

THE OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA

IN THE MATTER OF:  
STATE ELECTION BOARD MEETING

GEORGIA STATE CAPITOL BUILDING  
ROOM 341  
ATLANTA, GEORGIA 30334

TUESDAY, NOVEMBER 27, 2012  
10:00 A.M.

PRESIDING OFFICER: BRIAN P. KEMP  
SECRETARY OF STATE  
STATE OF GEORGIA

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APPEARANCES:

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

Tex McIVER, Member, State Election Board

David J. Worley, Member, State Election Board

L. Kent Webb, Member, State Election Board

Ralph F. Simpson, Member, State Election Board

ALSO PRESENT:

Chris Harvey, Esquire

Lee Brooks, Esquire

Russ Willard, Esquire

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TRANSCRIPT LEGEND

- |            |    |   |
|------------|----|---|
| [sic]      | -- | Exactly as spoken.  |
| (phonetic) | -- | Exact spelling unknown.   |
| --         | -- | (Dash) Interruption in speech.  |
| . . .      | -- | (Ellipsis) Indicates halting speech, unfinished sentence, or omission of word(s). |
| Uh-huh     | -- | Affirmative response.   |
| Uh-uh      | -- | Negative response.  |

Quoted material is typed as spoken.

10:00AM

## PROCEEDINGS

**SECRETARY KEMP**: Good morning, everyone. We're going to get started in just a second. If anybody wants to address us during our public comment period, I'm going to give everybody just a couple of minutes to address the Board on any matters that they would like to talk about. This is not a time to talk about your specific case. If you're on the agenda, either the consent agenda, the investigative report, or the Attorney General's report, we'll give those of you that are here for a specific case, we'll give you ample time during the hearing to address us on that matter. But if there's other issues that any Georgian wants to address the State Election Board about, we'll give you a couple of minutes to do that at the start of our meeting. We've got two people who have signed up. If you'd like to address us about something, if you could, just grab one of these sheets. Jenna is right here in the front. She can give you a sheet if you want to address us and we're glad to do that.

Let me call our State Election Board meeting to order on Tuesday, November 27, at ten a.m. Our first order of business will be the invocation and the Pledge of Allegiance, and Mr. Worley is going to lead us today.

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(Invocation)

- - -

(Pledge of Allegiance)

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**SECRETARY KEMP**: Thank you, Mr. Worley. Next we need to approve the minutes from the State Election Board meeting on August 15, 2012. Do we have any corrections or a motion by the Board?

**MR. WEBB**: Mr. Secretary, I make a motion to accept the minutes; to approve the minutes.

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We've got a second. Let me make sure . . .

All right. We have a motion and a second to approve the minutes on the August 15, 2012, meeting. 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**: That motion carries.

We also need to approve the minutes for the special called State Election Board meeting teleconference on September 10. Do we have any corrections or a motion on that set of minutes?

**MR. WEBB**: Mr. Secretary, I make a motion that we approve the minutes.

**SECRETARY KEMP**: Mr. Webb moves that we approve the minutes. Do we have a second?

**MR. McIVER**: Second.

**SECRETARY KEMP**: Mr. McIver 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**: That motion carries and we have approved the minutes.

We will now do our public comment period. Anyone who had signed up to give public comment, we'll give you a couple of minutes to do that. If you don't mind, we'll let you come down to this first chair where, hopefully, that microphone is working, and you can address the State Election Board.

The first person we have is Terry Nelson. Good morning. If you don't mind, if you would, just speak clearly into the microphone right there. You can pick that up and, if you would, before you start, just give us your name and your address for the record.

**MS. NELSON:** My name is Terry Nelson and I live at 57 Maiden Lane, Sparta, Georgia. Now, me and a lot of the other people that live in Sparta were absolutely overjoyed when we found that we were to have a board of election returns because we thought that might be a big step toward removing some of the less-than-honest approaches that have been used in the past. And when he came around election time, we read in the paper that the Mayor was not supposed to hire Norma Rice again as superintendent of elections, and that Virginia Brown wasn't supposed to be supervisor of elections. All of that was going to be the responsibility of the BOER. That wasn't what happened.

What happened was business continued as usual. Norma Rice was hired; Virginia Brown was in charge; and the only thing that I can personally see that the BOER was responsible for was the welfare of the machines -- were they working properly.

Now, I would like to see our BOER take a more active participation role in elections in Sparta by means of them being responsible for the absentee ballots because that seems like where our biggest problem is. It doesn't matter who wins at the poll, it's who wins the absentee ballots. There've been a lot of questions over the years about how the ballots were being obtained. I read everything that their attorney sent me than anything else I could get my hot little hands on that would say whether or not this was a potential solution.

I would like to see the BOER being made physically responsible for the absentee ballots. Absentee ballots (unintelligible), or applications by the wad, and nobody is keeping track of where they're going; who has them; why they have them. I would like to see the board be the ones who go to the infirm, the disabled, the nursing homes, the retired living places. I would like -- because I think we have an honest board. I think they have a lot of integrity and Sparta, Hancock County, isn't so big that it is an impossible task. We aren't really very big at all and I think we would take a major step toward eliminating corruption in Sparta County is the BOER were able to take a more active -- physically active role. Thank you for

listening.

**SECRETARY KEMP**: Thank you very much for being here. The next up is Nancy Stephens. Last call for anybody else who wants to address us on a matter that's not related to our agenda.

**UNIDENTIFIED SPEAKER**: (Unintelligible) filled out a slip, too.

**SECRETARY KEMP**: Do we have Mr. Turner's slip? We'll call on Mr. Turner.

**MS. STEPHENS**: Nancy Stephens, 389 Roy Smith Road, Sparta, Georgia 31087. The Hancock County board of elections and registration was created on July 1, 2011. I have been a board member since that day. The citizens of Hancock County and I had great hopes that we will finally have a fair, honest, and meaningful elections. But it hasn't worked out quite that way.

In our first executive session, chairperson Jeanette Waddell told the board if we didn't hire Aretha Hill and Robin Rhodes, the former employees of the registrar's office, there would be hell to pay. Another board member had made up the scorecard to rate applications for elections supervisor. The cards would help us rate each application in a fair and honest way. When we reviewed some of the scorecards, we were amazed to find the University of Florida was considered a technical school by some board members. When we questioned this, Chairperson Waddell decided that we would not use the scorecards. With that, Aretha Hill and Robin Rhodes were hired, even though there was another person who had rated higher. There were several applications we were not allowed to consider.

The board has voted and made several policies, one of which was that staff will work comp time and not over time. When I found that they were indeed working overtime, I was told by the staff that Chairperson Waddell had made the decision that they would work the overtime. I taped every meeting and my review of the tapes from July 1, 2011, through June, 2012, I found over 70 violations made by Chairperson Waddell of the Georgia election code, the Georgia code in general, and Senate Bill 173, which formed this board.

When I tried to add items to the agenda to correct violations of the election code in our office, Chairperson Waddell and board member Linda Clayton voted against discussing those items. At the time, we only have four board members, so there was nothing I could do but file a complaint with the Secretary of State's office regarding these violations. Board member Linda Clayton is so against any change that she told another board member and I that if we thought we were going to change anything in Hancock County, especially elections, we were wrong.

We are now in a position where we have -- do have five members, but that just means we basically have a 3 to 2 vote against any changes or corrections to be made. Several months ago, our elections supervisor moved 1500 plus voters out of their proper precincts. Secretary of State Kemp visited our office and one instruction he gave was that letters we sent to these voters. Very few of these letters went out. Our elections supervisor still blames the Secretary of State's office for this error. Some of these voters still have not been returned to their proper precinct and others have been moved out of their proper precincts.

On two occasions, I have had the Sheriff's office called on me by our staff when I tried to observe during elections or when I tried to obtain records. Recently I was pushed by Robin Rhodes when I tried to take pictures of unsecured DRE machines so that I could file a complaint. I did file an application for simple assault and I was amazed at how many people who were working with the board of elections and registration did not tell the truth under oath. This was also the case during the election contest in regard to the City of Sparta election.

On several occasions, Chairperson Waddell has gotten out of control to the point of screaming and pounding on the table when a board member has the floor and is speaking. This is also the case with Aretha Hill and Robin Rhodes. In addition this, I have also noticed several people who do not work for our office using our computers for their personal business, as well as friends and family members of the staff being hired to work elections without approval of the Board.

When I try to obtain records from our office to ensure elections are being handled properly, I have to do an Open Records Request. The vast majority of the Open Records Requests are never filled by our elections supervisor. I was able to get copies of our staff's timesheets for the period of September 1, 2011 through August 3, 2012 by making an Open Records Request through our Board of Commissioners office, and even then (unintelligible) with the Attorney General's office had to get involved. This Open Records Request cost in excess of \$200.

I was astonished at what I found. In one two-week period, Aretha Hill worked 96 overtime hours. I found where Aretha Hill and Robin Rhodes claimed 89 days [sic] in a one-week time period. Those same days would also be claimed on another week's timesheet. When I corrected the timesheets, I found that Aretha Hill and Robin Rhodes had both been paid 30 hours of overtime over and above what they showed on their timesheets. This is because of numerous errors (unintelligible). By the end of October, the year-to-date figure for overtime use by the staff was \$19,757.63. Aretha Hill has worked in the registrar's office and now our office for over 30 years. Robin Rhodes has worked in the same office for over 16 years. If they cannot complete timesheets correctly, how can we ensure that our elections are being handled properly.

In addition to our elections supervisor, Aretha Hill, and her assistant, Robin Rhodes, we have our chairperson Jeanette Waddell and board member Linda Clayton who refuse to abide by the Georgia code and policies and bylaws of Hancock County Board of Elections and Registration. We do now have a fifth board member who has been with us for quite a few months, Robert Ingraham, who seems to be of the same mindset as chairperson Waddell and board member Clayton. When the Board does vote and pass a policy, it's never reported and is virtually ignored by chairperson Waddell, board member Clayton, and our staff.

There have also been instances where staff has purchased equipment not approved by the Board. For example, another camera and laptop to make photo ID cards outside of the office. The last time I checked, only one ID had been made, and that was a sample done by the staff. This is after they had set times in different parts of the county to make the IDs. There have also been instances of illegal executive sessions. Chairperson Waddell either signs the affidavit for the executive session prior to the meeting -- and Mr. Ritter had to explain to her what the definition of "was" was under the Georgia code and that she had to do it after the executive session -- or she does not sign one at all.

I would like to ask the State Election Board to help us out. It has become very obvious to me that the staff and several board members do not care what this Board and the Secretary of State's offices tells them to do. They do not care if you fine them. They will pay the fine and keep on doing what they have been doing. Until the actual individual is held accountable for their actions, I don't think anything will improve and I'm in doubt if they will work unless we can remove these individuals that are keeping the voters in Hancock County from having fair, honest, legal elections. And I'm vice-chairperson of the BOER.

And if I may add one thing. I got an email a couple of days ago from my chairperson saying she was coming to this meeting and she was going to claim per diem, meals, and mileage. I emailed her back and said, well, I'm going, too. And another board member said, well, I'm going, too; so we'll claim it also. She emailed me back and said, Nancy, that's going to be a conflict of interest for you to go because we're going up there because of you; because you reported us. So, you know, I'm being the bad guy. Thank you very much.

**SECRETARY KEMP**: Thank you. Mr. Turner.

**MR. TURNER**: My name is Ralph Turner. I live at 13930 Highway 16, Sparta. I'm a citizen. The Hancock County board of election has been dysfunctional since its inception, basically. It has accomplished almost nothing. Many of the meetings that they have don't even last to completion. The chair does not allow any discussion of problems pertaining to registration office period. If any of the

members try to raise this and discuss it during board meetings, it's usually shut down by beating of fists on the table and hollering, stop; screaming.

Two of the members that were originally appointed last year at its inception, resigned in less than six months, and that was because, basically, due to the operation and the way it was being run. Generally the registration office does not follow the code in the handling of absentee ballots, and that's a serious problem that the board's already been looking into.

Prior to the primary this year, July -- it actually occurred in June -- there were 15 plus -- 1500 plus members, electors of the county that were transferred from the precinct that they lived in to different precincts where they should go vote. I was informed that I was moved to two; then to one; and then back to four. The problem has continued since the primary. Supposedly, it was fixed, but the problem has continued since then. I am familiar with two cases. One, I witnessed while I was voting. A young lady was in line in front of me was told she needed to go across the county to District 1 to vote and after quite a long discussion, she was taken to the side and, I think, allowed to do a provisional ballot.

The other was one of my neighbors, Ms. Andrews, and she was told that she needed to go -- when she went to vote was to go to a different precinct, which was two, rather than four, which she did. By doing so, she was not allowed to vote for the actual persons who represent her in the county. I question whether this is a form of disenfranchisement or not, but this is still occurring. By the way, they're still blaming the State for this occurring.

And, yes, on November 5, two board members, Lynette Lenahan and Nancy Stephens, went to the registration office to check the precinct bins to make sure that all needed supplies were, in fact, ready for election day. This had been voted on by the board and they were to go that day and they were to check those bins and also inspect the polling place. The secretary came up -- caught them and started screaming at them telling them they had no business being there; that they were citizens and needed to get out of there. She then pushed Mr. Stephens into Ms. Lenahan and proceeded to call the sheriff to have us removed.

The board has been dysfunctional and I consider myself to be fairly familiar with it. I visited, before their inception, at least three different counties; I sat through their meetings; I've talked many times with their manager. So I've seen boards that function somewhat rather well. This board needs your help. Thank you.

**SECRETARY KEMP:** Thank you, Mr. Turner. Appreciate y'all being here today.

Okay. We're going to move on to our agenda now. I'm going to call one case a little bit out of order, if the board would allow me, due to a medical situation. If we can give Mr. Harvey to come and present Avondale Estates case. That is number 28 in your binder. It is case number 2011, number 57. Mr. Harvey on Mr. Brooks.

**MR. BROOKS:** Mr. Chairman, members of the board, this is the City of Avondale Estates, Georgia, DeKalb County. The election involved was the general municipal election in November of 2011. The allegation and the case was therefore members of Mr. Kerwin's family have received absentee ballots at locations other than their residence address.

In your executive summary under the findings there, it identifies Mr. Kerwin as a candidate for elective office. He was not a candidate for elective office during this particular election. He was the former mayor of Avondale Estates and was not running in this particular election.

During the investigation, it was discovered that Mr. Kerwin appeared in person to vote during the early advance voting period. He completed his absentee ballot application and completed applications for members of his family. He indicated on his application that he was disabled and that he requested future ballots be sent to an address other than the one that was listed as his residence. Mr. Kerwin was not disabled and he didn't qualify to have his ballot sent somewhere other than what was on his address for his registration card.

In addition, Mr. Kerwin completed absentee ballot applications for family members and also indicated that they were disabled, as well. He printed their name in the signature slot and then submitted those particular applications. The absentee ballots were accepted by DeKalb County; they were sent to those addresses he listed. When those ballots were returned, the family members had signed those applications, but those application signatures, or signatures on the ballot did not match the signatures that were on the application because Mr. Kerwin had printed their name on that particular application.

DeKalb County accepted those. They didn't compare the signatures on them. They accepted those ballots in DeKalb County indicated that they use the wrong form and they simply had not checked those particular signatures.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Anyone else wishing to address the Board on this matter?

Ms. Daniels.

**MR. BROOKS**: Mr. Chairman, if you don't mind, there is a response that Mr. Kerwin has, if the Board will accept it.

**SECRETARY KEMP**: Okay. We have a motion to accept the response by Mr. Kerwin?

**MR. WORLEY**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: 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**: We've accepted the document. Ms. Daniels.

**MS. DANIELS**: Good morning. My name is Maxine Daniels. I am the director of registration and elections for DeKalb County. My attorney is not here yet, so I am asking if the case against DeKalb County can be extended until the next meeting. I'll say he had planned to come with it on the agenda as number 28. Now that you moved it ahead, he's not here yet.

So if we could ask that of the board, I would appreciate it.

**SECRETARY KEMP**: Well, we're going to continue on. If there is a -- if there's something you don't agree with, let me know and we'll pull it back off. Anyone else?

(Whereupon, there was no response)

**SECRETARY KEMP**: Mr. Brooks, what's the recommendation here?

**MR. BROOKS**: Mr. Chairman, Mr. Kerwin's wife does suffer a disability and we feel like the applications, his response indicates he believed he was following the instructions he had been given. In terms of DeKalb County, it simply appears there was a lack of attention to detail. There doesn't seem to be any gross

misconduct or any intentions to do wrong. They just simply didn't pay attention to the detail.

The recommendation we would make on this would be a letter of instruction to both parties.

**SECRETARY KEMP**: Mr. Kerwin was cooperative, I understand.

**MR. BROOKS**: Absolutely.

**SECRETARY KEMP**: And he's here today, as well, I believe.

**MR. BROOKS**: Yes, sir. Along with the current mayor of the City of Avondale Estates.

**SECRETARY KEMP**: Does the Board have any questions for Ms. Daniels or any recommendations?

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: We have a recommendation for a letter of instruction. Do we have a motion if there is no more discussion?

**MR. McIVER**: I move we adopt the recommendation of the IG.

**SECRETARY KEMP**: Mr. McIver recommends we send a letter of instruction for both respondents. I'll second that. Is there any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Ms. Daniels, are you all right with that?

**MS. DANIELS**: That is perfectly all right, Mr. Secretary.

**SECRETARY KEMP**: I just didn't want to proceed without your attorney being here. You tell him you got it done for him, and hopefully he won't bill the county.

All right. We've got a motion and a second. Any other discussion?

(Whereupon, there was no response)

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

(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're going to go back to the rest of the investigative reports. The first part of that, we're going to have some re-presented cases that Mr. Harvey's going to present to us, the first one being 2010, number 5, City of Gray.

**MR. HARVEY**: Thank you, Mr. Secretary. Board members will remember this case involved a municipal election in the City of Gray, Jones County. The individual respondents were dealt with at the last meeting. The respondent in this meeting is Ms. Jamie Lewandowski, the then-election supervisor for the City of Gray.

If you look at the respondent chart, you'll notice it, in a nutshell, almost nothing was done properly with this election in terms of documentation. We have an issue of Jessica Thompson, who was dealt with at the last meeting. She voted a provisional ballot and it was accepted; there was not a list of people who assisted kept; there was not a list of people assisted kept; the absentee ballot master list was not kept; proper identification was not required; applications for absentee ballots and certification of ballots were not noted when they went out when they came back.

Ms. Lewandowski had just been appointed to the position of clerk and was named elections superintendent. I believe she had never handled an election before. Ms. Harris, who is representing today Ms. Lewandowski the city, has communicated to me the city has contracted with Jones County in the future to conduct their elections. So that is essentially the remedial plan for this.

That being said, I recommend they be found over to the AG's office just due to the scope of the failure in the selection. I believe Ms. Harris wants to address the

Board.

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

(Whereupon, there was no response)

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

**MS. HARRIS**: Mr. Chairman, members of the Board, my name is Joan Harris and I am the city attorney for the City of Gray; I represent the city and respondent, Jamie Lewandowski. My mailing address P.O. Box 4866 Macon, Georgia 31208. My law firm is Harris & James, LLP.

I do have some documentation that I would like the Board to let me introduce.

**SECRETARY KEMP**: Okay. If you want to submit that to us, we'll take a motion. We have a motion to accept?

**MR. SIMPSON**: So moved.

**SECRETARY KEMP**: We have a motion, and I'll second, to accept the documents. 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 have accepted the documents.

**MS. HARRIS**: Thank you, Mr. Chairman. I'll try to be brief because I know there is a very long agenda. The reason that I submitted some additional documents, there were a lot of allegations coming out of this election. The first one with Jessica Thompson, obviously, is a serious allegation and we specifically wanted to go into that. The others are serious, but less serious, and I have tried to go back and look through documents and try to present to the board anything we could find that would help explain some of the circumstances.

As Mr. Harvey said, Ms. Lewandowski was a brand new elections superintendent. She was just appointed in January. She went through the training but she had never done an election before. She did THE primary election and then we had a runoff. The runoff is the election subject of this complaint.

Shortly after the election, she sent a letter to the Board of Elections, and I'm not sure if that is in your file. It was dated December 7, 2009, and it is Exhibit B in the package. She certified the election on December 3; the election was on December 1.

After she did that, she discovered that she had run the provisional ballot with the other ballots. We have that optical scanning machine and she realized that was incorrect and she wrote a letter to the Secretary of State's office saying that she realized she had made that mistake and she was sorry. She also made it clear, though, in this letter that she -- it was her understanding that Ms. Thompson was properly registered. She had been dealing back and forth with the county and whatever miscommunication or misunderstanding that happened, she did believe when she took that ballot that it was an appropriate ballot to run.

The young lady lives in Gray; she's lived there all her life, her family -- everybody, you know, knew who her family was. And she had registered -- I believe the minutes show from the last hearing that Mr. Harvey said she had registered in Gray. Somehow, in the confusion once she started school, she obviously re-registered and she re-registered back in Jones County. I'm not absolutely sure of the date on that, but that was -- clearly, Ms. Lewendowski believed that what she was doing was correct. She certainly had no intention to let somebody vote improperly. It was only one provisional ballot, and maybe had there been more and we did more checks checking through, it might have surfaced. But it was her understanding that the girl had been properly registered and everything was okay.

The exhibit -- after this election, obviously, we took a look at it; we took a look at it quickly. Ms. Lewendowski wanted to resign and we contacted the county and set up with them to enter into an agreement for them to do the election. We had a council member who had resigned just a few months after he was sworn in. He had to go to another job out of town. And so we had an election in 2010. This election was held by the county. They have long experience in doing elections and everything went fine. Ms. Lewendowski resigned and that's where we are on the status of the elections being done right now.

The documents that I attached, there was not -- we could not locate an absentee ballot master list with names and addresses on it. What we did locate was a numbered list of voters she had kept that had all the names and next to each name is a checklist of every one of the ballots that came back. I realize that it does not include the addresses, but there was some attempt at documentation and this is what we have located.

Also, with regard to the assisted voters, there was a handwritten list. It is Exhibit D on your attachments. It lists the names of the persons who were assisted; it lists the name of the person who was helping them. But it does not list the disabilities. It's my understanding that most of these people are elderly and it was difficult to get to the polls and I think these were done in early voting. Even the lady who did the assisting, she was a poll watcher during the regular election.

If you have questions, we will try to address them and then I would like a brief conclusion.

**SECRETARY KEMP**: Okay. Any questions for Ms. Harris from the Board?

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you, Ms. Harris. Any questions, follow-up questions for Mr. Harvey?

**MS. HARRIS**: Mr. Chairman, if I may, if it's appropriate, I would like to ask the Board to consider either dismissing this or giving us a letter of instruction.

**SECRETARY KEMP**: Okay. Are we ready for a motion?

**MR. WEBB**: I had a question for Mr. Harvey. Mr. Harvey, you mentioned that the remediation plan was the agreement with Jones County; is that correct?

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

**MR. WEBB**: There was no other remediation plan done other than entering into the agreement?

**MR. HARVEY**: That's my understanding from Ms. Harris.

**MR. WEBB**: And under these agreements between the county and the city, does the county completely run, staff, do all the processing and takes the city out of . . .

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

**MS. HARRIS**: (Unintelligible)

**SECRETARY KEMP**: Come on back to the mic, Ms. Harris, if you don't mind, so we can make sure . . .

**MS. HARRIS**: The city does the qualifying. We have an elections superintendent, and, as you know, the statute requires if you don't appoint one, the city clerk is the person. The only thing we retained was to do the qualifying and post-call election. The entire election was run by the county. And we've always used their machines, anyway.

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

**MR. WEBB**: No. Thank you.

**SECRETARY KEMP**: Anyone else have questions?

**MR. SIMPSON**: Is it the intention of the city to continue with this agreement for the county to run the elections?

**MS. HARRIS**: Yes, Mr. Simpson. That's our intention unless they say not to do it. Yes, we would want to do it. Everybody is happy with the way it was run and we were pleased.

**MR. SIMPSON**: Is there a backup or some training of election officials that work with the city?

**MS. HARRIS**: There will be -- well, there will be a municipal superintendent, obviously, and that person will be trained. I believe they're trained through the Secretary of State's office. The City of Gray in Jones County has a pretty big group of people who help with elections and a lot of them have been doing it for a long time. So several people who work with us also work with the county for a long time. So there is some training.

**SECRETARY KEMP**: I've got a question for Mr. Willard. Mr. Willard, if we were to send this to the AG's office, is there anything else you all could add in a consent agreement about the remedial plan? Do we have any other options there? Do we have a precedent of doing that in the past?

**MR. WILLARD**: How we would probably handle it is if the Board gave directions as to what they wanted to see, we would enter into a consent order after it had been accomplished, or at least an agreement had been entered into, and that would be incorporated into the findings of fact of the consent order.

**SECRETARY KEMP**: Okay. Any other questions from any board member?

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak on this matter?

**MS. HATTON**: Thank you. I'm Marion Hatton, elections superintendent for Jones County.

**SECRETARY KEMP**: Let me get you to hold that mic a little closer and speak a little bit slower.

**MR. HATTON**: Yes, sir. Marion Hatton. I'm the elections superintendent for Jones County. Address is P.O. Box 2512 Gray. I just want to let y'all know that it's not been determined at this time -- in fact, we're waiting on the outcome of this hearing to decide whether the Jones County Board of Elections office is willing to continue to conduct the elections for the City of Gray. There are many, many residents that have seen the integrity of the City of Gray elections pretty much bottom out and we don't know if we -- and I discussed this with my commissioners -- can bring that integrity back and what's it's going to take if it appears that State laws are pretty much being dismissed by so many people and nothing's being done about it.

**SECRETARY KEMP**: Okay. Questions?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here. Any other questions from the board for anybody? Any thoughts on a motion?

**MR. SIMPSON**: I move to bind the case over to the Attorney General's office.

**MR. McIVER**: Second.

**SECRETARY KEMP**: We've got a motion by Mr. Simpson and second by Mr. McIver to bind the case to the Attorney General's office. Any other discussion amongst 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**: That motion carries.

**MR. WILLARD**: Mr. Secretary, if I could ask for clarification in the minutes what was bound over -- Ms. Lewendowski and the city -- because the individual respondent and Ms. Thompson, was bound over at the last meeting. That will affect whether we send the case into the Office of State Administrative Hearings.

**SECRETARY KEMP**: So we need to give you direction on who we just bound over?

**MR. WILLARD**: If you would just let the court reporter know, or let the minutes reflect that what was bound over was the second part -- just the city and Ms. Lewendowski at this meeting. The individual respondents other than the city were bound over at the last meeting.

**SECRETARY KEMP**: Okay. So let the minutes reflect that we have bound over the City of Gray and Ms. Lewendowski with this action. Other respondents were bound over previously. That got you covered, Mr. Willard?

**MR. WILLARD**: Yes, sir. Thank you, Mr. Secretary.

**SECRETARY KEMP**: Next case, Mr. Harvey, 2010, number 25, Taliaferro County.

**MR. HARVEY**: This case had one respondent who requested a continuance, Ms. Margaret Ray. As you recall, this case revolved largely around the issue of proper or legal assistance of voters, and people who have provided questionable assistance. At the last meeting the board decided to issue letters of instruction to all people that were in Ms. Ray's circumstance of providing assistance, and I recommend that the board issue a letter of instruction to Ms. Ray consistent with this treatment of all the previous respondents in the last case.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak on this matter, 2010, number 35?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, do we have a motion? The recommendation is a letter of instruction as we did with the other respondents in this case?

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

**MR. WEBB**: I'm sorry, Mr. Harvey. What's the name of the respondent?

**MR. HARVEY**: Margaret Ray.

**MR. WEBB**: Thank you.

**MR. SIMPSON**: That's the only respondent we're binding -- we're --

**SECRETARY KEMP**: Right. We did the other ones at the last meeting. This person just asked for a continuance, which we normally grant one.

**MR. SIMPSON**: I move we issue a letter of instruction to respondent Ray.

**SECRETARY KEMP**: Okay. We've got a motion to issue a letter of instruction to respondent Ray by Mr. Simpson. Do we have a second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: 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. All right. Mr. Harvey, 2010, number 117.

**MR. HARVEY**: Members of the Board, this case was also handled, with the exception of one respondent, Mr. Patel -- this was handled at the previous meeting.

There was a question as to whether or not Mr. Patel had registered on his own or have been registered through the Department of Driver Services. At the last meeting, we did not have a copy of his original voter registration application. Since then, we have been able to determine that Mr. Patel was registered through the Department of Driver Services in 2004. As the board has adopted the practice, those registrations that were done in 2004, that early, generally did not have supportive documentation as to whether or not that person intended to register to vote, and our office is generally treated those as unprovable if it was a false registration.

I recommend this case be dismissed against Mr. Patel, who was registered through DES and never voted and there is no way to really prove that he had any intention to register to vote.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak on this matter?

(Whereupon, there was no response)

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

**MR. WEBB**: I make a motion to dismiss the case against Mr. Patel.

**SECRETARY KEMP**: Mr. Webb moves for dismissal. Do we have a second?

**MR. WORLEY**: Second.

**SECRETARY KEMP**: 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 and we have dismissed that case. All

right. 2011, number 15, Fulton County, the Jackson case.

**MR. HARVEY**: Yes, sir. Fulton County requested a continuance at the last meeting. Ms. Jackson was bound over. The issue revolves around Ms. Jackson who registered to vote while she was a convicted felon. She registered in June, 2010, while she was still serving a sentence. She remained registered in Fulton County until she transferred her voter registration in January of 2011. So she remained an eligible voter in Fulton County. She never did vote; she never actually voted. But she was not removed from the list of eligible voters by Fulton County. Mr. Parks, the attorney for Fulton County, has provided a response that I can share with the board. Mr. Parks essentially says that the board was not aware that she was on the felon list. As a matter of fact, she was on the felon list on October 21, 2010, and no action was taken until much later when the Fulton County Board of elections and registration, when they considered her registration, there was a question as to whether or not her felony involved moral turpitude. They tabled the issue. In the meantime, she transferred her voter registration to DeKalb County, who removed her about a month later. So the issue is that she was registered in Fulton County while a convicted felon under sentence in Fulton County took no action to remove her from the list of voters.

**SECRETARY KEMP**: How long was she on the list before the action was taken?

**MR. HARVEY**: Well, she appeared on the list in October of 2010, and she was removed from the list in February of 2011.

**SECRETARY KEMP**: That was by DeKalb?

**MR. HARVEY**: That's correct. She transferred her voter registration in January of 2011 and DeKalb removed her a month later, as would normally happen.

**SECRETARY KEMP**: How long was it before Fulton Started the discussion about whether to remove her or not?

**MR. HARVEY**: They considered it in April of 2011. So they considered it, actually, after she had already been removed.

**SECRETARY KEMP**: The counties do a check monthly; is that correct?

**MR. HARVEY**: They are provided with the list in the code requires them to check their list monthly.

**SECRETARY KEMP**: Which would have been how DeKalb pulled the person

off -- a month or so after she registered, they did their check and found the person was on the roll?

**MR. HARVEY**: Presumably; yes, sir.

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

**MR. WORLEY**: Do we have a letter from Mr. Parks?

**MR. WALBERT**: Mr. Chairman, may I be heard on behalf of the Board?

**SECRETARY KEMP**: Are you Mr. Parks?

**MR. WALBERT**: Unfortunately, not. He's with my law firm, but . . .

**SECRETARY KEMP**: Very good. Sorry about that. Just hang tight for one more second. Is there anything else for Mr. Harvey before we -- do we have motion to accept the document from -- is that from Mr. Parks?

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

**MR. WORLEY**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: We've got a motion by Mr. Worley, second by Mr. Webb, 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**: We've accepted the document. All right. Any other questions for Mr. Harvey?

(Whereupon, there was no response)

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

**MR. WALBERT**: Thank you, Mr. Chairman.

**SECRETARY KEMP**: Absolutely. Welcome.

**MR. WALBERT**: I'm David Walbert. My address at the law firm is --

**SECRETARY KEMP**: If you don't mind, what was the last name again?

**MR. WALBERT**: Walbert; W-A-L-B-E-R-T; the law firm of Parks, Chesin & Walbert, 75 14th Street, Suite 2600, here in Atlanta.

**SECRETARY KEMP**: Thank you.

**MR. WALBERT**: I would like to add a little more texture to what Mr. Harvey has presented here. I think the first thing we've got to look at is exactly what the statute said that was in effect at the time of this going on in 2011.

First of all, it doesn't say you must remove someone in a certain period of time. It says one must, the board must take -- initiate action within 60 days of having notice. This is significantly more complicated than a simple question. There were questions raised by the staff that ultimately went to the county attorney. They didn't go to us. The questions were, what is moral turpitude under Rule 20-11 law, number one? Now, that's not the law anymore; that's been changed to get rid of that complication. I don't know how many of you all are attorneys, but moral turpitude law is one of those truly subjective areas where there is no -- so that was a very legitimate question.

Number two, what do you do in terms of the source of the information you can go to and look for to determine whether somebody has been convicted of a crime of moral turpitude? Is it simply the Secretary of State's listing or can you go to other sources? And that is a very legitimate legal question, too. That was put forward.

So the County did not fail to initiate action. It did not strike her from the list, for sure, within 60 days, but that's not what the statute says. The statute says one must initiate action. I would respectfully submit to Mr. Harvey and the board that the questions that were going on, especially because this is a pseudonym case, too -- you had that additional complication of her registering under a fake name. So it wasn't, you know, it sounds -- again, due respect to Mr. Harvey, it sounds very cut and dry: A felon is registered; off the list. That isn't what the case was. As a matter of fact, you had all these different complications; very legitimate questions from the staff, ultimately to the board, went to the county attorney at which time they found out she had been transferred to DeKalb, so it was moot.

Never answered all these questions about where to look for moral turpitude, and so on; questions that are now irrelevant under the law because of the change of the

law. Moral turpitude is not an issue anymore. We still have this tricky question about pseudonyms and the increasing proliferation of stolen identifications and who's who that was embedded in this case.

But for all of those reasons, I would respectfully suggest to the board -- and really this is something that can't come up again because of the change in the law. But I will suggest that there was no legal violation by the board here because of the initiated action -- initiated action was done timely. A final decision to remove Jackson under the pseudonym had not been taken, true. But that's not what the statute says. So for those reasons, I respectfully suggest, particularly since the law is gone and this is not something that could occur again by definition with the new law.

I respectfully submit that this is a case that is a true one-for; a very unique same situation. I would respectfully submit that the board dismiss this particular matter. Thank you.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: I have a question for you. This person was on the list in October, but the action did not initiate until April; would you agree with that?

**MR. WALBERT**: No, I wouldn't. The board didn't have it presented to them, but the statute doesn't say the board has to act. It says the registrar, who I consider to be the corporate entity, including the staff, initiating action. That's how I read the statute. It doesn't say staff or the Board. It talks about the overall entity.

**SECRETARY KEMP**: So you are saying, then, that what we send the monthly list out, that the registrar does not have to check that list every month?

**MR. WALBERT**: No, I'm not saying that. I'm saying how you initiate action to act on that is something you have to do within 60 days, and today where the felon list is cut and dry and there is no question and you have no ambiguity about identity about a person -- in that simple case, we absolutely proceed right away, 60 days. If there is no ambiguity, I would agree completely with the Chair.

**SECRETARY KEMP**: So when did the action get initiated? When did people start asking questions about this individual? That's what I'm wondering. How many months with this person on the roll before they ever, you know, got questions?

**MR. WALBERT:** I think there was an investigation by the staff and these questions were raised right after the first of the year, within the 60 days of that occurrence, is my understanding, of getting notice from the State of -- within 60 days of getting the information from the State, the inquiry was certainly initiated and that's what raised this question about, you know, moral turpitude, and I think, frankly, the fact that it was a pseudonym case got people thinking a little bit. And then the question was raised, well, is this list absolute, irrebuttable [sic], period, even if it's wrong in some area, because some other state has a different view of moral turpitude and the crimes of it.

So all these questions got raised. The county attorney who was there at the meeting was not able to answer them at the April 14th meeting when they were put to him. And I would respectfully submit having looked at the law, that it is -- you know, it's good. But it wasn't crystal clear at that point in time because of the moral turpitude vagueness that was in it. So I would say, again, action was taken within 60 days. Conclusive, definitive action wasn't ever taken because she was removed by DeKalb.

**MR. WORLEY:** So the county attorney never got back to the board with answers to their questions?

**MR. WALBERT:** Well, I think they realized that DeKalb -- she had moved to DeKalb so that superseded this and it became moot. I'm not saying he never got back with an answer because of failure to act. But it became -- shortly thereafter, they became aware of the fact it's a DeKalb -- moved to DeKalb and it was irrelevant.

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

(Whereupon, there was no response)

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

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

**SECRETARY KEMP:** Yes, sir. Do we have a motion?

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. Harvey, the recommendation was to bind over?

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

**MR. WORLEY**: Mr. Harvey, do you have any response to what Mr. Walbert has said?

**MR. HARVEY**: Well, the -- I don't have a definite date that they were notified. However, the meeting from the April minutes that Mr. Walbert provided to our office in his response has Mr. Garner, the then-director, talking about -- reporting on new felon list for the month of April, 2011, which tends to indicate that was the first time that they had noticed that she was on that list. I don't know that I could say definitively that he did know that, but I don't understand why Mr. Garner why Mr. Garner would be reporting on April 14th that had run the felon list and they had 29 names and the people had been notified. It was at that point when they began the discussion about, is it moral turpitude; can they go to other sources? As a matter of fact, the meetings [sic] say that Mr. Westmoreland asked Mr. Garner if he had any idea why this list is generated earlier than usual, and Mr. Garner said the list is generated the fifth of every month, however, it takes staff almost a week to research the names on the list in addition to notifying people 30 days before the next board meeting.

Again, if this was available on October 21st, which is when she first appeared, it would seem like there were several months beforehand when -- if they had been taking this action, this would have been taken before April. I would say their meeting minutes tend to work against Mr. Walbert's theory.

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

(Whereupon, there was no response)

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

**MR. WEBB**: I'll make a motion that we bind this case over to the Attorney General, and, Mr. Harvey, just for clarification, this is just with regard to Fulton County?

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

**MR. WEBB**: And that the matter with Ms. Jackson has already been settled?

**MR. HARVEY**: It was bound over at the last meeting.

**MR. WEBB**: Thank you.

**SECRETARY KEMP**: All right. We've got a motion by Mr. Webb to bind over to the Attorney General's office for further investigation. Do we have a second?

**MR. McIVER**: Second.

**SECRETARY KEMP**: Mr. McIver seconds. Any other discussion?

**MR. WILLARD**: Mr. Secretary, before you proceed, for clarification, you're binding Fulton County or you're binding Fulton County and Mr. Garner?

**SECRETARY KEMP**: No. We're just binding Fulton County. Is that right?

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

**SECRETARY KEMP**: Yes.

**MR. McIVER**: That was my second.

**SECRETARY KEMP**: That was what was seconded by Mr. McIver.

**MR. WORLEY**: Can I just get a clarification of the motion? Are we binding it over because of the failure to take Ms. Jackson, or Ms. Carter off the list between October 21, 2010, and April, 2011; or after April, 2011?

**MR. WEBB**: I think the case shows that there should have been a report that came out as early as November 5, and that there was ample time to have identified her as a felon and to remove her from the voting list and that was not done.

**SECRETARY KEMP**: Okay. Mr. Simpson?

**MR. SIMPSON**: I'm confused. I'm looking at 21-2-226(a) and it just says it shall be the duty of the county board of registrars to determine the eligibility of each person applying to register to vote in each county. But that's not what the executive summary says the statute says. So can you explain that, Mr. Harvey?

**MR. HARVEY**: I'm sorry. Could you ask me that question again, sir?

**MR. SIMPSON**: Sir?

**MR. HARVEY**: Could you ask me that question again.

**MR. SIMPSON**: Well, looking at the code that we have here, the 2010 edition: 21-2-226(a) says it shall be the duty of the county board of registrars to determine the eligibility of each person applying to register to vote in such county. It doesn't say anything about failing to remove an illegible voter from the list.

**MR. HARVEY**: I would say that could be construed to mean if you've been presented evidence that somebody is not properly registered, you have an obligation to remove them. That's imperative. Also, I believe that -- is it 228?

**MR. WEBB**: Yes.

**MR. HARVEY**: 228 might be a more accurate --

**MR. SIMPSON**: Is the citation wrong in the executive summary?

**MR. HARVEY**: I think you could use both. I mean, if you -- if the Board has a duty to determine eligibility and they're presented evidence that seems to present that somebody is ineligible, I think they have the obligation to then determine the eligibility of that specific person and they failed to do that.

**MR. SIMPSON**: It seemed like to me from reading those minutes, that's exactly what the board was trying to do, is to determine the eligibility of that person to vote. They didn't take any action because they were not able to determine eligibility. They tabled and then the issue became moot. I'm sorry, but I don't see any reason to bind this case over for the county.

**SECRETARY KEMP**: I think the issue was the time it took to where they did take action.

**MR. SIMPSON**: Well, but the statute doesn't say anything about that.

**SECRETARY KEMP**: So we're just going to tell people that they don't have to check -- they can just check the list whenever they want to, not when it comes out monthly?

**MR. SIMPSON**: No, sir. I'm not saying that. I'm saying that in this particular instance, we don't see any timeframe. The statute's been changed, and I haven't looked at the 2012 code. If the statute's been changed to include a timeframe, then it's a moot issue with regard to this whole statute.

**MR. WORLEY**: Mr. Secretary, I had -- I understood Mr. Harvey to say that there was some 60-day time limit in the statute?

**MR. HARVEY**: Actually, I didn't say that.

**MR. WORLEY**: I guess Mr. Walbert said that.

**MR. HARVEY**: 231(c) states that upon receipt of the list described, which is the felon list, Secretary of State shall transmit the name of such persons to the appropriate county who shall remove all such names from the list of electors and shall mail a notice of such action and the reason therefor to the last known address of such persons by first class mail.

**MR. SIMPSON**: When was that enacted?

**MR. HARVEY**: That was . . . that was --

**MR. SIMPSON**: Was that in effect at the time this occurred?

**MR. WEBB**: Apparently so.

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

**MR. WEBB**: 1981.

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

**MR. SIMPSON**: You can't tell from the Georgia law citations there when that particular paragraph was enacted.

**MR. HARVEY**: In the 2010 code, the same paragraph, again, when it gets -- the Secretary of State shall transmit the name of such person who appear on the list of electors to the appropriate county board of registrars who shall remove all such names from the list of electors and shall mail them notice of such action and the reason therefor at their last known address by first class mail. So the code is -- appears to be very similar, if not identical.

**MR. WALBERT**: May I beg the indulgence of the Chairman just to add a moment, here, in light of the continued discussion.

**SECRETARY KEMP**: You want to come back up here.

**MR. WALBERT**: Thank you.

**MR. SIMPSON**: If we bind it over -- I guess we're in discussion period -- if we bind it over, we can't bind it over as recommended by the staff. We've got to bind it over under this 21-2-231(c), and not 21-2-226(a). That's the wrong statute cited in the recommendation.

**SECRETARY KEMP**: Mr. Walbert?

**MR. WALBERT:** Yes, sir. I would make two points in response to what has been said, specifically in regard to Mr. Harvey's response to the Chairman about putting statutes together and how he would interpret it and interpret 226. I would reason it to mean that you have to act in a certain time. Then we have the other statute.

The critical question that is undisputed here is the person never was allowed to vote illegally. I would say to Mr. Harvey's point, these statutes are not specific and there's nothing in the statute that says the person must be removed from the list within ten days; 20 days; 60 days; 100 days; or anything. It would be perfectly reasonable to read the statute that within -- if sufficient time exists prior to election, one must act on that statute; on that issue of the felony.

I would suggest, respectfully, (unintelligible) Mr. Harvey regarding interpreting statutes and put in dates and time limits that aren't there because it may be administratively nice to have in, it's not really fair to the board of elections, in that sense. Again, it's clear, and I don't believe there's any evidence in the record that they got this list presented to the board or to the staff more than 60 days before the staff acted on it. There's nothing in the record -- in those minutes -- there's nothing of that sort at all, with regard to Mr. Harvey saying the minutes work against us. There isn't a word in there that says the staff sat on this for 61 days. Not a word in there so there's absolutely no evidence of that, whatsoever.

But the main thing, really, when you sit back and look at all the important things this board deals with, this statute doesn't even exist anymore. To refer to Mr. Willard, to make the county pay my attorney's fees to deal with this on a statute that doesn't even exist, how do you delete from the list people who are felons with moral turpitude. It's an intricate question, but it has no practical application in real world today in light of the new Georgia statute.

So I would respectfully submit that in this case, given the worst case, the vagueness of the law on this issue, the fact that they did initiate action, which is all the law talks about; and the fact that the law doesn't even exist anymore and the fact that, quite clearly, she never voted, I would respectfully suggest that all those factors weigh very heavily in favor of not burdening this body and Mr. Willard, and so on with the time to dig deeper on that and . . .

**SECRETARY KEMP:** So we should just be thankful that she went to DeKalb and registered so they could take her off the rolls?

**MR. WALBERT:** Well, she didn't vote, and there's nothing to suggest she was going to vote in Fulton County illegally before that. She was flagged when this

analysis was being made and there's nothing to suggest that -- they didn't say, oh, you can just stay on there.

**SECRETARY KEMP**: Mr. Webb, did you have something?

**MR. WEBB**: Mr. Walbert, I'm just looking for clarification. What statute has been removed?

**MR. WALBERT**: The moral turpitude provision.

**MR. WEBB**: Okay. That's in a different code section than the code section we're dealing with here, correct?

**MR. WALBERT**: Depends on which -- there's a whole bunch of code sections you're dealing with here. But how you deal with the moral turp -- felony --

**MR. WEBB**: The definition of moral turpitude, is it in Title 21?

**MR. WALBERT**: Well, the only thing that arguably was violated was 231.

**MR. WEBB**: Exactly. That's where I'm going.

**MR. WALBERT**: That's where moral turpitude is. That's gone.

**MR. WEBB**: I'm sorry. Could you point me to where moral . . .

**MR. WALBERT**: It's gone. If you've got the current section, they've removed it.

**MR. WEBB**: From Section 231.

**MR. WALBERT**: Correct.

**MR. WEBB**: When was it removed?

**MR. WALBERT**: I think it was July 1 of '11.

**MR. WEBB**: I'm sorry. I have a 2010 version.

**MR. HARVEY**: To clarify, Mr. Secretary and Board, 231(f) is where the 60-day requirement on initiation is mentioned.

**MR. WALBERT**: If your 231(a) is as it existed before -- you sure?

**MR. WEBB**: I think we've got it.

**MR. WALBERT**: You've got it? Good. It says convicted of the felony involving moral turpitude. That's what 231(a) says before the 2011 (unintelligible). July, 2011.

**MR. WORLEY**: Mr. Walbert, this matter was under discussion by the board in April of 2011. What would the board have done as November was approaching, let's assume that she hadn't gone to DeKalb.

**MR. WALBERT**: Then the county attorney would have come back with one of two answers: Either the list is it; mandatory; you can't look further; if it's on the list, take her off. And that would have been that. To speculate beyond what the county attorney, you know, the statute doesn't say what you can look at. The list is presumptive; it's informative; it contributes to the process. But it's not definitive in a conclusive presumption. If that's what the county attorney had come back with, you've got a case.

**MR. WORLEY**: But as of April of 2011, she had been flagged and something would have been done --

**MR. WALBERT**: Absolutely.

**MR. WORLEY**: -- before she showed up to vote.

**MR. WALBERT**: Absolutely.

**MR. WEBB**: Under Section 231(a), before the tenth of each month a list of persons convicted of felonies involving moral turpitude are presented, correct?

**MR. WALBERT**: I don't see anything about ten days, but there is -- felony involving moral turpitude is in 231 for sure.

**MR. WEBB**: On or before the tenth day of each month. The second line; end of the second line, correct?

**MR. WALBERT**: Okay. There you are.

**MR. WEBB**: Right?

**MR. WALBERT**: Uh-huh.

**MR. WEBB**: So by November 10, the first report should have been made available to Fulton County.

**MR. WALBERT**: I can't tell you what day that was made available. I don't know that.

**MR. WEBB**: So we've got November 10; December 10; January 10; February 10; March 10; finally, April 10, April 14th, they were flagged.

**MR. WALBERT**: No. That's totally incorrect. What you're missing is, what is the staff doing? It doesn't say -- the staff -- it doesn't say that this must be an action by the board. It just says that it has to be -- appropriate action is initiated within 60 days. That doesn't say that it has to go to the board. That's the staff can be doing that. It doesn't distinguish between the two and I don't think it's fair to read the statute to say it had to be presented to the board. It certainly doesn't say that. You'd have to rewrite the statute --

**MR. WORLEY**: In fact, the statute says, Section (f) says, failure to take such an action may subject the registrars or the county government authority for whom the registrars are acting to a fine by the Election Board. So that, to me, implies that it's somebody -- it could be somebody other than the board that's initiating action.

**MR. WALBERT**: I think that's clear.

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

**MR. WORLEY**: I think you had indicated earlier that there was -- that as far as you are aware, there's nothing in the record that indicates when the staff started working on it?

**MR. WALBERT**: There's nothing in the record before this body for sure, and whether that can be dug out in some way, I don't know the answer to that. I'm not aware of that exactly. My definite understanding is that action was taken within 60 days of notification from the Secretary of State. That, I've been told. I don't have the document to prove it, and there's nothing in the record one way or the other and the minutes don't address it.

**MR. SIMPSON**: Don't the minutes indicate they had the list before April 10?

**MR. WALBERT**: Yes, sir.

**MR. SIMPSON**: Which is the same month that they began inquiry about moral turpitude and tabled the matter?

**MR. WALBERT:** That's exactly right. It's a March list. It's the only thing referenced in that -- in those minutes. That's correct, sir.

**SECRETARY KEMP:** All right. I think we have a motion and a second. Any other discussion with the board?

**MR. WORLEY:** I just would go on record that I think that the -- it doesn't seem to me that there's enough evidence here that the statute was actually violated to warrant binding over.

**SECRETARY KEMP:** Anybody else? Anything you want to add about the code section?

**MR. SIMPSON:** I just think the code section that was in effect at the time was not violated.

**SECRETARY KEMP:** Let's see. Was that your motion, Mr. Webb?

**MR. WEBB:** Yes.

**SECRETARY KEMP:** Are you still good with the motion as presented?

**MR. WEBB:** I am.

**SECRETARY KEMP:** Okay.

**MR. WEBB:** I think for several reasons. One, it's ironic that Fulton County would appear before us and ask for leniency given the issues that Fulton County continues to have. And I think it creates a slippery slope to the effect that if we start kind of trying to mince the words to where we can provide an out, I think the time period that passed, the issue should have been addressed, and absent any evidence from the county that it was being addressed, I think we bind it over to the Attorney General.

**SECRETARY KEMP:** Okay. 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."

**MR. McIVER:** Aye.

**MR. WEBB:** Aye.

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

**MR. WORLEY:** No.

**MR. SIMPSON:** No.

**SECRETARY KEMP:** Okay. The motion carries 3 to 2. It's been bound over. All right. Now we're going to move on to our consent cases. Let me just make sure that those who were in the audience understand how the consent part of our agenda works. The following cases, SEB case number 2010, number 70; number 124; number 56 -- I'm sorry. Let me start over. The consent cases are 2010, number 70 and number 124; 2011, number 56 and number 90; 2012, number 35, number 55, number 58, number 59, number 66, and number 18 are all on our -- I'm sorry, number 118 -- are all on our consent agenda for dismissal. What the board will do is we will vote in block to dismiss all these cases unless there is someone on the board or someone in the audience that would like to hear the information about this case as we have previously done today. If not, they will be voted on in block and dismissed.

So are there any board members that have any of these cases that they would like pulled out here?

**MR. WEBB:** Mr. Secretary, can we pull case number 2012, 59, Floyd County, ballot photo.

**SECRETARY KEMP:** All right. Mr. Webb wants us to pull that off and we are glad to do that. Any other board member have a case they want to pull off?

(Whereupon, there was no response)

**SECRETARY KEMP:** Is there anyone in the audience that's here for any of those cases that would like to be heard today?

(Whereupon, there was no response)

**SECRETARY KEMP:** Okay. Last call. If there any of these cases for Heard, Carol, City of Montezuma, City of Washington, City of Dublin, current County case, Carroll County, Floyd County, Gwinnett County, another Floyd County case, last call. If not, they're going on the consent agenda.

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. I'll accept a motion on the consent agenda excluding the case number 2012, number 59, Floyd County. I'll take a motion whenever y'all are ready.

**MR. McIVER**: I'll move that the cases you've identified on the consent agenda should be dismissed.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Okay. We've got a motion by Mr. McIver to dismiss the cases on the agenda as noted, and we've got 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)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we have dismissed the cases on the consent agenda except for the 2012, number 29, Floyd County, ballot photo case. Mr. Harvey, you want to present that to us?

**MR. HARVEY**: Mr. Secretary, members of the board, this case was a complaint that was sent in alleging that Brian Barkham has photographed his ballot and posted a picture of the ballot on his Facebook page. The investigation revealed that, in fact, Mr. Barkham had not taken the photograph; that he had merely copied and shared a photograph, in Facebook terms, on his webpage. The original person who took the photograph is going to be the subject of another SEB investigation that will be presented to you. However, there was no evidence that Mr. Park himself took the photograph violating the law.

It is recommended that case be dismissed.

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

**MR. WEBB**: Mr. Harvey, I agree with your recommendation. My question was with regard to Adam Clements.

**MR. HARVEY**: There is a separate case with him. It's forthcoming.

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

(Whereupon, there was no response)

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

**MR. WEBB**: I make a motion that we dismiss this case.

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We've got a second by Mr. Simpson. 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 2012, number 59, Floyd County case. We are now on to our new cases. Mr. Harvey, case number 2010, number 49.

Let me just remind those of you, for these, we'll let Mr. Harvey present the case and let the board ask some questions. If there is anyone in the audience that wishes to speak and address the board about the case, you're welcome to do that. Like to try to limit those comments to three minutes or so. I'll give you a little leeway if it's a difficult case or if there's a lot of documents you need to go over. But if you can, just try to present that as quickly as possible to the board and we'll keep things moving as best we can.

All right. Mr. Harvey, number 49, Irwin County.

**MR. HARVEY**: Yes, sir. This case largely involved allegations of illegal assistance taking place at the polls. There was concern by the complainant that voters were being bused to the polls and taken in and provided illegal assistance.

The investigation revealed that that was not -- on a large scale, that was not the case. There was a specific case where a person was providing illegal assistance to voters who did not qualify for assistance. However, there is, of course, nothing illegal about people being transported to the polls.

We did find in our investigation there was a general sloppiness with paperwork at the polls. At almost all of the polls, the primary and runoff, there were a large number of omissions on voter certificates. The voter certificates were not checked for ID; they were not identified by the poll worker to check them; dates were left off. Again, just a general lack of attention to detail and omission of checking ID at the polls. The complainant in this case actually took a photograph inside the polls, violating the law, trying to document what was going on.

Judge McCurdy, who is the current probate judge, has sent a letter -- his attorney has sent a letter that he has that I present to the board. He would point out that he was not the elections superintendent at the time these events happened. He has scheduled training for all the elections staff to correct these errors and make sure they don't happen again. However, as a result of this investigation, you'll notice on the chart we've got several people we're recommending being bound over: Clauye McCranie is the elections superintendent; Ms. Tucker is the acting assistant to the election supervisor; and then the registrar, several poll managers -- and you'll see to the right the number and violation or omissions that were made in terms of checking people in on voter certificates.

We've got Mr. Cook cited for taking the photograph, although I would recommend in his case we might issue a letter of instruction. We've got Arlen Murell, who assisted two voters when they did not legally -- when they were not entitled to assistance. Notice that Mr. Harper is not cited for any violations, even though he's on the chart. And the rest of them are poll managers and the citations are listed. Again, they all have to do with voter certificates.

I would also point out that if you look at the respondent chart, you will notice that in the primary election, in a lot of places there were a large number of errors, and in the runoff there were considerably fewer errors. So they took some action between the primary and the runoff to correct the errors.

Nonetheless, I recommend that, with the exception of Mr. Cook, who I recommended get a letter of instruction, I recommend the rest of the respondents be bound over to the Attorney General's office.

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

**MR. SIMPSON**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: We have a 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**: That motion carries and we've accepted the document. Any questions for Mr. Harvey from the board?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. SIMPSON**: Move to bind the case over except for Mr. Cook, and that his case be dismissed.

**SECRETARY KEMP**: Okay. We've got a motion to bind over everybody except for Mr. Cook and the motion is for Mr. Cook's case to be dismissed. Do we have a second?

**MR. WEBB**: Mr. Simpson, would you be willing to separate your motion into two separate motions?

**MR. SIMPSON**: Could I amend that motion?

**SECRETARY KEMP**: Yes, sir.

**MR. SIMPSON**: I believe Mr. Harvey recommended a letter of instruction. May I amend the motion to include a letter of instruction?

**SECRETARY KEMP**: Yes. Chair will accept the amended motion. Mr. Simpson's motion has been amended to add a letter of instruction for Mr. Cook, not a dismissal. So a letter of instruction. Do we have a second? I'll 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 referred everybody except for Mr. Cook to the Attorney General's office and we'll get him a letter of instruction.

All right. Mr. Harvey, next is 2010, number 99, Fulton County case dealing with the 2010 absentee ballot issues.

**MR. HARVEY**: Yes, sir. This case involved numerous complaints and allegations in the 2010 election. They are broken down -- most of the complaints were about absentee ballots. The first complaint is from Erin Prentiss who requested an absentee ballot, and on her application she requested that it be moved -- that the ballot be mailed to a separate address other than her registered address out-of-state, which was proper. The application address was printed in very small print, however, it did say that she wanted it sent to her out-of-town address.

The ballot was sent to her home address instead. When she called Fulton County, they looked at her application and they realized, okay, we do need to send it there. They sent it, however, she did not -- it was not received in time for her to cast a ballot.

In addition, Fulton County had a system failure on a couple of occasions where they sent out 226 absentee ballots to -- they sent the wrong ballots to 226 voters. They had a new system. A spreadsheet was set up and there was a miscalculation where the person on each line got the person behind them's ballot. So 226 absentee ballots were mailed out to voters with the wrong ballot. It was done exactly the same way a second time. On the third try, they got the correct ballots out to the voters.

Fulton County did take steps to correct or make allowances for the ballots coming back and they provided a breakdown of how the ballots came back. If a ballot -- if an incorrect ballots came back, they had a plan to deal with it, and a significant

number of the ballots did come back.

There were several other allegations of people who did not receive absentee ballots upon request. Fulton County was able to provide documentation that they sent ballots out; they were able to provide documentation that they had gone to the post office. The voters claim they never received their ballots and did not vote. However, I don't know that Fulton County could do much more than document that they sent the ballots out.

And I believe that is the list of violations. We've got Fulton County cited on, at the end of the executive summary, for numerous violations of absentee ballot procedures that specifically involves Erin Prentiss, as well as the mailing out of improper ballots to absentee voters.

Lastly, there was -- I apologize for overlooking this -- there was a situation where a gentleman requested an absentee ballot. It had not been delivered to him. Fulton County, on election day, hand-delivered a ballot to him, which is -- may have been well-intentioned, but it is a violation of the election code to hand deliver a ballot to anybody outside of a hospital on election day.

So with the citations listed, I will recommend that Fulton County be bound over to the AG's office on the charges.

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

**MR. WORLEY**: At which charges? The report -- the early report, the report investigation, not the executive summary --

**MR. HARVEY**: The executive summary charges --

**MR. WORLEY**: The report, itself, states there is no evidence to support a violation of a number of potential allegations. So which allegations are you --

**MR. HARVEY**: Okay. On the executive summary, there are five citations: 381, 384, and several paragraphs that revolve around Erin Prentiss' absentee ballot. And then 21-2-596 for failing to perform a duty when they mailed out the incorrect absentee ballots. Lastly, with regard to the voter they delivered -- hand-delivered an absentee ballot to on election day. Some of the other complaints were not able to be substantiated.

**SECRETARY KEMP**: Anybody else got questions for Mr. Harvey?

**MR. HARVEY**: And just for the record, Mr. Parks provided a written response to

the board and I would submit to the board for consideration.

**SECRETARY KEMP**: Do we a motion to accept Mr. Parks' letter?

**MR. WEBB**: So moved.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Okay. 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**: That motion carries and we have accepted that document.

Okay. Anyone wishing to address us on this case?

**MR. WALBERT**: Thank you.

**SECRETARY KEMP**: If you don't mind, we will get you to state your name and address for the record again. Thank you.

**MR. WALBERT**: I'm David Walbert, the law firm of Parks, Chesin & Walbert. Address is 75 14th Street, Atlanta 30309, Suite 2600.

**SECRETARY KEMP**: Thank you.

**MR. WALBERT**: On this, there are a few matters I like to bring to the board's attention, and I think maybe there is actually less disagreement with Mr. Harvey in some ways. But there is one piece -- Mr. Marvin got hand delivery. No question that occurred. We don't dispute the factual recitation there. I think he characterized it precisely right; very well-intended, but you can't do that. Fortunately, the guy voted in person so it had no impact at all. And if there is a proposed resolution rather than, again, sending that to the Attorney General, I would be happy to hear that at this time.

The second thing, and one I take particular issue with Mr. Harvey on with regard to Ms. Prentiss, Erin Prentiss, and in his analysis of the report he says the mailing address was in small type and was overlooked by Fulton County. It wasn't

overlooked. Do these gentlemen have a copy of what Mr. Parks submitted?

**MR. HARVEY**: They do now, sir.

**MR. WALBERT**: If you just look, it wasn't overlooked. It is absolutely illegible because of the size of it. For the board to have guessed as to what that address would be, I would suggest would be the wrong thing to do. Very worst case, it's a discretionary action. But you can tell it's a bad (unintelligible), but you have to guess, and you can see a "Hall" probably. But I would respectfully suggest it would be at the peril of the board to just guess at that. No phone number here where she is. And they sent it to her regular home address hoping that the parents or whoever was there be full-time address would forward it to her or let her know. She calls sometime thereafter and it wasn't that it wasn't mailed in time for the election. She claims she never got it. Again, this is one of the situations where it was mailed and, unfortunately, sometimes things in the mail don't get there within 30 days or 60 days or ever.

So there was no question about it being timely remailed when she called -- called and clarified her address. It wasn't a question of somebody, oh, I missed this and then reading it when she called. She called, gave the correct address for the absentee ballot, and that is how the matter was resolved.

I would respectfully submit that not ascertaining what in the world this address is here on her application, which is in, I would guess, about 5.5 or something like that, I would respectfully suggest that that is not a matter that should be penalized. Maybe if the board was incredibly -- maybe somebody who has far better vision than anyone I know could have ascertained that. But that, to me, is a wild guess. And I think the board would act that is peril to do that rather than send it to her home registered address in the best hope of getting into her.

I disagree with Mr. Harvey's characterization of that. It was never overlooked, as he stated in his findings, in his investigation.

On this other matter, that is the 226, let me have a little bit more context on exactly what happened, and Mr. Harvey has it right (unintelligible). There is a little bit more to it than that. This is what happened.

The county, for the first time in 2010, was using an automated system for doing its absentee ballots instead of doing them one at a time, and so on. Unfortunately, that system does not have a failsafe software mechanism in it. What I mean by that, and the significance of that, is this. You had to put multiple spreadsheet files in there and have them matched up so instead of putting in a particular voter and then keying in their address, which would automatically get them the right ballot

combination, the problem here was the absentee ballots were mailed to the right absentee ballot address. But the ballot combination that went to them was erroneous because different spreadsheet columns were put into the machine.

Now, that alone would be surprising in itself, probably that it allows that. But that's the reality. This is 226 ballots out of roughly 25,000 absentee ballots. So on one occasion this was done, this happened by having to key it in; having it keyed in, having it downloaded wrong, if you will.

Now, the county went further than that, though. At the end -- and this is not something that the seller of the software tells you to do -- but they went and did their own internal audit. They said, okay. They took out a subset of each group when they did that to see whether or not they would match up. And they did on those 226. They checked the ballot -- applicant and the ballot and they matched up. So they did beyond what the manufacturer recommends.

What happened was, just coincidentally, all those people they did this subset audit on happened to match up. What the odds are for that, I have no idea; one in a million, or whatever. But the audit did not reveal the underlying problem that Fulton County took upon itself to do this audit because of the coincidence that all those ballots happened to match up, even though they weren't the right person's ballot. They were somebody else's ballot, but it happened to be the exact right combination so it didn't reveal the problem. So they did everything they could.

Again, it's the first time this was ever used. As soon as it came to their attention by phone calls from people -- a couple of people noticed they had the wrong ballot -- they sent out, I think it was nine days later, October 11 -- the original ones were sent out on October 2. They had redone them and they wrote everybody an explanatory letter. They called everybody they had the ability to call and got a hold of everybody -- they did everything they possibly could to correct it. At the end of the day, some people voted the wrong ballot and what Fulton then did for those was to take those portions of the ballot and counted those, but they couldn't include the votes for the ones that were in the wrong district. That is the sum and substance of it here.

So, again, we have tried this case with the county -- with the state Attorney General's office, or someone. That's what happened. If there is a recommendation that Mr. Harvey or whoever has to dispose of that, we will be happy to hear about it rather than go further at this time.

That is the sum and substance of those three matters. We really don't think Erin Prentiss was anything -- it was unfortunate, but it was -- it was a good faith effort to do the very best thing with the information available. Marvin was definitely the

-- the State -- Mr. Harvey identifies . . .

And that's the totality of what happened on the 226 ballots. So we would just submit that to the board for its consideration and possible disposition.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. WILLARD**: Mr. Secretary, I have a question for Mr. Harvey.

**SECRETARY KEMP**: Let me see if I can get a microphone down there for you.

**MR. WILLARD**: I'll try to speak up for the court reporter.

**SECRETARY KEMP**: Speak slowly and loud.

**MR. WILLARD**: Not sure I can speak much slower than I normally do, Mr. Secretary.

Mr. Harvey, one of the board members had asked, and I apologize -- I forgot who actually asked you this question during Mr. Walbert's presentation. I won't say it was long or anything along those lines, but they asked what allegations you are recommending referring over, and I think you are referring over 1, 2, and 4. My question specifically deals with 4, Mr. Martin. Correct me if I'm wrong, but Mr. Martin contacted your office; you contacted Mr. Garner; Mr. Garner initiated contact with Mr. Martin; Mr. Garner was able to determine that an absentee ballot had, indeed, been sent out, was tracked by the post office, but they couldn't verify delivery of it. Mr. Martin, though, ultimately voted on election day at his precinct according to the ROI.

So what's the basis for the violation?

**MR. HARVEY**: Simply the delivery of a ballot to a vote on election day that's not in the hospital.

**SECRETARY KEMP**: Any other questions or ideas from the board?

**MR. WEBB**: I do have a couple of questions for Mr. Walbert.

**SECRETARY KEMP**: Okay.

**MR. WEBB**: This won't take but a second; sorry. And a point of correction for Mr. Willard. It's allegations 1, 3, and 4; not 1, 2, and 4.

**MR. WILLARD**: I'm sorry. You're right, Mr. Webb.

**MR. WEBB**: Mr. Walbert, with regard to the allegations in 3 with regard to the software that didn't work, this happened in 2010, and since that time, have there been any issues with the software mailing the --

**MR. WALBERT**: I assume people, now realizing there is this artifact in the software, there is much more intensive observation. So I'm aware of none. I assume that's because people are now aware that this can happen. So I know of none, is the best way I can answer that, and I probably wouldn't know if there had been any.

**MR. WEBB**: It seems to me that your explanation was almost a remediation plan; that they're taking efforts to make sure it doesn't happen and this has kind of raised their awareness.

**MR. WALBERT**: If I was the county, I'd buy a new software system. I don't think that's within the budget, frankly.

**MR. WEBB**: Right.

**MR. WALBERT**: I'm shocked -- this is me talking -- I'm shocked that you can sell software that allows this to happen.

**MR. WEBB**: And with regard to Mr. or Ms. Prentiss, the -- I don't have -- we don't have the original, but the copy we have is pretty small, even with magnification, I think it would be difficult to read, in my opinion. But I would point out that there was another error by Fulton County that it failed to mark the date that the absentee ballot was mailed. That's the fifth allegation; the fifth point under that first allegation.

**MR. WALBERT**: That wasn't a charge here so I haven't investigated whether that's -- what's right or wrong about that. Whether that's another part of the record or not, I don't know, sir. But since that wasn't charged, we didn't investigate that, or try to respond to that.

**MR. WEBB**: I'm sorry. What do you mean by wasn't charged?

**MR. WALBERT**: It wasn't raised as an infraction in the report. So I have not inquired what might be in the records to reflect the fact that, you know, it was in the records if it was mailed. I assume that's in there somewhere, but we didn't produce it because we didn't know that was an issue you just raised.

**MR. HARVEY**: It is a violation. It's alleged at the end of the executive summary, the third from the bottom.

**MR. WORLEY**: Was it alleged in the report, the investigation? Or in the initial complaint?

**MR. WALBERT**: Excuse me. What I was reading referred to your Page 3. I'm not that familiar with it, but I don't see it mentioned, that particular issue --

**MR. WEBB**: The fifth one; the very last one. Is that not on your Page 3?

**MR. WALBERT**: I'm on Page 3.

**MR. WEBB**: Down at the bottom? Do you have the same --

**MR. WALBERT**: I'm up at number -- Prentiss is the one you're talking about?

**MR. WEBB**: Correct.

**MR. WALBERT**: And that's at the bottom of Page 2 and the first paragraph of Page 3 and that's all there is on Prentiss on my -- everything else pertains to other voters.

**MR. WORLEY**: Could we see your . . .

**MR. WALBERT**: This is what I got from y'all.

**MR. WEBB**: Just for the record, Mr. Walbert is correct. It's not in the report that he received, but it's in our executive summary and it's also in the report.

**SECRETARY KEMP**: Any other questions?

(Whereupon, there was no response)

**MR. WALBERT**: Thank you, gentlemen.

**SECRETARY KEMP**: Thank you. Got anything else Mr. Webb?

**MR. WEBB**: No. Just trying to figure out how to address these. I think with respect to allegations 2, 5, 6, 7, 8, and 9, that those allegations can be dismissed and I would make a motion to dismiss those allegations.

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

**SECRETARY KEMP**: All right. So 2, 5, and 6?

**MR. WEBB**: Keep going.

**SECRETARY KEMP**: What are the other ones?

**MR. WEBB**: Seven, 8, and 9.

**SECRETARY KEMP**: All right. So we've got a motion to dismiss -- motion by Mr. Webb to dismiss allegations 2, 5, 6, 7, 8, and 9. Did you second, Mr. Worley?

**MR. WORLEY**: Yes.

**SECRETARY KEMP**: Mr. Worley seconded that. Is there any other discussion on those matters?

(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. WORLEY**: I would like to make a motion.

**SECRETARY KEMP**: Mr. Worley.

**MR. WORLEY**: That, with regard to allegation 4, about Ronald Martin, that we send a letter of instruction to Fulton county for --

**SECRETARY KEMP**: That's on the hand-delivered ballot?

**MR. WORLEY**: Yes.

**SECRETARY KEMP**: We've got a motion by Mr. Worley on allegation 4 dealing with Ronald Martin's absentee ballot situation that a letter of instruction be sent to the county about how to handle such matters. Do we have a second?

**MR. SIMPSON**: Second.

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

**MR. WEBB**: I would have -- quick for Mr. Willard, if we've had any other cases like this before, the personal delivery of absentee ballots by the county?

**MR. WILLARD**: Not in this type of instance, especially where you've got the Secretary of State's office reaching out and corresponding directly with the county board saying, where's the ballot at?

**MR. WEBB**: I'm just trying to figure out if that's the correct method of handling this. Mr. Secretary, I don't know if you have any comments.

**SECRETARY KEMP**: No. I think, you know, I could live with a letter of instruction, but I'm fine binding it over, too, for further investigation.

**MR. WEBB**: We have an isolated case.

**SECRETARY KEMP**: This appears to be an isolated case, and we do have a motion and a second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. All in favor of a letter of instruction on allegation number 4 dealing with the Martin ballot, 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'll get the letter of instruction out. All right. That leaves us with allegation 3, and that's it, isn't it?

**MR. WEBB**: And 1.

**SECRETARY KEMP**: Oh, sorry. Allegations 1 and 3.

**MR. WEBB**: I think with regard to allegation number 3, I think this may have been something that the county wasn't aware of; that they tried to fix it. I felt Mr. Walbert's explanation of the circumstances, the county did everything it could and I would suggest just a letter of instruction to ensure that they continue to monitor the software and make sure the addresses line up with the individuals. So I would make a motion for a letter of instruction.

**SECRETARY KEMP**: All right. We have a motion for a letter of instruction. 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**: 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 do the letter of instruction.

**MR. WEBB**: And with regard to allegation number 1, I'm of the opinion that the address could not be seen and we haven't seen evidence that the original one was so clear. But it is extremely small font and the letters were running together, at least in the copy that we were presented with. And given the fact that the fifth point under that allegation was not included to the county, I think that has -- I'm sorry?

**MR. HARVEY**: It actually was, sir. It's on the final page under the violations. It's the third from the bottom.

**MR. WALBERT:** With all due respect, it doesn't say anything about Ms. Prentiss there. You've got a statutory cite saying it's a violation. We have no idea which of the nine cases it pertains to. There's nothing in the facts about that. Mr. Webb is dead right on that.

**SECRETARY KEMP:** Well, you saw that on the ballot, right, when you did the investigation; that it's on the ballot, but the address wasn't there, even though it's not on the piece of paper?

**MR. HARVEY:** Well, I think the question is about whether or not the application was marked the date the ballot was mailed, and it says the facts in evidence -- Fulton county Board of Registration and Elections violated 21-2-384 by failing to mark on Erin Prentiss' absentee ballot application the day the absentee ballot was mailed.

Is that not on your copy?

**MR. WALBERT:** What the board got from Mr. Harvey on the 29th -- okay. I guess the fact that it's not in any findings, we couldn't produce records. Had we known that was part of the dispute and the findings and shown where it is in the records -- but we didn't respond not realizing that was in there. I apologize I missed the conclusion you had.

**SECRETARY KEMP:** We can always table that matter and give counsel time to examine documents. I'm sure we'll be seeing him again.

**MR. WEBB:** I think that's a good suggestion. With regard to allegation number 1, I would dismiss regarding the mailing of the absentee ballots, both the first and the second; and with regard to the absentee ballot not being -- the application date not being applied, we would table that.

**SECRETARY KEMP:** Did you get that motion? Mr. Webb, would you restate that again.

**MR. WEBB:** Yes. This is with regard to the allegations involving Erin Prentiss. I make a motion that we dismiss the allegations with regard to the mailing of the absentee ballot to the temporary address out of the county. And with regard to the failure to mark the absentee ballot with the date the absentee ballot was mailed, that that be tabled.

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

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We've got 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**: That motion carries. Mr. Harvey, can we get through the Quitman County case, you think?

**MR. HARVEY**: I believe so, sir.

**SECRETARY KEMP**: Okay. Let's go ahead and call one more before lunch today. 2011, number 13, Quitman County, general election case.

**MR. HARVEY**: This case involved the general election in Quitman County. The complainant is Ms. Butler, who was a candidate. Most of her complaints revolve around what she thought was illegal presentation of Alabama drivers license and assistance at the polls on election day. It turned out those allegations were not sustained. Of course, there's nothing illegal about presenting an out-of-state drivers license in order to vote in Georgia.

However, when we conducted our investigation, we found several violations on the part of the Quitman County elections office. Again, we had 32 voter certificates not fully marked indicating type of ID; the person who checked it; the reason for assistance, in some cases. When our investigator went down there they found there were 55 absentee ballots that had not been -- they've been counted, however, they had not been put with the rest of the election materials and sent to the clerk of Superior Court's office, which is in violation of 21-2-390. Those were subsequently packaged up and deliver to the clerk with our investigator person.

Quitman County did not have three poll workers at all times during advance voting. Judge Bennett said they were essentially trying to save money; they were trying to fill in where they could. However, he acknowledged they did not have three at all times.

I mentioned the fact that they failed to record information on voter certificates. One poll -- in another case, a poll officer failed to document the reason somebody received assistance when they did. Lastly, a poll manager signed her own name in and checked her own ID when voting. That doesn't appear to conform to the code.

Judge Bennett provided a written response that I will share with the board. In this response, there is actually a second case for Quitman County. It includes the response to both cases if the board would like to receive such document.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Do we have a motion to accept the document from Judge Bennett.

**MR. SIMPSON**: So moved.

**MR. WORLEY**: 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.

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we've accepted the document.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I will accept a motion. What is the recommendation again, Mr. Harvey?

**MR. HARVEY**: The recommendation is to bind this over to the AG's office.

**SECRETARY KEMP**: I will make a motion that would bind over. Mr. Willard,

I think this is a good opportunity to address some of the problems we have had in Quitman County with the new probate judge that's coming into office soon, and hopefully we can get things started off on the right foot in regard to these matters and others that the new judge may be facing. Do we have a second?

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Okay. 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.

**SECRETARY KEMP**: That motion carries and we have bound that case over.

Are we going into executive session? Mr. Willard, do we have --

**MR. WILLARD**: We need to discuss potential litigation.

**SECRETARY KEMP**: All right. I need a motion that we break for lunch and go into executive session and come back at 1:00 p.m.

**MR. WORLEY**: So moved.

**SECRETARY KEMP**: Mr. Worley moves. Do we have a second?

**MR. McIVER**: Second.

**SECRETARY KEMP**: Mr. McIver seconds. 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 have moved to go into executive session. We'll see

everybody back at 1:00.

- - -

(Whereupon, the proceedings were in recess)

- - -

(Whereupon, the proceedings resumed)

- - -

**SECRETARY KEMP**: Okay. Good afternoon and welcome back. We need to take a motion for the board to come out of executive session and go back into our regular meeting.

**MR. WORLEY**: So moved.

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

**MR. WEBB**: Second.

**SECRETARY KEMP**: We have 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**: That motion carries. We are now back on the regular State Election Board meeting for Tuesday, November 27.

Mr. Harvey, we've got 2011, case number 18.

**MR. HARVEY**: This case, although labeled Gwinnett County, it was a case of people who were referred to our office who were claiming to be non-citizens on jury forms, but were registered to vote. Our investigation revealed, as the respondent chart shows, there were actually only three people who were registered to vote who were not US citizens. The first is Robert François, who registered in person by hand in 2007. He never did vote. However, he registered as a non-

citizen, and we recommend he be bound over.

The second is Dan Marinca, who registered in 2007 through the Department of Driver Services. Normally, that would not be considered a necessarily voluntary registration. However, he indicated to our investigator that he did intend to register, but he didn't know he couldn't. He did specifically ask to register to vote. He, however, has not voted since he registered to vote. However, we recommend that he be bound over.

The last is Ramon Espejo, who registered to vote in 2004 and has voted three times since then.

The other individuals, like I said, were either determined to be citizens or by registered -- were not registered at the point that we could determine they had to voluntarily registered.

So I recommend that Mr. François, Mr. Marinca, and Mr. Espejo be bound over to the Attorney General's office, and the rest of the cases be closed.

**MR. SIMPSON**: So moved.

**SECRETARY KEMP**: I can tell Mr. Simpson is ready to get back on the road this afternoon.

**MR. SIMPSON**: I have a long drive.

**SECRETARY KEMP**: I know it. All right. Any questions for Mr. Harvey?

(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. Simpson?

**MR. SIMPSON**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: Mr. Simpson moves we bind the three individuals over to the AG's office, and Mr. Webb seconds. Any other discussion?

**MR. SIMPSON**: And dismiss the others.

**SECRETARY KEMP**: And dismiss the others. Okay. We've got a motion to bind over the three and dismiss the others 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 on to 2011, number 23, Barrow County, McKenzie case.

**MR. HARVEY**: This is almost exactly the same set of circumstances. In this case, Mr. McKenzie went and registered to vote through the Department of Driver Services. He got a precinct card and then subsequently voted three times. It was detected when he went to change his address that he was not a US citizen and had been voting. I recommend that he be bound over to the AG's office on the citations listed: for registering and voting in three elections and providing fraudulent information on his voter certificate.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I will entertain a motion.

**MR. SIMPSON**: I move we bind over Mr. McKenzie on the three alleged violations.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We have a motion and a second to bind over to the Attorney General's office. 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 we have bound Mr. McKenzie over to the AG's office.

Next is 2011, number 39, the other Quitman County.

**MR. HARVEY**: Yes, sir. The complainant in this case Mrs. Sharon Butler, and she reported that it had come to her attention that Quitman County had lost or misplaced approximately 175 to 300 original registration applications. We did an investigation found out that that was -- that allegation was correct. They had gone missing, I believe, in a move. They were able to get all but five of the voter registration applications redone by the voters.

In addition, we found that the board of elections -- I'm sorry, the registrars had not sent a representative to the required VREG training and we recommend that the case be bound over on Quitman County regarding the violation on retention of records, safekeeping and certification of ballots.

The other issue, when they didn't have the absentee ballots -- I'm sorry, the voter registration applications, they were not able to verify signatures on registration applications. So they were failing to do that. The -- Julia Floyd was the registrar -- was simply comparing the absentee ballot application to the ballot when they came in. There was no third comparison of signature.

So far all these citations listed, we recommend Quitman County be bound all for.

In the document that I gave you previously from Judge Bennett and Quitman County, he provided a second response to this allegation and essentially acknowledged they had gotten all the registration cards back except for five and that the person that was supposed to attend the fee rack training was ill and nobody attended the required training. I recommend this case be bound over.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone wishing to speak of this case?

(Whereupon, there was no response)

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

**MR. WEBB**: I make a motion that we bind this case over to the Attorney General.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We've got a motion and a second to bind over. Mr. Willard, if it's appropriate, I think you could probably combine these two cases when you work on your consent. As you'll remember my comments from the last time, it's a good opportunity, I think, to have some discussions with the County and with the probate judge and let them know that we want them to make sure we get off to the right -- get off on a good foot and a good start for the new Judge make sure they know what they need to do, the training they need to get. Hopefully that will eliminate some of the problems they've been having.

**MR. WILLARD**: Yes, sir.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Mr. Harvey, 2011, number 43, Troup County.

**MR. HARVEY**: This case -- complaint was made by Judge Boyd. There is a candidate, Mr. Harry Hudson, who filed a candidacy affidavit claiming he had been a resident in Georgia, Troup County for three consecutive years. It turns out that Mr. Hudson had actually registered and voted in Alabama in November of 2010. He registered in Georgia of August of 2011. So there is no way he could have been a Georgia resident, a Troup County resident for three consecutive years. He withdrew his candidacy upon notification of our investigation.

We recommend Mr. Hudson be bound over for violation of 21-2-565 for making false statements regarding his notice of candidacy and affidavit.

**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**: Hearing none, do we have motion?

**MR. WORLEY**: I move that we bind this over to the Attorney General's office.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We've got a motion by Mr. Worley and a second by Mr. Simpson to bind over to the AG'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**: The motion carries. Next is 2011, number 46, Stewart County case.

**MR. HARVEY**: This case is a little bit similar to the previous case. In this case the respondent, Ms. Crawford, was a candidate for city council and she had previously been registered and lived in Muscogee County, Columbus, and had voted there. By her admission, she moved to 2009 after a divorce. She moved to Richland. However, she continued to vote in Muscogee County.

When she went to file her candidacy affidavit for the City of Richland, she said that she had been a resident of the city for more than a year. However, when she was turning in her paperwork, she told clerks that she actually had only been a resident for seven months. So it's one of the situations where you can't have it both ways. She was either voting in a county where she was not a resident when she was living in Stewart and voting in Columbus, and/or she was not a resident of Stewart County for the sufficient timeframe, by her own admission, when she filed

her candidacy affidavit.

I recommend that the case be bound over to the AG's office.

**SECRETARY KEMP**: Questions for Mr. Harvey?

**MR. WEBB**: Mr. Harvey, do we know which way she is leaning on this?

**MR. HARVEY**: I don't. I think -- no, is my short answer.

**MR. WEBB**: Thank you.

**SECRETARY KEMP**: Any other questions?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any other persons wishing to speak on this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right.

**MR. WILLARD**: Mr. Secretary, I'm not sure what the board's prerogative is on this, but if after the investigation, the investigation division isn't sure which violation may have occurred -- they appear to be mutually exclusive -- I can't send it over to OSAH and basically ask the OSAH judge to choose which way they will lean. I've got to prove a case as to one violation.

**SECRETARY KEMP**: So we can refer it to you to investigate both violations?

**MR. WILLARD**: No. You can't refer to me to investigate. We don't have an investigative staff. If the investigative staff is not certain as to which violation may have occurred, it may be an appropriate case to send back for further investigation to determine when, in fact, she did move.

**MR. HARVEY**: Well, that's -- if I may, Mr. --

**SECRETARY KEMP**: Yes.

**MR. HARVEY**: The reality, I think, is that they are not necessarily mutually exclusive. On her own admission, she is not a city -- a resident of Richland but for seven months. So I think that on the face of that, her affidavit is -- states false information. So I think that charge would stand alone. In fact, we were able to

corroborate; we've got two witnesses who said they heard her say that.

The case as to whether or not she was voting in Muscogee County when she was living in Stewart County may be a harder case to prove. And, you know, the whole issue of residency, moving back and forth and setting up new houses, that may be harder to uphold in a hearing. I don't know that there's going to be any additional evidence we're going to be able to uncover. I think there was some equivocation on her part as to when exactly she moved and she kind of tried to go back and forth so that depending on what you are asking about, to put her in the most favorable light. But I don't think there's any question that she acknowledged she was not a City of Richland resident. So that stands on its own.

**MR. WILLARD**: Not to your staff, but to the City officials?

**MR. HARVEY**: That's correct. So I think that can stand on its own. As far as whether or not she was voting in Muscogee, we've got it as a possible violation. There may not be evidence, concrete evidence that is going to be able to be sustained.

**SECRETARY KEMP**: Well, this is a probable cause hearing, right?

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

**SECRETARY KEMP**: And you've got probable cause that there is potential -- potentially two violations?

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

**SECRETARY KEMP**: So we can refer to the AG's office and then the respondent will have to prove during a consent negotiation the allegations; is that what is in order?

**MR. HARVEY**: I think Mr. Willard will have to decide whether or not there's enough evidence to go forward on the other charge. If there's not, there is not. When we put together the potential violation, we try to cast a relatively wide net. We don't want to go overboard and throw in every possible violation, but we want to provide as much notice as possible of the things that we are considering. So I can very well see Mr. Willard deciding not to move forward on the voting out of precinct or voting out of the county, but moving forward on the false statements. Or if he found upon further review of the evidence that he could do both, he may be able to do both.

**SECRETARY KEMP**: All right. Anyone else wishing to speak on this one?

(Whereupon, there was no response)

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

**MR. SIMPSON**: I move we bind over both violations.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. We've got a motion by Mr. Simpson and a second by the Chair to bind over these allegations 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. 2011, number 47, Fayette County case.

**MR. HARVEY**: This case is a case involving respondent Julia Pucel. I have a document she sent to me and to the State Election Board explaining her position that I will present to the board for their consideration.

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

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We've got a motion and a second to accept the document in the Fayette County case. 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 that we have accepted the document.

**MR. HARVEY**: The short version of this case is that Ms. Pucel registered to vote in Wisconsin and Georgia in the year 2000 and since 2006 has been voting in both states repeatedly without re-registering or changing -- dropping registration from one to the other. You will see a respondent chart in the back of the executive summary that shows the different dates and elections where she voted in Georgia and where she voted in Wisconsin. Her explanation is that she didn't realize she could not do both; that she considered herself an overachiever and she owned property in both areas so she thought she was entitled to vote twice.

Recommend that she be bound over based on the number of violations to the Attorney General's office.

**SECRETARY KEMP**: Questions for Mr. Harvey?

**MR. WORLEY**: Have the authorities in Wisconsin . . .

**MR. HARVEY**: They have been made aware. They are waiting results on what happens here. With the board's permission, I would send them a copy of our file.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: I'm ready for a motion.

**MR. SIMPSON**: I move the case be bound over to the Attorney General.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Second by Mr. Worley. Any other discussion?

(Whereupon, there was no response)

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

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. The SEB case number 2011, number 54, we granted a continuance on that as we always do on the first request. We will move on to 2011, number 55, Franklin County case.

**MR. BROOKS**: Mr. Secretary, members of the committee, this election was the November 8, 2011 municipal election involving the City of Canon. The City of Canon contracts with Franklin County to conduct the election. The City of Canon lies both in Franklin County and in Hart County. In preparing their ballots and getting all the materials ready, they forgot about the citizens that live in Hart County so they didn't have the ballots for that. Once they recognized that they didn't have that, they got those ballots in and there were no voters impacted by the error that they had. They just simply didn't have all the ballots available for all the districts at the time the election started.

Recommendation on this is a letter of instruction to them.

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

(Whereupon, there was no response)

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

**MR. SAMUELS**: Good afternoon, Mr. Secretary and members of the board. My name is Bubba Samuels. I am the Franklin County attorney. My office address is PO Box 1926, Buford, Georgia 30515.

Very briefly, there were four -- a total of four voters who resided in Hart County who, again, as the gentleman stated, were not impacted by the omission that was discovered by the supervisor at the time, Ms. Phillips, who is here, and who immediately self-reported the incident. It's an isolated incident. Timely corrective action was presented and prevented any.

**SECRETARY KEMP**: Thank you. We appreciate you all being here today. Any questions for Mr. Samuels?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We have a recommendation for a letter of instruction. Any other discussion or motion?

**MR. SIMPSON**: I move that we issue a letter of instruction.

**SECRETARY KEMP**: We have a motion by Mr. Simpson for a letter of instruction. Do we have a second.

**MR. McIVER**: Second.

**SECRETARY KEMP**: We have a second by Mr. McIver. 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 send a letter of instruction on the case. All right. Mr. Brooks, we're going to number 29 in your binder, 2011, number 58. It is DeKalb County, the Ware case.

**MR. BROOKS**: Yes, sir. This is the City of Lithonia, Georgia. It was the municipal general election in November of 2011. It was reported that Mr. Ware had filed notice of candidacy and affidavit to fill a seat in a special election there in the municipal election. He was challenged, or his candidacy was challenged, by the DeKalb County Board of Registration and Elections and disqualified Mr. Ware for not meeting the residency requirements.

During the investigation, it was determined that he submitted a notice of candidacy affidavit for the November 11 seat listing his address as 6984 Braswell Street and Lithonia. He stated that he resided there for 15 consecutive years and submitted a voter application to them listing that address and once she looked at that, it was determined that Mr. Ware had previously registered and voted at an address in Gwinnett County in 2010; and he also had voted in Tennessee in July of 2011. So, again, you could meet those residency requirements. He stated that he had been there for 15 years.

We did a site visit to the house and moved out there, the house was vacant; it was empty. Neighbors confirmed that the house had been vacant for approximately 7

years. There was a hearing conducted; Mr. Ware did not appear that hearing and he was disqualified (unintelligible).

**SECRETARY KEMP**: Recommendation?

**MR. BROOKS**: That it be bound over to the AG's office.

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

(Whereupon, there was no response)

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

**MR. WARE**: Mr. Secretary of State and members of the State Election Board, I am Leonard Neil Ware, 6984 Braswell Street, 30058, here with my mother. She is the owner of the property; I am a tenant. I desire to have counsel. I understand from this notification I can. I have sought an election attorney. I have contacted the Gage City Bar Association and also the Georgia State Bar, and I would like to request to extend the matter so I can be represented by legal counsel. I request a continuance so I can be represented by counsel.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Mr. Ware, why didn't you line up counsel before the meeting today?

**MR. WARE**: Well, one, it's -- my uncle had passed away before Thanksgiving. Number two, I needed pro bono because of a financial hardship. So I had contacted Gate City and got an appointment, but it was because it was over the holiday. So I'm going to meet with a Gate City attorney and I have met with my minister, who is a former judge of the City of Atlanta, Dr. Andrew Hairston of the Simpson Street Church of Christ. So that is why.

**SECRETARY KEMP**: This board has been pretty gracious, I know, since I've been here, about granting continuances for the first occasion if someone wants one. We normally do that before the meeting gets here, but I'm certainly willing to accept any recommendation by the board. Mr. Willard, I don't know if you have any advice for us.

**MR. WILLARD**: At this point in time, I think it's up to the board as to what they want to do.

**MR. WORLEY**: I make a motion that we grant a continuance.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: All right. We've got a motion and a second grant a continuance. Let me just make sure there's no one else here wishing to speak on this matter. We want to hear from anyone who is interested in this case if they would like to be heard.

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we've got a motion and the second to grant a continuance.

**MR. SIMPSON**: Mr. Chairman, before we vote on that, can we inform him as to the next meeting date so he can make his arrangements?

**SECRETARY KEMP**: We don't have the February meeting date yet. The meeting date will be in February and it will be in Macon, Georgia. But that will be when your hearing will be. We will hear the case at that time.

**MR. WARE**: In Macon, Georgia?

**SECRETARY KEMP**: Macon, Georgia.

**MR. WARE**: Will your staff give me the exact address?

**SECRETARY KEMP**: We will notify you. Yes. All right?

**MR. WARE**: Yes.

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We've got a motion in the second to grant a continuance -- on the 2011, number 58 case, we've got a motion and the second to grant a continuance till our next meeting in February. 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. Next we have 2011, number 59, Hancock County, 2011 absentee ballot case.

**MR. HARVEY**: Mr. Chairman, members of the board, this is a case from the Sparta municipal election of 2011. The Secretary of State's office received numerous complaints from residents in Sparta covering a wide variety of allegations, including illegal absentee ballot possession; no privacy while voting; improper L&A testing and advertising; and people offering and -- people offering money in exchange for votes.

I believe the first allegation was made by a person who ends up being a respondent, Ruby Brundage Kitchen. She called our office and complained that she was going by to pick up some absentee ballots and she had been beaten to the punch by another person. We determined that Ms. Ruby Brundage Kitchen ultimately provided illegal assistance to several people and then didn't sign as providing the assistance. In this case, the electors who voted were not illiterate or physically handicapped, and, like I said, she didn't sign as assisting when she did.

We also determined that a second person, Garnishia Bryant, was in illegal possession of the absentee ballot of Tamika Justice. Ms. Bryant took possession of the ballot and actually marked it without Ms. Justice's permission and turned it in.

We also identified that L&A testing, logic and accuracy testing, was not conducted on the day it was advertised in the local newspaper. It had been advertised for a date. They couldn't conduct it that date and they didn't re-advertise, which I will point out is at least the third time my immediate memory that L&A testing has caused a problem in Hancock County.

Lastly, the allegation was that during voting in the elections office, there was not sufficient privacy for voters. I have a photograph of the setup. It's labeled Exhibit 5 from our investigative file. It shows three DRE's set up in elections office. Granted, the elections office in Sparta is not a large place. However, you notice the proximity of the workers' desks to be voting machines and the relative lack of privacy.

I point out that in 2012, Hancock County did build some booths to create privacy. But in 2011, that was not the case and we had voters complaining of not having privacy while voting, either from other voters or from people who were working in the elections office.

I think based on the comments -- some of the comments that were made at the beginning of this meeting, there is significant concern among some citizens of Hancock County in Sparta about the integrity of the election system. This case is dealing specifically with these two allegations against the Hancock County Board of Elections and Registration and the failure to conduct, may testing and the lack of privacy in setting up voting machines.

Ultimately, I recommend that all the respondents, Ruby Brundage Kitchen, Garnishia Bryant, and the board be bound over to the AG's office. The specific violations are on page 4 of the executive summary, which show that unlawful possession of six ballots, unlawful assistance, and Ms. Ruby Brundage Kitchen allegedly offered a candidate she would get votes for him for five dollars a vote. The candidate declined the offer that there is no evidence that anything but further.

We recommend Ms. Kitchen, Ms. Bryant, and the board of elections and registration be bound over to the AG's office.

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

**MR. WILLARD**: Mr. Secretary, I have one concerning the allegations against Garnishia Bryant. You've got the testimony from the elector that she had given her ballot to Missy Jones. How were you able to determine that Missy Jones was an alias of Garnishia Bryant?

**MR. HARVEY**: Garnishia Bryant and Missy Jones are the same person.

**MR. WILLARD**: Right. How are you able to determine that?

**MR. HARVEY**: Right off the top of the head -- I could check the file; I don't have that at my fingertips.

**SECRETARY KEMP**: So they are the same person?

**MR. HARVEY**: It's the same person; yes, sir. She goes by two different names. The investigative report that the investigator wrote simply identifies Ms. Bryant as a.k.a. Missy Jones. He spoke with her, so I assume that identity was established.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to speak on this matter? Yes, ma'am. You're going to need to come on up to the microphone and give us your name and address for the record, please.

**MS. NELSON**: My name is Terry Nelson. I live at 57 maiden Lane, Sparta 31087. My question is for Chris. Why would the board be bound over when the issue against the board was the lack of privacy --

**SECRETARY KEMP**: Ma'am, let me stop you right there. We are glad to take any feedback you want to address to the board, but we are in a position as a board of gathering information, not answering questions. So if you have a scenario you'd like to ask myself, feel free to do that. Or if you have questions, let us know.

**MS. NELSON**: My basic question was why would the board be bound over when their problem was lack of privacy and that's already been addressed with the building of the booths?

**SECRETARY KEMP**: Right. But it was not addressed at the time of the violation. That is what the board is to determine. Now, if you want to tell us what the board has done since the allegation, we would certainly be willing to hear that.

**MS. NELSON**: Well, they have built booths and they really want out of their way to ensure that there is privacy and I think the board in a lot of ways is getting a bum rap.

**SECRETARY KEMP**: Okay.

**MS. NELSON**: Because they are trying to do what they're supposed to do and the mayor and some of the other people are disregarding that completely. So they are sort of shot in the foot from the get go. Thank you.

**SECRETARY KEMP**: Absolutely. I think Mr. Harvey did mention that since this violation that there had been work done on the privacy situation. All right. Anyone else wishing to speak on this matter? Yes, ma'am.

**MS. WADDELL**: My name is Jeanette Waddell. I am the chairperson of the Hancock County Board of election and registration, and so I want to address the issues relating to the board for the 2011 city election.

The board of registration did not serve as superintendent, and so the L&A testing was not under our responsibility. That was the responsibility of the city clerk, or the city superintendent, who was the city clerk. So I respectfully ask that that be dismissed as it relates to Hancock County.

**SECRETARY KEMP:** Okay.

**MS. WADDELL:** The other two issues, we occupy the space provided for us by the County commissioners. Our space is approximately 400 square feet. As a frame of reference, this building is approximately 2000 square feet. In that space, all of our election-related activities take place except what would go on in the polling places on election day. In that space are the three required poll workers were early and advanced voting; the voting machines; the desks -- everything that is related, except the storage of our equipment, is in that 400 square feet space. Our space is limited. When we recognized this as a problem, initially, our elections supervisor allowed voters to go in one at a time until a better solution could be devised, and now we have the partitions so that when someone goes in they are completely surrounded on each side.

**SECRETARY KEMP:** Any questions for Ms. Waddell? I have a question for you. How could the city elections superintendent do L&A testing on county machines?

**MS. WADDELL:** We loaned them our machines. We have a contract arrangement with them and they performed the L&A testing. That was not one of our responsibilities.

**SECRETARY KEMP:** What does the code said there, Mr. Harvey? Do we know?

**MS. WADDELL:** The city superintendent -- the city ran its own election.

**SECRETARY KEMP:** Right. But the equipment's got to be tested before the election to make sure that the system is secure and ready to go.

**MS. WADDELL:** Yes. I understand that. Yes.

**MR. HARVEY:** I believe, Mr. Secretary, if that's correct, the city was running the election, then they would conduct L&A testing on the machines they use by the county. In light of that fact, I recommend that we table that part of the investigation and re-present the case to the State Election Board at a subsequent meeting.

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

**MR. McIVER:** Unrelated, but one that is curious to me. Earlier, we heard today that Ms. Rice, former probate judge, was still involved in elections in Hancock County. Is that correct?

**MS. WADDELL:** That would be a decision that would be made by the city. The county was not involved in the decision, whatsoever, so I am certainly not at liberty to speak to the city. I have no personal knowledge of her involvement.

**MR. McIVER:** Well, there is the answer. Thank you.

**SECRETARY KEMP:** All right. Anything else for Ms. Waddell?

(Whereupon, there was no response)

**SECRETARY KEMP:** Thank you very much. All right. Let's see. Anyone else wishing to speak on this matter? Ms. Stephens?

**MS. STEPHENS:** Nancy Stephens, 389 Roy Smith Road, Sparta, Georgia 31087. In regards to L&A testing, I was told by our elections supervisor that they could not do it on the proper day because they could not find any supervisor cards. I later found the invoice where she had overnighted eight supervisor cards to her office so they could go ahead with the testing.

**SECRETARY KEMP:** This was the county or the city?

**MS. STEPHENS:** The county.

**SECRETARY KEMP:** So the county did the testing?

**MS. STEPHENS:** Well, that's what I was told, and I did find the invoice. The county ordered the eight supervisor cards.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Anyone else? Ms. Waddell.

**MS. WADDELL:** She is correct about the supervisor cards being unavailable. However, since this was the city serving as superintendent and the allegation is that the L&A testing, one, was not done on the day, and, two, there was no

notification, that notification would have been the responsibility of the superintendent of elections, who was the city clerk of Sparta.

**SECRETARY KEMP**: All right. Anything else for Ms. Waddell?

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. So we've got -- let the record reflect Mr. McIver is excusing himself. So, Mr. Harvey, we've got Ruby Kitchens Brundage --

**MR. HARVEY**: And Garnishia Bryant, independent of this issue with the superintendent. I recommend that they be bound over and that the issue on the L&A testing and the election superintendent be re-investigated and re-presented to the board.

**SECRETARY KEMP**: Let's take those two individuals first. Let me just double check. Nobody else wishes to speak further on this case, right?

(Whereupon, there was no response).

**SECRETARY KEMP**: All right. Do we have a motion on those two individuals?

**MR. SIMPSON**: I move that we bind over Garnishia Bryant and Ruby Brundage Kitchens to the Attorney General.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: All right. We've got a motion in a second to bind over Brundage and Bryant to the AG'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**: The motion carries. Now we have the issue about L&A testing in the county and city. Mr. Harvey, I think I am in agreement with you in light of the information, that it may be better to refer to investigation and bring this back.

**MR. HARVEY**: I agree. We can do that.

**SECRETARY KEMP**: Make sure we can find out whether it was a city or county problem. Because, you know, there've been some past instances of L&A not being done, or not being done correctly or a timely. We need to make sure that we are addressing that.

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

**SECRETARY KEMP**: Do we have a motion to table that part of this investigation?

**MR. WORLEY**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: We've got a motion and a second to table the investigation and bring it back to the board after more information is retained from the 2011, number 59 case, as far as the city and count and L&A testing. Any other discussion?

**MR. WILLARD**: Mr. Chairman, depending on what the board's druthers are for the privacy issue, for our office's record keeping, it would be helpful if everything concerning that particular respondent was tabled until the next meeting, unless the board is going to vote to dismiss the allegation. I don't want to get one violation against the same respondent at two separate meetings.

**SECRETARY KEMP**: That's a good point. Mr. Webb, did you make that motion? Who made the motion?

**MR. WORLEY**: I did.

**SECRETARY KEMP**: That's right; Mr. Worley. Would you consider amending your motion to table, along with the L&A testing issue, the privacy issue, as well?

**MR. WORLEY**: Yes.

**SECRETARY KEMP**: All right. The motion has been amended to table all issues dealing with the county and the city on this case for further investigation by the Secretary of State's office and be brought back to the board, hopefully at our next meeting. Now, we need a second on the amended motion.

**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. Thank you, Mr. Willard. All right. That got everything on a case, right, Mr. Harvey?

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

**SECRETARY KEMP**: All right. We're on to 2011, number 61.

**MR. BROOKS**: Yes, sir. This is the City of Lavonia, Georgia, in Franklin County. The allegation in this case was that a person was able to vote in inducible election when they did not reside in the city. What happened, Mr. Noel had moved his residency to Franklin County in 2010 and changed his voter registration there. When he went in to vote and gave them his identification card, they scanned his card and they shouted across the room, he's from Lavonia. So one of the other workers programmed a municipal voter access card for him. He voted in the city election. He does not live in the city. When they were entering the information into the VR system to give him credit for voting, that's when they determined that he had voted in the city instead of the county. We recommend a letter of instruction.

**SECRETARY KEMP**: So did they self-report?

**MR. BROOKS**: The complaint we have is our office --I'm assuming it came into our office as self-reported.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Anyone else wishing to speak? Mr. Samuels.

**MR. SAMUELS**: Thank you, Mr. Secretary, members of the board. Again, I am Bubba Samuels, Franklin County attorney, PO Box 1926, Buford, Georgia 30545.

This also is an isolated incident involving a single voter in Franklin County. Recognizing the error as presented in the facts, Franklin County did self-report and has subsequently implemented a detailed three-step process for verification of information included on the applications as they come in for early advance voting. Under this process, three separate individuals physically handle the certificate and verify the information and eligibility. There's been subsequent training on this process based upon the isolated nature of the charge; the subsequent remedial measures implemented. We respectfully request that the recommendation be followed.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak on this matter?

(Whereupon, there was no response)

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

**MR. WEBB**: I make a motion to issue a letter of instruction.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: All right. We've got a motion for a letter of instruction and second. Any other discussion? This will be our second letter to Franklin County today; is that right?

**MR. BROOKS**: I believe so.

**SECRETARY KEMP**: I trust, Mr. Samuels, we won't see you back anytime soon?

**MR. SAMUELS**: Hopefully.

**SECRETARY KEMP**: Sounds good. We've got a motion and a second for 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. All right. 2011, number 62, City of Vienna, Dooly County.

**MR. BROOKS**: Yes, sir. This was the November, 2011 general election during advance voting period. There was -- the allegation was that they had opened the machine and inspected some of the votes once they determined that there was something wrong with the count on that machine. During the investigation, we found out that the City of Vienna uses the old lever machines and they followed the procedure for making sure the count was correct when they started the machine. As they checked it periodically, they discovered there were seven votes on the machine when there should have been four votes on the machine.

So instead of shutting the machine down and following the process for counting and closing out the machine in tabulating the votes and doing all the procedures they should have done, they called the seven voters back and had them vote a second ballot. When they came back to vote, they did not fill out another voter certificate; they simply just had them vote. Some of them voted provisional ballots, and some of them voted on the machine. So they just simply did not follow procedure for shutting the machine down and tabulating votes in making sure all of that was counted.

Again, we are recommending a letter of instruction in this particular case.

We also have a response letter from Mr. Jones, the attorney for the City of Vienna.

**SECRETARY KEMP**: Can we have a motion to accept the letter?

**MR. WORLEY**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: 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**: That motion carries. Any questions for Mr. Brooks?

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we've got a recommendation for a letter of instruction.

**MR. SIMPSON**: So moved.

**SECRETARY KEMP**: Mr. Simpson moves for a letter of instruction. Do we have a second? I will second; the Chair seconds. We've got a motion in the second for a letter of instruction. 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. Case number 2011, number 64, City of Forest Park.

**MR. BROOKS**: Yes, sir. This is the City of Forest Park. The City of Forest Park originally reported that an alcohol referendum had not passed. They did a recount and it had passed, and the allegation was that there was something wrong with that. There were two other allegations made in this case. One of them was that the city council people from a certain district were not listed on those particular ballots. When we did the investigation, we got sample ballots from the

City of Forest Park. All the candidates were on the right council seat; they were in the right district; the ballots were correct on that.

We also determined that David Painter, who is the elections superintendent, overheard Ms. Fulton said she could not figure out how to work one of the machines. He walked over to help her to walk through the process with that particular machine and the voter access card kept popping out of the machine. So Mr. Painter asked someone to create a second card for her without checking to see if the first card had been voted. She was allowed to vote twice because she had actually cast her ballot on the first one. That's why the card kept popping out of the machine. So he simply did not go through the process for checking to make sure that vote had not already been cast.

As far as the count was concerned, there were some issues with the accumulators; wouldn't read certain cards. When they ran the first ones, all of those weren't read and when they did a recount, they determined that the referendum had, in fact, passed when they first reported that night it had not passed.

Again, we are recommending a letter of instruction in this particular case.

**SECRETARY KEMP**: And this was the city election?

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

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we've got a recommendation for a letter of instruction.

**MR. WEBB**: Yes, I make a motion that we issue the City of Forest Park a letter of instruction.

**SECRETARY KEMP**: We've got a motion for a letter of instruction from Mr. Webb. Do we have a second?

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: 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)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we will issue that letter. All right. 2011, number 66, City of Summerville.

**MR. BROOKS**: Yes, sir. This involved a special election in the City of Summerville in 2011. Again, this was a self-reported case, and the allegation in this case was that the word "incumbent" was hand-written on the three absentee ballots. What happened in this particular case was Jill Durham had ordered all of her ballots and when she got the ballots she was in a hurry to get the first group out and she panicked because she thought she had left the word "incumbent" off the ballot and she hand wrote "incumbent" on three of the absentee ballots that she sent out. Then it occurred to her that the person had actually resigned from that position and was not the incumbent. So she called those back in and spoiled those and reported that violation to the Secretary of State's office. We are recommending a letter of instruction in that particular case.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We have a recommendation for a letter of instruction. Do we have a motion?

**MR. WEBB**: I make a motion that we issue the City of Summerville a letter of instruction in regard to this case.

**MR. SIMPSON**: Second.

**SECRETARY KEMP:** We've got a motion by Mr. Webb and a second by Mr. Simpson for a letter of instruction to the City of Summerville. 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 just barely carries and we are going to issue a letter of instruction. It was unanimous, by the way; it just was not a hearty unanimous vote. All right. Case 2011, number 67, City of Arlington.

**MR. BROOKS:** Yes, sir. This is the City of Arlington in Calhoun County, Georgia. It was the general municipal election in November of 2011. The allegation in this particular case was that the -- those people who were voting in person, absentee ballots weren't given the inner envelope in which to place their ballots. There were a total of nine people who did not receive the inner envelope to place their ballots. They asked those people to return to the registrar's office to recast their ballot. They stated they had trained the people personally on how to put those in there, and workers simply did not put the inner envelope in there. There was some discussion from the absentee ballot clerks that they did not receive all the training. In this particular case, they didn't put the envelopes out there for them to maintain the confidentiality of that.

In this particular case, we recommend a letter of instruction to the City of Arlington.

I also have a letter from Ms. Hatcher in response to this case.

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

**MR. SIMPSON:** Second.

**SECRETARY KEMP:** We've got a motion and a second to accept the letter for the respondent. 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 document. Any other questions for Mr. Brooks?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we've got a recommendation for another letter of instruction.

**MR. WEBB**: I make a motion that we issue the City of Arlington a letter of instruction with regard to this case.

**SECRETARY KEMP**: We have a motion. Do we have a second? I will second. We've got a motion and a second-floor letter of instruction to the City of Arlington. 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. BROOKS**: That concludes our presentation.

**SECRETARY KEMP**: Thank you. Okay. We are on to the Attorney General's report. As we have been doing in the State Election Board meetings, the Attorney General's office has arranged consent orders for cases that the board has previously sent to them. The board members have those. We are in the same precedent as we were with our consent calendar. If there is individual cases that the SEB board members would like to discuss, we will pull those off the calendar. If there is anyone in the audience who wishes to hear about these individual cases, we will pull those out, as well. If not, we are going to vote in block to accept the

consent orders that the Attorney General has brought forward to us. I'm going to run through these cases real quick.

We've got the 2009-5, McIntosh County case; 2009-33, Athens-Clarke County case; 2009-59, Athens-Clarke County; 2010, number 6, City of Cordele; 2010, number 67, Baldwin County; 2010, number 69, Towns County; 2010, number 81, City of Montrose; 2010, number 82, Paulding County; 2010, number 95, City of Riddleville; 2010, number 106, Baldwin County; 2010, number 117, Fulton County; 2011, number 8, City of Blackshear; 2011, number 17, Hancock County; 2011, number 19, Cherokee County; 2011, number 28, Gwinnett County; 2011, number 32, Lowndes County; 2011, number 49, Paulding County; 2011, number 78, City of Tyrone; 2011, number 79 City of Thompson; 2012, number 5, Fulton County.

Any board members want to pull any of these cases off?

**MR. WORLEY**: I would like to pull off the City of Tyrone case.

**SECRETARY KEMP**: Tyrone; okay. Anybody else? Let the record reflect Mr. McIver is back with us. Any other board members wish to pull an Attorney General case? I would like to pull out the City of Blackshear case. Anybody here with us in the audience that wants to hear about any of the details of these consent orders done any of those cases?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Hearing none, we will vote in block, then, on this complete list to accept the consent orders that the Attorney General's office has brought forward to us, with the exception of SEB case number 2011, number 8, City of Blackshear; SEB case 2011, number 78, City of Tyrone. Do have a motion to accept?

**MR. WEBB**: Mr. Secretary, just a point of correction on that. With the block of cases we're going to vote on, I make a motion that we accept the recommendation of the Attorney General; the proposed resolution. Some of those cases are dismissals and not necessarily consent order --

**SECRETARY KEMP**: Yes.

**MR. WEBB**: So with that regard, I will make a motion that we accept those block of cases with the proposed resolution proposed by the Attorney General's office.

**SECRETARY KEMP**: Very good. Good point, Mr. Webb. All right. We've

got a motion. Do we have a second?

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: 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**: That motion carries. Mr. Willard, on the Blackshear case, you don't have to go into great detail, but I think it is worth noting the amount of the fine that you got the responded to agree to, there. Would you tell us about that real quick and then we will move on.

**MR. WILLARD**: Mr. Secretary, 2011, number 8, City of Blackshear concerned David Brody who was a member of the city council. There was an allegation that Mr. Brody had in his possession 55 completed absentee ballots. There were witness statements that 55 completed absentee ballots have been deposited at the post office and Mr. Brody was apparently the individual who had deposited them. He was the only individual observed in the post office at the time they were left. Mr. Brody has entered into a consent order calling for a cease-and-desist, a public reprimand, and a \$5500 civil fine as a result of those allegations.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I move that we accept the consent order.

**MR. McIVER**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: 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.

The last one we've got is 2011, number 78, City of Tyrone. Mr. Webb, was there something that you wanted Mr. Willard to --

**MR. WORLEY**: That was me.

**SECRETARY KEMP**: Oh, I'm sorry, Mr. Worley.

**MR. WORLEY**: Well, I will tell you what my concern was. The consent order in paragraph 2 says while Dr. Roper and the church membership did not intend to say, my recollection of this case -- and I may be wrong -- is that the Fayette County election folks told the pastor of the church to take down the sign on election day and he refused to do so. So in my opinion, under those facts, it is not appropriate to enter into a consent order unless any respondents acknowledge that they were told by the county to obey the law and they refused to do so. And, in fact, I don't think is appropriate that this case be resolved without the payment of some kind of fine because, again, they were told by the County to take the sign down and they refused to do so. I think anything less is going to encourage people just to not do with the election officials tell them to do.

**MR. WILLARD**: Mr. Secretary, if I can address that.

**SECRETARY KEMP**: Yes.

**MR. WILLARD**: This was not the case that handled, but I talked at length to the attorney that did handle this case. In terms of the statement in paragraph 2, I think what they were attempting to encapsulate there was that when they were approached -- and it was actually the municipal election officials in this instance who approached Dr. Roper of the church officials about changing the church marquee -- they did change each the marquee, but the city election officials were unhappy as to what the marquee had said originally, as well as they were not

entirely happy with what it was changed to.

In terms of why there was no monetary fine, I believe the thinking there was Dr. Roper apparently had a falling out with the church; he is no longer in the State of Georgia. Everybody has made a clean break with that and it was determined that the City of Tyrone were probably not have to deal with Dr. Roper in the future and the church officials had gone out of their way to try to smooth things over with the local election officials.

**MR. WORLEY**: What was the sign changed to?

**MR. WILLARD**: I think it was changed to “No alcohol on Sundays”, not “Vote no.” It was either “No alcohol on Sundays” or “No alcohol.”

**SECRETARY KEMP**: Mr. Harvey, we had that. What was the sign changed to?

**MR. HARVEY**: I believe it was “No alcohol.”

**MR. SIMPSON**: I’m assuming this was a referendum on Sunday sales?

**MR. McIVER**: Sunday sales.

**MR. SIMPSON**: Yeah. Okay.

**SECRETARY KEMP**: Any other discussion? Mr. Worley, you got anything further?

**MR. WORLEY**: Well, I still think -- I mean, I can understand why the church -- well, the church was never a respondent, I guess, right?

**MR. WILLARD**: That’s correct. It was the pastor of the church.

**MR. WORLEY**: So he consented to this, but he has since moved? Or he’s still in the state?

**MR. WILLARD**: No. I believe he’s in South Carolina now.

**MR. WORLEY**: Well, I don’t have any further questions.

**SECRETARY KEMP**: Anybody else got anything for Mr. Willard?

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Do we have a motion to accept, reject, send back, rework?

**MR. WORLEY**: Well, I would make a motion that we reject the consent order. I mean, you can't . . . you can't -- if he's no longer subject to our punishment, that's one thing. But I just think it sets a bad precedent to accept a consent order without . . . without -- a consent order without greater punishment than that.

**SECRETARY KEMP**: So your motion would be to reject the consent order and ask the AG's office to try to give out a monetary punishment?

**MR. WORLEY**: I would ask the Attorney General's office to try to negotiate some kind of fine for Mr. Roper. If he's not willing to do that, we can take it up at some other time.

**SECRETARY KEMP**: All right. We've got a motion. Do we have a second? I'll second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Anyone else --

**MR. WEBB**: I don't disagree with Mr. Worley's thoughts on this, however, we're talking about somebody who is no longer in the State of Georgia and I'm not sure it's worth the Attorney General's office's time to do this. I think if we accept the consent order, we have a precedent against Dr. Roper for the future and I think that should be sufficient in case that issue ever comes before us again.

**SECRETARY KEMP**: All right. Anybody else?

(Whereupon, there was no response)

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

**MR. WORLEY**: Aye.

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

**MR. WEBB**: No.

**MR. McIVER**: No.

**MR. SIMPSON**: No.

**SECRETARY KEMP**: All right. That motion does not carry. Do we have another motion?

**MR. WEBB**: I would make the motion that we accept the consent order proposed by the Attorney General's office for this case.

**MR. McIVER**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All in favor, signify by saying "Aye."

**MR. WEBB**: Aye.

**MR. McIVER**: Aye.

**SECRETARY KEMP**: Aye.

**MR. SIMPSON**: Aye.

**SECRETARY KEMP**: All opposed?

**MR. WORLEY**: No.

**SECRETARY KEMP**: That motion carries on a 4 to 1 vote and we have accepted the consent order from the Attorney General's office.

Okay. That gets us through our business today. I want to mention just a couple of things real quick. Number one, I just want to commend Chris Harvey and Mr. Brooks and their staff, and really the whole Elections Division for their hard work on all of the State Election Board cases. I know the board members have been talking about how we're handling 2010 and 2011 cases. I think it's very timely for us to be in this position doing that. The Attorney General reports, as well. We're getting through a lot of backlog of cases and really staying up to date. So I want

to commend the staff on all of that, and the board on their work. I think a lot of things that we've done have helped us speed up the process and move more quickly on a lot of these cases where we can.

As a result of that, we're going to be announcing right now that we will have a special State Election Board meeting on Thursday, January 31, at 10 a.m. to deal with all the Fulton County issues from the primary and general election of this year. So we will have a special called meeting Thursday, January 31, at 10 a.m. It will be somewhere on Capitol Hill. We've got to negotiate with the legislature, since they will be in session, on finding a room. I doubt it will be in the Capitol. We'll probably be in the Legislative Office Building or either in the twin towers across the street. So you can mark your calendars for that.

We will still also have our regularly scheduled -- we haven't set the date yet -- February meeting in Macon. So we'll have a busy start to the new year with the board. We look forward to seeing you all either January 31 or in Macon in February.

Any other board members have any comments?

**MR. WEBB:** I would concur with your comments on the Attorney General's office and the Inspector General's office.

**SECRETARY KEMP:** Thank you, Mr. Webb. With that, I need a motion that we adjourn.

**MR. McIVER:** So moved.

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

**MR. SIMPSON:** 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:** We're adjourned. Everybody have a safe trip home.

- - -

(Whereupon, the proceedings were concluded)

- - -

CERTIFICATE

STATE OF GEORGIA    )

COUNTY OF DEKALB    )

I, Deborah L. Merideth, hereby certify that the foregoing record was taken down in the stated caption; that the colloquies, questions and answers were reduced to print by me or under my direction; and that the foregoing pages represent a true, correct and complete record of the evidence given.

The above certification is expressly withdrawn and denied upon the disassembly and/or photocopying of the foregoing transcript or any part thereof, including exhibits, unless said disassembly and/or photocopying is performed by or under the auspices of the undersigned and the signature and original seal are attached thereto.

I further certify that in accordance with O.C.G.A. 9-11-28(a), I am not a relative, employee, attorney or counsel of any party, nor am I financially interested in the instant action.

This the 14th day of December, 2012.

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Deborah L. Merideth  
Certified Court Reporter 2708  
State of Georgia

SEAL

THE OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA

IN THE MATTER OF:  
STATE ELECTION BOARD MEETING

THE OFFICE OF THE SECRETARY OF STATE  
COVERDELL LEGISLATIVE OFFICE BUILDING  
ROOM 606  
18 CAPITOL SQUARE, SW  
ATLANTA, GEORGIA 30334

WEDNESDAY, AUGUST 15, 2012  
10:00 A.M.

PRESIDING OFFICER: BRIAN P. KEMP  
SECRETARY OF STATE  
STATE OF GEORGIA

---

*DEBORAH L. MERIDETH, CCR  
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(770) 414-9071*

APPEARANCES:

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

Tex McIVER, Member, State Election Board

L. Kent Webb, Member, State Election Board

Ralph F. Simpson, Member, State Election Board

ALSO PRESENT:

Chris Harvey, Esquire

Lee Brooks, Esquire

Russ Willard, Esquire

- - -

TRANSCRIPT LEGEND

- |            |    |   |
|------------|----|---|
| [sic]      | -- | Exactly as spoken.  |
| (phonetic) | -- | Exact spelling unknown.   |
| --         | -- | (Dash) Interruption in speech.  |
| . . .      | -- | (Ellipsis) Indicates halting speech, unfinished sentence, or omission of word(s). |
| Uh-huh     | -- | Affirmative response.   |
| Uh-uh      | -- | Negative response.  |

Quoted material is typed as spoken.

**PROCEEDINGS**

**SECRETARY KEMP**: Good morning again, everyone. We're going to go ahead and get started. Let me call the August 15, 2012, State Election Board meeting to order. With that, our first order of business is I'm going to call on Mr. Simpson to lead us in the invocation and then we will stand and he will lead us in the Pledge of Allegiance.

- - -

(Invocation)

- - -

(Pledge of Allegiance)

- - -

**SECRETARY KEMP**: Thank you. Let the record show that Mr. Webb, Mr. Simpson, myself, and Mr. McIver are present this morning. Mr. Worley is not going to be able to join us. He had some business that took away him away from Atlanta today.

Our next part on the agenda is public comment period. I'm going to call these folks in order that I've got the receipts here. I will remind you that we allow you to just come to the podium right there on my left, you're right, and you will have two minutes to address the Board about whatever you like to speak to us about today. We're going to start with Jan Barton. Good morning. Welcome, and you've got two minutes.

**MS. BARTON**: Good morning. Thank you; thanks for allowing me to speak. I'm here to express my concern about our voting machines and the fact that Georgia has been ranked last in the nation in terms of voter preparedness. We received an F minus on a national average of C plus, and we think that we can do better than that, and I know you want us to do better than that. Our main concern is that we cannot do a proper recount. There is no paper trail for our election results. This ranking occurred just two years after we spent \$54 million on the new equipment a few years ago. The fact that we cannot audit or verify our votes or recount them is a major concern to many of us. We have a very major election coming up in November and in my opinion, all elections are major. We feel disenfranchised as voters because we do not feel our voting machines are reliable. We found out recently that we have hired a third party that is a branch of the Spanish company, SKYTL, to do the counting of our votes, or to register them at a

central database. We feel that we can get a local company to do those things and keep them local. That is my comment and I would like to see us improve. Thank you.

**SECRETARY KEMP**: Thank you. Thank you very much for being here this morning.

Next up, we have Field Searcy.

**MR. SEARCY**: Good morning. My name is Field Searcy. I'm with the Transportation Leadership Coalition.

In the recent July 31 general primary election, Secretary of State Brian Kemp approved a preamble on the ballot for Referendum 1, a regional sales tax. The preamble was not part of HB 277 of the 2010 Georgia General Assembly, which specified the exact ballot language for the local referendum. Secretary of State Kemp has acknowledged he reached out to the regional roundtables for input on ballot preamble language which ultimately read and printed in bold letters above the approved language as:

"Provides for local transportation projects to create jobs and reduce traffic congestion with citizen oversight."

This preamble line was promotional and blatantly biased in favor of approving the referendum. The job creation and traffic reduction claims made in the preamble were not substantiated and, in fact, were controversial and disputed. In addition, the so-called citizen oversight would not be supplied by independent citizens, but rather consisted of political appointees of the Lieutenant Governor and Speaker of the House; not representatives of the people.

The TLC made formal inquiry required requesting the Secretary of State to cite the legal authority to add such language to the ballot, and six days before the election received correspondence from the Secretary of State citing Georgia Code O.C.G.A 21-2-4. However, this section of the Georgia code pertains only to amendments to the Constitution of Georgia, not local or regional referendums.

The Transportation Leadership Coalition believes it was improper for Secretary of State Kemp to have consulted with the regional roundtables for the preamble language and went beyond his authority. Further, due to the highly controversial nature of the TSPLOST claims, his actions demonstrate intent to advocate for the referendum and sway voter opinion. Early voting exit poll surveys revealed that some voters were persuaded to vote yes because of the language.

Mr. Kemp has the ability and the time to make corrective action before the election. Failure to do so is unconscionable. Since the referendum passed in three regions by a

margin of only 6%, the influence of these actions by the Secretary of State shall be called into question. For now, they will need to seek other remedies to get relief from the tax.

The election ballot and vote is sacred. As citizens of Georgia, we demand that it remain so. Thank you very much.

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

Richard Lankford.

**MR. LANKFORD**: Good morning. My name is Richard Lankford. I am candidate -- I was candidate for the July 31 primary for Sheriff of Fulton County. I hardly know where to begin to this Board. I speak not just as a candidate, but as a concerned citizen and a voter in Fulton County.

I'm sure many people feel that the Fulton County elections operation was probably the height of incompetency in terms of voting for this primary, and to me is even suspect in terms of election fraud at this particular point. With a hundred percent of precincts reporting this election, the precinct totals changed more than five times: 5000, 6000, 7000, 8000 votes after one hundred percent of the precinct totals have been reported. The voting machines malfunctioned or were either improperly programmed.

Voters complained to me that they voted for me. When they went to the ballot summary page, my name was not on the summary page, and this happened several times, which again leads reason to suspect that there was some programming errors.

Fulton County used an accumulator system to tabulate these votes while we know there was a blanket request from the United States Department of Justice to use the touch screen machines. This accumulator process was not approved by the United States Department of Justice voting section, and so we recently objected to it. Fulton County used it anyway. Fulton County had to use a dual database system which yielded two different sets of numbers. The inconsistencies go on and on.

To this Board, I also understand that the Secretary of State's office investigative division as a major investigation going on right now. But I wanted to express to this Board my concern and say if we as candidates cannot have confidence in the system that tabulates votes, then it makes it very difficult for us to run for office.

So I thank this Board for years consideration in allowing us to speak to these issues this morning. Thank you.

**SECRETARY KEMP**: Thank you, Mr. Lankford. We appreciate you being here today.

The last one we have is Carolyn Cosby.

**MS. COSBY**: Good morning. I'm a little late arriving due to traffic. Carolyn Cosby from Cherokee County.

During the years of negotiating arms control in the early 1980s, Ronald Reagan made clear his policy in so doing: Trust but verify. Elections are far more important than arms negotiations. After all, they are the peaceable means by which we transfer power in our country.

We have a serious problem in our state. The voters are asked to trust, but the system is not set up in such a manner as it can be verified. An election process must be able to be verified. First, this process violates the state law as the state law requires that elections be verifiable. Second, it is wide open to fraud. After all, it cannot be challenged. These points -- two points itself -- make clear that we have a serious problem in Georgia.

Assiduously focusing on qualifying voters is only half of the equation. Every stage of the voting process must be able to be verified by citizens. This means laws governing watching the polls must be strengthened. Early voting must be structured in such a manner that is possible for citizen oversight. Every single step of the process must be set up with voter oversight in mind.

Finally, the Diebold machines must go. They are illegal as they cannot fulfill the same mandible mandate of verifiable elections. I urge you in the strongest terms to fulfill your job and protect elections in the state.

I close with a rough translation by Joseph Stalin who makes very clear what I have just said:

"The man who casts the vote decides nothing. It is the man who counts them."

We must have a process that can be verified.

**SECRETARY KEMP**: Thank you. All right. That's all I've got on our public speakers this morning, so we will move on to the next part of our agenda, approving the minutes.

We've got three sets of minutes that we need to approve, first being the State Election Board meeting that we had on May 9, 2012. I'll accept a motion to approve, unless there are changes.

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We've got a motion by Mr. McIver and 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)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

**SECRETARY KEMP**: All right. The next set we've got is from the teleconference meeting that we had on May 23, 2012. Do we have a motion or any changes?

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

**MR. WEBB**: Second.

**SECRETARY KEMP**: Okay. We've got a motion by Mr. McIver and a second by Mr. Webb to accept the minutes for the teleconference meeting on May 23, 2012. Is there any other discussion or changes?

(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.

The last set of minutes we have is for the August 7, 2012, teleconference meeting. Do we

have a motion for that?

**MR. WEBB**: I make a motion to accept.

**SECRETARY KEMP**: I'll second. We've got a motion by Mr. Webb to accept and the second by the Chairperson. 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.

Okay. Now were going to move into our investigative reports. This is Section 4 on the agenda. Just wanted to mention to everyone in the audience that's here for these cases today that this meeting serves essentially as a probable cause inquiry. The Board will only decide at this point if there is enough evidence to refer a particular case on to the Attorney General's office for further review and potentially a hearing on the matter.

The way we will do this, our investigators will present -- they will have up to 15 minutes, and hopefully they won't need that long, to present the case to the Board. The Board would then ask questions and then we will ask if any of the respondents or complainants are here today that would like to speak on the case.

We will give each of you up to five minutes to address the Board with your concerns or thoughts on that case and that we will certainly have the opportunity to ask questions of the complainant and respondents, as well, if the Board sees fit. Then we will decide, you know, what manner of action we want to do. So I just want to remind everybody about that.

Our first item is on our consent agenda, which is SEB case number 2011-24, Crawford County; 2011-63, Butts County; 2012-1, Long County; 2012-23, City of Forest Park; 2012-24, Gwinnett County; 2012-33, Gwinnett County. These have all been placed on our consent calendar because they are being recommended that these cases be closed. What I want to do is first ask the Board if there are any of those cases that they would like to discuss that we can pull those off at this time.

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, is there anyone in the audience that is here that would wish to speak on these cases if they don't agree with them being dismissed. We want to make sure that if someone is here or if they do disagree with that that we have the opportunity to hear from them. If not, we are going to move forward with a motion to close these cases on the consent agenda.

(Whereupon, there was no response)

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Okay. We've got a motion by Mr. McIver to close and we've got 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)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

Next were going to move onto our new cases. What we have been trying to do to help those who have taken the time out of their day to come be part of this meeting and take part in these cases, we're trying to move those folks to the front of the list so he can get them out and back to their regular business just as quickly as we can. So I want to take a roll call real quick.

As I go down these cases if you're here either representing one of the counties are one of the respondents, or if you are a respondent or the complainant on any of these cases that you wish to address the Board, if you will just raise your hand or say "Here" what I call the roll, I will make sure that we know who's here and who's not we'll try to take the cases where we have the people present first.

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(Whereupon, Secretary Kemp reviewed cases and acknowledged respondents)

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**SECRETARY KEMP**: Very good. We will call our first case now in order for folks that are in attendance, case number 2010, number 5, the City of Gray. Mr. Harvey, we are glad that you're with us today.

**MR. HARVEY**: Yes, sir. I'm happy to be here. This case involves a municipal election in 2009 in the City of Gray, Jones County. Most of the allegations revolved around two issues: issues of absentee ballots and the actions of the absentee ballot clerk.

One of the candidates was a man named Benny Gray. Benny Gray allegedly signed -- forged people's names on absentee ballot applications and on absentee ballots and allegedly voted an absentee ballot for an elector. Bessie Jackson admitted that she did not sign the absentee ballot application and that Mr. Gray signed it for her. He initially denied but the handwriting is very similar. Charlie Pitts also denied signing his signature. Benny Gray signs as assisting on the application.

Mr. Gray eventually came around and admitted possibly signing as many as three absentee ballot applications and Ms. Jackson gave Mr. Gray her absentee ballot when it came in the mail and asked her to sign it for him [sic], which he did. In most of the cases, when Mr. Gray was asked about his participation with these absentee ballots, he would deny having signed anything or have been involved. However, when he was confronted with the paperwork they showed a very similar handwriting, he acknowledged that he may have, or in some cases, that he did sign the ballots.

There were also allegations also that two women, Loretta Lipsey and Evelyn Collins, were also candidates and had gone to senior centers and they people baked goods in exchange for votes. That allegation was not sustained. There was no evidence that they had done anything like that.

However, there were several cases where Ms. Lipsey and Ms. Collins possessed absentee ballots for electors. They picked up ballots from electors and delivered them to the election office. Therefore, illegally possessing absentee ballots.

The City of Gray, itself, and the elections superintendent, Ms. Lewandowski, have requested a continuance for their roles in this case. So we are not going to address those issues.

Mr. Gray also admitted to possessing as many as ten absentee ballots and getting them from electors and delivering to the elections officer or mailing them himself. So we have him acknowledging that he illegally possessed absentee ballots.

The last issue that we will deal with today is that of a young woman named Jesse Thompson, whose attorney is here today and I think will speak. She had grown up in Gray and gone to college in Baldwin County. As part of registering and getting involved in college, she registered to vote in Baldwin County. She then returned to Gray to vote in that election. She went to the polls and was told that she was registered in Baldwin County. She said she didn't mean to register in Baldwin County that she considered Gray her home and she wanted to vote here. She was given a provisional ballot which she voted and it was accepted by the City of Gray, although she was not registered to vote in Jones County.

So those are the allegations. As far as the respondent chart that shows the specific citations, we've got Ms. Lipsey cited for illegal possession of absentee ballots. I would ask that the State Election Board drop the second charge, which is fraudulent entries. I don't think signing as assisting was an issue in that case, so I asked that 21-2-562 be dropped for her. Evelyn Collins illegally possessed absentee ballots. Benny Gray should be bound over on the charges that are listed: possession; fraudulent entries; marking of the ballot. Ms. Jackson, who gave Mr. Gray her ballots, we've got cited also for voluntarily giving him her ballot to let him vote. And Jessica Thompson for voting in a precinct Ouray County where she is not registered. Like I said, the issue with the city and the state elections official will be continued until the next meeting.

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

**MR. HARVEY**: Also, if I may, I have got a letter from each, Ms. Collins and Ms. Lipsey, expressing their concern about what happened and there regrets that they can't be here.

**SECRETARY KEMP**: Mr. Simpson?

**MR. SIMPSON**: I have a question about Jessica Thompson.

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

**MR. SIMPSON**: She voted a provisional ballot?

**MR. HARVEY**: She did.

**MR. SIMPSON**: Well, that would be the procedure if there was some issue as to

whether or not she was in the right precinct; is that correct?

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

**MR. SIMPSON**: All right. Then it's up to the election official to determine whether or not the vote should be counted. So why is there not -- why is she being charged when she's doing with the election official tells her to do and then the illegality, if there is any, is because the election official improperly counted the vote?

**MR. HARVEY**: Well, as far as the counting of the ballot, that will be something that the city will deal with. I believe the fact that she was -- she was 18; she was registered to vote to a different county and she came back and essentially said I didn't mean to be registered there; I demand to vote here. So she was given a provisional ballot as election officials are generally required to do.

**MR. SIMPSON**: Isn't that what provisional ballots are for, is to make sure that if somebody is entitled to vote where they go to vote they can, and if they are not, they won't be?

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

**MR. SIMPSON**: I just -- you know, I have a little difficulty with that.

**MR. HARVEY**: I understand. My thought is that if it's left completely wide open for people to attempt to vote when they know they are not registered to vote, and then to say, well, I'll just vote a provisional ballot will see what happens, you might open a flood gate to allow people to just show up and vote provisional ballots whenever and wherever they want.

But I certainly understand your position.

**MR. SIMPSON**: Well, the way the statutes are drafted now, they have the right to do that.

**MR. HARVEY**: I guess I would say if they believe they are properly registered. I think her position, and her attorney will speak to it, I don't know that in her mind -- what was represented to me was that she signed a bunch of forms when she got to college and she may or may not have specifically known that she was registering to vote in Baldwin County. As an 18-year-old adult registering to vote, that's what she did, and I think that's what binds her.

But I certainly understand your position about following the directions of the elections

official.

**SECRETARY KEMP**: Mr. MacGyver?

**MR. McIVER**: I have a question, but is her attorney going to speak, because perhaps I should address it to him instead.

**SECRETARY KEMP**: We're going to hear from everybody in this case the ones to be heard from. So you can yield --

**MR. McIVER**: I will defer my question until her attorney speaks.

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

(Whereupon, there was no response)

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

**MR. TURK**: My name is David Turk. I am the attorney for Jessica Thompson.

**SECRETARY KEMP**: Let me remind you that when you come to the podium, if you could just speak clearly for us so our reporter can make sure and get everything down. Also, we need your name and address for the record.

**MR. TURK**: My address is -- I'm an attorney in Dahlonega, Georgia, which is a ways away from Gray, Georgia. But in any event --

**SECRETARY KEMP**: That's all right. Just give us your address, if you don't mind.

**MR. TURK**: It's 207 North Chestatee Street, Dahlonega; P.O. Box 570, Dahlonega 30533.

**SECRETARY KEMP**: What was your name again?

**MR. TURK**: David Turk.

**SECRETARY KEMP**: Okay.

**MR. TURK**: The first item is I have a letter here from my client. She is still at Georgia College, and today was the first day of her orientation to become a student teacher and if she missed the orientation at her school that would've set back her entire program. I have shown this to Mr. Harvey. So she regrets that she could be here.

I would agree with the Board members that at the time she registered for college, she was not aware that one of the many documents that was thrust upon her was, in fact, a voter registration document. I can attest to the fact that she did not consider herself to be a resident of Baldwin County. She is and always has been a domiciliary of Jones County. So she was caught totally unawares when she showed up at the polls to vote, and I agree with the Board member that she was -- she made it known to the folks at the polls; she did as she was directed. If there was any impropriety, it was on behalf of the poll workers. There was certainly no criminal intent on behalf of my client to violate election laws.

I do have a statement, you'll have to pardon me -- I had a printing problem, but I want to read a statement from my client, if I may.

**SECRETARY KEMP**: Sure.

**MR. TURK**: She says:

"I have been a student at Georgia College and State University since 2009-2010 school year. During my freshman year, I believe I unknowingly registered to vote in Baldwin County. This was my first experience voting and was intending on voting in Jones County. I went to vote not knowing that my registration was in Baldwin County. When I arrived to vote, I was told I was not registered to vote in Jones County. However, the poll attendant informed me that that could be fixed easily, and therefore directed me to vote and submit my ballot. I, being a first-time voter, followed the directions I was given by the poll attendant and believe I was doing the correct thing. I was unaware that I was doing anything wrong, much less that I was doing anything illegal because I was informed by the poll worker to submit my ballot."

So, again, I don't know what more to say about it. As far as any kind of probable cause determination, certainly I don't think this rises to the level of probable cause based upon the facts of any intention to violate any of the statutes of which this Board is concerned.

I would ask on behalf of my client that this particular allegation, the fifth allegation, be dismissed without any further action. Thank you.

**SECRETARY KEMP**: Mr. Turk, I have one question. Did you say that when she was filling out paperwork at the university, the voter registration form was included with that paperwork?

**MR. TURK**: That's my understanding; yes, sir. There are various forms and my client's mother informs me that is not uncommon during the registration part or process for

groups and clubs like the young Republicans, you know, to be there. So she probably -- I don't know -- but she probably just went from table to table.

**SECRETARY KEMP**: So it wasn't necessarily the university. It could have been another campus group?

**MR. TURK**: Well, yeah, we're just speculating about that. But I have a definite issue with the university in engaging in this practice. I mean, no college student, me having been one of probably a lot of other people, would necessarily consider themselves to be a resident of the venue where the physical college happens to be located. But apparently, that is part of the Georgia college routine, and thus far, my client's mother hasn't been able to get a forthright answer to the question. I think it is the university, as I understand it, that is perhaps trying to put it off on some of the club. But my client's position is that she just signed whatever she was given.

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

**MR. McIVER**: I do.

**SECRETARY KEMP**: Mr. McIver.

**MR. McIVER**: You don't happen to have a relative Herbert A. Turk, do you?

**MR. TURK**: I can assure the Board --

**SECRETARY KEMP**: I can tell this is going to be a long meeting.

**MR. TURK**: I can assure the Board member that probably every person with the name of Turk in this state is related. I've got a book about that they cannot be glad to look him up.

**MR. McIVER**: He was my commander in Vietnam. I just thought you might be related. A fine man.

My question really has to do with her activity in Baldwin County. Did she ever vote in Baldwin County? We know she was registered in time to vote in the 2010 elections and, of course, now, we are aware that she was registered to vote in the 2012 election. Did she vote in Baldwin County?

**MR. TURK**: I just looked back at the mom, and to my knowledge and her knowledge, no, sir. Jones County, Gray, Georgia is her home, it is her domicile, and I wouldn't imagine any scenario where she would be compelled to vote in Baldwin County.

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

**SECRETARY KEMP**: Any other questions?

**MR. WEBB**: Yes. Mr. Turk, was Ms. Thompson a freshman if that's her first year at Georgia College?

**MR. TURK**: She was 18; yes, sir.

**MR. WEBB**: Had she registered in her home County -- what is it -- what County -- Jones County? Jones County. Thank you.

**MR. TURK**: Again, this is hearsay and I don't know the formalities here, but when I spoke with the voter registrar, or whatever, Ms. Marian Mattee [sic], she indicated that -- she used language like her Jones County thing have been transferred to Baldwin. But I'm not sure. I mean, they did verify when Jessica appeared to vote that her voter registration was in Baldwin, and it was clear to her, Jessica, that she did not know that.

**MR. WEBB**: I can attest to freshman getting bombarded with paperwork as they first come in to college. But I'm a little troubled by the timing. As you just spoke, your client is there now in college. Most colleges in Georgia are starting the second week of August. We're looking at a six-week window between when some paperwork was filled out and when she was registered to vote.

Can you give any insight as to why there is a six-week gap from being bombarded with paperwork and registration not taking place for six weeks?

**MR. TURK**: I didn't pick up that timeframe in any of the materials I had.

**MR. WEBB**: It says in the materials I have that she was registered on September 28, which is at least six weeks' difference from when she probably appeared at the Georgia College in Milledgeville.

**MR. TURK**: Again, when I began my investigation of this case, I requested any documentation or whatever that may have already been generated. It was my understanding that this whole matter was looked at when happened and it was put to bed, or so Jessica thought. But I was told that I could not get any of the preliminary documentation unless and until it was referred to the AG's office. So I don't have that particular date in my materials that I could tell. So I really have no comment other than - I mean, if she registered on one day and filled out the paperwork, I honestly don't have an answer to that.

**SECRETARY KEMP**: Mr. Harvey, she was registered in Jones County; is that correct?

**MR. HARVEY**: I'm double checking that now.

**SECRETARY KEMP**: Mr. Simpson?

**MR. SIMPSON**: She did not vote in Baldwin County, did she?

**MR. TURK**: Did not.

**MR. SIMPSON**: This was just a city election?

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

**MR. SIMPSON**: It was not a general election?

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

**MR. SIMPSON**: So there was no double voting; no issue of double voting or anything like that?

**MR. TURK**: No, sir.

**MR. SIMPSON**: Okay.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Thank you for being here this morning. We appreciate it.

**MR. HARVEY**: She was registered in Jones County prior to registering in Baldwin County.

**SECRETARY KEMP**: When was that?

**MR. HARVEY**: That was in February of 2009. She registered by hand on the 28th September, 2009, using a Milledgeville address.

**MR. TURK**: Which I understand to be her dorm address. Again, you know, never having any intention of being anything other than a domiciliary of Jones County.

**SECRETARY KEMP**: All right. Any other questions?

(Whereupon, there was no response)

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

**MR. HARVEY**: Mr. Secretary, I've got the letters from Ms. Lindsey and Ms. Collins as well as the information from Ms. Thompson, if the Board wants to receive it.

**MR. WEBB**: I make a motion to receive.

**SECRETARY KEMP**: Second. We have a motion and a second to receive the documents. 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. TURK**: I indicated to Mr. Harvey that I will supplement the record with her statement that I could not get physically.

**SECRETARY KEMP**: We've got it on the record.

**MR. TURK**: Thank you.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Give us a minute to look through these letters real quick.

(Whereupon, Board members reviewed documents)

**SECRETARY KEMP**: All right. Any thoughts on how to move forward from the Board?

**MR. WEBB**: Yes. I think with allegations 2 and 3, that those could be dismissed. In

connection with the allegations Number 1, 4, 6 --

**MR. SIMPSON**: Are we doing them by name?

**MR. WEBB**: I'm doing it by allegation.

**MR. SIMPSON**: Okay.

**MR. WEBB**: Because the names are -- like allegations 2 and 3 concern Ms. Lipsey . . .

**SECRETARY KEMP**: Why don't we just take them by name.

**MR. HARVEY**: The respondent chart in the back has everybody listed by name and then a list of the citations.

**MR. McIVER**: We may want to do it that way.

**MR. WEBB**: I thought it was easier to by allegations, but we can change that.

**SECRETARY KEMP**: I think for the first two, Mr. Webb, we've got Ms. Lipsey and Ms. Collins on the unlawful possession of absentee ballots; and Mr. Gray. Is that correct, Mr. Harvey?

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

**MR. WEBB**: When I match the allegations up against the chart, Mr. Harvey, number 2 and number 3 were not on that chart.

**MR. HARVEY**: Correct.

**MR. WEBB**: Can we deem that -- should we go ahead and make the motion to make sure those are dismissed and move on to these others, or . . .

**MR. HARVEY**: I think, as far as record-keeping, if we stick with the specific people in the citations, then everything else by default would be dismissed. Anything that is not bound over, goes away. That's my perception.

**MR. WEBB**: Then I would say with regard to Ms. Lipsey, Ms. Collins, Mr. Gray, Ms. Jackson, and the City of Gray Elections Supervisor, Ms. --

**SECRETARY KEMP**: We're continuing the City of Gray.

**MR. HARVEY**: The City of Gray is not being considered. They have a continuance.

**MR. WEBB**: Thank you. That those would be bound over to the Attorney General's office.

**SECRETARY KEMP**: So Lipsey, Collins, Gray, and Jackson?

**MR. WEBB**: Correct.

**SECRETARY KEMP**: Okay. We've got a motion to bind those over to the AG's office.

**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.

That leaves us with Ms. Thompson.

**MR. WEBB**: With Ms. Thompson, I'm a little torn on this because I think we're playing a little too loose with the facts. I don't think we have all the information in order to make a determination. I'm very uncomfortable with the six-week window and that Ms. Thompson is claiming that she filled out paperwork when she first got to college. That may very well be true, but there needs to be some explanation and her attorney could not answer several questions. I just think we may want to send this back to investigation. I do welcome the input of the Board.

**MR. SIMPSON**: I don't see that that's a problem because she signed a document at a college during orientation, or during registration. It takes some time for that document to get to whoever gets it at the college, and then she's actually not registered until the registrar receives it. So that doesn't surprise me in dealing with a college or educational

institution. Things don't run like a well-oiled machine sometimes.

**MR. HARVEY**: She actually signed the document on September 28; that's the date she actually filled out the document.

**MR. SIMPSON**: I thought it was the time it got to the . . .

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

**MR. SIMPSON**: Okay. Because he said there was a window there. So that really, to me, doesn't bother me because I really think we get back to the crucial issue is she did exactly what the people at the election offices told her to do; she didn't vote again anywhere else; and I agree with her lawyer that it doesn't seem to be any intent. I just think we're being a little bit overbearing.

**SECRETARY KEMP**: You were talking about referring it back, right, for investigation?

**MR. WEBB**: Investigate it more.

**SECRETARY KEMP**: Not referring to the AG's office. Mr. Harvey, if we were to refer that back, is there any other due diligence you could do to clear this up, or you've about got all you can get?

**MR. HARVEY**: I honestly think we've got just about everything we can get. I mean, the dates and the facts appear to be pretty clear. Her explanation is she doesn't remember specifically registering. The dates and times are what they are. I understand Mr. Simpson's concern about following the directions of the voting officials. But I'm not sure there's much we can do with Ms. Thompson to provide more information to the Board. I don't think she could provide any additional clarification. But I would be happy to try.

**SECRETARY KEMP**: Mr. McIver?

**MR. McIVER**: Mr. Harvey, was any effort made to determine if she voted in Baldwin County?

**MR. HARVEY**: She did not.

**MR. McIVER**: You can conclusively say that?

**MR. HARVEY**: I don't think I can say one hundred percent conclusively that she did

not vote in Baldwin County. However, registering in September, I don't believe there could have been an election in Baldwin County prior to her voting in Jones County.

**MR. McIVER**: She could have voted in Baldwin last month.

**MR. HARVEY**: Since that election? Yes, sir. Her voter registration was transferred. At the time she voted, she had to transfer back to Jones County; when she was at the polls. So she started in Jones; went to Baldwin; and when she returned and voted, she transferred her voter registration back to Jones County.

**MR. McIVER**: See, it would be meaningful to me to know that she double voted. Without that being an issue, then I favor the Judge's position.

**SECRETARY KEMP**: It's come to my attention we have someone else wishing to speak on this. You want to come forward? If you would, just give us your name and address for the record.

**MS. HATTON**: Yes, sir. My name is Marion Hatton; 1154 Eatonton Highway, Gray. I am the election superintendent for Jones County.

In listening to this, I have called my registrar and she has looked into Jessica's voting history. The day that we received the paperwork from the provisional balloting, that allowed Jessica to re-register in Jones County. She never previously registered anywhere until that day. That was her first voting experience. That day, Jones County took her records back and she has voted in Jones County since; never in Baldwin.

**MR. McIVER**: So she would not have been registered in Baldwin last month?

**MS. HATTON**: Correct.

**MR. McIVER**: Well, there's the answer to my question. Thank you.

**SECRETARY KEMP**: Any other questions?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you very much.

**MS. HATTON**: You're welcome.

**SECRETARY KEMP**: Y'all have a motion?

**MR. WEBB**: So when she registered in Baldwin County, that was the first time she had actually registered to vote?

**MR. HARVEY**: We've got voter registration showing --

**MR. WEBB**: I'm sorry, because you did say February --

**MR. HARVEY**: February, 2009.

**MR. WEBB**: Sorry.

**MR. SIMPSON**: I move that we dismiss the charge.

**SECRETARY KEMP**: Do you think a letter of instruction would be beneficial, or do you just want to dismiss?

**MR. SIMPSON**: Well, I would think a letter of instruction, if there was one, would be sent to whoever is registering voters in college.

**SECRETARY KEMP**: Well, I know. But I don't think it was the college that was doing that. That's something we're going to look into. I imagine that was a third-party group that was doing that. Of course, the voter, when they're filling those forms out and signing, it's just like those oaths or affidavits on their absentee ballots. So I think -- I understand. But I think also there's got to be some personal responsibility and your sign your signature to something.

But we do have a motion. Do we have a second?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. That motion fails because we couldn't get a second. Do we have another motion?

**MR. McIVER**: I move we close this case with a letter of instruction.

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

**SECRETARY KEMP**: We've got a motion and a second to close the case and send a letter of instruction. Any other discussion?

(Whereupon, there was no response)

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

**MR. WEBB**: Aye.

**MR. McIVER**: Aye.

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

**MR. WORLEY**: Aye.

**SECRETARY KEMP**: That motion carries. That was it, right, Mr. Harvey?

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

**SECRETARY KEMP**: All right. We'll move now to case number 2010, number 35, Taliaferro County.

**MR. HARVEY**: This case involved the July 20, 2010, general primary election. The main issue in this case was that of voter assistance. The secondary issue was with the actions of the candidate, County Commissioner Charles Ware, entering a polling place and in interfering with the polling that was going on.

In The back of your document, you will have a respondent chart that lists, I think, 30 respondents for various citations. The investigation determined that ultimo people -- let me back up. The election officials were apparently not very diligent in requesting or requiring people to provide a reason for assisting. You can assist a vote for illiteracy, for disability, or inability to get into the voting booth. The problem came to a head when a voter appeared to vote and was asked about why do you need assistance. That got related to Commissioner Ware the came down into the polling place while voting was taking place and got into a loud discussion with the election officials telling them that people didn't need a reason to be assisted; they just could be helped because they wanted to be help, which is not in accordance with Georgia law.

We went back and pulled the voter certificates and found that there are multiple people who provided assistance to people who really didn't qualify for assistance. Now, in most of these cases, it was a single issue and I really believe that there was not a lot of intent on the part of the voter or assister to do anything wrong. So when you look at the respondent chart sort of backwards to forwards, I would recommend that everybody who is cited for a single incidence of a illegal assistance, and that would be Respondents 1, 3, 4, 5 through 10, 13 through 24, and 26, be issued letters of instruction for properly assisting someone when they are voting in a polling place.

The issue of Commissioner Ware coming down into a polling place while a candidate while voting was taking place and getting into an argument with an election official and disturbing some of the voters, I recommend he be bound over as cited in the respondent chart.

The election superintendent, Probate Judge Mayo, is cited for two issues. One is for proper assistance by assisting her mother. I recommend, based on the circumstances of that, that that not be bound over. She was assisting her mother with an absentee ballot. Apparently there is some cognition issues there. However, Judge Mayo was not diligent in training and informing the poll workers of the requirement that people provide a valid and legitimate legal reason to receive assistance.

So I recommend that in the cases of Commissioner Ware and Judge Mayo and the election officials, that they be bound over.

Now, as far as the poll workers that allowed the assistance without legal reason, I recommend that they also be issued a letter of instruction. They were essentially following orders that come down from their supervisor saying allow people to assist if they just asked for assistance without requiring a specific reason. So there appears to be a failure from the top down in terms of understanding the need for requiring legal reasons for assistance. So I recommend that the individual people and the election officials be given letters of instruction for that.

I do recommend that Commissioner Ware be bound over for entering a polling place while he was a candidate on the ballot, and also for interfering with the duties of a poll worker in terms of taking them away from their tasks and creating a tumult in the polling place. I recommend that be bound over.

There are three cases of assistance that I think are problematic, however, I'm not sure that there is a good legal solution to them. There are three cases -- Respondent 11, 26, and 27.

**MR. WEBB**: Can we get those names, please, Mr. Harvey.

**MR. HARVEY**: Yes. That's Margaret King, Glover, and Derico.

**MR. WEBB**: Thank you.

**MR. HARVEY**: In these cases, these are family members of people who are 18 years old and register to vote, but apparently have -- don't have the ability to communicate or express a voting preference. In the cases, the caretaker would say, well, I've got their ballot and voted it for them. I know the law requires somebody be declared

incompetent in order to not be eligible to vote. I don't know that I could cite a specific violation of the law. However, it's a strange situation when somebody who has no ability to communicate is voting by absentee ballot and the person who is voting is saying I voted their ballot, essentially, without any input from them.

With that, I leave that to the Board's discretion to determine what happened, if anything, in those cases.

**SECRETARY KEMP**: And that was on Derico, Glover --

**MR. HARVEY**: Glover and Margaret King.

I would also say that Respondent number 25 named Margaret Ray, she is actually represented by an attorney who called and requested that her case be continued. So I believe she's going to fall into the category of people who probably I'm going to recommend for a letter of instruction. However, Respondent 25, Margaret Ray has been continued from this meeting.

The last thing, I got a letter that we received to the Board from Margaret King expressing her concern about assisting her niece and her concerns that she didn't think she was doing anything wrong. Frankly, I don't know she was doing anything wrong. I don't know how you handle a situation where a voter has a hard time or cannot communicate their choice to somebody who is assisting.

**MR. McIVER**: Help me with Judge Mayo's training background. Has she attended GEOA; is she certified; has she made all the various training sessions that were made available to her, either online or in person?

**MR. HARVEY**: I don't have that information on hand. We should be able to check on that, Mr. McIver.

**SECRETARY KEMP**: Any other questions?

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to speak on this case? Yes, sir. Welcome.

**MR. JAMES**: Good afternoon. My name is Harry James. I am an attorney and I represent the County of Taliaferro in this matter. My office address is 407 Sixth Street, Augusta, Georgia.

After listening to what was stated, and after investigating this matter, it goes without saying that we believe none of the officials for the County of Taliaferro and none of the respondents, for that matter, knowingly or willingly violated any state laws, regulations, or rules in reference to this election. I do have a list which I have clearly marked as to all of the physical disabilities and other disabilities which would have made every last respondent eligible to go and assist an elector in these elections.

Secondly, I have with me the superintendent of elections, Judge Mayo, and also the registrar for the elections, Vivian Milner. They both have prepared statements they would like to read to the Board.

Everything done was done above board. Unfortunately we had some disgruntled complainants who didn't like the election results, which led to these complaints. I want to point out that several of those persons who received assistance -- without going into -- and I believe there were about 40 respondents; not 30 -- but without going into a long cadre of responses, I will point out several key facts.

Several of those who were assisted or in their 90s. Some were in their 80s. Several could read nor write. Several had disabilities with sight. Several had disabilities of just intimidation by the machines. I want to point out to you that although Georgia law is specific on the rules and regulations as to what necessarily accounts for a disability, it's still a little vague as to what is meant when one cannot read or write or otherwise use the machine.

I want to point out that if you look at the logistics, if you look at Taliaferro County, Taliaferro County is the least populated county; it's a very small county. It is a very economically depressed county. Up until this election in 2010, all the ballots were by hand. They were written by hand. What happened in 2010? A new wrinkle, new monster came into the picture. All of a sudden you had a voting booth; you had computerized voting machines. A lot of elderly people were totally intimidated by that. They couldn't use those machines; they didn't want to touch those machines. They wanted to vote. That's a disability within itself, not being able to understand or use a computer. Should the State penalize those people because of the circumstances they find themselves in? The answer is clearly no.

So, yes, they asked for assistance also, and they were able to vote because they had a disability; the disability of not being educated to the use of 21st-century machines or computers.

I can go down the list of each person and tell you their legitimate disability and why the respondents were there to assist them. There is no sinister motive; there was no secret; everything was done above board and in public for the benefit of the voter in order to

assist that voter. No rules were broken and we don't believe any regulations were disregarded. Everything, again, was done above b board.

We do have those concerned respondents who rode a bus up here today to defend themselves, and if the Board would like to hear from them they can tell you individually and personally why they had to assist either a relative or a friend in voting. I'm just going to ask them to stand with the Board's permission. Those of you who are respondents, please stand.

(Whereupon, respondents stood)

In the interest of time, I don't know if the Board would like to hear from them, but they certainly want to let you know why they are respondents and what they did which was above board to help and assist in voting.

Now, in the interest and in the matter of Charles Ware, as far as the charge against him entering back and forth into a polling place when he was a candidate, I think some key facts have been omitted here. Number one, Charles Ware is the chairman of the board of Taliaferro County. His office is in the polling place. The polling place, ladies and gentlemen, is the first floor of the little courthouse there. You have the chairman's office; next to the chairman's office is the registrar's office; next to the registrar's office is the judge's office, who was also superintendent of elections. They are one, two, three, next to each other.

Certainly he was in and out. He was working that day. He was taking care of the County's business. He had to go in and out. As far as my investigation was concerned, there was no voter intimidation by Mr. Ware. As chairman, he does have certain rights and certain responsibilities and duties to the citizens of Taliaferro County. He carried out those duties. There was a problem out in the hall. As chairman, he went out in the hall to see about what was going on. Once he satisfied himself that everything was in hand, he left that alone. He went back about his duties.

The charge that he was in and out makes it sound like he was in and out of the polling place campaigning and intimidating people. His office was there. He was there and he was working. Let me ask -- Judge Mayo?

**SECRETARY KEMP**: Let me call the witnesses and respondents, if you don't mind. Are you done with your presentation?

**MR. JAMES**: Yes; for right now.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: I have a question for you, Mr. James.

**MR. JAMES**: Yes, sir.

**SECRETARY KEMP**: Are you aware that we have been using the current statewide voting system since 2003, 2004?

**MR. JAMES**: Yes I am aware of that.

**SECRETARY KEMP**: So this was not the first time the Taliaferro County has used the voting machines, right?

**MR. JAMES**: No, it wasn't. It wasn't that far off, but these people, they were used to writing in, and for quite a few of them, it's my understanding, it was a new experience for them.

**SECRETARY KEMP**: Okay. But not the first time -- I just want to make sure.

**MR. JAMES**: Not the first time. I might have misspoke on that. But it was their first time.

**SECRETARY KEMP**: Right. And you are also aware that state law says the election polling locations are supposed to have handicapped available units for people to vote on that may need those assistance; that the County is supposed to be doing that?

**MR. JAMES**: We're not talking about that type of handicap. I'm talking about more of a mental handicap when it comes to using those type of machines.

**SECRETARY KEMP**: Well, I think you're talking about people that couldn't read, you know, because we have audio ways for people to vote. I just want to make sure the Board understood. Any other questions for Mr. James?

(Whereupon, there was no response)

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

**MR. JAMES**: We have two persons who will read prepared statements -- three persons.

**SECRETARY KEMP**: Okay. Y'all come on up. Give us your name and address for

the record.

**MS. MAYO:** I'm Martha Mayo. I am the elections superintendent Probate Judge in Taliaferro County and will complete 16 years in December. I respectfully approach this Board requesting you have an open mind in this case. I have written my thoughts on paper to not only summarize my points of concern, but to effectively present them to you.

The voter certificate states to receive assistance, one must have a physical disability or be unable to read and write. First to address the physical disability. A physical disability is sometimes not so easily seen. About what constitutes a physical disability? What about the individual who is too embarrassed to say, I'm afraid to operate the voting machine; I don't understand it. There is no place on the voter certificate asking if the voter understands how to use the voting machine.

Prior to several elections we have advertised that demos would be in place in the courthouse for people to come by and practice on. Only five or six people showed interest. Why, I ask, is it possible that even then they were too embarrassed or intimidated by them? Maybe even felt it would be simpler just to ask for assistance.

Many times a voter would arrive at the polls on election day at the facility and ask for assistance. Of course, the poll workers cannot assist them, and they do not. They tell them to go and find someone if they can't vote by themselves to help them vote. Sometimes they come back with an assistant; sometimes they don't. Sometimes they just go away and do not vote. Some, being proud and embarrassed only told about what happened to them after the election. These are not just educated [sic] people. We had a school teacher that has taught school in numerous years and she just could not get the hang of it.

Secondly, to address being able to read and write, the term illiterate is not being able to read and write. I can read and write, but I am incompetent in many areas when it comes to certain things. I can read how to back up a tractor-trailer; I can read how to make a dress coat by sewing; I can read how to solve a chemistry problem; or even put together a child's toy. However, just because I can't read it doesn't mean that I can master that task in a short period of time.

Being able to apply the task is difficult for many people. So, in essence, I'm saying, technically, being able to read and write doesn't mean they can comprehend and accomplish the task. Also, once learned, doing a task routinely makes a difference. The voting process, though, takes place a few times a year at most; definitely, not routinely.

According to the Justice Department, a person who is registered to vote, not declared incompetent, not a felon, has a right to vote with assistance. I respectfully feel some of

the accusations do not take into account that we have people who are registered to vote that have had assistance all along. It didn't just start with the 2010 election, and they are definitely known to be special needs people.

The person who comes there may not be verbally able to communicate their choice of candidates at the polls with their relative or friend, but obviously they have a relationship that they have communicated with them prior to arriving at the polls. Do we need to purge these people from the list? If we attempt to purge these people from the list because we feel that they should be able to operate the machine -- I believe there's a lady that used to be in Washington DC with the Justice Department. Her name was Ms. Hallelujah Wright. She has called me on several occasions when she got wind that we might be attempting to purge someone, which was not true. She would definitely give me a phone call.

The poll workers that we select, we don't have a big selection of poll workers. People are afraid to work at the polls for such as this: to be put on exhibition. But our poll workers that we pick, they are competent; they are careful; they are courteous; and usually they are calm and compassionate. They do express pride in being able to work on election day.

Everyone is fully trained for the job before every election. This includes not only the brand new poll workers, but also those that have worked for 12 to 15 years. Each one of these people takes responsibility quite seriously. None are willfully negligent or willfully refuse to do their job. If a poll worker fails to check a blank, it is not willful; it is not deliberate. It is human error. All my poll workers try to do the best job possible and do better and take pride in it. Granted, there are some people in our county that do not appreciate their efforts.

I thank you most sincerely for your time and appreciate if you would consider the points in this speech.

**SECRETARY KEMP**: Thanks for being here, Judge. Questions for the Judge?

**MR. McIVER**: I do.

**SECRETARY KEMP**: Mr. McIver.

**MR. McIVER**: Judge Mayo, perhaps you can help Mr. Harvey here. Will you describe to us, please, what training you have for running elections and have you attended the various conventions like that --

**MS. MAYO**: I am certified; I have attended every election training school. We have the

poll workers -- we set up a night to do poll work. Usually we have maybe one or two new ones. Most of them have been there quite some time. They come in and we train in the evening. This past election, we had some more training because we had two people that worked with elections that were in a contest. So we had some new people.

But we do. We train at night and we have a session with the machines out. We have all of them in at one time because usually is not more than 11; we have a small number. And we go through things. We take the code book -- my husband helps me -- some of the poll workers, the seniors there, they help me with it. But we definitely do have training. These people are trained.

**MR. McIVER**: Do you consider yourself sufficiently trained?

**MS. MAYO**: Well, I certainly hope so. I'm certified.

**MR. McIVER**: Did you discuss with Ms. Watson her contact with Commissioner Ware on -- the allegation, as you know, is that he approached the chief registrar, Barbara Watson.

**MS. MAYO**: She may have spoken to me about it. I do not recall.

**MR. McIVER**: No further questions.

**SECRETARY KEMP**: Any other questions for Judge Mayo?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you, ma'am. Anyone else wishing to speak?

**MS. MILNER**: I'm Vivian Milner.

**SECRETARY KEMP**: Ms. Milner, if you don't mind, pull that mic down a little bit. There you go.

**MS. MILNER**: I'm Vivian Milner. I live at 168 Commerce Street, Crawfordville; Post Office Box number 87. Thank you for the opportunity to answer the violations I've been charged with. I was a registrar at the time of the elections. I have since become, been appointed chief registrar. I just want to address violations that I've been charged with.

The first violation was O.C.G.A 21-2-594, knowingly permits another person to render assistance in violation of 21-2-409. I have never knowingly or intentionally permitted any -- another person to render assistance in violation of this law at anytime. The second

violation of O.C.G.A 21-2-591, any poll officer that permits a voter to be accompanied by another into the voting compartment. There was a chief registrar and two registrars in the office at all times during early voting. The only person we allowed to accompany the voter into the voting compartment was the one assisting.

Since I did not knowingly allow anyone to have assistants who was not qualified for it, I plead not guilty.

Third violation, O.C.G.A -592, failing to keep the record of the name of each voter received assistance; the disability; in the name of the person rendering assistance. I believe this refers to the application which the voter has to complete. Could I show you the application?

**SECRETARY KEMP**: Yes, ma'am. Do we have a motion to accept the document?

**MR. SIMPSON**: So moved.

**MR. WEBB**: Second.

(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.

**MS. MILNER**: I have highlighted the required information. There are 24 spaces to be completed. It was my responsibility to see that the application was completely filled out and done correctly. I have, to the best of my ability, done so.

In the July, 2010, election, out of 286 applications which I reported, I only failed to have a reason for assistance, which is shown at the bottom of the application, checked on 20 of the applications. Fourteen of these occurred on the first day of voting. This was due to a rush of unexpected voters and a fairly new chief registrar and a new registrar had no experience. Once we became aware of the error of failing to have the reason for assistance checked, we immediately corrected it. For the remainder of the election, I only missed checking this on six applications.

In the November 2, 2010 election, out of 130 applications that are processed, only once did I fail to have the reason for assistance checked.

The fourth violation, O.C.G.A 21-2-596, I can only say that I have never knowingly and willfully neglected or failed to perform my duty as a registrar for Taliaferro County I have been chief registrar.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here. All right. Anyone else?

**MS. STEWART**: Good morning. Kay Stewart. I am the poll manager from the Crawfordville precinct. My address, 108 Monument Street, Crawfordville.

I would just like to take a second to say, first of all, I take my oath very responsibly. Never would I do anything deliberately to not carry out fully my duties.

Secondly, I just want to reiterate to you, I have always -- and I have worked with polls eight to ten years, I was say -- that I have always felt very confident that Judge Mayo was fully trained and that she took been very responsibly to see that each of us, and still to this day, it doesn't matter how long we've been there, we show up with a new one, we go through it. And also, I say it does need to be reiterated to us because, there again, this isn't something we routinely do. I always, even before the day of election, like to go through every bit of my paperwork and to make sure that I am fully remembering what it is that is expected of me.

So I just wanted to share with you I do feel we have been fully trained and we carry it out to the best of our abilities.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Thanks for being here.

**MS. STEWART**: Thank you.

**SECRETARY KEMP**: Good morning.

**MR. WARE:** Good morning, or afternoon. My name is Charles Ware. My address is 1481 Edgewood Road, Crawfordville, Georgia 30631.

In the opening statements, I guess Mr. Harvey was reading the allegations of Charles Ware, the chairman of the Board of commissioners of Taliaferro County, which I do have a -- I am charged with handling the day-to-day business of the County, me being the chairman. And my office, as Mr. -- the attorney said, I am located probably within 40 feet of the polling place. And, yes, in my interview that was done by the investigation of the Secretary of State's office, I made the statement that, yes, I talked with Ms. Barbara Watson about people coming and asking me about their concerns about not having assistance, not wearing a campaign hat; I'm wearing the hat of Taliaferro County Board of Commissioners Chairman. I asked her to consider the reasons why a person could have assistance if they could not read the English language, is one of them; not because they should have it, but because this two reasons on the certification that you can have them. One being you can't read English language, and the other one being Kevin a physical disability.

I'm going to back up to, I guess, this is my fourth term as Commissioner Chairman of Taliaferro County. As you know, we've had some kind of knockout, drag out elections in those last 20 years, so involved that the Justice Department even have one to be recalled and to do it over. Some of the same allegations were dealing with, the Justice, the DOJ, recalled the election because people's rights was denied of not having assistance. I went to share that with Ms. Watson that we being a small county, we don't have a big legal fund that we can really get out of here and spend a whole lot of money. I think it's best to try to call someone and really see if a person or why a person could have assistance, and can you give literacy tests on the site; can you question about can they read or can they write. And I was told by the Justice Department several times that it can't be done.

So I was having a conversation with her about that. I guess, as you read the complaint that, I guess, it was one elector that probably was near that may heard myself and Ms. Watson talking. I think he described Mr. -- I don't know what his name was -- he described a mild . . . a mild situation. And that's the only thing that I ever meant. Nothing to do with my campaign, but from the County Commissioner standpoint of trying to make sure that we can be as efficient as we can and not be here spending money like we're doing right now that we don't really have to. So that was my concern that I had.

**SECRETARY KEMP:** Thank you, Mr. Chairman, for being here. Any questions for the Chairman?

**MR. WEBB:** I have a couple of questions for Mr. Chairman -- Mr. Ware. Mr. Ware, do I understand your served four terms?

**MR. WARE:** I'm on my fourth term -- well, I'm in my fifth term.

**MR. WEBB:** Okay. We've had cases before this Board several times where commissioners have come in and we've always asked the same kind of question. It's not your first rodeo. You've been there a while. You understand as a County Commissioner that when you're located that close to the polling place, that one, you need to make every attempt not to go in; and, two, you need to make sure that you are not wearing any items of advertising for your campaign, promoting your campaign. You're aware of that. Are they just items that slipped or can you shed some light on this or . . .

**MR. WARE:** No, sir. I wasn't wearing no hat. I didn't have no campaign advertisement; no -- nothing. So I don't have a campaign hat. I assume what they was talking about in the write up that may be I was representing myself as a candidate rather than during my official work as Taliaferro County Board of Commissioners Chairman. Not actually wearing a hat. That's the only thing I can get out of it because I don't have no campaign materials; never have.

**MR. WEBB:** But you understand the importance of not disrupting --

**MR. WARE:** Oh, surely; surely. And I respect every board that is appointed, that we appoint, that is their responsibility to carry out their duties. But, of course, I felt, after talking with the investigator, if I can share a little bit of an opinion about how we could possibly spend a lot of money on attorney fees, because we don't have that; we don't have that kind of tax base that we try to minimize it. And that is where my suggestion -- I guess after that, an investigator did come in and we had a talk. He said, well, Mr. Ware, if you just don't you go over there. I said, I'll tell you what; I would even come back into the courthouse no more during the election. And that's how I carried the rest of it out. I maybe would come in to sign checks and move out.

**MR. WEBB:** All right. Thank you.

**SECRETARY KEMP:** Any other questions for the chairman?

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

**MS. WATSON:** Hey, I am the notorious Barbara Watson. I reside at 1326 Bethany Church Road, Crawfordville, Georgia 30631.

I wrote down something so I wouldn't ramble, and I want to thank the Board for this opportunity to hear me. I'm not going to waste the Board's time on all the issues because they could take all day. I would like to address the charges against me.

I was appointed to the Board of Registrars in July, 2009. I have family trips already plan for that year, so I was not involved in any elections. In February, 2010, I was appointed chief registrar. The July election, my first election, was very volatile. I did my best to run the early elections by state laws. I just want the Board to know any wrongdoings on my part was ignorance of the law, not intent.

On the first offense, letting voters be assisted, when a voter came in to be assisted, the registrars would explain the two reasons for assistance. The voter still wanted to be assisted. So I'd like to ask the Board at this time, were we supposed to deny them the right to vote? I feel it was on the voter when they signed the oath saying that they were disabled. I shudder to think what would happen in Taliaferro County, or any other county, had a voter not voted for being denied assistance. In training, we were always taught that it is better to err on the right of the voter to cast a vote.

As to the 21-2-592, failing to keep records of assistance, this information is put into the computer when we enter the voter credit. I wasn't aware of another list needing to be made because there were no federal or state candidates on the ballot. The first two or three days, as Ms. Miller said, were crazy. We had just lots and lots of voters out there with assistance and I was constantly being pulled out of my office by Mr. Charles Ware. I never said that he was in and out of my office; that was a misrepresentation of the lawyer. He came in to the voting -- polling place one time, and we had a voter on the poll. But he was constantly calling me on the phone and harassing me about voters being assisted. Like I say, we were bombarded with voters and assistance.

The ballot clerk failed to get the disability box checked and as soon as I realized this -- this was like the second or third day in -- I had a discussion with the registrars and told them unless that box was checked that the certificate was not valid.

Taliaferro County has had a bad reputation for elections. I found this out at the first VRAG I went to. When I mentioned my County, they'll go oh, you know. I knew I was in trouble. But anyway, the good old boy system is still going on in Telfair County with assistance to voters that don't even know what they are voting for and out-of-county people being put back on the electors list.

Most of the people of Taliaferro County have been told I caused all this trouble. I resigned the third day of elections after Mr. Ware came into the polling place with another lecture. Judge Dunaway called the Secretary of State's office. He called and made the complaint in the State sent in an investigator. That's when all started. I finally did have to resign June, 2011, after continued harassment. I only stayed as long as I did because good citizens and Mrs. Aaron Hicks of the Secretary of State's office encouraged me to hang in there.

All I ask of the Board is to please help the citizens of Taliaferro County. I would also like to address that Mrs. Mayo did not recall me talking to her. On many occasions, bawling my eyes out asking for help.

That's all I've got to say. Thank you.

**SECRETARY KEMP**: All right. Thank you, Ms. Watson. Any questions for Ms. Watson?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Mr. Harvey, do we have Exhibit 21 in our package?

**MR. HARVEY**: Is that the statement from the voters?

**SECRETARY KEMP**: Yes.

**MR. HARVEY**: I have it right here. It's very brief. It's from Walter Bower. It reads:

“During the time I was voting, Mr. Ware entered the room and was mildly disruptive to the procedures of other voters.”

**SECRETARY KEMP**: And we have interviewed him; is that correct?

**MR. HARVEY**: Yes, sir. We've got a notarized statement.

**SECRETARY KEMP**: Any other questions?

**MR. WEBB**: Mr. Harvey, have we had any other complaints regarding Mr. Ware in the past?

**MR. HARVEY**: There may be cases before I got here. I don't recall a lot of cases with Mr. Ware in the last several years. I couldn't say for certain. I know there was a case in Taliaferro County shortly after I got here, but I don't remember all the circumstances.

**MR. WEBB**: But we would know if there was a letter of instruction on file or a

reprimand?

**MR. HARVEY**: We could find that out to the AG's office.

**MR. WEBB**: And then could I ask you a couple of questions about Code Section 21-2-409?

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

**MR. WEBB**: According to what I'm hearing, people are saying you have to fit in one of two categories: unable to see or unable to mark a ballot. Is that correct?

**MR. HARVEY**: Correct.

**MR. WEBB**: But the code section actually has more language in there in that it says or operate the voting equipment.

**MR. HARVEY**: Correct.

**MR. WEBB**: Wouldn't that also qualify someone that couldn't operate the voting equipment be entitled to assistance?

**MR. HARVEY**: I think that's where it gets very gray, and when we interviewed several of the people who received assistance, they said that they just felt uncomfortable with the machines, or they hadn't done it before so they didn't feel comfortable. I think it certainly could encompass what you are talking about regarding operating machines. I guess it depends on where one draws the line as to what is comfortable. If somebody just says, well, that's a newfangled thing and I don't know how to do it and I'm uncomfortable, and therefore I'm asking, are we going to assist all these people just because they are quote, unquote uncomfortable with the machines. That may be a legitimate issue, it may not. But I agree with your comment that it widens the possibility for assistance.

I think one of the big concepts in this case is the difference between help and assistance. I think the line between helping somebody in terms of being sort of neighborly versus legally assisting them with a legally entitled assistance may have been blurred here. That's one of the reasons I'm recommending letters of instruction to the people involved, either as voters or as assisters or as poll officials who weren't completely clear on where that line was drawn.

I think is a difficult call. If somebody shows up and says they are, we certainly, I don't think, one poll workers administering physical tests and things like that if somebody says they have a physical disability. But at the same time, if somebody just walks in and say I

want them to help me and they go in the voting booth with them, I think that's a problem, also.

**MR. WEBB**: Thank you, Mr. Harvey.

**MR. HARVEY**: Certainly.

**MR. SIMPSON**: It sort of concerns me, too, being from a rural county. I think you sort of have to look at things a little bit differently with some of the voters as to what being unable to work the equipment is. You know, I think we need -- someone said earlier today if we err, err on the right to vote. If somebody is intimidated by a computer, for whatever reason, and they need some -- I don't see any difference between help and assistance; I don't see a distinction. But if they need something there, or someone there to say, look, now you hit the next button, or that you pick one of these two columns, or something like that, I really have difficulty criticizing that.

**MR. HARVEY**: Well, poll workers are allowed to provide assistance from outside of the booth with operating machinery. Again, I don't want to sit as final judge, jury, and executioner as to whether or not somebody is entitled to assistance. I think part of the problem in this case also is that if you're going to allow assistance, you need to document it. You need to be diligent about doing it and I think not doing that contributes to the momentum or the feel that people are carting people in and then assisting them sort of willy-nilly or just pulling people off the streets and going in and voting for them.

We have a system where there is a very loose, almost nonexistent standard for assistance. And then when you don't follow the rules and laws regarding documenting that assistance, that makes the problem worse. If you rigidly follow the rules and you documented everything and say, okay, this person is claiming this assistance for this reason, and you've got a record of all the, I think they'd be on much stronger ground.

Again, that's why I think a letter of instruction -- and we'd be talking about sending out about 30 letters of instruction to election workers and voters and assisters -- they would realize, okay, it's not quite as casual as just showing up and saying, hey, I want this guy to help me out. I think the law is there for a reason to protect the sanctity of the individual voter, while at the same time not prohibiting anybody from voting because they have a legitimate legal need for assistance.

**SECRETARY KEMP**: Anything else?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. What's the pleasure.

**MR. WEBB:** So, Mr. Harvey, can we run through your recommendations again very quickly?

**MR. HARVEY:** Yes, sir. If you go down the respondent list, starting with the first and last -- unfortunately, they are not numbered.

**SECRETARY KEMP:** Why don't we just go by the name, if you don't mind.

**MR. HARVEY:** Okay. I'll recommend a letter of instruction for Albert Gibson; Alexis Chapman; Eileen Oliver; Luther Rhodes; Atlanta Woods; Neil Woods; Daisy Carter; Eddie Coombs; Etta Alexander; Helen Polite; Inell Stewart; Kenneth Chapman; Lydia Grant; Melissa Champion; Michelle Harris; Rosie Colors; Sherree Harris --

**SECRETARY KEMP:** Hold on, one second. Did you say -- did you skip Harris?

**MR. HARVEY:** If I did, I did not mean to skip Michelle Harris. Sylvia Armor; Willie Edwards; Willie Seals; Lester Jones; John Barkas; Elizabeth Williams; Ms. Ray has requested that her case be continued, so I will skip her. Then you get into the -- Annie Glover is one of those three sort of special circumstances where you have assistance to a voter of questionable ability to communicate, as is Pamela Derico, number 27. Barbara Watson I would include in a letter of instruction; Mr. Ware I would recommend binding over for entering the polling place and interfering; Judge Mayo I would recommend binding over for not providing sufficient training and instruction for the election officials as regards to documentation of assistance. And then I would recommend a letter of instruction, again, for Trudy Avera; Vivian Milner; Kay Stewart Taylor; Natasha Stewart; Annie Fuller; Jackie Fulton; June Nicholson; and Gus Mayo.

**SECRETARY KEMP:** Mr. Harvey, on --

**MR. McIVER:** What about Margaret King?

**SECRETARY KEMP:** Let me ask him something real quick before we get to that, Mr. McIver, if you don't mind. After Rosie Colors, we had Sherree Harris. You recommended a letter. I just want to make sure I've got that right.

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

**SECRETARY KEMP:** So we had Michelle Harris and then Sherree Harris, right?

**MR. HARVEY:** That's correct. We have Michelle Harris and then Rosie Colors

and then Sherree Harris.

**SECRETARY KEMP**: Mr. McIver?

**MR. McIVER**: You skipped over Ms. King. Did you have a recommendation for her; Ms. Margaret King? She was the lady that submitted the letter.

**MR. HARVEY**: Yes. Well, Ms. King, Ms. Glover, and Ms. Derico, are the three -- and, again, I don't know if a letter of instruction is appropriate. Again, I can't find a law that they violated in terms of assisting their family member that was severely disabled. Unless the Board has any other idea, I recommend letters of instruction to Ms. King, Ms. Glover and Mr. Derico.

**MR. WEBB**: Would those letters of instruction, obviously, be different than the other letter of instruction to be more detailed about who can vote and marking the ballot for someone?

**MR. HARVEY**: Right. They would be -- I think we have several letters, I'm sure. We've got one for the people who provided assistance; you've got one for the poll workers; and then you have one for these people.

**MR. WEBB**: And then that leaves us with binding over Mr. Ware, Judge Mayo --

**MR. HARVEY**: I believe those are the only two.

**MR. McIVER**: With the exception of Margaret Ray.

**MR. HARVEY**: This correct.

**MR. WEBB**: I want to make a motion that we accept those recommendations.

**SECRETARY KEMP**: All right. So you've got a motion to do letters of instruction to the respondents that Mr. Harvey recognized; to refer Chairman Ware and Judge Mayo to the AG's office; and then we have a continuance on --

**MR. HARVEY**: Number 25; Margaret Ray.

**SECRETARY KEMP**: Yeah, Margaret Ray. Is that your motion, Mr. Webb?

**MR. WEBB**: It is.

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

**MR. SIMPSON**: 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**: That motion carries.

**MR. WILLARD**: Mr. Chairman, before you go on just so I'm clear, the only individuals referred to our individuals were Mr. Ware and Judge Mayo?

**SECRETARY KEMP**: That's correct.

**MR. WILLARD**: Thank you.

**SECRETARY KEMP**: Okay. Let's see. 2010, number 40, Hancock County. That will be number 13 -- I'm sorry -- number 12 in your binder.

**MR. HARVEY**: This case involved the election in the July 20, 2010, general primary.

**SECRETARY KEMP**: Mr. Harvey, wait just a minute so these people can --

**MR. HARVEY**: I have a letter from the respondents on this case if the Board wants to see that.

**MR. SIMPSON**: Move to accept.

**MR. WEBB**: Second.

**SECRETARY KEMP**: All in favor of accepting the documents, signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We've accepted those documents. Let me also make a motion to accept the documents for Margaret King. Do we have a second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: I 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**: That motion carries.

**SECRETARY KEMP**: All right. Mr. Harvey, go right ahead.

**MR. HARVEY**: This is Hancock County, July, 2010, primary election. We got a complaint involving nine allegations. We found that only two of the allegations had any merit to them. There were concerns about absentee ballots being picked up and delivered by individuals and there was a problem with a candidate's name being misspelled on the ballots. Other allegations were that deceased people had voted, and that machines had been programmed and the post office was mishandling ballots and that the registrar was appointed improperly. All those were found to be unsubstantiated with no evidence provided to support them.

However, we did find that Miranda Edwards and Francis Edwards both possessed absentee ballots illegally. Miranda Edwards possessed four absentee ballots and Francis Edwards possessed 12 absentee ballots. They picked them up and delivered them. They provided a written statement that I have submitted to the Board where they acknowledge what they did. They claim that they didn't have any intent to break the law and they didn't know there was anything illegal about doing it.

The other allegation that was sustained that a candidate's name was misspelled on the

ballot. For that we have cited former elections superintendent and Probate Judge, Judge Martha Rice, for violation of the State Election Board rule that requires that the elections superintendent proofread the ballot to ensure that names are spelled properly. That citation is 183-1-12-02383. I believe I left out the .02 in the citation.

In this case, I would recommend that the Edwards, Miranda and Francis Edwards, be bound over to the AG's office. Based on the fact that Judge Rice, at the time took corrective action, that she put notices up in the polling place -- she is no longer the elections superintendent. Hancock County now has a board and I think in this case a letter of instruction to Judge Rice may be appropriate remedy to the ballot issue.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Anyone wishing to speak? Welcome back.

**MR. CLARK**: Attorney John Clark from Elberton, Georgia. I am here on behalf of -- that is PO Box 752, Elberton 30635, here on behalf of Judge Rice, Probate Judge, Hancock County.

It was correctly stated that all corrective action was taken in this case once it was detected -- Judge Rice detected that there was an error made in the name. Nothing was done to hurt the candidate as far as his ability to get out and campaign to get the votes that he needed. There was no impact on the election.

This is a situation where when you talk about proofreading, sometimes we all miss it. The question is, when you miss it, do you go back and check it and corrected. In this situation, Judge Rice did that and I think she took the appropriate action, very responsible action. I'm asking the Board, since she is not over elections anymore -- Hancock County has taken a step to remove that so there will be sufficient help to take care of these matters -- that this action be dismissed. I don't see any reason for any letter of instruction for her, because she did what she needed to do.

And I have Judge Rice here if any of you would like to question her about what took place. Certainly, she is here. But I think he stated that everything was done to take care of this matter immediately on picking up that error. It wasn't a major error. That's something -- I'm sure most of you have the information in your files.

**SECRETARY KEMP**: Thank you, Mr. Clark. Mr. McIver has a question for you.

**MR. McIVER**: Mr. Clark, it's an honor to have you here today, someone of your standing, sir.

**MR. CLARK**: Thank you.

**MR. McIVER**: I want to do this in a very delicate way, but I want to remind you that Judge Rice is no stranger to this body.

**MR. CLARK**: No; no, she's not.

**MR. McIVER**: We have dealt with Judge Rice's issues on a number of occasions in my limited tender on the SEB.

**MR. CLARK**: Right.

**MR. McIVER**: I continue to find this troubling. I'm certainly pleased to see that there is a board now, but Judge Rice has had lots of issues in terms of violating the election code, and I, for one, want to make sure that we do something far more than dismiss this action. I feel like I am almost friendly with Judge Rice as many times issues appear before us.

So if there's anything else you would like for us to consider, but I do intend to argue that to my colleagues. Her past performance and her record of violating elections code have to be considered in this case.

**MR. CLARK**: Judge, I certainly don't think this is consistent with -- if you were to take this action here and not look at -- I guess maybe you consider similar situation or things of that nature. But this situation is simply a name that -- M-A-Y-N-E, and I think on the initial ballot it was M-A-Y-E. Now, I'm not saying this is insignificant because it wasn't insignificant. But, certainly, I don't think her prior history of dealing with this Board should cause this Board to take that into consideration on this situation.

Certainly, if there was a situation that was more consistent with some of the other things the Board has addressed in the past, I certainly would think that would be appropriate. But in this situation here, it is simply an error that she picked up and I don't see that -- and, of course, it wasn't a state law involved. It's a Board policy and a Board policy is a policy. Of course, you put those policies in place to make sure that the Judges or election commissions who are in place make sure things are done correctly. When they see things are not done correctly, then they must be taken care of, and Judge Rice did that.

I want you to take this as an isolated situation, not in a collective situation. If it was something different, Board, I could certainly understand. If it was something different

than just this -- and I'm not saying it was a technicality, but all of us love our name. Some people spell John J-O-N; others say J-O-H-N. I understand that can happen. But then does it mean that the punishment, or the action should not be the same? This is all we are asking the Board to do. I think the fact that she corrected these actions, she has done when she needed to do. That is corrective enough and that is sufficient in this situation.

We're not here arguing the past because I've been here with Judge Rice and I understand the past. But just this situation.

**SECRETARY KEMP**: Any other questions for Mr. Clark? (Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to speak on this matter? Yes, ma'am.

**MS. STEVENS**: I am Nancy Stevens; 389 Roy Smith Road, Sparta, Georgia 31087. I'm speaking not only on this case, but our continued appearance before you all. I'm getting to know you all's faces pretty well.

**SECRETARY KEMP**: Ms. Stevens, let me just limit you to this case. We had our public comment earlier. For time reasons, we are well aware of other things that are happening in Hancock County. If you would, just speak to this case, please. Thank you.

**MS. STEVENS**: Thank you, sir. That's all I have. Would I be able to speak later about problems with the Board?

**SECRETARY KEMP**: No, ma'am, but you could certainly write us a letter, or we could talk after the meeting. But our public comment was when the meeting started.

**MS. STEVENS**: Okay. Thank you.

**SECRETARY KEMP**: Thank you for being here. Anyone else wishing to speak? Judge Rice. Welcome.

**MS. RICE**: To the Board --

**SECRETARY KEMP**: Judge, let us get your name and address for the record.

**MS. RICE**: I'm sorry. I am Judge Marva Rice; 12630 -- well, the abuse my personal address. PO Box 331, Sparta, Georgia; 31087 is the ZIP Code.

In reference to the Board this morning and to Mr. McIver's statement, I had incidents that happened during my tender as superintendent of elections. I can recall coming in front of the Board with reference to the 2004 election; I can recall coming before the Board just a year ago with an incident. I cannot say when a candidate make a complaint against me that there are allegations that are out there that was not found to be true, but there was some findings on me.

Now, in reference to Mr. Bill Mane's name, I missed the letter N. I ran it when I recognized it and it was brought to my attention; I immediately took action. I posted notices in the courthouse, in the registrar's office, because early voting had already taken place. Then I had all the TS units redone over with the correct spelling of his name.

Now, I am only human, but if I make a mistake, I'm willing to take the blame over the mistake I made. But the letter N compared to -- Ingraham was his candidate and Mane [sic]. That's a total big difference in the names or disenfranchising any candidate or any voter to vote for that candidate.

So I'm asking the Board at this time to show that I took the necessary actions as superintendent of elections during that time. I did the correction that I needed to take in reference to running it in the paper for four weeks prior to the November election because he was an independent candidate and I did post signs in all of the necessary places in the courtroom, the court doors, and the registrar's office.

Thank you.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. McIVER**: I move we bind over Judge Rice, and then Miranda Edwards and Francis Edwards, consistent with the recommendation of Mr. Harvey.

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

**MR. WEBB**: I will second. I would just like to add my comments that I believe the Attorney General's office can handle things appropriately whether they feel binding

them over is the right action.

**SECRETARY KEMP**: Okay. 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 bound those over.

**MR. CLARK**: Just one question before you proceed. Did he say bind it over to AG or a letter of correction? I thought --

**SECRETARY KEMP**: No. The motion was to bind over all three respondents to the AG's office.

**MR. CLARK**: So that was the motion inconsistent with what --

**SECRETARY KEMP**: That is correct. It was a motion inconsistent with the recommendation.

**MR. CLARK**: Okay.

**SECRETARY KEMP**: All right. Let's see, here. Case number 2010, number 73, Bulloch County.

**MR. HARVEY**: This case involved the primary election runoff in 2010 in Bulloch County. There are two issues. One was that when the absentee ballots were delivered to the office, they were mailed out to the voters who requested absentee ballots and a part-time employee grabbed a stack -- an unknown number of a stack of yellow absentee ballots outer envelopes that had not been stamped with the return address for the Bulloch County Board of Elections so that when you received your absentee ballot and filled it out and put it in the envelope and put it in the mail, there was no address to which it could be sent. They don't know how many of these were sent out; they don't know how many people were affected.

What we do know is that there are a hundred -- a total of 143 absentee ballots that were mailed for that election. Forty-four of them were not returned. We don't know if they weren't returned for what reason. We do know that the post office did return many of them that were unaddressed. Some of them had the address handwritten on them by the voter.

The complaint came in because one voter had their absentee ballot returned to them, so the post office did not forward a hundred percent of them. We know at least one of them came back to the voter. So there is the issue with 21-2-483finding Bulloch County for failing to make sure that the Bulloch County Board of Registrars was printed on the envelopes when they were sent out.

There was also, in a related but separate matter, an absentee voter named Charles Sykes, who was serving overseas, requested an absentee ballot and that ballot was inadvertently mailed to his address in the county as opposed to the overseas address. So he did not receive his ballot for that election.

So for that reason, we are recommending that Patricia Lanier and Bulloch County Board of Elections and Registration be bound over for failing to have a proper address printed on the envelope and failing to mail an absentee ballot; and failing to perform all duties as prescribed in terms of mailing out the absentee ballots for the election.

I believe there is an attorney here.

**SECRETARY KEMP**: Questions for Mr. Harvey?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Anyone here?

**MR. AKINS**: Yes, sir. Good morning. My name is Jeff Akins. I am the County attorney for Bulloch County here on behalf of the respondents. My mailing address is PO Box 347, Statesboro, Georgia 30459. I have with me today Mr. J.D. Dunn, who is the chairman of our Board of Elections and Registration and Ms. Patricia Lanier Jones who is the elections supervisor. Before I say anything else, I have a memorandum I would like to submit, if I may.

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

**MR. SIMPSON**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: 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 to accept the documents.

**MR. AKINS**: Thank you.

**SECRETARY KEMP**: Go right ahead.

**MR. AKINS**: The memorandum explains our understanding of how these errors occurred and explains the remedial steps that were taken. I would just like to briefly summarize the contents of that memorandum. Let me first say that we don't deny that these errors occurred, but we do wish to emphasize that they were unintentional. We certainly regret their occurrence and we take it very seriously.

As far as the unaddressed returned absentee ballot envelopes, this error occurred during the rush to try to meet the deadline for mailing out the absentee ballots. It is my understanding that the absentee ballots were received in our office on Friday, July 30. And at that time, the law required the absentee ballots to be mailed out within two days of their receipt. The office is normally not open on Saturday and Sunday so they were trying to get those ballots mailed out by the end of close of business on Friday.

In that rush, one of our part-time employees, who actually is no longer with the office, Ms. Lynetta Smith Hendricks, grabbed a stack of the return yellow envelopes to complete the absentee ballot packages without realizing that they did not have the return address on them. As I say, this error was completely inadvertent and unintentional on her part.

Regarding the absentee ballot that was mistakenly mailed to the home address of Mr. Charles Sykes instead of the out-of-county address listed on his application, as you know, the absentee voter application has a number of blank address lines that can be filled in for various purposes and reasons, and we believe the employee who prepared the mailing label must have just inadvertently picked up his home address rather than the out-of-county mailing address.

As far as remedial steps that we've implemented, first, we are emphasizing in our office procedures and training that the yellow return envelopes for absentee ballots must have a

label bearing our office mailing address affixed to them. We also emphasize that the absentee application forms must be carefully scrutinized for the correct mailing address. The two part-time employees who were in the office when this occurred are actually no longer there. We have two -- in addition to Ms. Jones -- two long-term employees who are very familiar with these requirements. And we have three part-time employees who were hired in October of 2011 and work is needed and they are -- they have been trained and, again, these matters have been emphasized to them.

We have also implemented a procedure -- and I think this is very important -- we have implemented a procedure to prepare the absentee ballot packets in advance of elections so that we are not assembling packets at the last minute in the rush of trying to get out the ballots. I think that's one of the reasons this error occurred in the first place. So I think that's a very important procedure that has been implemented because we have eliminated the possibility of that circumstance occurring again.

It's drilled into our staff that the first step in assembling an absentee ballot package is to make sure that the return addresses on the yellow envelope. I brought with me today a sample absentee ballot package, and as you know, there are a number of different components, but I want to focus on the yellow envelope. As you see, it has a white mailing label address with the Board of Elections and Registration address on there. As I say, these packets are assembled in advance of elections now; they are simply awaiting the absentee ballot to be completed and mailed out.

In addition, our elections supervisor, Ms. Jones, conducts random inspections of these packets. She makes sure that all the elements are in the packets and that the addresses are on the yellow envelopes.

Since the runoff election on August 10, 2010, our Board of Elections and Registration has conducted five elections without any further incidents of unaddressed absentee ballot return envelopes or mailing an absentee ballot to the wrong address. Since there is no real factual dispute here and since the errors were unintentional, and I think remedial measures have already been successfully implemented, I would respectfully asked the Board to consider issuing a letter of instruction in this case.

Thank you and I will be glad to try to answer any questions you may have.

**SECRETARY KEMP**: All right. Thank you. Any questions for Mr. Akins?  
Mr. McIver?

**MR. McIVER**: Perhaps we won't hear from Ms. Jones, Counselor, but let me ask, has she received all the appropriate training that's been offered by the Secretary of State's office?

**MR. AKINS**: Yes, sir; she has.

**MR. McIVER**: She's certified?

**MR. AKINS**: She is and she has been involved in elections for 25 years.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, Mr. McIver, being that the County looks like they had taken remedial actions, with your wisdom being the longest-serving member of the Board, if my memory serves me correct, have we had a history where we could accept this plan and perhaps get an update from the County after the general election in November and any runoffs that we may have as to how things worked? Can we put this to bed without burdening the AG's office?

**MR. McIVER**: The answer is yes, we do, particularly where we have such a thorough response about remediation and what they've done to correct the issues here. But there is a precedent.

**SECRETARY KEMP**: I don't know how the rest of the Board feels, but I felt, you know, instead of just sending something else to the AG's office when it appears the problem has been fixed, I would almost rather accept the remedial plan that has been in place and just have the County submit to us in writing after the 2012 election cycle ends as to how things are going and -- I don't know what the proper motion would be for that, but I'm open for suggestion.

**MR. WEBB**: We have done before, Mr. Secretary, and I will make that motion that we accept the remediation plan for the County and issue them a proper -- it's a cease and desist -- going forward, not to mail those absentee ballots without the address on there.

**MR. McIVER**: But to otherwise close the case.

**MR. WEBB**: And close the case.

**SECRETARY KEMP**: All right.

**MR. McIVER**: I second.

**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.

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

**MR. AKINS**: Just a point of clarification. Will there be some further communication required from us after the election?

**SECRETARY KEMP**: I don't believe the motion said that.

**MR. AKINS**: Okay. All right, sir. Thank you.

**SECRETARY KEMP**: Thank you for being here. We're going to try to get one more before lunch. Case number 2010, number 80, the Gwinnett and DeKalb County case.

**MR. HARVEY**: This case was -- the complainants were Gwinnett and DeKalb County elections supervisors. On September 8, Maxine Daniels, who is the DeKalb County director of registrations and elections, and Lynette Ledford in Gwinnett reported that they received -- Gwinnett received 70 and DeKalb County receive 64 applications for voter registration all bearing the same mailing address, that of 5054 Singleton Road in Norcross, Georgia.

In many cases, the applications were pre-printed on a computer or handwritten with what appeared to be very similar handwriting. The signatures were, in many cases, scrawled, I guess for lack of a better term. There was no -- no one was signing as assisting. A lot of the questions about citizenship were left blank. So these all came into DeKalb and Gwinnett counties in September.

We did an investigation and found out that the address of 5054 Singleton Road in

Norcross is the King David Community Center, which is, essentially, an adult day care facility. It is not a residential facility, but it's a facility where seniors come and spend the day and do different things. It appears to be largely an Eastern European elderly population based on their names. So we sent investigators out there shortly after receiving this complaint and we met with -- and I -- Kano Abaveya (phonetic), who is the secretary, and Anatoliy Iskhakov, who is the president.

On first meeting with them, they said that, well, this was a voter registration drive and we don't know how the mailing address got on there; we don't know why everybody's mailing address is here when nobody lives here. But we don't really have an explanation for it. We sort of helped people vote, or help people register to vote. But we don't have answers to all these questions how all this stuff got here. We attempted to interview as many of the voter registrants as we could and we had significant difficulties due to most of them not speaking English.

One of the other things we found when we first went out there, the investigators found that there were large numbers of correspondence that had come back from Gwinnett and DeKalb County to the voters indicating that there is a problem with their voter registration application, either that they had not provided ID or had not checked the box to show that they were citizens. That mail had not been given back to the registrants. So essentially, the center, which has circulated these voter registration applications, and the individuals signed them, in many cases, presumably not being able to read what was on them, and then they were sent in.

Well, when the same voters got mail back from the County saying, hey, your voter registration application is incomplete, that mail was being held by the King David Center and not being given back to the residents. The residents did not understand that they were signing up to have their mail come to the King David Center; they didn't understand why they would use the King David Center as their mailing address because they did receive other mail there.

The Center officials initially gave contradictory statements about what the process was to our investigators, and nobody signed as assisting anybody in conducting this voter registration application.

So as it turns out, essentially, the president and secretary of the King David Center, Anatoliy Iskhakov and Abaveya, conducted a largely voter registration drive that is in contravention of almost every State Election Board rule required of a voter registration drive. So we've got them cited for six different violations of the State Election Board rules requiring private voter registrations.

We also have a last person cited who is the wife of one of the voters. She actually signed

her name to her husband's voter registration application. She didn't speak English; she had no idea what she was doing. There doesn't appear to be any intent for her to do wrong, so I recommend that should not be bound over and that the charge against her be dismissed.

But the individuals Iskhakov and Abaveya, are bound over to the AG's office for consideration of sanctions based on this pretty large-scale attempt at registering people who were, in some cases citizens, and in some cases not citizens; in most cases apparently not really able to understand what was going on due to language barriers.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Anyone else? Yes, sir.

**MR. KUPERBERG**: Good afternoon. My name is Scott Kuperberg, attorney. My office address is 3330 Cumberland Boulevard, Suite 300, Atlanta, Georgia 30339. I am associated with the firm of Bush Slipakoff & Schuh. I am the General Counsel for King David Community Center, and I am also here personally representing Anatoliy Iskhakov and (unintelligible) Aranbayeva. Unfortunately Ms. Aranbayeva was unable to attend today. Her uncle passed away two days ago and she had to travel to New York to attend the funeral.

We didn't have chance to get the letter together, but in reading the executive summary that we received, Ms. Aranbayeva is not actually accused of doing anything. Everything says Anatoliy Iskhakov, Anatoliy Iskhakov, Anatoliy Iskhakov. She is not actually charged with a violation sent to that extent, I believe her name should be dismissed.

**MR. HARVEY**: That is correct. That's my error.

**SECRETARY KEMP**: Which respondent is that, now?

**MR. HARVEY**: Ms. Aranbayeva.

**SECRETARY KEMP**: She is the secretary?

**MR. KUPERBERG**: She is the secretary of the company. I did attend -- I didn't know that there were multiple investigatory meetings. I knew of one meeting that took place in my office, but at that meeting Ms. Aranbayeva stated very clearly that she was not involved with this process at all; had nothing to do with voter registration; and based on the potential violations here, she wasn't actually accused of doing anything. So I

believe her name should be dismissed as a respondent.

Mr. Secretary, I think it would be very instructive at this point to, you know -- the way it sounds, it sounds unusual, and I can totally understand how the Gwinnett County registrar and the DeKalb County registrar receiving a large stack of voter registration cards with a specific address for the mailing address seemed unusual and raised a red flag. Probably not the best way to go about it, but this is what they did and there's reasons why.

Just a teeny bit of background, particularly dealing with Mr. Iskhakov, as the lone respondent now. Mr. Iskhakov and his family came to the United States from the Soviet Union in 1991. They were asylees; they received refugee status in the United States seeking political asylum. You know, they came here, obviously, seeking freedom, the freedom that we all enjoy here and a better life for their family. When they came here, they came with nothing. He came with some hand tools and through hard work and sacrifice, you know, live the American dream; was able to open his own business as a contractor.

But that wasn't enough for him. He wanted to help his community. He wanted to help new immigrants coming in, and in 2003, with the assistance of various organizations, you know, the Atlanta Jewish Federation; various donors, and investors, they opened what is now called the King David Community Center on Singleton Road. The center's focus was twofold. One, a children's day care, which is not part of voting so it's not really relevant; but also an adult day health center, which originally had, you know, a couple of dozen patients and over the years, expanded greatly to now where they serve two or three hundred people a day.

Originally it was, indeed, dealing with primarily the Russian community, the Russian speaking community, various Eastern European countries. But in the last couple of years, they have expanded to work with the Korea community, the Vietnamese community, the Chinese, and started recently working with a primarily African-American church in Clarkston. So they're not just helping this one community, they believe in helping as many people as they can.

As part of their work with the senior citizens, this adult day health center is actually a place for them to have activities. This is their lifeline. Study after study has shown -- and this is why they invest so much in this -- that by senior citizens having a place to go every day, they have their meals, they have the nurses, they people that explain things to them, and yes, they do receive some mail there because they live by themselves. Their command of English is very limited and they need someone to help them when they get something from Social Security or Medicare or Medicaid, Secretary of State's office, County registrar -- these are things they don't understand. They do have very limited

command of English and the center has social workers and volunteers that help them. This is what they do every day.

It also should be noted that this is a non-profit organization. They are non-profit corporation in Georgia; they are a registered 501(c)(3) with the IRS. So all this work that they do, all these programs that they have -- and they are involved in Meals on Wheels, CCSP, Source; they have home health aides -- just this huge array of programs -- all of this is done non-profit purely for the benefit of the community.

So Mr. Iskhakov, who himself had never been involved in politics, and until 2008 had never actually voted, you know, with the, you know, urging of his daughter, who said, Pop, you should vote. So he registered to vote in 2008 he was such a political novice. I remember we had dinner one day and he asked me, Scott, whose this Bidden -- referring, of course Senator Biden; didn't even know the presidential candidates. But he voted. He believed that American citizens should at least have the opportunity to vote and he wanted to help them.

So in 2010, you know, 2009, 2010, after the 2008 election, the leaders of the community of the center got together and they say we should help people vote. Now, again, their novices. They didn't entirely know what they were doing. They brought in an independent contractor, someone they worked with, Jason Maddow, whose name and information was given to the investigators, and said, you know, you're an American. You help us with various filings with the County, whether it's, you know, real estate records or getting permits or things, and he's helped them with that.

They said get some voter registration application; we want to do a voter registration drive. He brought the applications back. The senior citizens, you know, didn't entirely know what they were doing, and the workers helped him. They helped him in two ways. One is -- some of the forms were pre-printed. I mean, there's no question about that; that was done. The computer technician -- not Mr. Iskhakov -- the computer technician typed in the name and address of the people who wanted to register and they used the mailing address of the center, they did that because this is not unusual for them. In certain instances, they hand filled out.

I just want to deal specifically that Mr. Iskhakov is charged with a criminal violation, very serious, of fraudulently putting 42 addresses -- or putting the center's address all 42 applications. The first thing that has to be said is Mr. Iskhakov did not do this. There is no evidence they did this. He personally -- he's here today will testify to swear under oath, whatever you want him to do -- he didn't write a single thing on the applications. His own voter registration application didn't -- it wasn't filled out. It was another worker at the center, another staff member, and we can provide a list of staff they want to interview and get their own attorneys -- that was involved in writing the addresses.

So, that alone, there is no probable cause. Those 42 were established, not based on an investigation or based on examination of individuals, but established by simple math that there were 70 applications that went to Gwinnett County; 28 of them were printed, therefore, the leap is made that 42 of them had to be created by Mr. Iskhakov. That, again, is not sustained in the evidence.

But what happened was these applications went in. Investigators from the Secretary of State's office came to the center and, you know, when we were dealing with our interview with Mr. Jones and some other investigators, everyone was courteous professional. But the investigators that came to the center were not. They came into a private facility uninvited and without explanation. We don't know who they talked to. They attempted to talk to these senior citizens, elderly people, some of them ill, and started interrogating them.

When I was called, and I got on the phone with one of the investigators -- I forget his name -- I asked him to leave. I said, you don't have a warrant; you are not a member of the police. If you want to talk, call my office and we will set up an interview. Very belligerent; would not leave the facility. I threatened to call the police. What happened was these people were frightened and intimidated. The senior citizens were frightened; the workers at the center were frightened.

So when they did get some mail back -- and I know the voter registration cards were distributed, the ones that were registered -- registered, went to vote. I know, actually, a few weeks ago, another stack of cards came in for the 2012 election and those were distributed, as well. There is no allegation that anyone who was registered to vote wasn't given their card and wasn't permitted to vote. There is no question about it; there is no issue. What happened with the mail -- and nobody is accused of not distributing mail here. Again, this is sort of a side issue, but these people are frightened and didn't want to deal with it.

What did the investigators did next? They went to the homes of these senior citizens. They selected 50, according to the report. We don't know who these 50 were. We don't know what county they were in. They made contact with only 12. Those 12, again, we don't know did they have handwritten applications? Did they have typed applications? What county were they in? One person actually said he did his own application entirely. He doesn't know why they were there. Some of these people have limited English ability and there is a question of citizenship. I know it's a nice buzzword; a nice big issue now. Anyone that attends the center, senior citizen that receives services there, must be a citizen. They have to be because they're not eligible for the benefits otherwise. So there is no question of citizenship. Not only that, there is no allegation here -- they very easily could go back and look at the applications and seem who is and who is not a citizen.

There is no allegation that they are registering noncitizens. So these things aren't an issue.

Take a look at my notes. I don't want to take up too much of your time.

**SECRETARY KEMP**: You are over your time so we need you to wrap up soon.

**MR. KUPERBERG**: I'm going to wrap up. I'll wrap up. Thank you, sir.

The violations -- you know, do somebody not sign the bottom of the voter registration application saying they assisted? Yes, that's correct. Somebody didn't sign. Who it was, we don't know. There could be a number of workers. We don't know who corresponds to what application. These are rule violations. These rules were established and put into effect in November of 2009. This voter registration drive took place -- I don't even have the exact date -- but sometime in the spring or summer of 2010. These are new rules. To even find it, I had to look it, you know, all the attorneys will know, the pocket part of my statute book to even find the citation for the rule; it was that new. It's a new set of rules for voter registration drives, which are a little bit different than when, you know, somebody registers publicly, they just get the forms.

A lot of requests that are made of the assistant or the person doing the registration drive, those instructions are on the voter registration form. But we will concede, certainly, there was assistance given. Somebody didn't sign it. A letter of instruction, I believe, is entirely appropriate; a letter of cease-and-desist, I believe, is entirely appropriate. These rules were -- they didn't explain the, you know, things that are mostly already on the application.

Again, I don't even know -- they can even say whether or not somebody did or did not explain this, because we don't know who was the person that spoke with each individual voter. We don't know if they said, you know, you can do a provisional ballot; you know, you're not registered until the County approves. We simply don't know that. We are willing to concede that, as a matter of, you know, wrapping this up.

But in that case, you know, because we're not dealing with anything like a criminal violation, a letter of instruction is certainly appropriate, and I'll tell you our remedy. Our remedy is that there are no more voter registration drives. They're afraid to do this. With this community, especially, we have to be very sensitive to the community, especially the senior citizens, when you have government officials showing up and knocking on somebody's store with a badge asking about elections, voting, who are you affiliated with, do you know this person, did you fill out this form -- these are people that came from the Soviet Union. There was a quote earlier today from Stalin. These people lived through Stalin. When somebody from the government shows up at your door with a

badge and starts asking questions, you're going to Siberia, and I'm not being facetious. This literally happened to these people. So, I appreciate your time.

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

**MR. McIVER**: Sir, you are listed as a respondent. It's a little bit unusual --

**MR. KUPERBERG**: I believe I was listed as the attorney for respondents.

**MR. HARVEY**: He is just listed as attorney for the respondents so that he would get notice. Mr. Kuperberg is not a respondent.

**MR. McIVER**: So he is not a respondent?

**MR. HARVEY**: No, sir. He's representing.

**MR. McIVER**: I understand that you're representing them. No other questions.

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

(Whereupon, there was no response)

**MR. McIVER**: Mr. Harvey, consistent with the remarks made by counsel for the respondents, did you folks look into the fact of whether or not he may have interfered with the investigation by his command over the phone to a member of your staff?

**MR. HARVEY**: Whether Mr. Kuperberg interfered?

**MR. McIVER**: Yes, when he attempted to order them off the property.

**MR. HARVEY**: I don't see that as interference as much as, you know, he was acting as counsel and I believe he has the right, without a warrant, to ask us to leave the property, which is why we went to individual homes. We had been out to the property the day before and then that day and spoken with the respondent and the secretary and Mr. Kuperberg actually eventually called me that morning and said that he represented them and basically he was invoking the rule for them, Miranda Rights; they didn't want to say anything and they didn't want to cooperate and to come back with a warrant if we wanted anything else from them. Subsequently, he made the respondents available for an interview and we interviewed them in his presence.

**MR. McIVER**: So, then again, my question is, in your judgment, did he interfere with the investigation?

**MR. HARVEY**: I don't believe so; no, sir.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Do you have any comments on the intimidation of our investigators? I hear that a lot and oftentimes I don't think that really happens.

**MR. HARVEY**: I appreciate what Mr. Kuperberg says about the background of these individuals and their sensitivities. At the same time, I think our investigators are professional. We can't help that somebody is intimidated by the fact that an investigator shows up and asks some questions. When we talk to people about elections and registration or voting, we have a form that we use and we go overboard in terms of explaining to people we are never going to ask you who you voted for or who you want to vote for. We simply ask questions about procedures: how did you register; who assisted you to register; did you vote by mail or did you vote in person.

I personally am very sensitive to that and I communicate that to all the investigators that the last thing we want to do in our position with the responsibility of helping to preserve the electoral system, that we would ever use our enforcement ability to intimidate or use that improperly. So I strongly deny that that was likely to happen, especially based on the investigators that were out there. I certainly see how that could be misinterpreted by somebody, but I stand behind the investigators as being professional.

**SECRETARY KEMP**: Well, I'll say, too, I know from my dealings with county elections officials, that we are constantly, you know, talking about partnerships in elections to make sure that we have a secure process. When you have two county elections officials that are reporting something, we're going to do like we do on every investigation, and that's go out and do an investigation and make sure that we understand what's going on. I've made the comment several times in the last three or four months where we've actually had people who made a complaint and we ended up charging them with something. So we don't go out with any preconceived ideas about who is right or who's wrong. We do a thorough investigation and that's where we are. All right. Any other questions or comments?

**MR. WEBB**: Just one question for Mr. Kuperberg for clarification. The center doesn't have any residents that live there?

**MR. KUPERBERG**: No, sir there are no residents at the center.

**MR. WEBB:** Thank you.

**MR. KUPERBERG:** I'm sorry, Mr. Secretary, if I may, I want to agree with Mr. Harvey in that most of the investigators ever dealt with were absolutely professional, very courteous, and well-trained and it was a pleasure to deal with them. There was one investigator on that day when they came to the center that was particularly belligerent, and I'm speaking now as an attorney, you know; I'm putting my reputation on the line when I say this that he was very belligerent. When I questioned why he was there, he said well, I have a Russian surname; I'm not being racist. I said, are you a member of the police? No, but I have a right to be there; I have a badge, also. This was one of the investigators. I understand it's an aberration, it was one bad thing, but Mr. Iskhakov and Ms. Aranbayeva spoke with them, you know, at the front in their office, initially, and that was no problem. It was when they went into the back and wanted to start speaking with the senior citizens who -- I'll be honest, they were frightened -- that's when they called me and they said something's not right.

**SECRETARY KEMP:** Anything else?

(Whereupon, there was no response)

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

**MR. WEBB:** I think this is a very tough call. I appreciate somebody trying to do something good for the others in trying to -- but, then, obviously, didn't follow the rules which are there for a purpose. But you have to have these rules in place and they have to be followed because otherwise the election system will not work or be something that you can count on, which I'm assuming Mr. Iskhakov prefers, that it work right and that your vote count and you are properly counted and your are voting in the right place. With that in mind, I think I'd rather let the Attorney General's office handle this and I think that could be worked out in a professional manner and issue some letters of instruction or come back with some other guidance.

**SECRETARY KEMP:** Well, I think from my perspective, too, I kind of agree that we ought to send it over there and let them do some more due diligence on it and I'm sure they will bring us back the proper recommendation.

**MR. WEBB:** I will make a motion to bind it over to the Attorney General's office.

**SECRETARY KEMP:** Just to make sure, Mr. Webb, who we are binding over --

**MR. WEBB:** That's in regard to Mr. Iskhakov.

**SECRETARY KEMP**: Would that be only respondent we will be binding over?

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

**MR. WEBB**: And I would close the case against Ms. Fedrina (phonetic) [sic]. She's listed as signing her name, but, again, I would recommend we close that case.

**SECRETARY KEMP**: We've got a motion. Do we have a second? I'll second. Do we have 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**: And we have referred it to the AG's office. Thank you for being here.

All right. It is 12:30. We're going to break for lunch and try to come back at -- can we do lunch and 45 minutes? We will come back at 1:15. I think we need a motion.

I'm going to make a motion that we go into executive session to discuss investigative reports. Can I have a second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: We have a motion and a second. 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**: We'll be back in 45 minutes.

- - -

(Whereupon, the proceedings were in recess)

- - -

(Whereupon, the proceedings resumed)

- - -

**SECRETARY KEMP**: Okay. Welcome back everybody. I make a motion come out of executive session.

**MR. WEBB**: Second.

**SECRETARY KEMP**: 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**: That motion carries and we have come out of executive session and now we're back to our State Election Board meeting on August the 16th [sic]. I believe we were on to the Dooly County case, Mr. Harvey.

**MR. HARVEY**: Yes, sir. This involved the November 2nd, 2010, general election. The allegation was made by Ann (unintelligible) who was a candidate that absentee ballots were being illegally and improperly distributed and collected.

We did an investigation and determined that there were some absentee ballots that were mishandled and some other violations. Charles Anderson was a candidate in the election and he unlawfully possessed three ballots. He possessed Katie Hightower's, Tracy Buckles', and Amanda Buckles' ballot. He also interfered with the elector, in that he voted a ballot for Tracy Buckles who basically gave him his ballot and said he didn't have the time while Mr. Anderson was going to assist him, so he just left the ballot for Mr. Anderson to vote for

him.

And then Mr. Anderson assisted the two other people mentioned, Amanda Buckles and Katie May Hightower, and he did not sign as assisting with their ballots.

Dexter Whitaker unlawfully possessed the ballot of Eddie Buckles.

Bernice Buckles violated the election law with regards to making false statements or making false writings when requesting absentee ballots for family members of hers and then possessing the ballots when they came. So she requested ballots for family members, but she signed their names. She didn't do the standard request where you can request ballots for other people. She requested as if she were the person signing the voter's name.

John Wilford is in violation of 21-2-385, in that he failed to sign an absentee ballot after assisting his mother. That's one that I think we might be able to reserve with a letter of instruction.

Thelma Hunt violated 21-2-562 and 381 and 385, in terms of putting false information on an absentee ballot application and signing her father's name and then failing to sign as assisting.

The elections superintendent, Bernetta Chaney Childs, violated the election code in that she didn't note receipt on each absentee ballot, the date and the hour that they were received. She didn't note that the absentee ballots were rejected on the face when they were rejected. She failed to notify electors the absentee ballots had been rejected. And she actually -- we've got her cited for 21-2-574, illegal possession, because she actually instructed Charles Anderson, the candidate, to go pick up the three ballots of Katie Hightower, Tracy Buckles, and Amanda Buckles.

So in this case, I've recommended Charles Anderson, Dexter Whitaker, Bernice Buckles, Thelma Hunt, and Bernetta Chaney Childs be bound over to the AG's Office.

I recommend John Wilford who assisted his parent, but didn't sign as assisting receive a letter of instruction. He assisted his mother.

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

(Whereupon, there was no response)

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

**MS. CHILDS:** I'm Bernetta Chaney Childs. I reside at 501 North Pruitt Street, Vienna, Georgia. I'm the elections superintendent of Dooly County.

On January of 2010, our Board was combined with the election and registrar. March of 2010, I accepted the position of elections supervisor. I didn't have any election experience, but I did attend the trainings and the conferences and all to get certified. On November of 2010 election, from my understanding, that probably was the record for the number of absentee ballots that our county has received at any one election.

As far as the certification and safekeeping of the ballots, I did fail to -- all ballots that should have been counted were counted. All ballots that should not have been counted were not counted. What I did make an error in, is that I didn't do my bookkeeping in properly noting on the actual ballot the time and the date everything was received. I didn't properly -- and that's all of the county -- not -- some of the county, but not all of them. And I didn't notify all the voters if their ballot counted. But no ballot that -- the voter did not get notified on, it should -- was not going to count anyway because they was not filled out properly on the back or either they came too late. My error was, I didn't document a date and time and notify the voter.

I did ask Mr. Anderson to go -- to bring those ballots to me. Once I did receive them, I inspected them and I looked at them to see if they had been tampered with or if they were still in the same document and with the same labels and everything that I sent them out on and they were. When I did receive the ballots it was in contact -- in tact and everything. So I accepted the ballots.

And as far as Ms. Winters, Janie -- I had first met her when she came in to qualify. Janie and I were not like you would call friends and all. I met her when she came to the office to do her qualifying. On the particular date that they have in question, she did come into the office and speak with me. And she was asking me a question concerning some form she had to do. She made a statement and I think we might have laughed and she left. There was no interfering or anything she was doing that was improper as far as other voters in there when she came to visit me.

She only -- the error on that part was, is that the voting was held, for that election, it was inside my office, which should never have happened. But she didn't do anything wrong. She came and asked me a question and then as soon as I answered her question, she did leave. That's it.

**SECRETARY KEMP:** All right. Any questions for Ms. Childs?

(Whereupon, there was no response)

**SECRETARY KEMP**: I have one. So these errors that occurred, did you just not understand at the time all the different things that you were required to do just because you were new?

**MS. CHILDS**: Some of it is. I wasn't keeping them everywhere I should have. I had it on a log sheet, but as far as on the physical document, that's where I made my error at. I didn't keep it on the physical document as far as the oath. And some of them didn't get their letter as far as like, okay, the ballot didn't count because it was an incomplete. Most of them is because they was either blank on the back or either they was incomplete.

But all ballots that should have counted were counted. You know, like I said, it was me just letting the voter know. Since that time, I have put in place a book and some guidelines as far as how we handle the ballots when they do come in. And, you know, they're stamped and date, the application and the ballots, as soon as they enter the office.

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

(Whereupon, there was no response)

**THE SECRETARY**: All right. Thank you for being here today. Anyone else wishing to speak on this case?

**MR. KING**: Yes. My name is Maurice King. I'm an attorney in Albany, Georgia. My address is Post Office Box 72071 Albany, Georgia 31708.

Let me start off by apologizing for my cell phone going off. I've been in here all morning and I had it on silence. I was meeting somebody for lunch and I wanted to make sure I didn't miss their call. So I apologize.

**SECRETARY KEMP**: Not a problem.

**MR. KING**: As part of my presentation, what I would like to do --

**SECRETARY KEMP**: Mr. King, who are you? Are you representing --

**MR. KING**: Yes, I'm representing Mr. Charles Anderson and I'm representing Mr. Dexter Whitaker, who are both present here today.

**SECRETARY KEMP**: Okay. Thank you.

**MR. KING:** And if I could, I would like to give members of the Board copies of ballots because I think they are relevant to what we're talking about here. I have four sets of a ballot and results.

**SECRETARY KEMP:** We've got motion to accept?

**MR. McIVER:** So moved.

**SECRETARY KEMP:** I'll second. We've got a motion and a second to accept the documents. 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. Go ahead, Mr. King.

**MR. KING:** Right. And what I'm going to ask the Board to do is to find no probable cause and to dismiss the charges against both of my clients because no one has knowingly and willingly violated any law, and if anything, a letter of instruction may be appropriate.

And the reason I say this, in looking at the allegations, the allegations seem to leave out one thing. And the thing they leave out is Official Code of Georgia 21-2-409(b) basically, which states that the code section that they are saying my clients violated don't really apply if there is a federal candidate on the ballot. I gave you the ballot so that you could see that there are federal candidates on the ballot. If federal candidates are on the ballot, then federal law controls. And anybody can help you except for -- I think it says the elector's employer or agent of that employer, or officer, or agent of such employer's union. So basically anybody can help. Even if you buy what they're saying, the only issue here would be whether or not somebody assisted somebody and did not sign their name as assisting.

I'm not sure of that because in my looking at the report, the report did not seem to take into consideration whether or not a federal candidate was on the ballot. And I had actually an opportunity to try one of these type cases in Dooly County where there's a recommendation. There were 25 counts, both felonies and misdemeanors, and basically some of the same information. And we got 25 not guilty. One of the reasons we were able to get 25 not guilty is because the investigation did not seem to take into consideration the fact that a federal candidate was on the ballot and a different set of rules apply.

And in that case, you had the same situation about whether or not someone possess an

absentee ballot. What federal law says that you can assist someone. And if you look at the absentee ballots, the absentee ballots are going to say that basically if there's a federal candidate on the ballot, basically the Georgia law with regard to, you can only assist ten people, does not apply. And what happened -- if you can assist, you can possess the ballot. But not only that, clarification is needed because if someone requests an absentee ballot and it goes to a post office box, if it's not the voter that comes and picks up the absentee ballot, then someone has possession of an absentee ballot. And then the question would be whether or not that is a violation of the law.

In the case that I actually had to try regarding this matter, the county had a situation where basically all of the county mail came to one post office box and I think either a clerk or a janitor each day would go and check the box. So the next question would become, if they got those absentee ballots, whether or not that's possession and whether or not that's a violation of the law.

So I think in actually litigating cases in this area that probably what should happen is election officials should be made aware that a different set of rules apply when there's a federal candidate on the ballot. And also with regard to what does possession mean? I have seen and read the law and to me it's not clear whether or not the person who goes to the post office box and picks up the ballot, whether or not -- if it's not the voter, whether or not that person violates the law.

It's not clear to me as to whether or not once the ballot is completed and you give it to someone to put it in the post office box, whether or not that's a violation of the law. So that is why I think that some type of instruction is needed.

And with regard to this election, I think Mr. Anderson won his election by more than 218 votes. I mean there's just no intent to do anything criminally wrong. And also there is just a -- I mean there's a lot of gray area with regard to this and I think the fact that the report done by the investigators do not even acknowledge that there was a federal candidate on the ballot basically starts that issue.

And we thank you.

**SECRETARY KEMP:** All right. Thank you, Mr. King. Any questions for Mr. King?

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Anyone else wishes to speak on this?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Any other questions or discussion from the Board?

**MR. WEBB**: Mr. Harvey, does any of these potential violations go away because of the --

**MR. HARVEY**: Yes, sir. The third -- under Charles Anderson in terms of assisting with his name on the ballot, would be affected by that. The other ones do not. The improper failing to sign as assisting and the possession and interfering, stuff like that, applies regardless of who was on the ballot; what type candidate was on the ballot.

**MR. WEBB**: And, Mr. Harvey, you had recommended a letter of instruction earlier for .

..

**MR. HARVEY**: For John Wolfork, who assisted his mother and acknowledged assisting his mother. He simply failed to sign as assisting. There's no indication that there was any kind of funny business going on there.

**MR. WEBB**: But otherwise, you're recommending the rest of the respondents be bound over?

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

**MR. WEBB**: Thank you.

**SECRETARY KEMP**: All right. Anybody else?

(Whereupon, there was no response)

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

**MR. WEBB**: No discussion. If not, I'll make a motion that we bind over to the Attorney General's Office all of the respondents with the exception of John Wolfork. And that I would recommend that a letter of instruction be provided to Mr. Wolfork.

**SECRETARY KEMP**: And close the case.

**MR. WEBB**: And close the case. Thank you.

**SECRETARY KEMP:** All right. We've got a motion. We got 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:** That motion carries. All right. Next case is 2010, number 92, the Echols County early voting case.

**MR. HARVEY:** This case involved early voting in Echols County. The Secretary of State's Office received notice that the advanced voting process wasn't being done in accordance with existing laws. We sent an investigator to Echols County to check on their advance voting where we found numerous problems with the advanced voting: They only had one person working; they didn't have an absentee ballot log; they were not marking the ballots as they came in and went out for certification; they didn't have a master list; they didn't have -- I'm sorry -- they were not maintaining numbered lists of absentee voters by precinct. Essentially, they were running an election without much form.

We contacted the Chief Registrar who said she was out of town and she couldn't help and they had to do whatever they had to do. Ultimately, Echols County did respond and they put the measures in place that they were supposed to put in place. However, I think based on the nature of the fact that it was done in a pretty ship shod manner to begin with, that the elections superintendent, Judge Rogers, and Chief Registrar, Delores Everett, be bound over on the listed charges to the AG's Office.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Anyone here to speak on this case? Yes, sir. Come on up.

**MR. ROGERS:** Good evening. Carlos L. Rogers.

**THE COURT REPORTER:** Carlos?

**MR. ROGERS:** Yeah. Carlos L. Rogers, Probate Judge, Echols County, P.O. Box 118, Statenville, Georgia 3163.

Mr. Harvey, you said that (unintelligible) the person called. Actually, I'm the one that called the Secretary of State about this and talked to Ann Hicks. I was having problems. I was going down there to talk to the chief registrar. I tried to fix it, couldn't get it done. So I asked for an investigator, and here I am being charged with, what is it, whistle blowing act. It's a federal -- you don't suppose to be -- you know, I'm here for something I tried to correct. I can't fire the registrar; I can't hire the registrar.

But there was two people there. He's saying only one. (Unintelligible) went over there to the County Commissioner's office while an investigator showed up. Okay. She knew about the other one. She even closed the polls down one day at 5:00 because nobody showed up the whole day. She told the poll workers don't worry about it. That's the problem I was having there and still having the problem. I mean nothing against the woman. The woman, she's got too many pans in the fire. She is 85 years old, which nothing against her age. Still smart as whip, but she's just got too much on her.

She has corrected -- I mean, I got more involved in it. At first I did everything. I do the advertising, which I don't really supposed to do. I do her job. I mean it's -- and as a Probate Judge, I wish y'all as a Board, would make it a law that we do away with judges during -- I mean because I ain't got control over everything, so why should I be punished by what -- something they're doing in their office.

And if you read some of the code sections in here, it says I'm responsible for the oaths and all, but then it contradicts itself on the early votes and absentee votes. It says the registrar, chief registrar supposed to appoint the manager and a chief manager. But you see they're back and forth -- I have learned a lot since I got in this thing. Definition for advanced voting is not in this book. Definition for early voting is nowhere in this book.

I'm suppose to pick the polling places, but yet advanced voting and early voting is in the registrar's office. So I'm not picking the place. I'm not picking the employees. I don't hire these poll workers. She did. Since then it's been corrected. I might be overstepping my boundaries. I make sure who gets hired. The training was there; they knew their job. Wasn't no doubt about the ones was there. She was even letting one of the poll managers log in and put in who voted and who didn't vote that didn't even have the code to go in.

You know, I can go on. I love the woman -- as a woman, she's the greatest woman in our county. It's a very small county, but she just is not competent to handle that job. And I talked to the Superior Court Judge before I called y'all. They won't do nothing or else they get a recommendation from y'all and still won't. And I'm still having problems. I have people this last election show up not on the voter list. She took them off because she thought they was dead. No research. You know, I had two voters show up that dead, you know. And that's pretty bad. Had a couple showed up. The husband was transferred. She had him where he transferred. We let him vote, but his wife, she didn't transfer. She said while I thought you moved out of county. We're talking about husband and wife. So she says, that's the reason I took you off the list.

It's things like that and it's still going on. I can name more stuff, but that would bring charges on her and I don't want to do that. I rather see her -- you know, she's willing to admit she's -- she's the one who wrote the letter of recommendation. And she said to me the other day, I know they're probably going to do something to me.

I just -- I don't want her to be prosecuted. I don't think she's never done nothing intentionally. Okay. And wrong. She's not that type of person. Believe me, she's not, but something needs to be done.

**SECRETARY KEMP:** All right. Thank you, Judge, for being here. Mr. McIver has a question for you.

**MR. ROGERS:** Yes, sir.

**MR. MCIVER:** Did I overhear you to say two dead people voted?

**MR. ROGERS:** Yes. Well, they was dead, they showed up to vote. They wasn't dead.

**MR. MCIVER:** Don't we have an AJC reporter in the back of the room? And I have read on that periodical more than one time that all of this has been fixed and dead people no longer vote in Georgia. They all stopped that because --

**MR. ROGERS:** I got two that showed to vote.

**MR. MCIVER:** I hope that gets fixed.

**MR. ROGERS:** And they are well and breathing. I knew both of them.

**MR. MCIVER:** I hope some reporter picks that up and it's mentioned in the AJC. The Secretary and I believe that voting fraud is alive and well in Georgia and the Board is very busy with those kind of issues, but we read in the paper how there is no more. And I think here's a classic example.

**MR. ROGERS:** Well, it's like, you know, you said electors, helping electors and all. When I first got a Judge -- I've been judging now for 12 years doing elections and I've been -- it's changed a lot. First had (unintelligible) machines and then we went to -- and I love electronics. I don't care what nobody else says in the State of Georgia. It's the best thing ever happened.

From a small county of less than 4000, I had husbands and wives wanting to vote together. You don't think I took a lot of slack. When I went in, I said, listen I don't care, I know who can read and write and who needs help. Just because that's your wife, you're not going in there to vote with her. You know, I took a lot of slack over the last 12 years.

We went from like 43 assisted election voters in a small county of 2000 voters -- I might have three in an election and I know them can't read or write or have mental problems. And one of them is actually my son.

So I mean I just have -- I'm trying to keep up my election. I mean I was stumped. I didn't know what else to do. I mean Ann can tell you -- and his investigator -- I'm not trying to -- called me personally, the State investigator said, Mr. Rogers, I'm sorry we're putting charges against you; it wasn't my choice. He says, I know you're the one's trying to correct the problem and he's not here today. I can't think of his name that come down there and talked to me that day. And I felt so embarrassed when he called Ms. Delores and she said, do what you got to do; I'm not showing up, you know. There's nothing, you know, I can do about it.

**MR. SIMPSON:** Did I understand you to say that you brought this to the attention of --

**MR. ROGERS:** Yes.

**MR. SIMPSON:** -- the Secretary of State's Office?

**MR. ROGERS:** I brought it to the attention of Ann Hicks. In fact, what started this --

**MR. SIMPSON:** That's what initiated the investigation?

**MR. ROGERS:** Yes, sir. I initiated it.

**MR. SIMPSON:** Oh, I see.

**MR. ROGERS:** My hands were tied. I went to the Superior Court Judge, I went to the County Commissioners. You know --

**MR. SIMPSON:** Let me ask another question.

**MR. ROGERS:** Uh-huh.

**MR. SIMPSON:** You said something about you didn't have the authority to appoint the poll workers --

**MR. ROGERS:** No.

**MR. SIMPSON:** -- other officers required?

**MR. HARVEY:** No, I do, but it's in the books -- there are a lot of gray areas in this book. I mean we need to go -- there's nothing --

**MR. SIMPSON:** It's under a re-write.

**MR. ROGERS:** Right. The advance voting and the early voting and all. It's one place that says, I can pick the poll manager or the chief registrar can pick the poll manager for early voting. It's either or. It don't say me. We need to take that either or -- if there's any either or, it needs to disappear out of this book. Either the superintendents need to be responsible or the chief registrar needs to be responsible. I mean that's the only complaint I've got about that book, is the either/or. And as a Judge when you're hearing a case, we both know that either/or is a slippery thing there.

You know, you can't -- it's whoever it is responsible is going to be responsible. If I'm responsible, I'll take letter recommendations, bind over, whatever, but I just do not feel like I done something wrong, personally. I tried to correct it, but yet I'm being punished. And if that's the case, I shouldn't never even turned her in, just let it ride as it was. But initially there was oath for all poll members. I made sure of that. What happened that day they showed up, there's one original, one new, and the other one's at the doctor, which I didn't know about. You know, and I'm sorry, Echols County probably never been in front of this Board period in all the years. And it's embarrassing to me to have to come up here on this. But I had no choice.

In a small county, politically this could kill me if they even thought I was talking bad about this woman, you know. That's the reason why I don't like -- as a Judge I don't like to the elect superintendent. I ain't going to lie about it. It's not worth the \$300 a month. That's all I get. And the bad thing about it, chief registrar and the deputy registrar makes about the same thing I do and I'm doing all the work. I mean it just don't make sense to me. And a lot of judges might get bad that's in here that says, no, don't try to get away from elections, but I personally -- my opinion, I'm not speaking for the Probate Judge Council, by no means, but I wish y'all do away with it.

**SECRETARY KEMP:** Any other questions for the Judge?

(Whereupon, there was no response)

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

**MR. ROGERS:** Thank y'all.

**SECRETARY KEMP:** Appreciate you making the effort to get here. I know it's a long way --

**MR. ROGERS:** Yeah.

**SECRETARY KEMP:** -- from Echols County. Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Y'all got any thoughts? I really appreciate the Judge taking the time to be here and reporting. I think it, you know, it appears that there may be violations. So I think it says a lot for you to come. And as a lot of our election superintendents have today to, you know, at least be willing to be in front of the Board and answer their questions. And it says a lot about you instead of just not showing up at all.

But, you know, I know you're in a tough spot and I don't know, Mr. McIver, with your knowledge and experience and wisdom, if there's a way that we could somehow address this that may help the Judge get the County's attention that there needs to be some discussions down there among the leadership of the County about who's got the authority and who's going to do what and making sure it's getting done. Because we do have to make sure that

the rules and the laws are followed.

**MR. WEBB:** I have a question for Mr. Harvey. You mentioned that the county had taken measures to correct this. Was that in the form of a remediation plan?

**MR. HARVEY:** I don't believe -- I'm not aware of anything being turned in, as far as a remediation plan. But when -- I think we went back and they had corrected the errors.

**MR. SIMPSON:** Was that due basically to the Judge's efforts?

**MR. HARVEY:** I would suspect for the large part, they are. And I would agree with the Judge that Wes Taylor, who then was the elections director, called me after talking to Ann Hicks. And I actually researched with some of the legal staff as to whether or not the elections superintendent would have -- would ultimately be responsible for what happened in the election, and the determination was that even though, practically speaking, the registrar is -- as the Judge said, the registrar is practically running the advance voting and absent voting. It all comes back to the elections superintendent, ultimately.

**MR. SIMPSON:** I just think -- I'm sort of thinking out loud -- but it seems like we need to make some distinction between the Judge and the registrar and how we handle these cases. He did bring it to our attention. He did try to correct it and he did. It would appear to me, and I don't know, that maybe a letter of instruction to him to keep doing what he's doing until we can -- something else can happen. And then referring the chief registrar. I don't know how y'all feel about that, but I sort of hate to see him -- this thing get boomeranged back on him when he's the one that made the phone call.

**MR. HARVEY:** I agree and like I said, went to the code and found the person to pin it on when this doesn't happen, and it appears in the code to be the elections superintendent. Again, I --

**SECRETARY KEMP:** Let me ask Mr. Willard a question. If we were to refer the registrar, could part of our consent be you being able to get the message across to the County that we've got to have some cooperation and some things fixed down there?

**MR. WILLARD:** The problem is, unless the County attorney is representing the registrar, then our office really has no business communicating to the county about the case concerning respondents.

**SECRETARY KEMP:** And we have no way of making the County a respondent, do we?

**MR. McIVER:** Well, let me answer the question you put forth a moment ago. We had situations in the past where the county commissions have just severely underfunded elections and we as a Board have flirted with the idea of inviting the entire commission from that county to visit us in a meeting and to come before us and we all have a rather frank discussion about the importance of an integrity in voting. We've never gone that far because the message seems to get back and the corrections were done and proper funding occurred. But we have certainly looked at that, that the commission is really the place where this buck stops.

**SECRETARY KEMP:** Come on back up to the mic.

**MR. ROGERS:** My commissioners tried to. Now, don't get that -- they contacted attorney; attorney, we looked at all this. I mean we was all trying to work to solve this problem. Found out the only -- the solution to the problem would have been remove her, okay? Superior Court Judge agreed with it too, but the Superior Court Judge said I'm not doing nothing without the recommendation of the Secretary of State Election Board, period. Okay? Wasn't it my commissioners. My commissioners' hands are tied on this too, guys. I meant don't think the commissioner -- the commissioners trying to help . . . deal with money because they don't appoint the registrar. You know, because if they was, you know, the grand jury appointed her. And then a Superior Court Judge --

**SECRETARY KEMP:** The grand jury appointed the registrar?

**MR. ROGERS:** That's the law. The grand jury appoints five registrars -- if I ain't mistaken, it's five-- and then the Superior Court Judge picks out of that pool. And most times the Superior Court Judge in a small county like us is not out of my county. He don't know nobody in that county period. None of them does. You know, they might know a few, but not that many.

**SECRETARY KEMP:** Right.

**MR. ROGERS:** And the kick for this, which shouldn't -- is the person who pushing for it probably ain't going to say this because I don't know a hundred percent, that called the Superior of Georgia [sic], is this woman actually ran against me when I originally ran, which, you know, wasn't no problem; me and her still got along. But I meant if that Superior Court Judge would have probably known that, surely he probably would have appointed somebody to ran against me. I hope he wouldn't. It's somebody I had to work with that close, you know, what I'm saying.

And he said that afterwards. If I had known that, why didn't you say something. I said, well I ain't got nothing against the woman, you know. She's very educated. But it ain't my commissioners. They have tried. And their County attorney told them they cannot do nothing, 'cause they don't appoint her. They don't appoint her, him, or whoever.

**MR. WEBB:** Could we put it on the County to prepare a planned remediation -- remediation?

**SECRETARY KEMP:** Well, I'm almost thinking if we were just do a letter of instruction to the Judge..

**MR. ROGERS:** I mean I got the problem straight now. I mean I have no more problem --

**SECRETARY KEMP:** I know. But I'm thinking that the letter to you may even help you when you get back.

**MR. ROGERS:** Well, the only thing that's going to do -- even if you write me a letter of instructions, that still don't give me the authority to do nothing as far as she's concerned, guys.

**SECRETARY KEMP:** No, I understand that, but --

**MR. ROGERS:** I still got to probate. As far as in the past, there wasn't no problem with me to stop what was going because I stopped it. Okay. And did I know that morning that I only had one or two? Yes. Because I knew the investigator was showing up that day. I knew. Okay? Because I'm the one that was talking to Ann. Ann -- I begged Ann to send somebody before it got -- you know, something major happened. Because, you know, they was taking applications, wasn't signing nothing.

In fact, we even lost a ballot -- absentee ballot and I had to make her send back out to get it to come back in and she was responsible for. You know, she signed for it and it disappeared. It's things like that. But, I mean, I don't want a letter of recommendation to go in my file because goes against me that makes it look like I wasn't doing my job, which I feel like that I was. And she put a letter of recommendation, somebody runs against me in a small town, what do you think the first thing they're going throw up there to publicize against me?

**MR. SIMPSON:** Who is the District Attorney in that circuit?

**MR. ROGERS:** David Miller.

**MR. SIMPSON:** And which circuit is that?

**MR. ROGERS:** Southern.

**MR. SIMPSON:** Southern?

**MR. ROGERS:** Southern Judicial. David said the same thing, that they don't mind trying to help --

**MR. SIMPSON:** -- the District Attorney is running that grand jury. That's where your help is, is on the appointment of the Registrar.

**MR. ROGERS:** Well, I'm pretty sure --

**MR. SIMPSON:** And if he's the one running the -- he's the one running that grand jury, and if you made your problems known to him, it seems like to me that may be -- and if you have a letter of instruction in your hands to take to him and said, look, we got to do something about this, that would help you deal with the District Attorney to deal with the grand jury.

**MR. ROGERS:** Right.

**MR. SIMPSON:** What do you think?

**SECRETARY KEMP:** I mean, that's kind --

**MR. ROGERS:** But he's probably going to say the same thing. The Superior Court Judge has to remove her, not him.

**MR. SIMPSON:** Well, I mean he's in front of the grand jury. A Superior Court Judge doesn't go in there.

**MR. ROGERS:** The only thing that the grand jury does is make recommendation who gets appointed.

**MR. SIMPSON:** I know.

**MR. ROGERS:** And I don't know when her reappointment -- her reappointment might be coming up.

**MR. SIMPSON:** At least one person should not be included in those recommendations.

**MR. ROGERS:** Right.

**MR. SIMPSON:** I mean it seems like to me from a practical standpoint, that will be the way to get around the political problem.

**MR. ROGERS:** Right.

**MR. SIMPSON:** That you can't.

**MR. ROGERS:** Right. I meant more or less my Superior Court Judge said if he got a letter recommendations to solve this problem, is to remove, or cease this practice, or recommendations that due to the fact of whatever that she -- that person be removed, he has no problem signing off on it. He said he's got to have something from the State Election.

**MR. WILLARD:** Mr. Chairman?

**SECRETARY KEMP:** Yes.

**MR. WILLARD:** As you're aware, the Board retains the power to defer a matter for criminal prosecution, and I understand the Board isn't necessarily saying there is a criminal matter here. But in terms of conveying the investigator's file to District Attorney Miller, I could send the file in addition to working up the case if you would elect to refer Ms. Everett over to our office. I could send the file down to Miller's office so that he would have the information pursuant to a potential violation of O.C.G.A. 21-2-589, which I realize is not in the summary --

MR. ROGERS: What is that?

**MR. WILLARD:** -- but we would not be limited to what's in the summary...

**MR. ROGERS:** What's that code section charge?

**MR. WILLARD:** Willful failure to record any information required to be noted in the voting records.

**MR. ROGERS:** The woman -- I mean she don't need any more -- that's the only bad thing about it. The reason she's not here today, she would have been here. Promise you. She's that type. She's a postmaster for 30 years. First woman postmaster, I think, in the State of Georgia.

Her husband is dying. He's on his death bed. He weighs 96 pounds. I mean I just -- that's one of the reasons I kind of -- we do this rightly because I don't want her under no more stress. They've been married for 58 years. That's, you know -- so I mean, of all bad things, I mean everything's hitting her right now, too. So I just -- you know, whatever we do, I'd like to do it as easy as we can. But if I sit here and tell you do I not want her removed, I'd be lying. I'd prefer her to get relieved.

**MR. SIMPSON:** Mr. Chairman, I want to make a motion to do a letter of instruction to the Judge and defer the case on Ms. Everett to the Attorney General.

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

**MR. McIVER:** Second.

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

**MR. WEBB:** What would the letter of instruction state?

**SECRETARY KEMP:** Well, my thinking would be for us to write the letter in a way that would be helpful and thankful to the Judge and also correct anything else that may need to address. But, you know, my thought on the letter, from my perspective -- and I certainly would like to hear the Board's thoughts -- would be to use the letter to help the Judge.

**MR. ROGERS:** I would like to put one thing here. Put in there I have the right or the main say so of hiring poll workers.

**SECRETARY KEMP:** Well, I don't know if we could tell the County how to do their business.

**MR. ROGERS:** Well, I mean I do everything, but the early voting. I mean that's the only -  
-

**MR. SIMPSON:** What you want to do is, you want us to tell you what either/or means.

**MR. ROGERS:** Right. You see what I'm saying? That's the bad thing about it. It says I can hire them or she can hire them. She tried to use her power.

**SECRETARY KEMP:** We'll make sure to word that letter correctly that's the purview of the Board.

**MR. WILLARD:** And is that also to refer the file down to the D.A. as well?

**MR. SIMPSON:** Well, we just take that as it comes and see what happens.

**SECRETARY KEMP:** Well, I mean I'm personally a little concerned about referring the file to the D.A. --

**MR. ROGERS:** I would ask --

**SECRETARY KEMP:** -- with a criminal complaint in there. I'd almost rather just let's refer it and see if we can just send a message to the county through a consent order. And if they won't agree to that, then, you know, certainly this Board doesn't have to agree either. And we can, you know, do something else later.

**MR. ROGERS:** Secretary?

**SECRETARY KEMP:** Sir.

**MR. ROGERS:** I promise, you I'll go back and tell her, Delores, they more or less told me if you resign this dies. If not, they want to take it to Attorney General. You know what I'm saying? I rather her -- she would resign if I told her, if you don't take actions yourself, they're going to have to.

**SECRETARY KEMP:** Well, I don't think the Board can do that. I think we want to send a message that the County needs to get --

**MR. ROGERS:** Involved.

**SECRETARY KEMP:** -- its act together.

**MR. ROGERS:** But their hands are tied, too.

**SECRETARY KEMP:** Well, I know. But, you know, ours are, too.

**MR. ROGERS:** Right.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** 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. Judge, have a safe trip back. I know it's a long drive.

**MR. ROGERS:** It's a five hour drive. On this letter of recommendation, I got to file an answer? I didn't hear y'all say I need to file an answer?

**SECRETARY KEMP:** No, sir.

**MR. ROGERS:** Okay. Thank y'all. Sorry about taking up y'all's time.

**SECRETARY KEMP:** No problem. All right. 2010, number 104, Wilkinson County.

**MR. HARVEY:** This case involves allegations that elections superintendent, Tracy Strange, was improperly rejecting absentee ballots and also that she took a ballot, an incompleated ballot, to a voter to let him correct it; and then she sent a ballot to a voter at an in-county address that was not on file.

The investigation showed that there did not appear to be improper rejection of absentee ballots by Ms. Strange. However, she did receive an absentee ballot from a Mr. Gassaway who had not signed the oath. By law, that ballot should have been rejected and a letter should have been sent to Mr. Gassaway. She, instead, took the ballot back to him, allowed him to sign it, and then took it and counted the ballot.

The other incident was involving a Tony Sanders who had requested a absentee ballot be mailed to a location that was not on file. Ms. Strange did not want to do that. She went to the Board of Elections of Wilkerson County and they instructed her to go ahead and mail the absentee ballot application to him, which she did.

So the -- at the end of the day, the violations are violation of -386 in terms of proper certification of absentee ballots; and then 21-2-381, by improperly mailing an absentee ballot to an address that was not on its voter registration application. And, you know, this is a case where it appears that the elections superintendent was trying to, you know, do the right thing in terms of affording the right to different voters. However, I don't know that I've ever seen, you know, her or anybody else do a lot of delivery of incomplete ballots to voters. The law doesn't appear to allow that.

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

**MR. WEBB:** Mr. Harvey, I'm still not quite sure I understand the situation with Mr. Tony Sanders. Can you explain that again?

**MR. HARVEY:** Sure. Right. It was requested to be mailed to location that was not on his voter registration form, which you can't do. When you're sending an absentee ballot, it has to go to the registered address on the voter registration if it's going in the county. It's going out of the county, it can go somewhere else. So it'd be like you requesting an absentee ballot to go to your next door neighbor's address. It's not your address. You can't send it there. She consulted with the board and the board said go ahead and send it to him. So she went ahead and sent it to him.

**MR. WEBB:** You would like to punish her for doing what the board asked her to do?

**MR. HARVEY:** Well, again I'm -- you know that's like Chief Justice Roberts, I call balls and strikes. You know, she did something that the code doesn't appear to allow.

**MR. WEBB:** Thank you, Mr. Harvey.

**SECRETARY KEMP:** So a letter of instruction could include guidance for the board.

**MR. HARVEY:** Certainly.

**SECRETARY KEMP:** All right. Any other questions?

(Whereupon, there was no response)

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

**MS. STRANGE:** Hello. My name is Tracy Strange. I'm the elections supervisor for Wilkinson County. My address is P.O. Box 186, Irwinton, Georgia.

I'm just here to, you know, answer any questions that you all have. In terms of Mr. Gassaway, we did send him a letter letting him know about his ballot and letting him know that he could either complete a new application for a new ballot or come in and sign the back of his ballot in order for it to be counted.

He telephoned me and told me that he was a homebound individual and that he could not get out. He asked could his son pick up that ballot for him. And we informed him that he could not pick that up for him. He asked if I, as the elections superintendent, could bring that to him. I searched the election code. I did check with my liaison here at Secretary of State's Office, also my County attorney in trying to find out if that would follow the guidelines as in terms of someone in the hospital, would that be along those same lines. And no one could basically give instruction on that.

In training, as someone stated earlier, we're always told to err on the side of the voter. So -- and that's what we did. If we -- if I, you know, broke the code in that, it was really unintentional.

In terms of Mr. Tony Sanders, on his application he did have the P.O. Box that was different from the one that we had on file. He had it listed in the temporary mailing address. And we did initially send it to the address that we had on file and then it came back as returned mail. In looking at the application, since he had that address in the temporary spot and in looking at Code 21-2-218, it says that an absentee ballot application can be used for a change of address for an in-county change. And so based on that, we did forward that ballot to him. And I'm here to answer any questions that you all have for me.

**SECRETARY KEMP:** All right. Mr. McIver.

**MR. McIVER:** Ms. Strange, anything else you could have done to make the situation better?

**MS. STRANGE:** In . . .

**MR. McIVER:** In either case, Mr. Gassaway or the other gentleman?

**MS. STRANGE:** With Mr. Gassaway, I guess after we couldn't find the -- a correct answer or definite answer, we could have just told him that we need to -- you know, he needs to do a new application and we resend him a ballot.

And with Mr. Sanders, he was working out of town and we felt that that was the best way to ensure that he was able to vote because his work hours put him out of town on election day and during the week for early voting. So he wasn't able to come into the office to vote, nor was he able to go into the polls on election day because of his work hours. So we felt that that was the best way to ensure that he was able to vote.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none. We have a recommendation?

(Whereupon, there was no response)

**MR. McIVER:** Well, I'll make a motion that we close the case with a letter of instruction.

**SECRETARY KEMP:** All right.

**MR. WEBB:** I second.

**SECRETARY KEMP:** Very good. We've got a motion and a second for a letter of instruction and 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:** That motion carries. All right. 2010, number 117.

**MR. HARVEY:** This case involved non-citizens registering to vote and voting. It came as a result of reports from the folks at Superior Court for people who had been summoned for jury duty and had reported that they were not citizens. We got a list of the 30 names. And as we look through the list, we found out that 22 were, in fact, registered to vote. And what we did -- and we weren't able to contact everybody -- but we went to through list and using the standard of, we know there have been problems in the past with Department of Driver Services and people being registered without their knowledge and against their will. So anything that was -- anyone who was registered prior to February, 2010, through the Department of Driver Services, we essentially considered as suspect registration because the Driver Services, frankly, had a bad history of following people's instructions when they registered to vote. And we couldn't prove, because it was all a verbal system, whether or not somebody requested to register to vote.

In the end, it came out that we had several people who had -- were not citizens who had registered to vote and had voted. If you'll look at the respondent chart, at the back -- I'll go through them. We've got seven individuals and then three counties. And this is the county -- Fulton County is one of the ones with the County as a respondent.

The first is Keisha Brown and I have letter Ms. Brown sent me. Keisha Brown is not a United States citizen. She did register to vote in person with a hand filled application. However, she checked no, she was not a United States citizen. She was registered to vote by Fulton County. However, she never voted. So I recommend any violation or citation against her be -- for it to be dropped or maybe corrected with a letter of instruction. So she filled out the registration form by hand. She checked the box, no, on U.S. citizen, and she signed, o, and Fulton County processed her voter registration application.

The next is Mr. Patel who's at the top of -- I'm sorry -- second down on the second page. He registered and he signed a voter confirmation form sent in 2009. He's a non-citizen. He's never voted.

Next is Cadreaic Toussaint Wilks, and I believe he's represented here today by counsel. Mr. Wilks checked on his voter registration application he was, in fact, a citizen when he's not a United States citizen. He registered and voted one time.

Three down from him is (unintelligible) Isokiary. This person registered to vote through DDS after February of 2010. He's never voted.

At the bottom of the list is (unintelligible) Puhovoc. He checked, yes, that he was a citizen on his voter registration application.

About the middle of the second to the last page, Nancy Holliday. Nancy Holliday, I believe, is also here represented by counsel. Her story is unusual and unique, in that she did not know that she was not a United States citizen. Her mother never told her she wasn't a U.S. citizen. She had registered to vote and had voted one time. She's subsequently have acquired or gotten a permanent resident card. That's certainly an unusual case and I think in that case, there's not going to be any evidence that she knowingly did anything. I'm going to recommend that that case be dismissed or possibly closed with a letter of instruction.

And then two down from her -- two down from her is Kelly Jean Honeycutt who registered through DDS, has voted one time. And let's see, it was -- I think she registered through DDS in an unknown form, but she voted in 2008. So we're going to recommend that she be bound over.

Now, we've got the corresponding counties listed. We've got Habersham County that corresponds with Ms. Holliday. We've got Newton County that corresponds with Ms. Honeycutt. We've got Fulton County who responds to the first several that I mentioned, Wilks, and Patel, and Brown.

As far as Habersham County goes, Habersham County is with Ms. Holliday and they had no way of knowing that she was not a citizen. She checked yes. It wasn't you until later that she found out she wasn't a citizen. I recommend that nothing be bound over with Habersham County.

Same thing with Newton County. Newton County, Ms. Honeycutt voted. She voted. She never requested to be registered, but she was registered and she voted. I don't think that's

Newton County's problem. I don't think they had any way of knowing that she wasn't a citizen.

And lastly, Fulton County accepted a voter registration application from Mr. Toussaint and from Ms. Brown. Ms. Brown checked that she was not a citizen and Fulton County went ahead and accepted her voter registration application. So I recommend Fulton County be bound over on those violations. And Mr. Brooks has a letter from Keisha Brown.

**SECRETARY KEMP:** All right. Move to accept the letter.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We've got a motion and a second to accept the letter. 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. Any questions for Mr. Harvey?

**MR. WEBB:** I have a couple of questions. Mr. Harvey, I notice on your chart that several of these individuals are still listed as active on the voter registration rolls; is that correct?

**MR. HARVEY:** It was at the time. We sent notice to -- through the Elections Division to the respective counties to let them know that these people had not been citizens. I don't -- I can't say for certain whether or not they've been removed at this time.

**MR. WEBB:** Could that be something your office can do as a follow up?

**MR. HARVEY:** We can, certainly. Yes, sir.

**MR. WEBB:** Thank you.

**SECRETARY KEMP:** All right. Anyone else here wishing to speak on this matter? Yes, ma'am.

**MS. POSEL:** Good afternoon. My name is Laney Posel. I'm an attorney with Dale

Schwartz and Associates. P-O-S-E-L.

**THE COURT REPORTER:** Thank you.

**MS. POSEL:** Our address is 5500 Interstate North Parkway, Suite 450, Atlanta, Georgia 30328.

**SECRETARY KEMP:** Who are you representing again; I'm sorry?

**MS. POSEL:** It's okay. Mr. Cadreaic Toussaint Wilks.

**SECRETARY KEMP:** Okay. Thank you.

**MS. POSEL:** In 2008, Mr. Wilks was a lawful permanent resident of the United States. He received a voter registration card in the mail in May of 2008 at his house, although he has never filled out any voter registration document. Not knowing the United States laws and not previously having been represented by counsel to tell him otherwise, he believe that a determination had been made that he was eligible to vote. It was not until he received a letter from this Board telling him that he was not eligible to vote back then that he was first alerted to this.

He went recently to the Fulton County Voter Registration Office to get a copy of his voter registration application. A copy of the application, which I do have here today, clearly shows that he did not fill out this application. First, it's neither his handwriting nor his signature; and second, the person has claimed that they're signing helping an illiterate or disabled vote, which Mr. Wilks is here today is clearly neither illiterate nor disabled.

This is not an application that he has ever filled out. It's clear that someone committed voter fraud against him by forging his name and falsely claiming that he was illiterate or disabled when he is neither.

He believed he was eligible to vote only because a determination had been made and sent to him when he had never gone to seek out permission to vote. He's never knowingly or willfully committed any false statements, made any fraudulent representations, or committed any voter registration fraud.

As I said, he didn't fill out any of the applications and I recommend that it be closed against him as he was a victim of voter fraud and not a participant in any of that. I do have a copy of this if --

**SECRETARY KEMP:** Mr. Brooks, can you get that for us.

**MS. POSEL:** Mr. Secretary, I do have an affidavit -- I'm sorry.

**SECRETARY KEMP:** No. Go ahead.

**MS. POSEL:** I do have an affidavit, which just lays out this. We, unfortunately didn't get his statement, so I had to write it, but he has his signature next to it that just lays this out with a copy of . . . Thank you.

**SECRETARY KEMP:** All right. Let the record show that Mr. McIver has stepped out for just a minute. Do we have a motion to accept the documents.

**MR. SIMPSON:** So moved.

**MR. WEBB:** Second.

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** The motion carries and we've accepted the documents.

**MS. POSEL:** Mr. Secretary, I'd also like to note that Mr. Wilks is now a U.S. citizen. He had to actually unregister to vote and now will need to re-register to vote since he never himself registered to vote. But he did take himself off since that was not his registration. And now he's a U.S. citizen, he will need to go back and register to vote.

**SECRETARY KEMP:** Well, congratulations on becoming a U.S. citizen. We look forward to getting you registered to vote. Any questions for Ms. Posel?

**MR. WEBB:** Yes, I do, Ms. Posel. Just for clarification, Mr. Wilkes did not fill out the paperwork, but received something in the mail, which indicated he could vote?

**MS. POSEL:** He received a voter registration card in the mail.

**MR. WEBB:** And said what a great country.

**MS. POSEL:** I think he didn't know. I think he felt that someone, since it came from the United States Government saying you're eligible to vote, that he believed he was eligible to vote.

**MR. WEBB:** Thank you.

**SECRETARY KEMP:** Anything else for -- yeah, Mr. Simpson.

**MR. SIMPSON:** What is this, it says signature of person helping the illiterate. It says U-C-O-2 and then some initials. What is that?

**MS. POSEL:** I have no idea. The only thing I can think is that's the same handwriting as up above that perhaps somebody in the voter registration office. I don't know that that's -- and there's a signature next to that as well. But it is in the same kind of darker handwriting as it looks like maybe somebody from the registrar's office might have put. I don't know because he hasn't filled that out. The first time we saw it is when he got a copy of that.

**MR. SIMPSON:** What about the other signature over here, this on the left hand side?

**MS. POSEL:** That's neither his signature.

**MR. SIMPSON:** That is not his signature?

**MS. POSEL:** That is not his signature. And that is not his handwriting.

**SECRETARY KEMP:** But this signature on the affidavit is his signature, correct?

**MS. POSEL:** Yes. And that is -- the information is correct. I have gone through the information with him. So somebody had his social security, his address, driver's license, but that is not his . . .

**SECRETARY KEMP:** Mr. Harvey?

**MR. HARVEY:** Can I ask Ms. Posel a question?

**SECRETARY KEMP:** Sure.

**MR. HARVEY:** Ms. Posel, is this jury summons that he responded to, is this Mr. Wilks signature? This -- did he complete that?

**MS. POSEL:** He doesn't recall filling it out, but, yes, that is.

**MR. HARVEY:** I've got a copy of the jury summons that sort of kicked this off and I would like, I guess, for the Board to look at it. It looks very similar to the signature on the voter registration application to me. It's very unique.

**MS. POSEL:** Now, it does say on there, are you a U.S. citizen, he does mark no on that -- on where you just showed me the jury summons.

**MR. HARVEY:** Right; right. But it's the signature that matches the -- that appears to match what's on the voter -- and on the voter registration application.

**MR. WEBB:** Ms. Posel. Did I say that correctly?

**MS. POSEL:** Posel. That's okay.

**MR. WEBB:** Posel. Thank you. Was all the information on the application correct, telephone number, date of birth, social security number, driver's license? Was that information correct?

**MS. POSEL:** Yes, it was.

**MR. WEBB:** Had your client lost his wallet?

**THE COURT REPORTER:** Was that a no, ma'am?

**MS. POSEL:** No. I'm sorry.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Thank you. Is anyone else wishing to speak on this case?

**MR. HOLLIDAY:** On another name?

**SECRETARY KEMP:** Oh, yeah.

**MR. HOLLIDAY:** I'm Fletcher Holliday; address 583 Holliday Road, Demorest, Georgia 30535. I'm here speaking on behalf of Nancy Holliday. She's here as well and we agree with Mr. Harvey's recommendation of dismissal of her case based on unique circumstances. And we'd be more than happy to expand on those if you would like us to, but if not, we'd agree with his recommendation of dismissal.

**MR. WEBB:** Question for Mr. Harvey. What's the statute of limitations on this matter?

**MR. HARVEY:** Would be four years. As far as for criminal, might be seven years.

**MR. McIVER:** I have a question for Mr. Holliday.

**SECRETARY KEMP:** Mr. McIver.

**MR. McIVER:** Are you related?

**MR. HOLLIDAY:** Yes, I am her husband.

**MR. SIMPSON:** And she let you speak for her?

**MR. HOLLIDAY:** Just this one time.

**MR. McIVER:** Now, counselor there are a lots of jokes going around about how people treat their lawyers. I trust you'll use better judgment in the future.

**MR. HOLLIDAY:** Yes, sir.

**MR. McIVER:** All right. Thank you. Thank you for being here.

**SECRETARY KEMP:** Yes, ma'am. Sorry about that.

**MS. CARTER:** Jenny Carter, 1144 College Avenue, Covington, Georgia, representing Newton County and after hearing Mr. Harvey's statement, I just concur with what he said with respect to Newton County, but wanted to let you know I was here if there are any questions.

**SECRETARY KEMP:** Correct. Thank you, counselor, for being here. Any questions for Ms. Carter?

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Anyone else?

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. Harvey?

**MR. HARVEY:** Sir.

**SECRETARY KEMP:** Can you go over -- I just want to make sure I got the recommendations right here.

**MR. HARVEY:** Would you like for me to read them again?

**SECRETARY KEMP:** Please.

**MR. HARVEY:** On Keisha Brown, I'm recommending she either be dropped or issued a letter of instruction. On Mr. Patel, recommending that he be bound over. On Mr. Wilks, I'm recommending that he be bound over. On Mr. Isokiary, I'm recommending he bound over. Mr. Puhovoc, recommending he be bound over. Recommending Ms. Holliday be dismissed; Ms. Honeycutt to be bound over; and Habersham County, Newton County dropped. And then Fulton County bound over.

**SECRETARY KEMP:** Well, what did you say about Honeycutt again?

**MR. HARVEY:** That she be bound over. She's voted.

**MR. HARVEY:** Holliday, dismissed.

**MR. SIMPSON:** I may have heard you wrong, but on Patel?

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

**MR. SIMPSON:** You said bind over?

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

**MR. SIMPSON:** But it says violations, it has none.

**MR. HARVEY:** Well, he -- I see that, but he signed a confirmation of a voter registration

form that was sent to him.

**MR. SIMPSON:** Says his app does not contain an oath of affirmation.

**MR. HARVEY:** Right. It's -- and what we have currently is his confirmation card that was sent by the County confirming his address, which he filled out and returned to the County. I believe we don't have a copy of his original voter registration application in hand.

**MR. SIMPSON:** How are you going to prove that?

**MR. HARVEY:** I am not sure at this point. I'm not sure.

**SECRETARY KEMP:** But from a probable cause standpoint, you're saying that we can find that?

**MR. HARVEY:** We may be able to find it. We may be able to find his original voter registration. He did it -- he did it by hand so it should be somewhere.

**SECRETARY KEMP:** Okay.

**MR. HARVEY:** It's not in the file. I don't know why.

**MR. WILLARD:** Mr. Chairman, we can't take them unless you have the evidence to back them up. We would just send it back to your office for further investigation.

**SECRETARY KEMP:** And that was on which one?

**MR. WEBB:** Patel.

**MR. HARVEY:** We can always go back and research that one and bring it back to the Board at the next meeting --

**SECRETARY KEMP:** All right.

**MR. HARVEY:** -- let you know if we're able to find.

**SECRETARY KEMP:** Let me ask, is anybody else wishing to speak? I think I've already asked that one time.

**MR. SIMPSON:** On Patel, I would move that we table that matter for this meeting and

send it back to the investigative staff to complete their inquiry concerning having the document we've requested.

**SECRETARY KEMP:** We got a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** All right. We've got a motion and a second to -- on Mr. Patel to send that back to the Secretary of State's Office for further investigation.

Let the record show that Mr. McIver just stepped out.

Any other discussion?

(Whereupon, there was no response)

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

I would, if the Board would entertain the idea of a motion on -- for Keisha Brown, Nancy Holliday. Those were the two, Mr. Harvey, that we were going to --

**MR. HARVEY:** Yes, sir. Those are the two individuals I was going to recommend dismissing; and then Habersham County and Newton County as respondents, also.

**SECRETARY KEMP:** I would be more inclined to make the motion to do a letter of instruction and then close the case just to make sure that they're aware of, you know, what's happened and what they can and can't do as far as non-citizens voting; just to make sure that's clarified in writing from the Board. If y'all are acceptable to that, I'm making that in the form of a motion.

**MR. SIMPSON:** Second.

**SECRETARY KEMP:** All right. We've got a motion and a second to do a letter of instruction and to close the cases for Ms. Holliday and --

**MR. WEBB:** Ms. Brown.

**SECRETARY KEMP:** -- Ms. Brown. 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. SIMPSON:** All of these other cases that you've listed that we haven't discussed by name?

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

**MR. SIMPSON:** Where it says Title 21 violations, none?

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

**MR. SIMPSON:** Do we need an action on those, or they just withdrawn, or what?

**MR. HARVEY:** I think because we're not making any citations, they're just -- they're done.

**MR. SIMPSON:** So we don't need an action?

**MR. HARVEY:** I don't believe so.

**SECRETARY KEMP:** What about on Habersham and Newton County. We need to --

**MR. HARVEY:** I think you would need to vote to close those, if that's your . . .

**SECRETARY KEMP:** All right. I move to dismiss the case against Habersham County and Newton County.

**MR. WEBB:** Second.

**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.

All right. That leaves us with Mr. Wilks and the others.

**MR. WEBB:** Just to be clear that's Wilks, Honeycutt, and Fulton County. Did I miss one?

**SECRETARY KEMP:** I thought Honeycutt, we did a letter. No, that was Holliday.

**MR. HARVEY:** I've got Wilks, Isokiary, Puhovac --

**MR. WEBB:** I'm sorry, can you go back again?

**MR. HARVEY:** Sure. Wilks; and then three below Wilks is Isokiary, and then two below him is Puhovac; and then Honeycutt are those other four individuals and Fulton County.

**SECRETARY KEMP:** And Fulton County.

**MR. HARVEY:** Yes.

**MR. WEBB:** I make a motion to bind those over to the Attorney General's Office.

**SECRETARY KEMP:** All right. We've got a motion. 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.

All right. That got everything, didn't it? Thank you all for being here today.

All right. Let's see. We're moving on here. Miller County, 2011 Number 3.

**MR. BROOKS:** Mr. Secretary, this involves the November the 2nd, 2010 general election. The allegation in this particular case was that a voter had been placed in the wrong precinct and that she have been allowed to vote twice in the same election.

Investigation revealed that Ms. Simpson went to the polls to vote on November 2nd, and when she got there, she filled out her paperwork, received her voter access card. She put it in the machine and as she noticed that the candidates that she wanted to vote for were not on that style that she had, she went ahead and cast her ballot and then brought it to the attention of the poll workers there.

Ms. Simpson's testimony was, is that there was a phone call made and there were some conversations between the poll manager and the election officials there in Miller County. And they gave her another voter access card and allowed her to vote in the right -- in her precinct.

During the investigation, it was determined that, when we looked at her voter registration card, the original voter registration card had her right precinct and combo information on it. It had been whited out and the wrong information had been placed on that. So she had remained in the wrong precinct. And it was my understanding during the phone call that when they looked the address up, it's an apartment complex and there are some boundary issues and they had her in one district; she should have been in another. Once they discovered her address was in the other precinct, they allowed her to vote a second time.

Violations in this particular case was failing to place her in the right precinct, not having her in the correct precinct, allowing her to vote twice in the same election and allowing her to vote in a precinct that she wasn't registered to vote in.

**SECRETARY KEMP:** All right. Is any questions for Mr. Brooks?

(Whereupon, there was no response)

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

**MR. STONE:** Yeah. My name is William Stone. My address is Post Office Box 70 Blakely, Georgia. And I'm here to speak for the respondents. I'd like to address Mr. Calhoun first, the present Chief Registrar.

**SECRETARY KEMP:** Mr. Stone, are you all right standing? We can put --

**MR. STONE:** I'm fine. I'm fine. My leg is gone asleep, that's all.

**SECRETARY KEMP:** Okay. I just want to make sure you're all right.

**MR. STONE:** It's been an exciting day so far.

**SECRETARY KEMP:** Sorry to interrupt you, sir.

**MR. STONE:** That's all right. Don't worry about that.

I'd like to talk about Mr. Calhoun, the present Chief Registrar first. Mr. Calhoun was not a registrar back at the time this fiasco occurred and he was not Chief Registrar, either.

I have brought with me the orders setting forth the history of all this. The Chief Registrar between January and November of 2010 when the alleged error in voter registration is

supposed to have occurred according to the investigation summary, here was Evelyn Sevrenson Stubbs. And here is here letter of resignation to Judge Bishop dated December 31st, 2010.

Thereafter, Judge Bishop and the grand jury appointed Susanna M. Malloy as Chief Registrar. She served in that capacity for two months from January 1, 2010 -- 2011, until February 21st, 2011. And here's the order accepting her resignation and appointing as Chief Registrar Jerry Calhoun.

So Mr. Calhoun is accused in this, whatever you want to call it, this letter of committing things that he had no power to commit because he wasn't even in office at the time. So we move to dismiss the matter against him.

I'd like to tender these into the record.

**SECRETARY KEMP:** I move we accept the documents.

**MR. SIMPSON:** Second.

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** We have moved to accept the documents.

**MR. STONE:** Okay. Now, I'd like to move from there to how this happened. And there's a couple of things I'd like to offer into evidence. The first is the election map of the City of Colquitt. And you'll see when you look at it, the school District 1 is this kind of purplish, pink area right here. And it sort of gerrymanders itself into the City of Colquitt right here, and then District 4 is the yellow area.

Now, the address in question is surrounded by District 4, but it's all part of District 1. It's this little bitty yellow rectangle right here in what looks like a gerrymandered district. I'm not being critical the way districts were drawn. It just causes confusion when you have this little --

**SECRETARY KEMP:** Right.

**MR. STONE:** -- dog tail going in there.

All right. Along with that, I'd like to tender these -- this aerial photograph right here that shows you exactly what I'm talking about. This is a bigger one. It shows you -- that's District 4 and right there is the apartment complex. That's District 4 and the apartment complex is District 1 or -- I got it backwards. It gets confusing.

That is District 1 and the apartment complex where this lady was living is right next door to it; it's District 4. So the addresses are on the same street and it's right there next to this little dog tail.

So that's how the problem occurred. And I am informed that it has occurred with several voters where there was some confusion about which district they were supposed to vote in with the prior Chief Registrar.

And now that Mr. Calhoun has taken over, he's taken considerable steps to rectify this situation and when any kind of change is made on the voter registration cards, the person making the change has to date it and initial it to show who did it and when it was done and that kind of thing. The person who was responsible for this is not -- she's twice removed now as Chief Registrar. So I don't know that doing anything to her at this point is really useful or worthwhile because she can't do anything to correct it anyway. But anyway. So that's how the thing happened.

Now, these are the voter cards on this lady, and it has the combo code ten up here at the top of it. You can see it, has been whited out and it has been changed to ten. It was seven before it was ten. And it may have been changed again; I don't know how many times it's been changed. But this one was mailed back and received by the Miller County Voter Registrars on January the 27th of 2010.

So that's when it was actually filed in its erroneous state. Then it was changed on the election date to C-10 because Ms. McNease, the Probate Judge, knew that she did, in fact, live in District 4.

Now, what happened on the election day was not that she voted twice. She did not vote twice. She got a voter access card based on District 1 and she put it into the voting machine; realized that the names that she wanted to vote for were not on the ballot that she got. And she couldn't get the card out of the machine, but she contacted Mr. Newsome, who's sitting

right here -- he was the poll officer -- and she told him what had happened and wanted to vote in District 4.

Mr. Newsome called Probate Judge and they discussed what to do about it. And they decided that what they would do about it was take the access card out of the machine, void it, and issue a new access card. So two votes were not cast in this election. Mr. Newsome personally voided the first access card before the second one was issued. And he's here to tell you that if you want to hear it. Notes were made. I have those. Have you sent these to the Secretary of State?

**MS. McNEASE:** I have.

**MR. STONE:** Okay. It's in the file. Note was made on election date that Billie Jean Simpson voted in District 4; a new card was created. So contemporaneous notes were made recording what had been done.

Now, I also have her new voter registration card printout that shows that it's been corrected. She's in Combo Code 10 with the computer printout now that all that's been taken care of. But important fact, two votes were not cast by the same person in this election. She may or may not realize that, but she never did hit the button on the machine that cast the ballot. She reported it to Mr. Newsome before it ever got that far.

Now, I've got some other things here I want to show you. I want to put them in the record. This is an advertisement that McNease, as Probate Judge, publishes in the Miller County Liberal, which is their legal organ down there, before the election. And it's a notice to voters. It says:

"If you are unsure of the district you are registered to vote in, please contact the office Miller County Board of Registrars to verify this information. It is the responsibility of the voter to know which district you reside in. If you think you have voted, received the wrong ballot on election day, tell the poll manager immediately. Do not cast your vote" (in all caps). "Once your vote has been cast, there is no way to correct the error. If you have any questions, please feel free to contact the registrar's Office at 758-4118 or the office of the Superintendent of Elections at 758-4110."

And then right above each voting machine is a photograph of the sign that's placed there telling them exactly the same thing:

"If you believe you have been given the wrong ballot; your ballot does not contain the

candidate names it should; the voting unit is not operating properly; or if you have any questions about how to use the voting unit; please notify a poll worker before touching the cast ballot button. Once you touch the cast ballot, your vote has been recorded and it's final."

So everything that is alleged here is totally contrary to the procedures that are in place and in plain view on big signs right there in front of each voting machine. And I've got the people here to tell you it didn't happen. This is the man right here who voided the ballot.

So we'd ask that the whole thing be dismissed.

**SECRETARY KEMP:** All right. Any questions for Mr. Stone? You want to submit those documents?

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

**SECRETARY KEMP:** We've got a motion to accept. Let the record show Mr. McIver's back.

**MR. SIMPSON:** So moved.

**SECRETARY KEMP:** We've got a motion to accept the documents. I'll 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's accepted.

**MR. STONE:** And I think that's all I've got unless y'all want to talk to Judge McNease or Mr. Newsome, or if you have any questions for me.

**SECRETARY KEMP:** Y'all have any other questions?

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Mr. Harvey?

**MR. HARVEY:** Mr. Brooks had some additional information.

**MR. BROOKS:** Mr. Secretary, on the recap sheet that was completed on the night, or the day the election was held and it was signed Mr. Newsome and the other poll workers, there's a note down that says, "Voter was given incorrect ballot style and card to correct error was reissued. Voter access card was still in the TS Unit and was cast instead of being canceled. DR total showed one more vote cast than express poll or certificates." And that's on the recap sheet.

**MR. STONE:** That was not Ms. Simpson. It was another voter that that same thing happened with.

**MR. BROOKS:** In the interview with Mr. Newsome, Mr. Newsome said that he did not recall anybody being given a second voter access card, and didn't remember anything about canceling a ballot; didn't know anything about what happened.

Interview with Ms. Simpson, Ms. Simpson said that she cast the ballot, pulled the card out of the machine, and took it to the poll workers. Nobody took the card out.

**SECRETARY KEMP:** All right. Any other questions?

**MR. STONE:** It would have to be Mr. Newsome that gave the second card to her. And he's just said -- Mr. Newsome says he doesn't know anything about anybody getting a second card. So I don't know.

But as you can see from the signs that are put in place and the publication that was made in the paper, the Probate Judge is well aware of the fact that you can't vote twice in an election. And once you cast your ballot, it's final.

**SECRETARY KEMP:** But the report is saying that there's somebody that did vote twice, right?

**MR. STONE:** I understand.

**SECRETARY KEMP:** There's one more vote on the machine -- on the machine --

**MR. STONE:** It's not Ms. Simpson. If you look at that notation that was made on the day

of the election, there are two names there that have that issue going on. Ms. Simpson is one of them, but there's another name above hers.

**SECRETARY KEMP:** Judge, come on up and you can -- you want to clarify that.

**MS. McNEASE:** My name is Brenda McNease. My address is 1010 Whitesbridge Road, Colquitt, Georgia 39837.

There was an issue on election day where someone thought they received the wrong ballot style. The ballot was -- the card was reissued and this is kind of hard to remember. We're all kind of struggling because we -- you make notes on election day and then you have to try to figure out what . . . You think it's really good at the time, but then you go back and you can't remember all the details.

But from what the note says, the voter left the actual TS Unit. The card was still in it. One of the poll workers noticed it and alerted Mr. (unintelligible), who's the only one who can cancel the ballots. And in an attempt to cancel the ballot, it cast a blank ballot and we've had that happen twice. We've called KSU about it. We have two machines that we had it happen to election before last, and what we were told to do was to document the machine. And what we also do, is we make sure that the ballot is clear before we try to cancel it so that there is no vote that is cast whenever the number advances forward.

I know it sounds confusing, but that's what happened.

**MR. STONE:** So you're telling it was -- no vote was cast on that ballot at all?

**MS. McNEASE:** There was no vote cast. What we do, if you're going to cancel a ballot, we make sure that there's no-vote on there because we've had an issue with the machine, and we've had it recalibrated to make sure that there's no calibration issue. There's just some kind of a funky thing that goes on at times when you go to cancel the ballot. Instead of canceling the ballot, it will actually pop the card out and advance the machine a vote. So that's why the total is different.

**SECRETARY KEMP:** So what happened in the report then?

**MS. McNEASE:** There was a notation. I am actually the one that made it. I don't know that I was there when it happened, but there was a voter apparently came in to vote, received the wrong ballot, he was issued another -- I'm saying he; it could have been a she. Another voter card was issued. They walked away from the ballot -- from the machine without

casting the ballot. A poll worker saw it, alerted our poll manager, and he attempted to cancel the ballot. When he went to cancel the ballot it actually cast the blank ballot.

**MR. STONE:** In other words, this ballot that was in the machine had not been voted. And so what happened is the counter on the machine reflected one ballot had been cast, but there were no votes on the ballot at all.

**MS. McNEASE:** It advanced the machine a number because --

**MR. STONE:** One vote.

**MS. McNEASE:** -- that's what happens when a vote cast ballot is hit.

**SECRETARY KEMP:** Any other questions?

**MR. STONE:** Let me try to put a little of this in context for you, too. You'll notice that the School Board election is the election that was going on with this. Mr. Freeman is the complainant, Louie Freeman -- Louis Freeman. His wife was the candidate for School Board member. She lost the election by -- her opponent got over 70 percent of the vote. She happens to be the daughter, is that right, of a lady named Frankie Phillips who is one of the County Commissioners in Miller County, who has had legal issues with Judge McNease and Mr. Freeman is the complainant here. So if that helps y'all to try to understand a little bit about what's going on. We got one vote that wouldn't have made any difference anyway because the voting was such a landslide in that particular race.

But I represented Judge McNease in some Constitutional arguments with Miller County about Board of County Commissioners led by Ms. Phillips trying to tell her as a Constitutional officer what she had to do with her office and how she had to manage her employees and how she had to adopt the County personnel policy. And we successfully reminded them that that's not the way it works.

But anyway, there's a lot of bad blood going on here with this. So that's why I think it's probably the basis of the complaint in the first place. But from what I can see here, there was nobody that got to vote twice in this election. That just didn't happen.

**SECRETARY KEMP:** All right. Any other questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** What's the pleasure?

**MR. SIMPSON:** I move we close the case with a letter of instruction concerning the procedure to be used if this happens again and the way -- and with a request of a plan from the County saying how they will deal with it and how they'll document it in the future.

**SECRETARY KEMP:** Okay.

**MR. STONE:** Can I ask one question or favor from you guys? It's somewhat confusing about whether when this happens a provisional ballot should be issued for the voter rather than voting a new access card. The statute on provisional ballots says that you issue a provisional ballot when the voter has not registered to vote; not when there's an error in the registration. So if you go look at the statute, that's what it says. It makes no provision for a provisional ballot when there is actually a registered voter, but the information on the registration card puts them in the wrong district.

**SECRETARY KEMP:** Ms. Ford, do you got any thoughts on that?

**MS. FORD:** Okay. When a vote is cast, a DRE, that vote is cast. So there would be no reason to vote a provisional ballot in that situation.

**MR. STONE:** Okay. All right. She's talking about if it's decided that the voter is registered in the wrong district.

**MS. FORD:** You're talking about a different situation.

**MS. McNEASE:** In a situation like this where there was on the card it said one thing or -- and she was in actuality in another district, would you prefer that they vote a paper ballot or would you prefer that we cancel the ballot, issue the proper ballot style?

**MR. STONE:** Access card. I'm just asking this for informational purposes so that when they give you this plan of action about how to correct it, they get it right rather than do it the wrong way.

**MR. SIMPSON:** Could you vote two separate precincts on one machine?

**MS. McNEASE:** We would have to increase --

**MR. SIMPSON:** It seem like to me you would have the machines for one precinct here and another machine for another precinct over there.

**MS. McNEASE:** We actually only have one precinct. Our polling place is in one place. We actually are split into districts, but only one precinct.

**SECRETARY KEMP:** Okay. So the machine -- your card decides what ballot you get?

**MR. STONE:** Right. And so that's --

**SECRETARY KEMP:** The point Ms. Ford's making, is if somebody -- you know, somebody checks in, gets a card, puts it in the machine and that is cast, that is their vote.

**MR. STONE:** I agree with that and that's the --

**SECRETARY KEMP:** And they shouldn't be able to vote again.

**MR. STONE:** That's the policy down there right now. The signs say that. You'll see them when you take a look at them. But I was just -- you had said with a letter of instruction with a plan to be given back to you about how you're going to address the situation in the future. And so I was just trying to get clarification on how you wanted it addressed in the future because Judge McNease wants to do it the way you want it done.

**SECRETARY KEMP:** Well, I think that's something she can certainly work with the County attorney on and, you know, her liaison as well in our office.

**MR. STONE:** All right. Thank you.

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

**MR. WEBB:** What was the motion again; I'm sorry?

**SECRETARY KEMP:** To do a letter of instruction and to have the County come up with a plan about how to keep this from happening again.

**MR. WEBB:** I'm not sure that us issuing a letter of instruction and requiring a remediation plan is the right action. It seems like it should be over to the Attorney General's Office, for them to provide the remediation plan to the Attorney General and then let them issue the letter of instruction.

**MR. WILLARD:** Mr. Webb, we don't issue the letters of instruction because the Secretary of State is empowered to --

**MR. WEBB:** I'm sorry. You're right. It's a consent order, right?

**MR. WILLARD:** Right.

**MR. WEBB:** What, you're thinking is too severe?

**MR. SIMPSON:** You're asking me?

**MR. SIMPSON:** I'm asking the Secretary? Who made the motion?

**SECRETARY KEMP:** Well, Mr. Simpson made the motion.

**MR. WEBB:** Okay. So, yes, I'll ask you.

**MR. SIMPSON:** Yeah. I think that's -- you know, I think we've certainly explained how it happened, and with -- and they know they did the best they could to avoid a problem. I just don't see binding it over when we can deal with it with them working with the Secretary's Office to work out a procedure for the future.

**MR. WEBB:** Okay. I'll accept that and I'll second it.

**SECRETARY KEMP:** All right. We've got a motion and a second. Any other discussion? Mr. McIver, are you going to vote or --

**MR. McIVER:** I'm not going to vote.

**SECRETARY KEMP:** All right. Let the record show Mr. McIver, is going to recuse

himself because he hasn't heard all the testimony.

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:** The motion carries. Thank y'all for being here.

**MS. McNEASE:** Thank you so much.

**SECRETARY KEMP:** All right. Let's see.

**MR. BROOKS:** Mr. Secretary, if you could just for a second. During roll call, Fulton County did not answer on the next case, number 2011-15. Fulton County had asked for a continuance on that case and I think Mr. Harvey has granted that continuance for them. So that may be why they didn't answer. Do you want to hear that now or just come back to it later...

**SECRETARY KEMP:** We don't have anybody from Fulton County here, right? They didn't ask for a continuance in the other case, did they?

**MR. BROOKS:** They did not, but they did for this one.

**MR. HARVEY:** They're represented by counsel.

**SECRETARY KEMP:** Fulton County?

**MR. HARVEY:** On this one they are. Fulton County is represented, yes, sir.

**SECRETARY KEMP:** So 2011, number 15, is continued, right?

**MR. BROOKS:** Just the Fulton County portion of it. The other respondent, Freda Jackson, also known as Monica Carter.

**SECRETARY KEMP:** All right. But nobody's here for that case; correct?

**MR. BROOKS:** Correct.

**SECRETARY KEMP:** All right. We're going to skip that. We're going to 2011, number 29; number 24 in your binder.

**MR. BROOKS:** Mr. Secretary, this took place in the November, 2010, General Election, advanced voting period. The allegation in this particular case was that there was some regards that there were widespread voter fraud going on with the absentee ballots; people signing for them; assisting people that weren't eligible for assistance. And based on that, the investigators went and took a look at all 305 absentee ballot applications and ballots that were associated with the general election and the run-off election.

When we looked at all of those ballots and applications, we found five of them that had what would be considered to be administrative errors on them. They range from not posting the date that they had received them and not being signed by the registrar.

There was no indications, no evidence, no suggestion, or anything that there was any other kinds of absentee ballot irregularities going on. In this particular case, the violations we found in this one had to do with the processing or the administrative function associated with that.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Any questions?

**MR. WILLARD:** Mr. Chairman, I just wanted to ask the investigative staff, this is recommended for an LOI; is it not; letter of instruction?

**MR. BROOKS:** On --

**MR. WILLARD:** As to all respondents.

**MR. BROOKS:** I think a letter of instruction would be appropriate in this case. Judge Sanders called -- I spoke with Judge Sanders, I think it was last week, and she said that she was --

**SECRETARY KEMP:** What case are y'all on?

**MR. HARVEY:** I'm sorry. We did Montgomery County.

**SECRETARY KEMP:** We were on -- let the record show we were discussing the wrong case. The one I'd called, I believe, was 2011, number 29.

**MR. BROOKS:** DeKalb County

**SECRETARY KEMP:** This is number 24 in our binder.

**MR. HARVEY:** Yes.

**MR. SIMPSON:** DeKalb County.

**MR. HARVEY:** That is the one you called.

**SECRETARY KEMP:** Well, nobody was here for the Fulton, Seminole, or Montgomery County. So we're trying to get --

**MR. BROOKS:** Okay. I apologize.

**SECRETARY KEMP:** No, that's all right.

**MR. BROOKS:** It was my error. Thought they had answered. Disregard that one. Let me do this one. I apologize.

This involved DeKalb County July 20th, 2004; August 10th, 2004; November 2nd, 2004; and November the 3rd, 2009 municipal election.

In this particular case, the allegation -- well, Mr. Mofi responded in this particular case, appeared that Secretary of State's Office on June the 1st, 2011, asking for an identification card. He was scheduled to take a test and needed an identification card to take that test. At that time, during the discussion with the investigator, he informed us that he has been

registered to vote and had voted several times in the state of Georgia and he was a permanent resident. He was not a citizen of the United States.

During the investigation, we discovered that Mr. Mofi had completed a voter registration card in 2004. And if I'm correctly remembering this, it was a voter registration drive at Georgia State University, that he had filled out a form there. He filled it out; stated that he was a permanent resident; did not answer the question about being a citizen. He was subsequently registered to vote in DeKalb County.

In August of 2009, he processed a name change through the Department of Driver Services. A non-citizen report was produced by the Department of Driver Services on December the 17th, 2010, and Mr. Mofi was listed on that particular report as being a non-citizen.

We talked to DeKalb County about why he'd remained on there. DeKalb County was relying on information they have received during (unintelligible) training that basically said that if a person was registered on/or before December the 31st of 2009, they do not have to prove citizenship. But there were at least two occasions where Mr. Mofi appeared on the list as being a non-citizen and should have been removed at that particular point in time.

And the violations we have with Mr. Mofi is knowingly registering when he didn't possess all of the qualifications. And we have DeKalb County charged with having him remaining on the list of available voters when he was not a citizen of the United States.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Anyone else wishing to speak?

**MR. REED:** Good afternoon. My name is Charles Reed, 1300 Commerce Drive, Decatur, Georgia 30030, and I'm representing DeKalb County in this matter.

According to our records, on May 14th, 2004, before Ms. Daniels was the director of DeKalb County Registration and Elections, Mr. Mofi presented a voter registration application. He did not check yes as being a citizen of the United States, but he handwrote, I am a permanent resident of the United States. He also checked that -- there is a check next to, I'm eligible to vote in Georgia; but also handwritten there is, I am a permanent resident of the U.S. in Georgia. And he signed it.

And then on May 4th, 2009, he returned and completed another voter registration application and on that application, he checked the box stating that he was a military or overseas citizen. And at that time, 21-2-216 did not require us to verify that he was a citizen. And since he was already on the voter registration, he was re-registered to vote.

And then in August, 2009, Ms. Daniels attended a training session that said -- had documentation that showed what the changes were going to be to 21-2-216, and there said what the law was going to be changed to, that any person on or after January 1st of 2010, who submits a voter registration application must accompany that application with satisfactory evidence of United States citizenship. But the portion that she relied on was the sentence underneath that where it says any person who's registered in Georgia on December 31st, 2009, would not be required to submit evidence of citizenship.

And because he was registered, or he was on the registration at that time, he submitted a application that said he was an overseas -- or he was a military overseas citizen and that he was registered to -- he was authorized to vote, we did not have any reason to dispute that he was someone who could -- that he was someone who was ineligible to vote.

In accordance with the Board's findings that he appeared in the Secretary of State's Office in June, 2011, and indicated that he had voted in previous elections, once we were notified that he was not a citizen, he was promptly removed from the registry and then at that same time, we implemented additional training. In that training -- and I have again his application, which I don't know, it may be in the file already -- his two registrations. I also have our training where we went through and in detail talked about the citizenship requirements and set forth in detail what each person is supposed to have when they come and apply to show that they are citizens.

We also implemented additional training on data entry changes, as well as data entry procedures for non-citizens. Again, a checklist, step-by-step of what a person should do when a person comes in and is shown that they are a non-citizen.

In addition, when the information came back, we double checked to see whether there was anybody else who was on the registry before 2000 -- December 31st, 2009, that also had -- was listed as a non-citizen. And there was nobody else. So Mr. Mofi was the only person that that situation ran into where there was a reliance on this statement that if he was registered on December 31st, 2009, he would not have to submit evidence of citizenship.

And we just ask that at this time that the Board would either dismiss the charge or, at best, send -- submit a letter of registration because we do not believe that this is an incident that will happen again. And we have already implemented training to make sure that this does

not happen. And as evidenced in another case that was before the Board, you see that we do go through and make sure if there's any discrepancies, we send out letters saying this does not look like it's right. This looks like this may be evidence of people who are non-citizens.

So that's our position and if -- I'm available for any questions. Also, I have Ms. Daniels here if you have questions for her, as well as Ms. Hart who implemented the training changes, if you have any questions for her.

**SECRETARY KEMP:** Thank you, Mr. Reed. Any questions for Mr. Reed?

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Anyone else wishing to speak?

**MR. REED:** I'd like to also give a copy of the training materials that we submitted if the Board is interested.

**SECRETARY KEMP:** We have a motion to accept the documents?

**MR. WEBB:** I move.

**MR. SIMPSON:** Second.

**SECRETARY KEMP:** We've got a motion and second, all in favor say, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries.

**MR. McIVER:** I would move to close with a letter of instruction.

**SECRETARY KEMP:** All right. We've got a motion to close with a letter of instruction. We have a second?

**MR. SIMPSON:** Can I ask a question?

**SECRETARY KEMP:** Yes, sir.

**MR. SIMPSON**: Is that as to Mofi and the DeKalb County Board?

**MR. McIVER**: Yes.

**SECRETARY KEMP**: But Mofi did vote in four elections and he is a non-citizen?

**MR. SIMPSON**: Is that a statute of limitations issue?

**SECRETARY KEMP**: When's the last election he voted in?

**MR. HARVEY**: 2009.

**MR. WILLARD**: Did he voted in 2009, or just submit the name change during that election cycle?

**MR. BROOKS**: It was a municipal election November the 3rd of 2009.

**MR. McIVER**: He actually voted?

**MR. BROOKS**: That's what our records indicate.

What was the time prior to that; I'm sorry.

**MR. BROOKS**: November of 2004, general election.

**MR. WEBB**: So he did not vote between 2004 and 2009?

**MR. SIMPSON**: How did he vote four times?

**MR. BROOKS**: July 20th, August 10th, November the 2nd in 2004, and then November the 3rd, 2009.

**MR. McIVER**: I'll amend my motion to include DeKalb on that.

**SECRETARY KEMP**: All right. So we've got a motion to dismiss with a letter of instruction to DeKalb County and 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. All right. Mr. Mofi.

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

**MR. WEBB:** Second.

**SECRETARY KEMP:** We've got a motion to bind over Mr. Mofi 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 is carried and we have bound --

**MR. WILLARD:** Mr. Chairman, you also had a Maxine Daniels listed as an individual respondent. Her employment came after the activity in this case.

**SECRETARY KEMP:** Got a motion, Mr. McIver, on Ms. Daniels?

**MR. MCIVER:** Yes. To close with a letter of instruction.

**SECRETARY KEMP:** All right. We've got a motion. Do we have 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 to close with a letter of instruction 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. Thank you, Mr. Willard.

All right. City of Blakely, 2011, number 103.

**MR. BROOKS:** Yes, sir. On the executive summary, the City of Blakely has Troupe County on it. It's actually Early County, Georgia. That's our error on that one.

The complaint came in through an anonymous source and the complaint was is that they were individuals picking up blank absentee ballots from voters and those voters were simply signing the envelope and the person picking those up was voting the ballot for them and then submitting those ballots.

Over the course of several weeks, our investigators conducted interviews with 62 electors in the City of Blakely. It was a total of 341 absentee ballots that were cast. So it represented about 18 percent of the people that had cast absentee ballots that the investigators talked to. It's a questionnaire that was -- every elector was asked the same question based on this questionnaire; asked questions about how they filled it out; if somebody encouraged them to fill it out, vote for people. It was a series of questions that they asked.

During the interviews, there were -- we were able to identify seven of the respondents who had unlawful possession of the absentee ballots or provided unlawful assistance to electors who were not qualified to receive assistance. In some cases, the electors were unwilling or unable to identify who was helping them. Janet Thornton, Wilma Lee, Takhia Griffin, and Heather Upson stated that they were provided assistance by either Frank Thornton, Alice Hutchins, Patricia Tolbert, and they didn't need or request their assistance.

Investigator received four of the absentee ballots envelopes for Janet Thornton, Wilma Lee, Ms. Griffin, and Ms. Hudson [sic], and none of the four people that provided the assistance signed the ballots as saying that they assisted them in voting.

With each one of those, Patricia Tolbert, Frank Thornton, and Alice Hutchins, they're charged with the same unlawful possession, providing unlawful assistance, and interfering with the electors, in that they were telling them who to vote for. Eddy Stapleton, unlawful possession on two counts. He's in possession of absentee ballots of Marjorie Cocklow and Gerald Lee. George Forster had -- was in possession of Aeisha Smith's ballot. Hutchins, the next one on the list, was in possession of Lester George's ballot and Anthony Lingo was in possession of Mary Lee's ballot.

**SECRETARY KEMP:** What's the recommendation, Mr. Harvey?

**MR. HARVEY:** Bind over all to the AG's office.

**SECRETARY KEMP:** Any questions?

**MR. STONE:** I'm here to speak on behalf of all of the respondents except for --

**SECRETARY KEMP:** Give us your name?

**MR. STONE:** -- George Foster.

My name is William Stone. Address is P.O. Box 70 Blakely, Georgia 39823. As I said, I'm here to speak on behalf of all the respondents except George Foster. I'd like to take them one at a time if I may.

Let's talk about Patricia Tolbert first. She's accused of having unlawful possession of ballots of the following electors: Takhia Griffin, Heather Ann Upson, Annie Rae Gray, Denise Sparrow, and Catherine, I guess it's, Mosey or Moise, or something; M-O-I-S-E. Anyway, Ms. Tolbert is here to answer whatever questions you have. If you want to ask her any questions, but here's what she would tell you. First of all, she doesn't know who Takhia

Griffin is. She had no ballot for Takhia Griffin; had nothing to do with it.

Second, she did not have a ballot for Heather Ann Upson.

Third, Annie Ruth Gray, she did receive a sealed voted absentee ballot from Annie Ruth Gray and put it in the mail at Ms. Gray's request. She didn't sign anything saying she'd given her any assistance or anything because she didn't assist her in voting the ballot, or voted for her, or anything like that. She did actually have possession of it and put it in the post office at her request.

Denise Sparrow, she did not have possession of Denise Sparrow's ballot at all.

And Catherine Moise, she likewise mailed that sealed voted ballot at the voter's request.

So out of those accusation, she does admit that she had possession of absentee ballots for Ms. Gray and for Ms. Moise, but she denies that she gave them any assistance in voting those ballots or that she even knows how they voted them. She just took them and put them in the mail because she was asked to do so by these folks.

And I think that probably responds to everything with regard to the other accusations, too. It's true that Ms. Tolbert has not signed any ballot indicating that she provided any assistance to any voter because she denies that she did provide any assistance to any voter. And it's also true -- well, that takes care of the second one too.

Let's move to Eddy Stapleton. He's accused of having unlawful possession of an absentee ballot for Marjorie Cocklow and Gerald Lee. And Mr. Stapleton admits that he did receive a sealed ballot envelope from each of these people and did put it in the mail at their request. He's not accused of providing any assistance or failing to sign for providing assistance. That's not part of the summary here.

Althraus Hutchins, he's accused of having unlawful possession of the ballot of Lester George. Mr. Hutchins is here. All these folks are here. They're here to answer your questions if you've got any for them. Mr. George is -- he can't read, and so Mr. Hutchins did read the ballot to him and Mr. George did mark the ballot himself. But he did not actually have possession of the ballot or anything like that. Mr. George did that himself.

Frank Thornton, he's accused of having unlawful possession of ballots of electors Crystal Lee, Nicole Ransom, and Janet Thornton. Crystal Lee -- you have to understand all these people are African-American. Most of them are fairly old and most of them don't have a

real good ability to read and write. They don't understand things. Ms. Lee was brought an application for an absentee ballot by Mr. Thornton. Not an absentee ballot -- he never had possession of any absentee ballot from her. He had an application for a ballot that he took to her. Some of these folks get confused about whether the investigator's talking about a ballot or an application for a ballot. They just refer to the whole thing as an absentee ballot. So it's just all lumped in together.

Now, Nicole Ransom, he also took her an application for a ballot. He didn't take her a ballot and he didn't take a ballot from her.

Now, Janet Thornton is Mr. Thornton's disabled sister. He did take her ballot and mail it for her at her request because she doesn't get out of the house, but he did not vote it for her or provide her with any assistance in voting.

It is true he didn't sign anything saying that he provided assistance to any of these people because he didn't provide assistance to them. Wouldn't be any point signing something saying he did, if he didn't do it.

Anthony Lingo. He's here. He'll tell you that he has never had the possession of a ballot of voter Mary Lee. That's all he's accused of, but he didn't have anything to do with that.

Alice Hutchins, she's here also. She's -- she will tell you that she did not have unlawful possession of the ballot of voter Vivian Mitchell. She didn't have possession of it at all. She did not provide any assistance to a voter named Wilma Lee, so she had no reason to sign a ballot saying that she did because she didn't.

Now, I don't know whether you want to ask these folks to stand up here and tell you that themselves, but every single one of them's here to look you in the eye and tell you that.

Now, I got something else I want to talk about, that we heard a little bit about this earlier today with this King David Center. I've got affidavits of 17 people who were interviewed by the Secretary of State's investigators. They interviewed 62 people and this is affidavits from about a third of the total number that were interviewed. These are elderly, uneducated, black people. And they tell you in these affidavits what kind of interviews were conducted. These people came to their homes with badges, and guns, and scared the living devil out of them. Some of these people tell you in these affidavits that they don't ever intend to vote again because of the experience they've been through by being investigated.

That is not the way these kinds of investigations ought to be handled. I want to tender these into the record for your consideration because it's something you need to know about if

that's the way the investigators of this office are conducting these investigations. It's more voter suppression, than it is rooting out voter fraud. I think voter suppression is probably worst than voter fraud.

**SECRETARY KEMP:** Well, I beg to differ on that. Be glad to take those.

**MR. STONE:** Okay. I don't want to beat that horse to death. I just wanted to make you aware of it.

**SECRETARY KEMP:** Well, there's -- you know, we don't need to get into that. You have accusations you want to make, you can certainly do that with our office and we'll look into them.

**MR. STONE:** All right. I'll just tender the accusations that these folks made.

**SECRETARY KEMP:** We've got a motion to receive the documents.

**MR. McIVER:** So moved.

**MR. SIMPSON:** Second.

**SECRETARY KEMP:** 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:** We'll accept the documents. Anything else?

**MR. STONE:** Thank you.

**SECRETARY KEMP:** Any questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. Harvey, would you like to elaborate on the investigation and the comments that you got when you did the investigation?

**MR. HARVEY:** Again, I'll just -- this is the questionnaire that was used in Early County and it says:

“This investigation is being conducted by the Georgia Secretary of State's Office. The intended purpose of this investigation is focused solely on the voting process and is not intended to solicit information from any voter as to whom they voted for. During this interview, please do not disclose or tell the investigator who you voted for. The investigators does not want to know or need this information for any reason.”

And then a simple list of 15 questions about, did you request an absentee ballot? Did you vote by absentee ballot? Did you receive the absentee ballot? Did you give it to somebody? They're very innocuous questions.

Again, I can appreciate somebody being sort of automatically concerned about somebody with a badge and a gun showing up at their house. That's what we are. That's what we do. I have not seen any of those allegations. I don't know specifically what was said or what's being alleged so I can't respond specifically except that we certainly don't conduct ourselves along that manner.

**SECRETARY KEMP:** How many people do we have down there doing an investigation? Do you send one, or two, or three?

**MR. HARVEY:** Well, there was one primarily and then on I think a couple of occasions, we sent three or four investigators down there. We had male investigators, female investigators, black investigators, white investigators. And they did go to people's homes. That's where you find voters to interview them.

We also attempted to interview the respondents and none of them chose to answer any questions from any investigator, which is certainly their right, but in trying to do a thorough investigation, we tried to talk to as many people as we could.

**SECRETARY KEMP:** All right. Anything else? Anyone else wishes to speak?

(Whereupon, there was no response)

**SECRETARY KEMP:** What's the pleasure of the Board?

**MR. McIVER**: This is a classic case for binding over.

**SECRETARY KEMP**: I would agree.

**MR. McIVER**: He said; she said. Have an ALJ take a look at it; take testimony. Mr. Willard would represent us well, I'm sure. So I move we bind it over.

**SECRETARY KEMP**: We've got a motion to bind over. Do we have 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, signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We have bound that case over to the AG's Office.

All right. I'll tell you what, we're going to take a ten minute break. We'll come back at 3:35, 3:36, or so.

- - -

(Whereupon, the proceedings were in recess)

- - -

(Whereupon, the proceedings resumed)

- - -

**SECRETARY KEMP**: All right. We're going to reconvene. Mr. Harvey and Mr. Brooks, I think we are back now to the front page, 2010, number 39, the Bacon County case.

**MR. HARVEY**: You are right, sir.

**SECRETARY KEMP**: That's number 11 in our binder.

**MR. HARVEY**: That case involved the respondent, Mr. Carter, who has subsequently passed away. It involved improprieties -- alleged improprieties with candidate qualification. He is deceased, so I recommend the case be closed.

**SECRETARY KEMP**: Any questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. SIMPSON**: So moved.

**SECRETARY KEMP**: Second. We've got a motion in a second. Do you have 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.

Next we will call 2010, number 130, the Webster County case.

**MR. HARVEY**: This case involves the November 2, 2010, general election. I have a letter that was sent to the State Election Board by the elections superintendent, Ms. Neely, that she asked me to present to the Board.

This case involved a long complaint about numerous alleged irregularities with voting in Webster County. The elections office responded to each of them individually and found out that most of them were unfounded. They did find a few problems, however. At one point, they found that they have 14 voters who were in incorrect voting districts. They responded immediately and corrected that problem. However, that was actually found to be a true violation.

Most of the violations, most of the allegations that were made were unsubstantiated. There were concerns with names showing up on lists as having voted and when they went back and looked at each name, they found a reasonable answer and a solution. So all those allegations that people were not showing up on lists were resolved.

They did find some additional violations, though, for voting. The first was Daniel Kennedy, Junior. We've got him cited for voting out of precinct. I'm actually -- upon further review, I believe this may be a case where he has not violated. He was formerly a resident of Webster County. He was going through a divorce and was living with friends and relatives in and around Webster County. I don't believe you given up his Webster County residence. He did vote in the election. But I think he would have retained the right to go back of the one more time under 21-2-218. So I am recommending that the case against Daniel Kennedy be dismissed. I believe he still had the ability to vote in Webster County.

Next is Lilly Brown. Ms. Brown had lived in Terrell County for 20 years, although she had grown up in Webster County. She came back voted in Terrell County, and I believe she should be bound over for the citations given for voting out of the county where she lives and false entries on her voter certificate.

**SECRETARY KEMP**: Lived in Terrell but voted in Webster?

**MR. HARVEY**: Yes, sir. She had grown up in Webster and thought she could still vote there, so she did.

Next is Dave Almond. Mr. Almond is in a similar situation. He moved across the street in Webster County. He never left the county. So I recommend that the allegation that he voted outside of his county be dismissed. He moved across the street which put them in a different district. However, it did not take him out of Webster County. So I'm going to recommend that Dave Almond be dismissed.

Reuben Sims Jones was living in Americus, I believe. He used an Americus address on his voter certificate. He did not live in Webster County and I recommend that he be bound over to the AG's office.

Webster County Board of elections is cited for not having voters in their proper districts, as mentioned before, the 14 people that they had to fix, they did fix it.

The other two individuals, Cynthia Hickson and Jericho Stewart were poll workers who accepted the voter certificates of Reuben Sims Jones and Willie Mae Brown. They didn't catch the fact that they provided an out of County address, therefore they are cited with 21-2-431. I believe it might be appropriate to give them a letter of instruction, but otherwise I recommend that the other people be bound over to the AG's office.

**SECRETARY KEMP**: Now, what about the Board of Elections?

**MR. HARVEY**: I think the Board of Elections -- I think they could reasonably be given a letter of instruction.

**SECRETARY KEMP**: They were cooperative?

**MR. HARVEY**: Cooperative; they fixed the problem; they responded to every one of the allegations that were presented by the complainants. So I would recommend -- I think it would be appropriate to give a letter of instruction. The problem is done; it's fixed.

**SECRETARY KEMP**: We need a motion to accept the documents from Webster County.

**MR. McIVER**: Moved.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: 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**: We've accepted the documents.

Is there anyone here wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I will take a motion if you all are ready.

**MR. SIMPSON**: I move that the cases against Willie Brown and Reuben Sims Jones be bound over; the cases against David Almond and Daniel Kennedy be closed; and the cases against Webster County Board of Elections, Cynthia Hickson, and Jericho Stewart be closed with a letter of instruction.

**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**: That motion carries.

All right. Next up is 2011, number 15, Fulton County. Was this the one we were continuing or not?

**MR. BROOKS**: Just Fulton County.

**SECRETARY KEMP**: All right. This is number 21 in your book. We're going to do it, but we're not going to do the Fulton County part. We're going to do the individual respondents; is that correct?

**MR. BROOKS**: Yes, sir. We received information from an investigator with the Department of Driver Services that an individual named Freda Jackson, also known as Monica Denise Carter, had registered to vote through Driver Services and that she was a convicted felon and not eligible to register. During the investigation, it was determined that Freda Jackson was convicted in July of 2008, County. She was sentenced to two years confinement and she was also placed on probation or parole until February of 2010. I'm sorry; 2012.

In June of 2010, she applied for a drivers license, indicated that she wanted to vote. She

marked the form and signed the oath indicating that she met all the requirements for eligibility, while at that time she was still on probation from Cobb County. That information was forwarded to Fulton County and Fulton County registered her in the voter registration system. Previous to that, from 1999 to 2003, she was registered to vote, but she was removed from the registration because of the conviction she had.

In January of 2011, she went back to driver services, completed another application to update her address. Again, she indicated she wanted to register to vote and she signed the oath indicating that she was eligible and that information was sent to DeKalb County who transferred her registration from Fulton County. Her name appeared on a list of convicted, or felons list, from October 21, 2010, and she was removed from DeKalb County's list in February of 2011, when her registration was sent to them.

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

**MR. WILLARD**: Mr. Chairman, just a question on the investigative report, page 3, under Conclusion. The conclusion says the evidence indicates that Brenda [sic] Jackson is a convicted felon under sentence until February 11, 2010.

Is that an accurate statement, or is that a typo in the investigative report?

**MR. McIVER**: Should be 2012.

**MR. BROOKS**: That's on the previous page. On the summary of the investigation, it lists 2012, and I believe that information is correct. It's a typo on the other page. I apologize for that.

**SECRETARY KEMP**: Any other questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I will take a motion.

**MR. SIMPSON**: I would move that the case be bound over, but we've got two names. We've got Freda and then over in the investigative summary, we've got Brenda. So I would bind it over with the correct name. I move to bind it over with the correct name.

**MR. WEBB**: Second.

**SECRETARY KEMP**: We got a motion and a second to bind over Ms. Jackson to the AG'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**: That motion carries.

All right. Let me call 2011, number 21; that's number 22 the binder. Let the record show I'm going to step out for a minute. Mr. McIver, will you take over the ship?

**MR. McIVER**: I'll be pleased to. Please let the record show that the Chair is leaving the room. Mr. Harvey?

**MR. BROOKS**: Yes, sir. This is involving Seminole County, the March 15, 2011, special election.

The allegation in this case is that an elector who came in was not allowed to receive assistance and they believed that they required assistance. During the investigation, it was determined that Mitchell Blanks had transported Annie Doris Hanford to the polling place to cast her ballot. When she is completing her voter certificate, she was having trouble filling the voter certificate out. Poll workers had to help her spell the names of the County and the name of the city she was in.

Mr. Blanks had informed officials that Ms. Hanford needed assistance in casting her ballot because she didn't read very well. The election official determined that Ms. Hanford did not require assistance and refused to allow Mr. Blanks to assist her.

We recommend that this case be build over based on not allowing assistance for the voter.

**MR. McIVER**: Any questions for the investigative staff?

**MR. WEBB**: Mr. Brooks, did Mr. Blanks -- Mr. Black, if he were to be bound over --

did he have any comment? Was he interviewed?

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

**MR. WEBB**: And what are his comments? His reason for not allowing assistance?

**MR. BROOKS**: He said that Mr. Blanks transports voters to the polls on election days and that Mr. Blanks wants to assist the voters and he thought he was doing his diligence by determining that they didn't need the assistance.

**MR. WEBB**: Thank you.

**MR. McIVER**: Any other questions from the Board?

(Whereupon, there was no response)

**MR. McIVER**: Anyone wishing to speak on behalf of any of the parties in this matter, 2011-0021, Seminole County?

(Whereupon, there was no response)

**MR. McIVER**: All right. As the Vice-Chair, I will entertain a motion.

**MR. WILLARD**: Mr. Chairman, before you do that, I just have one question for the investigative staff. Was there not an indication in the file that Mr. Black apparently thought the law was that you could only assist voters if they were disabled?

**MR. BROOKS**: I'm sorry?

**MR. WILLARD**: Wasn't there evidence in the file based on the witness interviews, Mr. Black had stated on the day of the election that you could only assist if they voter was disabled, not if they were illiterate?

**MR. BROOKS**: Yes, it's true.

**MR. McIVER**: From that, do you have advice for us, Mr. Willard?

**MR. WILLARD**: I'm not sure -- and I will leave it up to the discretion of the Board as to whether they want to bind over -- but I think if the Board's inclination was to dismiss, I think at a minimum, you would need a letter of instruction to clarify what the law is in this election.

**MR. McIVER**: Let the record reflect that the Chair has returned to the room. Do you want me to continue on?

**SECRETARY KEMP**: Yes, sir.

**MR. McIVER**: Any questions from the Board?

**MR. WEBB**: Yes. I don't think this is something the Board should take action on. I think we should bind it over to the Attorney General's office. I think that would be the best way to handle this. Do I need to make that into a motion?

**MR. McIVER**: Is that a motion, Mr. Webb?

**MR. WEBB**: It is.

**MR. SIMPSON**: Second.

**MR. McIVER**: All right. I have a motion with a second that it be bound over to the Law Department. Any discussion?

(Whereupon, there was no response)

**MR. McIVER**: With no discussion, I will ask for a vote, please. All those in favor, please indicate by saying, "Aye."

(Whereupon, the vote was unanimous)

**MR. McIVER**: Opposed?

(Whereupon, there was no response)

**MR. McIVER**: Motion carries. That matter is bound over.

The Vice-Chair will turn the meeting back over to the Chair.

**SECRETARY KEMP**: Was that Seminole County?

**MR. McIVER**: Yes, it was.

**SECRETARY KEMP**: All right. 2011, number 25, Montgomery County.

**MR. BROOKS**: Yes, sir. This is Montgomery County. The allegation here is that there

were numerous irregularities with the absentee ballot process. There was allegations of widespread fraud; people offering assistance; being in possession of the ballots; voting ballots for people.

Our investigators went out and looked at all 305 of the absentee ballots that had been submitted during that particular election, the applications and the ballots. Out of those 305, there were five that we considered it to be administrative errors that range from not posting the date that they receive the ballot application to not being signed by the registrar. There was absolutely no indication or suggestion that there was a new widespread fraud or any fraud, for that matter. They were simply errors during the administrative process.

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

**MR. McIVER**: Is there a recommendation, Mr. Brooks?

**MR. HARVEY**: I think a letter of instruction will be appropriate in this case.

**MR. WEBB**: Mr. Harvey, the reason is it because you didn't believe it to be wise for?

**MR. HARVEY**: Well, it wasn't widespread. We've looked at it and saw there were five administrative things out of 305 ballots. So I think that would be an appropriate resolution.

**MR. WEBB**: Thank you.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: I'm ready for a motion.

**MR. McIVER**: I move to close this matter with a letter of instruction.

**MR. WEBB**: Second.

**SECRETARY KEMP**: We've got a motion and a second to close with a letter of instruction. 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. 2011, number 31, Talbot County.

**MR. BROOKS**: Yes, sir. This case involved Talbot County. It was the June 21, 2011, special election for the office of Sheriff in that county.

The allegation was that Mr. Willis stated he had witnessed a woman delivering absentee ballots to a voter's home and later left that home with a ballot. Mr. Willis also alleged that unknown people in the Talbot County Sheriff's office were creating counterfeit absentee ballots and using those absentee ballots for votes.

During the investigation, we determined that there was no evidence to support the allegation of fraudulent or counterfeit absentee ballots during that election. There were only two absentee ballots rejected by the optical scanner during the results tabulation. Those two ballots were rejected due to double votes. The recap sheets for the election indicate the number of list of voters reconciled with the number of votes actually cast. So there was no indication there were any counterfeit or fraudulent ballots that had been submitted.

There also was no evidence that would support an allegation that Shirley McKenzie delivered an absentee ballot and left with the same from the residence of Evelyn McCrory. Documentation reflects an absentee ballot for Avalon McCrory was mailed to her. She did not receive it and completed an affidavit stating that she had not received that. Another absentee ballot was mailed to her. It was later mailed back to the Talbot County Board of Elections. She denied receiving any assistance. There was no indication that anybody was in possession of that ballot. She completed the process as she was supposed to.

During the investigation, it was also determined that the registrar's office received two double voted absentee ballots during that particular election. She didn't -- Cheyenne Pinkston did not reject the ballots. Instead, she created duplicate ballots for the two double voted ballots. But when she recreated those ballots, she omitted the votes that were cast for the write-in candidate on both of those ballots, so it wasn't a true duplicate of the ballot that she had received. So we would recommend that she be bound over on

those charges.

**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**: Did she give us any reason why she didn't duplicate the ballots correctly? Do we know?

**MR. HARVEY**: It says that Ms. Pinkston said that she reviewed the absentee ballots. The party chairman decided to create duplicate ballots. Ms. Pinkston said that the first ballot did not have a name in the write-in candidate, so they did not consider that a double vote. The second ballot, Lizelle Brown, was selected and was not a qualified candidate so they did not consider that a double flow. Ms. Pinkston says she felt that she complied with the law and provided a written statement.

**SECRETARY KEMP**: Okay. All right. Anyone else wishing to speak on this?

(Whereupon, there was no response)

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

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

**MR. WEBB**: Second.

**SECRETARY KEMP**: We have a motion and a second 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.

(Whereupon, there was no response)

**SECRETARY KEMP**: I believe that brings us to our last case of the new cases, Mr. Brooks and Harvey, 2011, number 34, Bacon County.

**MR. BROOKS**: Yes, sir. This involves Bacon County. There was no election involved in this. We received an email complaint from Mr. Conner stating that the Board of Elections in Bacon County had not been making their monthly meetings. Statute requires that they meet monthly, and they had not been doing that.

During the investigation, it was determined that they did not hold meetings in April of 2011; May of 2011; June of 2011. They said this was due to a lack of participation by the board members. Board members would not meet and there was not a quorum; they couldn't hold the meetings. What we later found out was that the Order of Commissioners in Bacon County have requested a change in the makeup of the board through legislative action. Board members thought that they have been removed from their position, so they didn't meet as required and they provided a written statement regarding corrective action plan that they have taken.

I will let Mr. Harvey make a recommendation as to how to dispose of this particular case.

**MR. HARVEY**: I think it can be closed with a letter of instruction based on the fact that they have overcome the problem and have fixed it and appear to be back on track.

**SECRETARY KEMP**: Any questions?

**MR. WEBB**: Mr. Harvey or Mr. Brooks, have we had any issues with Bacon County in the past?

**MR. HARVEY**: No major issues, don't believe.

**SECRETARY KEMP**: Anyone else wishing to speak on this case, Bacon County?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none --

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

**MR. WEBB**: Second.

**SECRETARY KEMP**: We've got a motion and a second to close with the letter of instruction. 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**: I believe that has got all of our new cases taken care of.

We will now move to the Attorney General report. We have three items on our consent calendar. Is there any member of the State Election Board that would like to pull any or all of these out to discuss?

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone in the audience who are festival those cases out from the Attorney General reports with Telfair, Hancock, and City of Waverly Hall?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. With that, I will take a motion from the Board.

**MR. WEBB**: I make a motion we approve the consent orders.

**SECRETARY KEMP**: We have a motion to approve the consent orders from the AG's office on State Election Board case number 2008, number 54, Telfair County; 2011, number 17, Hancock County; 2011, number 38, city of Waverly Hall. 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**: That motion carries, and I believe we have fulfilled our duties today.

I like to mention one thing; this is under new business. Tommy Culligan, who has been our good and faithful servant with the State Election Board, is going to be leaving us for bigger and better things. He has gotten a new job opportunity which we certainly support with a fine organization, the National Federation of Independent Business. Tommy is going to take his talents elsewhere, but I know from my perspective, Tommy has been with the Secretary of State's office since before I got here and served Secretary Handel and he has served myself and our agency in the front office and, most recently, in the Elections Division. He has certainly helped us with the State Election Board.

Tommy, we appreciate your hard work and all you've done for the Agency and the state of Georgia and we wish you nothing but the best. If I can ever be of service in the future, I hope you will call on us, and I know that the Board has those same sentiments as well as the rest of our personnel and office. We appreciate you and the best of luck.

**MR. CULLIGAN**: Thank you, sir. I appreciate that.

**SECRETARY KEMP**: Anybody else got anything?

**MR. WEBB**: You have a replacement?

**SECRETARY KEMP**: Ms. Ford has that on her list of things to do.

**MS. FORD**: Nobody can replace Tommy.

**SECRETARY KEMP**: Yeah, that's what I was supposed to say: Nobody can replace Tommy.

All right. Well, listen, thank you all for being here today. We appreciate all the good work and will continue on our next meeting. I'll take a motion to adjourn.

**MR. McIVER**: So moved.

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

**MR. WEBB**: 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**: We are adjourned.

- - -

(Whereupon, the proceedings were concluded)

- - -

CERTIFICATE

STATE OF GEORGIA    )

COUNTY OF DEKALB    )

I, Deborah L. Merideth, hereby certify that the foregoing record was taken down in the stated caption; that the colloquies, questions and answers were reduced to print by me or under my direction; and that the foregoing pages represent a true, correct and complete record of the evidence given.

The above certification is expressly withdrawn and denied upon the disassembly and/or photocopying of the foregoing transcript or any part thereof, including exhibits, unless said disassembly and/or photocopying is performed by or under the auspices of the undersigned and the signature and original seal are attached thereto.

I further certify that in accordance with O.C.G.A. 9-11-28(a), I am not a relative, employee, attorney or counsel of any party, nor am I financially interested in the instant action.

This the 4th day of September, 2012.

---

Deborah L. Merideth  
Certified Court Reporter 2708  
State of Georgia

SEAL

THE OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA

IN THE MATTER OF:  
STATE ELECTION BOARD  
MEETING

THE OFFICE OF THE SECRETARY OF STATE  
SAVANNAH MARRIOTT RIVERFRONT  
100 GENERAL McINTOSH DRIVE  
SAVANNAH, GEORGIA 31401

WEDNESDAY, MAY 9, 2012  
9:00 A.M.

PRESIDING OFFICER: BRIAN P. KEMP  
SECRETARY OF STATE  
STATE OF GEORGIA

---

*DEBORAH L. MERIDETH, CCR  
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APPEARANCES:

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

Tex McIVER, Member, 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

Russ Willard, Esquire

- - -

TRANSCRIPT LEGEND

- |            |    |   |
|------------|----|---|
| [sic]      | -- | Exactly as spoken.  |
| (phonetic) | -- | Exact spelling unknown.   |
| --         | -- | (Dash) Interruption in speech.  |
| . . .      | -- | (Ellipsis) Indicates halting speech, unfinished sentence, or omission of word(s). |
| Uh-huh     | -- | Affirmative response.   |
| Uh-uh      | -- | Negative response.  |

Quoted material is typed as spoken.

9:00AM

## PROCEEDINGS

**SECRETARY KEMP**: Good morning again, ladies and gentlemen. We are fixing to get started. If anybody did fill out the public comment card, if you bring those up to Tommy; he is over here in our left. We would appreciate that.

Again, thank you all for being here this morning. I want to go ahead and call the State Election Board meeting for Wednesday, May 9, to order. We always start our State Election Board meetings with an invocation and Pledge of Allegiance. Mr. McIVER is going to lead us in prayer this morning.

- - -

(Invocation)

- - -

(Pledge of Allegiance)

- - -

**SECRETARY KEMP**: Thank you, very much. For those of you that are our guests today at the State Election Board meeting, you'll be on our agenda. If you wish to address us in public comments, we've got some seats for you here in the middle of the room. This is the second year that we have held a State Election Board meeting here in Savannah as part of our Georgia elections officials training, and last year it was one of the top things that was noticed in the evaluations. We are certainly pleased to have the board back down here. It helps us, I think, to move this meeting around the state and give all of our citizens an opportunity to see just how serious all the members of this board take Georgia election law and the duties that we have to make sure that we have secure and accessible, fair elections. So we are appreciative of the strong attendance by the election officials this morning at this meeting and we certainly appreciate your being here.

Right now we will move into our public comments. If there is anyone here today that wishes to address the board on public comment, you can come forward to the microphone at this time. A reminder, for everyone that does address the board, either in public comment or during our regular agenda of the meeting, we ask that when you get to the microphone, please speak clearly; state your name and address so we can make sure we have that for the public record.

Tommy, do you have any cards for public comment?

**MR. CULLIGAN**: I do not.

**SECRETARY KEMP**: Is there anyone else hear the audience that wishes to address us during public comment period?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Seeing none, we will move on to the approval of minutes. Any member of the board have any corrections or a motion for the minutes to be approved?

**MR. WORLEY**: Mr. Secretary, I move that we approve the minutes.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Okay. Mr. Worley moved the approval of the minutes; Mr. Simpson seconds. Let the record reflect that Mr. Webb has not joined us yet. I think he is going to be attending today, but he is not yet here. The rest of the board is here. With a motion and second, all in favor of approving the minutes, 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.

One change of business with the board that I had discussed briefly at the last meeting that we are going to do to try to help the folks that are coming from a long way to address the board who are either respondents or be represented by an attorney; to try and not have those folks sit through long meetings when other people don't show up for their cases, we are going to try to call cases where people are present before the board out of courtesy to them.

So I'm going to go through the agenda real quick. If you are here representing someone or if you are here representing yourself, or if you would like to speak on one of the cases that we have, if you would just raise your hand and make sure I see it, we are going to mark those cases and we will take those first. So let me go through the agenda real quick.

- - -

(Whereupon, Secretary Kemp reviewed cases and acknowledged respondents)

- - -

**SECRETARY KEMP**: All right. We're going to move on to our investigative report. For those of you in the audience, this is a probable cause hearing. Anything you say in this hearing will be part of our public record. The way we will do this is the chief investigator for the Secretary of State's office will present the case and members of the board will have the opportunity to ask questions. After that is completed, we will let anyone who is here and wishes to speak on that case, either the respondent themselves, complainants, citizens or their attorneys, are welcome to address the board for three minutes to give their side of the story. Then the board will have an opportunity to address questions to those, as well.

With that, we will move into our first case where we have people in attendance, SEB case 2010, 105, Fulton/DeKalb; Wilson case. Mr. Harvey.

**MR. HARVEY**: Mr. Chairman, members of the board, this case involves a candidate for Georgia's Supreme Court, Matt Wilson, who ran in November of 2010. It was reported to our office that he was a resident of DeKalb County, but that he registered and voted in Fulton County in the years preceding his candidacy for the Georgia Supreme Court.

The facts are that Mr. Wilson has been a longtime resident and a permanent resident of DeKalb County going back to the mid '90s -- I'm sorry, the late '80s when he registered to vote in 1988. He voted in DeKalb County straight through until 2004. In 2004, he went to the Department of Driver Services and changed his drivers license. On his drivers license change he put his work address, which is in Fulton County on the residence address and on the mailing address. He said that his intention was only to change his mailing address so that he could use that for court purposes and that would be his mailing address. He said he never intended to change his voter registration to Fulton County. However, he went and voted six times in Fulton County after that.

His statement to investigators was that the first time he went to vote in DeKalb County after changing his drivers license, he went to the normal precinct in DeKalb County and was told that he was, in fact, registered in Fulton County and needed to go to Fulton County to vote. He insisted that he had never changed his residence; he had always been a resident of DeKalb County. However, he went to Fulton County. He says he completed the change of address form and voted in Fulton County. He assumed that the change of dress had taken place and on subsequent elections, he says the same thing happened. He kept going back to DeKalb County; he kept getting sent to Fulton County; he kept putting in change of address forms with Fulton County and the change of address for the voter registration never took place. Now, our records do not indicate any

evidence of change of address forms. Those records were not kept and no changes were ever made.

In 2010, June of 2010, when he filed his candidacy affidavit for Supreme Court, he realized that his voter registration still had not been changed. He went directly to the Fulton County Board of Elections and Registration, watched them change his registration back to DeKalb County. So at that point, he was satisfied that his registration had been properly corrected. Then he went -- because he had not registered in DeKalb County in time to vote in the primary, he returned to Fulton County, voted one more time and was then finally registered to vote in DeKalb County. In August and in November, he voted back in DeKalb County.

So the allegation is that he voted in a county in which he was not a resident in violation of 21-2-218. I believe either he or his attorney are present. He submitted some documents to the board via mail earlier this week or later last week explaining his position. That is essentially the case on Mr. Wilson.

**SECRETARY KEMP**: Thank you, Mr. Harvey. Any questions from the board?

(Whereupon, there was no response)

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

**MR. SIMPSON**: Mr. Harvey, there are several other violations in the report: False registration; fraudulent entries; making false entries in connection with filing notice of candidacy; voting by an unqualified elector; and giving false information. Are all of those substantiated in your investigation?

**MR. HARVEY**: The subsequent -- when we first presented this case at a previous meeting, that was the allegation. We had subsequent conversations with Mr. Wilson and he explained the situation. At that point, we removed some of those charges. I believe the earlier executive summary got put into this packet in error. At this point, we are alleging the registrant had voted in a precinct where he was not registered. The evidence that we have been able to get is that when he voted, he actually put his actual DeKalb County address when he voted in Fulton County. So I believe that is not a proper allegation at this point. And he did change his voter registration in DeKalb County when he filed his candidacy affidavit. So at this point, those allegations are not being brought.

**MR. SIMPSON**: The only allegation we are concerned with this morning is 21-2-218?

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

**MR. SIMPSON**: Thank you.

**SECRETARY KEMP**: Come on up. If you will, just state your name and address for the record.

**MR. WILSON**: Good morning. Matt Wilson; 2492 Sherbrooke Drive, Atlanta, Georgia, which is a DeKalb County address. The executive summary that has been presented is largely accurate with a couple of mistakes.

First is in 2005 when I renewed my driver's license, I did not change my voter registration. The motor voter registration law apparently captured me and changed my registration. Mr. Broadbear has submitted a letter; the files at the department of motor vehicles have been examined. There is no separate signature of a voter registration. It is an identical signature that has simply been Xeroxed and superimposed onto a voter registration process. You can look in the packet -- if you do not have, I have some additional ones; I don't know if everyone had one. Exhibit 4 to this demonstrates that there was no change.

So, gentlemen, I feel that I was a victim of a well intended law, the motor voter registration. After that, when I went to vote in 2006 in a single election, I was informed by the staff, you can't vote here, in my normal precinct in DeKalb. I asked for a provisional ballot and was told I couldn't get a provisional ballot because I was registered in Fulton. I went to Fulton; I filled out a change of address and explained to the poll workers. They told me this is where you vote this time. The next time, we will have it changed. I didn't look at it again.

That sequence repeated itself in 2008. Your own notes and material that we have cited to you demonstrates that you were having a lot of problems in 2008. I don't know what else I could have done other than been disenfranchised. I believe strongly in the right to vote. I am a Boy Scout adult leader. I teach my Boy Scouts that it is a civic duty to vote. I didn't vote in -- for the electors -- the two elections that had material solely in Fulton County. But I was clearly denied the right to vote for DeKalb County judges; those types of things.

In conclusion, respectfully, I don't know what else I could have done other than been disenfranchised. Prior to running for public office, I checked and I was still in the wrong place. I went, instead of Fulton County, went to DeKalb County. I spoke personally with the registrar. She indicated lots of problems coming out of Fulton County, and apparently the change of addresses I was giving into Fulton County was not what I should have done. What I should have done was to go back to DeKalb County and put in a change of address there.

Gentlemen, I ask the case be dismissed, respectfully. I'm here to answer any questions that you have. Otherwise, Mr. Broadbear has provided all the documentation we had.

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

(Whereupon, there was no response)

**MR. WILSON**: Thank you.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Mr. Harvey, do you have any rebuttal for that?

**MR. HARVEY**: No, sir, except to, I guess, corroborate Mr. Wilson's comments about the motor voter registration in the early 2000's and some subsequent cases. There were some issues. He is correct about signature being -- one signature being applied to the voter registration application.

**SECRETARY KEMP**: Well, can you give us an explanation again of the count or counts that we are considering?

**MR. HARVEY**: Simply voting in a county where he is not a resident on multiple occasions after one time and then the five subsequent times after that, returning to vote. His assertion is that he did not vote in local issues where he was not a resident; he voted only in statewide and federal elections where otherwise his rights would have been disenfranchised.

**SECRETARY KEMP**: So we're dealing with a case of two addresses?

**MR. HARVEY**: Yes. The residence address is DeKalb; the work address is Fulton County. So I think it is uncontested that he was living in DeKalb County and he was voting in Fulton County on multiple occasions.

**SECRETARY KEMP**: And the Fulton County address, that was a work address?

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

**SECRETARY KEMP**: Not another residence?

**MR. HARVEY**: That's correct; it was a work address.

**SECRETARY KEMP**: Mr. McIVER?

**MR. McIVER**: Mr. Harvey, I continue to ask for recommendations from your staff. Do you have such for us today?

**MR. HARVEY**: I will recommend that this case is one that could be handled with a consent order, possibly through the AG's office. The problem appears to have been corrected. However, due to the number of times, I think it would be appropriate to have the Attorney General's office work on a consent order in this case.

**MR. McIVER**: And if not in this meeting and others, would you provide those recommendations in the future?

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

**SECRETARY KEMP**: Any other questions?

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to address the board of this matter?

(Whereupon, there was no response)

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

**MR. McIVER**: I move that we have the Law Department engage in discussions with Mr. Wilson which will result in a consent order in hopes that this will go away and not repeat itself.

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none -- yes, Mr. Worley?

**MR. WORLEY**: Mr. Secretary, I have carefully reviewed the materials that Mr. Wilson's attorney, Mr. Broadbear, provided, and it seems to me that, based on the information we have, that Mr. Wilson did everything that he could to have the situation corrected. He repeatedly, according to the evidence we have, repeatedly filed changes of address that were not corrected, and voting where he was told to vote by election officials. So I would vote to dismiss the case because I think he did everything he could

and followed the instructions of election officials to vote where he was told to vote.

**SECRETARY KEMP**: Mr. Simpson?

**MR. SIMPSON**: It would seem like to me that (unintelligible) of this case is the fact that he voted six times. I'm assuming all six times he knew he did not live in Fulton County, and that's what the charge is. So I think we've got six times that he voted knowing he didn't live in the county in which he voted. So I think the case should be referred to the District Attorney's [sic] office.

**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 referring to the AG's office signify by saying, "Aye."

(Whereupon, the vote was taken)

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

**MR. WORLEY**: No.

**SECRETARY KEMP**: The motion carries on a 3 to 1 vote. We will refer that to the AG's office. Mr. Harvey, this is going to be case number 2011, number 10.

**MR. HARVEY**: This case is one of the cases where clerks of Superior Court report to the Secretary of State's office when people reported for jury duty and have indicated they are not citizens of the United States. In this case, there were eight people that were referred to us. It breaks down into sets of two. There is a respondent chart that you can follow. There were two people who were referred that did become citizens prior to registering to vote, and that would be Mr. Marroquin and Sarvghad. It appears that there was no violation on their part, and we are recommending that those two cases be dismissed. They did not register to vote prior to becoming US citizens.

The next two individuals, Mr. Homburn and Ms. Salcedo, were not United States citizens. They were registered to vote through the Department of Driver Services at a time in the early or mid-2000's when the Department of Driver Services did not have verifiable records where somebody could conclusively determined that somebody intended to register to vote. They never voted, and I recommend that without any evidence that they intended to register to vote, that those two respondents be dismissed, as well.

The next two are Ms. Schuett and Ms. Lim. Those individuals registered to vote by hand submitting handwritten voter registration applications. Neither of them have voted. However, I recommend that they both be referred to the Attorney General's office for false registration and false information.

And then the last two individuals, Saha and Hagen, both of them registered to vote and voted in elections prior to becoming United States citizens.

I have statements that were provided by Ms. Schuett and Mr. Hagan, who are respondents. Ms. Schuett is in the category of having registered to vote sort of unintentionally, but never voting. Mr. Hagan registered to vote when he was filling out additional forms at Floyd County Department of Health. He had been a longtime resident of the United States. He subsequently has become a United States citizen, however he registered and voted on several occasions before he was a United States citizen. So I would submit both of these statements to the board to be considered.

The last two respondents are Fulton and Gwinnett counties. In each case, they accepted a voter registration application in which the applicant indicated they were not a United States citizen. The forms in these cases were not the standard voter registration applications. They had a different part where somebody would check whether or not they were a citizen and then they signed an oath in a different area. So at first glance, it would appear that the person registering was affirming that they were a US citizen. However when you looked at the form in a different location, they indicated they were not United States citizens.

So for Fulton and Gwinnett counties, I would recommend that a letter of instruction being issued. I have spoken with both counties and they indicated that they have taken additional steps to make sure that this doesn't happen in the future. They deal with a large volume of voter registration applications and I believe that would be a satisfactory resolution of those charges against the counties.

I would submit these documents to the board.

**MR. WORLEY**: Mr. Secretary, I am going to recuse myself from this particular case.

**SECRETARY KEMP**: Let the record reflect that Mr. Worley has recused himself from this case. Any questions for Mr. Harvey from the board?

(Whereupon, there was no response)

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

**MR. WESTMORELAND**: Good morning, Mr. Secretary and members of the board and distinguished members of the Attorney General's office. It is a pleasure to be here with you today. I am the director of Fulton County registration and elections and wanted to draw your attention specifically to two matters that were before our county and --

**SECRETARY KEMP**: Sam, if I can interrupt, just give us your name, address.

**MR. WESTMORELAND**: I am Sam Westmoreland, and my address is 16350 Freemanville Road, Milton, Georgia 30004.

**SECRETARY KEMP**: Thank you.

**MR. WESTMORELAND**: If I could first draw your attention to the Lim matter. I do have the -- I don't know if you have copies of those written applications, but I do have a copy if I can present it to you.

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

**MR. McIVER**: So moved.

**SECRETARY KEMP**: Second?

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: All in favor, signify by saying, "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: That motion carries.

**MR. WESTMORELAND**: In the Lim matter, upon review, I did not find that this voter had indicated that they were not a US citizen. Said more directly, they signed an oath swearing that they were.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you.

**MR. WESTMORELAND**: In regard to the Saha matter, in this particular case, Mr. Saha filled out a federal voter registration form. That form is not performed frequently processed through my office and, as you know the time, certainly Fulton County was

having its share of challenges. We are proud to say that we have worked through those challenges, but I wanted to direct to the Secretary and to the board members how the inconsistency occurred on this particular form. If I may present this form to you for your review, I would appreciate it.

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

**MR. McIVER**: So moved.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: All in favor, signify by saying, "Aye."

(Whereupon, the vote was unanimous)

**SECRETARY KEMP**: All opposed, same side?

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries, as well.

**MR. WESTMORELAND**: Mr. Secretary, at the top of the form it does indicate that the citizen is not a United States citizen. However, if you look at the bottom of the form where the form is signed, it's in -- the signature is contained within a block of information where the person who is actually swearing under oath that they are a United States citizen. So what you have is in one place they said they weren't, but in this one section they said that they were. Now, I can tell you that since this has been brought to our attention, we have challenged this. We've asked them to bring forth and prove whether they are a citizen or not. We have also reviewed the documents that are available through the Secretary of State's office and this name does not appear as a challenge name on your non-citizen list. I have that non-citizen list and I can produce that, as well.

But we certainly think that it is appropriate and would certainly accept a letter of instruction that we not do this again. I can assure you that we have improved our processes to the extent of about \$2 million so that this will not happen again.

**SECRETARY KEMP**: Thank you for being here. Any questions for Mr. Westmoreland?

**MR. McIVER**: Yes. Mr. Westmoreland, I have one.

**MR. WESTMORELAND**: Yes, sir.

**MR. McIVER**: I appreciate your closing remarks there in terms of assuring yourself it won't happen again. But, after all, you folks are Fulton County.

**MR. WESTMORELAND**: We are, indeed.

**MR. McIVER**: You are not strangers to this board.

**MR. WESTMORELAND**: No, sir; we are not.

**MR. McIVER**: I guess I would like not more additional words, but to feel better about the corrective processes that have been put in place and to know that we have something as glaring as a document that says one thing in one section, and another in another, and that isn't somehow caught and dealt with. After all, this gentleman voted.

**MR. WESTMORELAND**: Yes, sir. You're right on that. And I agree with you, sir. I can start by pointing out personnel changes. We have a new director; we have a new chief of registration; we have gone through a process engineering review where we have completely revamped how we handle these types of documents and how they are human-reviewed. Those are again reviewed by upper-level management to make certain that these types of errors do not occur. We do handle a large number, but one mistake is too many, and I do apologize for that. But I also invite you, if you like to come by and visit our office. We are very proud of the work we've done there to improve it and we hope that it would impress you.

**MR. SIMPSON**: I have a question. Do you use this form anymore?

**MR. WESTMORELAND**: The federal form, quite honestly I don't know if that federal form still appears that way.

**MR. SIMPSON**: So you don't -- you haven't corrected the form that has an answer one way in one place and another answer an additional place. Are you still using that same form?

**MR. WESTMORELAND**: The form is actually provided by the federal government and it is simply what it is. I can say anecdotally that I reviewed it some time ago because I was concerned about the form and its use. But to my knowledge, I do not believe it has changed and I don't know that I have the power to encourage the federal government to change it.

**MR. SIMPSON**: Have you reported the problem to them?

**MR. WESTMORELAND**: Yes, we have.

**MR. SIMPSON**: How many other instances are like this? Have you checked your records to find out if there are other instances that have conflicting answers on the form?

**MR. WESTMORELAND**: We have checked our records extensively, of course, beginning with the verification processes that were -- that we -- that the state has enacted in the late -- I believe in 2009. We do have a project that is ongoing with our registration chief where we are looking backwards in time. But I do have to honestly report to you that with the elections that are bearing down on us this year, we simply don't have the resources to just keep moving backward in time at the rate that we are receiving new cards. But those new cards are being verified in various ways to make certain that they are correct.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Let me just note for the record that since Mr. Westmoreland has been the interim director, and now the permanent director, we have had a great deal of conversation and communication together with his staff and our office and we certainly appreciate that. I feel like things are moving in the right direction.

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

**SECRETARY KEMP**: Thank you for being here today to explain the situation.

**MR. WESTMORELAND**: Yes, sir.

**SECRETARY KEMP**: Okay. Any one else wishing to speak with this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any of the respondents here?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, anything else from the board?

(Whereupon, there was no response)

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

**MR. McIVER**: I move that we have the Law Department engage with Mr. Westmoreland and produce a letter of instruction that hopefully will resolve not only this

matter, but others in the future.

**SECRETARY KEMP**: All right. We have a motion for -- do you want to do that for Gwinnett, as well?

**MR. McIVER**: Yes. If that would be more efficient.

**SECRETARY KEMP**: Isn't that what your recommendation was?

**MR. HARVEY**: Yes, sir. That's the recommendation.

**MR. McIVER**: I amend my motion, then, to add Gwinnett County.

**SECRETARY KEMP**: Do you want us to do that, would you want the Law Department to do it?

**MR. McIVER**: Mr. Harvey?

**MR. HARVEY**: I believe the Secretary of State's office could draft a letter of instruction.

**MR. McIVER**: Then I will further amend my motion that it be done by direction of the Secretary of State's office.

**SECRETARY KEMP**: We've got a motion to do a letter of instruction to Fulton and Gwinnett County on this matter from the Secretary of State. 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**: That motion carries. Do we have another motion for the other remaining respondents?

**MR. SIMPSON**: Mr. Chairman, I move that we dismiss the cases against Homburn, Salcedo, Marroquin, and Sarvghad and that we refer the cases against Saha and Hagen to the Attorney General's office.

**SECRETARY KEMP**: I tell you what, Mr. Simpson. If you don't mind, I'd like to ask you to restate that motion and let's vote on dismissals. That may help our reporter a little bit. She's having a little trouble hearing you, so if you could speak up.

**MR. SIMPSON**: I move that we dismiss the cases against Homburn, Salcedo, Marroquin, and Sarvghad.

**SECRETARY KEMP**: All right. We've got a motion for dismissal. Do we have a second? I'll 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)

**MR. SIMPSON**: My second motion would be that we refer the cases of Schuett, Lim, Saha, and Hagen to the Attorney General's office.

**SECRETARY KEMP**: We've got a motion to refer the remaining four respondents. Do we have a second? I'll 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.

The next case I'm going to call is 2011, number 42, Tattnall County/City of Reidsville. That will be number 6 in your binder.

**MR. HARVEY**: Yes, sir. This case was presented last board meeting and was sent back and asked for additional evidence. There are two allegations. One was that somebody who qualified for mayor did not live in the city. That was found to be unsubstantiated. The individual never left their residence. They were living temporarily at a work location, but had never changed their residence. Recommend the allegation against Doug Williams be dismissed.

The second allegation was that a candidate, Susan Thomas, had qualified after the closing of candidate qualifications and at issue was the records and the receipt that Ms. Thomas had appeared to indicate that she had qualified -- the qualifying ended on Friday, September 2nd, and the receipt she had indicated that she had paid on Tuesday, September 6th. The computer records indicated that she had actually paid her qualifying fees on Friday the 2nd after 2:00 PM; I believe at 4:11 PM. The notary affirmed that and the person receiving the payment affirmed that. And so, there was a question why the records were different.

We had one of our investigators go to Reidsville on a Friday afternoon and asked them to process a payment as they would in this case, after 2:00 when their software supposedly posted everything on the next business day. And, in fact, the exact same thing happened: The computer records indicated the proper time of payment, which was Friday afternoon. However, the receipt that was printed indicated that the transaction had taken place the following Monday. So all the evidence indicates that Ms. Thomas qualified within time before qualifying ended. The records discrepancy was based on the accounting system, or software, that the city uses and there does not appear to be a violation of the Georgia election code.

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

**UNIDENTIFIED SPEAKER**: Yes.

**SECRETARY KEMP**: Hold on just a minute. We'll let you speak just 1 min. If you want to make your way on up to the front, you can just sit here in front of the microphone. Any questions from the board for Mr. Harvey?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, anyone else wishing to speak? You can come on up to the podium and give us your name and address for the record, please.

**MR. CLIFTON**: My name is Sydney Clifton. My address is 333 Chandler Avenue,

Reidsville, Georgia. I am the individual that spoke with you in Macon about this to start with. Qualifying ended at 4:30 that afternoon. Once again, Ms. Thomas's ticket had 4:33. Had that been myself or any other citizen that qualified after 4:30 that afternoon, our name would have been omitted from the ballot. But her being the register [sic], you're giving her an additional right to put her name on that ballot where it should have been -- she should have been a write-in candidate at the time.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here. Anyone else wishing to speak on this matter?

**MR. BROWN**: Good morning.

**SECRETARY KEMP**: Good morning.

**MR. BROWN**: My name is Lenton Brown. I live at 113 (unintelligible) Street. My question is her qualifying time that you said that she qualified. Now, she was the register [sic]. She cannot leave their from 8:00 to 4:30. No one else could register anyone in the city of Reidsville. How did she register during the 11:00 time? The register office had to be open from 8:00 until 4:30; is that correct? If I read the information I got from you guys. Now, how could she register during that time of registration and she is supposed to be there to wait for other folks to come and register for that day?

If you can answer me that, that would be fine. That's what I'm asking, sir.

**SECRETARY KEMP**: Let me just remind you --

**MR. BROWN**: Yes, sir.

**SECRETARY KEMP**: -- that you are here to give us your side of the story.

**MR. BROWN**: Yes, sir.

**SECRETARY KEMP**: We will ask questions.

**MR. BROWN**: Okay, then. Let me put it another way, sir. During the hours of 4:30 -- excuse me -- 8:00-4:30, we are supposed to have a register there. It wasn't there if she registered for herself to run. Thank you, sir.

**SECRETARY KEMP**: Thank you. Any questions for Mr. Brown?

(Whereupon, there was no response)

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

**MR. HARVEY**: Just to clarify, the time that she qualified was 4:11 PM; it was not 4:33. So she did qualify within the time. It was 4:11 and 31 seconds. Maybe that was where the confusion was.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, the Chair will take a motion on the recommendation to dismiss.

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Got a motion to dismiss by Mr. McIVER; a second by Mr. Simpson. 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**: That motion carries. The next case is 2011, number 68. That will be number 8 in your binder.

**MR. HARVEY**: This is a fairly simple case. A voter showed up to vote on November 8, 2011, and she was told that the voter registration records indicated that she was deceased and deleted. She disputed the fact. She was offered a provisional ballot. The ballot was accepted and her vote was counted and her status was corrected. It is recommended that this case be dismissed.

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

(Whereupon, there was no response)

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

**MR. ADAMS**: My name is Tonnie Adams; 109 Loftin Lane, Franklin, Georgia 30217. I am the duly appointed chief registrar. I was deputy registrar at the time of this incident and I am willing to answer any questions you have.

**SECRETARY KEMP**: Any questions?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here. Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: We have a recommendation to dismiss. Do we have a motion?

**MR. WORLEY**: I move to dismiss.

**SECRETARY KEMP**: We have a motion to dismiss by Mr. Worley. Do we have a second?

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We have the second by Mr. Simpson. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That case is dismissed. I now call case number 2012, number 3, Gwinnett County. Mr. Harvey.

**MR. HARVEY**: This case was brought to us when a resident, Mr. Kramer, notified our office that he had received a precinct card for somebody who had formerly lived at his residence. He had been in his house for about six years, and he was concerned that there was possible voter fraud; that someone was trying to vote from an old address. We did an investigation and found out that when the City of Peachtree Corners was incorporated and the precinct cards were sent out, a previous owner was still on the active list of voters. So he would have normally got the precinct card. So the actual person in question was subsequently removed and we believe has been deceased; didn't attempt to vote; doesn't appear to be any violation. Recommend that this case be dismissed.

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

**MR. WORLEY**: Mr. Secretary, I'm going to recuse myself.

**SECRETARY KEMP**: Let the record reflect Mr. Worley is recusing himself for this one case. Any other questions?

(Whereupon, there was no response)

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

**MR. McIVER**: Just want to get a recommendation from Mr. Harvey.

**MR. HARVEY**: Recommend the case be dismissed.

**SECRETARY KEMP**: All right. Any one else wishing to speak?

(Whereupon, there was no response)

**SECRETARY KEMP**: I'll take a motion.

**MR. SIMPSON**: Move that we dismiss this case.

**MR. McIVER**: Second.

**SECRETARY KEMP**: Got a motion by Mr. Simpson and a second by Mr. McIver to dismiss. 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 that case is dismissed. All right, Mr. Harvey, 2012, number 5, Fulton County.

**MR. HARVEY**: This case involves state representative Ms. Kesha Waites, who qualified to run for a special election on January 9th, 2012, for District 60 of the Georgia House. Her qualification was challenged based on residency. A hearing was held during which Representative Waites was found to have been a resident of her district, District 60, for the 12 months preceding her candidacy qualification. So it was established that she had been a resident of District 60 for 12 months.

However, it was also learned that in October of 2011, just three or four months prior to that, she had voted in District 61 at an old address that she originally registered to vote at an April, 2007, on Caspin Street. So the two statements are mutually exclusive. She could not have been a 12-month resident for qualification purposes and then in turn used an address where she had not been a resident for several years.

So the allegation and the citation is that she violated 21-2-431, voting outside the residence where she lived, and provided false information when she went to vote in October of 2011. I recommend this case be bound over to the Attorney General's office.

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

**MR. WORLEY**: I have a question, Mr. Secretary. Mr. Harvey, it's just not clear to me from the report, but on October 27th when she voted by absentee ballot, was she entitled to vote in the election that she voted in?

**MR. HARVEY**: No, sir. Not based on the fact that she had moved.

**MR. WORLEY**: Well, I guess my question is, is that address within a municipality that she was voting -- in the election she was voting in?

**MR. HARVEY**: I don't know the answer to that question.

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

**MR. CARVER**: Mr. Chairman, members of the State Election Board, my name is Brad Carver with the law firm of Hall Booth Smith & Slover, and I am here on behalf of Representative Kesha Waites in this matter. This is a very important issue --

**SECRETARY KEMP**: Mr. Carver, give us your address, too.

**MR. CARVER**: I'm sorry. I am a resident of the City of Atlanta, Fulton County; 4219 Beverly Lane, NE, Atlanta, Georgia 30342.

**SECRETARY KEMP**: Very good; thank you.

**MR. CARVER**: Thank you. I am here simply because this is a matter of great importance to my client, but frankly, to our voting system. She was exercising her right to vote and did so in a legal manner. I just want to talk about that for a second. The only other alternative she had this day would have been to be disenfranchised. The right to vote is paramount to our democracy. I served in the military 22 years; still serving in the military. I have been in Iraq, Bosnia, and I've seen what it's like in places where we don't have the right. It pains me when I see friends of mine that find themselves too busy to vote. But that is not the situation for Representative Waites.

She is a community activist. She has run for election eight times, the first time at the age of 27; now she is 39 years old. As the investigator said, she was elected in a special election for House District 60 back on February 7th. She was committed to vote. This particular election was particularly important to her for a couple of reasons. One is she felt strongly about the Sunday sales issue and also the infrastructure issues the city of Atlanta has to deal with. And, of course, we were voting on a sewer tax, extension of the sewer tax at that time. Both of those issues have been of importance to her and she felt it extremely necessary to vote in that particular election.

What I need to let the board know at this time is a few more facts about the situation so you can make an informed decision about this complaint. First of all, the complainants that are here, the complainants in this particular case were also the complainants -- the petitioners in the residency challenge that happened on February 2. In that case -- if I may, I have some evidence to present to the board. May I give to your counsel or --

**SECRETARY KEMP**: You can just bring it up. Do we have a motion to accept the documents?

**MR. WORLEY**: So moved.

**MR. McIVER**: 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**: That motion carries.

**MR. CARVER**: Thank you, Mr. Chairman. This is a copy of the full record. When I first have is her state voter page from the election. That address on there, you can see that she was registered in Fulton County as of 2001. That was at her previous address. She is now registered, as the investigator has pointed out, at her current address.

Let me note that the second of the exhibits that I have given to you is the ALJ's decision in this matter. The reason that I give you this is for a couple of reasons. When you talk about the ambitive (phonetic) evidence about somebody and their residency, these issues were brought before the ALJ and they determined conclusively that she was a resident of House District 60 and was able to go to the ballot. That decision was not appealed and it is a final decision. When they analyzed the case in her particular situation, they found that she had her tax records; she had -- mail was delivered to that address; and they found conclusively that she was a resident of her current address.

Now, since the time, since she voted on October 27, she has done a couple of things. One is she has changed her voter registration from her prior address to her current address. She is also changed her drivers license from her prior address to her current address.

So what I would like to point out, just so I can go through it so everybody's clear what I have there -- I know you have a lot of this from your investigation, but I have given you the applicable law that the investigator has cited. I have also given you your Rule 1831-1409 which deals with voted absentee ballots. And I want to point what I've highlighted in your summary there. But in that it says that an elector is deemed to be -- to have voted when the absentee ballot is accepted. And what you will find in the open records request, which is in the back of your packet -- I'm going to point to this for a second -- if you turn to the third page of the open records request in this matter, this is her actual absentee ballot. As the investigator has correctly pointed out, her address was the 742 Caspin Street address.

Now, what happened was when she went to vote on October 27 as part of advanced voting, she went to vote and at that point, she was asked for her voter identification. Her voter identification -- excuse me, her picture ID in compliance with your law. She showed her drivers license and that drivers license was 742 Caspin Street. That is also the address where she was registered at the time.

So the key fact here is that at all times, she was a resident of the City of Atlanta, City Council District 12, Fulton County. This is a very different situation than you had with your first case up here today because in this particular election that took place in November of 2011 when she voted absentee on October 27, the items that she was voting

for were exactly the same whether she was in the prior address she moved from, also in House District 60, as in the election that took place, or where she is -- was at when she was in House District 61.

Now, when you look at -- and I am going to cite to the law here because I think this is very important to see. There are three allegations here. One, that she voted in a place that was -- she voted at a polling place that was outside the precinct from which she resides.

Now, I will cite you to the exact code section the investigator cited, which is 21-2-431 section C, "Except as provided in code sections 21-2-218 D and 21-2-386, no person shall vote at any time, at any polling place outside the precinct in which such person resides nor shall such person vote in the precinct in which this person resides unless such person has registered as a Elector and such person's name appears on the elector list of such precinct."

The key here is this exception. The exception is 21-2-218 D. That's also in your packet; that's the very next code section that I have here. The key section is 218 D. It says: "In the event that elector moves to a residence within the county or municipality but into a different precinct or who moves to a residence in the same precinct but a different address and fails to notify the board of registers of such fact by the fifth Monday prior to an election or primary, such elector shall vote in the precinct of such elector's former residence for such election or primary and for any runoffs resulting there from."

What she did was exact compliance with this code section. She voted at her prior residence before that residence has been -- before the voter registration has changed over. Now, the key is the investigator is linking this residency challenge to this voter fraud issue. The problem with that is when the ALJ made the conclusive determination that she was indeed a resident of House District 60, they had an exhaustive hearing. And at that hearing she had to prove -- and she had the burden of proof; it was not on the petitioners. It was on her to conclusively prove that she was indeed a resident of House District 60. She did that. That case was decided. It was not appealed; it is a final decision. For your consideration today, she is indeed a resident of House District 60.

Now, your election law allows someone to vote when they have moved, even if they have not changed their voter registration. We do that and -- especially because we err on the side of allowing people the right to vote. In her case she wanted to vote in the election. She felt very strongly about it and the only way she could do that was to submit an absentee ballot that had the prior address.

Now, I need to address counts -- Count 1 is more complicated. Counts 2 and 3 -- Count 2 is that she permitted fraudulent information to be inserted into her absentee ballot on October 27. And 3, that she knowingly gave false information to the polling officer. So

let me talk about the circumstances that happened on the day that she went to vote on October 27.

First I need to point out that she advance voted, and in Fulton County there are three options to do that: You can go to North Fulton, you can go to South Fulton, or you can go to the main office, which is in the Fulton County administrative building on Peachtree Street. She went to the Fulton County administrative building on Peachtree Street. Whether she was in her prior precinct or her current precinct, that would have been the correct location for her to go cast a vote, and in this case, the only option she had to vote were identical between her prior location and her current location.

So what we -- it's a simple matter of when somebody moves, it takes a period of time for all the ambitive evidence to show that she is going to be permanently located. When she swore the affidavit and ran for office, she declared that she was a permanent resident of her current address. Now, it takes some time for the rest of those facts to catch up. She had changed -- by the time she registered, she had changed her drivers license and she had changed her voter registration. The only thing remaining is her homestead exemption.

When -- she is currently negotiating to purchase the place she lives in. Once she does that, then her final act to be a permanent resident of her current location is to declare that that is her homestead, her permanent residence going forward. And that is the essence of what we want voters to do. We are not trying to disenfranchise them. She did everything she was supposed to do and, in fact, the law allows for someone to go from a prior residence until such time as they have changed their voter registration.

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

**MR. McIVER**: Yes. Mr. Carver, let me begin as a fellow veteran thanking you for your service to America, sir.

**MR. CARVER**: Thank you very much.

**MR. McIVER**: I also commend Ms. Waites for engaging such competent counsel. This is very, very helpful to us to have an erudite presentation of the facts. It leaves me with a couple of questions.

**MR. CARVER**: Yes, sir.

**MR. McIVER**: One, we are no strangers here to overturning the decisions of ALJ. We have found them not to be good in the past on some occasions. So my first question to you is, is this ALJ decision, in your judgment dispositive of the question that comes before us today?

**MR. CARVER**: It is dispositive in this manner, that she was qualified to run for office to represent House District 60. And if you would, I need to really walk you through this timeline because I think it will help everybody on the board understand exactly what happened here and how we got to where we are. And I appreciate your question, Mr. Vice Chairman.

The timeline is this: The absentee ballot was submitted for the 742 Caspin Street, as your investigator has determined. That is the address that she signed and swore as her address. That is actually the address that was on her voter registration at the time. That would have been on October 27, 2011.

On October of 2010, she moved from that residence to House District 60 and at that time she lived at 3724 Forest Park Road. That is where her drivers license was issued to. That drivers license was issued to a residence where she was living in the House District 60 and that was more than the year time frame to qualify her to run for House District 60.

**MR. HARVEY**: Excuse me, Counsel. Can you repeat that date?

**MR. CARVER**: Yes. That was October, 2010. She moved -- there are three moves here: There is the original 742 Caspin Street where she was registered; she moved from there to -- into House District 60, and this was October, 2010, more than a year-and-a-half before the special election; then she moved in December of 2011 to her current residence which is the Rose Park Place, 2401 Rose Park Place.

When she voted on October 27th, she had not yet changed her voter registration from the Caspin address to, at that point, the Forest Park Road address. Then she moved from there to the house that she is right now attempting to close on. She is renting it and she is attempting to close on our house. So that was October 27.

Now, just to bring you up to the ALJ's decision, on January 9th, she changed her voter registration to her current address, which is 2401 Rose Park Place. At that time, she also declared her candidacy to run in House District 60; keeping in mind that she has lived in House District 60 for a year-and-a-half at that point.

So when you ask the question, I think it is dispositive of this fact: That she was indeed qualified to run in that special election. What it is not dispositive of is her ability to vote in a prior precinct based on your law that allows a voter to vote in a prior precinct if it is within the same county, and that is exactly what we have here. We have a resident that not only was in the same county, the same city council district, and the City of Atlanta. So everything she would have voted on October 27 would have been the same whether it was at the Caspin address, the Forest Park Road address, or the Rose Park Place address.

So I think that it is dispositive that she is a resident and that according to the election law she is allowed to change her precinct within the county to vote.

**MR. McIVER**: My last question is have you made that clear to Mr. Harvey and his staff? It was very helpful to us today, but have they had the opportunity to assess and evaluate your arguments yet?

**MR. CARVER**: Mr. Vice Chairman, they have not. What I -- I was brought into this case, I was given the facts, and we've done our own investigation. We did an open records request and went through all of this timeline ourselves. So Mr. Harvey has not had the opportunity to review that at this time. So this is a first blush for him.

**MR. McIVER**: Do you think that would have been helpful and save time here today?

**MR. CARVER**: Yes, Mr. Vice Chairman.

**MR. McIVER**: That is scolding, by the way. I have no other questions.

**SECRETARY KEMP**: Mr. Simpson.

**MR. SIMPSON**: It looks like in the report of Mr. Harvey, there are one or two sentences here that seem to be dispositive of this case to me and if I'm wrong, I want you to point out why. The oath she signed on the absentee ballot which was dated October 27, 2011 affirmed that she resided at the Caspin Street address. Okay? Do you agree with that?

**MR. CARVER**: What I agree with --

**MR. SIMPSON**: I mean, it is what it is. I mean, she signed that affidavit.

**MR. CARVER**: She signed that affidavit.

**MR. SIMPSON**: And that says Caspin Street, Southwest. She swore at the hearing and provided evidence that she resided at 3724 Forest Park Road, Atlanta until December of 2011, which is after the time when she -- which was during the period of time that she signed a false affidavit.

So, I mean, you can't have it both ways. I mean, she either testified improperly at the hearing or else she signed a false affidavit. Isn't that correct?

**MR. CARVER**: If I may, I think what is important to know is exactly what happened at the Peachtree Center Fulton County administrative building when she voted on October 27.

**MR. SIMPSON:** That is not dispositive of this issue right here because the administrative judge had the testimony; her testimony at the hearing. So I think that that's -- and that's all he was concerned with was her testimony at the hearing because that was a notice of candidacy requirement. There wasn't any issue concerning her ability to vote an absentee ballot at that hearing. So it looks like to me this discrepancy here resolves the issue.

**MR. CARVER:** Well, if I may, I understand what you're saying and I think that the reason we have this absentee ballot -- the reason we have code section 21-2-218 D is precisely for this reason where you have moved, like she has done -- she moved first from the Caspin into the district at the Forest Park address, which at the time, when she voted on October 27, she was residing at the 3724 Forest Park Road address. What this ballot method allows people to do is to be able to vote in a situation where their voter registration has not caught up with their current residence. So when --

**MR. SIMPSON:** Well if she's signing an affidavit that's wrong, it never will catch up. That's what she did.

**SECRETARY KEMP:** Let's keep this moving. We've been very generous with our time at this case. Any other questions for Mr. Carver?

**MR. WORLEY:** I have a question. Mr. Carver, are you essentially saying that she did not willfully permit fraudulent information to be inserted into the absentee ballot application because (unintelligible)?

**MR. CARVER:** Yes, I am. And, if I may, and I know we are pressed for time here, but if I may explain because I really do think that happened at the voting location on October 27th is dispositive on this issue. She went to vote. Her voter registration and her drivers license were from previous places. So when she asked to vote in this election, the election worker asked her this question: She said, are you a resident at all times of the City of Atlanta and Fulton County? She responded, yes, I am. At that point, the election worker gave her a voter registration form to change her residency and allowed her to cast an absentee ballot, which was cast on that date, on October 27. At a later point, she filed the registration -- the voter registration form to update her registration to her current address.

In other words, her registration and her drivers license that caught up with the current place where she was voting. But on that election day, she was allowed to vote because it was a different precinct in the same county and your code section allows for her ability to do that.

**MR. WORLEY:** I have one more question, Mr. Secretary. Mr. Carver, the ALJ's decision states in paragraph 4, respondent lived at 3724 Forest Park Road address

October 2010 to some time in December of 2011. Where did she vote in November, 2010, if she voted in November, 2010?

**MR. CARVER**: Can you come up and help me with that?

**MS. WAITES**: Yes. Thank you.

**SECRETARY KEMP**: Representative, just give us your name and address for the record.

**MS. WAITES**: Absolutely. Keisha Waites. My address is 2401 Rose Palm Place, Atlanta Georgia 30315. Your question, sir?

**MR. WORLEY**: I guess my question is where did you vote in November of 2010 if you voted in the November, 2010 election, and was it -- apparently you were living on Forest Park Road at that time?

**MS. WAITES**: That is correct.

**MR. WORLEY**: So where did you vote?

**MS. WAITES**: In November, 2011?

**MR. CARVER**: 2010.

**MS. WAITES**: 2010.

**MR. WORLEY**: Gubernatorial election.

**MS. WAITES**: Gubernatorial election? I would assume wherever I was living at that particular time. More than likely, if I was registered to vote at 742, I probably would have voted from the 742 address based on the drivers license that I had at the time. I hadn't changed the license.

**MR. WORLEY**: Do you recall when you voted whether anyone raised issue as to where you were living at that time?

**MS. WAITES**: No, sir.

**MR. WORLEY**: And is the 724 Caspin address in the same precinct has 3724 Forest Park Road?

**MS. WAITES**: That is correct.

**SECRETARY KEMP**: Any other questions?

(Whereupon, there was no response)

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

**MS. BRUMBAUGH**: I'll speak if you want to hear from me about this because we have had some other cases like this.

**SECRETARY KEMP**: Let me get the rest of the folks that want to speak and then we will let Ms. Brumbaugh interject. Mr. Westmoreland.

**MR. WESTMORELAND**: Good morning, again. I am Sam Westmoreland and I am the director of the Fulton County elections and registration.

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

**MR. WESTMORELAND**: 16350 Freemanville Road, Alpharetta, Georgia, now Milton, 30004. I wanted to address several issues that were raised. When I was asked to take this job as interim director and then as director, I said I would do it under one condition and that's that I would always be an honest broker. The Secretary of State knows that we have problems existing in our office that I have already self-reported to the Secretary of State because we were not doing things properly. When I came upon this issue, and it was after the ALJ had a hearing on it; we were not invited to participate, I could not sit idly by and know that in one way or another, with all due respect to Representative Waites, she had lied and as her attorney aptly noted, we are a country of laws and those laws are important and they have consequences. When you lie under oath, that has a consequence and I believe it should.

**SECRETARY KEMP**: Any questions for Mr. Westmoreland? Anyone else wishing to speak?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Mr. Harvey, did you have anything else you wanted to add?

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

**SECRETARY KEMP**: Ms. Brumbaugh.

**MS. BRUMBAUGH:** Thank you. I would just like to draw the board's attention to the fact that we have considered cases similarly -- similar to this one in the past. The most recent one was a guy named Stanley Beyers who was living in Jonesboro and wanted to run for office in Riverdale, or maybe it was vice versa; but it was two municipalities in Clayton County. It seems like everyone has made a lot of good points. This is a hard issue, especially as with the ballot is not different. So if the ballot in District 60 was the same as the ballot in District 61 in this November, 2011 special election, that is an opportunity where this exception for 218 where you have moved within a municipality but you are voting out of the old precinct, that seems like a situation in which 218 does apply.

Having said that, Representative Waites still had a responsibility at that time to update her new address. And so, yes, she could not vote unless she wrote her old address because that's the address that the voter registration showed. But at the same time she still had that responsibility to go further in 218D about updating the address at that time.

That is really how I have approached these cases in the past. Both the cases that come to mind for me ended up going to an OSAH hearing so we don't have real consent orders to base any decisions on. But that is really the problem. It's not the best-crafted statute in the election code, but she still has that responsibility. Yes, I am voting out of precinct, but let me change this right now. Don't wait two months or year and two months, or whatever it was.

So that's how we have approached it in the past. The board has referred these to the Attorney General's office in the past. So that's just something to consider.

**SECRETARY KEMP:** Thank you. Any other discussion from the board?

**MR. WORLEY:** I had a question for Ms. Brumbaugh. Ms. Brumbaugh, could you just clarify to the board what provision of the code section says that someone needs to change their address?

**MS. BRUMBAUGH:** When you look at 218C and D, 218C says in the event that an elector moves to a residence within the county or municipality and has a different address from the address contained on the person's registration card, it shall be the duty of such elector to notify the board of registrars of such fact by the fifth Monday prior to the primary or election in which such elector wishes to vote by submitting the change of address in writing. So that is C. That is the violation.

D gives you a little bit of an out, especially, perhaps, if you have moved within that five-week period. But it still references, you know, here are going to be those change of address forms. And so that is how I have handled these cases in the past trying to weigh all the competing issues, is that if you are serious about approaching these forms with

integrity and you want to vote, you've got to notify the registrar's office at the time that you have changed addresses. You just can't let them think you are still at the old precinct.

**MR. WEBB:** Ms. Brumbaugh, wouldn't that -- shouldn't that have happened in the November, 2010 date as opposed to the November, 2011 date?

**MS. BRUMBAUGH:** Yes. And certainly the further you get out from your intra-municipality move, or your intra-county move, the harder it is to justify not changing the address.

**SECRETARY KEMP:** Any other questions for Ms. Brumbaugh from the board?

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. Carver, I'll give you one minute to wrap up.

**MR. CARVER:** What Ms. Brumbaugh pointed out that the end here is what is absolutely key to this particular issue. On October 27th, she went to the -- to vote on that day. She was instructed that because her voter registration was different than her current address that she would have to vote absentee. She did so at that time, but she was not provided -- it says the superintendent of elections shall make available at each polling place forms furnished which then, at that point, you would complete to change the voter registration. She was given a voter registration form at that time and she was allowed to then cast her absentee ballot, and did it right there. I mean, they said is this all I need to do and she was told, here is your voter registration form to change your voter registration; you're going to need to send this in.

She did that and, again, in her defense, I mean, to explain a lot here, she should have then turned and done it immediately. But at the time, they [sic] said is this all you need to do today? They said, yes. She then filed it on -- when she registered or when she decided to run for that special election she filed that day.

But the point I'm making is they allowed her to vote that day based on this code section and they did not require her to submit the voter registration change form when she cast that ballot.

**SECRETARY KEMP:** Thank you. Anyone else that has not already spoken wish to speak?

(Whereupon, there was no response)

**SECRETARY KEMP:** The Chairman will take a motion, if we have one, from the

board.

**MR. SIMPSON**: I move we refer this case.

**MR. WEBB**: Second.

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

**MR. WORLEY**: Well, I was going to make a motion that we dismiss the charge of violation of O.C.G.A 21-2-431C because it seems clear to me that in proposed violation that there is an exception to the code and she complied with the exception. So I will vote against the motion to refer.

**SECRETARY KEMP**: Any other discussion? Mr. McIver.

**MR. McIVER**: Everybody hold onto your hat, but I agree with Mr. Worley and intend to vote with him on this one. In my view, there is not a violation of 431C based on what I have learned today and the evidence before us. Plus, the other two violations, the terms fraudulent and knowingly always, as you must know, connote intent and I am convinced that Ms. Waites did not have any intent to do that. My view is that the considerable amount of fault in this case lies with the county and not with her. In my view, this entire matter should be dismissed and that is why I intend to vote.

**MR. WEBB**: I seconded the motion because I believe what we're doing here is creating a slippery slope. The elector obviously knew what she voted in 2010 that it was time to change and she was tardy in doing so. Now she is trying to rely on an exception that is intended to provide people who are reasonable in their approach to voting the opportunity to vote. I don't think the facts here support that and I am going to vote in favor of findings over to the Attorney General's office.

**MR. SIMPSON**: The reason I made a motion is I think that the superintendent of elections is correct. I think this boils down to a credibility issue. It looks to me that you can't testify one way and sign an affidavit another way. Also there is something in its file that is worse to me is an indication that she was claiming a homestead exemption on a piece of property that she did not own. I think that she was trying to sell the property or something. The way I read the report was that she did not have a basis for a homestead exemption. So regardless of whether that's accurate or not, or my understanding is accurate or not, I believe this is a probable cause hearing and I think they should be sorted out by the Attorney General's office and an administrative law judge.

**SECRETARY KEMP**: All right. We've got a motion in a --

**MR. McIVER**: Just one additional thing, if you don't mind. I am swayed by the fact that an administrative law judge credited the testimony of Ms. Waites. I find that to be very powerful and persuasive and, again, running against any intent that may have existed at the time. That was very persuasive to me and is, in essence, the foundation of my decision.

**MR. WORLEY**: Mr. Secretary, if I could just add a comment. I believe that if this case is referred to an administrative law judge it is very unlikely that Representative Waites will (unintelligible).

**SECRETARY KEMP**: I think we have had plenty of discussion. Let me just say to the board that this is obviously a very complex case. My personal view is I believe it would be better to refer it to let the Attorney General do some extensive investigations and further interviews, which really, I think, today with the amount of information we've had, it would have been good to have that beforehand. I'm a little concerned about making a judgment for dismissal without us really feeling like we had the full amount of information. I think the best way to get that would be to refer it. I felt like everyone in here should understand why I'm going to support the motion. With that, we'll take the vote. All in favor of sending the case to the Attorney General's office, signify by saying, "Aye."

(Whereupon, the vote was taken)

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

**MR. WORLEY**: No.

**MR. McIVER**: Nay.

**SECRETARY KEMP**: That motion carries 3 to 2. I know the GEOA folks are scheduled for break right now. I want to thank you all for attending this morning. You're certainly welcome to come back in. What I wanted to do to keep us on track for the State Election Board is we will recess for just a quick five-minute break to allow others to leave the room and go get a break. Anyone also wants to stay, please feel free to come back in five minutes or at any time during our proceedings. Thank you.

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(Whereupon, the proceedings were in recess)

- - -

(Whereupon, the proceedings resumed)

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**SECRETARY KEMP**: Okay. Welcome back everybody. We're going to resume from our break. I want to make sure that the record reflects that Mr. Webb has joined us. He had a few logistical problems today but he joined us and to vote on the Waites case as you all saw and heard. So we're glad he's back.

All right. The next case, Mr. Harvey, 2012, number 9, Gwinnett County; Turner case.

**MR. HARVEY**: This case was -- the ex-wife of Mr. Turner called our office and said that she suspected that he was voting from a residence where he no longer lived and he had moved to a different county -- I'm sorry, that he had moved to a different city within the county as she suspected him voting at the old address. We checked the records and found out that he had not voted at all that in the new address. And so, we recommend that this case be closed as to the violation.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else here wishing to speak on this matter? We have a recommendation for dismissal.

(Whereupon, there was no response)

**SECRETARY KEMP**: Seeing none, I will accept a motion.

**MR. McIVER**: Move to dismiss.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We've got a motion by Mr. McIver and a second by Mr. Worley to dismiss. 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 unanimously to dismiss. Case number 2012, number 10, the Democratic Party of Georgia case.

**MR. HARVEY**: This case was reported to us that the Democratic Party of Georgia had changed address and changed officers in January of 2011 and had not notified the Secretary of State's office as required by the election code. The Democratic Party, in fact, did change officers and they did not follow the proper paperwork with the Secretary of State's office. However, upon notification by our office, they have complied. They paid the two dollar fee which brought them into compliance in the records are up to date. I think I can recommend that this case either be dismissed or closed with a letter of instruction.

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

(Whereupon, there was no response)

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

Mr. Mike. Good morning, Mr. Secretary; good morning, board members. Mike Berlon. I am the chairman of the Democratic Party of Georgia. The address is 724 Pella court; that is a Loganville, Georgia 30052.

We did miss it. We had notified the corporations division about these changes, but didn't realize that we were also supposed to do it with the elections division. So I take responsibility as chair of the party. But we just weren't familiar with the rule.

**SECRETARY KEMP**: Thank you for being here today. Any questions?

**MR. WEBB**: Ms. Brumbaugh, has there been a precedent on this?

**MS. BRUMBAUGH**: Not since I have been representing the State Election Board.

**MR. WEBB**: Thank you.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Does the board have a motion or discussion?

**MR. SIMPSON**: Mr. Chairman, I would think a letter of instruction would be appropriate, not because you need it, but because maybe one of your successors in the

future may not understand the gravity of making sure your records are updated. If you had something on record, that could help. That's the reason I suggest we do a letter of instruction.

**SECRETARY KEMP**: Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: You want to make that into a motion?

**MR. SIMPSON**: So moved.

**SECRETARY KEMP**: We have a motion. Do we have a second? I'll second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: I want to say, Mike, I appreciate you taking the time to come down here today. Certainly, this is a small oversight and I'm sure the state is grateful that we got your two dollar fee that you paid. But we realize that this is basically a technical error. But it will -- having a letter on file I think will be good if this happens again. We - - one thing about this board, we try to treat everybody fairly and be consistent in what we do. This is a way that we can do that without any real repercussions for the party and your work. So we appreciate you being here. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Did we get a second? I apologize.

**MR. WEBB**: You seconded it.

**SECRETARY KEMP**: I'm sorry. All right. We've got a motion and a second to do a letter of instruction from the Secretary of State's office in this case. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: 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. Thank you very much. All right. Our next case is 2012, number 13. This is the Peach County Yoder case, number 15 in your book.

**MR. HARVEY**: This case was a case where an electorate, Mr. Wade Yoder, was voting in the Peach County Registrar's office on March 12th, 2012. While he was voting, he took out his cell phone and took a picture and photographed his ballot. Alert election officials heard the sound the camera made and, by most accounts, apparently swarmed Mr. Yoder very quickly and responded. Mr. Yoder apologized; didn't realize he was not allowed to take a photograph of his ballot inside the polling place. He deleted it immediately and the problem was solved.

At this point, there is a violation of 21-2-413E in terms of taking photographs within the enclosed space. It is recommended that this case be at least given a letter of instruction and not forwarded to the Attorney General's office. It doesn't necessarily appear to be anything nefarious in doing it. He did reply; he did respond, and I believe he's here today and I believe he is going to speak. So compliments to the election workers for the quick response and attentiveness to what was going on.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, anyone else wish to speak? Mr. Yoder, would you like to address us?

**MR. YODER**: Yes. I am Wade Yoder from 110 Commercial Heights, Fort Valley, Georgia in Peach County. Hello, everybody. I didn't realize that I wasn't allowed to take pictures of my ballot. I just did it for souvenir purposes, but the findings of the investigation were accurate and for that I would like to apologize.

**SECRETARY KEMP**: You won't do that again, will you?

**MR. YODER**: No, sir.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We appreciate you taking the time to be here today. That means a lot to myself and I'm sure it does to the rest of the board as well. Anyone else wishing to speak on this case?

(Whereupon, there was no response)

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

**MR. WORLEY**: I will make a motion that we sent a letter of instruction to Mr. Yoder telling him this was a violation.

**MR. McIVER**: Second.

**SECRETARY KEMP**: Very good. We have a motion for a letter of instruction and a second. Any other discussion?

**MR. WEBB**: Yes; sorry. Mr. Harvey, the signage at the polling precincts, don't they include signs that say no photographs?

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

**MR. YODER**: I do have some pictures of that. Could I -- it was weird the sign --

**SECRETARY KEMP**: Well, hold on one second. I don't want to prolong this if we don't need to. Mr. Webb is there . . .

**MR. WEBB**: I was just trying to make sure that there is documentation that is at the polling place that says no photographs. Obviously, this was an issue back in the 2010 presidential -- excuse me, 2008 election. I would hope that the word had spread by now that you cannot take photographs in the polling place. I understand Mr. Yoder is apologetic and coming today helps, I think. I'm going to vote in favor of the motion, but I just wanted to get clarity.

**SECRETARY KEMP**: I think that's a good point, especially for our election officials that are here. We had part of that in our elections advisory Council report that a lot of our election officials worked on about who's in charge and cameras and photographs and policing down at the polling locations. Mr. Yoder?

**MR. YODER**: I had come in from the side parking lot. I voted early registration and I didn't see the signage. It's on the -- like when I came in the side hall there, which is the main place people come in at for early voter registration, and when I approached the door, they showed me the sign where it was at, but it was right outside the door to the left side. If I had been coming from the tag office, I would have seen it. I got pictures if it helps.

**SECRETARY KEMP**: I don't know that we need that.

**MR. WEBB:** I think that's a very good point that the people placing the signs in the precincts need to be aware of the flow of traffic and make sure people do have the opportunity to read the sign. Also, I get very concerned in walking into polling places that if you have too much signage, at some point, people are going to start ignoring it. It needs to be -- I don't know what the answer is, but maybe Ms. Ford or someone could look at that and try to say if there is a way to clarify so that it is clear. Because you have colored signs, you have different shaped signs, you have -- you know, you get lost in the shuffle and I think maybe that this is a time we could maybe address those issues.

**SECRETARY KEMP:** That's a good point. We'll make sure the election division looks into that and has a discussion with our local folks, as well. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, we do have a motion and a second; is that correct?

**MR. McIVER:** Yes, sir.

**SECRETARY KEMP:** All right. We've got a motion and a second to do 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. Thank you for being here today. All right if you all don't mind, I'm going to move on to the Attorney General reports, they consent cases, so that we can get the folks that are in attendance before us wherever they need to go.

Ms. Brumbaugh, I think the first one we have for someone who's here is 2009, number 5 for McIntosh County. In the past we've been taking these in blocks. So is there any board members that want to pull any of the other cases out?

**MR. WEBB:** Mr. Chairman, I'm sorry, but case numbers 2009, 20; 2009, 40; 2010, 13. Those are behind tabs number 18, 19, and 20. I will like to discuss those cases.

**SECRETARY KEMP:** Okay. We will pull those out. In the audience, the recommendations that we have that Ms. Brumbaugh's office has worked on in these cases, we usually accept those recommendations unless a member of the board or someone that is here that wants to appear about that case wants us to pull those out to have a discussion on. So if you are in agreement with what Ms. Brumbaugh has proposed and we don't pull it out, we will accept that recommendation. If you are not in agreement, we will gladly pull it out and have a discussion on it as the board considers it.

**MR. SIMPSON:** I would like to pull out 2011, number 6.

**SECRETARY KEMP:** Okay. We've got someone here for McIntosh County. Do you all want to pull that case out and discuss it, or are you all okay with --

**UNIDENTIFIED SPEAKER:** I would like to know what the recommendation is from Ms. Brumbaugh.

**SECRETARY KEMP:** I tell you what. Let's just go through these real quick. Just give us one second. Ms. Brumbaugh, why don't you go ahead and present 2009, number 5.

**MS. BRUMBAUGH:** This is a case out of McIntosh County from the 2008 election. There were sort of two components to this case. There was a surveillance video that was shot by a guy named Bob Cannon which alleged that Boyd Gault and Cornell Hawkins both had absentee ballots; had a number of absentee ballots in their possession. There was a narrative, a written narrative that accompanied this video. The narrative was written by Mr. Cannon who had taken the video. The problem is that the narrative made a lot of allegations which were not supported by the video.

I contacted Mr. Cannon by email. We had several brief email exchanges and I explained, you know, I am concerned because you said these things and the video doesn't exactly show it. And when I finally wrote him a very long email detailing this is what you said versus this is what the video shows -- that was in the middle of March -- he never wrote me back. So I don't think we have enough evidence to support the allegations in Mr. Cannon's narrative. We have to show the videos to the OSAH judge and the OSAH judge will say it is not there. So that's why I was moving to dismiss the allegations that were made by Mr. Cannon against Boyd Gault and Nathaniel Grovenor regarding the video.

Then Mr. Mucha had also independently alleged that Mr. Gault was in -- that he delivered his wife's absentee ballot when he shouldn't have. And there were sort of , again, there were two parts to this. The first was that she wasn't disabled; and the second was that he hadn't signed the oath as assisting on the absentee ballot.

Mr. Gault says that she is disabled; our investigation determined that she was disabled. It was undisputed there was no mailbox at their home from which they could mail this absentee ballot. So someone was going to have to deliver the ballot and, given our investigation, it seemed that it was acceptable for Mr. Gault to deliver his wife's ballot. She was physically disabled.

Regarding whether he signed the absentee ballot as assisting or not, we don't have to ballot. And I asked Mr. Gault about -- excuse me, Mr. Mucha, about this. I never received that ballot to be able to look at it and see what had or had not been signed. So based on the lack of evidence, again, I move that we dismiss that part of the allegation.

There is another case that is pending down in McIntosh County. I think it will be coming before this board probably sometime later this year. So there is -- there are still issues that need to be resolved and things for this board to consider in McIntosh County.

**SECRETARY KEMP**: Any questions from the board for Ms. Brumbaugh?

(Whereupon, there was no response)

**SECRETARY KEMP**: Would you like to speak?

**MR. MUCHA**: Good morning. Bob Mucha is my name. I live at 1414 Plantation Drive, Darien, Georgia 31305. Looking at this -- remember the first time I came before you gentlemen was 2006, and that was after the election of 2004 where we had a number of discrepancies, which I wasn't even the chief register [sic] at that time of absentee ballots. In other words, it was the sheriff's selection and basically that case went all the way to the Supreme Court. This board at that time, when I met the board in September, they asked what we were going to do. Since I was a new kid on the block, we had a series of recommendations that we looked at and we put together.

The point I'm getting to is that during this issue they came up with Mr. Gault handling absentee ballots, he actually testified under oath in the court case that he handled between 13 and 100. This board at that time he issued a cease-and-desist order to Mr. Gault saying don't do it again and fined him \$100. We are unaware whether the fine has even been paid. So we don't know where that one is.

McIntosh County has been plagued by a series of fraudulent elections, fraudulent voting, absentee ballots. Actually, in this most recent case, Mr. Gault was in possession of his wife's ballot. And I have over here a copy, if the board like to look at this or if I should give it to Ms. Brumbaugh -- but I did fax to her -- and this would have been on October 25th, 2010. It includes an absentee ballot application that shows where Bernice Gault has actually signed it and has not indicated that she was disabled and it was accepted. On the next page there is also a copy of the oath of electors, which is the back of the absentee

ballot envelope. Mr. Gault has signed that, but again, there was no need for them to sign that because the oath of election -- not the oath of election -- the actual absentee ballot application didn't make it necessary for him to do that.

The point is that Mr. Gault seems to have a big problem with handling other people's ballots and we need to do something about it because I don't know if he just doesn't get it, or what's going on. But he is going to be running for election again and I am afraid we're going to be back into it again. The circumstances are -- yeah, I can understand how you can say, you know, maybe a wife's ballot doesn't have the same impact as the other one, but the concept is that he is doing the same thing over and over again.

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

(Whereupon, there was no response)

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

**MR. MUCHA**: Thank you.

**SECRETARY KEMP**: Ms. Brumbaugh, anything you wanted to add from an evidence standpoint?

**MS. BRUMBAUGH**: Nothing that I haven't already said.

**MR. MUCHA**: Want to give that to her?

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

**MR. WORLEY**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: 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**: That motion carries. Anyone else wishing to speak on this case?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Any thoughts for a motion? Ms. Brumbaugh, would it be appropriate for us to send a letter of instruction if we are concerned about not having enough evidence so that at least there is a message sent?

**MS. BRUMBAUGH**: Yes, I think that would be appropriate. Just for the record, I don't know what Mr. Mucha just showed you. The things he has sent me in the past are from different elections. So I have received copies of absentee ballots and absentee ballot applications from, say, a 2010 election. I don't know the date on that is.

**MR. MUCHA**: October 26.

**MS. BRUMBAUGH**: But this was the -- these allegations involved the 2008 election.

**SECRETARY KEMP**: Mr. Mucha, if you don't mind, step back to the mic.

**MR. MUCHA**: Yes, sir.

**SECRETARY KEMP**: What was the date on these documents? Is this the same election?

**MR. MUCHA**: Yes. They should be on the front of the fax itself. This was the one where they that he actually came into the office and was videoed coming in with that ballot in his hand, and that's actually the basically the same issue. But this is what goes to what we are having to deal with. Vote early and vote often. It's an ad he put in the paper, Boyd Gault. I mean, it's blatant.

**SECRETARY KEMP**: Well, one thing we talk about often and one of the things I have been very proactive on since being Secretary of State is stopping voter fraud. We have the stop voter fraud website where people can email us about potential violations and something they see; we have a 1-800 hotline number. We are not only relying on Mr. Harvey's group that is out there monitoring elections, but we have to have people on the local level that are helping us as well.

But, you know, we have a lot of people get frustrated with this board. Sometimes we can't act because of lack of evidence. It's not that we don't want to act, it's just that, you know, if we don't have the evidence, we can't move forward. So we have to have people on the local level help us with that. I'm not scolding anybody about that, but I'm just saying as we move into the election cycle, you know, we don't only need to hear that these things are happening; we've got to have some evidence that they are happening. If they are and you let us know about it, we will investigate it. That does not fall on deaf ears with me or Mr. Harvey or anybody in our elections division.

Ms. Brumbaugh, I'm going to give you a minute to look at and see if there's anything else you want to add or comment on.

**MS. BRUMBAUGH:** Yes. This is all from the 2010 election and this is not the allegations that were raised in case number 2009, 005. So whether or not this presents a violation of the election code wasn't what I had to look at.

**SECRETARY KEMP:** Is not relative to this?

**MS. BRUMBAUGH:** Right. This would be a separate case.

**SECRETARY KEMP:** Do we have a case on that instance, do you know, Mr. Harvey?

**MS. BRUMBAUGH:** Not to my knowledge.

**MR. HARVEY:** I don't believe so. We do have a pending case in McIntosh County that is actually in criminal court. We are waiting on the outcome of the criminal case to proceed.

**MR. MUCHA:** My understanding last time Mr. Harvey had indicated before this board to dismiss the Gault case. The board -- I hope I'm saying this correctly; I hope my memory serves me well -- but then it was referred to Ms. Brumbaugh and that's the issue that we had during the 2010 election with Gault with the -- actually was showing the video and that's what that refers to. That video is from the August -- that's from the October 26 period of time and that's what the complaint goes to. It goes to the issue of the video; him having the ballot and leaving the office with Cornell Hawkins, who is a friend of his. It was both those absentee ballots. So that is the issue that you have. That is the complaint.

**SECRETARY KEMP:** Is that not the case?

**MS. BRUMBAUGH:** I think there is some confusion. This case is number 2009-0005. It arises out of the behavior before the November, 2008 election. The problem with the

video, which I believe does relate to the 2008 election, is that the narrative making the allegations of election code violations is not supported by the video; it is simply not there.

I did try to track down Mr. Cannon because I knew this was an important case and I wanted to make sure that no stone has been left unturned. When I contacted him and I gave him a, here is what you wrote and here is what the video says, he never wrote me back. That was almost two months ago now. So that is one issue.

The second issue is what happened with Mr. Gault's wife's absentee ballot in November of 2008? The problem is the documents that you just handed to the board and you have faxed to me before it and that I do have, are from the 2010 election. So whether or not they are a separate code violation, they are not -- I am limited to assessing --

**SECRETARY KEMP**: So that document does not pertain to this specific case, but we don't have a case number on that. We could get Mr. Harvey to discuss that.

**MR. MUCHA**: Because I thought specifically last time -- or I don't know if it was last time, but when it was before the board before -- that it was referred to Ms. Brumbaugh, the Attorney General's office, to pursue a further and investigate because Mr. Harvey indicated to dismiss the case and that is when I and the election supervisor --

**SECRETARY KEMP**: I think the problem is that the video that we are talking about does not much up with that document. So we can address that.

**MR. MUCHA**: Thank you very much.

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

**MR. POPPELL**: Sir, may I be heard?

**SECRETARY KEMP**: Yes, sir.

**MR. POPPELL**: My name is Adam Poppell. I am the attorney and I'm actually the complainant in this action who filed the initial complaint on behalf of Sheriff Steve Jessop.

**SECRETARY KEMP**: Would you give us your address.

**MR. POPPELL**: Yes, sir. My address is PO Box 2332, Darien, Georgia 31305, and my street address is 111 Broad Street, Darien, Georgia. I spoke recently with our investigator who provided the narrative and the video. He advised me at that time that the Attorney General's office had not contacted him and he was waiting on correspondence from them. I will follow up on that. But I would ask you to continue this

matter to allow us to get you the evidence that you need to consider.

There is no question in anyone's mind that the video itself -- I have viewed it several times -- the video itself did not have the focus that it needed to actually show you that was a ballot. But the people that were standing next to him and adjacent to him identified the ballot saying this is the document that he has in his hand and the video actually shows the document. You can't zoom in on the video and see an absentee ballot.

**SECRETARY KEMP**: Can you spell your first and last name.

**MR. POPPELL**: Yes, my name is Adam, A-D-A-M; my last name is Poppell, P-O-P-P-E-L-L; and I am the complainant in the action.

**SECRETARY KEMP**: Ms. Brumbaugh?

**MS. BRUMBAUGH**: Yes, well --

**SECRETARY KEMP**: Well, let me -- hold on one second. Anyone have any have questions for Mr. Poppell from the board?

**MR. WORLEY**: I just have one question, and maybe Ms. Brumbaugh can answer this question.

**SECRETARY KEMP**: A little louder, Mr. Worley.

**MR. WORLEY**: Maybe Ms. Brumbaugh could answer this question, but the video that was taken, I just want to make sure there is no allegation here that the person taking the video was improperly photographing an election site.

**MS. BRUMBAUGH**: There is nothing on the video of an interior of a precinct.

**MR. POPPELL**: Nothing.

**MS. BRUMBAUGH**: Well, members of the board, I have paper copies of my email correspondence with Mr. Cannon. I can either read into the record; I can hand you a copy. I contacted him initially on March 8th and I said, "My name is Ms. Brumbaugh; I am an assistant Attorney General; I represent the State Election Board. In my file I have a 12-minute video of surveillance footage that I understood you took, as well as several statements that you wrote. I would like to talk to you about your video and your statements. I can be reached at this email address," or I gave my phone number. That was March 8th.

March 12th, he wrote me back: "You are correct that I released a video and investigative

summary re: McIntosh County Commissioner chair Boyd Gault and Sheriff Charles Jones.” He goes on a little further. Then -- so I wrote back that same day. Actually, I wrote back immediately. “Mr. Cannon, my file contains several statements by you. I also have a 12-minute version of the video. Unfortunately, the video does not show all the behavior on the part of Mr. Gault that you allege in your statements. I would like to talk to you about the discrepancies.”

Mr. Cannon writes back again within a half hour: “I’m sorry. Discrepancies.” We go back and forth on March 12th. He writes back: “I’m going by memory, but what looks like one or several together at the supermarket parking lot. I believe my statement is corroborated.”

I wrote -- at that time, I think I was not able to do it -- I wrote: “I will send you a detailed explanation of the discrepancies later this week or if you prefer, we can talk by telephone.” He writes me back, March 12: “Sounds good. Thank you.”

I wrote him on March 15th and bullet-pointed here's the time he said this happened and the video shows something else. This is March 15th. I never heard back from him. I had, you know, probably seven back-and-forth emails and then when I asked him about specific problems, he never wrote me back.

I’m happy to put this into the record if it will help the board.

**MR. POPPELL:** Mr. Chairman, what I was suggesting, and I beg Ms. Brumbaugh's pardon, I'm not suggesting that she didn't attempt to corroborate or connect with him. What I am suggesting is that after this detailed conversation they had, by her own admission, with seven or eight correspondences, that it just dropped off the face of the earth. What I'm telling you is that this guy told me that he hadn't heard back from her and he was waiting to hear from her after that conversation. So, if you will allow us, we will follow up.

This is an extremely important situation in McIntosh County. We have been wracked with voter fraud for years. The Superior Court has finally taken action on one of our cases there and found the gentleman guilty. But we are in desperate need of your assistance. The voters of McIntosh County have been subjected to this for years.

**SECRETARY KEMP:** Mr. Worley?

**MR. WORLEY:** I have a question and either Mr. Poppell Mr. Mucha can possibly answer this. The report says Mr. Mucha never provided the wife's absentee ballot to tell Mr. Gault to sign as assisting or not. Do you have that ballot?

**MS. BRUMBAUGH:** I do. That's 2010.

**SECRETARY KEMP**: We don't need to be dealing with anything about the election except for this one case that we are on now. If there are separate issues, we can deal with that in a different case. But we've got to talk about evidence specific to this case; not prior or post instances.

**MR. WORLEY**: I guess my question is, is there an absentee ballot application?

**MR. POPPELL**: Yes, there is.

**MR. WORLEY**: From 2008 that shows Gault as assisting?

**MR. POPPELL**: No. It was 2010 is the one she has; October 26.

**MR. WORLEY**: So there is -- you don't have one for November of 2008?

**MR. MUCHA**: That's -- go ahead.

**MR. POPPELL**: I'm not aware of that. I am the complainant on behalf of Sherriff Jessop who made the initial complaint. Mr. Mucha supplemented that by additional allegations. But my complaint as a private citizen and as representative of Mr. Jessop continues to be based on the evidence that was presented, including but not limited to, the videotape that was presented.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Ms. Brumbaugh, do you have any thoughts if we were to continue this and try to reach out to the fellow that took the video?

**MS. BRUMBAUGH**: Well --

**SECRETARY KEMP**: Did you just said that one email or did you send it several times?

**MS. BRUMBAUGH**: I sent -- I had an ongoing conversation with him and then when we got to the point where I said this is the problem; please explain it, I didn't hear any thing from him. In my experience as a trial attorney, that suggests that he doesn't have a good explanation. There was no problem contacting him and he responded to me over and over as long as we were having brief conversations about, you know, how can we talk. But as soon as I said this is a problem; please explain, I never heard from him.

So I believe that he did get this and I believe -- again, I am a former prosecutor. When

you walk into a courtroom and you have some physical evidence that does not back up what your statements are saying, you will lose. If your video does not show an armful of absentee ballots, you are not going to win. And so that is my professional opinion that we cannot prove this case. I understand that there is a long-standing problem in McIntosh County. I don't think that the lack of evidence in this case is indicative that the greater problems don't exist. I think there is another case in the pipeline that may be a better case to solve some of the problems. But this case, it simply isn't there.

**SECRETARY KEMP**: Mr. Simpson.

**MR. SIMPSON**: I would suggest that we give Mr. Poppell, since he is the complainant, give him 30 days to get all the evidence he wants presented, and if he doesn't get it presented within 30 days, the case will be dismissed. If he does present additional evidence that we just take it back up at another meeting.

**MR. POPPELL**: Mr. Chairman, can I be just heard briefly?

**SECRETARY KEMP**: Yes.

**MR. POPPELL**: The only notice or contact I have heard with anybody but this case was the notice that I got on April 19th, I think, telling me to be here today and it told me it didn't matter if I was here not. I mean, we can't assist -- I hope we are not at the posture where we are adversarial. You know, we're making a report as citizens to a governmental agency asking for assistance and it becomes some type of adversarial relationship with the Attorney General's office. To be perfectly honest with you, it sounds like to me she just pulled out her crystal ball and made a judgment on this case. We can supplement that record. I can assure you that that gentleman who happens to be a retired state trooper who took the video will respond.

**SECRETARY KEMP**: Well, I think Mr. Simpson is trying to give you that opportunity.

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

**SECRETARY KEMP**: Let me just say this, if we give you this opportunity and there is nothing there, it's going to hurt your credibility in the future. I don't think there is anybody in the state of Georgia that takes election law as seriously as this board does, and, you know, I know that in the past Ms. Brumbaugh has been very diligent in running things down. But, you know, we've also got the responsibility to the taxpayers of the citizens and we can't just continue -- we can't send cases that we can't win. That's very frustrating for us because we know these things go on, but we have to be able to prove them.

So I think the board is willing to give me some time. I would suggest, Mr. Simpson, if

you don't mind, if we would just continue the case instead of doing the 30 days because I think you're going to have to take it one way or the other and it would be better to just vote to dismiss or vote for a --

**MR. SIMPSON**: The only reason I put a timeframe on there is because this is an old case; this case has been pending since 2009.

**SECRETARY KEMP**: Well, I agree, but I think we're still going to have to vote on it at the next meeting. So, you know, we'll know whether we have anything or not. Anything else from the board?

**MR. WEBB**: Yes; I'm sorry. I would just like to add you've got to understand this is a 2008 case and you're trying to offer evidence from 2010. There are two separate actions and --

**MR. POPPELL**: Not me. That information was presented and supplemented my case. That wasn't me.

**MR. WEBB**: Was the video from 2008 or 2010?

**MR. POPPELL**: 2008; yes sir. 2008. And this is the first correspondence we have received, first notice we've had that you are considering it.

**MR. WEBB**: Well, let's not cloud the case with past evidence; something that happened after-the-fact. We have to look -- we're looking at the complaint which is for 2008.

**SECRETARY KEMP**: We voted on this to refer to the Attorney General's office at a prior meeting. So this isn't the first notice that we've had.

**MR. POPPELL**: Since it was referred; I apologize.

**SECRETARY KEMP**: Anything else from the board? Do we have a motion?

**MR. WORLEY**: Mr. Secretary, I wanted to say something for the record. I don't see any problem with the giving of additional time to present additional evidence. But I want to be very clear that I think Ms. Brumbaugh, the Attorney General's office generally, but Ms. Brumbaugh specifically, have always done an excellent job of presenting cases to the board and doing everything she can in a timely manner to find evidence of bring it to the board.

**MR. POPPELL**: And we appreciate that, sir. And if I have insulted anyone, I apologize. But the citizens of McIntosh County, they are in need. They are in need of a thorough investigation.

**SECRETARY KEMP:** We understand that we are sympathetic to that we don't get our feelings hurt. We know these things frustrate people; it frustrates us. Mr. Willard, did you have a comment? Welcome aboard, by the way. We were going to save your introduction for later, but you go ahead and introduce yourself real quick.

**MR. WILLARD:** Well, thank you, Mr. chair. My name is Russ Willard of the Attorney General's office. As the board is aware, I will be taking over for Ms. Brumbaugh for State Election Board matters after this meeting. If I could ask the board to clarify -- because it appears you're dealing with two separate allegations, and I want to be clear that I understand what the board's intent is. From what I'm hearing from the board, the allegations brought forward by Mr. Mucha, the board has no problem dismissing now because it doesn't appear there is going to be any evidence proffered as to 2008. It is only the video of Mr. Cannon's possession of the ballots that is being held open. Is my understanding --

**SECRETARY KEMP:** I don't know that we can even consider the 2010 information because we don't have an investigation. Is that right, Mr. Harvey?

**MR. HARVEY:** I'm checking on that now. I know there've been several cases.

**SECRETARY KEMP:** Well, it's not part of this case anyway.

**MR. HARVEY:** I don't believe is part of this case. No, sir.

**SECRETARY KEMP:** So we are dealing with the 2008 election, correct, Ms. Brumbaugh?

**MS. BRUMBAUGH:** Yes.

**SECRETARY KEMP:** Is that clear?

**MR. WILLARD:** Right. But there was an allegation from Mr. Mucha concerning Mr. Gault's wife, which it doesn't appear there has been any allegation to --

**SECRETARY KEMP:** Well, that allegation, we will look at that from a new investigation standpoint or to see whether we have a current investigation. It will be part of our proceedings today.

**MR. WILLARD:** Thank you, Mr. Chair.

**SECRETARY KEMP:** All right. Mr. Simpson.

**MR. SIMPSON**: I move that we continue the case to the next meeting.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We've got a motion and a second by Mr. Worley to continue the case to the next 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**: Y'all get us that information.

**MR. POPPELL**: Yes, sir. Thank you very much.

**SECRETARY KEMP**: All right. Next case is 2011, number 6, Gwinnett County. Ms. Brumbaugh, that is number 21 in our book.

**MS. BRUMBAUGH**: This is a non-citizen who registered to vote through a voter registration drive and then voted in the 2002 election. He -- there are no documents because this is such an old case. But he did tell a co-worker what he had done very recently and it was the co-worker who is the complainant in this case. Mr. Chivore has signed a consent order admitting to violating the election code and has agreed to pay a \$500 civil penalty as well as a cease-and-desist and a public reprimand.

**MR. SIMPSON**: Mr. Chairman, I asked that this case be pulled simply for one reason: This is such an old case and involved conduct in 2002. It looks like the case was not filed until 2011. So I am wondering what the statute of limitations is and can we proceed on this case?

**MS. BRUMBAUGH**: Well, we don't have a statute of limitation. Certainly, the board could adopt some sort of policy and then we can proceed under that and I think there would be a lot of good reasons perhaps to adopt some sort of policy regarding these very old cases. But there is nothing preventing the board at this time from accepting this consent order.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: I will take a motion if there is no further discussion. We do have a signed consent order.

**MR. WORLEY**: I move we accept the consent order.

**MR. WEBB**: Second.

**SECRETARY KEMP**: We've got a motion by Mr. Worley and a second by Mr. Webb to accept the consent order. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon the vote was taken.)

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

**MR. SIMPSON**: Aye.

**SECRETARY KEMP**: That motion carries. Ms. Brumbaugh, let's go ahead and move to the review of the initial decision. I know we have some Chatham County folks here. Though the case number 2008, number 64. That is number 22 in the binders.

**MS. BRUMBAUGH**: Yes. I think we are all very familiar with the facts in this case at this point, but we're here this morning to consider the final respondent in this case which involved a candidate running for Chatham County Commission whose nomination petitions contained forged signatures. We were able -- we accepted a consent order in November from the sort of mastermind of the conspiracy to put these forged signatures on the nomination petitions.

We also accepted a consent order in November from one of his -- someone he had hired and then someone who he said, you need to sign these petitions as circulator even though you didn't circulate them, or I'm not going to pay you. The young woman, whose name was Alexia Williams, did sign these petitions even though she hadn't circulated them. Those petitions did contain forged signatures, although we couldn't link the forged signatures to Ms. Williams. Ms. Williams signed a consent order for a \$300 civil penalty, cease-and-desist, and public reprimand.

That left one respondent whose name is Kim Ross. Ms. Ross did the same thing as

Alexia Williams. She signed petitions that she hadn't circulated and those petitions were some of the petitions that contained forged signatures. Ms. Ross -- I ended up sending this case in to the Office of State Administrative Hearings and in about mid-April I got an additional decision recommending a \$150 civil penalty, cease-and-desist order, and a public reprimand. About a week later, I got a faxed consent order from Ms. Ross agreeing to pay \$300 and cease-and-desist and public reprimand. I've never received the original consent order from Ms. Ross.

It is my opinion that \$300 would be appropriate in this case. It would be commensurate with Ms. Williams' consent order. Ms. Williams did take responsibility for her case whereas Ms. Ross, you know, we had to go through OSAH; there wasn't any taking of responsibility. So to simply assign Ms. Ross a lesser penalty when she was less willing to take responsibility to me doesn't seem equitable.

So my recommendation in this case would be that we issue a final decision accepting this consent order in lieu of the initial decision and that Ms. Ross should pay \$300 civil penalty, cease-and-desist, and a public reprimand.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Welcome back, Commissioners. Would you like to comment? If you would, just give us your name and address for the record.

MS. STONE: My name is Helen Lina (phonetic) Stone. I live at 9974 Whitfield Avenue, Savannah, Georgia 31406. I appreciate the opportunity to be here again, and hopefully this will be the last time.

I only have one comment and that is simply to protect the citizens going forward. As I discussed with the Secretary of State earlier this week, if there would be some method to verify these signatures upon turning them into the elections board, or the voter registration board, because if by chance this candidate had gotten enough signatures legally to be on the ballot -- excuse me, if he got the signatures the way he did and he did get on the ballot, and he was elected, that person would have been elected illegally in the state. That concerns me, not only as a representative of the citizens of Chatham County, but also as a voter.

I know that there was some legislation carried earlier this year by Senator Carter to show some ID when someone signs these petitions because these are affidavits that are turned in to our elections board. I don't have the answer, but I do know that between this board and the Attorney General's office and with Commissioner Gellatly and I, we have spent a lot of time and taxpayer money to get to the bottom of this case, and in actuality I

understand where the problems with the links are. But I would look now at a solution going forward to prevent this from happening again. Because, again, if we had not caught these forgeries, Mr. Osborn would have been on the ballot and if Mr. Osborn had been elected you would have had a commissioner serving Chatham County that was not elected legally. Thank you.

**SECRETARY KEMP**: Thank you, Commissioner. We appreciate you all's diligence with this case. I think many of you that were here last year, you remember that we took the unprecedented, or very rarely used precedent, of actually subpoenaing people to come before us. I want to commend Ms. Brumbaugh for her diligence and bulldog-like attitude in this case, even though we were facing some pretty tough obstacles because of the health of one of the main folks who have been accused of this. But this has been a long battle and I certainly know that the board realizes the Commissioner's thoughts. We appreciate you all being before us again today and taking time to let us know how seriously you treat this issue, and we do as well.

Any other wish to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any other discussion?

(Whereupon, there was no response)

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

**MR. SIMPSON**: I move to accept this Brumbaugh's recommendation and increase the civil penalty to \$300.

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

**SECRETARY KEMP**: All right. We've got a motion to accept the \$300 civil penalty. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Mr. Worley seconded. 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're going to move back now to the investigative reports and Mr. Harvey. We will be on 2011, number 20, the Thomas County case; number 4 in your binders.

**MR. HARVEY**: This case involved an investigation done by the FBI where they had a person who was obtaining illegal Georgia drivers licenses for people who are not citizens. There were in excess of 300 false drivers licenses and we found that there were three people who potentially had been registered to vote. Two of them had not -- had been citizens and were not breaking the law. However, one person, Hong Xia Lu, was registered to vote when she got her illegal, counterfeit drivers license. She signed the form. She said she didn't have any intention of voting, or registering to vote; she was just trying to get a counterfeit drivers license. Nonetheless, I recommend this case be bound over to the AG's office for administrative action against Ms. Lu.

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

**MR. WEBB**: Mr. Harvey, the other two respondents, they would be dismissed?

**MR. HARVEY**: Yes.

**MR. WEBB**: Thank you.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I'll be ready for motion.

**MR. WEBB**: I would make a motion that we bind over the case against Hong Xia Lu and dismiss the other two plaintiffs, Mohammad Ashraf and Kartil Gopal.

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: All right. We've got a motion to refer Hong Xia Lu to the AG's office and dismiss the other two respondents. We have a motion and a second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of referring, 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 cases 2011, number 28, multiple county case.

**MR. HARVEY**: This is the same kind of case we had before where clerks of court submitted names of people who showed up on the jurors' list as registered voters and identified themselves as non-citizens. This case involves a lot of people were registered many years ago, in the early part of 2000. We only identified one person who was registered to vote and actually voted, and that is Dion Fields. The other people, did not vote. They were registered by the Department of Driver Services. There is no evidence that they intended or asked to register to vote and have not voted since.

So for everybody except Dion Fields, I recommend that their cases be dismissed and that Dion Fields being bound over to the AG's office for false registration and voting while not a citizen.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, anyone else here today wishing to speak on case number 2011, number 28?

**MR. WEBB**: Mr. Harvey, I do have a question about Karen Stewart. I'm confused about her status.

**MR. HARVEY**: She is a natural born citizen. She became a -- she renounced her citizenship and became a Moorish American, sort of a branch of a sovereign citizen group. But there was no -- I don't believe that constitutes a legal non-citizenship. When she showed up, she said she was not a US citizen. However, by the virtue of the fact that she was born in the United States she was a United States citizen. She just chose not to identify herself as a citizen.

**MR. WEBB**: Do you know what year she renounced her citizenship?

**MR. HARVEY**: I believe it was 2006, 2007.

**MR. WEBB**: When she removed yourself from the voter --

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

**MR. WEBB**: So the references to the nine times she voted prior to that time?

**MR. HARVEY**: I'm sorry.

**MR. WEBB**: The chart says she voted nine times; the write up says she voted in 1995. Was it that she last voted in 1995?

**MR. HARVEY**: Give me one second.

**SECRETARY KEMP**: While Mr. Harvey is looking at that, do we have anyone -- we didn't have anyone knows who wish to speak on this case, correct?

(Whereupon, there was no response)

**SECRETARY KEMP**: Do we have a motion that doesn't deal with Mr. Webb's question that we can take up?

**MR. SIMPSON**: I move that we refer the case against Dion Fields to the Attorney General and that we dismiss the remaining cases pending the answer to Mr. Webb's question.

**SECRETARY KEMP**: Would you be okay with just making a motion to bind over Mr. Fields and then we will come back?

**MR. SIMPSON**: Yes.

**SECRETARY KEMP**: Restate your motion.

**MR. SIMPSON**: I move that we bind over Mr. Dion Fields.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We've got a motion and a second to bind over Dion Fields 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**: We have voted to bind Dion Fields to the Attorney General's office.

**MR. HARVEY**: Ms. Stewart 1996 through 2004. So her last vote was in 2004.

**SECRETARY KEMP**: That was before she renounced her citizenship?

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

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

**MR. WEBB**: I make a motion that we dismiss the remaining respondents.

**SECRETARY KEMP**: I will second. We've got a motion to dismiss the remaining respondents on case number 2011, number 28. 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, Mr. Harvey, 2011, number 50, City of Fort Valley; the Bryant case.

**MR. HARVEY**: The allegation here is that the City of Fort Valley did not hold an election; did not call for an election as necessary. The facts of the case -- the investigation found the city did call; they published it properly. Only one candidate

qualified so there was no need to hold an election. We found no violation and I recommend this case be dismissed.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, do we have a motion? We have a recommendation to dismiss.

**MR. WORLEY**: I move to dismiss this case.

**MR. McIVER**: Second.

**SECRETARY KEMP**: We've got a motion and the second to dismiss. 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 and we have dismissed. The next cases 2011, number 78, City of Tyrone.

**MR. HARVEY**: This case involved the November 8, 2011 municipal election where Sunday alcohol sales were on the ballot. The precinct location was a church in Fayette County and the marquee out in front of the church, which was within 150 feet, had previously said, "No -- Vote no alcohol on Sunday on November 8." The precinct manager asked the pastor to remove the sign. The precinct -- I'm sorry -- the pastor changed the sign and took out the Vote, and so it said, "No alcohol" on the election date. He refused to remove any more than that. Mr. Sawyer, the election superintendent tried to get it removed. It was in a marquee so they would have had to open the glass to remove it. They refused to.

So it appears that it is a violation of 21-2-414, campaigning within 150 feet. Doctor Roper is the pastor of the church. I recommend the case be bound over to the AG's office.

**SECRETARY KEMP**: Questions for Mr. Harvey?

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone who wish to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, any other discussion or a motion?

**MR. McIVER**: I moved to bind over.

**SECRETARY KEMP**: We have a motion by Mr. McIver to bind over. I will second that. 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. 2012, number 2, DeKalb County; Freeman case.

**MR. HARVEY**: This case involved the presidential preference primary where the respondent, Robbie Sullivan, requested an absentee ballot for her deceased mother. Her mother died in January, 2011 and in December of 2011 in preparation for the presidential preference primary, Robbie sought and requested by hand an absentee ballot for mother. Ms. Daniels and her team over at DeKalb County voter registration office identified immediately, reported it to us, and also queried Robbie Freeman about it. Ms. Freeman's explanation was that, well, a lot of people had died in her house that year and so she really couldn't explain why she was requesting an absentee ballot for her deceased mother.

I recommend this case be bound over to the AG's office as a case of potential voter fraud.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, anyone else wishing to speak address the board on this matter? Anyone else?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any discussion by the board or motion?

**MR. WEBB**: Just a point of clarification that the respondent has Robbie Sullivan, not Robbie Freeman, right?

**MR. HARVEY**: Yes, I'm sorry. That's correct.

**MR. WEBB**: Thank you.

**MR. WORLEY**: Mr. Secretary, I need to recuse myself.

**SECRETARY KEMP**: Let the record show Mr. Worley is recusing. Do we have a motion?

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

**MR. SIMPSON**: I second.

**SECRETARY KEMP**: We have a motion and the second to bind over Robbie Sullivan to the AG's office; is that correct, Mr. Harvey?

**MR. HARVEY**: Yes.

**SECRETARY KEMP**: Very good. 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. That's got us on the investigative reports; is that correct, Mr. Harvey?

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

**SECRETARY KEMP**: We will move on to the other Attorney General reports, Ms. Brumbaugh. I guess you might as well just present 2008, number 26, City of West Point, and then we will move on to the other cases there will pulled out.

**MS. BRUMBAUGH**: Yes, sir. The city of West Point has been before the board couple of times already. The main respondent in this case, Donald Gilliam, who was running for city council, submitted a \$1000 civil penalty at the last meeting. Unfortunately there were several additional respondents who were all kind of helping with Mr. Gilliam's campaign who had each done, you know, messed with an absentee ballots here or there. So we have been slowly working down the respondents. This case will still be open after this even if you accept my recommendation on these two respondents.

Today I am recommending that you accept a \$100 consent order from Linda Gunsby. She was in unlawful possession of an elderly elector's absentee ballot, Heddy Wilkinson. \$100 is a pretty standard -- \$100 per absentee ballot is pretty standard for the board to accept. Additionally, I am recommending that you dismiss the case against Freddy Higgins.

A side story in this whole City of West Point election is that there is a collector named Larry Reid. Larry Reid claims that Freddy Higgins influenced or intimidated him into voting for Donald Gilliam. So the case regarding Freddy Higgins is basically Larry Reid's word against Freddy Higgins. Unfortunately, Larry Reid is in prison right now for felony drug possession. So on a credibility case, a convicted felon is not going to be very believable. So, therefore, I would recommend that we dismiss the case against Freddy Higgins.

This will still leave the case against Bruce Slaughter open. Mr. Slaughter -- it has already been admitted by Donald Gilliam that Mr. Slaughter took Larry Reid's absentee ballot and passed it along to Donald Gilliam. So we have a little bit more evidence regarding inappropriate behavior, or election fraud, regarding Larry Reid's ballot as it regards Bruce Slaughter than we do for Freddy Higgins.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. SIMPSON**: I move we accept the recommendation of Ms. Brumbaugh.

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

**SECRETARY KEMP**: So the recommendation will be a \$100 civil penalty against Freddy Higgins and dismiss --

**MS. BRUMBAUGH**: Accept the consent order --

**SECRETARY KEMP**: Oh, I'm sorry -- Linda Gunsby.

**MS. BRUMBAUGH**: Right.

**SECRETARY KEMP**: I read that wrong. Why don't you state that for the record again since I'm confused us, Ms. Brumbaugh.

**MS. BRUMBAUGH**: My recommendation is that the board accept the consent order submitted by Linda Gunsby for a \$100 civil penalty, cease-and-desist, and public reprimand for unlawful possession of an elector's absentee ballot; and that the board dismisses case against Freddy Higgins for lack of evidence.

**SECRETARY KEMP**: That is what we have a motion and a second for. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: 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're getting to the end of our agenda, but we do need to go into executive session. If there is anybody in the room that needs to

speaking or address us on the Cobb, City of Broxton, or the Jenkins County case, if it would be beneficial to you all for us to hear that now before we break for lunch and executive session, I am inclined to do that if it helps anyone in the audience get on the road a little quicker. Is that the case with anyone?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. I'll tell you what we'll do. We will -- it is quarter to 12. Let's break for 45 minutes. I will get a motion to move into executive session and we will come back at 12:30.

**MR. McIVER**: I move we adjourned and go into executive session.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: All right. We've got a motion and a second to move into executive session.

**MR. WILLARD**: Mr. Chair, under the (unintelligible) act, you must state the reason for moving into executive session.

**MR. McIVER**: I move that we adjourn and convene in executive session to review the status of outstanding litigation.

**SECRETARY KEMP**: Is that sufficient?

**MR. WILLARD**: Yes, sir.

**SECRETARY KEMP**: Very good. You want to second that?

**MR. WORLEY**: Second.

**SECRETARY KEMP**: All right. We've got a restated 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**: And we have adjourned to move into executive session.

- - -

(Whereupon, the proceedings were in recess)

- - -

(Whereupon, the proceedings resumed)

- - -

**SECRETARY KEMP**: Welcome back, everybody. We need a motion to move from executive session back to our regular meeting.

**MR. McIVER**: So moved.

**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**: That motion carries. I would like to -- Anh, if you don't mind, if you could state the suggested motion, per our discussion in executive session, we will go ahead and act on that as the board right now.

**MS. LE**: This is in regard to the case State Election Board versus Debra Brown in the Superior Court of Butts County; Civil Action File Number 11B-1185. The defendant has made an offer for a total amount of \$20,782. The payment plan will include \$1500 per year for 13 years, and \$1282 for the last year, the 14th year. So if the board wishes you can either move to accept, counter, or reject.

**SECRETARY KEMP**: And that was for Debra Brown?

**MS. LE**: Yes, sir.

**SECRETARY KEMP**: And what was the case number again?

**MS. LE:** Civil action number 11B-1185(W).

**MR. WORLEY:** I will make a motion that we accept that settlement proposal.

**MR. McIVER:** Second.

**SECRETARY KEMP:** We have a motion to accept the proposal in the second. Is there any other discussion?

(Whereupon, there was no response)

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

(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. Now we can move back into our Attorney General reports. Ms. Brumbaugh, 2009, number 20, the Cobb County case.

**MS. BRUMBAUGH:** Yes. I just want to make sure I was able to speak to you all at one time and I know I have spoken to each of you individually, but today is my last meeting. I want to tell you how much I have enjoyed working with you all; how much I learned from you, just more about leadership and conducting -- how to handle these sometimes very stressful and tense situations in a way that, you know, leaves everybody feeling like they have been listened to; and that is a lot harder than I think you make it look. You make it look easy. So I just want to say thank you for the last two-and-a-half years and I hope that we stay in touch. I'm looking forward to working with Secretary Kemp and the other members of the Secretary of State's office in reworking this election code. But I will miss our meetings. So best of luck.

**SECRETARY KEMP:** Thank you so much for all you have done for us.

**MS. BRUMBAUGH:** Russ here is the able . . . the able and thorough successor who is already taking you in the right direction.

Regarding Cobb County, this is 2009, 20, Qasim Cheema is the respondent submitting a consent order. This is a very similar case to Oliver Chivore whose case we addressed before lunch. It began -- the case began with multiple defendants; it has whittled down to about four. Three of the four, Mr. Cheema who is submitting the consent order, Mr. Giathi, and Mr. Khan, were registered by DDS before DDS changed its verification process. So the fact that Mr. Cheema, Mr. Giathi, and Mr. Khan were registered to vote despite being non-citizens, we can't really find them in violation of that because we can't prove that they actually asked to be registered to vote.

However, the three of them did subsequently vote and Mr. Cheema has submitted the consent order for \$500 and the cease-and-desist and public reprimand based on this vote that he made. The problem with the other two cases, well, Mr. Giathi, we couldn't get in touch with him. So I recommend to the board that we dismiss Mr. Giathi for -- we will not be able to provide notice if we take his case to an OSAH hearing and it would get dismissed there.

Mr. Khan, he did vote, but he did not vote until he became a United States citizen. So I am recommending that case be dismissed because I don't think there is a violation.

And then Stevenson, had we been able to contact him and provide notice, we could have found him in violation of unlawful registration because his registration was by hand where he actually signed under, I am not a felon, or I am not a citizen. But, again, like Giathi, we couldn't find him. All the times we tried to contact him everything came back.

So I am recommending that you dismiss the three cases and accept the consent order for Qasim Cheema.

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

**MR. WEBB:** Yes. Ms. Brumbaugh, I agree with your recommendations. My questions had to do with Mr. Stevenson and Mr. Giathi, and, frankly, with anybody else that would come with a situation where someone is dismissed because we cannot locate them. For some reason another case appeared later on down the road, will we be able to reference these prior incidents?

**MS. BRUMBAUGH:** I mean, we could reference that they were brought to us. We don't have a violation and we're not going to have a consent order. But we can certainly reference that, yes, they have had these issues in the past.

**SECRETARY KEMP:** I think the question may have been if we vote to dismiss those two, we can't come back -- if they surface later go back -- go after them again because would that be double jeopardy?

**MS. BRUMBAUGH**: Well -- yeah. I think once we vote to dismiss their case then we can't go back if they resurface on these cases. That's never really happened. We haven't run into that problem.

**MR. WEBB**: So there is no dismissing without prejudice?

**MS. BRUMBAUGH**: Yes; yes. I would say. But if you want to make a different change, I mean, I don't know of a reason why you couldn't, I suppose, as long as it's kind of -- everybody knows what you're doing ahead of time. So if you wanted to make that motion, that could be our policy going forward.

**MR. WORLEY**: I don't see why we shouldn't -- I don't have a problem with dismissing without prejudice giving us the option to bring it in later if we want. It will be a process that we'll do over in our records, but (unintelligible).

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

(Whereupon, there was no response)

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

**MR. WEBB**: I would make a motion that we accept the consent order with regard to Mr. Cheema and that we dismiss the case with prejudice against Mr. Khan and dismiss the case -- cases against Mr. Stevenson and Mr. Giathi without prejudice.

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

**SECRETARY KEMP**: Okay. We've got a motion and a second. 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. 2009, number 40, City of Broxton.

**MS. BRUMBAUGH:** This was a very serious case. It was so serious that I sent it to the district attorney down in Coffee County and asked him to look at it for possible criminal indictment. There were allegations that Mr. Reynolds, who used to be the mayor of the City of Broxton had intimidated witnesses that were making allegations against him. Unfortunately, after reviewing the case for a year-and-a-half, the district attorney declined to prosecute the case criminally. This case was about to go to a hearing a couple of weeks ago and we reached this settlement. The case . . . the case is Bobby Reynolds, former mayor of Broxton, and his daughter Tracy Lott, who was the city clerk.

Tracy Lott's case was much less significant. She was alleged to have helped some voters vote in violation of 21-2-409 which says if your relative is on the ballot you cannot assist other voters. So it wasn't that she assisted voters and was trying to be sneaky about it. She brought them to the precincts, she sat down with them, and she helped him and filled out all the paperwork properly. But she just couldn't do it because her father was on the ballot. However, she produced a letter, which I've incorporated in your information from the Coffee County Board of elections and registration, which indicated that when she came to the precinct that day with these voters, she asked the board if it was okay for her to help these three voters, and the board had told her yes. That made prosecuting her case even more difficult because she had sort of a reliance defense as evidenced by this contemporaneously-dated letter.

In addition, Bobby Reynolds was accused of bribing -- attempting to bribe voters and also unlawful possession of some voters' absentee ballots. Like the City of West Point case with the victim who was imprisoned, the electors in the city of Broxton are not your finest Eagle Scout citizens and they have recanted, they have recanted their recanting. It was a serious enough case for me to say I would take this to OSAH and I will run the risk of losing it. But it was still a very weak case given the behavior of my victims.

So when Mr. Reynolds was able to -- was willing to settle this case for \$1000 civil penalty, a public reprimand, I thought that was in the best interest of the board to go ahead and take that offer and just not get into what could be a losing case at the end of the day down in Coffee County. He did ask that -- he didn't make his consent order contingent on the board dismissing Ms. Lott's case and because I had already sort of reached the conclusion that Ms. Lott's was pretty weak to begin with, I felt that was, again, not prejudicing the board to incorporate that. But certainly if the board is uncomfortable with that, you know, Russ will be glad to take this to an OSAH hearing in Coffee County.

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

**MR. WEBB:** Again, Ms. Brumbaugh, I actually agree with the recommendations. My question had to do with the registrar in the City of Broxton, whether a letter of instruction had been provided to them regarding this case.

**MS. BRUMBAUGH:** I can check the file. I don't think they were ever listed as a respondent. My interpretation of letters of instruction is that that is such a low-level unilateral kind of slap on the hand that there is no requirement that we start the process over. If you wish to do that now, if that was the board's preference I wouldn't -- I couldn't see any reason why you couldn't do that.

No, the only two people that were originally listed as respondents were Bobby Reynolds and Tracy Lott.

**MR. WEBB:** And I apologize. I should've caught that earlier, but I would like to add that as a part of our board recommendation that we include a letter of instruction to the registrar.

**SECRETARY KEMP:** Do you want us to do that or the Attorney General's office?

**MR. WEBB:** The board approve and have the Attorney General issue a letter of instruction.

**SECRETARY KEMP:** All right. Because normally we have been doing letters from the Secretary of State's office. That's why I'm asking. Doesn't have to be.

**MR. WEBB:** I would think that since the case has already gone to the Attorney General, that would be more appropriate.

**SECRETARY KEMP:** Very good. All right. Do we have anyone -- any other questions for Ms. Brumbaugh?

(Whereupon, there was no response)

**SECRETARY KEMP:** Is there anyone else wishing to speak on this matter?

(Whereupon, there was no response).

**SECRETARY KEMP:** Any other discussion?

(Whereupon, there was no response)

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

**MR. WEBB:** I would make a motion that we accept the consent order regarding Bobby Reynolds for a \$1000 civil penalty, cease-and-desist, public reprimand, that the case against Tracy Lott be dismissed, and that we include a letter of instruction to the city of

Broxtown registrar regarding family members assisting voters.

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

**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. Our last case will be 2010, number 13, Jenkins County.

**MS. BRUMBAUGH**: This is kind of a messy and also serious case in which Walter Thomas was running for, I think, the Millen city council. He was working with several people, John Washington and Evelyn Reese, in particular. John Washington submitted four false absentee ballot applications to the registrar's office. Fortunately, the registrar's office caught them and rejected them. But they were fraudulent.

Additionally, there was a woman, Ms. Kimbrough, and Ms. Kimbrough's daughter at Mr. Thomas's kind of encouragement, Ms. Kimbrough's daughter submitted an absentee ballot on her mother's behalf without her mother's knowledge. And in fact this case came to light when Ms. Kimbrough tried to go and vote and was told she had already voted and she said, no, I haven't; and the registrar's office said, oh, yes you have.

So Mr. Thomas is the main respondent in this case since he was the candidate. He has submitted a consent order for \$2950. That is 400 -- no, \$500 per fraudulent absentee ballot application; another \$500 because, you know, they just admitted, oh, yeah, we had all these absentee ballots; we were running around with absentee ballots. There is not specific evidence about this person's absentee ballot or this person's absentee ballot, but they have admitted to some pretty extensive absentee ballot fraud. And then another \$450 in very technical violations.

I think absentee ballots of Lillian Merkinson, Bonnie Kimbrough, and Rasheda Kimbrough, as well as signing the absentee ballots of -- absentee ballot applications of Gary Karr, Miriam Johnson, and Tony Moseley as assisting. So that is how I came up

with \$2950. He submitted a check for the first \$550. I do expect that some of these of the respondents will end up in an OSAH hearing. But Mr. Thomas is going to settle his case and I would recommend that you accept his consent order.

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

**MR. McIVER**: I have one. Five hundred is consistent per ballot?

**MS. BRUMBAUGH**: Yes. Well, five hundred -- usually we do \$100 per ballot. But since I didn't know how many ballots there were -- I just knew there been quite a few -- I felt that five hundred was punitive without being unreasonable in addressing this situation.

It's also a conspiracy so I recommended that Evelyn Reese and John Washington also -- I recommend a very specific penalties for them, as well, since they are -- but they have not agreed to consent orders yet.

**SECRETARY KEMP**: Any other questions?

**MR. WORLEY**: Do you expect that Mr. Thomas is going to cooperate should you have additional (unintelligible)?

**MS. BRUMBAUGH**: We didn't ever discuss this, but he is locked into what he signed on this consent order and it is pretty significant. He has agreed to conspiring with these people. So I would hold him to that.

**SECRETARY KEMP**: Any other questions? Anyone else wishing to address the board on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing and seeing none, I will accept a motion.

**MR. SIMPSON**: So moved.

**MR. WEBB**: To accept the consent order?

**MR. SIMPSON**: Yes.

**MR. WEBB**: Second.

**SECRETARY KEMP**: We've got a motion to accept the consent order 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. Tommy, I haven't missed anything, have I?

**MR. CULLIGAN**: No.

**SECRETARY KEMP**: I think we are through the agenda. I have just a couple of other orders of business before we adjourn.

First I just want to make sure that the board saw or knew about the election the announcement that we made down here on Monday that one of the recommendations of our elections advisory council's met over the last year had recommendations and we had legislation that was passed this year in the legislature. One of the recommendations was that we would look at rewriting the state election code in trying to simplify that. I named a really good, hard-working committee on Monday to do that. That's Ms. Brumbaugh; she needed some part-time work so we are going to oblige her with that opportunity to assist us in writing that. We also have Mike Leblonsky who is the counsel for the Democratic Party of Georgia; Anne Lewis, counsel for the Republican Party of Georgia; myself; Beth Kish, who is the Cobb County registrar; Lynn Ledford, who is the Gwinnett County elections superintendent; and then Anne Hicks, who is the former director and long-time employee of the office who has dealt a lot with the election code.

What they are going to be tasked with doing, or what we are going to be tasked with doing is really looking at the code, seeing how we can simplify; seeing how we can do a new index. It just makes it easier for citizens, for elections lawyers and other lawyers, and hopefully local governments to be able to comprehend the code. Not really going to go in with the idea of changing a whole lot of policy, but trying to simplify, and just really going line-by-line in the code to get it up to date. We haven't really done this since this code was introduced. We have done patchwork to it every year. And because of that, there are some things that have gotten kind of convoluted.

We've also reached out to the Governor's Office, the Attorney General's Office, the legislative leadership, and Jeff Lanier, who is the former elections director for the Secretary of State's office that is now -- and legislative counsel. He writes a lot of the election law -- election legislation that is done every year. So we really feel like we're going to have a lot of input from a lot of stakeholders to go through this process and we're going to be having a meeting here in a few weeks to do that.

As we move forward, I just wanted the SEB to know about this process. Certainly, any thoughts on any specific things that you all have, we'd love your input on and we'll make sure that we're keeping you all up to date on kind of how that is progressing.

**MR. McIVER**: I have a question and a comment, if that's appropriate.

**SECRETARY KEMP**: Yes, sir.

**MR. McIVER**: I would address the question to the Law Department. I assume, Mr. Willard, you will advise Ms. Brumbaugh as a member of this group when we approach the threshold of pre-clearance requirements as they begin to make, or suggest changes to the election code?

**MR. WILLARD**: Yes, Mr. McIver.

**MR. McIVER**: Because I think many of us may be confused about where those thresholds are sometimes about what requires pre-clearance and what does not. So I'm viewing this as a clean-up and a re-org and some other things; just trying to make it more user-friendly. But I can see that we could trigger some pre-clearance obligations along the way.

**SECRETARY KEMP**: Anybody else?

(Whereupon, there was no response)

**SECRETARY KEMP**: A couple of other things I want to -- now that we are at the end of our meeting, I want to officially welcome Russ Willard aboard. I know we were on kind of a tight schedule this morning trying to get elections officials where they could comprehend as much of our meeting as we could. But we are looking forward to your service to the board and certainly appreciate and are glad to have you on board.

And then, last but not least, I certainly, as Chairman of the board -- and I want to give any of the board members an opportunity if they would like to say anything -- but I'd like to just personally thank, on behalf of myself, the Secretary of State's office, and the board, Ann Brumbaugh for her dedicated and diligent service to this board. I apologize that most of our attendees have left, but good public service sometimes goes unnoticed. But certainly it does not to this board. I think your efforts, and I know certainly since the time I've been here, you have done I think everything we've asked of you and have done a great job. I've had the great opportunity to work with you and certainly am looking forward to working with you in the future. And because of your great service, on behalf of my office and this board, I want to present you with an Outstanding Georgia Citizen Award from the Secretary of State's office, and I have a little letter for you.

**MR. WORLEY**: Mr. Secretary, I'd like to just join in on your comments. She has done an outstanding job for the board. I'm sorry she's not going to be working more directly with us, although I think very highly of Russ, as well. But I'm very happy that she's going to be in a position to continue to give legal advice to the Secretary of State.

**MR. McIVER**: I'd like to chime in and just remind everybody how tough this job is, particularly when she appears on our behalf at OSAH hearings and things of that nature. She's the prosecutor; she's got to get up the witnesses; put together the theories; so on, and so forth; and convince a judge of our position. That's not always easily done and I've always admired the results of her hard work in that area.

**MR. WEBB**: I would just add that given the case load, and the back (unintelligible) as it was when I joined the board a few years ago, Ms. Brumbaugh, you've done a tremendous job moving those old cases and we appreciate all your hard work and I've enjoyed working with you. Look forward to seeing you around.

**MR. SIMPSON**: I haven't been on the board that long, but I certainly appreciate your help and patience with me trying to get my feet on the ground. I certainly appreciate it.

**MS. BRUMBAUGH**: Well, thank you.

**SECRETARY KEMP**: Thank you again, Ann. We appreciate your service. Anything else for the board?

(Whereupon, there was no response)

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

**MR. WORLEY**: So moved.

**MR. WEBB**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: 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. Thank you.

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(Whereupon, the proceedings were concluded)

- - -

C E R T I F I C A T E

STATE OF GEORGIA )  
COUNTY OF DEKALB )

I, Deborah L. Merideth, hereby certify that the foregoing record was taken down in the stated caption; that the colloquies, questions and answers were reduced to print by me or under my direction; and that the foregoing pages represent a true, correct and complete record of the evidence given.

The above certification is expressly withdrawn and denied upon the disassembly and/or photocopying of the foregoing transcript or any part thereof, including exhibits, unless said disassembly and/or photocopying is performed by or under the auspices of the undersigned and the signature and original seal are attached thereto.

I further certify that in accordance with O.C.G.A. 9-11-28(a), I am not a relative, employee, attorney or counsel of any party, nor am I financially interested in the instant action.

This the 25<sup>th</sup> day of May,  
2012.

*D Merideth*  
Deborah L. Merideth  
Certified Court Reporter  
State of Georgia



THE OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA

IN THE MATTER OF:  
STATE ELECTION BOARD  
PUBLIC MEETING

THE OFFICE OF THE SECRETARY OF STATE  
SECRETARY OF STATE PROFESSIONAL  
LICENSING BOARD  
237 COLISEUM DRIVE  
BUILDING B  
MACON, GA 31217

WEDNESDAY, FEBRUARY 29, 2012  
10:00 A.M.

PRESIDING OFFICER: BRIAN P. KEMP  
SECRETARY OF STATE  
STATE OF GEORGIA

---

*DEBORAH L. MERIDETH, CCR  
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APPEARANCES:

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

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

- - -

TRANSCRIPT LEGEND

[sic] -- Exactly as spoken.

(phonetic) -- Exact spelling unknown.

-- -- (Dash) Interruption in speech.

. . . -- (Ellipsis) Indicates halting  
speech, unfinished sentence,  
or omission of word(s).

Uh-huh -- Affirmative response.

Uh-uh -- Negative response.

Quoted material is typed as spoken.

10:00AM

## PROCEEDINGS

**SECRETARY KEMP**: Again, good morning. I would like to officially call the State Election Board meeting for February 29th, 2012, in Macon Georgia to order. Our first order of business is we will have invocation and Pledge of Allegiance. So if you would join me in prayer, I will open our meeting with prayer.

- - -

(Invocation)

- - -

(Pledge of Allegiance)

- - -

**SECRETARY KEMP**: Thank you, very much. I do want the board and the audience to know that one of our board members, Mr. Tex McIver, was planning on being here today. He had some business issues that came up late yesterday afternoon and he has been working through the night, he told me on the way down here, and just could not get that finished. He will not be able to make our meeting today. He wanted me to send his apologies along to the other board members. Mr. McIver has been a very faithful servant of the State Election Board and I told him that we certainly understood his absence today.

Also, I just wanted to remind everyone that what we are doing today really serves as a probable cause inquiry. The Inspector General will have about 15 minutes, up to 15 minutes, to present to the individual cases to the board. Those of you involved in the case will have 5 minutes to present any argument or evidence to the board. Those of you involved in that case will have five minutes to present any evidence or argument to support specific to the case that is before the board today. And then we have many options that we can rule on. It is a very good process. I think this board is very open to hearing both sides of all issues, or any sides of all issues. And we certainly encourage that for those of you that are here today. We do try to make sure that we, as a board, are very respectful to people and treat people in the right way no matter what side of the case you may be on. We also expect that out of you all as well. So I hope that you will participate along with us in that.

Again, this is the last call for anybody that wants to speak on public comment.

We're going to go to that part of our agenda now, so if anyone wants to speak in our public comment, if you will please fill it card out. If not, we will move on. Our first person is CeCe Anderson.

What we ask for everyone to do, if you do speak to us today, whether it is during public comment or during a case, just as soon as you get to the podium and the microphone, just speak clearly and slowly and give us your name and address. We have somebody that is recording these proceedings and that would help her greatly to make sure she catches everybody's name correctly and their address. That's just for our records.

Welcome and good morning.

**MS. ANDERSON:** Good morning, Mr. Secretary and the board. I am Cece Anderson, 976 MLK Junior Drive, Suite 200, Atlanta 30314. There are two issues that I would like to speak to. One is concerning the public comments and the minutes. As I was reading the minutes from -- I got an email -- and the public comments were not in the minutes. My question to you and the board is why aren't they in there? It's not that many people that's publicly speaking before the meeting and I would like to have whatever the public states to be inside of the minutes as well. Citizens of the state of Georgia would like to know and without being repetitious about what was going on and I'm meeting, they could find out what the public comment is.

My second part is that I notice Wilkes County is not on the agenda for today and I want to know how soon, or what is the time limit transpiring for that complaint to come up. Is this still being investigated? Is it on the next agenda? How would I find out from these different reports and consent cases that we have before us?

Do you understand what I'm saying, sir?

**SECRETARY KEMP:** I do.

**MS. ANDERSON:** Thank you.

**SECRETARY KEMP:** Thank you very much for being here. Just a couple of quick comments. I would note that all of the public comments, any of the testimony, everything we say in this room is on our transcripts of the meetings. That is all on our website so you should be able to find that, and if you can't, if you can just let Josh or Tommy know, they can't help direct you to that. Or if there is a glitch that we don't have for some reason, we are glad to work on that as well. And then anyone in our investigative division -- Mr. Chris Harvey is our chief investigator -- will be glad to let you know about specific cases and why -- there's a lot of different reasons on why or why not cases may or may not be on our agenda. So I don't want to get into a long drawn-out explanation of that; there's a lot of different instances.

But their office will be glad to help you with that.

Before we get into -- is there anyone else wishing to speak to us for public comment? That was the only card I had. If not, we are going to move on.

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Before I get into the approval of the minutes, I just wanted to say to everyone and to the press that may be here today, we are glad to be back in Macon for our State Elections Board meeting. Hopefully, this one will not last as long as the last one we had in Macon, for those of you that attended. But one of the things that this board has tried to do over the last two years is to move our meetings around the state to where we have an opportunity for other Georgians outside of Atlanta to really understand what this board does, how seriously we take our duties on the State Elections Board in making sure that we are providing and doing all that we can do for us to have secure, accessible and fair elections in Georgia.

This is our second time coming to Macon. We had a great meeting here before. We have done a meeting in Savannah last year at the Georgia Elections Officials Association Conference, where we had a lot of our local elections people who were able to attend the meetings. I think that was a great educational experience for folks to realize how important it is for all Georgians, especially those that are involved in elections, to follow the laws and the rules that are in place and how seriously we take that. We're going to continue to do that because we think it is important for Georgians to know that one instance of voter fraud, is one too many for us and the citizens should expect that, and we are continuing to work hard.

I would like to commend my fellow board members for being willing to travel to different parts of the state. I know it strains their schedules sometimes, but they realize that this is important, too, and with that, again, I just wanted to reiterate how glad we are to be back in Macon.

For those of you who are not from Macon that are here, we have got a big part of the Secretary of State's office housed here in Macon. We do our professional licensing in this building. We have, I think, over 100 employees in this facility that are working hard every day. We have a great relationship with the city and Bibb County and middle Georgia and we are glad to be here, as well, from that standpoint.

With that, we are going to move on to the approval of the minutes. Does anyone have a motion to approve, or any changes to the minutes?

**MR. WORLEY**: I'd make a motion to approve the minutes, Mr. Secretary.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Okay. We've got a motion and a second to approve the minutes. Any 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**: The motion carries.

Our next order of business is our Inspector General reports. Mr. Harvey, I guess we can go quickly through the previous consent cases and new consent cases, and then the one re-presentation, and then we will get on to our other cases.

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

**SECRETARY KEMP**: Okay. Go right ahead.

**MR. HARVEY**: The first case is a consent case from Ben Hill County. It evolves Ben Hill County not using voter certificates in one of their precincts; they were using new scanners and simply didn't know that they had to use the voter certificates. Ben Hill County and the Board of Elections has submitted a consent order with a remedial plan, as requested by the board. I recommend that the board except the consent order and the remedial plan for training.

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

**MR. WORLEY**: Mr. Harvey, is there a copy of the consent order in our packets?

**MR. HARVEY**: No, sir. I've got one right here.

**SECRETARY KEMP**: While you're looking at that, Mr. Worley, would you ladies like to speak to us real quickly?

**MS. SAWYER**: Yes, sir. My name is Tony Sawyer, Law Offices of John T. Croley, Junior, PO Box 650, Fitzgerald, Georgia 31750. Mr. Secretary, we were in Atlanta in November and, actually, there was a situation, of course, where we had a poll worker that just didn't do what she was supposed to do and she had been trained to do it. We were to enter into a consent order with you all and provide information to you all

showing that we train our poll workers. We have done that. We're just waiting to receive a copy of the signed consent order from you, Mr. Secretary.

**SECRETARY KEMP**: Any questions?

(Whereupon, there was no response)

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

**MS. SAWYER**: Thank you.

**SECRETARY KEMP**: I appreciate it. Do we have a motion to approve?

**MR. SIMPSON**: So moved.

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

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Second by Mr. Worley. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak on this matter?

(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. Thank you very much. Mr. Harvey?

**MR. HARVEY**: The next four cases are consent cases where we submitted reports to the board and we found no violations, and would recommend that the board close these cases.

**SECRETARY KEMP**: Ladies and gentlemen, the posture that we are in on the consent

cases, as long as there is no one that wishes to speak on one of these cases, we will move forward and vote in block to dismiss these cases because of lack of evidence. If there is anyone here that would like to address one of these cases or if there is a State Elections Board member that would like to pull one of these cases out for discussion, we will certainly do that. But if not, I will accept a motion. Is there anyone that wishes to speak?

(Whereupon, there was no response)

**SECRETARY KEMP**: Are there any board members that wish to pull one of these cases?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I will accept a motion to close SEB case number 2011, number 42; 2011, number 51; 2011, number 80; 2011, number 89.

**MR. WORLEY**: So moved.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Mr. Worley makes the motion -- yes, sir.

**UNIDENTIFIED SPEAKER**: Does consent case number 42 have to deal with --

**SECRETARY KEMP**: If you don't mind, just come on up and state your name and address.

**UNIDENTIFIED SPEAKER**: Does consent case number 42 --

**SECRETARY KEMP**: If you don't mind, just state your name and address.

**MR. CLIFTON**: My name is Sydney Clifton. I live at 333 Chandler Avenue, Reidsville, Georgia.

**SECRETARY KEMP**: Okay.

**MR. CLIFTON**: 30453. Is one of these consent cases, number 42, does it deal with the elections in Tattall County?

**SECRETARY KEMP**: Mr. Harvey?

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

**SECRETARY KEMP**: Yes.

**MR. CLIFTON**: I've got a question about that case. We had the city --

**SECRETARY KEMP**: All right. Let me do this. We will be glad to pull it out and discuss it if that's what you want.

**MR. CLIFTON**: Yes, Sir. That is what I would like.

**SECRETARY KEMP**: If you just sit right there, I'll get back to you in just one second. All right. We have a request to pull out the Tattnall County case, number 2011, 42. So we will do that. Mr. Worley, would you like to restate your motion?

**MR. WORLEY**: Yes. I would move that we consent and dismiss SEB case numbers 2011-51, 80, and 89.

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We have a motion and a second to close the stated cases in the motion. 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 closed those three cases.

Mr. Harvey, would you like to present the Tattnall County case?

**MR. HARVEY**: Yes, Mr. Chairman. This case involves the City of Reidsville 2011 general election and there are two allegations. One allegation was that one of the candidates did not qualify because he did not live in the city. The other allegation was that a candidate had qualified after the close of qualifying.

Our investigation revealed that the person who qualified did qualify within the

closing period. They had a receipt, a notary -- a computer record showed a date after the qualifying, but that was because a check had not cleared. But all of the evidence indicated that the person qualified for the office on the afternoon when qualifying was open.

The second allegation was that somebody did not live in the city. A person was divorced and living part-time on the housing of the Georgia State prison in Tattnall County. There was no indication that the person had ever lost or given up their residency in Tattnall County or in the City of Reidsville, and so there is no indication or evidence that they committed any type of violation.

So we recommend this case be closed.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to speak? Yes, sir. Come on back up. If you don't mind, just state your name and address for the record again.

**MR. CLIFTON**: My name is Sydney Clifton. My address is 333 Chandler Avenue, Reidsville, Georgia. As each one of us qualified we were given a ticket with the time that we qualified, with qualifying ending on September second at 4:33 -- 4:30 that afternoon. Ms. Thomas was not in the city hall building because she was at the Tattnall County Board of Elections at the same time I was, and that was at 4:20 that afternoon and we did not leave until 4:40 that afternoon.

So her ticket -- when we seen her ticket, it was stamped at 4:33 on September 6, which was the day completely after Labor Day. So I am talking about qualifying closed on that Friday 4:30. Her date was stamped September 6th at 4:33, which would be -- actually, they was closed Labor Day all day long. Now, if she ran without her name being on that ballot, she would have been legal. But once she put her name on that ballot, she was -- do you understand what I'm saying?

**SECRETARY KEMP**: Any questions for Mr. Clifton? So you are basically saying that she did qualify in the legal time?

**MR. CLIFTON**: That's correct; that's exactly what I'm saying.

**SECRETARY KEMP**: Now, did you see -- have you seen her receipt?

**MR. CLIFTON**: Yes, sir. I did. One of the other gentlemen had it. I don't have it, and it has 4:33, September the 6th.

**SECRETARY KEMP**: Mr. Harvey, do we not have the receipt?

**MR. HARVEY**: We've got the canceled check.

**MR. CLIFTON**: A check can be postdated back to --

**UNIDENTIFIED SPEAKER**: I have the receipt.

**SECRETARY KEMP**: Okay. All right. Let me --

**MR. HARVEY**: We also have the computer entry showing it was on September 2nd at 4: 11 PM. So that would have been within the qualifying time. That's when the computer record was created.

**SECRETARY KEMP**: All right. Are there any other questions for Mr. Clifton?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here today. Anyone else wishing to speak? Ma'am, if you have the receipt, I suggest that you might want to come up here and let us know what you've got.

**MS. THOMAS**: Well, I am Susan Thomas and I am the person that was running. I live at 295 North Main Street, Reidsville Georgia 30453. The City of Reidsville makes their deposit usually about 3:00 in the afternoon. What happens is, is automatically the next time you ring up somebody is for the next working day. And so that's what happened. My receipt -- I have a copy of the receipt and it has on here -- it does say September 6th. But overhear this quarter it gives the actual date and time.

**SECRETARY KEMP**: Okay. Would you like to submit that for the record?

**MS. THOMAS**: Sure.

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

**MR. WORLEY**: I move to accept that document.

**MR. SIMPSON**: 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**: We have moved to accept the document. Are there any other questions for Ms. Thomas?

**MR. HARVEY**: Mr. Chairman, I would just also note that we did interview the notary that notarized the application and confirmed that it was done on that Friday afternoon, on 2nd.

**SECRETARY KEMP**: Okay. Is there anyone else wishing to speak in regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Do any of the board members have any questions for Mr. Harvey or any thoughts on moving forward?

**MR. WEBB**: Do I understand that there's actually -- you take a receipt, you put it in the time clock and there is a stamp, and that is what you are referring to, Mr. Clifton?

**MR. CLIFTON**: Yes, Sir. That is exactly what I am referring to. Mine was done on the Monday morning of qualifying. As soon as I gave the check and returned the papers that was notarized at that time, that's when mine was clicked. She was asked at 4:10 that afternoon was anybody running and she made the statement, "No."

**MR. SIMPSON**: What's the difference in what you have and what we have?

**MR. CLIFTON**: Well, the one I have is mine.

**MR. SIMPSON**: You don't have hers?

**MR. CLIFTON**: I don't have hers; I don't have the one that says 4:33 on September 6th.

**MR. SIMPSON**: I'm saying, you don't have a copy of the same document for her that you have for yourself?

**MR. CLIFTON**: No, sir. I don't. But I have seen a copy of it.

**SECRETARY KEMP**: Mr. Harvey, where is that document; do we know?

**MR. HARVEY**: We've got a copy of her qualifying affidavit with the notary. I believe we've got a copy of a stamped -- and I see several others in here that also were not time stamped. So I don't know that it was ever time stamped. Investigator O'Neil says there was no time stamped -- date and time stamped document.

**SECRETARY KEMP**: But you said you talked to someone with the city, the notary?

**MR. HARVEY**: Yes, sir. We interviewed the notary and the notary confirmed that time that the candidate indicated that they completed the application.

**MR. SIMPSON**: That doesn't indicate when it was filed, though. You could notarize it - a notary in some other office somewhere could notarize it on Monday and the qualifying could be done on Tuesday morning if that was within the --

**MR. CLIFTON**: That's exactly what happened.

**MR. SIMPSON**: Proper qualifying --

**SECRETARY KEMP**: Hold on one second.

**MR. SIMPSON**: So it seems like to me what we are missing is the receipt when she actually filed it. If they do a time stamp and give her receipt at that time, I guess we could ask this lady if she has that document.

**MS. THOMAS**: What I have is the actual receipt just like that there, but it's got the next working day on it with 4:11:31 just like that has, and that is the reason why you have that little receipt on the back, I mean, that I gave you there because it actually has the actual time and date.

**MR. WEBB**: Ms. Thomas, you were the registrar for the City of Reidsville; is that correct?

**MS. THOMAS**: That is correct.

**MR. WEBB**: So --

**MS. THOMAS**: The only thing the City of Reidsville was in charge of as far as the election was the qualifying.

**MR. SIMPSON**: Why don't you have a document similar to what he has?

**MS. THOMAS**: I do. It's this one right here.

**MR. CLIFTON**: But hers is going to say September 6th.

**MS. THOMAS**: Because it was the next -- like I said, the deposit was made that afternoon at 3:00. Anything after 3:00 was rung up on 9/6.

**SECRETARY KEMP**: So that is a bank receipt?

**MS. THOMAS**: This is just the little receipt that you get whatever you pay your bill. When I qualified, I was given this.

**SECRETARY KEMP**: So that is an automated receipt that the city has?

**MS. THOMAS**: Right.

**SECRETARY KEMP**: So every person, whether it is elections -- just hold on one second. Everything, whether it is elections or anything that people pay to the city, if they do it after 2:00, they are going to get a receipt that has the following day on there?

**MS. THOMAS**: Right.

**SECRETARY KEMP**: Okay. Is there any other kind of documentation on the day, or other witnesses that on the day this other person qualified that we have? Or is it just this?

**MS. THOMAS**: As in what?

**MR. WEBB**: Ms. Thomas, did you process the candidate -- did you handle this transaction?

**MS. THOMAS**: No, I didn't.

**MR. WEBB**: Who did?

**MS. THOMAS**: I went to the voter registration office and qualified. The girl that notarized my paper, Lisa Paradise, she --

**SECRETARY KEMP**: She did that in the voter registration office?

**MS. THOMAS**: Uh-huh.

**SECRETARY KEMP**: And she works for the city voter registration?

**MS. THOMAS**: No. She works for Tattnall County. Tattnall County does all the city elections.

**MR. WORLEY**: Ms. Thomas, who did you give your check to?

**MS. THOMAS**: Deborah Jordan at the City of Reidsville.

**MR. WORLEY**: And you did that at 4:11 PM?

**MS. THOMAS**: Uh-huh. Yes, sir.

**MR. WORLEY**: And then when did you turn in your paperwork to Ms. Paradise?

**MS. THOMAS**: I left there and went -- well, actually, I did everything at the voter registration office and came back and paid this at the City of Reidsville.

**MR. WORLEY**: So the last thing you did was at 4: 11 PM on that day?

**MS. THOMAS**: Right.

**MR. WORLEY**: And at that point you had all of your paperwork done?

**MS. THOMAS**: Yes.

**SECRETARY KEMP**: Have we talked to the person in the office that did this, Mr. Harvey?

**MR. HARVEY**: Yes, sir; we have. And she corroborates that the event happened on Friday afternoon. That's correct.

**SECRETARY KEMP**: Before the end of qualifying?

**MR. HARVEY**: Yes, sir. As consistent with the computer generation of 4:11.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you.

**MR. SIMPSON**: Are you the registrar in charge of the elections for Tattnall County?

**MS. THOMAS**: No sir; no sir. Lisa Paradise is in charge -- the Tattnall County voter registration office does all of our election work. They do all of the elections.

**MR. SIMPSON**: And there's no date time stamp when that qualifying document was received? They do not have a date time stamp in that office?

**MS. THOMAS**: No. No sir.

**MR. SIMPSON**: Thank you.

**SECRETARY KEMP**: Yes, sir.

**MR. CLIFTON**: My question is, she just stated that it would be at the next time -- the next date. Why would her ticket say 4:33 in the afternoon instead of 8:00 in the morning? You see what I'm saying? You can write September 2nd on any check.

**SECRETARY KEMP**: Well, wouldn't that depend on when they processed the check? I mean, she could have given them the check -- well, let me think about this a minute.

**MR. WORLEY**: Could we see your document?

**MR. CLIFTON**: Yes, sir.

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

**MR. WORLEY**: I moved to accept.

**MR. SIMPSON**: 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**: That motion carries.

**MR. CLIFTON**: You see where mine says 8:31 in the morning? Why wouldn't hers say -- if that was the case, hers should show 8:00 the next business day instead of 4:33 that afternoon.

**SECRETARY KEMP**: Well, what I think what we might need to do is just told this one over and let us do a little more due diligence because I can see where, you know, if she had qualified before 4:30 but they didn't process the check until after that, you know,

there could be a technical issue that, you know, I think it might be good for us to go back to give the board some assurance of what happened and get some people to corroborate what did happen on that afternoon.

**MR. CLIFTON**: Like I say, if you're closing -- qualification was announced as being closed at 4:30 PM. 4:31 should not even be allowed because 4:30 was the deadline.

**SECRETARY KEMP**: I understand. Any other questions?

(Whereupon, there was no response)

**SECRETARY KEMP**: I would move that we bind this over, or not bind it over, but move that we -- what is the motion I need to do here for us to --

**MR. HARVEY**: Just to refer you back to investigations and we can --

**SECRETARY KEMP**: I move that we refer it back to investigations where we can get a little more due diligence done for the board and interview some of the people that were -- I know we have already done that, but I think we need to document that in a way that would make the board comfortable. So I will move that we refer it back to the investigative division.

**MR. WEBB**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: 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 revisit this case. Thank you both for being here. All right. We are going to move on to -- I tell you what. I'm going to skip over the re-presentation real quick and, if it's all right with the board, call one of our new cases, case number 2010, number 67, Baldwin County; the petition case. I know we have got Representative Rusty Kidd here and he needs to get back to Atlanta for the session. So, Mr. Harvey, if you don't mind, if you will present that case for us.

**MR. HARVEY:** Yes, sir. This case involved a nomination petition for Representative Kidd in Baldwin County when he was going to run for state legislature. Unlike some of the other petition cases we have had, this appears to be a case where people acted without any kind of malice or any kind of deviousness. In circulating the petition, there were friends and associates and business partners of Representative Kidd who, in an attempt to get signatures on the ballot, circulated petitions in businesses; they went door-to-door; they met with their friends. They presented the petition and individuals signed the petition, and then in several cases, people signed their -- they signed their name and then they signed their husband's name or a relative's name who were not there, which, they are, frankly, just not allowed to do under law. There was no indication in the investigation that there was any type of concerted effort; there was no coercion; there was no reward of anything for signing the petition or gathering signatures.

However, the facts as they are revealed that there were several violations involving approximately 15 people, including six people that circulated petitions, including Representative Kidd. And there was an additional group of people who acknowledged signing their spouse's or family member's name to the petition. So we are recommending that the case be bound over on the State Election Board violations for the circulators; and then on 21-2-563 on the remaining respondents -- and they are on the respondent chart behind the executive summary -- that indicate individuals who signed relative's names.

Again, there was no indication that anybody was necessarily fraudulent in trying to do anything in this case, unlike the Chatham County case where people were contacted and had no idea how their name got on here. It was actually discovered when, in verifying the petitions, the registrar called somebody and asked about their signature. The person was concerned that his name had been forged and then found out it had been a relative of his, I believe his mother or grandmother, who would actually put his name on the petition.

So with those facts being in order, I recommend this case be bound over in light of the specific circumstances I mentioned.

**SECRETARY KEMP:** Thank you, Mr. Harvey. Members of the board, I am going to recuse myself in this case. Representative Kidd has been a good and faithful servant of our Elections Advisory Council that we have been working on over the last year and we are continuing to work with him and the rest of the legislature as we work through legislation. I think in an abundance of caution I think it would be proper for me to recuse myself.

With that, I'm going to let Mr. Worley take the helm here and present, or move forward with this case.

**MR. HARVEY**: Mr. Worley, if I may, I have a stack here of letters that have been sent in on behalf of Representative Kidd and individuals who signed the petition or had their name signed. They indicate that, again, there was no fraud; no forgery with intent to deceive. So I present these to the board for consideration if you would like to accept them.

**MR. WORLEY**: Do we have a motion to accept those documents?

**MR. WEBB**: So moved.

**MR. SIMPSON**: Second.

**MR. WORLEY**: All in favor of accepting the documents, say "Aye."

(Whereupon, the vote was unanimous)

**MR. WORLEY**: All opposed, same sign.

(Whereupon, there was no response)

**MR. WORLEY**: We will take the documents. Thank you.

Representative Kidd, would you like to speak?

**REPRESENTATIVE KIDD**: Yes, sir. Thank you. One, let me thank you for having me here.

**MR. WORLEY**: I'm sorry, Representative Kidd. If you could just give us your name and address for the record.

**REPRESENTATIVE KIDD**: Edwards Culver Kidd, the Third, better known as Rusty Kidd; 2090 North Jefferson Street, Milledgeville, Georgia 31061. I go by Rusty so the other person's close friends won't shoot me by mistake.

I really appreciate y'all having me here. That sounds strange from a politician's viewpoint, but I know if you don't investigate someone like me who is an elected official, there are other people out there who say, you know, you showed a preference and didn't investigate him; why should you investigate me? So I have no problem at all in what you are doing and commend you for doing so.

When I ran for office in 2009, it was to fill a vacated term. It was a nonpartisan election, although the election office said I had to register as a Republican, Democrat, or Independent. So I did so as an Independent. Then comes 2010 and I, obviously, was

seeking reelection to the position I just had and was told I had to get petitions at this particular time.

In the process of circulating petitions, everywhere I would go I would carry petitions with me. When I gave a speech to the Rotary club or the Kiwanis club or the Tea Party, the retired state employees' association -- wherever -- obviously, I would take petitions with me. I'd put them on the table where the registration table was and during my presentation or talk, I would urge anybody who wanted me to be on the ballot to please go up and sign the petition if they were registered voters in Baldwin or Putnam County. So, technically, I did not see everybody sign the petition. I know that's what the law says now, that technically you have to watch everybody sign the petition if I'm signing the piece of paper. So, no, I did not see everybody sign the petition.

In places where we left the petition, at my office, for instance, and a couple of restaurants and so forth, people who really wanted to help out, this was put there. I'll give this to you all also. It says:

"To all registered voters, our representative, Rusty Kidd, needs your help again. He needs to collect 2000 signatures in order for him to run for the Georgia House of Representatives as an Independent. He is working nonstop to help save our jobs and bring new industry to Baldwin County. Let's help save Baldwin County jobs. Sign today."

So this was left on tables and so forth at restaurants and other places for people to sign up if they wanted to.

I have a couple of people with me today that are employees of mine, but at different locations, that can explain to you how they handled it at their office if you want them to. But what they will tell you is that they put the petition on the counter and someone would come in and ask what the petition was about it and, obviously, they would ask them to sign their name to it if they wanted me to be on the ballot. Technically, they saw probably 90 plus percent of them sign it. There are, obviously, some signatures on there they did not see them sign.

That was the case with the lady at the auction that you have a letter from. We went to a little auction in Milledgeville and passed out the petition. We were passing it around this one lady signed it and her husband was sitting right there next to her. He says, my glasses are in the car; sign it for me. And she did. There is a letter in there on that. There is also a letter in there from the past chairman of the county commission. He not only wrote the letter back to y'all, but he included a copy of the petition where he signed it and signed his wife's name to it and initialed his signature next to his wife's signature, or where he had signed his wife's name to it, indicating that he had signed his wife's name to it initially. He was under the impression from his attorney that they had the power of attorney with each other and could do that.

I am one hundred percent positive that there was no intent from anybody to violate the law. I am not aware of anybody who was coerced to sign; I'm not aware of anybody who signed someone else's name intentionally with a fraud application.

I think how it first got started was I took the petition down to a friend of mine who owns a tractor supply place in Milledgeville -- good supporter; good friend -- and left the petition with him to see if his employees wanted to sign. He in turn gave it to his niece to go somewhere and get some other signatures and his niece is the one that signed for her son. With the election board was trying to compare signatures, they found that this person named was not registered to vote. So they called the guy to see if he wanted to register to vote and he asked where did they get his name from. It's on the petition. "I didn't sign the petition." And I guess that's how the investigation got started. And, yes, there are some names on there where spouses wrote their name and all.

That's all I know, Mr. Chairman. I did not see every signature signed. The people that supported me and carried petitions around did not see every person's signature signed. And there are those few cases where supporters signed their spouse's name, most at the acknowledgment of the spouse. And there were probably a few, maybe five or six, that signed their spouse's name before they asked that spouse to do so.

That's all I've got, Mr. Chairman, and I will -- I left you all with all the originals and so forth. Any other questions, I'll try to answer them or the couple of other people that are here with me that circulated petitions, they can answer your questions also.

**MR. WORLEY:** Do any of the board members have any questions for Representative Kidd? If not, I have a question.

**REPRESENTATIVE KIDD:** Yes, sir.

**MR. WORLEY:** This coming election, are you qualifying through the same petition process?

**REPRESENTATIVE KIDD:** Hopefully legislation will pass -- it passed the committee yesterday -- that will say that once you have been elected you don't have to go back through the petition route again. I sure hope not. The petition route, as the Secretary of State's study committee this summer proved, is a very onerous thing to have to go through even if you get 1200, 1300, 1400 signatures. I think every place that the hearings were held this summer, all of the participants wanted the applications changed. They want to make it easier for people to run for office rather than more difficult for people to run for office. Be they Independent, Republican, Democrat, or whatever else, don't make qualifying a burden.

I understand that over the years, and witnessed over the years, when the Democrats are in charge, they change the election commission one way; when Republicans are in charge, they change it back another way and it flip-flops back and forth. Let's face it and be honest about it: The reason they do is they don't want people running against them and they want to be able to maintain the power themselves. I understand that. But hopefully, it will make it easier.

I don't think I have to give petitions again next year. I know a whole lot more about the law today than I did then as far as the petition process goes. One of the things that needs to be changed, and I don't think it's in that bill, Mr. Secretary, is that you have to sign the exact same way your name appears on your voter registration. I doubt there are five people in this room who could tell you exactly how their name is on their voter registration. I can't. I don't know if it's E. Culver Kidd or it's Edwards C. Kidd or it's Edwards Culver Kidd; I sign my name a certain way. But is it technically the same name as you go through rather than how did you sign your voter registration card 10 years ago.

**MR. WORLEY**: If that legislation doesn't pass, you don't have any problem complying with the law as you currently understand it?

**REPRESENTATIVE KIDD**: No. If I'm going to run, I definitely will abide by the law. As I said, I needed 2000. I didn't really need 2000; I only needed about 1250. My goal was to get 2000 so, obviously, some of them would be in error or whatever else and have enough to be thrown out.

The commission this summer determined we would have -- the Secretary of State would propose legislation that would reduce the number of petitions that one would have to get based on the turnout in the last presidential election. I guess five percent across the board is the number of people that registered to vote. Unfortunately, I'm not exactly sure why that was taken out of the version yesterday. So it would stay the same that if I were have to get petitions again, or if anybody had to get petitions, they would have to get five percent of the registered voters in that district that were registered at the time of the last election. I think that's what it says. And, yes, if I have to again, I will do it.

**MR. WORLEY**: Mr. Simpson?

**MR. SIMPSON**: Had all the signatures been rejected, would you still have had enough signatures to qualify?

**REPRESENTATIVE KIDD**: Yes. Yes, sir.

**MR. SIMPSON**: So whether or not the signatures were valid would not affect your qualification?

**REPRESENTATIVE KIDD**: I don't think so because some names were thrown out. I know some names that have already been thrown out for various and sundry reasons: not matching --

**MR. SIMPSON**: You still would have had adequate --

**REPRESENTATIVE KIDD**: That's why I wanted an adequate number. You can take those 15 or 17 names and throw them in the trash can. I don't think it would have any effect on my election, no.

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

**MR. WORLEY**: Any further questions? Mr. Webb.

**MR. WEBB**: I think that assuming the rules stay the same, I think the learning experience here is don't have a sign-up sheet at the door that people sign up on their way out without having a person sit there and signed as a circulator. Otherwise, I think you put yourself in peril of violating this code section. Unfortunately, that is the code section that we have today.

**REPRESENTATIVE KIDD**: I agree. That's why, Mr. Secretary, I had introduced a bill in a previous year and had tacked in on to another bill, to be honest with you, that passed in committee. The Secretary asked me if I would mind pulling that version off because he was going to study it last summer, and so forth. And so rather than pushed the legislation two years ago, I agreed to go ahead and take it off because it wouldn't impact my personal election and we would look at it all this past summer, which we did, and made recommendations. I saw another member of the election special committee come in a little while ago and we made lots of recommendations to the legislature this year; some recommendations to the Secretary of State's office to look at for future years and recommend some changes. However, most of those -- not most of them -- some of those were taken out yesterday and I haven't really found out exactly the reason why yet. My independent caucus in the phone booth couldn't figure out the answer.

**MR. WEBB**: Mr. Harvey, am I correct in reading the respondent chart that except for two individuals, most of the circulators only had one other person sign the petition?

**MR. HARVEY**: Could you ask that question again?

**MR. WEBB**: Sure. I'm sorry. In the respondent chart, am I correct in reading that of the people that signed another person's name, whether it was a spouse or son, I think in some cases, that except for two individuals, those individuals only signed one of the person? So there wasn't any blatant fraud going on in these signatures?

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

**REPRESENTATIVE KIDD**: The letters are provided and I attached to that all the people we could contact since we received your letter. There are like four names that there is no response; we could not find them. There was one response from one lady that said it was so long ago she did remember signing them herself. Now, I don't know if she signed her to sign, but I included that letter because she responded to me with that letter.

**MR. SIMPSON**: When you decided to qualify by the petition route, were did you get your petitions? Did you get them from the registrar's office?

**REPRESENTATIVE KIDD**: I got them from the office in Atlanta.

**MR. SIMPSON**: Okay. Were you given any instructions about these technicalities; about how the signature was supposed to be put on the petition; how the petitions were supposed to be handled? Was there any instruction given to you as a candidate when you picked up those petitions?

**REPRESENTATIVE KIDD**: Verbally, no, sir. But I think that if one would carefully read the instructions, you would probably understand that. But I didn't carefully read all of the instructions, to be honest with you.

**MR. SIMPSON**: That's my question. Was there an instruction sheet that came with the petition --

**REPRESENTATIVE KIDD**: Yes, sir.

**MR. SIMPSON**: -- to set out exactly how you had to do it?

**REPRESENTATIVE KIDD**: I can't say affirmatively, but I'm sure was. But I'm just like everybody else, you know, try to put together first, and if it falls apart, then I go back and read the instructions. And that's what I probably did.

**MR. SIMPSON**: Sounds like you've put together a lot of swing sets.

**REPRESENTATIVE KIDD**: Yes, sir. And they fell apart, too. But one of the provisions, for instance, that need to be looked at, I took back to the elections office at the Capitol a pile of affidavits and they said they had to be bound. I said how do they have to be bound? She said put a rubber band around them; they would be bound. That's the kind of language that needs to be looked at and revamped somewhat as to what bound means. Also, what I did is someone like myself and my employees and others, we took the long petition and I cut the top part off of it, which is a lot of the explanations of rules and regulations. But on the cover page, we kept it there. So as they were circulating petitions they would either have a page that would have nine or 10 names on it, or they

would have a page they could put 30 or 40 names on it. Technically, that is wrong. Technically, you've got to use that one page with 10 blanks on it for every person that wants to sign, which would triple the number of pages that I would have to have bound by a rubber band, or however else. But I didn't know that at the time, either. When I found out midway through, we changed it and all of the petitions after that were done the proper way. Some of the rules and regulations didn't make a whole lot of common sense so we put the screw in the wrong place.

**MR. WORLEY**: If I can get Mr. Brooks, can you get the sign that Mr. Kidd wanted to present it to the record.

**MR. WEBB**: We need motion to accept that?

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

**MR. WEBB**: So moved.

**MR. SIMPSON**: Second.

**MR. WORLEY**: All in favor of accepting this as a document into the record to, say "Aye."

(Whereupon, the vote was unanimous)

**MR. WORLEY**: All opposed, like sign.

(Whereupon, there was no response)

**MR. WORLEY**: Mr. Kidd, do you have any other . . .

**REPRESENTATIVE KIDD**: No. I look forward to continuing to work with the Secretary of State's office on the subject matter that we looked at all over the summer and hopefully get more introduced in the Legislature and passed in the future to make it easier for people to serve the state rather than more difficult for people to serve the state.

**MR. WORLEY**: Is there anyone else would like to speak on this case?

(Whereupon, there was no response)

**MR. WORLEY**: Would any member of the board like to make a motion regarding this matter?

**MR. WEBB**: I think this is a matter that the Attorney General can work with very easily and I would move to make a recommendation to bind it over to the Attorney General's office.

**MR. WORLEY**: And as a member of the board, I like to state for the record that I think this is also something that could be adequately dealt with by a consent order.

**MR. SIMPSON**: Second.

**MR. WORLEY**: All in favor, say "Aye."

(Whereupon, the vote was unanimous)

**MR. WORLEY**: All opposed, like sign.

(Whereupon, there was no response)

**MR. WORLEY**: Thank you. That concludes this case, Mr. Secretary.

**SECRETARY KEMP**: All right. Let the record show that the chairman is back in action. Representative, thank you for being here today. We appreciate you taking the time to show up. I know it is very busy at the Capitol and it means a lot to the board and, I think, to your constituents and the other respondents that you were concerned enough to come and be honest with the board. I think it has been shown over the years that honesty is a good thing before this board, and I know that Ms. Brumbaugh in the Attorney General's office will be reaching out to work out something with you all that I think will be amenable.

With that, have a safe trip back to the Capitol and we look forward to continuing to work with you.

**REPRESENTATIVE KIDD**: Thank you and have a good day.

**SECRETARY KEMP**: We are going to move back now off of the new cases to the re-presentation case for case number 2010, number 6, the City of Cordele. Mr. Harvey?

**MR. HARVEY**: Mr. Chairman, this case was presented at the last meeting, however, the city and Mr. Outlaw and Brenda Turner were sort of continued out. Two individuals were dealt with, and I believe they have got consent orders, Gail Wade and Kay Williams. So this case only involves Brenda Turner, the city, and Jerome Outlaw.

The basis of the case is that the two women who have already settled their cases presented absentee ballots that they illegally possessed and assisted with to the Board of

Elections. The Board of Elections rejected the ballots on the basis that they had been improperly possessed and turned in, which does not appear to be a valid reason for rejecting an absentee ballot.

So it's recommended that these respondents be bound over to the Attorney General's office for an improper rejection of absentee ballots.

**SECRETARY KEMP**: Any questions for Mr. Harvey? Hold on just a second, sir. Any questions from the board for Mr. Harvey?

**MR. WEBB**: Mr. Harvey, for clarification purposes, the better we are going to hear from the Attorney General's office later today under tab 29 is related to only Gail Ward [sic] and Kay Williams; is that correct?

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

**MR. WEBB**: And this case is specifically referring to --

**MR. HARVEY**: The city election official -- the city and election officials who rejected the absentee ballots.

**MR. WEBB**: Thank you.

**SECRETARY KEMP**: Would anyone else wish to speak?

**MR. COTTON**: My name is Tom Cotton, Edwin T. Cotton, PO Box 897, Cordele, Georgia 31010. I am the City of Cordele's attorney. I just want to refresh the board's memory.

All of this was to be presented back in November and Ms. Turner had a death in the family a matter of just hours before the hearing and she didn't even appear at the hearing. Mr. Outlaw, did, in fact, appear at the hearing and tell me what had happened and I asked for a continuance. This is Jerome Outlaw. He is the chairman of the local elections board. And this is Brenda Turner. She is the supervisor of elections.

The city of Cordele contracts its elections out to the county and they take care of these things. Having heard what Mr. Harvey says, I was going to elaborate on some explanation. These people did not mean to do anything wrong, Mr. Kemp, and they are here to state that if the board wants to hear that. I have, in fact, told that to Mr. Harvey. And, of course, I've had a very pleasant relationship with Ms. Brumbaugh on the first two of the cases, which dealt with the chairman of the board of -- the chairman of the city commissioner's wife and his sister-in-law in assisting with some absentee ballots.

These folks -- in this little community of ours, Mr. Kemp, we are cursed or blessed -- I don't know; however you look at it -- these folks know the people out there and they knew when these absentee ballots were brought in and they were signed off on by these relatives that that's not the way it is. I mean, they were illegal in their actions, but they did not go to the next level, that being, there was no wrongdoing on the part of these folk. And that is what we are being charged with. And, so, if it is Mr. Harvey's recommendation that it be forwarded to Ms. Brumbaugh, I certainly second the motion.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here, Mr. Cotton. Did either of you want to speak?

MR. OUTLAW: No.

**SECRETARY KEMP**: Is there anyone else you that wishes to speak? Yes, sir. Come on up. Thank you all for being here today. Just stand by in case we have any questions. You can have a seat if you like.

Go right ahead.

**MR. YOWE**: Good morning. My name is Antoine Yowe. I currently reside in (unintelligible) South Carolina, 213 Barker Road. Just a few things.

At the onset -- at the opening of the meeting, you stated that one case of voter fraud is too many. If this is true, my question is when will a punishment be handed down that will echo across the state that reflects such a statement? If we continue handing down favorable decisions to criminals, what will cause them to think twice before they break the law? It was said that the subjects in this case were not aware of the crime that they were committing. The law says that ignorance of the law is not an excuse to break the law. Earlier today we had a representative in the room who had a very busy schedule in Atlanta but he took the time out to come and to stand up before this board. When the two individuals that is here today -- the other two individuals that I just recently found out that they have a consent in their case, they have missed both of the hearings. Having the city attorney to show up on their behalf is, I believe, a direct conflict of interest because the husband of one of these sources is the chairman of the city Council of Cordele, for which Mr. Cotton works.

But at the end of the day, laws were broken in my campaign, as well as other campaigns; were not given a fair chance to win regardless of the margin of election. On that basis of

the law, I am asking this panel to hand down a consistent punishment that fits the crime and not just a slap on the wrist. Thank you.

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

**MR. WEBB**: Mr. Yowe, the consent order that we are going to discuss this afternoon, you understand that those include fines, monetary fines that the individuals will be responsible for paying?

**MR. YOWE**: Yeah, I'm pretty sure they probably will, but I mean, is the fine going to be something that will resonate across the state that breaking election laws is not taken lightly? I mean, or will it just be a fine that will justify saying, we gave out a fine?

**MR. WEBB**: I think the amounts are comparable with the fines that we've done in the past, and I guess we will discuss that this afternoon when Ms. Brumbaugh speaks. But I think that our task here today is to be consistent and that we do take the election process seriously and that we do try to fit a remedy that best applies to the situation.

**MR. YOWE**: If the consent is consistent and fair then, you know, it's a consistent and fair decision. However, I do believe that our election board have to stand up and make a statement that such laws that are broken -- well, such actions will not be tolerated within the state.

**MR. SIMPSON**: You understand what our job is today and that is only to find probable cause us to whether or not there has been a violation. We don't determine, at this stage, whether anybody's guilty or innocent.

**MR. YOWE**: Absolutely.

**MR. SIMPSON**: And what we do today is if we refer it to the Attorney General, then they come back to us with a recommendation or they have some other disposition, which we would approve or disapprove later. But you understand that that's our process and this case is here for probable cause for determination of whether or not we would forward it on to the Attorney General for further prosecution or whatever other disposition the Attorney General recommends; you understand that is where we are today?

**MR. YOWE**: Yes, I understand the two individuals today will be on recommendation to the board bound over to the Attorney General in the case that --

**MR. SIMPSON**: That's all we can do today.

**MR. YOWE**: In the case that is down, I take it a consent order has already been given, so --

**MR. SIMPSON**: We haven't got to that get, so that is not before us.

**MR. YOWE**: Well, if I could just asked the question because I drove about four hours to get here, and if it is already solved and done with, I can take off and make my son's basketball game this afternoon. But the second part of this case, which was one case --

**MR. SIMPSON**: I don't think we are in a position to prejudge something that we are going to take up later. That case doesn't have anything to do with the action that is before us today -- this minute.

**MR. YOWE**: Well, I guess I have to stay until this afternoon.

**MR. SIMPSON**: That's up to you.

**MR. YOWE**: Thank you.

**SECRETARY KEMP**: Anymore questions for Mr. Yowe?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here today. We appreciate it. Any other -- anyone else wishing to speak on this matter? Mr. Cotton?

**MR. COTTON**: Mr. Secretary of State, I just want to respond to one allegation made by Mr. Yowe. That allegation being that the City of Cordele hasn't paid a dime toward the defense or the involvement of the sister-in-law and the wife. He said that -- he made it kind of as if the city was defending that, and it is not. The city was there prior to that time because the city was also charged. But as Mr. Harvey pointed out back in November, those issues have been resolved between the city and the Department of Justice. Therefore, we were free.

I just wanted that stated.

**SECRETARY KEMP**: Thank you for that. Anyone else?

(Whereupon, there was no response)

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

**MR. WORLEY**: Mr. Secretary, before we had gotten to that stage, I had a question for Ms. Brumbaugh or Mr. Harvey or Mr. Cotton, if he would like to offer an opinion. But I would just like to be clear on what's going on here. Ms. Wade essentially agreed that she was guilty of a violation in presenting these two absentee ballots. And Ms. Williams has

agreed that she violated the law by unlawfully possessing the absentee ballots. And now we're saying that the registrar and the Board of Elections acted wrongly in rejecting those ballots, which were illegal ballots, because the statute doesn't provide that they can reject a ballot because it was unlawfully possessed or because someone was improperly assisted?

**MR. HARVEY**: That is correct. The ballot, itself is -- there is no indication that there is anything wrong with the ballot, itself. That was presumably the way the voter voted it and 21-2-386 gives the reasons for rejection, and the fact that it was improperly delivered is not one of the reasons for rejecting a ballot.

**MR. WORLEY**: Okay. So, essentially, there is no remedy for that problem?

**MR. HARVEY**: Well, the remedy would be for the person who committed the violation of illegal possession, they would be sanctioned. But the voter isn't penalized by not having the vote counted and the registrar is not penalized for processing what appears to be a valid absentee ballot.

**MR. WEBB**: I think Mr. Worley's point is that someone could take 1000 absentee ballots, fraudulently submit them, and be subject to personal fines, but those votes would not be rejected and, therefore, would be added to the voter count which could swing an election.

**MR. HARVEY**: Well, yes, except that each vote would have to be individually verified. So if they were fraudulently obtained and the signatures didn't match and the information didn't match, if somebody was able to do that, then conceivably it could be done. But, you know, each absentee ballot has to be considered on its own merits according to 21-2-386, signature match, signature match application, information match. So they could only swing the election if they could manipulate the entire system with signatures and applications as well, which would be difficult to do on a large scale. It would certainly not be impossible, but you have the application to compare to the ballot to compare to the registration card.

**MR. WORLEY**: But it seems to me that the problem here is that the statute seems to assume by prohibiting this kind of unlawful assistance that some improper influence is going to be used with that voter to influence the way that they cast their ballot. So it seems to me that there is a problem here with the statute and maybe that is something that the election commission should look at.

**SECRETARY KEMP**: Well, I think you raise a good point. That's one of the reasons why one of the recommendations of the Elections Advisory Council's report is to create a code review committee that is going to go through the whole Title 21 and try to -- that is one of the things we probably need to address. I think the fundamental question is you can have different scenarios that affect absentee ballots. You may have people who

lawfully fill the ballot out that want their vote counted, but somehow, because of their not knowing, it gets illegally handled and you have the question of do you count the ballot or not. I think that is the posture that we're in here.

**MR. SIMPSON**: In none of these ballots was there any indication that the signatures didn't match or there was no grounds to reject the ballots; is that correct?

**MR. HARVEY**: That is my understanding is that they were rejected --

**MR. SIMPSON**: Improper.

**MR. HARVEY**: I'm not even sure if they were attempted to be verified. I believe they were rejected based on the fact that they were improperly presented.

**MR. SIMPSON**: So what should have happened when they got these ballots that were improperly presented is that the registrar should have made those verification checks that you just outlined that the statute says; they should've checked to make sure the signatures matched and all that other stuff. And by not doing that, that is where the registrar made the mistake.

**MR. HARVEY**: Correct. If all of that stuff have matched up, the law appears to indicate that the ballots should be accepted, even if it comes from a suspect source.

**MR. SIMPSON**: So the law presumes a lawful ballot?

**MR. HARVEY**: I believe so.

**MR. SIMPSON**: And you have to have additional evidence before you can reject that ballot that a voter . . .

**MR. HARVEY**: I believe so.

**MR. SIMPSON**: That makes sense to me.

**SECRETARY KEMP**: Mr. Cotton, do you have anything you would like to say?

**MR. COTTON**: Mr. Secretary, I'm like Mr. Worley. I had problems with that issue in the very beginning and after reading the code section several times, I can see where the charge -- how the charges originated and why they are there. I think that Mr. Harvey is correct in that the actions of the ladies that witnessed, or that helped the absentee voter, should not impact the vote itself. The vote itself should have been counted and I think that is what the two of them have arrived at. But Ms. Turner wanted to respond to some of this, if that's all right.

**SECRETARY KEMP:** Ms. Turner, if you would, just state your name and address for the record.

MS. TURNER: My name is Brenda Turner. I live at 1098 Tremont Road, Cordele Georgia 31015. In reference to checking the signatures, all of the ballots that are concerned, we did verify; we did verify the signatures and the addresses. But because of the problem with the assistance, that was the reason why I turned this over to the board to make a decision on whether to accept or reject. But we always do verify them even if we do reject them.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Do we have a motion to move forward?

**MR. SIMPSON:** I move that we refer the case to the Attorney General.

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

**MR. WORLEY:** I would just like to state that because of this, what I see as a problem here in the law, I don't think this action is appropriate for a fine when a consent order has been entered into. That is just my opinion as a board member.

**SECRETARY KEMP:** Thank you, Mr. Worley. Any other comments?

**MR. WEBB:** I would like to echo Mr. Worley's comments. I think it is a tough battle. You think you're at the point where you are trying to decide whether a ballot should apply or not and you're thinking, well, if these people have improperly handled it, I think I should reject it. I'm assuming there was outcome affected in the election, itself.

**MR. HARVEY:** I don't believe so.

**MR. WEBB:** I would think that a consent order or a letter of instruction would be in line.

**SECRETARY KEMP:** Well, I know Ms. Brumbaugh is good at working these things out with all parties involved so I am sure she will have a good recommendation for us.

Let's see -- refresh my memory. Do we have a motion to refer? Do we have a second? I seconded; that's right. All right. We have a motion in the second. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of referring 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 that we have referred the case. Thank you all for being here today.

**MR. COTTON**: Mr. Kemp, may I say one more thing?

**SECRETARY KEMP**: Yes, sir.

**MR. COTTON**: Just 12 seconds or maybe 20 seconds. I just wanted to comment that I have learned more about election law than I ever wanted to know. This guy, Chris Harvey, who I assume is your employee?

**SECRETARY KEMP**: Yes.

**MR. COTTON**: He has been an absolute highly -- he is very professional. He even answered the phone, Mr. Kemp, the first time I called.

**SECRETARY KEMP**: Don't give him the big head. We've got a lot of cases frantically working on, but thank you for saying that.

**MR. COTTON**: This was back in October. The first thing I said to him was I can't believe that you answer the phone. Thank you.

**SECRETARY KEMP**: Well, thank you. We appreciate you being here. Mr. Harvey and all of his investigators --

**MR. COTTON**: Of course, Ms. Brumbaugh was most delightful to deal with, also. But she doesn't work for you, I don't think.

**SECRETARY KEMP**: No, but she is delightful; I will agree with you. We appreciate what our inspectors and our investigators are doing. They are working very hard with what they have to work with, that's for sure. Thank you.

All right. Mr. Harvey, I think we are on the Lumber City case.

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

**SECRETARY KEMP**: 2009, number 35.

**MR. HARVEY**: This is a municipal election in the city of Lumber City in Telfair County. There were a long list of allegations in this case about improper handling of absentee ballots; people being -- election officials possessing ballots at home; talking about rejecting absentee ballots in public; illegal possession of absentee ballots. Most of the allegations were found not to be true. However, we did find several allegations that were sustained. I would point out that this election ultimately was contested and was overturned by a judge based on something I'll talk about in a second.

The first allegation where we found a violation was that a commissioner, Commissioner Alice Strong, admitted to and acknowledged possessing absentee ballots. She estimated there were 15 to 20 absentee ballots for people she had assisted and then took possession of their ballots and turned them in. So that allegation was sustained and was admitted to.

The second allegation was that the time between receiving the application for the absentee ballot and actually mailing out the absentee ballot was excessive. That was found in about 118 cases. Multiple, multiple days passed between the reception of the absentee ballot application by the registrar's office and having the ballot mailed out in a timely fashion. So that appears to be a sustained complaint, as well.

The third allegation that is probably the most serious has to do with the security of the ballots after the election. After the election, the ballots were left on a desk, or on a table, in a room in city hall. A recount was ordered, which occurred nine days later. When the recount was done, the ballots were found to have about 25% of them appearing to be spoiled; they looked like they had been double-marked. The judge who listened to the election contest found that there was strong evidence that somebody had tampered with those ballots after they have been voted. We don't have an indication of who did that, but the fact that they were not spoiled in the initial count but were spoiled in the second count suggests that they were certainly not help secure. They were in a room in city hall but they were not in a locked box as required by the code.

So on these three violations I recommend that these be bound over to the Attorney General's office.

**SECRETARY KEMP**: Can you just make sure that the board is clear on who or what entities you're recommending to bind over?

**MR. HARVEY**: Yes, sir. Commissioner Alice Strong, Lumber City, and Diane Powell, who at the time was the Lumber City elections superintendent. My understanding is that she is no longer the elections superintendent.

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

**MR. WORLEY**: Mr. Harvey, do you know what happened in the election contest?

**MR. HARVEY**: As far as?

**MR. WORLEY**: In the court case. What was the result?

**MR. HARVEY**: A new election was ordered.

**SECRETARY KEMP**: Okay. Anyone else wishing to speak? Welcome.

**MR. CANNON**: Yes, sir. Thank you. My name is Lee Cannon, C-A-N-N-O-N. I represent Ms. Diane Powell. My firm is Smith & Cannon, P.C., mailing address PO Box 270, McRae, Georgia 31055. The physical address is 30 East Martin Luther King Jr. Boulevard, McRae Georgia.

I represent -- she is remarried since then, so her name is now Heath. But I will refer to her as Powell because that is the way it appears in the documents. I represent Ms. Diane Powell only. I do not represent the city.

Basically -- and I'll also add that Mr. Harvey was very helpful and he answered the phone when I called, too. So apparently he is very consistent with that. But really I just want to speak very briefly on behalf of Ms. Powell. I have some affidavits that I wish to submit.

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

**MR. SIMPSON**: So moved.

**MR. WORLEY**: Second.

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We have moved to accept the documents. Thank you.

**MR. CANNON**: Thank you. I think the affidavits will lay out Ms. Powell's case a lot more thoroughly. I will just briefly summarize here this morning. As Investigator Harvey stated, we would agree with him as far as the allegations that he says that there is no evidence to go forward on. We would certainly ask that those be dismissed. What I'm basically going to spend my time on are allegations 5 and 7 as they apply to Ms. Powell.

As far as allegation 5, this is the allegation in regards to mailing out absentee ballots past the two-day period. Basically, Ms. Powell admits to this allegation and I think she lays out in affidavits -- her affidavit -- the circumstances of the situation. We are certainly not here to make excuses. She certainly does not make light of their violation and regrets it. Basically, she was overwhelmed at the time; there were a lot of issues going on. She explains in her affidavit she had very little help. She had a poll workers actually quitting at the time because of some of the things that were going on there in the city. Basically, we're talking about an election in which approximately 300 people voted at the machines and approximately 225 voted absentee. So that is basically the situation that was occurring at that time.

Ms. Powell maintained a log of absentee ballots that went out in what ended up occurring with those. As far as we can tell, nobody was not allowed to vote, or did not get their vote counted because of the fact that these ballots were mailed out late. There were a number of individuals that indicated that they never received a ballot at all and came in and voted on machines. But as far as pinpointing an exact vote that was not counted because these ballots went out late, we have not been able to do.

I would say that in regards to this allegation, Ms. Powell wants to cooperate and resolve this as quickly and efficiently as possible. We will cooperate with whoever we need to cooperate to get that done. She has been back in private industry since that time, since the end of 2009, and no longer works at government or the city, and at this point in time is not planning to ever do that again. That's what she has told me.

Allegation 7 is a little bit more complicated from our standpoint. That is explained to you thoroughly in the affidavit. To just sort of break that week down, selection occurred on November 3rd, 2009; the original election is what I am referring to. Basically, Ms. Powell maintains that she was the last person to leave the city hall that night. Basically, there had been some problem with her not getting the seals for the machines and she had talked to some representatives for the state as to what to do about that and they told her to make sure that the machines were locked up in a room. So she put those in the city

council chamber and lock them up. She maintains that the absentee ballots and envelopes were locked in a ballot box and they were placed in that room.

Where it gets complicated is on the next day, which is November 4, 2009, because of some issues that occurred on election day, the police chief for Lumber City actually came to Ms. Powell's home, apparently at the direction of the mayor, and asked her to surrender her keys. At that point in time she surrendered all of her keys to the city hall, including the keys to the city council room and the ballot box, and any other keys that she happened to have, to him. The next morning Ms. Powell maintains that she called Rachel Simmons with the state elections division and informed her that she could no longer secure the ballots because she no longer had access to the city hall. She was told by the police chief that night that the mayor was going to close the city hall for the remainder of that week until they decided what to do. However, she later learned that city hall was open and that one of the mayor's employees was there and had city hall open.

So what we are basically saying is that Ms. Powell maintains that on the night of the election when she left the ballots were secured. She cannot say what happened to the ballots between the date of November 4, 2009 and November 10, 2009. On November 10, 2009, the city council met. She submitted her resignation letter through family members who attended the meeting; Ms. Powell, I mean. The city council did not accept her resignation letter and at that time and they asked her to come back in and try to finish the election so it could be certified and try to finish her work, at least up until the end of the year. They basically reached some terms on that and she came back and did that.

From that point forward, she did order a recount; she did everything under the advice of the city attorney and she did ultimately end up certifying the election and that election did ultimately get contested in the Superior Court; we realize that. But, basically, what we are saying is that between the time of November 4th, 2009 until November 10th, 2009, Ms. Powell could not secure those ballots and what happened to them during that period of time she does not know. She no longer had keys; she no longer had access to those.

But as far as all of the allegations go -- as far as those two allegations go, they are -- if go forward with those, like I say, she is in private industry now; does not work for the city anymore; doesn't plan to work for the city anymore. She doesn't make light of it. She regrets whatever she did wrong. There was no malice intended. She did not favor one side or the other. Basically, the mailing out of the absentees, she was overwhelmed and didn't get it done like she should have and she admits that. The other allegation, she just doesn't feel like she should be responsible for anything that happened after the election night until the 10th because she no longer had access and was told that she was not allowed in city hall.

But she wants to cooperate and get this done as quickly as physically possible and will do anything to reach that goal.

**SECRETARY KEMP**: Thank you for being here today. Any questions for Mr. Cannon?

**MR. SIMPSON**: I do. If I understand the affidavits, you had someone who was a candidate that came to the office and wanted to raise some sort of ruckus or something. And then a day or so later, the next day, your experienced poll workers and people all resigned; is that correct?

Did that have any effect on the mailing out of the absentee ballots? Was the fact that these people are resigned and left, did that leave her in a position where she could not physically get those ballots mailed in accordance with the rules?

**MR. CANNON**: According to the dates we have laid out, I think those absentees were, in fact, mailed out before the poll workers quit. These were actual poll workers who worked the day of the election. Those absentees had been mailed out prior to that.

**MR. SIMPSON**: Okay. So that didn't have any effect on the mailing of the absentee ballots?

**MR. CANNON**: That particular issue did not. Basically, what I was stating was that there was a -- it was a situation where you have a city with a little over 500 voters that we are talking about and about half of them voted absentee. She was sort of in charge of it all, kind of overwhelmed, and didn't have a lot of help during that period of time. And that is basically what happened. We're not making that as an excuse, just an explanation.

**MR. SIMPSON**: And on the second point, one of these affidavits indicates that after the election, I think the next day, she was suspended by somebody on the city council or something, suspended her and she was asked to hand over her keys and physically, once that was done, she didn't have any control over the security of the ballots. Is that correct?

**MR. CANNON**: That is correct.

**MR. SIMPSON**: Okay.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Thank you all for being here today.

**MR. CANNON**: Thank you.

**SECRETARY KEMP**: Anyone else wishing to speak? Yes, ma'am.

**MS. STRONG**: Good morning.

**SECRETARY KEMP**: Good morning.

**MS. STRONG**: My name is Commissioner Alice Strong. My address is PO Box 324, Lumber City, Georgia 31549.

I would like to talk about the transportation of the absentee ballots. Well, I was interviewed by Mr. Michael Brown and -- when he came to Lumber City. He asked me did I take any ballots to the mail. I was trying to be honest because I'm always helping everybody within Lumber City. I told him, yes. But he didn't ask me if the people were with me. You know, it was not like I just had a bundle of ballots and went to the post and mailed them. I was assisting these people. I take them shopping and, you know, just help them because we don't have a postmaster in Lumber City. We all have to go to the post office; we have post office boxes and these older people, they like to vote, but they couldn't -- they asked me and I took them with me and I put the -- that's why I told him I mailed them, the ballots.

But I don't go around doing anything wrong. I try to uphold the law. And if I did anything wrong, it was not intentionally. But those people were with me when we mailed their ballots and they hand me the ballot and I just dropped it in the box. But that's all I did. It was not like I was, you know, just out there picking up ballots. I did not do that. I have always helped the older people in Lumber City and like I tried to get some of them to go to the polls and vote, but they are like afraid of that -- when they started doing those computers, they wouldn't go to the polls. They were like afraid of the computer. So they like to do the absentee ballots. But I have always been there, you know, to sort of guide them. But I did not just pick up ballots. Those people that I did take -- when Mr. Brown interviewed me, he asked me the question. So I'm being honest and I admitted.

**SECRETARY KEMP**: Okay. Are there any questions for Commissioner Strong?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Thank you for being here today. Mr. Harvey, have we interviewed any of the folks who were responsible for voting those absentee ballots that Commissioner Strong was helping?

**MR. HARVEY**: I'm not sure that we know who those people were. I was going to add that there was a police officer who, around this time, was responding to a call. He went to a residence; he saw Commissioner Strong's vehicle and saw a large number of

absentee ballots in her vehicle. So I don't know how that squares with the statement she just made.

**SECRETARY KEMP**: Okay. Is there anyone else wishing to speak on this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Do any of the board members have any other questions for anybody?

**MR. WORLEY**: I have a question for Mr. Harvey.

**SECRETARY KEMP**: Mr. Worley.

**MR. WORLEY**: Has there been any investigation of the circumstances under which the mayor basically took over city hall and what might have happened to ballots as a result of that?

**MR. HARVEY**: Not specifically. The information we have is that her suspension was due to something other than an election issue. I don't know what that was and I don't know that we have any indication of who would or could have done anything with the ballots.

**SECRETARY KEMP**: Well, I'll just tell you that is a disturbing situation that we had somebody who locked the building with ballots in that and then surrendered her keys and there is potential tampering of ballots. I think if there is anything out there, Ms. Brumbaugh, if you have the opportunity to dig into that, I'm sure the board will appreciate that. Any other comments or discussion from the board?

(Whereupon, there was no response)

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

**MR. SIMPSON**: I move to refer to the Attorney General.

**SECRETARY KEMP**: We have a motion -- Mr. Simpson, if you would kind of -- we've got a lot of allegations.

**MR. SIMPSON**: I can clean that up. What I am moving is that we refer the allegations that Mr. Harvey is recommending to the Attorney General. Those are the allegations against Diane Powell for not mailing the absentee ballots on time and not opening or securing the ballots properly; and the allegation against Ms. Strong for unlawful possession of ballots. I also move that the remaining allegations be dismissed.

**SECRETARY KEMP**: Okay. So we've got a motion to bind over allegations 5 and 7, which affect Ms. Powell, Commissioner Strong, and Lumber City. And then to dismiss, or close the other allegations.

**MR. SIMPSON**: That is correct.

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

**MR. WORLEY**: Second.

**SECRETARY KEMP**: I will just tell Ms. Brumbaugh, again, when you look into this, it is disturbing to me that there is no one from the city here to address some of these allegations. So I would look long and hard during that investigation, please, ma'am. Any other discussion from the board?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of referring, per Mr. Simpson's motion, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: And we have moved to refer the case. All right. Mr. Harvey, 2010, number 69, Towns County.

**MR. HARVEY**: This case -- the first thing I would like to point out to the board is that one of the respondents, Kathleen Holsinger, has passed away since this, so she, obviously, will not be considered in this case. This case, however, is almost the identical case as you heard in Ben Hill. They were using the driver's license scanners and they failed to use voter certificates at one of the precincts. Again, the circumstances are almost identical. Apparently, Ms. Holsinger believed to that the driver's license scanner was a sufficient substitute for voter certificates. It is recommended that the county be bound over to the Attorney General's office for further action.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I will take a motion.

**MR. WORLEY**: I move that we bind this case over to the Attorney General's office.

**MR. WEBB**: I second.

**SECRETARY KEMP**: All right. We have a motion and a second to bind the case 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**: The motion carries that we have bound that case over.

**MR. WEBB**: Mr. Chairman, if I could, Mr. Harvey, this is the second case that we have had with the voter certificate issue; is that correct?

**MR. HARVEY**: The second one this meeting. We had it, I believe, we may have had an additional one at a previous meeting. So I think this might be three cases where we have had the failure to use voter certificates.

**MR. WEBB**: Mr. Chairman, is there any other kind of instructions that are going out to the counties?

**SECRETARY KEMP**: We will make sure that Ms. Ford has that on the radar screen for training this year.

**MR. WEBB**: Thank you.

**SECRETARY KEMP**: Very good point. I'm sure she already has that on her radar screen for training this year. Okay. Case number 2010, 77, Chattooga County.

**MR. HARVEY**: The allegation in this case is that -- I believe we have his name misspelled. It is Charles Stoker, not Charles Stroker. He entered a polling place, was belligerent and interfered with poll workers; attempted to take possession of voter certificates; and then had his truck parked within 150 feet of a polling place with campaign stickers on it. Mr. Stoker acknowledges going into the polling place. Of course, his version is a little bit different. He says that he was asking nicely and calmly, but that is not consistent with what the poll workers say. It is recommended that Mr. Stoker be bound over on the violations of interfering with a poll officer and campaigning within 150 feet.

In the course of the investigation during the session of the precinct, it was determined that Probate Judge Payne, did not have a sealed container or secure container for provisional ballots. It was noted in the report. I might recommend that we issue a letter of instruction to Judge Payne on that. He has since corrected the problem and that doesn't seem to be an issue. So I believe a letter of instruction may be sufficient to Judge Payne. But we recommend that Mr. Stoker be bound over.

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

(Whereupon, there was no response)

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

**MR. STOKER**: My name is Charles Stoker. I live at 261 Atlanta Avenue in Menlo, Georgia 30731. My actual residence is Cloudland, Georgia on Lookout Mountain. That's where I vote, in the Cloudland precinct. Thank you very much for allowing me to present my side and I do respect what the Secretary of State's office is doing in voter violations, or voter fraud, and I wish to make a full disclosure of everything that happened that day.

The first allegation is that I interjected myself into the conversation between a voter and a precinct worker. What happened was -- that didn't happen at all. I spoke with the precinct -- with a precinct worker after twice the three precinct workers decided that -- once they decided that the lady that was trying to vote was -- to give her a provisional ballot. She was actually registered in Calhoun, Georgia. And so they were talking about -- they have a lot of discussion about -- the three precinct workers had a lot of discussion about what should she do, none of which was to go vote in Calhoun, Georgia. And they decided -- kept talking about provisional ballot, and finally they decided well, let's have her vote with provisional ballot. I made the comment very nicely and courteously -- didn't interfere with any conversation of the voter or any other workers -- made a comment that if she is registered in Calhoun, she should vote in Calhoun, which is legally the correct thing. I was helping; I was not interfering.

Upon that time, after I said that, they called the -- well, previously they had called the election precinct chairmen over and he told them to vote -- allow them to vote provisional ballot. That's when I said if she is registered in Calhoun, she is supposed to vote in Calhoun. When I said that, they called him over again and had a consultation and that time they referred her to the registrar's office to let them decide what to do with her. At no time did they say you're supposed to vote in Calhoun.

In regards to this, I eventually left there, telephoned the Secretary of State's office to report this incident, arrived at the registrar's office and she was coming out of the registrar's office at that time, the voter. I asked her what they told you and she said they told her to go vote in Calhoun. So I didn't call the Secretary of State's office back in regards to that because I felt they made the right decision. But I in no way interfered; I was trying to help and my suggestion was actually the correct legal suggestion.

After the voter left -- there was no other voters there, by the way. There was just that one voter and me standing next to her at the table. I've been going around to election voting places since 1972 and I feel that the reason I do that is because a presence of an impartial person, I felt, was a deterrent to voter fraud because there is a lot of voter fraud going on, especially in our county. That's the reason I like to do that.

Well, two things I always ask is if you had a large turnout, or what cut of turnout have you had; and I ask what is the ratio of Republicans and Democrats that voted. Well, they got upset when I asked them this time. Never before, which I've done the same thing at the same precinct many times. They got upset and so I said, well, I've done it before; I don't know the secret is. I thought it was an open -- no secret as far as that goes. I viewed the stacks of Democrats and stacks of Republicans and they looked about even so I left. I looked around for a -- if there was something that showed the total vote count and I didn't see anything that would have that on it. I don't know whether there is any such thing anymore as that or not.

I didn't grab anything; I certainly did not grab anything and I was not discourteous in any way. There was three poll workers and the election precinct chair. I only spoke to one poll worker; didn't speak to the precinct chairman or the voter or anyone else. The only thing I said was if you are registered in Calhoun -- if she's registered in Calhoun, she's supposed to vote in Calhoun.

And the other is that thing about 150 feet of the polling place. This did not happen at the precinct. When I went to vote in my Cloudland precinct, at the Cloudland precinct there are no parking places that are not less than 150 feet away. None. Now, since this time, I park on the highway out there, which is about one quarter of a mile away from the precinct because I don't want to get in trouble again. But yes, I did park there, but it was the only available parking place. I was the only voter in there. There was nobody to read

my stickers. They are the ones that told me that you have to -- a lady came up and told the precinct chairman he's got stickers showing on this truck. So I said, well, I'll move my truck. They said, oh, just turn it around backwards. Well, that's what I did; I turned it around backwards so that if anybody would come after me while I was still there, they wouldn't see the stickers. I didn't try to hide anything. I was open.

The other thing, they asked me if I had his cell phone and I said, yes. They said, well, you can't have a cell phone in a voting place. I said, why not?. They said, you might take a picture of the ballot. I say, well, I'll take it out to my truck. They said, well, no, you can leave it here with me. So I did.

But the fact is that John Payne, the Probate Judge, in previous elections has harassed me. I remember one time I was coming out of --

**SECRETARY KEMP**: Mr. Stoker, I want to just kind of speak to the specifics of this one case. If you don't have anything else to add, I'll ask if the members have any questions for you. Mr. Worley?

**MR. WORLEY**: I have a question. Mr. Stoker, the report that we have says that, "As Charles Stoker approached Linda Green sitting at the opposite end of the table, he tried to grab the photo certifications from her hand to determine how many Democrats that Republicans had voted."

Is that true?

**MR. STOKER**: Absolutely not, sir. No way would I -- did I try to grab anything. No, sir.

**SECRETARY KEMP**: Any other questions?

**MR. SIMPSON**: Question for Mr. Harvey.

**SECRETARY KEMP**: All right. Thank you Mr. Stoker. Mr. Simpson has a question for Mr. Harvey.

**MR. SIMPSON**: On the short summary?

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

**MR. SIMPSON**: The recommendation is to -- for violation of not having a secure container for provisional ballots and campaigning within 150 feet of a polling place.

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

**MR. SIMPSON**: But in the long report of the investigation that's interfering with poll officers, there is another alleged violation, but there is no recommendation there.

**MR. HARVEY**: That's at the bottom of the last line of the short version on Page 2, interfering with poll officers.

**MR. SIMPSON**: Thank you.

**SECRETARY KEMP**: All right. Anyone else wishing to speak on this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any suggestions from the board?

**MR. SIMPSON**: I move we refer all the potential violations to the Attorney General.

**SECRETARY KEMP**: Is that including the Judge, or did you want to take Mr. Harvey's recommendation on the letter of instruction?

**MR. SIMPSON**: Yeah, I forgot about that. Yes, do the letter of instruction.

**SECRETARY KEMP**: Why don't you do that in two separate motions, if you don't mind.

**MR. SIMPSON**: Okay. I move we refer the allegations concerning Charles Stoker to the Attorney General.

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

**MR. WEBB**: Second.

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

**MR. WORLEY**: It seems to me that this is just a classic case where we have two different people saying different things and the only way to really resolve is to have an administrative law judge have a hearing and see who they believe. So I support the motion.

**SECRETARY KEMP**: I appreciate that, Mr. Worley, and I'm going to support the motion, too. I think Ms. Brumbaugh can interview and talk to all the people involved and

hopefully remedy the situation. If not, certainly, the hearing is always an option. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we have a motion to refer the allegations, both applications for Mr. Charles Stoker 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**: We have moved to refer the case. Mr. Simpson, do you have a motion for the letter of instruction?

**MR. SIMPSON**: Move we do a letter of instruction to Judge Payne concerning having a secure container for provisional ballots.

**SECRETARY KEMP**: We have a motion to do a letter of instruction to Judge Payne. 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 of the letter of instruction, 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, case number 2010, 81.

**MR. HARVEY**: This involves the city of Montrose and the election of November, 2010. Apparently it had been some time since the city of Montrose had held an election that hadn't had opposed candidates and they failed to do qualifying and hold the election as required. They then contacted the law firm of Mitchell Warnock, and I have spoken with Mr. Warnock. They got a Superior Court judge to issue a call for a special election the March after that in which they get back on track have fixed the problem. They now have a good elections process in place. However, due to the fact that they didn't hold the qualifying in the election in November of 2010, it appears that the City of Montrose violated the citations listed, which are failing to advertise; failing to hold qualifying; failure to hold an election.

We recommend that the case be bound over.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Anyone else wishing to speak?

**MR. WARNOCK**: Mr. secretary, I am Mitch Warnock from Dublin, Georgia. I represent the City of Montrose. Good morning, members of the board.

We agree with the allegations. Essentially, the city just dropped the ball. Actually, we never had a superintendent. The City of Montrose is a very small little community in Laurens County. We always had contracted out to hold the elections. For some reason there was a rub between the former mayor and the registrar. He didn't get her what she needed and -- meaning the registrar -- and the registrar's office, the local registrar's office said we're not going to help you.

That left them in a bind. They missed all the qualifying. They came to my firm and said what do we do? Your office has been a tremendous amount of help in getting all that done. We've got everything in place. We actually now have three certified election superintendents. We are right on track. It cost the city a pile of money to get all this straightened out. We would ask that be taken into consideration in lieu of a fine. We do admit the allegations and want to get this behind us. I think we are in a position now where that is not going to be a problem anymore. We've got a newly elected mayor; a new administration. And everybody is on the ball.

**SECRETARY KEMP**: Great. Thank you Mr. Warnock for being here today. I know you will let the city know how important it is to have qualifying and have elections. And I'm sure your firm has done that and we certainly appreciate you being here today. Anyone else have questions for the attorney?

**MR. SIMPSON**: Since this has been remedied and corrected, would this be an appropriate thing for a letter of instruction or a cease and desist order?

**SECRETARY KEMP**: Well, let me --

**MR. SIMPSON**: I just don't understand the gravity if it's --

**SECRETARY KEMP**: Well, if you'll just hold that thought for one second. Is there anyone else wishing to speak on this?

**MR. WARNOCK**: I've got the mayor with me, Don Dixon, if you all have any questions.

**MAYOR DIXON**: Yeah, we did have some problems with our --

**SECRETARY KEMP**: Mayor, if you don't mind, just give us your name and address.

**MAYOR DIXON**: Donald Dixon. I live at 4249 Highway 80 in Montrose. I'm the present mayor. We have had some problems with our former administration. He didn't keep us informed on what should be going on and the things that should be done. He was questioned on numerous occasions by myself and by other people in our town about elections and he said I've got my attorney working on it.

**MR. WARNOCK**: That wasn't me, by the way.

**MAYOR DIXON**: Not him. The thing was I asked who our attorney was and he named a name that was our attorney. A friend of mine who knew the attorney mentioned to the guy and he said he wasn't the town attorney. So we asked again, who is our town attorney, and he named another attorney who was our town attorney. Again, that was not Mitch. It was not until the council and some concerned citizens in the town got together and said we've got to do something. That's what we went to Mitch and started getting this straightened out.

He had called meetings that he didn't attend and the council was there waiting there on him. That's just some of the problems that we had. He just didn't take care of business as it should have been. I am still trying to straighten out some of the things that we hadn't done that we should have done. But as far as elections and all of that, we are on track and I can promise you, so that we won't have more problems like we have had in the past. Everything is on track.

**SECRETARY KEMP**: Well, Mayor, we appreciate you being here and appreciate your leadership. I think that says a lot about what you all are trying to do to turn things around there. Anyone else have a question?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Mr. Simpson?

**MR. SIMPSON**: I was just going to ask if this would be appropriate for a letter of instruction or a cease and desist order and go ahead and resolve it?

**SECRETARY KEMP**: I'm going to refer to Mr. Worley. I'm not necessarily opposed to doing that. I think one thing, as Mr. Yowe mentioned earlier, and I think was addressed by Mr. Webb, one thing this board has done over the years, even pre-my administration, was trying to be consistent on these type of issues. Maybe Mr. Worley could address that. I think in the sense of consistency, I am almost thinking it may be better to refer to Ms. Brumbaugh with the understanding that she realizes that the city is working on this, but just to verify that they have done things. I'm open to that, but maybe Mr. Worley, with your experience, can give some direction.

**MR. WORLEY**: Well, I can recall, I think, one other case, at least, were a city failed to have an election and I am not exactly sure what we did in the case. But it seems to me that a consent order would be more appropriate than a letter of instruction because it just signifies the seriousness of failing to hold an election when one should be held.

I would suggest, therefore, that we refer it to Ms. Brumbaugh. I'm happy to, under these circumstances, happy to enter into a consent order in that circumstance. I think it would be helpful if the consent order reflected what the city has paid in resolving this matter to the extent that it's felt that that should mitigate any fine.

**SECRETARY KEMP**: Do you have anything you want to add, Ms. Brumbaugh?

**MS. BRUMBAUGH**: Since I have been representing the board the last two-and-a-half years, we have at least two cases. One was the City of Tiger; I can't remember the name of the other one.

**SECRETARY KEMP**: Santa Claus, wasn't it?

**MS. BRUMBAUGH**: Yes. Both times the board referred it to me and we did negotiate consent orders with fines that were consistent. Certainly, if there is documentation, I will take a look at that and factor that into my recommendation back to the board.

**SECRETARY KEMP**: All right. With that information, do we have any other thoughts? Mr. Webb?

**MR. WEBB**: I would just add that I think any consent order should address the remediation plan. It sounds like the city has taken care of that. But I think it should be documented for future items that may arise.

**SECRETARY KEMP**: Mr. Simpson, did you have anything else?

**MR. SIMPSON**: I just wanted to make sure we were consistent. I was more or less just asking the question.

**SECRETARY KEMP**: I think that was a very good question because this type of case doesn't come up every day. With that, do we have a motion?

**MR. WORLEY**: I will make a motion that we refer it to the Attorney General's office.

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

**SECRETARY KEMP**: We have a motion by Mr. Worley and a second by Mr. Webb to referred to the AG's office. I will just add, Mayor and Mr. Warnock, we appreciate you all being here. I think this is a lot for what you're trying to do and I know that Ms. Brumbaugh has heard our comments and I think you all will find a very easy working relationship there to get something we can all live with. Please let us know if we can help you moving forward.

**MR. WARNOCK**: Thank you. May we be excused?

**SECRETARY KEMP**: Yes, sir. 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 referred. Mr. Harvey, I want to try to get two more in right quick, if we can before lunch. 2010, number 95.

**MR. HARVEY**: The City of Riddleville, and this is almost the exact same fact pattern that you just heard with the City of Montrose. Again, they failed to conduct qualifying an election in November of 2010. Again, a special election was ordered and was called the march. They held qualifying and there were no proposed candidates, so they didn't need to hold the election. I would note that the report indicates that Cynthia Garrett and Joe Garrett have been cited for conducting an election without proper certification. Since writing this report and doing some research, it appears that would not be a violation since they merely conducted qualifying and did not conduct the election. So I recommend that Cynthia Garrett and Joe Garrett, the cases against them be dismissed and, again, we are faced almost with the exact same set of circumstances as you were in the previous case.

I believe that the city has contracted with the county to conduct any further elections. So it appears they have taken some steps of remediation as well.

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

(Whereupon, there was no response)

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

**BOB WYNN**: Yes, sir, Mr. Secretary, members of the board. My name is Bob Wynn. My address is PO Box 621, Sandersville, Georgia. I represent the City of Riddleville.

I want the board to understand that we understand the seriousness of the matter. We have the mayor of Riddleville here today; we have two councilmen. We had a meeting this week. All of the councilmen offered to come; we thought we could handle this.

This is a little bit different. I am not familiar with the Santa Claus case or the Tiger case or all about Montrose, but Riddleville was operating under an old charter and their election -- the amount of time to qualify for their elections appeared to be in conflict with state law. Riddleville was trying to have an election that year at that time. There were some conversations with officials and others about the election and it became pretty obvious that we could not get that election in on time. So we went in and discussed it and had the other election so that proper amounts of time would be available for all candidates.

Riddleville is like Montrose: it is a small town. Washington County has a number of small towns and it's a small town. The mayors, the councilmen in Riddleville are not paid. We usually have to sort of hustle around to try to get people to run. As you can see, even we had the election, no one except for the mayor and the people qualified -- but they're very, very, very few contested elections in Riddleville, Georgia. It is a very small town; a very nice town. It's a wonderful place to live and, frankly, if you have an elected office there, mayor or council, you are almost in community service.

But there was no efforts on anybody's part -- they were trying to have an election in November. There wasn't any confusion or a fight or a fuss. They weren't fighting and fussing in Riddleville; they all get along real well there. They just simply -- there was a conflict about the amount of time and they were wanting to make sure that we had appropriate notices to everybody so that if people wanted to run, they had plenty of time to run. And then we got everybody qualified and there was just no need for an election.

I appreciate what the board is doing about Mr. and Mrs. Garrett. They were asked to come in. They have experience in elections, but did not meet the criteria. We admit the violations. I mean, violations occur. There was no way there were any intentional violations. I realize from what I have been listening to that you all's plan typically is to send these into the AG's office for their recommendations. I was going to ask for a letter of instructions [sic], but we have agreed to let the county conduct our future elections; let the Probate Judge conduct them. That way they will have those people experienced.

For a small town like Riddleville, Georgia, it is a tremendous expense for them. They have very little money, very low taxes, and they want to conduct good elections; they want to. And they certainly respect you all. They respect the rights of anybody to run. But in doing so, they have undertaken remedial action to get the Probate Judge to run them so they will have all their certified people -- everybody they have and Riddleville's mayor and council will just not be involved in it whatsoever. They will let them run things and -- but that is a tremendous expense to a small town. I hope that if it does go to the AG's office they will understand that it is costing this town a lot of money and that there was no intent on anybody's part. We have already agreed, and agreed immediately to let somebody else -- we have cooperated to the nth degree.

Again, the Mayor is here; the council is here. I wish you all would do a letter of instruction. I understand that some people kind of like that idea and some people say they want to be consistent with other people. But we are different than those other places in that we did want to have election. We were just running into qualifying problems; inconsistency between the charter provisions and the provisions of the state. We just wanted people to have appropriate notice.

So I really wish the board will consider just doing a letter of instructions. Otherwise, I've been hearing all these people bragging on Ms. Brumbaugh, and I'm sure I will get along with Ms. Brumbaugh, too. She looks like a lovely person and I look forward to doing things. I do appreciate, again, Mr. and Mrs. Garrett because they were just -- they have helped with other elections and these people have run elections. They are certainly experienced people, but they don't meet the codes.

**SECRETARY KEMP**: Thank you, Mr. Wynn. I'm sure the mayor and the council realizes what a good job you are doing representing them and how hard you plugging for them.

**MR. WYNN**: They're not paid and I'm not sure I am, either.

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

**MR. WORLEY**: I have a question, Mr. Chairman.

**MR. WYNN**: Yes, sir.

**MR. WORLEY**: Mr. Wynn, at one point you said they got everybody qualified and there was no need for an election. What did you mean by that?

**MR. WYNN**: When they had qualifying, when they had qualifying for the election --

**MR. WORLEY**: When they eventually had it.

**MR. WYNN**: When they eventually had that one in the spring, when they qualified, because there was only one candidate for mayor and each of the five Council spots, there was no need to have an election. So there was qualifying, but there was no need to have an election.

**MR. WORLEY**: I understand.

**MR. WYNN**: And we, frankly, I would be hard-pressed to find out the last time we had a contested election. Apparently, somebody didn't like what we did because somebody, I'm sure, was nice enough to send you a letter or called y'all. I've been practicing law for 37 years and represented a lot of towns and it's not my first rodeo when it comes to elections. I understand that people can complain, but it is unusual that somebody might have complained but that nobody even qualified other than the candidates. We have to kind of hustle and when you're paying zero and zero, it's pretty tough.

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

**MR. WYNN**: And, again, if anybody has any questions, the mayor is here and two councilmen; they're just not standing up here with me.

**SECRETARY KEMP**: No. That's fine. We appreciate their presence. I think it means a lot. I know this to me, and I am sure it does to the rest of the board. Thank you, Mr. Wynn. Anyone else wishing to speak on this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any other discussion with the board or a motion?

**MR. WEBB**: Mr. Chairman, I think to be consistent with the prior case, this should be a matter referred to the Attorney General's office for a consent order and I think it needs to address a remediation plan. The city has probably already done it, and I'm not trying to run up any more time and expense, but at least be able to document that, yes, we have taken the steps to make sure this --

**MR. WYNN**: I believe it is in the findings that we have done that. I mean, it's been verified. They called the local Probate Judge and we have employed them to handle our elections in the future at great cost to us.

**SECRETARY KEMP**: Is that a motion?

**MR. WEBB**: That was just a comment and I wait on any other comment.

**SECRETARY KEMP**: I would certainly agree with that. I think in the name of consistency, and I don't think it reflects badly on the mayor and the councilmen or yourself, Mr. Wynn. I just think it would allow Ms. Brumbaugh to reach an agreement with you all that everybody can live with. It really would document what you've done and what you plan to do in the future. I know that would be good my eyes. But we still need a motion. Other any other comments from the board?

(Whereupon, there was no response)

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

**MR. WEBB**: I will make a motion that we refer this to the Attorney General's office.

**MR. WORLEY**: I second.

**SECRETARY KEMP**: We have a motion 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**: We have moved to refer it to the Attorney General's office. Thank you all again.

**MR. WYNN**: Thank you very much. Ms. Brumbaugh, we look forward to hearing from you and like they said about Mr. Harvey earlier, you may contact me. I answer my phone. No answering machine.

**MS. BRUMBAUGH**: Glad to hear it.

**MR. WEBB**: Mr. Chairman, just for clarification, that was with regard to the city. With regard to the matter with the Garretts, I would make a motion that we dismiss those claims.

**SECRETARY KEMP**: Very good, Mr. Webb. Thank you for that. Do we have a --

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

**SECRETARY KEMP**: Okay. We've got a motion to dismiss the other two respondents and a second. And yet the discussion on that?

(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. That took a little bit longer than I thought, so I am going to go ahead and break for lunch. It is 12:15. I need motion to come into Executive Session, is that right, Ms. Brumbaugh?

**MS. BRUMBAUGH**: I'm not sure that we have anything to go into Executive Session about, but we can --

**UNIDENTIFIED SPEAKER** : We do.

**MS. BRUMBAUGH**: We do? Okay.

**SECRETARY KEMP**: We do? Okay. We do need a motion to go into Executive Session.

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We have a motion by Mr. Worley and a second by Mr. Simpson to go into Executive Session until 1:15 and then we will be back. 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 go into Executive Session and we will see all of you back here at 1:15.

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(Whereupon, the hearing was in recess)

- - -

(Whereupon, the hearing resumed)

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**SECRETARY KEMP**: Okay. Welcome back everybody. I will accept a motion.

**MR. WORLEY**: Mr. Secretary, I make a motion that we come out of Executive Session into the regular session.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Okay. We have a motion and a second to come out of Executive Session and continue on with our regular agenda on the February 29th State Election Board 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 out we will now move on back to our agenda.

Mr. Harvey, case number 2010, number 106, Baldwin County, the Calhoun case.

**MR. HARVEY**: I'll lead off by saying that I spoke with Ms. Calhoun yesterday and she said that she had not been feeling well. She did not ask for a continuance. I explained the process and said that we would present the case and that if it got bound over she would be able to deal with the AG's. But she did not ask for a continuance. She did ask me to express her -- that the board not consider her absence a sign of indifference. I told her I would communicate that to the board.

This case is similar to the case we did just a few back where Beverly Calhoun showed up at the Baldwin County board of registrar's office with 10 absentee ballots that she had collected from people that she had assisted voting. It was reported to our office, we did an investigation, and we found out that Ms. Calhoun did, in fact, possess these 10 absentee ballots and that there were two other women that were working with her and assisting her, Annie Griffin and Sandra Mallory. Ms. Calhoun said that she has been active in helping people vote and serving her community for years and that she has always gone and helped people vote had taken possession of their ballots. She says that this is the first time that anybody has ever called her on it or said it was illegal or improper. So, again, Ms. Calhoun possessed 10 absentee ballots.

Annie Griffin was in possession of one absentee ballot. She went to a voter's house, got his absentee ballot from his wife, and took it to him in the hospital. He voted it and then she returned it.

And the third respondent, Sandra Mallory, was with Beverly Calhoun on several occasions when she assisted voters and took possession of the absentee ballots.

So we will recommend that all three respondents be bound over to the AG's office on the charges of possessing absentee ballots.

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

**MR. WEBB**: Mr. Harvey, is there also the allegation of Ms. Calhoun assisting that individual who did not require assistance?

**MR. HARVEY**: That is correct. I apologize for that. We interviewed the people that Ms. Calhoun assisted and we found several that were not entitled to assistance. When I spoke to Ms. Calhoun yesterday, she said, well, they chose to have assistance. And I

explained to her that a voter cannot simply choose or ought to have assistance unless they meet the legal criteria. So there were several people that were not eligible for assistance who said, I could have done it all myself; it's just that she showed up and asked to help.

So I apologize -- I didn't intentionally omit the charge on illegal assistance.

**SECRETARY KEMP**: Anyone else here wishing to speak on this case?  
(Whereupon, there was no response)

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

**MR. WEBB**: I make a motion we refer to the Attorney General's office.

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

**SECRETARY KEMP**: We have a motion by Mr. Webb and a second by Mr. Worley to refer to the AG's office. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: 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. Case number 2010-108, Glynn County, Williams case.

**MR. HARVEY**: This case involved a complainant who was actually in a precinct voting and she saw what appeared to be a voter reaching into adjacent voting booths that were occupied by other voters and either touching their touch screens or instructing them on how to vote or having contact or communication with them. She reported it to the election officials who didn't see it happening.

Ms. Janice Slade is the complainant and I spoke to her yesterday or the day before and she sent an email expressing her concern with what she saw. She is not able to be here, but I told her that I would present this to the board.

Ms. Slate's concern is as much with the poll workers not seeing what was going on as with what is actually going on. I will get to the facts in a minute. I also have a letter

from an attorney who represents Ms. Williams, I believe, with his response to the facts. So if the board would like to consider these, I will be happy to present it to the board as I go into the facts of the case.

**SECRETARY KEMP**: Do we need a motion for that being that it's coming from our own folks to accept or not? We don't.

**MR. WORLEY**: I don't think so.

**SECRETARY KEMP**: Okay.

**MR. HARVEY**: The investigation showed that Lorna Williams was voting with two of her sons. This was the first time that one of them have voted and she acknowledges that while she was in the voting booth and they were on either side of her, she was pointing things out to them; that she was explaining what to do. She denied touching the touch screens, DRE; she denied telling them who to vote for. But she did acknowledge that she was helping them understand the process.

None of the election officials apparently saw what was going on until it was pointed out by Ms. Slade, at which point they said -- their response was, well, if you're going to assist somebody, you need to sign as assisting. So in one case she should sign for her son and in another case she didn't sign for the other person. In neither case is there any indication to show that they were entitled to assistance. There is no mention of a physical disability or illiteracy or blindness that would entitle them to assistance.

So the recommendation is that the listed respondents be bound over, Ms. Williams for dividing unlawful assistance and occupying the booth occupied by another person; and Christopher Williams is one of the other people that voted and he allowed her to see his voting machine; and then Cindy Johnson, Board of Elections of Glynn County registration for conducting an election where the secrecy of the ballot was not guaranteed; and then poll manager, Preston Kirkendall violating 21-2-450 (F) in that he allowed a person to observe how another elector voted.

The election officials, like I said, were unaware that this had happened until it was brought to their attention. The election supervisor did respond quickly after it was reported to us and I think she reacted and made sure that it wouldn't happen again. But these events had already taken place.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else? Yes, sir. Welcome.

**MR. MUMFORD:** Good morning, Mr. Secretary and the board. Thank you for having us this afternoon. I know you have a long agenda beyond this, so we will try to be brief and to the point. Again, thank you for hearing us. My name is Aaron Mumford. I am the Glynn County attorney, staff counsel. My office address is 701 G Street, Historic Courthouse, Brunswick, Georgia 31520. Along with me are respondents, Cindy Johnson, who is the supervisor of elections, of course, and Preston Kirkendall, who is also a respondent. He was the poll manager -- I'm sorry, he was the manager and poll worker in charge that day. As a point of clarification, it was early voting, I believe.

**UNIDENTIFIED SPEAKER:** Yes; in Office Park.

**MR. MUMFORD:** I also have the chairman of the board with us, and also have two other board members that are here. They do take this very seriously. They run a very good program in Glynn County. They do take it seriously so we do want you all to know that.

Central here -- and the investigator touched on it a little bit as far as them not knowing what happened -- but central here really is an allegation of the poll manager, Mr. Kirkendall, witnessing something and not doing something about it. That is what we were given and that is what we responded to. The record, what we submitted in our response, of three -- two poll workers and the one election employee that was in there, none of them witnessed this. What came up was when it was brought to their attention, they did take action. It was the action that they had her sign the sheet. I don't think she filled out the reason, but at that point, he had already voted. There was really nothing else to do. They already taken care of it. It wasn't until that afternoon, I think, one of the poll workers approached Ms. Johnson saying there was an incident; it was taking care of. And that is when I think the chain of events sort of transpired.

But the actual citations they have been charged with, or at least alleged with, touch on them knowingly providing assistance, or permitting this to happen. I don't think they permitted or allowed it to happen at all. As soon as they found out, they took the action they thought was appropriate to put an end to it. Again, he had already voted. So at that point, they weren't sure what to do. So I think that at least the initial citations that they have been charged with don't match up with what actually happened.

The charge or allegation against Ms. Johnson is that she failed to secure the election, or guarantee the election. I look at that statute as directory. It's a directive to how to conduct all elections. But she wasn't even in the room at the time; it was reported to her after the fact. So I think while -- let me back a little bit. They have also taken proactive steps to make sure that these poll workers are educated and they know what needs to be done. I'm not sure if in your packet you have our submission; I know staff does. But I don't know if you have our actual submission or not with the witness statements.

**SECRETARY KEMP**: I don't believe we have that.

**MR. MUMFORD**: I have an extra copy if you all would like it.

**SECRETARY KEMP**: Yeah, if you want to submit that to us, we will take a motion to accept that we would get a copy of that mating get it back to you.

**MR. WORLEY**: So moved.

**MR. WEBB**: Second.

**SECRETARY KEMP**: 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. **SECRETARY KEMP**: That motion carries to accept the document.

**MR. MUMFORD**: I think you'll find, gentlemen, that the sworn statements of the two poll workers, including Mr. Kirkendall, and the election employee were that they didn't even know this was going on. Again, when it was brought to their attention, they took the action that was appropriate.

The statutory provisions that they have been cited with are OCGA 21-2-70, 21-2-590, and 21-2-450. 21-2-590 says no poll officer shall knowingly permit another person to render such assistance in violation of that code section. Again, he didn't knowingly permit anything and he can't do it himself; he obviously didn't do it himself. The next one is 21-2-450 which says he will not allow anyone to be in a position that would permit it. Again, I don't think that fits her, either, because he did not allow that person. And when it was brought to his attention, he took that action to rectify it. As to 21-2-70, which is the allegation against Ms. Johnson, it says she shall conduct elections in a matter that guarantees the secrecy of the ballot. Again, I think that is a directive along with 15 other directives that she must comply with to do her job. But I think it is a somewhat nebulous directive in that she wasn't there and now she is being held accountable for something that she didn't do and her staff took actions to fix once it happened.

So, in short, while we understand what's going on -- we understand the allegation; we understand there's an allegation against Ms. Williams for unauthorized assistance; we think we have taken the actions appropriate to fix the situation. Again, this is an isolated event. I don't think this is something that we had before. And they can speak themselves as to what I just said, but I think it's in the record. They are here to speak to you all if you

have any questions of them.

So we ask that these charges, at least to the county respondents, Ms. Johnson and Mr. Kirkendall, be dismissed or, in the alternative, that simply a letter of instruction be issued saying what they should have done, because I think they did all they could have done in good faith given the circumstances.

**SECRETARY KEMP**: Okay. Any questions for Mr. Mumford? Mr. Simpson.

**MR. SIMPSON**: Shouldn't the poll worker have known it? I mean, that is their job to watch for these things, isn't it? What kind of instructions were they given about being diligent in the observation of what was going on?

**MS. JOHNSON**: I should probably respond to that. My name is Cindy Johnson. I am the supervisor for elections for Glynn County. My office address is 1815 Lobster Street.

I will tell you that was the last afternoon of early voting in the Office Park location. You may have it as St. Simons, but it was the Office Park location. It was the afternoon. It was very busy and I think what happened was the poll workers were carrying out various functions of early voting. Mr. Kirkendall, who was the manager, was doing the voter access cards. So his attention was on making the voter access cards. They all had specific functions -- entering information into the computer; helping with the forms.

We also had a situation where Probate Court to shared the hallway and they were conducting a hearing, and I wasn't aware of this until after. They asked that people not be out in the hall, which would have helped us manage the volume of people better. So all I can think is that their vision maybe was blocked because there were a lot of people in there waiting and that was why they didn't observe you.

I have since changed the structure of our early voting responding to this complaint. I have added a person at every single week, every location, at an increased cost to our County of about \$3000 per major election because I recognize that we have to have this separate person.

The early voting kind of evolved from when we used to do it in our office. You are probably aware of the progression. And then we were advised that we needed to have it as a precinct with a manager and assistant managers. So I would say to them, you are the manager today; you are the assistant managers. But I think that because he was doing this other function, he was distracted, and I think they were distracted. I recognize that. So I have taken that action.

If you look at the letter, it has some attachments there. As soon as I became aware of this complaint -- it was four days before the general election -- I prepared an advisory for our

poll managers that I gave to them when they picked up their supplies just telling them to have a poll worker available to monitor the area, to be aware that they have to stop unauthorized assistance. I did another one for the runoff, which is the second attachment to that and the same information. This time in our training, I did a slide -- Don't forget -- a cautionary slide to them and I added that to the training. Then one other thing was I put down a notice to voters, which we put out on the table with the voter certificates, which is the advisories that are on that poster, but it's in type so small I don't think anybody ever sees it. So I put it out there so everybody knows, you know, these are the reasons you can have assistance.

So we are really trying to respond to this. We understand that it is very serious, but I don't think Mr. Kirkendall saw when it happened, which is what we understood the complaint was. I don't think so. Not from any of the statements we received.

One other thing, we put a special emphasis in 2010 on assisting voters with disabilities. We have -- we were selected -- it is called Project Civic Access. It is a US Department of Justice compliance review for ADA. It was not based on a complaint about our county. We think we came to their attention because of the G8 summit at Sea Island and we signed a five-year settlement agreement with them. I don't know if you are aware of this. But it does refer to polling places and we have to give extra training on voters with disabilities. So we put a special emphasis on that. That may have affected a little bit of their understanding, you know, trying to help people; that was kind of their focus.

If you would like, I brought a copy of that agreement. You might want to be aware that this is out there because they are selecting various communities and we are only the second or third in the state. But we were trying to comply with this agreement and that was a major focus I had in 2010. So would you be interested in this?

**SECRETARY KEMP**: Is that a copy?

**MS. JOHNSON**: This is a copy.

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

**MR. WEBB**: So moved.

**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**: We accept the document.

**MR. SIMPSON**: All these attachments here came after the alleged violations?

**MS. JOHNSON**: That's right.

**MR. SIMPSON**: You had not given this out to you the poll workers before this particular time?

**MS. JOHNSON**: But I did bring a copy of my training and in every training we would do the standard slide that said voters are allowed assistance in cases of physical disability or inability to read or illiteracy; inability to read the English language. That was also a part of our training. All I'm saying is with this special emphasis on the voters with disabilities, it did appear that the one young man whose name is listed was struggling with his paperwork if you read those statements. He didn't know his address, which may have had another reason; we are not sure. But he did seem to be having trouble and I think that was the mindset of our poll workers that day. But nobody thought that it was a case of fraud. So that's all I have to say, if you have any questions for me.

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

**MR. WEBB**: I have one question and I'm not trying to parse your words, but I'm a little bothered by one thing you said is that the poll workers' vision could have been blocked by people walking in the area. I'm just kind of confused by that because I know my polling location that it is absolutely set up how traffic flows and that there is nobody mulling around in the area --

**MS. JOHNSON**: Well, they weren't mulling around. They had a table where these people were; that would be the voter certificate table. There was a front table where there would have been the person entering the voter into the system; the person keeping the log; the person making the voter access card. But I think a line may have developed in front of the computer where they were entering the people in the system, which might have blocked the vision. It's not like people were wandering around because they weren't. But that is what I think may have been the case because really we want to keep them out in the hall and just admit a few people at a time. But because of their Probate Court -- we no longer have to share the hallway with Probate Court. They have moved out of the building. So we are counseling our people to be very careful of that. But that's what I was saying.

**MR. WEBB**: Good. Thank you.

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

(Whereupon, there was no response)

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

**MR. KIRKENDALL**: My name is Preston Kirkendall, 102 Hampton Point Drive, St. Simons Island.

Although I was the manager, I didn't realize I was the manager. Every person had a job to do. There wasn't a free person as we have in our normal elections. I am also manager at one of the precincts and in that job I'm free to watch what is going on. But in the early election, prior to this year, I had a job to do and that was to do the ballots -- put it in and give it to them. You're sitting there writing and busy all day long. We had a line of people sitting there at all times. It was a very busy election and we didn't have time to watch every single person voting.

None of us sitting there realized that somebody was helping someone until someone complained. As soon as we saw that, we stopped it and had this lady come down. She had already signed one form to help one of the people and I don't know what the disability was. But she signed a form that they had some problem. I don't know if they couldn't read -- whether they could read the English language or couldn't or what their problem was; she had signed for that one. When we saw that we had her come back and she signed the form assisting this person that the person came to me complaining about. So it wasn't like we were sitting there looking around watching people vote and making sure there was nothing going on. We were all busy doing that.

Ms. Johnson has corrected that and now has a spare person there as we had in all our other elections. As I said, I am a manager at one of the other polls and I am free in that job to always watch and are able to watch and when we see somebody helping or doing something, we do go stop it. So I did not know that this was going on until after the fact when a lady came and talked to me about it.

**SECRETARY KEMP**: Any questions for Mr. Kirkendall?  
(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here. Anyone else wishing to speak in regards to this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Any other thoughts from the board on how you all want to proceed?

**MR. WORLEY**: I was suggest that we bind over the respondents who didn't appear today and send a letter of instruction to the county and Mr. Kirkendall. I accept the explanation that has been given and I don't really think we need to have a consent order.

**SECRETARY KEMP**: So you want to bind over Lorna Williams and Christopher Williams?

**MR. WORLEY**: Yes.

**SECRETARY KEMP**: Okay. Any other discussion on the board?

(Whereupon, there was no response)

**SECRETARY KEMP**: Did you make a motion or just a suggestion?

**MR. WORLEY**: Well, let's do it in two parts. I make a motion that we bind over Christopher and Lorna Williams.

**SECRETARY KEMP**: We've got a motion to bind over Christopher and Lorna Williams. Do we have a second?

**MR. WEBB**: 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**: The motion carries that we have bound --

**MR. WORLEY**: Mr. Secretary, if I could indicate that I voted Yes on that.

**SECRETARY KEMP**: Let the record show that vote was unanimous in support of binding over.

Now, Mr. Worley, do you have another motion?

**MR. WORLEY**: I would make a motion that we send a letter of instruction to Cindy Johnson and the Glynn County Board of elections and Preston Kirkendall highlighting

the requirements of the statute involving secrecy of the ballot and assistance.

**SECRETARY KEMP**: Could you restate that; we couldn't hear you.

**MR. WORLEY**: I'm sorry. I make a motion that we sent a letter of instruction to Cindy Johnson and the Glynn County Board of Education [sic] and registration and to Preston Kirkendall instructing them upon the proper the means of complying with OCGA 21-2-70 and 21-2-450 and 21-2-590.

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

**MR. WEBB**: I second.

**SECRETARY KEMP**: Mr. Webb seconds. Any other discussion?

**MR. SIMPSON**: I'm sort of concerned that they didn't see what was going on and it seemed like to me the poll workers, above all, should be making sure that people can vote secret ballots. The fact that they didn't pick up on the fact that somebody was helping somebody else vote to me shows, I believe, a serious defect in the election process and that the people working at the polls should know what they are supposed to be doing. There are times you need to step up and interfere and say, look, you need to stop this; you can't do this. If you are busy doing other things, I don't see how you are fulfilling their responsibility for secrecy. I think that is one of the most important things about our election process. So I just want to speak against the motion.

**SECRETARY KEMP**: Mr. Harvey, there was no allegation about not having the correct number of people per the law or rule in the early voting location; is that correct?

**MR. HARVEY**: Not that I'm aware of. No, sir.

**SECRETARY KEMP**: It was more of a matter of we had the minimum, was busy, I guess at the time?

**MR. HARVEY**: Right. I don't think that the -- I think the concern in the complainant's point of view he was that this was happening at a polling place. Not that people were necessarily ignoring it, but that this was being allowed to happen in her presence. She didn't know if it was going on day in and day out, but she was pretty upset about it.

**MR. SIMPSON**: I just want to agree with the complainant. We don't know how often this happens. I mean, were it not for this one concerned citizen, we wouldn't know this one instance occurred. We don't know how many other people voted in Glynn County with help that they should not have had. So I think this is a little more serious than just a

letter of instruction.

**SECRETARY KEMP**: All right. Any other discussion?

**MR. WEBB**: I had the same concerns when it came to the privacy and secrecy of voting, but I think what we had here was a perfect storm situation that was not the norm. You had too many people crowded in a room and it was early voting and it's getting near the end; things were probably getting hectic and that you probably had people standing there a client who had more time to observe than workers and you see somebody reaching over and do some pointing and talking and it happens in such a split second that it could probably be missed accidentally. Even if somebody was sitting there watching and they turned their hair for second and come back, that act has already taken place. I think if there was -- if this was a pervasive problem, I think we would be having more than one complaint about one mother helping her son vote. I think the mother needs to be instructed not to help her son, but I am not as concerned about the county and the city not taking this -- this is Glynn County so I am not concerned about the county not taking this seriously. I think by their presence here and Ms. Johnson's testimony, I think this is the right decision. I think a letter of instruction is adequate in this case.

**SECRETARY KEMP**: Anybody else?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. We've got a motion and a second. I think everyone, whether they support the motion or not, agrees that we don't want this happening anymore. I think certainly the county understands that as well. With that we will just vote and see what happens. We've got a motion to end the second to do a letter of instruction to the named folks and entities in the motion. So all in favor, signify by saying "Aye."

(Whereupon, the vote was taken)

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

**MR. SIMPSON**: Aye.

**SECRETARY KEMP**: The motion carries on a three to one vote. We will do the letter of instruction and previously we have referred the other two to the Attorney General's office. Thank you all for being here today. All right, Mr. Harvey.

**MR. HARVEY**: The next case is 2011, 01, Taliaferro County. This was a report by the registrar, Barbara Watson. In reviewing records, she found several people whose voter registration information seemed to change -- dates of birth, Social Security numbers. She

had a list of six individuals that had provided differing information on voter registration applications. We were able to -- actually, she had seven. We were able to identify six and locate six and the investigator that spoke to them essentially came to the conclusion that these folks just made mistakes filling out their voter registration applications and updating them. In some cases they would drop a number or they would change born in 1949 to 1947. There did not appear to be any kind of effort or conspiracy to change the stuff.

You had people that spell their names B-O-B-B-I-E and that's the way it was on their birth certificate. But they'd all spelled their names B-O-B-B-Y their entire lives. So some of these discrepancies were caught by the registrar reported it to us. As a matter of fact, the people did submit false information on their voter registration application and therefore we have them listed on the chart as -- with the violations. But there does not appear to be anything more sinister taking place. Some of the people, I believe, who were sort of modestly sophisticated and may not have been fully literate in completing forms. So that may account for some of the problems.

That being said, we've got the violations as 21-2-562 for false information, false entries, and recommend that it be bound over to the AG's office, if for no other reason a consent so that they are on notice that, you know, three times is more than a coincidence.

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

**MR. WEBB**: I'm sorry, Mr. Harvey. I didn't understand the last comment.

**MR. HARVEY**: Well, if a consent order was issued to, it will essentially put them on notice that if this were to happen a third time or again it may be difficult to explain as just a -- you know, on the third time I accidentally put my date of birth down wrong. Again, some of it may have to do with a relative lack of sophistication and educational level on some of these folks' part. Some of them just couldn't explain maybe they wrote a 8 instead of 3. There really is no rhyme or reason to how or why this happened.

**MR. WORLEY**: Mr. Harvey, as far as you know, is there any advantage to them putting the wrong information down for the second or even third time?

**MR. HARVEY**: No. I mean, I guess you could -- if you were thinking of conspiracies, you could think, you know, they could register at two different times and vote two different times. But none of that stuff happened. That would be the only potential advantage, but that does not appear to be evidence in this case.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. WEBB**: I just don't feel like sending this to the Attorney General is the right action. I think at the most, a letter of instruction to these individuals reminding them to put down their correct information that is on record with the local election board. But I would prefer to do that if the other board members would do the same. I would also not be against a dismissal of all the cases -- all of the allegations.

**SECRETARY KEMP**: All right. Let me ask a quick question, if you don't mind, Mr. Webb. Mr. Harvey, if we were to do a letter of instruction, would that reach these folks?

**MR. HARVEY**: I believe so. The ones we've interviewed we were able to make contact with so we could contact them and give them the letter.

**MR. SIMPSON**: I tend to agree with that. I think this would be appropriate for a letter of instruction, but I would also think we ought to commend the registrar for being so diligent in checking the records. I mean, this is just the opposite of what we saw in the last case and I think she should get some credit for that.

**SECRETARY KEMP**: Well, I believe if we've got Mr. Simpson and Mr. Webb agreeing, we need to move on.

**MR. WORLEY**: I agree.

**SECRETARY KEMP**: One of you gentlemen want to make a motion?

**MR. WEBB**: I will make a motion to provide a letter of instruction to the respondents requesting that they carefully review their information to put down the correct information.

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: We've got a motion and a second. I will make sure that Ms. Ford lets their registrar know that was duly noted at the meeting that you appreciated, and we appreciated her work. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. We've got a motion and the 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 will send a letter of instruction. All right. Mr. Webb has excused himself and he will be right back. Mr. Harvey, we will move on to the City of Blackshear case.

**MR. HARVEY**: Case number 2011, 08, the City of Blackshear. In the 2009 election, the allegation was that a candidate for city Council, David Broady, illegally possessed 55 absentee ballots. A clerk at the post office served Mr. Broady when he came in in the morning and requested a large number of stamps for absentee ballots, which she sold to him. Later that afternoon, she heard a clunk, I guess, a bundle being dropped through the mail slot. She saw Mr. Broady exiting the store and she went and found 55 absentee ballots that had just been deposited in the mailbox.

She reported it to the city elections superintendent, Mr. Scott Boyd, and they took it to the registrar's office and they verified the voters. The ballots did count. However, it appears that Mr. Broady possessed 55 absentee ballots. When we questioned him about it, he initially said that he had some people working with him and that they had collected the ballots and her gotten them from them and just dropped them off at the post office. However, he refused to name who may have been assisting him. So that is kind of where the trail ends. The ballots end with Mr. Broady putting them in the mail slot.

An additional violation we have listed is for the city elections superintendent and city clerk, Scott Moyer, who failed to certify the receipt of each absentee ballot on the envelope as required by the code. His explanation for that was that he had to get them, get the signatures verified as quickly as possible and he simply forgot to note the time and date that each one was received. That is a relatively technical violation and could possibly be settled with a letter of instruction. Mr. Moyer has provided a letter to the State Election Board and he asked that I submitted on his behalf. He is not able to be here, but he acknowledges that he failed to certify the ballots. His reason for that was because he was trying to get them to the registrar as quickly as possible to get the signatures verified.

So at the end of the day, we have him for failing to certify and Mr. Broady for 55 counts of illegal possession of absentee ballots. I recommend that Mr. Broady be bound over, possibly Mr. Moyer, with a letter of instruction on the certification of absentee ballots.

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

(Whereupon, there was no response)

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

**MR. FERRELL**: Mr. Secretary, members of the board, my name is Adam Ferrell. I am the city attorney for the City of Blackshear. When this matter arose in the December of 2009 election, at that time I was not the city attorney. Therefore, the factual issues I'm not that familiar with.

Let me just say, first of all, that the city welcomes oversight of this committee, and we, of course, want to make sure that our elections are lawful. We want to do everything we can to make sure that our employees understand what they are supposed to do to conduct these elections. We have since, as many cities do, contracted to with Pierce County going forward to hold our elections. So for the indefinite period of the future, we should not really, hopefully, encounter a situation like this.

I would just like to -- Mr. Moyer, in his capacity as city administrator, did discuss this issue with me and explain to me what was going on and I would just want to make sure that the board would consider his written submission. He is elsewhere today on city business and was unable to attend. He wanted the board to know that. Also, I believe if you read his explanation that he has submitted, I think it is clear that his concern at the time he received the ballots was that he make sure to get them to the registrar's office to make sure that the signatures and everything else was verified. I believe that he stated that he planned to record the envelopes once he got them back, but because of some other issues going on with certain candidates and individuals surrounding the election, he was unable to mark the envelopes.

I have not -- Mr. Broady has not discussed this issue with me in his capacity as a councilmember, so I don't want to speak to that issue. However, with respect to Mr. Moyer, we would urge -- I would urge, on behalf of the city, that perhaps this could be handled with a letter of instruction. Mr. Moyer has accepted the fact that there was a violation of this code section and he understands that. Again, going forward we hope not to have any issues like this.

If the board has any questions, I have heard today the mayor, Tom Davis, from the City of Blackshear, and also Detective Chris Wright of our police department, both of whom have some factual understanding, much better than mine. So if the board has any questions, they would be happy to answer them.

**SECRETARY KEMP**: Thank you, Mr. Farrell. Any questions for Mr. Farrell?

(Whereupon, there was no response)

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

**MR. HARVEY**: Mr. Chairman, I would just point out that Mr. Moyer was very cooperative with the investigation.

**SECRETARY KEMP**: Well, I've heard from several folks that that is the case and I know he does a good job down there. All right. Any discussion or motion from the board?

**MR. SIMPSON**: I move that we bind over David Broady on the allegations concerning him and that we issue a letter of instruction to Mr. Moyer and dismiss his case.

**SECRETARY KEMP**: We've got a motion to bind over Councilman Broady to the AG's office into a letter of instruction to Mr. Moyer. Do we have 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 signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you gentlemen for showing up today. We appreciate it. All right. Mr. Harvey, Richmond County.

**MR. HARVEY**: 2011, 16, Richmond County. This involves Mr. Julio Enrique Romero who registered to vote, he says, inadvertently. He is not a United States citizen, however he has been in the United States since he was six years old. He served in the United States Marine Corps for five years.

He went to the library to get a library card and when the papers were given to him, there was a voter registration application. He completed the voter registration application and when he got to the box that asks are you a United States citizen, you could see on the card

there is a mark -- it almost looks like somebody may have rested a pen. It's not clearly checked and is not clearly X-ed. It appears to be largely left untouched. He did, however, signed the form.

He says that once he realized what he was doing, he knew that he could not registered to vote and he asked the clerk that was handling his library card application to destroy the voter registration application. I spoke to him yesterday at length. He acknowledges being foolish and not taking care of that himself. He said he never had any intention to register to vote. He has not voted.

He would be here today, except that he is opening a business and is expecting a health inspector to come so he can go into business immediately and if he missed this inspection he could be set back months in opening his business. He confessed to being foolish and not demanding that the card be shredded when he left. But there does not appear to be any intent to have done anything wrong. I recommend this might be a case for a letter of instruction.

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

**MR. WORLEY**: Mr. Brooks has handed me an email --

**MR. HARVEY**: That is an email Mr. Romero sent me yesterday saying that he was not going to be able to be here and asking me to present it to the board.

**MR. WORLEY**: I would make a motion that we accept this email.

**MR. WEBB**: Second. **SECRETARY KEMP**: We've got a motion and a second to except the email. 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 accept the document. Any other questions for Mr. Harvey?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, any discussion or I'm ready for a motion.

**MR. WEBB**: Mr. Harvey, Mr. Romero came to the United States in 1968. Do we know what kind of reason he came -- I guess he came with his family?

**MR. HARVEY**: He said he was six years old. He came from Colombia and I don't know the circumstances by which you came to the United States. As I said, he served in the Marine Corps and had applied for citizenship, I believe, while he was in the Marine Corps and some bureaucratic paperwork that -- it just became too much of a hassle. He assured me, however, that his wife will make sure that he gets his citizenship status in order.

**MR. WEBB**: He is not in this country illegally as far as we --

**MR. HARVEY**: No, sir. No. There is no indication he is. He is a legal resident.

**SECRETARY KEMP**: All right. Any other questions?

(Whereupon, there was no response)

**SECRETARY KEMP**: Do we have a motion? I move we send him a letter of instruction.

**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**: The board has acted to send a letter of instruction. All right. Mr. Harvey, Candler County.

**MR. BROOKS**: The next case is 2011, number 27, Candler County. The allegation in this particular case is that Concepcion Sherrer registered and voted in the general elections in 1992, 1996, and 2000. She is not a United States citizen.

The investigation determined that she responded to a questionnaire from Immigration and Customs indicating that she had registered and voted prior to becoming a United States citizen. She registered in October of 1992 and she voted in November of 1992, November of 1996 and then November of 2007. The original registration card could not be located but it had been scheduled to be destroyed in 2009 because inactivity on it. I think the last activity we have on her is the election of 2000. She is not currently a United States citizen.

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

**MR. SIMPSON**: What is the statute of limitations, Ms. Brumbaugh?

**MS. BRUMBAUGH**: Well, there is not a statute of limitations for the administrative stuff.

**MR. SIMPSON**: So we can go back to 1992 and do administrative punishment? What would the criminal statute be?

**MS. BRUMBAUGH**: The criminal statute, I think, on felonies is four years.

**MR. SIMPSON**: Seven? Four? What did she say?

**SECRETARY KEMP**: Four, she said.

**MS. BRUMBAUGH**: I thought it was four, but I'm going on 10-year-old information.

**MR. SIMPSON**: Well, why in the world -- well, that's -- thank you.

**SECRETARY KEMP**: We know where you're going, Judge. All right. Any other questions?

(Whereupon, there was no response)

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

**MS. VELLEJO**: My name is Deborah Vallejo. That is spelled V-A-L-L-E-J-O. This is Connie Sherrer, Concepcion. My address is 460 Preston Street, Metter, Georgia 30349.

**MS. SHERRER:** My address is (unintelligible)

**MS. VELLEJO:** It's 43550 Highway 121 North, Metter, Georgia. I am not an attorney; I'm her pastor's wife. She's asked me to come and help her.

This is a very interesting case. She says that she actually never did register to vote. This is misleading. I went with her to the immigration to get her citizenship and I don't recall her ever saying that she actually -- in fact, she has stated that she never registered to vote. What happened is that she married an American citizen. She is a legal resident alien; she has been for 25 years. All of this came to light when she decided, after 25 years of being a legal resident, she wanted to become a citizen. So we went -- she applied for citizenship. She went to Atlanta for her interview. That is when she was told that she could not be approved for citizenship because she voted. So she appealed and she went back for the second interview, they told her, again, she could not be approved for citizenship because she unfolded it was not a citizen.

She's kind of wondering really why she is not the complainant instead of the respondent because all of this was brought to light because of her. She was paying all this money for citizenship. Ms. Boyette found out through her that she had voted not being a citizen. She went to the Candler County Board of Elections and had her name removed as the immigration official asked her to do, and then took that paperwork back to the immigration official, but was still denied her citizenship.

We're just wondering how often this has happened. For her, she is concerned because, of course, she lost her opportunity for citizenship, and also was told that she may even be deported after being here for 25 years as a legal resident with no criminal background at all for doing something -- husband just said, let's go vote. She said, okay. She went and voted and this is all of this has become a problem because of that.

When is it required to show that you are actually a citizen because usually they asked for your driver's license and legal residents can get a Georgia driver's license, so she has that. This is not the first time, because my husband, who is now a citizen of the United States, but when he was not a citizen, was called for jury duty and the jury duty list is compiled of people who are registered voters. He has never registered to vote and he is now a citizen and will register. But how often is this happening? This is a big concern for the state of Georgia.

**SECRETARY KEMP:** Any questions? I have one for Mr. Harvey. I may have missed this, but do we know how or when she registered to vote?

**MR. HARVEY:** We have the date of October 2, 1992. But, presumably, I'm not sure there is any way other than registering by hand in 1992.

**SECRETARY KEMP**: Does Ms. Sherrer remember when or how she registered to vote?

**MS. SHERRER**: I was not the register. My husband came in one day then he tell me come on let's go vote. I follow him; he's American. He knows. They never stop me ask me no question. We both walked together to the door. He went to his side; I went to my side and that was it. No registration, no question.

**MS. VELLEJO**: She never registered and conveniently, the registration card from October has been lost or destroyed.

**MS. SHERRER**: I tell the lady you not going to find my card in here because I never registered. So she find my husband's, but I said mine is not here. (Unintelligible) I lose two --

**MS. VELLEJO**: She lost two payments of \$675 for citizenship application. But what she says is she did not register. When she went to correct this with Kelly Boyette, who is the head of the board of elections and registration, she told her you're not going to find my car because I never registered. You will find my husband -- and they did not find the card.

**SECRETARY KEMP**: Mr. Harvey?

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

**SECRETARY KEMP**: When did motor voter go into effect? Do you know?

**MR. HARVEY**: I don't know. I'm confident it was after 1992. Her card would have been probably destroyed after not having voted since 2000, anyway. I'm sure -- it might look coincidental from her point of view, but the last I --

**SECRETARY KEMP**: So her card may have been destroyed, but she voted in 2007?

**MR. HARVEY**: I think I misspoke. It was November 7 of 2007.

**SECRETARY KEMP**: That makes sense. Any other questions? Let me do this before you make a motion. Thank you both for being here today. We appreciate that. Is there anyone else wishes to speak on this case?

(Whereupon, there was no response)

**SECRETARY KEMP**: Mr. Simpson?

**MR. SIMPSON**: I make a motion we dismiss this case. I can't believe -- there's got to be a statute of limitations and this has got to be outside that statute of limitations. Secondly, this seems like to me you can't prove the case because you don't have the registration card showing she registered. I don't know that you can prove, unless she had told you, that she voted. So as we would say in Tifton, this just ain't right. So I move we dismiss it.

**SECRETARY KEMP**: Ms. Brumbaugh, did you have something you wanted to add?

**MS. BRUMBAUGH**: I was going to occur that I wouldn't be able to prove that she had registered to vote. I would possibly be able to go forward on the actual voting based on her admissions. But, yes, it is always better to have the cards and the documents when you're the one trying to prove the case and I couldn't prove the registration part.

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

**MR. WEBB**: Second. We've got a motion and a second. Any other discussion? Yes, ma'am.

**MS. VELLEJO**: How are we going to keep this from happening again?

**SECRETARY KEMP**: Well, let me just get rid of this case here and then we can talk a little bit about that. All right. We've got a motion and a second to dismiss. 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**: I think to answer your question, we now check citizenship before we register someone to vote. It's quite a battle that we've had over the last several years with the Justice Department and we are also checking citizenship when people get their driver's license. The Department of Driver Services has also changed the way they do business because, unfortunately, there were people that got registered to vote that were non-citizens that when they went and got their driver's license they were asked do they want to register to vote and they would say No, but they will push the Yes button and they would get registered to vote even though they may have told people that I don't want to register to vote knowing they were not a citizen. There is now controls in place because of cases like this that actually have come before the State Election Board and we have actually reached out to driver services to make sure. So hopefully this is something happened a long time ago that we are just now finding out about that is, I hate to say

impossible that it could happen now, but I think it is very unlikely it would happen now. But thank you both for being here and helping us clear this matter up.

**MS. VELLEJO**: Thank you, very much.

**SECRETARY KEMP**: All right. Mr. Brooks.

**MR. BROOKS**: The next case is 2011, 32, Lowndes County. There was no election involved in this so it was a question of -- there are two allegations in this particular case. First allegation was that Betty Jean Green and Edward Lee Green had completed a voter registration form affirming that they were eligible to register to vote. The allegation is that both of them were convicted felons that were under sentence at the time they attempted to register to vote. The second allegation is that the Community Unification for Educational Excellence was paying people to register voters.

In the first allegation, it was determined that Betty Jean Green was sentenced to 10 years in a state institution. Her sentence would be completed in March of 2017 and she signed the voter registration application May 30th of 2011 affirming she was qualified to register when clearly she was under sentence at that point in time. Edward Lee Green was convicted in 2003 and was sentenced to eight years' probation. The probation would have been completed in September of 2011. He signed his registration form affirming that he was eligible to vote in May of 2011. So it was about six months early that a sign that.

As far as the second allegation, the Community Unification for Educational Excellence was hired by Express Personnel Services to circulate petitions for a referendum that involved education. The workers would go to the house, knock on the door, and ask for registered voters. If they were not registered, they would hand them a registration card. There was no indication or evidence at all that said they were being paid to register people. There was an increase in salary for the number of registered voters they got, but there was never any pay associated with the registration of people during that petition.

We recommend that Betty Jean Green and Edward Lee Green be bound over to the Attorney General in that there was no evidence to support any violation as related to CUEE.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: No one else. All right. We have a motion?

**MR. SIMPSON**: I move we bind both these cases over.

**SECRETARY KEMP**: So you are going to move -- we have a motion to bind Betty Jean Green and Edward Lee Green to the Attorney General's office. Does that motion include dismissing the case against Community Unification for Educational Excellence?

**MR. SIMPSON**: Right.

**SECRETARY KEMP**: Okay. We've got a motion to bind over two of the respondents and to dismiss the other. We have a second? I will 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. Mr. Brooks?

**MR. BROOKS**: The next case is 2011, 41, and involves the city of Bronwood in Carroll County. The election involved was the November general election in 2011. There are two allegations in this particular case. One of them was that the City of Bronwood failed to set the qualifying dates for the election and that the elections superintendent for the city was not certified by the Secretary of State's office as required. The investigation determined that the City of Bronwood did not advertise their qualifying period. The city attorney petitioned the Judge of Superior Court for Carroll County to accept the qualifying dates for September 6th, 7th, and 8th of 2011, which was approximately one week late as required by law.

We also discovered that Novena Devalia (phonetic) had not receive the training required to be the superintendent of elections.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: City of Bronwood.

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I would consider a motion.

**MR. WEBB**: Mr. Brooks?

**MR. BROOKS**: Yes, sir. The certification of the municipal elections superintendent, who is that burden on? Is that on the municipality or is it on the individual?

**MR. BROOKS**: What's that question again? I'm sorry?

**MR. WEBB**: I'm trying to see who has the burden of getting the certification. Is the municipality in charge of making sure the person is certified, of running them through the certification process, or is it up to the individual to do it on their own?

**MR. HARVEY**: I think Ms. Ford was going to answer that.

MS. FORD: The municipality is responsible for making sure they have a certified person and that that individual is responsible for going through the training and getting certification.

**MR. WEBB**: So if the that individual serves as a superintendent that is not certified, you actually have two faults?

MS. FORD: Yes.

**SECRETARY KEMP**: Good question. Any others

(Whereupon, there was no response)

**SECRETARY KEMP**: No one else wishing to speak?

(Whereupon, there was no response)

**MR. WEBB**: I make a motion we bind this case over to the Attorney General.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We have a motion and a second to bind to this case over to the AG'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. No response.

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we have bound that case over. Mr. Brooks, Paulding County.

**MR. BROOKS**: The next case is 2011, 49, involving Paulding County. There was no election involved in this; it is a registration violation. The three respondents listed there were alleged to be convicted felons under active sentence as reported to us. We were able to determine through certified copies of final disposition that all three of them were convicted felons under sentence, active sentence, at the time they attempted to register. One of the gentlemen actually went into the registration office and tried to register there at Paulding County. The other two attempted to register through the Department of Driver Services.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to speak? Yes, sir. Come on up.

**MR. HINEMAN**: My name is Andrew Hineman. I live at 42 Drew Court, Dallas, Georgia 30157. I am the gentleman he is speaking of that went in to actually register.

Mr. Secretary, it was actually all just a big misunderstanding. My last day of reporting to probation, I had asked the probation officer, she said I was done, gave me my paperwork, relieved me from probation. I had asked her if I could vote she said, yes, she don't see why not. Well, the guy that I worked with, he was on me and on me and on me about going to vote and the election was coming up, so I asked my wife to get me a voter registration card. I filled it out and sent it in.

Then Mr. Chris Williams called me, I guess a couple of months later, and informed me that I couldn't do that to. I apologized to him and I apologize to you guys. I asked him if he could tear it up and he said, no, it doesn't work like that. So I had wrote a letter in and took the day off today to come in here and try to tell you all my side. I didn't mean no harm by it or anything like that. I thought I could because I'm not on probation or actively serving a sentence and that is what the question had asked me: if I was actively serving a felony sentence; which I am not. I guess technically, I just found out from Mr. Chris Williams that I am not off probation until 2014, although I was under the assumption that I am. I don't report to anybody; I haven't reported to anybody in about a year and I was told that I was done with probation and that I was inactive.

I really didn't mean any harm. I wasn't trying to break any laws.

**SECRETARY KEMP**: We appreciate you being here today. Any questions for Mr. Hineman?

(Whereupon, there was no response)

**SECRETARY KEMP**: Do we have any way to corroborate that story with -- have we talked to the parole --

**MR. HINEMAN**: The probation officer actually called and spoke with Mr. Chris Williams. The probation officer told me that.

**MR. WILLIAMS**: I did speak with the probation officer. His probation officer said that she did not tell him that he was not -- or that he could go vote. She did tell him and informed him that he is on a non-reporting status, but that she did not inform him that he was off probation. He is still currently on probation; he is just on non-reporting status. As long as he continues to do as he is supposed to, he is okay. But he is still on probation, felony probation, until 2014.

**SECRETARY KEMP**: Okay. Do you want to respond to that?

**MR. HINEMAN**: I'm aware of all that now. I really, honestly thought I was done with probation. I thought I was off early for good behavior, or whatever, because she just told me I didn't need to come back. I mean, whether or not she had said to him that she told me I couldn't or whatever, I mean, the question was asked could I vote and she said she doesn't see why not. I didn't get it in writing or anything like that, you know. It was just a question of passing.

**SECRETARY KEMP**: Right; right.

**MR. HINEMAN**: I won't to register to vote again. I won't even attempt it again. I do apologize very deeply.

**SECRETARY KEMP**: You don't need to say you want to register to vote. I mean, once you complete your sentence you're more than welcome to do that.

**MR. HINEMAN**: I will double check and triple check before I register to vote again.  
Yes, sir.

**SECRETARY KEMP**: Well, thank you for being here.

**MR. HINEMAN**: Thank you, sir. Is there anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Do we have -- let's see. We've got three respondents, right?

**MR. WEBB**: Mr. Brooks, did any of these three respondents actually vote?

**MR. BROOKS**: No, sir. These were just an attempt to register.

**MR. WEBB**: I would add the comment that this is not the first time we have had someone come in and there wasn't a lot of clarity from the probation officer -- office -- about whether they could or could not register to vote. I don't know if, Ms. Ford, if there is any communication with the parole office you do, but it couldn't hurt if there was some kind of reminder we could send them to remind them they should be advising people on voting.

**SECRETARY KEMP**: I think that's something we could certainly get our elections division to get to the pardons and parole or probation folks -- whoever it is that we need to relate that to -- or they can send that message out. It's as simple as sending an email, you know, here's what you need to tell these folks. I think we can do that.

**MR. SIMPSON**: Are we sure the statute covers an attempt? Subsection B just says shall not register. The qualification is no person who has been judicially determined to be mentally -- I'm reading the wrong one. Having been convicted of a felony involving moral turpitude may register and remained registered or vote. So the question is does that cover an attempt? I don't know that -- they wouldn't let him register, so he is not in violation of the statute, is he?

**MS. BRUMBAUGH**: Well, speaking of the statutes, I usually proceed under 561, false registration, because that is the statute which actually prohibits voting while giving false information. Then I tie 216 as saying this is how you gave false information: You said you were not on felony probation.

But I think 561 is the better charge here; it's more specific to the actions of the respondent.

**MR. SIMPSON**: What is that? 560 --

**MS. BRUMBAUGH**: 21-2-561. And typically, these cases -- 21-2-561 doesn't address attempt.

**MR. SIMPSON**: Yeah, but you've got to do it and apparently he didn't do it, did he? He tried and they wouldn't accept it? Did they tell you you could not register?

**MR. HINEMAN**: Yes, sir.

**MR. SIMPSON**: That stops it right there, it seems like to me. If you go and try to do something and they say, no, you can't do it, if you continue -- if he had made some false statement to say, which was effective to get him to register, I can see it. But it looks like to me they cut it off when they said you can't register.

**MS. BRUMBAUGH**: I don't disagree with you. Alternatively, 562 is often used and has often been used in the past when we have -- we can't quite get to 561 or some of these other statutes. 562 basically prohibits any false statement on any document connected to voting. So he would have met the requirements for 562 even if he didn't meet the requirements for 561.

**MR. SIMPSON**: If he filled out a registration card.

**MS. BRUMBAUGH**: Right.

**MR. SIMPSON**: Did he fill out a card?

**MS. BRUMBAUGH**: He said he did.

**MR. HINEMAN**: Yes, sir. I filled it out, but it didn't falsely answer anything. It asked me if I was actively serving a felony sentence and I was under the assumption that I was not actively serving any sentence. I don't report to anybody by mail, phone, in person, or anything. I wish I would have brought them, but I have papers showing that I am not on probation. As soon as I got the phone call from Mr. Chris Williams -- I mean, as soon -- I was at work. As soon as I got the call, I hung up and called the probation department and had them to contact him to get it all clarified and cleared up. That is when I found out that I am technically on it until 2014; they just have put me on non-reporting status. I thought I wasn't actively serving any kind of sentence. I thought I was done with it. I

wouldn't have lied on a voter registration card; I know how serious that is. I clicked No, I wasn't actively serving a sentence because I didn't think I was.

**MS. BRUMBAUGH**: This board, we get cases like this almost every meeting is seems like. We haven't had a case that is the specific fact pattern because usually they are done through DDS. But, certainly, if the board wants to -- in the past, if the documents showed that the person was on probation, the board has not looked as to whether they are on active or inactive probation. But if the board were to consider that, it might be an appropriate thing for you all to consider, especially since this is really the first time that argument has been presented by a respondent.

**MR. SIMPSON**: Well, I think that's all the statutes that we just looked at require a mens rea element. You know, there has to be some falsehood or some intentional wrongdoing. I can understand how a probationer that says you don't have to report anymore, I'm done with you, stay out of trouble -- I can see how that would give him a good faith through belief that he is not on probation. So that is what bothers me about this particular case.

**SECRETARY KEMP**: Well, I think there is a way that we can address that if you all want to with a letter of instruction. I'm open to whatever you all think we ought to do. I think one thing we do need to do, Ms. Ford, is to make sure we note this for when we move into our code review committee. This will be a good thing for that committee as we look at rewriting the whole election code and simplifying it; that will be one of the things we might need to address to make sure we clear up those instances.

**MR. WEBB**: I think that we had a recent case very similar to the facts and there was a situation almost identical to where the person was on probation, thought he was off probation, didn't know, thought he was cleared. He was just like Mr. Hineman, very apologetic saying I wouldn't have done it if I had known. There was a vote by the board for a letter of instruction. I voted No because I like to prefer that those go to the Attorney General's office for a consent order. But I would say that the board has set a precedent for a similar fact pattern, if I'm remembering that case correctly.

**MS. BRUMBAUGH**: I think you are right and perhaps I didn't speak clearly enough. The cases that have come to me, no one has presented this particular argument. I have not considered that argument. But, yes, you are right. There was another gentleman who came before the board --

**MR. WORLEY**: From Paulding County, I believe.

**MS. BRUMBAUGH**: They are all from Paulding County.

**MR. SIMPSON**: Well, I move that we issue a letter of instruction and dismiss the case.

**SECRETARY KEMP**: All right. We've got a motion to do a letter of instruction. Do we have a second?

**MR. WORLEY**: If I could just ask a question. Is that just to Mr. Hineman or as to the other --

**SECRETARY KEMP**: No, I think --

**MR. SIMPSON**: Just Mr. Hineman.

**MR. WORLEY**: Okay. I will second that, then.

**SECRETARY KEMP**: All right. I think we may need multiple motions here. All right. We've got a motion and a second to issue a letter of instruction to Mr. Hineman. Any other discussion?

**MR. WEBB**: Again, I think this is something that should go to the Attorney General's office. I am fine with a letter of instruction. I think it should go to the Attorney General. I think that is the proper action in this case. So even though I support the remedy, I'm voting against it because I think it should be from the Attorney General.

**SECRETARY KEMP**: We're not going to let you all sit next to each other at the next meeting. 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. "Aye."

**MR. WEBB**: Aye.

**SECRETARY KEMP**: That motion carries and we will send Mr. Hineman a letter of instruction. We appreciate you being here today that you keep doing the right thing out there. We are looking forward to you properly registering to vote in the near future.

**MR. HINEMAN**: Yes, sir. Well, thank you gentlemen.

**SECRETARY KEMP**: All right. Now we need a motion for the other two respondents.

**MR. SIMPSON**: I move to bind those two cases over.

**SECRETARY KEMP**: We have a motion to bind the remaining respondents over. Do we have a second? I'll 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**: That motion carries and we have bound those folks over. All right, Mr. Brooks.

**MR. BROOKS**: The next case is 2011, 77, the city of Richmond Hill in Byron County [sic]. It involved the 2011 general election during the early and advanced voting period.

The allegation in this particular case is that the DRE voting machines were not secured over the weekend of October 31st; those machines were not secured. Our investigation determined that the complainant attempted a function at the Wetlands Center, which is a community center there in the city of Richmond Hill, and when she looked in one of the chair closets she saw the DRE machines were in there and they were not secured.

The Probate Judge, The Honorable Sam Davis, indicated that in the past those machines had been placed in his office, but during that weekend they were at that facility and he was unaware of the fact that it had been rented out to or he would have moved them and brought them back and secured them. But they were left unsecured over that weekend.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That would be Bryan County. Go right ahead.

JUDGE DAVIS: Sam Davis. I am a Judge and superintendent of elections, PO Box 418, 151 South College Street, Pembroke Georgia 31321.

Mr. Secretary, I was not aware -- just to clarify the investigator's statement, during the three weeks of early voting prior to the voting, I go to Ursula Lee, who is the city's superintendent of elections, and tell her, you know, block out those three weeks because we have the machines there back in the back room and the building is always locked. She informed me at that time that one weekend had already been rented out and did I have a problem with it. I said, no, I will just come get the machines. So on Friday afternoon I went to pick up the DREs and took them to my office, locked them up, and took them back Monday morning.

They didn't tell me about the other weekend and I think -- I can't speak for anybody else but myself -- what happened was a city councilman wanted the ability to hold a birthday party for his dad and that's how it got rented. I have since met with the city of Richmond and I have met with Ms. Lee. She assures me that it will never happen again. It did happen; that's absolutely correct. But I was not aware of it. I was under the impression that the building was locked, as it always has been in the past. I've never had a problem with it before. I didn't know I had the problem with it this time until Mr. O'Neil called and asked me about it. Under my impression, they were secure, as they have always been.

**SECRETARY KEMP**: Any questions for Judge Davis?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here, Judge. We really appreciate it. Yes, sir. Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. No one else. Any thoughts from the board? I realize there's been a violation. It seems pretty clear this is a one-time, unfortunate circumstance that the Judge didn't have any control over. I don't know how y'all want to proceed.

**MR. WEBB**: I kind of agree. You have to make special trips -- one to go pick up the machines and take them back to ensure that they are secured and locked up. And, I guess, is unfortunate, because you have to have a place to store these and keep them secure. During the period that we are talking about, it makes it very difficult. I think I would be in favor of a letter of instruction and I think that would be appropriate.

**SECRETARY KEMP**: All right. Anyone else?

**MR. SIMPSON**: If that is a motion I will second.

**MR. WEBB**: I will make it a motion.

**SECRETARY KEMP**: All right. Mr. Webb makes the motion; Mr. Simpson -- want to go ahead and second again?

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor of sending a letter of instruction 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. Thank you for being here today to explain that to us, Judge.

JUDGE DAVIS: Thank you sir.

**SECRETARY KEMP**: All right. Last one on the new cases.

**MR. BROOKS**: 2011, 79 is the city of Thomson, Georgia in McDuffie County. It involved the November 8th, 2007 municipal election.

The allegation in this particular case is that the incumbent mayor, Mr. Ussery, was entering polling places and the allegation was for the purpose of intimidating electors. Mr. Ussery was on the ballot at the time as a candidate. According to eyewitness testimony, Mr. Ussery did appear at three polling places and in at least one of the polling places, he asked the workers how the vote had been going. There was a conversation there they asked him if he was there to vote and he said he had already voted. But he did go to these three different polling places while he was a candidate on the ballot. There was no evidence or indication that he attempted to talk to any of the voters or intimidate any of the voters in a particular way. It was the fact that his mere presence was there.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Anyone else? Yes, Sir.

**MR. KNOX**: Mr. Chairman, my name is Bob Knox. I represent Mr. Ussery as his attorney. My address is PO Box 539, Thomson, Georgia 30824.

I think the facts that have been set forward to you are correct. I would just enlarge on them somewhat so you will understand the situation here. This was the November election last year; fairly highly contested city election in Thomson. At about 7:15 on

voting day, an individual voted at one of the three polling places in Thompson; saw the daughter of the opponents of Mr. Ussery in the voting -- polling place; called Mr. Ussery and said, I saw the daughter of your opponent there. I don't know if that's proper or not. Mr. Ussery got in his car has 7:15 in the morning, rode to the polling place, walked in the door, saw the daughter, didn't realize that she was a poll watcher and was a properly certified poll watcher. He simply asked the folks how things were going and they said, fine. Do you want to vote? He said, no, I've already voted. Walked out the door.

He went to the second polling place -- the first meeting probably lasted 30 seconds; less than a minute. The same thing happened in the second polling place: he walked in -- I don't think they were actually any electors there to vote. He said good morning. A city employee -- this took place at the fire station. One of the city fireman was there. He talked to him, went out to the back door to go over some city business. He then got in his truck and went to the third polling place where nobody had voted at that time. He didn't actually go in the polling place. He stood in the doorway, said good morning, and then left.

He has never denied that he did these things. He did not know they could not go in the polling places. That was just his mistake. So we don't have any dispute with the facts. We just want you to understand why he did what he did.

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

**MR. WEBB:** Mr. Knox, how long has Mr. Ussery been the mayor of Thomson?

**MR. KNOX:** He was running for his second term.

**MR. WEBB:** Two-year term; four-year term?

**MR. KNOX:** Four-year term.

**MR. WEBB:** It's just we had this issue in the past where an incumbent visits the office and goes and checks a little too frequently and there has kind of been this bright line of these individuals are incumbents and they know they're not supposed to be there. It's not like somebody who's running for office the first time.

**MR. KNOX:** Well, I must say, I was the mayor of Thomson for almost 30 years prior to Mr. Ussery. I spoke to him that they later in the day and he mentioned to me that he had been by those three polling places. I said, Mr. Ussery, you can't go in those polling places. I think he actually called the local elections superintendent and -- I don't know if I he reported it -- but he said I've done this and I didn't mean to do any harm. But, yes. He was running for a second term.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. WEBB**: I think given the circumstances, I don't think it was too much of an attempt to influence the decision and it probably was a little innocence and a little naïve for the incumbent to do so. I think the best remedy for this matter is the referred to the Attorney General's office, which I'm sure we can do a written consent that would address it and a public reprimand, cease and desist would be appropriate in this case.

**SECRETARY KEMP**: Is that a motion?

**MR. WEBB**: That is a motion. All right. We've got a motion. Do we have a second?

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

**SECRETARY KEMP**: We have a motion and a second. Do we have any other discussion?

**MR. WORLEY**: I agree with what Mr. Webb said earlier about our need to have a very bright line in cases like this. So I do think it is appropriate to send it to the Attorney General.

**SECRETARY KEMP**: Anybody else?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. We have a motion and a second to referred 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. Thank you, Mr. Knox, again, for being here. All right. On to the Attorney General reports. Ms. Brumbaugh.

**MS. BRUMBAUGH**: Thank you.

**SECRETARY KEMP**: I know you're not used to being on so early in the day.

**MS. BRUMBAUGH**: Are there any ones the board wants to pull out and discuss?

**SECRETARY KEMP**: Oh, yes; sorry. Any cases that the board members want to pull out and we will discuss those individually. If not, we will vote to accept the consent orders that are in your book.

**MR. SIMPSON**: There is. I'm looking for it.

**MR. WEBB**: While he's looking, Ms. Brumbaugh, I would like to discuss the Cook County case, 2008-0097.

**SECRETARY KEMP**: All right.

**MS. BRUMBAUGH**: Yes, sir.

**SECRETARY KEMP**: Let's go through and pull out the ones you all want to and then we will --

**MR. SIMPSON**: Jeff Davis County, 005.

**SECRETARY KEMP**: All right. Anything else? All right. We're going to pull out case number 2008, 97, Cook County and case number 2011-05. Is there anyone else here who will wish for us to pull out any of these cases for discussion?

**UNIDENTIFIED SPEAKER**: 0-7.

**SECRETARY KEMP**: Let's see -- okay. The Baldwin County case?

**UNIDENTIFIED SPEAKER**: Yes, sir.

**SECRETARY KEMP**: Okay.

**UNIDENTIFIED SPEAKER**: 0-8.

**SECRETARY KEMP**: City of Stone Mountain?

**UNIDENTIFIED SPEAKER:** Yes.

**SECRETARY KEMP:** All right. We will pull that out. Anybody else?

(Whereupon, there was no response)

**SECRETARY KEMP:** If not, I will take a motion to accept the orders in our packets for case numbers 2006, 17; 2008, 26; 2009, 27; 2010, number 6; 2010, 23; 2010, 66; 2010, 127.

**MR. WORLEY:** So moved.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have a motion to accept by Mr. Worley and 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. Now, Ms. Brumbaugh, you can talk to us about case number 2008, number 97, Cook County.

**MS. BRUMBAUGH:** 2008, number 97, this involves four convicted felons who registered and one did, in fact, vote. This case came to the board's attention at its June, 2009 meeting and at that time, the board voted to refer the case to the District Attorney's office as well as to my office. When the board makes a concurrent referral, I hold off on the administrative prosecution and see what happens with the criminal prosecution.

In this case, there were two defendants who pled guilty to 21-2-561, false registration. There was one defendant who had registered through DDS prior to us being able to verify that he had actually requested to vote that way. And the fourth defendant entered into a consent order -- well, actually, the two remaining defendants both entered into consent orders with the District Attorney's Office, which include substantively provisions that are similar to our consent orders.

Not in recent memory, but in the last few years this board has had to consider what to do with cases in which there is a criminal conviction on statutes that involve elements identical to an election code felony. In this case, it is even more specific than that. The Cook County District Attorney's office actually prosecuted on the Title 21 felony. This board has taken the position that once that conviction -- resulted in conviction, the board will not seek a second prosecution administratively.

The one time this came up before was a man named Horace Gresham, who had registered -- filed a notice of candidacy affidavit and said he wasn't on probation when, in fact, he was. He was prosecuted criminally for false swearing and brought before this board, I think, on 21-2-562, fraudulent entries; or maybe it was falsifying a notice of candidacy. Anyway, it had identical elements to the false swearing statute in Title 16 and the board, after discussion, voted to send Mr. Gresham letter of reprimand, but did not continue in administrative prosecution. So based on that policy, the board has taken that interpretation.

I recommend that we follow that in this case and -- I suppose we could issue letters of reprimand, but that we not prosecute -- would not have an administrative prosecution of these respondents.

**MR. SIMPSON:** This says we don't prosecute cases involving voter registration before February, 2010?

**MS. BRUMBAUGH:** DDS voter registration. This came up -- I'm sorry.

**MR. SIMPSON:** DDS?

**SECRETARY KEMP:** Department of Driver Services.

**MR. SIMPSON:** Well, it seems like to me -- do we have a problem with statutes of limitation? I mean, to have a policy is one thing, but it seems like to me we need a written statement that DDS cases before 2010 there's a of statute of limitations and we can't prosecute them. But then we have the case with the lady that we had earlier and we want to go back to prosecute her for doing a registration violation in 1992. It just seems like to me that these kind of things are not handled consistently.

**MS. BRUMBAUGH:** I certainly have no problem with this board adopting some sort of statute of limitations on 20-year-old voter registration cases. The reason that we don't prosecute DDS registration from before 2010 is because we learned that actually DDS -- the records weren't accurate to the point of being misleading and fraudulent if I entered the court. Because what they did before 2010, as I think Secretary Kemp summarized earlier, they would say to Joe Blow, do you want to register to vote and Joe Blow would say, no, I'm a convicted felon, and the DDS hourly employee would hit the Yes button

and then the document would be generated with the four criteria: I am a US citizen; I am not a felon; I am over 18; I am a resident of the state. And it would have been electric signature. So this document looked like it was bona fide -- you know, this person read it and signed it, when in fact, we did this -- we did some investigation for some prior cases. We learned that wasn't what had happened at all. These people had never gotten to see these four factors; they had never had the ability to sign.

So in February, 2007 -- excuse me, 2010 -- DDS changed its policy. They now -- it is now explicit. You can go online and try it; I've tried it myself just to make sure that, you know, what they're saying is accurate. But it is not a statute of limitations issue on DDS. It is a factual proof issue.

**MR. SIMPSON**: Okay.

**SECRETARY KEMP**: Anything else on the Cook County case? So the recommendation, because it has already been prosecuted criminally, is just to close our part of the case?

**MS. BRUMBAUGH**: It was prosecuted criminally because you all referred it. So it is a board action.

**MR. WEBB**: Thank you. I just wanted the board to be briefed again. I forgot about Mr. Simpson not having the tenure that some of us have. But it is an important case to remind us that the situation how some of these cases are handled.

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

**MR. WEBB**: I make a motion to dismiss.

**MR. WORLEY**: Second.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: 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. Ms. Brumbaugh, number 2008, the City of Stone Mountain, DeKalb County.

**MS. BRUMBAUGH:** Thank you. This case, the losing candidate in the City of Stone Mountain municipal election heard that there was voter suppression at this precinct. So the losing candidate complained to the Secretary of State's investigation division. The investigation showed that 38 people had filled out voter certificates saying they were qualified to vote in the City of Stone Mountain 2009 municipal election when, in fact, they weren't. Of those 38 people, 36 of them actually had Stone Mountain addresses and it turns out that Stone Mountain -- some people have Stone Mountain mailing addresses, but do not live within the municipality and so cannot vote in municipal elections. I think some of them also may be -- there was an opt in and opt out provision many years ago and so some people might have lived in the municipality but had opted in to be able to vote and maybe then the house had gotten sold and so that there was no knowledge. So these 36 people showed up and said I have a mailing address for Stone Mountain; I usually vote at this precinct in statewide in presidential elections; I'm sure I can vote. In fact, they couldn't.

So although they did sign a voter certificate saying I'm qualified to vote in this election, they weren't actually qualified to vote. The statute does require some intentionality and some knowingness and I think it is entirely reasonable that if you live in -- if you have a mailing address of City of Stone Mountain you might not know that you are not in the municipality for a municipal election. So I was recommending that we dismiss the first 36 of these respondents.

Then we had two people, Antonia Bowen and Reggie Douglas, who lived in Lilburn who wanted to vote and they couldn't vote in Lilburn because Lilburn wasn't holding an election that day. So they drove to Stone Mountain and they attempted to vote in Stone Mountain and they filled out voter certificates saying that they lived in Lilburn. I've spoken to these people and I guess all I can say is the civics lessons aren't getting through and people really don't understand the difference between a municipal election and a presidential election and they don't understand that if it's election day you still have to live in the precinct where you are voting.

So these two people were very apologetic; were very confused. One of them said, ma'am, I drove down the highway I was looking for library to vote in and I found this one and I tried to vote. They signed consent orders; they did violate the code. They wrote letters that I think they have learned their lesson, especially the woman, Antonia Bowen. So I am recommending that the board accept their consent orders.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to speak? Yes ma'am. Just come on up and give us your name and address for the record, please.

**MS. JONES**: My name is Beverly Jones and I live at 909 third Street, Stone Mountain, Georgia 30083. I spoke to you earlier. How are you doing today?

**MS. BRUMBAUGH**: Fine.

**MS. JONES**: I am just so sorry that this had happened and, yes, in the City of Stone Mountain people who live next door to each other and one can be -- you could be within the city limits and you shall live next door and one will be eligible to vote and the others would not. However, in this particular election, I was one of the candidates. It was a question of 107 people and these 38 were the 38 that lived in this City of Stone Mountain. I just came here today -- I don't know any of these people, by the way; no names and no relation to them. I just want to say that was a day of havoc in the polls and I like to see some changes made during these elections because during the poll -- the poll watch -- not the poll watchers, the people working at the poll were encouraging those who shouldn't be there to vote and those that were there that lived in the city within a 50-foot radius, those people were sent to various other offices, such as Lilburn; they were sent to Memorial Drive. We have had signed documents and statements from people all over the county saying that in the City of Stone Mountain in that particular election poll that they were sending people away who were eligible. So it was just a mixture of mass confusion, misinformation, and just for pure havoc on that day.

I would like to see the Election Board, or just find out if there is some kind of way that we can kind of change some of the laws where these things will not happen because people -- like I said, it was mass confusion. People were sent to different places who were eligible. So I'm here just to speak on their behalf. Just to say that people were told to go to the library to vote, even though the library wasn't even open on that particular day before that. So I just kind of speaking on their behalf to say there was no -- I don't believe there was any evil intent. But just being there in the situation and seeing all the confusion and chaos, you know, I'm glad that the 38 was dismissed and I just hope that there is no real damage or charges that will be brought against the other two people who was there. But like I say, they were all misinformed and it was a day of confusion and havoc and misguidance on the part of the people working at the poll.

**SECRETARY KEMP**: Thank you, Ms. Jones, for taking the time to be here and sit through the meeting to let us know your thoughts. We certainly appreciate your dedication to this issue. Are there any questions for Ms. Jones?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you very much. Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

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

**MR. WEBB**: I have a motion to dismiss the complaint against the respondents that are listed to be dismissed and to accept the consent orders of Antonia Poland and Reggie Douglas.

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

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

**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. We'll move on to 2011, number 5, Jeff Davis County. Ms. Brumbaugh.

**MS. BRUMBAUGH**: Yes. Jeff Davis County, the respondent in this case was a young man named Kenneth Nash Murphy. Mr. Murphy -- his mother was, I think, the clerk of court and she was going to run for office again and he was told that he would not have a job at the elections office because his mother would be a candidate. He then destroyed, I think, 300 files, mostly correspondence, but also spreadsheets and data, from the office.. He appeared before the board at the November meeting. He was very apologetic and he admitted that what he had done was wrong and he seemed very contrite. Given this presentation to the board, his age, and the fact that we don't really have another case like this that I'm aware of, I negotiated a consent order with him that did not include a fine; it was just a public reprimand and a cease and desist order. It seemed to me that he had gotten the message.

But certainly it is within the board's discretion as to whether to accept that or not. It would be helpful one way or the other should such a case occur again and then I would have a little more direction from the board.

**MR. SIMPSON:** What concerns me about basically dismissing the case is that there are no consequences for doing something that is a pretty disastrous act, I think. This information had to be replicated and we don't know at this point how much time and effort it took to overcome the setback that the office suffered because of all of this information. I mean, this may be done by young man, but if he had that job, he should've been mature enough to know that he was messing with public records. They belong to the public; they belong to the taxpayers. It costs the taxpayers money when you destroy those records. I think there has to be consequences more than just saying, I'm sorry, don't do it again. So I speak -- I'm not in favor of the recommendations in this case.

**SECRETARY KEMP:** All right. Anybody else?

**MR. WEBB:** Ms. Brumbaugh, I tend to agree with Mr. Simpson. I'm not sure if -- maybe we are not the appropriate board to be dealing with this, but I feel this is a very light slap on the hand. I don't know if the county brought any charges against him for the time they had to invest to recreate the records because that's manpower. It had to cost something; it wasn't free and it caused the burden on someone. If it ends up, at the end of the day, getting shared by all the taxpayers for that area. So I'm not sure what other --

**MS. BRUMBAUGH:** I can check the file because I always keep a transcript of each case that is referred to me. I keep that. I could check it if you want. But my memory is that at the last meeting, the complainants said that they considered filing criminal charges against him and they ultimately decided not to do that. I think that would have been probably the other option, is a criminal case for destruction of Government property, which is what it is. You're right about that. As I said, we haven't had a case like this since I've been on the board but it is important for the board to feel comfortable about the consent orders.

**MR. SIMPSON:** Also, in my mind, you have the question of violation of a public trust. It is not just the fact that you have lost documents and a computer, but you have taken someone a given him the opportunity -- the public has given him the opportunity and given him the ability to deal with the public's information and public records and that is a trust that he had. He not only has destroyed that, but he has violated the trust that the public had put in him to safeguard information. So I see this as an egregious act.

**SECRETARY KEMP:** We can certainly change the parameters, I guess, of the consent.

**MR. WEBB**: And I'm just looking at the latest of remedies or penalties actions that we have that we've used in the past and, at a minimum, it seems like we ought to be able to include our investigation costs under that in lieu of a fine.

**SECRETARY KEMP**: Well, let me ask this question. Do you have anything, Mr. Worley?

**MR. WORLEY**: No.

**SECRETARY KEMP**: Does anyone wish to speak in regards to this case so we make sure we are hearing from all sides here.

**MR. MURPHY**: My name is Nash Murphy. I reside at 25 Southland Road, Hazlehurst, Georgia 31539.

Again, I just want to tell the board how sorry I am for what I've done. I know what I did was wrong and I want to tell you that we have spoken to the county that it was \$150 to retrieve all the information that I destroyed. We offered to pay the cost for that and they wanted to wait and see with the board would do. This is just been a long process the only thing I want is -- if you've never done anything really wrong or been in trouble before, I mean, this is just -- I can only say this has destroyed my life. I mean, I'm not using that term -- for the first probably six months I didn't leave the house. I was just -- it's -- all I can say is I'm sorry. That's all I can say, Mr. Secretary.

**SECRETARY KEMP**: We're glad you showed back up today. Thank you for being here. Anyone else wishing to speak? Yes, ma'am. Come on up.

**MS. MURPHY**: I am Myra Murphy. I live at 25 Southland Road, Hazlehurst, Georgia 31539.

I am Nash's mother and I am not here to say what he did was wrong. He shouldn't have done what he did and I am not trying to hold him or anything. I'm just asking if you all please consider it was his first job; he made a huge mistake. He still lives at home with us and I have witnessed and seen what he's been through because of this. It has just -- it has eaten him alive. It eats him up every day and I see that. I can tell the difference in his personality because of this. It has just eaten him alive. He stays on his mind constantly. If there is just any way we can pay back restitution or any kind of costs or anything like that, we are willing to do that. We are willing, you know, to do anything to try to pay back the costs of whatever just so that he can have some peace of mind and a little relief.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here. Any other thoughts on how to proceed? What are our options here, Ms. Brumbaugh? I know we can accept the consent order, but can we also make a recommendation for consent order?

**MS. BRUMBAUGH**: Well, we could either -- you could accept it, you could reject it. I think since both parties are here, Mr. Murphy did not have an attorney. If Mr. Murphy agreed, we could write it in on the original document that he can re-sign and dated and we could just conclude it today. Or if we need more time to find investigative costs, we could just reject it and I will proceed for the next meeting.

**SECRETARY KEMP**: I think that gives us some good direction. Anybody have a plan they would like to move forward with? You want to send it back or want to try to get done with it today?

**MR. SIMPSON**: I move that we reject it and you determine the costs involved and then communicate that with the respondent and see if something else can be worked out.

**SECRETARY KEMP**: We've got a motion to refer you back to the AG's office. Do we have a second?

**MR. WEBB**: I second.

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

**MR. WORLEY**: I just had a question of Mr. Simpson. What costs are you looking to find out?

**MR. SIMPSON**: Well, I think we've got two elements. We've got what it cost us to investigate in time and expenses and that we have the costs of the county to replace or replicate those records. So I think we've got to elements that should be considered.

**SECRETARY KEMP**: Ms. Brumbaugh, can we --

**MS. BRUMBAUGH**: Actually, we can require restitution be paid to the county.

**SECRETARY KEMP**: That's what my question was going to be.

**MS. BRUMBAUGH**: Also investigative costs incurred by the board. So I can do both. I can get restitution for the county and costs to the board if that's what the board -- well, am I correct in understanding that it cost the county \$50?

**MS. MURPHY**: It was 150.

**MR. WORLEY**: 150. Thank you. I am a little wary of assessing the costs of our investigation because to my knowledge we are very, very rarely done that.

**MS. BRUMBAUGH**: Typically the investigative costs are assessed after an OSA hearing. They are not usually assessed in the context of a consent order.

**SECRETARY KEMP**: Let me throw this out there, too, Mr. Simpson, and I understand fully where your Mr. Webb are going. Of course, if we get -- try to figure out the investigative costs, that's going to be some cost us in time that is spent to figure out the investigative costs. I think if we are looking to try to get restitution for the county and to send Mr. Murphy a message with an additional fine from the board, if there is something reasonable, maybe we can consider that. If we don't, we can send it back up and look into what the costs are. It's a thought. We do have a motion and a second.

**MR. SIMPSON**: Well, I would leave it to Ms. Brumbaugh's discretion to give a fine, or whatever you call it. But I think there needs to be some substantial consequences involved with this because of the two elements that I -- you are dealing with public property; you're dealing with public trust. Those things cannot be taken lightly and I think the fine, or whatever you call it, needs to be commensurate with the violation of those two principles.

**MS. BRUMBAUGH**: What I can do is I can see what kind of information I can get from the county and also from the Secretary of State's office and see where those numbers are and see whether a penalty in addition to that would be appropriate. We can just -- I will be in touch with Mr. Murphy and we will just report back to the board at the next meeting.

**SECRETARY KEMP**: Well, we've got two options. We could do that or we can figure out what we want the monetary penalty and pay restitution from here.

**MR. MURPHY**: Mr. Secretary, may I please say something again?

**SECRETARY KEMP**: Yes. Come on up.

**MR. MURPHY**: If you could -- any, fine just so I can have some kind of closure on this. I just don't want to go on and wait for another board meeting. Please, Mr. Secretary. I just don't know what -- this has destroyed my life. I have no life anymore. I just want to be able to walk out of here today and know that I paid for what I've done and that I can move forward and this will be over. That's all I want. If you could -- any -- thank you, Mr. Secretary.

**SECRETARY KEMP**: Okay. Thank you. Did you have something, Mr. Webb?

**MR. WEBB:** I think \$150 restitution to the county should be part of the order and I would be comfortable with a \$150 fine if it has to go to that level. I'm not looking for anything egregious. I'm looking for something that sets the tone. I don't want to have a precedent for something like this in the future going, well, hey, this guy did this and you didn't give him anything. So I think at some point we have to weigh the consequences. The fact that he is feeling some remorse for what he did is a good thing, but --

**SECRETARY KEMP:** I agree. I think it would even be appropriate to do a \$150 restitution and \$350 fine where we have a \$500 penalty. I don't think that's unreasonable given some of the sections that we have given out. But we do have Mr. Simpson's motion that we need to vote on unless you want --

**MR. SIMPSON:** I will withdraw the motion and in doing that, let me say that what Chairman Kemp is -- the figures he mentioned sound reasonable to me.

**SECRETARY KEMP:** You can withdraw your motion and state another one if you would like.

**MR. SIMPSON:** I will withdraw that and I move that we assess a penalty of \$350 there be an order to make restitution to the county for \$150.

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

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

(Whereupon, there was no response)

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

(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 unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries. Now, Mr. Nash, I hate to give advice from this microphone, but I think this board has dealt with your case at a very fair manner and we have granted your wish for you to be able to move on. You got two ways you can

move on. You can either hang your head and go the wrong direction or you can pay this fine and say you're sorry one last time to those folks and you move on and we are expecting good things out of you moving forward. Nobody more than us and myself understands that people make mistakes in life and I think that is part of this board's duty, as hard as it is sometimes, to send that message, not only for the good of the state and the counties involved, but also for the good of individuals. But this is something that happened and you need to move on and put this behind you and show this board and yourself and your mama that you are going to do the right thing from now on. I know you will do that.

**MR. MURPHY**: Thank you, Mr. Secretary.

**SECRETARY KEMP**: We appreciate you all taking the time to be with us today.

**MS. BRUMBAUGH**: If you can stay here, what we are concluded, we can add those terms to this document.

**SECRETARY KEMP**: Ms. Brumbaugh, the last one is 2011, number 7, Baldwin County.

**MS. BRUMBAUGH**: This case, the respondent was Maria Barfield, Ms. Barfield appeared before this board both at the May meeting and the August meeting. Ms. Barfield is a legal resident originally from the Ukraine. She is somewhat similar to the one we saw earlier, although much more recently, when citizenship was much more in the public consciousness in terms of voting.

She was registered to vote by DDS. She didn't ask to vote. That was confirmed by the investigation. However, once she received a precinct card, she felt that she was entitled to vote. She explained some of this as being based on growing up in the Ukraine and a totalitarian regime where everyone has to vote because, you know, they are all pretending that it's a democracy. So she did vote in the February, 2008 presidential preference primary and the November 4th, 2008 general election.

She self-reported in her quest for citizenship and then she self-reported to the Secretary of State's office. Given that she voted in two different elections with a 10-month gap in a period in which citizenship and become much more on the public radar terms of voting rights, we negotiated a consent order which includes a \$500 civil penalty cease and desist, and public reprimand.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Did you all want to speak?

**MS. BARFIELD**: Ladies and gentlemen, my name is Maria Barfield. I am at 111 Old Forge Way --

**SECRETARY KEMP**: Do you have her address?

**MS. BARFIELD**: (unintelligible)

**SECRETARY KEMP**: Hang on one second. I want to make sure we get your address for the record. It's 111 --

**MS. BARFIELD**: Old Forge Way. Milledgeville. This is Cheryl Johnson. She is my husband's niece.

**SECRETARY KEMP**: Did you all have any questions for Ms. Barfield?

(Whereupon, there was no response)

**MS. BARFIELD**: This time, my case to close, please?

**SECRETARY KEMP**: Okay. Well, the recommendation is, and I assume you have signed this consent, correct?

**MS. BARFIELD**: It was not -- English my second language. I first come to America, hardly speak any English. What the people say, this is correct.

**SECRETARY KEMP**: Well, we don't want to revisit the case. Ms. Brumbaugh is aware of the consent.

**MS. BARFIELD**: It's my mistake and can we please just finished this.

**SECRETARY KEMP**: I understand. You just want to get this resolved with the consent order that we have before us?

**MS. BARFIELD**: Yes.

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

(Whereupon, there was no response)

**MR. WORLEY**: I make a motion that we accept the consent order.

**MR. WEBB**: Second.

**SECRETARY KEMP**: All right. We've got a motion to accept 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 have resolved this case. Thank you for being here.

That concludes our business today. Did any members of the board have any old business or business?

(Whereupon, there was no response)

**SECRETARY KEMP**: One thing I like to bring to y'all's attention and just have your feedback over the next couple of weeks, as I was calling these cases and I was seeing a lot of people that didn't show up for any of these cases and then we had a lot of attorneys and other folks that had been in the room all day just because of where they were on the agenda, I wondered to myself if there would be a way for us to try to further streamline our process and call the cases where we actually have people who are here and try to get them and their cases concluded quicker. And for those people who are not showing up, we could just discuss those cases later in the day. It may cause us to -- you may have to watch me as we jump around on our agenda to make sure we don't miss anything, but if it doesn't disrupt Ms. Brumbaugh or Mr. Harvey and Mr. Brooks, it may be a way that we can be a little accommodating to people that are showing up and taking the time to come before us.

**MR. WEBB**: I think that's a great suggestion.

**MR. SIMPSON**: This may shock some of the Atlanta lawyers, but the way we do it in rural counties, if we have out-of-town attorneys or other people like that we ask them to make their presence known and we call those cases first on a calendar. Even though it may be the last one on the calendar, if you are in from Atlanta and you are in Tifton, we go ahead and take care of your business so you can go. We may could have a sign-up

sheet for people, you know, to sign up that they're present for this case, that case, or the other case and we take the cases off the sign-up sheet rather than off the docket.

**SECRETARY KEMP**: If you all will give me the latitude, I will try to work on that before the next meeting and once we get a process I will share that with you. If you all are comfortable, we will do that and try it and if we want to make changes we can certainly do that. I just think out of courtesy for people that are traveling long ways that care enough to show up, we could put their cases up as soon as we could to get to the other ones afterwards. Anything else?

(Whereupon, there was no response)

**SECRETARY KEMP**: If not, I'll accept a motion to adjourn.

**MR. WORLEY**: I move that we adjourn.

**MR. WEBB**: Second. We have a motion and a second to adjourn the February 29th State Election Board 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**: The motion carries and we are adjourned. Safe travels to everybody and we will see you in Savannah.

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(Whereupon, the hearing was concluded)

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