wheelchair or if I had a cane when I voted, but on the square, I mean, God's honest truth, I was planning on moving back to the house. I didn't know it was going to take me four years to recover from this. Well, then I, you know, I was living in Powder Springs, and that was just temporary. I've already moved out of that house; I'm living somewhere else now. And I want you all to make sure you get the point: I wasn't living in this house and voting over here. It was a temporary thing. My homestead exemption was still at the

house in Paulding County. I had a P.O. Box; I still -- I maintained my residence in Paulding County. I was going to move back to the house in Paulding County. Due to the complications from the staph infection, I didn't do so.

Well, I was living in Powder Springs, the same area that I grew up in, and, you know, that's about the time that it, you know, the economy started getting bad and people were out of work; real bad, Austell and Mableton area. It's terrible right there right now. Well, I decided I was going to run for Senate if nobody run against Steve. He was elected when I was in the second grade and he's been there ever since. And I got these legal allegations just piled on top of me. I've got the head lawyer for the Georgia Democratic Party, okay, he sent me -- I've got a subpoena here with two pages worth of -- they want -- I got a charter boat. I bought a charter boat down in -- I've got it down in Panama City. Well, it's not there now, but 10 days before the oil spill. So that's how my luck runs, anyway. But I had to get copies of my captain's license, you know, power bills from -- I mean, everything you can imagine. They took all this information and they picked me apart, okay. I got 40% of the vote and 70% of the money went to defend my name. In the papers it's "Craig Prewitt, Center of Voter Fraud Allegation." No amount of money could -- would allow anything like that to go on my name. I mean, you know, that's awful. I wouldn't wish -- this is why people like me don't run; I'm telling you.

See if I've got anything else here. To the best of my ability, I complied with all the rules and regulations. I was -- you know, I maintained my residence in Paulding County; that's where my membership for the church was, mail went there, I was planning on going back. It just didn't happen because of the staph infection, okay. So when I voted, I mean, like I said, this is the God's honest truth, on the square, I was planning on moving back to that house. If you could see where was living at the time, this house was about 800 square foot; I mean, it was tiny. We lived there just so I could get better. And then I moved to -- you know, just as soon as I got a chance, I got out of there. I ended up renting that house out. A guy wanted to rent and I said I could use the money and that was some time in about 2009, I think. But when I voted, when I, you know, limped up there and voted on 2008, I had no idea I would run for the state Senate.

But anyway, I would respectfully ask the board to dismiss this and end this nightmare for me. If anybody has any questions, I would be glad to answer them.

**SECRETARY KEMP**: Thank you, Mr. Prewitt. Any questions?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Thank you, sir. Anyone else wishing to speak?

(Whereupon, there was no response)

**SECRETARY KEMP**: Does the board have anything else? Motion?

**MR. WEBB**: Mr. Harvey, if I could ask you a question.

**MR. HARVEY**: Yes, sir.

**MR. WEBB**: The second allegation in section 21-2-562(a)(1) said on three separate occasions that Mr. Prewitt made fraudulent entries on voter certificates. I'm curious what the third one was. We've got the October date and the November date, right?

**MR. HARVEY**: Correct. Give me one second. I believe the third is actually referring to the 562, I believe it's (a)(2), in terms of fraudulent entries on a document as opposed to on a voter certificate.

**MR. WEBB**: Thank you.

**SECRETARY KEMP**: Anything else?

**MR. WORLEY**: I just had a question for Mr. Harvey, too. So, Mr. Harvey, this case is essentially the same as the Byers case in the other county?

**MR. HARVEY**: It's similar in that he voted and it was essentially discovered when he filed a candidate affidavit saying that he had lived in one place for a time that would make the math impossible.

**MR. WORLEY**: And I take it that in the challenge to his ability to run for the State Senate, the finding of the ALJ was that he had, in fact, moved to Cobb County?

**MR. HARVEY**: In 2007; yes, sir.

**MR. WORLEY**: And he was found eligible to run for the Senate?

**MR. HARVEY**: I believe so; yes, sir.

**MR. WORLEY**: In Cobb County?

**MR. HARVEY**: Yes, sir.

**MR. WORLEY**: But in the intervening November and December of 2008, he voted in Paulding County?

**MR. HARVEY**: Correct.

**MR. WEBB:** Mr. Harvey, did you write down the date that Mr. Prewitt says he began renting his home in Powder Springs?

**MR. HARVEY:** I don't believe there was a date; I believe it was characterized as early 2007. I don't know that we have a specific date.

**SECRETARY KEMP:** Mr. Prewitt, did you have something you wanted to add? Come on up here to the microphone. We've got to make sure that the court reporter can --

**MR. PREWITT:** Yes, sir. Craig Prewitt, 4791 Brownsville Road, Powder Springs, Georgia. I was just -- I'm curious of that document that you said that I lied on. I mean, I'd really like to know what kind of document that was. They mentioned something when I filed for my candidacy affidavit. Now, I've never ran for office before. You've got to take that into consideration. I mean, I take people fishing for a living. So this is a far stretch for me and I had a few problems; I filed some of my ethic paperwork wrong. But I'm telling you, I forgot who it was in the office, I talked with them constantly to make sure I was up to snuff on my paperwork.

**MR. WEBB:** The specific point, I believe your candidacy affidavit said that you lived in the district for 39 years.

**MR. PREWITT:** Well, I was brought home from the hospital there. Now, you know, then again, I'm not going to say that's a lie because I have -- you know, I've lived there; my father still has that house and we've got three little houses there. But it wasn't consecutive. Now, if I made a mistake on that, that was, you know, purely a clerical error because, you know, I have a daughter that was going to school in Paulding County, my homestead exemption was on the house in Paulding County, so I definitely wasn't trying to hide the fact that I lived in Paulding County for seven or eight years. But, you know, I'd like to maintain that, you know, I kept my residence when I voted. When I went up there and voted, at the time I was on -- you know, I made a phone call. I don't know if I called the Secretary of State's office or -- and this is a big point; I forgot this -- or Cobb County or Paulding County. I don't remember. But honest to God, I called somebody and they said, well, go ahead and vote wherever you're homestead extension is.

Now, granted, that at the time I didn't know I was going to run for the Senate. I'm just trying to vote. But this right here is just, you know, I had that one case where they challenged my residency. This is like the third time I've been before y'all, okay. This has been a nightmare. The reason I don't have my attorney here today, I sent him the last \$1,000 I had last week. I couldn't afford to have him here again today. It's a shame, you know, when -- and I know you all are just doing your job, and I respect that, because the voting process is so, so important. But when you've got people out there and these people that make these allegations, they're not here. I don't ever see them. They can be cowards and they can write something. I don't even know these people. What do they

got against me?

**SECRETARY KEMP**: Mr. Simpson?

**MR. SIMPSON**: Mr. Harvey, would you look at 21-2-217 subparagraph (a)(3). Did you take that into consideration with regard to the residence issue? It says, "A person shall not be considered to have gained the residence of any county or municipality into which subject person has come for temporary purposes only without the intention of making such County or municipality such person's permanent place of abode." Now, under that statute, wouldn't his residence remain in Jonesboro?

**MR. McIVER**: Dallas.

**MR. SIMPSON**: I mean, Dallas; I'm sorry. In Paulding County.

**MR. HARVEY**: I'll respond with two things. First of all, he refused to talk to us and give us a statement about what had gone on, so we had no idea of knowing whether it was a temporary or permanent move. And he argued in his residency challenge that he had, in fact, moved to Cobb and the judge found that he had moved to Cobb County. So I would say, as this board knows, residency can be a slippery thing to grasp onto. Obviously, he doesn't have the burden to do anything, but in failing to provide that defense to our investigator and coupled with the judge's determination that he lived in Cobb County, I thought that was a strong case.

**MR. SIMPSON**: That judge made that determination in a different matter. That had to do with his qualifications to run for that seat, didn't it?

**MR. HARVEY**: Correct; yes, sir.

**MR. SIMPSON**: So that --

**MR. HARVEY**: That judge was the only person who would tell us where he considered Mr. Prewitt to live.

**MR. WORLEY**: Mr. Harvey, was there a transcript of the hearing?

**MR. HARVEY**: I believe there is one.

**MR. WORLEY**: And is that something that you all reviewed?

**MR. HARVEY**: I know part of it is included in the report. If you look at the third page of the report just above where it says Conclusion there is a quotation from the paragraph that states, "Since moving to the Powder Springs address, Prewitt has had tenants living

in his Dallas, Georgia property, and subsequently used his Dallas, Georgia property as a rental property. Prewitt has continuously resided at the Powder Springs address since 2007. Prewitt receives significant import mail, including but not limited to his bank records for his only bank account, Georgia Power bill, Austell Natural Gas bill, T-Mobile phone bill, his state and federal income taxes, legal subpoenas, as evidenced, petitioner's own counsel's decision to serve a subpoena on Prewitt at the Powder Springs address." So we do have a transcript. The challenge was, in fact, denied.

**MR. WORLEY**: Did he testify at the hearing that he actually lived in Cobb County?

**MR. HARVEY**: Actually, this is a -- we've got the order.

**MR. SIMPSON**: Mr. Harvey, is today the first time that you heard that he only was living in Cobb County temporarily?

**MR. HARVEY**: Yes, sir. I believe we have the transcript on disk; I don't think we have a printed copy of it.

**MR. WORLEY**: Well, I find it a little hard to understand how he could be living in Cobb County temporarily and be qualified to run for office in Cobb County.

**MR. PREWITT**: That's a good question. I mean, wished I could afford to have a lawyer here again. He was a good one. But I think the issue here is due to the prolonged period of convalescence, okay. When I voted, I'm thinking, okay, well, hey, you know, in four months I'll be good to go. All right? It didn't -- that didn't happen. I ended up staying and I actually didn't move out of the house until the end of last year. But like I said, I moved from a nice, you know, nice big house over here that has steps to a 700 foot, two-bedroom, one-bath house that, you know, was awful, God-awful. I didn't do that because I wanted to; I did that because I couldn't get around. I mean, you know, in 2008, I couldn't walk. I mean, you know, I was bed ridden; I had a urinal beside my bed. I mean, it was -- that staph infection, it'll kill you.

But sometime during that -- does that answer your question? During that period, you know, after a prolonged period, somewhere around 2009, I decided, you know what? I'm gonna stay here. You know what? As a matter of fact, I'm going to run against this guy because, you know, I think I could do a better job, you know? I mean, the state would be better off had I won the election. I mean, I spent hardly no money and I got over 40% of the vote, and they're hoping that they'll have this bad mark on me that disqualifies me from next time.

I don't know, this -- I wasn't gonna bring out all this other stuff. Y'all probably know it. There was a guy -- I was on the news. A guy tried to stab my campaign manager; he was picking up my campaign signs. Y'all could Youtube it, I mean it's real -- Greg Prewitt

Senate race. But, you know, and that's the reason I wasn't talking to these guys. I mean, I have -- when they come out here, you've got to understand all this was cast upon me at the same time. I was out there cutting my grass with a weed eater and this guy come -- I don't think it was him; it might have been him. But, you know, yeah, I wasn't really comfortable talking to the guy. I mean, you heard what the other guy said: he come up and act like he was his best buddy and then, boom. I mean, I wasn't trying to screw nobody around here, I mean, I really wasn't. All I was trying to do is get well. You know, if I knew in 2008 that I was going to run for the Senate, I would've done things a whole I differently. But, you know things change. And they hope to God that I'm found guilty of is because then in the next election -- I probably won't even run. They're gonna say, you know, well, it was all over the paper: Greg Prewitt, local citizen. You know, I'm involved in all kind , you know, different things in the community, you know I know everybody. But they -- you know, this black mark everywhere I go, hey, man, what's this about you being in voter fraud? You know, and that hurt; that hurt. I mean, this is just one of the tactics that was used against me, just one.

**MR. WORLEY**: I guess I'm just a little unclear about this. Are you saying that now you live in Dallas?

**MR. PREWITT**: No, I still live in the same district. I bought a house down the road. Somewhere right around probably 2009 or so, I said, you know what, I'm going to run for the Senate. I went, I changed the voter registration and all that stuff.

**MR. SIMPSON**: At the time you voted, you were living in Cobb County, but you did not have the intention to stay there?

**MR. PREWITT**: No, sir. I was planning on moving back to my house.

**MR. SIMPSON**: And then after that, two years or so after that, is when you filed a declaration of candidacy?

**MR. PREWITT**: Yes, sir.

**MR. SIMPSON**: Saying that you had been living there since 2007?

**MR. PREWITT**: Yes, sir.

**MR. SIMPSON**: But at the time you voted --

**MR. PREWITT**: I wasn't planning on staying in Cobb County. I was planning on moving back.

**MR. SIMPSON**: Thank you.

**MR. PREWITT**: Anything else?

(Whereupon, there was no response)

**MR. PREWITT**: Thank y'all.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: What is the pleasure of the board?

**MR. WORLEY**: Well, if I could -- I'm going to make a motion to bind over this to the Attorney General's office. I will say that if the facts are as Mr. Prewitt just explained, then he can certainly make that argument that there was not a violation of the law. But I think there are other facts in the record that are contrary to that, so I just think it's appropriate for a finder of fact to make a determination, and so I think there is enough probable cause to bind it over at this time.

**SECRETARY KEMP**: Okay. We've got a motion.

**MR. WEBB**: I will second.

**SECRETARY KEMP**: Mr. Webb seconds. Any other discussion?

**MR. SIMPSON**: I will say this: I agree with the motion to bind it over, but that does not mean that I don't think -- the reason I will vote for it is because I think that's the best way for us to get down to the bottom of this and find out really what the facts are. We can get the sworn testimony from the hearing, we can get additional information that the Attorney General can consider in dealing with this issue. So I will support the motion.

**SECRETARY KEMP**: Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we've got a motion in the second to bind over. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP** And it will be bound over to the Attorney General's office. All right. Case number 2010, number 120.

**MR. HARVEY**: This case involved Newton County and DeKalb County in the November 2, 2010 general election. A woman, whose name I will probably mispronounce, Ms. Ounji, had registered to vote in DeKalb County in June of 2007. She had voted there by absentee before. When she came back from college, she moved in with her mother, I'm sorry, I believe her grandmother in Newton County. She did not, however, change her voter registration. So the day of the election, she went to Newton County and attempted to vote and they told her she was registered to in DeKalb County, not Newton County. She then drove to DeKalb County, voted by completing a voter certificate with her former DeKalb County address on it, where she doesn't currently live. She was able to vote. However, she voted with false information. She listed an address where she no longer lives. And so we are recommending this case be bound over to the AG's office.

**SECRETARY KEMP**: Any questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none --

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Got a motion by Mr. McIver, second by Mr. Simpson to bind over to the Attorney General's office. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of the motion signified by saying "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: All opposed, same sign. The motion carries. Case number

2010, number 75.

**MR. HARVEY**: This is Pickens County. This involves respondent, Mr. Rolando Barrionuevo, who is not a United States citizen, however, he sent in a hand-completed voter registration application to Pickens County registrar in May of 2009. He never voted, he didn't mail in ID. On April 10, 2010 he mailed a letter to the court registrar asking to be removed saying that he was not a United States citizen. We've had, I think, a couple of different versions of how that application got sent in. One was that he had completed it in anticipation of becoming a citizen, and it was sent in accidentally. I don't know how it got in there. He's not denying, I don't believe, that he mailed it in, but believes it was mailed in in error. And so we are -- have him cited for 21-2-216 for registering when he is not a US citizen and for 21-2-561 for falsely stating that he was a citizen on the registration form. I believe Mr. Barrionuevo is here.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none -- well --

**MR. ASHLEY**: Good afternoon. Thank you, gentlemen. My name is Daniel Ashley; I'm an attorney. My address is 242 Culver Street, Suite 208, Lawrenceville, Georgia, here on behalf of Mr. Barrionuevo. We would tell the board Mr. Barrionuevo, back in the early part of 2009 had begun the process of applying for citizenship. He had come here from Cuba in 1988, has been a permanent resident alien since that time. In a period of 21 years, never voted in an election, never violated the law, paid his taxes, did what he was supposed to do. He's an over the road truck driver. He lives with his mother and his daughter in Pickens County and he had owned that house since 1994.

As part of the process and preparing the paperwork for his immigration application to become a United States citizen, the form had gotten prepared. He routinely left anything that was to go out in the mail at the residence because he was an over the road truck driver. Thereafter, his mother will forward on, whether it be the mortgage, the heat and light, whatever was. Somehow, in that paperwork this form existed and his mother forwarded it in the mail. That was in May of 2009. Come July, August, September, October, November, there are school board elections, there is general elections, there are runoff elections -- he doesn't vote, he doesn't attempt to vote.

In the early part of '10, he gets a letter back from the Department of Homeland Security as part of the immigration process relative to whether or not he had ever voted in an election. He went looking for the form; couldn't find the form. He went to his mother and said where is the form? Didn't have the form. He picked up the phone and call the Pickens County Board of Elections and he said, "Did you happen to get a form?" They

said, "We have the form, but you're not registered to vote. You didn't submit a drivers license identification, photo identification, so you're not eligible to vote. But we do have the form." He got in the car next day, drove down and withdrew the form. He said they shouldn't have gotten it, I should've never voted, I didn't try to vote, I've never tried to vote, and I can't vote until my immigration process is completed.

Thereafter, he has answered any questions ever asked of him. He never tried to vote, he didn't want to vote. He has been here 21 years and has never tried to vote. The form got sent in unintentionally. And I think it's evidenced that it's unintentional in that he never appeared at the motor -- at the bureau to vote, he never went down there and tried to vote, he never tried to get a voter registration card, he didn't call and say, "Where is my voter registration card that we all get in the that tells us which precinct we go to or wherever the voting location is." He never did that. He withdrew the form. He was never technically eligible to vote even pursuant to Pickens County, even pursuant to this board's report. In their report they even indicate that he wasn't eligible to vote because the process was completed.

I would submit to the board he's been here 21 years --

**MR. BARRIONUEVO**: Twenty-three.

**MR. ASHLEY**: Twenty-three now; 21 at the time. He has never violated the law ever in any way. Wasn't eligible to vote, didn't intend to vote, the form did not intend to go there. He is remorseful, never wanted it to happen, didn't try to violate the law, wouldn't intentionally violate the law, didn't go down and try to vote; he never did. He withdrew it and here we are today. That's as a practical, citizen taxpayer of this country what happened.

As a lawyer, the question becomes whether or not he violated the law. By Mr. Harvey's own investigation, he wasn't eligible to vote. The process and the letter that he was forwarded on page 2, the second sentence, and I don't want -- the facts are, a citizen made a mistake and a form got mailed in that shouldn't have. But as a practical matter, is it something that demonstrates a violation of law when he technically wasn't registered to vote?

He takes full responsibility. He called me when it happened. We had a long discussion. I indicated at that time wait and see what happens. You don't know, maybe these things work themselves out and whatever. We would ask this board today to take that into consideration. We would ask that he be issued a letter of instruction by the board, that it not be referred to the AG's office, and the matter be closed here. He's obviously here, and he will take any of your questions.

**SECRETARY KEMP**: What is the letter that you received, that he received from ICE?

**MR. ASHLEY**: I have a copy of it.

**SECRETARY KEMP**: What was that letter asking for or about?

**MR. BARRIONUEVO**: For a certified letter from Pickens County office stating that I never voted, that I unregistered to vote, and I had to get with Mr. Wes Taylor, supervisor of elections, to get that letter. I even spoke to Mr. Chris a few times to get some help on that because the lady, Ms. Roberts, refused to release public records to DHS. She did not cooperate at all. I had to file a police report, too, because I couldn't get any help at all.

**MR. ASHLEY**: Let me say this --

**SECRETARY KEMP**: Let's get his name and address for the record.

**MR. BARRIONUEVO**: Rolando Barrionuevo, 85 Chivalry Lane, Ball Ground, Georgia 30107.

**MR. ASHLEY**: And there is a Pickens County police report where he actually wound up down there saying I need the documents to show that I was never registered, I didn't vote, I never presented myself to vote, so I could just turn it in and let my immigration process go on its way. And it wasn't -- just so you folks are aware -- this investigation, if you will, this incident began because he called.

**MR. BARRIONUEVO**: I contacted them --

MR. ASHLEY: He went to them and said, "Wait a second, guys. If you have one you shouldn't have it," and immediately went down the next day, I think it was April 10 of '10, next day went down and filed his letter and that's how the whole thing started.

**SECRETARY KEMP**: Mr. McIver. If y'all don't mind, we really just need to have one of you at the podium answering the questions so we can kind of keep up with the transcript. I mean, it doesn't matter who it is. Mr. McIver.

**MR. McIVER**: Senor Barrionuevo?

**MR. BARRIONUEVO**: Uh-huh (affirmative).

**MR. McIVER**: In English, did you sign the voter registration card?

**MR. BARRIONUEVO**: Yes, I did. I do everything, like my bills and everything, I leave on the counter and I sign -- like whenever I get out of town, I fill out all the paperwork and I leave it on the microwave or on the counter for my mom to later on mail

it in. That's how it -- you know, it was a communication barrier between me and my mom that I did not communicate with her when that was supposed to be sent in. Obviously, she sent it in with my bills to be paid along with it because there was a date on it and she thought that date it was supposed to be mailed in and I forgot about it. That's what she done. And she mailed it in with the rest of my bills.

**MR. McIVER**: Did you check the box saying you were a US citizen?

**MR. BARRIONUEVO**: Yes, I did.

**MR. McIVER**: And signed it?

**MR. BARRIONUEVO**: Yes, I did sign it. I had no idea I was breaking the law by keeping the card until I get my citizenship paperwork come through. I figured, you know, I'm not breaking any laws as long as I don't go in and register to vote, you know; as long as I keep it at home, like I did everything else with all of my paperwork. You know, never refuse that, never denied it. You know, I was very up front with it.

**SECRETARY KEMP**: Mr. Webb.

**MR. WEBB**: Mr. Barrionuevo, did you date the application card when you signed it?

**MR. BARRIONUEVO**: The day that I signed it, the day that I filled it out, put all my information, my drivers license, date of birth, Social Security number. Everything was dated that day. I filled it out and I left it on my counter. Never denied it, sir. It was just an honest mistake; I should have never done it. I was just overly excited about becoming a US citizen; jumped the gun, you know.

**SECRETARY KEMP**: Any other questions?

**MR. BARRIONUEVO**: Just a simple mistake.

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

**MR. BARRIONUEVO**: Thank you.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, any thoughts or motions?

**MR. WORLEY**: I have a question for Mr. Harvey. Under the potential violations here,

one is he violated 21-2-216(a)(2) for registering as a citizen when he was not qualified. When I looked at 21-2-216(a)(2) it says that no person shall vote in any primary or election unless they be, that person shall be, (2) a citizen of the state and the United States. So does that -- I mean, it seems to me that 21-2-216 applies to people who attempt to vote and not necessarily to the situation involved here.

**MR. HARVEY**: I believe you are correct in that. There may be a better citation.

**MR. WORLEY**: And there is: the citation 21-2-561 which --

**MR. McIVER**: False swearing; covers false swearing.

**MR. HARVEY**: Yes, that's correct. That's a better citation.

**SECRETARY KEMP**: Anything else?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Do we have a motion?

**MR. McIVER**: I would move that consistent with the recommendation of his counsel, that a letter of instruction be issued and this matter closed. The basis for that is that he knowingly completed the voter registration card, knowingly checked the box that he was a US citizen, and knowingly signed it. So in my judgment, that is a violation of 561, but can be resolved based on his other good conduct evidenced here through a letter of instruction.

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Any other discussion?

**MR. WORLEY**: Well, it seems to me that the statute prohibits people from registering and my question is do you -- you don't -- it doesn't seem to be that you register to vote when he just fill out a form unless you send the form in and it's received and dealt with. And the question is whether -- what situation are you in when you fill out the form and someone else sent in the form by mistake? There doesn't seem to be any dispute over that, so I just raise that issue for members of the board of Mr. Harvey or Ms. Brumbaugh to comment on if they have any views.

**MR. SIMPSON**: Looking at the statute, it doesn't say anything about false swearing; it says gives false information when registering as an elector. So I don't know whether you

have a technical violation of the statute or not, but it would seem like a letter of instruction, even if it goes to making sure that the voter registration forms are -- determines the impact of mismanaging those forms would be an appropriate resolution of the case even though we may not have a technical violation.

**MR. WORLEY**: Well, I appreciate that. I have taken the position in the past in other cases that if I don't believe that there is a violation of the law, then I don't think I can -- I don't think it's appropriate to send a letter of instruction because there's nothing to instruct someone about if they haven't, in fact, violated the law.

**MR. McIVER**: Well, my view is whether it was his mother or the tooth fairy, with his form is mailed, that initiates the process and then election officials began to act upon that. Now, it is true he never perfected it. But in my view, here is a gentleman that completes a form with information he knows is an accurate. I won't say allegedly was false, but very, very inaccurate information. That, in my judgment is the violation, and can be cured, again, with a letter of instruction.

**SECRETARY KEMP**: Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: So we have a motion that we have a second; is that correct or not?

**MR. McIVER**: There is a second.

**SECRETARY KEMP**: Got a motion and a second for a letter of instruction. All in favor, signify by saying "Aye."

**MR. WEBB**: Aye.

**MR. SIMPSON**: Aye.

**MR. McIVER**: Aye.

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

**MR. WORLEY**: No.

**SECRETARY KEMP**: One nay vote. That motion carries and we will issue a letter of instruction.

**MR. ASHLEY**: Thank you very much.

**SECRETARY KEMP**: Thank y'all for taking the time to be here today. Let the record reflect Mr. McIver stepped out for just a moment and we will move on to case number 2010, number 82.

**MR. BROOKS**: Mr. Secretary, members of the board, this case is from Paulding County. It was reported to us on September 20, 2010. Ms. Deidre Holden, supervisor of elections with the Paulding County Board of Elections and Registration, sent in information that four individuals have attempted to register to vote and they weren't qualified to do so due to the fact that they were convicted felons and not eligible to register. Our investigation determined that three of the individuals, Christine Cruz, Horace Farmer, and Robert Williams, all four of the individuals went to the department of driver services to either renew their drivers license or obtain drivers license and completed an application there, and all four of them indicated that application that they wished to register to vote, that they were citizens and they were eligible to vote. Three of those, the first three that I mentioned, were currently on probation serving a felony conviction at that time. Mr. Porter had completed his probation and his sentence was terminated in January of 2010. He made application after that date. So his sentence was completed.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, Ms. Holden, welcome.

**MS. HOLDEN**: Thank you. Deidre Holden, supervisor of elections and voter registration, Paulding County, 240 Constitution Blvd., Dallas, Georgia 30132. Mr. Secretary, I just want to take just a few moments. I want to commend your staff. I have sent them numerous felons and this is one thing that is very dear to me because it's very important to us as election supervisors and registrars to have a very clean electors list when it comes to voting because the last thing we want on our record is to have a felon voting in an election. I have a new district attorney who, by the code, I'm supposed to forward these to him, and that is Code Section 21-2-220, paragraph (a). He is working on these, however, it is very difficult with these people who register are outside the jurisdiction of Paulding County. It's hard for us to reach over those lines and do anything and I commend your staff are taking these up and doing that. I have noticed, and I just want to say this for the record, our biggest issues are the felons that register through the Department of Motor Vehicle. I know by going in getting my drivers license when I did it last August that I received a receipt stating that I did want to register to vote. On the application, I did have to turn that over and indicate by my signature that I wanted to that register to vote. And then when I got the hard copy of my drivers license it stated, once again, that I had indicated that I wanted to register to vote. I don't know if these

individuals who are registering through the Department of Motor Vehicle if they are actually looking at these documents and taking the opportunity if they are a felon to say, "I did this in error." But I think there are some issues that we do need to address and make sure that this is a practice that we deal with.

One of the people that is in question -- it just kind of surprised me, and I do want to show you this -- this is his registration and it doesn't have a signature on it. Things like this that slip through the cracks is what causes us to have to come down here and take up your time. But I do appreciate what you do and Ms. Brumbaugh and Chris and I know I've worked with Vince on this, but it is something that means a lot to us the supervisors that we have a good electors list. And when people attempt to register and they are felons, that is something that we need to be on top of. So I just wanted to say that and thank you, once again, for what you all do to try to make our voting in Georgia a huge success.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Well, thank you for being here; we appreciate your work on these matters and also let the record reflect that Mr. McIver is back. I think it would be good for Ms. Ford, our new elections director, to make sure we have a little conversation about talking to the DDS to make sure that we're all on the same page in regards to how felons are being treated when they, or anyone, for that matter, being registered to vote and making sure we're crossing all the T's and dotting all the I's. Thank you.

Anyone else wish to speak on this matter? Yes, sir. Come on up here and just state your name and address for the record and then we'll get you going.

**MR. WILLIAMS**: My name is Robert Williams. My address is 10 North Springs Way, Acworth, Georgia 30101. Concerning these charges, I am a convicted felon and I guess I would like to state that upon renewing or filing for a lost drivers license and going through the Department of Driver Services and getting this renewed, upon filling out the questionnaire, it asked the question of would you like to register to vote, and as a convicted felon, I know that right was taken away. I was released from prison in October of 2006. Since that time, I have yet to have any infractions or any violations, whatsoever, since I've been released.

I really didn't take into consideration the importance of this question at the Driver Services. I mean, to be standing here today for this after five years, you know, of doing the right thing, doing everything that the State has asked me to do as far as being a felon -- I was released early from prison, I was released early from parole, I am on non-report with probation. I guess I don't know that there is an excuse that I can give for checking "Yes" on the questionnaire other than being released from parole and starting my

probation. I even asked my parole officer when would I be eligible to vote. It's very important to me and it's something that most eligible voters take for granted and do not exercise.

I have -- you know, since being released, also I am a homeowner, I've had the same job for almost five years with just an impeccable new career. My salary has increased 40% since I've been out for four years. I have a wife and six children. I tell you what has really caught my attention today sitting here all morning is the importance that this board and its function, why they are here, why y'all are here and why y'all are hearing these cases. All I can do is ask that my case be dismissed upon the sole reason of unknowingly and unintentionally checking the box that I failed to, you know, give considerable thought to the consequences that could follow. I respect any decision that's given.

**SECRETARY KEMP**: Did you not realize what you were doing at the time or did you just --

**MR. WILLIAMS**: You know, the best I can remember -- and I had emailed, and I don't, Mr. Harvey knows her name; I think I spoke with him last week. I had gotten a letter in the mail addressing this that she wanted me to reply with an email on my actions that day, which I did, and it's on record. But, you know, filling out the form and just trying to get through the form and through the line and you know, it's almost like, you know, are you an organ donor. Really. You know, I don't think convicted felon -- and like the lady from Paulding County said, it's not really . . . it's not really stated on there, you know. Even if it had, you know, "Are you a convicted felon?" Or, "Are you" -- does it have, "Are you eligible to vote?" Or is it just a question of would you like to register to vote? I don't think the consequences are known by regular citizens or convicted felons.

**SECRETARY KEMP**: Any other questions for Mr. Williams? Mr. McIver.

**MR. McIVER**: Mr. Williams, it's a little bit unrelated, and perhaps our colleague, Judge Simpson should comment on it, but there is a procedure, a kind of specific time in your life that you can petition to restore your civil rights and once again obtain a hunting license, the right to vote, and so on. But that can be restored to you and you should consider that with the record you've described.

**MR. WILLIAMS**: Yes, and I did ask my parole officer when that would be, but I wasn't given a clear answer on that. I mean, I'm really, basically, overanxious to vote.

**MR. McIVER**: Well, there are clear answers to that question. Again, perhaps Judge Simpson would want to comment, but there will come a time when you can petition for that. Now, that is a judicial proceeding --

**MR. WILLIAMS**: I look forward to that.

**MR. McIVER**: -- for the restoration of your rights, but our state law has provided for that for a great many years for those who want to rebuild their lives.

**MR. WILLIAMS**: I have done so and am very proud of it.

**MR. SIMPSON**: Have you discussed this situation with your parole officer, probation officer?

**MR. WILLIAMS**: No, I haven't, sir. I've been on non-report and haven't -- I haven't listed with him that this case has come up, no.

**MR. SIMPSON**: Are you telling us that basically this was just an inadvertent act on your part and you had no specific intention of trying to register to vote when you couldn't?

**MR. WILLIAMS**: None, whatsoever; none, whatsoever. It was totally intentional -- unintentional. You know, since being released, I have surpassed what's been expected of me, and my parole officers and probation officers will verify that. I hate that something like this is, you know, possibly going to tarnish my impeccable record since being released.

**MR. SIMPSON**: Mr. Harvey, once a person fills out, checks that box on the license, what is the next step?

**MR. HARVEY**: Mr. Harvey. The next step is to sign an oath underneath attesting to the fact that somebody is eligible to vote.

**MR. SIMPSON**: Is it on the license?

**MR. HARVEY**: Mr. Harvey. It's on the same application you use when you get a drivers license.

**MR. McIVER**: Or renewing.

**MR. HARVEY**: Mr. Harvey. Or renewing; yes, sir. And there is a --

**MR. SIMPSON**: Would it just say everything on this --

**MR. HARVEY**: Mr. Harvey. I'm sure we have one somewhere. I think it says that you're a citizen of the United States and you're not serving a felony -- Ms. Brumbaugh, I think, has the --

**MS. BRUMBAUGH**: If you give me a minute, I can get the exact wording.

**MR. McIVER**: It is an attestation at the end of the --

**MR. HARVEY**: Mr. Harvey. Yes, sir; it is.

**MR. WORLEY**: Mr. Harvey, that's also true when you fill out an application for a lost -- this is a lost license?

**MR. WILLIAMS**: Lost license, yes.

**MR. WORLEY**: Same form?

**MR. HARVEY**: Mr. Harvey. I believe it is; yes, sir.

**SECRETARY KEMP**: While Ms. Brumbaugh is finding that, is there anyone else that wishes to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Would the board like to move of the other three that we have named while we're waiting? Well, never mind. Ms. Brumbaugh is ready I think.

**MS. BRUMBAUGH**: The language that would be -- this is from a handwritten application, but I think it is the same, the DDS uses the same language. The specific language is: "I swear or affirm that I am not serving a sentence for having been convicted of a felony involving moral turpitude."

**MR. SIMPSON**: That's a completely different question whether or not you are felon or not. I mean, it's the nature of the offense that determines your eligibility to vote.

**MS. BRUMBAUGH**: Well, I'm not saying I would have written it this way, so, yeah, it -- I mean, to play devil's advocate, it says: ". . . for having been convicted of a felony involving moral turpitude." So it does say felony.

**MR. SIMPSON**: I know that. But, I mean, involving moral turpitude, I mean, that's the common law rule. I mean, you know, that it had to be a felony involving moral turpitude. What you're trying to say is that we're applying a different standard here. I mean, what is the real standard? Is it involving moral turpitude or not?

**MS. BRUMBAUGH**: Well, typically, felonies -- all felonies have been defined to include moral turpitude. If you go back and look at the --

**MR. SIMPSON**: Not if it's a -- not unless it's a (inaudible) offense.

**MS. BRUMBAUGH**: Well, if you go back and look at the code, in the code it also talks about felonies involving moral turpitude. So throughout the code it is consistent with this phrase "felonies involving moral turpitude."

**MR. SIMPSON**: That leads us to the situation -- it's embarrassing to ask you what the offense was, and I hate to have to ask you to do that to answer this question.

**MR. WILLIAMS**: So it would be relevant whatever the --

**MR. SIMPSON**: I think it would.

**MR. WEBB**: I think it's in the back.

**MR. SIMPSON**: Okay. Excuse me. I don't need to ask that question.

**SECRETARY KEMP**: Anything else? All right. Any other questions for Mr. Williams?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you, Mr. Williams. We appreciate you being here today. All right. Anyone else wishing to speak on this matter?

**MR. WEBB**: I like to do a little housecleaning, if we could. I'd like to make a motion with regard to the allegations against Mr. Porter be dismissed.

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

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of dismissing the case against Mr. Benjamin L. Porter, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

**MR. WEBB**: I'd like to make a second motion that with regard to Christine Cruz and Horace Robert Parmer, that those cases be referred to the Attorney General

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We have a motion and a second to refer to the Attorney General Cruz and Parmer. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

**MR. WEBB**: I'm reminded of the case we had in Macon two meetings ago where we had a convicted felon that on his dismissal from incarceration was actually encouraged to vote and received additional information from a second source that he should be encouraged to register to vote. Yet when he went through the process this board referred that directly to the Attorney General office for handling. I had empathy for the gentlemen, as I do today from Mr. Williams, and I think there is some things that need to be handled through the Department of Driver Services to clarify some of this information, or maybe there's some kind of educational process that needs to be reiterated to the people to understand that convicted felons, until the process takes place where you regain your civil rights, that you are not eligible to vote and shouldn't register to vote. I think the board takes a very hard line position on that, yet there seems to be some reminding that needs to happen. I'm not sure I have the answer for that today, but given the circumstances, I think the proper motion is to refer Mr. Williams' case to the Attorney General's office and hope that it will be handled in an obviously different manner than the other two respondents who have been bound over.

**SECRETARY KEMP**: Okay. We have a motion by Mr. Webb. Do we have a second? I will second. Any discussion?

**MR. McIVER**: Sir, I would move to close this case and issue a letter of instruction which I think would be the better approach in this particular instance based on the

circumstances and facts before us. So I intend to vote against this motion.

**MR. WORLEY**: And I would agree with Mr. McIver.

**MR. SIMPSON**: I think I'll vote with Mr. McIver and Mr. Worley.

**MR. WEBB**: It's still an issue of -- I think the issue here is there is a bright line. This is a probable cause hearing, as we've discussed many times. As I stated earlier, I have a lot of empathy for Mr. Williams. His character that he's exhibited is exactly what anyone would want in this situation and I don't want to cause any hurdles for him to have to clear. But I think in this case, our hands are tied. I would take the position I would love to do a letter of instruction, I just don't feel it's the right remedy. And if the Attorney General's office issues a letter of instruction, I would be glad to vote in favor of that. But I think the proper situation, the proper action in this case, is to refer to the Attorney General's office. But I respect the other board members' positions, as well.

**SECRETARY KEMP**: All right. We've got a motion and a second. Let me just say before we vote, Mr. Williams, I think you've done -- speaking for myself; I feel like I can speak for the board -- but we are proud to of the record you shown since you paid your penalty and I think you're coming today and being forthright with the board shows that we are reasonable people, even though we may disagree on exactly how to move forward. Though we appreciate the efforts you've made to right your ship, if you will, and I think you've done yourself a lot of good today by being here. We want you to keep up the good work.

With that, we've got a motion by Mr. Webb and a second by myself. All in favor of referring Mr. Williams' case to the Attorney General, signify by saying "Aye."

**MR. WEBB**: Aye.

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

**MR. WORLEY**: No.

**MR. McIVER**: No.

**MR. SIMPSON**: No.

**SECRETARY KEMP**: The motion fails. Do we have another motion?

**MR. McIVER**: I move this matter with respect to Mr. Williams be closed and a letter of instruction be issued to him consistent with what we've earlier discussed.

**SECRETARY KEMP**: And I will second that motion. Any other discussion?

**MR. WORLEY**: I would support that motion because, while I think there may be a technical violation, I think a letter of instruction is the appropriate penalty. I would also point out, as other board members have, that it seems to me that there is a real problem with this form that the DDS uses and this is not the first time, not just in relation to this form, but we seem to have a lot of problems with the Department of Driver Services and the way they process applications and how things get to us and get to the local election boards. So I would strongly suggest that someone has a discussion with --

**SECRETARY KEMP**: I can assure the board that this is high on Ms. Ford's radar list, as it is myself, and we'll make sure that we follow up and do some looking into that and report back to you at our next meeting.

**MR. WORLEY**: I appreciate that.

**MR. SIMPSON**: As an aside, this isn't the only problem with using a drivers license for other functions. We see the same problem with jurors where the jury list is made up of information taken from the voter registration records. Like you're liable to get a jury subpoena and you're qualified to sit on a jury, either. So I've seen that in court and it's a problem, and I think there maybe in some small way by resolving the case the way we have, maybe the message will begin to get to the Department of Motor Vehicles that they have some serious problems.

**MR. McIVER**: I have one other thought and it's completely ancillary to these discussions, but I want to make sure that our actions, which is one of the bases for my motion, that our actions don't in any way negatively impact the probation status of Mr. Williams. It's non-reporting; we know that. But I don't want to do anything here that might interrupt the success that he has had and that's one of the reasons for my motion.

**SECRETARY KEMP**: All right. We've got a motion and a second to dismiss the case against Mr. Williams with a letter of instruction. All in favor, signify by saying "Aye." Aye.

**MR. McIVER**: Aye.

**MR. SIMPSON**: Aye.

**MR. WORLEY**: Aye.

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

**MR. WEBB**: Aye.

**SECRETARY KEMP**: The motion carries. Mr. Williams, just so you understand what we've done here today, this case has now been dismissed and you will receive a letter of instruction not to do this again in the future. But there will be no other actions in this matter. So you are dismissed, sir. Thank you for being here.

**MR. WILLIAMS**: Mr. Williams. Thank you, all the board members, Mr. Chairman, thank you.

**SECRETARY KEMP**: Mr. Culligan, our Attorney General of Paulding County case where we're going to do the conference call, she -- Ms. Brooks, is it Ms. Brooks?

**MR. CULLIGAN**: Yes.

**SECRETARY KEMP**: Is available up until four.

**MR. CULLIGAN**: That's what she said.

**SECRETARY KEMP**: I'm wondering if we might better take the case up right now.

**MR. CULLIGAN**: You might want to try just because of the circumstances that she's in.

**SECRETARY KEMP**: If it pleases the board, I like to move, skip around a little bit and move to the Attorney General report and pull up the case that we had the teleconference on the other day that we held over until this meeting. It's SEB Case Number 2008, 101, Paulding County. I assume you need to try to get her on the phone.

**MR. CULLIGAN**: Yes, sir.

**SECRETARY KEMP**: Let the record reflect as we moved to this case that we are going to try to get Ms. Andrea Brooks on the phone. Because of a physical disability, it's harder for her to appear in person. Also, let the record reflect Mr. Worley stepped out for a minute.

**MR. CULLIGAN**: Hello, is this Ms. Brooks? How are you. This is Tommy Culligan at the State Election Board. The board would like to speak with you regarding your case, ma'am, okay?

**SECRETARY KEMP**: Ms. Brooks; Ms. Brooks?

**MS. BROOKS**: Yes?

**SECRETARY KEMP**: This is Secretary of State Ryan Kemp. We are calling your case to order right now, much like we did the other day. What we'll do is we will that Ms. Brumbaugh present the case to us. So if you will just remain quiet until we get through with that, and there will call you for comments in just a little bit.

**MS. BROOKS**: Okay.

**SECRETARY KEMP**: Thank you. Ms. Brumbaugh.

**MS. BRUMBAUGH**: Thank you. If you will recall this is case number 2008-0101.

**SECRETARY KEMP**: Ann, I tell you what, why don't you come down here by the phone.

**MS. BRUMBAUGH**: Can you hear me, Ms. Brooks?

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

**MS. BRUMBAUGH**: Is there anyone else here on 2008-0101?

(Whereupon, there was no response)

**MS. BRUMBAUGH**: This case was much like the case we just considered at probable cause, convicted felons who registered to vote in Paulding County reported by Ms. Holden. There were originally 50 cases. Of the 50 cases, I have come up with other proposed resolutions on 45 of them, which I will present at the next meeting. There were five cases that get sent to the Office of State Administrative Hearings for administrative adjudication: Ms. Brooks's case, Rodney Gibson, Marcus Matthews, Sandy Bennett, and Jomanda Wise. All of these individuals were convicted felons who registered to vote while still serving probation for their felony convictions. The administrative law judge issued an additional decision in the beginning of July recommending a \$250 civil penalty, a cease and desist, and a public reprimand. There was an issue regarding whether that proposed order, or proposed sanction, was consistent given other cases the board has considered.

The case that was raised at our teleconference on Thursday was the case Mr. Webb just raised, which is a Fulton County case; it's also 2010-101. This is a Fulton County case and a man named Rico Montes Martin not only registered to vote, but also voted while still on felony probation. At that probable cause hearing -- that case is still pending in the office; there hasn't been a resolution of it -- it was Mr. Randy Evans's last meeting and Mr. Evans was very concerned, not so much about the registration while someone was on felony probation, but the voting. He said: "I have no sympathy for people were not citizens who register and vote; I have no sympathy for people who double vote; I have no

sympathy for felons who vote, regardless." And he said: "I won't be here, but I would encourage the board to adopt a \$1,000 penalty for anybody who votes who is not authorized, whether the double vote, whether or not citizens and vote, or whether they are felons." So, while that is still something the board may want to consider, that is not precisely the facts -- the fact pattern presented by these five cases in that these individuals didn't actually vote. They simply registered while on felony probation.

Given that difference, I think the case is less egregious and it's also a little bit less egregious than the case 2010-0022, Haralson County. This was a convicted felon who registered to vote while on felony probation. He registered to vote twice on felony probation using two different names and the board accepted a \$500 consent order in his case. So given that these five individuals registered to vote, never voted, didn't register twice, didn't use false names etc., etc., a \$250 civil penalty does seem appropriate and consistent.

**SECRETARY KEMP**: Any questions for Ms. Brumbaugh from the State Election Board?

(Whereupon, there was no response)

**SECRETARY KEMP**: Let the record show that Mr. Worley is back with us. Okay. Anyone else wishing to speak on this matter? Ms. Brooks, would you like to say anything to the board --

**MS. BROOKS**: Yes, I would like to apologize for registering to vote. I really didn't read the papers, or I didn't understand the papers that I --

**SECRETARY KEMP**: Are you still there, Mr. Brooks? Ms. Brooks?

**MS. BROOKS**: Hello?

**SECRETARY KEMP**: Is Mrs. Brooks there?

**MS. BROOKS**: This is Andrea.

**SECRETARY KEMP**: Oh, hey. I'm sorry; we lost you there. You were saying that you just wanted to apologize or you didn't understand the paperwork?

**MS. BROOKS**: Well, I actually -- my sister pulled it up on the computer and I read them and I guess I just didn't realize or see exactly what I said about felonies. I signed it, but I didn't realize that -- for some reason I didn't realize that I was doing anything wrong. I will -- if I have a fine, I would like to pay it back. I have a fixed income; I am quadriplegic. I've been quadriplegic for 28 years. I could pay in increments. If there is

anything else you would like me to do, I could do something else.

**SECRETARY KEMP**: Did anybody have any, any board members have any questions for Ms. Brooks?

(Whereupon, there was no response)

**SECRETARY KEMP**: No questions for you, Ms. Brooks. Thank you. Is there anyone else that wishes to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any other questions or discussions or Ms. Brumbaugh do you want to wrap up for us?

**MS. BRUMBAUGH**: I would just add one more thing. I think we covered this last week, but just to remind the board, these cases are of little bit different from the cases we just considered to have probable cause in that these were handwritten ballots; this was not done through DDS. All five of these individuals physically got a piece of paper and physically signed their own. There is no electronic signatures involved here.

**SECRETARY KEMP**: And your recommendation is that we accept Judge Oakley's initial decision?

**MS. BRUMBAUGH**: Yes.

**MS. BROOKS**: I would like to say I wasn't trying to be -- do anything dishonest.

**SECRETARY KEMP**: Okay. Thank you. Any other questions or discussion among the board members?

**MR. SIMPSON**: I move we accept the recommendation on each of these cases.

**SECRETARY KEMP**: Mr. Simpson recommends we accept the recommendation of the initial decision of Judge Oakley.

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

**SECRETARY KEMP**: Mr. Worley seconds. Any other discussion among the board?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of accepting the initial decisions on

this case signify by saying “Aye.”

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries in the initial decisions will be accepted.

**MS. BRUMBAUGH**: Ms. Brooks, that means that the board is excepting the initial decision and you will be getting a letter in the mail soon, but you will be responsible for paying the \$250 civil penalty. Does that -- do you understand that?

**MS. BROOKS**: Yes, I understand you.

**MS. BRUMBAUGH**: Okay.

**SECRETARY KEMP**: Thank you for being with us today, Ms. Brooks.

**MS. BROOKS**: Thank you for allowing me to be there.

**SECRETARY KEMP**: Okay. Have a good afternoon. Bye-bye. Mr. Brooks, Mr. Harvey, we are at Montgomery County; is that correct?

**MR. BROOKS**: Yes, sir.

**SECRETARY KEMP**: 2010, number 83, Montgomery County.

**MR. BROOKS**: Yes, sir. This involved the general election in 2010 during the early half of the voting period. Information was received that there were only two employees working the election in Montgomery County. An investigator with sense to that location on September 22 where he observed two people working in that precinct. He started making some inquiries. The third person was out on a family emergency, therefore, they only had two people there. Subsequent interviews determined that there were only two workers present during the first two days of that voting period.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Anyone here wishing to speak in regard to this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, any thoughts from the board?

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We have a motion to bind over to the Attorney General's office by Mr. McIver; we have a second by Mr. Simpson. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor signify by saying "Aye."

(Whereupon, the vote was unanimous)

All opposed, same sign. Motion carries. Case number 2010, number 88, Douglas County, Twilley.

**MR. BROOKS**: Yes, sir. This involved the November 2, 2010 general election. Mr. Ronald S. Batson completed an absentee ballot application in August of 2008 and at that time, he indicated that he was a citizen of the United States who was temporarily residing overseas. That automatically placed him on a rollover list so that subsequent ballots will be sent to him. In December of 2009, he sold the house, or the address that he'd listed on that the application, to a Mr. William Christopher Twilley. The ballot was sent to that particular address, Mr. Twilley received that application for the ballot and completed the ballot, mailed it back in even though he had not submitted an application for it. It wasn't his ballot, it was Mr. Batson's ballot.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, any discussion of motion from the board? Mr. Webb.

**MR. WEBB**: I'm sorry, Mr. Harvey, were you presenting -- Mr. Brooks; thank you, sorry. The facts of the case as they are summarized here, Mr. Twilley said that there was

no name on the application; is that correct?

**MR. BROOKS**: That's what he said, yes.

**SECRETARY KEMP**: That's what he said, but when they mail a ballot -- was it an application or ballot?

**MR. BROOKS**: Ballot.

**MR. WEBB**: Did the ballot have to name on it? Do we have it as an exhibit?

**SECRETARY KEMP**: I hope there is no ballots going out that say Resident.

**MR. WEBB**: To whom it may concern.

**SECRETARY KEMP**: We do have that somewhere, correct? If you can't find it, I'm sure that is something Ms. Brumbaugh can verify.

**MR. BROOKS**: It had Mr. Batson's name on the outer envelope.

**MR. WEBB**: Thank you. No further questions.

**SECRETARY KEMP**: Okay. Any other discussion? Anyone else wishing to speak?

**MR. McIVER**: I move to bind it over.

**MR. WORLEY**: Second.

**MR. WEBB**: Second.

**SECRETARY KEMP**: We've got a motion and two seconds to bind over. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor signify by saying "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: All opposed, same sign. Motion carries and it is bound over. Case number 2010, 89. We will note that we are 2010 cases, ladies and gentlemen. DeKalb County.

**MR. BROOKS**: Yes, sir. This involved the November 2, 2002 general election. The DeKalb County registration election office received an absentee ballot application for a Mrs. George W. Sine. When they received that application, they compared the signature and determined that that signature did not match the signature that they had on file. Further investigation revealed that they had been notified by the vital records that Ms. Sine had passed away in 2009 and have been deleted from their list of registered voters. Investigators went out and interviewed Mr. Sine, which was the address that the application had been mailed from. At that particular time, he denied any knowledge of anything about this application, didn't have any information about it, said nobody in the house had filled it out, nobody had mailed it or anything else. This is Mrs. Sine's son who lived in the house; the house was willed to him when she passed away and he lived in the house at that time. He is still listed as the current property owner at that particular house. Further investigation went back and had a subsequent conversation with Mr. Sine. Mr. Sine said at that particular time, his mother must have pre-filled out the application before she passed away and that he probably picked it up in some of the papers that she had there and accidentally mailed the application in. So Mr. Sine has been cited for the violations noted.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, anyone else wishing to speak on this matter? Okay. What is the pleasure the board?

**MR. WORLEY**: I make a motion to bind this over to the Attorney General's office.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We've got a motion and the second to bind over to the Attorney General's office. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: All opposed, same sign. The motion carries. Case number 2010, 91.

**MR. BROOKS**: This is involving the general election on October 14. During a routine monitoring assignment, the investigator for the Secretary of State's office monitored this

particular precinct and determined there was only one person working at the precinct at that time. The investigator arrived at the polling place, the lobby was empty, and the poll worker has stepped out for a few minutes to mail absentee ballots. She determined that she was the only one working at that particular time. Follow-up visit, they had three workers working at that time when we went back have monitored it the second time.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, what is the pleasure the board?

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

**MR. WEBB**: Second.

**SECRETARY KEMP**: Got a motion in the second to bind over to the Attorney General's office. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: All opposed, same sign. Motion carries. Case number 2010, number 94, Catoosa County.

**MR. BROOKS**: Yes, sir. This involved the November 2, 2002 general election. The allegation in this particular case was that Ms. Aleta Johnson had voted twice in the November 2 general election. Our investigation determined that Ms. Johnson appeared in person to vote on September 28 during the general election, and she cast her ballot at that time. She returned on October 19, completed a voter certificate, and was allowed to vote the second time. During interviews with poll workers, poll workers said that they had simply misread the voter registration information and that's why Ms. Johnson was allowed to vote a second time. Once the records were counted and the numbers didn't match at the end of the day, Tonya Moore self-reported this to us, so she immediately told us what had happened. Ms. Johnson has sent a letter to us and requested that we present the board with a letter that she penned.

**SECRETARY KEMP**: What does the letter say?

**MR. BROOKS**: The letter basically says that she doesn't remember doing that, but if she did, she apologizes and it wasn't her intention to vote twice.

**SECRETARY KEMP**: We don't need a motion to accept that coming from us, do we?

**MR. McIVER**: I move we accept it.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We've got a motion at the second to accept the document from Ms. Johnson. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We'll accept the document. Any other questions for Mr. Brooks? Anyone else wishing to speak on this matter? Welcome.

**MS. COFFEY**: Mr. Secretary, members of the board, my name is Marisa Coffey and I am with the Catoosa County Attorneys office, 7731 Nashville St., Ringgold, Georgia 30736. I just want to quickly introduce the county representatives that are here today available for comment. We have Tonya Moore, the elections official; Carolyn Rinehart, the Catoosa County poll worker; Nyna Crawford, the chairman of the board of elections; John Campbell, custodian of records, and he is also our IT guy; and then Mr. Mike Helton who is the County manager.

Ms. Moore is going to tell you that this was an honest mistake, that there was absolutely no intent. Remedial matches have already been taken, and so, I respectfully submit to you to accept those remedial measures and to dismiss this case.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Thank you.

**MS. MOORE**: Good afternoon. My name is Tonya Moore. I live at 656 Waters Drive, Ringgold, Georgia. I am currently the Catoosa County elections official. I started my

career in December 2009. I came from a management banking background that I have been through seven elections. I am here today to address the issue concerning SEB case 2010, 00094, L. Johnson, Catoosa County.

On October 19, 2010, Leta Johnson came in and voted. Our poll worker, Carolyn Rinehart, looked up Ms. Johnson in the VR system. When Ms. Rinehart pulled Ms. Johnson's information in the VR system, she misread the contact date. Carolyn wrote all of the info on the absentee application, passed it to the poll worker issuing the ballot cards. Ms. Johnson was issued to a voter card and she voted. The application was logged into the logbook and put into a tray to be entered into the VR system. I picked up all the applications, put them in the absentee system and when I tried to put in this application, it showed Ms. Johnson had already voted on September 28, 2010, 21 days earlier. I pulled the original application to see if there was a mistake and they were a match: same name, same handwriting, same signatures. I went and showed Carolyn the mistake and asked what happened. She said she must have misread the contact date. She says she doesn't know the woman, she doesn't know who she is, she wouldn't know if she walked in front of her. She said she was very sorry; she made an honest mistake. I self-reported he issued the same day.

I want to tell you about our poll worker Carolyn Rinehart. She has worked with us for 10 years. She's worked every election since 2001. She works our elections as an absentee clerk during early and advance voting and an assistant manager at our chamber's voting precinct. I've had the pleasure of working with Carolyn the past year. She has done a terrific job. Our board has worked with Carolyn for many years. They stated you won't find many like her. She has never made this mistake before, and we hope, after all this is over, Carolyn will remain a Catoosa County poll worker. Again, it was an honest mistake.

I have reviewed this entire situation many times. We feel we have adequate training regarding looking at voters in the VR system. We had an adequate number of poll workers working this day that we have five regular and a sixth to relieve for lunch. It wasn't a busy day, around 100 voters. No one indicated they were overly tired or stressed. Having said that, we know that this can never happen again and we want you to know what we have done moving forward to rectify this problem so that it never happens again. Right after this occurred, we added a second computer and another poll worker was assigned to check the 16 screen. This is the screen where voters are given credit for absentee voting. This was a double check. Subsequently, our IT guy, custodian of elections John Campbell, has created an electronic voters log. I have a screenshot for you and here's what it looks like. Marissa will hand it to you. This is our third component. As a third check, we have replaced a handwritten log with an electronic log. This will serve multiple purposes. First, it will be another check to see if the voter has already voted; second it will be used to verify precinct assignment split information; third it will double as a numbered list against the VR system; fourth it will be quicker than a

handwritten log and eliminates potential errors of a handwritten log; and fifth, it will be a quick check to complete prior to the voter casting the ballot.

Now, I want to say that our county takes this very seriously. This is an honest mistake and we regret that it ever happened. Thank you.

**SECRETARY KEMP**: Thank you very much. Any questions? Did you all want to submit that? Can we get a motion to accept?

**MR. McIVER**: I move we accept the document.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We have a motion and a second. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Motion carries. Any questions for Ms. Moore?

(Whereupon, there was no response)

**SECRETARY KEMP**: Let me just say, speaking for myself, and I'm sure for the board, as well, we appreciate all of you coming today and being forthright with us and taking the actions that you have, and I'm sure that we will consider that our deliberations. Does anyone else wish to speak?

**MR. McIVER**: Just looking at the document, I'm very impressed with the big bold red letters: "Voter has already voted."

**SECRETARY KEMP**: Any other thoughts by the board?

**MR. McIVER**: If this is discussion time, these are violations of the code, plus Ms. Johnson, in my judgment, very clearly understood she was voting twice.

**SECRETARY KEMP**: I'll take a motion of his Johnson if you're ready, Mr. McIver.

**MR. McIVER**: Rather than engage Ms. Brumbaugh in a lot of discussion about what we've done in the past, I would just move to bind over the Leta Johnson portion of this

case or she can compare it to our other draconian decisions with respect to double voters.

**SECRETARY KEMP**: We've got a motion.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: And the second by Mr. Simpson. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. We've got a motion and a second to bind over Ms. Leta Johnson to the Attorney General's office. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and she is referred to the AG's office.

**MR. McIVER**: I, for one, am impressed with the corrective actions as described by Ms. Coffey and Ms. Moore. I would moved to close this case with a letter of instruction to Catoosa County and the individuals specifically named, Ms. Moore and Ms. Rinehart.

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

**SECRETARY KEMP**: Okay. We've got a motion and a second to close with a letter of instruction; is that correct?

**MR. McIVER**: Yes, sir.

**SECRETARY KEMP**: Any other discussion?

**MR. WEBB**: Yes. I'd like to distinguish this case from two other cases that we will be discussing this afternoon in the Attorney General's report. Here you have a situation where a person performed their duty, they did make an error, which happens. Immediate self-reporting took place, a corrective action plan a remediation plan was put in place and the officials that showed up here today showed -- took responsibility, admitted there mistake and did everything that they could within their power to fix it. I would just like the board to keep that in mind as we discuss the two cases this afternoon.

**SECRETARY KEMP**: That's a point well taken, Mr. Webb, and I think clearly the

county and the leadership and everyone has shown that they do know how serious this is and don't want it to happen again and I certainly want to encourage Ms. Rinehart to continue to be a poll worker. We are all human and we all make mistakes and I think this board knows who makes honest mistakes and who sometimes appears before us more times than we would like to see them. So I certainly appreciate y'all taking the time to be here today. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we have a motion to dismiss the remaining respondents with a letter of instruction. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Y'all have a safe trip back to Northwest Georgia.

**MS. COFFEY**: Ms. Coffey. Thank you.

**SECRETARY KEMP**: Okay. 2010, number 98, Henry County.

**MR. BROOKS**: Yes, sir. This involved in November 2, 2010 general election. The allegation in this particular case was that Mr. Hernandez completed a voter registration card for the November election and it was not processed, which would have made him ineligible to vote in that particular election. An investigation determined that Mr. Hernandez did complete a voter registration card on October 4, 2010, which was the last day to register in order to be eligible to vote in that particular election. The application for registration was misplaced, mishandled by an intern that Henry County had employed to assist them in the office during that period. Three weeks later when Mr. Hernandez had not heard back, he made a phone call, there was a diligent search made in that particular case to find it; they could not find it. Mr. Hernandez appeared at the precinct where he would be eligible to vote. He voted by provisional ballot and two days after the election, his application was discovered and found. It was processed and his provisional ballot was accepted and he was given credit for voting in that particular election.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Hearing none, anyone wishing to speak?

**MS. SHELLNUT**: Good afternoon. I am Janet Shelnut, Director of Elections and Registration, Henry County, 345 Philips Drive, McDonough, Georgia. We're one of those that made a mistake, too. It's one of those that the matter how hard you train and do, sometimes things get out of place, and it shouldn't happen that way, but in this particular case -- we've changed things legislatively a little bit. Of course, we talked about it that our office on your visit. The particular time that this happened, we're voting 45 days out, too, and you're taking registration forms and at the very same time, processing them that night because they very well come in the next day wanting to vote. The law has been changed to where we knocked it down to 21 days, so election forms that are walked in would be handled totally different now. It does get real confusing, especially when you have interns and temporaries that are trying to help you out, but you can't maintain payroll for them throughout the whole off years that you don't have elections. We tried to train properly.

This particular application, we had a box that we were putting new applications and then they would be picked up and entered in each day so the next day you would have something back from the Secretary of State's office on their citizenship. So they might be able to vote the next day. This one did not get put in the box; it got laid down because somebody else came in the same area to vote, under some paper, and we did find it two days after the election. It was processed. Now, I'm not aware of a phone call that Mr. Hernandez said. I am aware that I -- for him to have a provisional ballot and to vote at the precinct. If a phone call came in, it did not make it to me.

But I do apologize immensely for the application not being processed in a timely manner that it should have been done. We, too, believe that everybody has the right to vote and we want everybody to vote. We want a high percentage of voters to turn out. So we also tried to implicate (sic) something different in the way that we process our applications. We're going to have a separate area set up for applications that come in person and not mixed up with the voting line. Also, our mail-in applications, which we get a tremendous amount -- more mail-in than you do by hand -- in a whole different area that aren't mixed in with your voters.

I commend you also for changing the legislation to make it to we're not voting, processing applications, because in the 2008 election, if you remember correctly, I think we had box loads coming in by mail. I think we got 4,000 in one box. And you're trying to process those and vote. So I'm surprised this didn't happen in the '08 one, it happened in the '10. But by that legislation, it does help us to get to get the ones that are registered in time so that they can vote, and then you're not taking any more applications except for those that are not making the cut off date.

I also had to install some more training for temporaries and interns that come in to know

the correct process, because I told them the next time, they're coming up here instead of me. Because it is -- it's something that we take very strongly and doing everything correct. We did make a mistake and we apologize, and we hope that we can dismiss the case with the letter of instruction.

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

**MR. McIVER**: Ms. Shellnutt, does your office maintain a log for phone calls, inbound calls?

**MS. SHELLNUTT**: We have sheets where they put your name down, who's calling, what time. They tear him off, lay it on my desk; I get plenty of them. But I did not get one from Mr. Hernandez when he called about his registration form and the card coming in the mail. It did not come to me.

**MR. McIVER**: It sounds like you're talking about slips; I'm talking about a log where you can view the traffic flow of inbound calls.

**MS. SHELLNUTT**: No, this one has a copy underneath it, so, I mean, there is a copy. When you write on it and you tear -- there's four to a sheet and when you tear one off there is a copy underneath. But not a regular log, and that would be a good idea, because we do get a tremendous amount of calls also in election time. We maintain five satellite early voting places during two weeks, usually, of early voting, and sometimes -- it depends on the size of the election, you know, one County and we also do the form for municipalities and cities.

**SECRETARY KEMP**: Mr. Hernandez was not instructed to go to the poll and vote a provisional ballot; he just did that?

**MS. SHELLNUTT**: I was called from the polls and I told them to issue him a provisional ballot. That also gives us time to research it and see if we can find his application, which we did find after the election. As you can see, I think Ms. Carver gave it to you, where does show his provisional ballot and also where he was sent a letter saying that his provisional ballot the account, so his vote to count. Also a provisional reconciliation checklist. All of that was put into place and he was not denied the right to vote and his vote did count.

**SECRETARY KEMP**: Anymore questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The Chair will entertain a motion.

**MR. McIVER**: Again, I'm satisfied with their remedial actions. I move to close or dismiss the case and issue a letter of instruction consistent with our discussions.

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

**SECRETARY KEMP**: We've got a motion by Mr. McIver and the second by Mr. Worley to close or dismiss this case with a letter of instruction. Any other discussion?

**MR. WEBB**: I would just like to add, Ms. Shellnutt, that I think you handled this correctly and that the provisional vote in this case worked, so you've trained at least somebody to do it right.

**SECRETARY KEMP**: Very good. We've got a motion and a second. All in favor, signify by saying "Aye."  
(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Motion carries. Case 2010, number 100, Jefferson County, the Hall case.

**MR. BROOKS**: Yes, sir. This involved the November 2010 general election. The allegation in this case was that Mr. Willie James Hall had voted the absentee ballot for his son, Wesley James Hall. The investigation determined that Ms. Diana D. Hall and her son, Wesley J. Hall, submitted applications for absentee ballots. Ms. Hall received her ballot, but her son did not receive a ballot. They contacted the Jefferson County election officials had notified them. Jefferson County election officials canceled the first application and mailed a second ballot to Mr. Hall, Wesley Hall. Now, when they were examining the absentee ballots, they discovered that there was an absentee ballot they had received from Willie James Hall, who was the father of Wesley and the spouse of Diane. When interviewed, Mr. Hall said that he saw the ballot at the house and thought it was his ballot, so he just went ahead and voted it and returned it to the election official.

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

(Whereupon, there was no response)

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

**MR. HARVEY**: Mr. Secretary, I'm not sure I -- there's an updated respondent here, Shandrelle Evans, that when they received -- when she received the absentee ballot from Willie Hall, she did not check the signature on that that should show that it didn't match Wesley J. Hall. So she was added as a responded on that.

**SECRETARY KEMP**: So the respondents are who, again?

**MR. BROOKS**: Willie James Hall and Shandrelle Evans, who is the Jefferson County voter registration clerk.

**SECRETARY KEMP**: No one else wishes to speak?

(Whereupon, there was no response)

**MR. McIVER**: I move to bind it over.

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

**SECRETARY KEMP**: We've got a motion and a second to bind over both respondents, Ms. Evans, the Jefferson County voter registration clerk, and Willie James Hall to the Attorney General's office. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: It's bound over. Case 2010, number 107.

**MR. BROOKS**: Yes, sir. This involves the 2010 general election. Our office received a complaint from Ms. Jackson that when she attempted to turn in her boyfriend's absentee ballot to the Bacon County elections officials, they refused to accept it and they were rude to her. Ms. Jackson stated that her boyfriend was employed out of town and that his absentee ballot application would not have gotten there in time had she mailed it, so she took the ballot to the election officials and attempted to turn it in. Of course, they would

not accept it at that time. She left the election office and, I believe, subsequently, went ahead and mailed that ballot to the election officials.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Is anyone here wishing to speak on this matter?

**MR. McIVER**: I move to bind it over.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We've got a motion by Mr. McIver and a second by Mr. Worley to bind over to the Attorney General's office. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Motion carries. 2010, number 109, Gwinnett County.

**MR. BROOKS**: Yes, sir. This involves the November 2, 2002 general election. The allegation in this particular case was that someone other than Carol Asbell Payne voted by absentee ballot using her name and her registration number. During the investigation, Mrs. Carol Asbell Payne appeared at her voting precinct on November 2 to vote. She was informed at that particular time that the records for Gwinnett County indicated that she had already voted by absentee ballot and that she had voted on October 26, 2010. She informed the poll worker said she had not voted by absentee ballot, in fact, someone had used her information or used her identity to vote. She was directed to the elections officials office.

She went to Lawrenceville. They compared, or they showed her the signature of the person assigned the absentee ballot; she insisted that that was not her signature on that particular ballot. That ballot was signed as Carol Payne, not Carol Asbell Payne. Carol Asbell Payne's registration card and forms she has completed in the past were all signed as Carol Asbell Payne.

In an attempt to try to determine who have voted on that particular day, our office found that there were two people in Gwinnett County who are registered to vote with the name of Carol Payne. Both of those people had moved out of Gwinnett County and were accounted for in voting in their new precinct where they have moved. We also looked at every Carol Payne that was registered to vote in the state of Georgia and all of those people were accounted for. Because there was an indication that a drivers license had been used as an identification to vote that day, we look at everybody in the state of Georgia by the name of Carol Payne who had drivers licenses. They were accounted for. In this particular case, Carol Asbell Payne was allowed to vote a provisional ballot and that ballot was subsequently counted.

Further attempts to eliminate the fact that Ms. Payne may had voted twice and simply forgot about it, Ms. Payne offered two independent witnesses who were with her on October 26, both of whom indicated that she had not appeared anywhere to vote. They accounted for her whole day. During its investigation it was also determined that Gwinnett County was not using the form that was approved by the State Election Board that had the top completed -- it had the signature part at the bottom but the top part didn't have the voter filling that part out. That was somewhat of a hindrance in terms of trying to determine who actually filled that particular ballot or application, I'll. At this point in time, we don't know who voted that particular ballot, but we are convinced that Carol Asbell Payne did not vote that day.

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

(Whereupon, there was no response)

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

**MS. COX**: Mr. Secretary, members of the board. My name is Teresa Cox from the Gwinnett County Law Department, 75 Langley Dr., Lawrenceville, Georgia 30046.

**SECRETARY KEMP**: Teresa, how do you spell your last name?

**MS. COX**: C-O-X.

**SECRETARY KEMP**: Thank you.

**MS. COX**: First I'd like to say that our elections board and our elections supervisor takes the charges very seriously. In this process, what they had been doing was taking a screen capture, which was based on VREG best practices and they had put that on the application and then the voter was to verify the information and sign below that. During this process, we are not sure at this point who voted before Ms. Payne, but Ms. Payne

was allowed to vote a provisional in that ballot was counted. Since this time, the elections department has instituted or put forward a new application which will include the voter filling out the application themselves and then signing in both places and that was successfully used in the March special election in Gwinnett County.

Our elections department is also developing a training module specifically for absentee and satellite poll workers to ensure that the workers fully understand. So they are taking remedial measures that we would ask that you all dismiss this case based on the remedial measures and our elections supervisor, Lynn Ledford, is here to discuss the training that goes on.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Ms. Ledford, welcome.

**MS. LEDFORD**: Good afternoon. I am one of those who does not like to be before you, I will say that. I appreciate what you do, but this is not my thing.

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

**MS. LEDFORD**: I'm sorry. Lynn Ledford, Elections Director, Gwinnett County, 75 Langley Drive, Lawrenceville, Georgia 30046. We did have a situation exactly as it was described. Ms. Payne went to the poll to vote, they said she was not eligible, she came to our office presented herself in a very professional, very nicely; we don't always get that. We did have her look at the signature. We all determined, several of us, that she had not, in fact voted, so we then took that, had her vote a provisional ballot, and subsequently her ballot was counted just like was stated.

What we figured out was that we probably need to do some additional training. This is a situation where we had a temp who was rushing through her job. As you all know, Gwinnett County is a large County, but we have very limited resources. We have one permanent employee that's in charge of training anywhere from 25 to 60 temporary workers for the absentee process. That training has really up until now just been a manual, a literal page by page. We try and work them in the test system and the VR system in the state. That just doesn't always work when you have systems like this. So we're actually working with our IT department now to develop a specific training just for the absentee and satellite workers so that they will have their on-the-job training, but in addition, they have to go in and complete this training and do a knowledge assessment to show that they do understand what they are supposed to be doing. Not only the procedures, but also the consequences of what happens when those procedures are

followed, as in the case with Ms. Payne, who had to go through, in my opinion, what was trouble to vote, and that should not have taken place.

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

**MR. McIVER**: Welcome, Ms. Ledford. It's a joy to ask you these questions because I consider you one of our best in the state.

**MS. LEDFORD**: Thank you.

**MR. McIVER**: This determines how this may have happened. A temp makes an error, as I've understood you to say. Is there any backup for temps? We know these people come and go and they don't have the commitment and the understanding of some of the permanent employees.

**MS. LEDFORD**: Back up, meaning?

**MR. McIVER**: Well, somebody verifies his or her work or his or her analysis.

**MS. LEDFORD**: Only the reports that we get, the numbers reports, the checks and balances from everyone who's entered during the day. We get the reports run in document direct over night, which is in the state system. We print those out the next day and we go through and do that. As far as someone actually going behind that temp at that point, no. Again, that goes back to a resource issue. This particular temp was a long-term temp and had been with us a couple of years. Subsequently, there were some other issues that she is no longer with us. But, again, this helped to bring this to light so that's why we determined that we needed to have that additional training module for these people.

**MR. McIVER**: Let me then ask a hypothetical, and I hate hypothetical questions as a lawyer. But had a permanent person been standing behind her to verify which he had observed in the assessment she made, would it have been caught?

**MS. LEDFORD**: Should have been, correct; should have been. Yes. Like I said, we only have one person over absentees because there's only 12 people to spread out throughout the office.

**MR. McIVER**: Well, your counsel has asked us to dismiss this case and I assume you would accept a letter of instruction. We're going to need to feel better that this wouldn't happen again. So either go through what you've done remedially or what you intend to do to ensure that's the situation.

**SECRETARY KEMP**: I think one thing, Mr. McIver, if you don't mind, I believe, and

correct me if I'm wrong, but did you say that your IT people are working on a training program?

**MS. LEDFORD**: That's correct. We're working with them now.

**SECRETARY KEMP**: Maybe part of the letter could be for us to see that once it's finished.

**MR. McIVER**: Could be. The human failings in this whole process -- I've always wondered can you double up on the humans or is there a way of machine scanning the signatures, but made me feel better about how this isn't going to happen again.

**MS. LEDFORD**: I don't know how to do that. Unfortunately, like I said, what you've got, you know, one person trying to train anywhere from 40 to 60 temps, there's just not enough staff to go around to try and go behind them and do that. Other than us, again, reinforcing what we've done and going through the trading -- now that's not to say that when we have new employees we do do that for a period of time. I apologize; I didn't say that part. We do do that for a period of time and then it gets to where you check everything to where you just spot-checking. And then, again, with a long-term person, you don't do that because up until that point they have proven that they successfully understand what they're supposed to be doing.

**SECRETARY KEMP**: So, basically, this person didn't do the signature check?

**MS. LEDFORD**: Well, you don't have to if they're voting in person.

**SECRETARY KEMP**: Oh, it was in person?

**MS. LEDFORD**: Right. What happened was she came in -- whoever this person was, showed a drivers license that said Carol Payne on it. The temporary typed in the name, did not verify the information, but yet encoded her card and let her go vote as Carol Payne. It probably was a Carol Payne, it just wasn't ours. And then she never went back and verified the information. That usually doesn't happen because -- well, we just have never had it happen, to my knowledge. This was the first time. So, like I said, for us, other than just reinforcing the training itself, creating that training model with the IT department -- so like I said, they do have to have a knowledge assessment in addition to just, oh, I know that the law says A, B, C, D, E.

**SECRETARY KEMP**: Mr. Simpson.

**MR. SIMPSON**: I'm confused. We're talking about Ms. Payne?

**MS. LEDFORD**: Yes.

**MR. SIMPSON:** The potential violations are that the absentee ballot application was not in writing. How do you have an application that is not in writing?

**MS. LEDFORD:** Well, there are a lot of counties and jurisdictions that are using a new program called Easy Vote and this was precipitated, if I'm not mistaken, by a best practice that was put on by Fulton County wherein the process that I described happened. The voter comes in, they show their drivers license, and then either through -- depending on what program you're using -- either through barcoding source or someone typing in that person's drivers license number, it brings that information up. You screen print or pre-populate the form itself, then the form is given to the voter to verify and to sign. So the person, even though our poll official erred in putting that information on there, someone looked at that application and said, "Yes, that is me," and dated and signed it as Carol Payne.

**MR. SIMPSON:** Well, this says it did not have a signature slot for the elector.

**MS. LEDFORD:** It does have a signature and it does have a place for a date. I don't know if we have that with us --

**MR. SIMPSON:** The violation says it did not.

**MS. LEDFORD:** But it did.

**SECRETARY KEMP:** Mr. Harvey?

**MR. HARVEY:** Mr. Harvey. It's got the application you fill out and then you would sign the application and then you have the additional certificate below that that you have to sign, also. In this there is one signature on the page; whether that's the application or the certificate, I don't know. I believe the signature is actually for the voter certificate.

**MR. SIMPSON:** You've got two alleged violations. One is that it did not have a signature slot for the elector.

**MR. HARVEY:** Mr. Harvey. Correct.

**MR. SIMPSON:** The other violation is that the signature line must not have been below the oath on the application. I mean, what I'm trying to do is trying to correlate the violations with what happened. And I can't seem to get that in my mind. How could fixing these two violations have stopped what happened?

**MS. LEDFORD:** I'm sorry; I was --

**MR. SIMPSON**: How could not having these two potential violations stopped what happened with Ms. Payne? If you had not been guilty of these two violations, how could you have prevented Ms. Payne?

**SECRETARY KEMP**: Go ahead, Mr. Harvey, you have something to add.

**MR. HARVEY**: Mr. Harvey. If the voter had to come in and produce all the information, they had to put in their name, their address, and sign for the application, instead of maybe looking at an ID -- there may have been room; there may not have been -- then the election official would have pulled that up and assigned them a card. They would have then signed the voter certificate and done it. The way it is now, we don't know for certain what this person told the election official, if they show a valid ID or a fake ID. And in that point, the election official essentially presents the identity to the person. All they have to do is on whatever is on there. Although the box was checked that she showed a drivers license, we don't know for certain that she showed a drivers license.

**MR. SIMPSON**: Have you done anything to correct that situation with regard to these two potential violations; I'm sure you've seen those.

**MS. LEDFORD**: Yes. We actually went back and created the form and based on a conversation that I had with Wes Taylor right after this investigation was begun, we did create a new form. We put two different places for signatures on the application. Like Mr. Harvey said, the voter does have to complete the information at the top and sign it and then there is an oath and they have to sign and date that, as well. Now, the oath -- there is a place for it to be signed on this application, too, it's just that the voter didn't actually write all their information here and this was put on here based on the drivers license that was given us and then it's given to them and they are supposed to verify it and date and sign it.

**MR. SIMPSON**: So having corrected these deficiencies on the form, would that satisfy Mr. McIver's question about how do we prevent this from happening again?

**MS. LEDFORD**: I think it would, because I agree with Mr. Harvey's assessment that when you have the voter actually write the information on there, then two things: first off, that person is a lot more liable than this type of form; the second thing is it doesn't -- it allows us to just take that person's information that has been given to us.

**MR. SIMPSON**: And you've implemented the new form?

**MS. LEDFORD**: We did and we actually used it in the March special election we had this year.

**MR. SIMPSON:** Did you have any problems?

**MS. LEDFORD:** No, sir; we did not. Of course, we only had 1,000 people vote.

**SECRETARY KEMP:** So that's still using the Easy Vote?

**MS. LEDFORD:** No, we don't actually use that; we don't have the resources. And that is also --

**SECRETARY KEMP:** So y'all are trying to do your own kind of Easy Vote?

**MS. LEDFORD:** Yes, and not -- I want to say, you know, because we do have smaller staff, we try to make, look for efficiencies, but we don't want to eliminate the, you know, the laws that go along with that. We want to make sure that, okay, you're being efficient, but you're being efficient legally. And so that's why, like I said, after my conversation with Wes, you know, Wes said we probably really need to this on here so we went back and we did change their form. Like I said, we did use it for the March election.

**SECRETARY KEMP:** Mr. Simpson, Wes Taylor was the former elections director.

**MS. COX:** Ms. Cox. If you wanted, we can tender -- we have the proposed remedial plan that also has the new application attached to it if you all like to --

**SECRETARY KEMP:** Get a motion to accept?

**MR. McIVER:** So move.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Motion and second. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** The document is accepted. I'm sorry, Mr. Worley.

**MR. WORLEY:** No, I think Ms. Ledford answer my question.

**MS. LEDFORD:** I want to add just one more thing. The one thing that bothered me about this as, not just as an elections director, but as a citizen, was there very well could

have been an issue of identity theft. I don't necessarily believe that. I believe it was somebody probably with the same name that came in a voted and we had a temp that rushed through it. But there is no way to know that. If I were Ms. Payne, I would feel so uncomfortable with that --

**MS. PAYNE:** Ms. Payne. I am here.

**MS. LEDFORD:** Okay. I won't speak for her. But in any case, that was one of the reasons that we went back and looked at our procedure from A to Z: how are we doing this, what are the steps we're taking, what if -- you know. And we do a flowchart process, and I know that's kind of crazy to some people, but that's how we find a lot of these little things like this. And so we tried to go in and, again, make the corrections to the form itself which would help, but also create the training module which we've never had for our advanced workers because we bring them in so far ahead of time, they do OJT. But obviously, you know, we don't want this to happen again to anyone, most certainly we don't want it to happen -- I mean, next year, Gwinnett County will process over 200,000 voter transactions counting the people that vote and everything else we do, and we just don't need these type of things hindering what we're doing.

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

**MR. WORLEY:** I guess just to be clear about this, you think that somebody came in, gave a drivers license that said Carol Payne on it and the form was printed out and either the person intentionally sign the form knowing they weren't Carol Payne or just didn't look at the form and signed it because it had this Ms. Payne's address on it?

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

**SECRETARY KEMP:** And they signed Carol Payne?

**MS. LEDFORD:** She did, but it is not our Ms. Payne's signature. That's why I said when she, like I said, she came in and -- you had to say for a citizen, she did not come in and lambaste us for this problem. She came in and she presented this problem to us and we were able to look at it and we were very satisfied with her standing in front of us she did not vote that ballot; it was an error. So we did allow her to vote a provisional ballot and her provisional ballot was voted.

**SECRETARY KEMP:** Ms. Ledford, do you want to sign the proposed plan?

**MS. LEDFORD:** Yes, sir.

**SECRETARY KEMP:** Anyone else wishing to speak? Ms. Payne, would you like to address -- glad to have you with us today.

**MS. PAYNE**: Do you need my name and address?

**SECRETARY KEMP**: Yes, ma'am.

**MS. PAYNE**: I am Carol Asbell Payne, 3467 Kiveton Drive, Norcross, Georgia. The main thing I would like to say is that I greatly appreciate the professionalism that every person I have encountered in this process has displayed. The people at my precinct behaved, I think, beautifully; they did everything right. The people that I spoke with in Lawrenceville were very professional and very helpful. The investigators were very respectful, obviously knew their job and take it seriously. And having her what I've heard today, I have great respect for the work that the board does.

My personal concern was that maybe I wouldn't get to vote and that my identity was compromised. There is a lot of personal information lying around in these offices and the form that has all of my personal information on it, every bit of it, was given to someone who was not me. I still don't understand how this could've happened and I hope that you all get funding so you can have the scanners that are present in my precinct because they scanned my drivers license and knew immediately that it was me and that someone had already voted for me. So I can do nothing about that except vote, and I will. Thank you very much for taking these matters seriously.

**SECRETARY KEMP**: Well, thank you for being here today and I think you have probably seen and felt how serious we care about even one single vote, because it matters, especially if it's your vote and I know Ms. Ledford understands that and is concerned about that; I know our board is and we certainly appreciate you being here today and sharing that with us. Okay. Anyone else wishing to speak?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, any other discussion or do we have a motion?

**MR. SIMPSON**: I would move that we close this case. I don't know whether a letter of instruction is necessary in view of having been presented with a remedial plan. I would recommend that we close the case and accept the remedial plan that's been presented by Ms. Ledford.

**SECRETARY KEMP**: Okay. We've got a motion to close since there's already been a remedial plan accepted. Do we have a second?

**MR. McIVER**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you very much. Thanks for being here. Ms. Payne, thank you for taking the time to be here today. Okay. 2010, number 114, Gwinnett County, the Bridges case.

**MR. BROOKS**: Yes, sir. This involved in November 2, 2010 general election. The allegation in this particular case was that Mrs. Bridges had been sent to two separate precincts on election day and she wasn't allowed to vote in either precinct and she wasn't offered a provisional ballot at either one. Ms. Bridges went to the Chattahoochee Elementary School precinct to vote, which was her precinct. She was told her that she would not be allowed to vote there and she would have to go to the Duluth Festival precinct. She went to the Duluth Festival precinct and she was told her she would have to return back to the Chattahoochee Elementary precinct, which she did. When she arrived there, she spoke to one of the assistant supervisors, explained the situation to her, and the phone calls that were made. There was some discussion about a provisional ballot but one wasn't offered to her. After we started our investigation it was determined that Ms. Bridges had changed her address in December of 2007 and she received a precinct card at that time with her new address listed on that. This particular address would have placed her in the Chattahoochee Elementary School precinct and would have moved her from Duluth Festival precinct.

During 2009 Gwinnett County was conducting an audit of their registration cards and they couldn't locate one for Ms. Bridges listing her new address. They sent a confirmation letter to her and that confirmation letter was not returned. Based on that, she was placed back in her old precinct for non-contact. We talked with poll workers, neither one of them actually remembers this particular situation. But they do suggest that she may have been placed in inactive status, and if so, they would not allow her to vote which would have been a violation also because if she was in inactive status, simply showing up and voting would have activated her for that.

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

(Whereupon, there was no response)

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

**MS. COX**: Ms. Cox. Again, I am Theresa Cox with Gwinnett County Law Department, 75 Langley Dr., Lawrenceville, Georgia 30046.

**SECRETARY KEMP**: Ms. Cox, let me interrupt you one second, if you don't mind. Just let the record reflect that Mr. Webb has stepped out for just a minute. Go right ahead; sorry about that.

**MS. COX**: Ms. Cox. Okay. This is another case where there seems to -- a mistake seems to have occurred with regard to training. The allegations center on -- we want the board to know that Gwinnett County takes its training obligations very seriously. Both poll workers that I mentioned completed the online training and took a knowledge assessment and both passed. Both poll workers also did the in-person provisional training and both attended that. All poll managers and poll officials receive training manuals for use on election day. So with regard to training, Gwinnett County takes it very seriously and both officials that were named in the complaint were trained and passed their knowledge assessment.

But in view of what has happened in this case, just to let you know the training manuals also said that if a voter insists that they are registered, that they are supposed to be allowed to vote a provisional ballot. To further clarify, however, since this has occurred, Gwinnett County has taken further -- the elections department has taken further steps to further clarify voter status references and have outlined them individually and specifically in the manual and I can tender that along with a proposed remedial plan like the last time, if you like to see that. It's attached to further clarify voter statuses and who is eligible to vote provisional, touchscreen, and so forth. If you want to hear Ms. Ledford again on our training, I'm sure she would be more than happy --

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Ms. Ledford, do you want to --

**MS. LEDFORD**: Sure. I'm going to say something the previous election director said. You know, we train people --

**SECRETARY KEMP**: Ma'am, give us your name and address again.

**MS. LEDFORD**: I'm sorry. Lynn Ledford, Elections Director, Gwinnett County, 75 Langley Dr., Lawrenceville, Georgia 30046; my apologies. We train these people six

ways from Sunday. In Gwinnett County, because we do have limited resources, we have online voter -- I'm sorry, poll official training. The reason that we do that is we want to ensure that every poll official receives the exact same information, that they're all tested out on the same thing. Our percentage is 90 to 95% that they have to pass out. They have two -- they have three opportunities to do that. If they don't do it the first two times, they have to give us a call and we take measures the third time because obviously it's someone who is really struggling and, you know, we don't necessarily maybe need them working the polls that day.

But in addition to that, because we feel like they need enhancements, they need that hands-on, we would offer -- I'm sorry, it's not offered -- it's mandatory that they attend provisional ballot training. They get a manual for that. And then it's required that they also attend what we call equipment training, which is on either the TSX, the RF6 (phonetic), and/or their express polls. So they're given multiple opportunities. Some people are optional, some people are mandatory. That's laid out, but every poll has two people that are trained on provisional balloting. And so with this, when it happened, as Teresa said, I get concerned that somebody said if they're in inactive status, we don't let them vote. That's not something we've ever told them. As a matter of fact, we've always told them not to pay attention to those statuses unless it was an X or anything than an "A" or an "I." So we did go back into our manual again that we used in 2010 and we created that status chart so if they are at the polls election day and they can't get us, they can open that up and they know immediately, you know, that that person is eligible to vote touchscreen or provisional ballot.

**SECRETARY KEMP**: Any questions -- let the record reflect that Mr. Webb is back. Any questions for Ms. Ledford?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Thank you. What is the pleasure of the board?

**MR. McIVER**: Seems to me we have to bind this one over. These are clear violations in my judgment.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Is that a motion?

**MR. McIVER**: Yes, sir; I'm sorry.

**SECRETARY KEMP**: Mr. McIver makes a motion to bind over; Mr. Simpson seconds. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: It's bound over. All right. 2010, number 50, Laurens County.

**MR. BROOKS**: Yes, sir. This was the July 20, 2011 primary election. The allegation in this case was that the Laurens County election officials failed to provide a full and final election result on the night of the election. The exports upload at Kennesaw State University completed 50% of the results. The election official did not check with the Secretary of State's website prior to leaving for the night. The Laurens County elections official stated that a contract employee faxed the results on three separate occasions to the Secretary of State's office and they received some indication that the fax had been received at 10:21. The following day they received a phone call from Kennesaw State University and told them they had only received 53% of those results. So they re-faxed that and the final results were completed the day after the election, as opposed to the night of the election. We do have a letter here from the Honorable Helen Parker, probate court judge in Lawrence County, acknowledging the findings of the State Election Board and stating that they would accept a letter of instruction.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We get a motion to accept the letter?

**MR. WEBB**: So moved.

**MR. WORLEY**: Second.

**SECRETARY KEMP:** We've got motion and a second to accept the document. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** The motion carries. The document is accepted. Anyone else wishing to speak?

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none --

**MR. WEBB:** Mr. Brooks, in this case, what was the error in only 53% of the results being received? When the faxes were going through not all fax pages were being sent?

**SECRETARY KEMP:** Let me ask Ms. Hicks to maybe explain to us and how that works on election night.

**MS. HICKS:** On election night, pursuant to State Election Board rule, the County elections superintendents are to export their election results to us in thirds, three times, three exports -- three mandatory exports. Of course, there are some that do more than that, and we greatly appreciate it. In doing so, once the exports are received by our office, of course the results are reflected on the Secretary of State's website in which the election officials are also instructed, given instruction they can go to our website to check to make sure that their results are coming in as expected and are reflected on the Secretary of State's website.

On this particular election night, the exports were coming in from all the other counties. We were checking in; we were getting them. Any that were not coming in, we would make contact with county election officials because we were checking the website, as well, to make sure that all the exports were coming in and we were reflecting all the results and this election official at home on that night. It was very obvious. They thought -- they said on their end that the results were coming through, the faxes were coming through, but it was very clear, had they checked the website, that we had not received all the results, so they were not reflected.

**MR. McIVER:** Let me ask for clarification about reference to a contract employee that was doing the faxing?

**MR. BROOKS**: That's what they stated, Mr. McIver.

**MR. McIVER**: So this is the dog ate my homework? I had concern earlier about, you know, people having responsibility for their own functions and not being able to avoid those responsibilities by contracting them out.

**SECRETARY KEMP**: I think that's what happens a lot of times with probate judges. They're hiring people to run the elections for them, I would think. So perhaps we need to make sure that the letter of instruction or cease-and-desist or something that the judge understands that they've got to realize they cannot -- and this is what we tell them, and I've been up there with them on election night -- they cannot go home until we have verified that we've gotten all the results. I know Ms. Hicks has called the sheriff in some counties across our great state to go get the elections officials wherever they may be to make sure they complete that.

**MS. HICKS**: And I think the county election officials that are still here can verify that we are in constant communication with them on election night, as they are with us. When we're not receiving those results and they're not reflected on the website, we reach out to them and in turn they reach out to us.

**SECRETARY KEMP**: Mr. Simpson?

**MR. SIMPSON**: It seems like to me maybe a letter of instruction is not sufficient in this case because to just get up and go home when you know you have a responsibility, I don't think a letter of instruction cures that. I think this case should be bound over.

**SECRETARY KEMP**: Have we -- have they been before us before or is this kind of the first time?

**MS. HICKS**: On a different matter they have; on a much different matter.

**MR. McIVER**: If that was the motion, I second it. I think this is a classic case to bind over.

**SECRETARY KEMP**: Was that a motion?

**MR. SIMPSON**: We'll call it a motion.

**SECRETARY KEMP**: All right. We've got a motion by Mr. Simpson and a second by Mr. McIver to bind this over. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else here was to speak on this matter? Mr. Webb.

**MR. WEBB**: I just like to ask on the letter from Judge Harper does it reference a remediation plan?

**SECRETARY KEMP**: They acknowledge the findings of the State Election Board and will accept a letter of instruction, but makes no mention of a remedial plan or additional training.

**MS. HICKS**: And if I might add, I'm not here to say that once they faxed in their results that they did not receive a transmission back on their end stating that the fax came through appropriately. But the fact still remains that they did not check the website before they went home to make sure all the results came in appropriately.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we will refer it. We are going take a break, Mr. McIver. We'll just take a quick 10 minute recess and we will be back here on the Attorney General cases, let's say at 4:15. We are in recess.

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(Whereupon, a break was taken)

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**SECRETARY KEMP**: We will reconvene the meeting and take up our Attorney General consent orders. What we've been doing the last several meetings is taking these like we do the consent calendar, unless there are specific orders or cases that members of the board would want us to remove or if there is someone in the audience that would like to address us on these cases. So at this time I'll open it up the to the board to see if there's cases that they would like to remove from the consent calendar. Mr. Webb.

**MR. WEBB**: Yes, thank you Mr. Secretary I would like to discuss tab 35, which is the Riverdale case.

**SECRETARY KEMP**: The city of Riverdale.

**MR. WEBB**: tab 41, which is the Daniel Alvin.

**SECRETARY KEMP**: Okay.

**MR. WEBB**: tab 47, City of Montezuma.

**SECRETARY KEMP**: Okay.

**MR. WEBB**: tab 53, John Silhart.

**SECRETARY KEMP**: Is that case number 24?

**MR. WEBB**: It is.

**SECRETARY KEMP**: Chatham County.

**MR. WEBB**: And the last two, tabs 58 and 59, Tattnall County and Evans County cases. Otherwise, I'm fine with the rest of the cases.

**SECRETARY KEMP**: Is there any other board member that would like to pull off any additional cases?

**MR. McIVER**: I would like to pull tab 45, which is case number 123. And I won't be long.

**SECRETARY KEMP**: Anybody else?

**MR. SIMPSON**: I would like to pull number 61. The reason for that is that involves Tift County and I think I should recuse on that. If I could just recuse on that one case, then --

**SECRETARY KEMP**: We'll just pull it off.

**MR. SIMPSON**: Okay.

**SECRETARY KEMP**: All right. Let the record reflect that on the Attorney General consent orders on our calendar, we are going to pull off and hear from Ms. Brumbaugh the following case numbers: 2006, number 39, city of Riverdale; 2008, number 48, Daniel Alvin Recall Petition Application; 2008, 123, which is a double voter case; 2009, number 47, City of Montezuma; 2010, number 24, Chatham County; 2010, number 97,

Tattnall County; 2010, number 103, Evans County; and 2010, number 116, Tift County. We will address each of those individually.

**MS. BRUMBAUGH**: Secretary Kemp, at the risk of causing myself some problems, I didn't know if y'all also wanted to discuss tab number 52, which is the City of DeSoto. There is a consent order in that case, which I don't expect anyone to really have an issue with. There was an issue earlier about when a city contractor with a county and did we hold the city responsible, and that could come up in this case and I had recommended dismissing the city. Earlier, it seemed like there might be some disagreement with that. So I just wanted to make sure the board was comfortable with disagreeing with --

**SECRETARY KEMP**: Let me just -- I'll take a personal privilege here and we'll also pull that case off and discuss that briefly. So we will pull off, in addition to the ones I just mentioned, case number 2010, number 21, the City of DeSoto. I will now entertain a motion on the remaining cases that we have not pulled off for us to vote in block to accept the consent orders.

**MR. SIMPSON**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: Okay we've got a motion to accept and a second. Any other discussion? Are there any citizens here or anyone else that wishes to discuss any of these cases that we'll be voting on?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we've got a motion and a second to accept the consent orders. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. We will now move on to the individual cases that we pulled off, the first one being 2006, number 39, the City of Riverdale. Ms. Brumbaugh, we are grateful that we are moving along with some of these older cases that Mr. McIver had inquired about. It's good to see those on the consent calendar, getting those resolved.

**MS. BRUMBAUGH**: 2006, 39, which is tab number 35, in 2008, number 48, which is

tab number 41, those both involve recall petitions. Recall petitions are found in Chapter 4 of Title 21, as distinguished from Chapter 2 of Title 21. In reviewing the code, the way the code is written, consulting with our foremost statutory interpreter in our office, it is the consensus of the Law Department that the State Election Board does not have jurisdiction over Chapter 4; it only has jurisdiction over Chapter 2. And since recall petitions to recall petition fraud are specifically set out in Chapter 4, the Law Department is recommending closing these two cases for lack of jurisdiction.

**SECRETARY KEMP**: Mr. Worley.

**MR. WORLEY**: Could I ask who is the foremost statutory interpreter?

**MS. BRUMBAUGH**: Daryl Robinson.

**SECRETARY KEMP**: Mr. McIver.

**MR. McIVER**: Where will these cases go?

**MS. BRUMBAUGH**: Well, unfortunately, 2008, 48, Daniel Alvin recall petition was originally sent to the Fulton County District Attorney's Office as well as to my office. In February the Fulton County district attorney decided that they would not prosecute. So that case is one of the unfortunate cases where, perhaps, we don't have a solution. There was a problem, or an alleged problem, but we have kind of run out of options about how to handle that one and it would be closed. The city of Riverdale --

**MR. McIVER**: Wait a minute; wait a minute. Why would it be closed?

**MS. BRUMBAUGH**: Well, the District Attorney's Office will not prosecute.

**MR. McIVER**: But the Attorney General has that authority.

**MS. BRUMBAUGH**: We could send it to -- I could -- we could ask the special prosecutions to look at it from, I mean -- I'm not exactly sure --

**MR. McIVER**: It's not time-barred or anything like that?

**MS. BRUMBAUGH**: It's not time-barred. I'm not exactly sure what the special prosecutions team accepts and what they don't. But we could certainly, if y'all voted to ask them, I could certainly ask them to look at it.

**SECRETARY KEMP**: With this recall petition, should we consider putting that into the elections part of the code?

**MS. BRUMBAUGH:** I think it's -- there should be some cleanup. Right now, it's in Title 4, and it's only a misdemeanor. You go to Title 2 and you look at nominating petitions and the nominating petitions, same action -- fraud, forgery -- those are felonies. So even starting there, you've got same behavior, different punishment. And that's not right. So, at a minimum, I think they should be handled together. I think would, you know, the Alvin recall petition is a perfect example of sometimes we are the last resort for some of these cases, and I would . . . I would support to the extent that my opinion counts, moving it over, yes.

**SECRETARY KEMP:** Well, I can assure you the board, that we will discuss that. I'm going to give you an update on our Georgia Elections Advisory Council meetings that we've been having, but I think this is a good candidate to add to our code review. Ms. Hicks?

**MS. HICKS:** If you don't mind, if I'm not out of order even just commenting on this specific recall application itself, I was actually the one that handled this recall application back when it was turned in and brought it to the attention of Mr. Taylor when it was turned into our office. I noticed immediately that there were many, many forged signatures. They were the same signature; same handwriting all the way down. Also, the date that this petition was turned in, the signatures were dated that day, but it said they were collected in Chatham County. And it was in the morning, that morning when they were turned in.

**MR. SIMPSON:** Another problem with forged signatures in Chatham County.

**SECRETARY KEMP:** All right. Well, we'll add that to our list of Election Advisory Council issues.

**MR. WEBB:** Ms. Brumbaugh, does Title 4 provide any kind of -- any jurisdiction by any entity, government entity?

**MS. BRUMBAUGH:** As I said, it does -- recall petition fraud is a misdemeanor. So a DA or a solicitor could handle these cases and we could send this to, I guess, I don't know, whoever the solicitor is in Fulton County. This went to the district attorney. We could try sending it to the solicitor; I don't know if they would look at it differently. But they are misdemeanors.

**MR. WEBB:** I'm just going to ask, have you looked at any of the states to see how any other states handle this?

**MS. BRUMBAUGH:** Not -- I have not.

**MR. McIVER:** It's not time-barred?

**MS. BRUMBAUGH**: Not to my knowledge.

**MR. SIMPSON**: The statute of limitations on misdemeanors is four years, isn't it? Wouldn't that be time-barred if it's a misdemeanor?

**MS. BRUMBAUGH**: If it is four years, I'm a little rusty on my --

**MR. SIMPSON**: Now, now. You're rusty. Be careful.

**MS. BRUMBAUGH**: You know, especially regarding city of Riverdale, it was -- did come over to our office in 2007, and I apologize on behalf of my office for the delay.

**SECRETARY KEMP**: What's your pleasure?

**MR. McIVER**: I'd hate for this thing to go untreated.

**SECRETARY KEMP**: Referred it to the solicitor.

**SECRETARY KEMP**: Mr. McIver. I think there is a time bar issue is the reason I continue to ask.

**SECRETARY KEMP**: Well, they can tell us that, can't they?

**MR. McIVER**: But, yeah, they can certainly treat it. If they consider it time-barred -- I would move that we refer it to the solicitor for Fulton County. Wait a minute; wait a minute. It's the City of Riverdale; that would be Clayton County.

**SECRETARY KEMP**: We've got a motion, this is on case number 2006, number 39. We have a motion to refer to the solicitor of Clayton County. Do we have a second?

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: And a second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries. Is there anything else to add, Ms. Brumbaugh, on number -- we just did 39. That would be number 48.

**MS. BRUMBAUGH**: 36 and 41 I thought.

**SECRETARY KEMP**: I'm sorry. I'm calling the case number, not the tab number.

**MR. WEBB**: Case number 48 under tab 41.

**SECRETARY KEMP**: Case number 2008, number 48, under tab number 41. Anything else to add to that?

**MR. McIVER**: I'd like somebody to explain to me one of the references in the DA's letter, Fulton County DA's letter, February 18. This case was weakened because of the conduct of an investigator?

**MS. BRUMBAUGH**: Yes. You mean number one, our office prosecuted investigator Steve McBrayer?

**MR. McIVER**: Yes.

**MS. BRUMBAUGH**: Yes, that is another problem with this particular case. I forgot to mention that.

**MR. McIVER**: That's a rather significant thing to forget, I mean, we've got what appears to be a meritorious case now weakened because of the conduct of a former staff member.

**MR. HARVEY**: Mr. Harvey. That's correct. It was something that was completely unrelated to this; something that happened prior to this. He was terminated from our office, and Fulton County handled the prosecution.

**MR. McIVER**: What was the result of the prosecution?

**MR. HARVEY**: Mr. Harvey. It was actually -- I believe there was some kind of negotiated settlement. I don't believe it resulted in a conviction, but there was some kind of pretrial diversion or something along those lines.

**MR. WEBB**: Excuse me --

**MR. McIVER**: We think that would then -- excuse me, Mr. Webb -- that would then

hurt going forward with this case?

**MR. HARVEY**: Mr. Harvey. Fulton County apparently does.

**MR. McIVER**: Well, yeah, the letter is clear.

**MS. BRUMBAUGH**: It doesn't help when your investigator has been accused of a felony. I wasn't aware that it ended up in diversion.

**MR. HARVEY**: Mr. Harvey. I don't believe it ended in a felony conviction, but I don't know the exact resolution.

**MR. McIVER**: If it's pretrial diversion, then it's probably sealed. I guess I'm questioning Mr. Howard's judgment here, which I then publicly before. Well, I hate to see this case go untreated.

**MS. BRUMBAUGH**: Well, we can certainly refer it to the Solicitor's Office of Fulton County and they would look into some of these issues and make a decision. As a former prosecutor, I've had to dismiss cases when my lead police officer has been compromised. It does (inaudible) pretty significantly.

**MR. McIVER**: I think it's worth binding over to the solicitor and I make that motion.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We've got a motion to bind over to the solicitor of Fulton County and a second. Mr. Webb, did you have anything?

**MR. WEBB**: No, Mr. McIver handled my question.

**SECRETARY KEMP**: Any other discussion or anyone here wishing to speak in regard to this case that we haven't heard from?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we've got a motion and a second to refer to the solicitor of Fulton County. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** The motion carries and the case is referred. Okay. Next, we have case number 2008, 123. This is tab number 45.

**MR. McIVER:** I placed a hold on this one. Ms. Brumbaugh, this may be over very quickly, but this is an educated man in a very egregious act. Is the amount on the consent order and the other remedies called for, sufficient?

**MS. BRUMBAUGH:** Well, he was one of three people who all did the same thing.

**MR. McIVER:** WSB found these people. I mean, hooray for journalism, and particularly broadcast journalism in this case.

**MS. BRUMBAUGH:** At the May meeting, the board accepted consent orders with identical terms for the other two individuals. I would also say that Dr. Alvarado was represented by an attorney who made a pretty detailed presentation to the board, I guess at the May meeting, regarding Mr. Alvarado -- actually some mental decline he had. He had to stop practicing medicine and there might've been some cognitive issues that created the situation.

**SECRETARY KEMP:** So we are being consistent with what we've done previously?

**MS. BRUMBAUGH:** Yes.

**MR. McIVER:** Then I withdraw my hold.

**SECRETARY KEMP:** We've got to take some action.

**MR. WORLEY:** I would make the motion to accept the consent order in this case.

**MR. McIVER:** Second.

**SECRETARY KEMP:** We've got a motion by Mr. Worley and a second by Mr. McIver to accept the consent order. Is there anyone here that like to speak in regards to this case?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. SEB case number 2009, number 47, City of Montezuma. And as is should be, it is tab number 47. Ms. Brumbaugh.

**MS. BRUMBAUGH**: This case was presented to the board that the May meeting. For those of you that were present, it was pretty memorable. It went on for a long time. People felt very passionately about the City of Montezuma. At the end of the probable cause hearing, the board only referred one very narrow issue to me, which was the case of this woman, Jacqueline Frederick and her helping her mother with her absentee ballot. Ms. Frederick -- her mother was disabled; there was no question of fact as to the fact that the mother was disabled. Ms. Frederick did sign as assisting. The problem was that Ms. Frederick neglected to check off either Disabled -- well, she should have checked off Disabled, but she didn't check off Disabled or Illiterate.

When you read the code, if you look at 21-2-384, 21-2-384 specifies what the form of the absentee ballot oath shall be. And so it says that you're going to have the reason for assistance there. It doesn't really talk about failing to fill out the form as a violation; it just says this is the form. If you look at 385, which talks about absentee balloting and how you vote, it specifically says -- this is 385 (b): "The person rendering assistance to the elector in preparing the ballot shall sign the oath printed on the same envelope as the oath to be signed by the elector." And that if you, you know, violate this code section, you are committing a felony. The code does not say if you fail to check one of the boxes, you have violated the code.

There is no issue of fact here. There is no issue of fraud. The woman was disabled and daughter did sign. So the only issue was sort of following the directions and checking a box. Given the lack of any other indicia of fraud or unreliability or questionable motivation, and the lack of a statute that says that if you don't check this you have violated our code, it's my recommendation to the board to close this case.

**SECRETARY KEMP**: Any questions?

**MR. WEBB**: Ms. Brumbaugh, notwithstanding the facts of this case, I'm troubled by the comment it does not specify that failing to fill out the oath completely is a violation. If the code requires that you complete this form, if you don't complete the form, how is that not a violation? And I think we have a catchall statute that says if there is any violation of the code not specified up above, you know, whether delineating it as a felony or misdemeanor, it's a misdemeanor.

**MR. McIVER**: Well, there's more to the form than the oath, though, right?

**MS. BRUMBAUGH**: Right. And maybe I could've written that sentence a little bit better, but what I meant was, you have -- the code specifically says if you don't sign it, you've committed a violation. It doesn't say if you don't check it off you've committed a violation. So that was what I was trying to communicate the way I wrote it. And I don't disagree with you that any other violation not specified is a misdemeanor. But I'm just -- I just want the board to really consider whether we're going to take here's our form -- this shall be the form of the State of Georgia and turn that into if you don't fill it out precisely, you have violated the code. Especially when one statute over you have a specific section that talks about failing to sign.

**MR. SIMPSON**: If you read the oath that says that you're swearing that such elector is entitled to receive assistance in voting under the provisions of subsection (a) of code section 21-2-409. If you look at 21-2-409, it says he or she is unable to read the English language or he or she has a disability which renders him or her unable to see or mark a ballot. So I think they've sworn to what's -- even though the boxes are not checked, by signing that oath, they are swearing that one of those two conditions exist. So I don't see that there is a problem.

**SECRETARY KEMP**: Perhaps we can send a letter of instruction or clarification to resolve it? Mr. Worley, were you going to ask something?

**MR. WORLEY**: No, I think Judge Simpson makes a very good point about that.

**MR. WEBB**: Notwithstanding Mr. Simpson's good point, you know, where I practice, if the corporate codes is you must do this if you don't do it you violated the code, and to take the position that it doesn't say -- it doesn't necessarily specifically say that you -- it's a violation if you don't do that, I don't agree with that. Maybe that's just the world I deal in, but --

**MS. BRUMBAUGH**: Well, I think maybe a different way to think about it is -- and I don't practice your kind of law, but my husband does -- so you know you are on the other end of that law. But the election code speaks to different audiences. So it speaks to electors and it speaks to candidates and it speaks to the Secretary of State's office and it speaks to local bodies. This is simply saying this is the form the State is going to use. And it doesn't say elector must fill out this form precisely or there is an election code violation. What it does say is assisting elector must sign as assisting, or assisting elector has violated the election code. But -- and if there had been some indicia -- this is another case where I looked back at other cases to make sure I was being consistent. Because had the mother not been disabled, had there been some question of fact there, we would have been in a completely different fact pattern and completely different analysis. But there is

no indicia of fraud; there is no suggestion that anybody did anything wrong except somebody just fail to check off a box. And the code 21-2-385 is specific, but it's limited, and it only says you violate this, assistor, if you don't sign. It doesn't say you violate if you forget to check something off that we had decreed in 384. And 384 doesn't say -- 384 speaks to the Secretary of State's office and what kind of forms and how the forms should look.

**SECRETARY KEMP**: All right. Any other discussion?

**MR. WEBB**: Mr. Chairman, I think that is something your advisory committee should look at.

**SECRETARY KEMP**: Put that on the list, Josh. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any one else wishing to speak?

(Whereupon, there was no response)

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

**MR. SIMPSON**: I move we accept the recommendation to close the case.

**MR. WORLEY**: I second.

We've got motion and a second to close the case. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: The motion carries and we'll make sure we take a look. Case 2010, number 21, City of De Soto, under tab 52 in your book. Ms. Brumbaugh.

**MS. BRUMBAUGH**: Yes, Mr. Secretary This case, the City of De Soto contracted with Sumter County for a special election held March 16, 2010. Sumter County realized

that the trailer that they were going to use for the special election would not be handicapped accessible and the Sumter County elections supervisor, Sherry Ratliff, made a decision that it would be too expensive to be ADA-compliant despite the fact that federal funding is available for ADA improvements. This did, in fact, cause a hardship, and one wheelchair-bound elector had to vote from her car. Ms. Ratliff did sign a consent order for \$300 civil penalty, and I think she has paid it; they have sent in a check.

When I reviewed the case, you know, it appeared that Sumter County and Sherry Ratliff was kind of the bad actor here and it was my recommendation that the City of De Soto, who had contracted with Sumter County, not be held responsible for Sumter County's actions. In discussions this morning, it seemed like the board might have concern with that, and so -- and we've never really had this issue come up. It's something that's been a question in my head, but it's never really presented itself, so I'm happy to get the board's direction on this and I just wanted to bring it up based on our discussion this morning.

**SECRETARY KEMP:** Mr. Webb.

**MR. WEBB:** Ms. Brumbaugh, I would think in this case when the municipality contracts with the county, we still have jurisdiction over the county. So in that case, those situations, we can make rulings against the county. The city, I don't necessarily think gets let off the hook if they had any involvement, and with this case, I think it was completely Sumter County's ball in this case and they made a decision they weren't going to be compliant, and in this case willing to pay a \$300 fine as opposed to spending a lot more to be ADA-compliant. The situation which, I guess we're trying to get comfortable with today, at least I am because I haven't heard of this since I've been serving on this board, that a municipality will contract with an independent individual or company to run their election as opposed to having a county. I'm not sure we necessarily have jurisdiction over those independent parties. So in those situations, I think, absolutely, again, the city, or the municipality, remains responsible.

**SECRETARY KEMP:** Anyone else wishing to speak in regard to this case?

(Whereupon, there was no response)

**SECRETARY KEMP:** Seeing none, the Chair would entertain a motion.

**MR. WORLEY:** I move to accept the proposed consent order.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Do we need to include in the motion a dismissal of the City of De Soto because the consent order is with the county, correct?

**MS. BRUMBAUGH:** The consent order is with the county and I was recommending dismissal of the city as well as two poll officers that were named who took the provisional ballot to the wheelchair-bound elector. But Ms. Ratliff stated, "They did it at my direction and I was the one that told him to do that."

**SECRETARY KEMP:** Did you want to act on these separately?

**MR. WORLEY:** I withdraw my motion make a new motion at we accept the consent order between -- with Sherry Ratliff and then dismiss the claims against everyone else.

**SECRETARY KEMP:** Okay. We've got motion to accept the consent order and then dismiss the other respondents.

**MR. SIMPSON:** Second.

**SECRETARY KEMP:** And we've got a second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** The motion carries. All right. The next case is SEB case number 2010-24, Chatham County, and it is number 53 in your binder.

**MS. BRUMBAUGH:** For those of you who were at the Savannah meeting, you probably remember Mr. Silhart. He appeared in a ponytail and shorts. He apologized for his appearance, but he also took full responsibility for the fact that over the last several years, he lived in both Florida and Georgia and basically voted wherever he was living at the time. He didn't ever vote twice in any election, but he did, you know, if you read the code section, I think it's 216 on residency, when you go and you register in one state, you are presumed to have lost your registration and your residency in the previous state. And if you go and then you reregister, then you should cancel your registration in the first state. So he violated some technical violations. Like I said, he was very -- he took full responsibility for his actions. He was actually a self-reporter and he cleaned everything up. He had taken himself off both roles and then reregistered in Georgia. So he took it very seriously. He was very respectful. He took responsibility and so the consent order is -- doesn't include -- based on his behavior, especially to the board in Savannah, the

consent order reflects that and doesn't have a civil penalty.

**SECRETARY KEMP**: Any questions?

**MR. WORLEY**: And he never qualified to run for public office?

**MR. WEBB**: Where is he qualified to vote today?

**MS. BRUMBAUGH**: I think he is qualified in Georgia. Yes, respondent has since canceled his old registrations in Georgia and Florida and reregistered in Georgia. That is in the consent order.

**SECRETARY KEMP**: Any other discussion or anyone else wishing to speak in regard to this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, what is the pleasure?

**MR. SIMPSON**: Move to accept the consent order.

**MR. McIVER**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and the consent order is accepted. SEB case number 2010, 97, Tattnall County. That will be number 58 in your binder.

**MS. BRUMBAUGH**: Tattnall County and evidence County present the same issues. Both of these cases, the primary situation was a double voter situation. The double voters, the board has previously resolved the electors that voted twice, or attempted to vote twice. That left the culpability of the local elections, Tattnall County Board of Elections and the Evans County Board of Registrars. In both of these cases, the reason

that the elector was able to vote twice was because paperwork had not been filled out the first time the person voted. So the local office failed to adequately do their paperwork and then the elector came back and looked like they could vote again, so they did vote again. Mr. Webb is shaking his head. I guess we have a -- we can discuss it in a minute. But I looked at the code section, specifically 21-2-589, Willful Omissions by Poll Officers: "Any poll officer who willfully fails to record voting information as required by this chapter."

In reviewing the files, both of these cases, the local board reported their mistake to the State Elections Office the day it happened, took full responsibility. In the Tattnell County case, Diane Calloway wrote a letter. She said she trusted Bradley due to his being an employee of the Tattnell County Sheriff's office and she took complete responsibility for this error, and she has learned a very heartfelt lesson. Given that we would have to prove a willful omission, this immediate self-reporting, this immediate taking responsibility, you know, my legal recommendation was that this sort of appeared to be more of a mistake. People had tried to fix it once they realized what had happened, and that it would probably be difficult to prove the willful failure to record voting information. Mr. Webb, I'm sure you have something to say.

**SECRETARY KEMP:** Mr. Webb.

**MR. WEBB:** Ms. Brumbaugh, I disagree with your recollection of the facts, but I will say maybe I misunderstood them. My understanding of the facts were in both these cases the gentlemen voted early, early voting, and there was a substantial period of time, I think five weeks in one case, six weeks in another, that the gentlemen returned to the poll. They got to the poll, the poll worker issued them a voter card without collecting their information and checking them off in the system to see if they have previously voted. They voted for a second time and then it was afterwards when they went to enter the information into the computer that they discovered they had already voted previously.

**MS. BRUMBAUGH:** Well, I'm looking at the Tattnell County case, and maybe Ann Hicks -- you know, maybe I -- one of us has misunderstood the facts.

**MR. WEBB:** Right; it could be me.

**MS. BRUMBAUGH:** It could be me. It was about a three week gap, October 4 to October 27. Bradley was allowed to cast a vote before it was discovered that he had already voted on October 4, 2010. The first vote was not discovered because Calloway did not enter Bradley's information into the absentee voting system until after he actually voted on the machine. And then she says: "I, Diane Calloway, being extremely busy trying to solve minor problems at the satellite voting sites, did not take time to go to my secretary's desk and obtain the log of valid numbers issued and assign the next available number two Bradley. I had sent my secretary to the Glenville voting site to help get

things going. Within five minutes of Mr. Bradley voting, I assigned a valid number and attempted to enter the information into the absentee voting system. This is when I discovered he voted on October 4. I immediately called Mr. Bradley and informed them of the error. His response to me was he thought he was voting for someone different this time. I then notified the Secretary of State's office, Ann Hicks, of this error. I should never have trusted anyone, but Mr. Bradley, being an employee of the Tattnall County Sheriff's office, I never thought this would happen. I take completely (sic) responsibility for this error."

**MS. HICKS:** And that is the process. When the voter comes in to vote for the early voting period, the registrar or whoever the absentee balloting clerk is, they would look at the state motor voter registration system at the time that they're checking the voter in to verify the information and to see whether or not the system reflects that they've already voted. Had that been done at the time that the voter voted the second time, they would have noticed it.

**MR. WEBB:** And I think, Ann, both of these situations that was not done and that was why they could not verify that they have voted before until they went to record the information on the second vote; the second appearance at the poll.

**MS. BRUMBAUGH:** Okay.

**MR. WEBB:** So, you know, my understanding of those facts, that the poll officer did willingly fail to record the voting information as required because they didn't follow the procedures, which is to check to verify that this person has not voted before before issuing them a ballot. Because they issued them a ballot prior to entering -- to record the voting information, that they willfully took that action. So I disagree that this case should be dismissed. I think there's a little bit difference in the cases. I think Tattnall County case is very similar to the case we heard earlier today from Catoosa County where the people absolutely admitted they made a mistake, they didn't do what they were supposed to, there was an error made, they apologized, they're taking great steps to make sure it doesn't happen again.

Evans County, a little sheepish; not as much willing to kind of hold their head down and just say, gosh, we made a mistake. No offer of a remediation plan, whatsoever, or in the kind of additional refreshment -- refreshing of the rules. So that's why in these two cases I don't think it's appropriate that they just get -- that the cases just get dismissed.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Any suggestions or motions?

**MR. WEBB**: I would make a motion that we go back to Tattnall County and Evans County, issue them a letter --

**SECRETARY KEMP**: Let's just take them -- if you don't mind, let's just take the Tattnall County case and then we'll go to Evans.

**MS. BRUMBAUGH**: Well, I would agree with Mr. Webb that the Tattnall -- there is significantly more responsibility and, you know, I'm sorry this happened. She also came, Ms. Dennis Oberman, Chairman of the Tattnall County Board of Elections came and spoke, I guess this was in February, and said they did make a mistake; they did take responsibility to the board at the time of the -- that this case was referred to my office. So there was pretty extensive responsibility and stepping up.

In the Evans County case, I think they had an attorney, the county attorney for Evans County. The poll worker just flat missed it; it was human error. They just didn't see it. "We have implemented better instructions, checklists, so that it doesn't happen. Make sure you check name, address, precinct and whether or not they voted for a future election. But human error, we just flat missed it." So that's what they said before.

**MR. WEBB**: Me? Sorry. I would make a motion with regard to case 2010, 97, Tattnall County, that we issue a letter of instruction with a remediation plan for the correction of this so that the error doesn't happen again.

**SECRETARY KEMP**: So the motion was we're going to send them a letter of instruction, but also ask them to send us a remediation plan?

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

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

**MR. SIMPSON**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Motion carries. Anything else further on Evans County or any other questions regarding the Evans County case, which is case number 2010, number 103? Let me just ask, is there anyone here who wishes to speak in regard to the Evans County case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, Mr. Webb, do you have a motion for us?

**MR. WEBB**: Yes. With regard to case 2010-103, Evans County, I would make a motion that we issue a letter of instruction and ask Evans County to submit a remediation plan.

**SECRETARY KEMP**: All right. We've got a motion, Mr. Webb. Do we have a second?

**MR. McIVER**: Second.

**SECRETARY KEMP**: Second by Mr. McIver. Any other discussion?

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. And our last case of the day, case number 2010, 116, Tift County.

**MR. SIMPSON**: Mr. Chairman, I recuse on that case.

**SECRETARY KEMP**: Let the record reflect Mr. Simpson is going to recuse because that is his home county. Ms. Brumbaugh, any -- do any of the board members have anything further or you okay with accepting the consent?

**MR. WEBB**: I make a motion to accept the consent order.

**MR. McIVER**: Second.

**SECRETARY KEMP**: We have a motion to accept the consent order. We've got a second. We've got Mr. Simpson recusing himself from the vote. Is there anyone else here wishing to speak to the Tift County case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Okay. Just a couple of housekeeping things. I wanted to just briefly update the board members -- I know the hour is getting late -- but I will tell you that the Georgia Elections Advisory Council that I formed and informed the board about at prior meetings, we did have our four public hearings around the State were in the Georgia citizen, or anybody else, for that matter, even if they weren't a Georgia citizen, could come before our group and give public comment on issues that they wanted to address us on regarding elections, the election code, State Election Board rules, any ideas -- pretty much anything they wanted to address us about, they could. We had meetings here in Atlanta, in Savannah, in Albany, and Augusta. We did, I think, real good job, Matt Carruthers, our Press Secretary, of letting the media outlets know that we were going to be there. We had some good dialogue. We had great attendance by the members who represent all different sectors of the State that all different geographies of the State, all kinds of political party backgrounds, and some that are independent. So a really good working group. I think the meetings were very beneficial. We held one meeting since our public meetings ended to start discussing the ideas that we wanted to bring forward to the legislature. We'll be having another one of those meetings in the next week or so. If we need to, will have further meetings until we conclude our deliberations and come out with a final report which will certainly get to the board.

One thing that I know we will be working on is establishing some sort of protocol for going forward to have a full review of State elections code and the State Election Board rules. That was a pretty -- an item that had consensus among all the members that it was difficult, as you can see through some of our deliberations today, it's difficult even for attorneys that deal in election law sometimes to interpret the code. So we're going to look at ways that we can simplify that. We'll certainly be asking for this board's input,

for the Attorney General's office, their input, and we're looking forward to moving forward on that. That's kind of what's going on with the Elections Advisory Council. Do any of you all have a specific question in regard to that?

**MR. McIVER**: Ms. Brumbaugh, is there a model election code that's been adopted by the ABA or somebody that we can use as a guide to assist the Secretary's efforts here?

**MS. BRUMBAUGH**: I am -- I don't know. I'll be happy to look that up. I don't know if the FEC has anything; they may have something. I don't know. I can look.

**MR. McIVER**: I'm not aware of it, either, but if there's something out there, I know would benefit the Secretary.

**SECRETARY KEMP**: I know you would agree with me, Mr. McIver, that we approach a federal guideline very cautiously.

**MR. McIVER**: I really meant the ABA or some commission of the ABA.

**SECRETARY KEMP**: We'll do a little research on that, as well on our staff. A couple of other than housekeeping notes. We've made quite a few changes. I know this is Linda Ford, our new elections director, her first full SEB meeting so I hope all of you have gotten to know Linda. She's going to come on, has come on already, and doing a great job. I just wanted to welcome her. Josh Waters, who is the assistant director of elections now, Josh was formerly with us in our Macon office in our licensing division. We moved Josh up to assume the number two duty. And Tommy Culligan, who has been helping coordinate the State Election Board meetings. The last couple of things that we've done, Tommy was with us in the front office. He is now over in the elections division. He is taking Jessica Monk's place who has been moved over to the front office to be my executive assistant, help with scheduling and other things we've got working in the front office. Josh is taking Taylor Fleming's Bond left elections to come over to the front office as the Chief of Staff. So I just wanted to thank Tim and Jessica for their work in the elections division, and welcome Linda, Josh and Tommy.

And last, but not least, we have our good and faithful servant, Ann Hicks, who, as y'all know, served as the elections director before Linda got here. When Mr. Taylor decided to leave us, she did a great job. And has been with the agency for 34 years. Her name and picture is beside "Elections" in the Georgia dictionary. She has been a stalwart over the years and certainly has great knowledge of the code that will be missed. But we've got some ideas on how we can keep her close to the process as the Elections Advisory Council moves forward. But we want to wish Ann the best and thank her for her hard work over the years and work with this board and I know that this board will congratulate me on congratulating her on her retirement in how many days, Ms. Anne?

**MS. HICKS**: Three weeks from Wednesday; August 31.

**SECRETARY KEMP**: Very good. Anybody else have anything else?

**MS. HICKS**: Can I say one thing? I just want the board to know it has been with great pleasure that I have been able to be with the Secretary of State's office through every Secretary of State since Mr. Ben Fortson. He's the one who hired me many, many moons ago. But it's been a very interesting journey, to say the very least. But you as board members are to be commended for the dedicated work and the time that you put in to the people's business in the elections process. I want to commend you for that.

**SECRETARY KEMP**: We appreciate your input as well, Ms. Hicks. Anybody else have anything else for the good of the order?

**MR. WORLEY**: I'd just like to echo what the Secretary said. It's been a great pleasure to work with and over the years. I've been on the board seven years now. She's been terrific every moment. Wish her the very best in her retirement.

**SECRETARY KEMP**: All right. I think I'll work is done here. We need a motion to adjourn.

**MR. WORLEY**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: We've got a motion to adjourn and a second. All in favor, signify by saying "Aye."  
(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we are adjourned. Safe travels, everyone.

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(Whereupon, the meeting was adjourned)

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THE OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA

IN THE MATTER OF:  
STATE ELECTION BOARD MEETING  
AND PUBLIC MEETING

SAVANNAH MARRIOTT RIVERFRONT  
BALLROOM A/B  
100 GENERAL McINTOSH DRIVE  
SAVANNAH, GEORGIA 31401

TUESDAY, MAY 24, 2011  
10:00 A.M.

PRESIDING OFFICER:      BRIAN P. KEMP  
SECRETARY OF STATE

LAURIE PARKER AXTELL, CVR, CCR-Ga-B1252  
HAPPY FACES COURT REPORTING SERVICES  
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APPEARANCE OF THE PANEL

SECRETARY BRIAN P. KEMP  
RALPH F. SIMPSON  
DAVID J. WORLEY  
TEX McIVER

CHRIS HARVEY  
ANN BRUMBAUGH  
ANN HICKS  
TIM FLEMING  
JESSICA MONK  
ANH LE

SECRETARY KEMP: I'm going to call the State Election Board Meeting to order. This is the May 24, 2011, meeting. Mr. Tex McIver will now lead us in the invocation, followed by the Pledge of Allegiance.

MR. McIVER: Please bow your heads for prayer.

(INVOCATION)

(PLEDGE OF ALLEGIANCE)

SECRETARY KEMP: Thank you Mr. McIver. Let the record show that Mr. McIver is here and Mr. Kemp and Mr. Simpson are in attendance. I know that Mr. Worley is on his way and will be here and will be here shortly. So we do have a quorum. Unfortunately, we are without another member of our board, who had a prior business commitment today and couldn't be with us.

I wanted to take just a minute to introduce to you all Rusty Simpson. He is our newest member of the board. He will somehow try to replace the great Mamie Evans (phonetic). I don't know if that's possible. But I've known Rusty a long time and he's a really good guy. He's a Superior Court Judge. He has his own legal practice in Tifton, Georgia. He is the appointee of the Republican Party. I hope you will all help me in welcoming Rusty Simpson to the board.

(APPLAUSE)

SECRETARY KEMP: Also, I want to just take a minute. We've got an unusually large crowd for the State Election Board. And those of you that may not be involved with the Elections Association folks that are here today, you may be wondering why the crowd is so big.

The Secretary of State's office has been fortunate this week to have been invited by the Georgia Elections Association -- Officials Association to come down and work with a lot of our local elections folks and board members from all across the state, and all the counties, on training, to make sure that we continue to have secure, successful, fair elections in Georgia.

Part of the training is for this group to attend part of the State Elections Board meeting today so they understand just how seriously we take Georgia election law, State Election Board rules.

That's one of the reasons -- there's two reasons that we're here. We wanted to be able to let them participate so they would learn more about State Elections Board, for those of them that have not been to a meeting before or may not understand exactly everything that we do.

But we have also, over the last year, have had two meetings around other parts of the state. Obviously, we have most of our meetings in Atlanta.

But our last meeting we had in Macon. We're doing this one here in Savannah today, because we want the citizens of this state and the elections officials and others in this area, elected officials, to

let them know how important secure elections are and how seriously we take this.

I wanted to welcome all of you today, in that regard. I know Mr. McIver wanted to mention something as well.

MR. McIVER: By means of a show of hands, how many of you were associated with GEOA and elections when we were in training for photo IDs. Can I just see the --

(SHOW OF HANDS)

MR. McIVER: The GEOA will always have a super special place in my heart. As you may know, when the legislature passed photo ID'ing and the governor signed, and I was called upon by both those groups to be the implementing person on photo ID. And we went through a very long and arduous year of getting the contracts out and so on.

And they all came together right here, in this room, at a GEOA meeting. I don't know if any of you remember that. I see your heads moving up and down. And that was our first training and the work, as many of you may know, we had four lawsuits. I spent more time on the witness stand than I ever spent as a lawyer, I think. We won all those cases and I am so proud to say we have never had a single complaint about photo ID and the election process.

(APPLAUSE)

MR. McIVER: Just to close, GEOA is the group that brought that all together. We had a lot of hard work and, of course, a lot of effort by the legislature and the governor. We spent a lot of money making all that happen. But it put, I think, Georgia in the forefront of all these areas. A number of states have copied us since that time. They've copied our statute and so on.

But you folks made it happen and so be proud of you and proud to be here today. I thank you very much.

SECRETARY KEMP: Mr. Simpson? Welcome again.

MR. SIMPSON: I would just like to thank all of you for your hard work. I know the number of hours and the effort that goes into preparing for elections. Most of us go to vote and don't even think about what's in the background or what has taken place in order to make sure that we can vote and vote fairly and vote in accordance with the law.

I wanted to thank you all -- each one of you all for the effort that you put into that, and also all of the volunteers that help us carry out the elections process in this state. Thank you once again.

(APPLAUSE)

SECRETARY KEMP: Thank you, Mr. Simpson. Mr. Worley has arrived. We've already introduced him. We have a lot of the Georgia Elections Officials Association folks here that

we've been training with this weekend. Feel free to make a comment if you like.

MR. WORLEY: My only comment is that I appreciate very much your attention to the work of the State Election Board. And we, as members of the State Election Board, know exactly how hard all of you work. I know how tough your jobs can be. I know the Secretary of State is ready, at any time, to assist you with that. So are we, as members of the State Election Board. Thank you.

(APPLAUSE)

SECRETARY KEMP: We're going to now move into our public comment period. I've got some folks that wanted to speak. Let me just remind you that you will have two minutes to speak. Jessica will be right here keeping the time on you to keep things moving. We will be pretty strict about this time limit, so when she lets you know your time is up, we'll give you about five seconds to wrap it up and then we'll cut you off.

I know there are some folks that may have signed up that may want to be speaking on a specific case. I know we've got two Chatham County Commissioners here today that I do want to speak during the time period. But when the other case comes up later today, we're going to be hearing from the folks that we've subpoenaed, unless the board sees differently.

I know that they will address in the public comment period. But if there's other folks that have signed up, let me just remind you, if you are here about a case you will be able to speak to that case and during that period you will have five minutes.

The public comment period is for folks that may not be here for a specific case, but just want to address the Board. So, at this time, I would like to start the public comment period. Judson Allen, were you here to speak to the public comment or did you wish to talk during the case?

MR. ALLEN: Yes, sir.

SECRETARY KEMP: Let me just ask a question. Are you here to speak to the case of the City of Montezuma or do you wish to address us in the public comment period?

MR. ALLEN: The City of Montezuma.

SECRETARY KEMP: Okay. We'll call that case later in the morning. Thank you. Patsy Cannon, also City of Montezuma. Did you wish to speak to the case?

MS. CANNON: Yes, sir.

SECRETARY KEMP: Okay. We'll call you later. Thank you. Diane Cannon, if you will, if you want to address us in the public comment period, you need to come forward to the microphone. Ms. Cannon?

(NO RESPONSE)

SECRETARY KEMP: Commissioner Stone. Welcome. I'll just remind you, Commissioner, if you don't mind, give us your name and address, for the record.

COMMISSIONER HELEN STONE: Thank you. Mr. Secretary of State and members of the Board, my name is Helen Lynah Stone. I'm a County Commissioner here in Chatham County. I am addressing the case that will be heard later today on a couple of other victims of fraud that occurred in this case.

This is the fourth time I've given testimony. So I'm going to be very brief, but something did occur to me in looking through all the pages involving these petitions. And that is, again, these are signed affidavits. These men and women said they knocked on doors, obtained signatures. Whether we can prove whether that person, it's their signature or not, certainly you would think there would be enough evidence, based on the fact that these people said it's not their signature.

But there is the addresses of the houses that they said they knocked on. And all of the folks that I talked to, in the two hours that I've verified forgeries, said no one knocked on their door. They got the addresses. They signed the back of these. They swore that these were true.

So I hope that you will take this case as seriously as Commissioner Gallently and I have, to represent the citizens of this community whose names were forged and their identity was taken during these forgeries. I thank you very much and I think you need to hear from the rest of the victims.

SECRETARY KEMP: Thank you, Commissioner Stone. I'm glad to have you back at our meeting.

COMMISSIONER HELEN STONE: Thank you.

SECRETARY KEMP: Commissioner David Gallently. Welcome back, Commissioner.

COMMISSIONER DAVID GALLANTLY: Thank you, Mr. Secretary. Again, my name is Dave Gallently. I'm the County Commissioner of the sixth district here in Chatham County. Prior to that, I was a police officer for 40 years, 20 years as chief of police for the City of Savannah.

This is the fourth time, the fourth time in almost three years, I have appeared before this committee. Different faces, but the fourth time. This will be the second or third time this case, if it does, goes to the Attorney General of the State of Georgia, covering both Democrats and Republicans.

And this will be -- if it's referred by the District Attorney again, this will be the second time it goes to his office, This has got to be one of the most serious -- the most serious voter fraud cases in the State of Georgia's history.

It's well-documented and, in my opinion, and I have stated this before, before the Board, that a one-year detective and a one-year prosecutor, this would be a slam-dunk case. There's just absolutely no reason that this case has not gone to justice.

And I really, really hope this time that we can have some action. And, Mr. Secretary, I do appreciate the fact that you ran on voter fraud and correcting that in the State of Georgia.

But thus far, this has not been corrected. I'm not happy and I guarantee you my constituents aren't happy. And I can guarantee you that Commissioner Stone's constituents aren't happy.

We've got a lot of talking, but we've had very little action. These people that had their identities stolen from them, with fraudulent affidavits and signature statements, each one of them represented a felony. Something absolutely has to be done about this. We need some justice.

And, like I said, this is one of the most serious cases, in my opinion, that we've ever had in the State of Georgia. I'm from the Chicago area, before I came here, and you know we have a lot of voter fraud there. The difference is, is this would have gone to trial and some of them would have paid the penalty by now. And it would not be just dragging on and on and on.

It also concerns me that Commissioner Stone and I were the ones that brought this to light. We did the preliminary investigations, talked to the people personally and yet, we're not allowed to be part of the hearing.

I really don't understand that. I feel like we're having the bums rush at the beginning of the program. It is not proper. I am not happy about it. Thank you and I hope you do take this case seriously.

SECRETARY KEMP: Thank you, Commissioner. Chairman Liakakis. It's good to have you with us this morning. Glad to be in your fine community. I know you wanted to address the Board, so welcome.

CHAIRMAN LIAKAKIS: Good morning. I'm glad to be here as Chairman of the Chatham County Commission. I'm familiar with this particular case because I talked to a few people that had their names -- that were forged on these particular documents.

One of them was Major Welcher of the Chatham County Sheriff's Department, and a couple of others. And on that list too, you can see there's one or two people who have passed away and their names were forged on these particular records too. Their families were upset because of that.

This has been going on for a period of time. And we appreciate that some action is taken, as was mentioned before. It's not fair to the voters of this area or the voters around the State of Georgia for a situation like this to occur. And for this long period of time no action was taken, because as I know, what your commission is doing and everybody at the state and all, I want to make sure that

we had -- you know, we have the proper and honest type of elections in our State of Georgia.

And this is a black mark in our area for our voters here and around the State of Georgia. And I think it's incumbent upon the -- whoever on the state government to see that something is processed over this and there is a trial held on this particular matter. Thank you very much.

SECRETARY KEMP: Thank you, Mr. Chairman. Major John Welcher.

MAJOR WELCHER: I'll reserve mine for the hearing, sir.

SECRETARY KEMP: Okay. Hold on a second. Thank you, sir. Jeff Rayno. Mr. Rayno, welcome back.

MR. RAYNO: Thank you. I'm here on behalf of Ricardo Davis of the Georgia State Constitution Party. I'm going to read, for the record, HB494, and our resolution of the endorsement that was passed on May 7th, 2011.

Whereas, Georgia has consistently been ranked as having the worst ballot access laws in the country;

Whereas, the petitioning requirements for certain Georgia races are 10 times more restrictive than the national average of all other states combined;

Whereas, the current ballot access laws were established in 1943 to keep certain groups of candidates off of the ballot;

Whereas, few, if any, local or district candidates have ever met the petitioning requirements to obtain ballot access in a partisan general election since said requirements became law in 1943;

Whereas, many citizens of Georgia have become reluctant to sign candidate petitions for fear of identity theft;

Whereas, at least one Georgia citizen has been arrested for collecting petitioning signatures;

Whereas, a Georgia citizen was referred for a felony petition forgery investigation by the State Election Board although the Inspector General for the Secretary of State was unable to produce any evidence of a forgery upon demand by the citizen at his particular hearing;

Whereas, the legislature of the state of Florida has successfully removed the petitioning requirements in their state during 1999;

Whereas, H.B. 494 has been introduced in the Georgia General Assembly to remove petitioning requirements for all candidates and now resides in the House Governmental Affairs Committee;

Be it resolved, that the membership of the Constitution Party of Georgia endorses H.B. 494 wholeheartedly in its entirety as it is currently written and without amendment;

Be it resolved, that the membership of the Constitution Party of Georgia calls on the Election Advisory Council to recommend to the Secretary of State the passage of H.B. 494;

Be it resolved, that the membership of the Constitution Party of Georgia calls on the Secretary of State to endorse H.B. 494 and do all within his power to facilitate the passage of H.B. 494 during the next session of the Georgia General Assembly;

Be it resolved, that the membership of the Constitution Party of Georgia calls upon the chairman -- can I just leave this with you as part of the record?

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

MR. WORLEY: Yeah, I move that we accept it.

MR. McIVER: Second.

SECRETARY KEMP: I have a motion to accept and a second. All in favor signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion carries and a copy is accepted in. Thank you for being here today.

MR. RAYNO: Thank you, sir.

SECRETARY KEMP: I'm sure you are aware of our Elections Advisory Council meeting tomorrow afternoon at 1:00.

MR. RAYNO: You can share that with them. I have to work.

SECRETARY KEMP: We'll be glad to do that.

MR. RAYNO: Thank you.

SECRETARY KEMP: Also, I would remind citizens about our Elections Advisory Council meeting tomorrow at one here. It's another public hearing as we go through and look at the Georgia State Election Code and the issues that are facing us.

And, on the Secretary of State's website, you can also submit documents there, if anybody would like to give us something that they deem to be appropriate. Thank you for those comments. I now call Charles Milmine (phonetic). I also have a statement by Mr. Milmine that he wanted to give to the Board. I need a motion to accept.

MR. McIVER: So moved.

SECRETARY KEMP: I have a motion to accept.

MR. WORLEY: Second.

SECRETARY KEMP: I have a motion to accept and a second. All in favor of accepting the document, please signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion carries. If you would, state your name and address, for the record.

CHARLES MILMINE: My name is Charles Milmine. I am a resident of the unincorporated Chatham County. Good morning and thank you for coming down here. It's a good way to encourage citizen participation. I have delivered you six copies, which are -- I would like to address what seems to be related to your item six on special hearing that you are doing this afternoon.

I am one of those who signature was forged. I petitioned to the Chatham County Board of Elections back in 2008. I recognize that forgery is a felony. I am interested in seeing those responsible brought to justice.

By the way, that is my signature at the bottom of the statement that you have. I deliver this statement now, because I cannot be here in the afternoon to give testimony this afternoon. I know that some are going to give testimony -- testimony at the special hearing, but I am hopeful that my statement might be included in deliberations and a record of the special hearing on this case. Thanks again for allowing me to address this matter.

SECRETARY KEMP: Thank you, sir. Thank you for taking the time to be here this morning. Do we have anyone else that is signed up for the public comment period?

MS. CONNER: I signed up.

SECRETARY KEMP: What was your name, ma'am?

MS. CONNER: Diane Conner.

SECRETARY KEMP: Yes, ma'am. I called you earlier and didn't see you, but, please come forward. We're glad to have you. Ms. Conner, if you would, just give us your name and address for the record.

MS. CONNER: I am Diane Conner. I am a resident of Chatham County. My name was one of the names that was forgetd on that ballot. That was not so bad, as it was that my husband's name was also on there and he has been deceased since 2007. So do you explain that? That's all I have to say.

SECRETARY KEMP: Thank you so much for taking the time to be here this morning. We appreciate your comments. Anyone else I have missed on the public comment period?

(NO RESPONSE)

SECRETARY KEMP: Okay. Hearing none, we will move on to the approval of the minutes. Let's see. We need approval of the minutes from several meetings. The first one was the January 5th, board meeting, 2011.

MR. WORLEY: I would make a motion to approve the minutes of that meeting.

SECRETARY KEMP: I have a motion by Mr. Worley. Do I have a second?

MR. McIVER: Second.

SECRETARY KEMP: A second by Mr. McIver. All in favor of approving the minutes of the recent January 5th, 2011, meeting, please signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries and the minutes are approved. Also we need to approve the minutes from the special called State Election Board teleconference meeting on Wednesday, February the 2nd, 2011.

MR. WORLEY: I make a motion to approve those minutes.

MR. McIVER: Second.

SECRETARY KEMP: I have a motion by Mr. Worley, a second by Mr. McIver. All in favor signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion carries. I also need a motion to approve the minutes from the State Election Board meeting on Thursday, February the 24th, 2011.

MR. McIVER: Move that we approve.

SECRETARY KEMP: I've got a motion. Do I have a second, Mr. Simpson?

MR. SIMPSON: Second.

SECRETARY KEMP: I have a motion and a second. All those in favor of approving the minutes from the February 24th meeting, please signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign?

MR. WORLEY: Mr. Secretary, I abstain since I wasn't at that meeting.

SECRETARY KEMP: Let the record show that the motion passed with a unanimous vote from the three of us. Mr. Worley abstained because he did not attend that meeting. The motion carries and the minutes are approved.

And the last one is the special called State Election Board tele-conference meeting on Tuesday, May the 10th. I need a motion to approve those minutes.

MR. WORLEY: I make a motion to approve.

MR. McIVER: Second.

SECRETARY KEMP: I have a motion to approve and we have a second. All in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion carries and the minutes are approved. All right. Mr. Harvey, let me just make sure of one clarification here. I just want to, again, thank everyone for being here today. I want to make sure that you understand that the next part of the meeting that we move to essentially 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 the Attorney General, to afford the parties an opportunity for a hearing on the matter.

The inspector general will have up to 15 minutes to present the case to the Board. The respondents will then have five minutes to present any 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 that you wish during the allotted time, this is not the time for respondent to argue their respective cases. Respondents will be provided ample opportunity to present their side of the story at the hearing.

Each respondent who wishes for one can file a referral of the case to the AG's office. In other words, we're going to hear from everyone today. If you would please try to adhere to your time limits and the Board will also have an opportunity to ask you questions as they see fit.

With that, Mr. Harvey, we'll get started. We do have one case on our consent calendar. It's SEB case number 2010 number 97, Tattall County.

What we do with our consent calendar, to try to move things along in the cases that we have non-controversial rulings on, they're very simple matters, we normally vote in a block on those cases and don't go through the explanation.

If there is a citizen or board member or anybody else at this meeting today that does have questions about this case, they can speak up and let us know. We will have presentation of the information that Mr. Harvey has. At the end of the case, we'll hear from everyone involved.

But if there is no one here that wants to do that and no Board member wants to do that, then we normally just vote this case, on the recommendation of Mr. Harvey and we'll move forward.

That being said, we only have one case. So if there is anyone who wishes to speak to case number 2010, number 97, Tattall County.

(NO RESPONSE)

SECRETARY KEMP: Hearing none, Mr. Harvey, anything you want to add?

MR. HARVEY: I just want to clarify, Mr. Secretary, this is a consent order involving Raymond

Bradley. He is the major with the Tattnall County Sheriff's Office. This case was presented at the last meeting. He signed -- he presented a signed consent agreement. He accepted a public reprimand, cease and desist order, and 45 hours service of community service in voter education.

He has supplied affidavits and corroboration that he has met his requirement and it is recommended that the Board accept his consent order and close this case.

SECRETARY KEMP: Any questions for Mr. Harvey?

(NO RESPONSE)

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

(NO RESPONSE)

SECRETARY KEMP: Hearing none, I'm ready for a motion.

MR. McIVER: I move we approve.

SECRETARY KEMP: I've got a motion to approve. Do we have a second?

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion and a second. Any other discussion by the Board.

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of the motion please signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries. Okay. Case number 66, Appling County.

MR. HARVEY: Members of the Board, this case involved the nomination petition in 2008. This case was originally presented to the State Election Board earlier. It was referred to our office by the District Attorney in Tattnall County, where they found irregularities with petitions, including forgeries. The District Attorney's Office conducted an investigation. They indicted one woman for forgery on the petitions. And, previously, this Board bound over a second person for improperly circulating a signed petition.

So that case was sent to the Attorney General's Office. In reviewing the file, Attorney General -- Assistant Attorney General Brumbaugh identified additional people that may have been committing election violations in terms of circulating petitions.

So we -- she returned the case to us to be reinvestigated. We found that, in fact, three additional people appear to have signed the circulating petitions that they did not actually circulate.

Those three people were Elton Flynn Carter, who was an independent candidate who was running for Sheriff; his sister and his brother. With sworn affidavits from people, we found out that Denise Lowery violated 21-2-170 (d)(2) by not witnessing the signatures that were provided of the petition, and then signing as circulating petitions that she did, in fact, not circulate.

Likewise Timothy Ryan Davis, who is the brother of Elton Carter, it was found that he did not witness the people signing his petition and he falsely swore that he was the circulator of the petition.

And lastly, Elton Flynn Carter, who is the candidate, on two petitions did not witness the signatures and signed as circulator. It is recommended that these three individuals be bound over to the Attorney General's Office for further action. In the cases -- in these cases, some of the people who were on the petition were interviewed and they said, for example, that they were presented a petition by somebody other than, for example, Mr. Carter.

They would say, I was presented the petition by -- by June Smith, not Elton Flynn Carter. And Mr. Carter signed as circulator, or Denise Lowery, same thing. She says, "I was presented this petition by somebody else," and Ms. Lowery's name is on it.

Ms. Lowery and Mr. Ryan -- I'm sorry, Mr. Timothy Ryan Davis, said that in the process of circulating these, sometimes they went out as a group and sometimes pass out petitions and they may have gotten confused when they came back, and there may have been some miscommunication along those lines.

But it's very clear that the people who gave sworn affidavits are saying, "I was given this petition and signed it under the guise of somebody else other than the person who signed it as circulator."

So it's recommended that these three individuals be bound over to the case that already exists with the Attorney General's Office.

SECRETARY KEMP: Thank you, Mr. Harvey. Any questions for Mr. Harvey from the board?

MR. McIVER: What is your recommendation with respect to the Lowery case. You've indicated there are violations.

MR. HARVEY: All three will be bound over to the Attorney General's Office. Carter, Davis, and Lowery.

MR. McIVER: There are two different -- okay.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Okay. Hearing none, is there anyone else who wishes to speak on this case? Any response from the complainants? Anyone else?

(NO RESPONSE)

SECRETARY KEMP: Okay. Hearing none, do we have a motion?

MR. McIVER: I move we bind it over to the AG.

MR. WORLEY: Second.

SECRETARY KEMP: I've got a motion and a second to bind the case over to the Attorney General's Office. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of the motion signify by saying aye.

BOARD MEMBERS: Aye

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion carries. All right. Case number 123.

MR. HARVEY: The Board might remember, this case was presented originally at the last State Election Board meetings. There were three individuals who voted in Georgia and Florida, in the 2008 election. One of these respondents, Mr. Ronald Alvarado, requested a continuance. So Mr. Alvarado is the only one being presented to the Board today.

The Board bound over Mr. Davis and Mr. Heyward. The situation is the same. As far as Mr. Alvarado goes, he was registered to vote in Georgia throughout the '80s and 90s. And then in May of 2008, he voted by -- I'm sorry, he registered in Florida, in May of 2008. He then voted, by absentee ballot, in Georgia, in August of 2008. And then, in October of 2008, he went to Florida and voted in Florida, in the general election.

At no point did he re-register in Georgia, after voting in Florida or vice versa. I spoke with Mr.

Alvarado attorney. I don't know if he's going to be present or not.

He indicated that in 2004, Mr. Alvarado, I believe, Dr. Alvarado suffered a stroke and has some cognitive issues. So he may wish to speak to that. But other than that, the evidence appears clear that he voted in Georgia, in early voting. He also voted in Florida, in early voting, in the same election.

It is recommended that this case be bound over to the AG's Office with the others who are respondents in this case.

SECRETARY KEMP: Thank you, Mr. Harvey. One thing I want to say. Let me just remind everybody, because I failed to mention this, when we call the case, if you're here and you would like to speak on the case, if you will just come on up to the front, we've got several seats right down here. You can just sit up here while Mr. Harvey gives his report.

Then after we finish questioning Mr. Harvey, we'll call on anyone else who wishes to speak. That will help us move the cases along. So any questions for Mr. Harvey from the Board?

(NO RESPONSE)

SECRETARY KEMP: Okay. Hearing none, thank you. Anyone else wishing to speak.

MR. WITHERS: Yes, sir.

SECRETARY KEMP: If you would, just give us your name and address for the record.

MR. WITHERS: I am Tom Withers, an attorney here in Savannah. My address is 8 East Liberty Street. I have been representing Dr. Alvarado in this matter since Mr. Harvey first contacted Dr. Alvarado. It is my pleasure to be here today with one of Dr. Alvarado's sons, Paul, who is an attorney from Valdosta.

As Mr. Harvey indicated Dr. Alvarado is 73 years old. He retired from the practice of pediatrics about 2003, after a stroke. That stroke left Dr. Alvarado, after 25 years of pediatric practice, with paralysis in his left leg, paralysis in part of his face, and a declined mental status.

The result is that Dr. Alvarado had to get out of practice. He has three kids, two physicians and an attorney. Dr. Alvarado was educated in Michigan, did his internship and residency at the University of Michigan, and moved to Valdosta in 2000 -- excuse me, 1978.

He practiced there in the specialty of pediatrics from '78 to 2003. He, literally, as a pediatric specialist, assisted in bringing thousands of babies into the world and caring for thousands of children in the community as well.

After Dr. Alvarado resigned from the practice -- his son went into practice with him in 1995.

After he resigned from the practice in 2003, he started spending time between North Florida and Valdosta, ultimately moving permanently, in 2008, down to Florida.

I have supplied, by the way, a letter from Dr. Alvarado's medical provider, Dr. Stubbs, in Valdosta, that documents the stroke, the declining mental status, and then the paralysis. I would appreciate it that was handled in the appropriate discretionary manner with respect to the issues that are brought up.

But Dr. Alvarado had -- when he began moving down to Florida to permanently established his resident in Florida, in 2008, he ultimately ended up voting, by mistake, by absentee ballot in Georgia in the fall of 2008.

This is a case completely absent of intent. Dr. Alvarado, really in the twilight of his years, after having a distinguished career and having voted continuously in the State of Georgia from 1978 to 2008, just made a mistake when he transferred his residence.

He has voted in Florida since 2008 and will continue to do so. He would certainly agree that he would never vote in Georgia again. And we would ask that you consider those facts and the unusual circumstances of Dr. Alvarado's medical history and declining to move this matter forward. Thank you very much. I appreciate you listening.

SECRETARY KEMP: Thank you, Mr. Withers. Did you mention a document?

MR. WITHERS: Yes. I had provided to Mr. Harvey the letter from Dr. Stubbs, of Valdosta, who is the treating physician.

SECRETARY KEMP: Do we have that in our possession?

MR. HARVEY: I think I have it in the file. I can look.

MR. WITHERS: I've got a copy if you would like to see a copy.

SECRETARY KEMP: Have you got an extra copy?

MR. WITHERS: I can give you mind.

SECRETARY KEMP: We can get you a copy. Do we have a motion to accept the document?

MR. McIVER: So moved.

MR. WORLEY: Second.

SECRETARY KEMP: I've got a motion and a second. All in favor of accepting the document, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carriers. Mr. Simpson?

MR. SIMPSON: How did the doctor get the absentee ballot?

MR. WITHERS: I think he --

MR. SIMPSON: I mean, you would have to request it.

MR. WITHERS: I think he actually went to the office and requested it, to the -- whatever office, voter board there in Lowndes County, Valdosta.

MR. SIMPSON: You said he voted accidentally. He went up there and got the ballot?

MR. WITHERS: Pardon me?

MR. SIMPSON: He went and got the ballot, picked up the ballot, but you said he voted accidentally. Can you explain that?

MR. WITHERS: It's just a matter of, you know, he was a fellow who voted in Georgia his entire life. He was moving from Georgia to Florida. When he returned back -- he maintained his residence in Valdosta, because he has five grandchildren and three kids here, as well. It was just a mistake. It was a mistake, I think, that is attributable to the confusion of the move. His residence -- he is now permanently domiciled in North Florida. That would be his residence, but he keeps a home in Valdosta.

MR. SIMPSON: Six days later, he voted in Florida, in person.

MR. WITHERS: No, I think there's a matter of weeks in between.

MR. SIMPSON: The dates we have, he got the absentee -- voted the absentee ballot on October 17th, and he voted in person on October 23rd, in Florida.

(PAUSE)

MR. HARVEY: August 29th, 2008 is when he voted in Lowndes County. And then, October 20th, is what he voted in Florida.

MR. SIMPSON: Thank you.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

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

(NO RESPONSE)

SECRETARY KEMP: I would just remind everyone -- I'm getting information that they're having trouble hearing us in the back a little bit. So if the Board members would just speak a little closer to the microphone. And if you're addressing us at the podium, if you will do the same, we would appreciate it. Anyone else wishing to speak on this matter?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, I will accept a motion.

MR. McIVER: I move to bind it over with guidance to the legal department that perhaps this would be an excellent case for a consent order.

SECRETARY KEMP: We've got a motion to refer to the Attorney General's Office and let Ms. Brumbaugh work it out. Do we have a second?

MR. SIMPSON: Second.

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

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of referring signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motions carries. Thank you. Can we get a copy of this and give this back to Mr. Withers? Mr. Harvey, case number 2009 number 32, City of Cuthbert.

MR. HARVEY: Yes, sir. The allegation in this case was that while individuals were conducting a petition drive, a police officer from the City of Cuthbert, James Mock, who was on the Board of Education, was intimidating people signing the petition -- circulating the petitions. The

investigation revealed that on the dates that the circulation of the petitions happened, Officer Mock, who was a City of Cuthbert police officer, was performing his normal duties patrolling the city, which is not a large city. He did cross paths with the circulators on some occasions. He never made any direct contact with them. He never spoke with them. He never made any gestures towards them. He saw them. He was performing his normal duties. It does not appear, in any evidence, that Officer Mock took any action to intimidate people, other than the mere presence of patrolling the City of Cuthbert, as was his duty. It is recommended that this case be closed and there does not appear to be any violation or any attempt at intimidation by Officer Mock.

SECRETARY KEMP: Thank you, Mr. Harvey. Any questions for Mr. Harvey?

(NO RESPONSE)

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

MR. COLEMAN: Mr. Secretary and distinguished members of the Board, my name is Tommy Coleman. I represent Mr. Mock, the Chairman of the Board of Education. I also, as fate would have it, represent the City of Cuthbert where Mr. Mock is employed as a police officer. As you probably can tell from past presentation before this board, the politics in Randolph County is chaotic, at best.

SECRETARY KEMP: Mr. Coleman, let me stop you right there. It's not about politics in Randolph County. If you could just raise the microphone a little bit.

MR. COLEMAN: Sure.

SECRETARY KEMP: You don't have to raise it. You can just tilt it up. Speak into it and just give us your address, for the record.

MR. COLEMAN: Sure. It's 212 Northwest Stone Boulevard. We concur completely with the presentation of Mr. Harvey. Mr. Mock is a patrolman in a community of 3700 people. I suspect he passes almost everybody in town, at some point during the day. It just so happens that in this particular area of the city, there are the only two bars in town and the only pool hall. I suspect that those of you who know anything about local government know that there are a lot of troubles around the pool hall and the bars in a small town.

Mr. Mock, as the evidence shows, had no contact, at all, with any of the complainants. Mr. Mock was interviewed, in my presence, by the investigators. Mr. Mock signed the affidavit and was sworn. We would respectfully ask that this matter be brought to a close.

SECRETARY KEMP: Thank you. Are there any questions for Mr. Coleman.

MR. McIVER: Yes. I do.

SECRETARY KEMP: Mr. McIver.

MR. McIVER: Thank you for coming back.

MR. COLEMAN: In the famous words of Arnold Schwarzenegger, I shall return. I'll be back. That was MacArthur, wasn't it.

(LAUGHTER)

MR. McIVER: Did you encounter any type of conflict between the city and Mr. Mock's interests, since you were required to represent both people.

MR. COLEMAN: Well, sir, I did, in fact, check with both parties. I sent a request to the parties. It was clear that he was working in his capacity as a police officer, yet he would not have had -- he would not have been here, I'm sure, had he not been also Chairman of the Board of Education. And I can see how one would question how those interests might converge. However, it's clear that the facts of the matter after looking at it, didn't occur in the way that the complainants said. I didn't feel like it was a conflict at all.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Thank you for being here, Mr. Coleman. Does anyone have any questions or anyone else wishing to speak on this case? Anyone else?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, I will take a motion.

MR. McIVER: I move to close.

MR. WORLEY: Second.

SECRETARY KEMP: I've got a motion to close and a second. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The case is closed. Next we've got 2009, number 47, the City of Montezuma. Mr. Harvey?

MR. HARVEY: Mr. Chairman, members of the Board, this allegation, this complaint has essentially seven different allegations. We investigated each specific allegation. I'll go through them very briefly and give you the results.

The first allegation was that the mayor was threatening business owners because they were supporting candidates for city council other than the mayors was supporting. We interviewed the business owners that were identified as being intimidated. They denied any type of intimidation. They said they did have political discussions with the mayor, but there was no intimidation. There didn't appear to be any violation there.

The second was that the electors were turned away from the polls due to a power outage and that people were not able to vote provisional ballot. We investigated that and found out that there was a brief power outage in one of the precincts. However, the batteries on the EOAs remained on and there were no people that were present during the power outage. So that appears to be unsubstantiated, as well, from our investigation.

The third allegation was that a local radio station had reported one candidate was the winner the night of the election and when all the absentee ballots had been counted, the following morning it was determined that that person was, in fact, not the winner. They had lost by six votes. There was no there's no allegation -- there is no violation of the election code in terms of the radio station announcing the incorrect winner.

The fourth allegation was that the mayor was disseminating sample ballots to people that were pre-marked. We were -- again, we want to emphasize those were sample ballots. The investigation wasn't able to determine and identify people who had these, however, had he been disseminating campaign literature that indicated who he wanted people to vote for outside of the polling place, it wouldn't appear to be a violation of Title 21, in doing that as the campaign.

SECRETARY KEMP: Mr. Harvey, let me just stop you right there. That's a good point I think you should make, again, just for education purposes for the Board and the audience.

MR. HARVEY: Again, whenever we talk about ballots being distributed by people, the first thing -- one of the first things that comes to people's minds is absentee ballots. There was no allegation that the absentee ballots were being distributed. These were, in fact, alleged campaign items where he would pass them out and say, you know, "These -- in my opinion these would make the best candidates for city council."

As long as he stays outside of 150 feet of the polling place or doesn't violate other laws, there

doesn't appear to be anything wrong with that, if that, in fact, happened. At the same time, we couldn't identify anybody that had received a sample ballot. There may have been some distributed. But, again, if he had distributed it, it does not appear that that would be a violation of the election code.

The fifth allegation, the election superintendent, Ms. Hammond, had accused a candidate, Mr. Lewis, of wrongdoing. There were some e-mails back and forth. There was some argument back and forth. Again, there was nothing that rose to the level of election violation. There were allegations of non-compliance with Open Records request, Open Meeting Act, things like that, but nothing that this Board would have jurisdiction over.

The sixth allegation is that an individual, Mr. Riley, was refused a provisional ballot at the polls because he produced a Georgia driver's license that had been broken in half. It was in two pieces. We interviewed all the poll workers, including a poll watcher for the candidate that Mr. Riley was -- Mr. Riley was married to a candidate. She had a poll watcher at the precinct. The poll worker didn't witness anything about him being denied a provisional ballot. He, in fact, appeared at the precinct, summarily left, got a new driver's license, returned to the precinct, and was able to vote that same day. So he was not turned away. He was able to vote and his vote counted. So, again, all the poll workers said there is not evidence and there is no testimony that he showed up with a broken ID and was turned away.

The last allegation was that there was manipulation of absentee ballots, specifically that a candidate was illegally assisting and collecting absentee ballots. We interviewed all the people and examined the absentee ballots for the people involved. The candidate, Charles Glover, assisted with the distribution of absentee ballot applications. And that's a key distinction. The applications versus the ballots. He did distribute absentee ballot applications. He did not handle any absentee ballots. He did not assist people with absentee ballots. So that appears to be unsubstantiated.

In doing the investigation and looking at some of those absentee ballots, we did find a case where a woman, Ms. Jacqueline Frederick, assisted her aunt and her mother with their absentee ballot. She signed as assisting. She failed to mark the reason for the assistance. In both cases, the women were elderly and had some disability issues. So as a very technical issue, she did not complete the total form, the assistance. However, I believe it would be appropriate to recommend a letter of instruction to Ms. Frederick reminding her to complete the entirety of the absentee ballot when she assists an eligible voter. But other than that, the allegations were extensive. They were investigated very thoroughly. Everybody was spoken to. And there was simply very little foundation.

In the meantime, I've spoken with some of the complainants in the case and they have raised issues of what they believe are improprieties in the budgets and spending and the management of the city, which I've explained to them is not necessarily the purview of this Board, how officials behave once they get elected.

So it's recommended ultimately that Ms. Jacqueline Frederick receive a letter of instruction reminding her how to completely sign as assisting on absentee ballot and that the rest of the matter be closed.

SECRETARY KEMP: Very good. Any questions for Mr. Harvey?

UNIDENTIFIED SPEAKER: I have one.

SECRETARY KEMP: Sir, sir, sir. This is any questions from the Board. We will call on you in just a minute. Okay. Any other questions for Mr. Harvey, from the board?

(NO RESPONSE)

SECRETARY KEMP: Okay. Hearing none, anyone else wishing to speak on this matter? If you would, just give us your name and address for the record, please. If you don't mind, just pull that mike towards you. Thank you.

MS. RILEY: Tarsha Phillip Riley, Montezuma, Georgia. I was a candidate in the 2009 election. I would like to address the Board today. You do not have to live in Montezuma, Georgia, to believe the allegations against Mayor Willie James Larry. It's the most persistent issue and concern of the citizens and the public -- that the public trust and the code of ethics were violated.

He has adamantly denied all accusations that he has made any racial comments, slurs or had any involvement with any wrongdoing in the city council election of 2009. It doesn't take a crime to come to believe he is now ineffective and not respected after the 2009 election.

The fact remains that Larry disputes, with strong conviction, that he did not have any special interest in the 2009 election, contrary to the belief and findings, the fact was, he was witnessed, on several occasions, in the downtown Montezuma business district, trying to prepare all citizens of Montezuma not to vote for the two whites and me, the Uncle Tom.

The mayor trolled the streets, making his way to local business, shouting racial slurs against Councilman Lewis and all of those who supported our efforts in the 2009 election. He was there to have been seen on the morning after the election congratulating and thanking the citizens for keeping me, the weakest link, out of City Hall.

The mayor has a cloud over his head and is burdened with distractions that is affecting the current administration and that could possibly affect the upcoming election of 2011. There's plenty in American politics today to make citizens jaded about current conditions. But when a 60-plus year old mayor sets his political sights on the poor citizens, the Puerto Rican kids, and elderly senior citizens, that pushes cynicism and the code of conduct for elected officials to the lowest level.

The action, reckless conduct and behavior Mayor Willie James Larry put the City of Montezuma in a compromised position. Yet despite his recklessness, the omissions of office, and the abuse of

power, some city, county, and state officials have shown little to no interest into actions that this mayor caused in 2009.

Today he is not the mayor we elected years ago. He has referred to many and will say to all, he can't use you if you're not on his team. I have received an outpouring of support from the constituents of Montezuma who are waiting to see what happens on today to Mayor Larry and all involved in this case.

The mayor, the one who shot the dreams of many people that held him in high regards. The mayor has put his personal agenda ahead of the voices of the citizens who finally had the opportunity to go to the polls and vote for a much-needed change that was long overdue in the City of Montezuma.

Many involved in this case has caused the dream to be taken away in the twinkling of an eye. I dare not stand here today and tell you how the 2009 election only affected my life. It affected the lives of many that for once finally found someone who could recognize a change was needed in that city.

I am the someone who was willing to go against all odds to be a glimmer of hope to so many that had given up on our city. I would like to give the constituents of Montezuma hope that we can rise above this painful chapter in the history of Montezuma and finally turn the page and leave behind a lesson that the right to vote should not be taken away, but rather given regardless of race, color, creed, age, or disability.

I am asking the Board today to recognize the boundaries that this mayor has crossed. He was elected to lead. Due to his actions and poor leadership to safeguard the city's best interest, I'm asking that you impose the highest allowable punishment by the State Board of Elections. Thank you.

SECRETARY KEMP: Thank you very much, Ms. Riley, for that comment. Does anyone have any comments for Ms. Riley?

(NO RESPONSE)

SECRETARY KEMP: Ms. Riley, I have one question for you, if you don't mind. You know, this Board, as much as it pains us sometimes, we don't deal with politics. We have to deal with the law. And Mr. Harvey is telling us that his investigation did not find any violations of the law. Do you have any testimony or witnesses that would rebuke that?

MS. RILEY: Mr. Kemp, I don't know if you've ever been to Montezuma, Georgia. I don't even know if you know where Montezuma, Georgia is.

SECRETARY KEMP: I believe I have been there.

MS. RILEY: Well, you might have passed through Montezuma. But when you live in a small town and you have the State Election Board superintendent is the wife of the chief of police. You've got the Sheriff there that's the brother. You've got the mayor, who has everybody in his back pocket, what do you do? What do you do?

I know the history of Montezuma back in 2009. I am the youngest, only African-American to ever -- to beat any of my opponents on the voter total, on the machine. But, for some strange reason, the night of the election, they went and found the votes from somewhere. So my thing is, you can't -- if you're asking me can I prove it? No, I cannot. But one thing I can say with certainty, I have searched my heart and I am asking the Board to search your heart as well. Something has to be done in Montezuma.

We have an election coming up in 2000 -- in this year, in November. History is going to repeat itself. It repeats itself every year. When somebody comes forward and wants to make a change, they are called Uncle Tom. I have been humiliated. I have been degraded. My family, everybody has suffered because of Mayor Willie James Larry and his people. And we, the citizens and constituents of Montezuma, we are tired. Something has to be done. Something has to be done. So to answer your question, no, sir.

SECRETARY KEMP: Thank you. Thank you for your passion and let me just remind everyone in the audience, when we have situations in areas around the state like this, unfortunately sometimes we may not have the authority to act, as a Board, but we do have Investigator Harvey and his staff that monitors elections. And we will take note of that in the coming election and make sure that we are monitoring things.

And if others of you, other election officials around the state or other citizens, if you have similar concerns, I would remind you again of our Stop Voter Fraud website, our 1-800 number where you can report voter fraud or you can simply call our office and let us know. And we will make note of that. Thank you, again, Ms. Riley for being here. Anyone else wishing to address the Board? Yes, sir? Name and address of record, please.

MR. LEWIS: Yes, sir. My name is Bobby Lewis. I am a city councilman in Montezuma. 426 Bell Flurry Street. I just want to follow up, for clarification purposes, I think the allegations were threats against the business owner's business, not the business owners, as in intimidation or physical harm.

As a former law enforcement officer, I was elected with Mr. Priester in 2009, and I'm not -- I understand where you must have a probable cause and evidence to move forward. But I also understand that you have to look at collusion and you have to dig and you have to scratch to find something in a county that is operated the way ours is.

You are correct. We have our Sheriff, whose son works for the mayor. You have the Sheriff's brother, who was the police chief. And you have his wife, who was over the election boards. And, sir, in all respect I do believe your investigator that night that was covering the polls, is a

former deputy of the Sheriff and family friend. Okay. So I will offer that.

I also offer that the store owners did not indicate threats against themselves. It was threats against their businesses and against their sales and against their livelihoods. I'm not going to go into all the collusion that runs from the courthouse to the Sheriff's Department to the county commissioners to City Hall, because that has been well documented and testified to your office.

It's been 17 months since I took office and I pray -- I prayed, excuse me, that the investigators that you had working this case would've had come up with more than indecision, uncertainty or continuation. The evidence and witnesses' signed affidavits present a picture of how elected officials should not behave or conduct themselves and the shame and humiliation is brought on the entire State of Georgia.

Prior to the election, in an underhanded attempt, as a state employee, they attempted, officials there, to have me fired from my job. I had to hire a law firm to defend myself against false tax claims, racism, criminal offenses, carrying concealed weapons. All to the fact to where e-mails were sent to bogus e-mail addresses. There was no witnesses, no incident reports.

During the campaign of 2009 against Willie James Larry, who was not even a candidate, he did speak in local churches calling me a white supremacist and went into local businesses, threatening the businesses if they supported myself or the other two candidates. He continued his racial overtones as he distributed sample ballots with choices circled on the ballot.

This is just a small sample of what you've got going on. And I am disappointed that your investigators didn't dig deeper into a community where control -- everyone knows, in a small county and town, you can control the people and the information through fear and intimidation. The fear and intimidation you missed during your investigation, was the fear and intimidation that was coming from the elected officials of the city.

Today I present to you the actual numbers on the November 3rd, 2009, election, when the polls had closed. And you tell me, in good conscience, you can't recognize these irregularities. Myself, Mr. Priester, and Ms. Riley clearly won on the polls that day, the machines by 195 votes, 146 votes, and 70 votes respectively, as the polls had already closed. However, when the absentee voting was counted the three incumbents whipped us soundly in absentee ballots. It was almost, in some cases, a three to one vote to remove them from office the day of election.

To add further insult, about an hour to an hour and a half after the polls closed and the results were posted on the windows, the votes changed. The votes changed. They had been on the radio. They were posted on the window at the polls. The votes, the ballots were taken back to the courthouse and an hour and a half later, we had a mistake. When I speak to someone on the election board down at the county, they said this is the first time I can ever recall anything like this happening. If I recall correctly, we forewarned and asked for assistance in this upcoming investigation, because we were asked to run and try to clean up the corruption in our county.

Your decision today can bring justice and fairness to our county or your decision can encourage the continuance of nepotism, unethical and immoral behavior that continues to place all of our citizens under a cloud of oppression and hopelessness. I hope that you will give us some justice and truth. Thank you.

SECRETARY KEMP: Thank you Councilman Lewis. Thank you for being here today. Any questions?

(NO RESPONSE)

SECRETARY KEMP: I have a couple of questions for you, if you don't mind. Again, we've got to deal with violation of the law with this Board. Have you -- do you have witnesses or testimony of violations that we have not looked at or that you're saying that we did not find.

MR. LEWIS: I feel like we gave you enough information and leads. And I explained to Agent Chuck Miller, when I met with him, you've got to follow the path and follow the bouncing balls to connect the dots.

SECRETARY KEMP: Okay.

MR. LEWIS: Sir, since I have been in office, I was removed from the committee for finding falsified time logs. And I was stripped from the committee. And that's what I emphasized to Agent Miller. I have also contacted the GBI. They told me to fly a kite have a nice day. And even though -- and here's the point. We can get on video of a crime in progress, in which a citizen that we know, on their own, took a hidden camera into a business who's one of the incumbents who was beat, and videoed a crime in progress.

SECRETARY KEMP: What crime was that?

MR. LEWIS: Paying out cash on illegal gaming machines. You want two go further than that, you can buy food stamps 50 cent on the dollar.

SECRETARY KEMP: Let me keep you focused on the election law, because that's what we are here for. I'm serious about this. Can I just remind everyone, we're dealing with election law here, but this testimony is part of the public record. I'm sure there's a lot of ears in this room and we've heard other allegations in this room. A lot of these allegations that we are going to have pursue other legal remedies other than the State Elections Board, as bad as you might not want to hear that. I believe in telling people the truth. Hold on just a second. Is there anything else you needed to follow up on?

MR. LEWIS: No.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: You indicated there might have been some irregularities with the absentee ballots. Did you make any complaints to the investigator about that or any specific allegations about what the irregularities were or what -- who was involved with those?

MR. LEWIS: I signed an affidavit with Agent Miller when I met with him for approximately an hour to go over some of my concerns. The night of the election, I received a call from the head of the election board who says, "What is your problem? You won. Why do you keep pushing this?" or something similar to that. The day before the election, I received a call, on my cell phone, from the head of the election board who says, "We've got your IP address and we went in and found out." You got my IP address and went in looking at my records? I explained this to Agent Miller. "We've got your IP address and we've seen an email you sent to someone." And then, sir, other than that, which I mean, what type of person who is over the election board is going to call and tell me, "We have the capability, at the courthouse, to get your IP address and look at your emails," when there's no probable cause for a crime or any wrongdoing on my part. So my privacy can be violated and they can run after that.

As far as how the absentee ballots and votes were done, I don't know, sir. But I know that my father, my uncle, several friends, were at the polls that night. The numbers were posted on the windows, announced on the radio, and several hours later, in the presence of no one in the public, the numbers changed. I don't know what happened. I really don't, sir. But I know that that, to me, is strikingly odd. And if you are over the elections and you're such a professional, shouldn't you have made sure you had everything correct before you posted it? And why, in an election when we've had concerns prior to the election, is this the only time this has ever happened in our county?

And I'm not throwing light on it, but if I'm not mistaken, your investigator there now is a former employee of the Sheriff's Department, who lives in that county. He was overseeing that election, if I'm not mistaken.

SECRETARY KEMP: We'll look into that. Anything else, Mr. Simpson?

MR. SIMPSON: Thank you. That's all.

SECRETARY KEMP: Mr. McIver?

MR. McIVER: Councilman Lewis, as the chairman has stated, this is the law that we're meeting about here.

MR. LEWIS: Yes, sir.

MR. McIVER: That's the Georgia Election Code. You have described a number of violations, in my view and perhaps Judge Simpson would agree, that are violations of Georgia law, but not the Election Code.

MR. LEWIS: Yes, sir.

MR. McIVER: I can assure you this isn't some effort by us to pass the buck. It's just we are limited, by law, just to enforce this law and that's all we can do. And sometimes that's particularly frustrating to us. We would like to ring somebody's neck. When they come back meeting after meeting after meeting with the same violations and it's a little bit surprising sometimes. It just means your county needs a new election process.

What you have described here is something very different. Now, unfortunately, what we have found is a substantial percentage of voter fraud is in the absentee ballot arena. It's how they are handled and how they are counted and so on. But I assure you, in this law, there are adequate protections against that. And perhaps, in the next election, particularly the one you mentioned that is coming up, you all need to make sure that you have representatives and witnesses available when the counts are occurring and things like that. There are provisions and protections. We have been working on this a long time. The absentee ballots have been under attack by us for a long time, because of their abuse. For us it's a journey and not a destination.

MR. LEWIS: Yes, sir.

MR. McIVER: But that is something we are working on. You folks need to do more and we have provided you more in this law, through the legislature, to ensure that those safeties are there. So you've got more work to do.

MR. LEWIS: Yes, sir. And my concern on that, sir, and this is the last thing I will say, I don't know how commonplace it is. This is the first election I've ever run in. But when you have a candidate who is at the bottom of the poll, I'm talking hundreds and hundreds of votes behind, and they are the leading absentee ballot vote getter, that -- to me that's a little bit suspicious. It's odd that all the absentee voters would've voted for him if they had went in that day, but no one that walked in that day voted for him. That's my concern. I thank you all.

SECRETARY KEMP: Thank you, Councilman Lewis. I can tell you from past experiences, while that is not a good scenario on your political part, we have seen many times where there have been candidates that have lost the election from absentee ballots, because there were certain people or certain groups that went out there and were working the absentee ballot very hard and by the law.

Now, there have been cases where they have not done it by law. We have one right now that's a criminal investigation. But that does happen and as long as people are dealing with the absentee ballots and the handling of them properly, under the guise of the law, you know, that is a way that people can win elections or lose them in our process. We thank you for being here today.

MR. HARVEY: Mr. Chairman, if I could just -- I know there's another speaker. Just to clarify one point that was made, the investigator that investigated this was not a former deputy. On election night, the monitor had formerly worked, at some previous point in his career, for the

sheriff. There was no allegation of conflict. It was brought to our attention that they thought there could be some issue. But the investigator who handled this was not a former employee.

SECRETARY KEMP: The monitor was not part of the allegation?

MR. HARVEY: There was no allegation. And, again, as you're aware, just to educate -- I believe most of the election officials are aware -- when we do monitoring of elections, we try to cover as many precincts and as many places as we can. We obviously can't be everywhere and keep watch over the process. We try to go places that are -- that have been troubled. We also welcome requests for monitoring, if the election officials make it and they need to take advantage of that. Again, we can't be in the City of Montezuma from 7:00 in the morning until 10:00 at night, because we just don't have the people. But we can always respond at some level to those things.

As far as the absentee ballots, as you pointed out, as candidates get more and more sophisticated and organized with absentee ballots -- the swing in absentee ballots, as you're aware, is not an automatic sign of fraud. And, in this case, we investigated specific allegations of absentee ballot fraud from the candidates, and didn't find any irregularities.

SECRETARY KEMP: Thank you. Mr. Priester, if you would just give us your name and address for the record.

MR. PRIESTER: I'm Paul Priester. My address is 322 Marshall Avenue, Montezuma. I'm a city council member. And what I say does not pertain to you four people at all. But this has gotten swept under the rug from the beginning. And I'm not going to talk about all the stuff they talked about. I called and talked to Mr. Harvey about it. Mr. Harvey was there and it's happened since the last race. It looked to me like everything that was being done was being swept under the rug. And as far as the investigator, he must have got lost on the way to Montezuma.

SECRETARY KEMP: If you would, sir, just speak into the microphone so everyone can hear you.

MR. PRIESTER: He must have gotten lost on the way because the one that came down there -- I was the one that got this started. He came to my house fairly often and he told about all these things he had found. And he told me that when he introduced himself to the mayor, the mayor said, "I'm Willie James Larry, Mayor of Montezuma." He said, "I didn't get nowhere with him."

And then, he told me, he said that he had found people everywhere, everywhere that he has caused not to be able to vote. The person who had the driver's license, that was my cousin. She is in her 70s. She can't see partly and she had the last driver's license she had. I have never seen a bigger wash. I have been told by some fellows that Georgia was going to do nothing.

And I'm a Georgian, born and raised. I graduated from Montezuma High School. I played All State in basketball, as a freshman. I went on and played college ball, where I played All State. I graduated from Georgia Southwestern and Georgia Southern, Valdosta State. I became the head

football coach in Jackson, Georgia in two years. I was named the athletic director and head football coach with authority to hire and fire coaches. I came home to Montezuma where I was made principal after just a few years and where I stayed for 21 years.

Willie James Larry, I ran against him in '96 and whipped him for city council member. He's black. I'm white. In a town that's 70 percent black, he could not understand that. He kept saying Priester is cheating. I didn't know what he was talking about. Well, we've got four years and while he was out there, he came up with a system, where he had people going to houses with a copy of this right here. It's a list of who was on the ballot. And he would tell them, "This is the way you are to vote. I'm not asking you to vote this way. I'm telling you to vote this way." I'm a Christian. I'm a deacon in the church. I have preached some in my life and I will not stand here and lie to you. Wherever this investigator is, I would like to see him. I would like to knock him.

SECRETARY KEMP: We're not going to get out of line in this meeting. Let me just stop you right here. One thing about these meetings, we are going to be fair to everyone that's before us, and we're going to be courteous and respectful of everyone. We would appreciate it, if you would, do that as well. Thank you so much. Please continue.

MR. PRIESTER: I apologize. That what he said. I mean he came to my house.

SECRETARY KEMP: Let me just remind you that your time is running. If you want to talk about the specifics of this case, we're going to cut you off when that beeper goes.

MR. PRIESTER: He came to my house and swore that the stuff that I have mentioned is true. I mean there's something bad wrong somewhere. And you all, we're not going to stop here. I mean, we're going to -- we're going to -- we're not going to let this happen and people get away with it. It's going to be headed to the State of Georgia, not Montezuma, Georgia, but the State of Georgia refusing to do justice and the small town of Montezuma, in Georgia.

And we are going aim high. It's going to be all over the United States. You will see it. We will not give up. You know, some people just fold. We're not that kind. We're not going to do it. We're going to get things done. I tell you, we have these pacts that we're going to do it. And nobody didn't believe or didn't care. I'm right. But he sure can prove his point, because the people of Montezuma were shown. Thank you.

SECRETARY KEMP: Thank you, Mr. Priester. I have a question for you. These people that were intimidated, are they here? Will they testify before this Board as to the nature of the intimidation? Because we can't deal on hearsay.

MR. PRIESTER: Yes, sir. I know that. Of course, you've got to realize, these people are poor people. They are 200 miles from here. They can't get here. Some of them -- the people that was most hurt.

SECRETARY KEMP: Have you got names of those people?

MR. PRIESTER: Yes, sir. We do have.

SECRETARY KEMP: Have we interviewed those people?

MR. PRIESTER: The investigator, like I said --

SECRETARY KEMP: No, I'm asking, do you know if we have interviewed those people?

MR. PRIESTER: I don't know.

SECRETARY KEMP: Thank you. Do any other members of the Board have any questions?

MR. McIVER: Mr. Chairman, I would like to point out the investigative report shows 16 witnesses. That investigator talked to somebody.

MR. PRIESTER: No, sir.

MR. McIVER: There are names and addresses.

MR. PRIESTER: He's lied about everything. He's got some business going on down there.

SECRETARY KEMP: We're not going to come up here -- I don't want to tell you what to do, but I would just remind you again to please be respectful of all the parties involved.

MR. PRIESTER: Yes, sir.

SECRETARY KEMP: Including our employees.

MR. PRIESTER: You know, we deserve the rights. You all are fine. But to the state, we pay our taxes just like everyone else. We deserve to be treated like everybody else. I know we're going to have to vote --

SECRETARY KEMP: I can assure you that you're being treated like everyone else. Thank you for being here. Anyone else? Yes, sir?

MR. RILEY: Good morning. I'm Christopher Riley and my address is 7 Seven Seas Court, Montezuma, Georgia. This is my wife, Ms. Tarsha Riley. I really didn't want to say anything, but on behalf of the investigation, I called Chuck Miller -- I called Mr. Miller numerous times. I was never interviewed about my license. My license were broken. I was actually driving people back and forth to the polls. I was going to make sure I voted.

I stopped that, drove to Americus DDS, which you can check. I got my license done in the same day, you know. I know my license was broke. The easy way to prove that was to call DDS and

see if they got any licenses renewed that day.

And, for the record, Mr. Kemp, I know everybody that works at that poll. I've voted there all my life. If he would have come and got me and he said couldn't nobody give no recollection of it. I would have went there and pointed these people out and say, "You don't know me? I've been coming here all my life." I would have went all the way down the row and say, "Did you all not turn me around when I came in here with a broken license? You did not offer me an absentee ballot." And that is just bias. That's just saying that the investigate was biased.

SECRETARY KEMP: Any questions for Mr. Riley?

MR. WORLEY: Mr. Riley?

MR. RILEY: Yes, sir.

MR. WORLEY: According to the investigative report, you were able to vote?

MR. RILEY: Yes, sir. I was -- I'm not saying I wasn't able to vote. I went to Americus and got my license that was not broken. But my broken license wasn't expired either, you know. So I was like, what was the problem? Why did I have to go and burn gas and 30 minutes to an hour running down there to try to get back, just to cast my one vote. And I felt like later I could have just signed the provisional ballot and been through with it. That would mean I would have had ample time to bring more people to the polls and whatever. I know I dropped a lot of people -- a lot of people are poor and didn't have no transportation, so I was helping them out that day.

SECRETARY KEMP: Any other questions?

MR. RILEY: I've never seen an investigator.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Thank you, Mr. Riley. Anyone else.

MR. PRIESTER: I want to apologize for getting upset.

SECRETARY KEMP: There's no need to apologize. We're glad you're here. Yes, ma'am? Give us your name and address for the record, please.

MS. CANNON: I'm Patsy Cannon, City of Oglethorpe. I live in Oglethorpe. I am the elections superintendent of Macon County. I live in Oglethorpe. I do not live in Montezuma. And for the record, I'm married to the Chief of Police, in Oglethorpe, Georgia, not Montezuma.

I just want to point out that the ones that were here, I know Mr. Priester and Mr. Lewis. They did win. Ms. Riley did not win. Mr. Lewis made the statement about being hundreds of votes off. The tapes were all posted on the windows of the precinct, from all the machines. That's the tapes that they added up to get their totals. What was missing was they didn't let us finish the absentee counting before they started their victory party. The minute the absentees were done, we posted that and that's where the complete total came in.

SECRETARY KEMP: Thank you. Any questions for Ms. Cannon?

(NO RESPONSE)

SECRETARY KEMP: Thank you for being here. We appreciate that.

MR. ALLEN: I'm Judson Allen, a resident of Macon County. I live in Montezuma and Oglethorpe both. First off --

SECRETARY KEMP: Mr. Judson, if you don't mind, would you spell your last name for the report.

MR. ALLEN: A-L-L-E-N, Allen, Judson Allen.

SECRETARY KEMP: And give us your address, please. Well, my mailing address is -- I live in Macon County. I'm Chairman of the Board of Elections in Macon County. I do not live in a municipality. I live --

SECRETARY KEMP: That's fine. Just give us an address.

MR. ALLEN: Okay. My address is going to cause some confusion. I live in North Macon County, which Montezuma and Oglethorpe are both municipalities of, but my mailing address is Post Office Box --excuse me, it's 1914 General John B. Gordon Road, Reynolds, Georgia. Reynolds, Georgia is not in Macon County.

SECRETARY KEMP: We're not worried about where your mailing address is.

MR. ALLEN: I cause confusion everywhere I go.

SECRETARY KEMP: Let me suggest, if you will, just restart his time, Jessica. All right.

MR. ALLEN: I'm not going to be long. I'm going to be short.

SECRETARY KEMP: We're glad to have you with us. Thank you.

MR. ALLEN: First off, I would like to apologize to everybody here in attendance for airing local, dirty laundry in public. I mean this is embarrassing and this is much ado about nothing. And I will

say Ms. Cannon did a very good job of elected officials and I promise you that, in no way, that anything could have gone wrong. The only thing possible that we would change is to make sure the local radio station announcer emphasizes that this is preliminary results, preliminary results.

We were thinking we had the official results before that and I would invite any of the folks here today to come watch the absentee ballots being counted. I mean there's no way anything -- a conspiracy between two people, maybe; three people unlikely. Ten people in the room, forget it. There's no way. But anyway, thank you.

SECRETARY KEMP: Any questions for Mr. Allen?

(NO RESPONSE)

SECRETARY KEMP: Thank you for being here.

MS. CANNON: Secretary Kemp, the one thing that I did leave out --

SECRETARY KEMP: If you would, just give us your name and address again.

MS. CANNON: Patsy Cannon, Oglethorpe, Georgia. There was only 45 absentee ballots not hundreds. That is all.

SECRETARY KEMP: Any questions?

(NO RESPONSE)

SECRETARY KEMP: Anyone else wishing to speak on this matter that hasn't already spoke?

(NO RESPONSE)

SECRETARY KEMP: Ms. Riley, if you would, just came back to the podium. Ms. Riley? You're good, Mr. Allen. Thank you, sir. Ms. Riley wanted to submit something to the Board, a paper document. And if you would just tell us what that is and then I'll take motion to accept the document.

MS. RILEY: Okay. Contrary to what the election superintendent stated, Ms. Patsy Cannon, said that the advanced numbers, she stated that they were not posted at the polling place. That sheet of paper is the original paper that we had from the night of the election, where all the numbers that were posted on the window. Those are the numbers that were taken down afterwards. Those are the original numbers that were written by Councilman Lewis's father, who went to the poll to witness the counting of the machine votes. So those were the original numbers from 2009.

SECRETARY KEMP: Thank you.

MR. McIVER: I move to accept.

SECRETARY KEMP: We've got a motion to accept. Do we have a second?

MR. WORLEY: Second.

SECRETARY KEMP: I have a motion and a second. All in favor of accepting the document, please signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries and the document is accepted. Mr. Harvey?

MR. HARVEY: No, sir. I don't have anything to add except as, Mr. McIver pointed out, a lot of these issues appear to not be election related. And, as Mr. McIver pointed out, our investigator did a very expensive job interviewing names that were provided to him. There's a lot -- in this case there was a lot of, sort of, conventional wisdom at work on the street when things were happening, but there was no subsequent evidence to support it. So I stand by my original recommendation that a letter of instruction go to the person who incompletely completed assistance on the absentee ballot.

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

MR. SIMPSON: How were the winners determined in this election. Was it the top vote getters were the ones who were elected?

MR. HARVEY: Yes.

MR. SIMPSON: Thank you.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: I've got several questions I wanted to ask you. Can you expand on the allegation about Mr. Riley not having the opportunity to get a provisional ballot? I know he ended up going to get his driver's license and did vote in the election.

MR. HARVEY: We interviewed all the people that were working at the precincts and everybody, all the poll workers said that they had no recollection of anybody ever being turned

away. The closest we got to somebody that say -- said that they saw him walk into the precinct and then turn around and walk back out.

We did get records from the Department of Driver Services that showed that he did get a new driver's license on that day and that he did return and was able to vote. The people that were there denied -- conflicted with his story about not being offered a provisional ballot. And whether a broken -- that might be an issue. The question of whether a broken or deformed ID would be acceptable as ID. Anyway, I'm not sure.

SECRETARY KEMP: Thank you. I think this is another good educational experience for all of us that are here today about provisional ballots and an opportunity, if there is a conflict at a polling location, like this instance, that we have a provisional ballot process in our state to make sure that we have all the votes cast and counted. Any other questions for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: Any motion from the members?

MR. McIVER: I move that we close one through six and we bind over, for legal or some disposition, the allegation in number seven.

SECRETARY KEMP: We've got a motion by Mr. McIver. Do we have a second?

MR. WORLEY: Second.

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

MR. WORLEY: I would just like to state, for the record, that I'm seconding that motion and I do that because we've heard a lot of information here today, but we haven't heard anything that rises to the level of violations of the election law. Through the investigator's report and particularly through the witnesses that have come, there is just nothing there that rises to a violation of the election law. So I think those allegations should be dismissed.

SECRETARY KEMP: Thank you, Mr. Worley. Any other comments?

(NO RESPONSE)

SECRETARY KEMP: Let me just say, I support the motion as well, but I want the people to know, who testified today, that even though this outcome may not be what you like, we do have a duty to follow the law and to do the best that we can on these issues. Sometimes it's not what we want to do. It's what we have to do.

But I can tell you that we have heard your concerns about the City of Montezuma and the elections, and we would -- we will be diligent from the Secretary of State's Office to make sure that we

monitor future elections and let everyone here know that that is the case. We will look forward to seeing you all on election day and before, in the next election. Thank you for taking the time to be here today. Any other comments?

(NO RESPONSE)

SECRETARY KEMP: Okay. We've got a motion and a second. All in favor of the motion, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

MR. SIMPSON: No.

SECRETARY KEMP: Mr. Simpson votes no. The motion carries with a three to one vote. Case number 2009, number 63, Quitman County.

MR. HARVEY: Members of the board, this case was originally presented several meetings ago. The allegation was that the Board of Registrars was not updating and going through the voter lists on a regular basis. The complainant, Cheryl Butler, made the allegation.

We did an initial investigation and found out that, in the past, they had not been holding regular meetings, however, they have instituted compliance with the law to hold regular meetings and review their voters list. Ms. Butler provided approximately 30 to 45 names of people she thought might not be registered properly. They held hearings in some of those cases. Ms. Butler was not completely satisfied with the treatment that she received and with the burden that she carried challenging those people.

At the last meeting the members -- the SEB members requested that we go back and verify a 2003 consent order, which Quitman County had signed requiring them to perform an audit of their electors list be done. And in the subsequent months, Quitman County has done that. They provided documents in February of this year attesting that they had reviewed their voters listed. They acted on the people that Ms. Butler has provided as questionable. They have a new chairperson of the Board of Registrars. The previous chairperson had to resign for health reasons. And it appears that the Quitman County Board of Registrars is in compliance with the original consent order. It appears that they are meeting their statutory obligations to meet and review their voters list.

They realize it's an ongoing process and something needs to be done regularly. Ms. Butler is a jury commissioner, I believe, and has fairly regular access to information and she is diligent about reporting that to the Board of Registrars for action. But it appears that Quitman County is in compliance with the law. They are in compliance with the consent order. And I recommend that this case be closed.

SECRETARY KEMP: Thank you, Mr. Harvey. Any questions?

(NO RESPONSE)

SECRETARY KEMP: Okay. Anyone else wishing to speak on this case? Welcome. If you would, give us your name and address, for the record.

MR. CORLEY: Chad Corley, attorney for Quitman County. Address, 472 West State Avenue, Cordele, Georgia. The Board of Registrars agrees with Mr. Harvey's recommendation. We just would like to point a few things out to the Board.

One, that this consent order that he is referring to is from the 2000 -- from the 2000 election, a 2003 consent order based on the 2000 election. Since that election and consent order, there is a new board of registrars and there is a new probate judge and, in fact, there's a new county attorney. The probate judge is here with me today prepared to answer any questions that you may have on the procedures they follow. His name is Andrew Bennett. And he is very diligent in working with the board of registrars in making sure that they -- they follow -- follow Georgia law.

This is the second time that Mr. Harvey has recommended that this case be close and found that the board of registrars is in compliance with Georgia law. The board simply does not know what else we can do. The board had done everything that it can do. Once again, this matter is found to be in compliance with Georgia law. And I would ask that the Board here today agree with Mr. Harvey's recommendation and close this case.

SECRETARY KEMP: Thank you, Mr. Corley. I think the last time the recommendation was made, one of the Board -- the Board actually just wanted to verify all of this. Is that correct?

MR. HARVEY: That's is correct. The way I recall it, is there were some issues over the 2000 election that came up kind of in the discussions.

SECRETARY KEMP: It looks like everything is good. Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Anyone else wishing to speak?

MR. BENNETT: Mr. Chairman, Board, my name is Andrew Bennet. I am the Probate Judge and the Election Superintendent of Quitman County. And I do thank you for allowing me this time to be with you this morning.

SECRETARY KEMP: Give us the address real quick, Judge.

MR. BENNETT: 77 Ridgeview Street, Georgetown, Georgia.

SECRETARY KEMP: Thank you.

MR. BENNETT: I do appreciate the efforts of this Board in trying to see that we have fair and secure elections in the State of Georgia. And I am here this morning to confirm the Inspector General's findings in this case. And I'm also here to answer any questions that the Board may have for me.

SECRETARY KEMP: Thank you, Judge. Any questions?

(NO RESPONSE)

SECRETARY KEMP: I don't think we have any questions, Judge. Anyone else wishing to speak?

(NO RESPONSE)

SECRETARY KEMP: Let me just say this. We appreciate you gentlemen being here today. In my personal opinion, this is what we like to see and hear. We appreciate you taking charge of this situation and verifying that you've done everything that the Board asked you to do. We realize that while you all may not have started this issue, you have certainly, I think, in my mind, put it to rest and we appreciate that. Any other comments from the Board?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, do we have a motion?

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

MR. McIVER: Second.

SECRETARY KEMP: Is that the right motion we need, to close it?

MR. HARVEY: Yes, sir.

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

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of closing, please signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion carries. Thank you, gentlemen. All right. 2010, number 11, City of Americus.

MR. HARVEY: Members of the Board, this case had an allegation that people were soliciting absentee ballots and mishandling absentee ballots and absentee ballot applications for a municipal election. We focused on a particular candidate and some people that were allegedly working for her. The candidate denied that she had instructed anybody to mishandle absentee ballots, however, when we reviewed the absentee ballots -- absentee ballot envelopes that came in, we found that there were two people who had illegally assisted in that illegally processed absentee ballots.

A Charlotte Nelson had assisted her mother, who was entitled to assistance for the absentee ballot, however, she failed to sign an oath or mark that she had assisted. So we recommend in that case -- that was not related to any campaign. That was simply a daughter helping her mother with the absentee ballot. She did not sign as assisting, as required by law, in violation of 21-2-385.

The more serious allegation involved respondent Laura Finch who admitted going door-to-door, dropping off absentee ballot applications, sometimes returning them, and then when people received their absentee ballots, she would return to them. In some cases, she would assist them with their absentee ballots. In at least five cases, she took possession of those absentee ballots to deliver them for the voters. So it appears that she both violated the law 385, in terms of assisting people that were not entitled to assistance, and then 21-2-574, took possession of at least five absentee ballots. Those were the only people we were able to identify who had anything to do with absentee ballots. It's recommended that both of these respondents be bound over to the Attorney General's office for further action.

SECRETARY KEMP: Any questions for Mr. Harvey?

(NO RESPONSE)

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

(NO RESPONSE)

SECRETARY KEMP: Hearing none, can we have a motion?

MR. McIVER: I move we bind these over to the Attorney General.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion to bind the three -- all three allegations over to the

Attorney General's Office and I have a second. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor, please signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries. All right. Case number 2010, number 44.

MR. HARVEY: This case, Respondent John Fillhart actually self reported to the Secretary of State's Office. He had been a resident of Florida that was registered to vote in Florida. He bought a house in Chatham County. He registered to vote. He had the intention, I believe, of moving to Georgia. He registered to vote and voted in Georgia. He then returned to Florida, voted in Florida, and returned back to Georgia on several occasions.

So he -- he never voted twice in the same election. I want to make that clear. There's no allegation he voted twice in the same election. However, in returning to Georgia after he registered and voted in Florida, it appears that he would have needed to re-register to vote again in Georgia.

A report shows the time line of his voting started in 2000 all the way through 2009. And you can see that in 2008 -- in 2007, he votes in Georgia. 2007 he votes in Georgia. 2008 he votes in Florida. In November of '08, he returns to Georgia. He votes in Georgia again and then returns to Florida and votes.

As I said, Mr. Fillhart reported himself to the Secretary of State's Officer in Chatham County. He has subsequently asked to be removed from the Chatham County voters list. I believe he has returned to Florida, where he is a resident there. It does appear that he is possibly in violation of 21-2-571 for voting in an election in Georgia after he had moved and voted in Florida without re-registering.

It is recommended that this case could conceivably be bound over to the Attorney General's Office, although this might be one that could be worked out with a consent order, by a cease and desist in the future at the Board's discretion.

SECRETARY KEMP: Thank you, Mr. Harvey. Any questions of Mr. Harvey?

MR. WORLEY: I have a question, Mr. Harvey.

MR. HARVEY: Yes, sir?

MR. WORLEY: The report indicates that he possibly violated the code by voting in an election in November of 1998. What is the statute of limitations for that violation?

MR. HARVEY: I believe -- I believe that's actually a -- that's a misprint. I believe it should be 2008 instead of 1998. I apologize.

SECRETARY KEMP: Any other questions of Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, anyone else wishing to speak? If you would just give us your name and address for the record, please, sir.

MR. FILLHART: My name is John Fillhart. My address is 515 East Victory Drive, Savannah, Georgia. I wasn't expecting any kind of a meeting of this sort. I figured it would be in a small room and much more informal, so I first want to apologize for the way I'm dressed. I mean no disrespect.

SECRETARY KEMP: We wish we were dressed like you are. Go right ahead.

MR. FILLHART: I, secondly, would like to apologize to the audience for taking up their time when there are cases that are a lot more important than mine. So I owe them an apology. And finally, thirdly, I would like to apologize for my actions. I didn't realize the seriousness of them. And I have been made aware of it. That's when I contacted the Board. I submitted all the records as to what I had done. So I have no excuses. I have no rationalizations or justifications. I came to try and do the right thing. So thank you very much.

SECRETARY KEMP: Thank you for taking the time to be here today and self reporting. Any questions?

MR. McIVER: I do have one.

SECRETARY KEMP: Mr. McIver?

MR. McIVER: It is admirable, the self-reporting. I thank you for that. Did you ever think it was appropriate to vote in two different elections -- two different locations?

MR. FILLHART: I can tell you where my head was. It's not a justification or an excuse. I was paying taxes on properties. I was living part-time in Florida. I paid taxes there. I was spending time here in Savannah, restoring an old house, and I guess in the back of my head I was thinking I could get a little bit of representation if I went and voted in each place.

At the same time, if I happened to be in Florida, I would go and exercise my right to vote there. And if I happened to be in Savannah at the time of an election, I would vote here. I didn't realize the seriousness of it.

MR. McIVER: You should know that we've been particularly harsh on people who have voted in the manner you have in two different states. The self reporting, in my own heart and mind, is an excellent result in this case. But you should know that we take that very, very seriously and when you vote in another state you diminish the power and the vote of everybody as you would have done here in Georgia. I trust we will not see you back here.

MR. FILLHART: I'm sorry?

MR. McIVER: I said, I trust we will not see you back here.

MR. FILLHART: Oh, no.

SECRETARY KEMP: Mr. Worley?

MR. WORLEY: Mr. Fillhart, what was it that led you to think that this wasn't correct and to report yourself to the Secretary of State?

MR. FILLHART: Well, it was brought to my attention in Florida by my county down there. And I immediately took action and I unregistered here. I unregistered down there. I got unregistered in both states until I could sell one of the properties and I could tell where I was supposed to be. I have since re-registered here in the State of Georgia.

MR. WORLEY: Thank you.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, thank you, sir. I appreciate you being here today. Is there anyone else that wishes to speak on this matter?

(NO RESPONSE)

SECRETARY KEMP: I have one question for Mr. Harvey. If Mr. Fillhart had not self reported, would we have ever found out about this from the state of Florida?

MR. HARVEY: Probably not.

SECRETARY KEMP: Very good. Thank you. Any other discussion from the Board?

(NO RESPONSE)

SECRETARY KEMP: I will accept a motion.

MR. McIVER: I move that we bind it over with direction for consent and that I would like them to pay particular attention to the fact that he self-reported and it seems to be appropriate.

SECRETARY KEMP: I have a motion. Do I have a second?

MR. SIMPSON: Second.

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

(NO RESPONSE)

SECRETARY KEMP: Let me just say that I'm going to support Mr. McIver's motion. I appreciate Mr. Fillhart taking time to be here today and self reporting. Like Mr. McIver, this is a very serious situation and I think another good learning experience for all of you who are here today. I concur and feel that Ms. Brumbaugh, that she will handle this in the correct way. Mr. Fillhart, we appreciate you taking the time to be here. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of the motion to refer to the Attorney General's Office signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: That motion carries. With that, let's see, we need to break for executive session. Okay. What we're going to do here is the Board shortly will give me a motion to break, for us to go into executive session. I know the elections officials and the folks from around the state that are here for training have other classes and things going on this afternoon. So many of you may not be back with us.

Let me just thank you for your great attendance today. Again, thank you for your service and being our partners in elections. I hope that you enjoy your lunch. We will come back at what time?

MS. MONK: 1:30.

SECRETARY KEMP: I need a motion to break to go into executive session and then return at 1:30.

MR. SIMPSON: So moved.

MR. McIVER: Second.

SECRETARY KEMP: Mr. Simpson moved and Mr. McIver seconds. All in favor of the motion, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: We are breaking for executive session until 1:30. Thank you.

(APPLAUSE. LUNCH RECESS.)

SECRETARY KEMP: Okay. We're going to ahead and get started. I'll take a motion to come out of executive session and go back to our regular State Election Board meeting.

MR. SIMPSON: So moved.

MR. WORLEY: Second.

SECRETARY KEMP: I have a motion and a second. All in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: That motion carries. Let the record reflect that Mr. McIver is not back with us. He will be returning shortly. Okay. Mr. Harvey, we are on case 2010, 119 Chatham County White case.

MR. HARVEY: Yes, sir. This case was prompted by the November 2nd, 2010, general election. The allegation was that Michelle Reese, who was a student in Savannah, had registered to vote in August of 2008, the 30th. And when she went back to vote in 2010, she was told that she was registered in Fulton County and was not able to vote.

What the investigation determined was that Ms. Reese had returned to Fulton County. She had

renewed her driver's license. She had given residence and mailing addresses in Fulton County, Georgia, and was, therefore, registered to vote in Fulton County, Georgia. And so when she appeared to vote in Chatham County, she was told that she was, in fact, registered to vote in Fulton County. It does not appear that there's any violation of election law and it's recommended that this case be closed.

SECRETARY KEMP: Thank you. Any questions for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: Anyone wishing to speak on this case? I'm ready for a motion.

MR. SIMPSON: I move the case be closed.

MR. WORLEY: Second.

SECRETARY KEMP: I've got a motion to close and a second. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of closing this case signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries. All right. Case number 2010, 125 Chatham County Bacon case.

MR. HARVEY: This case involves in the same 2010 general election. Pat Bacon appeared to vote at his voting precinct and when he went to vote, he was told that he was in the wrong precinct, he was voting in the wrong district. He left the polling place without questioning or asking for a provisional ballot or indicating that anything was wrong. He realized that the polling place he was told to go to was about six miles away. He didn't have any way to get there, so he went home and he simply did not vote.

Our investigation has determined that when he renewed his driver's license, he put his address on there and, through an error in inputting the data through the Department of Driver Services, instead of putting his addresses as Island Drive, they listed it as Island Road, which put him at a different polling place, different precinct. He didn't make any challenge to the people at the polling place. He simply left. It appears the poll workers responded properly in terms of telling him the other location. He complained after about not being able to vote. The situation has been corrected.

However, it doesn't appear that there was any violation on the part of the election officials in this case either. I recommend this case be closed.

SECRETARY KEMP: Okay. Thank you, Mr. Harvey. Let the record reflect Mr. McIver is back with us. Any questions for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, any else wish to speak in regards to this case?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, I think this is -- before we get to a motion, it's another good lesson for not only our elections officials, but for voters in general as to, you know, the options we have for provisional ballots and making sure that, you know, if something like this comes up at the polling locations and the voters, as well as the folks working there, the provision for provisional ballot should we get all those counted for those that want to vote. It's just a good way for us too learn and continue. You can go back home and share that with your volunteers and poll workers. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, do we have a motion?

MR. WORLEY: I would move to close this case.

MR. SIMPSON: Second.

SECRETARY KEMP: I have a motion and a second to close. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: That motion carries.

MR. McIVER: Let the record reflect I abstained.

SECRETARY KEMP: Let the record reflect that on the last vote that Mr. McIver abstained because he did not hear the testimony of the report. Case number 2010, 86, McIntosh County, the Grovner case.

MR. HARVEY: The complainant in this case is Diane Williams, from the McIntosh County Board of Elections and Registration. The allegation was that Nathaniel Grovner, when he learned that an absentee ballot application for a family member had been rejected, went to the office at the Board of Elections and Registration. He had a conversation or a contest, a dispute with the Board of Election representatives. He thought the application should have been accepted. It was denied. Some words we're exchanged. Mr. Grovner raised his voice and told some people to butt out. He then left the area. While it appears that it was a less than cordial encounter, there was no law enforcement summoned. There were no police reports made. There were no threats made. It does not appear that there was any type of violation in terms of intimidation or interference. And it's recommended that this case be closed.

SECRETARY KEMP: Any questions for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: Is there anyone else wishing to speak on this case? Good afternoon. Let me just remind you to just give us your name and address for the record. Thank you.

MS. WILLIAMS: My name is Diane Williams. I work at the McIntosh County Board of Elections and Registration. We were working the advanced voting --

SECRETARY KEMP: Pull that mike down. We can barely hear you.

MS. WILLIAMS: I'm sorry. I'm sorry. We were at the office, at the elections office on the afternoon of September the 27th, 2010. Mr. Grovner had come in with a stack of absentee ballot applications. We had gone through his applications and one, in particular, it was not a family member. It was a man named Mr. Leonard Van. Mr. Van is from -- he lives in North Carolina. So we had gone through and checked -- I'm sorry. I'm nervous.

SECRETARY KEMP: No, no. You're fine.

MS. WILLIAMS: -- we checked the voter registration card against his address and the Post Office Boxes did not match on his application and on the voter registration card. And also Mr. Mucha, from the Board of Elections, had contacted his mother. She said he was not living in McIntosh County. He has not lived there for a long time.

So, on that basis, we could not accept the application. Mr. Grovner came in and he was very angry at me and Mr. Mucha. And he pointed his finger in my face, "Butt out, butt out. You don't belong here. What are you doing here? I don't like what you're doing here." It was a very confrontational act. And I believe Mr. Mucha has something to add to that.

SECRETARY KEMP: Hold on just one second. Any questions?

MR. SIMPSON: Was it Ms. Williams?

MS. WILLIAMS: Williams.

MR. SIMPSON: Did this happen at the polling place or in the office?

MS. WILLIAMS: In the office.

MR. MUCHA: In the office, which is a polling place.

SECRETARY KEMP: Let's just hear from the person that we have on the record for the transcript.

MS. WILLIAMS: It was in our office, which is a polling place.

MR. SIMPSON: Just advanced voting?

MS. WILLIAMS: Right. It was on September the 27th.

MR. SIMPSON: Any other voters in the area?

MS. WILLIAMS: I can't say for sure. I don't remember if we had people in the back. We have a front office. This happened in the front office. And it was in the office of our supervisor. But it was in front of other people not just myself.

SECRETARY KEMP: Any other questions for Ms. Williams?

(NO RESPONSE)

SECRETARY KEMP: Okay. Thank you.

MR. MUCHA: Mr. Robert Mucha and I'm the Chairman of the Board of Registration and Elections in McIntosh County. My address is 1414 Plantation Drive, Darien, Georgia 31405. On that particular day, when Mr. Grovner came in, he was very upset. He actually wanted to talk to me initially because I was the one that -- who had called Mr. Van's mother. And she gave me the information indicating the man had not lived in McIntosh for some number of years. He received a lot of his mail there, but at the same time had not -- he was not residing there. He was in North Carolina.

He basically has said this a number of times, but he said, "I don't like you two being in here. You shouldn't be in here. You shouldn't be doing this." Ms. Williams walked up and was standing by the doorway. She was standing there, because she is the one who sent out the letter of rejection

to Mr. Van. And she was trying to explain to Mr. Grovner what was going on.

He was very brusque. "You butt out. You butt out." And I said, "Hey, knock it off. I don't like what you're doing." He said, "I don't like what you are doing either." He said -- I said, "Well, I really don't" -- he says, "Well, I'll just let the court decide that." But then he went on from that saying -- showing me one of the addresses on the registration card and also for the address requested for the absentee ballot to be sent. They did not match, which kind of resolved the issue.

But this has been ongoing. I mean, he says to our election supervisor, "I don't like those two in there." And it just -- it really is a form of intimidation, for her more so than it is for me, but I just figured, you know, something has got to stop somewhere. That's all I have to add really. If you have any questions for me, I'm glad to answer them.

MR. WORLEY: I have a question. So is there a section of the code that you contend was violated when he --

MR. MUCHA: Yes, sir.

SECRETARY KEMP: Well, let me say, while she's getting that, we appreciate, even under hostile conditions, which this Board very well knows happens at times, from time to time, we appreciate you doing the right thing in regard to the ballot request.

MS. WILLIAMS: I was --

SECRETARY KEMP: Hold on one second, let the record reflect that Diane Williams is back at the mike. Go ahead.

MS. WILLIAMS: I was working. I was a poll worker at this time. I'm a member of the board, but we were also working, you know, during advanced voting. The code is 21-2-566, uses or threatens violence in a manner that would prevent a poll officer or actually prevents a poll officer from the execution of his or her duties or continually interrupts and materially interferes with execution of poll officer's duties.

MR. WORLEY: You're talking about subsection four?

MS. WILLIAMS: 21-2-566, number two.

MR. WORLEY: The report that we received -- the report that we received says that at the time this occurred there was -- there were no voters present and the behavior was not disruptive to the other workers. Is that correct?

MS. WILLIAMS: As I said, I'm not sure if we had any voters in the back room. We have two separate -- a place where the machines are set up and that door was open. And I don't remember

if we had someone in back room voting, at that time. And I think a police report was filed with the Sheriff on this.

MR. WORLEY: And what happened with that?

MS. WILLIAMS: They just took the report they have it. They have the report. I should have, I guess, brought it with me.

MR. WORLEY: And when did that happen?

MS. WILLIAMS: Probably that day. I think I've got the letter, the letter that I wrote to the SEB. I wrote it on that day.

MR. WORLEY: So that's September 2010.

MS. WILLIAMS: Do you all want this?

MR. WORLEY: No, we have that actually. So the police have done nothing since then.

MS. WILLIAMS: Correct; on that particular case. No.

MR. WORLEY: Is there another case?

MS. WILLIAMS: Yes. Well, there are other things.

MR. WORLEY: What other things?

MR. HARVEY: We have other open investigations in McIntosh County.

MR. WORLEY: Involving Mr. Grovner?

MS. WILLIAMS: Yes.

SECRETARY KEMP: Any other questions for Ms. Williams or Mr. Mucha?

(NO RESPONSE)

SECRETARY KEMP: All right. Thank you all for your testimony. Mr. Harvey?

MR. SIMPSON: Could I ask one question?

SECRETARY KEMP: Mr. Simpson did have one more question for you.

MR. SIMPSON: I apologize. I'm sort of new to the process, so I apologize for not giving you a

timely question. Did that interfere with your doing your job? I mean, I think the code section says it has to materially interfere with you been able to perform your duties. What do you think about that? Can you tell us a little bit more about the impact or the effect of what he was doing?

MS. WILLIAMS: Well, if a voter had walked in, they would have been in the middle of it. No one actually walked in, but they -- we're a very small office in a very small county. And we have a lot of advanced voting. And, as I said, I don't remember if someone was in the back room voting, but they could have been. They would have heard it if they had been there, but I am not sure.

MR. SIMPSON: But you don't know whether anybody else other than the three of you all were in the office at all?

MS. WILLIAMS: We were the only three in the office, at that time.

MR. MUCHA: We were the only three working, at that time. I can't remember if we had anybody else --

SECRETARY KEMP: We've got to make sure it's just one of you speaking at a time. The court reporter can't keep up with who is saying what. So go ahead, Ms. Williams.

MS. WILLIAMS: No. I'm just saying that we were the only three of the office. Ms. Gale, Mr. Mucha, and myself.

MR. SIMPSON: Thank you.

MR. WORLEY: I would like to follow up. I'm still just trying to get a little clarity about this. Do you, Ms. Williams, feel that your -- the execution of your duties were materially interfered with?

MS. WILLIAMS: At that moment?

MR. WORLEY: At that moment.

MS. WILLIAMS: Well, we did not have anybody come into that front office, but it was a very threatening thing to me.

MR. WORLEY: I can understand that. I understand you saying that. But the statute that you cited has to involve some material interference with your duties. And I haven't heard you say that yet. If you want to say it, say it.

MS. WILLIAMS: Well, I mean, there was not a voter in there and that's what I was -- you know, I had other things that I was doing that day that that interfered with.

MR. WORLEY: But that's true at any time that somebody comes in the office.

MS. WILLIAMS: Exactly.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

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

MR. GROVNER: Mr. Chairman --

SECRETARY KEMP: If you would, just state your name and address, for the record, and speak into the microphone.

MR. GROVNER: My name is Eldon Nathaniel Grovner. My address 707 Butler Street, Post Office Box 149, Darien, Georgia 31305. I would like to give you a little background information about myself. I'm a lifelong resident of McIntosh County, for the past 68 years. I've been a minister of the gospel for the past 42 years. And I'm a firm believer in the words of Paul that says, "Let everything be done decently in the Lord." I worked as an educator at the Georgia public school system for 34 years. I'm a civil rights activist for better than 40 years. I feel that I have been very blessed to be of service to my fellow man in McIntosh County. I have always enjoyed helping others and working against evil and injustice.

I come before you today to deny the allegations that have been levied against me by Ms. Diane Williams. She alleges that during the general election of 2010, that I interacted with her in a threatening manner. I categorically deny any behavior that was threatening or disrespectful. I went into the McIntosh County Board of Registration and Election office to confirm with Eleanor Dahl (phonetic) Gale, who is the superintendent and supervisor of elections in McIntosh County, regarding a question of residency pertaining to a Len Van, who was registered in McIntosh County, at that time. He was on the voters list. And he still is on the voters list.

While talking with Ms. Gale, Ms. Williams interrupted our conversation. Mind you, Mr. Chairman and members of the Board, my conversation was with Ms. Gale and I. This was rude behavior and a lack of respect to me and Ms. Gale. Consequently, I asked her to butt out of our conversation, I was not talking to her. At no time was I threatening or disrespectful in speech or behavior.

In my opinion, Ms. Williams became upset and decided to vindicate being by using the State Board of Elections as a means of threatening me. I sincerely hope that you will abide by the findings of the investigation. I thank you kindly for your attention in this matter.

SECRETARY KEMP: Thank you, Mr. Grovner. Any questions?

(NO RESPONSE)

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

(NO RESPONSE)

SECRETARY KEMP: Mr. Harvey, Mr. McIver has a question for you.

MR. HARVEY: Yes, sir?

MR. McIVER: Mr. Harvey, in looking at the citation for the statute by Ms. Williams, was any thought given to perhaps your group becoming the complainant on a matter such as this?

MR. HARVEY: The investigation becoming the complainant?

MR. McIVER: Yes.

MR. HARVEY: No, sir. We didn't come to that. Ms. Williams made the complaint of record to us, so ...

MR. McIVER: Thank you.

SECRETARY KEMP: Mr. Harvey, I've got one question. It says Ms. Gale was a witness. Do we have -- what was the investigative findings? Do you know?

MR. HARVEY: I knew she was interviewed by Investigator McGill (phonetic). If you give me one second, I can find her statement. She's actually present if you would like to hear from her directly.

MS. GALE: My name Eleanor Dahl Gale. I'm the elections supervisor in McIntosh County. My address is P.O. Box 1062, Darien, Georgia 31305. I was present that day. The incident did take place in my office, in the doorway. Mr. Grovner came in to see me to ask about Leonard Van's voter -- absentee ballot application.

I had lost an employee. I had one went out on workman's comp, and was still out. And the board members got involved and rallied around to help me get my letters out and getting absentee ballots out, because it is a small county. That day that Mr. Grovner came in, he was upset concerning Mr. Leonard Van's voter application denial. I told him that Ms. Diane Williams do a letter stating that his address on the absentee ballot application did not match the voter registration card, as well as the voter registration on the state system.

And Diane came in, because I had mentioned her name and she was the one that wrote the letter. And she took it a step further with calling Mr. Van's mother. That was the phone number that was on the registration card. And she, Ms. Van, turned around and gave Ms. Williams Mr. Van's

phone number. And that's what Bob called Mr. Van to find out if he was a resident here in McIntosh County. And he stated to Bob that he lived in North Carolina, that was his visiting address and when he came home, he lived in McIntosh. And his mother said he lived in North Carolina. So there's a discrepancy between the mother and son.

But the main reason why he got a letter was because the addresses did not match the voter registration system or the registration card. And Ms. Williams was the one that wrote the letter. And besides myself working, Marilyn Lynn was in there too, in the office. At the time, there was no voters in the office. But our offices is kind of small. When you walk in the front door, you've got the right and then you have my office, so ...

SECRETARY KEMP: So is he still on the voter roll?

MS. GALE: Yes, he is. But he's fixing to get a letter for a hearing, because we're scheduling our hearings for next month.

SECRETARY KEMP: Any other questions for Ms. Gale?

MR. McIVER: You can't much get away here without helping me with the discrepancies. I heard two very different stories here about what occurred either in your officer or by the doorway.

MS. GALE: Okay. My office is right there. As you come in the door, the front lobby, I mean, it's like a L-shape and my door is right there where you come in. After you come in, you turn the corner and I'm right there. Ms. Williams was sitting in the front office and she got up and came in my office. Mr. Grovner was standing in the doorway, inside my door, when he made the comment that he was upset about it. Diane put her comment in there, letting him know that she wrote the letter and that's when he told her to butt out, you know. But I didn't take it hostile, because I have a lot of people that come in there that become upset and I try to calm it down or smooth it over.

MR. McIVER: Well, which version of the story is more accurate? The told by Ms. Williams and Mr. Mucha or that by Mr. Grovner?

MS. GALE: He came in too see me originally. And he was upset about this man not being able to vote because of his application. And he had a copy of the application in his hand. Now, they did have a confrontation and he told her to butt out she got upset about it, as well as him getting upset, but he was hollering at her and ...

MR. McIVER: Was there gesturing back and forth?

MS. GALE: He pointed his finger at her and told her to butt out.

MR. McIVER: So, again, I'm going to ask you this question. Which of these two versions is more accurate that you were the eyewitness to?

MS. GALE: I guess mine.

(LAUGHTER)

SECRETARY KEMP: Mr. McIver, you're going to have to restate that question.

MR. McIVER: I ain't going to ask it a third time.

MS. GALE: Well, she did step into my office when he was upset and that's when he turned around and said, "You butt out, butt out, butt out," and "I don't like what you two are doing here." And he -- and I've told him many times, over and over, that I do not control my board. And he was a county commissioner and I guess they kind of feel like they've still got power as a commissioner.

SECRETARY KEMP: It's pretty clear that the two board members were there, for a reason, helping you with --

MS. GALE: Right. Right.

SECRETARY KEMP: -- the elections process.

MS. GALE: There were three board members present.

SECRETARY KEMP: Three.

MR. McIVER: I trust you understand our very keen interest in protecting election officials.

MS. GALE: Yes, sir.

MR. McIVER: I've said it many times, it's the toughest job in Georgia.

MS. GALE: Well, we wouldn't have had the extra board members in, but I lost an employee that died on me, in my office. And we started elections and it became kind of a stressful situation. And you kind of -- you kind of smooth it over a little bit because you do get some people that are really hostile in there. And once they leave, they're in a better mood because you can -- nine times out of ten you can smooth them over.

MR. McIVER: Well, the election code and this Board is going to protect election officials, I can assure you, at least as long as I'm sitting here. Again, that's an extremely tough job. We don't want our election officials abused. It's great that we've got people like you that perhaps can calm these waters for people who are upset and so on. But again, the code is very clear that there is not to be an abuse of an election official. That's the reason for our questions.

MS. GALE: If there was a voter in there, I would have asked him to leave or either called the law.

I have a good relationship with the city police, as well as the sheriff's department. And we do have a panic button and if we get somebody really hostile, all you have to do is hit that button and they're there within probably two minutes.

MR. McIVER: Are you in the courthouse?

MS. GALE: No, I'm not. They moved us out of the courthouse. We are two blocks over from the courthouse.

MR. McIVER: In an annex.

MS. GALE: Uh-huh. Yes, sir.

MR. McIVER: Those are my questions. Thank you.

SECRETARY KEMP: Mr. Simpson?.

MR. SIMPSON: As being an observer to the confrontation, do you think the confrontation interfered with the duties of Ms. Williams while she was helping you, working in the office?

MS. GALE: Well, she was doing -- writing the letters out for absentee ballots, as well as greeting people when they came in, so...

MR. SIMPSON: Well, did it interfere with her duties?

MS. GALE: Well, I guess when she got up it did, when she came in there for the confrontation.

MR. SIMPSON: Thank you.

SECRETARY KEMP: Mr. Worley?

MR. WORLEY: I have just a couple of questions. Did it interfere -- did Reverend Grovner interfere with your duties, at all?

MS. GALE: I was putting in the early voters in the election system. Once they had the ballots, they come back in through the mail and we check to receive them. I was logging them into the system when he came in.

MR. WORLEY: But --

MS. GALE: I never got up out of from where the computer is.

MR. WORLEY: Right. And anytime somebody comes into your office to ask you a question, you have to stop what you are doing to do that.

MS. GALE: Yes, sir.

MR. WORLEY: So would you consider somebody coming in and asking you a question to be an interference in your duties?

MS. GALE: No, because I get people come in all the time when I'm in doing something. I stop what I'm doing to answer the questions or help them.

MR. WORLEY: In this case, when you're doing advanced voting there in your office, you're also considered a poll officer, correct?

MS. GALE: That's correct.

MR. WORLEY: Are the members of the board considered poll officers or not?

MS. GALE: Yes, sir. They are, because we were doing early voting. One person was helping with registering people in. When they came in, Ms. Marilyn Lyn was doing the absentee ballots in the small room. Ms. Williams and Mr. Mucha was in our office helping me.

SECRETARY KEMP: All right. Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Thank you, Ms. Gale. We appreciate your comments. Anything else from the Board? Is there anyone else who wishes to speak?

MR. WORLEY: I have a question for Mr. Harvey.

MR. HARVEY: Yes, sir.

MR. WORLEY: Mr. Harvey, we had a similar case to this in Greene County?

MR. HARVEY: Yes, sir.

MR. WORLEY: And I believe the board voted to refer that to the Attorney General?

MR. HARVEY: Yes, sir.

MR. WORLEY: And you had an administrative hearing that was held on that.

MR. HARVEY: Correct.

MR. WORLEY: And what was the results of that?

MR. HARVEY: I believe -- I believe it came back and the Board disregarded the ALJ hearing. Ms. Brumbaugh may --

MS. BRUMBAUGH: We had --

SECRETARY KEMP: See if that mike is on right there.

MS. BRUMBAUGH: We had a hearing before an administrative law judge on this very code section that has been quoted. And the ALJ found there was no violation. The Board overruled that recommendation with regards to -- there were two respondents. The Board accepted as to one respondent and overruled it as to the second respondent.

SECRETARY KEMP: If you don't mind me asking, who was the judge in that case?

MS. BRUMBAUGH: Her name was Judge Kristin Miller.

MR. HARVEY: And, Mr. Worley, one of the differences in that case and this case -- and I agree with what Mr. McIver said about protecting election officials. In that case, law enforcement was called immediately in response. In this case, that didn't happen. That played into my recommendation.

MR. WORLEY: My recollection was that the incident in Greene County, at least as it was described, was more egregious than it was here and law enforcement was called.

MR. HARVEY: That's my memory also. At least it appeared that way, according to the election officials. They called for 9-1-1 to get somebody there.

SECRETARY KEMP: Any other questions from the Board?

(NO RESPONSE)

SECRETARY KEMP: Anyone else who wishes to speak on this matter?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, do we have recommendation or motion? Discussion?

MR. McIVER: I would move to close on the allegation that Ms. Williams improperly denied an absentee ballot. Perhaps we should split these, because there was a potential violation pointed out here. It was not supported through the allegation and we need to determine, at this time, about the absentee ballot application. So there's some confusion on that. I move to close that part.

SECRETARY KEMP: Is that an allegation, Mr. Harvey?

MR. HARVEY: Well, that was -- that wasn't -- that was sort of what prompted it. The real allegation was the interference.

MR. McIVER: See, I tried to clean that up.

MR. HARVEY: Yes, sir. I would agree that we didn't find any violation on the rejection of the absentee ballot.

MR. McIVER: If there was an allegation then that's all we need to do.

MR. HARVEY: Yes, sir.

SECRETARY KEMP: All right. Restate that motion, please, Mr. McIver.

MR. McIVER: I move to close on the allegation that the absentee ballot was improperly denied to Mr. Van.

SECRETARY KEMP: We have a motion. Do I have a second?

MR. WORLEY: Second.

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

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor to close the allegation on Mr. McIver's motion signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: That motion carries. Do we have another motion?

MR. McIVER: You were waiting on me. I would move to bind over the remaining allegation on the conduct of Mr. Grovner.

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

MR. SIMPSON: Second.

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

MR. WORLEY: Well, I wouldn't support that, because of just the way I interpret the law in the previous cases. Someone may maintain that Mr. Grovner was rude and he may have been rude, but I don't think it's a felony violation of statute to tell someone that they should butt out or that he doesn't like the fact that he didn't like what they do. He has his right to say that and I think it is his right to say that in the office, as long as he is not clearly interfering with the conduct of the election officials.

It doesn't appear to me there's been any testimony that that happened. So I think it's improper to do that. I also think it's a waste of the Attorney General's resources and the resources of the Administrative Law Judge because, at least the one other case where we've done this in the past -- and I voted against referring that, I believe, you know, based on what was not a violation of this section of the code. So I wanted you to understand why I'm going to vote no.

SECRETARY KEMP: Mr. McIver?

MR. McIVER: I have great respect for my learned colleague, Mr. Worley. But, in this instance, I will remain fiercely protective of election officials. These are tough, tough jobs for which there are no thank yous.

UNIDENTIFIED SPEAKER: Could you all speak up, please?

MR. McIVER: They are not appreciated, by the county, as they should be, so I will continue my long-standing position of being fiercely protective of election officials. I do think this conduct, as I credit it from the stories that we've heard and the testimony we've heard -- the statements, not testimony, is in my view, it crossed the line. That does trigger, in my opinion, 21-2-566(2) and that's the reason for the motion. There are some very simple solutions here, that I'm sure our chair will discuss, but there are ways to correct this in a manner that's respectful of all and hopefully will result in more appropriate adult conduct in the future.

SECRETARY KEMP: Any other discussion?

MR. SIMPSON: Well, I'm sort of -- I'm on the fence on this case, because I agree that it did not interfere with an election that was going on, because there were no other voters in the office. But I tend to want to read 21-2-566 subparagraph two, because it says "materially interferes with the execution of a poll officer's duties." All three of the employees of the election officials were very hesitant to say that, but I think if you look at the nature of the conduct, the smallness of the office, the circumstances within which this arose, then it did materially interfere with the conduct and the duties of those three people.

I think there is unusual circumstances here, because the board members were filling in for employees that were not there. It was obviously a stressful time. It was very difficult time for the election officials. So I think -- I'm from a small county. I tend to think I want to think about how this would've affected people in small counties. I think it did materially affect the operation of that office at the time. So I will vote. I think it's a very close question and I think it should be

looked at a little more closely with an Administrative Law Judge

SECRETARY KEMP: Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Well, I think, there is -- you know, we can certainly vote on Mr. McIver's motion. I think also we have the option to send a message with a letter of instruction or cease and desist. I, like Mr. McIver and I'm sure Mr. Worley too, even though they both disagree on their position in this case, I think, you know, this whole board is concerned with the election officials, making sure that we have an environment in our elections offices where people are respectful. I think we have been very proactive in that manner.

However, in this country and in this state, I believe citizens also have a right to voice concern in a respectful way, as well, to the elections officials about things they have a concern about. And we know that people are passionate about elections and a lot of issues that we're facing. I'm like Mr. Worley, concerned that if we send it to the ALJ, we're going to waste a lot of the Attorney General's time, we won't get a favorable ruling, and we'll be right back here, dealing with this, in the next quarter or the quarter after that.

I'm just wondering if it may not be better to send a letter of instruction or a cease and desist. It would send a very clear message that this kind of conduct will not be tolerated in our elections offices. And that we do not want to see him here again in this type of circumstance. But we do have a motion on the table. I'll call it unless there is a withdrawal and substitution.

MR. McIVER: Were you offering a substitution, Mr. Chair?

SECRETARY KEMP: I can offer a substitute if you would like. I make a substitute motion that we send a letter of instruction and work out a cease and desist for Mr. Grovner in this matter.

MR. McIVER: I'll withdraw my motion, if Mr. Simpson will withdraw his second. And I would be honored to second the substitute motion.

MR. SIMPSON: I will withdraw the second.

SECRETARY KEMP: Okay. Mr. McIver withdraws his motion. Mr. Simpson withdraws his second. We have a substitute motion on the floor.

MR. McIVER: Which I second.

SECRETARY KEMP: Mr. McIver seconds. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of the substitute motion, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

MR. WORLEY: No.

SECRETARY KEMP: I have one no vote. The motion carries and we will do the letter of instruction and cease and desist in this matter.

MR. WORLEY: Mr. Secretary, if I could just explain, I think that what you suggested is a reasonable compromise. And it's probably the right thing to do. But I want to be consistent with what I've done in the past, which is to say that if I don't believe that there is actual violation of the law, I also don't believe it's appropriate to send a letter of instruction to someone who hasn't violated the law. I don't believe he did violate the law. I just wanted to make that remark.

SECRETARY KEMP: Thank you, Mr. Worley. We certainly appreciate your comments and your position of being consistent. I think that's one thing the Board has been over the years, even though we don't always agree. I think it's a good lesson for all of us of how we should behave in the future. I'll call the next case, 2010, number 87, Thomas County, the Boyd case.

MR. HARVEY: The allegation in this case was that the candidate for the State House, Margie Boyd, was paying people based on the number of votes that they registered to vote and also possibly an employee was hiring people that were illegal immigrants, not properly registered.

We did an investigation and found out -- spoke with the complainant, spoke with the people at the elections office. We identified the employee who was, although not named, somebody that was bilingual. We found absolutely no evidence that any illegalities were involved, anybody who was improperly registered, that there was any type of compensation, and no problems with any of the absentee ballot applications or requests coming in. So I recommend this case be closed.

SECRETARY KEMP: Any questions for Mr. Harvey?

(NO RESPONSE)

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

(NO RESPONSE)

SECRETARY KEMP: Seeing none, do we have a motion.

MR. WORLEY: I make a motion to close this case.

MR. McIVER: Second.

SECRETARY KEMP: I've got a motion and a second to close. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of closing, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion carries and the case is closed. Case number 1010, number 96, Bibb County, Lucas.

MR. HARVEY: This case involves the November 2010 general election. The allegation was that the candidate Elaine Lucas attempted to influence voters in a retirement home that she visited and was passing out campaign literature. Councilwoman Lucas did appear at Englewood Manner Retirement Home. They had voter registration drives going on. She brought refreshments. She brought food. She was passing out campaign literature suggesting that people vote for candidates that she supported, again, much like was mentioned in the Montezuma case.

There was no evidence, no witnesses that said that she ever conditioned any of the refreshments on registration or voting. There was no allegation or no evidence that there was anything improper about absentee ballot applications or absentee ballots. A couple of the residents just complained that they didn't think it was appropriate that she was passing out partisan literature at a retirement home. It does not appear that there was any violation and we would recommend that this case be closed, as well.

SECRETARY KEMP: Any questions or Mr. Harvey?

(NO RESPONSE)

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

(NO RESPONSE)

SECRETARY KEMP: Bibb County Lucas case.

MR. SIMPSON: Move to close.

SECRETARY KEMP: Hearing none, we've got a motion by Mr. Simpson to close. 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 closing, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries. Case number 2010, number 121, Bibb County, Freeman case.

MR. HARVEY: This case is also November 2010 general election. In this case, Ms. Freeman went to vote. She was told that she was not registered. She had been deleted. She was offered a provisional ballot. She left, called the elections office, spoke with the people in the elections office, found out that she had not voted since 1996 and was -- had been properly deleted from the system. She returned and voted provisional ballot anyway, which was subsequently rejected. She re-registered to vote at that time and now she is an updated and active voter. It appears the election officials did everything properly. They offered the provisional ballot. They let her re-register. And it does not appear that there is a violation in this case, so we recommend this case be closed.

SECRETARY KEMP: Any questions for Mr. Harvey?

(NO RESPONSE)

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

(NO RESPONSE)

SECRETARY KEMP: Hearing none, any other discussion? Motion?

MR. McIVER: Move to close.

MR. SIMPSON: Second.

SECRETARY KEMP: I have a motion and a second to close. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor -- all in favor of the motion to close signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The case is closed. All right. Case number 2011 -- I will note this is a 2011 case, Mr. McIver -- number seven, Baldwin County. It's the Barnfield case.

MR. HARVEY: This case involves a Maria Barnfield, who is an immigrant to this country from the Ukraine. In this case, she was a legal resident. And, in 2006, she went to get her driver's license and she was inadvertently registered to vote. She did not request to register to vote at that time, in 2006. However, due to an error at DDS, she was registered to vote. She was sent a precinct card and she voted twice in 2008. In January of 2008, for the presidential preference primary. She signed an advanced voter certificate. And on October 23, 2008 she signed a post card application for an absentee ballot in Baldwin County. She then appeared on October 29th, 2008, canceled her absentee ballot and voted in person.

Her -- we spoke with her. Now, she is also a self-report. She was attempting to gain citizenship and when these circumstances came to light, the immigration board, they denied her citizenship. She wrote to the Secretary of State's Office explaining what had happened and essentially requesting our assistance. We started an investigation and found out that, although she did not attempt to register herself, she did vote twice.

She says that when she went to vote the first time, she actually used her immigration card as ID and was allowed to vote. She said that in her country, in her culture, there was a -- there were repercussions if you do not vote. It was expected that you vote. So she thought that since she had been sent a precinct card, she was eligible to vote and she -- she thought maybe when she went to the polling place, if somebody had found out that she shouldn't have voted, that they would've stopped her. But she is essentially claiming it's out of ignorance and not understanding what was going on. The fact is, she voted twice while not being a citizen of the United States. I believe she is present with her husband today and, at this point, I would recommend that this case be bound over to the Attorney General's Office.

SECRETARY KEMP: Any questions for Mr. Harvey?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, yes, sir? Tell us your name and address.

DR. BARNFIELD: Thank you for allowing us too be here today. My name is Dr. Robert Barnfield. I was an educator in New England for 42 years before I came down to Milledgeville to retire. Thank you for allowing us to participate today.

SECRETARY KEMP: Mr. Barnfield, if you don't mind, if you would just give us your address for the record.

DR. BARNFIELD: Yes. Thank you. And, in Ukraine, I spent at lot of time in the Ukraine, on church ministries. I'm a pastor. And, in the Ukraine, if you do not show up, you will receive official notification from the government or the police. The police will come knocking at your door and haul you in and you're ready to see a judge. When Maria first came to the United States in October 2005, we were married in November of 2005. And the immigration officer, I wasn't present because I wasn't allowed in for her citizenship test. I'm speaking for her because of the language difficulties. I'm a little nervous. Please excuse me.

SECRETARY KEMP: Take your time. If you don't mind, give us your address for the record.

DR. BARNFIELD: It's 111 Old Forge Way, Milledgeville, Georgia 31061.

SECRETARY KEMP: Thank you, sir. Go right ahead.

DR. BARNFIELD: I'm an American citizen and very proud to be so. I came to the United States in '69 and I was in the military for five years. I came to the United States and wanted to come back sand I came back and lived here and I'm very proud to be an American citizen.

The immigration attorney, before this happened, told Maria that she was allowed to vote, but in the city elections, not in the federal elections. And because of her misunderstanding, being in another country, and a different culture, et cetera, she received a card in the mail and appeared exactly the same as she would have done in the Ukraine, wanting to be a good citizen.

When she went to vote, there were two ladies behind the -- behind the counter, two registrar ladies and a policeman who asked her for ID and she showed them the driving license and her green card. So right there, they should not have allowed her to vote. That's number two. Number one, when she went for the driving license, she was put on the rolls. They asked her for the -- she gave her Ukraine international passport and the visa to be allowed into the United States. It takes five years to get a green card. You've got to be a citizen for five years to get a green card and she showed them the green card and her Ukraine international driving license -- Ukraine international passport with the picture. Right there she should not have been put on the rolls. So it's like a Catch-22 situation.

Now, to finalize, because all of this, Maria hasn't been allowed to get a passport, not been allowed to get her citizenship. She passed 100 percent. She only got one question wrong on the citizenship test. And she cannot get her citizenship because she voted. We went to Mr. Harvey for help from you guys with immigration to see what we could do to rectify this negative, very

negative thing. Thank you for your time.

SECRETARY KEMP: Thank you for being here today. Thanks to both of you for being here. Ma'am, would you like to add anything? You don't have to. I'm just ...

MS. BARNFIELD: I would like to say something.

SECRETARY KEMP: If you would, just give us your name and address for the record.

MS. BARNFIELD: My name is Maria Barnfield and I live at 111 Old Forge Road, Milledgeville, Georgia. This is my husband. And I am here to tell my story. I just want to say I don't understand. I don't know why this happened. I appreciate. Thank you.

SECRETARY KEMP: Thank you. Any questions for either of the Barnfields?

(NO RESPONSE)

SECRETARY KEMP: Mr. Harvey?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Have we talked to the immigration attorney.

MR. HARVEY: No, sir. We got a notice from -- I believe it was provided to us from ICE that they had rejected her attempt for citizenship and they were not taking any removal actions against her, but they were not granting citizenship. But, no, I am not aware. This is the first I'm hearing of the immigration attorney advising her that she could vote.

SECRETARY KEMP: Is there a reason they would advise her to vote in a city election?

MR. HARVEY: I --

SECRETARY KEMP: Ms. Brumbaugh? Do you know why that --

MS. BRUMBAUGH: I can't --

MR. HARVEY: I can't imagine that anybody would have done that. I mean, although we had a similar allegation, with Mr. Medellin, there's an allegation that the judge said you can vote locally.

SECRETARY KEMP: Ms. Brumbaugh?

MS. BRUMBAUGH: I was just going to bring that case to the Board's attention. It was the case out of Franklin County, very similar, where Mr. Medellin was told he could vote in local elections. He did not lie on his registration card. He said, "I'm not a citizen." He signed it. They

registered him. He then voted once or twice. We took it to an OSAH hearing. The statutes that are in play are specific intent statutes. You have a knowing -- you have to have knowledge that what you're doing is wrong. The OSAH judge found no violation of the election code and the Board did accept that initial decision.

SECRETARY KEMP: There was no violation --

MS. BRUMBAUGH: Yes. The Board accepted the recommendation and found no violation on the part of Mr. Medellin.

SECRETARY KEMP: Any other questions for Mr. Harvey or Ms. Brumbaugh?

MR. SIMPSON: I have one. Was the reason that her citizenship application was denied? Did it have anything to do with the voting or was it for some other reason? Was there a reason given?

DR. BARNFIELD: On the --

SECRETARY KEMP: Hold on one second. If you don't mind, Mr. Barnfield, you need to come up to the mike so the court reporter can make sure she's getting all this.

DR. BARNFIELD: On the application for naturalization, the N-400, on item 7A, B, and C, it asks if you have voted -- ever voted in the United States. And Maria said yes, she did. And when the examining young lady asked her why she voted, she said because when she was here before, the immigration attorney, the young black lady, who was being transferred to Washington, D.C., told Maria that she was allowed to vote. And Maria got the impression that she was allowed to vote and that's what she did. Everything for Maria, of course, until the letter came from you guys to UCSIS (phonetic) to write a letter for Maria so she could become a United States citizen. In the Ukraine, in the job, Maria was the assistant director for the National Health Research Department. She was a very respected member of the Ukraine.

SECRETARY KEMP: Let me stop you right there. Do you know the young lady's or the lady's, the immigration attorney's name?

DR. BARNFIELD: No, I didn't know her.

SECRETARY KEMP: Can you get that?

DR. BARNFIELD: I could dig it up and give it to Mr. Harvey.

SECRETARY KEMP: Was she a government or private attorney.

DR. BARNFIELD: Government attorney, UCSIS attorney. When we went for a hearing because of this, this was when they said -- we went back in with our attorney from Atlanta.

SECRETARY KEMP: Do you feel fairly certain you could get us the name of that federal employee?

DR. BARNFIELD: Yes, sir. Yes, sir.

SECRETARY KEMP: Any other questions? Mr. McIver.

MR. McIVER: I've got one more question. Let me put this question to you. I assume you're speaking on behalf of your wife. The allegation is she signed the voter certificate indicating that she was a citizen, indicating that she was a citizen.

DR. BARNFIELD: I would say that's not true.

MR. McIVER: Then I'll have to follow up with -- your response is she did not do that? In other words, she did not say she was a citizen in completing the voter certificate.

DR. BARNFIELD: On one white card, at the -- when she voted in the federal election, it said something about you are a United States citizen. And because of her difficulty with English and not being able to read English, she really just signed after she went to vote, when the policeman and the two registrar ladies were there in Milledgeville at the voting booth. They checked her out with her ID and then told her to sign the card. And it was because she signed that card that she is not, today, an American citizen.

MR. McIVER: So there was an inadvertent registration of her voting at the time she went to get her driver's license?

DR. BARNFIELD: Yes, sir. Of course, it was her misunderstanding. She didn't know what the -- she just signed what she was given.

MR. McIVER: Well, you do appreciate our position?

DR. BARNFIELD: Yes, sir. I wish I had been preemptive and we wouldn't be here today. Thank you.

MR. McIVER: No other questions. Thank you.

SECRETARY KEMP: Does anyone else wish to speak on this case? Mr. Harvey?

MR. HARVEY: There are two signed voter certificate by Ms. Barnfield where she swear -- you must swear that I am not -- "I, the undersigned, do swear or affirm," et cetera, and that "I am a citizen of the United States and the State of Georgia." That is on the first one. On the second one, it's the same. "I, the undersigned, do swear or affirm that I am a citizen of the United States and the State of Georgia." She signed both of those forms.

SECRETARY KEMP: Is there anyone else wishing to speak?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, I would move here to first off, I'm not sure about the facts and how this took place for the Barnfields. But I am certain of one thing, the government has messed up in this situation by putting her on the voter rolls and perhaps by bad advice. And I think -- I'm not one to delay any of these cases, but, I think, in this instance, if we feel like we could get the federal attorney's name and interview that person and see what kind of advice was given, I think that will clearly have something to do with the intent, Ms. Brumbaugh. I would like for us to do a little more investigative work on this case and then bring it back at the next meeting.

MR. WORLEY: I would second that motion.

SECRETARY KEMP: Any discussion?

MR. McIVER: I so badly wanted to get a 2011 case off the docket.

SECRETARY KEMP: Is that a motion to dismiss?

MR. McIVER: No.

SECRETARY KEMP: I understand Mr. McIver, but we have to do the right thing sometimes. I'll restate the motion that we continue to investigate this matter and have Mr. Harvey try to get in touch with the federal attorney. And we will bring it back up to the next Board meeting or whenever it's appropriate. Do we have a second?

MR. SIMPSON: Second.

SECRETARY KEMP: Second by Mr. Simpson. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of the motion, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries. Let me get you all to help me thank one of Chatham County's finest law enforcement officers, who is here today, helping us with the security, in the back of the room. We also want to thank Sheriff Al St. Lawrence for helping keep us safe today. We appreciate you and stay safe out there.

(APPLAUSE)

SECRETARY KEMP: Please let the sheriffs know that we appreciate them rising to the call of duty to help us today. Thank you. We're going to now move to a special hearing. You all heard discussions on this earlier today, some of them in our public comment period by two fine Chatham County Commissioners.

I did want to address before, as we move into this special hearing, the reason that we are handling this this way. We decided to only hear from folks that we have subpoenaed in this case unless the Board decides otherwise. We'll move to a hearing. I know that the Commissioners were frustrated a little bit with that earlier today and I certainly understand that, but I also want to make sure that everyone knows that we have been over this case several times and we understand the allegations. A couple of other people have spoke today. I don't think there's any doubt that we know that there are forged signatures on the documents. That is not the problem that this Board faces.

The problem is, we've got to establish the evidence for probable cause to continue to move forward. And that's why we took the unprecedented steps to subpoenaed people for this hearing today. I think it shows just how serious we take this hearing and, after hearing what we did in Macon, that we decided to do this. And with that, I'm going to go ahead and move forward. We do have some documents that Commissioner Stone has submitted to the Board that I need to get a motion to accept.

MR. McIVER: I move we accept them.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion to accept -- actually, it's a newspaper article. We've got a motion to accept the documents -- we've got a motion and a second. All in favor of accepting the article from Commissioner Stone, please signify by saying aye

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: We have accepted the documents. What we're going to do here is call on Ann Brumbaugh, who works for the Attorney General's Office, to give us an introduction on this case. Then we'll follow up when she is finished. Ms. Brumbaugh.

MS. BRUMBAUGH: Members of the Board --

SECRETARY KEMP: Let's get you a microphone.

MS. BRUMBAUGH: Members of the Board, this case involves a nomination petition filed by David Osborne to run against Helen Stone, in 2008, for the Chatham County Commission office. In order to run as an independent candidate, David Osborne had to collect over 700 signatures on these nomination forms. When the petitions were turned in to the Board of Elections and Registration in Chatham County, it was discovered that there were forgeries. Ms. Stone had gone out and Ms. Stone had found, I think, 25 or so people who said, "No, I never, ever signed these petitions."

A complaint was made to the Secretary of State's Office and the Secretary of State's Office sent their investigators back to Savannah, several investigators back to Savannah to do further work and see if they could find all the forgeries or not. And they found an additional 25 or so forgeries. So, what we have now is 50 forgeries, at least 50 names on these petitions that were forged. And that is undisputed.

The issue, in the case, is who did the forgeries and whether the petition circulators knew that these names were being forged when they obtained them on their positions. In order to help resolve these questions, we have subpoenaed the 20 respondents that the investigation uncovered in 2008 and 2009. And I propose that I call the respondents one by one, ask them questions. If the Board then wants to ask questions, after I finish with each witness, the Board is welcome to do so.

At the end of this question and answer period, the Board can -- will have several options. The Board can order a further investigation; the Board can resubmit -- the Board can keep the case in my office and I will move forward with the administrative prosecution on these respondents; or the Board can close the cases. And the Board could do different things with different respondents. Some people you may want more information from, some people they might want to close, and some people it may show we have sufficient evidence for a violation.

So that is the posture we're in today. And my questions will pertain to -- to information regarding election code violations, specifically knowledge of the forgeries on these petitions. Does anybody have any questions?

(NO RESPONSE)

MS. BRUMBAUGH: I would first call Edwin Morris. Is Mr. Morris present?

(NO RESPONSE)

MS. BRUMBAUGH: Mr. Morris was subpoenaed to attend. I have had several -- both myself and Mr. Harvey had several communications with his father. Mr. Morris is 46 years old. He apparently suffered a debilitating stroke about a year ago, spent a year in a nursing home, and is still unable to walk, unable to speak, and unable to really even complete basic functions. I have provided e-mails that I received from Mr. Morris, Sr., the father, as well as Mr. Morris's

communication with his son's healthcare providers. I also spoke to Mr. Morris's doctor. Mr. Morris confirmed to me that Mr. Morris could not speak, could not walk, and was severely impaired as a result of his stroke. So I didn't expect him to be here today.

I would next move on to David Osborne. Is Mr. Osborne present?

MR. OSBORNE: I'm here.

MS. BRUMBAUGH: If you could please come up and stand at the podium.

SECRETARY KEMP: Thank you, Mr. Osborne. We need to swear you in.

MR. OSBORNE: My name is David Osborne. I live at 8511 Elmhurst Court, in Savannah.

SECRETARY KEMP: If you would just raise your right hand and repeat after me.

(WITNESS SWORN)

SECRETARY KEMP: Thank you for being here. Ms. Brumbaugh.

**DAVID OSBORNE, SWORN**  
**EXAMINATION BY MS. BRUMBAUGH:**

Q Good afternoon. Mr. Osborne, you were the one that was trying to get on the ballot in 2008, correct?

A Yes, ma'am. That's correct.

Q Did you hire a man named Edwin Morris to help you accumulate petition signatures?

A Yes, ma'am. I did.

Q How did you find out about Mr. Morris?

A He was recommended to me by someone else.

Q Who recommended him to you?

A John McMasters.

Q And once you met with Mr. Morris, what did you engage him to do? Tell us about your conversations and your expectations.

A I gave him a map of the First District and I asked him to select or collect signatures on the petition.

Q Where did you get that map from?

A From the Chatham County Elections Board.

Q Did you discuss how he would obtain those signatures?

A No.

Q What was your understanding as to his background and why was he recommended to you?

A That he was -- he was a political consultant and he had done work for other folks in

Savannah.

Q How many times did you speak with Mr. Morris during this petition gathering?

A About three times.

Q Did he turn in petitions to you? Tell the Board sort of how the petition signature gathering occurred as you know it.

A Okay. What happened is I told him that I would pay for signatures -- for good signatures on the petition. I didn't tell him where to go, except I gave him the map. I also asked him to just collect signatures and bring them back to me.

Q So did he bring the petitions back to you then?

A Yes, correct.

Q He brought all of them -- he brought --

A He brought most of them back to me, yes.

Q When he brought them to you, were they notarized?

A Yes.

Q So he had gotten them notarized and said, "Here, you go turn them in to the Board of Elections"?

A That's correct. Yes.

Q Did you ever meet any of the people that he worked with, some of the people he hired to help?

A No. I knew that he had, I think, three young ladies and a young man, I think. I met them once and I didn't really have a conversation with them.

Q So do the names Alexia Williams or Kim Ross ring any bells?

A Yes.

Q Tell me -- what do you know about them?

A I know who they are and I know that they circulated the petitions.

Q They circulated petitions?

A Yes.

Q Were you aware or did you ever hear anything, was there any suspicion raised during this period that Mr. Morris or some of these people helping him might obtain these signatures by writing them themselves or somehow obtaining forgeries?

A No. I had no knowledge of that.

Q When did you first learn that there might be forgeries on the petitions?

A After it was already sent out. The Elections Board had certified my candidacy and probably two weeks, three weeks later I got a notice that some of the signatures were forged.

Q Now, in terms of the petition that you circulated, there was a woman named LaRue Woods. (Tendered) If you want to turn to page 49, line nine --

SECRETARY KEMP: Ms. Brumbaugh, if you don't mind, would you say, for the record, what you just handed Mr. Osborne.

MS. BRUMBAUGH: I'm sorry. I handed Mr. Osborne a packet of some of the petitions, the petitions where we did find forgeries on them. So he's reviewing -- I'm asking him to review the one alleged forgery on the petition that he circulated.

Q Mr. Osborne, are you on page 49?  
A Yes, ma'am.  
Q Are you looking at line nine?  
A Yes, ma'am.  
Q Do you see LaRue Woods' signature there?  
A Yes.  
Q Okay. Do you remember obtaining her signature?  
A No, I do not.  
Q Are you aware that she claims that she did not sign your petition?  
A No. I am not aware of that.  
Q When you went -- when you obtained your signatures on the petitions you circulated, how did you do it?  
A I went door to door. I spoke to the folks and had them sign in my presence.  
Q Did you ever do it at a mall or a park?  
A No.  
Q When you submitted your petition, if you just want to look at that page, page 49, the back of it, it's got your signature on an affidavit, which is notarized by a woman named Joyce Humphry.  
A Yes.  
Q Did you sign that petition in Ms. Humphrey's presence?  
A Yes, ma'am.

MS. BRUMBAUGH: I don't have any other questions of Mr. Osborne.

SECRETARY KEMP: Any other questions from the Board?

(NO RESPONSE)

SECRETARY KEMP: All right, very good. The next witness, Ms. Brumbaugh. Mr. Harvey, could you come up here?

MS. BRUMBAUGH: Mr. Osborne, you can take a seat. We would next call Alexia Williams. Is Alexia Williams here?

(NO RESPONSE)

MS. BRUMBAUGH: Ms. Williams' subpoena was returned. We do not have a good address for her. I did not expect her to appear here today. We will move on to Kim Ross. Is Kim Ross here?

MS. ROSS: Right here.

MS. BRUMBAUGH: Ms. Ross, could you come up, please.

SECRETARY KEMP: Ms. if you would just give us your name and address, for the record.

MS. ROSS: Kim Ross, 1338 Cloverdale Drive, 31405.

SECRETARY KEMP: If you will raise your right hand, I'm going to swear you in.

(WITNESS SWORN)

SECRETARY KEMP: Thank you. Ms. Brumbaugh.

**KIM ROSS, SWORN**

**EXAMINATION BY MS. BRUMBAUGH:**

Q Good afternoon, Ms. Ross?

A Hello.

Q (Tendered) Ms. Ross, I've handed you a packet of nomination petitions and we'll be going through those in a minute. In fact, let's start with that. I would like you to turn to page 25. If you could look at lines ten and 11 for me. That's Thomas Hanaford and Etta Hanaford.

A I see it.

Q Do you remember, do you have any specific recollection of obtaining Thomas and Etta Hanaford's signatures?

A This is on Mall Boulevard?

Q That's what it says.

A I didn't do that route.

Q You didn't do that route?

A No.

Q Okay. Well, if you turn back on 25, that's your name on that affidavit, isn't it?

A I can explain that.

Q Okay. Please do so.

A Well, we did it twice. I can't tell you which district and which location. I can explain on Saturday what happened.

Q Well, right now I would like you to explain how you're claiming, on page 25, that you did not obtain Thomas and Etta Hanaford's signatures when your signature is on that.

A I explained that to you on the telephone.

Q I went -- well, I've never spoken to you. So you explain it to the Board.

A Well, if I'm correct, because I just had come there as a substitute.

SECRETARY KEMP: As a substitute for?

A Yes. Mr. Morris came to my church and told my pastor that the one who was originally was going it was out of town. And he needed someone to substitute.

SECRETARY KEMP: So you're testifying that you were filling in for someone else?

A Yes. If this is the same person, he didn't show that day. I don't remember who. I know it was on a holiday. So I'm not sure it was this route or the President side. If this is showing Mall Boulevard, we didn't do it. I did President -- I mean, I did Wilmington Island and then we swung back over there towards Skidaway Island side. If this is the same one, then we went over there by Skidaway, by Kentucky Fried Chicken. He had Mr. Morris to meet him. There was a group of us there. He said before we could get paid, we had to sign these petitions. And he had the notary sitting right there. So he handed me a stack of paper, handed Alexia a stack of paper, and he said we had to sign them; Mr. Osborne.

SECRETARY KEMP: He said you had to sign them?

A We had to sign them. The notary was sitting right there. So, as far as I know, I didn't know what was going on until just now. This is the first I've heard of this.

Q So it's your testimony that you were handed some petitions, with signatures on them, that you did not collect --

A I did not collect.

Q -- and yet you signed the affidavit in order to get paid?

A I was doing what I was instructed. He said he could pay him and we could get paid, that we just had to sign the back of it. He didn't tell us what the back of it was for. The notary would notarize it. It had to be notarized. Like I said, I had just came in. I never did one of these before. You know, someone hands you a stack of papers and says "Sign this and you can get paid. You've got to do this." So that's what I did.

Q So, is it your testimony today, that all 11 signatures on page 25, which are all from Mall Boulevard --

A I didn't do. I only did Wilmington Island and off of Montgomery Crossroads. Those are the only two. I went door to door and did petitions.

Q Do you recall how many petitions you signed?

A Very little.

Q I'm sorry?

A Very little because it was a holiday.

Q How many petitions --

A Not many.

Q So how many would that be?

A I couldn't tell you. They just handed me a stack and said we had to sign them.

Q Okay. I'm going to go through, if you want to look at page 24, page 24 there are signatures from Easy Street, Laurelwood Avenue, Driftwood Avenue, Tara Call, Center Landing, and Richard Avenue. Is it your testimony today that you did not obtain any of those signatures?

A I don't even know where they are.

Q We'll go to page 26. Again, these look like Mall -- these are all Mall Boulevard signatures. You were not on Mall Boulevard?

A No.

Q Yet you signed the back of 26?

A Like I said, I had just started. I was just picked up for the church and asked to come. This is new to me. I don't know anything about elections.

Q Okay. Look at page 28. Page 28, Abercorn Street, Arrow Street, Atwood Street, Chippewa Drive. Helen Warren, that was a forgery, line seven. Did you go to Chippewa Drive and obtain Helen Warren's signature?

A No. I said I only went to Wilmington and off of Montgomery Crossroads.

Q And finally pages 39 is more Mall Boulevard. So if I told you that on page 20 -- again on page 25, number one, Theron Conner, who is deceased before -- in 2007, I believe -- if I told you that, you cannot explain to us how Theron Conner's signature appears on this?

A No.

Q Tell us the details about how you were hired by Edward Morris?

A Well, like I stated before, some of the young ladies that he helped, that helps out at Savannah State, they went home for holidays, so he came to the church and I was there. I volunteer all the time at the church.

Q Did he discuss work -- did you ever hear any discussions about forgeries? Did you hear anybody --

A No.

Q -- talking about forgeries?

A No. I later learned Alexia, from previously helping him, later, but I didn't know anyone.

Q You previously told the investigators in the case that there were three other individuals circulating petitions with you.

A Yes.

Q And one of them was named Alexia?

A Yes.

Q So Alexia was or was not circulating petitions with you?

A She was circulating. She was over us. She told us what to do, through Mr. Morris. She told us to go door to door and explained what we were doing, to have them to write the name down and get the signature.

Q Did Alexia suggest any forgeries?

A No, never.

Q Was Alexia with you when you were handed a bunch --

A Yes.

Q Did Alexia also sign petitions?

A Yes, that she didn't do.

Q Do you remember who the notary was that notarized all these documents?

A No, I don't.

Q Was it a man or a woman?

A It was a woman.

Q Besides Alexia, who else did you work with?

A Like I said, I only knew Alexia because of working with her. But other than Alexia, it was just -- the only one I know was Alexia.

Q How many days did you go out circulating petitions?

A One day.

Q Did you then sign all the other petitions that same day or was that a different day than the day you circulated the petitions?

A I was the same day.

Q So you only spent one day working on Mr. Osborne's campaign?

A Yes.

MS. BRUMBAUGH: I don't have any other questions. Thank you.

SECRETARY KEMP: Mr. Worley?

MR. WORLEY: The notary who witnessed your signature on that day, were they white or black?

A White.

MR. WORLEY: Can you describe them?

A No, I can't. The only thing I know she was a little thick. That's all I remember.

MR. WORLEY: A little thick?

A Yes.

MR. WORLEY: Do you remember her hair color.

A No.

MR. WORLEY: Do you remember if she was young or old?

A She was -- I think she might've been in her 50s or 60s.

MR. WORLEY: And you were there with Ms. Williams and the notary and who else was there, at that time?

A Mr. Osborne, his wife, and I believe one -- it was at one of his in-law's house or someone's house, but I know it's off of Skidaway, behind Kentucky Fried Chicken.

MR. WORLEY: No further questions.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: You kept saying he gave you the petitions. Who gave you the petitions?

A Mr. Osborne each -- gave each of us a stack of petitions and said we had to sign them.

MR. SIMPSON: Do you know where the petitions came from?

A No, because he just said “sign these in order to get paid.”

MR. SIMPSON: What did you do with the petitions that you circulated before this meeting?

A Before the meeting, I gave them to Mr. Morris.

MR. SIMPSON: Then did you ever see them again?

A Yes. We all went over to Mr. Osborne, where he was at, and he divided up what he had.

MR. SIMPSON: So you gave your petitions to Mr. Morris?

A Yes.

MR. SIMPSON: He gave them to Mr. Osborne?

Yes.

MR. SIMPSON: And then Mr. Osborne gave you a stack for you to sign?

A Yes.

MR. SIMPSON: And were any of the petitions that he gave you the ones that you circulated?

A No. He mixed them all up. He just put them all together in one stack and just divided them up.

MR. SIMPSON: Did he do the same thing with all of the other people that were there?

A Yes. Every one got them.

MR. SIMPSON: He just gave everybody a stack?

A Yes.

MR. SIMPSON: Do you know how many were in your stack?

A No. Like I said, it was about that thick. That’s all. I don’t know.

MR. SIMPSON: Thank you.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Ms. Ross, I have a couple of questions for you. The sheets that you were given that day, do you know who collected those signatures before you got those sheets?

A (Shook head)

SECRETARY KEMP: That's a no, correct?

A No.

SECRETARY KEMP: And your testimony was that Alexia Williams was kind of like the project manager for this. She was in charge, so to speak, of this effort?

A Yes. She was over us because Mr. Morris had explained to her what to do and she has helped Mr. Morris in the past.

SECRETARY KEMP: Do you know where she is now?

A No. I haven't spoken to Alexia in over a year.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Thank you for being here today. Mr. Harvey?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: I have one question. What is the status of Mrs. Osborne? Have we interviewed her?

MR. HARVEY: No, sir. I don't believe we've interviewed her. I don't know that her name has come up as being a party to this.

SECRETARY KEMP: Well, I believe, if I'm correct, did we not just hear testimony that she was there the day all this was going on?

MR. HARVEY: I believe this is the first time we heard that. That was -- Investigation Fione (phonetic) interviewed Ms. Ross and, during the investigation, that was not brought up. It was not disclosed at that time.

SECRETARY KEMP: Okay. Thank you.

MS. BRUMBAUGH: I would like to call Joyce Humphrey. Is Ms. Humphrey here?

SECRETARY KEMP: Ms. Humphrey, if you don't mind, give us your name and address for the record.

MS. HUMPHREY: Joyce Humphrey, 2304 East 39th Street, Savannah, Georgia 31404.

SECRETARY KEMP: If you would just raise your right hand, I'm going to give you the oath.

(WITNESS SWORN)

**JOYCE HUMPHREY, SWORN**

**EXAMINATION BY MS. BRUMBAUGH:**

Q Good afternoon, Ms. Humphrey. Ms. Humphrey, were you the -- your signature appears on the petitions that I went over with Ms. Ross. Do you remember notarizing petitions that Ms. Ross was signing?

A No. I'm not saying I didn't sign them if Ms. Ross came to my house. And there were three or four ladies. I saw their driver's license. They verified it was their signature and I notarized their signature.

Q I see. Do you remember who those ladies were?

A No.

Q Did Ms. Ross look familiar with you?

A No.

Q Your signature appears on other -- as notary on petitions circulated by other people as well. I'm going to list some names from you and you can tell me if you remember notarizing their signatures.

A Okay.

Q The first one is Betty Powell?

A Yes.

Q You did notarize Betty Powell?

A Yes.

Q Did you notarize it in the presence of Ms. Powell? Did she sign it in your presence?

A She signed it in my presence.

Q How about her husband Richard Powell?

A He signed it in my presence.

Q Jason Smith?

A He signed it in my presence.

Q Orlando Santo (phonetic)?

A I don't know.

Q David Osborne?

A He signed it in my presence.

Q Carrie Parker?

A Not familiar.

Q Kim Ross? I just asked about her.

A I don't know.

Q You don't remember Ms. Ross?

A No, I do not know Kim Ross.

Q Alexia Williams?

A No.

Q Jeff Rahno?

A Yes.

Q Jeremy Shienbart?

A Yes.

Q And Sandra Shirley?

A Yes.

Q Ms. Humphrey, do you remember speaking to an investigator from the Secretary of State's Office of this case?

A Yes.

Q Do you remember telling the investigator that actually John McMasters, who, I believe, is your son-in-law?

A That's correct.

Q That John McMasters brought all of the petitions to you that were pre-signed.

A I'm sorry. I did not say that.

Q Well, did you say something that could have led the investigator to understand that that was the facts of this case?

A I told him that I was not sure that I -- if I had not seen someone sign the paper, that I did call them on the phone and ask them did they want me to witness their signature.

Q So who did you call, on the phone, and ask that?

A I'm sorry. I don't remember.

Q Well, when we went through all these names, let me ask you again, did they sign in your presence or were they pre-signed and brought to you?

A I don't remember.

Q Well, a minute ago, we went through these names pretty specifically and you said yes, they were -- they signed in presence.

A The ones I remembered, I said yes to. The ones I did not remember, I said I did not know.

Q Okay. Well, let me ask another questions. Were there petitions that were brought to you by John McMasters that were already signed?

A Yes.

Q Do you remember whose signatures those were?

A No.

Q What did you do when you found pre-signed petitions?

A I called those people and asked them would they like me to notarize their signature, that I had a petition signed by them and did they want me to notarize their signature. They said yes and I notarized it.

Q Did they come to you and --

A No, ma'am. I've said that twice. I talked to them on the phone. I did not see them.

Q And just so I'm clear, the names I went through, you said the Powells, Jason Smith, David Osborne, Jeff Rahno, Jeremy Shienbart, and Sandra Shirley, did those people sign in your presence or did you have a conversation with them?

A Okay. Jeff, Shirley and Jeremy I talked to. I know them personally.

Q What about the Powells, Jason Smith, and David Osborne?

A Yes. They signed in my presence.

Q Do you have any knowledge, from these conversations or talking with John McMasters, any -- any knowledge about potential forgeries on any of these petitions? Did you ever hear any thing about that?

A No.

MS. BRUMBAUGH: I don't have any other questions.

SECRETARY KEMP: Any other questions? Mr. Simpson?

MR. SIMPSON: We have a document in our file that says that John McMasters brought all of the petitions to you. Is that true?

A No.

MR. SIMPSON: It's not?

A Well, he brought them, but he brought people with him.

MR. SIMPSON: And then the statement goes on to say none of the other petition circulators signed petitions in her presence, which indicates that you signed -- that John McMasters signed his petition in your presence, but the rest of them did not.

A That is not what I said.

MR. SIMPSON: So that's incorrect.

A That's incorrect.

MR. SIMPSON: Thank you.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Anything else, Ms. Brumbaugh?

MS. BRUMBAUGH: No.

SECRETARY KEMP: Thank you, Ms. Humphrey. Ms. Brumbaugh, if you don't mind, I would like to recall Ms. Ross.

MS. BRUMBAUGH: Certainly. Ms. Ross, can you come back?

SECRETARY KEMP: Ms. Ross, let me just remind you that you are still under your previous oath. Do you recognize Ms. Humphrey as the one who notarized the petitions?

MS. ROSS: After seeing her now, yes.

SECRETARY KEMP: Thank you. Any other questions? Mr. McIver?

MR. McIVER: How were you paid by Mr. McMasters?

MS. ROSS: I was paid by Mr. Morris.

MR. McIVER: I'm sorry, by Mr. Morris.

MS. ROSS: Well, he paid us just what he wanted to pay us. We didn't have a set price.

MR. McIVER: Well, what were you paid?

MS. ROSS: Fifty dollars.

MR. McIVER: For everything that you did?

MS. ROSS: But I didn't work but one day.

MR. McIVER: Do you know if that \$50 was for so many signatures or just your total pay?

MS. ROSS: I really don't know.

MR. McIVER: No other questions.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Ms. Brumbaugh.

MS. BRUMBAUGH: Lynette DelSanto?

(NO RESPONSE)

MS. BRUMBAUGH: Ms. DelSanto's subpoena did not come back. There was no mail, so we may have a bad address on her. April Hayes?

(NO RESPONSE)

MS. BRUMBAUGH: April Hayes's subpoena did not return either, so it may be a bad address on her. Carrie Parker did receive our subpoena, but she is in Tennessee, so she is outside of our subpoena power. If the Board wants myself or Mr. Harvey to depose her, then that's certainly something we can talk about at the end of this hearing. Betty Powell?

SECRETARY KEMP: Ms. Powell, if you will, just state your name and address, for the record, and I'll swear you in.

MS. POWELL: Betty Powell, Salcedo Avenue, Savannah, Georgia.

SECRETARY KEMP: If you would just raise your right hand.

(WITNESS SWORN)

SECRETARY KEMP: Thank you. Ms. Brumbaugh.

**BETTY POWELL, SWORN**  
**EXAMINATION BY MS. BRUMBAUGH:**

Q Good afternoon. Ms. Powell, can you tell the Board your involvement in David Osborne's nomination petition case?

A We were --

SECRETARY KEMP: If you would, just pull that down.

A -- given some petitions and asked if we -- we were explained that David wanted to be a candidate. And we knew him as a Christian man, someone we would love to have as a politician in our city. And we said of course we would circulate petitions because he was a fine man and would love to see him on the board.

Q Did you talk to Mr. Osborne yourself or were you going through an intermediary?

A We got the petitions from someone else. But we talked to him on Wednesday night at church. We all go to the same church and when we saw him, "Hey, guess what we're doing? We've got some petitions for you."

Q Who gave you the petitions?

A I'm pretty sure I got them from Joyce Humphrey. We're all in the same organization and she had them there at the organization.

Q Who did you work with besides David Osborne and Joyce Humphrey? Who else

did you come in contact with on this -- when you were circulating the petitions?

A I don't quite understand. My husband and I walked around the neighborhood and got names. Is that what you mean?

Q Well, let me -- I'll be a little more specific. Did you ever deal with Edwin Morris?

A Oh, no.

Q Did you ever deal with Alexia Williams?

A No.

Q Did you ever deal with Kim Ross?

A No.

Q Through this process, did anything ever come to your ears regarding that some people might be obtaining forgeries?

A Never. We didn't know anything that was even going on until we received a letter in the mail from whomever.

Q Did you sign your petitions in front of Joyce Humphrey?

A Yes. She was at my house.

MS. BRUMBAUGH: I don't have any other questions.

SECRETARY KEMP: Any other questions for Ms. Powell? When did you -- I'm sorry. I have one question for you. When did you receive your letter?

A It's been a couple of years ago now, the first one. And then I got the subpoena.

SECRETARY KEMP: Any other questions?  
(NO RESPONSE)

SECRETARY KEMP: Thank you for being here today. Ms. Brumbaugh.

MS. BRUMBAUGH: We would next call Richard Powell.

SECRETARY KEMP: Mr. Powell, if you would, just state your name and address for the record.

MR. POWELL: I'm Richard Powell. 2617-A Salcedo Avenue.

SECRETARY KEMP: And if you would, just raise your right hand. I'm going to give you the oath here.

(WITNESS SWORN)

SECRETARY KEMP: Thank you, sir. Ms. Brumbaugh.

**RICHARD POWELL, SWORN**  
**EXAMINATION BY MS. BRUMBAUGH:**

Q Good afternoon.  
A Good afternoon.  
Q Mr. Powell, did you sign a petition that was circulated by Hazel Cullum?  
A Yes, I did. I got the petition and gave it to her.  
Q Can you explain to the Board why you would circulate (sic) a petition that you did not circulate yourself? Why you would sign the affidavit on that?  
A Well, I got the petition from Hazel and I felt that I had participated in getting the signatures and I recognized a lot of them from my church.  
Q Why not have Ms. Cullum sign the affidavit?  
A She got it to me and asked if I would turn it in. And I didn't know what she had done on them.  
Q Did you help Ms. Cullum walk around and get signatures?  
A I did not help her walk around. I did talk to people at church that they would have talked to.  
Q Were you with her when she was obtaining signatures?  
A No.  
Q So did Ms. Cullum just hand you the petition without signing the back of it? Is that what happened?  
A She handed it to me. I did not realize it had not been signed by her until I got ready to turn them in.  
Q Did you not think to go back and get her signature?  
A I did not do that.  
Q Did you ever work with Kim Ross?  
A I don't know that person.  
Q What about Alexia Williams?  
A I don't know that person.  
Q Edwin Morris?  
A I don't know that person.  
Q In the course of your involvement in this, did you ever hear anything about possible forgeries appearing on some of these petitions?  
A No, not in the time it was going on.  
Q Did you sign the petition in front of Joyce Humphrey?  
A I did sign -- you say "the." I signed some in front of Joyce.  
Q The ones that you circulated?  
A Yes.  
Q Did you sign anyone else's?  
A I absolutely did not forge anybody's signature, absolutely not.  
Q Are there any other petition, like Hazel Cullum's, where someone else circulated it and you signed it?  
A No.

MS. BRUMBAUGH: I don't have any other questions.

SECRETARY KEMP: Any questions for Mr. Powell from the Board?

(NO RESPONSE)

SECRETARY KEMP: Thank you, Mr. Powell.

MS. BRUMBAUGH: We would next call Jason Smith.

SECRETARY KEMP: Mr. Smith, if you don't mind, if you would just give us -- state your name and address for the record and then I'll swear you in.

MR. SMITH: Jason Smith, 112 East 60th Street, Savannah, Georgia 31405

SECRETARY KEMP: All right. Thank you. If you would raise your right hand.

(WITNESS SWORN)

SECRETARY KEMP: Thank you. Ms. Brumbaugh.

**JASON SMITH, SWORN**

**EXAMINATION BY MS. BRUMBAUGH:**

Q Mr. Smith, Good afternoon. Could you tell the Board what your involvement -- how you got involved with Mr. Osborne's nomination petition campaign?

A Mr. Osborne himself spoke to my wife, Karen. He was an independent and he needed -- by gathering the names, if he got enough of them, he would be allowed to be on the ballot. So since we don't drive, my wife and I, we went down 60th Street, up and down, which is about eight blocks. And when I got to the -- I left the house, Karen, she is in a wheelchair. I would go to the house it said on the list, who it was, and I would give them the list and I would say, "Are you a voter?" And if they said yes, I would continue on and say, "We're gathering names." And if they said, no I would say "Thank you very much," and "please make sure you register to vote in the next election," and then we would continue on.

Q How do you know Mr. Osborne?

A My wife is -- I forget names.

Q The man whose petition you were circulating you were circulating on behalf of?

A My wife said that we were supposed to go to a meeting.

Q So did you or your wife know him before this or did you just meet him at the --

A My wife knew him before this.

Q We'll ask her about that. Do you know Edwin Morris?

A No, ma'am.

Q Did you know Alexia Williams?

A No, ma'am.

Q Did you know Kim Ross?

A No, ma'am.

Q Did you ever hear anything about forgeries while working on this campaign, anything that some people were, instead of getting signatures, that they were --

A Yes.

Q You did?

A My wife and I had heard that because it was late -- late in the gathering, some people had been hired to gather names by signature. They were paid by signature. We were not. We were told to gather signatures and we got signatures.

Q Okay. So you heard because it was late in the game people were hired to gather signatures?

A That's what we heard.

Q Did that then translate to people were forging signatures? I mean, I asked if you heard about forgeries and you told me you heard about people being hired. My question is, what is the link between those two?

A I don't know.

Q Well, let me try to ask -- so you understood that people were hired to get the proper number of forged signatures --

A Some people were hired to gather names and because we heard they were hired to gather names, they gathered them.

Q So, at the time, did you think that the people who were hired, did you think that they were forging names, at the time? Not now, not --

A At the time, I think we did.

Q What made you think that?

A I don't know. My wife and I were just discussing this.

Q I recognize it's been three years, so --

A Four years.

Q Well, I think it's only three. Who told you about this, the hiring of the people?

A I don't know.

Q You don't remember.

A No.

Q Outside of this conversation about people being hired, was there anything else that you heard or saw or knew about suggesting that forgery was going on?

A Not at all.

Q Did you ever follow up, once you heard that, you know, people had been hired and oh, wow, maybe that means they're forging signatures, did you ever do anything with that information? Did you ever ask anybody? Did you ever look into anything?

A My wife and I discussed it and, no, ma'am, we didn't discuss it beyond that with anybody outside of us.

Q Did you sign your petition that you circulated, did you sign them in the presence of Joyce Humphrey?

A Yes, I did.

MS. BRUMBAUGH: I don't have any other questions?

SECRETARY KEMP: Any other questions for Mr. Smith?

(NO RESPONSE)

SECRETARY KEMP: Thank you for being here today, Mr. Smith.

MR. SMITH: Thank you. Mr. Worley needs to address the Board.

MR. WORLEY: Thank you, Mr. Chairman. I've been a member of this Board for more than seven years and I feel like I've been very diligent in my duties. I've only missed one other -- one meeting during all that time, which was the February meeting where this matter first came up.

I regret that I am going to have to leave now, at this point in the hearing, and return to Fayette County because my son is a graduating high school senior and I have to attend his baccalaureate service tonight. So I apologize to the members and the respondents for not being able to stay for the rest of the hearing. If my presence was needed for a quorum, I would definitely stay. You can be sure that I am going to be reviewing the transcript of this matter very carefully. And I have every confidence that this matter is going to be before the board at a later date. And I will be have an opportunity to weigh in, at that time.

Again, I'm sorry I can't stay longer. As I just said, I've been on the Board seven years and this matter is the one that I would actually most like to stay and hear. But I'm going to take it very seriously and weigh all the evidence. I will participate with the Board at a later date.

SECRETARY KEMP: Thank you, Mr. Worley. We appreciate your service. I know you made great efforts to get here today and to get back tonight. Certainly we congratulate your family and your son. We wish you safe travels. Let the record reflect that Mr. Worley is now departing. Ms. Brumbaugh.

MS. BRUMBAUGH: Our next subpoenaed individual would be Hazel Cullum. Hazel Cullum is here.

SECRETARY KEMP: Welcome. If you would, just state your name and address for the record and I'll swear you in.

MS. CULLUM: Hazel Cullum, 8 Wymberly Way, Isle of Hope, Savannah, Georgia 31406.

SECRETARY KEMP: Ms. Cullum would you spell your last name for us.

MS. CULLUM: C-U-L-L-U-M.

SECRETARY KEMP: If you would, just raise your right hand.

(WITNESS SWORN)

SECRETARY KEMP: Thank you, ma'am. Ms. Brumbaugh?

**HAZEL CULLUM, SWORN**

**EXAMINATION BY MS. BRUMBAUGH:**

Q Good afternoon, Ms. Cullum.

A Good afternoon.

Q Now, Ms. Cullum, we just spoke with Mr. Powell who said that you circulated a petition, but you didn't sign it.

A Correct.

Q You let him sign it.

A Because I had signed his petition, so I knew not to sign twice. Was I right?

Q You signed his petition as the circulator?

A I brought his petition that he was circulating and I signed it, because I live in that district. And then he gave me --

Q Let's make sure that the question is clear. You signed Mr. Powell's petition. You signed on the front?

A On the front.

Q Not on the back?

A Not on the back.

Q You didn't sign it saying, "I circulated this petition"?

A Oh, no.

Q You signed as someone who supported the nomination?

A Correct.

Q Okay. And so you felt that you could not then sign the petition that you circulated?

A Correct.

Q Now, what led you to either sign a nomination petition or circulate one knowing that you had done the other?

A I did not know I was going to circulate one, at that time.

Q How did you circulate the petition?

A Richard Powell brought me his paper to sign, I was sitting in Sunday School class and I signed his paper. And before I signed, I said, "I don't know Mr. Osborne." And he explained that he was a member of our church and that -- he told me things about him. And so that's when I signed Richard's circulating paper. And then, he gave me a sheet and asked me since I lived at Isle of Hope, in the district, asked me if I would circulate one and I said "I'll be happy to."

**SECRETARY KEMP:** Ms. Brumbaugh, if you don't mind, when you say "he," you're referring to Mr. Powell?

A Yes.

**SECRETARY KEMP:** Thank you.

A We've been friends for many years and we're all in the same church.

SECRETARY KEMP: Thank you.

Q Where did you circulate the petition that Mr. Powell gave you to circulate?

A My neighbors at Isle of Hope and a few others at church who are in our district. So they were all legitimate signatures.

Q So you walked around the neighborhood --

A Yes, I did.

Q -- and you brought it to church?

A Yes, I did, right by myself.

Q Okay. Did you ever hear anything, in the course of this petition process, that made you think that some signatures might be obtained by forgery

A I did not.

Q Did you ever meet or work with Edwin Morris?

A No.

Q Alexia Williams?

A No.

Q Kim Ross?

A No.

MS. BRUMBAUGH: I don't have any other questions.

SECRETARY KEMP: Mr. McIver?

MR. McIVER: Ms. Cullum?

A Yes.

MR. McIVER: I have a couple of difficult questions that I need to ask you. I want you to know that I mean them in the most respectful way. Is your attorney, Mr. McCorkle, here today?

A No. He's my son-in-law. He said, "You're on your own."

(LAUGHTER)

MR. McIVER: Perhaps I should just stop right there. That's the reason I don't represent my 92 year old mother.

A Exactly. Thanks for not doing that.

MR. McIVER: We have to struggle always with an issue that lawyers refer to as the competency of the witness. Your son-in-law, perhaps not using the best of terms, said in a letter to us last week that you would not be able to appear here today and that your mental and physical faculties have further declined and it's his opinion that you're in the early stages of dementia. I mean this in the most respectful way, but we need to know --

A That's what he thinks about his mother-in-law.

(LAUGHTER)

SECRETARY KEMP: Hold on just one second now. We've got to make sure that we're orderly so that our reporter, our court reporter, the person doing the transcript and recording everything that's being said here, so go right ahead.

MR. McIVER: Well, Mr. Chair, I'm getting ever deeper in this hole. I do have to pursue this point. Would you give us your opinion, ma'am, of your mental acuity? Do you understand, as best you know, unlike perhaps what your son-in-law refers to in this letter?

A I had my 83rd birthday yesterday and I remember everything. I remember it all.

MR. McIVER: When is your birthday?

A May 23, '28.

MR. McIVER: When were you married?

A In '49.

MR. McIVER: Do you remember that date?

A Of course.

MR. McIVER: Would you share that with us?

A Pardon?

MR. McIVER: Will you tell us the date you were married?

A I married on June 25th, 1949.

MR. McIVER: And the name of your husband?

A Hank Cullum, Henry A. Cullum. He's been in heaven for 15 years.

MR. McIVER: I know you look forward to joining him.

A I really do.

MR. McIVER: Mr. Chairman, I'm getting out of this hole now. I hope that Ms. Brumbaugh and perhaps others are satisfied that despite what your son-in-law says, there is no issue of

competency.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Ms. Cullum, thank you for being here. It's been a pleasure. Ms. Brumbaugh.

(APPLAUSE)

MS. BRUMBAUGH: We would next call Steven Bell.

SECRETARY KEMP: Mr. Bell, just give us -- state your name and address for the record and I'll swear you in.

MR. BELL: My name is Steven Bell. I'm at 204 Stonebridge Lane, Savannah, Georgia 31410.

SECRETARY KEMP: If you would, just raise your right hand.

(WITNESS SWORN)

SECRETARY KEMP: Thank you. Ms. Brumbaugh.

**STEVEN BELL, SWORN**

**EXAMINATION BY MS. BRUMBAUGH:**

- Q Good afternoon, Mr. Bell.  
A Good afternoon.  
Q Now, Mr. Bell, you worked with -- you just notarized the petitions?  
A Correct.  
Q You didn't circulate any petitions?  
A No, ma'am.  
Q Did you notarize petitions in the presence of the affiant?  
A Yes. The affiant being David Osborne. Yes, ma'am.  
Q Is that the only person whose petitions --  
A Yes, ma'am. Yes, ma'am.  
Q Did you know Edwin Morris?  
A No, ma'am.  
Q Did you know Alexia Williams?  
A No, ma'am.  
Q Did you know Kim Ross?  
A No, ma'am.  
Q How did you get involved with this petition campaign?  
A David Osborne goes to my church.

Q In the course of the petition campaign, did you hear anything about forgeries?  
A No, ma'am.

MS. BRUMBAUGH: I don't have any other questions.

SECRETARY KEMP: Any other questions?  
(NO RESPONSE)

SECRETARY KEMP: Thank you, Mr. Bell. Mr. Bell, let me ask you one question, if you don't mind. What's your thoughts on Mr. Osborne's condition?

A What's my thoughts on his condition? I don't think that we need to go much further. I think it needs to be closed myself. The case needs to be closed.

SECRETARY KEMP: Thank you. Ms. Brumbaugh.

MS. BRUMBAUGH: We would next call Leonard Childs.

MR. CHILDS: Leonard Childs, 12 Harlan Drive, Savannah, Georgia 31405.

SECRETARY KEMP: Thank you, Mr. Childs.

(WITNESS SWORN)

SECRETARY KEMP: Thank you, sir. Ms. Brumbaugh.

**LEONARD CHILDS, SWORN**  
**EXAMINATION BY MS. BRUMBAUGH:**

Q Good afternoon, Mr. Childs.

A How are you doing?

Q I'm good thank you. How are you? Could you tell the Board your relationship with Mr. Osborne and how you got involved with his campaign?

A I've known Mr. Osborne for a number of years. How many, I don't care to think about. I think Mr. Osborne indicated to me that he was wanting to run for election. I asked if I could be of any help or any assistance and it went from there. I think he asked me to help him with a petition drive.

Q So what did you do in his campaign?

A Excuse me?

Q In his petition drive, what did you do?

A I -- I was a circulator. I circulated a petition for him.

Q Your son, Michael, notarized your petition; is that right?

A That's correct.

Q He lives in Athens, right?

A That's correct.  
Q Did you take anybody else's petitions to be notarized? Were you responsible for getting any other petitions notarized?  
A No.  
Q Did you work with anybody else on this -- in circulating that day?  
A No. It was over a number of days.  
Q But you did it on your own?  
A Yes.  
Q Did you ever meet or become involved with Edwin Morris?  
A No.  
Q Alexia Williams?  
A No.  
Q Kim Ross?  
A No.  
Q Did you hear anything about forgeries in this petition campaign?  
A Not at all.

MS. BRUMBAUGH: I don't have any other questions.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Thank you, Mr. Childs.

MR. CHILDS: I would like to thank the Board for taking this action and looking into this matter. You all should be commended for your actions. It's been a long day, but we, all of us, appreciate your attention. Thank you.

SECRETARY KEMP: We appreciate you showing up today. It means a lot to us. Thank you. Ms. Brumbaugh.

MS. BRUMBAUGH: We would next call Michael Childs, but he, living in Athens, is outside the subpoena power. He was the notary who notarized his father's petition. John McMasters. Is John McMasters here?

(NO RESPONSE)

MS. BRUMBAUGH: My understanding is Mr. McMasters did return his subpoena -- return the certified receipt regarding the subpoena.

SECRETARY KEMP: So he returned saying he was going to be present?

MS. BRUMBAUGH: We're checking. Yes, we have -- yes, we have a certified receipt signed by

John McMasters. I would move this into the record for the Board's consideration. The signature is almost identical to the signature on some of the petitions. That's why I feel comfortable that is Mr. McMasters. So I would like to move this certified receipt --

SECRETARY KEMP: Do we need to move to accept or can we accept?

MR. McIVER: I'll move to accept it.

MR. SIMPSON: Second.

SECRETARY KEMP: We're got a motion and a second to accept the subpoena from Ms. Brumbaugh into the record. All in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries and the document is accepted.

MR. McIVER: If you will verify he is not here, I have another question.

SECRETARY KEMP: I can verify that. Mr. McMasters? Last call.

(NO RESPONSE)

SECRETARY KEMP: Mr. McIver?

MR. McIVER: Ms. Brumbaugh, as our representative from the legal department, if we have the power to subpoena through your offices, do we have contempt powers?

MS. BRUMBAUGH: We have to apply to Superior Court. The process would be that we go to Superior Court. We would request an order from Superior Court to attend another hearing. We would ask him back for another hearing. If Mr. McMasters failed to honor that court order from Superior Court, then we would apply to Superior Court for a contempt.

MR. McIVER: So the Court would have to do that?

MS. BRUMBAUGH: That's correct.

SECRETARY KEMP: Can you tell us Mr. McMasters' role in this.

MS. BRUMBAUGH: Well, Mr. McMasters was represented by an attorney at the time of the

Secretary of State's investigation, a man named Alex Zipperer. Mr. Zipperer had not contacted me or Mr. Harvey since we sent the subpoenas out. Mr. Zipperer spoke on behalf of John McMasters to the Secretary of State's investigators. So the Secretary of State investigators never met directly with Mr. McMasters.

The information stated that on September 17, 2009, Investigator McNeil received a letter from the law offices of Tom Bordeaux, who is another -- I guess there were two attorneys -- who is the attorney currently representing Mr. McMasters. In this letter, Bordeaux stated that Mr. McMasters did collect the signatures in a petition drive. He would explain the purpose and if the resident agreed, he would have them sign the petition. Further, according to Bordeaux, McMasters did not ask for identification from those who signed the petition he circulated. He said petitions turned in by Mr. McMasters included signatures collected by him, as well as others. Finally, Bordeaux stated that while McMasters was heavily involved in the campaign, this involvement did not include McMasters obtaining forgeries by others.

Once the Secretary of State's Office did their investigation into this case and tried to verify signatures, they did contact two people who signed Mr. McMasters' petitions. Those two people verified their signature. So we don't have any evidence of forgeries on any petitions that Mr. McMasters circulated. But he was heavily involved in this case. I think he was the person that might have -- I think he was the person that hooked Mr. Osborne up with Mr. Morris.

SECRETARY KEMP: Mr. Osborne. Just to remind you, you're still under oath, sir.

MR. OSBORNE: Yes, sir.

SECRETARY KEMP: You want to ask that question, Ms. Brumbaugh?

**DAVID OSBORNE, PREVIOUSLY SWORN**  
**FURTHER EXAMINATION BY MS. BRUMBAUGH:**

Q Mr. Osborne, was it Mr. McMasters who introduced you and got you hooked up with Mr. Morris?

A That's correct. Yes.

Q Can you tell us about how you know Mr. McMasters and what involvement he had in the petition drive?

A I knew who John was and I spoke to him a couple of times. And we got together and he said he really wanted to help me out. So --

Q Okay. How did you know him?

A I know that he was a county commissioner and I met him before that, before he was a county commissioner. I met him before that.

Q Did you ever -- do you remember what he told you about Mr. Morris?

A No. This was three years ago. I have no -- the only thing I met with him and -- just let me say this. First of all, this young lady said -- none of this -- what she said was correct. Number one, my wife did not want me to run on the county commission at all and I'm not even

sure she even signed my petition, so my wife had nothing to do with anything, any of this.

Number two, the only people that I gave petitions to, blank or filled out, were Edwin Morris. I did not collect any petitions from Kim Ross or anyone else. The only petitions that I collected was from Edwin Morris himself. We met. He has never been at my house, obviously, and so obviously, she did not meet my wife. So, anyway, all right. I'm sorry. Go ahead.

Q Let's stick with Mr. McMasters for a minute and we'll get back to that.

A Okay.

Q Mr. McMasters; how often did you meet with him?

A I met with him probably six or eight times over a period of about five months.

Q Did you -- did he ever discuss with you issues regarding forgery?

A No.

Q Did you have any suspicion of him or his potential involvement in this case?

A No.

Q I know I asked this before, but I think I need you to answer as specifically and concretely as possible. How did you know these players, McMasters and Morris? What was your contact with them? If you could be as detailed as possible about how you came to meet them, what you knew about them, and what your relationship with him was during this petition campaign?

A My relationship to all of them was professional. I didn't -- I didn't know any of these people personally. I did not know them. I knew who John McMasters was. I had met him a couple of times during the campaign for county commission. No, I did not know when I started to run as a county commissioner I got in touch with him. In fact, I think he called me and asked me if he could help with my campaign and I said yes.

Now, with Edward Morris, I didn't know him, ma'am. I was told that he was a political consultant and he had worked on other campaigns here in Savannah -- in Savannah, and when I met with him I just -- I was like okay, he was willing to help collect signatures and I agreed, between him and I, that I would pay him for a good signatures and, if you would, like to do what -- whoever he would get to circulate petitions, he would take care of those folks. I haven't -- I haven't had any -- any contact with any of those folks other than Edwin Morris.

Q Did you pay Mr. McMasters?

A No. The only person I paid was Edwin Morris.

Q How much did you pay Edwin Morris?

A Three dollars a signature.

Q Do you remember what the total was?

A No, but I've got -- I mean, if you need it, I can get it for you. I wrote a check.

Q It was probably, at least several hundred dollars?

A Probably about 800 bucks, best I remember.

Q So it's your testimony today that Ms. Ross's story about going with you to Joyce Humphrey and signing a stack of petitions that she had not circulated is false?

A Absolutely false.

Q Did you take -- because, Ms. HUMPHREY, I understand -- Ms. Humphrey seemed to agree that yes you had taken some women to her house.

MS. HUMPHREY: No, it wasn't.

SECRETARY KEMP: Ma'am, ma'am --

MS. HUMPHREY: I did not say that.

SECRETARY KEMP: -- you can't interrupt us now when we're doing this. We're going to continue to remain orderly. Go right ahead.

A I was not there when those folks were -- when they took those signatures to be notarized.

Q When who took the signatures?

A Anyone, other than my own.

Q So did you ever have a meeting with Ms. Humphrey about petition notarization?

A Yes, I did. Yes, I did.

Q When?

A She did one of my papers.

Q So no one else was present then?

A No.

Q Did you ever take anyway or -- did you ever deal with any other notaries?

A I dealt with Steven Bell.

Q Okay.

A Steven Bell did most of my papers.

Q Did you have anyone else -- anybody else's petitions that Steven Bell notarized for you?

A No, only mine.

MS. BRUMBAUGH: I don't have any other questions.

SECRETARY KEMP: Any other questions? Mr. Simpson?

MR. SIMPSON: Did Mr. Morris give you the petitions?

A Excuse me?

MR. SIMPSON: Did Mr. Morris give you the petitions after they were --

A He collected them and he gave them to me. Some of them he brought to me and some of them he brought to John McMasters.

MR. SIMPSON: At the time he brought them too you, were they filled out and notarized?

A They were filled out, signed and notarized.

MR. SIMPSON: Already?

A That's correct.

MR. SIMPSON: You did not hand them out to anyone in front of a notary to be notarized?

A I did not. I absolutely did not.

MR. SIMPSON: So you were not at the meeting that we heard about?

A Absolutely.

MR. SIMPSON: Do you know how Mr. Morris came to get those petitions filled out?

A No, I don't. All I know about him was -- was if he collected good signatures and I paid him for them. I didn't ask him how he would do it. My understanding was that he was a professional and he collected signatures. That's what he did.

MR. SIMPSON: Did anybody, on your behalf or your campaign's behalf, review those petitions to make sure that they were accurate before they were filed?

A No. No, sir.

SECRETARY KEMP: I've got one question for you Mr. Osborne.

A Go ahead, sir.

SECRETARY KEMP: Have you had any contact with Edwin Morris recently?

A No, not within the last three years.

SECRETARY KEMP: Any other questions?

MS. BRUMBAUGH: I have one question.

Q Have you had any contact John McMasters recently?

A I talked to him on the phone.

Q How recently?

A Last week.

Q Did you discuss this hearing?

A That there was a hearing, yes.

Q Did Mr. McMasters indicate he was coming?

A No. He didn't tell me one way or the other.

Q What was that conversation? Can you tell the Board what that conversation was about?

A He got the same subpoena I did and that we -- I mean, that it was going to be held today and that was basically it.

Q Was your impression from that conversation that he would be here today or that he would --

A My impression was he would not -- would not be here.

Q Why was that your impression?

A He did not say that. He said he would talk to his attorney. I got the impression that he was not going to be here.

Q Do you know who his attorney is?

A Yes, I do.

Q Who is his attorney?

A Alex Zipperer.

Q Alex Zipperer? Did you call McMasters or did Mr. McMasters call you?

A He called me. I called him early in May, when I got the petition or got the subpoena and he called me last week.

Q Have you ever discussed this forgery situation with McMasters in the intervening two or three years?

A Yes, we did. After -- after the letter came out, yes, we talked about it.

Q What is your theory about what must have happened?

A I don't know. I don't know personally that there was forgeries. I mean I'm not -- there were stories, but I don't know that there are. The only forgeries I know is that forgeries that were the people that voted for Helen Stone on Mall Boulevard. Those people were in the Sixth District and they voted for Helen Stone. That's the only -- that was the mess up with the Elections Board.

Q But you just said that you and John McMasters talked about this over the intervening --

A After -- after we got the letter -- I got the letter from the Elections Board saying that they --

Q Right, I understand that. So, in those conversations, what has been your theory about what happened?

A Well, my theory is that Edwin Morris and his people short-cutted the circuit or whatever. He signed or other people signed too.

Q Along the lines of those conversations, did McMasters ever indicate to you that he had any concrete knowledge about this?

A No.

Q Any proof?

A No proof.

Q Any knowledge of Mr. Morris's background that would lead him to think that this happened?

A No.

MS. BRUMBAUGH: I don't have any other questions.

SECRETARY KEMP: So, Mr. Osborne, would this be a correct assumption on my part that you were simply a candidate for this office and you had some people that were volunteering and helping you get your signatures that you went to church with and you had a, quote, political consultant, that you were also paying to help you get the required signatures?

A That's correct, yes.

SECRETARY KEMP: And you weren't aware of the forgery or other things that were going on until after this whole case broke basically?

A That's correct. I was not aware of that until after the election -- well, actually -- my petition, a couple of weeks later I got a letter from Russell (phonetic) saying that they had some questions about some signatures. That was the first time I was made aware of it.

SECRETARY KEMP: Let me ask you a question about Mr. McMasters. How did you first come into contact with him in your campaign?

A He called me back in -- I don't know March, maybe, March of 2008. And he found out that I was running and he asked me if I needed some help and I said sure.

SECRETARY KEMP: Was there a reason that he would have called you to offer help?

A I suspect it had something to do with the fact that he doesn't like Helen Stone.

SECRETARY KEMP: That's the kind of things that we need to understand. You might not believe this, but those kinds of things happen in politics sometimes.

A Well, I know what politics is. You don't like each other.

MS. BRUMBAUGH: I have one final question. You've already denied that you didn't have a meeting with Ms. Humphrey and Kim Ross and having Kim Ross sign the petitions in front of Ms. Humphrey. But did you ever communicate to anyone that they needed to sign petitions in order to be paid?

A No. I spoke directly with Edwin Morris and I told him that he needed to deliver me good signatures and I would pay for his good signatures. I did not give him any direction on how to do it. And then they came back to me, they were all -- all the signatures were completed. They were signed and notarized.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Thank you, again, sir. Ms. Brumbaugh?

MS. BRUMBAUGH: Yes. Next is Jeff Rahno.

MR. RAHNO: Jeff Rahno, 3 Stone Court, Pooler, Georgia 31322.

(WITNESS SWORN)

SECRETARY KEMP: Thank you. Welcome back.

**JEFF RAHNO, SWORN**

**EXAMINATION BY MS. BRUMBAUGH:**

Q Good afternoon, Mr. Rahno.

A Good afternoon. I'm pleased to see you again.

Q It's good to see you too. Now, Mr. Rahno, did you bring the petitions that you circulated, unsigned, and sign in the presence of a notary?

A No. I signed them and I gave them to John McMasters.

Q Why didn't you sign them in the presence of a notary?

A Because I've known his mother for well over eight years.

Q So is it true th she then called you on the phone and just verified on the phone?

A That's correct. Yes, ma'am.

Q Did you work with Edwin Morris of this campaign?

A As I testified before, I don't know him.

Q I apologize. I know you have been here. If you don't mind answering the questions.

A I will. Thank you.

Q How about Alexia Williams?

A No, ma'am.

Q What about Kim Ross?

A No.

Q What about John McMasters? John McMasters?

A We went out one day in like the same neighborhood, which is next to -- whatever -- one day we went together on one side of the street.

Q Did you know John McMasters before this petition drive?

A We served on the county commission together for three years. I actually worked on his campaign, helped him get elected.

Q Were you aware, through contact with Mr. McMasters or just hearing things, did you have any idea, at the time, during the petition drive, that they might be putting forgeries on petitions take MMF I had I would've disassociated myself with the effort??

A No, ma'am. If I had, I would have disassociated myself.

MS. BRUMBAUGH: I don't have any other questions.

SECRETARY KEMP: Mr. Rahno --

A Yes, sir.

SECRETARY KEMP: -- I just want to make sure I've got all these relationships clear here. What is the relationship with Mr. McMasters and Ms. Humphrey?

A That is his mother-in-law.

SECRETARY KEMP: Mother-in-law. So you had given -- explain to me again what you did with your signature page, that you signed. You gave that to?

A To John McMasters. I was busy working my coffee shop. I went and dropped it off and went back to work. I went out two days.

SECRETARY KEMP: And then she -- she notarized it?

A Yes, sir. That's my understanding.

SECRETARY KEMP: Okay. Any other questions? Mr. Simpson?

MR. SIMPSON: Did she call you about your signature on the petition page?

A Yes, sir.

MR. SIMPSON: Did you know her?

A Yes, sir. I've known her for eight years, as I said previously.

MR. SIMPSON: So you've known her for eight years and she knew how to get in touch with you. She called you and verified your signature?

A Yes, sir. I worked with John McMasters through three campaigns and we went together. I know him very well. Yes, sir.

MR. SIMPSON: Thank you.

SECRETARY KEMP: Any other questions?

(NO RESPONSE)

SECRETARY KEMP: Thank you, Mr. Rahno, for being here with us today. Ms. Brumbaugh, how many more have we got to call here?

MS. BRUMBAUGH: We've got three more. I have a few more questions for Ms. HUMPHREY, but --

SECRETARY KEMP: Do you want to do that now or --

MS. BRUMBAUGH: Actually, I think I would rather wait, if that's okay. I would call Jeremy Sheinbart. Jeremy Sheinbart? Going once, going twice.

(NO RESPONSE) .

MS. BRUMBAUGH: Actually, Mr. Sheinbart, we didn't have delivery confirmation. We had a bad address on him. Sandra Shirley. Sandra Shirley?

(NO RESPONSE)

MS. BRUMBAUGH: We also had a bad address on Ms. Shirley. Karen Smith?

SECRETARY KEMP: Can we get Ms. Smith a microphone? You can -- you can stay right there, if you would like, ma'am. Ms. Smith, is that correct?

MS. SMITH: That's correct. I am Karen Odum Erin (phonetic) Smith.

SECRETARY KEMP: If you would just give us your name and your address, for the record.

MS. SMITH: Karen Odum Erin Smith, 522 East 60th Street, Savannah, Georgia 31405.

SECRETARY KEMP: I'm going to give you the oath here.

(WITNESS SWORN)

SECRETARY KEMP: Thank you. Glad you're here with us today.

MS. SMITH: Thank you, sir.

SECRETARY KEMP: Ms. Brumbaugh.

**KAREN SMITH, SWORN**

**EXAMINATION BY MS. BRUMBAUGH:**

Q Good afternoon, Ms. Smith.

A Good afternoon. Thank you for coming to our backyard.

Q It's a lovely backyard. Ms. Smith --

A Yes.

Q -- your husband said that you were the -- of the two of you, you were the person that knew David Osborne?

A Well, what happened was, we were asked by John McMasters to meet and then decide whether to help Mr. Osborne in collecting names for a petition to be allowed to run as an independent against two other candidates. We live in the district. We live in the middle, I think, of the district. We are very interested in politics, though neither one of us has ever done anything beyond wearing a button or a T-shirt.

So I met him and met Mr. Osborne, through John McMasters. But we knew Jeffrey Rahno was supporting him and some other folks, so we were impressed. We thought it would be nice to have a good Christian influence in politics. So we went out to do so and we felt like we were -- we stayed in our neighborhood, stayed in the area where at least, by face, they would know us together as being in the neighborhood and in throughout the community.

Q Now, your husband testified earlier that you heard, during the course of the petition drive, that somebody had been hired to fill out petitions. For some reason, that made you think there might be forgeries.

A No. He -- we heard that they were paying for signatures. That was true. But we did not discuss, until after our visit with Mr. Ryan McNeil in September, that there was actually anything wrong.

Q So did you have any knowledge during the petition drive of forgeries?

A No, ma'am.

Q Did you ever work with Edwin Morris?

A No, ma'am.

Q Or Alexia Williams?

A No, ma'am.

Q Or Kim Ross?

A No, ma'am. Don't know them.

MS. BRUMBAUGH: I don't have any other questions.

A I thank you all for the opportunity to be here and whatever the process is, we thank you.

SECRETARY KEMP: Thank you, Ms. Smith. Any other questions for her from the Board?  
(NO RESPONSE)

SECRETARY KEMP: Thank you very much. Glad you're here. If you need anything the rest of the meeting, you let us know.

MS. SMITH: Thank you.

MS. BRUMBAUGH: At this time, I would like to call -- recall Joyce Humphrey and then actually John Welcher is one final witness.

SECRETARY KEMP: Just to remind you, you're still under oath, ma'am.

**JOYCE HUMPHREY, PREVIOUSLY SWORN**  
**FURTHER EXAMINATION BY MS. BRUMBAUGH:**

Q Ms. Humphrey, were you aware that Mr. McMasters was not going to show up this afternoon?

A Yes.

Q You were?

A Yes.

Q Can you tell us why Mr. McMasters did not show up this afternoon?

A No, I cannot.

SECRETARY KEMP: Ms. Humphrey, if you don't mind, could you just put that microphone down a little bit. Thank you.

Q Now, Ms. Humphrey, this is not a question that is going to cause you to incriminate yourself in anything.

A Ma'am, I don't know why he didn't come. He just said he wasn't showing up. I'm not my son-in-law's keeper.

Q When did you have that conversation with him?

A Last night.

Q Are you aware that he -- is his attorney Alex Zipperer as someone else testified?

A Yes, it is.

Q What was your knowledge of his involvement in Mr. Osborne's campaign?

A The only thing I know, he was helping David to get on the ballot.

Q Now, there has been some testimony earlier and I apologize if I misunderstood what you said earlier. But we have two different stories about --

A You're talking about when I said that they came to your house?

Q Yes.

A John McMasters, Edwin Morris, and like I say, it was three or four ladies came. David has never been to my house.

Q Now, so David was not there?

A No, ma'am.

Q When they come, are the petitions signed or unsigned?

A Unsigned. I looked at their driver's license and then had them sign and compared their driver's license to the signature.

Q And so the only three people whose signatures -- whose petition were pre-signed were Jeremy Sheinbart, Sandra Shirley, and Jeff Rahno?

A Yes.

MS. BRUMBAUGH: I have no other questions.

SECRETARY KEMP: Any other questions for Ms. Humphrey?

(NO RESPONSE)

SECRETARY KEMP: Ms. Humphrey, I have a couple of questions. Have you had any contact with Edwin Morris recently?

A The only time I ever saw him was the night he came to my house.

SECRETARY KEMP: And do you know if Tom Bordeaux is representing Mr. McMasters?

A Alex Zipperer is his attorney, to my knowledge.

SECRETARY KEMP: So when somebody mentioned Tom Bordeaux earlier --

A I have no knowledge.

SECRETARY KEMP: Thank you, ma'am. All right, Ms. Brumbaugh.

MS. BRUMBAUGH: Johnny Welcher.

SECRETARY KEMP: Major Welcher, welcome. If you would, just state your name and address for the record and I'll swear you in, sir.

MAJOR WELCHER: John T. Welcher. I'm a major with the Chatham County Sheriff's Office.

SECRETARY KEMP: What's your address?

MAJOR WELCHER: Number 19 Chippewa Drive, 31406.

(WITNESS SWORN)

SECRETARY KEMP: Glad to have you with us. Ms. Brumbaugh.

**MAJOR JOHN WELCHER, SWORN**

**EXAMINATION BY MS. BRUMBAUGH:**

Q Major Welcher, your signature appears on the petition and you did not sign it, correct?

A My name appears on it. I did not sign it. I did not talk to anyone. Nobody came to my house and obtained anything from me. I found out, through my County Commissioner, on a Sunday she called me at home. Helen Stone is my Commissioner. And she said, "I thought you and I talked and you was going to help with my campaign." I said, "What are you talking about, Ms. Stone?" She said, "Well, you signed Mr. Osborne's petition." I said, "No." I went to her house on Sunday, looked at the names of the petition. My name was forged. My next door neighbor's name was forged. And the next door neighbor to him, him and his wife's was forged. I've been living in the same neighborhood for 14 years.

Q Do you have any knowledge of who forged your signature or your neighbor's signatures?

A I have no clue. But whoever forged it should be prosecuted. It's a slam-dunk case if they prosecuted, but they wouldn't do that. I want them prosecuted to the fullest extent of the law.

Q Did you do any investigation on your own?

A I called the Attorney General, after this happened. I got some face time with him. I called Larry Chisholm, who said there wasn't nothing they could do about it. And I stayed in contact with Commissioner Stone and Commissioner GALLANTLY and said I would pursue it.

MS. BRUMBAUGH: I don't have any other questions.

SECRETARY KEMP: Major, I've got a question for you. Sometimes when these meetings are going on, I'm trying to do several things at one time. I hope I didn't miss this. But do we know who signed the petition that your name was on?

A I have no clue, sir. Every signature on the page that's got my name on it, the same person signed it.

MS. BRUMBAUGH: We don't know who forged the signature --

A I don't know who forged the signature, no.

MS. BRUMBAUGH: But we know that the circulator, that Morris signed the affidavit.

SECRETARY KEMP: Edwin Morris?

MS. BRUMBAUGH: Edwin Morris.

A And I have no clue who he is. That is not my signature. If you sign it on anything, I think it's an injustice to anybody that forges anybody's name, a misdemeanor, on any kind of paperwork or anything.

SECRETARY KEMP: Well, we are inclined to agree with you on that. Any other questions for the Major?

(NO RESPONSE)

SECRETARY KEMP: Thank you, Major. Please let the Sheriff know we appreciate you all's security.

MAJOR WELCHER: Thank you all. I appreciate your time looking into this. I think it will be well worth it.

SECRETARY KEMP: Thank you. All right. Ms. Brumbaugh, anybody else you want to call?

MS. BRUMBAUGH: We have no other witnesses to call.

SECRETARY KEMP: I think what we probably need to do, I'm sure that our transcriber probably needs a break, as well as the Board members. Let's just take a ten-minute break. We'll come back at 4:15.

(SHORT BREAK)

SECRETARY KEMP: I'm going to go ahead and call the meeting back to order. Let the record show that we've got Mr. Simpson and Chairman Kemp and Mr. McIver back on duty. We do have a quorum. Ms. Brumbaugh, we got the folks that we subpoenaed; is that correct?

MS. BRUMBAUGH: Yes. Yes, Your Honor. Yes, sir.

SECRETARY KEMP: I'm not a judge, but I feel like it. All right. Ms. Brumbaugh, anything else you want to add to the testimony or suggestions for the Board as we move forward?

MR. SIMPSON: Mr. Chairman, I would like to ask something.

SECRETARY KEMP: Hold on just a minute, if you would, Ms. Brumbaugh. Hang on a second. Mr. Simpson?

MR. SIMPSON: Of course, I'm new today, but I understand some history of this. I read some of the minutes of the last meeting. Would you mind, just for my benefit, giving us a procedural history of this case and how it developed to this point.

MS. BRUMBAUGH: Certainly. This case first came to the Board in December of 2009. It was presented by Shawn Ellen LaGrua, who is a Superior Court Judge in Fulton County. At that time, Ms. Brewer raised an issue of knowing who had committed the forgeries. The Board, in December of 2000, voted to refer this case, to both my office for administrative prosecution, and to the DA's office for criminal prosecution. What I do is purely civil and administrative.

The case went to the DA's office Chatham County and the DA -- I don't know who it was, but apparently he -- somebody from the group of respondents had worked on his campaign. He conflicted himself out of this prosecution. He sent the case to the Prosecuting Attorneys Council, which is a group, in Georgia, that does come in and do prosecutions when local district attorneys are conflicted out. Rick Malone, the head the Prosecuting Attorneys Council sent a letter, in July of -- excuse me, January of 2011 stating that he would not prosecute this case based on the same issue that -- that now Judge LaGrua had raised, which was we don't know who did these forgeries. We don't have enough evidence as to identity. We don't have enough evidence that the petition circulators knew that the signature they were getting were forgeries.

So I brought that letter to the Board's attention at the February meeting. Ms. Stone, Mr. GALLANTLY, Mr. Rahno were all present, and the other people, some others who we have not

subpoenaed. The rest of them did not appear. At that meeting we heard from Ms. Stone, Mr. GALLANTLY and Mr. Rahno and the Board decided to put this case on this agenda. So, at the February meeting, the Board put this case on this agenda and asked both Ms. Stone and myself and Mr. Harvey if there were any additional investigation that we could do.

And we have since been able to identify, a little bit better, whose petitions have forgeries and which signatures were forged. And we were hoping today to get more evidence regarding knowledge of those forgeries. And so, that's really the issue. That's the first issue before you. And then the second issue is some of the issues about petitions being pre-signed or perhaps people not circulating the petition, signing as circulator. Those are more technical violations. Those would not go to the District Attorney's Office anyway.

Your options now are either to order additional investigation -- one thing we can do, is depose some pictures. Most people were here, but perhaps for those -- some of them who didn't show -- keep the case in my office. The case was referred to my office. I could continue administrative prosecution or close the case, if you feel that there are some people for whom there is really no evidence or questionable violation.

MR. SIMPSON: Now, we wouldn't have any jurisdiction to order a criminal prosecution. I mean, that's solely with the district attorney here in Chatham County.

MS. BRUMBAUGH: You can refer it. I suppose we could re-refer it back, but it's their discretion whether they prosecute it.

MR. SIMPSON: That's what I mean. We've already done that --

SECRETARY KEMP: Right.

MR. SIMPSON: -- and we got no results, no interest in prosecuting this case here locally; is that correct?

MS. BRUMBAUGH: Correct.

MR. SIMPSON: Thank you. The other thing is, somebody this morning mentioned a time delay or something. Where is the time delay? How long would it take a case to process through the local district attorney's office and the Prosecuting Attorneys Council?

MS. BRUMBAUGH: The case went to the local district attorney's office December of 2009. I would have to check my notes. I was checking in with them every couple of months. I think it was the summer of 2010 that the Chatham County District Attorney finally said I'm not prosecuting this. He sent it to the Prosecuting Attorneys Council and then another six or seven months, into January 2011, that the Prosecuting Attorneys Council reviewed the case.

MR. SIMPSON: The case, for all practical purposes, has been on the Board's plate for the past

three months.

MS. BRUMBAUGH: Correct. I mean, I got that letter. I put it on the very next meeting and then, you know, there were all these unresolved questions in February. Since this case -- we were going to be in Savannah anyway, it seemed like a good idea to conduct this hearing.

MR. SIMPSON: Thank you.

SECRETARY KEMP: That was a great point, Mr. Simpson. Mr. McIver, I have a question for you. As long as you've been on this Board, do you have any prior knowledge of us ever subpoenaing anybody.

MR. McIVER: This is my first experience. I think I joined the Board in either '04 or '05.

SECRETARY KEMP: I think this is a good point. I know the Commissioners that spoke earlier were frustrated with this process. We have a lot of people who do get frustrated at this process, because sometimes things do take a while. Unfortunately, there are things that we, as a Board, have to wait on and hope that others will do as we try to move cases forward. But when a local district attorney or the Prosecuting Attorneys Council won't move forward with these things, you know, we have to wait for their decisions and then we'll -- we'll act. I think you can see by the decisions that we've made and -- made and by having this hearing today that we do take this seriously and we are moving as fast as we possibly can as a Board.

But we also have the responsibility as Board members and myself, as an elected official, to make things -- to make sure that we do this the proper way and that we hear from the right people and we hear from all of the people on these matters before we make a final decision. I think now, Ms. Brumbaugh, what we should do is start back at the top, with Mr. Edwin Morris, and go through our options and then we can let the Board decide where we may go. The first one we have is Mr. Edwin Morris. Is there anything else you would like to add before we move or not?

MS. BRUMBAUGH: No. I would suggest there is certainly circumstantial evidence that Mr. Morris -- of these forgeries, that Mr. Moore should have known that they were forgeries. I mean, there were 26 forgeries that we uncovered on Mr. Morris's petitions. Additionally, throughout the -- again, more circumstantial evidence that he was running this campaign, was paid to do so, you know, was hiring other people.

So we have some circumstantial evidence. I don't know that is enough to meet the threshold of preponderance of the evidence -- preponderance of evidence in an administrative hearing. So I will leave it to the Board's discretion whether to keep the case in my office for administrative prosecution or close it.

SECRETARY KEMP: Well, the problem I think, we have with Mr. Morris's is if we go to the ALJ and he's obviously not going to be in a capacity where he can testify.

MS. BRUMBAUGH: We also have a capacity issue. That's correct. Now, it could be that in six months or year he's feeling a little better. Certainly, at some point, we would have to kind of make the call. And I will attempt to get some more definite information for the Board regarding his capacity. But certainly, if Mr. Morris -- I would give him, based on the knowledge we have, several months and see if he is improving, his physical and mental capacities are improving. But right now, yes, he doesn't have -- he lacks the capacity to prosecute.

SECRETARY KEMP: Well, I would just say to my colleagues on the Board, I am not in favor of closing the case on Mr. Morris. I think we should leave it with your office and let you continue to follow up on his medical condition. If that improves in the future, we can proceed. If it does not, then we can make a decision, down the road. So my thoughts would be to just let you continue to monitor that situation, but I'm open see what the other members think, as well.

MR. McIVER: If that's a motion, I second it.

SECRETARY KEMP: Do we need a motion, Ms. Brumbaugh, for that?

MS. BRUMBAUGH: You don't need a motion to keep it in my office. So you would only need a motion to close it or do further work on it.

SECRETARY KEMP: Well, you understand the direction of the Board on this?

MS. BRUMBAUGH: Yes, I do.

SECRETARY KEMP: Very good.

MR. McIVER: One thing that I would add to that, Mr. Chair, I believe our understanding of his condition comes from his father. That would be good to have it confirmed, independently confirmed.

MS. BRUMBAUGH: Absolutely.

MR. SIMPSON: Would that leave open the possibility of a consent order or something like that for the penalty -- civil penalties --

MS. BRUMBAUGH: Yes, yes.

MR. SIMPSON: -- that could be possibly negotiated because of his condition?

MS. BRUMBAUGH: Yes.

SECRETARY KEMP: Well, maybe you can check or do a little more research on his condition, verify that from a medical professional, and report back to us in the next Board meeting?

MS. BRUMBAUGH: Certainly.

SECRETARY KEMP: That would be great. Okay. All right. The next is Mr. Osborne. Anything you would like to add on that, Ms. Brumbaugh?

MS. BRUMBAUGH: Going into this hearing, we thought we had one person claiming that her signature had been forged. That's really not enough evidence to prove knowing -- knowing that the signature is forged. When you've got ten or 20 petition circulations and only one has a forgery, so I would recommend closing the case against Mr. Osborne regarding forgeries. Additionally, it does not appear, from what we've heard today, that there is any sort of technical violation regarding signatures. We certainly have Ms. Humphrey backing up Mr. Osborne saying no, you know. He never came to me and he never had these -- these petitions being signed by people who hadn't circulated.

MR. McIVER: Well, I have a question on that. Through his testimony, he has indicated he paid three dollars a signature. Is that a violation of the code?

MS. BRUMBAUGH: Not -- not as I understand it. There is no prohibition on paying people on signing petitions. The code is pretty specific and broken down. You have your nominating petition statute and you have your absentee ballot statute. You don't get to sort of read across the lines. So absent the prohibition on paying people for nominating petitions, I don't think we have a case on that.

MR. McIVER: When I researched this, I think my analysis was that he could pay for effort. I mean, he could pay for the petition, but you could not pay for the signature. Can anybody correct me on that that?

MS. BRUMBAUGH: Well, I think that might be more applicable in the area of voter registration. I know that, again, Judge LaGrua and Chris Harvey really researched this very extensively for -- before the December 2009 meeting and then, as it has come up again today, and it has been pretty consistent that we don't have a case regarding paying people -- paying circulators for signatures.

MR. McIVER: I'm prepared to make a motion, Mr. Chair.

SECRETARY KEMP: Mr. Simpson have you got any other --

MR. SIMPSON: Go right ahead.

MR. McIVER: I move that we close the case with respect to Mr. David Osborne.

SECRETARY KEMP: Does that motion have a second?

MR. SIMPSON: Second.

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

(NO RESPONSE)

SECRETARY KEMP: Let me just remind everyone, as we vote on these cases, I know this has been a pretty emotional, tiring, and long day for us all. As we make the motions and the votes, I would just ask if you remain quiet and be respectful of all the parties involved. We've got a motion and a second. All in favor of the motion to close the case on Mr. David Osborne signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign?

(NO RESPONSE)

SECRETARY KEMP: The motion carries. Next is Alexia Williams.

MS. BRUMBAUGH: Ms. Williams, again, we have some circumstantial evidence that she might have known that these forgeries occurred, given the number of them. There were 15. She is being paid. She is working with Edwin Morris. Unfortunately, again, this is a civil proceeding and we have to provide notice. And since we did not have a good address on Ms. Williams -- we asked people and they don't seem to know where she is. If I sent this in to OSAH for a hearing and I can't prove that she had notice, the case will be dismissed against us, because that is the very beginning threshold that the respondent needs to know that there is a hearing. So that is really the concern with Ms. Williams.

MR. SIMPSON: There are more -- according to the notes, there are more forgeries on her petitions than anyone else's. It seems like there are more forgeries on the petitions she circulated than anyone else's. What would be wrong with leaving it in your office and you locating her?

MS. BRUMBAUGH: I mean, there is nothing wrong with that. I mean, you know, I may come back to you in the next meeting and say, you know --

MR. SIMPSON: At least if you could find and depose her and then, of course, if she took the Fifth Amendment, then we could -- that's more than circumstantial evidence and we could proceed. But I sort of feel about her like the Chairman feels about the other case. I don't think we ought to give up on this case, because this thing won't move.

SECRETARY KEMP: I agree.

MS. BRUMBAUGH: That's fine. If you want to take a vote and I will try to locate her. And if I can, I will depose her. If not, I will report back.

SECRETARY KEMP: Do we need to give you a motion to depose her or can we just leave it in

your office like we did with direction from the Board, because you've already got the case on her?

MS. BRUMBAUGH: It says -- it just says that the Board can take, through its agent, the depositions of witnesses. I guess it's probably okay.

SECRETARY KEMP: Well, why don't you make that -- have you got anything, Mr. McIver?

MR. McIVER: In addition to her, I would also depose McMasters.

SECRETARY KEMP: We're going to go one at a time.

MR. McIVER: Then I move we depose Alexia Williams so we can ask her the questions?

MR. SIMPSON: Second.

SECRETARY KEMP: All right. We've got a motion and a second. Before we vote, I would encourage any of you local folks, if you know her and could get us where we could have a conversation with her, Ms. Williams, we would appreciate finding out where she is. We've got a motion and a second. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of the motion signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: That motion carries. All right. Ms. Ross. Ms. Brumbaugh?

MS. BRUMBAUGH: Ms. Ross; we found 11 forgeries on petitions that she allegedly circulated. Now, today she has testified that she didn't circulate them. We don't have any evidence now to suggest that she did circulate them. So without even evidence that she circulated these petitions it is difficult to say that she knew that there were forgeries. However, she shouldn't have signed the petition -- if she's telling the truth, then she violated another section of the code regarding signing petitions that she had not circulated and I would recommend that I probably proceed under that -- those code violations.

MR. McIVER: I move we bind her over.

MS. BRUMBAUGH: Well, she's already bound over.

MR. SIMPSON: I was just going to suggest that we -- you keep the case and see what develops on the two, McMasters and Williams. We don't know what additional evidence we will -- we will find and I would hate to make a decision today that would foreclose action in the future.

MS. BRUMBAUGH: That's fine. I will attempt to follow up on Ms. Williams and Mr. McMasters and then re-evaluate the legal issues.

SECRETARY KEMP: So we don't need a motion. You have the direction of the Board, correct?

MS. BRUMBAUGH: Yes.

SECRETARY KEMP: Ms. Ross, I would like to thank you for coming today and testifying. We will stay in touch with you as this process goes forward. Okay. Let's see here. Ms. Brumbaugh, do you want me to go onto section two, on our agenda, where we go to DeSanto. Did we subpoena her?

MS. BRUMBAUGH: We subpoenaed her.

SECRETARY KEMP: Is that the next list we need to go down?

MS. BRUMBAUGH: That's the next list. These are all people that are just involved, whether they signed their petitions in the presence of a notary. So there are no further people where we have forgeries on the petitions.

SECRETARY KEMP: So we would not have jurisdiction over that? Is that right?

MS. BRUMBAUGH: No, we would have jurisdiction over it, but I just wanted to make clear, there's kind of a -- you know, there's no more -- the remaining respondents, there is no allegations that any of these people had forgeries on their petitions. So the main respondents, if there are any potential violations or if there is any further work to be done, based on their failure to show up today, it has to do with technical violations.

SECRETARY KEMP: I tell you what. I want to make sure I don't miss anybody through this process. Do you want to go through the list and just let us know your recommendations on moving forward or do I have the list?

MS. BRUMBAUGH: No, that's fine. I can do it. I just want to get organized.

SECRETARY KEMP: Because I know we've got the list that I have in my sheet, but we also have people that actually came. And I've got another list of people we heard from today. I just want to go through this in a way that is most organized.

MS. BRUMBAUGH: Well, it's easiest if we go through the list in the order in which I called

the witnesses.

SECRETARY KEMP: Okay.

MS. BRUMBAUGH: Which the next witness that I called was Joyce Humphrey. Joyce Humphrey was our notary for many of these -- for many of these cases. Now, Ms. Humphrey was not actually referred to our office, because, at the time, there was some question as to whether, as a notary, she fell under the election code. If you look at 21-2-170 (a) it says they've got to sign in the presence of the notary. It doesn't say you can know them. It doesn't give you that option. Her knowing Sheinbart, Shirley, and Rahno and not having them sign in front of her is a technical violation. And so it's up to you whether you want to refer it to me or whether you don't.

SECRETARY KEMP: Any thoughts from the Board?

MR. McIVER: I make a motion we close. Again, it's our responsibility to try to clean up these cases the best we can. We'll move forward with those who are probably complicit in some way.

MR. SIMPSON: Isn't there some -- isn't there some difference between what the statute says and the facts to the particulars as to whether or not the person has to be present in front of a notary public? Is there an issue about that?

MS. BRUMBAUGH: Yes. Yes, there is an issue because the back of the petition says, speaking more to the circulator, than the notary, but it says, "I, the undersigned, being first duly sworn on oath do depose and say that I personally circulated the foregoing petition sheet," and then it goes on. So that's the notice that they have to sign in the presence of a notary.

MR. SIMPSON: Does it discuss -- what does the direct notice act say?

MS. BRUMBAUGH: It doesn't say anything -- it doesn't say anything about that. It just says that no notary public can sign a petition as an elector or serve as a circulator.

MR. SIMPSON: It doesn't say "personally appeared before me" --

MS. BRUMBAUGH: No.

MR. SIMPSON: -- "so and so, who deposes and says" --

MS. BRUMBAUGH: Correct. There is no notice.

MR. SIMPSON: If the notary were not aware of the elections code specifically, then --

MS. BRUMBAUGH: I mean, her oath as a notary says "sworn to and subscribed before me" and then they fill in the date and they sign it, "my commission expires." "Sworn to and subscribed before me," that's what she -- she signed it.

MR. SIMPSON: I mean, some notaries, you can argue, can verify the signature of a person if they know them and can recognize their voice and they acknowledge their signature.

MS. BRUMBAUGH: Right. And she has advised that she verified --

MR. SIMPSON: I think the notary's act would approve that form. I think that would be appropriate, under the notary public statute. But what I'm saying is that unless the notary is specifically knowledgeable about the election law and the requirement there, then the notary could follow his or her own custom thinking they were doing some correctly and then, in proof and fact, they are violating the law.

MS. BRUMBAUGH: Correct.

SECRETARY KEMP: Well, would a letter of instruction be appropriate here?

MR. McIVER: I mean, I was saying close because just I don't see getting into the verifying. That would satisfy my smell test. I would agree to a letter.

SECRETARY KEMP: Well, I'll make a motion that we send a letter of instruction to Ms. Humphrey about the process. Do we have a second?

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, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign. That motion carries.

MS. BRUMBAUGH: The next one was Lynette DelSanto. We don't have a good address on her. The allegation is that she did not sign the affidavits in front of a notary. Ms. Humphrey did not remember whether she -- Ms. DelSanto appeared to her personally or not. So the options would be either, as in Ms. Williams, keep the case open. I can see if I can find her and have a consent order for the alleged violation or close the case.

SECRETARY KEMP: Any thoughts?

MR. SIMPSON: Are there any forgeries? Are there any forgeries on her petitions?

MS. BRUMBAUGH: No, not that -- none were discovered.

MR. SIMPSON: I don't recall the testimony. Was she one of the persons that Ms. Humphrey called on the phone and verified the signature?

MS. BRUMBAUGH: No. She was one of the people Ms. Humphrey couldn't answer. She had no memory of Ms. DelSanto, at all.

MR. SIMPSON: Well, who notarized her signature?

MS. BRUMBAUGH: Ms. Humphrey. But when I asked specifically, you know, "Did they come to you? Was this person in your presence?" and she couldn't tell us which it was.

MR. SIMPSON: Didn't she testify that there weren't any notarizations that she completed that she did not either see in person or talk to on the phone?

MS. BRUMBAUGH: My understanding is there are three or four people that she had no memory of and so there was really, literally, no explanation for.

MR. SIMPSON: I thought I asked her a question about that. I thought she said she either called them on the phone or she saw them in person.

MS. HUMPHREY: They came to my house.

SECRETARY KEMP: Come on back up, Ms. Humphrey, if you don't mind. I'll just remind you, again, you're still under oath. Mr. Simpson is going to ask you that question.

MS. HUMPHREY: Okay.

MR. SIMPSON: Ms. Humphrey, were there any people that you did not either talk on the phone with or see in person that you notarized the signature on?

MS. HUMPHREY: Not to my knowledge. Every ...

MR. SIMPSON: Thank you.

SECRETARY KEMP: Any motions?

MR. SIMPSON: I move we close.

SECRETARY KEMP: I've got a motion to close. Have I got a second?

MR. McIVER: Second.

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

(NO RESPONSE)

SECRETARY KEMP: Hearing none, on the motion on the floor, all in favor signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries. That was dealing with DelSanto, correct?

MS. BRUMBAUGH: Yes. Yes.

SECRETARY KEMP: Okay.

MS. BRUMBAUGH: The next one was April Hayes. Ms. Hayes also, we did not have a good address on her and -- she actually -- I don't think we have any violations, even for her. She was interviewed.

SECRETARY KEMP: Did she admit during the investigation that she failed to sign the affidavit in the presence of a notary?

MS. BRUMBAUGH: Well, she says she didn't sign any of the petitions at all. And when I went through these last night, just trying to line up who signed what, she -- her signature does not appear on any petitions at all, as circulating.

MR. SIMPSON: I move to close.

MR. McIVER: Second.

SECRETARY KEMP: I've got a motion to close and a second. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of the motion signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Okay.

MS. BRUMBAUGH: Carrie Parker, is I think -- she did not appear. She is outside the subpoena power. But we do know where she is. She was in the same kind of way as Ms. DelSanto. She submitted affidavits to Joyce Humphrey. That was the only allegation against her. So I would say we need to treat her as we treated Ms. DelSanto.

SECRETARY KEMP: Do we have any -- so we don't have her signature on anything?

MS. BRUMBAUGH: No. We do have her signature on two pages, but like Ms. DelSanto, she put her signature -- she is someone who -- the only allegation is potentially maybe she didn't sign in front of Ms. Humphrey. And it sounds like she probably did.

SECRETARY KEMP: Okay.

MR. SIMPSON: No forgeries?

MS. BRUMBAUGH: No forgeries.

SECRETARY KEMP: And this is Ms. Parker?

MS. BRUMBAUGH: Yes.

MR. SIMPSON: Move to close.

MR. McIVER: Second.

SECRETARY KEMP: I've got a motion and a second to close. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion to close carries.

MS. BRUMBAUGH: The next one Betty Powell. Ms. Humphrey testified positively that Ms. Powell did sign her petition in front of Ms. Humphrey. There were no forgeries on any of her petitions. I would recommend to the Board that they close Ms. Powell's case.

SECRETARY KEMP: Any discussion?

(NO RESPONSE)

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: So moved.

MR. McIVER: Second.

SECRETARY KEMP: I've got a move to close and a second. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of closing, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries.

MS. BRUMBAUGH: The next circulator is Richard Powell. Again, he did sign his petitions in front of Ms. Humphrey. There were no forgeries on any of his petitions. There is the issue of him signing the petition that Ms. Cullum circulated.

SECRETARY KEMP: Which would be a violation, in your opinion?

MS. BRUMBAUGH: Yes.

SECRETARY KEMP: Can you refresh us, Ms. Brumbaugh, on that scenario, from the testimony?

MS. BRUMBAUGH: I'm sorry. Will you say that again.

SECRETARY KEMP: Just, I think Mr. Simpson wants you to revisit that testimony about the crossed petitions?

MS. BRUMBAUGH: Okay. This was the case where Ms. Cullum -- Ms. Cullum signed on the front page, on a petition Mr. Powell circulated. She then circulated another petition herself and she testified that because she had signed on the front page of Mr. Powell's petition, she didn't feel comfortable signing as circulator, so she had Mr. Powell sign as circulator. And Mr. Powell did not -- he admits that he signed the petition as circulator that Ms. Cullum was actually the circulator. The code section again, this is 21-2-170(d) says that the affidavit must be subscribed and sworn to by the circulator and notary public and shall set forth subsection 4, that to the best of the affiant's knowledge, it was a registered elector. And it says no notary public can sign ... so

again, I mean they expect the people who circulate the petitions to actually sign the petitions.

MR. McIVER: I move we issue a letter of instruction.

MR. SIMPSON: Second.

MS. BRUMBAUGH: To Mr. Powell.

MR. McIVER: Yes, to Mr. Powell.

SECRETARY KEMP: I've got a motion to send a letter of instruction and a second. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, we've got a motion. All in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motions carries and there will be a letter of instruction issued to Mr. Powell.

MS. BRUMBAUGH: The next respondent is Jason Smith. Mr. Smith, no evidence of any forgeries on the petition. Ms. Humphrey testified positively that he signed the petitions as circulator in her presence. I would recommend closing this case.

MR. McIVER: Move to close.

MR. SIMPSON: Second.

SECRETARY KEMP: I've got a motion and a second to close the case against Mr. Jason Smith. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries. That case is closed.

MS. BRUMBAUGH: The next witness was Hazel Cullum. She did not sign any affidavits that she circulated. That is consistent with Mr. Powell and she probably should get a letter of instruction, as well.

MR. SIMPSON: So moved.

MR. McIVER: Second.

SECRETARY KEMP: We've got a motion and a second to issue a letter of instruction to Ms. Cullum. I think the Board feels certain that she will understand those instructions. All in favor of the motion signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries.

MR. McIVER: I think her son-in-law, Mr. McCorkle, should be ashamed. I can make a motion to that effect. I guess I withdraw that motion.

SECRETARY KEMP: Thank you. But it will be part of the record.

MS. BRUMBAUGH: I think we can take the next three together because they were all notaries. Steven Bell, Leonard Childs and Michael Childs. There really was never any -- even any allegations against them and I would recommend the Board close their cases.

MR. McIVER: So moved.

MR. SIMPSON: Second.

SECRETARY KEMP: I've got a motion and a second to close the cases against Mr. Steven Bell, Mr. Leonard Childs, and Mr. Michael Childs. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries and those case are dismissed.

MS. BRUMBAUGH: The next case is John McMasters. Based on his decision to not honor the subpoena, I would recommend perhaps I take a deposition and report the results of that deposition back to the Board at a later date.

MR. SIMPSON: So moved.

MR. McIVER: Do we need a motion to do that?

MS. BRUMBAUGH: If you decided to do it.

MR. McIVER: All right. Then I second it.

SECRETARY KEMP: Ms. Brumbaugh, we've got some fine elections officials from Burke County, the bird dog capital of the world, as they said yesterday and I want you to continue to bird dog Mr. McMasters so we can hear from him on this case.

MS. BRUMBAUGH: I will do my best.

SECRETARY KEMP: Thank you.

MS. BRUMBAUGH: Jeff Rahno is the next case. I would move to close Mr. Rahno's case.

MR. SIMPSON: So moved.

MR. McIVER: Second.

SECRETARY KEMP: We've got a motion and a second. to close the case against Mr. Jeff Rahno. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries.

MS. BRUMBAUGH: Jeffrey Sheinbart, I would recommend closing his case, as well.

MR. McIVER: So moved.

MR. SIMPSON: Second.

SECRETARY KEMP: I've got a motion and a second to close. All in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion carries and the case is close.

MS. BRUMBAUGH: Sandra Shirley, same recommendation. I would move that we close her case.

MR. McIVER: So moved.

MR. SIMPSON: Second.

SECRETARY KEMP: I've got a motion to close and a second. All in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries and the case is dismissed.

MS. BRUMBAUGH: And finally, Karen Smith, there were never really any allegations against her. I would recommend closing her case, as well.

MR. McIVER: So moved.

MR. SIMPSON: Second.

SECRETARY KEMP: We've got a motion and a second to dismiss against Ms. Smith. All in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion carries.

MR. McIVER: Have we done Leonard Childs?

MS. BRUMBAUGH: Yes. He was closed with Steven Bell and Michael Childs. Actually, he wasn't a notary, but we have his signature signed by -- notarized by his son. There was never any allegations against him.

MR. McIVER: Just we had him categorized as a petition circulator.

MS. BRUMBAUGH: Yes. I misspoke a few minutes ago when I said he was a notary. He was not. He was a circulator. But his -- as I said, he only -- his son notarized his petition, so there's no allegations against him.

SECRETARY KEMP: All right. Does that get everybody, Ms. Brumbaugh?

MS. BRUMBAUGH: Yes.

SECRETARY KEMP: All right. Since we are concluded with that, we will move on to our next agenda item. I know those of you that were here for this case, feel free to exit if you don't want to stay and enjoy the rest of our festivities this afternoon. If you would just do that orderly, we would appreciate it.

We will move to our next agenda item. Next on the list we have the Attorney General Reports. For the benefit of Mr. Simpson, what we've been doing with the Attorney General reports, is we would have them previously reported, meaning that we're okay with what Ms. Brumbaugh and the Attorney General has recommended. We have been voting on these in blocks as consent orders. If there are certain orders that you would like to pull out and us have a discussion on, we can certainly do that. Is there anything you all want to discuss?

MR. McIVER: I would like to separate out Putnam County.

MS. BRUMBAUGH: Excuse me?

SECRETARY KEMP: Putnam County.

MR. McIVER: I would like to separate out Putnam County from the others.

SECRETARY KEMP: Let's see here --

MR. McIVER: It's number 22, the second one, the City of Eatonton.

SECRETARY KEMP: Twenty-two?

MS. MONK: Tab 22.

MS. BRUMBAUGH: Tab 22.

SECRETARY KEMP: I'm sorry. Case number 68, 2005, number 68, which is tab 22. Anything else?

(NO RESPONSE)

SECRETARY KEMP: Do you want to go ahead and get the rest of these out of the way then I'll take a motion.

MR. McIVER: I move we accept the report of the AG to all the cases on the agenda with the exception of the City of Eatonton.

SECRETARY KEMP: Okay. We've got a motion. Do we have a second?

MR. SIMPSON: Second.

SECRETARY KEMP: We've got a motion and a second to accept the consent orders that Ms. Brumbaugh has reported to us, that's on our agenda, except for SEB case number 2005-68, City of Eatonton. We'll pull that off the list. We are now voting to accept all the other consent orders that are in our packet. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of accepting the consent order, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign?

(NO RESPONSE)

SECRETARY KEMP: That motion carries and those consent orders are accepted. Ms.

Brumbaugh, would you like to -- well, let me see, Mr. McIver, did you have anything specific on the City of Eatonton or do you want Ms. Brumbaugh to go through that?

MR. McIVER: No, that's not necessary. Mine is a procedural point. I am a resident of Putnam County, not a resident of the City of Eatonton, which is our county seat. I do not know any of these individuals. I have no objection to the actions she has taken in this case, but I would offer to recuse myself if any of my colleagues think that would be appropriate.

SECRETARY KEMP: Well, I can tell you, from my perspective, I don't think you need to recuse yourself if you feel like, in good conscience, you can make a good vote on this matter.

MR. McIVER: Well, I'm prepared to vote. But if anybody, on the Board, has an objection, so be it.

SECRETARY KEMP: Let the record show there were no objections.

MR. SIMPSON: No objection.

SECRETARY KEMP: I'll make the motion that we accept the consent order for case number 2005, number 68, City of Eatonton. Do I have a second?

MR. SIMPSON: Second.

SECRETARY KEMP: We've got a motion by the Chairman and second by Mr. Simpson. All in favor of the motion, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries. Okay. We need to review initial decisions now and we'll move on to case 2010, number two. Ms. Brumbaugh.

MS. BRUMBAUGH: Thank you. Yes, this is a case of Rowena Hamilton, who was a registered voter in Cobb County. She, at one time, was registered to vote in Powder Springs. She then updated her driver's license at DDS. The DDS changed her address and they automatically changed her voter registration to match her new address, which was in Smyrna.

SECRETARY KEMP: Ms. Brumbaugh, I'm sorry. The is for the record, let me just state that this is the case that we extended from our phone call meeting a while back. If you don't mind, would you just start over. I'm sorry.

MS. BRUMBAUGH: Not at all. This is the case, just procedurally, there was an earlier

hearing in the spring and an initial decision came out April 22nd. Then 32 days out from this meeting, we did vote to extend the agency review. The facts of this case are that Ms. Rowena Hamilton was, at one time, was registered to vote in Powder Springs, which is in Cobb County. She then changed her driver's license -- changed her address on her driver's license to Smyrna, Georgia and DDS automatically changed her voter registration. So during the municipal election of November 2009, there was a Powder Springs election. There was not a Smyrna election. Ms. Hamilton believed she was eligible to vote in Powder Springs. She went to the Powder Springs precinct. She attempted to vote. They looked her up. They said, "You're not registered to vote in Powder Springs." She then left the precinct. She went back to DDS. She changed her driver's license back to Powder Springs at DDS. She then goes back to the precinct that afternoon and she says, "Look, I live in Powder Springs. Now let me vote." They give a provisional ballot. She writes down the Powder Springs address on the provisional ballot. And the provisional ballot did not count. When she is informed that the provisional ballot does not count, it is she who submits the election complaint, you know, complaining she's been disenfranchised, et cetera, et cetera.

The Secretary of State's Office investigated and determined that no, she knew that she didn't live in Powder Springs when she voted that provisional ballot. She wrote the false address down. And that is a violation of the -- an unqualified voter and we now know that she knew she was unqualified.

The OSAH issued an initial decision two days after the hearing. The OSAH judge did not consider the charge of what Ms. Hamilton voted, even though she was unqualified to vote, and she knew she was unqualified to vote. That appears nowhere in the decision. Instead, the OSAH judge found that Ms. Hamilton tried to register to vote outside the time limit in which you can change your registration before an election and recommended a cease and desist order in this case.

My recommendation in this case is that we -- we reject the initial decision. We first address the code issue and putting up a direct code section it would be 21-2-571, which is voting knowingly as an unqualified voter. My second recommendation that we add a public reprimand. And my third recommendation for you to consider a civil penalty. At the hearing, I recommended a \$500 fine. Ms. Hamilton's testimony was not credible. So that was my recommendation, at the hearing and I would stick with that recommendation. So those are my recommendations.

SECRETARY KEMP: Any discussion?

MR. SIMPSON: Procedurally, could you explain to me how we would disregard the decision or OSAH recommendation.

MS. BRUMBAUGH: If you find evidence in the record to support a contrary decision, you can vote on the contrary decision that then we reduce it to writing. We put in findings of facts and conclusions of law, which Secretary Kemp would then sign on the back of the report. At that time, Ms. Hamilton will have 30 days in which to appeal the case to the Superior Court of Cobb County and then there's a public place from there.

MR. SIMPSON: We're not bound by the Administrative Law Judge's findings?

MS. BRUMBAUGH: No. It is a recommendation only. And there is evidence that she knew because she voted -- she -- she admitted that her driver's license said Smyrna. And then she went back and she brought in this DDS paperwork dated November 3, 2009, changing her address. So that's -- I feel comfortable that we have sufficient evidence regarding her knowing what she did.

SECRETARY KEMP: Is Ms. Hamilton here today?

(NO RESPONSE)

SECRETARY KEMP: I move we reject the decision, add language from 21-2-571, add the public reprimand and a \$500 fine.

MR. McIVER: Second.

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

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign?

(NO RESPONSE)

SECRETARY KEMP: How did you vote, Mr. McIver?

MR. McIVER: I voted aye.

SECRETARY KEMP: Which aye, the first one or the second one.

MR. McIVER: The first one.

SECRETARY KEMP: That motions carries unanimously.

MR. McIVER: The reason I was distracted is I think Judge Oakley has a boss, who you and I know to be Judge Woods, and when she says this matter is devoid of any evidence, that -- I'm just --

SECRETARY KEMP: It wouldn't be Judge Woods -- Max -- oh, yes.

MR. McIVER: My thing is, it should be called to Judge Woods attention, who is the head of OSAH, that Judge Oakley's decision is factually inaccurate.

SECRETARY KEMP: And we have been down this road before.

MR. McIVER: We certainly have. I know they're supposed to be independent and so on, but to say devoid of evidence, which are very strong words in the legal field, and that means Ms. Brumbaugh didn't show up for the hearing and we know that not to be the case.

SECRETARY KEMP: And we know that our local elections people in Cobb County did the right thing. Very good. You can carry on with that, Ms. Brumbaugh. What have we got next? Let's see. Update on open and completed cases, if needed. Anybody got any questions on any of the cases that are in the package? Mr. McIver?

MR. McIVER: I just wondered if Ms. Brumbaugh, if she had anything.

SECRETARY KEMP: Is there anything you need to share with us, Ms. Brumbaugh?

MS. BRUMBAUGH: Not to my knowledge. I think we're doing a very good job. I promise you we will have probably as many, if not more, consent orders for the next meeting in August.

SECRETARY KEMP: Well, I know that there's one case today that we took care of that was from 2004. Some of our old cases we're getting caught up on. And we had one, unfortunately we couldn't resolve, 2011 today, Mr. McIver, but at least we've got it on the docket. So we're doing a lot of good work. Any other questions for Ms. Brumbaugh on old or new cases?

MR. McIVER: Only a statement. At our last meeting, for those of you who had a chance to look at the minutes or were at the meeting, this Board, particularly me, expressed some frustrations about some old cases that were residing in our docket. We had a discussion, on the record, with Ms. Brumbaugh. It was suggested that perhaps this be brought to Attorney General Olens attention. I agreed to do that and I met with him personally, about two weeks later, and in response thereto he has produced a letter to you, dated March 17, and Ms. Brumbaugh indicates that she is pleased with the movement of those cases. I take it, Mr. Secretary, that you are, as well, in which case I am pleased with the momentum of those. I was troubled, but we have a number of old one that we have a number of old cases residing in our docket and they needed momentum and it appears we have it. So I went to complement not only Attorney General Olens, but you as well.

MS. BRUMBAUGH: Thank you.

SECRETARY KEMP: Very good.

MR. SIMPSON: Do we need to put a copy of that letter in the record?

SECRETARY KEMP: We certainly can.

MR. McIVER: I move we accept the letter of March 17, from Attorney General Olens to Mr. Kemp, regarding administrative cases before the SEB.

MR. SIMPSON: Second.

SECRETARY KEMP: I've got a motion and a second to accept the letter. Any discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Have you all got a copy of letter for the record? If not, I've got one right here. Very good, thank you Ms. Brumbaugh for your diligent work and continuing to lead us forward on these cases. All right. Last, but certainly not least, we have Ms. Ann Hicks, who is going to give us -- well, I guess we need to have a public hearing on the rules posted for adoption. Do we need a motion to go into public hearing or we've already got that in place?

MS. BRUMBAUGH: I think we need a motion.

SECRETARY KEMP: Mr. McIver?

MR. McIVER: I move we go into public hearing --

MR. SIMPSON: Second.

MR. McIVER: -- with respect to rules that will be adopted.

MR. SIMPSON: Second.

SECRETARY KEMP: We've got a motion and a second to go into a public hearing for rules posted. Any discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of the motion, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries and we're now in a public hearing for the posting of the rules. Ms. Hicks, would you like to give us an update on the rules we have?

MS. HICKS: Yes, sir. The first one that we're to discuss is an existing SEB rule 183-1-12-.06. It is to delete some repetitive language in this rule in section 4(a) of the rules. We will delete some unnecessary language that appears in section (d).

SECRETARY KEMP: Any questions about that from any members of the Board?

(NO RESPONSE)

SECRETARY KEMP: Do we have anybody in the public that would like to comment on this specific rule?

(NO RESPONSE)

MS. HICKS: If I might add, there were no public comments indicating there was.

SECRETARY KEMP: Let the record show we did not receive any public comment on the rules. What's our posture? Do we need a motion to post the rule or accept the rule?

MS. HICKS: It has already been posted.

SECRETARY KEMP: All right. So we need a motion to accept.

MR. McIVER: I move that we accept the rule.

MR. SIMPSON: Second.

SECRETARY KEMP: We've got a motion and a second to accept the rule. Any other discussion?

(NO RESPONSE)

SECRETARY KEMP: Hearing none, all in favor of adopting the rule, please signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The rule is adopted. Ms. Hicks?

MS. HICKS: The next rule is a proposed State Election Board rule. It's rule number 183-1-14-.11, mailing and issuance of absentee ballots. The purpose of this rule is to give direction to registrars that they must mail or issue, to all such eligible applicants, within three business days after receiving the absentee ballot applications.

SECRETARY KEMP: Are there any questions for Ms. Hicks on this proposed rule?

(NO RESPONSE)

MR. McIVER: Any public comment?

MS. HICKS: No, sir.

SECRETARY KEMP: No public comment. Is the anybody here today that would like to comment on the rule?

(NO RESPONSE)

MR. McIVER: I move to adopt.

SECRETARY KEMP: Hearing none, I have a motion to adopt.

MR. SIMPSON: Second.

SECRETARY KEMP: And a second. All in favor, signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: The motion carries. I do believe we have tackled what was before us today. I will ask the Board members if there is anything they would like to add in old business or new business.

MR. McIVER: I would like to welcome Judge Simpson. I look forward to working with you.

MR. SIMPSON: Thank you. I hope I didn't slow you down too much.

SECRETARY KEMP: Well, we certainly are glad to have you serving with us, Mr. Simpson. Don't get used to these getting off so early. Usually there's some after hours going on. I did

want to thank everybody for coming. It's been a pleasure to have this meeting in the great city of Savannah. I hope that if there was press here or if there is press here, that they let the public know how seriously this Board takes the state elections law and how diligent we are in our work. We will continue to do so, wherever we meet around the state. And we encourage our local elections friends who are here this week for training, back to our meetings at any time. We hope that you will be just enjoying the scenery and not testifying before us. Hopefully you have learned as much as we have today. And with that, I will accept a motion to adjourn.

MR. McIVER: I so move.

MR. SIMPSON: Second.

SECRETARY KEMP: I've got a motion and a second. All in favor signify by saying aye.

BOARD MEMBERS: Aye.

SECRETARY KEMP: All opposed, same sign.

(NO RESPONSE)

SECRETARY KEMP: Motion carries and we are now adjourned. Have a great evening everybody.

**WHEREUPON, THE MEETING ADJOURNED AT 5:20 P.M.**

C E R T I F I C A T E

I hereby certify that the foregoing transcript is a true and complete record of the testimony, taken and transcribed by me and/or under my supervision, as given by the witness who was first duly sworn;

That I am neither a relative nor employee of any of the parties or attorneys nor financially interested in the outcome of the action;

That the original transcript of said deposition or testimony, under seal, shall be furnished to the attorney by whom the deposition or testimony was taken or filed as is appropriate with the court in which the action is pending.

THIS CERTIFICATION is expressly withdrawn and denied upon the disassembly of the foregoing transcript of proceedings or any part thereof, including exhibits, for any purpose, unless said disassembly is done by the undersigned certified court reporter and/or under the auspices of Drake Reporting, P.C., and the signature and original seal is attached thereto.

SO WITNESS MY HAND AND OFFICIAL SEAL at Savannah, Chatham County, Georgia, this 11th day of June, 2011.

Laurie Parker Axtell, C.V.R., C.C.R, B-1252

**SECRETARY KEMP:** We will bring this, Thursday, February 24th, State Election Board Meeting to order. I would like to welcome everyone this morning. We will have a few comments here in just a second; but, first, I wanted to call on Mr. Tex McIver to do the invocation. And then he will lead us in the pledge.

**MR. MCIVER:** Please bow your heads in prayer.

(INVOCATION)

(PLEDGE)

**SECRETARY KEMP:** Thank you, Mr. McIver. And Let me just welcome everyone here today to the State Election Board Meeting. One of my priorities, as Secretary of State, was to try to have a few of our State Election Board Meetings in different areas around the State instead of just having them in Atlanta, where the press, we could be available to different media markets and press opportunities and also to different parts of our citizenry across the state, to let them know what we do here at the State Elections Board and how seriously we take what we do. We have got a very hard-working board that spend as lot of time and a lot of effort for no money, basically, to make sure we have secure elections in Georgia and do our best to stop voter fraud. That certainly has been a mission of mine. And that is something that I appreciate the board's input on. I will introduce everybody real quick. We've got Mr. Kent Webb on my far right. Mr. Tex McIver, who lead us in the invocation and pledge and then Mr. Randy Evans on my left. David Worley also serves on this board and had a conflict that came up late yesterday and could not be with us today. But we do want to welcome you. This is a meeting where we want to hear from everyone that has something to say in regards to either public comment or the cases that were taken up. So, if there is something on your mind, we want to hear your side of the story and hear your thoughts. So don't be bashful about that. We do have time limits that we are restricted to, to keep our meeting moving along. So we hope you will adhere to those, as well. I did also want to remind you again, if you come to the podium to speak, just please give us your name and your address. Speak clearly and deliberately, so we can make sure your comments are recorded correctly. Also, they cases are presented by the Secretary of State's Investigative Division before the board. They are for probable cause determination only. There is no decision will be made today, whether an election code violation has occurred or what sanctions apply. The board may also vote to refer your case to the Attorney General's Office for further investigation or for administrative prosecution. If the Board does vote to refer your case to the Attorney General's Office, you should contact Ms. Ann Brumbaugh, who is over here waiving her hand. She will be glad to work with you as the process goes further. A couple of housekeeping things that I want to do today: We have got some relatively new folks with us. As y'all know Wes Taylor was the past Elections Division Director for us. He did a great job with our elections and with the State Election Board. He actually got appointed to state court judgeship in Fulton County. I had named Ms. Ann Hicks Election Director. Ann has been Secretary of State's office for over 30 years and has just done a great job. She is going to be unfortunately retiring here within the next year, but she has

agreed to serve as our Elections Director while we are figuring out what we want to do for the long-term future. Ann has been a great person that counties have relied on for years in our elections division and we are excited about the leadership she is providing and we are glad to have her with us today. Mr. Taylor actually took Rhonda Brown with him to Fulton County State Court when he left, who used to kind of run our State Elections Board meetings and do many other things in the office. She was a great employee of our office. We wish her well, and she has got a great opportunity with the Judge Taylor. But Jessica Monk is now working with the State Elections Board and is doing a great job. We are glad to have Jessica with us today. She has not had the opportunity, until today, to meet some of our board members. I want to make sure everyone knew who Jessica was. With that I do want to take one other moment of personal privilege, if you will, and honor one of our board members today. Randy Evans has been serving on the State Elections Board for many, many years. He has imposed, as he said he would do, his individual term limits, unlike a lot of politicians do. And has decided to step down from the board. We just wanted to thank Randy today for his work. He has been the representative of the Republican Party, for those of you who don't know, the Democratic Party and the Republican Party each have appointment to this Board and then the Speaker of the House and the Lieutenant Governor have an appointment and then the Secretary of State serves as the chairman. Randy has served the Republican Party well, on the board, but he has also served the State of Georgia well. I think everyone that has been to our meetings over the years, even Mr. Worley, who is Democratic representative, who is not here today, would agree that there is no favoritism on this Board. We follow the law. Randy has been staunch supporter of that in making sure that people were treated fairly, but also treated within the law, but made sure that our elections were securer today than what he got here. I can assure you of that. I have had the privilege of working with him on this Board for the last year. I have actually seen him in the action over the last two years. I can't thank him enough for his service to our state, being on this Board. It is a time-consuming job. I think all you can get a per diem for travel which I don't think he has ever taken. We just wanted to say thank you, Mr. Evans. We have got a few things that we wanted to present to you today. While we are doing that, I want to see if Mr. McIver had any comments for you. We have got a resolution that we wanted to present on behalf of the board thanking Mr. Evans for his service to the state. That is the first thing I want to do. And then the second thing, we have a tradition in the secretary of state's office to name and honor outstanding Georgians for the work they do in different areas and I personally wanted to do this for Mr. Evans and just thank you again for your service.

(APPLAUSE)

**SECRETARY KEMP:** Let me see if Mr. McIver or Mr. Webb would like to make a comment, and then I would like to hear from Mr. Evans.

**MR. WEBB:** I'll go first. I have been the shortest-serving member of the Board. But from the minute I join Mr. Evans has been a great teacher and helping to bring me along and to, kind of, show me the ropes and provide the history of the prior cases. He has been just an amazing leader in the state elections and has just done a

terrific job of being fair, getting to the point and holding people accountable and responsible and really setting a high bar for the rest of us. I appreciate all the support and your welcoming that you gave me and thank you for your service.

**SECRETARY KEMP:** Thank you Mr. Webb. Mr. McIver.

**MR. MCIVER:** There isn't much that hasn't already been said about my colleague Randy Evans. He is an extraordinarily fine lawyer. He is an excellent Georgian. He has contributed greatly to this state and, certainly, to this board. I believe he has served under four secretaries, if I remember correctly, beginning with Secretary Cleland and coming forward to now, Secretary Kemp. Without his guidance and understand of the law, what we do here would be much, much, more difficult. I am one that is truly worried about having his loss on the Board and the experience that he has brought to this process; but nonetheless, not enough can be said in that regard for what Randy has done for all of us in the election process. I can attest to the fact that he has never sought reimbursement for a single dime for all the expense that he has had personally. So, all of this has been at his own personal contribution, and I assume his law firm going to be happy to have him back, so they can get more of his time, which is considerably valuable. Randy, it has been a real pleasure for me. I am going to miss you greatly. And I hope you will come around and see us on occasionally.

**MR. EVANS:** Thank you. And I want to thank all of you. I will say, without hesitation, it has been a great honor. I view, as you all know, serving the people of State of Georgia as the highest honor that you could possibly have. Everybody has to hold themselves out in a way where you command respect for the position you do by the way you do your job. I would be remiss if I did not thank the two of the most important people who made today possible. That is my mother and father, who are back here in the back row: Mom and Dad. As You guys know, I often proudly proclaim my roots in Dublin and Warner Robins, which is where I grew up. I think it's always important that you never forget where you came from. I want to thank and Ralph Reed, who appointed me for the first time and then Ally (unclear) and Sue Everhart, who were kind enough to let me continue. I have served as Tex knows, with many Secretaries of State. I can say that without equivocation. We now have the best Secretary of State that I have ever worked with. He has attention to detail, the importance of fairness of hearing what people have to say and getting to the right result should be lost on no one. That is a very high standard that he sets and a very high standard that he meets. I too will miss Tex. Tex and I went through, just a worse. For those of you don't remember we had photo ID, and we were in court all the time. We were being named in lawsuits. I will tell you that may think that lawyers get used to lawsuits, but you never get used to lawsuits when your name is on the other side of the V. But it's been great and the staff has been wonderful. The staff that we have assembled is probably a reflection of how good the staff has been. That is we have had two who have gone off to be judges. Those judges took folk with them who now serve in the judiciary, and we have many others who serve in very prominent positions in our state government and the national government. If you want to look at a good high school team or a good college football team, look at

how many play in the NFL. That is where the talent goes, and you can see that's what happened here. I would be remiss if I didn't say that I continue to have reservations about audit trails for voting. I have said this -- I think those who were here the first day -- I do think there will come a close election one day where we will have to address that issue. We have to always be mindful of that, because as we see revolutions go around the world, whether it's Egypt or Libya or Bahrain the things that separates us, is that we vest the peaceful transition of power in the ballot box. And the net result of that is the ballot box has to be accurate, reliable and verifiable. Because if the confidence is ever lost in that one thing, then we are only left with following the path of other countries who do it in far more violent, and a much more chaotic and autocratic way. That leads me to my last point, which is, as proud as I am of serving on this Board and serving with you, Mr. Secretary, for the great work you've done, and, certainly, Tex has been here with me and Kent, who I have actually learned from him as much as he has learned from me -- he has such grace and style, but always get to the point and to many colleague, Mr. Worley, he and I voted together 85 percent of the time. So this idea that partisan can't agree is kind of belied by the statistics. As I am honored of all that, I most honor to be an American and I very proud of it. And I Thank you all for being here. Thank you.

(APPLAUSE)

**SECRETARY KEMP:** Thank you, so much, Mr. Evans, again, for your dedication and hard work. And now that we have honored you, we are expecting you to work just as hard in the rest of this meeting as you always have. With that we go into our public-comment period. If you have submitted a card we are fixing to call you up to the podium. Again, if you will just submit, when you first get there, your name and your address for the record. And then you will have two minutes to make public comment. First, we have David Galilee. Welcome. Glad to have you today.

**MR. GALILEE:** Mr. Secretary, members of the board, I am David M. Galilee. I'm a 10-year commissioner with Chatham County. I have -- it's important for me to say this: that I've got 40 years in law enforcement, 30 years in American Chief of Police, 20 years as Chief Police in Savannah. And during that time I have written articles and policies and procedures on criminal investigation. I say that because, what I'm about to say, I want you to know is not my opinion. It is my professional opinion. This is the third time that Commissioner Stone and myself have been before this Board. And I know you have got a lot of cases. I just want you to know this particular case involved a hundred forgeries on a petition. And it's been thoroughly investigated by your office. It's been passed on. The problem is -- Secretary Kemp, we are real impressed with your dedication to voter fraud. This would be the ultimate in voter fraud. These are 100 forgeries, probably more than 100 forged signatures on a petition, include two dead people, including a major on the Chatham County Sheriff's Office, including a number of prominent attorneys and citizens that had their names signed. The purpose of that was this person was getting \$3 a signature. That is my personal opinion is that he just sat down at the kitchen table

had a voter's list and just wrote out all those signatures. My problem with our process in Georgia -- I point out I was also the Chief of Police in the Chicago area. Chicago is famous for voter problems. But the difference is, in Chicago this case would have been disposed of in 90 days. We are talking about this case that happened in August of 2008. And we are still talking about it. It seems like it gets passed from desk to desk to desk and nothing happens. Commissioner Stone and I spent two times before this board. It was thoroughly investigated, re-investigated, and it was decided by the Board that it should be referred to the Attorney General's Office. And it was. The Attorney General's Office referred it to our district attorney. The problem is our district attorney, through no fault of his own, no disparage or remarks, but he had hired this same person that forged these signatures for his campaign. So he excused himself. He passed it on to a special prosecutor in Atlanta, that I am not sure how that work -- no disrespect to this prosecution, but he, obviously, lives in La La Land, because he didn't feel like there was anything to pursue. The reason --

**SECRETARY KEMP:** Commissioner, if you can, wrap up. Your time is up.

**MR. GALILEE:** I just feel that, number one, Mr. Secretary, something this important, we need to, at some point in time, have something other than give someone two minutes and sit down get out of here type thing. Justice was not carried out. We are here to appeal that you do something this time, not just past it on to another desk.

**SECRETARY KEMP:** Commissioner Stone, welcome.

**MS. STONE:** Good Morning, Mr. Secretary of State. I appreciated the opportunity to be her today. I think Commissioner Gellatly has given you a little bit of information. I am going to give you a little bit more.

**SECRETARY KEMP:** Give us your name and address for the record.

**MS. STONE:** I'm Helen Stone, County Commissioner for Chatham County. Mr. Secretary of State, I did noticed on your letterhead it says stop voter fraud. I can't tell you how much that means to me. We have, as Commissioner Galilee said before, been working on this since 2008. What we don't understand is that these petitions that were circulated that had forgeries on them, on the back of each of these petitions -- I am just going to read to you, very briefly, what it says. I, the undersigned, being duly sworn, on oath, to dispose and say that I personally circulated the foregoing petition sheet, that I reside at the address appearing below my signature, hereon that each signer manually signed his or her own name on this sheet with full knowledge of the contents of such petition. How do you get a dead person on here? I got the signature of a dead person. Our elections board flagged it as deceased. Also, in the Code, in the Georgia Code, it says, insert or permits to be inserted any fictitious name, false figure, false statement or other fraudulent entry on, or any registration card, electors' list, voter certificate, affidavit, tally paper, general or duplicate return of any statement, certificate oath, voucher, valid or valid card or

other record or document authorized or required to be made, used, signed returned or preserved for any public purpose in connection with a primary or -- with any primary or election. It says that this is a felony. This is an affidavit. It's signed. It's notarized. There is a person that carried these signatures that says they got them the correct way. I don't understand what the problem is. I just thank you for your time and I appreciate very deeply all the efforts that you all have made on this case. I just hope we can get it resolved.

**SECRETARY KEMP:** Thank you, Ms. Stone. We look forward to seeing you all in Savannah, at our next State Election Board Meeting. We will be having that in Savannah.

MS. STONE: Maybe we will come to a conclusion by then. Thank you, sir, and thank you all for your time.

**SECRETARY KEMP:** Cynthia Moffett. If Mr. Bell and Ms. Anderson will make their way to reserve seats we would appreciate it. State your name and address for the record. Thank you. Welcome.

MS. MOFFETT: My name is Cynthia Moffett. My address is 5676 Iron Stone Drive, Columbus, Georgia. Thank you, so very much, for allowing me the opportunity to speak to you. I am here because of an incident that happened at my polling station on July the 20th, 2010. I am accompanied by my mother and what I will be speaking about has a lot to do with her. It is important. This is important because, as a tax payer and citizen the election board in Columbus has sent mix messages regarding who can and cannot vote. It is due to this confusion that caused the unfortunate incident on July 20th. As a 20-year air force veteran who presently serves as chaplain at St. Francis hospital in Columbus, Georgia, and my mother who served this community as a registered at Martin Army Hospital for over 20 years, our intention was never to violate any voting laws. But, at the same time, I am concerned that my mother's rights and perhaps the rights of others like her have been violated. I see it this way because the treatment has been totally antithetical to the treatment my mother has received in the past. The only way to resolve this issue is if both parties can be totally honest. Allegations made by the Columbus voting board have offered statements that are inconsistent and not true. When I filed my verbal complaint with the local board I insisted I had a written statement. Their statements indicated they were hearing my complaint for the first time. They made such statements as, why didn't she call me?

**SECRETARY KEMP:** Ms. Moffett, your time is up. This is one of our cases today. So we can hear from you later, as well.

MS. MOFFETT: Okay.

**SECRETARY KEMP:** Mr. Bell.

MR. BELL: Good morning. My name is James Bell. I'm from Douglas County, Georgia. I live in Lithia Springs. I am a voter in Douglas County. Mr. Evans, I

would like to applaud you for your comments concerning the verifiable ballots. I hope that sooner, not later, that the State of Georgia can come up with some verifiable system. We had a situation in Douglas with a 32-vote margin. We had another one in Cobb with a 114-vote margin, with 285 nonvotes recorded. So without any ability to go back and actually verify these ballots, it breeds a lot of distrust in these voting machines in this system. Whatever the solution is, if I can take this card and go to almost any machine in the country and withdraw money, certainly I could take my voting card and go to virtually any card in this state and it record my vote and record it accurately and spit me out a receipt just like I can at my ATM machine. Perhaps technology will get us there in the future. What I am here today for is an issue that came up in Douglas County concerning a city vote -- a city ballot and a county ballot. There was some confusion over whether or not city voters were getting county ballots when they requested them. I was told by my election board that by, based on the indication at the top of absentee ballot form would be determined which ballot you are to receive. But it says county or municipality. It does not indicate that you are seeking one or both. My assumption would be that if I am a city voter I also am qualified to vote in a county race. I should get that ballot without having to justify or to explain that I want both ballots. That should be up to our elected officials. If they can verify my name on application, then they can certainly verify all the ballots that I am qualified to vote on and send them to me. So my solution is, similar to the democratic box and republican box, to check here do you want a county ballot or a municipal ballot or if your procedure is that if I am in a city I automatically get county ballot, then certainly the officials of each county should be instructed it is not up to their discretion to determine whether or not I get a county ballot or not. If I am a city voter, I automatically get that county ballot also. My recommendation is, the application form should be changed. There should be some indication at the top whether or not I am asking for a city ballot, county ballot or both ballots, just you are asking whether or not I want a democrat or republican primary ballot. I think that would solve the problem?

**SECRETARY KEMP:** Thank you, Mr. Bell. I appreciate your comments. Thank you for being here today. Ms. Anderson, welcome.

MS. ANDERSON: Thank you. Good morning? I just want to mention briefly, a couple of things.

**SECRETARY KEMP:** If you would just quickly give us your name and address.

MS. ANDERSON: Cece Anderson, Atlanta, Georgia.

**SECRETARY KEMP:** What's your whole address, please.

MS. ANDERSON: 938 M.L. King, Jr. Drive.

**SECRETARY KEMP:** Thank you.

MS. ANDERSON: Thank you. I am speaking on behalf of the women around

the state as I travel. There is so many inconsistencies in voting here. I am just very disappointed with the whole voting system all together, in Georgia. I am worried about and concerned about votes that are being found in drawers and not county. I really want this addressed. Do we have a newsletter or form or something that we can check off, eventually, where you guys have found and corrected. And also we want to see a more diverse board here, because we are a diversified state and we want some consistency straight across the board from county to city. You can vote in the city, then you have to vote in county and nobody knows who's doing what or where to go in these different precincts. Also, I want to mention to you that I travel around the state. There are people who are registered to vote that is not on their list. When they get to vote, they are showing their ID and even if they are given a provisional, we don't know for sure whether that's been counted. When you get to the voting machine we are not sure whether or not that vote is counted anyway. I have heard so many cases about people who have voted on supposedly have voted for a particular candidate, and we don't think that vote went towards that person. So those are the inconsistencies around the state that I am very disappointed in and would like to voice my opinion concerning that, on behalf of the women around the state. Thank you.

**SECRETARY KEMP:** Thank you, so much, for being here, today. I would just remind anyone in the audience if there is any matter that concerns you about a voting process, potential voter fraud, actions by any of our processes or procedures, Chris Harvey is our Chief Investigator. You can call his office and make a complaint. You can go to our Stop Voter Fraud Website and submit that by email. We have got a 1-800 number you can call. We will investigate any allegations that are there. We get a lot of them. But we take them all seriously. Some of them, there ends up being nothing there. Some of them we end up referred to the Attorney General. And sometimes they turn into criminal cases. But I can assure you if you have a situation that you are concerned about, if you will let us know, we will look into it. With that we are going to move on to the approval of the minutes. We've actually got two sets of minutes that we need to approve. The first from our board meeting on November 17th 2010. Members of the Board, are there any comments or corrections on the minutes.

**MR. EVANS:** I move that they be adopted.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We've got a motion by Mr. Evans and a second by Mr. McIver to approve the November 17th minutes. Any other comments?

(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:** That motion carries. The second set of minutes is from our December 15, 2010 meeting. Any comments or additions or corrections to those minutes?

**MR. MCIVER:** I move they be approved.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Hearing none. We have a motion by Mr. McIver and a Second by Mr. Webb. Any other comments?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of approving the December 15th minutes, please signify by signing aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

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

(NO RESPONSE)

**SECRETARY KEMP:** That motion carries. With that we will move on to our Inspector General Reports, our consents cases. The first two cases that we have I will ask if there is anyone here that wants to speak to any one of these case. Just to remind everyone who has not been to a meeting on some of what we perceive as noncontroversial cases that were slated for dismissal, we put on a consent calendar and vote on those in block, to help us save time; however, if there is an individual here, respondent, complainant, whoever, that would like the speak to those cases, we will pull them out because we want to make sure the public can be heard. If there is not, we will let the Board decide whether they want to dismiss the cases on the consents calendar. Also, any board member has the right to pull one of these cases out to have discussion. Is there anyone here that wishes to speak to SEB case number 2010-71 Clayton County primary election or the 2010-118 Gwinnett County absentee ballot case? Anyone wishing to speak on that?

**MR. EVANS:** Move they be closed.

**SECRETARY KEMP:** Hearing no speakers, Mr. Evans has made a motion to close these two cases.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We've got a second by

Mr. Webb. Any other discussion by the board?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, we have a motion to close these two cases. All in favor, signify by saying aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

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

(NO RESPONSE)

**SECRETARY KEMP:** That motion carries and those two cases are dismissed. We will now move on to our current cases. I do have one change that we are going to make in our agenda. We are going to call case number 2010-34 Hancock County. If they are here and ready to present, we had made call situation that came up and we want to try to let these folks hear this case, where they be dismissed to take care of that. Mr. Harvey. I'm sorry. Mr. Brooks.

**MR. EVANS:** Mr. Secretary, members of the Board, this case is SEB case 2010-34. It involves Hancock County.

**SECRETARY KEMP:** It is number 16 in your binder, just so you can move to it.

**MR. EVANS:** The election that was involved was the July 20th early voting, primary election in Hancock County. The allegation in this case was that the early voting period did not open on June 7, 2010, as required by the law. There was also an allegation that the Overseas UOCAVA ballots were not mailed on time for people to get those ballots. During the investigation it was determined that the DRE machines were not set up on June 7, 2010, as they were suppose to be. They were set up on June 8, 2010 and people were able to start their early vote period a day late. In talking to the probate judge and the chief registrar, there was some miscommunication between the two of them. Both of them were out of the office at that time and it did not get set up on June 7th. We also determined that the UOCAVA ballots were mailed on May 21, 2010, which was in compliance with the law at that time. During the investigation it was also determined that the logic and accuracy testing had not been certificated, as required by the state election board rules.

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

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, Is anyone here wishing to speak to this regard?

**MS. SHAFER:** Yes, sir.

**SECRETARY KEMP:** If you would, just state the name and address for the record, please.

**MS. SHAFER:** Yes, sir. Good afternoon, Mr. Secretary of State. My name is Lee Shafer. I represent the election superintendent for Hancock County, Ms. Barbara Rice. Pursuant to the letter that was received, dated June 24th, from Mr. Harvey, I am here to speak on the potential violation number concerning Judge Rice, that she violated a state election board rule by failure to certify the LNA testing. Very respectfully, Mr. Secretary of State and board members, I have originals here, which is a certification. I will be glad to present them. I do not know why this allegations is here, but with all due respect, would request that this be dismissed. Again, this is a certification. What my client is being charged of is that she failed to certify that she had done the -- or had done the LNA testing, which I would contend is not correct. I have the originals here. I will glad to present to your investigator. I do believe it was Mr. Hernandez. I don't know if he is here. I will grand to present it to Mr. Harvey, whoever is present, but, again, it was, in fact done. They are signed. They are here. They should be in the superior court clerk's office, but they are here with me today.

**SECRETARY KEMP:** Can we get a motion to accept the information?

**MR. MCIVER:** So moved.

**MR. WEBB:** Second.

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

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Okay. We will take those documents from you.

**MS. SHAFER:** Thank you.

**SECRETARY KEMP:** Did you have anything else you wanted to add?

**MS. SHAFER:** No, sir. I want to say Your Honor. I do, again, request that this be dismissed as a review and then, also, thank you for taking us ahead of time. And after I finish with Mr. Harvey, may I please be excused so I can get the medical center?

**SECRETARY KEMP:** If you will just Hang on one second. Mr. McIver.

**MR. MCIVER:** Ms. Shafer.

**MS. SHAFER:** Yes, sir.

**MR. MCIVER:** It's always an honor to have a lawyer of your standing appear before us.

MS. SHAFER: Thank you.

MR. MCIVER: I would point out this is not exactly your first trip here, on behalf of Hancock County, is it?

MS. SHAFER: No, sir, it is not.

MR. MCIVER: Nor is it Judge Rice's first trip.

MS. SHAFER: I do believe it is the second, Your Honor.

MR. MCIVER: Well, it's, a least, the second in that regard. I remain troubled about the frequency that we hear from Hancock County. I would hope that any future violations that you council that your client that all prudence possible needs to be brought to bear, because, to be candid, at least in my mind, I speak for no other members of this board, any time I hear Hancock County, I get a suspicion that it's more trouble again, in a county that's having continuing difficulty running it's elections. And that is not a good opinion to have, but it is one I clearly possess?

MS. SHAFER: I can certainly appreciate your points. And please understand the way we are here today is that there was an early voting situation. And please understand that as the election superintendent, Judge Rice has charge absolutely -- I commend her, she did what she was supposed to do, pursuant to Georgia Law. We have all the documentation here today. And we are very mindful of the fact that we need to do better sometimes. We are trying. This time we did it.

MR. MCIVER: I hope you are right, Ms. Shafer, but do better really isn't the standard that we apply. This is risk free, error free.

MS. SHAFER: I understand that. Correct and I will submit to you that in every election from ever County that is in this room today, if you take your regs, which, by the way, I will point out to you, that what my client is supposedly in violation of, Reg. 183-1-12-02(3)(b)(1)(iii), which is about nine pages back, a certification that she signed, that she signed (repeated) in the possession of your officials right now, meets your criteria.

MR. MCIVER: Thank you. Again, we are honored to have somebody of your status to be here.

MS. SHAFER: Oh, thank you, so much.

SECRETARY KEMP: What about the potential violation of not starting early voting on time?

MS. SHAFER: That is done through the registrar's office. And the registrar, which is -- Judge Ingram used to be out probate judge in Hancock County, but she was the

newly appointed chief registrar. She is represented by Mr. Clark. So, I am not handling that, obviously, because we didn't want to conflict. I only represent Judge Rice.

**SECRETARY KEMP:** There you go. Thank you. Anybody else have a question for Ms. Shafer. Mr. Webb.

**MR. WEBB:** I did for Mr. Brooks. Mr. Brooks, have you seen the certification?

**MR. EVANS:** I see the one Ms. Shafer gave me. I also have a folder here that has the copies in them that Investigator Hernandez brought and put in the file. The ones in the file are not signed.

**MR. WEBB:** So they were sign after the date.

**MR. EVANS:** I don't know when they were signed. They just weren't signed when he obtained copies of them, during the investigation.

**MR. WEBB:** So, Ms. Shafer, I am asking you, you are saying that the certification was done correctly, but doesn't a certification have to be signed.

**MS. SHAFER:** It is signed. I don't know when Mr. Hernandez was -- I don't know where he went. I don't know who he asked. I do not know. I have not spoken with him. But I will tell you that those certifications that I have in my hand today were done.

**MR. WEBB:** Were they done timely?

**MS. SHAFER:** Yes, sir, I do believe they were.

**MR. EVANS:** Do we know when they were signed? It strikes me as odd that we would have an unsigned version and a signed version. The easiest answer is to figure out when they were signed. It wouldn't be so great if they were signed on the way here today.

**MS. SHAFER:** With all due respect, Mr. Evans, I think that you familiar with my professional career. I would certainly hope that you would not be indicating that I would have my client sign them on the way here.

**MR. EVANS:** No, but I would be asking when they were signed. I was just making the point, the date of signature -- we clearly agree that there are boundaries within which you have to operate. If the certificates were signed yesterday, you and I both agree that would inappropriate.

**MS. SHAFER:** Correct.

**MR. EVANS:** That's something that I would expect you to do.

**MS. SHAFER:** Correct.

**MR. EVANS:** If they were not signed on the day that the investigator was there, that raises a flag for me. I have to say to myself. If they were signed, why was the investigator given signed copies. Why was the investigator given unsigned copies?

**MS. SHAFER:** Well, with all due respect, I don't know when the investigator was there. And I don't where the investigator retrieved his copies, whether it was from the superior court clerk's office, whether it was from my client's office. I don't know the answer to that question. To the extent that you would like to have an evidentiary hearing to establish that, we can certainly do that.

**MR. EVANS:** Right. And the way to do that would be to simply bind it over and then the Attorney General's Office could sort through all that, right?

**MS. SHAFER:** If that's what you want to do.

**SECRETARY KEMP:** Any other questions? Mr. Brooks, did you have something?

**MR. EVANS:** The investigator was in Hancock County on August 3rd.

**SECRETARY KEMP:** Where did he get those documents?

**MR. EVANS:** He got those from Judge Rice.

**MS. SHAFER:** Pardon me?

**MR. EVANS:** From Judge Rice.

**MS. SHAFER:** I understand that this specific code section she purportedly in violation of, basically, says that these are to be maintained, that these documents shall be maintained with the Clerk of Superior Court. I would respectfully submit to this Board why your investigator did not go to the Clerk's Office in order to obtain the actual record, because those or the originals.

**MR. EVANS:** I am a little troubled by that. Are you suggesting that the clerk would be more reliable than getting them from your client?

**MS. SHAFER:** What I'm saying is that the originals are in the Clerk's Office, so if you -- my client would only have copies of these things. Understand.

**MR. EVANS:** Where did you get the copies that are signed.

**MS. SHAFER:** Those or originals that are to be filed if Clerk's Office.

**MR. EVANS:** And where did your client get the unsigned copies.

**MS. SHAFER:** I think she probably gave him the copies that she had when these

people came and certificate the DRE, you know, the LNA testing.

**MR. EVANS:** So, did she sign them at that point?

**MS. SHAFER:** I think she signed them simultaneous with submitting them to the Clerk's Office is what I'm saying.

**MR. EVANS:** And so did she make a photocopy of what she signed.

**MS. SHAFER:** Well, obviously, she didn't, if she purportedly gave him the copies that were not signed. And, with that being said, there has been no issue concerning the validity of this testing whatsoever. This is clearly a question of whether, because my client does not do that, she hires it out. I mean, obviously pays a company, and what she did was paid this company. They came out. There is not question concerning validity of the ballot. It's a matter of whether her signature, as I am hearing it now, was on a copy that was received in August. Whether her signature, because that is a certification, so that is the issue here. I want it to be clearly understood, because, again, we thought we were going to be here for not having the ballots up and ready to go on January 7th, for early voting, which is really a question for the registrar's office. But, again, this is a matter of the certification. And that's the signature. It was done. We have all the documentation. I am sure these folks have it too.

**MR. EVANS:** No. I agree with you that the security of the equipment is at the heart.

**MS. SHAFER:** Correct.

**MR. EVANS:** Unfortunately, in many cases like this, what happens is we then get into issues that are ancillary to that. For example, and it worries me and I think it worries my colleague, Mr. McIver, because we have seen this before. If the short answer, when the investigator asked for the forms, if the short answer is to say you need to get those from the Clerk to get your signed copies, we wouldn't be here today, if, indeed, the Clerk had signed copies. Instead the investigator was handed forms and said here are the forms. Later when we get to a hearing like this, we determine that the forms being provided by Judge Rice are unsigned. And that you today produced forms that are signed. Suddenly, we thrust in the midst of trying to figure out why couldn't that have been handled in the investigator phase. Or why before getting here today could someone not have called the investigator and said, hey, we have got the signed forms here? I am always a little bit amiss, and maybe it's just growing in Dublin or Warner Robins, were you always cast a watchful eye at the idea that it's not an ambush, but suddenly proof on the day of the hearing, here is everything that was missing, when that could have been provided in the investigation phase. I am sensitive to how hard the job of our investigators is already.

**MS. SHAFER:** Certainly, Mr. Evans, and I would respectfully submit that the election superintendent, again, had hired the election systems an software company, Premier Election Solution, pursuant to 21-2-379-6(b) to do this. And, you know, again, if you needed her signature, I don't know. I have never spoken to Mr. Hernandez. I wouldn't know him if he came up here an slapped me in the face. I know he wouldn't do that, but the point is this. This very easily could have been resolved. But from the point in August, which I don't even know when Mr. Hernandez was there. If it is August, I certainly will accept that. But from August until January 24th -- and I could be wrong and my client's here, but I don't

know of any contact that was ever made. If there was issue about a signature -- understand, folks, if you look at this, it is one signature on a line. Okay. She doesn't test the machine. She hires someone. We have their affidavits, pursuant to the code that they there are supposed to complete. And they have done that. But, again, in the events that it is a signature on one line, it is easy enough for someone to say, hey, where is the signature, right? If she is missing the signature, she didn't sign it, fine. That's okay. Again --

**MR. EVANS:** But it's not okay. I think that is where we disagree. It's not okay. We have to have accountability. There is one person who we depend on and they can outsource it. They can do whatever.

**MS. SHAFER:** And they did.

**MR. EVANS:** But at the end, we require a designated person to sign. And the reason we do that is accountability.

**MS. SHAFER:** And they did.

**MR. EVANS:** And now we have a question.

**MS. SHAFER:** No, sir, we don't. We don't have a question.

**MR. EVANS:** Well, then, let me pose a question to you.

**MS. SHAFER:** Okay.

**MR. EVANS:** When the investigator asked for the forms, why did your client not either say, you need to get them from the Clerk's Office or here are the signed copies?

**MS. SHAFER:** Well --

**MR. EVANS:** You don't know the answer and that is the question. That is my point. We do have an unresolved question. And unresolved questions are the kinds of things that we typically have a fact finder figure out for us.

**MS. SHAFER:** Well, with that being said, I will also point out to the Board that, number one, do you realize that you all have a training session in Valdosta, Georgia that is going on right now. Do you realize that people who were in the training session

had to leave to come up here to be at this hearing? And if we are going to save money to stay, that is not saving money.

**SECRETARY KEMP:** Okay, well, you can feel free to give us your opinions on when the meetings are, but we are going to stick to facts at hand.

**MS. SHAFER:** I'm sorry. Yes, sir, Mr. Secretary of State. I appreciate you all taking me early. And to the extent that -- please let me reiterate that I do not take signing a certification lightly. This certifications are over there. And to the extent that you would like to make copies of them, I will make copies of them for you. But I would like the originals back, so that we can maintain them in the Superior Court Clerk's Office.

**SECRETARY KEMP:** Okay. Any other questions for Ms. Shafer?

(NO RESPONSE)

**SECRETARY KEMP:** Can we make copies of those documents? Anything else from the board?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anyone else wishing to speak on either of these matters on this Hancock County case?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, Ms. Shafer. If you can just stand by, we would appreciate it.

**MS. SHAFER:** In fact, if I may, I think -- you must be Mr. Hernandez.

**MR. HERNANDEZ:** I am.

**MS. SHAFER:** May I go with him to make a copy, to make sure.

**SECRETARY KEMP:** Yes.

**MS. SHAFER:** Okay. Thank you.

**SECRETARY KEMP:** Yes, sir. Welcome. If you would, just state your name and address for the record.

**MR. CLARK:** Mr. Secretary, I'm Attorney John Clark I represent Chief Registrar Ingram and there is alleged one violation. Just to state, briefly, the record alleges that early voting machines had not been put in place at the beginning of early voting. Of course, we are not here to say that that is not accurate. That was a misunderstanding, as she had been recently appointed as Chief Registrar. This was not an intentional thing that she just intentionally failed to put these machines in place. Because of her recent appointment, there was a misunderstanding on who would set the machines up and that is what actually happened. The machine was set up on the 8th. I think the record will reflect that. I think this was simply and oversight. This was a matter that should not be referred over to the Attorney General for him to investigate the matter. I think this is a case that just simply warrants maybe a warning that the Chief Registrar, who was recently appointed, would make sure, in the future, that these machines be in place and be operated for early voting or whenever they are supposed to be operated. That is, basically, what happened in this case. If there is a question -- I read the documents. I read the allegations. And I talked to my client about this, I know I have known her for many years. Are there any questions from the board?

**SECRETARY KEMP:** Thank you Mr. Clark. Mr. McIver.

**MR. MCIVER:** Mr. Clark, I am always concerned about the impact of such a situation as this, albeit, perhaps innocent, as you have indicated. Do you know, offhand, or would your client know here today, was anybody denied the opportunity to vote? They appeared the first day and they were unable to come back at any other time to vote?

**MR. CLARK:** I talked to her about that. She does not have any. She said she didn't

know of any. If there were some, she didn't know about it. The impact, if somebody was denied access for a day, certainly, that is something that we don't want to happen. But sometimes things happen. You have to understand that. But I did talk to her about whether or not she had any complaints by anybody who could have voted that day and didn't vote that day. She doesn't have any information. There has been information sent to me. I don't guess the Board has any information, because reviewing the file I didn't see anything in allegations that someone complained that they didn't have the opportunity to vote that day. I certainly understand that. I understand that you want the machines in place. But this is situation where she was given the job. It's a clear misunderstanding and, certainly, that would not happen in the future.

BOARD MEMBER: Thank you for your contribution today. Having attorneys present like this helps us understand this issues.

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

(NO RESPONSE)

**SECRETARY KEMP**: Is there anyone else wishing to speak in regard to this case?

**MR. EVANS**: I just had a quick question.

**SECRETARY KEMP**: I'm sorry.

**MR. EVANS**: What corrective actions were taken?

MR. CLARK: Well, actually, corrective actions, she actually put machine -- voting started on the 8th. It is just an oversight, a miscommunication, a misunderstanding because she had recently been appointed. She was under the assumption that someone else would set the machines up, which is her job. So we don't deny that responsibility. I think in a situation like this, the corrective action simple should be that should not happen again. And, certainly, I'm sure with her credentials, in the future, that will not happen again.

**MR. EVANS**: What I am suggesting is that if you said, you know, we have now adopted a protocol or practice procedures where if we have new person, and identify what caused the (unclear - coughing) and then have something designed to fix and prevent that from happening again. If you had protocol in place that said any time we have new people, there will be this additional layer of protection to make sure. For me, that would go a long way to say, okay, one way to resolve this since there is really no fact in dispute, but is to have an instruction that adopts the protocol that you have given us. You said we understand we have problem and here is how we make sure that problem never happens again, from now on every time a new person has that responsibility, there will be an additional supervisor. There will be a check list. There will be something that helps us, the four of us, the five of us, feel comfortable that it won't happened again.

MR. CLARK: I understand what you are saying. Are you asking us to submit something to the Board. I understand exactly what you said. We won't have a problem in doing that, submitting something to the Board that would prevent something like this from slipping through the cracks the next time.

**MR. EVANS:** I think a consent decree, where you, basically, put in writing for us what has been done and we accept that as part of a resolution, might an effective way to solve it. And what I here you saying is, yes, we are more than willing, because, we, too, want to make sure it doesn't happen again.

MR. CLARK: We don't want that to happen. It was a new appointment. It was simply a miscommunication. I certainly would agree with you that as we proceed forward we don't these things to happen again, in whatever way we can work this. It is on its face that the machines with nor not set up. That's indisputable. I think the think is to go ahead and move forward on this and make sure that doesn't happen again.

**SECRETARY KEMP:** Thank you, Mr. Clark. Anyone else wishing to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Do we have any other new information that y'all would like to share with us?

**MR. EVANS:** No, sir.

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

(NO RESPONSE)

**SECRETARY KEMP:** Has Ms. Shafer made it back?

(NO RESPONSE)

**SECRETARY KEMP:** We have got copies of the documents, is that correct? Any other discussion from the Board?

**MR. EVANS:** I think on the second one involving Chief Registrar Ingram, I would be more than happy to make a motion that he work with the Attorney General and come up with a consent decree that basically codifies the corrective actions that are in place to make sure that that doesn't happen. We will need, in that consist decree an acknowledgement that the violation occurred, but that for purposes of the future, a corrective plan has been adopted.

**SECRETARY KEMP:** Is that is a motion?

**MR. EVANS:** Yes.

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

**SECRETARY KEMP:** Okay. Did you get all that? We have got a motion. And this is on the second part of this, the second part of the motion, in relation to Ms. Ingram. And Mr. Evans has made a motion to bind this over to get a consent agreed upon, is that correct?

**MR. EVANS:** Actually, I don't even think we need to do that. All we would really need is for him to come back for with a proposed consent degree, really is all you need.

**SECRETARY KEMP:** Okay. All right. We had a second. Mr. Webb seconded that. Any other discussion?

(NO RESPONSE)

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

(WHEREUPON THERE WAS A CHORUS OF AYES)

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

(NO RESPONSE)

**SECRETARY KEMP:** Okay. That motion carries. Okay. Now, on the matter with Judge Rice and Ms. Shafer. Thank you, Mr. Clark. We will look forward to hearing from you and we will be in touch with you.

MR. CLARK: Who will get in touch with me; Ms. Brumbaugh?

**SECRETARY KEMP:** No. Actually, we will handle that internally.

MR. CLARK: Through the Board, okay. All right. That's fine.

**SECRETARY KEMP:** If you will just make sure we have your contact. If you will give Jessica your --

MR. CLARK: Actually, you have it. I sent a notice of appearance in.

**SECRETARY KEMP:** All right. Very good. We will be in touch. All right. Do we know if Ms. Shafer is here? Put a hold on that until Ms. Shafer gets here. And we call go ahead and call Case Number 123 and let Mr. Harvey or Mr. Brooks go ahead and present. And when Ms. Shafer gets back we will go back an try to get --

MR. HARVEY: Mr. Secretary, members of the Board. This is case 2008-123. It involves allegations of double voting in the 2008 general election. The complainant in this case was WSB reporter Jodie Fleischer, who reported to the Secretary of State's office that she had lists of people that appeared or possibly had voted in the State of Ohio and the State of Florida in the election. We ended up with three

respondents. The respondents are Thomas Habel, William Davis and Ramula Alverado. I will mention to the Board that the attorney for Mr. Alverado requested a continuance in this case. His issue alone is going to be continued until the next meeting. This presentation just refers to Mr. Davis and Mr. Habel. The information that was provided to us by WSB, we were able to dispel 16 names of people possibly voted in Georgia and Florida. And seven people that possibly voted in Georgia and Ohio. The investigation revealed that there were three people that voted in Georgia and three, three people that --

**SECRETARY KEMP:** Ms. Shafer is back. So we are going to move, since you had just gotten started -- Sorry to cut you off there. Let's move back to the Hancock County Case, Number 2010-34. Did any of the board members have anything else for Ms. Shafer?

**MR. EVANS:** No. My concern is that if we had the parallel to what we had on the registrar, they would lend itself to a similar resolution, which is a consent decree with an instruction. So, for example, if we had situation were Judge Rice was before us and said, clearly, there has just been a miscommunication about the transmittal of the signature cards, that is one creature, in which case we need to know if there is corrective action to make sure that those signatures exist and that they are promptly turned over to an investigator who asked for them. However, what I heard today was there was a genuine dispute about whether or not the signatures, in fact existed at the time of the investigator's visit. That's a far different issue. That is an issue that would require some degree of fact-finding in order for us to get to the truth. And so based on that, I would vote that we bind it over.

**SECRETARY KEMP:** Any other discussion?

**MR. WEBB:** No. I would second that.

**SECRETARY KEMP:** Okay. We have got a motion and second to bind the case to the Attorney general's office to proceed with the-fact finding mission. Any or 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. We're going to bind that over. And we will get Ms. Brumbaugh to be in touch. Thank you for being here. I hope everybody gets better soon.

**MS. SHAFER**: Thank you, so much. Take care.

**SECRETARY KEMP**: You're welcome. Okay. Mr. Harvey. Back to case 123. If you would, just start from the get-go, so we can make sure we are all on the same page.

**MR. HARVEY**: Yes, sir. Again, allegations of people voting in Georgia, while simultaneously voting in the Florida and Ohio. We were able to determine there were 16 names of people who possibly voted in Georgia and Florida; seven name who possibly vote if Georgia and Ohio in the 2008 general election. We were able to find out that there were only three people who actually voted in two states during the same election. Those three people were Thomas Habel, William Davis and Mr. Alverado, whose case has been continued. In each of the cases of these individuals, it was determined that they lived in Georgia. They also had a residence the Florida. In each case, the person had been registered in Georgia, went to Florida and registered to vote, returned to Georgia, voted in the 2008 election early voting and then went to Florida and voted a second time. WSB did a news report on it. Mr. Habel was shown on TV denying that he voted in Georgia. He did, in fact, vote. The registrar recognized him voting and we had a voter certificate for Mr. Habel, the Hart County. Mr. Davis also admitted to voting in both states, although he said that he didn't realize that he couldn't do it and he thought one of his votes would have been canceled. He thought that on of the election officials had told him he couldn't vote and they would just cancel out the one that didn't count. I do have a letter that Mr. Davis sent to the Board, that he asked me to present to the Board with his comments on the investigation and on the allegations. I will point out that in his letter he talks about denying that he voted by absentee. He might have been confused about he voted in person absentee in both cases. He disputes that he voted in absentee ballot, but he vote in person absentee. As far as the people that were eliminated for voting twice, we found when we did a more advanced comparison, in almost every case there were either people with similar names, with different Social Security numbers. There were people that had been sent absentee ballots, but had not returned them. There were some absentee ballots that had been mailed to people and had been return to the elections office unvoted. So, in all the cases of the 23 individuals, we did not find a person who voted twice in both states. As a result of the investigation, I recommend that Mr. Habel and Mr. Williams (as stated) be bound over to Attorney General's Office for consideration of there allegations.

**SECRETARY KEMP**: That's Habel and Davis?

**MR. HARVEY**: Yes, sir. If the Board wants to accept the letter from Mr. Davis, I'll offer it.

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

**SECRETARY KEMP**: We've got a motion to accept the letter. Do we have a second?

**MR. WEBB:** Second.

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

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** We will accept the document. Okay. Any questions for Mr. Harvey?

**MR. HARVEY:** The only other thing I'd point out, Mr. Secretary is that this case was in 2008. The reason it's been delayed in coming here that the justice department and Federal Bureau of Investigation have been considering the circumstances in this case. We don't know what their final outcome will be, but that was one of the reasons for the delay.

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

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, is there anyone else that would wish to speak in this regard.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, I'd like to thank Ms. Fleischer again for her hard work if helping us stop voter fraud. She has been very diligent in that. We appreciate that and have certainly appreciated working with her and WSB on several occasions.

**MR. EVANS:** I would be interested to hear how she detected the double voting.

**SECRETARY KEMP:** Ms. Fleischer, would you like to fill us in?

MS. FLEISCHER: Sure.

**SECRETARY KEMP:** I'd love to hear from you. Thank you and welcome back.

MS. FLEISCHER: Thank you.

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

MS. FLEISCHER: Jodi Fleischer and WSB television. We are at 1601 West Peachtree Street in Atlanta. Basically, we requested the master voting rolls from Georgia, Ohio and Florida we hired a contractor with a computer expert who used a computerized program to cross all of the information, based on first name, middle name, and last name and dates of birth for all of the voters, because that was the information we had. We found 112,000 people who appeared to be registered in two of the three states, primarily because people had moved. I was on that list, because I

had moved from Florida. When you move, if you don't call and say, hey, I moved, you end up on both voter rolls. Several of the folks we contacted had requested absentee ballots prior to moving. So they were just on the list to get the absentee ballots. And we interviewed -- our reporter in Ohio interviewed several voters who, some of them were college students, had requested absentee will ballots from Georgia and had actually received them, held them up on camera and said, yeah, here is my ballot, but voted in Ohio because they thought that the vote would count more, because it was a swing state, at the time. At the time we interviewed then Secretary of State Handel, who said, no, you vote where you live, you don't very where you think it's going to count more. That was, kind of, part of the focus of our story. And we really looked at the fact that there is no federal registry for voter rolls, so it doesn't automatically take you off of one list. There is no tracking for it. You get a ballot for one state and another state. And that is, kind of, how we proceeded. We used addresses -- (audio interference) -- to whittle down the list. We found about, I believe it was 30-some-odd folks who appeared to be the same person based on addresses, where they had previously lived, spouses names and then, again, first middle last and DOB.

**MR. EVANS:** I know why you picked Georgia. Why did you pick Florida and Ohio?

**MS. FLEISHER:** They were both swing states in the election and sharing the border, we figured it was more likely to have that and then Ohio because it was a swing state and because we had reporter contact there who was interested in doing the story with us. They said they wanted to be part of it. We had talked about trying to expend it out and maybe in the next cycle to include other states or even a nationwide project, if we could do it; but it's, obviously, as you well know, it's really difficult and expensive to try to cross all of those names. We had millions of voter records just in the three states we used.

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

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you, so much, again, for bringing this our attention and for working with us on the investigation. Anyone else wish to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, do we have a motion by the board?

**MR. WEBB:** I make a motion that we bind Habel and Davis over the Attorney General's Office.

**SECRETARY KEMP:** Okay. We have a motion by Mr. Webb to bind both of the individuals over. Do we have a second?

MR. MCIVER: Second.

**SECRETARY KEMP**: Second by Mr. McIver. Any other further discussion?

(NO RESPONSE)

**SECRETARY KEMP**: All in favor of binding over, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

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

(NO RESPONSE)

**SECRETARY KEMP**: That motion carries.

**MR. EVANS**: Will there also be a referral to the law enforcement authorities. I think we have done that before where we had -- it's kind of hard for somebody to say, Oh, I don't know what it was doing when you have actually checked the box next to a candidate's name on two different ballots. It's really hard to kind of explain that away. I wonder if this might be one of those exceptions, Mr. Chair where we also send it over to the appropriate --

**SECRETARY KEMP**: Let me let Mr. Harvey address that because I think we had --

**MR. HARVEY**: The challenge with that, Mr. Evans, is that when they voted in Georgia that was their first vote, in all of these cases. When they went to Florida and cast their second vote, it is the second vote. So, their Georgia votes were valid to the extent that they were Georgia residents. Now, they had not reregistered in Georgia after registering in Florida, which, I believe, is the basis of one of these violations. The FBI is looking at the circumstances. They have it under consideration. I know that in one of the counties in Florida they were considering criminal action; however, they deferred to the FBI, once the FBI contacted them. I spoke to the FBI agent who was working on the case, 2 or 3 weeks ago, and he said he still had not heard back from Washington on how they were going to proceed.

**MR. EVANS**: I would sat that, at a minimum, as a courtesy, maybe, Mr. Chair, you send the results of this to your counterparts in Florida and Ohio, because the Secretary of State there may, in fact, want to do something independently.

**SECRETARY KEMP**: We can do that. Put that on our list to follow up with them. Let the record show I'm going to step out for just one minute and let Mr. McIver take the Chair.

MR. MCIVER: Mr. Harvey, the next case.

**MR. HARVEY**: Yes, sir. The next case is 2009-54, The City of Fairburn, in Fulton

County. The basis of a lot of the confusion in this case is a disputed or incorrect inaccurate boundary line between the City of Fairburn and the City of Union City. The first allegation came from a Bobbie Parrot who lived on Rivertown Road. He was sent to a Fulton County precinct instead of a Fairburn precinct. He lived in Fairburn. His address had to not been corrected by the city of Fairburn. He was allowed to return to the City of Fairburn and vote a provisional ballot for the city election. We have got the city and the County cited for failure to place an elector in their proper voting district. The second allegation that ended up not being unstained was sort of on other side. A person who lived in Union City believed they should have been allowed to vote in Union City and they were sent to Fairburn. They had been fixed by being put in Fairburn, where they actually resided. They complained that they were being sent to the wrong precinct. They were actually sent to the proper precinct. They just didn't know about it. So, there was nothing to sustain that allegation. The third allegation was from a gentleman who said he was not sure whether or not the voting machine captured his vote. He said he went through the voting process and he thought he saw a message pop up. For some reason, unarticulated reason, was not able to say why he was questioning whether or not his vote counted. The record showed that he voted and his vote counted. So that appeared to be not sustained, as well. Other allegations involved the city clerk and the Assistant City Clerk. Fairburn had contracted with Fulton County to run their elections. The Clerk and the Assistant Clerk, on several occasions, went into polls, talked with poll workers; I think they were attempting to correct problems that had developed with his people being placed in the wrong precincts. They did, however, go into the precincts and interacted with poll workers. It appears that they possibly violated the Entering the Enclosed Space In a Precinct when they were not actually election workers. The other allegations is that a poll watcher, Mr. a Laurice Simmonds interfered with the election, in that while these two -- while one of these Assistant City Clerks was in the polling place, Mr. Simmonds spoke up, allegedly, berated her, told her she needed to leave, told her she couldn't be there, to the point where the Assistant Clerk left the precinct and did not finish the business that she was attempting to conduct there. The next to last allegations is that there was vague allegations that a candidate's wife was a interfering in the election. There was no indication to support this. The last allegation is that a voter, Caroline Calhoun received two absentee ballots. She received her first one. She called Fulton County -- I'm sorry. She was sent and absentee ballot. She called Fulton County and said, I didn't receive it. They sent her a second absentee ballot without getting a written affidavit, canceling her first absentee ballot. Fulton County is cited for violating the provision where you have to cancel an absentee ballot, before a new absentee ballot is sent. It is recommended that all these respondents be bound over to the Attorney General's office for consideration.

**MR. MCIVER:** Anything else, Mr. Harvey?

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

**MR. MCIVER:** Anybody here on behalf of the Fulton County Board of registrations and elections? Your name and address, please.

MR. GARNER: My name is Barry Garner, address 10570 Wren Ridge Road, Alpharetta, Georgia. The first allegation cited about we are not processing sending the voters to the right precincts; before ever municipal election we send every municipality a list of voters in their municipalities in which they are supposed to check it and notify us of any changes. I have an email here from the City of Fairburn, stating all the discrepancies that we have in the City of Fairburn and Perrin (phonetic) Road is not include. We did find out about this discrepancy until Election Day. And at that time we instructed the poll workers to let the person vote a provisional ballot and we would try to sort it out the day after. I don't think that part is a violation with Fulton County, because we've done everything we are required to do, by law?

**MR. MCIVER:** Did that person vote; do you know?

MR. GARNER: Yes, they did.

**MR. MCIVER:** Go ahead.

MR. GARNER: The second violation Mr. Harvey was talked about is when the voter called and said that she did not get her ballot, and we, in the system, went and canceled the ballot then and sent her another one. I cannot say before you we got anything in writing, because with the problems we have had in Fulton County with absentee ballots, we always error on the side of the voter. If the voter said they did not get one, we cancel it in the system and mail them another one. If we are supposed to get something in writing, I don't know if we did that or not, but we definitely got a phone call from her. We said error on the side of the voter and cancel it in the system and mail her another one right away. But we will make sure, in the future, if they called and need to send something in writing, we will make sure the procedures are in place.

**MR. MCIVER:** Any board members have questions for Mr. Garner?

**MR. EVANS:** Just refresh my recollection. My recollection was that we had an ongoing monitoring of Fulton County for a period of time.

**MR. MCIVER:** Pursuant to a consent decree.

**MR. EVANS:** Has that expired.

MR. GARNER: That expired after the 2009 municipal election.

**MR. MCIVER:** Any other questions from the Board?

**MR. WEBB:** Mr. Garner, what was the date the second absentee ballot was mailed?

MR. GARNER: I don't have that information with me.

**MR. WEBB:** Mr. Harvey, do we know?

**MR. HARVEY**: Unless it is in the file, I don't have it in the report. The records did indicate that Fulton County canceled her first ballot, as Mr. Garner said, before sending out her second one. They just didn't have the written request from the voter. We will check the file and see if we have that date.

**MR. WEBB**: The code section requires an affidavit. Are we pretty lax on something in writing on that or do we require a formal affidavit that's notarized.

**MR. HARVEY**: It's been our procedure to follow the law and require written cancellations and affidavits for absentee ballots.

**MR. WEBB**: If it's in writing, if a person hand-wrote a note or typed a letter and signed it and sent it in, that would be sufficient?

**MR. HARVEY**: I can check the code section. I believe they actually have to appear in front of the registrar to cancel their ballot. I believe the code section requires appearance in front of a registrar.

**MR. MCIVER**: Mr. Garner, do you know the answer to that.

MR. GARNER: That's something we will enforce. If a voter calls us, we make sure we cancel it personally, but if the person comes back, it will not count anyway, because it has been canceled. So there are checks and balances if the first ballot comes back after we cancel it. If somebody calls in to get a ballot, we error on the side of the voter. We send them another one.

**MR. MCIVER**: Well, the question on the table is, if they appear before one of your officials or may they simply submit an affidavit.

MR. GARNER: It's never happened since I have been here. Most of the time they can't get to downtown Atlanta, so they may be in the hospital or out of town somewhere. They might go to college in Florida and say I didn't get my ballot.

**MR. HARVEY**: The code actually does not say appear in front of. It says notify the Board of registrars of absentee ballot and sign and affidavit saying it has not been received.

**MR. MCIVER**: More to your practice. I am not asking you to interpret the law. What is the practice of your office?

MR. GARNER: The practice is if we give any kind of notification, whether phone call or email or letter from a voter, saying they have not received their ballot, and we have proof that we mailed that ballot, we then cancel the ballot and send them another because we do have a first-request on file. They did request one at a previous time.

**MR. WEBB**: So not matter if the first ballot comes back, it's canceled.

MR. GARNER: Yes. It would be canceled.

**MR. MCIVER:** Let the record reflect the Secretary has return to the meeting. I am going to continue on in this case as opposed to turning it back to him. Any other question by the board, in that regard?

**MR. EVANS:** No, but I will say this. It's been a -- and I think my college, Mr. McIver will agree with me -- It's been a welcome development to have you appearing before us and working on behalf of the Fulton Board of Elections, Fulton County Registration and Elections Division. You bring a level of professionalism that we need, but much more importantly, I think all of you got to see that in the first two cases, which is that if you come in here with solutions about how we make sure things don't happen again, we are going to be all ears. If you come in here blaming somebody else for what did or didn't happened, we are going to be very interesting in figuring what it is we need to do to make sure it doesn't happen again, because everybody on this Board is committed to making sure the election is its best. I know I have heard you before, Mr. Chair, comment on how much better Fulton's responds to our staff and gets things done. And we should never let that go unreported. So I do appreciate that. It does strike me that there are a number of things here that make it difficulty to simply close the case. The real question, I think, in my mind is, do we close it just as to Fulton County with an instruction and consent degree on minor issues that relate to them or do we send the whole thing over.

**MR. MCIVER:** (audio interference) press on to determine what else we might be hearing from either the City of Fairburn and there are four individuals that were named. I want to make sure everybody has had their opportunity to either speak or be represented. Mr. Garner, we may be calling you back. If you will be in a stand-by position for us.

MR. GARNER: Okay.

**MR. MCIVER:** Is anyone here to be heard from the City of Fairburn, either directly or through counsel?

(NO RESPONSE)

**MR. MCIVER:** How about with respect to Nancy Williams, AAK (as stated) Nancy Faulkner? Anybody here to speaks for either she or on behalf of her?

(NO RESPONSE)

**MR. MCIVER:** Sylvia Vaughn, same question?

(NO RESPONSE)

**SECRETARY KEMP:** Delfin Span?

(NO RESPONSE)

**MR. MCIVER:** Laurice Simmonds? If you will state your name and give us your address, please.

MS. Simmonds: Good morning. My name is Laurice Simmonds Wilson. I got married last year. I reside at 255 Triple Creek Trail, Fayetteville, Georgia. I want to address the panel this morning concerning an allegation that was only brought to my attention and two investigators came to my home and I happened to have documentation recording what really happened that day. I never put anyone out of the polling place. I complained to the Secretary of State's Office. I have the phone number listed in my correspondence that I shared with the investigator and provided both a copy of the documentation of that day. Where I witnessed the claimant, as well as her assistant, interfering in the election. I was a poll watcher on that day for a candidate for the Mayor of Fairburn, Mario Avery. I reported my findings, not only the Secretary of State, in writing. As of that day I met with the investigator that came to my home. They didn't even have the correspondence that I forwarded today the Secretary of State's Office. In regards to interference, I was not told or informed that I was even interfering with anyone, just by calling the Secretary of State's Office. A couple of instances where I called the Secretary of State's Office on that day, the line, no one answered. And there was not a voicemail. So I thought I had the wrong number. So I verified the phone number they have for the Board of Election on that day with the poll manager. And that's how I verified that we had the same number. But everything that happened, I witnessed and overheard is documented in the correspondence that I shared with your investigators. Thank you.

**MR. MCIVER:** Do any members of the Board have a question. One moment. The record should reflect that Mr. Evans has stepped out of the room. I think it is on the record that Secretary Kemp returned.

**MR. WEBB:** Ms. Wilson, I just had a quick question. When you said the City Clerk and the Assistance Clerk were repeatedly interfering with the election process, can you describe what was going on?

MS. WILSON: Yes. What I witnessed is that they came in and they didn't any badges and I didn't know who they were, at first. But they keep coming. I just asked the poll watcher next to me to verify who they were. And that's when I knew who they were. I recognized that Nancy Faulkner, she came in at least three times, which I documented. And the reason why I was so detailed in documenting this is because my experience as an OIG auditor requires me to document stuff when I see wrong-doing and that is what I did. That is what I reported. I knew that I was not to communicate with them and I did not. That is not my place. My place was to contact the Board of Election Office number, which I did do that. And when I was able to get an answer or response, I verified the number that I had with the Ms. Delphine is the name she told me is the poll manager at that place. She verified that the number I had was correct. And the investigator did come once I know I got through to the office. But I don't know if it was from my call getting through to them or from the poll manager. But someone did come.

**MR. WEBB**: So when you're observing them, what you were witnessing is they were coming in and they were interfering and they were asking questions to the poll workers and taking them away from their responsibilities.

MS. WILSON: Right. And they were speaking loudly. They were not discrete. They were loud. That is why I put in writing that they were loud enough for me to hear them from a different part of where I was sitting.

**MR. WEBB**: Great. Thank you.

MS. WILSON: I, personally, would like that the allegations concerning me interfering be removed and dismissed, because I did not. I according to the law. Thank you.

**MR. MCIVER**: Thank you. Just in the brief time that she spoke, is anybody here to appear on behalf of Nancy Williams, Sylvia Vaughn, Delphine Span or Ms. Williams could be a Nancy Faulkner; anybody?

(NO RESPONSE)

**MR. MCIVER**: Mr. Garner subsequent to hearing from now Ms. Wilson instead Simmonds, do you have anything else to add?

MR. GARNER: This is the first time I heard about any of this. Nobody called me on election day with these concerns about people entering the precinct. When I got called is when Ms. Faulkner -- the first time I heard about it is when I read it.

**MR. MCIVER**: Mr. Harvey, anything you want to add?

**MR. HARVEY**: The only thing I would add is that it appears that the geographic information system with Fulton County is working on correcting and I believe has corrected the discrepancies between Fairburn and Union City.

MR. GARNER: Yes. What we have done, after we found this problem in Fairburn, we have looked at every road, every street, every block in Fulton County and matched it with our GIS Department. We now have monthly meetings with GIS to make sure this problem never happens again. We think our database is in sink. What was happening, they were sending stuff to the GIS Department, but somehow it wasn't getting filtered down to the Election Department. We have now closed that gap because of this.

**MR. MCIVER**: Again, Mr. Harvey, your recommendation, is it any different than what you publicly reported to us.

**MR. HARVEY**: No, sir. It's the same. There was reported that Ms. Simmonds and Ms. Wilson was speaking with one of the people in the precinct. That witness did not hear what going on, but, apparently, there was some contact.

**MR. MCIVER:** All right. Members of the Board, let the record reflect that Mr. Evans is returning in the room. Mr. Evans, we are getting ready to considering the last part of the case 054. Despite the fact that you have been out the room, do you want to participate in the deliberations we are about to have?

**MR. EVANS:** I will participate in the deliberations.

**MR. MCIVER:** We have all seen the report and we heard from those who are here to represent, not only Ms. Wilson, but to Mr. Garner, on behalf of Fulton County. Is there any discussion at this time before I will entertain a motion?

(NO RESPONSE)

**MR. MCIVER:** All right. Is there a motion with respect to this matter?

**MR. WEBB:** For me, I think it's easy on the nine Fulton County issues that they be bound over the AG. The issues of whether we can enter into a consent decree to Fulton County to correct the two items, I am troubled by -- although Mr. Garner has done an excellent job in Fulton County, I am a little troubled by the code section requiring that an affidavit be signed in ink, stating that his practice has been to accept the phone call to cancel the ballot and resend another one. So there needs to obviously be some corrective action taken in that area. Maybe the best thing to do is just to refer the whole case over to the Attorney General's Office and let Mr. Garner work out a consents with the Attorney General's area on that, also for the Attorney General to conduct an evidence-finding on other matters and come back with some recommendations. So, in that respect my motion is to bound the full case over to the Attorney General.

**MR. EVANS:** Second.

**MR. MCIVER:** We have a motion and a second. Any other discussion?

(NO RESPONSE)

**MR. MCIVER:** Those if favor of the motion, please indicate by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**MR. MCIVER:** Those opposed?

(NO RESPONSE)

**MR. MCIVER:** Let the record reflect I am turning the Chair of the meeting back over to Secretary Kemp.

**SECRETARY KEMP:** Thank you Mr. McIver. Case Number 2009-61.

**MR. HARVEY:** This is a City of Atlanta Case, involving the City of Atlanta

Municipal election, which Fulton County ran. The complaint is Kent Burman, who had his voter registration, essentially bounce back and forth between Rabun County and Fulton County. He was originally registered to vote in Rabun County. He moved to Fulton County in 2008. His voter registration was transferred to Fulton County. He then, about a month later, renewed his driver's license, using his old Rabun County address. His registration was transferred back to Rabun County. He subsequently reregistered in Fulton County. For some unknown reason, he was transferred back to Rabun County. He attempted to vote in the November 2009 election, was told he was registered in Rabun County. He was allowed to vote provisional, but his vote was not counted because he was registered in Rabun County. It has subsequently been fixed. And he is properly registered in Fulton County. The Rabun County Board of Elections has submitted a response to the executive summary that they asked that I present to the Board. I don't believe they are going to be here today. They have got a response that I would tender to the Board on their behalf, if the Board wants to consider it.

**MR. MCIVER**: I move that we accept the report.

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

**MR. MCIVER**: 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**: The motion carries.

**MR. HARVEY**: In the response by Rabun County, you will notice in paragraph two that they acknowledge, to the best of their knowledge, that a clerical error is what resulted in Mr. Berman being sent back to Rabun county in September of 2008, and ultimately kept him from being registered in Fulton County.

Fulton County does not have any documents, any voter registration showing that Mr. Berman voted in Fulton County -- I'm sorry -- that he registered in Fulton County; however, he did register in 4/28, April 28th, of 2008. Therefore, Fulton County is cited for -- actually Fulton County and Rabun County are both side for failure to determine proper voter registration and failure to keep documents regarding requests for a voter registration change.

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

(NO RESPONSE)

**SECRETARY KEMP:** Is anyone here wishing to speak on this matter?  
Mr. Garner; name and address, for the record, if you don't mind.

**SECRETARY KEMP:** Barry Garner 10570 Wren Ridge Road, Alpharetta, Georgia. In this Berman case, like Mr. Harvey stated, he submitted a registration form and absentee application at the same time, around April 28, 2008. When we process his absentee application, we looked in the system. He was not registered in Fulton County at the time, because we had not processed his voter registration application. Then we sent this absentee application to Rabun County. I have an application here. I don't know who gave it to me, that stated on 5/27 that Mr. Berman tried to register to vote in Fulton County. I have another one here on September 28th. He sent another registration in Fulton County. He would definitely register in Fulton County in May of 2008. And he voted in the 2008 general election in Fulton County. In December 2008, for some reason, we don't know, he was pulled to Rabun County. So when he tried to come vote in 2009, we looked in the system and said, you are no longer registered here. You are registered in Rabun County. We have the application from the previous time he tried to register, but at the time we didn't know why Rabun County -- we thought he moved back to Rabun County. We didn't know. So I asked the Board to clear Fulton County of this matter, because I don't they we are in any kind of violation when we have processed everything we should have done. In the month of April, 2008, we process 11,000 registration applications. So we may be a couple of weeks behind when he processed his absentee application. We would have found it, but processing 11,000 we may be two weeks behind. Honestly, I recommend the Board to clear Fulton County of this matter.

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

**MR. MCIVER:** Mr. Garner, when did you join Fulton County in this capacity?

MR. GARNER: July 8, 2009.

**MR. MCIVER:** So some of this is at least prior to the time you came.

MR. GARNER: Almost everything here is prior to the time I came.

**MR. MCIVER:** It is so much easier to blame you.

MR. GARNER: Well, that's fine.

**MR. MCIVER:** I did want to clarify for my colleagues that some of this wasn't on your watch, if not all of it.

MR. GARNER: It didn't happen on my watch, but, you know, I'm responsible for what happens --

**SECRETARY KEMP:** I know exactly how you feel. Any other questions for Mr. Garner?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you, Mr. Garner. Anyone else wishing to speak on this case? Last call.

(NO RESPONSE)

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

(NO RESPONSE)

**SECRETARY KEMP:** Thoughts, motions?

**MR. MCIVER:** I will tell you what is troubling me, if I might speak, Mr. Chair.

**SECRETARY KEMP:** Yes, sir, Mr. McIver.

**MR. MCIVER:** For whatever reason, it appears things kept getting removed from Fulton County on their way back to Rabun County. To that extent, I have difficulty in holding our colleges in Fulton County responsible. Perhaps better record keeping might more clarify exactly what happened. Some act continued to intervene and removing him back to Rabun County. It doesn't appear, to me, at least, to have anything to do with Fulton County's management of its registration process. If my constituents agree with that, I would move that we dismiss this case.

**SECRETARY KEMP:** The Fulton County one.

**MR. MCIVER:** Yes.

**SECRETARY KEMP:** We've got a motion to dismiss the Fulton County part of this case. Do we have a second?

**MR. EVANS:** Second.

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

(NO RESPONSE)

**SECRETARY KEMP:** We will go ahead and call a vote on that while we have got the motion. 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 to dismiss. We have any thoughts on the Rabun County matter?

**MR. WEBB**: I think it's the letter from Ms. Whitmyer admits that it is what appears to be a clerical error on their part. No one is here to discussion a consent decree, so therefore I make a motion that we bind it over to the attorney general's office.

**SECRETARY KEMP**: We have motion by Mr. Webb to bind the Rabun County Part of the case over to the AG's Office. Any discussion? Or do we have second?

**MR. MCIVER**: Second.

**SECRETARY KEMP**: Mr. McIver seconds. Do we have any other discussion?

(NO RESPONSE)

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

(WHEREUPON THERE WAS A CHORUS OF AYES)

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

(NO RESPONSE)

**SECRETARY KEMP**: That motion carries and that's been bound over. Case number 2010-78.

**MR. HARVEY**: This is another Fulton County Case involving the July 20, 2010 general primary. Pretty simple case. The complainant is Sandra Blackwell. She went in to her precinct to vote in the primary. On her voter certificate she requested a republican ballot. When she got to the DRE she had a democratic ballot. She voted the ballot, cast her ballot, and then went and complained to the poll manager that she had gotten the wrong ballot. The poll manager checked and found out that she did, in fact, request a republican ballot and was inadvertently issued a democratic ballot. At that point, there wasn't anything that they could do. Her vote had been cast. It is recommended that Fulton County, the poll manager and the poll worker who did that, gave her the wrong ballot card, be bound over for the listed violations.

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

(NO RESPONSE)

**SECRETARY KEMP**: Hearing none, anyone else wish to speak on this case? Mr. Garner, welcome back.

MR. GARNER: Barry Garner, 10570 Wren Ridge Road. This did happen. I apologize that it happened. We emphasize this in training, especially in a partisan primary. Take your time. Go slow. Make sure you have the right party. Check the right box. And give the right ballot. Poll workers failed in this instances and we have put in more training. We are now putting together this month our on-line poll

worker training, so we can do more emphasis in training poll workers, because that's a difficult task. People know that. This is something that happened. And I can't deny that it happened, but we do have a procedure in place. Hopefully, it won't happen again.

**SECRETARY KEMP:** Any questions for Mr. Garner.

(NO RESPONSE)

**SECRETARY KEMP:** Thank you Mr. Garner. Anyone else like or wish to speak in regard to this case?

MS. JOHNSON: My name Anne Marie Johnson. And I am the poll manager.

**SECRETARY KEMP:** Ms. Johnson, give us your address, for the record. Thank you.

MS. JOHNSON: 1424 Eastern Street, Northwest, Atlanta. I was not notified. I didn't know about it until she came back in to vote again. And that's when I found out that she had been given the wrong ballot.

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

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you very much. Thank you for being here today. Anyone else wish to speak in regard to this case? Does the Board have any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** I will entertain a motion.

**MR. WEBB:** Mr. Chair, I'm applying the Evans' principle, whereby Mr. Garner comes forward with a solution that appears to be most practical and workable, in my judgment, I would propose that your staff engage in discussions with a consent order and that it not go to the AG, but be handled by your staff.

**MR. EVANS:** I completely agree. In the absence of the complainant being here, I am always a little suspicious that there are many times when voters show back up in run-off to a primary and vote in run-off, but they voted in the other primary. What happens, because a lot of people don't realize that you if you vote in the democratic primary you can only vote in the democratic primary run-off? If you vote in the republican primary, you can only vote in the republican primary run-off. If you vote in one and then the other one has a run-off you can't then come back and vote in the other party's run-off. That little confusion point sometimes creates -- and I think our folks here have to do the best they can in managing those situations. It was noteworthy that when she returned for the run-off election, she was, at that point

told, you are going to have to vote in the one you voted before. And it surfaced. I tend to agree with Mr. McIver. I can assure you -- and, of course, you all know I am the republican appointee to the Board -- if I ask for a republican ballot and they gave me a democratic ballot, I would probably figure that out right quick. And probably say hey, wait a minute here and get a little help. So, I don't think we can make this all or nothing on the election officials. So I agree with Mr. McIver.

**SECRETARY KEMP:** Thank you, Mr. Evans. Is that a second?

**MR. EVANS:** Second.

**SECRETARY KEMP:** Mr. Evans seconds Mr. McIver's motion that we would, as a Secretary of State's Office handle a consent with Fulton County, which I'm sure that we can resolve that very quickly. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of Mr. McIver's motion, please signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

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

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. Case Number 2010-101.

**MR. HARVEY:** This is another Fulton County Case, involving a convicted felon, who registered to vote and voted while serving a felony sentence. Rico Montez Martin was serving a felony sentence when he registered to vote in Fulton County and cast a vote in the 2008 general election, while he was under sentence. It is recommended that Mr. Rico Montez Martin be bound over on the listed violations, as well a Fulton County for allowing him to register and vote while he was under felony sentence.

**SECRETARY KEMP:** Okay. Do we have any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, Mr. Martin.

**MR. MARTIN:** Hello. My name is Rico Martin. My address is 3883 King Edward Trail, Atlanta, Georgia. I didn't realize they I could not vote, because I was informed by my former parole officer, 6 months upon my release, that I am eligible to vote. After I got my driver's license, they ask me if I wanted to register. I told them yes. I got my driver's license and I also received the voter registration card in the mail. So, I voted. No one turned me down at the poll. And I assumed it was true. Also, it

was broadcast all over the radio that convicted felons could vote. They were saying that Georgia had a loophole that would let felons vote, so I just assumed everything was legit, until I got the letter.

**SECRETARY KEMP:** Thank you for being here today. We appreciate you taking the time to show up. Mr. McIver.

**MR. MCIVER:** Mr. Martin, as a felon, there are other civil rights to which you have been denied, for example, hunting licenses. Have you applied for any of these other rights.

MR. MARTIN: Oh, no, sir. No, sir.

**SECRETARY KEMP:** Was the way you got registered in the first place was you were asked when you got your driver's license?

MR. MARTIN: Yes, sir. I received my card I thought I was straight.

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

**MR. HARVEY:** Board members, the evidence is he actually completed a voter registration card by hand and then reregistered through DDS. He was not first registered through DDS. He was first registered with a hand-written voter registration card.

**SECRETARY KEMP:** Any or questions for Mr. Martin?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you.

MR. MARTIN: I have a question, sir.

**SECRETARY KEMP:** Yes, sir.

MR. MARTIN: Is it any kind of penalty?

**SECRETARY KEMP:** We are going to get to that here, in just a second. Anyone else wishing to speak? Mr. Garner.

MR. GARNER: Again, Barry Garner, 10570 Wren Ridge Road. As Mr. Harvey state, yes, Mr. Martin did register to vote in Fulton in May of 2008; however, we have evidence, which I did not bring here today, showing he did not show up on the felon report that we get from the state until January of 2009. So I don't know exactly how often the felony report comes out, but we look through ever one from the day he registered and the first time his name showed up until January 2009, which was after the general elections. So we would have no way of knowing he was a felon.

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

(NO RESPONSE)

**SECRETARY KEMP:** Thank you Mr. Garner. Mr. McIver.

**MR. MCIVER:** Mr. Harvey, would you care to respond? Is there a lag in time where the felon reports are done.

**MR. HARVEY:** I am being told that there are monthly reports. The felony reports come in every month. So I don't have a response to that.

MR. GARNER: We will definitely provide that, the monthly reports from May of 2008 to December of 2008. His name was not on either one of those reports.

**MR. EVANS:** How did that happen? Here is the part where I always worry about government. Government always tells you why you can't do things. Individuals always figure out a way you can. We have a news reporter figure it out and I think that this came from Diedra Holding in Paulding County. They figured out there's a way to do it. What we have to figure out is how we can do I it. So I am trying to understand how somebody who's clearly a felon didn't make the felon list. Because, to me, we have to fix that, without regard to why, who is responsible, who is to blame. First and foremost, highest and most important job: How do we fix that? We now have in this room, in this board room the living proof that, in fact, the system didn't work. So the system needs to get repaired somewhere. So it seemed to me that we have to have a repair of some specificity or a plan to get repaired on that issue. I am just curious. Maybe the starting point is how did that happen. How did he end up being a felon on a list that a news reporter cold find, but not on the list that we sent out.

**MR. HARVEY:** The actual complaint was made by the Diedra Holding in Paulding County.

**SECRETARY KEMP:** We need to make sure that we report back to the Board at our next meeting on what we're doing, the things that we're looking at, to check on the list and make sure the Counties have the correct information on that, as well. Even though these were 2008 cases we have had several of them.

**MR. MCIVER:** How frequently is list of deceased voters updated and is this a parallel in any way.

**MR. HARVEY:** Monthly, also.

**SECRETARY KEMP:** We are actually working on a process right now, for that to have some different notification to get that quicker. I think there has been quite a lag from vital records. And we are working with the funeral home folks and some others, looking at a quicker way of getting that information until we have to wait for the death certificate.

**MR. MCIVER:** Mr. Martin is on probation. Would a finding here, by us, perhaps

after votes, be a violation of that probation?

**MR. BRUMBAUGH**: I would take the opinion that it would not, because a probation revocation is different from a new felony conviction. So I would think it would acceptable to do both in this case.

**MR. MCIVER**: We certainly would not want a double punishment. Do you see my point?

**MR. HARVEY**: I understand, yes, sir.

MS. McIVER: Ms. Brumbaugh, on behalf of the law department, would you ensure that that is not the case, regardless of what our actions are here today.

**MR. BRUMBAUGH**: Yes, I can do some more research on it if you refer it to me and make the decision at that point.

**MR. MCIVER**: Thank you. That is all I have.

**SECRETARY KEMP**: Any other questions? Anyone else wish to speak in regards to this matter.

(NO RESPONSE)

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

**MR. EVANS**: I have no sympathy for people who are not citizens who register and vote. I have no sympathy for people who double vote. I have no sympathy for felons who vote, regardless. So I think it needs to be bound over. I think the Board needs to set a penalty. That penalty, like touching absentee ballots, need to be set a floor, so that while some felons may not know, they all will know because they have heard the story of this is what happens if you vote and you are not authorized to vote. And so I, for the limited procedural posture that we are today, I move that we bind it over for the attorney general to sort that out. And it's a short case to try, given that we have an admission in the open hearing that, in fact, this happened. And the only real question will be, what is the precedent that we, as a Board, set to say that anybody who is a felon and you vote, you are going the pay money. I just don't have -- part of it is -- the-I-didn't-know-it-was-wrong defense rarely worked with my grandmother or my mother. It meant that I didn't make the same mistake twice. So I think we just need to let the Attorney General's office do their job. As far as Fulton County goes, if there is no dispute that the data that Fulton County received did not contain the name, I think it's almost impossible to hold them responsible. That would be absurd. I can't even imagine saying to our elected officials, we are going to hold you responsible for violating rolls when we didn't give you the data from which to make the determination. So, If we consensus, we have agreement that in fact the list didn't contain the name, I think we have no choice but to close the file, but to also then figure out how we fix the list, so that on an ongoing forward basis it accurately reflects all the names of felons who should be on the list. So that's my motion, close

as to Fulton, based on the agreement that it wasn't on the list and to bind it over. I won't be here, but I would encourage the Board to adopt a \$1,000 penalty for anybody to votes who is not authorized, whether they double vote, whether or not citizens and vote or whether they are felons.

**SECRETARY KEMP:** We have got a motion to bind Mr. Martin's part of the case over to the Attorney General's Office and also on that motion to dismiss the Fulton County part. Do we have a second?

**MR. MCIVER:** Second.

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

**MR. WEBB:** I would like to comment. I agree with Mr. Evans' comment on precedent and the fact that the word needs to get out so that we don't have sources providing false information. I do agree at the end of the day, it falls on the person registering to vote to know whether or not they are qualified. I do have sympathy for Mr. Martin, in that he was unfortunately allowed through the system. It would have been nice to have caught it way ahead of time, rather than letting him be registered to vote, rather than letting him vote and then appear to vote again before he finds out that he was removed. But while I do have some sympathy, I have to say that I do support Mr. Evans' position.

**SECRETARY KEMP:** I think one of the things about if we do bind Mr. Martin's case over, we can have the Attorney General get the facts and the list and find out exactly what the time table was on this matter, which I think will give Ms. Brumbaugh a clearer picture of where we need to go with this, in my opinion. Mr. Harvey, did you have anything.

**MR. HARVEY:** No, sir, nothing else.

**SECRETARY KEMP:** Anything else?

(NO RESPONSE)

**SECRETARY KEMP:** All right. Did we get a second.

**MR. WEBB:** Yes, I second.

**SECRETARY KEMP:** We did. I'm sorry. That's right. We have a motion and a second to dismiss the Fulton part of the case and then bind over Mr. Martin's part of the case. Any other discussion?

(NO RESPONSE)

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

(WHEREUPON THERE WAS A CHORUS OF AYES).

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

(NO RESPONSE)

**SECRETARY KEMP:** Okay. We will dismiss Fulton and bind Mr. Martin's case over. Mr. Martin, if you can make sure that we have your information. Ms. Brumbaugh or Jessica take it. Thank you, again, for coming today and we will have Ms. Brumbaugh get in touch with you.

**SECRETARY KEMP:** Case number 2009-62 City of Atlanta.

**MR. HARVEY:** This case involves the City of Atlanta Municipal Election in 2009, which was run by Fulton County. There ended up being six allegations. The first allegation -- let me point out -- I am going to distribute corrected copies of the executive summary and report investigation. We had to correct one of the respondents. The report, itself, is the same. There was a poll manager listed incorrectly, so we took one respondent off and put the correct respondent on in allegation Number 3. The first allegations was that there were approximately 1300 voters who cast votes in addresses that no longer existed in Fulton County in old projects, government housing. The initial allegation was proven not to be sustained. What had been submitted to the Secretary of State's office as being people who had voted was actually a list of voters, not people that had voted. Of the 1314 people, only 31 of the people on the list had voted. Four of them still lived at their addresses. 5 couldn't be located. And 22 of the people still lived in the City of Atlanta. The same issue came up in the December 2nd run-off, again, the same list. Only 45 people voted. Eight lived at addresses that still existed. 7 could not be located. 29 still lived in the city. One lived outside of the city, but had moved within 30 days. So the allegation that 1300 people voted who did not live at their address was unfounded. There is insufficient evidence. The second allegation, as we were doing our investigation, we determined that a number of precinct voter certificates were filled out improperly. They were improperly documented. We did find sufficient evidence that there were violations of the election law with regards to voter certificates at three precincts, 01E, 01R, and 09N. The issues were, they weren't filled out properly. They had an incorrect date. Five voter certificates were missing the names and numbers of poll officials. Those are the kind of clerical errors that were made by poll workers in the certification of the voter certificates. We did find some substantiation to some of those allegations. Those respondents are listed at the end on the list of respondents and allegation. The third allegation was that memory cards were left in the DRE machines in seven precincts, after the November 3rd election. Mr. Garner conceded that that happened at seven precincts. It appears that in most of these cases they were in machines that were not used during the election; however, they were not recovered until the following day. So there does appear to be substantiation to that allegation. There was an allegation that a voter was denied his right to vote. He was in line at a polling place, when a bus carrying senior citizens arrived. They were moved to the front of the line. He complained that he was moved back and said that he could not vote because they people were put ahead of him. There doesn't appear to be a violation as 21-2-409 allows of advanced age to

be moved to the front of the line. He claimed he didn't have enough time to come back. There just doesn't appear to be a violation there. There was an allegation of absentee-ballot fraud. There was one voter who went to vote and was told that he had voted by absentee ballot. Investigation revealed that, as happens in many cases, somebody else had voted. They pulled up the wrong person. They were able to identify the wrong person who voted. He was allowed to vote a provisional ballot. But there does appear to be violation for the poll worker who pulled up the wrong voter and allowed them to vote in Mr. Patterson's space. The last allegation is that result tapes were not posted on the outside doors of the precinct, after the polls closed. Poll worker stated that they did place the results on the outside of the doors. There was no solid evidence that they didn't. What happened to them after they left is undetermined, but there doesn't seem to be substantial evidence that there was a violation of that. At the end of the report you have got respondents and citations. We recommend that in all these cases they be bound over the Attorney General's Office for consideration.

**MR. MCIVER**: I move that we accept the substituted report of investigator.

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

**MR. WEBB**: 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 oppose, same sign?

(NO RESPONSE)

**SECRETARY KEMP**: The motion to accept the new report carries. Any questions for Mr. Harvey. Anyone else wishing to speak in this case?

MR. GARNER: Again, Barry Garner 10570 Wren Ridge Road, Alpharetta, Georgia. I respectfully request the Board to dismiss this. Most of this is a clerical error. We have put procedures in place that hopefully these things will never, ever happen again. As far the seven memory cards that were left in the precinct, we discovered that around midnight when -- if anybody remembers in 2009, the race was very close. Being my first election in Fulton, I was afraid if we upload those seven memory card the next day, and the order changes, I'm dead. There was no way I would survive that. So I told them, yes, these are the results, but slow down because seven memory cards out, at that time I didn't know if they had votes on them or didn't have votes on them. I just know that we had seven memory cards that may -- can change the outcome of the race. So I tried to treat everybody with caution, saying, I think Reed was winning, but we don't know. Since then, we have put an affidavit in place that the poll manager and the assistant poll manager must sign, saying they tuned in all their memory cards. In addition, we have started to leave a poll worker at precinct until the poll manager calls and says, we're good, you are able

to go now. If we had to get back into the building -- if we need to go back to the precinct, that means we need to get back into the building. Once they have locked the doors, it hard to get the janitor or the principle or whoever, to let us back in. One thing I do know. They are not locked up inside the building. So we have someone staying behind along with the affidavit and hopefully that will never happened. So, in the four elections we have had since then, I can report to the board that we had all our memory cards turned in on time. We think that part has been fixed. As far as the other allegations --

**MR. EVANS:** How did it happen that time?

MR. GARNER: Carelessness. People rushing to get out of there. I'm assuming. I didn't really talk to these poll workers. But we definitely put this in our training class now. This is one of the things, lessons learned. I tell the poll workers, treat this memory card like money. This is the election. We must have it back on election night. So with those things in place I think they just got tired, ready to get out of there, and they weren't paying attention. Attention to detail is important in this business.

**MR. EVANS:** Of course, we have, from our perspective, there is a penalty for carelessness, which is very different than technical error or technical noncompliance. So while we are interested in making sure it doesn't happen again, there also has to be some consequence, if it moves beyond technical into a lack of performance. It will distinguish this case from the others.

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

MR. GARNER: No.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Is there anyone else wishing to speak in regards to this matter?

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

**SECRETARY KEMP:** We are going to bind over. Do we need to pull out any allegations that there is insufficient evidence or do you just want to bind the whole thing over?

**MR. EVANS:** I would send the whole thing over. Given how interrelated some of it, I suspect they will be able to sort our what can be sported and what cannot.

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

**MR. WEBB:** I second.

**SECRETARY KEMP:** Mr. Webb seconds. Any other discussion?

(NO RESPONSE)

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

(WHEREUPON THERE WAS A CHORUS OF AYES)

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

(NO RESPONSE)

**SECRETARY KEMP:** Okay. That motion carries.

**SECRETARY KEMP:** Case number 2010 Number 3 Douglas County (Quarterman).

**MR. HARVEY:** Mr. Secretary, members of the Board, this is Douglas County, 2010-03. It involved a Douglas County, City of Douglasville, City of Villa Rica. Sort of as a background to this, the county of Douglas was contracted by the City of Villa Rica and City of Douglasville to conduct their municipal elections in 2009. In addition to the municipal elections that were held, there was a special local option sales tax that was also on the ballot, which was a separate election, which required a separate ballots. So there were two separate ballots there. In addition there was a state senate seat that was a portion of the Douglas October and portions of Douglasville, as well, which means you have essentially three or four different elections being held at the same time. As a background, I just give that information. So as we go through the facts it will help understand how some of the concerns were about whether or not people were allowed to vote, whether they would even know to vote and where they would vote and how they would vote. There were four allegation in the particular case. One of the allegations was that the sheriff, Mr. Phil Miller was involved if a robo call to the voters of Douglas County and there was allegations that this robo call was threatening or intimidating to the voters. In interviewing sheriff Miller he was asked to read a transcript in support of the special local option sales tax. He read the script. He was opposed to some of the language that was in the script because the script talked about whether or not a federal judge would actually order Douglasville to build a new jail in Douglas County. He felt that that might be misleading. He didn't want the people of Douglas County to know that it's either you vote for it or we are going to get ordered to do it. So he had that taken out before he actually read that script. He did read the script. The robo call went out and we look at the transcript, interviewed Sheriff Miller. There was nothing in the message in itself that would be considered to intimidating or misleading to the voters. The second allegation in this particular case was that the election in and of itself was a violation of the law and that it was illegal and it couldn't be held. Obviously, that's outside the purview of our office. I believe that is something that the courts would have to resolve. We really didn't get too far into that issue. The third allegation was that the city, the voters in the City of Douglasville were not

informed that there was separate County election for the supplies. So those people who were participating in the early advanced voting period would not know that there was another election that they were eligible to vote in. If my memory serves me correctly, I think the margin of vote here that had passed was 32. That was a particular concern to the group that was complaining about this, because the voters in the City of Douglasville were not -- when they requested their absentee ballot application, they would receive the municipal ballot as opposed to receiving the ballot for the County. There was some concern about whether or not if you sent the absentee ballot in would you received both ballots or would you receive one ballot or which ballot would you actually receive, once you sent it in. In terms of looking at that, we spoke to the elections officials in Douglas county and asked them if there was some procedure that was put in place or inform or notify voters that they would be eligible to vote if both election. We were informed that there was a letter sent to ever one who had requested an absentee ballot application and that would informed them that they were eligible to vote in another election. We asked for a copy of that particular letter. The letter could not be produced. We were told that it was in the Clerk's Office with Superior Court. We obtain a court order, received all the documents from the Superior Court Clerk. There was no document, no form letter. There was nothing in there. We also contacted all of the people who had requested an absentee ballot in the mail, asked them if they had received a letter. They said, no. We were also told by the election officials that phone calls were made to all of the people who requested absentee ballot applications. There was a total of 13 of those. So phone calls were made, allege to have been made to those 13 people. We contacted them. They said they had not received phone calls to inform them that there was two elections. So to answer the question about whether or not the people actually voted in both elections we pulled all the absentee ballot applications during the earlier advance period, look at all of those and examined those to determine if the people who had requested the absentee ballots in the mail or whether they voted in person during the absentee period had voted in both elections. Based on our analysis, about 88 percent had voted in both elections. So there was some knowledge out there that there were two elections. They did vote in those. In looking at the absentee ballot applications there were some discrepancies that were noticed that the investigators determined that they violated the state Election Board and State Election Laws. In looking at the absentee ballot applications, it was determined that one of the workers in the Douglas County office, Constance Williams had completed the absentee ballot application for three people. It was later determined that two of those were her parents and one was an aunt. On those applications, she stated that they were disable to the point that they needed assistance in filling out the form. She also informed us that the ballots had been mailed back to the office. We examined those. There was no postage on the outer envelope. We examined the ballot. The ballot itself was not signed as having assisted them in voting. When we contacted the parties that were alleged to need assistance, one of them, the aunt had a broken leg -- said that she wasn't not disabled to the point that she could have filled out the forms herself and that Constance Williams had picked the ballots up and taken it back with her when she went back to the office. Speaking to the parents, the parents suffer some of the issues that you suffer when you age, but

they weren't disable to the point that they could not have filled out this process or completed the process themselves. In looking at that, they also said that Constance had picked the ballots up and taken them back to the office with her. Again, examining the absentee ballot applications, we found that another employee, Cheryl Maddox that works in the Douglas County Office voted absentee during that period. She filled out or absentee ballot application and checked herself in. She marked that she had checked her own ID and she never presented that absentee ballot to any other employee in the office for verification or for processing. We asked if there was a procedure in place on how employees would handle that, we were told yes, there was a procedure in place. We were told, no, there wasn't a procedure in place. It was just sort of an understanding of how you process that and how you process other employees. In looking at the absentee ballot applications we also found that there were 16 ballot application that were rejected. And in looking at those, the majority of those absentee ballot applications were people who had a Douglasville City address, but lived in county. But they had attempted to vote in the City of Douglasville election. In one of the cases we found two voters who had submitted a written request but had not signed that request. So those requests were rejected. Then we found the absentee ballot application request where were they had been sent in and those were rejected because they were duplicates of the ones that had been rejected. There was issue where they were rejected, not having signatures on them, not being filled out properly and there was 16 of those people who tried to vote or attempted to vote in the City of Douglasville, who did not live in the City of Douglasville. We have two documents here that people have submitted in response to the letters they have and I would ask the Board to take these into consideration.

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

**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 accepting the documents, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

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

(NO RESPONSE)

**SECRETARY KEMP:** Motion to accept the documents carries.

**MR. EVANS:** There was one other allegation in here that the logic and accuracy testing was not conducted in the manner as prescribed by law. During the investigation, we could not determine that the logic and accuracy testing had been done appropriately. We also sustained that particular charge as well.

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

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

MR. QUARTERMAN: Oh, yes, sir. Hey, young fellow. We're back again.

**SECRETARY KEMP:** Glad to have you. Name and address for the record.

MR. QUARTERMAN: My name is James Quarterman, 8880 Dornoch Circle, Winston, Georgia. First of all, I would like to invoke the Rule. I know in court, sometimes when people don't want people to hear -- your new election director and our election supervisor, Ms. Fulton, they are very, very, buddy type close friends. I would ask that, since she is going to be part of the testimony, that she not be allow to be in the room to hear the testimony of these other people, because this is some serious matters. I caution you again, they come before you under a 2008 cease and desist order. This is 2008. You already are finding now we are right back again in 2009. So before I use my time, that is what I want to ask if she would be allowed to leave the room, because --

**SECRETARY KEMP:** You are using your time. Go right ahead.

MR. QUARTERMAN: No. No. I wanted to ask you.

**SECRETARY KEMP:** All right. Mr. Quarterman, we have asked you to testify to this case. If you want to do that, you can. If you don't we can move on to the next people.

MR. QUARTERMAN: We are not going to play the game. We are going to go around and around. I just asked the question. You can answer the question or your don't.

**SECRETARY KEMP:** Okay. You don't ask the Chair a question. We called you up to testify on the case. If you want to banter back and forth, we can do that, but we are not going to do it here. We are going to hear the case. We have got an agenda. This is the process. You are going to go through it and be treated just like everybody else. If I was being treated like everybody else, other people have asked you questions and you have responded to them and I should be extended the same courtesy.

**SECRETARY KEMP:** If you ask us a question about the case, we will be glad to answer.

MR. QUARTERMAN: I'm going to yield my time. I will come up and speak after this do.

**SECRETARY KEMP:** No, sir. You need to go ahead.

MR. QUARTERMAN: Okay. I ain't got time for this. Let's go. The Georgia law

states that no election in this state can be held unless the official ballot is approved by the Secretary of State. O.C.G.A. 40-8-10 is the Georgia SPLOST law. They submitted a ballot to you for approval for a SPLOST on the ballot. That SPLOST law consisted of two questions. It asked the voters of Douglas County do you want approve the SPLOST. It asked the voters of Douglas County do you also want to reimburse Douglas County \$8 million for land that they spent three years prior to the SPLOST to build a jail on. I remind you that the SPLOST for this jail, this was the third time. It had been voted down in 2006 by the voters. It had been voted down again in 2007 by voters. The robo call, when Tony comes up, he wants to read the article which is signed by Phil Miller in the paper and it does state that a federal judge will mandate that you build this thing. You cannot use SPLOST money to reimburse yourself. If that was the case, then any government can go back 20 years and say, I bought some school buses 50 years ago, give me back my money. That is not the intent of the law. And, yes, the Secretary of State does approve the official ballot. And that is the only way that a ballot is issued in this state, by Kennesaw State University. The whole thing is, you can't have people letting people vote who want to vote, who they don't want to vote, don't count your votes and all of this. We just came to you in 2008 with 25,000 votes and one of your board members vote was in that 25000, was never, ever counted by any machine or anything which the law states that all votes in Georgia are counted by machine. In 2008 you let them create a second ballot. You yourself, Wes testified that he told Laurie Fulton not to make a second ballot, but she went and did it anyway. That is an illegal ballot. Now you come back a year later and the law says you can't have no SPLOST to reimburse yourself no money. Then you build another illegal ballot. So I want to know, what's the deal with Douglas County. They can just come up here and create an illegal ballot, do whatever they want to do, threaten the people and nobody do nothing. Then you fine them a thousand dollars and who pays the thousand dollars? We the people? What did Douglas -- how did that make them adhere to any principle when the money didn't come out of their pocket. Now you have got the same lady, Constance Williams, you found out in 2008 had 67 absentee ballots to come in through the mail and she stuck them in a desk drawer and filed them 10 days after the election was over. Now, this same lady is not counting ballots, writing and filling in ballots for people. And Nobody is fired. Nobody is removed. It's okay, business as usual. O.C.G.A. 21-2-5 says any aggrieved citizen, whether you vote in the election or not can contest or challenge any election. I contested an election. Hell, they throw me in jail for 20 days. How can you throw me in jail from contesting an election when the general assembly of this state gives me the right whether I vote or not. I don't care whether no judge says you can't file a lawsuit because you owe legal fees, because you challenge the SPLOST thing in the court of law. A judge does not overrule the general assembly. And then you are going to sit there and let them throw me in jail and violate my right and nothing happen, because you want to talk about being fair and equity and all of this. So I just want to know, what are we going to have do in Douglas County to get some justice. Why do people even need to go vote when we can prove to you back to back to back to back, year after year that these people do not elect people in Douglas County. They put who they want in office. They can't stop me. The people are going elect me sooner or

later. They can do all the little stuff they want to, but the people are speaking and they are sick and tired of this. And you should be sick and tired of seeing me and coming down here and ranting and raving with you all the time about this stuff. But it ain't going to stop. I will tell you right now. I will die and you know where before I ever let anybody violate my right and take anything from me. I'll be back again and again and again and again. That is not a threat. That's a promise. Until we get justice, until the people in Douglas County are treated fair and equity and they can go vote and their votes or counted by the means that you, as the Secretary of State has put in place, every vote in this state, by your on authority, must be counted on one of two types of machines, the optical scan and/or the Gym server, which does the memory cards for the DRE machines. There is no hand counting of votes. And you allowed this same man to take 25,000 votes on a spreadsheet home with him and bring back the next day to have them entered into the system and you fine Fulton County how millions of dollars, just because they locked the door and went to lunch, but didn't do anything to him. Now you are going to come back -- you know, it ain't even worth standing up here talking to you, because I can see the expression on your face right now that the same justice I got a year ago is the same justice I'm fixing to get right now. None.

**SECRETARY KEMP**: Thank you Mr. Quarterman. Any question?

(NO RESPONSE)

**SECRETARY KEMP**: Okay. Anyone else wish to speak on this case? If you would, just state your name and address for the record.

MR. CAIN: My name is Tony Cane. My address is 5628 Virginia Drive, Austell. I gave a letter, a statement to Investigator Conway. Do you folks have that, signed Tony Cain? I would like that to be submitted into evidence.

**MR. EVANS**: So moved.

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

**MR. MCIVER**: Second.

**SECRETARY KEMP**: I've got a motion and a 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**: The motion carries. Go right ahead, Mr. Cain.

MR. CAIN: I also submitted as evidence a newspaper article. This is from the

Douglas County Sentinel, October 22, 2009. The Sentinel is the legal paper of the County. It is a letter to the editor by Phil Miller, Sheriff of Douglas County. It's about voting for the SPLOST. I submit this, a copy of it to Investigator Conway. Do you have this? I should be in the file?

**SECRETARY KEMP:** If it's not, we can accept that, if you would like us to.

MR. CAIN: I was going use that statement, by the way, in this.

**SECRETARY KEMP:** You want to come get that and when you get finished, we will take a motion.

MR. CAIN: That is just off my email. I sent that to Mr. Quarterman. Here is the letter that I did submit.

**SECRETARY KEMP:** I'll take a motion to accept the newspaper article too.

**MR. EVANS:** So moved.

**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, same sign, to accept the newspaper article, when you get finished.

MR. CAIN: Okay. There was also the Chapel Hill News and Views. I submitted copies of this. Mr. Conway's got the photo copies. And there is, specifically, two pages here, two letters by chairman Tom Morgan, Douglas County Commissioners and Mayor Mickey Thompson, Mayor of Douglasville. And this is October of 2009. Do you folks have this? I would like to use this right now. I went to see Laurie Fulton, the Elections Supervisor in Douglas County. I wanted a sample ballot. I no longer live this Douglas County, but I do have property in Douglas County. And my property taxes are affected by these votes. I lived in Douglas County for nearly 35 years. And I am still a property owner. I now live in Austell. James Bell and we spoke with can Laurie Marquez (phonetic) at the offices of the elections supervisor and I asked for a sample ballot. She gave James and me one sample ballot. This is it, one each. This for the county vote. When we got outside the office, we were looking at them. We said where is the Douglasville vote. There is nothing there. This is just the County. The County has a Redevelopment Powers Act. They used to call them Tax Allocation Districts. Now it's called the Redevelopment Powers Act. So does the County. There are two of those. James and I went back to the office and we said where is the city ballot. They said it's two different papers. So we were then given a ballot for Villa Rica and a ballot for the City of Douglasville. And we have the County Ballot. While I was sitting there, waiting for Laurie to get these, this magazine, which is a free magazine, was in Laurie Marquez's office. While I was

sitting there, waiting -- this was in courthouse -- I was just looking through magazine and I saw that there is an article by Chairman Tom Morgan advocating the passage of the SPLOST. This win 150 feet of the voting place. On the other side of the page, there is an article by Mayor Mickey Thompson, of Douglasville, advocating the passage of the Redevelopment Powers for the City of Douglasville. I mean, he gives a half a page of reasons people should vote for this. Mr. Thompson also says that 61 percent of city registered voters had to go to two entirely different polling places to vote in the city election and the county election. Now that number is down to 19 percent. So people have to vote, if you are a city resident, you have to go to one place to vote in the city and if you are part of this 19 percent, you have to go to another place to vote. I found that out by speaking with Laurie Fulton. County. When I saw that there was ballots, sample ballots for the City and for the County, I called her. I asked her, how are people in the city going to vote for the SPLOST and the bond and the Redevelopment Powers Act for the County. And she said that she would not give them that information unless she was asked. It was not posted. It was not advertised. No one had been notified. If people asked for assistance, she would give it. So, I thought that maybe a lot of people would be left out the voting process. If I go to a polling station and I ask for a ballot and they give me one ballot, I assume that is what I am supposed to have. I'm not assuming that I have to go down the road 8 or 10 miles and vote a second time. I called James. He was as confused as I was. I then called Quarterman. James Quarterman called Mr. Taylor at the Secretary of States Office. I believe that the correct position he has. We spoke with an assistant on the conference line. And I spoke with them. James spoke with them. I told them there were different ballots, multiple ballots and people in Douglas County were not being informed of that and what could they do? So I listened to the testimony that Laurie Fulton said the elections office said that they sent letters in the mail. They phoned people. They told them that there were multiple ballots. That is not what Ms. Fulton told me. It simple isn't true. About robo calling, if you go through Douglas County tax payer coalition website, you can read a copy of Mr. Quarterman's lawsuit against Douglas County. In that lawsuit is the transcript of the robo call that Sheriff Miller made. I listened to the robo call. I am the one who wrote it down from the recording and typed on Quarterman's computer. I actually typed that part of his lawsuit on there. Mr. Miller threatened that property taxes might have to be raised if people didn't vote for the SPLOST. Here Sheriff Phil Miller of Douglas County, October 22, 2009, letter to the editor: Douglas County faces the very real prospect of eventually federal intervention at the jail. It was a federal court order that forced Douglas County to build our current jail in 1980 and increase tax expense to every homeowner in Douglas. If that happens, county officials have no say in the design or capacity or expense of a new jail and could order us to build a taj mahal and we would be forced to comply. Federal mandates on jail procedures and added expenses would come with these mandates. Sheriff Miller said that at public meetings. The federal government is going to force us to build a taj mahal. We have it on film. James and I filmed it at the public SPLOST meetings.

**SECRETARY KEMP:** Mr. Cain, if you don't mind, try to wrap up here. Your time's up. I don't want to cut you off.

MR. CAIN: All right. I'm just saying that the robo call and the letters here that the sheriff -- that Tom Morgan and the chairman wrote and the Mayor of Douglasville wrote, these are ways of influencing people by intimidation. If you don't vote for this, we are going to raise your property taxes. Also, I will add one final thing. I vote in Austell now. And I am in City of Austell and Cobb. I have one ballot. I have asked absentee ballots. They said I would receive one ballot for city votes. There is no problem. I can get it done (coughing) in Cobb, not in Douglas County. One final thing, and then I'll close. After we defeated the SPLOST we had a new commissioner, Freddy Ashmon. Commissioner Ashmon and I knew each other briefly. He lived a few blocks from me. After he was elected as a commissioner, he called and offered me a job with County. He also offered me a County car. He said that I would have to show up but an hour a week, just to make a showing, and I would have this good county job with good benefits and good pension. And I said, Freddy, what do the other commissioners and Tom think about this. He said they know we know each other. They asked me to call you. And I said Freddy you know I have opposed this SPLOST before. I am going to oppose it again. He said if you work for the County, you have to do what the county wants. And the County wants this SPLOST. And I said, thank you very much, Freddy, but I don't want the job. Freddy then said, it can be easy for you or it can be hard for you, which way do you want it? And I said, do what have you to do Freddy. And he laughed and he said you are going to learn the Hard way. I could not drive down the street after that, without being stopped by the Douglas County Sheriff's Department. Animal control was constantly coming by. Code enforcement -- I was facing years in prison for not cutting my grass what they said was the right way I should be cutting it. I told this man in Atlanta -- there were two other investigators in the room -- I believe it was this man. It may have been a woman there too. I told this to them, in Atlanta. Tom Morgan, at a later date and Commissioner Lathen offered James and me our own SPLOST projects. We could be to supervisors. The supervisor of a County SPLOST project was about 75,000. That was the salary. We were offered that and Tom Morgan said, the Chairman of Douglas county said, you can each have your own SPLOST projects, just tell me what you want. (unclear)

**SECRETARY KEMP:** Thank you, Mr. Cain. Any questions for Mr. Cain.

(NO RESPONSE)

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

MR. BELL: Yes. I'm James Bell. I live at 6334 Ansley Circle, in Lithia Springs, Georgia. I am just here to testify that I did witness Sheriff Miller repeatedly mention invoking Judge Shoob's name and threatening that if we do not pass this SPLOST for \$150-million prison in Douglas county, that they would increase our property taxes and that they would force us to do so. Also with Ms. Chairman Worlen repeatedly using these threats and what I consider to be intimidation to the voters, if they don't get their way, then they are going to increase our property taxes. I also was offered a job in Douglas County, because I run the Douglas County tax payers' Coalition and had helped to defeat this SPLOST twice. They had three votes in 4 years. We

defeated it twice. Within 30 days of commissioner Ashmon taking office, I had phone calls to my house offering me jobs. At the time, I guess I was too naive to understand what he was offering me. To me, it was later, I determined it to be a bribe. The issue -- I mentioned the issue of the ballot and the confusion. We actually exposed to the media the confusion over the two ballot situations and the fact that people have to go to two different locations. Mr. Chairman, look, I know what goes on in Douglas County, to me, is bad. But this going on all over the state. I'm working with Cobb County to help defeat the SPLOST there. The County officials there are also threaten the public to raise there property taxes. This shouldn't go on in a free society where people are threatened and intimidated this way. So I just ask you, our voting system in Douglas County, we don't trust it, frankly, sir. With a 32-vote margin, there is no way to verify this vote. I ask that -- something has to be done in Douglas County. I know you don't control who runs our elections in Douglas County. I understand that. Maybe we need to go back and we need to demand that the people that are running our elections, that are using or saying that we are not going to send a city voter the County ballot unless they specifically request it -- I don't know what procedures are in this state, but I think you should be demanding that these County officials give us the balance ballots that we are required to vote on. You can understand how, even if it didn't happen, that a County voter -- that a city voter did not receive a county ballot to vote on the SPLOST, you can see how on a 32-vote margin it certainly raises the suspicion. You can see how this type of thing could have happened and raise our concerns and perhaps your investigators found something different. But you can see how I think I represent a lot of people in Douglas county, how we feel about the integrity of our voting system.

**SECRETARY KEMP:** Thank you, Mr. Bell. Any questions for Mr. Bell?

**SPEAKER:** Can I add one statement to what I said and what Mr. Bell said? It's just a brief statement.

**SECRETARY KEMP:** We're going to keep moving on. Yes, ma'am.

**MS. Simmonds:** My name is Barbara Simmonds and I live at 3480 Long Lake Drive in Douglasville. I am here to answer the charges that are on this letter against me for giving false information and fraudulent entries be dismissed. I just happened to be at the courthouse and see a sign that said early voting was allowed, went downstairs and was given two pieces of paper to fill out. I told the lady there is a sign, I guess for Douglasville or Douglas county. And I told here I live in Douglas County. She told me to fill out both of these papers and I would be given the proper ballot. That is what I did. As a result of following instructions, I am now listed as possibly being a fraudulent person that could be charged with a felony. I am nearly 70 years old and I have never done anything that could even be considered close to a felony. And I did not intentionally intend to vote in the wrong election. I think that I was given instructions that I followed. And I don't know why that was considered something that was wrong. I did not vote in the wrong place. I would not have voted, if I thought I was doing something incorrect. So I am asking you to consider dismissing

these charges that are against me today in this letter.

**SECRETARY KEMP:** Thank you, Ms. Simmonds. Anybody have any questions for Ms. Simmonds?

(NO RESPONSE)

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

MR. BOLEN: My name is Melthorn Bolen. I live at 3455 Long Lake Drive, Douglasville. (inaudible) My name is listed as a respondent in this action with the charge committing fraudulent paperwork or something to that effect. I was with her. Ms. Simmonds is actually my sister. We voted in the Douglasville Office that day together. There were several people in that office. The person in the lobby of the office who had the forms and the clip boards and she was giving instructions to fill out both applications, when you turned it in to the window they would give you the correct card to vote. That is what was done. Later on I was contacted by an investigator by phone with some questions about that. This information was given to that person. When we left that office, we heard the same instruction being given to people who were voting as we were leaving. There is 16 people on this list. We all have been given this information. That is as much as I know about this case. I am also asking for my name to be removed, because this is what I get for following the instructions of the office.

**SECRETARY KEMP:** Thank you Mr. Bolen. Any questions for Mr. Bolen.

(NO RESPONSE)

**SECRETARY KEMP:** Thank you. Anyone else wishing to speak. Commissioner, good to have you with us.

MR. BAKER: Thank you, Mr. Secretary and board members. My name is Bobby Baker. I am with the firm of Freeman, Mathis & Gary. Our business address is 100 Galleria Parkway, Atlanta, Georgia 30339. With me today is my associate. Mr. David Cole. Mr. Cole has, for you, documents, which I would ask that he be allowed to present to you at this time for your review.

**MR. EVANS:** So moved.

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

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We have a second. All in favor of accepting the document, please signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

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

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries to accept the documents. Thank you.

MR. BAKER: Mr. Secretary, board members, we are here today representing the Douglas County Board of Elections. Ms. Fulton, as election supervisor, Ms. Constance Williams as County Registrar and Ms. Cheryl Maddox. I would like to say at the outset that I believe Mr. Quarterman's right to vote should be upheld and defended, but the case I heard him discuss today was not the case that Mr. Brooks told us about when he presented this case. They are two different cases. I came here today ready to respond. And Mr. Cole came here to respond to the allegations that came from your office. I would just like to say at the beginning, this is not a case about the Douglas County SPLOST. It is just not the case. This is not a case about the 2008 vote. What Mr. Quarterman has failed to present to you, which is contained in the documentation that has been presented to you, is that this complaint is actually the result of the 14th lawsuit that he has filed against Douglas County and the commissioners of Douglas County since 2002. This is not a concerned citizen. As I was listening to Mr. Quarterman, this is political grandstanding on his part. He is abusing this forum. He is using this for his own political gain. We are here, trying to make sure that if there are any problems or contention is if there are, they are strictly technical issues. As I have heard the Board say before, that being proactive and trying to address these issues is what you're looking for. If you will look in the packet -- and Mr. Cole will go through this in detail with you -- we have already prepared for your consideration and hope that the Secretary of State's Office will look at this before any action is taken, changes to rules and procedures to correct whatever perceived technical violations may have occurred. In addition to that, we also have presented to you three affidavits from the parents and aunt of Ms. Williams, seeking to clarify their status and their assistance that have provided to them by Ms. Williams in helping them fill out their absentee ballots. This came, this complaint that came to you was actually the result of a lawsuit that was filed November 12, 2009 in Douglas County Superior court. Mr. Quarterman is correct in alleging or telling you that he was incarcerated. The reason he was incarcerated is because he had violated a prior order of the Douglas County, issued by David Immerson in civil action Number 07-CD-02567 issued November 30, 2007, which specifically provided the circumstances in which Mr. Quarterman would be permitted to file additional actions. In other words, he would either comply with the court's order in paying the attorney's fees and fines and felonies which had been assessed against him, which had not been done for this state. Or he would seek prayer or approval by the court before filing any other action. Mr. Quarterman failed to comply with the court order of 2007. He was held in contempt. His case was dismissed on the merits. If you look, court's order is attached in the packet that has been presented to you. It was appealed to the Supreme Court of Georgia. The Supreme Court of Georgia upheld the trial court. We will let the documents speak for themselves. Let the records of the Georgia Supreme Court speak for themselves. So I ask that -- Mr. Cole at this time will go into detail as to what has been done, what

we are going to do to be proactive and address whatever tactical problems that may have been. We are committed to eliminating any problems in the elections in Douglas County. Are they perfect? No. Are they going to try to be perfect? Yes. That is why we have for your consideration and hope you will look at them before any action is taken, the proposals that we would solicit the input from the Secretary of State's Office as far as their input and suggestions before any final decision is made. I would like to turn it over now to Mr. Cole. And he can explain to you the proposals contained in the packet.

MR. COLE: Mr. Secretary, Board members, I appreciate this opportunity to address you. My name is David Cole of the law firm of Freeman Mathis & Gary. As Mr. Baker indicated, this case originated from a complaint filed by Quarterman, but the fact is, as indicated in the investigator's report, none of Mr. Quarterman's allegations have resulted in any findings of potential violations in this case. It was the same outcome that was filed in the lawsuit. He filed over a year ago by the same lawsuit. It was also dismissed based on the fact that none of his allegations alleged any violations of the election code. What did happen, however, is that during the investigator's audit of this election, he uncovered what he, himself, described as certain technical violations, unrelated to any allegation made by Mr. Quarterman. There are basically four issues that are before the board on these potential violations. The first is that Connie Williams helped her elderly parents fill out their absentee ballot applications. The second is that Cheryl Maddox, an employee of the elections office checked herself in to vote during early voting. This third is that there were some technical violations, such as dates being left off, absentee ballot applications, when they are received in the office or within reason for rejecting the absentee ballot was indicated on the application. And the fourth is that there was an issue regarding notice of the logic and accuracy testing in this case. What I want to do is address each one of those briefly. I will be brief, because the information we have brought you in packets actually shows that on, at least, two of those issues, there was no violation at all. On the other two, they were merely clerical errors we submit and do not warrant binding over to the AG's office and should be dismissed. So the first issue is the issue regarding Connie Williams helping her parents and her aunt fill out their absentee ballot applications. What we have provided to you in tabs 1, 2, and 3 of our packets are affidavits from the Ms. Williams's parents and her aunt, where they testified that they are disabled. For example, Ms. Williams's mother suffered a stroke in 2008, which has affected the right side of her body and makes it difficult for her to see or to write anything other than her signature. Ms. Williams's aunt at the time, had fallen and was under medical care and was taking, from what I understand, was pretty strong medication that she says made it difficult for her to see and could not focus on reading the print on her absentee ballot application. So they testify in these affidavits that they asked their daughter. They asked their niece who works in the elections office if she would help them read the information on their applications and make sure they filled it out right. That's what she did. The parent also testified in their affidavits, that when they completed their ballots on their own, they asked Ms. Williams to return the ballots for them to the elections office because they could not get there on their own and their new daughter worked there. All of these things are allowed on election code. In fact, what Ms. Williams's parents

and aunt testified to in the affidavit is that this is the information they gave to the investigator when they were interviewed. Why the investigator would say something to the contrary is not clear. It appears there must have been some sort of miscommunication. I think the reality is that they're elderly. They were interviewed by the investigator without anyone else being present. There must have been some confusion, but the fact of the matter is what you have before you, sworn testimony that they are disabled. They asked for help and that's what was done. Based on that, we submit there is really no basis to find a violation and it should be dismissed. The second issue was that Cheryl Maddox checked herself in to vote. I have spoken to the investigator prior to this hearing this morning. What we both discussed is the fact that under the election code there is really uncertainty as to whether this even was a violation, because what the election code requires is that you show me your ID and be checked in by an absentee ballot clerk or a poll worker. Well, Ms. Maddox is an absentee ballot clerk. There is nothing in the statute that says if you are an absentee ballot clerk you have to show your ID to somebody else. Now, I will say that that is not the policy of the Douglas County Board of Elections. No one has ever been told to do that. To our knowledge, it has never happened before, but it happened in this instance; but to make sure it doesn't happen again, I would like to direct your attention to tab Number 4 of the packet. What the Board has done is implemented a new policy in writing that is going to be presented to everyone of your employees and poll workers in the future. It expressly says you are required to show your ID and be checked in by somebody else in the office. You can't check yourself in. That's going to be given to everyone in the future. And that is a proactive measure that the Board has taken in response to this investigation to assure that situation doesn't happen again, although, at the same time recognizing technically this really does not appear a violation of the statute. So for the uncertainty of the code section and whether it was a violation at all, but also because of the clear proactive steps that the Board has taken, we submit that there is no basis to find a violation and this issue should also be dismissed. The third issue was that there were technical violations in rejecting certain absentee ballot applications. We have not been able to review any of the suspects' applications because they are in the investigator's file. We have not been able to access that yet. We have not been able to see what the issues are, but we understand from the investigator's report and presentation there issues about leaving the date off the application where the code does say you are supposed to indicate the date it was received. Not listing the reason for rejection on the application. Assuming that that is correct and that is what happened, then those were technical errors, but we submit these are clerical errors and, again, to correct or to make sure that these issues do not happen again, I will direct your attention to Tab Numbers 5 and 6 in your packets, which are new policies that Board has, again, written and adopted in response to this investigation. What these policies provide is a check list of steps for their elections office employees to follow when they receive absentee applications. When you receive an absentee ballot application here is the procedure that should be followed: Number 1, write the date on top of application, that it was received; Number 2, compare the signature on the application with the signature on file and so on, down the list. If the ballot is rejected, it says you must list the reason for rejection on the application, send notice

to the individual who applied, and give them to new application. So what we submit to the board is that while if the investigator -- assuming the investigator's report is accurate, these were clerical errors, but to ensure that they won't happen again, we have adopted these policies. Because of that proactive stuff and the clerical nature of these errors, we submit this does not warrant any type of sanction and it should be appropriate to dismiss at this time. The last issue was that there was apparently an issue regard the publication of notice for the logic and accuracy testing. The issue, as I understand it, is that the notice in this case was published two days before the testing began and the code does require that the notice be published 5 days in advance. That was a mistake. I will say that the reason that happened was because the ballots, the electronic ballots that were being prepared by Kennesaw State University were not received by the elections office until 3 days before the testing was schedule to begin. As soon as they got the ballot they knew they could go forward with testing, they published as soon as possible. In hindsight we realize that was a mistake. In the future it won't happen again. We respectfully submit that this is again an instance of a regrettable violation, but a technical one and one that is not warranted, sanctions and we request that it be dismissed along with the others. I just close by recognizing, again, that the issues involved addressed by Mr. Quarterman were already resolved by the court and the lawsuit filed, dismissed on the merits, because it did not allege election violations. The investigator's report also indicates he did not find any violation, as well. And for those reasons we certainly ask that these charges be dismissed.

**SECRETARY KEMP:** Thank you, Mr. Cole. Any Questions for Mr. Baker and Mr. Cole?

(NO RESPONSE)

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

**MR. QUARTERMAN:** Since they brought this up about the lawsuit, may I just have one statement, please?

**SECRETARY KEMP:** No. Anyone else wishing to speak?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Any other questions question of the investigators from the board or anyone else?

**MR. EVANS:** Did you get a request for copies of the absentee ballot so they can be inspected to determine what the defects were?

**MR. EVANS:** The absentee ballot's?

**MR. EVANS:** Or the applications. I think that Counsel referred he could not speak to the technical deficiencies, because he -- it was in your file and my question is did they ask for or receive a copy.

**MR. HARVEY**: I spoke with Mr. Cole and I also spoke with Mr. Baker yesterday. And he did ask to see the filed. I told him that our files are confidential until they are presented to the Board.

**MR. EVANS**: It is a little hard for them to respond just having been a lawyer under similar circumstances before to the technical defects without seeing a copy. So, we may want to think about, while I know there are certain confidentiality that attaches to the file itself, But if there is data in it, for example, you are presenting to the BOARD here are the technical errors and these documents. In order for them to have a meaningful opportunity to respond they probably need to see those documents.

**SECRETARY KEMP**: Anything else? Any thoughts on a motion? Any thoughts on the motion?

**MR. EVANS**: Well --

**SECRETARY KEMP**: Let me make sure no one else here responded on our list that wishes to speak that hasn't already.

(NO RESPONSE)

**SECRETARY KEMP**: All right, Mr. Evans.

**MR. EVANS**: Well, I would just say that obviously the content of statements made by elected officials either supporting or opposing a SPLOST, are matters that are beyond our jurisdiction, inevitably protected by the first amendment. But if someone thinks that someone makes a statement that is untrue or false, then the appropriate remedy is seek judicial relief. We would not have jurisdiction over that. As to allegations of bribery, the appropriate remedy is to contact the US Attorney's Office. They have a public integrity group and they have the resources, but more importantly, the jurisdiction to check that out. We would not have jurisdiction over that. I am a little concerned that we have what appear to be a number of people who are before us, who have either sent letters or appeared because they filled out the forms that they were directed to fill out. And so I feel -- I'm a little uncertain about that category of a claim, because we would need some indication that they were aware -- that they were aware that there was something amiss here. I can't say when I go in to vote that I don't do exactly what I am told by the poll workers, for a lot of reasons, but the most important, which is, my job is not to question what they are telling me to do. If they tell me to fill out form A, guess what, I fill out form (A). If they tell me to sign form (B), I sign form (B). I think it is a little hard to punish voters who do exactly what they are told by the election officials. So we need to sort that out. And I will come back to that in a moment. If the respondents are requesting additional time in order to review the documents to see the technical deficiencies, I don't think we had a choice but grant the continuance. I think it's very difficult for them to respond to deficiencies which that they have never seen. So, I think we need them to make the official request and we will address that. I note and

the chair who is the one who gets to make all these decisions. As to the notice issue, it sounds to me like we have an admitted violation. We will have to just figure out what the remedy is for not having published it in the requisite time period. With all that said, it seems to me that we have three categories. We have the category of, basically, citizens who follow the directions of election officers, which we should address. We have -- whether or not we have a pending request for a continuance to get the data necessary to prepare an effective response. And then we have basically admitted violations, but with a proposal that rather than go to an administrative law judge, that there are corrective procedures that have been designed to address those and maybe those could all be included in a consent decree.

**SECRETARY KEMP:** Mr. Baker?

**MR. BAKER:** Mr. Secretary, I appreciate Mr. Evans's generous offer of continuance, but I don't really think that that would -- we know generally what the problems were and we appreciate the offer of a con continuance but if the board can make a decision at this time, we are already taken the steps necessary to correct whatever technical problems may have occurred. So we can see the actual documents, but we are still going to go forward with the changes and it would just delay the process. So thank you very much, but we appreciate the board's decision.

**MR. EVANS:** Is there any dispute that the individual voters followed the direction of election officials?

**UNCLEAR:** Mr. Evans, quite opposite. We had a couple of phone calls and a couple of emails were heard the same story after the fact, they did in fact follow the instructions. In one instance a voter went in and said he wanted to register to vote and was handed the absentee -- or the voter certificate. So in terms of this 16, if you are asking me my opinion, I believe that they followed the instructions that they were given.

**SECRETARY KEMP:** That the voters followed the instructions that they were given, not --

**MR. EVANS:** That the voters followed the instruction that they were given by the election officials.

**SECRETARY KEMP:** Okay. And that would be on our chart Numbers 5 through 21.

**MR. WEBB:** Mr. Brooks, isn't there one individual who attempted to vote twice?

**MR. EVANS:** Yes sir, there was one, Mr. Mesner, I believe, is the one that attempted to vote twice. So it would be Number 6 through 21.

**MR. EVANS:** Well, I would close the file as to everybody but the one person who was attempting to vote twice.

**SECRETARY KEMP:** That being a motion to close on document item the persons 6 through 20.

**MR. EVANS:** Yes. 6 through 21.

**SECRETARY KEMP:** Yes, I'm sorry, 6 through 21. Excuse me. 6 through 21. Are the members clear on that?

**MR. MCIVER:** For clarification would you repeat that.

**MR. EVANS:** Just to close as to 6 through 21. Everybody put the person (unclear).

**SECRETARY KEMP:** The 16 people that have been -- the stated violation was that they gave false information, filled out -- basically they were given the wrong forms. It think that is what we are saying.

**MR. MCIVER:** And it goes to those individuals.

**MR. EVANS:** I want to deal with people who, as I understand it and from what I have heard and what I have read, walked in and said, give me the forms and they filled out the forms they were given.

**SECRETARY KEMP:** Motion by Evans.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second by Mr. McIver. Any or discussion on these individuals?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of dismissing these folks, signify saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** A opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. That motion carries.

**MR. EVANS:** I would move to bind over Mr. Misener just because we have to treat double voting as a different category in order to determine whether or not there any scienter. In fact, there was an attempt to vote two places.

**SECRETARY KEMP:** We got a motion to bind over Mr. Misener to the AG's office. 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 binding Mr. Misener over, please signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP**: All opposed, same sign. That motion carries.

**MR. EVANS**: As to the county, to me, they're given the low threshold to deal with binding it over for the Attorney General's Office is so low, and given that there are clearly issues of fact. Issues relating to the notations, the technical errors and the admitted violation on the notice. I would move that we bind that over. I would expect, given the corrective actions outlined in the materials we have been given that the Attorney general would move toward a consent decree of some kind that would give teeth to those steps. I won't be here, but I would say for this position that the Board should reserve judgement as to whether or not any financial penalty, just depending on the outcome of what the AB finds as the start to move toward the process. I would move we bind those over.

**SECRETARY KEMP**: Okay. We have got a motion to bind -- I guess it would be the County, Ms. Fulton, and Ms. Williams over to the AG's Office, and Maddox.

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

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

**MR. WEBB**: Mr. Brooks, with regard to Ms. Williams did she sign as assisting?

**MR. EVANS**: No.

**MR. WEBB**: She did not. Can you remind me of the requirements for returning absentee ballots to the county, how the code requires those ballots to be returned.

**MR. EVANS**: You are allowed, a person who lives in the household, or a certain relative, to take those. If you are unable to return them or mail them to them. The assistance part of it, the ballot would be sign as having assisted and then that person or someone in that capacity could return that. In this particular case, the absentee ballot application was filled out by Ms. Williams, but there was not assistance the ballot itself, given that, that ballot should have been mailed or returned by the elector.

**MR. WEBB:** Ms. Williams, in this case, returned to ballot, brought them to the office with her?

**MR. EVANS:** Yes.

NEW SPEAKER: May I address?

**SECRETARY KEMP:** Yes.

NEW SPEAKER: What the affidavits say is that -- what the statute says is that a disabled elector may ask their daughter or niece to return the ballots for them and the affidavit saying they did, because they were disabled they did not feel like transferring the ballot, so they asked Ms. Williams to do that. So that is why that was done. And we felt that it was appropriate. One point of clarification, referring to binding any issues over, the distinction between the four issues you discussed which ones might be bound over and which might not. For example, if you bind over Ms. Williams on the technical issues on the absentee ballot applications but not with respect the other issues (Inaudible).

**MR. EVANS:** I think we are now sufficiently -- there are so many intertwined facts here that we are better off just letting the AG sort that out for us.

**MR. MCIVER:** The record should reflect how impress I am with the efforts of the County, for counsel to bring the corrective actions. Therefore I would be applying the Evans Principle in this case. That would be the guidance I would give the Attorney General's Office. Even though we are binding it over, there is a great deal of work that has already been done.

**SECRETARY KEMP:** Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** All right. We have got a motion by Mr. Evans and I believe Mr. McIver, you second it to bind, I guess it would be items 1 through 4, the County, Ms. Fulton, Ms. Williams, and Ms. Maddox over for further investigation to the Attorney General's Office.

**MR. MCIVER:** Correct.

**SECRETARY KEMP:** Any other 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, same sign.

(NO RESPONSE)

**SECRETARY KEMP**: Okay. That will be bound over. We are going to break for lunch. We will start back at 2:15. We will see y'all back at 2:15.

(LUNCHEON RECESS)

**SECRETARY KEMP**: We'll go back into the regular board meeting.

**MR. MCIVER**: I so move.

**MR. EVANS**: Second.

**SECRETARY KEMP**: 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 carriers.

Let the record show that Mr. Webb will be joining us in a minute. So he is not with us right now.

Case No. 2010-000021.

**MR. BROOKS**: Case No. 2010-000021 is the City of DeSoto in Sumpter County. It involved a March 16, 2010 special election. In this particular case, the investigator who was assigned the monitoring duties for that particular area received a phone call from the officials for the city of DeSoto indicating they were hoping to have the new city hall open where voting would be held in the precinct there. There was some conversation that city hall would not be open at that time for them to have the election there. The investigator went down to monitor the election. When he got there he discovered the precinct was in a trailer out in the grassy area where the parking lot was. There was no handicapped access for the parking spaces there. There were no ramps for access for the handicapped workers there. The plan sort of was if someone showed up that was handicapped, the city workers would lift them up into a sort of platform there, and let them go in and try to vote. That didn't happen. Some people showed up that were handicapped and could not go up. One of them was given a provisional ballot to vote even though there wasn't an emergency for that particular ballot. Then another voter was given a provisional ballot and allowed to vote the provisional ballot from their car in the parking lot.

**SECRETARY KEMP**: Any questions for Mr. Brooks? Is there anyone here who wish to speak on this case?

MS. RATLIFF: Sherry Ratliff, 627 Highway Sumpter County. I was contracted to conduct the DeSoto election. I don't deny the allegations that have been presented, but I would like to give a little bit of background. DeSoto, through a Splost referendum, was to get a new city hall. We were probably three quarters of the way into it when DeSoto contracted with us to conduct the election. That came about because they had not been conducting elections, period, for a number of years. Got with their county attorney, and it was really a rather rushed up kind of election. We had elections for all seats to sort of get them started and get them going back the way they needed to be doing in conducting elections. I did discuss it with county officials, county administration. It was anticipated that the new facility would be complete. The new facility is absolutely handicapped accessible. That did not happen because of inclement weather. It rained, and it rained last year. Had we known prior to putting -- and when I say we, the county -- we could have done a better job of setting up the Monitura (unclear) Building. When the Monitura Building was put there, we were not quite ready to conduct the elections. With the anticipation of the building being completed, we just opted to go at it a little bit different than the expense of building a ramp. The building was about this high off the ground. The ramp would have been extensive. We sort of hated to do that knowing that the building was to be completed. Well it just sort of happened about two weeks after the election the building was complete. If it had not been for the rain, we would have been completed it. To my knowledge, I only aware of one provisional voter. She was born in 1922 and was not able to go up the steps. The poll workers, at my instruction, did take a provisional ballot out. My thought process was that it was better for her to vote in some manner than to be turned away. I am not aware of what other voter there was. Yes, in the opening remarks there was a conversation prior to the election where I did inform the monitor that I was coming. I think the day before the election the monitors usually call. We were aware we were not ADA compliant. We had looked at several options. We really were not of the option -- one was mentioned by the county administration maybe we could get the person in the polling place in some manner. That was not feasible the way the steps were made. So we decided to take a provisional ballot. While I am aware that's not the correct procedure, that was to only way to allow the voter to vote.

**SECRETARY KEMP**: Thank you. Any questions? Anyone else wish to speak on this case?

(NO RESPONSE):

**SECRETARY KEMP**: Hearing none, any question to move forward?

**MR. EVANS**: I move to refer it over. The reason we have (unclear) to have to say to counties, yes, you can make the conscious decision. But if you are not going to spend the money, or if there is a different way to do it, you can't do it without costs. Because otherwise every county, after this says, for this particular election it is a bit of a hassle or whatever. And they just don't do it. There has to be consequences. But for purposes of today, I just move that we bind it over.

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

**SECRETARY KEMP**: Motion to second. Any other discussion?

**MR. MCIVER**: I would commend the officials in this particular context for at least making sure this person in the electorate had a chance to vote. We are all about all inclusive. Everybody who is eligible (unclear) this required usual circumstances. I was in the Air Force, and I remember the motto was improvise and overcome. That was what it was all about. I commend you for that. It is ashame our code is so strict. But Mr. Evans is right. We are zero tolerance. Hopefully, that will be reflected in the ultimate decision of the Board. The fact that you did what was necessary to make sure the voter had a chance to vote.

**SECRETARY KEMP**: Mr. Webb, do you want to vote or do you want to --

**MR. WEBB**: I am going to vote.

**SECRETARY KEMP**: Let the record show Mr. Webb is back with us. We have a motion and a second to bind it over to AG.

All in favor say Aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

**SECRETARY KEMP**: Aye. Opposed, same sign.

(NO RESPONSE):

**SECRETARY KEMP**: We will bound that over. Next case 2010-000023.

**MR. BROOKS**: Yes, this 2010-23, City of Bowman. One of the allegations involved the election in the City of Bowman, November 8th, 2005. The other two elections were the November 3rd, 2009 general municipal election.

**SECRETARY KEMP**: Mr. Brooks, before you get going, I just wanted to recognize Max Woods who is one of middle Georgia's finest. And he is doing a great job for us in Atlanta now as the chief judge of OSA. Stand up for us, Judge. Glad you are here with us today. Looking forward to working with you. Appreciate you stopping by.

**MR. BROOKS**: There were three separate elections. One in 2005, one in 2009, December 1, 2009, involving the City of Bowman. There were five separate allegations in this particular complaint, and there was some additional findings as well. In allegation Number 1 Richard Pickering had moved from the City of Bowman in 2004. He was allowed to vote in the 2009 municipal election even though he had moved in 2004. There was a conversation between he and Pat Winslet who was the city clerk and election superintendent. Ms. Winslet had knowledge that he had moved in 2004 and no longer lived in the city of Bowman.

That conversation was that he could vote in that particular election. Ms. Winslet called the county registra to get directions in terms of whether or not he was eligible to vote and was referred to the Code Section 218 in reference to when a person moves out the municipality or moves out the county. She allowed him to vote knowing that he was not a resident of the city of Bowman. Allegation 2 is the same allegation with Pamela Picket who was Richard Picket's wife. In Allegations 4 Pat Winslet, city clerk for city of Bowman actually solicited Richard and Pamela to vote in that election knowing that they were not qualified to vote in that particular election. Allegation 4 was that the incorrect qualifying dates for the city of Bowman's mayor's race was printed in the Alberton Star which is the legal organ for that county. The investigation determined that the newspaper received the dates for the qualifying period for the city of Bowman, and it was another election in the county. They assumed all of the dates were going to be the same that's why the incorrect dates were published. Allegation 5 was that a notice of candidacy and affidavit that was submitted by Wilbur Williams in September, 2005, was not his signature. And it was not signed by him. Interviewed Mr. Williams, and we also interviewed the notary public who notarized that document. She said that he signed the document in front of her. He said that is his signature. So that allegation was unfounded. During the investigation, during the advanced voting application were requested and in looking at those it was found that during the absentee ballot period, they were using the voter certificates that you use on election day and not the absentee ballot application that you normally use through that process. So the entire process of the absentee ballots application was not followed.

**SECRETARY KEMP:** Any questions for Mr. Brooks? Anyone else wishing to speak on this case? State your name and address for the record.

MR. WASSERMAN: My name is Harvey Wasserman. I am an attorney, and my office is 1130 Hall Avenue, Franklin County. The elections I'm concerned with are in 2009. The general election and the run off that occurred in December. The city of Bowman is a very small town in Elbert County. Ms. Winslet was hired as the city clerk in 2008. Mr. Pickering has been a city employee for over 20 years. They came to know each other solely through their work relationship not personal or anything like that. This was the very first election that Ms. Winslet was in charge of. In fact, this was the first election ever where the city of Bowman officials ran the election. Prior to this election the registra and probate court of Elbert County had always conducted the elections. So that was the status of things when the November election started. Prior to the November elections, Ms. Winslet was given a list of the potential eligible voters in the city. There were some local issues on the ballot as well. In reviewing that, she discovered at least a half dozen people who she knew from her personal information no longer lived in the city but was still listed on the rolls of eligible voters. She tried to call her liaison at the board of elections, Ms. Winfred. She was referred then to speak to the registra in Elbert County who was Charlotte Woods who had experience in conducting elections. Ms. Winslet spoke to Ms. Woods and said, I have these people on the voter polls who are still showing Elbert, Bowman city addresses. But I know they don't live there. What do I do. She was advised by Ms. Ward that if they had not registered to vote anywhere

else up until that time that they were allowed to vote one more time in the city of Bowman provided they filled out the paperwork and put their new addresses on there so their registration and precinct areas could be properly changed. That was the advice she got from somebody, an officer, conducting these type of elections up until this time. Based on that, a number of people who were on the list no longer lived there did, in fact, vote in the general election and that was Mr. and Ms. (unclear). And in the run off elections (unclear) Mr. and Ms. Pickering (unclear) and Arthur and Jennifer Lane also voted pursuant to the advice that Ms. Wood had given. It's a small town and everybody knows everybody. The contested local elections was for the mayor and some city council positions. One of the most contested ones was between Scott Harpold and Tony Weber. I think everybody would admit or acknowledge that (unclear) they voted probably for Mr. Harpold and the Pickering's voted for Mr. Weber. At any rate after the first election -- and the Pickering's did not vote in the general election -- there was a tie between Mr. Weber and Mr. Harpold and that resulted in a run off election. And (unclear) advanced voting in the city of Bowman as well. At some point during the advanced voting period, Mr. Pickering and Ms. Winslet was outside of city hall and smoking a cigarette and politics came up and Richard said, I wish I could still vote in the election. And Ms. (unclear) said, I think you can. I have already spoken to Ms. Ward about this regarding the general election. She told me just what I told you that if (unclear) registered to vote anywhere else you could vote one time still in Bowman as long as you changed your address. She said let me double check to make sure. She called Charlotte Ward the same day or the following day, again, got confirmation that they could in fact vote. Ms. Winslet then advised Mr. Pickering of that, and he and his wife subsequently voted the very next day. Mr. Harpold lost the election in the run off. One of the complainants in this was brought up in to the city council's attention and to the mayor's attention. She attempted to fire both these people from their positions. City council took information, rescinded those terminations, and they are still employed there. No complaints have ever been brought to the Board considering the voting of the Lanes (unclear) even though that has also been brought to the attention of the mayor who is also one of the complainants in this case. And both point out (unclear) general platform for the ticket with Mr. Harpold in the election. The allegations in this case is one, two and three, all talk about knowingly voting fraudulently or knowingly voting when you couldn't. I think the evidence is clear in this case that there was no fraud. There was no knowing wrongful conduct. There was no specific intent to commit voter violations. These types of offenses are not none intent crimes like speeding. You go over the speed limit whether you intend to or not, you're guilty. These types of allegations require knowledge and require a specific intent to do it. With respect to Mr. Pickering, he was told by election officials that he could vote. And he voted based on the advice he had gotten from Ms. Winslet through Ms. Ward. I (unclear) one of the other cases that he wasn't going to hold a voter responsible when he was relying on information of a voting official that was reasonably entitled to rely on. Same is for his wife. They never intended to vote or claimed to vote until they were told they could. I don't think there is any basis for establishing a knowing violation of their ineligibility to vote. As far as the allegation concerning a conspiracy, there is just no evidence. They had a simple conversation

(unclear) I already relayed to you what that conversation was. Ms. Winslet also let other people vote like I mentioned, the Lanes and the (unclear) speculation most likely vote for the other candidate and that Mr. Pickering voted for (unclear). So I don't suppose there could be any type of conspiracy when people on both sides of the issue were allowed to vote. This is the first election Ms. Winslet had had about a week of training in April of '09 through the board of elections. This issue had not been really covered (unclear) both in great detail. As (unclear) oral presentation she learned when she was confronted with the issue, she called the board of elections and referred it back to Ms. Ward who gave her the advice she did. There is no deliberate, intentional, wrongful conduct here. It was an honest mistake. It's never going to happen again. We are prepared to sign a consent or memorandum of understanding as to what constitutes an eligible voter in the city of Bowman. But I think both of these individuals had a reasonable case for justifiably relying on the advice that Charlotte Ward had given. The fact she gave that advice, Ms. Ward herself confirmed to one or more city council members when this issue came up. I think Mr. Ken Rice, one of the city council, members acknowledged in a city council meeting that he had, in fact, personally spoken to Ms. Ward. She confirmed to him that she had gave the advice to Ms. Winslet (unclear). She also acknowledged that in a newspaper article that she was quoted as saying that she confirmed giving this advice to Ms. Winslet. I have that newspapers article. I want to make a motion to admit that as part of the record.

**SECRETARY KEMP:** Motion to accept the newspaper article. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

MR. WASSERMAN: It's on page 16A, October 27, 2010.

**SECRETARY KEMP:** Motion to accept carries. If you can wrap on up for us.

MR. WASSERMAN: With respect to the last issue, I am not going address Allegations 4 and 5 (unclear) concern the city as the respondent. With respect to the additional findings, I don't know if that is actually an issue before the Board concerning the use of an absentee ballot. All I can tell you is they were having advanced voting until 21 days before the run off election. They did use the standard voting format, the standard voting certificate. I understand when you read the law, it appears that absentee ballots are supposed to be used for advanced voting. But upon my inquiry, both at the Elbert County and the adjoining counties of Hart County and where I live in Franklin County, when they do advanced voting, they just use the normal voter certificate method for establishing voting and allow people to vote. Again, Ms. Winslet based her procedure on what other officials conducting elections in some of the surrounding counties were doing. Again, I don't think there was any deliberate wrongdoing there. Again we would certainly entertain, (unclear). memorandum of understanding as to what proper ballots were used.

**SECRETARY KEMP:** Any questions for Mr. Wasserman? Thank you. Anyone

else wishing to speak on this matter?

MR. KIDD: Yes, sir. Mr. Secretary, Commissioners, I appreciate the opportunity to speak to y'all today. My name is Doug Kidd, K-I-D-D. I am city attorney for the City of Bowman. My office address is 13033 Jones Street. Lavonia, L-A-V-O-N-I-A, Georgia. I represent the City of Bowman. I was appointed to that position in January of 2010. So all the facts in the complaint predate my tenure. So I don't have any direct knowledge of those facts, however, I can tell you what the city did once it was alerted to the facts in this complaint and tell you what happened at that point. Mr. Wasserman is correct. The 2009 election was the first election in which Bowman was responsible for registering and administering the elect hire Pat Winslet, the city clerk and election superintendent and sent her to the necessary required training to administer elections. It had policies and guidelines of how to administer the elections in which Ms. Winslet was aware of. She administered the election in 2009. The city got notice of the allegations in this complaints in 2010. Once the city council got notice of the allegations, it suspended the duties of Ms. Winslet for the election supervising. She still on as the city clerk and handles administrative stuff. But everything that deals with election supervising, she no longer has a hand in. The city council contracted Elbert County probate, Judge Susan Sexton, to handle election duties. We have an election in March, a special election, where Ms. Sexton is administering all those duties as well. I think the only allegations in the complaint that might have to do with the city proper are the Allegations 4 and Allegations 5. And, I believe, the investigation done by your office seem to clear the city of any wrongdoing in that respect. In Allegation 4, the allegation notice was sent properly to the newspaper. It appears newspaper was the one that mixed up the dates and the wrong ad was published. In Allegation 5, it looks there was no wrongdoing whatsoever. It looks like the correct affidavit was submitted. Allegations 1 through 3, the city really has no position on the factual findings of this case. There city does not know what happened. It just knows it hired Ms. Winslet to do a job, sent her to the necessary training, had policies and procedures in place at the time. There (unclear) any allegations that come up since them. If any of y'all have any questions, I would be happen to answer them. But the city asked that it be dismissed as a respondent in this case.

**SECRETARY KEMP:** Thank you, Mr. Kidd, any questions? Mr. McIver.

**MR. MCIVER:** Mr. Kidd, with respect to the Allegation 4, once it was determined an incorrect date had been published in the legal organ for the county, was any effort made to have a correction achieved through print?

MR. KIDD: My understanding of Allegation 4 was that the date was incorrectly published in newspaper, and it was not called by anyone at the City at the time. That's my understanding -- all right. I am corrected. Ms. Winslet apparently corrected the newspaper and corrections was -- so she corrected them the next day. So it appears that the city clerk notified the newspaper because the newspaper is a weekly publication, it couldn't publish in time. They alerted all the people that they could as far as businesses and folks in the community.

**MR. MCIVER**: That makes a difference as you can tell. There was an attempt to correct the mistake.

MR. KIDD: Yes, sir.

**SECRETARY KEMP**: Anything else for Mr. Kidd? Thank you. Anyone else wishing to speak?

MAYOR JOHNSON: Mr. Secretary and Board members thank you for allowing me this opportunity to speak. My name is Pamela Johnson, and I am the mayor of the City of Bowman.

**SECRETARY KEMP**: Mayor, give us the address, if you don't mind, for the record.

MAYOR JOHNSON: My mailing address is P.O. Box 54. My street address is 133 East Railroad Street, Bowman, Georgia 30624. To correct a couple things that were stated in this hearing, I did not run on the ticket with anyone when I ran for mayor. It's a small town, and I do know Mr. Harpold. I have known Mr. Harpold for a couple of years. I did not run on a ticket with anyone or support anyone in particular. However, I also want to say, I did terminate these two employees upon learning of this simply because of no tolerance. However, the council voted to re-instate them pending the outcome of these allegations. So, it is not settled at all. To say it's over with regard to the City of Bowman that is not the case. So, also with regard to political activity occurring on city property at the time -- and I remember this because I was running for office -- the prior mayor made it a point to let everyone know, including, I know the clerk was there, that there was to be no political activity at all in city the government or on city property. So to have this discussion going on on city property that also makes you question. The city of Bowman, now we have additional expense, our citizens have been -- there are couple of things that are going on since this has come out. First our citizens are questioning the integrity of the voting process. This is a privilege afforded to many Americans. And to question that we need to re-establish the confidence that the citizens of Bowman have in the voting process there. So I do ask that you bind this over. In addition to the loss of confidence, the second thing, we have contracted with the probate judge in Elbert County to handle, we have a special election coming up in March. And we contracted, but we also those expenses that we have not had before. I am asking just I am asking that you turn it over or bind it over too because of the seriousness of the allegation, and they are two of which are city employees and they to me are held to a higher standard. You would expect better and higher behavior. So, thank you.

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

Any questions? Mr. McIver.

**MR. MCIVER**: So the status of these two employees is that they were terminated and the city council has re-instated them conditionally upon the outcome of this

matter.

MAYOR JOHNSON: I terminated them, and they were out of work approximately two weeks.

**SECRETARY KEMP**: State your name again for the record.

MR. KIDD: Doug Kidd, city attorney of Bowman. The city has a personnel policy manual with all the employees that gives the employee's certain due process rights. At the time, it was my opinion that those due process rights were not adhered to. So I recommend to the city council to re-instate them. We never touched the substantive issue of anything that happened. It was more, did she go through the proper procedures to relieve them of their job duties. The council said they were willing to re-instate them until after this hearing. So that's why that happened.

MAYOR JOHNSON: So we are waiting to hear the outcome of this particular process.

**SECRETARY KEMP**: Thank you, Your Honor. Any other questions?

**MR. EVANS**: Why would 21-2-216(a) and 21-2-216(f) not apply? Which are basically strict liability offenses. We call them the red light. It does matter why you ran the red, the fact that you ran the red light is what we have to deal with. It struck me that those two code sections --

MR. WASSERMAN: Commissioner, can you restate that statute?

**MR. EVANS**: Sure, 21-2-216(a), 21-2-216(f). **MR. MCIVER**: Mr. Wasserman, I have an extra copy of the code if you would like them.

**MR. EVANS**: Does it apply?

**MR. BROOKS**: When you move out the municipality in 2004 and five years later vote, they would have lost their qualifications to vote in that election.

**MR. EVANS**: Right. And I think we have consistently applied that. You also have a duty under F that once you move, you actually remove yourself from voting and neither contain a (unclear) requirement. There is no knowledge requirement. There is no nothing. Did anybody on our staff talk to Charlotte Ward?

**MR. BROOKS**: Yes, sir. Investigator Marlow talked to Ms. Ward. My understanding is that Ms. Ward said that she referred her to Title 21-2-218 in terms of the requirements of moving and being allowed to vote again. If I remember correctly her comment to us was that she did not offer any advice as to what to do.

**MR. EVANS**: Not that newspapers are very reliable sources I've discovered during the course of my career, but this says that Charlotte Ward confirmed that she said, if Pickering had not changed his address after moving out of Bowman then he could

vote one more time. It strikes me we have clear violations. It seems to me we have clear fact issues that need to get resolved. I wonder whether or not Charlotte Ward should also be a respondent. Because if it turns out that what we are hearing today is true, then she will have been guilty of a violation. If it turns out that what we heard today is not true, then we do have a conspiracy to commit election fraud which is pretty serious. Either way we have a violation of 21-2-216. My question for the lawyers is, procedurally, what do we need to do? It would strike me since we did not cite the code section, we may need to re-notice the case and include Charlotte Ward as a respondent. I know it's easy for me to volunteer your time since I am not going to be here for that meeting. It sounds like to me this is a pretty heavily lawyered case. We are going to want to make sure that we procedurally have our I's dotted and our T's crossed.

**MR. MCIVER:** Mr. Evans, it occurs to me that Mr. Wasserman and perhaps others could waive that noticed of the case.

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

**MR. MCIVER:** Which would allow this case to go forward. I hear, her Honor and others, asking that this be brought to conclusion. So rather than go through that process, I think we should extend to them the opportunity to waive.

**MR. EVANS:** Charlotte Ward would still have to do that.

**MR. WEBB:** I agree. I am trying to understand why the city is, I understand the Allegations 4 and 5 there is no evidence of any wrongdoing on their part, but Ms. Ward, she is the county registra. Excuse me. That is why. Never mind. Withdraw my question.

**MR. EVANS:** So I would suggest that we re-notice it and include these additional statutory constructions, add Ms. Ward as a respondent. Advise the parties who are here today that they need not re-appear unless they want to, unless they have additional information. Then act on it at that time. I think there are some pretty troubling facts here. I would just re-notice the whole thing. I would make a motion we re-notice it with Charlotte Ward as a respondent and with the addition of 21-2-216 a and f. Then I think when do you that you are going to discovery there are a couple of SEB rules that would apply to Charlotte Ward that deal with information given about the election process.

**MR. WEBB:** Mr. Evans, does the county registra have an obligation to advise the city?

**MR. EVANS:** No, but if you give advice you got to be right. That's the key. You can always pass it to the Secretary of State's Office which is what we many times encourage them to do. But if you -- here, I will give one of my first cases was the Atkinson County case where we had none citizens who called up the county and said, can I vote. I said if you have a driver's license you can which was clearly wrong. We absolutely dropped the hammer. Because just the most basic referral to

the Code will tell you under the sections I just gave, 21-2-216, that you cannot vote in an election when you don't live in the municipality.

**SECRETARY KEMP:** Mr. Evans has got a motion. Do we have second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** Go ahead and discuss Mr. Wasserman, Mr. Kidd.

MR. WASSERMAN: We want to be included on notice. I anticipate my clients will want to be here for what Ms. Ward says and to possibly respond (unclear).

**SECRETARY KEMP:** Absolutely. Mr. Kidd.

MR. KIDD: Mr. Secretary, I just wanted some clarification on the allegations against the city. Have they been dismissed or --

**MR. EVANS:** No, I think you'll have one more chance.

MR. KIDD: May I request for the new allegations when they come to specifically list the city in which the duties were breached. The first allegations don't mention the city proper at all. Thank you very much.

**SECRETARY KEMP:** Any other discussions? Is there anyone else that wishes to speak on this matter that have not spoken yet? Any other discussions by the Board?

We have motion and a second?

NEW SPEAKER: May I speak.

**SECRETARY KEMP:** If you would state your name and address for the record.

MR. HARPOLD: My name is Scott Harpold. I live at 189 West Railroad Street, Bowman, Georgia 30624. I was one of the complainants in this matter. I came in late. I apologize. I am going to nursing school. I just got through with my clinicals. I am sorry I missed what you discussed so far. I wanted to state, it may have already been stated that when I filed complaint, I found it was obvious Richard had already lived in the city for six years. I was one of the people that was running in that election. There had been a lot of rumors spread around and supposedly the reason why these folks voted was they thought I was going to fire them or I was going to do this. I don't know the hearsay, but it was very obvious you had to live in the city. The code enforcement officer for Bowman and the -- our code specifically state if you don't live in the city you can't vote. It also cost the city thousands of dollars to have the runoff election and the changes it may have made. Those are the points I want to make. And I appreciate your time.

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

(NO RESPONSE):

**SECRETARY KEMP:** Hearing none we have a motion and a second. Any other discussion by the Board.

(NO RESPONSE):

**SECRETARY KEMP:** Hearing none, all in favor of Mr. Evans' motion, signify by saying aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP:** Motion carries. Case 2010, Number 27, Jefferson County.

**MR. BROOKS:** Yes, sir. This is Case 2010-000027, Jefferson County. There was no election involved in this particular case. The Secretary of State's Office received a complaint on April 12th of 2010. The allegation in this case was the Jefferson County Board of Registrars was not conducting their monthly meetings as required by the statute. The investigation determined that the last known monthly meeting was held in December of 2008. In addition, there was a board seat that had been vacated that had not been filled by the superior court judge. He had not been notified of the vacancy. There was an unusually high turn of the board members, training being given those things. I think the meetings just fell to the wayside. My understanding is they submitted a plan of correction that addresses the concerns to have the monthly meetings and comply with statutes.

**SECRETARY KEMP:** Any questions for Mr. Brooks? **MR. MCIVER:** Yes. What is your recommendation?

**MR. BROOKS:** We would recommend that it be bound over.

**MR. EVANS:** Do we have the plan?

**SECRETARY KEMP:** While we are getting that, anyone else wish to speak in regards to this case?

Anybody here from Jefferson County?

**MR. BROOKS:** If I could just add, in the investigative report it says Mr. Thomas has indicated he was going to meet with the county attorney, county administrators as soon as possible to develop a correction plan. I don't think we actually have the plan.

**MR. EVANS:** Let's see if we can motivate them. I move we bind it over.

**SECRETARY KEMP**: We need a motion to accept the plan into the proceedings.

**MR. MCIVER**: So moved.

**SECRETARY KEMP**: Mr. McIver moves. Second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: All in favor of accepting the plan, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP**: Motion carries.

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

**SECRETARY KEMP**: Got a motion to bind this case over to the Attorney General's Office. We have a second?

**MR. WEBB**: A Motion and a second.

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

Any other discussion by the Board?

Hearing none, all in favor of binding it over, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP**: Motion carries.

2010-000029. The City of Washington.

**MR. BROOKS**: This is 2010-000029 involving the City of Washington, Wilkes County. It was November 3rd, 2009 municipal election. The allegation in this complaint was that the respondent, Ms. Wilbur, had voted out of precinct had voted in November 3rd election. Conducting the investigation we determined that Ms. Wilbur contacted the Wilkes County deputy registrar on October 16th. Made inquiry about her registration vote whether she was still registered. She discovered she was registered to vote and the deputy registrar asked her about her current address. At that point it was discovered that she had moved from one precinct to

another precinct but still inside the city limits of Washington. The deputy registrar informed her she would not be eligible to vote in that election. Made a note to herself to go back to check to see if she did attempt to vote or vote in the election. She went back and checked in March of 2010 and discovered that she had voted in that election and had used her old address and voted in her old precinct. When she filled it out by putting that on there, she entered fraudulent information on the voter certificate. But she should have been allowed to vote and just simple filled out a change of address for when she went in to vote.

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

**MR. EVANS:** Wasn't 21-2-216 applied here, too?

**MR. BROOKS:** Mr. Evans, I am not sure. She remained eligible to vote. She simply moved from one precinct to another precinct inside the municipality. She maintained her qualification. She was eligible to vote in the election.

**MR. EVANS:** But did she vote in the right precinct?

**MR. BROOKS:** No, sir.

**MR. MCIVER:** No, similar question is did she put inaccurate information down?

**MR. BROOKS:** Yes, sir, she did.

**MR. MCIVER:** You are advising us, she did.

**MR. BROOKS:** Yes, sir.

**MR. MCIVER:** That to me is a 216 violation. I assume she is an adult and all the rest --

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

**SECRETARY KEMP:** Anybody else wishing to speak on this case? City, county?

You want re-state that motion?

**MR. EVANS:** I vote to send it over to the Attorney General's Office for prosecution.

**SECRETARY KEMP:** Got a motion to refer to the AG.

Got a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second by Mr. McIver. 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:** Motion carries.

2010-000044. Screven County.

**MR. BROOKS:** Yes, sir. This involved the July 20th, 2010 primary election. The allegations in this particular case was that the Precinct 11 at the Jackson Fire Station Screven County was not open at 7:00 as required by law. The investigation determined the poll manager arrived at precinct at 6:08 a.m. The poll worker arrived at 6:30. Assistant poll manager who had the express polls did not arrive until 6:55 a.m. They had some issues getting the express poll up and running and operating. Electors were arriving to vote and the precinct wasn't operational. Three of the electors were offered provisional ballots and they voted those ballots, but the others left and stated they would come back later once they got up and running. The precinct actually was up and running and operational at 7:55 a.m. Investigator arrived at the precinct at 9:00 and discovered that there were some irregularity with the signage that was posted and that the oaths of office had not been signed or administered.

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

MS. BROWN: Good afternoon. My name is Debbie Brown and my address is 216 Mimms Road Savanna, Georgia 30467. I am the judge of probate court and the superintendent of elections for Screven County. I am here today along with my poll manager (unclear). We are here today to respond to any questions that you may have that occurred on election day. I want you to know that we realize the serious nature of this incident, and we went to explain the steps to assure you that things will not happen like this again. We will glad to defer to any questions that you might have. Thank you.

**SECRETARY KEMP:** Thank you, Judge, any questions? Have you all submitted to us any steps that you have taken? You want to explain what you have done?

JUDGE BROWN: What we are doing is actually doing more training than we usually do. We usually do the training right before we have the election. We are going to do more training. I always emphasize to them always be there at 6:00 so you will have plenty enough time to get -- hour before the polls open -- so you can get everything together and you won't be in a rush. This lady was actually the poll manager that I appointed. I actually had someone call in the day before that was

actually was ill and had a stroke. She was in the hospital. So I had to get someone else to come and fill in for her. When the assistant poll manager came by to pick up her things -- my poll manager that day could not come because out of town with a doctor's appointment. So I asked my assistant poll manager to come by. The assistant poll manager had never worked in the precinct before. I told her the directions. I told her make sure that you go to precinct the night before where you know where it is. But she got lost and there was actually some signs that had been torn down where somebody had stole signs. She got lost and she was late getting there. That is why the polls were late getting open. I apologize for that.

**SECRETARY KEMP:** Any other questions for the Judge? Thank you, Judge. Anyone else wishing to speak?

JUDGE BROWN: I think the poll manager would like to say saying.

MS. FREELAND: Jewelle Freeland. 1527 Parker Road, Savanna, Georgia 30467. The things that occurred were just one of those days. The assistant manager did not get there on time. I believe in your accusations you said I was there 6:08 that was not correct. I had been working a poll person for seven years. I have also gotten there before 6:00. The person who finally came with the information, the bag with all the information in it, we scrambled very quickly to get the polls up, the machines open. The doors were already open. We scrambled to get the machines up and running. And discovered that there was where things, items missing from the bag. As soon we realized that, we called Judge Brown and she came and within ten minutes to give us the information we that we needed. I notified Judge Brown at about 6:08 that no one had arrived but me. And then I called her later and told her that the another worker had come at 6:30. We were all frantic about where this third person with the bag happened to be. So that's what has happened.

**SECRETARY KEMP:** Any questions?

**MR. MCIVER:** I am the Board member that asked about impact. Any chance of people were denied the right and opportunity to vote? I know some were turned away early in the process?

MS. FREELAND: No one was denied the right to vote. The door was open at 7:00. As soon as we realized that we were not going to be able to get the polls -- the polls actually open and working -- we offered the provisional voting. I find it interesting that the person that was first there came back. He was the last person to vote that day. He came back. There were three people who did vote provisionally, and there were two people who said I will come back later, and they did vote.

**MR. MCIVER:** So to the best of your understanding everybody that intended to vote had the opportunity and or did vote?

MS. FREELAND: Yes, sir.

**MR. MCIVER:** Thank you.

**SECRETARY KEMP:** Any other questions? Any anyone else wishing to speak.

**MR. WEBB:** Mr. Secretary, I would like to make a comment from the facts. That it appears that the assistance poll manager arrived at 6:55, and then the precinct was operational at 7:55 which is an hour. So it just stresses the importance of being there by 6:00. Even if you had everything at 6:00, it takes nearly an hour to set up.

MS. FREELAND: Right. It is possible that I made a mistake when I said what time the polls were actually open because I don't have on a watch. We don't have our cell phones on around, and the computers would have been open with the time. But they were not and we finally got things going.

**MR. WEBB:** Thank you.

**SECRETARY KEMP:** Any other discussion by the Board, or motion?

**MR. EVANS:** We have a violation. The only question is the remedy. I don't think there is any dispute about the violation itself?

**SECRETARY KEMP:** Yes, sir. Judge?

JUDGE BROWN: I would also like to say the assistant poll manager is no longer with me anymore.

**SECRETARY KEMP:** I think that's helpful for us to note things like that. I know there are things that happen out there, but this was just one of those days. Even if it is, you still got to make it happen. I think the public expects us to have the polls open, to be ready and if we are not we need, we need to be taking every measure within our power to get those open and remedy the situation. So I appreciate y'all being here today and letting us know what is going on. But I think it's a lesson for even ever our staff as well as everybody. We have always got to be prepared for, what if this happens.

**MR. MCIVER:** I will make a motion in this case. I mean no disrespect, but this is the classic dog ate my homework situation. And we have a zero tolerance aboard and have been for a long. So I move to bind it over.

**SECRETARY KEMP:** Motion to bind it over.

**MR. EVANS:** Second.

**SECRETARY KEMP:** Second. Any other discussion?

**MR. EVANS:** My recommendation is that you prepare a remedial plan and submit that. And I think that should go a long way to getting this wrapped up.

But for everybody in the audience there is nothing better than to walk in here and say here is how we fixed and here's the document reflecting that this is how we train

people here is what the rules are. So that we have something to work with. Because if we don't have anything to work with, Tex is exactly right, and the Chair is right. We have to send it over and get that hammered out.

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

Do we have any other discussion? Hearing none all if favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP**: Motion carries. The case is referred.

Thank y'all for being here. 2010-000053 Dooly County.

**MR. BROOKS**: This was July 20, 2010 primary election in Dooly County. The complaint in this particular case, Twanna Dunham, went to the polls July 20th and was told that she could not vote for candidates in District 1. She had to vote in District 2. In the past she had always voted in District 1 and didn't understand why that had happened. In addition, her husband was allowed to vote for the District 1 candidates even though he lives at the same address as she does. Come to find out that the grandson lives at that location as well. They mistook the grandson, his name, and allowed Mr. Dunham to vote in District 1 even though none of them should have been voting in the District 1. They were actually in District 2. Since that time, all the electors have been placed in their proper district and where they are supposed to vote at. But one was allowed to vote in District 1 and one wasn't.

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

Anyone else wish to speak?

MR. NESMITH: Good afternoon, Mr. Secretary and Members of the Board. My name is Bill Nesmith. I am the county attorney for Dooly County. My address is 108 E. LaMar Street, Americus, Georgia 31709.

I didn't know whether or not the Dunham's were going to be here to speak. But I can tell you very briefly what happened in this particular case. In 2007, the Dunman's called the chief registrar, who was actually the probate court was handling all the elections at that time. They mentioned that they lived outside the city limits of (unclear) so that put them in District 2. Then they were so moved in 2007. They failed to mention that their grandson was living with them. And, therefore, he wasn't moved and no one asked that question. Again, I wasn't with the county attorney in 2007. The probate judge is no longer in office. The newly formed board of elections just sort of inherited this error that happened in the past. When Mr. Dunman went to vote, his name is identical to the grandson except he is the son and the grandson is

the third. I know this can happen because when I was in college, my checking account looked very, very good one day, and my father's looked very, very bad. I am the third he is junior. I know it can happen, but we are supposed to be very careful in looking at identifications and making sure the person who is voting is the correct person. In this particular case, apparently it was just missed. This was the third and instead of senior on this particular day. So Mr. Dunman was allowed to vote where his grandson voted which was District 1 which is not where he lived. There was an error. There is no doubt at that. Once Mrs. Dunman talked to her husband and found out he had voted, she went to vote. And when they looked they said, well, you are in District 2. She said, no, I am not. I'm in District 1 my husband just voted. They said you are in District 2. Mrs. Dunman became upset, left and didn't vote which was her choice. The poll worker didn't know about the mistake that was made back in 2007 and was just following what the list said. So when what this all came about, when this complaint was raised when Mrs. Dunman complained about what happened, the new board of elections, Ms. Burnett is here she will speak if you want to ask her any questions. She is running the Board of elections which is a brand new operations. It has certainly been a daunting task for her. I think she sometimes wonders about the wisdom of taking this job. Nevertheless, they all got together and they all went to look to make sure, maps came out. I went over there. We all starting looking to make sure where the district, where the Dunman's live, unfortunately Ford Road, District 1 and District 2 runs right down the middle of it. If you're on one side you are in District 2. If you're on one side you're in District 1. When we determined exactly where they were, everybody was put in the correct district. They are all in District 2. They are all where they supposed to be. While there was an error in checking the identification of Mr. Dunman, the way that that is going to be handled in the future, is more training, discussion, more poll workers. People need to understand especially I guess using the senior, junior, third applies to men, so some female poll workers need to be especially attentive to that. To look at that to make sure the ID does match. There will be additional training on that. I will say the one vote that was not cast, and the one vote that was cast in the wrong district did not have any effect on the outcome of the election. And while every vote is important, and even when it doesn't change the election sends information to those candidates and it is very important. It was just a human error. It has been corrected, and the only thing we do now is re-instruct and train poll workers to be more careful about identification. And as far as the district is concerned, that's been fixed. I will be glad to answer any questions.

**SECRETARY KEMP:** Thank you, Mr. Nesmith. Mr. McIver has a question for you.

**MR. MCIVER:** Being a third myself that is where my nickname comes from. By the way my grandfather and father and I grew up in a town of 700 people. So we couldn't have three Claude's coming down the street. We'd all be mixed up. So my granddaddy was Claude. My dad was Mac, and I got this silly nickname. So that's where all that comes from. That makes me question was the name identified on the registrar's data the third and senior? Was just somebody had misread the name, or was it improperly identified on the registrar?

MS. CHILDS: Brunetta Childs, 501 North Third Street, Vienna, Georgia. The senior was listed as Lawrence Dunman and the grandson was listed as Lawrence Dunman, III.

**MR. MCIVER:** It was a read error by the poll worker?

MS. CHILDS: Yes, it was.

**SECRETARY KEMP:** Any other questions? Thank you, Mr. Nesmith. Anybody else wishing to speak?

MS. SWINDALL: My name is Debra Swindall. 460 (unclear) Road, Vienna, Georgia. I was one of the poll workers at this precinct. In the letter I received it says, there is significant evidence to suggest that you named all to have the workers, the manager, the two assistant managers and the two clerks that were there that violated the state's election by allowing Mr. Dunman to vote his grandson's ballot. I am team player, but I really don't want my name associated with an election violation. I was one piece of the puzzle in this entire voting procedure that the voter goes through. I was one at small table at the beginning when the voter comes in. I give them the voter certificate. I point out the blanks that they need to fill in. I ask for their identification. I look at their identification based on what information, put on the certificate, voter certificate. And I initial that everything is valid. Then I give the information, the voter certificate and the driver's license, back to them and ask them to go to the next table. After all this is occurred and they realized that it was the senior had voted on the third's ballot, the assistant poll manager turned to me and said did they filled out the voter certificate correctly. I said he filled it out in accordance correctly with what his driver's license said. You can look at the voter certificate there and see what it said. She went back and found the voter certificate and said he filled it out correctly. So, again, I am a team player. But I really don't want my name associated with the voting violation. So the portion of this that I was responsible for was done 100 percent correctly. I would ask that you dismiss my name, or removed my name from this violation. Because the one portion that I had to do with it, it was done correctly.

**SECRETARY KEMP:** Thank you. Any questions for Ms. Swindall? Thank you for being here. Anyone else wishing to speak on this matter?

Any questions from the Board?

**MR. EVANS:** I think we have a clear read error. So I would move that we issue a cease and decess order as to Dooly County and that we close it as to the rest of the respondents.

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

**MR. WEBB:** Second.

**SECRETARY KEMP:** Second by Mr. Webb. Any or discussions?

**MR. MCIVER:** Yes. Mr. Evans would that consistent with what we have done the in the past given our strict standard of human errors?

**MR. EVANS:** I think so. Because we will hold the Board in. The only exception would be if you wanted the actual poll worker who the reading error. But the rest really didn't have anything to do with it. They happen to be in the same polling place.

**MR. MCIVER:** Thank you.

**SECRETARY KEMP:** Any other discussion? We got a motion and a second. All in favor say aye. All opposed same sign.

(NO RESPONSE):

**SECRETARY KEMP:** Motion carries. Case 2010-000055, Muscogee County.

**MR. BROOKS:** This involves the July 20th, general election, Muscogee County. The allegation in this particular case was that an ineligibility voter had voted in the election. And then there was a counter allegation that there were violations of the Americans with Disabilities Act, voter intimidation on the part of the have poll workers, and there were some prevention of lawful assistance to a person who met the legal requirements to receive assistance. On July 20th Ms. Moffett went to the poll with her mother, Ms. Sanchez, filled out the voter certificates. Once the voter certificates were filled out, she proceeded to push her mother toward the DRE machine. Her mother was confined to a wheelchair. Some indication that her mother had suffered a stroke. And Ms. Moffett provides basic life assistance to her mother. As she proceeded to the DRE machine, she was intercepted by Ms. VanClef who was the poll manager and made inquiry as to what she was doing. She said she was going to be assisting her mother. And Ms. VanClef said the only person who could offer the assistance at that point was a poll worker there to give instructions to that. Ms. Moffett said she had assisted her mother in the past and this was the first time she had been informed of this. There was a series of phone calls that were made trying to clarify the issue. It was approximately 45 minutes from the time it initially began until Ms. Moffett was allowed to assist her mother. Ms. Moffett called Muscogee County officials and complained about the treatment that she had received. She felt she had been treated rudely and that they interfered with her assisting her mother. Approximately ten days later, we received a complaint from the poll manager saying that an ineligible voter had received assistance during this voting process. We received two diametrically opposed statements about what had taken place there. The poll manager and the assistant poll manager stated that Ms. Moffett came in and told them her mother was incompetent and that she had a list of candidates that they were to vote for her mother. And that when she pushed her mother to the machine once she was allowed to assist, she literally took her mother's hand and pushed the ballot. Interviewed the mom. The mom indicated that that did not happen. Ms. Moffett said that did not happen. That in fact Ms. Moffett has assisted her mother in the past. Mother said, as all mothers say, she could have

done this on her own. Depends basically on her daughter for assistance. At the end of the investigation, there wasn't a significant time delay between the time that it started until the time they got through with it. We just don't think it was sufficient evidence to support a violation.

**SECRETARY KEMP:** Any questions for Mr. Brooks? Anyone else wishing to speak?

MS. MOFFETT: I am Cynthia Moffett. I live at 5776 Ernstone Drive, Columbus, Georgia. It still pains me to hear me the inconsistencies in the case that we are hearing today. I have assisted my mother in the past with her voting. So have sitters assisted my mother in the past with her voting. My mother does have some problems with her vision since the stroke. She cannot see middle to left. In the past, over the past nine, ten years since I retired and move back home, we have even been brought forth to the head of the line by some of the poll workers. I have even been encouraged by some of the poll workers to help my mother. At no time, did I ever say that my mother was incompetent. I think that is just a cover up, actually. I think the only way that we can get any corrected action in this particular case is that all parties are truthful and honest. I feel like I have been. And the only reason I am here today is because as a 20-year air force retired veteran I understand rules. I lived by rules. I follow rules. And in no way was my intention ever to violate any of the rules. My intent that day was to do whatever I could to follow these now new rules that had been set in place on the 20th of July. From what I could gather the rules had been changed in the middle of the game. And I have not be aware of the change of rules because I had never had that kind of encounter at our polling booth. Either at our local station polling booth or our public library which I have been at also with my mother to vote. The statement, when I looked at the online reasons why a person cannot vote, after this encounter, it said a person who has been deemed incompetent but had to be deemed incompetent by a physician could not vote. Or if that person was a felon. I never even used the word incompetent to describe my mom. But I think that when my local officials tried to make this seem not like it really actually was, they said I used the word incompetent which I did not. Which would disqualify my mother from voting. She has not been deemed incompetent by a physician which is what the online instructions say. I never said that a poll worker had to assist her. The reason I had the list, because I had gone on line and looked at all candidates' platform. I had a list of candidates I wanted to vote for. When Ms. VanClef told me not that I told her that when she was yelling all over of the room for everybody to hear, that only a poll worker could help my mother and I trying to follow now these two set of rules that have been put into place. I gave her my list of names, and I said well here are my list of candidates. Let me just say if I have done something wrong with assisting my mother please, please let me know. Because that's not my intent. I am here to get information so that mom and I go back to the polls to vote. We have not been to the polls to vote since this incident because I am not really sure, now, what the rules are. The rules that we had followed in the past for the past seven, eight, nine years were no longer the rules on July 20th. There have been consistencies. There have been untruths. I was the first person to file a complaint against my local Muscogee voting election Board. I filed a verbal complaint seven

days after the incident. When the Inspector General's Office called me they had no knowledge of my complaint. I became, then, the person who they were complaining against. Because the only the complaint that they had was the complaint that Muscogee County had filed against me after I told about two or three people the incident. When I talked with them I told them I have a written report. I have a written report. But they said, no, we will get back with you. We only have one side of the story. We are going to have to talk to the poll worker to see what is going on. All of their statements gave me no indication that prior to me calling them and making a verbal complaint that they had any knowledge of what had happened. It seems to me that what happened was they took my verbal complaint, and they wrote a rebuttal to my verbal complaint and submitted it as the original complaint. Now I find myself defendant if this was a criminal case instead of the plaintiff. When I served my country for over 20 years going wherever my country said to go, this was not the treatment I thought I would receive when I came back to vote. I found the poll worker intimidating, rude. She treated us like we were felons even though we are not. We have no record. We are squeaky clean. Very few parking tickets. So, I just did not understand, why that was happening. She was yelling. She was yelling, only a poll worker can help. Only a poll worker can help. After several phone calls and 45 minutes later, I was just really dismayed when she finally, her voice started lowering. I guess the person on the other end told her I think you kind of messing up. You need to let that lady vote. And when took us back to the initial place where we signed in, turn over the form which I initially signed in when I first walked in, had me sign that was my mother's daughter and that I could assist her. After 45 minutes Ms. VanClef did allow us to vote. Although she continued to yell at us where everybody could hear. I experienced the intimidation, the humiliation and the stares and the empathy from the other voters with them not knowing whether I had being given a hard time because I was a felon or whether this lady was giving me a hard time for some other reason. I stood there in line for 45 minutes while Ms. VanClef made all of these telephone calls. Embarrassed, totally humiliated still very upset about it. While voters had passing by and for them to keep saying, you work with them --

**SECRETARY KEMP:** Anything else you need the add that you haven't already told us?

MS. MOFFETT: I would like to know, number one, what I need to do when I go to the polling both with my mother so I won't have to come up here again. And, number 2, if I was not wrong in what I did which was not my intent, I would like to know what Columbus, Georgia is going for corrective action to make sure this does not happen to me or anybody else. I don't think this is the first time this happened in Muscogee County, Columbus, Georgia. Thank you.

**SECRETARY KEMP:** Mr. McIver has a question for you.

**MR. MCIVER:** I want to begin by thanking you for your service to American. To the best of your knowledge was anybody impacted in their voting activity? They were denied the opportunity to vote because the line was long or this issue was

occurring or they were unable to vote wanted to and did not? Were you personally aware of anything?

MS. MOFFETT: I am not. The line was not long. There were not very many people. The only people I saw impacted by this type of behavior was my mother and I.

**MR. MCIVER**: Let me ask Mr. Brooks. What is the recommendation?

**MR. BROOKS**: Based on the information we got two completely, totally, opposite stories. We really came down on the side that there was no violation we could support with the evidence?

**MR. MCIVER**: Why was this on the consent calendar?

**SECRETARY KEMP**: I think we have tried to not put things that potentially where there could be voices that want to heard on sides of an issue on the consent calendar. So we can make sure that we hear both sides of the story. I think, certainly, that's what our intention is. Not to have anything on the consent calendar where we need to hear, whether we make a determination or not sometimes it is still good to hear information like this just for future reference and other things.

**MR. MCIVER**: Those are my only questions, thank you.

**SECRETARY KEMP**: Thank you, Ms. Moffett. Anybody else wishing to speak on this regard, or this case?

**MR. MCIVER**: I move to dismiss.

**MR. WEBB**: Second.

**SECRETARY KEMP**: Motion to dismiss and a second. Let record show Mr. Evans has stepped out and will not be voting. We have a motion and a second to dismiss. Any other discussion?

(NO RESPONSE):

**SECRETARY KEMP**: Hearing none all in favor to dismissing please say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP**: Case is dismissed.

Case 2010-000065.

**MR. BROOKS:** This Sumpter County involved the August 6, 2010 primary run off advanced voting period. The allegation in this case was that Ms. Durden voted a republican ballot in the general election and returned run off election was given a Democratic ballot. She cast her ballot before notifying anybody of the issues. Investigation determined that on July 20th the voter certificate completed indicated that she would be voting a republican ballot. She returned for the run off on August 6th. She completed her voter certificate. She indicated on her voter certificate she would voting republican ballot. She also put it in the machine, two names came up that she says that she didn't recognize the name, and that the machine ejected the ballot. And she notified the election officials there that she believed she had voted a democratic ballot. Of course, once we looked into it the voter certificate said it was a republican ballot. We checked with Kennesaw State. Kennesaw State said you cannot, it will not allow you to vote for one primary and vote another one later on. It is our belief is that she voted republican on both ballots both times and may have simply been confused by the names that were on the ballots.

**SECRETARY KEMP:** Let the record show Mr. Evans is back with us.

Any questions for Mr. Brooks?

**MR. MCIVER:** Therefore, what is your recommendation?

**MR. BROOKS:** There was no violation here. She was adamant that she was given a democratic ballot and again as she said (unclear) thought she voted democratic ballot.

**MR. MCIVER:** You recommend we dismiss?

**MR. BROOKS:** Yes, sir.

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

MR. NESMITH: Yes, Mr. Secretary, Members of the Board. Again, I am Bill Nesmith. I am county attorney for Sumpter County, 108 East LaMar Street, Americas, Georgia. As a lawyer I would never miss an opportunity to win a dispute. We certainly echo the sentiments of the AG's office and ask that it be dismissed.

**SECRETARY KEMP:** Any questions? Hearing none, anyone else wishing to speak? Hearing none.

**MR. MCIVER:** Dismiss.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Got a motion and a second to dismiss.

Any discussion? 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.

2010-000074 Gwinnett County.

**MR. BROOKS**: This involves the August 10th, 2010 primary run off, Gwinnett County. Complainant in this case, Ms. Jones, her allegation was that she was not allowed to vote in the primary run off because it was a mistake on the voting card that occurred during the general election that wasn't corrected which caused her to not be able to vote in the run off election. The investigation determined that Ms. Jones came into the precinct, completed the voter certificate, preceded to vote. She had her ten-month-old child with her. As the ten-month-old child started drawing her attention to the ten-month-old child. The child became agitated --

**MR. EVANS**: Ten-month-old children tend to do that.

**MR. BROOKS**: Her attention was focused on her child, and when she reached the section for the governor's race, she noted that the candidates she wanted to vote for did not appear on that. She brought it to the attention of the poll managers and the poll managers indicated it would take a few minutes for them to correct that, cancel that and recast the other ballot for her to vote for the republican ballot. During that time, again the the child wanted more and more attention. She left before the poll workers could identify who she was. They were able to cancel the ballot out of the machine. But they were not able to cancel her out of the express poll. Which means she got credit for voting which placed her in a primary. So when she returned for the run, the express poll showed that she had voted in the democratic primary, and she wanted to vote in the republican primary. Poll manager offered her a provisional ballot. And she refused the provisional ballot, and she left the precinct before they could get it resolved. As Mr. Harvey said she had actually marked on the voter certificate a democratic ballot.

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

**MR. MCIVER**: Dismiss.

**SECRETARY KEMP**: Anyone else wishing to speak? Hearing none we will take a motion to dismiss.

**MR. WEBB**: Second.

**SECRETARY KEMP**: Motion to dismiss and a second. Any discussion. Hearing none. All in favor to dismiss signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP**: Motion carries.

2010-000126. Gwinnett County.

**MR. BROOKS**: This involved the Gwinnett County, November 2nd, 2010 general election. I have an email here that we would like to offer that we received.

**SECRETARY KEMP**: Motion to accept?

**MR. MCIVER**: So moved.

**SECRETARY KEMP**: Motion for 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. BROOKS**: Mr. Secretary, the next one on the calendar that I have is 112. It was announced 126.

**SECRETARY KEMP**: I am sorry. This is 2010-000012 I am sorry.

**MR. HARVEY**: This involved the Gwinnett County, November 2nd, 2010 general election. Mr. Hicks appeared at his precinct on November 2nd to vote and filled out his paperwork, and submitted his paperwork and was told he had vote by absentee ballot on October 27th, 2010. He claimed he had not done that and that he did not appear during the early advanced vote period to vote and insisted that he did not do that. During the investigation it was determined that Mr. Hicks did not vote during the absentee ballot period and that Mr. Hicks would give him credit for voting in that particular slot. Someone voted and Mr. Hicks' name was brought up. Mr. Hicks was given credit for it, but he didn't actually vote. Gwinnett County did an internal audit to try to determine who had voted in that slot so everybody could get credit. They were unable to determine who voted in that particular slot. We examined every single piece of paper Gwinnett County had, and we were not able to determine who voted in that slot. All we know is Mr. Hicks was given credit for voting when, in fact, he did not vote in that slot. Somebody voted in that particular slot for him. He was offered a provisional ballot, and the statement he made to us was that when they offered him a provisional ballot he was told that the ballot would not count.

Gwinnett County said he was told it may or not count depending on what the investigation determined. He was adamant that he was told that it would not count. We also discovered during the investigation that at the precinct one person logged in on the system using their password. When they changed positions during the day or throughout the day, they did not log off and log back in. So again we were not able to go back to the log in to see who logged in to process that paperwork.

**MR. MCIVER**: Did he vote?

**MR. BROOKS**: No.

**SECRETARY KEMP**: Any other questions for

**MR. BROOKS**?

**MR. WEBB**: Mr. Brooks, it states that Dawn Gober, it's stating that she was the one who erroneously entered (unclear) have we been able to verify it was her that actually did that. Did you make that entry?

**MR. BROOKS**: I don't think so. I don't think we were able to determine who actually logged him into the system.

**MR. WEBB**: This is on the system that everybody was sharing at the same?

**MR. BROOKS**: Yes.

**MR. WEBB**: So we don't know who necessarily, we know somebody did, we just don't know who?

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

**SECRETARY KEMP**: Any other questions for Mr. Brooks? Anyone else wishing to speak?

**MR. STEVENS**: My name is Ben Stevens representing Gwinnett Board of Registrations and Elections. My professional address is the Gwinnett County Courthouse, 75 Lanely Drive 30046. This is a case in which an error was made. The error was in selecting the name for the person that was received the absentee ballot. The person that did we don't know who that person is. That person did not notify anyone within our organization that this was (unclear). It turned out that when the issue came up at the poll, the person was told that they had absentee voted. They were given an opportunity to vote a provisional ballot. They could have voted. They chose not to do so under the circumstances. Ms. Gober is not the one who would have made the mistake. She is not the one that would (unclear) in situation like this the made (unclear) the county goes through quite a bit of training. Weeks of training on these types of issues. But, obviously, there was a question in this case. I think one of the things the county would suggest doing is to emphasize the importance of the situation when a poll worker makes a mistake to report the mistake, communicate

it to the rest of the organization. Also, obviously, to stress the importance of each person using their own personal log in. (unclear) Also, I think in this case the county is definitely going to make sure these type of things don't happen. I think we would include additional written material and also this proceeding as an example of one of the reasons it's necessary to do these things. That would be the remedial action suggested in the situation. It's a situation which the person made a mistake. It's an honest mistake. They did not report and we could not deal with it. We didn't know about it. Ms. Gober would not have known about it. That's the situation.

**SECRETARY KEMP:** So you are saying, we don't know who made the mistake?

MR. STEVENS: Based on all of these factors and with the suggested remedial plan, the Gwinnett County Board of Registration Selection respectfully request that this matter be dismissed.

**MR. EVANS:** The person who voted Mr. Hicks' vote, did they voted in person absentee?

MR. STEVENS: Yes.

**MR. EVANS:** I thought we had the ability to back out a in-person absentee ballot as opposed to an in-person advanced vote?

MS. LEDFORD: Lynn Ledford, 75 Langley Drive, Lawrenceville, Georgia 30046.

**MR. EVANS:** If Mr. Hicks had voted a provisional ballot and it sustained, theoretically, as long as this happened before the absentee ballots got dumped in we could have backed out whoever voted him before?

MS. LEDFORD: This is a little bit confusing. Yes and no. What we theorized happen based on our investigation was this is Tillman. We had another voter two or three voters later who as Tillery. We think what happened is the poll worker pulled up the wrong voter, entered him, gave him his card, and he went on to vote. At that point they turned around to write their information, realized they had the wrong voter. Rather than notifying anyone, they just went in and added the correct voter. So that gave us the one number off and made it look like Mr. Hicks had voted. Had we known about it either by the poll worker that day or subsequent prior to the election day we could have went in backed that out and he would vote on DRE (unclear).

**MR. EVANS:** If we didn't have everybody using the same log in we would have been able the identify who that person was?

MS. LEDFORD: We assume. Since we don't know 100 percent what voter was pulled up, like I said we are making that assumption based on the names of Tillman and Tillery.

**MR. EVANS:** No, no. We would know who the poll worker was who processed it?

MS. LEDFORD: Yes, sir.

**MR. EVANS**: To me the fact that jumped out at me out of all of this is things like this will happen. But the one fact that jump out is that one person logged on to the express poll system, but all poll workers use that log in.

MS. LEDFORD: Correct.

**MR. EVANS**: To me, Mr. Chair, that is the one thing we need to communicate to all of our election officials which is we can't do that.

MS. LEDFORD: Yes, and we stress.

**MR. EVANS**: No, this isn't about you. I am making a much broader point. I had other election officials tell me of other counties where people do that. It's like a cash register at a restaurant which is people just log in until you're expected to make up the short fall. And then suddenly when you are expected to make up the short fall, nobody let's anybody log in for their name. So that's kind of the point here. I probably would have had as a respondent whoever was the universal log in. So you could have said to them that is big no no. Because now you are on the hook for something you probably didn't do because you were the one logged in.

MS. LEDFORD: We have verbally represented that to them because we didn't --

**MR. EVANS**: It just carries a different significance when you see you name with the word respondent next to it.

MS. LEDFORD: Yes, it does.

**SECRETARY KEMP**: Thank you Lynn.

Any other questions?

**MR. MCIVER**: I think the record should reflect that Gwinnett County in many respects has, essentially, set the bar for the way we run elections in this state. I think that should be duly noted. For these folks to have a mistake is awfully, awfully rare. In many ways we look to Gwinnett as to how do they do it. And that becomes the standard.

**MR. EVANS**: I agree. I would move that we issue --

**SECRETARY KEMP**: Before we me move, let me make sure there is no one else.

Anyone else here wishing to speak on this case?

**MR. EVANS**: I would move that we have a cease an desist on the single person log in. That way we will have a document we can send to ever county saying don't do that.

**MR. WEBB**: Can that be Letter of Instruction as well, Mr. Evans?

**MR. EVANS**: I would rather it be a cease and desist because then it's actually an order of the Board. Where the Letter of Instruction is really a private matter.

**SECRETARY KEMP**: We got a motion for a Cease an Desist.

Do we have a second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: Seconded by Mr. Webb. Any other discussion?

(NO RESPONSE):

Hearing none. All in favor, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

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

**MR. MCIVER**: Aye.

**SECRETARY KEMP**: Mr. McIver votes no. Motion carries. And we are off to the next Gwinnett case.

**MR. BROOKS**: 2010-000126 Involving the November 2nd, 2010 general election. The allegation on complaint in this particular case is that Mr. Maya Gribbs is registered to vote in Gwinnett County but is a residence of Fulton County and was not eligible to vote in the Gwinnett County's election. The investigation determined that Maya Gribbs contacted the election division of Secretary of State's Office asking questions about where she could vote. Where she was registered to vote where her driver's license listed her in Gwinnett County, she was staying with her sister in Fulton County. One of the staff people in the elections division informed her she had to vote in the county in which she lived. She told the staff person that she lived in Gwinnett County, that was her parent's address. That was the address she used for years she was in college while he was away from college. In fact still use that address on her driver's license, but she was staying some with her sister because she was looking for a job in Atlanta. The staff person contacted Gwinnett County notifying them that they received this information that she may possibly live in Fulton County. At that point in time Ms. Ledford challenged her as a voter in that particular election. Listed her on the list of challenged voters. The had a meeting prior to the election, area manager's meeting, where the list of challenge voters was presented and instructed that they had to vote a provisional ballot and not on a DRE because they had been challenged. Area manager appeared at the precinct the next morning on election day, provided the list to the poll workers instructed them on how to handle challenge voters. And sometimes during the morning hours they discovered that Ms. Griggs had come in and voted in Gwinnett County without them

knowing that she had come in. She voted on the DRE machine. At that point in time there was nothing they could do about that particular vote. Ms. Griggs did change her voter registration on November 12th after this election. But after she voted on the DRE machine there was no meeting or follow up that we understood about the fact that she had been challenged, and to remove her from the list and move her registration to Fulton County.

**SECRETARY KEMP**: So what is the recommendation?

Do you have any?

**MR. BROOKS**: We recommend it be bound over.

**SECRETARY KEMP**: Okay.

**MR. BROOKS**: We did talk to Maya Gribbs's. mother. Mother confirmed that she lived there. Maya Gribbs says that she still lives there. The address on her driver's license is still in Gwinnett County. Everything that we had suggested that she did lived in Gwinnett County and was registered there and was eligible to vote there.

**MR. MCIVER**: So why would we bound her over?

**MR. BROOKS**: Gwinnett County for allowing her to vote on the DRE machine when she should have voted provisional and not handling the challenge as prescribed by the statutes.

**MR. EVANS**: So the essence is they didn't have a meeting?

**MR. BROOKS**: It's our understanding that Ms. Ledford challenged her as opposed to going to the Board for a probable cause hearing. Once she was challenged, we didn't set up a hearing to allow her to bring witnesses, present evidence or anything. When she changed her registration to Gwinnett County to Fulton County it sort of --

**SECRETARY KEMP**: It seems to me that Ms. Hayes the area manager provided the list right, to the poll workers?

**MR. BROOKS**: Yes. When she voted she voted without being caught.

**SECRETARY KEMP**: What violation would Ms. Hayes be looking at?

**MR. BROOKS**: We have 230 listed. 21-230 the chapter speaks about the process when a person is challenged what they have to go through.

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

Anyone else wish to speak?

MR. STEVENS: Thank you. I am Van Stevens, Representing Gwinnett County Board of Registrations and Elections. My professional address is 75 Langley Drive,

Northfield, Georgia 30046. In this particular case, we have an unusual situation in that (unclear) was the person challenged and because (Inaudible ) in this case. It is not a situation in which there was any attempt or any type of fraud or that type of thing. It was brought to Ms. Ledford's attention that there may be an issue dealing with the person's qualification to vote (unclear) and from that point the procedures went as it should (unclear) ready for the area manager to present a written instruction sheet to the appropriate poll so that when this person came in, the person would be dealt with and be given a chance to vote provisional ballot. There was a mistake made, the system broke down at that point. Apparently the person came in and did not, the name was not flagged, and the person was able to vote on the electronic equipment instead of giving provisional ballot. At that point there is way to deal with the fact the ballot has been voted in this particular election for that voter. It is true that subsequent to this election that the voter in question did register in Fulton County. That has been taken care of. In this particular case, the area manager was reprimanded for the system break down in this challenge. I think the remedial action for the county would be again to do additional training and additional written material in dealing with this type of situation and use this as example of what can happen with a mistake like that. I think also there needs an additional check at the back end of the process to make sure that even when we have a challenge like this that results in the voter casting an electronic ballot that there is an additional check to make sure that that challenge runs its course and is dealt with through a hearing before the certification. So that would be the county's recommendation for remedial action. Based on this area we would respectfully request therefore dismiss this matter.

**MR. EVANS:** So why didn't they meet to consider the challenge?

MR. STEVENS: I believe that was just human error. The tail end of (unclear) The issue of the ballot being voted, I think would have been moot because it's electronic. We could not do anything about the ballot at that point. There is still the question of registration qualification. I think that's the reason for the additional checking ballots. To make sure when the challenge is originated that that challenge runs its full course even in a situation like this. Where the only issue would be successfully dealt with would be the qualification.

**MR. EVANS:** Some counties which I kind of like have procedure where each challenge gets immediately added to the next agenda for the next Board meeting. So whoever the keeper of the agenda is, could be the secretary could be the chairman, but it's automatic. Okay if we get a challenge now the person being challenged can decide they want to give up on it or whatever but, it becomes automated. Because the code section is automatic. Which is if you are challenged you have to have a meeting. So the (unclear) county can make it automatic in their system. It's something you may want to look at as well. Because if we had that in place that would be kind of a remedial action that would make a difference.

MR. STEVENS: I agree. That's the type of thing we're looking at to make sure that when we have a challenge even though something may a little different about the

way that it runs its course, that we have more than one person looking to make sure and have something to make sure that we have challenges is actually on (unclear) before the certification. That's the type of thing (unclear) we sort of like dealing with calendaring the answer. Having two or three checks and balances on that making sure that answer gets filed.

**MR. EVANS:** Another option, Mr. Chair, would be to give Gwinnett County 30 days to come up with a remedial plan. Because there is not a dispute here. They didn't have a meeting.

**MR. MCIVER:** Perhaps Ms. Ledford is the better one to answer this. My question is more downstream. Once there is a challenge you indicated that the name of the person that was challenged was flagged. What is that? How do we take the human out of that process and make sure you don't get to vote if you are challenged.

MS. LEDFORD: What should have happened was, there is a particular way that once it's beyond our control that's in the poll they actually take care of that themselves. They are given an instruction sheet that actually tells them how to go in, find the voter, mark that voter. That's what should have happened before 7:00 a.m. Had Ms. Griggs walked in and tried to vote, it would not have let them encode a card for her. At that point she would have went in and voted a provisional ballot. Because it did break down we did try to notify here. I have a copy of the letter. We did not give the investigator because I was so out sorts on this one. There was letter that would have been given to her that told her she was being challenged, that I was challenging her, why she was being challenged and the date and time. We set the date and time for her challenge the same as we did the ones that we normally had that Friday after the election. This was just like a lot of people said, it got out of my hands. So it never made it on to the list which normally goes before the Board. Now, had it went before the Board it still would have been moot because she cast an electronic not a paper. So we had nothing to challenge her on. What would have happened normally is we then would have went, I think it's 21-2-228 which is where we challenge her qualifications as a right to remain an electorate in Gwinnett County and that would have went on that December Board meeting. But we would have never held that hearing because she registered the next week in Fulton County. So we would not have had a reason to challenge her even at our next regularly scheduled board meeting. So, truthfully, what happened was that I did not present it to the Board like I should have. But even if I had there nothing there because there because there was no ballot. We could not challenge her right at that point because she already voted electronic ballot.

**MR. MCIVER:** There was a procedure in place for her name to be electronically flagged?

MS. LEDFORD: Correct.

**MR. MCIVER:** Taking the human out of the process.

MS. LEDFORD: Correct.

**MR. MCIVER**: We had a break down there as well?

MS. LEDFORD: Yes, that is where it started. That is what we talked about. The area manager which is our upper echelon of poll officials -- we found this out on the Monday before the election from an email from the Secretary of State's Office. We took that information, did a challenge letter. We did instructions. We provided them to the area manager at 6:00 or 6:30 on Monday night. She did go to that poll first thing Tuesday morning, but what she failed to do was follow through to make sure that that poll manager did actually flag that voter. That is where it all started. So, yes, had that procedure been followed it would have proceeded accordingly but it did not. Subsequently it just went down hill from there.

**MR. MCIVER**: To Mr. Evans point about a remedial plan, where is the check and balance in that process? Poll manager does not do what she should do, how do we catch that?

MS. LEDFORD: Well, this was an admission by the poll manager. She let us know that she did this. That she failed.

**MR. MCIVER**: We would have known that anyway. That would have come up.

MS. LEDFORD: Right. These type of things, I am not real sure there can be a check and balance. As far as the administrative side of it like we discussed, keeping the people over on the list, making sure that we do get them to the challenge hearing whether it be for the right to vote or their qualifications to remain a Gwinnett County electorate. But at the poll I don't know that there is a way. Our area managers are supposed to be upper echelon. They are the ones who are supposed to take care of that. I don't know that there is any way that this particular situation could have been caught it. I been doing this for 24 years. This is the third one we have. Other than the none citizens that we routinely challenge. That is not an excuse. That's just giving you another peace of information.

**SECRETARY KEMP**: Thank you. From my perspective, the good thing is you got the information that we were able to give you. You acted on that. I think the chain of command, the proper thing was done. It was just a breakdown in how the orders were followed. You did act in good faith. So that is a good thing. It's good that you are here to explain all that.

**MR. EVANS**: So I would move letter of instruction subject to the receipt of a remedial plan within 30 days.

**SECRETARY KEMP**: Second?

**MR. MCIVER**: Second.

**SECRETARY KEMP**: A motion and a second.

Anyone else would like to speak to this matter.

(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.

2010-000076 Coweta County. Never mind. Scratch that. 129 another Gwinnett.

**MR. BROOKS**: November 30th, 2010 run off election. The allegation in this particular case is the Kelly's did not receive their absentee ballots and the Alexander's ballot was received too late for them to return it in time for the election. The investigation determined that Gwinnett County received a ballot applications from the Alexanders on November 22nd and mailed the ballots November 24th. The Alexander's received their ballots on November 27th, mailed them back on November 29th. Gwinnett County received them on December 1st which was after the election and, therefore, those ballots were rejected. The investigation also determined that Tinsey Kelly had requested an absentee ballot and when she had not received it on election day she appeared in person to vote. She was instructed to go to the registration election's office in Lawrenceville to sign the affidavit to cancel that one so she could vote and not have the absentee ballot out there. She wasn't offered a provisional ballot, and she did not request one. Our investigation lead us to look at everybody that had requested a ballot in that particular precinct and determined that they had been mailed out on November 19th. We contacted the voters by phone, the same precinct. They said they received their ballot before the election. We don't know why the Kelly's didn't get theirs.

**MR. MCIVER**: Recommendation?

**MR. BROOKS**: Dismiss.

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

Anyone else wishing to on this speak?

(NO RESPONSE):

**SECRETARY KEMP**: Gwinnett County. Number 2010-000129.

Anybody else wishing to speak?

**MR. EVANS**: We can close.

**SECRETARY KEMP:** If not we have a motion by Mr. Evans to close.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second by Mr. McIver. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES): All opposed, same sign.

(NO RESPONSE):

**SECRETARY KEMP:** Motion carries. That case is dismissed. 2010-00076, Coweta County.

**MR. BROOKS:** This case involve the July 20th primary election. The allegation was there were people in the neighborhood who were in the wrong district. They should have been in the third district and the were placed in the fourth district. People went to vote. They complained to the election's office. What they found was people that were in the wrong district were in a Kingsbrooke with an E at the end neighborhood. There is another Kingsbrook subdivision that is in District 4 that does not have an E at the end. It was a simple read error where somebody put all the Kingsbrooke people together. The situation was corrected. The people were allowed to vote provisional ballots in a run off for their proper district . However, they had not been in the right district initially.

There also was an allegation that sheriff's deputies had been intimidating voters. They were very general allegations. There was nothing substantiated. Nothing specific. There was no reason to believe, no evidence to believe that that happened. So the violation regards the Caletta County Board Registrars in terms of placing people in their proper district. Recommend that the case be bound over. Might be a candidate for a Letter of Instruction based on fact that they've corrected the error.

**SECRETARY KEMP:** Any questions for Mr. Harvey? Anyone wishing to speak on this case?

MR. LEE: My name is Nathan Lee. I am with the Glover and Davis Law firm, Newnan. Address is 10 Brown street, Newnan, Georgia 30263. I am here representing the board registraRS. Just briefly about the board. They are a three-member board. They are a working board. By that I mean two of the board members work full time, and the other works part time. But in reality she works full time, too, running the registrar's office. The chief registrar, Joan Hamilton, sh is with me today would be happy to answer any questions you might have. We agree with the investigator. This stems from 2010 primary election. Democrat and republican primary. Following the primary election, citizen came in and asked to meet with the chief registrar. Ms. Hamilton said he believed there were some streets that were physically in commission District 3 that were not being placed on the commission district three ballot. And Ms. Hamilton investigated this, concurred with that. We corrected the problem. The election was not influenced. The only thing that we were not sure about is the investigative report said that there were a

number of complaints. We were only notified by one individual. These may have been complaints directly to the office. But we were only notified by one person. Briefly how it happened, currently there are two Kingsbrooks subdivision in Coweta County. One has a E on the end. Currently, the Kingsbrook subdivision with an E is located in third the commission district. The one without the E is located in the forth commission district. If you go back to 2000 right before reapportionment both of these subdivisions were in the same district, Commission District 4. However, Kingbrook subdivision with an E was called Foxfire at the time. After reapportionment, Foxfire was moved in the third commission district. Subsequently some years later, it was changed his name to Kingsbrook with an E. We did not know about that until this election. Over the years some streets in that subdivision got put in the other Kingsbrook subdivision and having said all that my board fully understands the buck stops with them. We are not here to making any excuses. It was an error (unclear). How are we going to stop all this from happening in the future? Fortunately right as we speak Coweta County is in the process, they have a GIS program, mapping program. We had some setbacks because the former director left. We recently hire a new director. We anticipate next month, maybe March next month, we will have this district commission, all of the district commissions as well as the school board districts, electronically mapped in the GI system so we overlap with what we have and make sure there is not a similar situation. We either requested or in the process of requesting a street audit report from Secretary Kemp's office to compare that with what we compare with our maps. And we will be happened to agree to put that in consent order. If you staff has any other -- last thing we want to do is come back here again. If you have any suggestions we would be happy to incorporate them as well.

**MR. EVANS:** My suggestion is adopt a rule where you cannot have anymore Kingsbrook subdivisions of any spelling. But I know probably beyond --

MR. LEE: My board would not have any authority over that. We understand that 911 has put something into place whereby if you have a neighborhood, you can only have one. If you do, the streets got be related to that. I grew up in Coweta County and lived there almost my whole life. I can't believe we big enough to have two subdivisions with the same name and everybody in town not know about it?

**SECRETARY KEMP:** Any other questions? Anyone else wishing to speak?

MR. STOVER: David Stover, 1027 Ridley Road, Palmetto, Georgia. My only request would be to make sure that the Kingsbrook Subdivision located in District 4 do not move into District 3. The first go round during the initial primary, they were allowed to vote in the third district election. Subsequently, I am sure that they did not receive a provisional ballot (unclear). I have not heard anything otherwise that they did receive a provisional ballot. There's other reports from other people who would like to have a full audit of the county because we heard other people, reports from other people there were two different congressional seats on the ballots. Congressional area 70 and 71 for the Georgia State House of Representative. So there is obviously some issue and we would like to see them resolved (unclear). The

county never notified the people in the Kingsbrook subdivision that they were to receive the provisional ballot. It was actually done on my costs to go tell them that they would receive a provisional ballot during the election. The county never notified anybody about it in the subdivision.

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

Thank you for being here. Anyone else wishing to speak on this matter?

**MS. STOVER:** Good afternoon. My name is Kathy Stover. 1027 Railroad. Palmetto, Georgia 30268. This case really is more than just one issue of voter disenfranchisement. It is my understanding that did in fact happened. It is my understanding that in the primary election 15, at least 15 voters, were denied the right to vote. So when they said there wasn't any impact to voters, 15 people were denied the right to vote. That is significant. That is more than what I heard, most of what's been discussed here today. But in addition to that their has not been talked about much in any of the cases I have heard and that's candidates. How hard is it to identify top quality candidates? There's a anti incumbent backlash in this country right now. Getting good people to run for office, business owners who have to take time off from work, put in substantial amount of emotional, financial, commitment. Get people out there to get motivated to talk to people to get them interested in the issues. Especially on the local, county level. That is difficult to do. We know what the voter turn out is in this country. Getting people inspired to make campaign contributions, show up at rallies and finally on the big day to show up and vote and then the name of the candidate doesn't even show up on the ballot. How hard is that? How can we go ask good, quality people to go stand up and serve their country, put the commitment in, financial time, emotional commitment, to go to work for the good of the people and then not even have people interested in turning out be able to vote for them. That's what I like to get through to you today. Think about that before any decision is taken and what needs to happen in Coweta County.

**SECRETARY KEMP:** Any questions? Anyone else wish to speak? Chair, ready for a motion, hearing none --

**MR. EVANS:** I would move that we invite the county to submit a consent order that incorporates all the items indicated in terms of computerization, the GSI, all of the things that would be put in place for approval or modification by the Board.

**SECRETARY KEMP:** Do a consent and bring it back to the Board?

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

**SECRETARY KEMP:** Submit to the Secretary of State's Office.

**MR. MCIVER:** Before I second that. Somebody help me understand. Isn't there a way to review your ballot prior to the election? Aren't they published in the county organ? I know the League of Women Voters are excellent at that. Few things I commend them for but nevertheless the do that well.

**MR. EVANS:** I can also say the League of Linda Evans who happens to be my wife. She is always good at that. She always brings me the ballot five days in advance. I can't say she tells me who to vote for because she know that would never happen.

**MR. MCIVER:** How would Ms. Stover get her hands on a ballot if she wanted to review?

**SECRETARY KEMP:** Mr. Harvey?

**MR. HARVEY:** If it was a statewide election she could go the MVB. Here the problem is they are in the wrong district. If they had gone to county before hand and gotten a sample ballot for District 3 or District 4, they would have said this isn't right because I am in this district. I know this person is running and they are not on the ballot. That would have given the county a heads up that something was wrong.

**SECRETARY KEMP:** Mr. Lee.

MR. LEE: You can go to Coweta County's website, you can get your individual ballot if you want to under voter registrar section of the website. **MR.**

**MCIVER:** Does that require you input your address?

MS. HAMILTON: My name is Joan Hamilton. I am chief registrar in Coweta County. My business address is 22 East From Street, Newnan Georgia. What is required is your name and birth date. You can go in on my voter page and pull up your individual ballot. On my voter page. Also has the information when you would be voting and of your representatives whether they be local or state. So if a person has question on that they could just fill out that information. We been notified before the election we could have investigated and taking action at that time.

**SECRETARY KEMP:** Any other comments?

MS. STOVER: It is my understand after the primary only 15 people were denied the right to vote and the complaints started coming into the election board. There were dismissed. At first they were not taken serious. It to a substantial effort from one individual to finally got them to turn over who spent hours trying to get the county to pay attention and fix this issue. There was no notification to any of the residences of Kingsbrook subdivision that they needed to make sure they voted on a provisional paper ballot. One of the candidates campaigns actually tried to notify everybody the night before. There was no articles in the newspaper until the day of the election out there. Then when we had account after account after account of people, residence in Kingsbrook subdivision, going to the polls and being handed the electronic ballots, saying no I am in the Kingsbrook. I am in that subdivision there is supposed to be a problem with. I am supposed to get a paper ballot. Poll workers argued with them substantially for a long period of time. They had to get multiple people involved before they were allowed to get a paper ballot.

MS. HAMILTON: Joan Hamilton. There was one street in the Kingsbrook with an

E, Kingsbrook Circle that was correct in the primary. It would have already been corrected in the express poll for the run off. Those people would not have gotten a provisional or a paper ballot because they correctly entered before. The other streets were not a Kingsbrook, except Kingsbrook Drive. Which we had some husbands and wives in a Kingsbrook circle. Some had Kingsbrook Drive. So that was one incident of a spelling difference. But with the others in that subdivision who were offered the provisional ballot. But the ones who were on Kingsbrook Circle they were correct in the primary and they were also there in the run off. Thank you.

**SECRETARY KEMP:** Mr. Evans, had a motion Mr. McIver seconded it. Any other discussion? 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:** That motion carries.

We are going to take a ten minute break to let our court reporter rest her hands. Be back in ten minutes.

**SECRETARY KEMP:** Let the record reflect we have got Mr. Webb back with us. We are at case number 2010-00079; is that correct, Mr. Harvey?

**MR. HARVEY:** That's correct. Treutlen County. This involve the general election run off in August 2010. While doing monitoring, one of our investigators went to two precincts in Treutlen County and was told by the poll manager DRE had been left at the polling places for them. When they got there unsecured these were volunteer fire stations. The probate judge, Judge Hudson, had delivered the machines earlier that morning and didn't want to deal with a bunch keys for the poll workers. So he took DREs inside, left the locations unsecured and went about delivering the next precinct DREs. Turned out there were two precincts that were effected. We cited violations of the code 328b and state election board rule regarding the duty to secure DREs.

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

Anyone wishing to speak on this matter?

MR. EVERETT: Good afternoon. My name is Tom Everett. I'm an attorney and my office address is 101 South Railroad Street, (unclear), Georgia. I am here today appearing before you on behalf of T. J. Hudson, Treutlen County Probate judge. I am the Treutlen County attorney. I would like to give you a little background information in order to assist you in examining this allegation. Treutlen County has five rural voting precincts scattered throughout the county outside the city of Soberton. They are all located in volunteer fire departments which are typically

locked. It is my understanding the practice of the fire department is to keep the key around the back stashed somewhere along the ground. Judge Hudson has had a long standing practice that on election day he will meet with another county employee at the courthouse about 4:00 in the morning. Load up the DRE machines, to inspect the vehicles and depart early that morning towards the outside edges of the county delivering the DREs to the various polling places making it their way back to Soberton before 6:00 a.m. This last year in an effort to perhaps afford his poll workers the courtesy of not having to hunt for a key in the dark, he left the polling stations unlocked. The result of that is just as the gentleman, Mr. Harvey said, two of the polling stations remained unlocked and unattended before a poll worker arrived. Since the time that Mr. Hudson has been notified of this problem, he has taken corrective action in that he is beginning to lock all polling stations and delivering a key to his poll workers. Mr. Hudson and I talked about furthering the practice in that to assured at least one poll worker is present whenever he does deliver each and every DRE to each and every polling station. I would like to argue as an advocate that there has been no violation here but. But there is clearly a violation of applicable election code rule set forth by this board.

I would ask that in lieu of binding this over to the Attorney General's Office that this board afford Treutlen County the benefit of either a Letter of Instruction, cease and desist or Consent order in this matter. This investigation has reached the attention of Mr. Hudson, and he has take action to remedy this. It is my understanding that the subsequent run off election after this violation was noticed, that Judge Hudson had corrected this problem without any complaint from the Secretary of State's Office. Judge Hudson is also available to answer any questions.

**SECRETARY KEMP:** Thank you, Mr. Everett. Any questions?

Anyone else wishing to speak in this case?

(NO RESPONSE):

**SECRETARY KEMP:** Hearing none, any thoughts from the Board, motion?

**MR. MCIVER:** What have we done in the past?

**MR. EVANS:** Cease and desist with a reprimand. Unattended DREs, the rule that we adopted when we found DREs basically left in hallways. There was an argument that the statute didn't cover it. So we adopted a rule to make it completely unambiguous. If you never leave them unattended. If you have a second violation after a reprimand, it is a thousand bucks. The first is a cease and desist with a reprimand.

**MR. MCIVER:** We DREs in a warehouse? County warehouse?

**MR. EVANS:** Yes, you are exactly right we. If they accept it we can do it right now.

MR. EVERETT: We accept whatever actions the Board wishes to make at this time.

**MR. EVANS:** Cease and desist with a reprimand.

**SECRETARY KEMP:** Is that a motion?

**MR. EVANS:** That's a motion.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We have a motion and a second for a cease and desist and a reprimand.

Any other discussions? Hearing none all in favor, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP:** Thank you, gentlemen. Case 83, Montgomery County has been continued. Case number 85 Wheeler County?

**MR. HARVEY:** The allegation in this case involves early voting period. November 2nd, 2010 general Election. It was in the Wheeler County advanced voting precinct they could not have three poll workers. An investigator went during early voting found and just one person that was Ms. Nobles in the tax commissioner's office. She was doing early and advanced voting. She said she recently terminated an employee and was conducting the election duties herself. Election office in October sent her copy of statute requiring requirement for three poll workers. We made a return visit and, again, found that there was not three poll workers present during advanced voting. It appears that Wheeler County was in violation of 21-290 by failing to staff precinct with a manager and two assistants?

**SECRETARY KEMP:** Any questions for Mr. Harvey? Anyone else wish to speak on this case?

MR. AVERY: Mr. Secretary and Members of the Board, my name is Perry Avery, attorney for Wheeler County. Office address is 1302 Belleview, Dublin, Georgia. I am here today with Ms. Janice Noble who is deputy registrar. She has been in that position for 27 years. The chief registrar and active board member (unclear) who has been with the board 36 years. It is my understanding this is the first time they have been before this board. Y'all are a handsome bunch but all the same we assume not to come back. We want to get this resolved today. I will say that I have a affidavit in letter form. It's from the commissioner of Wheeler County that shows that the third individual who Mr. Harvey makes reference to was hired after we received notification that we needed three poll personnel in the polling area. If I may I would

like to submit that.

**SECRETARY KEMP**: Motion to accept. Second?

**MR. WEBB**: Second.

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

(WHEREUPON THERE WAS A CHORUS OF AYES)

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

(NO RESPONSE):

**MR. MCIVER**: Motion carries. We accept the document. Thank you.

MR. AVERY: At the time I believe it was Investigator Hernandez visited the polling place. I believe Ms. Janice was there and Ms. Diane Warren was there. Ms. Maxine who was a third person hired was actually out to lunch. I think the code says you have to have three people conducting an election, and we apologize. We will rectify the problem from here on out. Either they won't get lunch or, we will it have trucked in. We are asking that this matter not be turned over to the AG. We either ask it be dismissed or a Letter of Reprimand. But we have remedied the problem, and I don't anticipate you will see us again.

**SECRETARY KEMP**: Any questions for Mr. Avery? Anyone else?

**MR. MCIVER**: Am I clear, you would like to resolve it today. If that decision is something as strong as a cease and desist you would accept that?

MR. AVERY: We accept whatever the Board recommends, yes, sir.

**SECRETARY KEMP**: Thank you. Anyone else wish to speak? Any other motion?

**MR. EVANS**: Move to cease and desist with reprimand.

**MR. WEBB**: Second.

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

Any other discussion? All in favor say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES)

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

(NO RESPONSE):

**SECRETARY KEMP:** Motion carries. Case Number 97, Tattnall County.

**MR. HARVEY:** This case involves the 2010 general election advanced absentee voting period. I have two letters that have been sent to our office. One from the state court judge, the other chairman of the Tattnall County Commission in reference to the respondent, Mr. Bradley.

**SECRETARY KEMP:** Motion to accept?

**MR. EVANS:** So moved.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Motion to second. All opposed say Aye.

(WHEREUPON THERE WAS A CHORUS OF AYES):

**SECRETARY KEMP:** All opposed.

(NO RESPONSE):

**SECRETARY KEMP:** Motion carried. We accept the document.

**MR. HARVEY:** The allegation is Bradley voted twice in the 2010 general election. The evidence showed that Mr. Bradley who is a major in sheriff's department, Tattnall County voted in the office advance on October 4th of 2010 and returned October 25th, 2010 and voted a second time. The official said he was allowed to cast his second ballot because he had not entered his information into the absentee ballot voting system until after he cast his ballot. Mr. Bradley admitted to voting twice he said he voted the second time because he could not remember if he already voted. As I said submitted the letters of reference on Mr. Bradley's behalf. It appears that Mr. Bradley did attempt, did vote twice and the election officials allowed him to vote twice.

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

MR. OBERMAN: I am Dennis Oberman. Chairman of the Tattnall County Board of Elections and Registration. My board address is 114 West Rassel Street. First of all, I would like to admit to the Board, I come here representing the other two board members and admit that a mistake was made under the watch and care of our board. I would like admit that. We did make a mistake in letting that happened. Also I like to say on behalf of Ms. Callaway how this happen. I will not reiterate on the reasons she said this happen. You have that in the statement. I would like the add at this time she was in declining health and right after the last run off election she had surgery and since had to retire for medical reasons. That is one of the reasons she is not here today. As far as the remedy just not happening again we have made it clear to the workers and advanced and early voting to follow to procedure. Make sure they register the person in and make sure they have not voted prior to issuing a voter

card. And with that we make (unclear) cause reminder that it never happened again. I would like to offer a suggestion on the way to process and how this is done. During normal voting on a regular election voter cards are issued the express poll. Because of that you have to actually pull up the person. And it tells if they have voted before you actually issue a card. The way the advanced and early voting is done, they are pulled up in the system and the DRE is used to create a voter card which those are not tied together. I would like to just submit to keep this from ever happening again anywhere else through this kind of error, that maybe and I will address this to Ms. Hicks, that maybe (unclear) can look at way that this can be linked together like it on election day where a voter card cannot be issued in such a simple way just by looking at that. Also this will prevent errors in issuing (unclear) using express poll all that comes up for that person wherever they are registered to vote at. Advanced and early voting, it's just not done that way. That is just a suggestion on my part.

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

NEW SPEAKER: We don't any particular way to speak but since I hired this man and he has been with me about 15 years I would like --

**SECRETARY KEMP:** For the record, I forgot, give your name and address.

MR. RUSH: Sheriff Tattall County, P.O. Box 545 Rensville (unclear). Clinton Rush. I want tell you little about this major. As you can see he is in sling now. He has been on a lot of medication. He was back on light duty. When this happened it shocked us all because I hired this man. I have been a (unclear) 30 years. I have been a sheriff for 15 years. He is the most professional, dedicated officer I ever worked for. I honestly believe it was a mistake. When we had to secure our courthouse, I put him in charge. You have got letters and you got some more coming. You got our chairman and county commissioner, county manager. We have letters from two superior court judges our DA. I want to come in person and some of them are here to speak in his behalf. Nobody is contesting that he did it. He told the speaker he did. He told me he made a mistake. There is nobody standing up here and said it didn't happen. I did want to tell you that I really do honestly believe because we have no local contest races at in that election. He had no reason, nothing to gain and my choice of being here today is just to ask for consideration on the status of this man. He is a good officer. Thank you.

**SECRETARY KEMP:** Thank you, Sheriff. We want to submit your documents, Sheriff? I will take a motion to accept the documents.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We got a motion.

**MR. MCIVER:** Move to accept.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Motion to accept the documents and a second. All in favor say Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

**SECRETARY KEMP:** Motion carries.

THE WITNESS: Mr. Secretary and Board, I just want to thank y'all for the job you doing.

**SECRETARY KEMP:** Name and address for the record.

MR. MURPHY: Frank Murphy, Chairman Tattall County Commissioners. Ms. Faye Hudson County Manager. We are both here today and y'all accept the letter from the entire board on behalf of Mr. Bradley and Mr. Callaway supporting them in the job they have done. Both of them have been with the county prior to the 2000 election and the changes that have been made (unclear) improve the election in the state. Certainly want to ask for tolerance because we do feel like it's a mistake. Any questions you may have, respect the time. Appreciate accepting that letter and asking for tolerance the facts today. Actually it's a hard thing for a person to admit, they made a mistake. We really appreciate it.

**MR. MCIVER:** Thank you, Mr. Chairman. Any questions for the chairman? Anyone else wishing to speak?

MR. BRADLEY: My name is Raymond Bradley. I am a major with Tattall County, Sheriff's Office. My address is 319 North Killman, Glenville, Georgia 30427. The only thing I could say is on the morning in question -- I racked my mind trying to figure out what was going on in my mind. I did come back from the doctor that morning after taking a cortisone shot for my shoulder. Tore my rotator cuff. When I pulled into the courthouse I saw the sign and it said vote. I said I got to vote. I take pride to voting, I am a veteran. I ask for some leniency.

**SECRETARY KEMP:** Thank you major for being here today. Anybody have any questions for Mr. Bradley? State your name for the record.

MR. MURPHY: Frank Murphy I meant to say that Major Bradley brought it back up. We are not making excuses but for the first part of this election cycle we did not have yard signs that said vote here, vote now. They were put up just prior, and I do firmly believe that major Bradley trying to be a good American and a good citizen, when he seen that sign prompted him to vote. I want to reiterate the signs had not been there the whole time. It was something new. Sort of like campaign signs to prompt people to vote. Thank you.

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

MR. SMILEY: Jaime Smiley, chief deputy with Tattall County. My address is 3668 Highway 178, Greenville, Georgia. Basically, I want to speak on behalf of as

the immediate supervisor and personal friend for over 14 years. When a grown man gets upset once he realize the error he has made, it sends a message. He took this very seriously. Nothing light about it. I hope that y'all consider his error and forgiveness on his part. Thank you.

**SECRETARY KEMP:** Anyone else wishing to speak? What's the pleasure of the electric board?

**MR. MCIVER:** We have been particularly strict in the past on issues like this. The dilemma upon which we find ourselves is consistency versus inconsistency even in (unclear) situations like this where it's obviously got somebody that's repentant and obviously has a reason for doing it. So I'm afraid of setting a precedent myself. I defer to any remarks Mr. Evans has to make. He and I have been at this a long time and double voting is something we come very hard on.

**MR. EVANS:** I agree and the hardest part is that -- when I first started on the election board the secretary of state at that time told me it was impossible for somebody to double vote.

**SECRETARY KEMP:** Glad I never said that.

**MR. EVANS:** Just was adamant. Since then we have had I don't how many instances where there has been double voting. It means that we strife harder on the front end. We have got to figure out systems that permit when you walk in to the election officials for them to say no you can't because you already voted. The Board has on occasion taking into account all of the other facts and circumstances in deciding the appropriate penalty to impose. There have been two situations that I can recall in my career on the Board where in lieu of a fine which is our civil penalty which Mr. McIver is referring to, there have been two situations where we had individuals who volunteered to do an extensive amount of community service to talk to 18 year olds, 17 and 18 year olds about the importance of voting and what the boundaries are. This might be one of the third which would be appropriate that on my last day would be one of the exceptions and not the rules. We cannot, we won't be able to avoid a reprimand because it is such a violation. On the other hand as opposed to a civil penalty, I think that if we had to we could ask or do it by consent order an agreement that involved a cease an desist which never do it again. If it ever happens again you know you get the death penalty. Death penalty as far as voting goes. A reprimand and then an agreement. The last time we -- and in the scheme of things -- it was 45 hours of community service to go to high school students and say, let me talk to about voting. Let me talk to you about what the boundaries are. I would be willing in these unusual circumstances to make this one exception. Only because I cannot be anything but impressed, not am never impressed by your ability to get friends to come and talk on your behalf. I am impressed by a lifetime of service and a record of accomplishment. So I think that to me that speaks highly and I think that that reflects that I don't have what we had before which is somebody who had found sudden decision of remorse only because they got caught. This reflects an entire career beginning in August, 1978, all the way to today of continuous service to

your state and our country. You have to be completely oblivious to the real world, if you didn't take all that into account in deciding the motives behind what appears to have been a mistake. So that is what I would recommend.

**MR. MCIVER**: I have a question, Mr. Chair. I have a situation with the registrar. Very serious breakdown here --

**MR. EVANS**: I totally agree. I express no, no part of my comments were, we have got to figure out this front end part. Because I can say with some confidence that in Cobb and Gwinnett, you can't vote twice. They make it almost physically impossible. And yet we got in other counties where this happening. We got the figure out why.

**SECRETARY KEMP**: Are you suggesting we (unclear)

**MR. EVANS**: Yes.

**SECRETARY KEMP**: I will take a motion or two.

**MR. EVANS**: I move we enter into a consent decree finding that we have a violation. A reprimand for having violated law and obviously order that it not happen again accompanied by community service of 45 hours.

**SECRETARY KEMP**: For Mr. Bradley, correct? We need a second. I will second.

**SECRETARY KEMP**: Any discussion?

**MR. WEBB**: I am aware that in the last few meetings we have come up with some double voters. Under no circumstances were there anything like this where it was an accident in that there was a front end problem. It was an intent to vote twice and those individuals walked away with the minimum fine under this case which is a thousand dollars. It does seem unjust to apply that same penalty to the circumstances under this case.

**MR. MCIVER**: I am truly torn because of necessity that we be consistent. As a veteran I am very much appreciative of Major Bradley's service to our country. But I am just troubled by that. It's double voting, and I understand the circumstances under which it happened, but one our of missions here is to send messages that are clear. So my opinion would be that we also have a fine that goes with this. But I understand the motion that has been made and prepared to vote.

**SECRETARY KEMP**: We have a motion and a second. I will just say for the record this is a very tough decision for the board. I know people that may not have been to a state election's board meeting before. One of things I have been impressed with about this board over the last year is about how consistent they are. This is very unusual to go off the path on double voting. But I think it also shows that we listened, and we look at people's character and their willingness to admit when they

have erred in judgment. I think there is a penalty associated with 45 hours of talking to high school kids about the importance of not only voting but being an educated voter. I think that is penalty in a way. But I also think major and sheriff and all the community leaders that while that may seem harsh to some it is light compared to what we have done to others. I think I speak for the whole board including Mr. McIver that I have been impressed. I know the sheriff and have known him for quite awhile and know what kind of folks y'all are that you all took the time to come and sit all day with us so you can stand up for this man. I certainly appreciate that. With that we got the motion and a second. All if favor say I.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

**MR. MCIVER**: Aye.

**SECRETARY KEMP**: Motion carries on three

to one vote. We have another allegations. Do we have a motion or discussion on that?

**MR. MCIVER**: Refer that to the AG's office.

**SECRETARY KEMP**: We got a motion to refer the rest of the case to the AG's office for further study. We have a second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: Motion and a second, and other discussion?

**MR. MCIVER**: Could this possibly be a candidate for a cease and desist assuming that the county attorney would agree to such?

**MR. EVANS**: The biggest thing to me is to figure out how it happened. I think that it's hard to prevent it from recurring if we don't know exactly with the system breakdown is. I suspect that in the course of developing a consent decree, we figure out exactly what needs to be fixed and get the agreement from the county that we need that it is in fact being fixed. A agree typically it would be. But I never figure out, maybe it's late in the day and I'm tired, I never figured out exactly what went wrong. Because the system is designed to prevent this.

**MR. MCIVER**: It's a dehumanized system.

**MR. EVANS**: Yes, that's why I am trying to figure out what happened.

**SECRETARY KEMP**: We have a motion. Mr. Chairman, would you like to make

a comment.

**MR. MURPHY:** Frank Murphy. I would like to ask the chairman of the board of elections if you would give him just a minute to explain. Got some really good ideas. Be something for consent order (unclear) fully in agreement of in light Ms. Callaway's retired already. Moving forward he's voiced some really good ideas, but it won't take but a minute to read.

**MR. ODOM:** Like I stated before the system works different for early and advance voting than it does on actual election day when you use the express poll. Basically what Ms. Callaway did, she did things out of order. Instead of pulling up his name first making sure he hadn't already voted, then issuing the voter card. She was on the phone (unclear) we just opened two satellite precinct which something different than what we been doing. There was a lot of chaos going on there. She went ahead and issued him a card. Then she register him in the system. By the time she got into the system that is when she realized he already voted. Things were done out of order here. I am not making any excuses. I am saying that should not have happened but it did. That is why I made a suggestion earlier maybe Kennesaw will look at a method of doing that where it works similar to the way it does on election day where there is no way you can issue a card without actually pulling up the person first in system. That way it will be link together. When you pull up a person at express poll if they have already voted it has it marked there. The only way you can change it is go into express poll. That happens sometimes. We had an error of one of electors this year where the wrong absentee list was sent. We realize early on people were showing up and voting that had not voted. We had time to correct this. Send it out to the precincts. They had to manually go into the express poll and removed them that voted that voted earlier. Yes, it would difficult, very difficult for somebody to vote again if it was set up this way. On election day the only way they could vote again is if somebody physically go in through several steps, go into the express poll and remove them as having voted or it would not issue them a card. The way it is set up in advanced and early voting, you just go into the system and the computer and absentee voting system and you see that they are in there and naturally on computer you notice you're voting. Then you go and create the voting card and DRE which is not linked in any way to this. There's room for mistakes and errors there. I am not making excuses for her. At least if the system was set up similar to the way it is on election day it would be almost impossible to issue a card to somebody that already voted.

**SECRETARY KEMP:** Thank you, Mr. Odom. Any questions? Any other discussion? We got a motion and a second.

**MR. MCIVER:** I think it's classic for a cease and desist. All in an effort to move these cases forward. Chairman Murphy indicated they are trying to get it resolved, and I assume don't want to involved themselves any more than they have to here. I would encourage my board members to reconsider and that we go down the road of cease and desist.

**SECRETARY KEMP:** Mr. Webb.

**MR. WEBB:** I may willing to consider that if could it be some assurance that obviously this is an issue that needs to be resolved because its not the first time and only we want it to be the last time.

**SECRETARY KEMP:** I think even if we were to refer, I think (unclear) discussions, I think Ms. Brumbaugh is well aware of the dialogue we have had. I think it would be an easy resolution to this if we were to refer it. I don't think it's one of those referrals where we are telling Ms. Brumbaugh to go get them. It's one of those referrals to let's get with them the next week or two and get an agreement so we know the situation has been rectified and we all go down the road. I am open to whatever the Board wants to do. We do have motion and a second we need to vote unless some other action that Mr. Evans wants to take?

**MR. EVANS:** I expect we will get an AG to get us a consent decree. That our proposed consent order that includes a cease and desist and a remedial plan.

**SECRETARY KEMP:** Any other 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 case refers over. Thank y'all for being here today. We appreciate all your service to your community. Case Number 103, Evans County.

**MR. HARVEY:** This case involves the 2010 general election absentee advanced voting period.

**MR. WEBB:** Mr. Harvey, excuse me. Mr. Girardeau's daughter whose accompanied him, Jill Girardeau is an attorney with (unclear) Carlyse like I am myself. So I will recuse myself from this case.

**SECRETARY KEMP:** Let the record show that Webb has recused himself.

**MR. HARVEY:** The facts her are almost identical to the previous case. The investigation determined that Mr. Girardeau voted on September 21st during advance voting and voted again on October 27th. It is almost the same situation with the election officials. They were busy in the office. They failed to check the system to see if he had voted before issuing another voter access card. One correction I would like to make on the violations is we have got him listed on the third down. It says violation 21-2-572 and 21-2-560. I would amend the second violation to 21-2-562a which I think is more accurate with the facts. Mr. Girardeau admitted what he did. I believe he said it was a mistake. He apologized. Said he was embarrassed. Those

are facts the I report before you today.

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

**MR. MCIVER:** Have you determined how this happened?

**MR. HARVEY:** The same way that the previous one did. They should have checked him into the voter registration system to make sure he had not voted. They simply were busy. They gave him the access card before they checked, and he was able to vote the second time. Almost the exact same fact pattern.

**SECRETARY KEMP:** Ms. Hicks, we need to put this on our list for training in Savannah.

MS. HICKS: It's on my list.

**SECRETARY KEMP:** Any other questions for Mr. Harvey? Anyone else wish to address --

MR. CALLAWAY: Mr. Secretary, Board Members, my name is Bill Callaway. I am county attorney for Evans County. My physical address is 104 Daniels Street, Claxton, Georgia. In regards to the allegations as to Mr. Girardeau's vote, initially it was stated or in the allegations states he was not entered when he voted the first time. He was in fact entered into the voting system. I have those documents to say that he did. He was assigned a voter number and that list also showed the precinct that he voted in. When he came in a second time as (unclear) said it works totally different in pre-vote or absentee vote because you still got 15 days left to register. So you can register and vote at the same time. So register because the voting is run at the same time. In the system when on election day when person comes in you type in the name. It comes up the computer flashes he's voted, or he's an alien and he is not suppose to vote. In the pre-vote, it doesn't come up that way. It comes up with a screen. May I hand you this. Copies of voter registration maintenance (unclear).

**MR. MCIVER:** Motion to accept.

**SECRETARY KEMP:** Motion to accept. Got a second?

**MR. EVANS:** Second.

**SECRETARY KEMP:** All in favor say Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

**SECRETARY KEMP:** Motion to accept carries.

MR. CALLAWAY: Part of the problem, it shows where he voted. All of that material comes up on the screen at one time. The poll worker just flat missed it. It was a human error when he went to vote the second time. That's what came up when

he voted the second time. They just missed it. Mr. Girardeau voted and it didn't kick it out. If they had seen, they would have known he had voted, but they didn't see it. We have implemented better instructions, check lists, so that it doesn't happen. Make sure you check, name, address precinct and whether or not they voted for our future elections. But human error that we over, we just flat missed it.

**SECRETARY KEMP:** Any questions for Mr. Calloway? Anyone else wish to speak?

**MR. GIRARDEAU:** Mr. Secretary, Board Members, Director Hicks. My name is Lee Girardeau. Last name G-I-R-A-R-D-E-A-U. My residence address is 1717 Perkins Mill Road, Claxston. My mailing address is 14 South Devall Street, Claxston. I am embarrassed to be here today. I am disappointed I've created this predicament for myself and my county officials and volunteer poll workers. On October 27th or 28th, I did go in and vote in the general election. I was subsequently called later that afternoon after 5:00, I believe, and the registrar's office advised me that I had voted twice. At that time I was immediately stunned that I did this and was angry because (unclear) accountability for it. I provide a written statement as you required. I hope you have it. I will attempt to answer questions that you might have.

**SECRETARY KEMP:** Any questions.

**MR. MCIVER:** I have not seen the written statements, so would you give at least for my purposes give a better explanation. You appear to be a very lucid and an educated man. You voted once on a certain date and then you came back and voted a second time.

**MR. GIRARDEAU:** Yes. In the statement, it was incomprehensible to me too, but nevertheless I did it. I would say that I am around town most of the time. I never have to make a plan to vote. I essential response to the stimulus and go vote. It usually works out that I can participate. When I voted on October 27th or 28th, it was originally suggested to me that I voted on the 28th. But I thought it might be the 27th. It could have been either one. I could never processed the September 21st vote as being in the general election. I don't know that there been a timeframe that we could separate votes in the same election on the early voting period quite so much. I don't know if that is accurate. I never processed the September 21st vote as the general election.

**SECRETARY KEMP:** Any other questions? Thank you. Anyone else wish to speak?

**MR. CALLOWAY:** May I say one thing? While it doesn't eliminate either the error that the poll worker missed the vote, there was no local elections. There was no contested contest. There was no outcome that the vote affected one way or the other (unclear) no contested races.

**MR. EVANS:** We had a contested governor's race.

MR. CALLOWAY: Yes, sir.

**SECRETARY KEMP**: Any other questions? Anyone else wish to speak?

**MR. EVANS**: I move we refer the whole thing over, both --

**SECRETARY KEMP**: Got a motion to refer it to the AG. Second?

**MR. MCIVER**: I'll Second.

**SECRETARY KEMP**: Mr. McIver, seconds. Any other discussions. All in favor say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP**: Motion carries. That will be referred. Thank y'all for being here. Case Number 2010-000110 DeKalb, Stone Mountain precinct.

**MR. HARVEY**: This case involves the November 2nd, 2010 general election. The allegation was that the Stone Mountain DeKalb County polling place did not open on time. The poll manager did not arrive at the precinct until 6:50 on day of the election. The express poll was forgotten at her home. She had send poll worker to retrieve it. The precinct itself was open at 7:00. But the voting was not started until 7:24 that morning. Voters that came early between 7:00 to 7:24 were offered provisional ballot. They never notified anybody at the county that they had this delay. In addition we found out that the other assistant poll managers also arrived late on election day. So we have got the individual poll workers cited for violations of (unclear) at the poll place before opening and the county as well for allowing it to happen.

**SECRETARY KEMP**: Any questions for Mr. Harvey? Anyone else wishing to speak?

MR. PRITCHETT: Good afternoon. My name is Wayne Pritchett, chief assistant county attorney for DeKalb County, 1300 Commerce Drive, Decatur 30030. I am here on behalf of Ms. Daniels and the DeKalb County Board of Registrations and Elections. I would like to start off by submitting to the Board if you all would consider it, some training materials that the DRE uses.

**MR. MCIVER**: Motion to accept.

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

**MR. WEBB**: Second.

**SECRETARY KEMP:** Motion to second. All in favor say I aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

**SECRETARY KEMP:** Motion carries.

MR. PRITCHETT: To Mr. Evans' point that he's made several times during the course of proceedings today about corrective action. I want to emphasize to y'all this isn't a corrective action that was put into place after this incident. This is what was already in place before the incident. These, I think I set four copies up there. These are the materials that the DRE has had in place for some time. These are the materials that are submitted to poll workers including Ms. Darden, the poll manager in this case. In addition to the these written materials, there is also training class on the materials which Ms. Darden, the poll manager attended. Throughout the materials there are references to when you are supposed to arrive at the polling place and what should happen if you don't get there in time. In other words it covers everything that we are talking about today. In this case, I would submit to y'all that short of Ms. Daniels going to Ms. Darden's house and picking her up and taking her to the poll, I am not sure what she could have done to get her there. The training is in place. It has been in place. It was given to Ms. Darden. Ms. Darden had in fact worked as a poll manager previous to this election and had performed up to par. So there is no reason to believe that this was going to happen in this case. The fact is that she didn't arrive at the polling place at 6:00 a.m. like she was supposed to. There is no doubt about that. But I am here on behalf of Ms. Daniels and DRE and to represent to y'all that there was more than adequate training in place and had been received by Ms. Darden. And for whatever reason she did not do it in this case. As far as the corrective action plan, Ms. Daniels fired Ms. Darden. She is not working as poll manager at the county anymore as a result of this incident. That's is the corrective action she put in place. As far as the, the polling place was open at 7:00 in the morning. That's represented in your own findings of fact. There were provisional ballots given out and according to your findings of fact it was were fully functional with the machines and everything by 7:24 that morning. To Mr. McIver's point that he's made several times, nobody was denied the right to vote. Everybody did vote. The potential violations for Ms. Daniels are that she violated 21-270-13 by failing to ensure that poll workers arrived one hour prior to the opening of the precinct. I think the that training materials that I have submitted to y'all address that point squarely. The other violation is there was sufficient evidence to suggest that Maxine Daniels violated 21-2-403 by failing to open the polls at 7:00 a.m. I believe the facts that the polls were open in fact opened at 7:00 and people were provided provisional ballots and everybody was able to vote. Based on that I would ask that the Board dismiss the violation against Ms. Daniels and the DeKalb Board of Registrations and Elections. I would be happy to address any questions y'all might have.

**SECRETARY KEMP:** Thank you, Mr. Pritchett, any questions? Anyone else wishing to speak on this matter?

**SECRETARY KEMP:** Hearing none. Ready for a motion discussion?

**MR. EVANS:** I move we close this to everybody but Ms. Darden and Ms. Smith. As to Ms. Darden and Ms. Smith I move we refer it over.

**SECRETARY KEMP:** Which Darden.

**MR. EVANS:** Jacqueline Darden and Roselyn Smith, Aaron Darden, Jeremiah Bell and Quintony. Aren't they the ones that didn't arrive on time?

MR. HARVEY: Yes, sir.

**MR. EVANS:** And is Jacqueline the only one that was discharged?

**MS. DANIELS:** My name is Maxine Daniels. I am the director for DeKalb County Voter Registration, 4380 Memorial Drive, Decatur, Georgia. Yes. Ms. Smith was reprimanded, but she has a long history with us. And she was 15 minutes late. We only knew that by her own admission. She was there and waiting but Ms. Darden had all the materials. The other people were all relatives of Ms. Darden and riding with Ms. Darden. That is why they were as late as she was, so they all have been basically dismissed. Ms. Smith we continue to keep but not as poll manager. We will allow her to work and allow her to make amends. But the rest of them have been removed.

**MR. EVANS:** Aaron Darden, Jeremiah Bell, Quinthy Darden are all gone?

MS. DANIELS: Yes.

**SECRETARY KEMP:** Restate your motion so we can make the recorder gets it.

**MR. EVANS:** So as to Jacqueline Darden, Aaron Darden, Jeremiah Bell and Quinthy Darden, I move we refer.

**SECRETARY KEMP:** We got a motion by Mr. Evans to refer. Do we have a second? I'll second. Any discussion?

**MR. MCIVER:** My background as military, if something happens to the ship the captain gets fired. That is my position. I have always been impressed with Ms. Daniels. I have had earlier exposure to her. But were it me, I would have had a system. Everybody would have to call me at 6:00 in the morning to say we are in our car. We are moving so on and so forth. This may not be her direct fault, but she is in charge. I would hold her as responsible as I would the others.

**MR. EVANS:** I think you would agree with me, at least, on those four that we should refer?

**MR. MCIVER:** Absolutely. I would cast a broader net.

**SECRETARY KEMP:** The motion is to refer these four individuals. Then we can refer to the rest of them. Is that clear to the Board? We have a Motion and second. Any other discussion?

**MR. EVANS:** Jacqueline Darden, Aaron Darden, Jeremiah Bell and Quinthy Darden. I will deal with Rosalind Smith in a second and then I will deal with Ms. Daniels.

**SECRETARY KEMP:** Motion to refer those, correct?

**MR. EVANS:** Yes.

**SECRETARY KEMP:** I second. No further discussion. All in favor say Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

MR. WEBB: Aye.

**SECRETARY KEMP:** Motion carries.

**MR. EVANS:** As to Rosalind Smith, I would do a cease and desist and a reprimand. She has already been reprimanded, as I understand, by the county, so that shouldn't be anything new. But I will cease and desist and reprimand and a mandatory training period which I think we have done before on late arrivals. It's a training that the Secretary of State's Office has why it has a ripple effect. So that would be my motion as to Rosalind Smith.

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

**MR. WEBB:** I second.

**SECRETARY KEMP:** Webb second. No further discussion.

**SECRETARY KEMP:** No further discussion. All in favor of Mr. Evans' motion signify by saying aye. (WHEREUPON, THERE WAS A CHORUS OF AYES):

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

**MR. WEBB:** Aye.

**SECRETARY KEMP:** Motion carries.

**MR. EVANS:** As to Maxine Daniels, it seems to me there needs to be a system in place that says you get called 6:45, 6:40 or something. Then there is a back up that goes to that area. I am told that you have that in place. If we could make that remedial plan, part of consent order. Which is that in fact this is now something that you agree to do formally, to us, then I would be willing to support a motion to have a

consent order with remedial plan. I think Mr. McIver is exactly correct. When I hear, gosh there isn't anything I could do. I think back the role that Mr. Webb, Mr. McIver all had to face with judges. Which is if we don't show up when they tell us to show really bad things happen to us. There is no if, and's or but's. We don't get the luxury. So we always have redundant systems in place. We just need to have a redundant system. I would move that we have consent order with a remedial plan presented to the Board for consideration and adoption.

**MS. DANIELS:** Maxine Daniels, again. We in fact do have more processes than what is shown there. All of your precincts are directed to call us in the morning before 6:30 to let us that they are in their precinct and up and running. Understand we have 189 precincts. So you can imagine that is a daunting task to get all of that (unclear) receiving calls from all over, text messages as well. At the time we found out about this situation, we in the hunt so to speak for this precinct. So it wasn't a thing where we were caught completely unawares. What happens is there are a lot of precincts. Let's be real about it. We also have in place emergency procedures. So in the event that first of all if the precinct does not get in this is what you do. We have something called open on the street. If somebody doesn't appear this is what we do. We have very, very specific steps as to how to make certain that we open at 7:00. At the time the secretary of state was notified about the situation, we were already in the process of contacting our law department to extent the hours of this particular precinct in case we did not open on time. That is final result is to make certain that the voters have the full 12 hours required by law. That in the event that a precinct does not open on time, we are already going to our superior court to get an extension. We were in the process of that when we found out, in fact, there were no voters that were refused voting. That the precinct did open at 7:00, but it opened on provisional ballot which is our process. So we have very specific processes. More than what we are showing you here. But what I was addressing was what we tell co-workers specifically about being there on time because that was the allegation. But we will be glad to outline everything that we do.

**MR. EVANS:** What was suggesting to you is that whatever systems you have, they didn't work here. Anytime I have a system and it didn't work, I always think to myself I probably need to tweak that system. Maybe you move the call up period rather than it be 6:30, its 6:15 so you have an additional time period in order to find your back up. Some counties have a triage of back up people who are not assign to any one precinct. They go to wherever somebody didn't show up. And so there are any number of procedures. All I am suggesting is, you identify those for us. I am satisfied you are taking the necessary steps to manage a very big system. I am also sensitive to the Chair's position and Mr. McIver's position which is but everything has to work. I always think of the air traffic controller which you can't be approximate. You can't be like the one way but give or take 10 feet. We want to be that way about voters. So what I would suggest is that you go back and say we got the enormous system but it obvious we have one little hole. We are going to tweak it so we address your concern with this remedial y'all plan.

**SECRETARY KEMP:** Would you remind restating your motion.

**MR. EVANS:** A Motion that we have presented to us remedial y'all plan that satisfies the circumstances that happened here which is what happens when you have a carload of relatives who are not going to make it on time, basically.

**SECRETARY KEMP:** Got a motion by Mr. Evans do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** Second by Mr. Webb. Any discussion?

**SECRETARY KEMP:** Hearing none call the question. All in favor of Mr. Evans motion, signify by saying aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

**MR. WEBB:** Aye.

**SECRETARY KEMP:** Motion carries.

Case 2010-000116 DeKalb County, (unclear).

**MR. HARVEY:** This case also involves November 2010 general election. I've got a letter that was sent by Gene Edwards the election supervisor of Tift County that the Board might consider.

**SECRETARY KEMP:** Motion to accept?

**MR. MCIVER:** Move to accept.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Motion and a second. All in favor say, aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

**SECRETARY KEMP:** Aye. Motion carries.

**MR. HARVEY:** The complainant in this case is Maxine Daniels, DeKalb County. She reported that a voter apparently attempted to vote twice in the general election of 2010. She referred it to our office. When they checked the system they found the person in question had already voted in Tift County. Our investigation revealed the voter was Brenda Lorraine Maulden. Brenda Louise Maulden had registered to vote in Tift County earlier. Tift County accidentally pulled the wrong voter. Pulled Brenda Lorraine Maulden instead of Brenda Louise Maulden. So when Brenda Louise Maulden voted in Tift County as she was registered she was voting in fact for Brenda Lorraine Maulden. They simply choose the wrong elector in the system. She voted, Brenda Lorraine Maulden voted by provisional ballot in DeKalb County.

Tift County's response is they essentially stated the summary was accurate. It was an error they corrected it as soon as possible. It's recommended that Tift County be bound over to the AG's Office for corrective action.

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

**MR. EVANS**: Do we know the name of the person who made the error?

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

**MR. EVANS**: Is there a way to determine that?

**MR. HARVEY**: I can check.

**MR. EVANS**: What we want to do is to elevate the awareness of everybody who works because as you can tell from today's agenda this name error, read error is now becoming a pattern. It can be anything from whether it's a junior or the third or could it be Brenda L versus whoever, but it's a pattern. But the only way we ever break the pattern is there is a general awareness among election officials you have to be really, really careful on names. If you don't you end being a respondent and you have to go to the Secretary of State's Office and explain how you made this mistake. I would encourage us to try to find those so that we can -- the moment a couple people do that, then they will tell everybody they know, every friend they know when they go GEAO meeting or the VRAG meeting and say I was called before the board because I read a name wrong. Then everybody gets really careful on names. And our goal is everybody be careful on names. I say that having been on the board for so long because we actually go through cycles of this. There was cycle one year where we had 20 or 25 of these in a year. Then we didn't have one for two or three years because we hauled everybody in. Now we are starting to see just the tip of the iceberg of today, what, we had four or five of these? If we are not careful next month we will have four or five more and pretty soon you'll have you 25 in a year. So that's my only suggestion, Mr. Chairman.

**SECRETARY KEMP**: Anyone other discussion. Anyone else here to speak on this case today?

**MR. MCIVER**: I have some confusion. You are referring in your report to Gene Daniels. We have a Gene Edwards and Maxine Daniels.

**MR. HARVEY**: Gene Edwards is the superintendent of Tift County. I misspoke. Gene Edwards is the woman who wrote the letter in Tift County.

**MR. MCIVER**: Second page of your reports, Daniels should be replaced with Edwards?

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

**MR. MCIVER**: Let's not scare Ms. Daniels.

**SECRETARY KEMP**: Let me make sure there isn't anyone else wishing to speak on this case. Ready for a motion and discussion?

**MR. EVANS**: Where was the mistake made again?

**MR. HARVEY**: The mistake was made in Tift County when they pulled up the wrong Brenda.

**MR. EVANS**: Our report says Gene Daniels was the violation. I think it was actually Gene Edwards. I move that we refer it over as to Jeans Edwards and the Board.

**SECRETARY KEMP**: Motion to refer to the AG and a second? Hearing none all in favor say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP**: Motion carries.

White County.

**MR. HARVEY**: This again involves the November, 2010 general election. Charles Bailey attempted to go vote in White County. He was not allowed to vote because he was not registered to vote in White October according to the system. He was informed he was deleted from the ineligible list of voters and not allowed to vote. He left without voting. I have a letter sent Charlotte (unclear) the interim director of the Hall County Board of Elections and Registration.

**SECRETARY KEMP**: Motion to accept?

**MR. WEBB**: So moved.

**MR. MCIVER**: Second.

**SECRETARY KEMP**: Got a motion and a second. All favor say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

**MR. MCIVER**: Motion carries.

**MR. HARVEY**: Mr. Bailey had previously been registered in White County. He moved to Hall County completed a change of voter registration. In August of 2009, Hall County was updating their files and they printed out a list of eligible voters and compared it to the registration cards. His registration card had been pulled when he was transferred. But they had not update their list. So they saw him on the list.

They printed out his voter registration and pulled him back to Hall County. They thought they had made a mistake, so they pulled him back to Hall County. Hall County then sent a voter registration card to Mr. Bailey, and he responded and said no I am registered in White County. So they went into the system and instead of changing, deleting him from the list of voters in Hall County they deleted him from the system completely in error. He was not allowed to vote in White County. Also, when he went to vote in White County on election day he was not offered a provisional ballot even though he had his precinct card with him, he had photo identification. So in this case we are recommending binding over on the White County Board Election Registration and the Hall County Board Election Registration, Hall County from deleting him from the system. White County for not allowing him the opportunity to vote a provisional ballot.

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

MR. BAKER: I'm Garrison Baker, 59 South Main, Cleveland, Georgia. I am the probate judge and superintendent of elections for Pike County, Georgia. I also have (unclear) chief registrar. We are not here to contest the findings, the allegations or the findings. We do have some issues about how the issue did come up. But the bottom line is we did not offer up the complainant a provisional ballot which we should have. It was our fault. We apologize for that. We will answer any questions you might have.

**SECRETARY KEMP:** Thank you. Any questions for Judge Baker. Anyone else wish to speak? I do have a question. It occurs to me this may be a training issue. Having sat in a number of training sessions, I think have been told or at least I have listened to the fact that under virtually every circumstance you'd offer somebody a provisional ballot other than maybe a (unclear) or somebody who clearly had no interest in voting just intending to make trouble. Have your folks attended the training sessions offered by the Secretary of State's Office?

JUDGE BAKER: We have training. It is your standing policy (unclear) provisional ballot be offered. Our poll manager of that precinct, our policy is when it's a registration issue we have poll managers to call the registrar's office and in this instance the registrar looked at the information, saw the deletion and actually advised the poll manager not to issue a provisional in this instance. That is the reason it was not issued at the precinct.

**SECRETARY KEMP:** Any other questions? Any other discussions? Anyone else wishes to speak? Hearing none, I am ready for a motion.

**MR. EVANS:** I vote we issue as to White County a cease and desist reprimand and mandatory provisional ballot training at the GEOA. I sat through that training. I think we sat through it couple times. And you can't walk out of there not realizing that you give them a provisional ballot. Period. That is just the rule. So that would be my motion for White County.

**SECRETARY KEMP:** We got that on the agenda for the meeting?

**MS. HICKS:** We do it for the GEOA and the voter registration training. Plus we also have an on-line training as well.

**MR. EVANS:** I don't want it on line. Well, on line, but this needs to be in person. It needs to cost somebody a little bit of money. But I want to get some benefit out of the money which is they can pick VRAG or GEOA but they have to attend in person, the live training on provisional voting. That would be my motion on White County.

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

MR. WEBB: Second.

**SECRETARY KEMP:** Any other discussion? Judge, you got any thoughts on that?

JUDGE BAKER: We attended both of these training sessions (unclear) there and we will attend and do whatever you tell us to do. We understand and recognize the mistake. We apologize for the error. It's unfortunate. We had a voter walk away without an opportunity to vote.

**SECRETARY KEMP:** Any other discussion? 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. Now we got to deal with the other part of the case. No one here to discuss Hall County. We got their letter? Any discussion? Motion?

**MR. EVANS:** I just move we refer it over the Attorney General's Office.

MR. WEBB: I second.

**SECRETARY KEMP:** Got a motion and a second. Any discussion? Hearing none. We got a motion and second. All in favor or referring to the AG say aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP:** Motion carries. Let the record show that Mr. Evans is stepping out for a minute. We are on now for the Attorney General reports. We

have implemented the consent order with a lot of the work Ms. Braumbaugh has done and agreements she has reached. At this time I ask the Board or if there is anyone in the audience who would like to hear information from Ms. Brumbaugh about the Atkinson County, Bleckley County, City of Gillsville, City of Temple, Elbert County, Athens-Clarke County resolutions that Ms. Brumbaugh has come up with. If you want to take those out we need you to come up and let us know. Or if a Board member wants to pull that out and have a discussion on that, we can do that at this time. Yes, sir.

**MR. EVANS:** I am Tony Evans, Cobb County P.O. Box 202, (unclear) Road, (unclear) 31827.

**SECRETARY KEMP:** You want to pull out the Talbert County case? We will pull that out be back to you. Anyone else? Any of the board need to hear anything about the other cases? Just the consent cases. Anyone else wishing to hear any one of the consent cases.

**MR. WEBB:** Give me a minute, please.

**SECRETARY KEMP:** Yes, sir.

**MR. WEBB:** Ms. Brumbaugh, the City of Temple case, that was determined to be the county's issue?

**MR. BRUMBAUGH:** Y'all referred both the city, the county and the individual electors who were voting in the municipality when they shouldn't have been. I negotiated consent orders that were identical for both the county for not having their records right and for the (unclear) for not voting in the right place.

**MR. WEBB:** Counties in here?

**MR. BRUMBAUGH:** The county was presented at the last meeting. And that was accepted.

**SECRETARY KEMP:** We need a motion to agree to consent orders that Ms. Brumbaugh has reached on case 2008-40, 2008-1115, 2009-38, 2009-45, 2009-07, 2010-30.

MR. WEBB: So moved.

**SECRETARY KEMP:** Mr. Webb makes that motion.

**MR. MCIVER** second. Any other discussion?

**SECRETARY KEMP:** Hearing none. All in favor of the motion on these consent orders. Signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP:** Motion carries. Ms. Brumbaugh. I will call the 2009-000029 Tolbot County case, and just let you brief us on that.

**MR. BRUMBAUGH:** Yes, Secretary. When I looked back at the report, it appears that there were originally ten allegations in the initial complaint. However only a few of them were referred to my office. The ones referred to my office, respondent Johnny Durham, he voted in the Talbot County election even though he lived in Harris County. He has agreed to a \$250 civil penalty cease and desist public reprimand. The Talbot County board was also in violation of the election board because although local election offices can mail ballots automatically to elderly voters, there has to be a written request. And for at least two voters there was no written request. And Talbot County Board mail those ballots in spite of the fact there was no request. They have submitted a \$200 civil penalty cease and desist and public reprimand was (unclear). There is still an outstanding case against Jimmy Raines. He allegedly voted twice. I haven't been able to get in touch with him. I think I will have to send that one in for an administrative hearing and see what happens there. The last case was Stancez Passmour who like Mr. Durham was referred for voting in Talbot County when he did not live there. But in fact, I think the evidence was a bit more convoluted. He was living there with his mother. He was just traveling extensively for work, and he considered himself a voter of Talbot County. He was registered in Talbot County. There wasn't extensive evidence of a different residence or voting or registering in a different location. So because voting by unqualified elector requires that you willfully and knowingly do this, and he thought he was a voter of Talbot County he was registered and he was still with his mother, I would recommend that you dismiss it as to Mr. Passmour. So that's the Talbot County case.

**SECRETARY KEMP:** Anybody else wishing to speak on this case? Mr. Evans?

**MR. EVANS:** I am Tony Evans. As a voter of Talbot County I been watching these voters in Talbot County. We seen a lot of stuff go on there, and it seems mighty small amount for what we have seen (unclear). That is my statement.

**SECRETARY KEMP:** Thank you Mr. Evans. Hope you keep us apprised of anything else you see that you think we should know about.

**MR. EVANS:** (unclear) a lot goes on there.

**SECRETARY KEMP:** As I said earlier, as things progress if there is anything you think we need to know about, get in touch with Mr. Harvey and Mr. Brooks. Call our office, email us. Come see us. Write us a letter. We will be glad to look into it.

**MR. EVANS:** Thank you, sir.

**SECRETARY KEMP**: Anybody else wishing to speak on the Talbot County case. If not I will accept a motion.

**MR. WEBB**: I make a motion that we accept the consent.

**SECRETARY KEMP**: Motion to accept the consents and resolutions to this case as presented by Ms. Brumbaugh. Is that fair to say Mr. Webb?

MR. WEBB: Yes.

**SECRETARY KEMP**: Seconded by Mr. McIver. Any other discussion? Hearing none. 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. We move on to the initial decisions. Ms. Brumbaugh, Case #50. Chattooga County.

**MR. BRUMBAUGH**: This is the last respondent in the Carlton Vines Election Fraud case from Chattooga County, November 2006 general election. Albert Palmer was a friend of Carlton Vines. He is an attorney in Chattooga County. I think he has been on the ballot. Been a local elected official up there at various times in the past. The evidence in the case and adduced at the criminal trial of Carlton Vines was that Mr. Vines walked into Mr. Palmer's law offices and said, can I have some stamps. And Mr. Palmer said, I don't have stamps but use my postage meter machine. And so Mr. Vines did so. He stamped 18 absentee ballots on this postage meter machine, and it was actually that was how this whole case initially blew open. They found the 18 sequentially stamped ballots and they got curious. Mr. Palmer refused to sign a consent order that Mr. Vines entered into. I sent this case to the Office of State Administrative Hearings last fall. I did it on documentary evidence, the certified copy of the transcript from Carlton Vines' trial wherein Mr. Palmer testified and admitted he knew that when Mr. Vines asked for postage that Mr. Vines was holding absentee ballots. So Mr. Palmer knowingly gave Mr. Vines use of his postage meter machine in order to mail absentee ballots. I also submitted the consent order that Mr. Vines and the other respondents in the case had signed. But the evidence in the consent order is the same real evidence that's in the transcript from the criminal trial. My theory of the case this was the way the case was presented to me by then Inspector General (unclear). I did my own research, I talked to people in my office who do more criminal work than I do. I presented to OSA that Mr. Palmer was a party to the crime. The crime of violating 21-2-574 which is unlawful possession of ballots and 21-2-385 which is unlawful delivery of ballots. Mr. Palmer's attorney submitted a response motion which completely ignore my theory of the case and attacked the constitutionality of these two statutes. I have been through that response motion line by line. I am not persuaded by his arguments, but he has made them.

Judge Oakley of the Office of State Administrative Hearings issued a four-page initial decision on December 16th I believe. Which more or less ignored both of our motions. Went on a straight physical possession. custody or control. Was Mr. Palmer in custody or control. Accept she didn't really define it that way. She just did Mr. Palmer possess these absentee ballots. No he did not. Therefore, I am dismissing the case against Mr. Palmer. So the Board's decision now is whether to accept Judge Oakley's decision and the case will end. Or we can reject Judge Oakley's decision and issue a final order consistent with whatever the Board feels is the correct application of law here with the understanding that probably Mr. Palmer will appeal this. We will be litigating this first in the superior Court and then probably eventually in the supreme court. I am at the Board's pleasure as to how you all want to handle it. There is a second issue in the case regarding a Board rule that says it's not bribery to give someone postage for a ballot. Mr. Vines wasn't bribing Mr. Palmer, so in my opinion this rule that says it not bribery to give someone postage for a ballot has no application when you are giving someone postage to unlawfully distribute and deliver and possess ballots. So it is not a defense to Mr. Palmer's action. The initial decision does suggest that Judge Oakley felt differently. Again it is not very well flushed out, but I think she said that my analysis of the parameters of that rule and how it didn't apply in this case, I think she titled it not persuasive. So that will be another issue that we will be wrestling with should we continue this case.

**SECRETARY KEMP:** What are our options again?

**MR. BRUMBAUGH:** Our options are to accept or reject the consent order or reject a consent order. Give me direction, I will write up a final order that can be signed. But then Mr. Palmer has appeal rights and would probably appeal that final order to first the superior court of probably Chatooga County. Depending on that order, then there will be perhaps an appeal to the supreme court of Georgia. We would have the option of appealing that order as well.

**SECRETARY KEMP:** So when we reject, we have to reject with a final order and --

**MR. BRUMBAUGH:** Reject in writing with findings of fact, conclusions of law. The only other option is to send it back to OSA ) I don't recommend that because there is no additional evidence. We have got transcripts. We have a consent order. That's the testimony. That's the case and there is not really going be any new facts or additional fact finding to do.

**MR. MCIVER:** Mr. Chair, I like to move to table it until Mr. Evans return. He had a very keen interest in this case.

**SECRETARY KEMP:** I think that would be wise. We got a motion to table? Do we have a second?

MR. WEBB: Second. Any other discussion? Hearing none, all in favor of tabling

for a moment, signify by saying aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP**: We will table that. You want to give us some insight on the Greene County (unclear) decision?

**MR. BRUMBAUGH**: The Greene County case was a case we did have a live hearing on in October of 2010. Mr. Clark who I believe is here represented both the respondents, Dorothy Green and Marian Rhodes. Mr. Clark kindly consented to a continuance of the agency review until today. The initial decision in the case found no violation as to Mr. Rhodes or Mrs. Green. Both Mr. Rhodes and Ms. Green were alleged to have violated 2-12-566(2) which says that you use violence or threaten violence to prevent a poll worker from doing his duties or you materially interrupt with the poll worker's duties. It is a complex code section which can be interpreted in different ways and an interpretation of the code section was part of the initial decision. But Judge Miller from OSA interpreted this code section to say that we could either prove a violation by using or threatening violence in a manner that would prevent a reasonable poll officer or actually prevent a poll officer from the execution of his or her duties. That was one way or the second way was the second half of that phrase which was materially interrupts or improperly and materially interferes with the execution of a poll officer's duties. Judge Miller found that under either of these two prongs of 5662 we had not met our burden. The evidence regarding Mr. Rhodes was that Mr. Rhodes approached the Greene County registration office, Mike Malone election supervisor was standing outside and they had a very heated discussion. Although he testified he was intimidated by Mr. Rhodes, he also affirmatively testified that Mr. Rhodes behavior did not prevent him from doing his duty. However, we had additional testimony from some poll workers who were inside the office who could see what was going on and could hear loud, angry voices and could see angry gestures. They testified they were distracted from their duty for about five to ten minutes. That they were so concerned that they considered calling the sheriff. So that was the evidence. And Judge Miller felt that that evidence did not amount to a material interruption or a material interference with the execution of a poll officer's duties. So the decision today as Mr. Rhodes is whether again we accept this initial decision and the case ends. Or we write a final decision which makes reference to these parts of the transcript, I've summarized them in your memo. And we take the position that this is a material interference or material interruption. Again, we will then potentially be going through an appeal of that final order. As to Ms. Wright appeared at the Greene County registrar's office the following Monday after the interaction with Mr. Rhodes on Friday. Mr. Wright was wearing an Obama pin. She refused to take it off. Again, there was some perhaps unpleasant conversation between Ms. Wright and Mr. Malone. Ms. Wright ended up leaving and that was sort of the end of this story against Ms. Wright. There

really isn't, my recommendation regarding Ms. Wright would be that you accept the consent order that there is to violation. There is no threatening of violence and there is no real interrupting of duties. They had a conversation, and she walks out. I would recommend we accept consent order as to Ms. Wright and that you all consider how you want to define and what your standards should be in terms of material interruption and material interference and whether Mr. Rhodes' behavior rised to that level.

**SECRETARY KEMP:** Any questions for Ms. Brumbaugh? Anyone else wishing to speak on this matter?

MR. CLARK: Attorney John Clark. I represent both respondents in this case. I certainly would ask the Board to accept the recommendation on Ms. Wright and also that Mr. Rhodes' case be resolved here today. I do not think that, I think the judge was correct in the judge's analysis on this case. This was a well tried case and with respect to Ms. Brumbaugh, I think all of the facts were flushed out. I think the judge had an opportunity to observe the parties in this matter. I think the judge was correct in her decision. I certainly think on Mr. Rhodes' case, so we are asking this Board to at least confirm the ruling of the judge on Mr. Rhodes case and accept recommendation on Ms. Wright.

**SECRETARY KEMP:** Thank you, Mr. Clark. Any questions for Mr. Clark. Anyone else wish to speak?

**SECRETARY KEMP:** Hearing none, I am ready for a motion and discussion. Seems petty clear to me that on the decision on Ms. Wright the process worked like it was supposed to. She was asked to take the pen off, she left and did that. That's how I feel about it. I don't know what kind of thoughts you have.

MR. WEBB: I concur. In the past I have asked that the case against Ms. Wright be dropped. Not necessarily the greatest behavior, but I don't think there is any violation of any statute. With regard to Mr. Rhodes, I am disturbed by his behavior. But, unfortunately, I don't think code section the way code is currently written that he violated the code. I think it's unfortunate because I think at some point he should be penalized for his behavior. Any time you go into a precinct and engage in an argumentative nature that has been presented to us there should be some repercussion for that. Unfortunately, the statute as I read it requires some violence. I don't think it approached that. If it was any touching it was probably light or even just threatened. I think there as was a lot of yelling. I think there was some disturbance. But it is unfortunate. I don't think the way the code section is written today I don't think Mr. Rhodes behavior rose to the level of a violation.

**SECRETARY KEMP:** Any other discussion?

**MR. BRUMBAUGH:** They are two separate initial decisions.

MR. WEBB: With regard to Ms. Wright, I would make a motion to accept the initial decision and close the case.

**SECRETARY KEMP:** Motion by Mr. Webb to accept the initial decision on Ms. Wright's case. We have a second? I will second. Any other discussion?

**MR. MCIVER:** Yes, I intend to vote against this

motion. I Ms. Wright demonstrated phenomenally bad judgment. Her intent was interrupt the registration process. I strongly favor rejecting the judge's decision here. And a reprimand in addition to anything else we have done to be consistent which could be a monetary fine. Mr. Evans might be able to help us with that. He is the keeper of the records.

MR. WEBB: This is under which code section?

**MR. BRUMBAUGH:** It's 5662.

MR. WEBB: Both of them? Mr. Rhodes and Ms. Wright.

**MR. BRUMBAUGH:** Yes.

MR. WEBB: 5662?

**MR. MCIVER:** While he is looking, were both of these cases tried at the same time?

**MR. BRUMBAUGH:** Yes.

**MR. MCIVER:** That's my position. It would be my intention to vote against this motion.

**SECRETARY KEMP:** Any other 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):

**MR. MCIVER:** Aye.

**SECRETARY KEMP:** Motion carries 2 to 1. Now to Mr. Rhodes.

**MR. MCIVER:** I am going to move that we reject the initial decision by the judge in Mr. Rhodes' case. That what was original proposed by the consent order. Wasn't there some initial decision in which Mr. Rhodes participated?

**MR. BRUMBAUGH:** No.

**MR. MCIVER:** Then I have it confused with another case. My motion is that we

reject the initial decision of the judge and that Mr. Rhodes be publically reprimanded for this matter and a monetary fine, in addition to a cease and desist, and a monetary fine consistent with whatever Mr. Evans record would reflect for those we have found to be disruptive with the election process.

**SECRETARY KEMP:** Let the record show that Mr. Evans is back. Would you like to address Mr. Evans on the amount of the fine?

**MR. MCIVER:** We are on Greene County and this is Mr. Rhodes where we have an initial decision by the administrative law judge not crediting our position to punish him for his behavior where he was engaged in a polling place with Mr. Malone in Greene County. I proposed a motion that we reject the initial decision. That our order be a cease and desist with a public reprimand and a monetary fine consistent with what you reflect in your records, Mr. Evans

**MR. EVANS:** Was this the one with \$5000?

(UNCLEAR): This case went to a hearing, and there was the initial decisions were no violation. We never really gotten to any sort of settlement in this case before.

**MR. MCIVER:** Again in my view this was irreprehensible conduct. Far beyond the (unclear) of anybody that felt strongly about a particular issue. It was done in all the wrong ways, violated the code. I think that's what our order shall reflect and that is my motion.

**SECRETARY KEMP:** Did you want to state the dollar amount?

**MR. MCIVER:** I asked Mr. Evans who has been the keeper of the flame.

**SECRETARY KEMP:** I think his question to you was for disrupting a polling location was there a consistent --

**MR. EVANS:** About 5.

**SECRETARY KEMP:** 500 or 5000?

**MR. EVANS:** If you intentionally disrupt a polling place it was 5,000. If you were intimidating, etc., it was 5,000. If it was just that you were in there and obstructive which is different than interfering it was 500. Those were kind of the boundaries and then a sliding scale between the two. But as I remember from reading this, didn't the administrative law judge conclude that this was an episode that lasted only a few minutes.

**MR. BRUMBAUGH:** The testimony was that it lasted on five to ten minutes. Mr. Malone, the election supervisor who had the direct interaction with Mr. Rhodes, testified that his duties were not interrupted. The question is, the testimony was that there was other poll officers who because of the interaction between Mr. Malone and Mr. Rhodes for five to ten minutes they were not doing their work because they were

watching what was happening. They were concerned about what they were seeing, and they thought that perhaps they should call the sherriff. And the law judge looked at the statute and said the statute requires a material interruption or material interference and she found there was no material interruption or interference so my --

**MR. EVANS:** Don't we have to now as a procedural matter, the ALJ, made it findings of fact and conclusions of law and preponderance of evidence, we have to either accept or reject the ALJ. If we decide to reject don't we ourselves have to conduct an evidentiary hearing?

**MR. BRUMBAUGH:** No. You don't have to conduct an evidentiary hearing. Go off the record that was made at OSA. But you do have to write a findings of fact and conclusions of law that support your position.

**MR. EVANS:** To me the options are, as I understand it, one option is what you described which you can take the transcript and reach different conclusions. Unfortunately, the court of appeals has not been very good to us when we do that because they find that the administrative law judge had a chance to see the demeanor of the witness, all of the invisible characteristics that went on, we didn't. We are looking at a record cold. A second option is we reject the findings of fact and we do our own evidentiary hearing. Which is literally we haul everybody, we allocate and we did this once. We haul everybody in, we have our own trial ourselves and we reach our own conclusions. Third option is we accept the findings of fact but reach different sanctions or conclusions based on the findings of fact. But these findings of fact are so weak that we couldn't do much with it could we?

**MR. BRUMBAUGH:** We could write our own findings of fact based on the same transcript, the same record. So we would reject the judges finding of fact. But we would go back to the transcript. I do believe that I have to be honest, I have been doing this for five and half years, I never had Board want to do a new hearing. I think that probably you have to power to do it. Whether you can pretend like the OSA hearing didn't happen is probably --

**MR. EVANS:** We can't. I think that has to be one of the exhibits.

**MR. BRUMBAUGH:** You can say you would like to take more testimony.

**MR. EVANS:** As I understand it, Mr. Chair, the way we done it before is to say, the only time we ever done it is when we regarded the matter as so serious that it merit that kind of time and investment. You really are sitting there as judges, objections and direct and cross.

**MR. BRUMBAUGH:** The only thing to keep in mind IS the code mandates hearings, state election board evidentiary hearings have to be conducted in the county in which it happened. So we would go to GreenE County to do this.

**MR. EVANS:** Yes. The one time we did this that is what we did. We went to the county. We did it that time actually to make a point. It was more to say this is a big

deal. We just have to make an assessment here. Clearly, what is your what was your candid assessment of it. Did the judge just get it wrong here. Based on the evidence you had reached the same conclusion or what (unclear) lawyer in the room we are getting it second hand. What was your assessment? If you said, I think they got it right that would mitigate in one favor. If you came back and said, I don't know what courtroom the judge was in. It was not in the courtroom I was in, then that would suggest something else.

**MR. BRUMBAUGH:** When we walked out the courtroom I thought I had won the case against Mr. Rhodes. When I read the transcript I see where the judge -the passion and the tension and the emotion that was running through that courtroom is not present. And so I am concerned that if we go on my memory of how stressful it was and another judge looks at the record, they will say what's the big deal. I have to be honest with you it was a very thorough hearing. The transcript is 200 and some page. It was several hours. To the extend that we say we want more testimony on this issue, and it's already been covered either the testimony is going to consistent or it's not going to be consistent, and we have credibility issues. I am not sure if it accomplishes anything in terms of an appeal. Best case scenario we get conflicting evidence. And now we have credibility issues as to why there is conflicting evidence. My recommendation would be to stick to the record and the transcript. I agree that what happened was totally inappropriate and beyond any bounds of what is acceptable. Especially when Mr. Rhodes is a county commissioner. I want you all to make a decision. At the end of the day it's really a legal decision. What's material and what's not. I think the board gets a lot of deference in interpreting the statutes that way. But, certainly, if we were to find that he did materially interrupt and interfere that day then perhaps a final order with penalties on the lower side of the range would be more helpful going forward.

**MR. EVANS:** I just worry that (unclear) unless have another supplemental evidence it is just going to be deadly to appeal.

**SECRETARY KEMP:** We have a motion if you want to restate it.

**MR. MCIVER:** It's an complete motion. It is it is reject the initial decision. To enter an order that includes a cease and desist. A public reprimand and based on the discussion I have heard I would say monetary find of \$1,000. That is my motion.

**SECRETARY KEMP:** We have a motion, do we have a second? I will second. Any other discussion?

**MR. MCIVER:** Let me lead. I don't have to remind everybody we took an oath to sit in these seats. That was to abide by this law to it do color blind and blind in every other way. That is to deal with violations to the code, and to ensure integrity of the code. What we do should send messages to the rest of Georgia that this kind of conduct will be dealt with very, very heavily by this court. That's what I see my personal charge to be and the basis of my motion. I think in all due respect to Judge Miller, she just frankly got it wrong. We all know as lawyers in this room judges get

it wrong from time to time and that is what appeals are all about. This matter may be appealed. Our charge is to ensure the integrity of the code and that the rest of Georgia understands the penalties for this kind of conduct. This was deliberate. It was intended. He sought out these people in a period of time. He is in a status of an elected public official which makes it more impactful in my judgment. That is the basis of my motion.

**SECRETARY KEMP:** Any or discussion on the Board?

**MR. WEBB:** I would just agree with Mr. McIver on our duties which we are charged to perform. However, I think the way this statute is written especially when you add the comments that Mr. Malone's testimony established unequivocally that the respondent did not interfere with his performance of his duties. That's in the judge's decision with the administrative law judge's decision, as well as Mr. Malone appeared before us and that question was asked. Did Mr. Rhodes interfere with you performing your duties. And Mr. Malone said no he did not.

**SECRETARY KEMP:** Any other discussion?

**MR. EVANS:** I just because I think this will be appealed, let me just say I will vote for the motion but the basis of my voting for the motion is that the court applied the wrong legal standard. That the court in interpreting 21-2-556 adopted the unduly restrictive interpretation of the statute which would permit the obstruction and intimidation of polling officers. And that is clearly not what the legislature intended and as a result in number six in page six of seven when the court said it adopted the second interpretation of the statute that is an error of law which is a (unclear) review by the board of elections and being a (unclear) review we adopt a different interpretation of the statutes and one that reflects a violation and one that supports the sanctions that Mr. McIver has outlined.

**SECRETARY KEMP:** Mr. Clark, would you like to address us on any of these issues.

**MR. CLARK:** I like to address to Board. I think this was certainly a well-trying case. Certainly, we have two lawyers there on the Board. We understand that all hearings can be very contentious especially dealing with the issue of voting. I think the judge clearly stated and Mr. Malone admitted that he was not intimidating. That is one critical issue -- I am not looking at the transcript -- but the individuals who on the inside, the question is were their job interfered with to the extent that they could not perform their duties. I do not think there was any testimony that I recall that they prevented from allowing an individual to vote or to register. So there was no credible evidence of there was material interference. I think the record is clear on that. I certainly do not think this Board need to take that action that it's taken that it will force an appeal to keep this case going on and on. I think the judge got it right when we look at the facts. Was Mr. Malone intimidating. Out of his own admission the commissioner did not know (unclear) we eliminate that piece of allegation. He didn't go on the inside, that is number one. They were on the outside. So there was

no interference with his duty. Then the second thing he admitted he was not intimidated. There is intimidation there. There is interference there and the individual on the inside decided they wanted to come out. They had not been requested to come out. They came out on their own volition. So even if you were to assume that their job was interfered with or materially interfered with, they were not called to come out to handle any type situation. We think the judge got this absolutely right. The judge is the finder certain of the fact, the judge heard the case. We have a transcript there. We certainly do not think taxpayer dollars need to be utilized in appealing this case. We certainly, we think this case was well tried in all respects to opposing counsel -- one thing I learned about in trying cases I never assume anything. I have absolutely no feeling as to whether or not I have won the case or the other side. After 33 years of practicing, law you just don't know. That is the situation. But I certainly would hope that this board be not takes action that is inconsistent with what the judge has done. It forces us to appeal to deal with the interpretation. I understand the interpretation situation. But even if we take the interpretation, the interpretation has to be supported by some material fact. What do the facts say? The facts said he admitted he was not intimidated. So if you take the interpretation and put it with the fact, does the fact support the foundation of the law?

**SECRETARY KEMP:** Thank you, Mr. Clark. Any questions for Mr. Clark? Any or discussion by the Board?

**MR. BRUMBAUGH:** If I could make a couple more comments. I just read the testimony two days ago. I believe the testimony says, I believe the testimony says Mr. Malone testified he was intimidated but that it did not interfere with his duties. What I have to prove is whether the duties were interrupted, interfered or stopped. So, additionally, as to voters, there was questions about well were voters able to come in? Were voters stopped from voting? There is no affirmative evidence that voters were prevented from coming in. No voters came in while they were having this argument in the front door. There was no testimony of people trying to come in and not being able to. There was testimony that and the testimony was that there was no information that voters were prevented from voting. That was page 126 of the transcript. Just to clarify and give you as many facts as possible when you make your decision.

**MR. EVANS:** All I am suggesting and the reasoning and concurring opinion that I am giving with Mr. McIver is that the interpretation that the court rejected, the statute interpretation the court rejected is the one that I think should have been applied. Which is the use or threatening of violence itself against a poll worker is violation. It need not interfere so that any interpretation of the statute is sustained even by the facts of the administrative law judge. Because the record clearly supports, I think that there was intimidation. There seems to be a question in the administrative law judge's mind as to whether or not that interfered with the poll worker. And they in order to rationalize that ended up adopting a statute

interpretation that puts a conjunctive and in the statute which has to be both. It has to be intimidation and it has to interfere. And my position is that if you intimidate, if you threaten physical violence against a poll worker that is wrong. Our statutes don't permit it, and you are entitled exact a civil penalty of thousand dollars from you. So when a reviewing court looks at this, they can see rationale independent of our rejection of the findings of fact that were made by ALJ.

**SECRETARY KEMP:** I think we have had plenty of discussion on this. I think everybody understands the testimony we have heard. We have got a motion and a second. If there is no further discussion by the board, I will call a vote. All in favor of the motion signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

**MR. WEBB:** Aye.

**SECRETARY KEMP:** Motion carries, 3 to 1.

We need to take a quick break to let our court reporter have a little quick break. We will do that right now.

(Whereupon, a break was taken)

**SECRETARY KEMP:** We are going to take Chattooga County off the table. We will take it off and take it up.

**MR. MCIVER:** Move that we take up the Chattooga County case and reverse our earlier motion to take --

**MR. WEBB:** Second.

**SECRETARY KEMP:** We got a motion to second to bring Chattooga County case back up. All in favor say Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP:** Motion carries. Ann.

**MS. BRUMBAUGH:** We are here in the same posture as the Greene County case in that we got an initial decision which found no violation, and, in fact, dismissed the case against Mr. Palmour. So the question before this Board is do we accept, again,

the initial decision which would close the case not only as to Mr. Palmour but as to the entire Chattooga County election fraud case? Do we issue a findings of fact and conclusions of law contrary to the judge's decision which may then end up, well, we can expect it will end being appealed by Mr. Palmour and his attorney. As I briefly summarized we have three different documents here. We have my motion which is based on one theory which is Mr. Palmour was party to crime of unlawful possession and delivery of documents. We have a response motion by Mr. Palmour which is premised upon several attacks on the constitutionality 21-2-574. We have an initial decision from Judge Oakley which petty much ignores both motions and simply says because Mr. Palmour did not possess the documents that we have not proved our case and dismisses the case.

**SECRETARY KEMP:** From what Ms. Brumbaugh said earlier, we can accept the decision, we can reject it and write a final order or we can send it back.

**MS. BRUMBAUGH:** Although I don't recommend sending it back because the case was done on a motion for summary determination based on the criminal trial transcript and consent order, there is not going to be any other facts to bring out.

**MR. EVANS:** The critical fact that we have to put in our record is the evidence of possession of the ballots. What is our answer to that?

**MS. BRUMBAUGH:** Our answer is he was a party to the crime of possessing the ballots.

**MR. EVANS:** He was a conspirator and as a result possession is imputed to him?

**MS. BRUMBAUGH:** It goes a little bit beyond simple conspiracy. But he was aiding, abetting, advising, counseling.

**MR. EVANS:** So that the possession by others is imputed to him?

**MS. BRUMBAUGH:** Yes.

**MR. EVANS:** Just want to make sure I understand the (unclear) issue.

**MR. WEBB:** Ms. Brumbaugh, can you tell me how it's imputed to him?

**MS. BRUMBAUGH:** The code sections I went off of is Title 16. That is where the party to a crime statute is found. It is Title 16 Chapter 220, Subsection (b) 3 and 4. Someone party to a crime if they intentionally aid or abet in the commission of a crime. Or they intentionally advise, encourage, hire, counsel or procure another to commit the crime.

**MR. EVANS:** The key point for us if I recall correctly is that he admitted to knowingly providing the postage meter to enable Judge Vines to mail the absentee ballots. I felt pretty comfortable with this one.

**MR. WEBB**: Is there any precedence for using Title 16 under Title 21?

**MS. BRUMBAUGH**: No. (unclear) who has 15 years of criminal trial experience presented it that way. I talked to a criminal prosecutor in my office about it, he concurred. I did my own research, and I found case law which wasn't applicable to this situation but was sort of factually analogous. So I felt comfortable I making certainly a sufficient and responsible argument. Title 16 it just says party to a crime. It says crime. It doesn't say crime and Title 16, it just says crime. And 574 and 385 are both crimes.

**MR. WEBB**: Has Title 16 been applied to other titles?

**MS. BRUMBAUGH**: I don't know the answer to that. I didn't go that far. I don't know (unclear) it's been applied in two other election cases that's ended up in litigation.

**MR. WEBB**: I am not referring to just election cases, I am referring to any cases, any other statute outside of Title 16. Has the party to the crime statute been applied?

**MS. BRUMBAUGH**: I can't answer that right now. I didn't find anything. I think if I found something I would have -- I researched party to a crime pretty extensively. I also didn't find anything that said you couldn't do it. It just hasn't really come up.

**SECRETARY KEMP**: Any other discussions? Anyone else wishing to speak on this case? Hearing none I'm ready for a motion.

**MR. EVANS**: I move we reject the ALJ decision.

(UNCLEAR): I'll Second.

**SECRETARY KEMP**: Got a motion to reject and a second. Any other discussion?

**MR. EVANS**: My discussion is I do not believe that the ALJ's decision is supported by the record or by the statutory law or the cases that have been cited.

**SECRETARY KEMP**: Any other discussion? Hearing none, we have a motion and second. All in favor signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP**: Motion carries. We have another motion on our orders?

**MR. EVANS**: I would move that we enter an order based on the record including the transcript from the criminal trial of a cease and desist, a reprimand and \$18,000.

**MR. WEBB:** Second.

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

**MR. WEBB:** Ms. Brumbaugh, maybe Mr. Evans is this because of the -- you find he was in possession, he was aiding and abetting, party to a crime and unlawful possession?

**MR. EVANS:** I believe that the criminal trial transcript and of all the documents support a finding of 18 different violations. We could have entered a maximum of 5,000 per violation. However, given the record, I am recommending 1,000 per ballot.

**SECRETARY KEMP:** Any other discussion?

(NO RESPONSE):

**SECRETARY KEMP:** 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:** The motion carries. On to the Further Direction Needed category. 2008-000064, Chatham County. Give us a quick run down, Ms. Brumbaugh.

**MS. BRUMBAUGH:** This is a case in which some nomination petitions were circulated and they contained forgeries. This case was extensively investigated. It is undisputed that forgeries occurred. The problem is the relative code sections require specific intent knowingly, willfully. And because the petition circulators were not required to check ID, when someone signed the petition, they had to take their word for it. If I signed as Ann Hicks instead of Ann Brumbaugh they didn't check my ID. They just took my word for it. There is not enough evidence to go after the petition circulators for permitting forgeries to occur. And within the course of the investigation which was done by the Secretary of State's AG Office, no one would talk. No one would say, yes, I did know that when Ann Brumbaugh signed she signed as Ann Hicks. We don't know who the people are who actually committed the forgeries either. This case came before the State Election Board in December of '09. At that time Shaw (unclear) raised this issue. The board voted to send it to my office and also to send it to the DA of Chatham County. The DA of Chatham County had a conflict. He sent it to the prosecuting attorney's counsel, Rick Malone, and we can get Mr. Malone on the phone if anyone wants to talk to him. Mr. Malone looked at the case and found the same problem that Inspector (unclear) had identified which is, we don't know who to charge. He had written a letter back on January 14th, saying that he would not be prosecuting this case based on the identity issues.

We still have more technical violations. Apparently, when the notary notarized these petitions they had already been signed. So we can go out after the circulators and the notary for not following procedures and not signing the affidavits in front of the notary. I have spoken to Mr. Malone myself about this case. Like I said he wanted to be here. He couldn't be here. We can call him if we need to. He is more than willing to re-open this case at some point if we get some evidence of identity. If somebody decides to talk then he's more than willing to look. Additionally the Secretary of State's Office did a very thorough investigation with the powers they had. The GBI is not willing to do any investigation on this case. That is in Mr. Malone's letter. The DA of Chatham County is not willing to do any investigation and is not willing to use his, I guess, grand jury powers. So I wanted to bring this to your attention so you knew what was going in the case. And, again, administratively I can still go forward on the issues of the notary and the affidavits. Again, if someone ever decides to talk. If we get the evidence we need, I can certainly go forward at that point. But it is very difficult to go forward on the main issue regarding who did the forgeries or who is responsible for allowing the forgeries to happen with the evidence we have before us now.

**SECRETARY KEMP:** I know we have a couple of commissioners with us. I apologize for the length of this meeting. I appreciate y'all sticking it out with us. If you would like to say anything, we would love to hear from you.

**MR. GALILEE:** David M. Galilee, Commissioner, Sixth District, Chatham County. My address is 718 Windsor Road, Savannah, Georgia 31419. Commissioner Stone and I don't have the experience that you do attending these meetings. When we first came to the meeting, we thought we are were supposed to sign the blue cards and we did. We clearly put the case number on the blue card and initially we felt like we were getting the bum's rush with two minutes. But that's certainly not the case and we appreciate that. This case is something that is very troubling to me. If you remember in my introduction, I pointed out being a county commissioner for ten years and been a police officer for 40 years, 30 years in the rank of chief of police. Retired after 20 years as chief of police for the City of Savannah. I would consider myself pretty close to being an expert when it comes to criminal investigation. I have written articles on it. I have written policies and procedures on it. I know what you can do and what you cannot do. I personally think that what has occurred here in Georgia is that this thing has been passed around to too many desks. To begin with, when it was determined that there was a problem with these signatures, it went to the local board of elections. They determined it was a problem. It went to the Secretary of State's Office. This is the third time since August of 2008 that Commissioner Stone and I have been here. During this procession it was pointed out it went to our district attorney. Our district attorney's conflict of interest, specifically, was the same guy that carried the petitions and that was responsible for the forgeries also worked on our district attorney's campaign. And it's important to point out that the person that signed these did it for \$3 a pop. That is what he did for his living. He helped people on their campaigns. He put signs up and things of this nature. That is exactly what he did. The petition with affidavits on them, notarized affidavits, supposedly to meet your specifications were signed and issued. I think it

was 110, 119, petitions all of them notarized. All of them -- I don't want to use an improper term -- but John McMasters was apparently the team leader for it. He passed out the petitions, and he picked them up and took them to the board of elections and got a receipt for them in his name. Ms. Morris signed the affidavit. On his particular one -- where the bulk of the forgeries were -- it was notarized. Commissioner Stone and I spent a Sunday afternoon, and we went to 28 different peoples's homes to ask them if they had signed these petitions. We had copies of the petitions. We still have every single one, and 100 percent, said, no, we did not sign that. This included a major in the Chatham County Sheriff's office. Included prominent attorneys, prominent citizens in the community. They were outraged then and still outraged and want to know exactly what is going to occur. I have a problem, a serious problem when I hear that this case is too difficult to pursue. That is terrible. If every criminal investigator in Georgia had that attitude, we would solve our prison and jail overcrowding problem because there wouldn't be anyone in there. It's a relatively simple procedure. You have enough evidence right now. All you need is some good, solid criminal investigators. We were hoping when it was passed to our district attorney as you know Chatham County has a rather large staff and anywhere from 6 to 12 trained criminal investigators. And I talked to some of them and I talked to some of the prosecutors in Chatham County. They seem to think it's a slam dunk. They told me -- in their opinion, and I agree with them -- that a detective with one year experience and an assistant attorney with one experience can get a conviction on this. What is wrong? I am really, really disturbed about it. It's almost a laissez faire type of attitude on this. Mr. Secretary, I respect the fact that you ran on being tough on voter fraud. I want to see some of that toughness. This is a case that can be investigated, and can be solved and can be prosecuted. When you ask somebody a question on a criminal case and they say I don't want to talk to you. What do you say, oh my, and walk away? Apparently that is what you did. Something more needs to be done. I beg you to take another good, close look at this. And if you are not going to do anything, let it die so we can have access to your files under the Open Records Act because there is certainly another legal remedy beside what you are doing. Thank you.

**SECRETARY KEMP:** Thank you, Commissioner. Any questions? Ms. Stone or anybody else? Commissioner Stone?

**MS. STONE:** My Helen (unclear) Stone, and I live at 9974 Whitefield Avenue and that's spelled with an E. Savanna, Georgia 31406. I, too, find this very, very troubling. I will take my time and explain you why. I got constituents to answer to, and their names have been forged. I find it very, very troubling that this is the format that a person uses to get on a ballot. But this is the same format that you all are saying is not going to hold up in the case of law. Because you can't pen anybody down. This is a signed affidavit. I would like to ask Mr. Morris since he's got Major Wilcher's signature on here, where did he get it? He doesn't want to talk to y'all. I have constituents that that's not going to fly with. I am embarrassed that that's what the State of Georgia is telling me. It's wrong. It's plain wrong. I will give my summary of what I really think may have happened here. This is my opinion only. So I do not want this to be misconstrued as a fact. In 2004, our elections board had

not updated our maps with our voter registration list. When I found out enough signatures were obtained for this gentleman to get on the ballot, I requested a copy. Just to see where he got his signatures so I could maybe go and campaign in that area. I then found out that he got signatures outside of my district. Okay, he didn't have enough signatures. Now my guess would be this. If somebody who had no intention of walking door to door, picked up a voter registration list and sat around a table. I think that's what happened. Because if they had gone door to door they would have known they were not in the right district because they were getting paid for those signatures. I have to go back to Savanna tonight, and I have to give some folks some answers. The answer that I am going to give them, from Ms. Brumbaugh, is that we don't think this will hold up. We can't hold them down to this. Well, I would like for Ms. Ross who is not even listed on here -- and she carried a lot of these forgeries -- where did she get this signatures? Where did they get the one from the dead person that has been dead for over ten years? I can't get a signature from a dead person. I guess in the summary findings that was sent to me, supplemental report to this investigation, it says, on August 10th Investigator McNeil contacted David Osborne who was the candidate that wanted to get on the ballot. In this election an effort to obtain further information regarding this case, Osborne stated that either Jerry Steinbart or Jerry McMasters provided Osborne with contact information for several individuals who were able to assist Mr. Osborne with the campaign. He contacted them, all of them, and decided to hire Edwin Morris. This the gentleman that our DA has a conflict with. Osborn could not remember the names of the other individuals he contacted to possibly hire for campaign assistance. Osborne met with Morris and agreed to pay Morris \$3 per signature on the petition. Osborne provided Morris a district map and Morris indicated he would go door to door and obtain voter signatures. If he had the map, if he had the voter registration list and it was consistent with the map, they would not have gone outside the district. Other individuals Osborne utilized to circulate the petitions were Lanette Dalsantro, Leonard Childs, John McMasters, Jeffrey Raino, who is present here today, Jeremy Steinbart and Sandra (unclear) Steinbart was the only circulator from the list that was paid. All the others volunteered. This is what came from the state. All of these people worked together to get this gentleman on the ballot. This gentleman here I unseated in 2004, so rightly so he wanted to see somebody run against me. But the way they went about it was wrong. There is no doubt that these names on these petitions were not signed by the individuals that they say they are. I think that this state has an obligation to answer my constituent's cries for fairness and for their names not to be violated through forgery. I would be happy to answer any questions.

**SECRETARY KEMP:** Thank you, Commissioner Stone. Any questions? State your name and address for the record.

**MR. RAINO:** Jeff Raino. I live at 3 Stonegate Court, Pooler, Georgia 31322. Mr. Secretary and gentlemen of the Board, thank you. It has been a long day. I am tired as you are. I hope you bear with me in that I can state my case. I ran for election in 1996 in Chatham County, District 1. I walked the streets, I walked the parks. I walked all the houses about three times. I lost by 1500 votes. In 2000, I walked the same streets again in district 1 and knocked on doors four times, and won

by 150 votes. I served honorably for four years as county commissioner, and then I ran again in 2004 against Ms. Stone. I lost by 97 votes. It was a honest, fair campaign. All my campaigns are fair campaigns. I walked door to door. I worked very hard. I've even worked on other people's campaigns. Commissioner (unclear) walked door to door. He knows I walk door to door talking to people to have them see my way, through persuasion, talking to them. I wanted to help Mr. Osborn because he is a business associate. He is in the same plaza I am (unclear) just around the corner is his store. I have known Providence Christian school for which (unclear) is a headmaster for years. I had no reason to distrust this man. I wanted to help him. When I lived in (unclear) he was practically a neighbor. So it was logical for me to want to help him. Quite honestly, I have known the Stones since days in the (unclear) in the 80s. To be honest with you, I don't like her. I hurts myself as a Christian to say I can't forgive the woman. (unclear) oil and vinegar. I do my best to keep away from her. I don't talk to her. It's nothing against her. One time when my son was attacked by dogs and nearly killed, she sent me a very touching note which I thanked her for. Stating her concern about my son and how sorry she was that it happened. To this day I will always remember that. Still I don't like her. I just really don't like her. I don't make any attempts to hide that. Probably in the next election cycle, I will try to find somebody to run against her again. But when this thing happened, I left my business to help Mr. Osborn for a couple days, and I can't leave my store that often because it's hard. Economy is bad. I go to bed, I get back up at 4:00 in the morning. I stay until 6:00 at night. I get back up. When I leave here, I am driving home, I will be in bed by 10:00, 10:30. I will be up at 4:00 starting all over again. (unclear) all these other things happened. I am just as outraged by them. This Edward Morris sounds like somebody you should make an example of.

**MR. EVANS:** If you were us and you got a great (unclear). You know a lot of people. You clearly work the streets. You know a lot of folks. How do we find the name of the people who got workers? If you were in our role who would you start asking?

**MR. RAINO:** My only concern for me I was accuse of forgeries. That is why I am responding. I asked at the last board meeting. because it's my constitutional right to know if I am accused of something under the Georgia Constitution whose name did I forge? Mr. Worley was very concerned. He pulled my name out of a list of respondents, and he voted to move the other people to the Attorney General for further inquiry. I thought that we would have an opportunity to see. Give me a name you think I forged. But nobody came forward with a name.

**MR. EVANS:** Where would we look? You are clearly very good at not answering. I got a real simple question.

**MR. RAINO:** It seems to me you would bring in Edward Morris here by subpoena, and you ask him what is going on.

**MR. EVANS:** Are you aware of any names that were on there that are forged?

**MR. RAINO**: Only from what I found from discovery (unclear) from what they said at the meetings I have been to. (unclear) I was at a meeting with the board of elections at Chatham County when they brought forward the law enforcement officials whose name was forged. I think that's egregious.

**MR. EVANS**: Do you know which circulator got those forged names?

**MR. RAINO**: No. Personally I don't know. I keep hearing the name Edward Morris. As I said before, I would not know Edward Morris if he walked into the door.

**MR. EVANS**: So other than Edward Morris, is there anybody else that you can think of that you would bring in here to ask questions?

**MR. RAINO**: No.

**MR. EVANS**: Because you are on the record here you understand that your words are being taken down?

**MR. RAINO**: Yes.

**MR. EVANS**: Did you personally obtain any forged signatures on any of the petitions?

**MR. RAINO**: As I said at the last meeting and as God as my witness on judgment day I will be accountable for many things but for what is said here, I am not accountable for any of those things.

**MR. EVANS**: I am asking you a very narrow question. Did you --

**MR. RAINO**: No, sir, I did not

**MR. EVANS**: Do you know of anyone who obtained a forged signature?

**MR. RAINO**: No, sir, I do not.

**MR. EVANS**: You have no knowledge?

**MR. RAINO**: No, sir, I do not.

**MR. EVANS**: So you understand that if later somebody comes in and says he was in the meeting with us. He was at the table. What the implications of that are for you? Because you will now have made a false statement to a Board in session. So I want to give you one more chance on this. You can always assert your Fifth Amendment Right and say I don't want to say. But I want to be very unequivocal here.

**MR. RAINO**: Sir, I know no one who gave false signatures.

**MR. EVANS:** Do you know anyone who would know of anyone who obtained false signatures?

**MR. RAINO:** No, I can't state with any certainty, Sir.

**MR. EVANS:** Without certainty?

**MR. RAINO:** No, I don't want to go there. I don't know.

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

**MR. RAINO:** No. I appreciate your time in this matter.

**SECRETARY KEMP:** Any other questions for any of these folks? Ms. Stone, can you enlighten us to someone we should talk to that we haven't?

MS. STONE: Mr. Secretary of State, there is a lady, Kim Ross, who was never enlisted to begin with. She carried a fair amount of these forgeries. I have got her contact number on (unclear) which I am sure you all have a record of all these petitions. I think I would be remiss if I did not add and just feel compelled to that if Mr. Raino felt so strongly, then why did he refuse to talk to the investigators? None of these people wanted to talk to anybody.

**MR. EVANS:** What we need to, both of you have come to us and said, do your job. And what we keep saying is great. We need information. You have got names and as a former detective, if you could find out -- there have been multiple times when this Board named people as respondents for no other reason than to get them to that podium and subject them to the questions that I just asked. We have on occasion offered immunity which is to say okay if you cooperate, we will give you immunity. Those are the options. But we can't do that if we don't have names. If you got names, you got to get them in here. That is the best thing I could tell you.

MS. STONE: (unclear) we wanted to do this as soon as we recognized the forgeries. I am real sorry that we didn't look for more. But the only names on the forged signatures out of the 28 that we got were Edward Morris and Kim Ross that I can prove solidly that by going door to door that those were the circulators of the petition. It is my understanding that the investigator found some additional forgeries, but I don't know which they were because I have not been privy to those records. So, therefore, I can't tell you who was the circulators. If I had those names I would dig through the 119 pages again and tell you who carried the pages. At this juncture out of the 28, the two circulators and one of the deceased people was on Kim Ross's or Edward Morris's. I have got it all written down. I would be happy to provide you with any information. I would be happy to talk to any investigator. I would be happy to look my constituents in the eye and say I have done everything I can do. Thank you.

**SECRETARY KEMP:** That is what we want to do

as well. Quickly, Commissioner.

MR. GALILEE: David M. Galilee. County Commissioner, Sixth District, Savanna, Georgia. A suggestion. If you had subpoena power --

SECRETARY KEMP: Which we don't.

MR. GALILEE: That is a real problem.

SECRETARY KEMP: This is a very frustrating job sometimes when we have DAs that won't take up the criminal part of this. I know you're frustrated with us about doing something but we are frustrated sometimes that we have to follow the laws and rules that we have to act within. I hope you understand that.

MR. GALILEE: I do understand that, Sir. I think it's going to be awful tough for you for the next four years to be tough on voter fraud without subpoena power. I really do. You say who should you talk to. If you had subpoena power you could bring Edward Morris in, and your investigators could talk to him and work a deal and find out if there was conspiracy and who the leader was and get the big guy. That is what you do in criminal investigations. But if you can't do that, you can't do that. What I am asking if there is nothing you can do, please don't wait for the statute of limitations to run out on this. If you can, declare this case dead so that we get under the Freedom of Information Act all your files. Because there is another legal remedy besides your office.

MR. EVANS: We can move to open the files now.

MR. GALILEE: That would be excellent.

MR. EVANS: My question is is there a reason why we would not make the files open?

MS. BRUMBAUGH: As a matter of policy, the Open Records Act excludes pending investigations.

MR. EVANS: I agree. So we have to affirmatively vote to do it?

MS. BRUMBAUGH: I don't know if there is any reason not to.

SECRETARY KEMP: Did you have anything else you wanted to add, Commissioner?

MR. GALILEE: That's it. I just didn't want this thing to die on the vine, and the statute of limitations disappear because there is one more excellent remedy. But we have got to have your files.

SECRETARY KEMP: Mr. Harvey or Mr. Brooks help me clarify our problem. If we know these petitions are out there and we know there is a dead person listed on

there or two and we have witnesses that the commissioners are counting for that did not sign the petition, what is our problem with figuring out who it was that did this?

**MR. HARVEY:** The problem Ms. Brumbaugh has pointed out is the person who circulated the petition, in some cases, won't talk to us. Refuse to give a statement. In other cases they said, I just got people's name of somebody and handed it to somebody, they signed their name. I didn't verify it. So it could have been a real name, it could have been a false name. Those are the two big problems. The case with the deceased person, I doubt the circulator would dispute that somebody signed it that was not the person listed. I think in every case that the circulator would talk to us they refused doing it themselves. And they refused having any knowledge that it was a forgery or they were in any way a part of it. With us having the burden of having to prove they did something, that is where the problem comes in.

**MR. EVANS:** We can name them as respondents.

**SECRETARY KEMP:** What happens if we go to a OSA hearing? Do they have to show up and testify under oath?

**MR. HARVEY:** We named everybody that circulated a petition with a forgery on it is named as a respondent.

**MS. BRUMBAUGH:** Kim Ross was interviewed by Ryan O'Neal.

**MR. EVANS:** Were they named as respondents?

**MS. BRUMBAUGH:** Yes.

**MR. EVANS:** Did we notice it for hearing?

**MS. BRUMBAUGH:** It came to this board on December 16th for probable cause and the board voted to refer it to the District Attorney's office and also to refer it to my office.

**MR. EVANS:** Don't you have subpoena power to compel witnesses?

**MS. BRUMBAUGH:** I have subpoena power going to OSA. I don't have anybody to name as -- I can't name them because the statute requires, again, knowing and willful violations.

**MR. EVANS:** So you're trial counsel. You can subpoena witness for a trial, right?

**MS. BRUMBAUGH:** Yes.

**MR. EVANS:** So you schedule the trial and lay a subpoena on them. And then you just cross examine them.

**MS. BRUMBAUGH:** Mr. Evans, quite frankly the DA could do the same thing.

But there are certain ethical duties we have. We can't simple haul someone into court knowing we have no evidence.

**MR. EVANS:** As a witness.

**MS. BRUMBAUGH:** But we don't have any -- that would more of a grand jury. I can't -- OSA is for contested case. That's the phrase, contested cases. So there always has to be a respondent.

**MR. EVANS:** There is a respondent. You have several.

**MS. BRUMBAUGH:** But we don't have the evidence.

**MR. EVANS:** All you have to do is schedule for trial.

**MS. BRUMBAUGH:** If we know we don't have evidence walking in, we can't go in as a fishing expedition at OSA.

**MR. EVANS:** I agree. No offense, but having lived through this back when Secretary Cox was the secretary, we went through this. And bottom line is you would be shocked at how many cases you will win, if you just make all the witnesses show up and have to testify under oath.

**MS. BRUMBAUGH:** I don't have anyone to name against them.

**MR. EVANS:** I'm suggesting that every respondent is a witness against every respondent. And you simple haul them in one by one. You pop a subpoena on them. If they want to show up, Ms. Evans have it here and deny any knowledge, that is fine. But you will be surprised because you have basically a complaint. That is what we proved. I will say you are now protected from abusive litigation under 9-1514. You are protected from Title 51 because we made a decision that there was probable cause to go forward. So you have a complaint that's filed. You go to the judge and say I want a trial date. You don't have to worry about anything else other than where the evidence takes you. And you lay a subpoena on these respondents. Then you go about cross-examining them. I don't think they will show up. I think you will have to move for contempt against them. But that will be a different topic. That will be a test of your subpoena power.

**MS. BRUMBAUGH:** When I did the Chattooga County, case I spent two weeks researching party to a crime to make sure I was on good legal footing. In the 12 years that I have been a prosecutor and an assistant attorney general, I have never walked into court unless I have felt that I have evidence to get past directed verdict. I consider that my ethical duty. If the Board wants to vote against my practice and training and quite frankly the practice and training of everyone I know at the Attorney General's office, the Board can do this. We will then take it up in my office. But I don't consider OSA a fishing expedition. We don't have evidence against anyone. I am happy to open this case again when we have evidence. But we don't want to get into a situation where we say, we don't have the facts but we will

send it to OSA anyway. That's not --

**SECRETARY KEMP:** Let me ask you this. How do we get the facts? How between your office and our investigators, what else can we do that we haven't done? Is there anything we can do to get facts where we could move forward?

**MS. BRUMBAUGH:** Well, you could prevail upon the GBI, perhaps. Perhaps coming from the Board as opposed to Rick Malone they would listen. There is -- outside of that --

**SECRETARY KEMP:** That is our options from a criminal standpoint. We have to get the DA to do something or the GBI?

**MS. BRUMBAUGH:** Right.

**MR. EVANS:** I will tell you and maybe it is just I am obviously more bold then the average (unclear) although I think Mr. McIver would rival me in terms of boldness. There has been more than one time I showed up in front of a jury having no clue in the world as to whether I was going to win or whether or not I even thought I had a case. I have been pleasantly surprised over the course of my three decades of trying jury cases and appearing in front of courts at how often people having to testify under oath will change the entire world. I hear you. And if you're saying to me Attorney General Sam Olens refuses to let you show up and drop subpoenas on witnesses to make them show up and testify under oath, that is fine. I would like to know that. It is something I would be very interested in knowing if that is his threshold.

**MS. BRUMBAUGH:** I have not had that conversation with him. Should the Board vote along those lines, I will have those conversation with him.

**MR. EVANS:** This is my last meeting, so I don't have to bear the burden of what happens next. I can't imagine walking away from an investigation were there are knowing forgeries for the life of me.

**SECRETARY KEMP:** I don't think anybody -- I know it's not my intention to walk away from this case. We know we have got dead people on the list. The question is how do we move forward in a productive way?

**MR. EVANS:** I would start by opening the file. Unless you tell me --

**MS. BRUMBAUGH:** Opening to them?

**MR. EVANS:** Yes.

**MS. BRUMBAUGH:** That is fine.

**MR. EVANS:** You have no objection?

**MS. BRUMBAUGH:** No, I have no objection.

**MR. EVANS:** I think that is a great start. We will let people on the ground in Savannah take the information we have and see if we can find who these people are.

**SECRETARY KEMP:** I remind the Board our next meeting will be in Savanna, so it will be easy for all those respondents to show up. Mr. McIver?

**MR. MCIVER:** I am in favor of a motion directly to the AG's Office telling them exactly what we want them to do. I recognize the AG has certain powers to accept and reject. But it's incumbent upon us to enforce the election code. As, unfortunately we've heard repeatedly from the two commissioners, we are not getting that done. So I am glad to propose such a motion. I really do think one is in order in this case.

**MR. EVANS:** Let me start. I move that we open all the files subject only to a carve out for attorney-client communications. So if it's a communication from the Attorney General to us or from us to the Attorney General that should be withheld as attorney-client privilege. But all fact investigation materials be made public.

**SECRETARY KEMP:** Okay. Mr. Evans moves. Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second by Mr. McIver. Any further discussion? Hearing none, all in favor of Mr. Evans' Motion, signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP:** Motion carries.

**MR. EVANS:** I would let these folks have until the Savanna meeting to use that information to get us the names of witnesses and respondents so the board in Savannah can try to compel the attendance of whoever you can get to show up.

**SECRETARY KEMP:** Mr. McIver?

**MR. MCIVER:** Do we think it would be wise to do no more than this until the May 24th meeting?

**SECRETARY KEMP:** Ms. Brumbaugh, I would be interested in hearing your opinion on that.

**MS. BRUMBAUGH:** I think giving the people on the ground that know people in Savannah is a really good idea. The stronger the case, if a strong case can be made,

then I would be happy to take that to court. So I think that would be a very wise course of action.

**SECRETARY KEMP**: I am certainly willing to try that for the next meeting. And then if that doesn't get resolved we can always consider your thoughts and motion at our Savanna meeting if we are not making any head way.

**MR. EVANS**: If you wanted to be one level of aggressiveness more, you could put the current case back on the state election board agenda for the meeting in Savanna with a notice to all of the respondents that they have to show up. Then you would have the benefit of whatever witnesses they could have that you could also invite to that meeting. It's really a great coincidence that you'll going to be in Savannah, because you now have the built in advantage of whatever investigations these commissioners can find, combined with, it's on the agenda. So they have to show up. Combined with if they have witnesses that they can give you to say we need you to show up at the hearing.

**MS. BRUMBAUGH**: We notice all the respondents every time any case is on the agenda. So all the respondents were noticed for today. Mr. Raino was the only one that showed up. I believe in December of '09, Mr. Raino was the only one that showed up. But, yes, that is standard procedure.

**MR. EVANS**: I am saying in addition to the respondents, if there are witnesses that they can identify for you, I would send them a notice asking them to be at the Savanna meeting because it will never be more convenient to have people to show up than when it is in there town.

**MS. BRUMBAUGH**: We can certainly let them know, yes.

**SECRETARY KEMP**: Is there any kind of action that we need to take tonight to have that case back on our agenda?

**MS. BRUMBAUGH**: No. We can just put it on, and it will take care of itself.

**MR. MCIVER**: I would like for the record to reflect that absence something extraordinarily impactful by the May meeting, I am going to imposed a motion -- if passed by the SAB -- that the Attorney General advance this thing to an OSA hearing and subpoena all the appropriate parties, and let's just see where the cards fall. So I would like for Attorney General Olens to know that's coming.

**SECRETARY KEMP**: I think that gives Ms. Brumbaugh the opportunity to go ahead and discuss that situation with him. Anything further in this case? If not we will move on to the public hearing. We did have one more thing on further discussion on the update of public cases and completed cases. I don't want us to go into a list of those. But the Board has them if there is any comments.

**MR. MCIVER**: I have a comment. Ms. Brumbaugh it really goes to your office. There are lot of old cases sitting here. I am very troubled by that. Are you in a

position -- I know we are running late -- but perhaps even after this meeting to send us a report on the status is not very satisfactory. Why do we have cases from five, six and seven that are just not coming to us?

**MS. BRUMBAUGH:** Well, I appreciate your concern Mr. McIver. We are working on that in our office. And certainly I will communicate that you made this very specific comment to the people who are the two chiefs. I am simply an Indian. But I take it seriously, too. I will do as much as I can to have better updates of older cases at the May meeting and answers to your questions.

**SECRETARY KEMP:** Mr. McIver, I will let you know that I have also, from my position as Secretary of State, inquired about those cases which I will state for the record, I don't believe any of those are Ms. Brumbaugh's cases. They are from other attorneys previously working with the Board. But I had expressed the same concern, and I certainly will pass along any information I get as well as what Ann can get for us.

**MR. MCIVER:** Please. It is not a big deal, but I am on the transition committee as you know for Attorney General Olens. But as a board member I would not have any hesitation asking him to come here and report on these cases. That may not be necessary at that level, but you are an Indian and there are some chiefs there. But there are some very old cases here and these status reports just are not satisfying me that these case have any momentum.

**MS. BRUMBAUGH:** Mr. McIver, as a board member you should do what you think is important. If you need to contact Mr. Olens, about this, by all means. If you like me to contact Mr. Olens on your behalf, I am willing to do so. I am not trying to be an impediment, and I am not trying to minimize what you're saying. So I am happy to help you with this situation in whatever way you need me to help you.

**MR. MCIVER:** Thank you. I don't need your help. I will go to the Attorney General on my own and with your permission, Mr. Chair, I don't want to tread upon your territory, here --

**SECRETARY KEMP:** I already made my inquiry.

**MR. MCIVER:** I have that kind of relationship.

**SECRETARY KEMP:** Let us know what you find out. **MR. MCIVER:** Let the record reflect I will make the report on May 24th about the status of these cases.

**SECRETARY KEMP:** We are going to move into the public hearing on the rules posted for adoption. Do we need a motion to go into that?

**UNCLEAR:** So moved.

**SECRETARY KEMP:** We have a motion and a second. All in favor of moving

into the public hearing, signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP**: Motion carries. We are now going to have a public hearing on the rules posted for adoption. Ms. Hicks do you want to give us a brief rundown on this, and what we did at the last meeting? I think everybody is aware of this.

**MR. EVANS**: Yes, I think it's safe to say we have read the rules and that we are familiar with their content. And what we need to know is what are the public comments?

MS. HICKS: There were no public comments.

**MR. EVANS**: Excellent. Then I move we adopt Rule 183-112.02, 183-12.06, 183-14-.01, and 183-14.04, 183-1-14-.11.

MR. WEBB: Any chance I can ask you to hold the last one?

**MR. EVANS**: You want to hold which one?

**MR. WEBB**: The very last one.

**MR. EVANS**: I didn't do 183, the mailing and issuance ballots. Is that the one you are worried about?

**MR. WEBB**: Yes.

**MR. EVANS**: I did not include that one.

**MR. WEBB**: Okay. Then I am fine.

UNCLEAR: I second.

**SECRETARY KEMP**: Any other discussion on that? Anybody in the audience wish to speak on these rules on this particular Motion? Okay, hearing none, we got a motion and a second to approve the first four rules. All in favor signify by saying Aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

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

(NO RESPONSE):

**SECRETARY KEMP:** That motion carries. Now we're talking about Rule 183-1-14.11. Mr. Webb.

**MR. WEBB:** Thank you. I apologize for not catching this earlier, but in reading and preparing for this meeting, I notice the time interval for giving out the absentee ballot applications were 72 hours with no qualifiers for making a business day or business hours or anything of that nature. Meaning that if an eligible applicant turned in a ballot application on a Thursday, the 72 hours would be up before the weekend is over. I don't think that was the intent. I think the 72 hours, I think what you would be really looking for is within three business days or something to that effect.

**SECRETARY KEMP:** Where specifically are you taking about?

**MR. WEBB:** The very last line.

**MR. EVANS:** The reason I didn't include it was I know that there is a move afoot in the legislature to change early voting. Would it be appropriate for us to hold this until we get the new law in the event there is a new law. Or do you think this rule should go forward? It really won't be effective?

**MS. HICKS:** No, sir, it won't be effective. I think it will be most appropriate to wait until we see the outcome of it.

**MR. EVANS:** Because another option would be if Mr. Webb move to amend to make this three business days. We would then re-notice it. By the time the re-notice was done, the rule would come up -- in other words they both dovetail. So I am almost wondering if it's a fortuitous motion to amend and then re-publish. Because then we would be (unclear). You do the rule, we get the three business, and we'd also know whatever is going to pass the legislature because we know that will happen by the middle of April.

**MS. HICKS:** Correct.

**MR. WEBB:** Motion to amend the rule to provide for three business days in lieu of 72 hours and that we re-notice.

**MR. EVANS:** Second.

**SECRETARY KEMP:** Got a motion and a second. I assume just from my novice ness here, the motion includes us re-posting and allowing for public comment again and the whole process? Anyone here in the audience wishing to speak to this exciting rule change? Hearing none, we got a motion and a second to approve Mr. Webb's motion. Any other discussion? Hearing none. All in favor signify by saying aye.

(WHEREUPON, THERE WAS A CHORUS OF AYES):

**SECRETARY KEMP:** Aye. All opposed, same sign. (NO RESPONSE):

**SECRETARY KEMP:** The Motion carries. We have finally reached the end.

(HEARING ADJOURNED AT 7:59 p.m.)

