

THE OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD MEETING

SLOPPY FLOYD BUILDING
ROOM 512, WEST TOWER
2 MARTIN LUTHER KING, JR. DRIVE
ATLANTA, GA 30334

THURSDAY, JANUARY 31, 2013
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

Russ Willard, Esquire

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TRANSCRIPT LEGEND

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|------------|----|---|
| [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.

10:00 a.m.

PROCEEDINGS

SECRETARY KEMP: Good morning, everyone. We're going to go ahead and call the Thursday, January 31, 2013, State Election Board meeting to order. We're going to go ahead and start with the initial parts of our meeting while we're waiting on additional members to get here.

I'm going to ask Mr. McIver to give our invocation and then we will stand for the Pledge of Allegiance.

- - -

(Invocation)

- - -

(Pledge of Allegiance)

- - -

SECRETARY KEMP: Thank you, Mr. McIver. We'll now call for public comments. Our first speaker today will be Cecilia Torrence. And if you will -- where are we doing this from, Chris? If you will, we'll just let you come up and hold the mic. And just let me remind everyone, we'll need to just get your name and your address for the record, please.

MS. TORRENCE: Cecelia Houston Torrence; 1735 Rogers Avenue, SW, Atlanta, 30310. I'm here today proudly representing the League of Women Voters of Atlanta Fulton County, and November 6 I was present at the Adamsville recreation center where I was poll watcher for the League.

On that day we witnessed -- there were several of us there -- we witnessed lots of things that we feel should not have happened. One of them, the main thing that we are with concerned with, Secretary Kemp, is the lack of provisional ballots that day, and I know there will be more comments later on. But we witnessed lots of people that came there to vote that did not get an opportunity to vote because there were no provisional ballots there for them. We called everywhere that we knew to get those ballots and they just

never showed up. Around noon, we got ten; there were 50 people at that time waiting for ballots. Needless to say, there were lots of people that did not get to vote. We feel if there was one person that did not get to vote, that was too many. So we want to ensure that going forward, that people are able to vote and that it is an easy process for them. Anything we can do as the League to help ensure this, we will be glad to do that. Thank you very much.

SECRETARY KEMP: Thank you very much for being here this morning. Anyone else wish to speak in our public comment period?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, we will move on to our investigative report. The first thing I would like to do is to swear our witnesses in this morning, who I believe are seated up here on the front.

I will start with Gary Smith. If you will, please raise your right hand.

(Whereupon, the witness complies)

Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MR. SMITH: I do.

SECRETARY KEMP: Thank you. Ms. Sharon Mitchell.

Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. MITCHELL: I do.

SECRETARY KEMP: Thank you. Mr. Dwight Brower.

Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MR. BROWER: I do.

SECRETARY KEMP: Thank you. Mr. Jones, Mr. Ralph Jones, would you raise your right hand.

(Whereupon, the witness complies)

Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MR. JONES: Yes, sir.

SECRETARY KEMP: Thank you. And Ms. Pamela Coleman.

Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. COLEMAN: I do.

SECRETARY KEMP: So help you, God. Thank you.

Okay. Mr. Harvey, I know Mr. Worley and Mr. Webb both were close by, but if you want to go ahead and be calling the cases, we'll just try to keep moving.

MR. HARVEY: Thank you, Mr. Secretary. The meeting today is going to address three different Fulton County cases. The two main cases deal with the general primary election on July 31 of 2012, and the November general election on November 6, 2012. There is a connecting issue between them in terms of voters living in addresses that may not exist anymore. But I'm going to start with the general on election November 6, 2012 and work backwards in time.

We've subpoenaed five witnesses, and we've also subpoenaed approximately 30 other people who worked in the polls that we'll get to some point the presentation.

SECRETARY KEMP: Mr. Harvey, let me interrupt you one second. Just for the record, so the Board will know and the others interested in this case, we did try to serve Sam Westmoreland and we were unsuccessful in doing that. I do not believe he's going to appear today.

MR. HARVEY: That's correct.

SECRETARY KEMP: Go right ahead.

MR. HARVEY: The basic format is that we will ask some questions of the witnesses, general questions about several different topics, including voter registration, provisional ballots, ballot security, problems at polling places. And then after some general questions, we will ask about some specific issues that we found in our investigation thus far.

I would like to begin by reading several complaints that our office received regarding the November 6 general election.

This is from Mr. Damien Whittaker, who has been a voter since 1976. It's a sworn affidavit.

“Precinct 02A had no provisional ballots on hand. They said they started the day with 20, ran out before 2 PM, need at least 15 at 2 PM Requested more and only received six -- that's six. From 4:00 until past 7 PM, they had many people left without voting in frustration and discussing various conspiracy theories. Mr. Dwight Brower told me that the ballots that the poll worker had been expecting for hours were presently being printing at 6 PM. After the poll manager said after 7 that she had no notices to extend poll hours and had to announce the polls closed, a few minutes later, a flashing light on a van pulled up with a small box of ballots and the people who stuck it out got to vote.”

From Ms. (Unintelligible) Oyanga (phonetic), her sworn statement is:

“When I arrived at the polls at 3:30 PM, I was informed that I said [sic] I cannot be found in the express polls to cast my vote and I would have to cast a provisional ballot. At the time, the precinct did not have any provisional ballots to give. A poll employee contacted the warehouse who provided them -- and was told that they were printing more. I left came back at approximately 4:30 PM and was told that the ballots were still not here. I left again and returned at 6:30 PM and was told that the ballots still had not arrived. I waited and the provisional ballots came in at about 7:15, 7:20 PM. I was able to cast my vote after the polls officially closed.”

Shakeyla (phonetic) West wrote:

“On October 2, while renewing my drivers license, I also renewed or updated my voter registration status due to a recent move. After constantly checking registration my status on the MVP, My Voter Page, website, it stated my registration information could not be found. Eventually, I was told I could still vote, but I would have to do it on a provisional and update my address at a later time. After going to my designated voting site, I was first told that my voting precinct was at Lake Ridge Elementary, which is 25 minutes away from where I live now. I informed the female working the booths that I voted at Lake Ridge in 2008, but I had moved and the system should reflect Centennial Place Elementary as my polling precinct. After requesting a provisional ballot, I was told they would love to give me a provisional ballot, but they did not have any more. After going home and coming back 30 minutes later, there were still no ballots. I spoke to one gentleman that worked the polls and he told me they never had provisional ballots in

place. He stated that earlier that morning after numerous voters left, only six provisional ballots were brought to the location.”

The last complaint I’m going to read is from Mr. Patrick Blackmon, who sent this email directly to our office on 10:15 -- I’m sorry -- 10:13 PM on November 6:

“Well, it’s too late to vote now. I received a call from the Georgia Secretary of State’s office at 7:13 this evening, but by that time I was at work and the polls were closed, anyway. I cannot express how disappointed I am in the way elections are run in Fulton County. Third world countries have better systems than this. I am clearly listed as registered on the My Voter Page of the Georgia SOS website. I had proper identification showing my correct address, but two poll workers, including the polling manager, said that I was not in their computer system. They told me that if I wasn’t in their system by October 1, then I had no chance of being eligible. How is it that I’m eligible to vote, but was denied that right to vote? I was even refused a provisional ballot. I was sent on my way and told that a call to the Georgia Secretary of State’s office would do me no good. Let me repeat: I was told by the polling manager not to contact the Georgia Secretary of State because I was not going to vote that day under any circumstances; not even a provisional ballot.

I’m heartbroken that I wasn’t allowed to vote, and I’m angered that no one in my polling station seemed the least bit concerned that I was eligible, but still unable to cast my ballot. One went so far as to say that being registered simply meant I could vote in four years, but not today. Inexcusable and quite simply unbelievable. I have been voting since I was 18 and I have never seen anything like what I saw today. The sooner I get out of this third world state, the better.”

Our office received approximately 150 different complaints on elections in the November general election.

At this time, Ms. Mitchell, I have some questions that I would to address to you.

MR. WALBERT: Mr. Chairman, it’s customary to have an opening statement from the other side after we’ve had one from the prosecution. I would appreciate that courtesy.

SECRETARY KEMP: Well, normally in these process, we've been able to do complete investigations, as well. I don't know Mr. Harvey thinks about that, but some of these people we never had an opportunity to interview.

MR. WALBERT: I would like an opportunity to just make an opening statement, sir, just in fairness.

SECRETARY KEMP: All right. I'll give you a couple of minutes to do that. If you would, just state your name and address for the record.

MR. WALBERT: Would you like me to do it from here or up there?

SECRETARY KEMP: I think you can do it from there, but you may need to pull the mic -- we just need to make sure everyone is speaking clearly and not too fast. And when you state your name, just make sure the court reporter can pick up on that. And as we go back and forth with the question-and-answer, we're going to have to keep a handle on who's actually answering the questions.

MR. WALBERT: Is this picking it up; is this working?

MR. HARVEY: Is this working any better?

SECRETARY KEMP: You might want to come up.

MR. WALBERT: Thank you. I'm David Walbert. My office address is 75 14th Street, 26th Floor, and I am here on behalf as counsel for the Board of Registration and Elections of Fulton County. There are several things I'd like to point out; really three things.

If we look at the big picture here, there are kind of two overriding issues, I think, and one of them is the issue about supplemental voting lists and the fact that it was large Fulton County. And secondly, is the provisionals that have some relationship to that.

On the -- and let's look at the big picture of the facts here, first of all, because we can't lose sight of this. In Fulton County there were 567,000 registered voters at the time of this election. In the year 2012, there were 193,000 new voter applications that came to Fulton County to be processed. That's a lot of work, but Fulton County handled that.

Well, here is where the problem began. In October of 2012 -- October -- I'm talking about several weeks right before the election, 45,320 new applications were presented to Fulton County. Now, that's a big number. But what is more important is 40,885 of those came in after the cutoff date for registration. But under law, they're legal because they had been signed under mailed prior to that date.

Now, what is a big problem here is this: Fulton County is being wildly and very strongly criticized for not getting its registration in place at the end of the season; end of the

election cycle. The fact of the matter is, and I am sure the Secretary of State, Mr. Kemp, I don't think you would have been aware of this, but the applications -- most all these are applications that came by mail through your office to us. That's 95% of them. They were at your office for one to two to more than that weeks waiting to get over to Fulton County. So Fulton County ends up getting thousands and thousands of applications right toward the very end of the time period for doing the express poll on October 25 and having that downloaded. That's the first thing. Five to six thousand received in the last two weeks of October, even though by law they had to have been provided by October 9th.

So, yes, the supplemental list was much larger than desirable and that it should have been, but we need to look much closer at the reasons for that and where that delay actually arose from.

There is a second thing we've got to take into consideration that is critically important, in my opinion, and that is the provisional issues, because the provisional, everything I've heard from Mr. Harvey this morning and so on was about provisional voting. Fulton County, I would say, has a -- what's called a liberal practice with regard to provisional voting, specifically going back to at least Mr. Garner a couple or three executive directors ago.

The practice in Fulton County was if someone comes to the wrong polling place, that's not their polling place, they're going to get a provisional ballot, even though they're in the wrong place. Now, I realize that when we look at the State, and I should say out-of-precinct provisionals is the driving factor on the number of provisionals in Fulton County. That is the factor. That explains -- that is (unintelligible).

Second, we had two polling places where the power was out, out of 319. So provisionals were used there the first part of the day until that was fixed, and things like that. But the driving factor are people who vote out-of-precinct. In Fulton County, as I said, Fulton is liberal, if you will, in its policy towards that. The State regulation on that says that if someone presents on the wrong polling place and you can determine that on the master list, then they are supposed to be sent there. That is not what the State law says, though, and more specifically, and I'd be happy to --

SECRETARY KEMP: Mr. Walbert, we're going to get into the specifics as we move through the day. So if you can kind of give us your opening statement, we would appreciate it.

MR. WALBERT: My point is, let's not lose sight of the fact that Fulton County may be

the only county in the State that is actually following federal law that mandates and expressly says if you show up at the wrong polling place, you shall get a provisional ballot. That's why there are so many provisionals in Fulton. That's different than what this Board's regulation says. But the federal laws explicitly requires that and Fulton County follows that. I would respectfully suggest and request that Mr. Harvey and all not lose sight of some of these dynamics going on.

Thirdly, as to the very particular facts and what Mr. Harvey has related here, it is an unfortunate situation -- I've never been in one before where we've really never had an itemization of charges. We have a list of some hundred and some people that have made, complaints but we have no idea what they're complaining about. That's not been ever provided. So to respond to some of these is difficult. I can say specifically that of the 19 people, for example, who complained about an absentee ballot filing, all of those we have the copies of the application and the copies of the ballot going out and every one of those 19 who will -- **Mr. Harvey** could read off today, I didn't get my ballot, and what have you. The fact of the matter is, they were all mailed on time, and of those 19, most of them, in fact, did vote, and some of them just never returned their ballot which is not Fulton County's fault.

Now, of the others, the group that we do have and have been able to find out something on our own investigation, a large percentage of those were not ever registered. Yes, you can -- you know, we can go, and if we had the media that we have here criticizing Fulton County (unintelligible), you're going to have all kinds of people think there is a conspiracy, and what have you, (unintelligible) complaints. But out of 500,000 or so that were involved, 100 complaints, you're going to have that no matter what; whether they're fact-based or not.

I would respectfully suggest and submit to you -- because we printed 20,000 -- 23,000, I think it was -- provisional ballots and distributed those throughout the system. There were no polling places that did not begin with provisional ballots. That's just not right. Fulton County is one of the few counties in the State at the time that the capacity to print provisionals during the course of the day. So if they found out and were told at the central office that they were short on provisionals, they would print and do the best they could to get more there.

So I would suggest that there is a big picture issue here as to the delay of the supplemental and the fact that the supplemental got bigger than it should have been. There's the issue of how the provisionals should work in Fulton County and in the State of Georgia. And then, subsidiarily, we all the individualized types of complaints, and so

on, and issues, which may or not have any legitimacy until you get in there and find out what the real facts were.

So I would say my own suggestion as to this, because I think we can -- we don't have any problem going and having a list of the actual charges prepared, if you will, or complaints that are specific. We don't have a problem with that if you want an ALJ for a hearing and see what really happened, rather than taking this Board's time up to hear stuff and then, you know, it's really difficult to respond to a Shekeylah Walker [sic] saying -- where, you know, we never heard this complaint before. We have that name, but no idea what the complaint said. We don't have any problem having an objective fact-finder listen to the whole record, assuming that the examination is broad enough to encompass these other issues I'm addressing: why the supplemental list was so big; how provisionals should be done; why there were so many. We have no problem with a proceeding to that effect. So I appreciate your opportunity to make that preliminary statement.

SECRETARY KEMP: We appreciate you doing that and I certainly appreciate your reference to the laws and the rules, because that's what this hearing is all about, is this Board looking at the evidence that we have and trying to figure out whether there was probable cause and State Election Board rules that were broken, potentially, State laws that are broken. You know, there's always the potential that these type cases may end up before an ALJ, but we've got a process that we go through in the State Election Board and it doesn't matter if it's Fulton County or any other county in the State of Georgia. That's why we're here today and that's what we're going to start with now, is getting to the bottom of these complaints that we had and see exactly what happened.

MR. HARVEY: Thank you, sir. Ms. Mitchell, would you give me your brief evaluation of the performance of the Fulton County elections office during the November 6 election?

MR. WALBERT: Could I ask you to be a little more specific? We could be here a month on that one.

MR. HARVEY: Well, just a general evaluation. Would you say they did a good job; excellent job; fair job; poor job?

MS. MITCHELL: Our assessment is that we did a good job for the election.

MR. HARVEY: How confident are you in the results of the provisional ballots being accurate? The provisional ballots you reported to the Secretary of State's office, how

confident are you that those results were accurate?

MS. MITCHELL: I am confident. I saw the process. I feel that we followed State law and staff. We had checks and balances in place to make those counts.

MR. HARVEY: How confident are you that a significant number of voters were not turned away either directly because they were not in the voter registration system, or were so discouraged and inconvenienced by the delays in getting provisional ballots that they did not vote on November 6?

MR. WALBERT: Could I object to -- you've got to clarify that -- if I may ask the panel -- turned away because they were not in the registration system or because they should have been and it didn't appear. Your question's ambiguous and I would appreciate if you could clarify that.

MR. HARVEY: Okay. Well, on either case, people turned away and not offered a provisional ballot under any circumstances or people that were turned away because, as you heard in some of the complaints, they went two and three and four times and were not able to vote a provisional ballot. Do you have any idea what numbers of people that might encompass?

MS. MITCHELL: I do not.

MR. HARVEY: Do you know if any poll managers actually refused provisional ballots to voters who requested them?

MS. MITCHELL: I'm not aware that.

MR. HARVEY: Why did approximately 5000 registered Fulton County voters have to vote provisional paper ballots in the November election?

MS. MITCHELL: There is a variation as to why someone was provided with a provisional ballot. Our assessment reflects about 45% of those individuals were out-of-precinct; what we call out-of-precinct.

MR. HARVEY: Has there been an internal investigation by Fulton County into the problems you encountered in the election?

MR. WALBERT: You mean outside of the Board of Registrations when you say Fulton

County?

MR. HARVEY: Within Fulton County government; outside of the State. Have you conducted any kind of investigation to determine problems, faults, successes?

MR. WALBERT: You mean within this department, then?

MR. HARVEY: Yes, sir.

MS. MITCHELL: We were in the process of doing what we refer to as an evaluation of the election.

MR. HARVEY: Has that been completed?

MS. MITCHELL: That has not been completed.

MR. HARVEY: When do you anticipate that being completed?

MS. MITCHELL: Upon conclusion of this process.

MR. HARVEY: Have there been any personnel changes in the elections office as a result of the November 6 election?

MS. MITCHELL: Not I'm aware of; no.

MR. HARVEY: How many precincts or polling places did you visit on election day?

MS. MITCHELL: I did not visit polling places on election day.

MR. HARVEY: Did you have any direct contact with members of the Secretary of State's office on election day regarding problems that were being reported in Fulton County?

MS. MITCHELL: Yes.

MR. HARVEY: What was the nature of that contact? What were the problems that were being reported through the Secretary of State's office?

MS. MITCHELL: Varies questions as it relates to provisional ballots; question as to -- relates to a poll that had electrical problems. For the most part, issues as it relates to whether a particular precinct has provisional ballots.

MR. HARVEY: Okay. Did that occur -- to your memory, did that occur early in the day, or was that something later in the day?

MS. MITCHELL: Most of it was early in the day.

MR. HARVEY: What kind of steps did you take after hearing that there were people not being offered provisional ballots to make sure that they were being offered provisional ballots, if any?

MS. MITCHELL: I was not told people would not being provided provisional ballots.

MR. HARVEY: You didn't receive an email from Linda Ford in the morning saying she was concerned about people being refused provisional ballots?

MS. MITCHELL: I received early indications that people were being given provisional ballots instead of being voted on the machines.

MR. HARVEY: How many press conferences did you conduct on November 6?

MS. MITCHELL: I had them throughout the day. At least three, I think.

MR. HARVEY: Why did the poll locator on the Fulton County website list the election day as November 7, 2012?

MS. MITCHELL: That was an error performed by our IT department.

MR. HARVEY: At what point was that corrected?

MS. MITCHELL: I can't recall the time of day.

MR. HARVEY: But that's the day after the election.

MS. MITCHELL: No. My understanding that it was corrected on that day.

MR. HARVEY: But November 7 was the day after the election, correct?

MR. WALBERT: I think he's asking about that as the date -- the 7th is the --

MS. MITCHELL: Yes. The 7th is the day after. That's correct.

MR. HARVEY: Did you bring any notes, records, or documents that are responsive to the subpoena you were issued?

MS. MITCHELL: Did I bring any?

MR. HARVEY: Yes, ma'am.

MS. MITCHELL: I issued all of them through email prior to today's hearing. We delivered over 21,000 pages of documents to your office.

MR. HARVEY: Yes, ma'am. At this point, I've got some preliminary questions for Mr. Smith.

MR. WALBERT: Might I ask direct questions of Ms. Mitchell just to follow up? It will be very brief.

SECRETARY KEMP: Well --

MR. WALBERT: Just to clarify his points.

SECRETARY KEMP: I think what we'll do is let Mr. Harvey get through this whole scenario, and then we'll give you an opportunity to respond.

MR. HARVEY: Mr. Smith, what was the scope of your role in the Fulton County elections office in the November general election?

SECRETARY KEMP: Let the record reflect Mr. Webb has joined us on the State Election Board. All right. Mr. Harvey.

MR. HARVEY: Okay. Mr. Smith, what was the scope of your employment with Fulton County elections office as regarding the November 6 general election?

MR. SMITH: I was a contractor with Fulton County to act as --

SECRETARY KEMP: Hold on just a second, Gary. They can't hear you. You've got to speak up just a little bit, even if the mic is not working. Let the record reflect that Mr. Worley has joined us, as well.

MR. HARVEY: Once again, Mr. Smith, what was the scope of your employment with Fulton County regarding the November 6 general election?

MR. SMITH: I was hired as the program evaluation manager for the -- by the County, and I started work on October 19, which was about three weeks prior to the general election. As such, there was really a limited timeframe to review the election procedures or to initiate any actions from that standpoint.

Part of the agreement that I had at the time, though, was really to assist the interim elections director, and the idea was to make sure that those procedures that had occurred in the 2012 primary election wouldn't occur again. Specifically, those items like mishandling of the accumulation process; precinct total exceeding 100%; absentee ballots (unintelligible) by optical scan units; missing (unintelligible) tapes; malfunctioning voting machines; and chain of custody failures. When I went through all of those meetings with various people in the election office, Dwight Brower; the election chief, Sharon Mitchell, who was the interim election chief; Derrick Gilstrap, who was the assistant special supervisor; and Dean Williams, who was the election preparation manager, and reviewed a lot of the documentation and procedures and information available to me at that time. And I really concluded that they had either eliminated the problems that were -- that had occurred during the primary election, and those were no longer a problem.

The other part that I was charged with at the time was to write an evaluation of the election as it occurred, and I had to sit in on a number of the meetings, updates to the poll managers by management -- the team. Had reviews of the Fulton County election Board. Monitored some of the preparation by the IT department for testing of modems. Spent time with election day technicians and sat in on meetings where they would talk about preparing the election division to handle the influx of calls that come in during an

election.

Based on that, what I've done is written report which I believe most of the members of the Board of Elections here have got. It was delivered to the Fulton County Board of Elections office and subsequently went to the Fulton County Board of Commissioners and then was released to the public information.

There were some requests to look more carefully at some areas, which I did, and I've revisited those areas with a final report which was finished yesterday and has been sent for publication.

MR. HARVEY: What with those areas you were asked for specific examination?

MR. SMITH: Areas?

SECRETARY KEMP: Mr. Smith, if you can just try to -- I apologize for our microphone situation.

MR. SMITH: Can you hear me now? I'm sorry. Can you hear me?

SECRETARY KEMP: That's great.

MR. SMITH: Go ahead.

MR. HARVEY: The areas where you asked to do some additional analysis?

MR. SMITH: The areas that I really -- I wasn't really given a lot of direction in the areas. They were looking for evaluating the elections in general. So what I did was took my background that I had as an election director in the past and work that I've done in other states with elections and looking at a lot of the things that most of us here in elections are concerned about.

One of the biggest areas I spent time on was what was being done to prepare for the election and how did the changes that had occurred in the past with regard to the loss of what's called institutional knowledge in the election office, itself; the many changes that occurred with regards to organizational structure. And then a lot of it had to do with the last moment, really. The changes that we had with regard to the loss of the election

director, Mr. Westmoreland; having to appoint an interim director. And I would say the other issue that I was looking at was trying to see how all the people who really had not had an opportunity to be involved in a general election (unintelligible) really could handle the process. There's a lot of difference between a general election in an off-presidential year, and an election.

Some of the comments that have already been made with regards to the number of registrations that have come in and only come in then. And I think the other thing to point out that is worthwhile is that we get a lot of inactive voters that come in during this period of time. These are people who really don't have an idea of where to vote. So the comment about people not voting at precincts is exasperated by the issue of inactive voters we have.

The other part we were trying to look at was what would the effect of redistricting have on the election, itself. We're getting people who really didn't have an idea of where to vote. I'll just say as a personal comment, I think most of the election directors would probably agree with me, is that one of the problems that we have seen is early voting has caused this problem, although it's good for what it does. People no longer know where they vote. They think they voted, in our case, at OC Library in the north part of the County, when really they were supposed to vote at precinct O2A, or something of that kind. So that also causes us problems on election day. So those are some of the problems we have.

In the report that I wrote, I went through all of these, and what I was trying to do, too, was to point out the other issues with regards to how well did the early voting process work; how well were the votes distributed; were the early voting sites chosen in order to make sure that they were the correct ones and that they could handle the capabilities or the issues on election day where we have huge turnouts of people trying to vote early. When those are run, you know, properly, it helps us reduce the number of people who vote on election day, which makes it easier for us, too.

MR. HARVEY: Thank you. You and I spoke briefly on election night at the warehouse -- communication system command center that Fulton County set up. Were you part of setting that up, or was that something that was set up before you?

MR. SMITH: What you're referring to is the election operations center, emergency operations center, set up a process for being able to centralize all of the issues that were

occurring within the County on election day. It was actually set up by -- I think it's the emergency operations center director, or whoever it might be. But it was a command center and it was in the lower part of the administration building. And, frankly, I thought it was outstanding. I thought it was one of those things where it could be a model for the country.

It had been set up, though, only a few weeks prior to the election, so we really didn't have time to test it out well. The responsibility, which was to take all of the external sites where complaints, calls, telephone calls, and things like that were coming in so there would be one place where they could take care of immediately of the problems that were incurred in the election. I think for the short period of time they had, I think they did a good job.

Where the problem came in, though, was really trying to get all that information from the external sites where the complaints or the calls would come in from voters getting back to the emergency operations center where the command center was. They did take care of things. I think it's one of those things that has an opportunity to (unintelligible) standard. It was great.

MR. HARVEY: You said the problem was primarily that complaints couldn't get into the center. It didn't sound like the complaints were getting into the --

MR. SMITH: I can give you an example. We had various sites to distribute the calls that would be coming in. I think that's a good idea. What was set up by the elections office was to have specific phone calls -- specific phone numbers the voters could call in so they weren't calling in on the general number and just being put into the rack. They had separated out the news media, as well, and they were calling. That's a good distribution of the complaint structure. They had set it up so that members of the Fulton County Board of Commissioners and also Fulton County Board of Registration and Elections would have a specific number to call.

The problem occurred, though, there were so many calls even though they had quite a number of people to handle the complaints that were coming in from the voters at the precincts. They were just overwhelmed. So they were unable to transfer that information easily to the command center where I spent most of my day observing what was going on. That was my job. My job was to observe and report and do that.

MR. HARVEY: Did you have any role in observing the large number voter registration applications that came in between October and November?

MR. SMITH: Well, I was there about three weeks before so I was getting involved in a lot of different things. I had a chance to see some of it, yes.

MR. HARVEY: How did it operate? Was it going full tilt? How many people were working on it? How many were they doing a day?

MR. SMITH: Well, I think the -- were they going full tilt? Yeah; they were going full tilt. They were working hard. I think the problem probably occurred was there weren't sufficient people working at the time to be able to handle the total number. That's a judgment call as much as anything else.

MR. HARVEY: But in your opinion, they needed more people to handle the number voter registration applications that came in, as well?

MR. SMITH: I would say, yes; that's obvious.

MR. HARVEY: Did you observe or were you asked to observe anything with the provisional ballot process, either on election day or in the days following the election and the processing of the provisional ballots?

MR. SMITH: Yes, I was.

MR. HARVEY: What kind of things were you asked regarding the provisional ballots?

MR. SMITH: Well, you know, with regards to provisional ballots, to start off, the number of provisional ballots being issued during the election day. That's one thing. We were monitoring the precincts to see how many were coming in. I was getting emails from some of the members of the Board here that provisional ballots were not available or needed or something like that. So we were communicating on it. As early as 8:00 in the morning on election day, we could see it was starting to be a real problem. I had communication with Sharon Mitchell and we talked about it. We started at that time. I think Ralph and his staff started to look at where did they have to go. But it compounded as the day went along. Even though you have the ability to print them, you still have to print them and you have to deliver them. So you've got 347 precincts they have to be

delivered to. If you looked at the data that came in afterward, you'd see it took a lot of work to get them to the locations they had to go.

MR. HARVEY: What about in the validation process of provisional ballots when they came back in, in terms of determining whether or not they should be accepted; chain of custody; those kinds of issues?

MR. SMITH: I wasn't involved in whether they were accepted or not. That's a process I didn't see. I was involved in the duplication process. We had to take the provisional ballots and ensure they were duplicated on the proper ballot (unintelligible).

MR. HARVEY: Did you oversee, or did you get a chance to observe the process, and I understand you weren't directly involved, but to observe the process the Fulton County election officials were using to validate and maintain custody of provisional ballots?

MR. SMITH: I didn't oversee it. I was there when they were doing that.

MR. HARVEY: We ever asked about processes or whether something was acceptable or not or good or bad?

MR. SMITH: No.

MR. HARVEY: Did you visit any polling places on election day?

MR. SMITH: No.

MR. HARVEY: Have you interviewed poll workers, poll managers, election officials since election day to determine an after-action report where there were strengths, weaknesses, failures?

MR. SMITH: No I haven't.

MR. HARVEY: So your report is based primarily on simply your observations?

MR. SMITH: It's on my observations, but it's, you know, it's discussions with people in the office and review of the results and review of data. It's a review of the processes.

MR. HARVEY: Do you have any notes, records, or documents that were responsive to the subpoena, or work product or notes from your time in Fulton County?

MR. SMITH: I've got a lot of notes but I don't have them all with me. I've got my report.

MR. HARVEY: So you didn't conduct interviews with individuals in the elections office after -- you said it was based on conversations. Who were those conversations with?

MR. SMITH: I had conversations with the people sitting here; I talked to other people in the registration office or (unintelligible) office who were involved; I've had conversations with former members of the election office, itself; I've had discussions with various Board members from the Board of Commissioners; I had a discussion with all of the members of the Board of Registrations and Elections. I've had some comments that have come to me from certain people who have been called in because they had a concern about not receiving a ballot or not. And I have talked to -- I believe I talked with one poll manager; not in person, but by email.

MR. HARVEY: Based on what you've observed from the provisional ballot verification process, how confident are you that the results of the provisional ballot verifications are accurate?

MR. SMITH: That's really hard to say. I can't give you a percentage on it. I think it was pretty well done.

MR. HARVEY: Pretty well done?

MR. SMITH: Yes.

MR. HARVEY: Any glaring errors that you saw on the provisional ballot process?

MR. SMITH: No.

MR. HARVEY: Any errors at all?

MR. SMITH: I can't pick out any individual ones.

MR. HARVEY: Thank you. At this time, members of the State Election Board, I would like to give a very brief presentation on the issue of voter registration, the supplemental list, and express poll. Mr. Walbert addressed some of that in his preliminary comments.

So that the Board has an understanding of the challenges that Fulton County faced leading up to the November election, obviously, there was a presidential election and there were a lot of people that were registering to vote. Our office received thousands and thousands of voter registration applications in the mail every day in the days leading up to the election. Our staff -- my investigative staff, the rest of the staff in the office were preparing them for delivery to the counties daily. We spent a significant amount of time doing that.

Fulton County was supposed to come and pick up their voter registration applications and process them every day, and I'll ask Ms. Mitchell about some of those specifics. But there are some key dates in the voter registration that will play into the supplemental list and people not being in the voter registration system.

In order to be registered to vote, you have to have your voter registration in by October 9th, 2012. If it's dated after October 9th, it's not eligible; you're not eligible to vote. Now, it can be dated October 9th and postmarked October 9th. It may not to Fulton County until several days later, either because it comes through our office or because it goes through the mail. But as long as it's dated by October 9th, and can be verified October 9th, you're good to go.

All of those voter registration applications go into the statewide voter registration system, which is loosely referred to as express poll. That's when you go to vote and they look you up on the computer, they find your name and they tap you and create a voter access card for you. That's express poll.

Kennesaw State University runs express poll. They coordinate the express poll. And in order to have a complete list of voters for election day, they have to do what's commonly referred to as closing express poll on the second Thursday before the election. So in this case the second Thursday before the election, Kennesaw State University told all the counties, at the close of business today, we're closing express poll. Anybody who's not entered into the system after that date is going to have to go on a printed supplemental list.

The supplemental list is just what it sounds like. It's a list of voters that would be assigned to a precinct or to a county that didn't make it onto the express poll system because Fulton County didn't receive their registration until, say, October 30th or October 31st. Or they received it and didn't get around to entering it until November 1st. All those voters would be on the supplemental list.

The procedure for voting on the supplemental list is if I'm registered in time and I'm on that supplemental list and I show up at a poll, they would first look me up on the express poll system. If I don't show up on the express poll system, they would then -- at that precinct, they should then back out of the precinct level go to the statewide voter registration system to see if I'm in there. If I'm not found in the statewide registration system, they then go to their printed provisional list -- I'm sorry -- their printed supplemental list. If they find me on the supplemental list of voters, they then can make that entry onto express poll, give me a voter access card, and I vote on a DRE; on a voting machine just like everyone else.

So the only difference between being in express poll and being on a supplemental list is when your voter registration application gets processed by the Fulton County, or by the county I which you live.

So obviously, as Mr. Walbert also pointed out, the timing of this data entry is critical. The sooner you get the names in the VR system, the more complete your express poll is going to be; the easier time your poll workers are going to have managing the polls.

Fulton County reported that their supplemental list contained 9175 names for the general election. Is that correct?

MS. MITCHELL: No. That's not correct.

MR. JONES: Six thousand-something.

MR. HARVEY: Our office records indicate that there were 9175 people on the Fulton County supplemental list of voters. I'll have some questions for Ms. Mitchell and she can provide additional evidence. We've asked for a copy of the names of the people on the supplemental list from Fulton County and I don't believe that we've received it yet.

Again, obviously, having to go from express poll to supplemental list is going to take

time at the polls. If you get two express poll machines checking in and you've got a lot of voters trying to get to the voting machines and one poll worker has to stop in order to check a supplement list of names, it's going to slow things down. That's going to account for some of the long lines at the polls.

By comparison, when you're talking about supplemental lists, I believe DeKalb County had approximately 3400 on their supplemental list. And then Cobb County had maybe 200 people on their supplemental list. Neighboring counties were well under Fulton County in terms of numbers of the supplemental list.

At this point I've got some questions for Ms. Mitchell and possibly Mr. Jones. I would say also, if at any point, if somebody can answer a question better than the person I asked the question to, you're certainly welcome to answer the question.

Ms. Mitchell, what was the procedure your office had set up to receive voter registration applications from the Secretary of State's office?

MS. MITCHELL: I will start and I'll have Mr. Jones participate as well. Part of our procedure is that we have an actual staff that picks up applications on a daily basis from the Secretary of State's office. In some cases, they went on an average of twice a day based on how many applications were received. As Mr. Walbert has indicated, the department received between July up until November, as many as 129,000 applications for registration for Fulton County. Therefore, employees went on a daily basis to pick those boxes up.

After they had picked up the boxes, they in turn go to our mail center, which was a segregated component of the department that was in the basement of our building. That is where all applications are stamped prior to being processed upstairs. Once they are stamped downstairs so that they can be tallied in terms of how many there are, the date is affixed to the application and they are sorted and they're batched, what we call batching, so we can index them and distribute the work on the floor.

Once that process is completed in the basement component, it is then sent to the upstairs component where the keying process takes place and distribution work occurs. That was done on a daily basis for our election from anywhere from September until the election week itself. We were working from 6 AM to 11 PM each day. Eleven was the cutoff time because the registration system for the Secretary of State's office shuts down at 11

PM. Se we had staff that were working on a daily basis as early as 6 AM every day keying in applications.

And that process continued as it relates to the keying of registration applications. And that is how registration applications are keyed into the system and that process continued for our department throughout the election.

MR. HARVEY: Were you aware that there were occasions where the Secretary of State's office had to call and ask for pickup of the voter registration applications because they had not been done in more than a day?

MS. MITCHELL: Mr. Jones is going to respond to that component.

MR. JONES: Yes. I was aware. We had one occasion whereby when my people went to pick up the boxes, they went and picked up two. They did not see the other three that were available, so what happened was that I told them to go back the next day and pick up the rest of the applications. Yes. It did happen one occasion whereby we were not able to pick up anything at that time. Yes.

MR. HARVEY: Were you also aware that workers from Fulton County told Secretary of State's employees that they weren't taking more than two boxes at a time?

MR. JONES: No. I'm not aware of that statement.

MR. HARVEY: When did the first wave of voter registration applications sort of hit Fulton County? What point in time?

MR. JONES: Well, obviously on October 9th we got an onslaught because everybody came in person to register to vote since it was the last day. So what we did is that we had stopped all data entry on October 9th, majority, so we can process the numerous people who have come in. I think it was around 700 people came in on October 9th alone in person to come in to register to vote at that time.

MR. HARVEY: That's registering in the office?

MR. SMITH: That's correct.

MS. MITCHELL: For that particular day, also, Mr. Harvey, we actually extended our hours for voter registration for Fulton County. We also kept our office open until 8 PM so that we could accommodate the various groups. We had a number of voter registration groups. One of the things that Fulton County also did is we had a number of deputy registrars that registered voters for us as partners with us and registration activities throughout the county. And a number of those individuals were bringing their registration applications to our office on the book closing date. We extended our offices on that day as well.

MR. HARVEY: On or around October 9th, was there an existing backlog or an existing set of applications pending in Fulton County?

MR. JONES: Well --

MR. HARVEY: Let me stop you for a second --

MR. JONES: If it was a backlog, it was probably about two or three days behind. We were probably never 100% caught up at the time of applications being existing because it's an ongoing thing.

MR. HARVEY: So approximately two to three days.

And for the purposes of the court reporter, when you answer a question, would you say your name so the record would reflect who's speaking. I'll try to do a better job with framing the question, although I don't know sometime who's got the best answer.

At what point did you realize the voter registration applications were going to overwhelm your staff; your staff's ability to put them in in a timely manner?

MS. MITCHELL: The department had an actual plan for keying of applications that included the use of both temporary employees and County employees. The Department in collaboration with the County manager's office had developed something we referred to as a strike plan, where we had planned to utilize County employees to augment our staff as part of this process. That plan was activated as early as September when we had County come into the office three or four days a week and most of the evening hours. Many of them started at 2 PM in the afternoon and they assisted our staff as relates to the keying in of applications.

We also had staff at our outlying sites. We have two locations, a north location and a south locations. They were also keying applications in and that was part of their process as well.

So we believe we had an actual plan that allowed us to have the number of individuals who were capable of assisting us during the peak period that we anticipated from our historical data, the 2008 election. We saw that there were certain windows after the book closing that you have applications increase.

So we believe that we had a plan that had the proper staffing levels to accommodate those kinds of increases.

MR. HARVEY: And at what point did you realize that was not going to be sufficient?

MS. MITCHELL: We didn't feel that we had a point that it wasn't going to be sufficient. We believe that we were following the plan laid out. A secondary component of the plan allowed us to bring in additional temporary employees at a certain period of time and that aspect of the plan was activated as well.

MR. HARVEY: But the fact that there were 6000 to 9000 people on the supplemental list would indicate that were six to nine thousand the did not get entered by the time of the close of the express poll; is that correct?

MS. MITCHELL: Let me speak to that now. As it relate -- and I would like to correct that record that we did not have 9000 on the supplemental list. Our numbers indicated that we had 6635 names on the list and our data also reflects that roughly 3800 of those applications came between the week of October 21st and October 29th from the Secretary of State's office. So a portion of the names that you see on the supplemental list are the applications that were received during that period of time.

MR. HARVEY: Was there any kind of prioritization for voter registration applications that came in, new registrations versus address changes, name changes? Any type of triage of the voter registration applications?

MS. MITCHELL: That is correct. We did triage the applications so that new registered voters could be entered into the system and receive priority, or because the early voting

process started on October 15th, just a few days after the book closing of October 9th.

MR. HARVEY: Did you have a plan for dealing with applications that came in after the deadline that may have been submitted on October 15th, dated October 15th, but were not going to be eligible for the election? Did you have a process to screen those out?

MS. MITCHELL: Yes, we did. We had a memorandum that was received from the Secretary of State's office that reflected anything that had October 12th from the Secretary of State's office was considered as on time. Our staff in the mail room, as I described the previous process, the mailroom operation is the first organization that touches the application. So those applications that did not follow that process did not even come up to the area to be keyed; they never entered that area. They were segregated at that point.

MR. HARVEY: Okay. So the triage system would have weeded out the past date and they would have never even made it to data entry?

MS. MITCHELL: That is correct.

MR. HARVEY: Okay.

SECRETARY KEMP: Mr. Harvey, while you pause, let me ask a quick question of Ms. Mitchell. I believe you just stated that you never felt like you were overwhelmed with the voter registration forms come in; is that correct?

MS. MITCHELL: My statement was we felt we had a plan that would address those issues.

SECRETARY KEMP: I believe in Mr. Walbert's opening statement he was making the point that you were overwhelmed and I was just wondering, I think you also mentioned that you looked at back at '08 numbers and the rush and I'm sure can compare the same time frame in 2008 versus 2012. Do you happen to know what those numbers are?

MS. MITCHELL: I can tell you the total for that period. In 2008 we received a total of 239,582 applications. In 2012 we received 193,432.

SECRETARY KEMP: So you had more in 2008 than you had in 2012?

MS. MITCHELL: In terms of the total accumulation, that is correct.

SECRETARY KEMP: So from a historical perspective you would have been able to look back and really know what was going to be coming at you for this election to keep you from being overwhelmed. Wouldn't that be a fair statement?

MS. MITCHELL: We do review historical data. Yes, sir.

SECRETARY KEMP: Right. And therefore, if you had been prepared for that, I assume you would have met the voter registration deadlines and wouldn't have had to be entering people up until the last weekend before the election.

MS. MITCHELL: A key component of that is when you receive the applications. Part of our process had us receiving applications at the point of time the week before the election from the Secretary of State's office.

SECRETARY KEMP: So did you review the historical data when you received them in 2008 -- it would seem to me there was -- I know in our office, we knew after, you know, right bumping up to the deadline there was going to be a big rush. I think every county does. I'm trying to get to the point whether if you look back for that, then it seems like you would have been able to handle that volume and met the deadlines before the election.

MS. MITCHELL: We didn't look at the period of time when applications were received. We saw them in their entirety. Staffing considerations did take that into consideration.

SECRETARY KEMP: Okay. Mr. Harvey, do we have a clarification on the 9000 versus the 6000?

MR. HARVEY: No. This is the first actual number we've gotten from Fulton County; specific number. They did indicate earlier that it was approximately 6000. The 9000 is what our office is showing. We can -- as part of our continuing investigation, we can determine what that is.

SECRETARY KEMP: Very good. We'll continue.

MR. HARVEY: Ms. Mitchell, I've got copies of three voter registration histories that show individuals that registered after registration date, were entered on the 31st of October and the 29th of October, all of which were entered into the system and all of whom were allowed to vote and their votes counted. How would that get through the system?

MR. WALBERT: Would you show the documents are referring to?

MR. HARVEY: Sure. I have redacted the specific information on the voters, but the dates are underlined.

MR. JONES: We will probably have to pull the individual card to determine what happened. It could have been numerous reasons, though.

MR. HARVEY: Is my evaluation correct that the registration date was after the cutoff; they were entered late in the system and that they actually cast a ballot?

MR. JONES: With the information that's on the screen, the registration date is afterwards.

MR. HARVEY: Anything else that strikes you about that, Ms. Mitchell?

MS. MITCHELL: No, without seeing the other components of the document. It's just a screen printed, so . . .

MR. HARVEY: Could you pass those documents to the desk, here, please. Thank you.

MS. Mitchell, it's correct that you notified the investigators from the Secretary of State's office on Monday, November 6th that all the voter registration applications had been entered into the system, correct?

MS. MITCHELL: I don't recall that.

MR. HARVEY: You don't recall meeting with Ms. Jones and telling her that?

MS. MITCHELL: When she came into the office, you mean?

MR. HARVEY: Yes, ma'am.

MS. MITCHELL: Yes. Then if you're speaking of her, yes.

MR. HARVEY: In fact, weren't there two to three hundred voter registration applications that had to be entered on Monday due to an oversight in your office?

MS. MITCHELL: We indicated that to her, as well.

MR. HARVEY: So two or three hundred that were entered into the VR system on the day before the election?

MS. MITCHELL: That's correct.

MR. HARVEY: How would those two to three hundred voters' names get into the system where they will be able to vote if they showed up that the precinct? Because they're not going to be in express poll; the supplemental list has already gone out, which we'll get to in a minute. How were those two to three hundred people going to be able to vote on Tuesday?

MR. BROWER: Dwight Brower speaking. Yes, if those voters appeared at the poll to vote and the poll manager was unable to find their names on the express poll or the supplemental list, they typically would call our office and verify that that person is in fact authorized to vote and we would give the poll manager permission to go ahead and allow him or her to cast their ballot.

MR. HARVEY: Were you able to go back and find any voter registration applications after the election that should have been accepted before the election? They were either not accepted or not entered into the system for people that had their applications submitted in time?

MR. JONES: Not that I know of.

MR. HARVEY: Let's talk about the supplemental list for a minute. Ms. Mitchell or Mr. Brower, whoever is best able to answer, can you explain the process for distributing the supplemental list and how it's used by the poll managers?

MR. BROWER: The supplemental list is typically generated and it's delivered to what we call our election preparation center. Generally we receive that on the Saturday prior to the election. We will actually pack that supplemental list in the express poll case because the express poll operator is normally the person that would use that supplemental list. On the following Sunday, that's our Sunday pickup for poll managers. They will actually report to the election preparation center where they receive their, we call them Sunday election supplies. The poll manager then will take the supplemental list to the polls with him or her on the Monday when they're doing set-up, or on the Tuesday when they actually deliver the express poll case to the precinct.

MR. HARVEY: So the only way to get is if it's given by the election office, correct?

MR. BROWER: That's correct.

MR. HARVEY: Are you aware of any precincts that did not receive a supplemental list?

MR. BROWER: We are not aware of any that did not receive supplemental list. We did have two that received their supplemental list a little later than they should have.

MR. HARVEY: Okay. Let me correct the question. Any that did not have their supplemental list when the polls opened on Tuesday morning?

MR. BROWER: That's correct. We had two precincts. I think RW22 and I think it was SS14.

MR. HARVEY: And what happened there?

MR. BROWER: The poll -- the driver -- during the time that the poll manager was picking up their supplemental list, they were not included in their items and they were instructed to deliver them the following day.

MR. HARVEY: Do you know approximately what time the lists were delivered to those two precincts?

MR. BROWER: About 11 a.m.

MR. HARVEY: So four hours after voting started?

MR. BROWER: That's correct. About four hours after voting started.

MR. HARVEY: Do you have any idea how many voters were affected by that?

MR. BROWER: There was 261. We ran a query to see the time period between the opening of the polls and (unintelligible) about 261 voters that could have potentially been affected. Because 261 people had actually cast their ballots (unintelligible).

MR. HARVEY: So you're saying 261 people had to vote provisional ballots?

MR. BROWER: Negative. Two hundred sixty-one people had cast their ballots at the poll during that time period, from 7 a.m. until about 11 a.m.

MR. HARVEY: I understand. Were there any precincts that did not need a supplemental list, or did every precinct have a supplemental list?

MR. BROWER: It is my understanding that every precinct did in fact receive a supplemental list.

MR. HARVEY: Were any supplemental lists printed on election day and delivered to precincts?

MR. BROWER: No. There were no supplemental lists actually printed on election day delivered to the precinct.

MR. HARVEY: I think it has been answered. This supplemental list was definitely larger than it has been in the past?

MR. BROWER: They were more names on the list than there typically is.

MR. HARVEY: Moving to another area, something that happened right before the Fulton County general election. In early November --

SECRETARY KEMP: Mr. Harvey, let me just see if the Board has any questions? Anybody?

MR. WORLEY: I had a question of Ms. Mitchell. How many people were actually hired, or how many people were actually entering the voter applications in this period in October?

MS. MITCHELL: Probably about 40 people.

SECRETARY KEMP: Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey.

MR. HARVEY: Ms. Mitchell, shortly before the November election, I believe in late October, did the Fulton County Board of Elections and Registration decide to place voters in a pending status based on a concern for addresses?

MS. MITCHELL: Well, they determined they wanted to know who the individuals were from the previous housing project. Yes, sir.

MR. HARVEY: Could you explain that a little bit more?

MS. MITCHELL: There was an issue back in May, June of 2012 as it related to identifying individuals who were voters that were registered at addresses that we indicated no longer existed at previous housing projects and the Board members wanted to be able to identify those individuals for the upcoming election.

MR. HARVEY: So how were they going to be identified?

MS. MITCHELL: That's how the pending status component was used to identify who those individuals were.

MR. HARVEY: So their voter registration status was changed?

MS. MITCHELL: Not changed in the sense that you change the ability for them to vote. The pending status was just a flag that was being used for that purpose.

MR. HARVEY: What would have happened if a pending voter had showed up to vote?

MS. MITCHELL: Mr. Jones will answer that component.

MR. JONES: The idea was that when a pending person comes up, then the poll worker would then investigate it further to see what happened to this voter. Then we would allow the person to vote as long as they gave a legitimate address at that time.

SECRETARY KEMP: Mr. Harvey, I have a question. If that scenario came up multiple times on election day, I guess that would attribute to long lines holding the process up?

MS. MITCHELL: No, sir, Mr. Kemp. One of the components as relates to the pending status that we're referring to, that was a -- that took place on November 2nd. The express poll had already been downloaded on October 25th, so that was not appearing on the express poll document.

SECRETARY KEMP: Thank you.

MR. HARVEY: But is it correct that that was as a result of a communication you had with the Secretary of State's office to not keep their status in pending?

MS. MITCHELL: I can't remember the period of time, but we did have a conversation with the Secretary of State's office; yes, sir.

MR. HARVEY: So the plan was to put the people in pending status, have them show up at the polls, and then have the poll worker determine whether or not they could prove their residency in order to cast a vote?

MS. MITCHELL: That was the intent.

MR. HARVEY: If they couldn't prove their identity -- I'm sorry, their address to the satisfaction of the poll worker, what would happen?

MR. JONES: The voter was going to fill out a new card and vote provisionally at the time so we would have another way to track down those particular voters.

MR. HARVEY: So you were essentially going to make all poll workers registrars to determine whether or not somebody was sufficiently registered to cast a ballot?

MR. JONES: No. What we were doing was identifying the people to see -- make sure that the voter would have the right to vote a provisional ballot at that time so at a later time we could investigate to see what happened to the voter.

MR. HARVEY: What was the legal basis for changing someone's voter registration status?

MR. WALBERT: They testified they didn't change the voter registration status. I think we can quibble about the law here of what's going on and so on, but I object to that question. It's just asking them to assume exactly what they testified didn't happen.

SECRETARY KEMP: You want to restate the question, Mr. Harvey.

MR. HARVEY: Well, as it turned out, you had communication with our office, Ms. Mitchell, where the law was pointed out that there was, in fact, no legal justification for doing that, correct?

MS. MITCHELL: Yes. I had conversations as it relates to what pending status actually meant in the context of the law. That is correct.

SECRETARY KEMP: So, Mr. Harvey, the point you're trying to make is the Board was moving forward with something that essentially would have been illegal in that timeframe before the election, and that decision was reversed once the elections division contacted the elections office; is that what you're --

MR. HARVEY: I think that's a good summary.

But at one point the voter's status was actually changed to pending. Who changed the voter's status? Who actually processed those changes?

MR. JONES: One of our workers, Ms. Wright.

MR. HARVEY: And how many voters were put in pending status?

MR. JONES: I have no idea. I don't know the approximate number.

MR. HARVEY: Not even an approximation?

MS. MITCHELL: My recollection is about 1000 voters.

MR. HARVEY: About 1000. So she put them in all in pending. Who took them out of pending?

MR. JONES: Ms. Wright took them out of pending status.

MR. HARVEY: Are you aware there were 636 voters still in pending status on November 6th?

MR. JONES: I am not aware of the ones that were left behind, if there were any.

SECRETARY KEMP: So if the ones that were left behind had gone to vote and they were in pending status, they would have had to do a voter registration card and then vote a provisional ballot?

MR. JONES: What happened was, since the express poll was pulled already, it wouldn't had no effect on the situation on election day. So the person would go ahead and just vote. Pending was not applicable to the election because of the -- since the express poll was pulled already. Once the express polls were pulled, the voter was in active or inactive status at that particular time. So it was a null and void to put them in pending status.

MR. HARVEY: At this point, I would like to move into some of the problems that occurred at the precincts on election day. As I said, our office received over 100 complaints of various issues on election day. I've got some questions about how your office responded.

How were poll workers able to communicate with the main office on election day if they had an issue or problem or they needed help? What kinds of means of communication did you have?

MR. BROWER: We provide each poll manager a list of telephone numbers and

numbers designated for specific issues. We provide the numbers for supplies if they had a supply issue; a number for helpdesk if they have a technical issue; and a number for registration status if they need to verify a voter registration status. We set up a call center with multiple lines for them to be able to call in (unintelligible) issues on election day.

MR. HARVEY: How would you evaluate the performance of the support that poll managers and poll workers got on election day from the main office?

MR. BROWER: I think the support was good.

MR. HARVEY: It was good. Okay. I think we've answered this, but I'll ask again. Were you informed on election day that there were poll workers that were refusing provisional ballots to voters?

MR. BROWER: I heard the comment, but I was not aware, especially considering that we initially sent out over 18,350 ballots. No precinct received less than 50 provisional ballots initially. When I say sent out, the managers themselves picked those up as part of their Sunday issue.

MR. HARVEY: So they received provisional ballots as part of their regular equipment?

MR. BROWER: Absolutely.

MR. HARVEY: Would it be safe to say that you were sort of the operations director on election day?

MR. BROWER: That's probably true.

MR. HARVEY: And you didn't receive any reports of people not being able to vote provisional ballots?

MR. BROWER: I received reports that precincts had ran out of provisional ballots and, of course, we were replacing those; replenishing those.

MR. HARVEY: But no reports that people were refused a provisional ballot?

MR. BROWER: No. No reports of anyone. It's pretty much standard policy in our

county that if a voter insists on a provisional ballot, we give them one and sort it out later.

MR. HARVEY: What was the replacement time on provisional ballots? If a precinct called and said, we're running out, how long would it normally take to restock that precinct?

MR. BROWER: It varies. Fulton County is about 70 miles long. It depends on the location. We print our own ballots, so that certainly helped. But to give you an average time, would depend on the location of the precinct.

MR. HARVEY: From the complaints you heard this morning, the three or four that I read, would waits of four to five hours for provisional ballots be something you were familiar with on election day?

MR. BROWER: Not at all. I would say that's a pretty lengthy amount of time to print a provisional ballot and get it to a polling location.

MR. HARVEY: How many vehicles did you have delivering provisional ballots?

MR. BROWER: We have 40 vehicles on the road. If there is a need for provisional ballots, we will have a vehicle come in and actually pick those up and make the distribution.

MR. HARVEY: Approximately how many precincts called and said they needed provisional ballots?

MR. BROWER: I think I had a list of about 19, I think it was.

MR. HARVEY: Nineteen precincts?

MR. BROWER: Yes.

MR. HARVEY: How many precincts could be printed at a time for provisional ballots?

MR. BROWER: Actually three, I guess. We've got three different locations that we print -- I mean, three machines that we can print from.

MR. HARVEY: Some of the reports we had and some of the complaints you heard earlier reported six provisional ballots were delivered to a precinct at a time. Were you given specific numbers? Did you send more? Was there an average number of ballots you provided based on the precinct, or based on the complaints?

MR. BROWER: Typically we did not send out less than 25. Now, there may have been an occasion, if a precinct were nearby and they say they ran out of ballots, we had some residual provisionals left over from early voting. They may have grabbed 10 or so or of what was left there to keep them going (unintelligible). But typically we distributed at least 25 provisional ballots and in some cases, more than that on election day.

MR. HARVEY: Now, when we spoke in December, we mentioned a precinct where one of our investigators, actually, two of our investigators were present and saw people waiting in excess of four hours for provisional ballots, and were, in fact, being told by poll workers you may want to try another polling place because we've been waiting for hours.

There have also been stories -- I believe the lady that spoke earlier today said that people had been waiting and an insufficient number of provisional ballots were delivered. Were you aware of -- Venetia Hills was the precinct that I was specifically referring to with our staff there. Did you get any calls from Venetia Hills on election day?

MR. BROWER: We did make -- issue additional ballots for Venetia Hills. We also talked with the poll manager there who indicated that no one came there and was there for four to five hours waiting for a provisional ballot.

MR. HARVEY: What about Adamsville precinct?

MR. BROWER: Adamsville precinct, Adamsville recreation center is an early voting site. They did run out of provisional ballots. Oftentimes voters think, just as on early voting days, they can go anyplace and vote. So that being a very active, if you will, early voting site, we did have a lot of people that was not registered in that precinct to actually come there. In some cases, people out of the County who stated that they were registered and we subsequently found out that they were not, cast a provisional ballot.

MR. HARVEY: How many calls did your office receive about equipment failures that either stopped or significantly slowed voting, whether express poll with DRE's,

something like that?

MR. BROWER: I don't know the number. We did receive calls for, in some cases express polls actually not operating, and we did receive a couple of calls in reference to TS units.

MR. HARVEY: How did you respond to that? Did you have a team set up?

MR. BROWER: We have a team of technicians that have an area coverage. They are in vehicles. They call into our IT help desk, and from there we actually -- IT help desk dispatched the technician responsible for that area and dispatch (unintelligible).

MR. HARVEY: Do you know how many precincts did not open on time in Fulton County on November 6?

MR. BROWER: I do not know of any precinct that did not open on time on the November 6 election.

MR. HARVEY: Would a poll manager report if they didn't open on time if they didn't, or how would you know?

MR. BROWER: We have a system whereby at 6:00 in the morning we require poll managers to call and tell us, hey, I'm here; I'm in the precinct. Our procedure is that if a poll is not going to open on time, we require poll manager to notify us immediately.

MR. HARVEY: Were any court orders sought or issued to extend polling hours past 7:00?

MR. BROWER: Not on election day.

MR. HARVEY: Were poll workers given guidance about -- was your office asked about allowing people to vote provisional ballots after the precinct had closed after we heard in some of the complaints?

MR. BROWER: I don't recall receiving a call from anyone asking to extend the hours for provisional voters.

MR. HARVEY: So if somebody was voting a provisional ballot at 7:20, the ballot arrived after 7:00, would that be something you considered appropriate or inappropriate?

MR. BROWER: If the poll is still open and the voter was in the poll by 7 PM, yes, I wouldn't see where that would be inappropriate.

MR. HARVEY: So they could stay until 8 or 9:30 to vote provisional ballots as long as they were there by 7:00?

MR. BROWER: As I understand the law, the voter is in the poll by 7 PM, we have to service him or her.

MR. HARVEY: Did your office make any special exceptions for celebrities or dignitaries to vote in advance or on special occasions?

MR. BROWER: We did receive a call, you know. In the interest of avoiding a media scene or media circus, in some cases, yes, and in one case particular during this election. Our goal was to get the person in, get them voted, get them out the precinct.

MR. HARVEY: At any point where authorizations given to the press to film or photograph inside precincts at management level, your level or Ms. Mitchell's level, that a poll manager might not be aware of?

MR. BROWER: No.

MR. HARVEY: So any permission would come from the poll manager or would they have to request approval from you? Let's say a news camera showed up at precinct 1A and the poll manager said, I don't know if I'm going to allow you, what would be the process that the manager would use?

MR. BROWER: Typically, the first call go to our communications department if the media wants to go to this or that poll to actually get some footage. And normally our communications department would notify us and we, in turn, would call the poll manager and say (unintelligible).

MR. HARVEY: So the poll manager would know about that.

MR. BROWER: Right.

MR. HARVEY: I'm going to read you some complaints. I would like to get your reaction as to whether or not you got any report of this on November 6th.

That people were not allowed to vote because the drivers license on their -- I'm sorry -- the address on their drivers license was different than their registered voting address.

MR. BROWER: No reports of that.

MR. HARVEY: No reports.

MR. BROWER: I did not.

MR. HARVEY: And if anybody else did, feel free to speak up.

A voter who was told they had requested an absentee ballot, which the voter denied, and then the voter was forced to vote a provisional ballot.

(Whereupon, there was no response)

MR. HARVEY: I think we talked about excessively long lines in excess of three or four hours due to difficulties involving some of the equipment. Do you know how many calls you got about long lines?

MR. BROWER: We have a call center database that outlines that. But, no. I did not remember receiving a call myself saying the lines were (unintelligible).

MR. HARVEY: How did you get updated on specific issues. Now, Mr. Smith talked about this command center that was supposed to put the issues up on the screen where everybody could presumably see if a precinct was running out of provisional ballots. Everybody would know and be able to react. How did you get your information? Were you emailed, were you texted? How did you ---- how would you know if there was an issue?

MR. BROWER: Typically I'll get a call.

MR. HARVEY: From who?

MR. BROWER: Typically from a poll worker him or herself, or from a citizen. And sometime from your office, the Secretary of State's office.

MR. HARVEY: But did you have any comprehensive way to see what was going on? If someone did not have your telephone number, how would you know if there was a significant issue somewhere in North Fulton County or South Fulton County?

MR. BROWER: In our call center we had, you know, training was that if certain events occurred, that they would actually escalate it up the chain of command.

MR. HARVEY: And at what point did they come to you?

MR. BROWER: Typically if something was going to stop the operations in the poll; all of the express polls are down; in some cases, a poll that had completely exhausted all of their provisional ballots, something like that; power outage.

MR. HARVEY: I think you've answered this, or somebody has answered this before, but you didn't receive any complaints about people being refuse provisional ballots?

MR. BROWER: I did not.

MR. HARVEY: And nobody else did, either?

(Whereupon, there was no response)

MR. HARVEY: Any complaints about illegal campaigning in polling places; people wearing shirts or otherwise illegal campaigning materials?

MR. BROWER: I did get -- I don't recall the call, but I was informed there was a polling place, and I think it was during early voting, that a person there to vote actually was wearing campaign apparel.

MR. HARVEY: Do you know how your staff responded to that?

MR. BROWER: I think we was informed after-the-fact. I think it got that through one

of the Board members, the allegation that some member of the staff was wearing campaign wear.

MR. HARVEY: And I think you said before that about 14 precincts ran out of provisional ballots you had to replenish?

MR. BROWER: It was 19.

MR. HARVEY: Nineteen. Where were the provisional ballots being printed physically?

MR. BROWER: Two locations, I think. One from the basement of our building at 141 Pryor Street, and then out at the election preparation center on (unintelligible) Street.

MR. HARVEY: Did you get complaints that polling places were unorganized in directions?

MR. BROWER: I think I saw that -- I did not get a complaint. I saw that in the list of complaints that you provided; yes.

MR. HARVEY: And you said you didn't get any complaints a polling place didn't open on time?

MR. BROWER: That's correct.

MR. HARVEY: Did you receive any letters from poll workers or poll managers after the election expressing frustration with your office in terms of support and performance on November 6th?

MR. BROWER: I received two, I think.

MR. HARVEY: What were the nature of those letters?

MR. BROWER: They just talked about the whole election process. One, specifically, entire election process and the fact that -- I mean, just the personal sentiments in terms of training -- the format of training, the fact that they felt that we should update our poll workers manual. But you know, I -- and we take all of those seriously. We look at them

and evaluate them. But some poll workers (unintelligible).

MR. HARVEY: Ms. Mitchell --

MR. BROWER: If I could mention one thing, we did -- after this election we sent out a survey to all of our poll managers and surveyed them and the results were overwhelmingly positive in terms of training and in terms of, you know, what we queried them to make sure they had the professionals, they got their supplemental lists, etc.

MR. HARVEY: And you mentioned the list that you had seen with the directionless poll workers that was on the list that I sent you.

MR. BROWER: That's correct.

MR. HARVEY: So we did send you the list of about 120 complaints, specific complaints that we have back in December, I believe.

MR. BROWER: That's correct.

MR. HARVEY: And we asked for some report on those allegations.

MR. BROWER: You did. The information that we had, you have to have telephone numbers or some way to contact these people. In some cases, it's a registration number. No way to contact them other than by mail.

MR. HARVEY: Have you contacted any of those people?

MR. BROWER: I have not at this point in time.

MR. HARVEY: Do you intend to?

MR. BROWER: Eventually.

MR. HARVEY: Mr. Secretary, this might be a good time to take a break.

SECRETARY KEMP: It's 20 minutes to 12, so do you want to go ahead and break for lunch early?

MR. HARVEY: The next segment is going to be fairly extensive, so I think it would be better to break early, and not to get 20 minutes into this and then stop.

SECRETARY KEMP: Okay. We'll go ahead and take a break for lunch.

MR. WILLARD: Mr. Secretary?

SECRETARY KEMP: Yes.

MR. WILLARD: Would it be permissible, I have a question that touches on the area we just talked about. Would you rather me hold that until after lunch?

SECRETARY KEMP: No. Go ahead.

MR. WILLARD: Mr. Jones, I have a question for you regarding an earlier answer that you gave that bridges both the supplemental list as well as what took place on election day. You described the process for the voters that have been placed in pending status or were not found in either express poll or on the supplemental list. They would call the main office and get confirmation of their registration information over the phone. Is that an accurate statement of what you testified earlier?

MR. JONES: Yes. It is.

MR. WILLARD: All right. First, what procedure was in place for those voters to verify their eligibility at the precinct level beyond just determining that they were registered?

MR. JONES: Well, as I said that once we thought about the plan in detail, they wouldn't have been able to identify them at the polls (unintelligible) because the express poll had already been pulled at that time. So that's why we went ahead and said let's put them back along with the evidence of Secretary of State calling my office, to put them back in their rightful status.

MR. WILLARD: But they would not show up on any list that the local precincts had?

MR. JONES: That is correct.

MR. WALBERT: You mean the express list?

MR. WILLARD: In the express poll list, or based on his testimony, I don't believe they were in a supplemental list, either.

MR. WALBERT: (Unintelligible) express list and not so flagged, is what I understood.

MS. MITCHELL: That's correct.

MR. WILLARD: No, because the list had been closed at that point is what I think the testimony was. And that's why I'm asking.

MR. WALBERT: Understand. Go ahead.

MR. WILLARD: So they would not have been on either express poll or the supplemental list?

MR. JONES: That is correct.

MR. WILLARD: What I'm asking you first is what sort of mechanism did you have in place for the poll workers to verify their eligibility through the presentation of their identification, through execution of a voter certificate -- were they handled at that point like a regular voter who have been found in express poll?

MR. JONES: That's correct.

MR. WILLARD: All right. Second question, what mechanism did you have in place to check them off as having voted like a worker would have if they had tagged them as having voted in the express poll system.

MR. JONES: Let me make sure I understand your question.

MR. WILLARD: I'm saying how did you know if Mr. Walbert came in, he was on the list, they called your office and said Mr. Walbert is a registered voter and we're going to allow him to vote. What system did you have in place to track that Mr. Walbert had cast a ballot?

MR. JONES: We didn't. There was no system in place because we didn't have a way to flag it down at that particular time.

MR. WILLARD: So you had no system in place that would have prevented Mr. Walbert from voting multiple times at a particular location or, as Mr. Walbert testified earlier, it was your --

MR. JONES: He would have to go through the proper procedures as to register to vote as far as bringing his ID to vote.

MR. WILLARD: I understand that. But if he comes in at 7:30 in the morning and casts a ballot, and then comes back at 4:00 that afternoon --

MR. JONES: He would have been marked at 7:30 in the morning so when he came back at --

MR. WILLARD: On what. That's what I'm asking.

MR. JONES: Oh. On express poll.

MR. WILLARD: He's not in express poll.

MR. JONES: Yes, he is.

SECRETARY KEMP: You just said he wasn't in.

MR. WILLARD: If he is one of the pending voters --

MR. JONES: Oh; oh; okay; okay. I'm with you now. I'm with you. Yeah.

MR. WILLARD: So I'm asking what procedure you had in place to ensure that a pending voter did not vote more than one time either at the same precinct or, as **Mr. Walbert** testified in his remarks earlier, if somebody showed up at a precinct that was not their own, what stopped him from voting at multiple locations?

MR. JONES: If a person is pending status they would have to vote a provisional and they would have to vote multiple provisionals and we would catch it on the back end

having seen that they had multiple provisionals.

MR. WILLARD: So it is your testimony that if they called the central office -- because I was led to believe earlier that they were actually casting a ballot on the DRE machine. But instructed them at that point for the pending voter that they were only allowed to cast a provisional ballot?

MR. JONES: Correct.

MR. WILLARD: That's all, Mr. Secretary.

SECRETARY KEMP: Anybody else on the Board have any questions, or anything?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Willard, have we got anything for executive session?

MR. WILLARD: Not unless the Board wishes to discuss anything, Mr. Secretary.

SECRETARY KEMP: Okay. We've got one announcement we want to make real quick before we break for lunch. I again apologize for the location of today's meeting. Because the Legislature is in, we just couldn't get a bigger room in the Capitol or in the legislative office building. So we're going to try to just have an orderly process here.

STAFF MEMBER: Mr. Secretary, you all can exit if you want and then I will address the crowd. What time are you going to open it back up to start again?

SECRETARY KEMP: We will go ahead and adjourn for a break for lunch. It's a quarter to 12. We'll just come back here at quarter to 1 and resume the hearing. Thank you.

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(Whereupon, the proceedings were in recess)

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SECRETARY KEMP: We're ready to resume the special called meeting for January 31, 2013. Mr. Harvey.

MR. HARVEY: Thank you, Mr. Secretary. We heard a lot of talk in the first part of the meeting about provisional ballots and provisional ballots being -- running out of provisional ballots and provisional ballots being restocked and provisional ballots being offered to voters. The issue of provisional ballots, as I think the members of the Fulton County election office would agree, is that is the last chance a voter has of casting a ballot. That's sort of a lifeboat. That gives a voter an opportunity to vote if he or she is not found anywhere else.

I want to spend some time talking with the election officials about the provisional ballot process in Fulton County, and I would start with Ms. Mitchell.

Ms. Mitchell, do you know if all of the voters who voted ballots in Fulton County that were rejected, have they all been notified that their ballots have been rejected?

MS. MITCHELL: Yes, sir; they had.

MR. HARVEY: That's duplicated and rejected?

MS. MITCHELL: Yes, sir.

MR. HARVEY: Have you gotten any calls or complaints from people that their ballots were improperly rejected?

MS. MITCHELL: We have received calls. Mr. Jones, the registration manager, has handled many of those calls.

MR. HARVEY: Mr. Jones how many have you received about provisional ballots being rejected?

MR. JONES: I know of four so far.

MR. HARVEY: And has there been an outcome determined for these four?

MR. JONES: The four that we investigated, they were all legitimate rejections at the

time.

MR. HARVEY: So they were all properly rejected?

MR. JONES: That is correct.

MR. HARVEY: Mr. Jones, would you be the best person to explain the process a person goes through to vote a provisional ballot?

MR. JONES: The process to go through?

MR. HARVEY: Well, when a voter goes to the poll and is told you can vote a provisional ballot, what is the poll worker supposed to do, and what is the voter supposed to do?

MR. BROWER: The process is if a voter arrives at the poll and is required to vote a provisional ballot, the voter will be so notified. They will actually provide the voter the ballot with the secrecy envelope. We would also give the voter instructions as to what he or she may do to verify if a document is required; the time and location that they would report to actually provide that documentation to sustain their vote.

MR. HARVEY: So the voter is provided written documentation about how they can verify the status of their vote?

MR. BROWER: That's correct.

MR. HARVEY: Was that done in every case in Fulton County?

MR. BROWER: Yes, sir. Every voter is supposed to get that document; every provisional voter.

MR. HARVEY: I understand they're supposed to. Are you aware of any situations when you were running out of provisional ballots, were you able to restock with the written notices, as well?

MR. BROWER: Part of our restocking is that we also take out all of the associated documentation with the provisional ballots.

MR. HARVEY: How many new voter registration applications have you all processed or received as a result of provisional voting, and will you explain why somebody would have a voter registration application with a provisional ballot?

MR. JONES: Provisional voter registration applications, we received approximately 2000 of them at that particular time.

MR. HARVEY: So 2000 from the general election?

MR. JONES: That is correct.

MR. HARVEY: And what are the circumstances where somebody would have to complete a voter registration application when voting a provisional ballot?

MS. COLEMAN: Usually the voter who has to vote PR, meaning one of the provisional codes, that person usually does have to complete a voter registration application and that is to fix the situation because we don't want them to come to another election and they're still in that status. So the code PR person becomes registered.

MR. HARVEY: And explain what code PR means.

MS. COLEMAN: Code PR stands for prior registration where the voter will say -- if their name is not the express poll, they will insist that they get registered to vote prior to election day.

MR. HARVEY: So somebody who says not in express poll or on the supplemental list, correct?

MS. COLEMAN: Correct.

MR. HARVEY: So if they are not in either and they assert that they have properly registered to vote, they are allowed to vote provisionally, but they have to complete a voter registration application?

MS. COLEMAN: That is correct.

MR. HARVEY: Any other circumstance where somebody would need to complete a voter registration application when casting a provisional ballot?

MS. COLEMAN: Pretty much, it's code PR.

MR. HARVEY: How many provisional ballots were voted in Fulton County on November 6?

MS. MITCHELL: The number we have is 9575 were cast.

MR. HARVEY: How many of those were under code PR?

MS. MITCHELL: The code PR we have is 2824.

MR. HARVEY: Could you give the breakdown of the other --

MS. MITCHELL: Mr. Jones is going to explain --

MR. JONES: I don't have the numbers in front of me. I'm sorry I didn't bring that. But out of the 9000, the majority of them -- 90% of them was PR.

MR. HARVEY: Okay. The records we have indicate there were 9429 provisional ballots with the PR status. Does that sound about right?

MR. JONES: Yes.

MR. HARVEY: If that is the case, why were there only approximately 2000 voter registration applications?

MS. MITCHELL: Can you repeat the question?

MR. HARVEY: Yes. If there were 9429 PR provisional ballots which required a new voter registration application, why were there only approximately 2000 voter registration applications processed?

MS. MITCHELL: Of the 9575 that we identified, 5101 were accepted provisionals, and 4474 were rejected applications.

MR. HARVEY: I understand that. That's not what I asked.

MS. MITCHELL: Okay.

MR. HARVEY: You received 9429 provisional ballots with code PR, meaning these people were not in the system. Is that not correct?

MS. MITCHELL: No. We did not receive that many PR. We had that many cast in terms of ballots cast for provisional ballots was the 9574.

MR. HARVEY: I'm looking at the report you submitted, Mr. Jones submitted on November 21st, and it shows the 9575 for the total number of provisional ballots that were cast, and then the total number of provisional ballots cast with the code reason PR, 9429. This is the report you submitted to the Secretary of State's office.

MS. MITCHELL: We don't have that document front of us.

MR. HARVEY: Ms. Coleman, while they are reviewing the document, you indicated the reason they completed a voter registration application was because if something had happened their voter registration, even if they erroneously cast it or they cast it in a different county, at this point, even if their ballot was not counted, they would now be properly registered to vote in Fulton County for the next election?

MS. COLEMAN: That is correct.

MR. HARVEY: And that's the importance of the voter registration application?

MS. COLEMAN: Exactly.

MR. HARVEY: And there were approximately 4000 rejected provisional ballots, correct?

(Crosstalk)

MR. HARVEY: Approximately 4000?

MR. JONES: Yes.

MR. HARVEY: So that would be -- if most of those were PR, that would mean that those were people who were not properly registered in Fulton County, correct?

(Whereupon, there was no response)

MR. HARVEY: And if only half of those people submitted voter registration applications, half of them are still not properly registered in Fulton County, correct?

MS. COLEMAN: That's possible.

MR. HARVEY: Ms. Mitchell, is this report accurate as to the 9429 provisional ballots with PR?

MS. MITCHELL: I believe it is accurate. Mr. Jones?

MR. JONES: Yes.

MR. HARVEY: So I'll go back to my other question about why are there only two thousand -- I think we got a number of 2200 new voter registration applications with these 9429 provisional ballots?

MS. MITCHELL: I don't have a response to that. I don't know that we actually had applications for only the 2800.

SECRETARY KEMP: Mr. Harvey, let me ask a quick question on the number of the ballots. We had been saying in the 9000 provisional ballot range when we started the talks this morning. But it's my understanding the County was saying closer to 6000. But just now --

(Crosstalk)

MS. MITCHELL: Supplemental --

MR. WALBERT: That's the supplemental list. That was the difference on the numbers there.

MR. HARVEY: And just for your information, the reason there may be a discrepancy in the supplemental list is the 9000 number on the supplemental list is what the supplemental list was on Tuesday, which may be different than what it was on Sunday when you printed it out. Because if you continue to update, it would grow from Sunday to Tuesday. So it could very well have been accurate 9000 on Tuesday, but only 6000 on Sunday when it was distributed. I'm not -- we can still investigate that further.

MR. WALBERT: That would not be accurate, that statement.

MR. HARVEY: What statement?

MR. WALBERT: That the list was changed like that. I think the confusion got, Chris, where the 9575 is the number of provisionals that were submitted, and that somehow got, you know, got moved over and somebody heard that or saw it and recorded it or misspoke and treated it as a supplemental list. But that was not supplemental list.

MR. HARVEY: Well, we don't want to confuse supplemental lists with provisional ballots.

MR. WALBERT: Right.

MR. HARVEY: So, Ms. Mitchell, is it your answer that you did not have enough voter registration applications to go with these provisional ballots?

MS. MITCHELL: My testimony was that I don't know the actual number. My understanding is that we had at least the 2824. As to whether there is a total of 9000, I don't know the answer to that response.

MR. HARVEY: Mr. Brower do you know if you had adequate voter registration applications to go with these provisional ballots?

MR. BROWER: I cannot confirm that, but I will say that when we make the distribution of provisional ballots, all of the associated documents go with them.

MR. HARVEY: Okay. Ms. Coleman, you're in charge of training for elections office, correct?

MS. COLEMAN: Yes.

MR. HARVEY: Do you train poll workers to give voter registration applications to voters who vote provisional ballots with code PR?

MS. COLEMAN: Yes, we do.

MR. HARVEY: Is that part of your standard training?

MS. COLEMAN: That is part of our standard training.

MR. HARVEY: If somebody didn't grasp that, they wouldn't pass poll worker training? Or didn't demonstrate the knowledge sufficiently, I guess.

MS. COLEMAN: If they did not demonstrate that, that could be a reason they would not become certified, which means they would not be able to work.

MR. HARVEY: Ms. Mitchell, you reported the 9575 number of provisional ballots that were cast in Fulton County. Do you know how that number comports with the totals that somebody would get off the list of provisional voters or the provisional voter recap sheets? Have you examined to see if that number is consistent?

MS. MITCHELL: I have not.

MR. HARVEY: Mr. Brower, has anyone else examined the numbers to see if it adds up?

MR. BROWER: I have not.

MR. JONES: No.

MR. HARVEY: Mr. Brower, if we could go back to you a little bit. In terms of casting a provisional ballot, one of the things we learned is that you have to submit a new voter registration application. You said the voter gets written documentation that explains how they can check their ballot, correct?

MR. BROWER: Yes. The voter gets written documentation as to how they can check to confirm whether or not their provisional ballot is accepted or rejected.

MR. HARVEY: And part of that law requires that Fulton County set up -- every county -- set up a system so that voters can check; either a call-in number or a website or somebody can call in and confirm -- learn the status of a ballot, correct?

MR. BROWER: I believe that to be correct; yes.

MR. HARVEY: Did Fulton County have such a system?

MS. COLEMAN: Yes, we do.

MR. HARVEY: Could you explain how that system works and when it was put in place, when it was operational?

MS. COLEMAN: I don't remember exactly when it came into play, but I do remember when that did become a requirement for the County, it was established. We did establish an 800 number. Now I believe we have the 800 number plus -- Sharon, did you set up something in addition to that?

MS. MITCHELL: We have the 1-800 number that is provided on the documentation along with our registration number for folks to call on.

MR. HARVEY: And that was in place for November 6th?

MS. COLEMAN: Yes.

MR. HARVEY: And if somebody called your office at the number that was provided and was connected to a Fulton County employee and asked about their ballot status, should they have been told to go check the Secretary of State's MVP website for the status of their ballot? Would that have been a proper response?

MS. MITCHELL: That was not the proper response.

MR. HARVEY: The MVP, Secretary of State's website doesn't have any information about provisional ballots (unintelligible) rejection, does it?

MS. MITCHELL: No.

MS. COLEMAN: Not that I'm aware of.

MR. HARVEY: On two occasions I called the number that was on the -- the Fulton County number. I was connected to somebody who told me just that. I said I was calling to check on a provisional ballot, and they said, oh, you just to Secretary of State's MVP page. It will be on there. Did you get other complaints like that, people getting misinformation when they called to confirm their provisional ballot?

MS. MITCHELL: I would like to respond to that. My understanding is that at the time that you did make the phone call, was after the period of time of the election and the person who answered the phone was not someone who typically is part of that process.

MR. HARVEY: It was after the election, so I could well have been checking on a provisional ballot.

MS. MITCHELL: Typically we see people check on the results of whether their ballot will be accepted or rejected by the third day, which is the Friday after the subsequent election.

MR. HARVEY: I see. You say you received approximately 2200 new voter registration applications. Have they been added to the voter registration system?

MR. JONES: No they have not.

MR. HARVEY: Is there a reason?

MR. JONES: We will do an investigation on that.

MR. HARVEY: When the provisional ballots are cast, the poll manager has the responsibility to account for provisional ballots, correct?

MS. COLEMAN: Yes.

MR. HARVEY: Are provisional ballots serialized? Do they have serial numbers?

MS. COLEMAN: Provisional ballots do have a stub number.

MR. HARVEY: What's that stub number for?

MR. BROWER: The stub number is required by law. It's part of the State statute. It basically identifies that ballot that's being printed to kind of track the quantity that's being printed.

MR. HARVEY: And each precinct manager is required to list the ballot stubs on their recap sheet to show how many provisional ballots they got and what numbers they are and account for them at the beginning and end of the election day, correct?

MR. BROWER: That is correct.

MR. HARVEY: Is that part of your training, Ms. Coleman, to do that for poll managers?

MS. COLEMAN: It is documented in the training as far as how to complete the paperwork and we do have samples provided for the poll worker to see how to fill out the paperwork. That is in there for them to record the number of unused ballots.

MR. HARVEY: And also, not just the number is significant, but don't the serial numbers provide protection -- stub numbers provide protection so provisional ballots cannot be passed back and forth between precincts; that I can't substitute other provisional ballots that I got somewhere for provisional ballots that were actually assigned to that precinct. Isn't that part the reason for the serialization or the stub numbers?

MR. BROWER: That's part of the reason for the ballot stub number. Each of the ballots, as we know in Fulton County, in all counties in the State of Georgia, are precinct-specific.

MR. HARVEY: Were the provisional ballots that you printed on election day, were they serialized; had stub numbers?

MR. BROWER: Yes.

MR. HARVEY: Do you know many provisional ballots were printed on November 6th?

MR. BROWER: I don't have exact figures. It's a little over 2000 provisional ballots was printed on November the 6th.

MR. HARVEY: Is there documentation of where each of those ballots, which precincts they went to?

MR. BROWER: Yes.

MR. HARVEY: And that should also be reflected on the recap sheet, correct? The recap sheet for each precinct?

MR. BROWER: Yes. The total number of ballots received should be reflected on the recap sheet.

MR. HARVEY: Eight-four of the provisional ballots were categorized as "other" in the report. What would be some other reasons someone would get provisional ballots? The report I'm talking about is the report, the first page of which Ms. Mitchell is looking at, made at the Secretary of State's office.

MS. MITCHELL: Mr. Harvey, we don't have that report. Did we give it back?

MR. JONES: If I could remember correctly, I think we had . . .

MR. BROWER: I'm not positive, but we think this may be the 84 that was associated -- we had two precincts that actually lost power, did not have any power at all when we started out that morning (unintelligible) provisional ballots.

MR. HARVEY: Okay. To go down the report very quickly, these are the reasons -- Ms. Coleman has explained PR. What is reason code PI?

MS. COLEMAN: PI stands for photo ID. The personal falls in that category is a registered voter, but on election day they do not provide any of the acceptable forms of ID. If that person wants to go and get their ID because they left it at home and bring it

back, they can do so. If not, they have the option to vote a provisional ballot, code PI. The voter has three days to provide that to our office. They can bring it in person, or they can fax it in.

MR. HARVEY: What about the code IR?

MS. COLEMAN: Code IR is another issue dealing with identification. It means identification required and that person is someone who registered by mail for the first time in the state of Georgia and if they did not provide ID when they registered, they are supposed to provide ID to whoever is working at the express poll station. If they provide ID, they will vote just as any other regular voter. If they do not, they will be provided an option to vote a provisional ballot, and, again, they have three days to provide the ID by fax, or they can bring it into our office at any of our three locations.

MR. HARVEY: What about code EH?

MS. COLEMAN: EH is for extended hours. In the event the poll has to open late, we do require or seek approval from the Judge to have extended hours. It may or may not be granted. At that point, if it is granted, the poll stays open how ever many minutes late they opened up late. If they opened up at 7:15, they have to stay open 15 minutes later.

MR. HARVEY: And there are -- do you still have that report, Ms. Mitchell? And you see there is zero with EH, correct?

MS. MITCHELL: That is correct.

MR. HARVEY: So there zero in EH. There should be zero recap sheets showing extended hours on reason for photo ID -- for provisional ballots, correct?

MR. BROWER: That's correct.

MR. HARVEY: And we said that you suspect the 84 may have been for the two precincts that lost power. Of those 9575, which I believe if you add up those categories, it actually adds up to 9585, 5104 were accepted, and 5101 of those were the PR category. Only three other provisional ballots were accepted for other reasons. There are three for other reasons. What will be an other reason? Do you know what these three ballots were accepted for? None of the ID's -- the 72 that were cast for ID, none of those were

counted. And then we've got the 84 other, and we've got three of the 84 other that appear to have been accepted. Any idea what those three other reasons would have been?

MR. JONES: Off the top of my head, I do not know.

MR. HARVEY: Is there a way -- a system that was in place on November 6th that would have prevented a voter from voting a provisional ballot at one location and then going to their proper precinct and voting on the DRE? Could that have happened?

MR. JONES: Let me make sure I understand what you just asked. They can vote a provisional at a precinct that is not designated and then go to their correct precinct and vote correctly on express poll?

MR. HARVEY: Yes.

MR. JONES: Is there a procedure in place . . .

MR. HARVEY: Is there anything that would keep that from happening?

MR. JONES: No. Not to my knowledge.

MR. HARVEY: Not at the time there were voting it. What about the back end. What about on verification? How would that be caught in verification?

MR. JONES: Well, usually the Secretary of State uploads the voting history two weeks after the election. So, therefore, we have no knowledge of who actually voted at the polls on election day all the way up until Friday. So if we would have gone through the process, then after that, there would be no way for us to actually capture both of them at the same time.

MR. HARVEY: What if you are verifying my provisional ballot and I voted on the DRE and it gets time to check my ballot, what would you do to determine whether or not I had a valid provisional ballot?

MR. JONES: Well, you know, I cannot check it from the DRE because I don't have the information yet.

MR. HARVEY: I understand. Take the DRE out of it. Let's say you're just verifying my provisional ballot. You don't know that I've voted on the DRE but I have. Are you going to be able to catch that in the verification of my ballot, my provisional ballot?

MR. JONES: I don't have the information to verify that they voted at the poll, so I wouldn't be able to catch that.

MR. HARVEY: Were poll workers given the notice that they were going to receive extensive supplemental lists; were they given any kind of warning that, hey, maybe due to whatever circumstances, whatever they get attributed to, these are going to be exceptionally long supplement lists. Was any specific notice given to poll workers?

MR. BROWER: There was not. They were informed when they picked up the list. Again, they receive the list on the Sunday prior to the election. At that time, my instruction is always to poll workers, you know, go through everything that we've given you and if you have any questions, give us a call.

MR. HARVEY: Okay.

MS. MITCHELL: Mr. Harvey, if I may add, prior to this -- for this election we also had a separate meeting with all poll managers prior to election day to go over specific issues that we had. One of the issues we talked about was to review the information prior to election day. That included all information provided to them in their kit; it included all data that was provided so they did not appear at the poll on election morning not knowing the items that they had. We have had experiences in the past where they had not reviewed the list; they had not had enough of the electrical cords. So we had a subsequent meeting outside of the regular poll worker meeting that was -- we did it in a regional basis where all managers of locations for polls actually met with Mr. Bower, Ms. Coleman and myself, to talk about issues that we felt they needed to go over prior to the election day process.

MR. HARVEY: Thank you. Let's talk for little bit about the verifying of provisional ballots. I have now cast a provisional ballot, which is a paper ballot in an envelope. What is the procedure for verifying whether or not that vote should count?

MR. JONES: The first --

MR. HARVEY: Let me stop you for a second. Let me back up one step. Would you explain the chain of custody and the process that the provisional ballots go through from the time the polls close until the verification process. I want to set that up first. So the polls close; I'm a poll manager; I've got all my election stuff. Are the provisional ballots separated from everything else?

MR. BROWER: Yes. The provisional ballots are actually separated from everything else. They arrive at the poll in a provisional ballot bag and all of the supporting documentation, of course, arrive in a separate envelope.

MR. HARVEY: Okay. It's the end of the night. I've got 50 provisional ballots that had been voted. What do I do with those if I'm the poll manager? Walk me through that process.

MR. BROWER: Once you depart the poll, you arrive at -- we have four regional check-in centers. There are -- receiving folks at each of those check-in centers. We have a station for provisional ballot. The person working receiving station verify all the documentation that the poll manager provide. If, in fact, the paperwork say they have eight provisional ballots, then the poll worker, I mean the person working check-in will actually validate that is, in fact, how many they have. At the conclusion of the check-in process, all of those documents are transferred over to a transporter who actually inventory verify what the check-in center says he has against what he's actually receiving. They are delivered directly to the provisional processing person assigned in the registration division.

MR. HARVEY: So the ballots themselves, are they individually looked at or do they receive a sealed container and a list of what's supposed to be inside?

MR. BROWER: That ballots are actually looked at. They actually have to break open the bag with the seal on the bag to verify that if the poll manager paperwork says that he or she has eight provisional ballots, that they have eight provisional ballots.

MR. HARVEY: What happens if the numbers don't add up?

MR. BROWER: Of the numbers don't match, the, you know, the poll worker -- that's why like the poll worker there; poll worker in front of them. The poll worker have to give an accounting of those ballots (unintelligible).

MR. HARVEY: So the form that they use to track the provisional ballots is called the provisional ballot recap sheet, correct?

MR. BROWER: Well, that's one of the forms. We also have an internal form called provisional ballot tracking.

MR. HARVEY: Okay. So once that's verified at the regional center, they get taken to the main office at 141 Pryor?

MR. BROWER: That's correct.

MR. HARVEY: And they are all staged in that one area, correct?

MR. BROWER: That is correct.

MR. HARVEY: They're all pulled together. Okay. Now we get to the verification process. You've got all of the provisional ballots together. Walk me through how determining if a single provisional ballot is -- let me try to understand. So now we've got at least 9575, or 85, provisional ballots. Each one of those has to be individually looked at and determined, correct?

MR. JONES: That is correct.

MR. HARVEY: Walk me through that process, please.

MR. JONES: At that time each ballot is -- each person is checked out a series of ballots, mostly a precinct, and we check them one at a time. The first check is to see if they're on the voter registration system, period. And once they go through and didn't find them on the voter registration system, the next one is to check the pending file, which is (unintelligible) information file. We have some applications that for whatever reason that needed some information, whether was a missing date of birth, did not sign, or what have you. That would be sent down to a (unintelligible).

The next one was that they go through the too-lates. Just make sure we put our too-lates in alphabetical order, just touching bases to see if there's confirmation on the too-lates.

MR. HARVEY: By too-late, you mean too late to register?

MR. JONES: For this election; that is correct.

Our final check is to see if for whatever reason did we miss them through the DDS process. So we go through DDS to see if they had some sort of some sort of registration prior to.

Eventually, the person then writes on the envelope whether or not the ballot is accepted or rejected and then recorded on the paperwork.

MR. HARVEY: Okay. So --

MR. JONES: Eventually, what happens after that is that anybody who is accepted or rejected goes through one more check from another person just to try to validate the information as closely as possible.

MR. HARVEY: So a rejection is essentially finding a negative. If you don't find me anywhere in any of those systems, the conclusion is that I'm not registered to vote and my ballot should be rejected, correct?

MR. JONES: That is correct.

MR. HARVEY: If you find me in some of those places, that would require maybe some additional investigation, or if you find me in the VR system, on first glance, you may say, hey, he's properly registered; he's good to go. That gets accepted at that point, correct?

MR. JONES: That is correct.

MR. HARVEY: So it could take from maybe thirty seconds to five minutes to do a single ballot?

MR. JONES: Yeah. It depends on the operator. That is correct.

MR. HARVEY: Now, you sent over, pursuant to subpoena, your procedure for provisional ballot verification. And you mentioned a provisional ballot -- let's see -- what's the form that you use? Provisional ballot verification form. Do you still use those

provisional ballot verification forms?

MR. JONES: We started out using those verification forms, but we did is that we went ahead and pushed it off to the side so that we can come to a conclusion at that time.

MR. HARVEY: So you mean you started in this election using them and then stopped using them?

MR. JONES: The first night. We go through and we do a quick check the first night. We just check to see if they're on the voter registration system. Very, very quick check just to touch it so that we can have some sort of reference of what were looking at.

MR. HARVEY: You did that for all 9575?

MR. JONES: Not the first night. We got close, but not all them. We only did approximately about 6000 of them at the time.

MR. HARVEY: But this form, is this the final determination as to whether or not -- if someone were looking at the record, would this form show final acceptance or rejection of a provisional ballot?

MR. JONES: It does have it on there, but that's the form that we actually use to determine that factor. It's just a guide for us so that if we needed to go back and research it, the details of the research will be written on the form.

MR. HARVEY: If I got one of the letters that said my provisional ballot was rejected and I wanted to contest it with you, you would be able to go back and pull this form and say, **Mr. Harvey**, we checked here and we checked here and you're not on any of these and that's why we rejected it?

MR. JONES: No. We wouldn't have done that. What we would have done, to be honest with you, is that we would have validated on the voter registration system to see if they were on the voter registration system, and if they were not on the voter registration system, I could have had -- we would have said that your voter registration is not -- you were not a registered voter or you were out of precinct at the time in another county based on what's on the voter registration system.

MR. HARVEY: So what is the historical record that best indicates whether or not a provisional vote was accepted? You said you write on the envelope, itself.

MR. JONES: Correct.

MR. HARVEY: And you've got this verification form. Does the envelope trump the verification form? What is the best evidence that a provisional ballot was accepted or rejected?

MR. JONES: It would be the envelope.

MR. HARVEY: So what's on the envelope trumps --

MR. JONES: That is correct.

MR. HARVEY: And in this policy, too, you talk about provisional ballot verification log. Is that the document that shows the chain of custody Mr. Brower was talking about, or is that something else?

MR. JONES: Two different chains of custody.

MR. HARVEY: What is the provisional ballot log?

MR. JONES: That's when the provisionals actually come in to we make sure we got all the provisionals from every precinct. Once we record it on that particular log, then as each worker begins to research, they have to check it out again to display, that, yes, we have custody of this particular provisional where we work.

MR. HARVEY: So if you added up all of the provisional ballot verification logs, you get 9575 or 85?

MR. JONES: I would believe so.

MR. HARVEY: Again, going back to the acceptance of the provisional ballot, let's say I question whether or not my neighbor's provisional ballot should have been accepted because I don't believe he's registered and I, for whatever reason, decide to challenge that, and I say, hey, you accepted Joe's ballot, provisional ballot. You shouldn't have.

What would you do to justify the acceptance of the ballot if that became an issue? How would you justify that we accepted his ballot on good -- is there a historical document you --

MR. JONES: You're saying that a person from the outside has challenged a person after the Friday --

MR. HARVEY: No, no. I didn't mean the legal challenge.

MR. JONES: Oh, okay.

MR. HARVEY: What I'm saying is I suspect somebody got credit for voting that didn't; they shouldn't have.

MR. JONES: Okay.

MR. HARVEY: They're not in the VR system.

MR. JONES: Okay.

MR. HARVEY: So I send you a name and say, please check Joe Smith and tell me why his provisional ballot was accepted. Would you be able to pull a document and say it was accepted for this reason, or would you have to go through the verification process again? Because you've got "accepted" written on the envelope. You also write found in VR system, or found in motor voter, or found in lates, or something like that?

MR. JONES: What we would do is we would go through the same process again. We would actually look them up on the voter registration system to see if the inquiry is correct and then go from there.

MR. HARVEY: All right. Thank you.

Ms. Coleman, I've got some questions for you about some training issues. Is it correct that poll workers were only given four days' notice to complete the online training?

MS. COLEMAN: No. We usually mail the notice out to give people enough time, and I'm pretty sure we gave them more than four days to complete the online training.

MR. HARVEY: How much training does a poll worker in Fulton County?

MS. COLEMAN: Poll workers receive training in two phases. They a online training first, and then once they finish, it allows them to -- in November, they didn't take the test online there. It has the capability to let them test online. But in November, they took the training. It allows them to sign themselves up for face-to-face training. We had training at four different locations. They select the day, location, and time. Then they attend the face-to-face training, which lasts approximately one-and-a-half hours. This time, they did have to take their exam in the class, and if they did not pass -- 80% is passing. If they did not pass the exam, they did not complete the certification, and they were not allowed to work.

MR. HARVEY: Is it part of the training you do that if the person is not found on express poll at the beginning, what are the steps -- how would you train a poll worker to locate a person on express poll if they don't come up on the first check? What does the first check on express poll usually do?

MS. COLEMAN: All right. We train the poll workers, normally they are doing a search within the precinct, then they check the County, and then check the State. They actually do this -- it's some online training, but it's reinforced. When they come to the hands-on class, it's an assimilation [sic] of what they will do on election day. So each poll worker is sitting in front an express poll and actually going through this. I give them names to look up for Unit A and for Unit B. So look in the precinct, they check the County, they check statewide. If the voter is not found there, in the curriculum it has them to check the supplemental this. We have a supplemental list in the class for them to look up and if they find the voter. Then we go through and they encode -- use the encoder option to create a ballot for the person if they are not found on the express poll and they're found on the supplemental. If they're not found on the supplemental, then that person normally falls into the category of becoming a provisional voter.

MR. HARVEY: And poll managers are also trained on filling out the provisional ballot recap sheet properly, correct?

MS. COLEMAN: We have -- we change the training from time to time. So we have had sessions where we actually go through the recap sheets completing them. This time for November, we did not actually fill it out in class. But like I said, we have -- from

time to time, we've had DRE online training so they could go through and there was an exercise to complete the DRE recap sheet there. But in their poll worker manual, we have samples of pretty much all the forms they would use on election day. We have samples filled out for them. If they have any questions -- and poll workers do from time to time -- they will call; I'm there and my team is there to answer questions. On occasion they have scheduled individual meetings to come down with me to make sure they understand and they're clear on what they're supposed to on election day.

MR. HARVEY: Thank you. I want to fast-forward a little bit. I have the provisional ballot procedures down, but I believe you've explained you guys have done a good job explaining what has to happen. These are some documents.

This is the provisional ballot procedures and poll worker's responsibilities. This is from the Secretary of State's website? Do you recognize that?

(Whereupon, there was no response)

MR. HARVEY: Do you recognize and is it consistent how you train your poll workers? It says, the voter is provided a provisional ballot and two envelopes. The worker will instruct the elector on the procedure to vote the ballot. The voter must be allowed to vote the provisional ballot in such manner that it will ensure the privacy of the vote. The voter places the voted ballot in the inner white envelope. The voter places the inner white envelope in the outer salmon envelope. And the voter places all into the secured outbox.

Does that sound consistent?

MS. COLEMAN: Yes.

MR. HARVEY: And is it the poll worker's responsibility to complete the voter certificate on the back for a provisional voter indicating why that voter is voting provisional?

MS. COLEMAN: There is a section for the poll worker to initial. There is a section for the voter; there's section for the poll official.

MR. HARVEY: And do you train your poll officials to complete that section on provisional ballots?

MS. COLEMAN: Yes. We had online -- we had a hands-on session in November, and that is in their little supplemental packet they received. We actually went through that portion in the poll worker training for November.

MR. HARVEY: Thank you. Has any -- have any of the Fulton County poll workers -- I'm sorry -- management staff that are here, have you reviewed any of the provisional ballot recap sheets and paperwork regarding provisional ballots and how that was done in Fulton County on the November 6th election?

MR. BROWER: I have looked at that and, granted, there are some precincts that need some additional emphasis in that area. In some cases, some of the voter certificates, they did not indicate the reason for the person voting a provisional ballot.

MR. HARVEY: Does that make more difficult to validate a provisional ballot if you don't have that voter certificate completed?

MR. BROWER: I don't think so, but I'll let Mr. Jones respond to that. They're going to have to research it anyhow.

MS. COLEMAN: Also, you were saying if they don't put the code in one place, normally when you are researching a provisional ballot, because the poll worker has to put it in so many places, normally there are three other places you can look to find the proper code of the ballot.

MR. HARVEY: But it is a requirement that the poll worker complete the provisional ballot certificate; that's part of the law, correct?

MS. COLEMAN: Yes.

MR. BROWER: Yes.

MR. HARVEY: Mr. Jones, did you have something to add?

MR. JONES: I was going to say the same thing what Ms. Coleman said, that I know that when we go through our verification process, one of the things that we look at the most is the number of listed voters that actually has the code on it.

MR. HARVEY: And Mr. Bower, so I understand it correctly, before the recap sheets get to you guys in the main office, they're completed by the poll manager and then they're checked once at the collection station, correct; the collection center?

MR. BROWER: That's correct.

MR. HARVEY: And so when you get it, it's been reviewed by somebody else, correct?

MR. BROWER: Well, now, understand at the collection center, they just pretty much verifying quantity.

MR. HARVEY: So they're not looking at the forms?

MR. BROWER: They're looking at the forms. They're verifying -- they'll look at the provisional recap sheet. If that poll manager says he has eight provisional ballots, they verify that there is eight in there.

MR. HARVEY: So they're mostly just looking at numbers. I understand. And this is what the salmon outer envelope of a provisional ballot looks like, right?

MS. COLEMAN: Yes.

MR. HARVEY: And when somebody votes a provisional ballot there is a white ballot that goes inside this. And when a determination is made -- now, these stay together until it's determined whether a ballot is accepted or rejected, correct?

MR. JONES: You're saying the white envelope that's inside stays together with the --

MR. HARVEY: Yes.

MR. JONES: That is correct.

MR. HARVEY: Now, if it's determined to accept a provisional ballot, what happens to the white envelope?

MR. JONES: At the time we open provisionals that Friday, that white envelope is

opened and stored; kept and stored in bundles (unintelligible) precinct.

MR. HARVEY: But that's after it's been accepted?

MR. JONES: That's correct.

MR. HARVEY: So if a provisional ballot is rejected, it will still have a voted ballot in the same envelope, correct?

MR. JONES: That is correct.

MR. HARVEY: And this is the provisional voter certificate. This is where the voters would -- the poll workers would indicate and the voter would also indicate. And this is the provisional registration form that somebody would fill out if they were voting PR, correct?

MS. COLEMAN: Yes.

MR. HARVEY: And we've got the procedures that you've been through, pretty much.

In doing our examination, we found one voter who cast seven provisional ballots in one precinct with the same name. One was marked duplicate and six were marked accepted. Can you think of any explanation how that could come about?

MR. JONES: At the process in time, I'm not aware of any details because it shouldn't have six voters like that.

MR. HARVEY: Now, you might have a difficult time reading. These are provisional ballots and they're all labeled Bridgette Jackson, and I believe it's precinct 02G. They're all marked -- they've got different ballot combinations. You'll notice up here there's a combo 9-0-0-1 (unintelligible). And they are marked accepted and duplicated. These are the next two, and that's the seventh. Is there an explanation for that?

MR. BROWER: We have since talked with that poll manager. We discovered that. There was kind of a changing of the guard for lunch; another co-worker was working that station. Instead of writing the voter's name there, she wrote her name. Instead of the voter's name being recorded on the provisional (unintelligible).

MR. HARVEY: So how is that accepted?

MR. JONES: What we did is that we went back to the original sheets to see which ballot belongs to whom, and what we did is we took the numbered list and checked off each ballot until we had the remaining number. Once we did it, we took a look at the seven ballots to see if those seven ballots, who would be remaining of that. Out of the seven ballots with the certificate and the numbered list, we found out that all of them would have been accepted on the spot. So we gave them credit for voting since there was none that was rejected.

MR. HARVEY: There is no notation on any of these envelopes as to who it actually belonged to?

MR. JONES: I don't remember or not whether we actually wrote the name on the envelopes because, technically, we wouldn't have known who the ballot was originally. But we knew that -- we knew that who the ballots, who it could have been because of the numbered list.

MR. HARVEY: So the numbered list is an important --

MR. JONES: And the certificate.

MR. HARVEY: So the numbered list and the certificate are important documents?

MR. JONES: Yes.

MR. HARVEY: So you're confident that this voter did not vote seven provisional ballots that were accepted?

MR. JONES: I'm very confident.

MR. HARVEY: Very confident. Okay. Thank you.

MR. WILLARD: **Mr. Harvey,** before you move off, Mr. Jones, Mr. Harvey said that six of them were marked as accepted; one was rejected as a duplicate ballot.

MR. HARVEY: Not rejected. It was marked duplicate, meaning it was presumably out of precinct.

MR. WILLARD: Okay. So it was counted.

MR. JONES: Yes. How we label it is that if a person is accepted and it need to be duplicated, then I sign (unintelligible) duplicate on the envelope.

MR. HARVEY: You're confident that you duplicated the right ballot?

MR. JONES: Yes, sir.

SECRETARY KEMP: Mr. Harvey, I want to make sure that we're clear on this if you can walk the Board back through. You had the number, same name on all seven provisional ballots; is that correct?

MR. HARVEY: That's correct. They all had different district combinations, if you look back. They start with 9-1, 9-2, and they go through 9-7. They've all got the same name, same precinct, different district combination. All the ballots were opened; they were all marked accepted except for the one that was marked duplicate.

SECRETARY KEMP: So we have no way of knowing whose ballot is inside that salmon envelope, correct?

MR. HARVEY: Well, right now the ballot is gone. That ballot is with the cast provisional ballots. But to my point earlier, if someone wanted to go back and find out of their professional ballot was accepted, if the envelope is the best indication of acceptance, I don't think we could say for certain which voter went with which ballot.

SECRETARY KEMP: There is no way to identify the ballot inside the white envelope; it's a secret ballot, correct?

MR. HARVEY: That's right. That would violate the confidentiality of the ballot.

SECRETARY KEMP: All right.

MR. HARVEY: At this point, I want to shift gears a little bit. We have subpoenaed --

SECRETARY KEMP: Mr. Harvey, Mr. McIver has question.

MR. MCIVER: I presume I should ask this to Ms. Coleman. But as part of this discussion, did anybody flunk? You say you rejected people for training, and so on. But were there those who were unsuccessful and therefore did not participate in the election process?

MS. COLEMAN: Yes, sir. There were those co-workers who -- there were some who did not pass the test, and so they were notified. We graded the exams on the spot they were notified that night that they did not meet the certification, and they would not be able to work this election.

MR. MCIVER: About how many of those?

MS. COLEMAN: I don't off the top of my head, but we keep a record of all of our exams and I can always get that information provide it to you.

MR. MCIVER: Would you provide that to Mr. Harvey?

MS. COLEMAN: No problem

MR. MCIVER: Any way to estimate? Ten, 50, 100?

MS. COLEMAN: I don't know and I don't want to -- I really don't know. I would have to go back and look.

MR. BROWER: I will tell you, sir, I think it was about 12 that did not pass. And some of them were managers.

MR. MCIVER: Thank you, Mr. Secretary.

MR. HARVEY: We know Ms. Jackson passed, correct?

MR. BROWER: Yes. If she worked, she passed.

MR. HARVEY: As part of the investigation -- obviously, provisional ballots are going to be a big issue in this case. With the 300-some precincts that Fulton County had, what

we decided to do was take ten precincts and zero in and examine them for the provisional ballot compliance, provisional ballot acceptance and rejection standards, and accounting and bookkeeping. As you can tell, when you get into paper ballots and envelopes and names being written on forms, accounting and bookkeeping is going to be critical to make sure you keep the integrity of the election.

So at this time, I would like to start calling some of our subpoenaed poll managers and go over some detailed explanations of the results, specifically regarding provisional ballots in Fulton County. Board members, you will see detailed analysis starting at Tab 12. Each precinct is detailed. And I'll have some slides to go with it.

MR. MCIVER: Mr. Harvey, based on what we've heard so far, I think there's some confusion as we move to this segment, particularly with respect to representation and who was assisting these poll managers, who represents them, and so on. Perhaps the best thing for me to do, even though I'm attorney, is the flip this to the Law Department and ask Mr. Willard if he will opine the status of these individuals. We obviously know they have been subpoenaed, but what is their status; are they being represented; who might that be, so on and so forth, so we can make sure we've provided every protection to them.

SECRETARY KEMP: Mr. Willard?

MR. WILLARD: Yes. I know that we've gone back and forth on this, Mr. Walbert, or at least you have with the Secretary of State's office. Are you going to be providing representation to these precinct managers?

MR. WALBERT: Our position, and frankly, this is just a page out of the Attorney General's book, is that anybody who was an employee of the Board of Registration and Elections would be entitled to counsel if they could hire their own counsel. But we provide counsel, so I will be representing them here at this time.

MR. WILLARD: And in any subsequent investigation by the State Election Board going forward on these facts?

MR. WALBERT: Yes, sir. As employees.

MR. WILLARD: So you would also be in a position to facilitate the investigation of the Board through the setting up of witness interviews, depositions, and the like? You would

not handle them any differently than you would handle Ms. Mitchell?

MR. WALBERT: At this point, that's exactly right. And I think that what representation means in this proceeding must -- I'm in a tremendous quandary. I've never been in a proceeding in 40 years of practicing law where one cannot answer -- ask the witness questions after they've been on the record. So what representation means what representation means in this context is anybody's guess.

MR. WILLARD: And to follow up, if I may, Mr. Secretary, what you've got here, this is really almost preliminary to a probable cause hearing. As you're aware, Mr. Walbert, due process doesn't attach in terms of the confrontation clause or anything along those lines in a probable cause hearing, much less in a hearing that is at the fact-finding stage where the Board is empowered under the State code to subpoena witnesses and elicit testimony from them in its investigation of whether a violation of the State election code has occurred.

MR. WALBERT: And I would add to your comment, I don't think that governments actually have due process rights. So I would be asserting that on their behalf in any event. But I just thought in a sense of fairness --

MR. WILLARD: Well, this is different than the --

MR. WALBERT: May I finish my sentence, please sir; excuse me, Russ. I think that in a sense of fairness, and I'm confident the Board wants to get a full picture, that for me to ask a question that relates back to something Mr. Harvey did three hours ago, no one's even going to remember that. I think this board wants to have a full and accurate picture of what's happened, rather than one side before they make their decision on referring it to hearings, and so on. That's my only point.

SECRETARY KEMP: Well, I can assure you that we will have a process where everyone will have opportunity during the process that we normally have for State Election Board meetings. Today we're trying to get the rest of the information that we've been trying to get over the course of the investigation. As was alluded to earlier, we had documents that were submitted yesterday and, I think, maybe even today. So I can assure you the Board will not take action until counsel has had an opportunity to address the Board and the individuals that will be involved as we go through the process in a legal way.

MR. WALBERT: And I thank you for your comment. I guess I think -- just let me give you a little example. There's a long discussion with Ms. Coleman about the training and so on. Fulton County takes the training of the Secretary of State. It would have been nice to talk about that, and they've amplified on it at the time. Now two hours later to go back on that is not going to make sense. And I won't do it. But that's the kind of thing I'm suggesting in the longer course --

SECRETARY KEMP: We're certainly glad to sit down and talk to you and the folks that are subpoenaed here today that have not been before us yet and ask those questions. So hopefully we'll have that cooperation. Mr. Harvey.

MR. HARVEY: The first witness is Mary Darden.

While Ms. Darden is coming forward to be sworn in, this is a brief analysis that you can see of the ten precincts that we did.

SECRETARY KEMP: Mr. Harvey, let me stop you real quick. Where are we going to put Ms. Darden?

MR. HARVEY: She's going to sit right next to Mr. Smith.

(Whereupon, the witness approaches and is seated.)

SECRETARY KEMP: Good afternoon, ma'am. If you would, just please pull that microphone to you and state your name and address for me, and then I'm going to swear you in, if you don't mind.

MS. DARDEN: My name is Mary Darden; it's Mary J. Darden, really. 5550 Oglesby Road, College Park, Georgia 30349.

SECRETARY KEMP: Would you raise your right hand?

MS. DARDEN: Sure.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. DARDEN: Sure.

SECRETARY KEMP: Thank you, ma'am.

MR. HARVEY: Members of the State Election Board, I direct your attention to -- you've got a copy in your folder. This is a summary analysis of the ten precincts that we examined. Areas in green are the areas where the poll managers appear to be in compliance; where their paperwork matches the number of provisional ballots and other provisional documents. The areas in red are where they don't. And then the areas in fourth column over are where -- what we found from Fulton County regarding documents when we went and did an extended investigation. That's a glance, and you will see a lot of red and not a lot of green. We'll get into some specific details, but we'll try not to belabor the points.

MR. WALBERT: Could we get a copy of that, please; the courtesy of a copy?

MR. HARVEY: I'm sure we'll get you a copy.

MR. WALBERT: Could I have that now while you're (unintelligible) leading up to your witness?

MR. HARVEY: The first precinct is 01A, which is --

MR. WALBERT: Thanks very much.

MR. HARVEY: -- Parkside Elementary School on Mercer Street in Atlanta. This is the provisional ballot recaps sheet from precinct 01A. The only thing that is filled out is the date, the county, and the precinct number. There is no information provided by the poll manager for any provisional ballot voted.

Ms. Darden, did you complete this document?

MS. DARDEN: No I did not. What it is, I was a provisional manager for about 20 years now when it first came out. What happened, we got a lady at the provisional table and

she did not want no one to tell her exactly what it was. (Unintelligible) been down to the County three or four times complaining, and what have you. But I have my degree from Spelman College and also got my masters degree from the University of Georgia. I did the provisionals and everything I've heard here was not what I learned when I went to be the provisional manager.

Number one, everything comes in a package and we sit down and we go through it. We have our sheet; we give them. They come down to the table; they fill out a form like they would at the beginning. They come through, I say, fill it out. Staff, I tell them, sign the list that I have there. When I give them the ballots, I always take my ledger sheet, and it's been four years and I have never -- haven't seen a ledger sheet since, because they people that's on it, they do not listen real good.

So at the end of it, for eight or nine years, I never had no problem. This is the only time we had problems, was this time.

MR. HARVEY: Is this normally the way you complete your provisional ballot recap sheet?

MS. DARDEN: Yes. And we have it in packages so at the end of the day, we put it in the long envelope when we go to turn it back in. This is my first time ever being the manager of a poll. We take it we send it back in. And I was trying to explain to the lady, when you put it in the white envelope, it's left up with you and the person that came in to vote to seal that white up. I will put it in the orange envelope and I will seal it up. At the end of the day, I will put it in the long orange bag. I've never had anybody to come back after me. Nobody.

MR. HARVEY: Were you ever trained that you were supposed to report the stub numbers and serial numbers of the ballots in this part of the recap sheet?

MS. DARDEN: Oh, yeah. Even if it's just a paper of mine, I'm going to write down because I'm going to cover my tracks.

MR. HARVEY: But you didn't complete any of this, correct?

MS. DARDEN: I wasn't on the provisional table at that time. But I did during the time I was on the provisional table.

MR. HARVEY: Okay. And you're the poll manager, correct?

MS. DARDEN: Right. See, at that time, I was just as assistant manager.

MR. HARVEY: So at the end of the night when you were gathering your materials, you had your -- is this -- I'll just point out that there's no accounting of any of the ballots; no serialization --

MS. DARDEN: Oh, I filled mine out.

MR. HARVEY: You filled yours out? You filled out this form?

MS. DARDEN: Not this last election, because we could not get her to do it.

MR. HARVEY: And none of the poll workers signed the form?

MS. DARDEN: Huh?

MR. HARVEY: None of the poll workers signed the form?

MS. DARDEN: (Unintelligible) assistant manager; yeah. The manager signs, then you get two assistant managers to sign.

MR. HARVEY: But this is the form that was turned in by Fulton County and there are no signatures on it. So you didn't sign it?

MS. DARDEN: No; uh-uh. No. It was Mrs. Rose. That's the one who did it this time. And by she working with the poll for so many years, that was when we were doing the paperwork (unintelligible). But at this particular time, for some reason, she wanted to do it herself.

MR. HARVEY: What was her name?

MS. DARDEN: Annie rose.

MR. HARVEY: And she's not here today?

MS. DARDEN: Oh, no.

MR. HARVEY: So we don't know how many provisional ballots you started with; we don't know how many were voted --

MS. DARDEN: Okay. Right there, we did not get enough at the beginning of the day.

MR. HARVEY: You don't know how many you got, but they weren't enough.

MS. DARDEN: No. It wasn't. So what I did, I called down so they brought some out.

MR. HARVEY: How long did that take?

MS. DARDEN: It was a little before lunch. I called them that morning. You see, this particular school is a state of the art school. So we had about three lines going around in the gym with people. Some arguing, some grumbling, some complaining, or what have you.

MR. HARVEY: Were they having to wait a long time to vote?

MS. DARDEN: Not really. Most of them didn't know (unintelligible).

MR. HARVEY: So this is the list that you talking about. Is this the numbered list?

MS. DARDEN: Right.

MR. HARVEY: This is where the voters write down their names.

MS. DARDEN: They wrote down their names, but see I have the sheet that I would put the ballot number on that sheet, then I would put their name next to it.

MR. HARVEY: So these are 158 voters who voted at that precinct and there's no accounting for what ballots they were, correct?

MS. DARDEN: No, it wasn't, because if she had come to me, it would have been different. When I went back to collect them from her to put them in the big orange bag,

she told me, you being the manager, you should have come back here and help me. I told her my mamma sent me to school; she didn't raise no fool.

MR. HARVEY: The analysis that our office did -- thank you, Ms. Darden -- showed that there were 140 voters on the list; the recap sheet was blank. When we went to Fulton County and asked to see copies of these, they were able to provide 42 provisional voter certificates, 58 provisional ballot envelopes, and of those 58, 47 were accepted and 11 were rejected.

MS. DARDEN: I'm not quite sure of that because some people came in and they wanted to fuss and all. Because, like I said, it was, really on the machines, it was 814 people actually voted on the machines.

MR. HARVEY: Our analysis also showed that 19 of those voters should have been eligible to vote on the DRE.

MS. DARDEN: This is so very true.

MR. HARVEY: So this is accurate?

MS. DARDEN: Yeah. Because I told her, we both are grown, we both are human. Don't you ever (unintelligible) again.

MR. HARVEY: Thank you. Does the Board have any questions for Ms. Darden?

MR. WORLEY: Ms. Darden, I believe you said you cannot get her to do it? What did you mean by that?

MS. DARDEN: See, number one, what it was, she never sealed the white envelope. She just (unintelligible) on the table. I explained to her when I did the provisional, when it first became available, just sit you a little small cup of water there and you seal that orange envelope. And I said, at the end of the day, you put it in the big cloth bag to be taken back downtown. And, boy, she was just screaming and hollering and going on. But you see, one thing -- I'm like this. I didn't want to get into it, but one thing I didn't know she went downtown and forced them to give her another \$30 check because she said they owed her, which was a lie.

MR. HARVEY: I've got a question for Ms. Mitchell or Mr. Brower or Mr. Jones. Can you give an explanation as to why there would be 140 voters listed and you're only able to provide 58 ballots?

MR. BROWER: Yes. After receiving the number list and processing it, we realized that this poll official had started writing everyone on the list. I think she realized some point that she had, so she ceased and desist [sic]. So that's why you have more names on there than there were provisional ballots.

MS. DARDEN: But you need a place for your provisional ballots to be numbered.

MR. HARVEY: Did you bring any documents with you, any notes or any records of your training or experiences in the election?

MS. DARDEN: I could have.

MR. HARVEY: But you didn't today?

MS. DARDEN: No.

MS. MITCHELL: Mr. Harvey, if I may interject, we did speak to Ms. Darden after the election. As we were evaluating the numbered list, we recognized that there was some conflict going on between her and one of her workers, and that workers was the person that Ms. Darden had assigned to the provisional ballot station.

MR. HARVEY: Did you pass the training, Ms. Darden?

MS. DARDEN: Many months ago, yeah.

MR. HARVEY: I assume your assistant manager also passed the training?

MS. DARDEN: I think what it was, they just let her work.

MR. HARVEY: They just let her work?

MS. DARDEN: Yeah, because there was an attitude problem.

MR. HARVEY: Thank you. If there are no more questions from the Board, I would recommend --

SECRETARY KEMP: I have one question. I assume everyone working in the polls would have been trained; is that correct?

MS. DARDEN: That's very true. You have to go through and try to quiet them, or what have you. Some go to lunch and go back when they get ready; they do just whatever they please.

MR. HARVEY: I would ask that Ms. Darden be excused if there are no more questions.

SECRETARY KEMP: Thank you, Ms. Darden.

MR. HARVEY: The next witness we would call would be Ms. Linda Hardy.

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Ms. Hardy, if you would, have a seat the Secretary Kemp will swear you in.

SECRETARY KEMP: Ms. Hardy, if you will, just give us your name and address for the record.

MS. HARDY: My name is Linda Hardy. I live at 919 Washington Street, Atlanta, Georgia 30315.

SECRETARY KEMP: If you would raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. HARDY: I do.

SECRETARY KEMP: Thank you. Feel free to pull that mic a little closer to you.

Thank you.

MR. HARVEY: Thank you, Ms. Hardy. Were you the poll manager at 02S?

MS. HARDY: No.

MR. HARVEY: Are you 11G?

MS. HARDY: Right.

MR. HARVEY: Okay. We can do 11G. This is you, Venetian Hills? You were the poll manager there?

MS. HARDY: Yes.

MR. HARVEY: Is this the recap sheet you completed for the provisional ballots have Venetian Hills?

MS. HARDY: Yes.

MR. HARVEY: Is that your signature?

MS. HARDY: Yes.

MR. HARVEY: Did you not know to the put the serial numbers or stub numbers of the provisional ballots in this area?

MS. HARDY: At the time I didn't put it in there because I got thrown off because we had to get more provisional ballots, and I didn't know that we had the numbers -- put the numbers in there, no.

MR. HARVEY: You had to request additional provisional ballots?

MS. HARDY: Yes.

MR. HARVEY: How many times did you have to request provisional ballots?

MS. HARDY: I just called once.

MR. HARVEY: How long did it take to get them?

MS. HARDY: It took maybe about five or six hours.

MR. HARVEY: Five or six hours. Okay. Who did you speak with when you called to get more provisional ballots? Do you remember?

MS. HARDY: I don't recall.

MR. HARVEY: Okay. There's no accounting -- there are 59 people on the list of voters. There's no accounting for the ballots cast and ballots received. Is that also because you didn't have the right number to begin with?

MS. HARDY: Right.

MR. HARVEY: So you didn't add up the number of provisional ballots that were cast?

MS. HARDY: No.

MR. HARVEY: Although I'm not sure this is -- on the other provisional ballot lists, there's an indication of whether to accept or reject. I don't believe the poll manager would have anything to do with that. I believe that would be something that Mr. Jones -- Mr. Jones, the others we're going to see have marked accepted or rejected on them. Was that done by your staff or someone at the precinct, who would make the marks that would normally be seen in that area?

MR. JONES: Usually my staff would make the rejection or accepted marks on the numbered lists.

MR. HARVEY: Any idea why there wouldn't be marks on this one?

MR. JONES: No, sir.

MR. HARVEY: You've got a note here that said, had to bring more ballots.

MS. HARDY: That's right.

MR. HARVEY: And it took several hours to get there. Do you know how many they brought?

MS. HARDY: No, I don't. I can't remember.

MR. HARVEY: Did you tell other people they might try other precincts?

MS. HARDY: No, I did not.

MR. HARVEY: Now, Mr. Jones, these are two stray accept marks. Do you know where those marks would have come from?

MR. JONES: Off the top of my head, no. I know that we do put accept and reject on the numbered list.

MS. COLEMAN: That's not the accept or reject column, though, is it?

MR. HARVEY: No, it's not. It would have been your staff that would have made those marks. Do you have any idea what those marks would indicate?

MR. JONES: Your guess is as good as mine.

MR. HARVEY: Does the Board have any questions for Ms. Hardy?

MR. MCIVER: I do.

SECRETARY KEMP: Mr. McIver?

MR. MCIVER: Ma'am, did you have enough provisional ballots at the end of the day?

MS. HARDY: Not at the end of the day, but right after I called for some more, then I had enough at the end of the day.

MR. MCIVER: Was anybody turned away?

MS. HARDY: No. We had some that sit and waited.

MR. MCIVER: Until the ballots arrived?

MS. HARDY: Correct.

MR. MCIVER: But consistent with Ms. Mitchell's remarks, everybody had a chance to vote?

MS. HARDY: At my precinct, yes. Even those in the wrong precinct and they refused to go their own precinct, we let them vote provisional.

MR. MCIVER: Thank you.

SECRETARY KEMP: Why do you think those folks would want go to the wrong precinct? I'm just curious.

MS. HARDY: A lot of them said they had been standing in line for a long period of time and they didn't have time to go to their own precinct and it was too far away or they don't vote there anymore.

SECRETARY KEMP: Thank you.

MR. HARVEY: Where there people that came and went while they were waiting for ballots? So could there have been people that left without voting?

MS. HARDY: There could have if they were outside in the line and I didn't see them. But the majority of them stayed and voted.

MR. HARVEY: If there are no more questions, I'd ask that she be excused.

SECRETARY KEMP: Thank you, Ms. Hardy.

MR. HARVEY: Next I would call Latanya Crawford.

(Whereupon, the witness approaches and is seated.)

SECRETARY KEMP: Welcome, Ms. Crawford. If you will, just give us your name and address for the record and we will get you sworn in.

MS. CRAWFORD: Latanya Crawford, 1900 Perry Boulevard, Atlanta, Georgia.

SECRETARY KEMP: If you would raise your right hand, please.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. CRAWFORD: Yes.

MR. HARVEY: You were the poll manager at Wheat Street?

MS. CRAWFORD: Yes.

MR. HARVEY: And did you complete this form?

MS. CRAWFORD: No, I did not.

MR. HARVEY: Is your signature on it?

MS. CRAWFORD: Yes.

MR. HARVEY: Is that your signature there?

MS. CRAWFORD: Yes.

MR. HARVEY: Who completed the form?

MS. CRAWFORD: My assistant, Jeannie Jones.

MR. HARVEY: Did you have another assistant, or just --

MS. CRAWFORD: I had two; Cheetara Crawford.

MR. HARVEY: She didn't sign the form?

MS. CRAWFORD: No, she didn't.

MR. HARVEY: There's a place for a manager and two assistant managers.

MS. CRAWFORD: Yes.

MR. HARVEY: There are 79 voters on the list. There are 84 numbers listed here. We have six more ballots cast than names on the list of voters. Any idea how that happened?

(Whereupon, there was no response)

MR. HARVEY: Did you run out of ballots or have to order more ballots?

MS. CRAWFORD: We were told when we were close to getting -- running out, always call and order more. And there were some gaps in between delivery and us running out. But they did come.

MR. HARVEY: So there were times where you had no provisional ballots?

MS. CRAWFORD: There would be times, yes.

MR. HARVEY: How long did it take to get ballots after you requested them?

MS. CRAWFORD: It wasn't long. Maybe 45 minutes.

SECRETARY KEMP: Ms. Crawford, I just want to clarify one thing for the record. When you were asked the question about why the numbers differentiate, you did not know why; was that the correct answer?

MS. CRAWFORD: That's correct. I had two assistant managers and we all took on our own separate roles. We have all worked together for many years. Ms. Jeannie Jones always handles the provisional ballots. Ms. Cheetara Crawford always handles the express polls. And I always handle the TS machines, those machines which generated the most crowds.

SECRETARY KEMP: Right.

MS. CRAWFORD: So we all have worked together and we all knew our responsibilities there.

SECRETARY KEMP: Thank you.

MR. HARVEY: Did you have a printed list of supplemental voters at your precinct?

MS. CRAWFORD: Yes, we did.

MR. HARVEY: Did you have to use it a lot?

MS. CRAWFORD: Yes, we did.

MR. HARVEY: More so than in past elections or about the same? Less?

MS. CRAWFORD: Maybe in the past election I don't know if we even had a supplemental list in the past. But we did in this one.

MR. HARVEY: And were you trained in the proper handling of the provisional ballots, or did you leave that to Ms. Jones?

MS. CRAWFORD: No. We all were trained on all the procedures. We all were aware of how to handle it and how to process it. If the count was off, I can't speak to that. But both of my assistants are here today.

MR. HARVEY: I understand.

MS. CRAWFORD: We tried not to process people on provisional. That's not our goal to do that. Our goal is to get them through the express poll; that was our only intention. That's a backup. We want everybody to vote. So if we can't get you through the express polls, then you go to . . . So what we would do is if you've already -- some people come in, may not be on express polls, but they have prior registration. So if they even brought in to us anything that we can verify that they were already registered, we would do that. Some of them brought in their printout where they had registered, but it didn't make the

supplemental list. We call in, get authorization to go ahead and change their status, allow them to vote. That way it did not have to go through provisional. So we made every effort to keep from doing provisional voting. But we never turned anybody away. That's the last resort.

MR. HARVEY: Thank you. Did you turn in your documents at the collection center?

MS. CRAWFORD: I did.

MR. HARVEY: Did anybody ask about a difference in the number of ballots and the numbers on this list?

MS. CRAWFORD: I will say when we're turning in all of our paperwork, everything isn't checked to the extent of what you're saying. Some things are accounted for, I'm sure, the next day or at a different time.

MR. HARVEY: Right. Mr. Brower, I believe, has indicated that they would check the number to make sure if you said you eight provisional ballots, you had eight provisional ballots. Do you remember them checking to see if you had the right number of provisional ballots down here?

MS. CRAWFORD: Well, I will say we went through several stations. Who was checking what, I can't really say. But I believe there was a provisional station; there was express poll station. So it was different tables as you moved through the process.

MR. HARVEY: But nobody stopped you at any point and said, hey, wait a second; this isn't right. You need to fix this.

MS. CRAWFORD: Nobody stopped to check a count with me to say your count does not add up.

MR. HARVEY: Thank you.

SECRETARY KEMP: Do they normally do that in the past?

MS. CRAWFORD: I was told if your counts did not add up, you had to sit there until it was corrected. Now, I have never been stopped in the midst of that, as far as my precinct

is concerned, that our counts did not add up. I'm sure that it was because of the influx of so many people trying to vote on that day. We were a downtown precinct, so many people are working at school away from home, away from general place that they vote. Again, our effort is not to turn anybody away. Can you get to your precinct? Can you make it there? If you can, we recommend it -- highly recommended it. If you cannot, we will make sure that you vote today. So with the influx of all the people trying to vote provisional, you know . . .

MR. HARVEY: Did you actually have the bag, or did Ms. Jones actually have the bag?

MS. CRAWFORD: Ms. Jones handled it, but our procedures were very tight. You went through the complete process -- it is a process. It takes much longer to do provisional than it does express poll.

MR. HARVEY: I'm talking about in the check-in process. When you were turning in your paperwork at the collection center, did you give them the provisional bag or did Ms. Jones?

MS. CRAWFORD: I handle all of that.

MR. HARVEY: And did they open it up and check the numbers, or do you recall?

MS. CRAWFORD: I don't recall.

MR. HARVEY: But you weren't stopped?

MS. CRAWFORD: I was not stopped through the process. No; I wasn't.

MR. HARVEY: Does the Board have any other questions?

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

MR. HARVEY: I request she be excused.

SECRETARY KEMP: Thank you Ms. Crawford.

MR. HARVEY: We also have Ms. Jones under subpoena. Ms. Jones, are you here?

MS. JONES: Yes, sir.

MR. HARVEY: Would you come up, please?

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Have a seat and Secretary Kemp will swear you in. State your name and address for the record, please.

MS. JONES: My name is Jeannie and my precinct is 02S, which is that Wheat Street, 375 Wheat Street Towers on Auburn Avenue.

MR. HARVEY: Would you give your full first and last name.

MS. JONES: My name is Jeannie B. Jones.

MR. HARVEY: Thank you.

SECRETARY KEMP: Thank you for being here, Ms. Jones. If you would raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. JONES: I do.

SECRETARY KEMP: Thank you.

MR. HARVEY: Ms. Jones, can you account for the difference in the number of ballots and the provisionals?

MS. JONES: Sir, I thought we had counted -- we did count the amount of ballots that

we, you know, that we had. But I just can remember the amount, you know, of the ballots. But everything corresponded after we did our count; me, the assistant manager -- two assistant managers and one manger. And also, we had one worker there, her name was Belva Culverson, she used to be an assistant manager, but worked for Fulton County, and she moved out that district. But they still let her come back and work back with our precinct. She worked on the provisional ballots, too, with me. There were two workers.

MR. HARVEY: Anything else you can add to explain how the provisional ballots numbers were wrong?

MS. JONES: No, because I was thinking it was right because we worked together as a team, you know. Like if one person don't understand the procedures, the next worker knew some of the things that the other worker didn't know, or we would contact our manager and we would talk about it, you know, when we came to something we didn't understand.

MR. HARVEY: Thank you. Any questions from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: No.

MR. HARVEY: I request she be excused.

SECRETARY KEMP: Thank you for being here, ma'am.

MR. HARVEY: And, again, for the record, on 02S, there are 79 on the numbered list of provisional voters. Fulton county was able to provide 40 voters certificates and 45 provisional ballot envelopes from that precinct. So, again --

SECRETARY KEMP: What are those numbers again?

MR. HARVEY: There were 40 provisional voter certificates provided by Fulton County and 45 provisional ballot envelopes provided by Fulton County. We determined that three of the voters who voted should have been eligible to vote on DRE.

SECRETARY KEMP: So they would have showed up either on the VR system the

supplemental list?

MR. HARVEY: They should have, yes, sir. The next precinct we're going to look at is 04W. Is Ms. Joan Robinson present?

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Have a seat, please, ma'am. Will you please state your name and address for the record.

MS. ROBINSON: My name is Joan J. Robinson. I live at 2824 The meadows Way, College Park, Georgia 30349.

SECRETARY KEMP: Good afternoon, Ms. Robinson. If you would raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. ROBINSON: Yes.

SECRETARY KEMP: Thank you.

MR. HARVEY: Ms. Robinson, you're the manager at the Morehouse voting precinct?

MS. ROBINSON: Yes, sir.

MR. HARVEY: Is this the provisional ballot recap sheet you completed?

MS. ROBINSON: Yes.

MR. HARVEY: I notice up in the area where they are asking for voter certificates, you've got 6-0-3 crossed out; 440 crossed out; and 249 with your initials. How did that number keep decreasing?

MS. ROBINSON: Because we had 249 provisional ballots.

MR. HARVEY: Where did the 603 come from to start with?

MS. ROBINSON: I went over the provisional ballots with the person who actually did provisions [sic], and when I was going over it, you know, I asked them why was it that number. And then they explained it to me. We had a lot of provisional ballots and the majority of them, I ordered some at three different times. We had to come in not having numbers on them; some of them and numbers that was out of sequence. So . . .

MR. HARVEY: I see the notation here that the ballots were missing stubs.

MS. ROBINSON: Right; right.

MR. HARVEY: Does that account for not putting ballot numbers in this area on the form?

MS. ROBINSON: I don't understand.

MR. HARVEY: This is the area where you are supposed to report the ballot stub numbers of the provisional ballots, and it's blank. But you do have a note saying ballots were missing stubs; ballots without stubs.

MS. ROBINSON: Right.

MR. HARVEY: Obviously, you had 249 people vote provisional ballots, correct?

MS. ROBINSON: Yes.

MR. HARVEY: Have you been manager there before?

MS. ROBINSON: Yes.

MR. HARVEY: Is that an unusually high number?

MS. ROBINSON: Not for the college, because a lot of them are students. Students start in September. They have a school drive probably in September, so I don't know. A lot of

times it don't show up on the computer. We always have a high number of provisional ballots.

MR. HARVEY: And you have answered why there were no -- you said there were no stubs or numbers on the ballots. Mr. Brower, can you address that, why there would be no numbers or stubs?

MS. ROBINSON: On the second order.

MR. HARVEY: The second order.

MS. ROBINSON: Yes. Not the first order.

MR. BROWER: No. I have no explanation for that because that printing system will not allow you to print a ballot without a stub.

MR. HARVEY: Now, when you take the lists that were provided as attached this, there are 232 names and you've got 249. None of these numbers seem to make sense and there's no explanation of the difference. Now, when we get to the list of provisional voters, it starts off with number 1 through 20, and then it goes -- do you know where these numbers came from? We've got four-digit numbers beginning with 8; four-digit numbers -- is that some notes that you made?

MS. ROBINSON: No. The person who did the provisional ballots is here today.

MR. HARVEY: Okay.

MS. ROBINSON: But what happened, a lot of them -- the numbers was out of sequence when we reordered the provisional ballots.

MR. HARVEY: So you're putting the provisional ballot next to the name of the person of voted? Is that what that number is?

MS. ROBINSON: Yes. On the --

MR. HARVEY: These four-digit numbers, that's the provisional ballot number?

MS. ROBINSON: On the left, that first column should be the number list of provisional ballot, like 1 through --

MR. HARVEY: Right. That's 1 through 20.

MS. ROBINSON: Right. Then the next would start at --

MR. HARVEY: The next one starts at 8000-something.

MS. ROBINSON: Eight thousand?

MR. HARVEY: Eight thousand, one nineteen. And then the numbers continue. And there's no indication up here that this is -- did you mark "4W" on all of your lists?

MS. ROBINSON: Yes.

MR. HARVEY: So is it possible this isn't even from your precinct?

MS. ROBINSON: I don't remember no numbers 8-8-1-9.

MR. HARVEY: These are all provided as attached to 04W. And, again, we continue with the four-digit numbers on both of these; no designation of precinct.

MS. ROBINSON: The only thing I can say is they was out of sequence and we did the best we could put them in order.

MR. HARVEY: So you suspect those numbers were the ballot stub numbers --

MS. ROBINSON: Right.

MR. HARVEY: -- and you wrote that next to the voter. Okay. Thank you. You said you had to order provision ballots three times?

MS. ROBINSON: Maybe at least twice.

MR. HARVEY: How long did it take to get the ballots?

MS. ROBINSON: About 30 minutes.

MR. HARVEY: Did you have a supplemental list of voters?

MS. ROBINSON: Yes.

MR. HARVEY: Did you use it a lot?

MS. ROBINSON: I put it near the express poll. Whether they used it or not, I don't know.

MR. HARVEY: Were you trained on how to use the supplemental list?

MS. ROBINSON: Yes.

MR. HARVEY: Does the training that you heard Ms. Coleman talk about sound consistent with what training you received?

MS. ROBINSON: Yes.

MR. HARVEY: Did your staff instruct the provisional voters to complete -- did you issue voter registration applications with provisional ballots with the code PR?

MS. ROBINSON: Yes.

MR. HARVEY: And did you turn in those documents to the collection center?

MS. ROBINSON: Yes.

MR. HARVEY: Did they ask you about any of those numbers not being correct?

MS. ROBINSON: When we got downtown, we had so many provisional ballots, they put them in a box.

MR. HARVEY: Did they count them?

MS. ROBINSON: Yes. They counted each one by one because we stayed there a long time counting provisional ballots.

MR. HARVEY: Does the Board have any questions?

SECRETARY KEMP: **Mr. McIver.**

MR. MCIVER: Ma'am, was anybody turned away?

MS. ROBINSON: No.

MR. MCIVER: Everybody voted that had an opportunity to vote?

MS. ROBINSON: Yes, sir.

MR. MCIVER: Thank you.

SECRETARY KEMP: Thank you, Ms. Robinson.

MR. HARVEY: Again, if you look at the analysis, Fulton County was able to provide 259 provisional voter certificates; they're able to provide 159 provisional ballot envelopes from that precinct. Again, the number ballots don't add up.

Next is precinct SS14. The manager here is Ms. Vatrice Gibb. Is Ms. Gibb here?

(Whereupon, there was no response)

MR. HARVEY: What about Burt Geranda?

SECRETARY KEMP: What was the name again, Mr. Harvey?

MR. HARVEY: B-U-R-T, G-E-R-A-N-D-A; Burt Geranda.

Is Ms. Rosalyn Murphy here? Okay. Thank you.

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Thank you. Just have a seat.

MS. BURT: Geranda Burt, 7030 Brown Drive South, Fairburn, Georgia 30218.

SECRETARY KEMP: Welcome. If you would raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. BURT: I do.

SECRETARY KEMP: Thank you.

MR. HARVEY: I apologize for confusing your name.

MS. BURT: That's okay.

MR. HARVEY: Were you the assistant poll manager at SS14?

MS. BURT: Yes.

MR. HARVEY: And Ms. Vatrice Gibb, was she the poll manager?

MS. BURT: Yes.

MR. HARVEY: Do you know where she is today?

MS. BURT: I have no idea.

SECRETARY KEMP: Ms. Coleman, do you have something?

MS. COLEMAN: I'm sorry to interrupt, but Ms. Gibb is in Virginia taking care of her parents who are ill.

SECRETARY KEMP: We'll let the record reflect.

MR. HARVEY: Thank you.

SECRETARY KEMP: Thank you.

MR. HARVEY: Is your signature on this provisional ballot recap sheet?

MS. BURT: Yes.

MR. HARVEY: This one right here?

MS. BURT: yes.

MR. HARVEY: Do you recall this being complete with these numbers when you signed it?

MS. BURT: Yes.

MR. HARVEY: And this is all in blue ink, correct?

MS. BURT: I don't remember what color the ink was.

MR. HARVEY: Well, it's a color copy, so it's blue ink. Did you handle the provisional voters or did you mix it up, or did somebody handle it?

MS. BURT: Rosalyn Murphy and I (unintelligible) together. We did it as a team.

MR. HARVEY: Is some of your handwriting over here on this numbered list of provisional voters?

MS. BURT: Yes.

MR. HARVEY: And some is the other woman's?

MS. BURT: Rosalyn's; yes.

MR. HARVEY: Now, the total names on the numbered list of voters here is 15, correct?

MS. BURT: Yes.

MR. HARVEY: And when you look down in blue, there are 15 names in blue and everything else balances out. This is a precinct that appears to balance. There was a mistake there with the counting, but you were given 50 provisional ballots, you voted 15, and you returned 35. You even thought to put the stub numbers.

MS. BURT: Yes

MR. HARVEY: Now, do you recall seeing these five names on this list of voters when you turned it in? The five names that are in red and in a different hand, it appears, than any of these. Does that look familiar at all?

MS. BURT: No. Not to me.

MR. HARVEY: Would you have signed this form with 15 on the list of provisional voters if there had been 20 on this list?

MS. BURT: No.

MR. HARVEY: So would you suspect those 15 names were the only ones on the list when you signed it?

MS. BURT: Yes.

MR. HARVEY: Did you have anything to do with turning in those documents at the collection center?

MS. BURT: Yes.

MR. HARVEY: Were you there when the provisional ballots were opened -- the bag was opened and things were counted?

MS. BURT: I'm trying to remember if I was at provisional. I don't remember that part of it.

MR. HARVEY: Do you remember being stopped or questioned about any of this stuff?

MS. BURT: No.

MR. HARVEY: So you sailed right on through?

MS. BURT: Yes.

MR. HARVEY: Do you recall any of the other poll workers being asked about, hey, why doesn't this add up?

MS. BURT: No.

MR. HARVEY: When this was signed, 50 provisional ballots that were cast. It appears that numbers 16 through 20 were added in red ink in a different hand, the red ink that seems to correspond with the checks up here on accepting or rejecting. All of the red names had their provisional ballots accepted. Do you have any idea when those names were added and why?

MS. BURT: No.

MR. HARVEY: Focus on the first voter, Sumner Bradshaw.

MS. BURT: I'm sorry. That says SS12, and we're SS14.

MR. HARVEY: I'm sorry.

MS. BURT: You see where it says in the red where it says SS12?

MR. HARVEY: Yes. I see that.

MS. BURT: Okay. I have no idea --

MR. HARVEY: But this is the form that your precinct keeps, correct?

MS. BURT: Yes.

MR. HARVEY: Sumner Bradshaw was listed as having cast a provisional ballot and it was accepted. I know this is difficult to see. This is the list of accepted provisional

ballots that Fulton County provided to us and the name at the top of this list is on Page 53, Sumner Bradshaw. This is the list of voters that voted on DRE on election day at precinct 7A, and the name Sumner Bradshaw. There are no provisional ballot documents for Ms. Bradshaw. There's not an envelope; there's not a voter certificate. We spoke with Ms. Bradshaw and she denied voting a provisional ballot. She did say that she went to the precinct and was told she needed to go to her correct precinct at Sarah Smith, which she did and then voted on the DRE at Sarah Smith. But I asked her very specifically, did you fill out anything that would be like a provisional ballot or absentee ballot. She said she did not. We also checked with the other four voters and they had the same experience.

But her provisional ballot was accepted. Again, it shows that she voted on the DRE at her proper precinct. The same is true for all four of those voters that are listed in red. Do you have any explanation for that?

MS. BURT: No.

MR. HARVEY: Mr. Jones, do you have any explanation as to how that could happen?

MR. JONES: Not at this time. No.

MR. HARVEY: I think that answers the question about whether or not someone could vote on the DRE and vote provisionally.

MR. WALBERT: Guess we have to find out what actually happened.

MR. HARVEY: I understand. And, again, document-wise, Fulton County provided 19 provisional voter certificates and 15 provisional ballot envelopes for that precinct.

Any questions for Ms. Burt?

(Whereupon, there was no response)

MR. HARVEY: May she be dismissed?

SECRETARY KEMP: Yes. Thank you, ma'am.

MR. HARVEY: Ms. Murphy?

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: State your name and address for the record, please.

MS. MURPHY: Rosalyn Murphy, 9527 Lakeview Road, Union City, 30291.

SECRETARY KEMP: Thank you, Ms. Murphy. If you would raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. MURPHY: I do.

SECRETARY KEMP: Thank you for being here.

MR. HARVEY: Ms. Murphy, you've seen what we just went through. Do you have any explanation about the pattern?

MS. MURPHY: No. It looks like it was added after we turned paperwork in because I specifically know that Ms. Burt and I, along with our manager, did work on that. I know we only about 15 because we had maybe, like, 36. The way the ballots are set up, when you have to put the extra stub numbers down, it can be a little confusing in that little section. I know for certain that those additional names were added after because it doesn't look like our handwriting.

MR. HARVEY: Any other questions for her?

SECRETARY KEMP: Do you have any idea why that would be altered after you turned it in? Was it to make the numbers balance or does anyone have an answer to why, or do you need more time to look into that?

MR. WALBERT: (Unintelligible) makes it not balanced, the ones that were added; the

way I understand it.

SECRETARY KEMP: Right. Why they wouldn't balance.

MS. MURPHY: It looked like they were added after, and also if that is a color copy, it was added in red with the, as Mr. Burt stated, with a different precinct number. If you will notice, before that, we don't include the precinct number. So I'm not sure why that would have been modified.

MR. HARVEY: Thank you.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

MR. HARVEY: Thank you, Ms. Murphy.

SECRETARY KEMP: Thank you for being here, Ms. Murphy.

MR. WEBB: Mr. Harvey, before you call the next person, can I ask Mr. Jones some questions?

MR. HARVEY: Absolutely.

MR. WEBB: Mr. Jones you handled the provisional ballots; is that correct? You're the recipient, and they all come in to you?

MR. JONES: Yes.

MR. WEBB: For my edification, the County is in charge of voting those, correct? The County collects all the provisional ballots and then adds them to the totals from DRE?

MR. JONES: That is correct.

MR. WEBB: Okay. And when a voter votes in the wrong precinct, shows up at one precinct but he or she is registered at another precinct, and the ballots do not match, say there's 25 offices up and 20 of those are the same. How would you handle the five that

don't match?

MR. JONES: We go through a process called duplication whereby we take the original ballot where the person was registered and the ballot they voted on and begin to duplicate only the races that that the ballot is supposed -- the person is supposed to actually be voting to.

MR. WEBB: And you're only doing that within Fulton County, correct?

MR. JONES: That is correct.

MR. WEBB: So if somebody from a different county showed up at a Fulton County precinct, they would not even let them vote a provisional; is that correct?

MR. JONES: Our policy has been we've been pretty liberal and we will not turn a voter away. So if a person is issued a provisional at that precinct and they are at another county, it would be researched and if we deem necessary they were in another county, that provisional will be rechecked.

MR. WALBERT: So no way they would be able to fill it out and submit it, per the law, but it wouldn't be counted after they do that.

MR. JONES: Research it.

MR. WALBERT: It would be rejected.

MR. HARVEY: Thank you.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: Mr. Brower, who made the decision to send only 50 provisional ballots to each precinct?

MR. BROWER: We looked at a previous -- previously we would normally send 25. But usually for an election of this magnitude, double would be typically sent.

MR. SIMPSON: Did you go back and look and see how many provisional ballots you

used in the last presidential election?

MR. BROWER: We use historical data, too. That's also a basis of our decision. In terms of the number sent out, we certainly sent out more this time than we did in the presidential election of 2008.

SECRETARY KEMP: Mr. Harvey, it's my understanding you've got one more.

MR. HARVEY: Actually, two more.

SECRETARY KEMP: We'll do those and then we'll take a quick break and give y'all a minute.

MR. HARVEY: Next is precinct 3A, and the manager is Annie Johnson. Ms. Johnson.

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Please state your name and address for the record.

MS. JOHNSON: My name is Annie M. Johnson, and I live at 1424 Simpson Street, Northwest, Atlanta, 30314.

SECRETARY KEMP: Ms. Johnson, would you raise your right hand for me.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. JOHNSON: I do.

SECRETARY KEMP: Thank you.

MR. HARVEY: Ms. Johnson, were you poll manager at 03A?

MS. JOHNSON: Yes.

MR. HARVEY: How long have you been a poll manager?

MS. JOHNSON: I think about 10 years.

MR. HARVEY: You had 132 provisionals cast?

MS. JOHNSON: Yes, I did.

MR. HARVEY: Did you complete this form?

MS. JOHNSON: Yes, I did.

MR. HARVEY: And that's your signature?

MS. JOHNSON: Yes.

MR. HARVEY: There's not recording of the ballot stub numbers. Is that something you were not trained on, or why do the stub numbers --

MS. JOHNSON: I was trained on it, but it was so hectic that day. I work at the Atlanta Job Corps Center, and you have to come and visit there to understand. I so many students from all over the country and they wanted to vote. I had to even go and get security it had gotten so rough. So it was just really a day.

MR. HARVEY: Did you have a supplemental list of voters; a printed supplemental list of voters?

MS. JOHNSON: Yes, I did.

MR. HARVEY: Did you have to use a lot?

MS. JOHNSON: No I didn't.

MR. HARVEY: Those are the people on express poll?

MS. JOHNSON: Most of the people that voted were on the express poll, but these were students from the Atlanta Job Corps mostly.

MR. HARVEY: And this is the numbered list of voters?

MS. JOHNSON: Yes.

MR. HARVEY: Did you complete this, or did someone else?

MS. JOHNSON: Somebody else did that.

MR. HARVEY: You'll notice that for the first page, the names appear to be written at different times by different people, but as the pages go on, to page 4, you'll notice a very similar hand, the same hand, apparently, and the names appear to descend alphabetically.

MS. JOHNSON: Well, I don't write in red for anything, you know, unless I'm trying to send a message, and I did I do that. I did not write in red. We didn't even have a red pencil.

MR. HARVEY: Do you not recall that writing?

MS. JOHNSON: No, sir.

MR. HARVEY: And you see it continues . . .

MS. JOHNSON: I see.

MR. HARVEY: And these cross-outs, do you remember doing that?

MS. JOHNSON: No I don't.

MR. HARVEY: And at this point the alphabetical starts to break down, but from that point on Page 4 until here, it's going reverse alphabetical order. Any reason you would have been going in reverse alphabetical order?

MS. JOHNSON: No.

MR. HARVEY: The odds seem pretty unlikely that people would be coming in and voting in reverse alphabetical order.

MS. JOHNSON: I can't explain it.

MR. HARVEY: Another list, this has the 132, and this appears to be in the same hand as the first page. Do you agree?

MS. JOHNSON: Yes.

MR. HARVEY: Do you recognize this as something that either you wrote or someone in your someone your precinct wrote?

MS. JOHNSON: Somebody in our precinct probably wrote that.

MR. HARVEY: Okay. Did you have to order additional provisional ballots?

MS. JOHNSON: I did about three times and it took me a long time to get that, for them to get there. I had (unintelligible) voters that did not get to vote.

MR. HARVEY: How many voters would you say did not get to vote?

MS. JOHNSON: About 10 or 12 that did not. And they had to eat their dinner about 5:00 because it's run just like a college. So they did not want to wait.

MR. HARVEY: Had there been provisional ballots there, they would have been able to vote?

MS. JOHNSON: They would have.

MR. HARVEY: You said you had to wait a long time. What do you consider a long time for bringing the ballots?

MS. JOHNSON: About 45 minutes, or so.

MR. HARVEY: Any questions for Ms. Johnson from the Board?

MR. WILLARD: How many provisional ballots did you start the day with; was that the standard 50?

MS. JOHNSON: About 50.

SECRETARY KEMP: Any other questions for Ms. Johnson?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you, ma'am.

MR. HARVEY: Is Rosa Brown here?

UNIDENTIFIED FEMALE: Yes, sir.

(Whereupon, the witness approaches and is seated.)

MR. WALBERT: What precinct is that?

MR. HARVEY: Same precinct.

Ms. Brown, could you state your name and address for the record?

MS. BROWN: Rosa K. Brown, 236 Holly Road, Northwest, Atlanta, Georgia, 30314.

SECRETARY KEMP: Welcome, Ms. Brown. Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. BROWN: Yes, sir.

MR. HARVEY: Ms. Brown, do you recognize any of this as being your handwriting?

MS. BROWN: Yes, sir. I'm the one.

MR. HARVEY: Is this all you?

MS. BROWN: She had someone to help me because she said the line was so long that, you know, they wanted to get out so they had a reason for someone to help me do the provisionals this time.

MR. HARVEY: Okay. Now, do you recognize this handwriting?

MS. BROWN: The lady what was helping me, sir.

MR. HARVEY: That's the lady that was helping you?

MS. BROWN: Yes, sir.

MR. HARVEY: Is she here today, Ms. Buck?

MS. BROWN: Is she here today, Mrs. . . .

MR. HARVEY: Cynthia Buck? Is she the lady helping you?

MS. JOHNSON: Jacqueline Banks.

MR. HARVEY: Jacqueline Banks was helping. But you recognize that as Jacqueline Banks' handwriting?

MS. BROWN: I don't know because she and I had never worked before together.

MR. HARVEY: I understand, and I'm not trying to -- I just want to make sure I understand. Are you saying that is, or you don't know if that is?

MS. BROWN: Oh, she was the only one that was helping me, so it had to be her, sir.

MR. HARVEY: Okay.

MS. BROWN: Yes, sir. Because there was only two of us working on the provisionals that day, on November 6th.

MR. HARVEY: Did you do your own list and she did her list?

MS. BROWN: Well, she and I was -- well, I would say as she needed -- the manager said we needed help so we gave her a paper list, you know, gave her a list to put down. But we were trying to keep it with our numbers of the quantity that we was given.

MR. HARVEY: Thank you. No other questions.

SECRETARY KEMP: Mr. Webb?

MR. WEBB: Ms. Brown?

MS. BROWN: Yes, sir.

MR. WEBB: The first piece of paper up there, does that appear to be your handwriting?

MS. BROWN: Yes, sir; yes, sir.

MR. WEBB: That's all. Thank you.

MR. MCIVER: Ma'am, my standard two questions. Did you turn anybody away, Ms. Brown?

MS. BROWN: No, sir. We didn't turn anyone away.

MR. MCIVER: Everybody get to vote that sought to do so?

MS. BROWN: Yes, sir.

MR. MCIVER: And you had enough provisional ballots?

MS. BROWN: That's what I was saying, as I stated to my manager, that the ballots, the 50 had given out and we had to get some more, you know.

MR. MCIVER: At the end of the day, you had enough ballots?

MS. BROWN: Yes, sir. We did.

MR. MCIVER: Thank you for coming.

MS. BROWN: Yes, sir.

MR. HARVEY: And, again, on the overall analysis sheet, you'll see 137 were on the numbered list. There were 97 provisional voter certificates provided by Fulton County and 128 provisional ballot envelopes provided by Fulton County.

I believe we've got one more precinct. Let me back up while we're here. This is the fifth page of the recap sheet, and if you look at the accept and reject up here that presumably was written by somebody on Mr. Jones's team since they were charging it with the checks, it appears that handwriting is similar to that handwriting. (Indicating) I don't know that I would go so far as to say it absolutely is, but it certainly looks similar and it's written in red ink. Mr. Jones do you have any knowledge of this?

MR. JONES: That's really not our procedure, so I don't have any knowledge of it.

MR. HARVEY: But you would expect that the accept and reject, that would be written by somebody on your team?

MR. JONES: That is correct.

MR. MCIVER: Could you back up one slide?

(Complying)

MR. MCIVER: What I found troubling about the page on the right is it seems go back to alphabetical. About mid-page, it picks up with the A, B, C, D, so on, and ends up a little askew.

MR. HARVEY: It goes reverse to that point, and then you start with A and you start going back up again.

MR. WALBERT: I don't know if you asked the individual, Chris, but it almost looks like somebody recapitulated so it's written better after the fact. But, I don't know if you wanted to ask her that, or what.

MR. HARVEY: Cynthia Buck is not here?

(Whereupon, there was no response)

MR. HARVEY: So we don't know if the same person who was accepting and rejecting ballots was creating the names on the list of provisional voters.

I believe this is going to be the last precinct. This will be a short precinct. The poll manager is Marilyn Sewell.

(Whereupon, the witness approaches and is seated.)

MR. HARVEY: Would you state your name and address for the record, please.

MS. SEWELL: Marilyn Glass Sewell, 837 Ridge Avenue, Atlanta, Georgia.

SECRETARY KEMP: Ms. Sewell, if you would, raise your right hand.

(Whereupon, the witness complies)

SECRETARY KEMP: Do you solemnly swear or affirm that you will tell the truth, the whole, truth, and nothing but the truth, so help you, God?

MS. SEWELL: I do.

SECRETARY KEMP: Thank you.

MR. HARVEY: Ms. Sewell, you were the poll manager at 02F1 and 02F2?

MS. SEWELL: Yes.

MR. HARVEY: Did you experience any difficulties with provisional voting on November 6?

MS. SEWELL: None.

MR. HARVEY: Did you complete this form?

MS. SEWELL: No, I didn't complete the form. The person handling provisional filled out the form.

MR. HARVEY: Who was that?

MS. SEWELL: This is my first time there at that poll and some people was already assigned there. So . . .

MR. HARVEY: Did you take the materials down to the collection center to turn in?

MS. SEWELL: Yes, I did.

MR. HARVEY: Did you encounter any difficulties or stopped for any reason?

MS. SEWELL: No. They checked everything.

MR. HARVEY: Your recap sheet actually matches. It all adds up. This is the first one out of 10 where everything appears to be in order. She's got the right numbers, balances out; here's the -- she did it right. Fulton County was able to provide 83 provisional voter certificates from this precinct, which is the number she turned in. They were only able to provide 72 ballots from this precinct, which is nine less than what is said to have been voted.

Thank you, Ms. Sewell, unless the Board has any questions.

SECRETARY KEMP: Any questions for Ms. Sewell?

MR. MCIVER: We need to give her a gift card for Target.

SECRETARY KEMP: Thank you for being here, Ms. Sewell.

Is that all you've got on these 10, Mr. Harvey?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Let's take a quick 15- minute break. We'll come back at 3:00.

MR. HARVEY: Mr. Secretary, again, anyone who has been subpoenaed and has not been called, can be excused at this time.

SECRETARY KEMP: Just to make that clear, if **Mr. Harvey** has not called you to speak before us today and you were subpoenaed, we will not need to speak to you this afternoon and you are free to go. Of course, you are welcome to stay if you would like. We will come back at 3:00.

(Whereupon, the proceedings were in recess)

SECRETARY KEMP: All right. Mr. Harvey?

MR. HARVEY: I do want to say, just for the record, we did look at two other precincts, 04B and 06H, they had their recap sheets balance, as well. So there were some other points where the poll manager did what they were supposed to do.

At this point, I would ask Ms. Mitchell or Mr. Jones if you have any explanation how the numbers are so off in terms of the provisional ballots.

MS. MITCHELL: Our position is that the numbers that we have are based upon the actual physical ballots, themselves. The recap sheets are done at the poll, and as you can see, there are some inconsistency in terms of how poll managers complete that documentation.

MR. HARVEY: So you're going on the physical --

MS. MITCHELL: That is correct.

MR. HARVEY: Thank you. All right. We're going to move from the provisional ballot issue to the question of absentee ballots. This is going to be the last issue with the general election.

It's not unusual for Fulton County to have complaints about absentee ballots not being delivered or accepted or being handled properly. Our office received, I believe, 23 complaints about absentee ballots not arriving; not arriving in time. We had three cases where individuals got two absentee ballots when they only requested one.

There are two complaints that I want to specify because the complainant went into great detail, and it might help answer some questions about your system.

Mr. Jones, would you be the person to talk about the absentee ballots?

MR. JONES: Yeah, I believe so.

MR. HARVEY: Could you explain briefly -- I know at the last SEB meeting there was a -- you explained some about the process, but you've got a fairly automated absentee ballot process, correct?

MR. JONES: Yes, sir.

MR. HARVEY: Okay. Could you run through that briefly, please, to refresh our recollection.

MR. JONES: What happens is that once we receive the absentee applications, it is then entered into the voter registration system. Once entered into the voter registration system, whether it's good or bad, what have you, accepted or rejected, if it's accepted, a file is generated from the Secretary of State's office and placed on our server in Fulton County. Once it resides on our server, we have an automated program to pull out the people who requested that they be pulled or they that we selected.

That is then given to the Pitney Bowes machine, which actually does the stuffing and the folding and the processing of that ballot. We then, once it gives -- before it does that one, that same file is generated from our ballot-on-demand. It takes the same file that Pitney Bowes uses to stuff and stamp the mail, also print the ballots so we get the one-to-one correlation.

Once it is printed and we stuff it and fold it, it is then run through a sorter. Once it's run through the sorter, the sorter actually takes a picture of it to see if -- to note that we did have a ballot at that particular time. And it's then sent to the mail.

MR. HARVEY: Is the first step when you receive it, if you receive something by fax, is that done automated or does that require a person to take action?

MR. JONES: Upon receiving a fax, a person will then physically print out the

application and process it manually.

MR. HARVEY: How often is that fax line checked?

MR. JONES: Fax line check, every hour. It's basically how much work needs to be done. But evidently, mostly every hour.

MR. HARVEY: Did you have something else?

UNIDENTIFIED MALE: No.

MR. HARVEY: I just want to read part of a complaint we got regarding an absentee ballot because it's sort of contradicts something that you've said. This comes from a gentleman living in New York. He says that he had requested an absentee ballot Wednesday, October 3rd.

“I mailed an application for an official absentee ballot. Approximately a week later, a colleague submitted his after I did. He indicated he had received and submitted his absentee ballot via Cobb County within a 10-day period. This seemed odd and caused me to question the status of my absentee ballot.

On Thursday, October 18th, I prepared a second application for mailing, however I wanted to talk to somebody in Fulton County to ensure I was following the directions correctly. Friday, October 19th I called the general number and was transferred to a woman who checked my records. I indicated that an application had been mailed approximately three weeks earlier. She indicated there was no record of receiving the absentee application, but to speed up the process, I could fax my second application instead of mailing it.

Given this information, I faxed it at 4:17 p.m. My belief was that the absentee ballot would be in the mail by Monday or Tuesday, October 22nd or 23rd, with arrival to my residence by Sunday, October 26th, at the latest. Nothing arrived October 26th, 28th, or 29th.

On Tuesday, October 30th, I called the main Fulton County number and was transferred to a Marsha, who served as the coordinator of some aspect of this unit. I informed her that the fax had been sent on October 19th but nothing had been received,

even though I had gotten a confirmation of delivery right back. Marsha indicated that I re-fax the form again. I told her I would with the hour and she gave me her direct line if I had any problems.

At 12:50 p.m., on October 30th, I re-faxed the application for an absentee ballot. I called her four times that afternoon leaving messages and a number for a return call to confirm receipt of the document and mailing of the absentee ballot. I received no return call for the remainder of the day.

Wednesday, October 31st, I called one to two more times first thing in the morning and left additional messages. At approximately 3:15, Marsha returned my call. While talking with her, she indicated the faxes from October 30, 2012, had not been pulled up, but she would do it while I was on the phone. I sat on the phone listening while she pulled it up and confirmed that it had been received and processed in five to 10 minutes. Keep in mind, this only happened while I was on the phone after previous conversation and several messages on October 31st -- 30th and 31st. Marsha indicated it was processed and would go out right away.

Given the lateness of the day, I anticipated it would go out either October 31st or November 1st, with an arrival of November 3rd or 6th.

When the ballot did not arrive on November 3rd, I began making plans to leave work early in order to fill it out and pay, at my expense, for overnight delivery to ensure its arrival by noon on November 6.”

To make a long story short, he came home Monday and it wasn't there. He came home Tuesday and his ballot arrived the evening of the election. His fax sat on the fax machine for almost two days. Would that be an unusual circumstance, or would everybody be backed up behind him? Could you pull them off one at a time, or select them? How did that work?

MR. JONES: That would be a very, very unusual circumstance. I would love to know the person -- who the person is so if you get into the details of it. But if that fax is on there, it should have been processed.

MR. HARVEY: I guess a bigger picture question is, does it stop at that one point and nothing gets past it? For whatever reason, let's say his was hung up on the 30th.

MR. JONES: Uh-huh.

MR. HARVEY: Would it sit there by itself, or would everything that came in before it or after be affected?

MR. JONES: Everything should have been processed. Therefore, I would think that everything on that day on the 30th, that came in on the 30th should have been processed that day. That's our procedure.

MR. HARVEY: So it may have been just an individual oversight.

MR. JONES: Yes, sir.

MR. HARVEY: And I will get you that information, if we haven't already, so you can follow up on that.

MR. JONES: Sure.

MR. HARVEY: At this point, this sort of concludes where we are with the case involving the general election in November. I'm ready to go into a brief examination of the primary election from July and then the issue of demolished residences, if the Board is so inclined to hear that.

SECRETARY KEMP: Any questions for Mr. Harvey from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: We'll move into the 2012-56, July 31st general primary election.

MR. HARVEY: Primary election was held on July 31, 2012. There were several different factors that went on in this election. One of the most significant and one of the most -- that came to our attention the most was problems with redistricting. After the census, redistricting was done in Fulton County and Fulton County had some problems in at least three precincts where voters had been redistricted and had not been put in their proper precincts or the polls had not been set up to offer them the proper ballot.

Briefly, in House District 62, there was one whole street, Chickory Cove, that was incorrectly placed in House District 64.

In Sandy Springs there were approximately 350 people who were incorrectly listed as being in Senate District 56, when they should have been in Senate District 6.

The most tumult, I suppose, the most outcry came from Lang-Carson precinct on Flat Shoals Avenue. They had a situation where they had one precinct that had House District 58 and 59, and all of the voters that went were districted, I believe, House 58. So when somebody came who was in House 59 to vote, they were only been given the ballot for House 58. This was brought to the attention of the Fulton County offices, I think, by about 9:30, and Fulton County was able to provide some instructions on how they could encode the cards properly. However, what the poll workers really needed was a map that would show where somebody's house -- what district they were in. It's our understanding that nobody was able to respond to that precinct until about 3:45 p.m. with a map that was actually able to be used.

There were at least 15 people that were identified early as having gotten the wrong ballot when they attempted to vote in the primary. This was when Mr. Westmoreland was the elections director, and he told one of the candidates there were only two streets involved, but he couldn't tell you what streets they were.

I believe Mr. Brower eventually responded to the scene with a map that was large enough so that they could determine where people's addresses were and the residence.

Mr. Brower, is that an accurate account?

MR. BROWER: It's a pretty accurate account. I think the time, though, was a little earlier on delivering the map. We actually posted a map at the precinct showing those addresses affected; which side of that -- which correct House Senate district they were supposed to be in.

MR. HARVEY: Do you know approximately how many people in all of those three places I looked, and other places we might not know about, who were not in their proper district on the primary election day? I think when we spoke in December, you said there were maybe 10 streets, or so. Any other numbers?

MR. BROWER: It was 10 streets. In terms of the number of voters, I want to say it was about 350, I think. I can get you the exact numbers.

MR. HARVEY: Has that been corrected?

MR. BROWER: Yes.

MR. HARVEY: One of the other issues in that election had to do with reporting. Because of the problems with districting in Fulton County, once they started advance voting and realized that people were in the wrong district, they opted to create what's called a dual database. I think we've had cases with dual databases of voters before.

Essentially, they take the people that have voted up to a certain day and they lock that voting system and they create a second identical voting system with the people who haven't voted, and at the end of the election, they have to combine those two databases together. The combination and the reporting has to be done manually and can consist of thousands and thousands of individual numerical entries and calculations that have to be done. They have to done on one machine and one person, so it can take a tremendous amount of time to correct these dual database errors.

Partially as a result of that, Fulton County missed the deadline for certifying their election for the July 31st primary. They certified their election about 30 or 60 minutes after the deadline required by the State statute.

It also caused some problems in the reporting that was done. When Fulton County posted some of the results on their website, it appeared that the numbers of votes had been changed. Initially, they posted one of the databases. Then they posted the second database that was thought to be the combination of the database. And then, thirdly, they posted the combined database, the final results. I believe the discrepancy in posting that led to some confusion among candidates and caused some issues there.

There were also complaints about precincts reporting more than 100% voter participation. I believe there was a story in the AJC about 23,000% at one precinct. I believe that was caused by a districting issue also. Can you comment on that Mr. Brower?

MR. BROWER: No, the precinct reporting that it exceeded 100% really had nothing to

do with redistricting. That was actually a software issue with the (unintelligible) software. It basically involved precincts that had splits that shared the same combination number; (unintelligible) combo number. What the system was doing at the time was what automatically aggregated the votes to the first appearance of that precinct with a common combo. That was subsequently, I think, in following elections, corrected.

MR. HARVEY: Another issue that came up in the general election was Fulton County was opening and counting absentee ballots before election day.

SECRETARY KEMP: This is the primary election, correct?

MR. HARVEY: I'm sorry. Primary election.

As you know, the statute allows counties who post notices with the Secretary of State's office, they can start opening and tabulating absentee ballots at 7:00 on election day. There is no provision for doing it before. Fulton County, we understand, was opening, separating absentee ballots, and scanning them on Monday, the day before the general election on July 30, 2012. When we spoke to election officials in December about this, I believe it was Ms. Mitchell's contention that she did not consider that counting of ballots. Would you care to address that, Ms. Mitchell?

MS. MITCHELL: As part of that process, the previous director, Sam Westmoreland, had gained an opinion from our county attorney's office that indicated that that was okay for us to do that. That the scanning of the ballots was not actually tabulating. The numbers were not released. They were actually stored in the machines so that they could continue to be counted the next day.

So he had an opinion from the county attorney's office that indicated that was okay for them to do that.

MR. HARVEY: And the people that were doing that were not sequestered?

MS. MITCHELL: They were sequestered and there was also members of the political parties who were present as that process was taking place.

MR. HARVEY: They were sequestered while it was going on. At the end of the day, those folks went home, correct?

MS. MITCHELL: When the process ended at the end of the day, they were relieved that day. Yes, sir.

MR. HARVEY: So overnight, an unknown number of absentee ballots had been scanned and numbers calculated before election day?

MS. MITCHELL: The ballots were not calculated. They were actually scanned into the optical scanners. They were fed into the scanners. That information was not removed from the scanners until election night when Mr. Brower and his group removed the items from the machines.

MR. HARVEY: We had reports of, in the primary, people not getting nonpartisan ballots. People went in to vote and they requested nonpartisan ballots. Actually at Wheat Street precinct where we talked about earlier, we had two individuals who said that they asked for a nonpartisan ballot and were told that they couldn't get one; they had to pick either Republican or Democratic ballot in the primary, which was not accurate.

We had a situation at a precinct in East Point where a voter arrived about five minutes before the close of polls, about 6:55. The doors were locked and the poll manager said, sorry, it's 7:00; the polls are closed. She argued with him and tried to get in. He said, no. Sorry. Look at the clock on the wall; 7:00. She started walking away. She went back to the parking lot. Apparently, some people that were there were able to convince the manager that, no, it's not 7:00 yet. He opened the door, let those people in. The woman saw it and went back to the door, and by the time she got to the door, he closed the door and said, no. Now it's 7:00; you can't vote. It seems unusual that somebody would take that step.

We've talked about the results. We had one situation, one allegation, where at a precinct, a candidate's name was not registering on the DRE. There is an individual named John Maddox who said he wanted to vote for a certain person for sheriff, and he selected the name on the DRE. When he got to the summary page, there was no candidate marked. He said he called the poll manager over and the poll manager watched him do that again and it didn't show up, and the poll manager cast the ballot for him and cast his ballot before he was able to select a candidate for sheriff.

MS. MITCHELL: Mr. Harvey, we have a comment in that regard.

MR. HARVEY: Yes.

MR. BROWER: Yes, I think the poll manager, unless she's left, Ms. (Unintelligible) Ricks, but I think she's here.

MS. COLEMAN: She probably left when he dismissed everybody.

MR. HARVEY: We actually had her subpoenaed for another reason, and I realized that when we dismissed her, we let her go.

(Crosstalk)

MR. HARVEY: That's sort of he said/she said scenario.

MR. BROWER: We to speak with her in that regards. That issue did come up and we talked with her. She categorically denies she did not cast the ballot button for him. He, himself, pressed the cast ballot button and cast his own ballot.

MR. HARVEY: Did she indicate whether or not his information was accurate, that the candidate was not showing up?

MR. BROWER: That was incorrect. She said the candidate name was (unintelligible) and you had scroll down. But the candidate name did, in fact, appear on the ballot.

MR. HARVEY: Thank you.

SECRETARY KEMP: We'll follow back up with her.

MR. HARVEY: We had a few spatterings of absentee ballot complaints about not getting ballots. We have that information to provide to Fulton County so they give an accounting of that. That summarizes the issues that were present in the primary election on July 31, 2012.

SECRETARY KEMP: Any of the Board members have questions for Mr. Harvey or any of our witnesses??

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Are you going to move on to the 2011, 110 demolished residences issue?

MR. HARVEY: Yes, sir. This case was sort of unusual. It was a complaint that came in late in 2011 from somebody who had observed that a lot of public housing units had been razed; they had been destroyed. They checked voter registration and found out that there were still thousands of people registered to vote at those addresses. You probably will recall, some meetings ago we presented a case from 2009 where the allegation was all these people had voted illegally. We found out that was not the case. People were still registered to vote there.

We got that information and we looked at it. In May of 2012, I met with Sam Westmoreland and Mr. Brower at the State Election Board meeting in May and I told Mr. Westmoreland, look, we've gotten this information that people are registered at addresses that no longer exist. Mr. Westmoreland told me, look, we're already aware of it. We're taking action; we're going to do something about it. I said, well, I would like to work with you on that. He said that he would call me back. He also indicated that he had found some elements in the Fulton County election office that were trying to discourage work from being done. He made some comments that seemed to indicate that there were some people who did not want to see the problem corrected. He told me that he would talk to me about it later. He wanted to talk out of the public eye. This was at the hotel room lobby area.

It was not long after that, in June, that Fulton County sent out letters to voters challenging their registration based on, presumably, the information they had. Mr. Westmoreland sent out approximately 2400 letters. We had only received information about 1300 addresses. It turned out that about half of the letters they sent out were to people who actually did have residences where they were registered to vote, and Fulton County (unintelligible) hearings and didn't proceed any further with addressing that issue of whether or not these folks were entitled to be registered at addresses that no longer existed.

Then shortly before the November election, as we've spoken about, the Board decided, or elements within Fulton County, decided to put these voters into pending status. And that was the discussion we had earlier. That's kind of where this case is now. The voters,

their status has been restored to active, or the status it was before, and it is unknown whether or not Fulton County is going to take any additional action to determine whether these folks are eligible to remain to registered vote.

At this time, we don't have any specific allegations except as they may be related to the general election case.

Ms. Mitchell, do you have anything else to say about the --

MR. WALBERT: We could respond on that and, you know, whatever. I mean, I sort of understood we're holding our response to the end of the . . . whenever.

MR. HARVEY: Okay. Any question?

SECRETARY KEMP: Any questions?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, is that all you've got Mr. Harvey?

MR. HARVEY: That will conclude my presentation for the time. I would ask that, at this point, the investigations are open. I would ask if the State Election Board would like me to continue the investigation and continue to look for information and subpoena witnesses and documents as appropriate?

SECRETARY KEMP: Well, I think, certainly in my opinion, I know we were just still continuing to get documents. We've had a lot of information before us today. I think there is still a lot out there that we need to look into. Certainly, we have other individuals that we need to talk to. And then, certainly, we need to allow the elections division and Mr. Walbert the opportunity to converse with us so we can make sure we've got the full picture of this story, and then we can come back and see whether we need to have another hearing to hear more evidence or whether we can move into the more formal process like we do on the normal meetings. I don't know if any other Board members have any thoughts on that, but that's kind of what my thinking is going forward.

MR. WALBERT: I request on our behalf that we be allowed to say something today.

SECRETARY KEMP: Absolutely.

MR. WALBERT: We have a little department. On election day, we have tons of employees and we have 40 people keying in stuff. But this is all this department can do is respond to subpoenas and requests for documents for the last two months. Twenty-three thousand pages, and those aren't ones you just hit a button and they come popping out. So I really would appreciate the opportunity to address this, because --

SECRETARY KEMP: What I was planning on doing was seeing if the Board members had anything to add and see if they had any questions for you about the process going forward. And then we'll be glad to let you make a statement.

MR. WALBERT: Thank you very much.

(Whereupon, there was no response)

SECRETARY KEMP: Okay.

MR. WALBERT: Thank you. And let me just start, and I think the easiest thing would be to start in reverse order and pick up on what Mr. Harvey just addressed, and maybe we can put some of these things to bed and move on and decide how to deal with other things.

On the voter purge matter he was just talking about, and I think the history of that was pretty accurately stated. That came about, as Mr. Harvey said, through a conversation between him and the ex-director, Mr. Westmoreland. My understanding, and I wasn't involved in it, but I've been told this, that Mr. Westmoreland initiated that after speaking with Mr. Harvey on his own without the Board actually knowing about it; the Fulton Board of Registration and Elections, which is clearly a problem in its own right.

Then it came about that the letter was going out within the prohibited 90 days of an election. In other words, because it was, in effect, a challenge to your voting or purge, whatever you want to call it, and that can't be done with 90 days of an upcoming election, that created an issue. Then I think counsel was involved at that point; not myself, but Mr. Parks. He advised that this can go forward. So everybody who had gotten a letter that there was a possible problem also got a letter to ignore what had happened. So they were formally told that nothing is going forward; don't worry about

this, from that point of view. No one who was involved in this was ever challenged or not allowed to vote or anything of that sort. I think is pretty important to understand that.

One of the misapprehensions that happened here was, apparently, some of the -- these were basically were housing project addresses is what this bulk of people were. And some new housing projects have been built, and I don't know if they're public or private, in the same address. So a lot of the people who had these quote bad addresses, in fact, were in the same place and there were people at those good addresses that had been assumed by Mr. Westmoreland, in his error, were wrong.

The long and short of it is this, and here's where we are today to respond to Mr. Harvey's question. Hopefully, people will have upgraded during the last election, will have all updated their registration, so those people who are still, in fact, Fulton County registrants who were at those addresses, hopefully the system has self-corrected by going through this last election on that. Maybe they filled out provisional ballots, for example, and corrected their registration at that time.

So the point of that is, A, Mr. Westmoreland should not have done what he did initially, but it affected no one. No one got put through a hearing and everybody was formally notified to disregard his earlier letter. And insofar as there are quote bad registrants still, those will be dealt with as a purge is -- hopefully the Board will have time to do this, but a purge is scheduled for February of this year, next month. I don't mean this facetiously, or whatever, off the cuff, but really the Board is really hampered in its ability to do its regular work by virtue of the tremendous amount of requests for documents and information.

But assuming the purge can go forward, that issue of how many of these, in fact, are bad addresses today, that will get rolled into that and that will be determined. Because a lot of those people who had been on that list would -- it had been self-corrected in the system; their registration address would have been changed or they are out-of-county. And if they haven't got a voting history of voting in the county, they will get a purge letter and it will take care of itself in that way.

So I think that is one that, frankly, should be -- I don't think anything needs to be done with that. The system is taking care of that. No one was denied the right to vote, and no one was stricken.

On the question about the July -- moving, again, in reverse chronological order -- on the July primary, and there were a number of things Mr. Harvey said, and I would address them.

First of all, the one about the redistricting issue and people being put in the wrong districts, that, indeed, did happen. And that, indeed, was an error of Fulton County GIS, if I've got my acronym right, there; GIS doing that at the end of the day. I would like to share this with the Board, however, and I tell you, I've been involved in four different election cycles as an election lawyer over the years, two of them in the '90's and 2000 representing the State of Georgia. So I know a little bit about some of the things that happen and always, unfortunately, it just happens that there are mistakes like that are made every time. In my experience, I've never heard of a Board proceeding being brought against any county that had that problem. It's just never happened before.

So I question, is this something -- it happened; it's unfortunate. When we get to 2021, the next ten-year redistricting, the technology is going to be totally different. To get in there and say, well, how did you do it and why did it go wrong in the GIS since last time, you can't fix that as a practical matter going forward, because that technology, every ten years, it's totally different. The software, the shape -- will there be shape files? All that kind of stuff. It's just going to be very, very different.

So it's very unfortunate it happened. Fulton has the most complex set of ballot combinations of any county in the State. If you go to Warren County, you don't have this problem. You may not even have two different ballot combinations; you may. But in Fulton County, the fact that it doesn't happen more often, honestly, is fantastic because there are so many school board, city council, county commission, House District, Senate District, Congress, and so on. With all that stack of lines, the number -- how many ballot combinations are there? A thousand?

So the fact -- it's terrible that it happened. The good news is it was looked at very, very closely. It had no impact on election. Before that was certified, we looked at that very, very closely and we took the worst possible assumption and said if everybody that had been miscategorized had, in fact, voted, which, of course, is about 30% turnout, but if everybody had, it still would not have changed any of the outcome.

In several of those elections, there were Senate and House Districts we're talking about. Obviously, if you have one House District wrong, you've got another because they're

paired together. So there were two allocation errors, one affected two House Districts, one affected two Senate Districts. In several of them, there were no candidates or an unopposed candidate. So, by definition, it didn't affect that.

SECRETARY KEMP: I have a question for you.

MR. WALBERT: Yes, sir.

SECRETARY KEMP: So is what you're saying in that situation, then, that the people that were calling our office saying that they knew they didn't live in So-and-so's district and they voted for them in a certain race on the electronic voting machine, y'all had all that fixed? Because it seems to me that person voted in the wrong district.

MR. WALBERT: Absolutely. What I'm saying is that if you take every number of everybody that might have voted and added -- it didn't change the impact. Absolutely the number of votes cast was erroneous because of that. I'm not saying it didn't --

MR. WORLEY: You mean it didn't change the outcome that day?

SECRETARY KEMP: Didn't impact the election.

MR. WALBERT: Absolutely. We wouldn't have certified if it had. And then, I guess, what would it would have done -- again, we start off with the worst scenario; assume 100% of every registered voter who is wrong voted. And that still wouldn't have affected it.

SECRETARY KEMP: I'm with you.

MR. WALBERT: Okay. And then, of course, is the unopposed and the no-candidate (unintelligible) primaries. As far as the primaries, it could have affected that. That's what I was saying there.

Again, it's unfortunate; I wish it hadn't have happened, but it did happen. Fulton is by no stretch of the imagination unique in my 30 years' of experience on those particular issues that happened. But I've never seen a Board proceeding brought or anybody suggest any sanction for a county doing that.

Mr. Harvey mentioned -- just going down his list of things -- the question about the artifact in the software and the fact that it wasn't our fault. As Mr. Brower said, KSU has fixed that and it aggravated the numbers for the whole -- the votes cast in that entire precinct, I guess, to the sub precinct of that ballot and that's why it looked like so many votes had been cast. We don't control that; we didn't control that. And it's unfortunate, but I'm disappointed to hear this being raised as an accusation against Fulton County. This County is not perfect, but I would like to see a better focus on what is done right and what is done wrong.

For example, Bridgette Jackson, we hear at the conclusion that Bridgette Jackson voted wrong six times. Well, the fact is somebody who was the poll worker, lost it -- wasn't focused and started writing her name on there six times, as we heard today. Why wasn't that question -- why wasn't -- before we cranked up this body and started having a hearing with that accusation made about one person voting six times, how come that question just wasn't asked to somebody? Is this really the right process for these kinds of questions and the time -- it would have taken two minutes, five minutes to call the person and find out what happened. Who is Bridgette Jackson? Well, that's the poll worker. Could have found that out rather than cranking up this hearing. Should we now send it to the Attorney General's office for even more --

SECRETARY KEMP: Well, we're not here to decide if anything is going to the Attorney General's office today. We're here to get the facts on the record. I think there are still a lot of facts that we need to do some further due diligence on. So I don't want to get into question-and-answer argument. I'm going to allow you to have a closing statement. But there's, you know, we hadn't allowed, you know, individuals that were affected to speak, other than our public comment period that we do before hearings. And we always do that. So I'm going to allow you to address the case --

MR. WALBERT: Thank you. I appreciate that.

SECRETARY KEMP: -- but we'll move forward and we'll have a time where we can argue about it later.

MR. WALBERT: I appreciate that. Just moving, again, backwards in time to what Mr. Harvey presented going back to the general election of this year, I think what we have heard is no one was denied the right to vote that should have had the opportunity to vote, which is essential. We have had, and I could put these witnesses up here, but I think it's

pretty apparent that, as I said in the opening statement, there's two issues we've heard that really made may touch everything, even the document area. You know, one says, well, we just got so many people in there on election day and they were voting provisional, and that's why we didn't keep perfect track on some of these forms.

Everything ties back to two things: Supplemental list and the size of it; and the provisional ballots and the number of them in Fulton County. And I don't have any problem having a further investigation about the size of the supplemental list. But that investigation must take into account the lateness of which the County got those from the Secretary of State's office. We were getting thousands and thousands and thousands of them right before time. We had 40 people putting them in. Should the Secretary of State have gotten them to us -- should there be a rule that the Board should adopt that the Secretary of State's office always gets them to the county within 48 or 24 hours of receipt? Then we wouldn't have had this problem. I'm not in any way trying to cast aspersions, I think --

SECRETARY KEMP: I think when we get into getting all the fact out, we'll know exactly when the ballots were delivered, and that's something we can debate --

MR. WALBERT: Really, I'm talking about the applications, now; the registrations.

SECRETARY KEMP: Voter registration applications.

MR. WALBERT: The other thing, and I'm not sure, I know Mr. Worley wasn't here and I don't remember, Mr. Webb, whether you were or not, but one of the things that is crucial here is this -- and I very much urge you all to consider this in going forward -- I mentioned in my initial comment the fact that Fulton County may be the only in the State of Georgia that actually follows the law with regard to provisional ballots, and I've got a copy of that federal statute I referenced. Russ can hand it to you. I've got one for everybody up here.

MR. MCIVER: Move to accept.

MR. WEBB: Second.

SECRETARY KEMP: Mr. McIver moves to accept the document; Mr. Webb 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: That motion carries. We have accepted the document.

MR. WALBERT: Thank you very much. I've highlighted and emphasized the critical part, but what is essential about this federal provision that Fulton County follows that is contrary to the State regulation is that if a person appears and is not on the list of eligible voters for that polling place that he appears to, thou must give him or her a provisional ballot. Thou cannot do what the regs say and check it out and see if the person is in the wrong polling place and send them somewhere else. Fulton County follows that policy and has for years and it accepts it. So it is more permissive, if you will, on the provisional voting practice, and that's why there is more provisional voting ballots cast in Fulton County than elsewhere in Georgia. And I shouldn't say -- it's not dramatic. I think it was 3000 we heard, or am I getting my supplemental list . . . Yeah. But I think Cobb had a thousand, for example.

If you look, interestingly enough, at Fulton County compared to other counties in other states with similar size and demographics, the number of provisionals are very similar because they are also following the federal law. They're not telling somebody that comes in who's in the wrong polling place, you shall go to your right polling place and deny the ballot if they don't because that's what our regs say.

Now, I point out, too, Georgia law does not say that. Georgia law is silent on this; right in between. federal law mandates you give it to someone who appears in the wrong polling place. The State regs, you all's regs, state the opposite position, thou shalt send them to their proper polling place. And State law says neither; it doesn't address that issue or either is silent on that issue.

But it doesn't take a lawyer to give y'all a lecture on the fact that federal law controls on that issue and this is, of course, defined as federal elections; it's for federal elections. The federal law, as you know, a federal election is not just for federal officers. A federal election is that complete election for everybody who's up simultaneously with the federal

officials. So every two years, our elections in every congressional election year and the primaries, they are for our quote federal offices; federal elections. Theoretically, I guess you could this (unintelligible) -- I'd have to look at the law to have a more intelligent opinion on it. Maybe this would not apply in municipal elections that are non-partisan, non-federal; maybe. I don't know.

But for the general election we've just been talking about today, with all due respect to the challenges to provisional balloting in Fulton County, they are, in their much more liberal way of doing it, they are unquestionably following what is the explicit command of federal law. And I guess, you know, we hear things about -- we've heard things about these forms not being filled out right or wrong in some cases. And that may well be. We've heard this now for the first time and we have to go back and investigate it and give a report, I guess, to Mr. Harvey, or however that goes, and see whether that should go further.

But in terms of -- all of this, though, is really being drive by two things: The supplemental list, which is big for that reason I've been discussing; and provisional voting numbers, which are much bigger in Fulton County than other counties in Georgia. But the reason for it is we're following the federal law.

So, rather than just sort of -- and I realize -- I'll throw myself on the mercy of the Board in a sense in terms of the -- if there are specific things that need to be adjudicated, let's get down to it and maybe this, maybe looking at the -- looking at what should be the proper rule on provisional voting in Georgia. That'd be one, I'd say, would be a good rulemaking procedure for you fellows.

But to just investigate and investigate and investigate more and more, it is bleeding the group dry. The most important thing they could be doing right now in terms of (unintelligible) approving voting administration in Fulton County is identifying and seeking out, and Mr. Smith happens to have real expertise in this, Gary Smith, more advance voting sites. Because the world, as you know more about elections than I do, we're moving towards more and more advance voting. And the more and more advance voting that happens, the less and less problems you have on election day.

So I think Mr. Smith's report, if you noticed in there and he might have testified to today, recommended that it be ten advance voting sites, and the county approved six. Now, whether ten is the right number or 15 or 20 or eight, I don't know. But having their

efforts, looking to the future and for the city election coming up, the non-partisan city election here in November, having that effort done to have advance voting sites identified, so that's the real basic thing for having a prospective remedy and having a well-run election in the future in Fulton County. Their way has -- you gentlemen, everybody here, the Board of Fulton County, Board of Registration and Elections, they all have the exact same goal: run as good an election as you can at the least cost if you can do that. Everybody has the same goal.

Perceptions of what's going on and what's right and wrong can be very different in those regards, but the goal is the same and I am confident that to liberate this group here who has done nothing but respond to inquiries -- now, we got the subpoenas, but, you know, that was just dozens and dozens of requests for information beyond and before the subpoenas. And we're not -- there's never been a -- other than the document of Mr. Smith that was considered by the lawyer that set that up to be privileged, there haven't been a single document ever that Fulton denied. Ever. It was simply a refuse [sic]. It was always we'll get you everything we can when we can get it. So I would just -- I would very, very much plead to the Board to -- maybe this isn't the day to do it; maybe you do it in Executive Session -- figure out a way, what is it that we really need to do going forward. And, truly, if Mr. Harvey has a certain very specific set of allegations about somebody that didn't fill out the document right, and so on, and that's worth a hearing, okay. But the real question, I think, as to how to manage this in a way that gets everybody the goal they want, which is the best election you can have in Fulton County and throughout the State. If I'm right about these rules, you gentlemen, I know, are very concerned about that and you're going to want to do the right thing and make sure that your rules comply with the federal law.

So everybody's got the same goal and I just think -- I see these poor clients who are trying to look forward to the November election, but in looking forward and looking to do the purge right in February, they haven't had a minute to breathe.

All they do is do things because responding to these requests does not mean just going to the file cabinet and get out those documents. They all have to be pulled together; the information has to be figured out from different sources; and it has to be copied or put into a tabulation, whatever. It's a whole lot; lot of work to come up with finding 23,000 documents.

SECRETARY KEMP: Mr. Worley?

MR. WORLEY: I appreciate a lot of what Mr. Walbert has to say. But I wanted to just give my view of what this is why we are here.

I appreciate what you say about Fulton County doing it a little differently than other counties. But I think the real issue is not that Fulton County had 6000 provisional ballots this year or 9000, whatever it is. Let's say 6000 this year.

MR. WALBERT: It's 9000.

MR. WORLEY: Right. And that Cobb County had 1000 or other things. It's how many provisional ballots did Fulton County have of this year and how many did they have two years ago and how many did they have four years ago. Because, from my perspective, I spent all of election day in an election protection boiler room getting calls from all over the state about election issues and getting dozens and dozens and dozens and dozens and dozens of calls from Fulton County about provisional ballots and not getting calls from other parts of the state about provisional ballots.

I appreciate what you say about it's really not a problem because everybody gets to vote. I don't think you can really say that. The issue is, now many of those provisional ballots that were caused by this supplemental list problem, if that's the case, how many of those provisional ballots were actually counted? And were they actually counted correctly or not? And who is it that is casting these provisional ballots and who is really being harmed when those ballots are not being cast?

I would really like to see a breakdown by gender, by race, by age of who is voting these provisional ballots, and which of those provisional ballots are not being counted. Because I think you're going to find it's younger people, older people, less well-educated folks, more transient populations who are not getting the ability to vote because Fulton County, for whatever reason, mishandled the -- if in fact they did mishandle -- the provisional ballot issue.

So I'm very concerned that the Fulton County election operation is not serving voters in Fulton County very well. And I'm very concerned that it's not DeKalb County that we keep getting these problems from year after year after year. And I think that is why the Board is concerned. It's year after year after year Fulton County is the election board that we have problems with.

We fined Fulton County, I think the Election Board, \$120,000 a few years ago. Mr. Garner was brought in to clean things up. Things seemed to be getting better. He left for reasons, I think, unrelated to the election administration, and then Mr. Westmoreland was brought in, who seems to have been a complete disaster. And now there are going to be new Board members who are going to be, I guess, choosing a new administrator. I don't know that the process is. But something really has to be done about the way Fulton County administers its elections because it's impacting -- I think it's impacting poorer voters, African-American voters, elderly voters; that's who is getting impacted from what I can see from the precincts that these problems keep happening at. And I, for one, am very, very concerned about that.

SECRETARY KEMP: Anybody else on the Board have anything?

MR. MCIVER: I have, first, just a question. Mr. Walbert, one of the revelations for me today was that one of the ladies mentioned people vote out of their precinct deliberately, as if you're leaving work and you pass a sign that says, voting, and you just pull into a parking lot and go vote, I mean, as if it were some matter of conveniences as opposed . . . Where does that notion come from?

MR. WALBERT: I think -- here's really -- and to follow up on what Mr. Worley's comment, college kids are real big on it. And is that because they all go in one car to one place, and so on? Part of it's that: transportation.

It's also -- here are some other things that go into that. They're going there to vote top of the ticket. So it's irrelevant, you know, in their minds. And that's been reinforced by our advance voting laws because you vote anywhere. So for them to understand, well, I can vote anywhere 21 days out of 22, but on the twenty-second day, all of a sudden I can't, that's never going to get understood by everybody. It can't be because that's an inconsistency in the system.

So that, you know, if we go back 30 years, I don't think anybody thought they could vote out-of-precinct. And I think it's something that has changed largely because of the liberalization, if you will, of absentee -- people voting absentee for no reason nowadays, unlike the old days. Certainly, advance voting anywhere in the county has very much contributed to that perception. You add on to that the top of the ticket philosophy, and, again, college kids here from out of state, they don't know a single local person running for office. They're going there to vote top of the ticket, maybe Senate and maybe

Congress.

So it's all that together and that's why it is. And that's not something that Fulton County can change.

An I would throw this out to you, too, to think about. And that's just the desirability of it because, you know, I don't want to be dramatic about this, but you've got people that come in and you're going to have to call the cops if you want to get them out of there at some point. And that's not something you want to do, clearly; not as a general matter of public policy, and certainly around voting, it's not something that anybody wants to do to have to enforce the you can't vote here principle.

But I think this is -- and maybe this federal law is a major contributor, because around the country where these people are from -- students, I'm talking about, specifically -- they know you can vote anywhere. Yeah, it's easier to go to vote in your precinct that's nearby. You know you can go there always. But now that the federal law allows you to vote anywhere provisionally, I think all those factors are coming together why there is such a different perception than when you and I first went out to vote, where there was no question about where you had to do it.

MR. MCIVER: If that's the case, pardon my application of logic, but if that were the case and I'm the lady from Morehouse, why do I only get 50 provisional ballots if I know I've got hundreds of college students that may come rushing in?

MR. WALBERT: That was twenty-some thousand we provided out there. And I think that precinct got more. Fifty was the minimum.

MR. MCIVER: Okay. Well, perhaps -- I know she had to call for more ballots; I remember her saying that a couple of times, as I recall. So it would occur to me from a planning standpoint, I would get lots of provisional ballots at lots of places knowing this is going to repeat itself. Apparently, it was worse in '08 and for some reason we didn't get so involved in it as this situation. But here we are again in 2012, and it looks like this -- no real planning went into this.

MR. WALBERT: Well, I would really suggest to you that the real solution, the only one that's realistic that I've heard in talking to Mr. Smith and others in this, is going to be -- the national trend is to more and more advance voting, and that's actually going to be

the solution rather than -- more and more provisionals is not a good solution because they are, and don't disagree with Mr. Harvey about the difficulty of administering that system. You know, back when I started doing election cases, there was no such thing. When I got back into it recently, what the heck's a provisional ballot? I was a little surprised that was part of the law.

It's a cumbersome thing for people to have and there was no such thing in the old days. You know, you're at the poll; there's a decision made; you're in or you're out. So I don't think more and more provisionals is really the real answer. I actually think, and it's a shame that Georgia has shrunk it's advance voting time from 45 to 22 days, for whatever reason. But more and more -- in Fulton County, more and more advance voting sites making that available and more user-friendly is actually probably the realistic practical solution going forward.

SECRETARY KEMP: I think, for the record, we've shortened the in-person part of early voting. You can still vote absentee by mail 45 days before the election.

MR. MCIVER: Let me leave you with this thought. It's something Mr. Harvey may want to ask you about, but the thought I leave you with is our mission is solutions and trying to make the system work in a way that we don't have very involved matters like this. Were going to be looking to you as the representative of these folks for those solutions, as well. One that might occur to me is, in terms of training, when Ms. Coleman is training people, maybe the Secretary of State needs to have certification for just provisional balloting. Maybe there ought to be a real live certified person in each polling place that specific certification for that since this seems to be where our complexities are at this point. That would be for the Secretary to decide, I know.

But we're looking for solutions. So in addition to defending these fine folks, you know, be thinking solutions because that's where we want this to end up. We don't want do adjudicate this. We'd prefer not to have it go to a hearing. We'd like to get it done ahead of time. Mr. Parks, who has preceded you on a number of occasions here, has been very helpful to you us in that process. We need solutions so that w can get this resolved.

I think Mr. Worley would join me in that. As troubled as we all are and as concerned about the various socio-economic groups that may be disenfranchised by the cumbersomeness of this thing, it is about solutions.

MR. WALBERT: I appreciate your comments very much, and I'd just add on to the -- Fulton County training, and it may not be adequate, but we just take the Secretary of State's modules and actually expand on those. I agree with you completely with everything you just said.

MR. MCIVER: I'm charging you now to bring us solutions.

MR. WALBERT: I agree with almost everything you just said.

SECRETARY KEMP: Anybody else?

MR. WEBB: Two points to Mr. Walbert. One, if I heard you correctly, and maybe I didn't, but it was said no one was denied the right to vote. I think I could infer today that there were people who were denied the right to vote when provisional ballots were not at the polls. I think that people got tired of waiting for them, and whether they came back, whether 100% turnout came back and voted or not, I don't think so. I think it's easy to infer that people were denied the right to vote.

Second of all, in reading the federal act, the federal statute here, I think you're reading it very rigidly. I don't think there's anything wrong with a process that says you're registered in Precinct A, we're in Precinct B; you should really go to A. But if a person says, no, I want to vote here, then I think you have to give them the ballot. But I don't think just say, oh, you're in the wrong place, but, hey, here's a ballot; vote it. I don't think that's the case. So, anyway, there's probably some background information on that to determine (unintelligible) look at it further.

MR. WALBERT: That's a good point. And I think the problem, I think, as I read the State rule, you can't give them a ballot once you determine they're in another precinct. So -- and it's such a tricky judgment call. You're asking very harsh things of the -- well, offer them to go to another place and tell them they should go. But if they don't, give it to them.

Fuzzy rules like that are -- we had 400,000 votes in Fulton County for this election. Putting discretionary things on administrators at the polls on election day is a very, I would think, a very harsh thing to do and fraught with danger.

MR. WORLEY: And I agree with you it's fraught with danger. But essentially what

you're saying is, yeah, you can vote here. But you're not telling them, but your vote's not going to be worth a damn. Because it's not going to count.

MR. WALBERT: Well, I'm not sure that they aren't informing them.

MR. WORLEY: Your alternative seems to --

MR. WALBERT: Well, that should be the rule, maybe, that you do that; State rule.

SECRETARY KEMP: Mr. Simpson did you have anything?

MR. SIMPSON: Nothing.

SECRETARY KEMP: Let me make a few comments in closing, and our posture will be that we will gather back up and continue to gather information on this case moving forward.

First of all, I want to thank the employees of the Elections Board for being here today. I know it's been a long day for you, so we appreciate you showing up and answering our questions and Mr. Walbert, too. And, certainly, Mr. Smith, appreciate you being here today.

But I do want to just make a few comments because I understand Mr. Walbert's position as the County's attorney and how some may view that we should move forward from right here and fix this problem. But I think in my view, and I believe in the Election Board's view, we've taken pride over the years of investigating every single complaint that we have to make sure that those voters that should have legally been able to vote on election day get their vote counted.

I think now we still don't know the answer to that question. That's why think we need to move forward where we can have that dialogue and hear from other people. There are still a lot of people I'm sure would like to have input in this process when we have a formal hearing and call the respondents and the other folks who would like, you know, who registered those complaints, and hear from them.

We heard that there were no -- nobody that could have voted didn't get to vote. But I think there is some doubt to that. We had other people today that said folks left before

they got an opportunity to vote. We had people who it seems -- and we will verify this or not -- that they registered after the deadline and cast a ballot. So, not only does it appear that people who wanted to vote did not get to, but some people that should not have been eligible, did get to vote.

I think we also have some serious things that bother me about documents that were altered after signatures were on them and those things merit us continuing to look into that.

And I think, certainly, when you look at -- if we had had very close elections, whether at the local level, State level, or the national level with the -- with what seems like a lack of proper reporting and numbers matching up, I can only imagine what we would be going through trying to count those provisional ballots. You know, this State and this Board has passed laws and rules that we have in place for a reason, and that's to make sure we have accessible, fair, secure elections in this state.

You all have my commitment, and I'm sure the Board feels the same way, that we will move forward in a fair process that gives the County -- that allows us to work with the County as we move forward, and I would hope that we would have full cooperation as we do to get to the answers of what really happened; decide what, if anything, needs to be done; and then how we move forward. And, like Mr. Worley says, really fix this problem that we have.

This was an isolated problem. You know we had one of the smoothest elections statewide that I've run, and certainly, the feedback was that that was the same. I know many of you working in the office on November 6 weren't responsible for some of the problems that happened in the primary that actually potentially could have led to problems that you were having to fix then, which delayed fixing things that led up to the general.

But, you know, we don't want to try to perceive anything here. I think we need to continue to move through the process and we'll look forward to working with the County when we do that.

If nobody has anything else from the Board, I'll take a motion that we adjourn.

MR. MCIVER: So moved.

MR. WEBB: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)/

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: We're adjourned. Thank you for being here.

(Whereupon, the proceedings were concluded at 4:00 p.m.)

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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 18th day of February,
2013.

Deborah L. 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 MEETING

THE OFFICE OF THE SECRETARY OF STATE
SECRETARY OF STATE PROFESSIONAL
LICENSING BOARD
237 COLISEUM DRIVE
BUILDING B
MACON, GA 31217

THURSDAY, FEBRUARY 21, 2013
10:00 A.M.

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

*DEBORAH L. MERIDETH, CCR
HAPPY FACES COURT REPORTING
POST OFFICE BOX 1063
TUCKER, GEORGIA 30085
(770) 414-9071*

APPEARANCES:

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

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

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.

10:00 a.m.

PROCEEDINGS

SECRETARY KEMP: Good morning, everyone. Can y'all hear me in the back okay? Welcome to our meeting. Before I call the meeting to order, if anybody is here that wants to make a public comment, we allow people a couple of minutes at the start of our meetings to talk to us about any issues that they'd like to address the State Election Board with. This is not a time to talk about specific cases that we'll be calling later on our agenda. So if you're here for a specific case, we'll allow you time when we call that case. But if there's other issues that you wanted to talk to us about, we're glad to hear you for a couple of minutes this morning.

We do need you to fill out a public comment form just so we can have your name and address and your contact information for the record. So if anybody does want to speak to us this morning and you have not filled a sheet out, please do so at this time.

Not seeing anybody, we'll go ahead and move into -- I'll call our meeting to order, the State Election Board meeting for Thursday, February 21, is officially called to order.

Again, let me welcome you to Macon. For the last several years, we've had this February meeting in Macon because during the Legislature it's hard for us to find a good room around the Capitol to accommodate the size of our meetings. It's also hard on you all trying to find a place to park. So it's been good for us to come to Macon. It also gives us the opportunity for different press outlets throughout the State to pick up on what State Election Board does and how seriously we take these type issues. And I think the Board being willing to drive from Atlanta, for those members that are from Atlanta, to Macon and in Savannah has helped kind of educate Georgians on what we do here at the State Election Board and help them understand the process and how seriously we take that.

If you would bow with me, I'll lead us in the invocation and the Pledge of Allegiance.

- - -

(Invocation)

- - -

(Pledge of Allegiance)

- - -

SECRETARY KEMP: Our next order of business is public comment. Jenna, do we have anyone that's signed up?

MS. COOPER: We do.

SECRETARY KEMP: Last call for anyone who would like to address us this morning. Sir, you can come right up.

Let me just remind everybody here today when you're addressing the Board, we're taking a transcript. So just speak fairly slowly and clearly and into the microphone so we can pick up on your testimony. Also, when you come to the podium, we need you to state your name and your address for the record. Yes, sir. Mr. James Green. Welcome.

MR. GREEN: Yes, sir. My name is James Green. My address is 75 Blount Street, Forsyth, Georgia.

I come before the Board today -- I've had the privilege of seeing some of the information of the investigation of the voting supposed fraud in Monroe County, Forsyth. But I come today because I was a, I would say, a political candidate for several offices: mayor, school board, and even county commission chairman. During those times when I was campaigning, I had to -- I had people to approach me, I guess grunts you would call them, who would put signs up for you for a fee. I said, no, I don't have fees and I don't have money to pay for fees. I'm just a person campaigning trying to do what's right for the community.

Those same persons were the same people that did the same thing for Mayor Howard, Mr. Tye Howard. So again, that kind of bothered me, too. So for Mr. Howard to bring charges of that sort kind of bothered me and I just really think he did not understand what was going on and why he would be bringing charges (unintelligible).

Also, Mr. Tye Howard was in the election when I campaigned for the city mayor of Forsyth. I was disqualified because of the residence where I lived. I had two houses in Monroe County and the house at 73 Blount Street. They said I had not lived there long enough, so I was disqualified.

I went to Mr. Tye Howard. I said, Mr. Tye Howard, listen. I'm going to support you and you're going to win. And I said, now, I'm going to go out and talk to the voters in the City of Forsyth, and you're going to win. But I wanted him to know those same people that he filed charges against -- whoever filed the charges, was the same people that put him in office. The same ones. It was just his time for the next -- for Mr. John Howard. He lost. Take a loss and go home.

I would advise him and anyone else who ran and got this issue about voting fraud, come to sideline like I done and watch what the candidates are doing. Stop bringing these allegations against people. And we just need some clarification of what these claims are because, hey, I'm

not here to get a ticket, but I'm guilty of what they've said. I went down and people that were absentee ballots weren't able to go, I filled out the ballot, but they signed --

SECRETARY KEMP: Mr. Green, let me stop you right there. I don't want you to incriminate yourself because anything you say here is going to be public record.

MR. GREEN: Understand that.

SECRETARY KEMP: If you have an elections complaint or you feel like you did something wrong and you want to talk to somebody about that, you can certainly do that with our investigator, Mr. Harvey.

MR. GREEN: Yes.

SECRETARY KEMP: But I did not want you to incriminate yourself not understanding how this meeting works, now.

MR. GREEN: But I'm saying, if the charges that I have seen for some of the people, I can say --

SECRETARY KEMP: Let me stop you right there, too, now. I don't know if you heard the announcement a few minutes ago.

MR. GREEN: No, I did not. I was late.

SECRETARY KEMP: We're going to get into the cases and if you want to speak in regards to the City of Forsyth case, you will have a opportunity to do that. This is the time to address the State Election Board about matters not on our agenda.

MR. GREEN: Okay. Very good. Thank you for that, sir. The only thing I would say, well, for the State, I would like more clarification of the rights of the voters of whatever it is, for the absentee ballots stuff. It's not enough information. Thank you, Sir.

SECRETARY KEMP: Is there anyone else wishing to address us in the public comment period?

(Whereupon, there was no response)

SECRETARY KEMP: We'll move one to the next part of our agenda, which is approval of the minutes. We have in your binders, for the Board members, the State Election Board meeting from November 27, 2012. Do we have any corrections or a motion to approve those minutes.

MR. WORLEY: I make a motion we approve the minutes of the meeting of November 27, 2012.

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion by Mr. Worley and a second. Any other comments?

(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. Next we have the special called State Election Board teleconference from December 20, 2012. Do we have any corrections to that or a motion to approve those minutes?

MR. WORLEY: I make a motion to approve those minutes.

MR. WEBB: Second.

SECRETARY KEMP: We have a motion and a second to approve the minutes. 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 do want to make a note that the minutes from our January 31, 2013, State Election Board meeting have been held from this agenda and will be placed on the agenda for the next meeting. We have not had time to get the transcript and prepare those minutes. Or if we did have the transcript, we haven't had the time to get through

those. So we will vote to approve the minutes of that meeting at our next State Election Board meeting.

Now were going to move to our investigations report. What we're doing here today is having a probable cause hearing. The agenda item, number 4, which underneath you have a couple of divisions there, one of them is consent cases. These are cases that, after doing an investigation, that our investigators have decided there is not enough information there and these cases should be dismissed. We have started voting on those issues in block to save time from having to go through every single case.

However, if there is a board member or anyone in the audience today that would like for us to have a hearing on that case, we are glad to pull those cases off the consent calendar. If there is no one who wants to do that, we will vote to dismiss these cases with one motion and one vote.

So at this time, I'd like to ask the State Election Board members if there is a case they would like to pull off and have heard.

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, is there anyone in the audience that would like to hear more information on SEB case number 2012-8, Newton County ballot issue; SEB case number 2012-16, Carroll County presidential preference primary; SEB case number 2012, Sumter County, 2012 election; SEB case number 2012-29, Clayton County, qualifying Youhoing case.

MS. YOUHOING: It's Youhoing.

SECRETARY KEMP: Okay. Would you like for us to have a discussion about that case today?

MS. YOUHOING: Yes, I do.

SECRETARY KEMP: Okay. We'll pull that one off. SEB case 2012-32, the Dougherty County precinct card case; and lastly, SEB 2012-57, Houston County, July 31 voter registration case.

Is there anyone else here today that would like to hear -- Yes, sir?

UNIDENTIFIED MALE: Did you do 2012-0020, Sumter County?

SECRETARY KEMP: Yes, sir. Would you like --

UNIDENTIFIED MALE: Yes.

SECRETARY KEMP: We will pull that one off. Okay. Anybody else? Last call.

(Whereupon, there was no response)

SECRETARY KEMP: Is everybody clear on what we're doing? We're going to vote in block to dismiss the Newton County case, Carroll County case, Dougherty County case, and the Houston County case. And then we will move on to the presentations on Sumter County and Clayton County.

Do I have a motion to dismiss the cases that we are not pulling off of the consent calendar?

MR. WORLEY: I make a motion we dismiss SEB case numbers 2012 -8, 16, 32, and 57.

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion by Mr. Worley to dismiss the stated cases and a second by Mr. Simpson. Any other discussion by 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 and we have dismissed those cases.

Also, just for the record, I want to make sure that we state that Mr. McIver is not with us today. I believe he is in court somewhere around the country. So he is not here with us today.

Mr. Harvey, let me call SEB case 2012, number 20, the Sumter County case. How it will work from now on, we will let Mr. Harvey take a few minutes to present the case and we'll allow the State Election Board to ask him questions. And then if there is anyone in the audience wishing to speak, we'll give you a few minutes to state your side or your views on the case. And then the

Board will have the ability to ask you questions, and we'll let whoever is here to speak to those cases, we will give them a few minutes and then we'll decide what action to take.

So Mr. Harvey, you can go with the Clayton County case. That's number 6 in our binder.

MR. HARVEY: This case involved the Sumter County general primary election in July of 2012. There are two allegations. One was that a candidate was challenged, his qualifications were challenged, and there was no hearing held. The second was that the then-elections supervisor, Sharon Ratliff, violated her oath of office by supporting a position that was going to be voted on in the election.

The first allegation that the candidate was not notified about qualification hearing was found to be not true. They did hold the qualification hearing and the candidate appeared and the candidates announced he would not seek reelection. So that allegation was unfounded.

The second allegation regarding Ms. Ratliff centered primarily around a posting that she made on Facebook regarding the Department of Justice and the redistricting of school board districts in Sumter County. She had posted something encouraging people to contact the Department of Justice. It was unclear specifically if she was trying to, in my mind, she was trying to encourage or discourage the redistricting, or what was going on. There were allegations that she spoke publicly about it, however, we did not have any evidence of that.

So there was, essentially, no evidence of a violation that Ms. Ratliff had used her position as elections supervisor to take a political position on something. So I recommend this case be dismissed.

SECRETARY KEMP: Okay. Let me just state for the record, I think I told you all the wrong space in the binder. This is on Sumter County case, Mr. Harvey?

MR. HARVEY: That's correct.

SECRETARY KEMP: That was number 5 in the binder, just so we've got the record right. Any questions for Mr. Harvey from Board members?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak on the Sumter County case? Did you want to say anything or address the Board on this case, sir?

MR. WRIGHT: No. I don't really. I just wanted to hear you -- hear what you had actually done and what the --

SECRETARY KEMP: Why don't you come up here and just give us your name and address for the record and you can restate your comments. We're glad you're here. Welcome.

MR. WRIGHT: My name is Mathis Kears Wright, Junior, and I know that --

SECRETARY KEMP: Could you spell your name for us, sir?

MR. WRIGHT: M-A-T-H-I-S, K-E-A-R-S-E, W-R-I-G-H-T, Junior.

SECRETARY KEMP: Thank you Mr. Wright. Did you get the address?

MR. WRIGHT: It's 217 Forest Street, Americus, Georgia, 31709.

SECRETARY KEMP: Go ahead. Thank you, Sir.

MR. WRIGHT: Okay. Well, I wanted to hear what Mr. Harvey really had to say about the investigation. He and I had several conversations about it and it is, I believe, in the Sumter County area that Ms. Ratliff did, indeed, violate the policy as it relates to our supporting one candidate over the other one in her capacity as being supervisor of the election. And, of course, about the candidate receiving the information, it was very clear to us, and we submitted that information to Mr. Harvey, that she had sided one way or the other when she was supposed to be in a neutral capacity. Certainly, the evidence that we could see that we provided, did show that there were some violations because Mr. Harvey and I, you can tell, we still disagree at this point. So it's going to be basically up to you which way you rule today whether or not it is grounds to look into it further or you are going to dismiss it today and we will go back to Sumter County and move forward from there.

SECRETARY KEMP: Any questions for Mr. Wright?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here, Mr. Wright.

Anyone else wishing to speak on the Sumter County case?

(Whereupon, there was no response)

SECRETARY KEMP: Any other questions from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, I am prepared to accept a motion.

MR. WEBB: I make a motion to dismiss this case.

SECRETARY KEMP: Do we have a second?

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion by Mr. Webb and a second by Mr. Simpson to dismiss. Do we have 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 have dismissed the Sumter County case. Thank you for being here today, Mr. Wright.

All right. SEB case 2012, number 29, Clayton County case; Number 6 in our binder. Mr. Harvey.

MR. HARVEY: This case involves complainant, Ms. Youhoing --

MS. YOUHOING: Youhoing.

MR. HARVEY: -- who made several allegations regarding Clayton County elections. Several of the allegations she made are well outside the purview of the State Election Board.

The main complaint she made regarding elections was that she attempted to qualify as the Chief Magistrate Judge in Clayton County and was told by Ms. Annie Bright that she did not meet the

qualifications in that she did not hold a law degree. Ms. Youhoing alleged that Ms. Bright gave her forged documents and false information about the requirements for Chief Magistrate Judge. It was determined that, in fact, Ms. Bright was correct and one did have to be -- have a law degree to had to be magistrate. Therefore, she was not allowed to qualify.

Ms. Youhoing went on to make several other allegations about Clayton County attorney and them having information about criminal activity that is unrelated to elections.

For that reason, I recommend that the State Election Board dismiss this case regarding her specific election complaint.

SECRETARY KEMP: Any questions from the Board for Mr. Harvey?

(Whereupon, there was no response)

MS. YOUHOING: I need to speak.

SECRETARY KEMP: Yes, ma'am. Ms. Youhoing, please come forward and give us your name and address for the record.

MS. YOUHOING: Yes, good morning. My name is Shennielle Youhoing.

SECRETARY KEMP: Let me just spell that name for you. It's S-H-E-N-N-I-E-L-L-E, Y-O-U-H-O-I-N-G.

MS. YOUHOING: Yes.

SECRETARY KEMP: And if you could just give us your address, please.

MS. YOUHOING: 383 Staton Street in Jonesboro, Clayton County. Long-term resident of Clayton County. I would like to challenge the Secretary of State in some information that they stated to this Board which is incorrect.

I would like Mr. Harvey to present the Board and to present me with what information does he have that shows where a candidate in order to qualify for Chief Magistrate must be an attorney. I have information here that stated otherwise, and I also have with me here today the code that governs the qualifications for Chief Magistrate Judge. It's O.C.G.A. 10-20 [sic]. There is nowhere in this document that says one have to be an attorney in order to run. This is the only Judge position does that require one.

So I would like to challenge Mr. Harvey to provide proof before the Board and to me show that information.

Secondly, and real briefly, the document which was presented to me -- here is the document. I can exhibit it. I'm not sure whether or not the Board will want me to enter this into exhibit.

SECRETARY KEMP: Yes, ma'am. If you want to just finish, we will have a motion hearing in just a second to accept that.

MS. YOUHOING: Yes, sir. That document stated that the Clayton County was asking the House and the Senate to change the law to amended it to allow one to first obtain a law degree in order to qualify for Chief Magistrate. If you look, this document is fraudulent because if you compare it with the existing law in which they also strike Paragraph A and enter in lieu this information, that did not happen. This document is fraudulent.

Furthermore, I was intimidated on election property. I was actually given false information and discriminated against and actually told that I could not run for this position. And in the United States that is not supposed to happen, and I would briefly like to touch on one point why this happened to me, and which Mr. Harvey said is irrelevant. It's not irrelevant because this is the motive why they tried to get rid of me.

My incumbent, Daphne Walker, she was involved in an incident in 2010 where law enforcement in Clayton County kicked my door down without a warrant, murdered unborn child, had me in handcuffs and sexually assaulted me. After that incident law enforcement conspired with Ms. Walker and she had made a fraudulent warrant to, not only cover up the murder, but to make it appear as if officers had a right to come in my home.

And when she found out that I was about to challenge her for her job, what she did was conspire with elections officials to present fraudulent documents to me and disqualify me. And, as I stated, the Secretary of State's office is in violation because if they stand right here, Mr. Harvey before this Board and says one must have a law degree in order to run for Chief Magistrate Judge, I'm telling you that information is false.

SECRETARY KEMP: Okay. We'll be glad to wade through that here in just a minute. What else do you have for us?

MS. YOUHOING: I'm sorry?

SECRETARY KEMP: What else do you have? We're going to get to the point you're making here in a second. Did you have anything else you wanted to discuss with us?

MS. YOUHOING: Yes, sir. I just want to conclude and say it's a hate crime. It's civil rights violation. When elected official takes an oath of office to uphold the Constitution, he or she is forbidden by law to be involved in these criminal activities. This is not right. And she must be investigated, held accountable, and imprisoned for what she have done to me. This is not a simple situation. This is serious crime. This is serious crime.

The Secretary of State, if the Secretary of State refused to turn this information over to the Attorney General for investigation, he's also violating his oath of office, and I therefore challenge Mr. Harvey and challenge the Secretary of State that they have to. It's the law. They must, they must, they must -- again, I'm going to say must -- abide by the law. There should be no favoritism here because she is Judge Walker, so therefore she can commit a crime against a citizen and get away with it. She must be held accountable.

No one is above the laws of the United States. And it does not matter if there is a dismissal. I will continue to pursue this to the fullest extent of the law. She was involved in election crimes and she must be held accountable.

SECRETARY KEMP: Any questions of the Board for Ms. Youhoing?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here today.

MS. YOUHOING: Thank you for listening.

MR. WEBB: Do we need a motion to accept the documents?

SECRETARY KEMP: Yes, ma'am. Do you want us to accept those documents?

MS. YOUHOING: Yes, I do. Do I approach -- bring them to you?

SECRETARY KEMP: You can bring them to me.

We've got a motion by Mr. Webb to accept the documents. Do we have a second?

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion to --

MS. YOUHOING: So just to be clear, this is Exhibit B, and that is the document which was presented that somehow (unintelligible) House of Representative. And here is the current law for the qualification for one to become the Magistrate Judge.

SECRETARY KEMP: Okay. 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: That motion carries. We have accepted the documents. All right. Mr. Harvey, now --

MR. HARVEY: I believe Mr. Willard can speak to the qualifications issue.

SECRETARY KEMP: I had three questions I want to make sure we understand. If there was a law change on Magistrate Judge qualifications and when that was; the documents that we're looking at, that Mr. Harvey has, there was talk of them being fraudulent, or are they just old and outdated and there are new ones because of the new law passage; and then, certainly, some of the things mentioned that this Board just does not have jurisdiction over. Anything else you would like to add, Mr. Willard.

MR. WILLARD: Mr. Secretary, at the outset, if I may, could I see what has presented to the Board?

SECRETARY KEMP: Absolutely.

MR. WILLARD: Mr. Secretary, members of the Board, what you had was in 1998 the General Assembly passed a piece of local legislation -- it was Senate Bill 683 -- that for Clayton County Georgia imposed additional qualifications on the office of Chief Magistrate over and above what the general statute provided. That provides that in order to seek the office of Chief Magistrate for Clayton County, you have to be a member good standing with the State Bar and must have been in practice for the four years prior to running in order to qualify for the office.

SECRETARY KEMP: That was 1998?

MR. WILLARD: Yes, sir. That legislation was pre-cleared by the Department of Justice and remains in force and effect.

Ms. Youhoing has brought a suit against Clayton County Board of Elections and others alleging these same arguments, that she was qualified and was improperly disqualified from running. Judge Collier of the Superior Court dismissed, sua sponte, this lawsuit for failure to state a claim on June 11, 2012.

It has since come to our attention that approximately one month after the dismissal, Ms. Youhoing filed an almost identical complaint re-alleging the same issues. Apparently, the only two changes that she made in the subsequent complaint were she misspelled her own name and she added Judge Daphne Walker as an extra defendant. But I would imagine it that the Court would dismiss that as res judicata, at this point for Ms. Youhoing.

But Ms. Bright was correct in terms of qualifications for office to run for Chief Magistrate of Clayton County at the time. Ms. Youhoing has pursued the matter in a civil action. That civil action was dismissed, as it properly should have been, and I would contend that there is nothing for the Board to go forward on at this point.

MS. YOUHOING: May I respond, please?

SECRETARY KEMP: Well, wait just a minute. Anything on other jurisdictions about some of the other allegations? I know those are outside the purview of the Board, believe.

MR. HARVEY: That's correct. We can certainly pass the information on to the District Attorney's office or to the AG's office. I believe she has filed other election challenges, as well. We don't have -- we simply have allegations of criminal activity --

SECRETARY KEMP: Let me ask you this. Do we normally pass along allegations, or do we just let the individuals know that they can go to the local law enforcement with these type issues?

MR. HARVEY: We normally let them know where best to respond so they can deal directly with the appropriate law enforcement agency, and I can certainly provide that information to Ms. Youhoing today.

SECRETARY KEMP: Any other questions for Mr. Willard or Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Ms. Youhoing, I'm going to allow you a little bit of leeway here, but we need to move on. But if there is something else you would like to add, also if you would like we will be glad to let you know your options on, you know, other agencies with jurisdiction with your allegations where you can report those type of claims.

MS. YOUHOING: Yes. What I hate is elected official giving misleading information to the public. This gentleman, Mr. Willard, has stated information which is incorrect.

First of all, he stated that I filed some civil suit in the Walker situation. That could not be further from the truth. That's what he said. He stated even that I misspelled my own name.

Now, there is a pending petition in the Court regarding the election crime which had happened. I was contesting that. There is no ruling in that as yet, and furthermore, the Defendant defaulted by failing to respond to that. So I made a motion in that case for default judgment based on them not responding.

So in all legality, this petition should be set aside and there should be a new election Clayton County because of ineffective response.

SECRETARY KEMP: That's something this Board does not have jurisdiction over.

MS. YOUHOING: He was just going into that information, sir, and that's why I mentioned that.

Secondly, such as -- now, there is no proof -- they stayed there and alleged that one needs to be an attorney in order to run for Chief Magistrate, but they have failed to present an iota of evidence to prove (unintelligible). Mere allegation is not enough. At least --

SECRETARY KEMP: Ma'am, there was a law passed in 1998 that stated that.

MS. YOUHOING: But the current law that I just presented to the Board does not state anything like that. And no one had show me where to find the law. This is either old or outdated or there is a problem with it. When a law is changed and it amend, it's strikethrough and you can see where that had happened. There is nothing in the current law that stated that. And that's why I challenge the Secretary of State to present me with it. The law is the law, and I need proof.

And just to conclude -- I'm not going to hold your time, and I appreciate you allowing me to come back up here -- the question as to what the duty of the Secretary of State is, and to instruct the public to go and file their own complaint with the law enforcement for investigation, this is

the law. It is the duty of the Secretary of State to do that and not my duty. And I cited that code, sir --

SECRETARY KEMP: Ma'am --

MS. YOUHOING: It's in O.C.G.A. It is the duty of the Secretary of State to do that, and not my duty.

SECRETARY KEMP: Okay. Ma'am --

MS. YOUHOING: So when they found out that the crime had been committed, it's the duty of the Secretary of State to do it. It doesn't say I can't do it on my own as well. I'm simply trying to say it's the law and the duty and the Secretary of State should abide by the law like anyone else.

So I'm concluding by saying I need to see proof; I don't need allegation. I need to ask them to present me with evidence to see what are they talking about. I present documents here. They're not above the law and they need to abide by the law. Thank you.

SECRETARY KEMP: Mr. Harvey?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: When you talked to Ms. Bright, she informed the candidate of the current law?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Therefore not allowing her to qualify; is that correct?

MR. HARVEY: Just to clarify, I did not speak with Ms. Bright. The investigator did.

SECRETARY KEMP: Investigator.

MR. HARVEY: That's right.

SECRETARY KEMP: Any other questions?

MR. WEBB: Mr. Harvey, there is State law that sets the requirements for Chief Magistrate, correct?

MR. HARVEY: That's correct.

MR. WEBB: And then the counties can add an additional threshold on that; is that correct?

MR. WILLARD: Well, the General Assembly can add it on behalf of the counties through local legislation. And, in fact, Ms. Youhoing presented the Board her Exhibit B, the local legislation that was adopted by the General Assembly signed into law by Governor Miller in 1998 that did exactly that.

MR. WEBB: For Clayton County?

MR. WILLARD: For Clayton County; (unintelligible) number 792.

SECRETARY KEMP: Can we see those documents back?

MR. WILLARD: Yes, sir.

SECRETARY KEMP: Any other questions from the Board?

(Whereupon, there was no response)

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

MS. BARNES: Good morning, Mr. Secretary, members of the Board. My name is Christy Barnes, and I am representing the Clayton County Board of Elections and Registration. My -- do you need my home address or would my work address be sufficient?

SECRETARY KEMP: Work will work.

MS. BARNES: Okay. 112 Smith Street, Jonesboro, Georgia, 30236. And Ms. Annie Bright, the director of elections and registration is here, as well, and we just wanted to say for the record that we agree with the investigation's findings.

Ms. Bright did provide Ms. Youhoing with a copy of the local law that was signed into effect in 1998. She was provided that information. As the member said, there can be State law, there can be Federal law. She was given information from the Secretary of State's office regarding how to qualify for Chief Magistrate. She was also informed that there could be additional local legislation such as Senate Bill 683 that would govern the qualifications for Chief Magistrate Judge. That was information she was given by our director of elections.

Ms. Bright is here if you have any additional questions for her, or if you have any questions for me.

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

MR. WORLEY: I don't have a question, Mr. Secretary, but I would like to say that I was a resident of Clayton County for nearly 35 years. I was a resident of Clayton County in 1998 and legislation was passed making the Chief Magistrate an elected position. And that is what happened.

MS. YOUHOING: Sorry, sir. I couldn't hear you.

MR. WORLEY: I was a resident of Clayton County at the time that local legislation was passed making the Chief Magistrate an elected -- making the qualifications for Chief Magistrate include having to have a law degree and practicing law.

MS. YOUHOING: Don't you think that comment of you being a member of the Board --

SECRETARY KEMP: Okay. Ma'am --

MS. YOUHOING: -- a prejudicial comment? I think it is.

SECRETARY KEMP: Ma'am, we can't have a discussion going back and forth from the audience. I think we've heard all sides here on this issue. Are there any other questions or comments from the Board for Ms. Barnes?

MS. YOUHOING: I have a question for Ms. Barnes.

SECRETARY KEMP: That's not how this process works, ma'am. We do the questioning, okay?

MS. YOUHOING: Yes, sir. But she state incorrect information, just for the record. And that's what I --

SECRETARY KEMP: Well, we've had a lot of discussion about who's right and who's wrong. Any other questions from the Board for any of the parties that are here today?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you Ms. Barnes.

MS. BARNES: Thank you.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Do we have a motion, any other discussion from the Board?

MR. SIMPSON: I move we dismiss case number 2012, 29.

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

MR. WEBB: Second.

SECRETARY KEMP: Second by Mr. Webb. Any other discussion from the Board?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That case has been dismissed.

MS. YOUHOING: You will be hearing from me. Have a lovely day.

SECRETARY KEMP: Ms. Youhoing, thank you for being here. If you would like information on other options, Mr. Harvey or our investigators would be glad to help you with that.

We're going to move on to our new investigative reports. One thing that I failed to do at our last meeting was to -- to speed up the process, what we tried to do at the State Election Board, a lot of times we have people that do not show up for their cases. So what I want to try to do is just go around the room. If you will just raise your hand if you are here for a case that you -- well, if you're here for a case, if you will just raise your hand when I call that case. We're going to take the cases of our agenda in order of the people that are here. The cases where there's nobody here, we're going to move them to the foot of the calendar so you all don't have to sit here any longer than you have to for us to call the cases.

So if you will just raise your hand if you are here on the Lincoln County case. Okay.

Case number 2011, 33, non-citizen case. Okay.

Case number 35, Macon municipal election. Okay.

Troup County case? Number 54, Troup County? Okay.

City of Gumbranch? (Whereupon, there was no response)

City of Albany? (Whereupon, there was no response)

City of Eastman. Okay.

City of College Park? (Whereupon, there was no response)

City of Forsyth? (Whereupon, there was no response)

City of Wadley? Sir, were you City of Wadley? Wadley? Anybody? (Whereupon, there was no response) Okay.

City of Richland? Okay.

City of St. Mary's? City of St. Mary's? (Whereupon, there was no response)

City of Graham? Okay.

City of Pelham? Pelham, Georgia? (Whereupon, there was no response)

Treutlen County, presidential primary? Treutlen County? (Whereupon, there was no response)

Brantley County has been continued.

Lowndes County? Okay.

Columbia County? (Whereupon, there was no response)

Long County? Okay.

And Bryan County? Okay.

All right. We'll get started. The first case is the 2010, number 102, Lincoln County case, Mr. Harvey. That's number 9 in our binder.

MR. HARVEY: Mr. Secretary, members of the Board, this case involved the general election on November 2, 2010, in Lincoln County. There were sort of cross-complaints here. The original complainant was Ms. Margaret Rose, or Sally Hawes. She complained that she was assisting electors complete absentee ballot applications. Some of those absentee ballot applications were rejected and Ms. Hawes complained that were being rejected improperly by the elections office. The elections director, Ms. Lilvender [sic], alleged that she believed Ms. Hawes was improperly assisting voters and possibly forging signatures on absentee ballot applications.

As a result of the investigation, members have been a respondent chart that shows, essentially, Ms. Bolton and the Lincoln County Board of Elections and Registration had a few technical violations as far as documenting absentee ballot applications and envelopes when they came in. There were five incidences where they either failed to mark the reason for rejecting or didn't compare a signature. But essentially low-level oversight as far as election officials go.

Ms. Hawes, however, acknowledged that she assisted voters that were not entitled to assistance. She illegally possessed and transported ballots. At one point, on election day on two occasions, she went to the polling place and was confrontational with the election officials to the point where twice they had to call local law enforcement to come and ask her to leave. In both cases she left when law enforcement arrived. They did not actually encounter her. But twice she was reported to local law enforcement for disturbing the polls.

On the third page of the respondent chart, you will see that Ms. Blackwell signed her mother's name on the absentee ballot application, and Ms. Banks signed her husband's name on the absentee ballot application. Those are both violations. They should not have done that, but they are little bit more understandable.

The last two people listed, Ruby Cunningham and Maureen Zellers, I recommend those cases be dismissed. There's an allegation that Ms. Hawes illegally assisted Ms. Cunningham when voting at the polls and Ms. Zellers was the poll manager and Ms. Cunningham was the voter. We generally don't cite people who receive assistance and there was no indication that the poll manager had any reason to doubt Ms. Cunningham was entitled to assistance. So I recommend those two cases be dropped.

I recommend that Ms. Bolton and the Lincoln County Board of Elections and Registration be bound over to the AG's office, and that Ms. Hawes be bound over to the AG's office. Ms. Blackwell and Ms. Banks, I could see receive letters of instruction. And as far as Lincoln County goes, it would not shock my conscience to get letters of instruction due to the nature of the sort of hit and miss violations they had. I've spoken extensively with Ms. Hawes. She has another case coming up regarding the last election.

But that is essentially what we've got with Lincoln County.

SECRETARY KEMP: Any questions for Mr. Harvey from the Board?

(Whereupon, there was no response)

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

MR. JACKSON: Mr. Secretary, if I may.

SECRETARY KEMP: Absolutely. Just come on up and give us your name and address for the record, please.

MR. JACKSON: My name is Benjamin A. Jackson. I'm the attorney for Lincoln County and I'm here today to represent the Board of Elections and Ms. Bolton.

Basically, I would just want to address the Board and explain that at the time that these incidences occurred, Ms. Bolton had just been hired by Lincoln County to run the Board of Elections. I think she was hired in July of 2010, and these incidents occurred prior to the November, 2010 election.

That's all I wish to say at this time, Mr. Secretary.

SECRETARY KEMP: Any questions for Mr. Jackson?

(Whereupon, there was no response)

SECRETARY KEMP: I have one for you, Mr. Jackson. I'm inclined, if the other members of the Board are, to do a letter of instruction if you can make sure that we'll have assurances that the folks in the elections office are working with our staff to make sure they fully understand, you know, how these ballots need to be handled properly in the future.

MR. JACKSON: Yes. I'll speak extensively, Mr. Secretary . Thank you.

SECRETARY KEMP: Any other questions for Mr. Jackson?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here today.

MR. JACKSON: May I give my card to your court reporter?

SECRETARY KEMP: Absolutely.

SECRETARY KEMP: Let the record show we're taking the card so we have the correct information for the record.

Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: any other thoughts from the Board, motions?

MR. WEBB: Does anyone else here want to speak?

SECRETARY KEMP: I don't think. Last call. Anybody else wishing to speak on the Lincoln County case?

(Whereupon, there was no response)

SECRETARY KEMP: I'm ready for a motion.

MR. SIMPSON: May I ask one question?

SECRETARY KEMP: Yes, sir. Mr. Simpson.

MR. SIMPSON: Mr. Harvey, what is your recommendation on Ms. Bolton?

MR. HARVEY: I would recommend a letter of instruction. I think that would be appropriate.

MR. WEBB: Mr. Harvey, can we go back through the list again.

MR. HARVEY: Yes, sir.

MR. WEBB: Go ahead.

MR. HARVEY: I've got letters of instruction for Ms. Bolton and the Board of Elections and Registration; I recommend Ms. Hawes be bound over to the Attorney General's office; I recommend Ms. Blackwell and Ms. Banks receive letters of instruction; and I recommend Ms. Cunningham and Ms. Zellers are dismissed as respondents.

SECRETARY KEMP: Mr. Harvey, on Blackwell and Banks, have you or your investigators talked with them?

MR. HARVEY: I believe we did interview both of them.

SECRETARY KEMP: So is it your belief that if we were to send them letters, they would get them and understand what they did wrong?

MR. HARVEY: I believe so; Yes, sir.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Any motions?

MR. SIMPSON: Move we issue a letter of instruction to Ms. Bolton, the Lincoln County Board of Elections and Registration, Ms. Blackwell and Ms. Banks; that we dismiss the case against Ruby Cunningham and Maureen Zellers; and we bind over the case against Ms. Hawes.

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

MR. WORLEY: Second.

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

(Whereupon, there was no response)

SECRETARY KEMP: All the Board members clear on the motion? Okay.

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. Mr. Harvey, we're going to move on to SEB case number 2011, number 33.

MR. HARVEY: Yes, sir. Mr. Chairman, members of the Board, this case is an amalgam of cases reported to the Secretary of State's office where it appears that non-citizens had registered to vote. It covers several counties. You should have a respondent chart with you of four pages.

As has been the custom of the Board and our division, the standard form, sort of knowledgeable voter registration through the department of driver services has been set in February, 2010. Prior to that time, the documentation and the evidence needed to show that someone intentionally intended to register to vote has been very difficult to come by. So it has been our practice, and the Board has always accepted the recommendation, that anybody who registered or who was registered to vote through DDS prior to February of 2010, absent any other evidence, is really not presumed to have knowingly and willingly registered to vote.

Fro that reason, if you look at the respondent chart, you will see that all but the four individuals were recommended for dismissal. If you look down the right column with Title 21 violations, you'll see for Mr. Joel Franco, who is the third down on the list, he actually registered by hand. He is not a United States citizen. I spoke with him. He said he doesn't remember registering, but he, in fact, did. I recommend Mr. Franco be bound over to the AG's office.

The same with Mr. Hernandez, directly below him, in Coweta County. He, again, registered by hand in 2008.

Continuing down the list, we've got Myria Dabouze, who, again, registered in person and she has voted three times. I spoke with her couple of days ago and she said she did not realize she could not vote. But she has voted three times.

On the next page, you'll actually see, I think, the fifth or sixth down, Mr. Nguyen, Que Tri Nguye. He actually is a US citizen. He reported to the clerk that he was not, possibly to get out of jury duty. But he was a naturalized US citizen.

Now, on the last page you've got Florence Dorvil, who has voted two times in Newton County.

And lastly, I have the Clayton County Board of Elections and Registration as a respondent based on the second person on the list, Mr. Kevin Renard Hester. Mr. Hester actually was not a non-citizen. He was, in fact, a convicted felon, but, again, was registered prior to 2010 through DDS, again, making it very difficult to prove that he knowingly and willfully registered to vote while a felon. So I'm recommending Clayton County Board of Elections and Registration be dismissed and that we bind over Mr. Franco, Mr. Hernandez, Ms. Darbouze, and Ms. Dorvil.

SECRETARY KEMP: And you're recommending dismissal for Clayton County?

MR. HARVEY: Yes, sir. And all other respondents.

SECRETARY KEMP: And all -- Okay. Any questions for Mr. Harvey?

MR. WEBB: Why the recommendation on Clayton County to dismiss?

MR. HARVEY: Because at the time, 2007, Clayton County was not automatically getting the felon list. So when he was registered through DDS, there was no -- not a system set up like today where they would get a list every month that he was registered and they could remove him from the voting list at that time.

MR. WEBB: The respondents that registered in person, though, don't we usually include a claim against the county in those cases that they should have been vetted further?

MR. HARVEY: Again, generally given the timeframe when they weren't receiving the regular documents, it's been a little bit more hit and miss as far as establishing --

SECRETARY KEMP: Would we have had the checks in place then?

MR. HARVEY: Regarding Mr. Hester, I don't believe so. In talking to the elections office, that was near the beginning of the transition time where they were becoming automatic. But I don't think we can say with confidence that -- at what point they would've gotten the list.

MR. WEBB: And with regard to Mr. Franco and Hernandez, the County is relying on them when they checked the box and said that they were citizens?

MR. HARVEY: Yes, sir.

MR. WEBB: Thank you.

SECRETARY KEMP: Of course now, we have different checks in place, right?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak on this case? Yes, ma'am.

MS. B. DARBOUZE: Good morning. My name is Bathschebba Darbouze and I'm here with my mother. I'm here to --

SECRETARY KEMP: Can you just speak a little slower where we can make sure we pick you up.

MS. B. DARBOUZE: Good morning. My name is Bathschebba Darbouze.

SECRETARY KEMP: Could you spell that for us.

MS. B. DARBOUZE: B-A-T-H-S-C-H-E-B-B-A. Darbouze is D-A-R-B-O-U-Z-E. And I'm here with my mother, Myria Darbouze, and I'm here to help her understand what's going on. She really does understand.

SECRETARY KEMP: Mr. Harvey, do you want to explain to the Darbouzes?

MR. HARVEY: Yes, sir. Ma'am, Ms. Myria Darbouze registered to vote in 1997 by hand by filling out an application that said I'm eligible to vote and I'm a citizen of the United States, and that's not accurate from what I understand. She's not a United States citizen, correct?

MS. B. DARBOUZE: She said she didn't know was she supposed to vote or didn't, or wasn't. So she really didn't know.

MR. HARVEY: I understand she says she doesn't know.

MS. B. DARBOUZE: She didn't know she didn't supposed to do that.

MR. HARVEY: Right. But she voted three times after registering while not entitled to be registered. So that's what this is about. She should not have registered to vote because she's not United States citizen. And then she should not have voted once she registered to vote.

MS. B. DARBOUZE: Yes, I think -- she explained to me that since she didn't know the first time -- I think nobody told her she wasn't supposed to -- that she thought it was okay. So that's why she did three times.

MR. HARVEY: I understand.

SECRETARY KEMP: Okay. Is there anything else you would like to add?

MS. MYRIA DARBOUZE: Yes, sir. I would like to know about, you know, if am not citizen, how come they let me vote? That's what I want to know.

SECRETARY KEMP: Mr. Harvey, did she check she was a citizen?

MR. HARVEY: She filled out a voter registration application by hand.

SECRETARY KEMP: I think what happened was on your form, you filled out you were a citizen. So they would have had no way of knowing.

MS. MYRIA DARBOUZE: No. No. I got my green card, so I wasn't citizen at the time. I truly did not know if am eligible to vote or not.

SECRETARY KEMP: Any questions from the Board for the Darbouzes?

(Whereupon, there was no response)

SECRETARY KEMP: Think you're being here today. Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Any other questions from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. WORLEY: Mr. Secretary, I make a motion that we bind over Mr. Hester, Mr. Franco, Ms. Darbouze, and Ms. Dorvil to the Attorney General's office; and dismiss all the other response respondents.

MR. WILLARD: Mr. Secretary, Mr. Hester is actually a US citizen.

MR. WORLEY: I'm sorry. Let me restate that motion.

SECRETARY KEMP: Mr. Worley is going to restate the motion.

MR. WORLEY: I make a motion that we bind over Mr. Franco, Mr. Hernandez, Ms. Darbouze, and Ms. Dorvil; and dismiss all the remaining respondents.

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

MR. SIMPSON: Second.

SECRETARY KEMP: 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.

Ms. Darbouze, just so you understand, we have voted to refer your mother to the Attorney General's office. So they will be in touch with you about the continuance of this. I think it's pretty clear to the Board and Mr. Willard that we appreciate you taking the time and coming here today and addressing the Board. But they will be in touch with you as this moves forward. If you have any questions, you can talk to Mr. Harvey's office or Mr. Willard, and they will be glad to make sure you all understand how this process works.

MS. B. DARBOUZE: Thank you.

SECRETARY KEMP: Thank you.

Okay. Mr. Harvey, 2011, number 35 Macon municipal elections.

MR. HARVEY: Yes, sir. This case involved the 2011 municipal election here in the City of Macon, Bibb County. There were allegations that some voters were not allowed to vote in the city election, and that there were voters that were given misinformation about where they could vote, and that there were problems with some of the machines on election day.

The first allegation was that there were two precincts where poll workers had mistakenly programmed ballots on voter access cards. There were some precincts where people were city residents and some county residents, and there were several occasions where the poll workers simply programmed the wrong card and the voters were not allowed to vote; didn't see the issues on the city ballot.

That was brought to the poll manager's attention and the voters were allowed to fill additional provisional ballots, which were ultimately rejected. But Ms. Carr and the Bibb County Elections and Registration responded and corrected the problem.

There was a precinct that was delayed in opening by about five minutes because a poll manager left the voter access cards and had to have them delivered. And the allegation that people were being given inaccurate information about voting stemmed from people showing up, I believe, at City Hall, where there had been (unintelligible) advance voting and they were being told that they had to do it at their precinct on election day. So there was no misinformation. There was just misunderstanding about what was going on.

So at the end of the day, there were some violations of the State Election Board rules that are noted on the executive summary for failure to properly program an access card; for delaying the precinct opening by about 5 minutes.

I think it would be appropriate in this case that the Bibb County Board of Elections and Registration be issued a letter of instruction. The problems were relatively minor, they were addressed immediately, and I think that would be an appropriate resolution.

SECRETARY KEMP: That would cover all the respondents?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Any questions from the Board 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'm ready for a motion or further discussion.

MR. SIMPSON: I move a letter of instruction be issued.

SECRETARY KEMP: We have a motion by Mr. Simpson that a letter of instruction be issued to the Bibb County Board of Elections and the attached respondents. Do we have a second?

(Whereupon, there was no response)

SECRETARY KEMP: I'll second. Any other discussion?

MR. WEBB: Mr. Willard, have we had any cases involving the Board of Elections for Macon -- the City of Macon or the County of Bibb? Have we had many cases involving those, either one of those?

MR. WILLARD: I'll be honest, Mr. Webb, I don't believe that we have had many instances.

SECRETARY KEMP: I don't recall many, either.

MR. HARVEY: I don't believe so.

MR. WEBB: Thank you.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)/

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We will issue a letter of instruction.

We're going to move, Mr. Harvey, to SEB case 2011, number 72, City of Albany. That's number 14 in our binder.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This case involves two complaints that are related.

There was a candidate running for the City Council in Ward 1, Mrs. Calhoun. She went to qualify at the elections office and was told that she was in a ward other than where she thought she lived. So she qualified in that ward. It was later determined that there was a section of the city -- a street that had formally been on a military base that had a different numbering system on street names than the rest of the city did. That caused about 100 voters to be in the wrong districts, including Ms. Calhoun.

So she qualified and paid her qualifying fee and was disqualified shortly before the election because it was found that she lived in the wrong district. And there were about 100 voters that were in the wrong district based on the not recognizing the difference in the street signs of the numbered addresses in the city of Albany. I believe there was a civil suit contesting the election, and I believe an attorney for the city is here who will speak to some of that.

But at the end of the day, it appears that the city -- I'm sorry, Ms. Nickerson and the Dougherty County Board of Elections and Registration are in violation of 21-2-226 for not having voters in their proper district and for not determining the proper qualifications of voters.

The last allegation was that there were not signs -- the signs noting the disqualification of Ms. Calhoun were not properly and prominently displayed at the elections office. The Judge signed an order in the civil case, essentially affirming that decision that the Judge believed they were not properly and prominently displayed. So we've got that as a violation, as well.

I would note in your executive summary that the last citation under Ms. Nickerson, I think is repetitive of the first one. I think it could be dismissed. But I would recommend that in this case, based on the failure to properly qualify Ms. Calhoun and to not properly have 100 voters in their district, that Ms. Nickerson and the Dougherty County Board of Elections and Registration be bound over to the Attorney General's office.

SECRETARY KEMP: Questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak on this case? Yes, sir.

UNIDENTIFIED MALE: I think Ms. Calhoun is here, Your Honor, the complainant.

SECRETARY KEMP: We'll hear from you, if you want to, first, Ms. Calhoun.

MS. CALHOUN: Hello, everybody.

SECRETARY KEMP: Good morning.

MS. CALHOUN: I am Cheryl Calhoun. The only thing I would like to say --

SECRETARY KEMP: Ms. Calhoun, if you would just give us your address for the record.

MS. CALHOUN: I live at 1908 Whispering Pines Road. But when this happened, I was living on 1525 Georgia Avenue. I lived in transitional homes and you can only stay there two years. So we were at the end of our two years.

But anyway, I just thank you all for you've done and Mr. Harvey and everyone. The only thing I just wanted to say is that I can understand making mistakes because we all are human. But it was how it was handled that made the mistake even worse. I felt like I wasn't treated like a human being, because it wasn't my fault.

I was issued two voter registration cards. One said that I was in Ward 1, and I don't know anyone in this room, if you get your voter registration card, you're going to believe what it says. You don't question it. But they told me I lived in Ward 2. So I went to qualify for that.

Then, maybe two weeks before -- me and my husband we paid for signs. We did -- we didn't have many people. I wanted to get to know the people. So we did a lot of walking, and I enjoyed it. But two weeks before the election, while I'm out -- I'm a school bus driver, also. I hear that I'm in Ward 2. And a few days before it was time to vote, me and my husband get new registration cards that we are in Ward 2. And I think that's not fair as a citizen to be treated like that. I did get a letter a month later telling me that I was disqualified. After all this was over.

So I just feel like when we make mistakes, let's treat people with integrity; the way you would want to be treated. You wouldn't want no one to treat you that way. I would have felt better if they had told me they were sorry for the mistake and gave me my money back. But they didn't even give me my money back. The city manager did. And I felt like if they had handled in the right and proper way, with integrity, then the next candidate -- when they didn't put my name saying that they couldn't vote for me, 250 something people voted for me anyway because they were so confused. And the 100 people that didn't get to vote, their votes were thrown out, I mean, that's not fair to them.

So I think we need to have more integrity and treat people the way you would love to be treated. I don't hold no grudges because a mistake is a mistake. But it was just the way it was handled. Thank you.

SECRETARY KEMP: Thank you for being here, Ms. Calhoun. Any questions?

MR. WORLEY: Mr. Secretary, I have a question.

SECRETARY KEMP: Mr. Worley.

MR. WORLEY: Ms. Calhoun, I just want to be clear about the facts of this case. You thought you lived in Ward 1, correct?

MS. CALHOUN: I was told I . . .

MR. WORLEY: But they had you qualify in Ward 2?

MS. CALHOUN: Yes, sir.

MR. WORLEY: And then it turned out you actually were in Ward 1?

MS. CALHOUN: Yes, sir.

MR. WORLEY: So they disqualified you from Ward 2.

MS. CALHOUN: Yes, sir.

MR. WORLEY: And how much did you pay as a qualifying fee?

MS. CALHOUN: It was \$450.

MR. WORLEY: Thank you.

SECRETARY KEMP: Any other questions for Ms. Calhoun? Mr. Simpson has a question for you. Come on back up.

MR. SIMPSON: Ms. Calhoun, did you say you were reimbursed the \$450?

MS. CALHOUN: The State Election didn't. They told me that they couldn't, because according their law, since this had never happened, it wasn't even in the books. Most of the candidates are, you know, they'll say I don't want to run and they want their money back. But they never had in their books that an innocent candidate can get their money back when they make a mistake.

MR. SIMPSON: But you did get your money back?

MS. CALHOUN: Yes, from the city.

MR. SIMPSON: From the city?

MS. CALHOUN: Yes, sir.

MR. SIMPSON: Thank you.

MR. WEBB: Ms. Calhoun -- we'll just keep it going -- Thank you. Did you say you incurred some out-of-pocket expenses?

MS. CALHOUN: Oh, Yes, sir. We had to pay for all those signs.

MR. WEBB: Can you estimate how much that was?

MS. CALHOUN: It was a hundred and something dollars. This a place in Alabama that one of the commissioners told me they was cheap. It's just the labor of it; the walking. I didn't have people I could pay to do my campaigning. Me and my husband, we did it.

MR. WEBB: And you were reimbursed for out-of-pocket expenses?

MS. CALHOUN: No, sir.

MR. WEBB: Thank you.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: You're dismissed, Ms. Calhoun. Thank you. Anyone else?

MR. LEE: Mr. Secretary and members of the Board, my name is Spencer Lee. I'm the county attorney for Dougherty County. And my address is Post Office Box 1376, Albany, Georgia, 31702.

Now, I've been the county attorney in Dougherty County since we went from multi-member districts to single member districts in 1979, and I guess I have longevity in continuous serving in Dougherty County. But in addition to that, I was also on the Board of Elections, our superintendent in Dougherty County. For about ten to 15 years I served in that capacity.

Now, I have been sued; I have been part of a grand jury investigation; we've had recounts; and we've had reruns on the elections. And I, of course, understand exactly what you're doing because we have 500 or more cities. We have 159 counties. We have elections in each of those. The governing bodies are made up differently and I can sympathize at what you're doing and I understand it. And I think you've heard it all. If you haven't heard it all, I don't know when you'll hear at all. I think you've heard everything that can be said.

In this particular case, though, I would agree with Mr. Harvey on the findings, to some extent. What happened here, he is correct in bringing these code sections. There are two things that happened, I think, we need to talk about. One of them is what Ms. Calhoun has just said. She attempted to qualify in Ward -- well, she came in and she qualified in Ward 2. The supervisor, Ginger Nickerson, who is standing here next to me and is the supervisor of the Dougherty County Board of Elections, her staff looked up the address in the computer system and it showed her in Ward 2. That is the only election she could have qualified on the day she went in for.

The reason for that is this was a special election. This was a city election. I do not represent the city of Albany. I represent the Election Board and Ginger Nickerson. But this was a special election. It was not a primary and it was not a regular election. The election for Ward 1 for the city election had already closed on the qualifying time. So the only place she could qualify that particular day was for Ward 2, the special election.

And it is a special election due to the fact that the incumbent in that position had vacated it by deciding to run for mayor. That person was Dorothy Hubbard. She ran for mayor and she was selected. The opening time for qualifying was a three-day window. She went in early. And I will have to say this, in all the years that I've been involved in Dougherty County and City of

Albany politics, the three best candidates I have ever seen in one race were in this race. There was Ivey Hinds, Melissa Stroller, and Cheryl Calhoun. And Cheryl Calhoun made a very, very fine candidate, and would have made a very, very fine city commissioner.

The problem was that she came in, they looked up the address. The address showed that she was in Ward 2. It comes, of course, from the Secretary of State's office. But we are not saying the Secretary of State's office is involved here. That address in the computer system comes from there. What had happened was, Ms. Calhoun lived out in what is called base housing. It used to be the old military base. And that property, when the military left, was spun off out of the military, out of the government, into private hands, and it changed hands several times. Finally, a church bought the property and went in and began to rehab it. And they rehabbed part of what is called -- rehabbed Georgia Avenue. Georgia Avenue was a long street. Ms. Calhoun lived on one part of Georgia Avenue.

For many years that property has been listed in the wrong ward. It is been listed in Ward 2 and should have been listed in Ward 1. It made no difference in one sense of the word because it was vacant and it was in ill-repair and nobody could move into it. But when the new owner started the rehab, they started the rehab on the section of the street that Ms. Calhoun eventually moved into, not on the other section of the street. But on the section that Ms. Calhoun moved into.

Now, what ended up happening with this was that the process is our IGS -- GIS manager who works for the city, and also works for the county through a contract, but it's a city department, the GIS manager is supposed to, when a new subdivision is created and people move in, supposed to get that information and disseminate it to the post office, fire station, and other organizations, including Ms. Nickerson's office. Then she is supposed to take that information, input it, and change the Secretary of State's records. That did not happen.

What did happen was this. Ms. Calhoun was allowed to qualify in Ward 2, because that's what the record showed. Nobody realized that this property had been rehabilitated and now people have moved in. What we found out was the day that it was reported to Ms. Nickerson, she immediately sat there with the person that reported it and called upstairs to Randy Weathersby, who was the GIS manager, and said, Randy, we've got a problem. Somebody tells me Ms. Calhoun is not Ward 2; she's in Ward 1. So Randy looked it up and called her back and said that was correct. She is not in Ward 2. So we found out immediately that that happened. Ms. Nickerson self-reported that issue to Secretary of State. And I think Mr. Harvey will say there was self-reporting on this.

MR. HARVEY: That's correct.

MR. LEE: Then we had to go to the code to find out what to do next. Well, what ended up happening there was, Ms. Nickerson talked to the chairman of the Board of Elections. The chairman of the Board of Elections set up a hearing in order to determine the qualification Ms. Calhoun. The hearing was held and Ms. Calhoun was here there was a big brouhaha over it, as you can imagine. She's correct. She had been out stomping around and getting votes and she was excited about it; she wanted to be a city Commissioner. Then all of a sudden she is not the right district.

They found that to be the case and they disqualified her; the Board of Elections disqualified her. Now, that is unfortunate. That is absolutely unfortunate, and as she has said, that was a mistake.

Well, what did we do about it? What did the Board of Elections do about it? I, along with the city attorney, Ms. Nickerson, and the GIS manager, Randy Weathersby, along with planning and development director, who Randy supervisor is, sat down and found out what happened. And what happened in this case was the person that had been there managing this, Eric Gossley, had retired about five or six years ago. He had started this process when the construction started out there and changed the addresses. The old base housing addresses the military used were exactly opposite of the addresses that the city used under their present system of numbering in the city of Albany.

So they had had it in the wrong district all these many years and it didn't bother anybody at the time, simply because the structures were not habitable. So the new owner went in and rehabbed the area in Ward 2. That's when Ms. Calhoun moved him. And the addresses on there were the military addresses that showed up in Ward 2. They weren't the correct City of Albany addresses that Eric Gossley had started working on. When Eric left, they went back to his files and found out in his files that he had notified the post office, but his whole checklist was not ready and he had not notified Ginger Nickerson's office; the Board of Registrar.

So we did not have any notice of that.

Now, we're not trying to blame anybody. That's not blame. That's just an explanation. That is what happened. And when it was reported to Ms. Nickerson that Ms. Calhoun did not live there, they took the appropriate action.

Now, let me tell you what has happened since that time. Of course, Ms. Nickerson has met with the city manager, the county administrator, staff up at planning and development services, with Randy Weathersby in GIS. And Randy has come down and instructed Ms. Nickerson's office on how to use the GIS system. That doesn't mean that they can change addresses on their own. But they can go in and verify street addresses and those kinds of things, and elections changes. And they have done that. They have done a complete overhaul on the verification of all county commission districts and the city commission districts.

So that's what happened, and it is unfortunate; it's really unfortunate. Nobody likes it.

Now, the second that happened, and what Mr. Harvey is talking about on the charges that have been made, is that we didn't properly post the notice of disqualification -- that she was disqualified. There was nothing we could do about it. There was a ton of publicity about it. A lot of publicity. And Ms. Calhoun was noticeably upset as a result of this.

So now, the second thing that happens is the election is held and there is a code section -- I think we're operating under the wrong code section on the charges, but they're similar. What it simply says is that we're supposed to post a notice that the person has been withdrawn or disqualified. Now, what happened was Ms. Nickerson called the Secretary of State. She got the withdrawn candidate notice. It says withdrawn. Of course, that concerned Ms. Calhoun, and it should have, because she did not withdraw. She was disqualified. So she happened to run into her friends and they would say, well, you withdrew. No. I didn't withdraw; I was disqualified. But that's the form that was given to us and that's the one that we posted.

Now, how do you post it? Well, the code section that you really operate under is 21-2-6(c) that says the superintendent shall determine if the candidate is qualified to seek and hold public office. Well, that happens after a challenge is made. That challenge was made by the Board of Elections on their own volition. Then we go to (c) once we find that. And if the superintendent determines that the candidate is not qualified, which they did, the superintendent shall withhold the name of the candidate from the ballot or strike such candidate's name from the ballot if the ballots have been printed.

And it says if there is insufficient time to strike the candidates name or reprint the ballots, then prominent notice shall be placed in each affected polling place advising voters of the disqualification of the candidate. The candidate is disqualified. This is not withdrawn, which is the code section Mr. Harvey talked about. Same thing. We don't disagree with that. We're not trying to get out of that. We're not going to make a technical argument here.

But this is what we're supposed to do. We're supposed to place a prominent notice at each affected polling place. And that all votes cast for each candidate should be void and not be counted. These are void cast votes; void cast ballots. The judge in the case that Mr. Harvey talked about called them irregular ballots, and said he that he would order a new election due to the fact that the 200 plus that Ms. Calhoun got could have affected the election.

Well, the judge was wrong about that. You don't get to count the irregular ballots. They are void. They don't even count. So you don't count them against the numbers to show that there could be a change.

Now, to go back a little bit, what did Ms. Nickerson do when she found out that 100 people were in Ward 2 that should have been in Ward 1, including Ms. Calhoun? Well, she went back and pulled every one of them and then she did send new cards. She sent new cards to all 100, including Ms. Calhoun, that said you are not Ward 2, you're in Ward 1.

Now, how many of those had already voted? Two. Two of those had already voted. Now, we don't like that, but they're only two of them that had already voted. So Ms. Nickerson did the remedial work on it and straightened it out as best we could. Can't get over the fact that we didn't have the right information in our computer to show she was in Ward 1.

Now, again, she couldn't have qualified for Ward 1 because this was a special election and the Ward 1 qualifying had already closed. But she did qualify for Ward 2.

I want to speak a second about the money. At the disqualification hearing, where she was disqualified -- I'm the County attorney; I represent the Board. I was there because it was a board hearing. I don't represent the city, and this is a municipal election. The city attorney was there. So Ms. Calhoun rightly asked for her money back. The city attorney read the statute and the statute seems to indicate you can't get it back. But I made the comment, I said, well, in my literal interpretation of that, might mean cannot get back, but I think the city attorney is really saying that he will look into it and see if you can get it back. And, indeed, they refund her the money. You're right that signs and all of those things, she had to pay for. And she didn't get that back. She didn't get the shoe leather back, when she hauled up and down the streets soliciting votes. But she got that money back.

I think there's been an amendment to the state law because of the Dougherty County incident that's there. There's been an amendment to that that says you can get it back if through no fault of your own this happens.

And let me quickly on what's taken place on the posting of the notices. The posting of a prominent notice. It says a notice shall be posted; a prominent notice. As you all know, in every single precinct, the geography of that precinct sets up differently with the tables; entranceways are different; everything is different. I've been there and you all have been there, and you know that. So you set them up differently. We had poll managers. Poll managers were instructed to post this notice in a prominent place. They did that.

What happened after that, there was a follow-up from the Board of Elections. Each board of election member went out and looked at it to see that it was posted. So they went out and did that. Now, Ms. Stroller filed a lawsuit asking for another election because of these things. We filed a motion to dismiss and the -- I didn't file the motion to dismiss. Nathan Davis, the city

attorney represented the city. It's a municipal election. Maurice Luther King represented the winner, the candidate who won. Melissa Stroller was represented by her lawyer and she was seeking a new election because of this 200 votes that Ms. Calhoun got.

Now, they filed a motion to dismiss because of an indispensable party. They didn't name the superintendent. The superintendent of elections is Board of Elections. It's the Albany Dougherty Board of Registration and Elections. That's the board of elections. They're the only ones that can give a new election. So it named it. We filed a motion to dismiss, or they did. We filed it way in advance. He didn't add the -- it was made prior to the case being called. It was made after the case was called, and he never added it. He added them after the case (unintelligible) after the case was over.

But that's one of the reasons the Judge dismissed this. Not just on service, but he had the wrong party, and they never should have heard the case. The case should have never been heard. I mean, that's basic 101 law. The case never should have been heard. But he went ahead and heard it; give everybody their time in court, I'm sure.

But a lot was said. I wasn't involved in that because the Board of Elections was not served. Had the Board of Elections been served, we would have presented a different case. But the Court tries to find that, he says, I'm going to grant the motion to dismiss both on service and indispensable party. But, in addition to that, I'm going to make a finding that she would've got a new trial. Well, he did that based on the fact that the void ballots were counted towards making the election and putting the election in jeopardy had it not been voided. But they are not -- they're void ballots. They don't count towards that, and

Anyway, since that time, what Ginger has done, I think, she has -- we had another election after that -- prominent posting, we had another election after that where a state representative trying to run was disqualified. Learning from this experience, the Board of Elections and Ginger went out and they posted the same notice -- they posted the same one. But in addition to that, they went to each of the voting machines and on the screen put a notice that the candidate had been disqualified.

So we did go one step further and we tried to cure that. And I think that speaks highly of what the County has done, what the Board of Registrars has done, what Ginger has done, and what the Board of Elections has done. So I don't disagree with the two issues that we're dealing with here today. But by way of explanation I would certainly think that maybe let's get this thing over with here.

Our board has worked well. Ginger is here and she can speak to any questions you might have of her.

SECRETARY KEMP: Any questions for Mr. Lee from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here. We appreciate it. Anyone else wishing to speak on this matter? Ms. Calhoun? If you will, just state your name and address for the record again, please.

MS. CALHOUN: Cheryl Calhoun, 1908 Whispering Pines Road, Albany. Thank you all. I appreciate you all had said and done.

But he brought to mind that I forgot to address that I did call to qualify for Ward 1. I had my money and I wanted to make sure I was in Ward 1 because that's what I thought I was in in the first place. My husband went on the computer pulled up the map and by the map he said, Baby, we're in Ward 1.

During the election time for Ward 1, I called because I wanted to know what time they opened. When I called, she said, give me your address. I told her I live 1525 Georgia Avenue, and they said -- you know, they told me to hold on. They came back on the phone and they said, no, ma'am. You're in Ward 2. I said, so you are saying that if I go down there and bring you my money you're not going to take it? You know, I was being humorous about it. And she said, no. You really are in Ward 2.

And that's why I could not qualify for Ward 1 is because they told me I was in Ward 2. So I waited and that's why I missed the qualifying period for Ward 1 because I was told I was in Ward 2. Like I said, I understand the mistake. But I was withheld the right to run from 1; I didn't even have the right to run for 2. Even I had lost, it didn't matter. I just wanted a chance.

SECRETARY KEMP: Any questions for Ms. Calhoun?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone who has not spoken want to speak on this case?

(Whereupon, there was no response)

SECRETARY KEMP: Any other questions or comments or motions from the Board?

MR. WEBB: I would like to ask Mr. Harvey about Mr. Lee's recommendation that maybe -- well, we do have something on Section 21-2-6(c), correct?

MR. HARVEY: That's correct. We have both, I discovered.

MR. WEBB: I think that's sufficient. Thank you.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

Let me just say this while everybody is pondering here. I certainly appreciate Ms. Calhoun being here today so we heard your side of the story. I appreciate the County, Ms. Nickerson, being here. Obviously, this is a pretty complex issue. Certainly, we appreciate the steps that have been taken by the legislature to adjust the reimbursement of the qualifying fee. And also the steps that have been taken to, hopefully, remedy what happened in this election.

I think my personal opinion is there are some complex issues I think it may be wise for the Board to send this to the AG's office and let Mr. Willard work with the parties that seem very amenable to bringing a conclusion of this that will be good for all parties involved. That is certainly my opinion, but I appreciate the wisdom of this board.

If there's another motion somebody likes to make we can move forward with that. If not, I'm prepared to make a motion.

MR. SIMPSON: We don't have the ability to order restitution or make any arrangements for restitution. That would have to be voluntary on the part of the city or the county; is that correct?

SECRETARY KEMP: That's correct. Mr. Willard is going to --

MR. SIMPSON: So unfortunately, we don't have the ability to try to help you with the damages you suffered because of the mistake.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: If nobody has any thing else, I move that we bind over to the Attorney General's office the Board of Elections and Ms. Nickerson.

MR. WORLEY: Second.

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

Again, Mr. Willard, I would reiterate, this is not an adversarial binding over, in my opinion. It's something that I think with your wisdom and oversight you can work out an agreement that the parties would be happy with and bring it back to us.

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 have bound that over. Thank you all for being here today.

Mr. Harvey, City of Eastman.

MR. HARVEY: Yes, sir. Yes, sir, Mr. Chairman, members of the Board. This involved the November, 2011 municipal election in the City of Eastman, Dodge County.

The complainant, Faye Jessup, made five plus allegations regarding improper (unintelligible) during the election. she claimed that the polls were not open for vote tabulation; the machines malfunctioned; the votes -- the absentee ballots were not scrutinized when they were read out; and that a candidate's wife illegally assisted and possessed absentee ballots.

The result of the investigation was that the tabulation was open to the public. The poll manager closed down the precinct while they secured their documents, but before they began any tabulation they allowed the public back in. So there is no evidence of a violation there. They were using the old lever machines and there was a question whether or not the curtain moving

back and forth was affecting the votes where the votes were being registered. They had a technician come out and confirm that there was no problem with the machine; the votes were being recorded properly.

There was nothing against the code with the reading of the absentee ballots in public but the poll manager.

We did find, however, that a candidate's wife, Ms. Wilma Slye, assisted three voters and possessed their absentee ballots after assisting them for mailing.

We also found that the elections superintendent, Bea Edge, had a single case where she failed to document the receipt of absentee ballots.

In addition, Ms. Jessop also made some general allegations about voter fraud and vote buying, and things like that. Our investigators tracked down every lead she provided and spoke to everybody who may have information and were not able to substantiate any claims of paying for votes or voter fraud in this election.

So the end of the day, I would recommend that Ms. Slye, who acknowledged assisting and possessing ballots but claims she did not know anything was wrong with it, that she be bound over to the AG's office and Ms. Bea Edge, the elections supervisor, receive just a letter of instruction for the single absentee ballot she failed to properly certify.

SECRETARY KEMP: Questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir. Welcome, and just state your name and address for the record. Thank you.

MR. SLYE: My name is Robert Slye. I live at 509 Evergreen Circle, Eastman, Georgia. I'm the candidate's wife -- I'm the candidate; she's my wife. That is a bad thing to start of with, isn't it?

SECRETARY KEMP: You cleared it up, though.

MR. SLYE: I'm here just for her character. My wife, we've been married 50 years, and she's never done anything wrong in those 50 years I know about on purpose. Now, she might have accidentally done something like I feel like this is here now. She just made a mistake and she admitted to it. But we all make mistakes.

I got a letter from the State Department saying that I was running for mayor. I was running for city council; we don't have a mayor. So even they make mistakes on documents and they haven't -- oh, also that I possessed an absentee ballot, which I never touched one. I never put my hands on an absentee ballot.

I want to say this for her character that this was not in malice or any kind of way to take advantage or getting me any votes. There was a lady she helped in the nursing home, she was a black lady, and she was our maid for years and years and years and she had no family. She was by herself and that's why she took her absentee ballot and mailed it for her.

But I just wanted to that I appreciate any leniency you can show towards her and I appreciate all that you've done for us.

SECRETARY KEMP: Thank you, Mr. Slye. We appreciate you being here. Any questions for Mr. Slye?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak on this matter? Yes ma'am.

MS. SLYE: I'm Wilma Slye, 509 Evergreen Circle, Eastman, Georgia. I would just like to say that I did, indeed, assist these three people that were elderly in their absentee voting. I did, indeed, take three ballots to the post office and mail them for them. I assure you, if I had known that this was something I should not have been doing, I would've not done it. Thank you.

SECRETARY KEMP: Any questions for Ms. Slye?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here this morning. We appreciate it. Anyone else wishing to speak this morning?

(Whereupon, there was no response)

SECRETARY KEMP: Anything else from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, what was the recommendation, again?

MR. HARVEY: Recommendation was that Ms. Slye be bound over to the General's office and Ms. Edge to receive a letter of instruction.

SECRETARY KEMP: Any thoughts from the Board; motion?

MR. WEBB: I would agree with Mr. Harvey. I think we should bind Ms. Slye over to the Attorney General's office. I think something can be worked out reasonably there. And a letter of instruction issued to Ms. Bea Edge.

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

MR. WORLEY: Second.

SECRETARY KEMP: We've got a second by Mr. Worley. Any other discussion? I think the record is clear about the direction Mr. Willard will take with making notice that the Slyes were here today admitting their mistake and we certainly appreciate them taking the time to come here and be before the Board. I think for us that means a lot to hear from individual respondents.

Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, we've got a motion and a second to bind over this line to a letter of instruction for the elections superintendent, Bea Edge. All in favor, signify by saying, "Aye." You've

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We will move now, Mr. Harvey, to case number 2011, 87, City of College Park.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This case involves College Park municipal election in November of 2011.

One of the candidates made several allegations regarding the election. He contested the election in Superior Court and was unsuccessful. There was a question as to whether or not a voter who voted absentee in person, filled out a paper ballot. She complained she did not actually put her ballot in the box. Instead, she had to hand it to an election official who had to not the date and time received. So there was not a violation evident in that that any ballots were being mishandled.

Mr. Robert Gay, who is the other complaint in this case, said he was refused admittance to tabulation the evening of the election and that is a violation of Georgia code 21-2-585.

In addition, there was a poll observer of the mayor, his opponent, was in there to observe the tabulation. He was actually used to assist open the absentee ballots. I don't have that listed as the violation, but I think it would be appropriate to add that. That's code section 21-2-386(a)(2), for a non-sworn person to be handling ballots in the tabulation process.

So at the of the day, those are the two violations we found that could be substantiated and recommend that the respondents be bound over to the AG's office on the violations.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir. Welcome.

MR. WILLIAMS: My name is Mike Williams. I am the city attorney for College Park. My address is 2262 Mount Zion Road, Jonesboro, Georgia, 30326.

I appreciate the opportunity to be here. I do have a brief written statement I would like, Mr. Secretary, present to you all at the conclusion.

SECRETARY KEMP: Absolutely. Let me get that motion out of the way. Motion to accept the document.

MR. WEBB: So 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 will accept that when you get ready. Thank you.

MR. WILLIAMS: Thank you. I'm authorized to speak on behalf of the city as well as Ms. Laketha Reeves, who is the elections superintendent at the time.

With respect to the failure to permit the candidates to observe the tabulation, Ms. Reeves admits that she made that mistake and she is deeply regretful. There were two factors involved at least as part of her explanation.

One was that the room that was chosen for the tabulation was quite small. The second reason was she was just overwhelmed that night. Those are explanations, not excuses. The city is deeply regretful and has taken steps to ensure that this does not happen again.

Just incidentally, Ms. Reeves has retired from the city for unrelated purposes, so she is no longer with the city. The city has a new city clerk who is committed. She's already taken the elections training and she is committed to -- there's another course coming up in a couple of weeks. In addition, the entire staff associated with the handling of elections are all going to receive training, as well as the volunteers who are associated with the elections.

Additionally, one of the things that the City of College Park is currently undertaking is they have solicited a proposal from Fulton County to actually manage the municipal elections in the future. No final decision has been made. As you are well aware, (unintelligible) factors rely on cost, but we've solicited a proposal from Fulton County and we will receive that. That will be evaluated.

One thing that I omitted from the letter is in the future, all the tabulations are going to be held in the City Hall chambers that provides more than enough space to allow public viewing. So on that note, we are deeply regretful and prepared to throw ourselves on the mercy of the Board.

As to the additional factor that was raised today, unfortunately I'm not able to respond to that. But we will be happy to work with you the Attorney General's office to work out whatever remedial or corrective action needs to take place on that.

SECRETARY KEMP: Thank you, Mr. Williams. You can just hand Mr. Harvey that copy and he will pass it around.

SECRETARY KEMP: Any questions from the Board for Mr. Williams?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you, Sir. Anyone else here wishing to speak on this case, the City of College Park?

(Whereupon, there was no response)

SECRETARY KEMP: Any thoughts from the Board or a motion?

MR. SIMPSON: I think it would be appropriate to bind the case over. Looking at this letter, it looks like it's offer of sort of remediation or statement of what actions have been taken to remediate the problem. It looks like with this being put in a more formal form, this -- maybe the Attorney General could resolve the matter along these lines and bring it back to us. So I will move to bind it over.

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

MR. WORLEY: I would second that and I would reiterate that this seems like an appropriate remedial action that's been already undertaken.

SECRETARY KEMP: Mr. Worley seconds and I certainly concur with those comments. Anything for Mr. Webb?

MR. WEBB: Nothing.

SECRETARY KEMP: Okay. Good to go. We've got a motion to bind over with mutual understanding, I think. 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 bound that over.

SECRETARY KEMP: We've got the City of Forsyth case next. I've got a lot of friends from City of Forsyth and Monroe County here today, including Will Davis. I don't know if the sheriff and the DA are here. I'm inclined -- this case may take a little while. I'm inclined to hear it before lunch. If you'd rather go eat, we can do that. Would you rather hear it? Okay.

We'll go ahead and call the City of Forsyth case, number 2011, number 92.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This case involves the municipal election in the City of Forsyth, November, 2011. We had three complainants, including the District Attorney, Mr. Mylam; the losing incumbent mayor, Mr. Howard; and a third individual, Ms. Williams.

There were concerns from all parties about the number of absentee ballots. Apparently, it was a large number increase from previous elections. I spoke fairly extensively with Mr. Howard and explained to him that absentee ballots have become a much more popular way for people to vote, but we would look for any type of problems. We didn't have specific allegations that any one person was orchestrating anything.

So what our investigators did, we interviewed approximately a quarter of the absentee voters and we found that there were numerous violations of the election code regarding absentee ballots. I would sort of put these in two categories. You have a lot of people that were in a similar situation as Ms. Slye was earlier in terms of people who readily admitted to accepting absentee ballots, taking possession of absentee ballots, transporting them, illegally assisting people. And they simply said they had no idea that it was wrong.

We had very few cases, if any, none that I can recall, where people were evasive or denied what they did. Everyone, for the most part, owned up to what they did.

We did have several cases, however, that I think were a little bit different. We had three cases where individuals requested and voted absentee ballots for family members that apparently the family members had no knowledge of. I think that's a slightly different -- more than slightly different scenario.

If you look at the respondent chart I've provided, the second name on the list, Meoshia Bowden, she completed absentee ballots for two of her brothers and signed their names on the absentee

ballot envelope. There is also -- I'm not sure what the evidence is, but she may have also requested one for father. I believe her father made a statement the he, in fact, voted his own absentee ballot. Ms. Bowden acknowledge signing her brothers' names and said they gave her permission. Well, we spoke to each of her brothers and they both said they didn't have any idea that they were voting, or that they had given her permission.

The next name on the list, Shertila Brantley, had a similar situation where she signed the ballot of her brother, (Unintelligible) Brantley. She fraudulently voted that and illegally possessed it.

And lastly, Naomi Donelli, , had the same situation with her grandson, Quingarius King. Again, he was not -- let's see -- she completed his ballot and she illegally possessed it.

So those are three cases where it is a little bit different were it appears there may have been some -- a little bit more malice involved. I think in the rest of the cases, and there a lot of respondents, I think there are about 25 respondents, there were similar violations. However, they were the typical, I didn't know I could take the ballot; I didn't know that someone needed to be entitled to assistance with a physical disability or blindness or illiteracy.

As regards the election officials, Judge Pittman and the Chief Registrar, Truitt Goodwin, they had what I call a smattering of administrative errors, much like Lincoln County where there were just individual ballots that were not noted properly or individual administrative errors. I think in those cases, it would be appropriate for Ms. Goodwin and Judge Pittman to receive a letter of instruction just to tighten up there administrative efforts.

Another specific individual, Dyan Davis, who is just directly below Ms. Danley, the fifth one down, she assisted her mother. She signed as assisting, however, she didn't check the box indicating why she provided assistance. In the discussion with the AG's office, it was determined that is not necessarily part of the oath, and I don't think there's any indication of ill intent in that case. So I recommend Ms. Dyan Davis be dismissed as a respondent.

So at the end of the day, I would recommend that all the respondents, with the exception of Ms. Davis, Judge Pittman and Truitt Goodwin, be bound over to the AG's office, and that Judge Pittman and Chief Registrar Goodwin receive letters of instruction.

And, again, at the end of the day, there did not appear to be any type of organized plan. There didn't appear to be any connection between a lot of these individuals. They were just disparate people. And, frankly, they were saying that what they've been doing they had been doing for years and never had a problem. So that's the City of Forsyth.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: Mr. Harvey, there is one name that appears four or five times here, is Quingarius King. It appears under Naomi Daneli, Truitt Goodwin, Judge Pittman, and Bernice Smith. I can understand the difference in the charges with the Judge and the registrar. But what is -- why is Quingarius King the subject of violations for Bernice Smith and Naomi Daneli?

MR. HARVEY: He's not, sir. He is under the column of electors. What this chart did, it sort of a cross-referenced the respondents with their corresponding electors. So if there was a question as to who assisted who, in this case, Quingarius King was the elector and Naomi Daneli filled out his ballot and it should have been rejected by the Chief Registrar and the Judge. So Mr. King is not cited as a respondent.

MR. SIMPSON: I understand those two. But what is the violation with Bernice Smith and Mr. King.

MR. HARVEY: She possessed his ballot.

MR. SIMPSON: Oh, okay.

MR. HARVEY: She picked up the ballot.

MR. SIMPSON: So one of them completed it and gave it to someone else to process it, and then the two officials did not perform their duties correctly.

MR. HARVEY: That's correct. Bernice Smith, she had the most. She collected 14 absentee ballots.

MR. SIMPSON: Thank you.

MR. HARVEY: Yes, sir.

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

(Whereupon, there was no response)

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

MR. MELTON: My name is Robert Melton . I'm the city attorney for the City of Forsyth. And my address is 87 North Lee Street in Forsyth, if I may give my card to the reporter.

SECRETARY KEMP: Yes, sir.

MR. MELTON: The purpose of my talking with you now, and I will be as brief as I can, is just to speak on behalf of Truitt Goodwin, who was the Chief Registrar at the time. He is no longer the Chief Registrar or a registrar. And to speak on behalf of Judge Pittman.

Judge Pittman is the Probate Judge for Monroe County, and by agreement with the City Forsyth County, acts as the city's elections superintendent.

Judge Pittman and Mr. Goodwin have provided me with some information of things that they did. First all, in certifying the election, Judge Pittman had a review made by the Board of Registrars and then in certifying to the Secretary of State, attached a copy of the report of the registrar. So all of that was done at the certification process.

The things that were determined to have been questionable have been addressed by both the registrars and the Judge and those include -- I need to go back to one more thing, too.

As happens in a number of these places, as you've heard and will continue to hear over the years, I'm sure, personnel things happen. In this particular case, the deputy registrar was relieved of her duties because of some matters which caused some questions with absentee voting and a new person had to be trained. There were some discrepancies noted immediately after the election, which caused the Judge to request the audit by the registrars. The Judge contacted the city attorney, which was me, and we discussed that. The advice that I gave was followed by Judge Pittman. The Board of registrars reviewed all this. The discrepancies were taken into consideration before certifying the election, and after the election.

The county has gone forward and the city will use these same facilities. The county has an easy vote, easy absentee computer program. It's a quite expensive program, but is designed alleviate all the questions that have come up here.

About 40,000 voter records, from voter registration cards to other things, have been entered into that system. Two new deputy registrars have been hired. They've been trained in the election laws. There was a community education form, a class, that was held to educate the public on Georgia election laws, and the case was also discussed -- these matters were discussed with the District Attorney, which precipitated the District Attorney's letter to the State Election Board, I think.

I bring those things to your attention and I think a letter of instruction would be acceptable to both Judge Pittman and Mr. Goodwin under these circumstances.

I want to address two other people. One is Jannie Thombley. She's shown in the listing there. Ms. Thombley is a Forsyth police officer and it's acceptable to her to work through the Attorney General's office to work to resolve this matter. What she did was totally unintentional. She helped a friend out never knowing, as a lot of people don't know what the election laws are.

The other person -- and Ms. Thombley is here today. The other person is Elena Jones. Ms. Jones serves as a member of the development authority of the City of Forsyth and has served for a number of years. She assisted a second cousin and friend, the same person, in an absentee ballot matter. Again, unintentionally doing that. I think it would be acceptable to Ms. Jones also to work with the Attorney General's office to resolve this.

Unless there are questions, that's all I want to present this morning.

SECRETARY KEMP: Any questions for Mr. Melton?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you, sir.

MR. MELTON: Yes, sir.

SECRETARY KEMP: Anyone else? Yes, sir. Welcome.

MR. HOWARD: Thank you gentlemen and Secretary. I'm Tye Howard, 526 Virginia Street, Forsyth, Georgia. I am the prior mayor of the City of Forsyth.

Having seen what the Election Board is faced with, it's an unbelievable task that you gentlemen have and you serve well.

SECRETARY KEMP: Thank you.

MR. HOWARD: What I'd like to do is just basically, there are several comments that I'd like to bring up concerning this case.

What I have seen in the last several years in the City of Forsyth and Monroe County, specifically, and the State of Georgia throughout, is an enormous amount of cases relative to slight changes in how ballots are touched and moved, and whatever. In the paper ballot environment, we had a 36.1% paper ballots cast, which is about 250% higher than it had been before.

So from y'all's recommendations to the State, what I would like to see is someone get the legislature, because I know they are very interested in trying to find some resolution so that the number of cases that come up about mishandling of votes and paperwork concerning votes be put to rest.

So I hope the resolution of this case -- I know some of the issues will go to the Attorney General's office, but from the City of Forsyth and our citizens, I want to thank you all, and appreciate your efforts.

SECRETARY KEMP: Thank you, Mr. Mayor. I appreciate you being here. Any questions for Mr. Howard?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir.

MR. HOWARD: John Howard, Mayor of the City of Forsyth. My address is 383 Brookwood Drive, Forsyth Georgia. I came here today just to say a few words on behalf of the citizens of Forsyth and -- as well as the people my city attorney has spoken of.

I think this is a case of misfortune more than anything. I know we had a significant number of absentee ballots from the last -- from this election versus the last one when former Mayor Howard won. But I want to make note that I think that number rose because people were excited about the fact that I was running for mayor. That's not to just brag or anything. That's because I got out and work. I walked the streets and I knocked on doors and I talked to folks and I got intimate with people and made a relationship with folks. So I think that has something to do with that.

I think that these people that we have that are going to have to go to the AG's office, it's not so much that they intentionally did anything wrong, which we understand. I think if they are guilty of anything, they're guilty of doing what they've always done over the years. However, it was just brought forward until I won election. I guess you can't put a timeframe on when something is supposed come forth. But I think that's pretty much the case.

I'm just sad to see that we have this stain on the City of Forsyth because it's just a situation that looks bad because there were a lot of impressions when I won. The first impression was maybe I had something to do with it. But I am happy to report that I have no idea how absentee ballots work because I go inside the booth and I vote. That's something I like to do. So that was the first impression.

Then the second impression was that a group of people got together and made sure I got in office. Both of those impressions are false. However, I did get out and I did make a connection with the citizens. I did get out and talk to people, and I think that's what happened. I think why what our number was significantly higher than what it was before. That's pretty much all I have.

SECRETARY KEMP: Thank you for being here, Mayor. Any questions for the mayor?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anyone else wishing to speak? Yes ma'am. If y'all want to, anybody wishing to speak, just come on up and have a seat on the front row, and we'll keep you rolling here. Welcome.

MS. GRANT: My name is Connie Grant. My address is 175 Straight Street, Forsyth, Georgia.

I'm here because I'm one of the ones that got out and worked for voters for our new mayor. First all, I would like to say this. When Tye Howard was running for mayor, we did the same exact thing we did for this mayor. We worked our butts off. And Tye, I don't know why he brought a suit against this, because he lost. And a matter of fact, we told him we was going to put him out of office; we was going to get out there and work against him. He went up there in Atlanta, he embarrassed us the first meeting he went to.

SECRETARY KEMP: Ms. Grant, let's talk about the specifics of the case. We don't want to get into any arguments and start attacking people personally.

MS. GRANT: Okay.

SECRETARY KEMP: Let's just stick to the merits of the election and the case, if you don't mind. Thank you.

MS. GRANT: Right. Okay. With me, I saw there's two counts. They said I assisted two people. One lady, she's an elderly lady. I took her to the voter registration office on the day of the election because she's an elderly lady and we knew her ballot was not going to be mailed on time. I parked at the registrar's office, I got out because she walks with a cane and took her ballot in. The people at the registrar's office came out to verify that was her in the car. That's why that's what I did.

And the second lady saw me at the store and asked me just to drop her ballot in the mail. So I had two counts against me by me dropping in the mail. Like I said, I didn't have no idea neither of those things I did was wrong.

You know, we learn by our mistakes. But it don't discourage me getting out there and helping people. I just know the right way to do it without handling ballots unless sign. But basically that's what I wanted to say that, you know, we got out there and worked for Mr. Tye Howard just as well as we worked for Mr. John Howard.

SECRETARY KEMP: Thank you. Any questions for Ms. Grant?

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Who's next?

MS. ALLEN: My name is Lois Allen and I live at 364 Brookwood Drive, Forsyth, Georgia. I was one of the ones that got out and helped with the voting process and everything.

But like Ms. Grant said, during the time when Tye Howard was, you know, elected, we went and we worked hard for him and it wasn't any problem. I'm sorry that he lost the race, and I think I saw him in my neighborhood about two weeks before the election campaigning. But John Howard -- he have to realize that -- I'm going to say this --- is a young man, have a lot of young friends; mama taught high school, daddy taught high school -- step daddy, rather, taught high school. So it's just a lot of people out there.

And when I went to people, people talked to me. Well, then, they explained to me well why they weren't going to vote. That's the first thing they said, I'm not going to vote for Mr. Howard, blah, blah, because -- I'm not going to say all of that.

But, again, like I said, I'm sorry that he lost the race, but we had told him if he did not do the right thing when he got in there, well, then we was going to try to get him out. So he didn't do the right thing, I'm sorry to say.

SECRETARY KEMP: Any questions for Ms. Allen?

(Whereupon, there was no response)

SECRETARY KEMP: Okay.

MS. WEST: Good evening, and thank you all. My name is Phanny West and I live at 385 Watson Road, Forsyth. I don't live in the city, so, naturally, I wasn't able to voted.

But my concern, and I can say this, when I moved back to Georgia, I saw the need for people to register and vote. I didn't do too many absentee ballots due to the fact that I live in Monroe County. But the main thing is, I think whoever did whatever, if they did it, I don't believe it was intentionally done because I try to go by the book and I would go to the registrar office and get a lot of material and then tried to explain to different ones that you have to go by the book.

So I truly believe if anything was done it was not intentional. It was just lack of training or maybe been done years that way. I ask you all to consider leniency on these people that's involved because, like I said, my name wasn't on the list, but I'm here to support the ones, because I worked faithfully with them. And the day of the election, see, I was in the poll in the county. So I wasn't able to vote. So, believe me, I still certainly got the heart of voting and registering people, not doing anything wrong. They just want to -- and a lot of times with the primary and general election, the rules are changing sometimes, too. Sometimes you can help a lot of people, and sometimes you can't. If you don't know that rule, what's the rule, you can be misled.

So I ask again that you consider that they -- I don't believe they did it intentionally, whatever was done. Thank you.

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

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Yes, sir.

MR. PARKER: My name is Tony Parker speaking on behalf of my wife, Lilly Ruth Parker. Anyway, the investigator, what she did, I work 95% out of town. So she was doing it for me because I was not going to be here. I brought the marriage certificate so the investigator can see because he could never catch me there. And I did call him two or three times after 5:00, but didn't get an answer. He rode by the house two times when I was there, but he wouldn't stop. That's all I got to say.

SECRETARY KEMP: Any questions for Mr. Parker?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Any questions from the Board for Mr. Harvey or thoughts?

MR. WEBB: Just to recap, Mr. Harvey, your recommendations were for the Chief Registrar and the Judge, that they get letters of instruction?

MR. HARVEY: That's correct. And that Dyan Davis be dismissed, and everybody else be bound over.

MR. WEBB: I think given the circumstances, I would make a motion along those lines and I will do so shortly.

I believe that given the spirit of the testimony we heard today, I think the Attorney General's office can handle this correctly and assess the penalties that would be appropriate. I think there are varying degrees of involvement on these cases.

With that said, I will make a motion to issue a letter of instruction to Truitt Goodwin, the Chief Registrar, as well as Judge Karen Pittman, the Probate Judge. And I will make a recommendation -- a motion to dismiss the charge against Dyan Davis. I would have the rest of the respondents bound over to the Attorney General's office.

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

MR. SIMPSON: Second.

SECRETARY KEMP: We have a second by Mr. Simpson. Do we have any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Let me just say this for the record. I agree wholeheartedly with Mr. Webb. One of the things this Board, I think, can do in a lot of instances where you had things going on and people didn't know exactly what the laws were, I think Mr. Willard and the Attorney General's office will be able to weed through who potentially could have been trying to manipulate the process versus folks that were simply trying to exercise their right to vote and the rights of those in their family and friends and just didn't know the laws and rules.

That's one good thing about this State Election Board. We help people . We're not shy about going after people who do try to manipulate, but we are also trying to educate and learn, the rest of our citizens and elections. I have been on a trip to Dodge County recently where we had for years, years and years ago, problems with absentee ballots and you have people that will not vote an absentee ballot because they're worried about an inspector coming to visit them if they do.

And I think that's just because of the educational part of making sure that if you're handling an absentee ballot that you are following the laws that are in place and you understand when and when not you can do that. And I think that will be part of Mr. Willard's job to make sure that those of you in this last election that were not understanding the law, that will be not an issue in the future and we won't get to see you again in the future, hopefully.

Those who potentially were trying to manipulate, I'm sure Mr. Willard will be consistent with actions than this Board is taken in the past.

With that, I'm going to support the motion. Do we have any other comments?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. And we will -- Mr. Willard are we going into executive session?

MR. WILLARD: Yes, Mr. Chairman. We need to go into executive session to discuss a matter pursuant to the exemption in OCGA 50-14-2 for attorney client discussion regarding potential litigation.

SECRETARY KEMP: Before I accept a motion for us to go into executive session, we had the City of Richland next. Can you be back at 1:15? Will that give you time to get lunch and get back?

(Whereupon, there was an affirmative response)

SECRETARY KEMP: Okay. I'll accept a motion to go into executive session and for us to come back at 1:15.

MR. WEBB: So moved.

MR. WORLEY: 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: We will go into executive session and we'll see those of you back at 1:15.

(Whereupon, the proceedings were in recess)

SECRETARY KEMP: Let us reconvene the Thursday, February 21, 2013, State Election Board meeting here in Macon Georgia.

Mr. Harvey, we're back on our investigator report with case number 2011, number 97, City of Richland.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This involves the City of Richland municipal election in Stewart County, Georgia, November, 2011. The allegation was that the -- there were absentee ballots that were being transported back to voters after they had been turned in, that the registrar was sending them back out so that they could be corrected and not rejecting them.

It was a little bit of an unusual investigation because initially the elections superintendent, Theresa Nelson, said, yes, I did that, and I had Mattie Johnson to run the errands for me. We spoke to Mattie Johnson and she said that is absolutely not true; that never happened.

We went back to the elections superintendent, Ms. Nelson, and she said, oh, I was mistaken. Actually I didn't do that. And her attorney at the time, Mr. Coleman, responded and said that he didn't know why she had essentially changed her story, or she just got confused about the allegations. But it was determined that she, in fact, did not send absentee ballots to be corrected.

However, we did find some other violations. We found that Mattie Johnson assisted her son in voting his absentee ballot. However, she failed to sign the oath as assisting. She also improperly possessed and transported his ballot.

We did find that Theresa Nelson improperly rejected and absentee ballot without legal grounds. There was an elderly woman in a nursing home, Ferry Lee Jackson. Mrs. Maryneal Castleberry, who is the mother of a candidate, went to Ms. Jackson, and they, apparently, had been longtime associates. I believe Ms. Jackson had formerly worked for the Castleberrys. When Ms. Maryneal Castleberry went out to assist her in voting, according to Ms. Jackson, Ms. Castleberry, said, I'm here to help you vote. You want to vote for my son, don't you? Ms. Jackson said she would rather vote, her words, "her color," indicating another candidate. She said that Ms. Castleberry then took her ballot. Ms. Jackson never marked her ballot herself. Ms. Castelberry marked the ballot and took it and turned it back in. So we've got Ms. Castleberry cited for unlawful possession, interfering with electors, and illegal assistance.

In the executive report, executive summary, we've got a Charlie Johnson and John Johnson cited for receiving unauthorized assistance. I recommend those citations be dropped. As I said before, we generally don't cite people for unknowingly receiving illegal assistance.

But anyway, the family of Ms. Jackson contacted Ms. Nelson and said, hey, we don't want our mom's ballot to count because we don't think she voted it properly. Ms. Nelson canceled the ballot based on the family's request, which is not legal grounds for canceling an absentee ballot.

So, it's my recommendation that Superintendent Nelson, Ms. Castleberry, and Ms. Mattie Johnson all be bound over to the AG's office.

SECRETARY KEMP: Questions for Mr. Harvey from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak? Yes, sir.

MR. RAULERSON: Yes, sir, Mr. Chairman, members of the Board. Kelly Raulerson. I've given her my card. I'm an attorney in Albany. I'm here on behalf of the City of Richland, Ms. Mattie Johnson, and Ms. Theresa Nelson.

Basically what Mr. Harvey has recited is basically what I understand the facts to be. I just want to look -- clarify a thing or two after talking with Ms. Nelson and Ms. Johnson. It's true that Ms. Nelson, first of all, did reject the ballot of Ms. Ferry Lee Jackson. I think the family came to her and objected strenuously to the fact that she had been helped by Ms. Castleberry and some

question about whether Ms. Jackson actually cast the ballot or didn't. So she did reject the ballot, which I think under the circumstances, was certainly understandable. It may have been a technical violation of the law, but certainly did not do it with any ulterior motive in that regard on that.

As far as Ms. Johnson, what she tells us is that her husband is eighty-eight years old and I think she did assist him and sign the oath. I don't think that's the problem. Her son John was present. What she did was she read the ballot to her husband and John was in her presence and she states that John actually filled out his ballot. So that is the reason she did not sign the oath on the back as assisting him. But Charlie, her husband, she did assist him and signed the oath and delivered.

As far as the unlawful possession, the situation there is after talking to Ms. Nelson and Ms. Johnson, Ms. Johnson states that she did not take the husband and son's ballot back to the office. Now, what she did do, she did find, when she came to the office, two ballots in the door which she gave to Ms. Nelson, and I think that's where the confusion comes in after further questioning. Ms. Nelson assumed that was her son, Charlie's, ballots.

But in summarizing, any violations here were certainly unintentional. Ms. Johnson states she didn't take the ballots back and even if you look at it, it's really a technical violation and it certainly -- and I just want to say this. Ms. Nelson, that was one-time employment. The city now intends to have a city clerk who is very competent and they intend to send her to training and feel that she can do the job and want to ensure that. The things that have happened, they are unfortunate, but we will take steps to ensure that they don't happen in the future.

I really think a letter would be appropriate, but we will certainly abide by your leadership.

SECRETARY KEMP: Any questions for Mr. Raulerson?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir. Come on up.

MR. CLARK: My name is Jason Clark, Junior. I live in Richland, Georgia. My address is 217 Parker Street.

I was one of those candidates that in the process of running. All that was stated was not true. Ms. Nelson did any and everything that she could do to disqualify me by every means. And I would like to commend your office; I'd like to commend Mr. Miller. He got out and tried to get as much evidence and people to cooperate with him as much as he could.

But Ms. Nelson was used as a smoking gun. That's all she was used for. Like he stated, she was a one-time employee that the mayor put there and when -- I was on the council. At the time we realized Ms. Nelson was put in place to oversee the election, she was in school and the city council knew anything about it [sic].

But only thing I want to say, I appreciate you all for looking at some of these cases and I understand sometimes that the evidence that you get is limited and people to cooperate. But I appreciate you all. That's what I'd like to say.

SECRETARY KEMP: Mr. Clark?

MR. CLARK: Yes, sir.

SECRETARY KEMP: So you were on the city council?

MR. CLARK: Yes, sir.

SECRETARY KEMP: And you were a candidate in this election?

MR. CLARK: I was a candidate.

SECRETARY KEMP: You lost that election?

MR. CLARK: Yes, sir.

SECRETARY KEMP: Any other questions for Mr. Clark?

(Whereupon, there was no response)

SECRETARY KEMP: Do you feel like any of the rejected ballots or any of those things, you know, factor in the outcome of the election?

MR. CLARK: Yes, sir. I feel like the play [sic] that Ms. Nelson played -- I'm going to say this right here. Mr. Coleman is the city attorney and he is also the county attorney. Ms. Nelson was tied up with some stuff that went on within the county that -- then when it voted, was all messed.

His advice to her was to stay out the election as a whole. She went to retirement. When she went in retirement from the county, that's when she was pulled in in the city as a smoking gun to eliminate any and everybody that the mayor wanted to eliminate. That's what happened.

SECRETARY KEMP: Any other questions for Mr. Clark?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here today. Anyone else wishing to speak on this case? All right. Mr. Raulerson?

MR. RAULERSON: Yes, to clarify one thing. In the letters we got, one of the them was -- I didn't hear any mention -- violating (unintelligible) absentee ballots on potential violations, Mr. Harvey, and I didn't hear any mention of that. I would like to know that would be.

MR. HARVEY: This is for improperly rejecting the ballot.

MR. RAULERSON: Oh, okay. I didn't know if that was two separate things. Okay. I was confused about that. I just want to make sure there was nothing else.

And, well, you heard Mr. Clark and it was a one-time deal with Ms. Nelson, and we've taken steps to rectify any of these problems that developed. Thank you very much.

SECRETARY KEMP: Mr. Simpson.

MR. SIMPSON: Mr. Harvey, on that ballot rejection issue, should the ballot have been rejected since it was improperly handled?

MR. HARVEY: In my opinion, no. That is not a statutory reason to reject a ballot.

MR. SIMPSON: If the registrar is told that there is fraud or mishandling of a ballot they should not reject it? Seem like to me there should be some stop gap there if knowledge comes to the registrar or election personnel knowing that the ballot was handled improperly to stop it right then.

MR. HARVEY: It doesn't appear to be a provision of the code to allow that to happen. I guess somebody could go to court and get an injunction.

MR. SIMPSON: Is that a gap there that needs to be addressed in looking at the election code?

SECRETARY KEMP: Ms. Ford can make a note of that and we can look at that in our code review committee that's going on with the whole code rewrite. It is kind of a tough call when

you've got, you know, if someone thinks that a valid the ballot was voted by somebody who didn't know what they were doing, whether you should count that or not.

MR. SIMPSON: It seem like to me, the registrar ought to at least have an opportunity to look into it and if they think there is some substance to it, treat that as a provisional ballot until the issue is resolved or something.

SECRETARY KEMP: Mr. Willard, did you have something?

MR. WILLARD: We had a similar discussion at either the August or November meeting where an instance in a different jurisdiction, identical facts, someone had -- mishandling -- somebody had brought in ballots that they unlawfully possessed; the registrar rejected those ballots because of the unlawful possession. What the Board did with that was issue a letter of instruction going forward with the acknowledgment that there really wasn't anything in the code that you count the ballot and then you refer the person who unlawfully possessed the ballot to the State Election Board for potential punitive action.

MR. SIMPSON: Would that be an appropriate resolution of this matter? I mean, it's the same problem. Why not treat it the same way?

MR. HARVEY: It would not be inconsistent with what was done before.

MR. WEBB: I echo Mr. Simpson's comments. I mean, if the registrar had turned around called the Secretary of State's office for direction, you have to look at what the answer would have been. Oh, let's go ahead and count the ballot and go through this procedure and then the candidate wins by one vote. So we just don't want to get into a situation like that. I think it is something that should be looked into.

SECRETARY KEMP: We will make sure that Ms. Ford passes that along to Ann Brumbaugh so they can try to address that in the code rewrite, and we will certainly take consistent action as a Board.

What was the recommendation on Mattie Johnson and Castleberry? Was that bind over?

MR. HARVEY: Yes, sir. Bind over on both of them.

SECRETARY KEMP: All right. Mr. Simpson. Before you do that, if you don't mind, is there anyone else that had anything else they want to add?

(Whereupon, there was no response)

SECRETARY KEMP: I just wanted to make sure everybody had an opportunity to speak.

All right. Mr. Simpson.

MR. SIMPSON: I make a motion that we issue a letter of instruction to Theresa Nelson and bind over Maryneal Castleberry and Mattie Johnson, and dismiss the cases against Charlie Johnson and John Johnson.

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

(Whereupon, there was no response)

SECRETARY KEMP: I will second.

MR. WEBB: I just have a question, Mr. Simpson. Shouldn't the letter of instruction also go to the county --was this a city election? The City of Richland?

MR. SIMPSON: They are not charged; they're not a party. So I don't know that could . . .

MR. WEBB: I think you're right. Thank you.

SECRETARY KEMP: 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. Thank y'all for being here.

MR. RAULERSON: I just want to make sure I understand.

SECRETARY KEMP: Yes, sir.

MR. RAULERSON: Letter of instruction to Ms. Nelson reference on Ms. Johnson?

SECRETARY KEMP: That's correct. We're going to send a letter to Ms. Nelson, and then Mattie Johnson and Maryneal Castleberry will be bound over to the AG's office and you can work with them resolution.

MR. RAULERSON: Thank you very much.

SECRETARY KEMP: Yes, sir. Thank you.

All right. Mr. Harvey, 2011, 108, City of Pelham.

(Whereupon, there was a brief discussion off the record)

SECRETARY KEMP: Let me back up. Disregard that last call. We will call SEB case 2011, 106, City of Graham.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This involves a municipal election in 2009 in the City of Graham.

It was reported that three individuals in a family were registered to vote at an address that was not a residence, and that one person was on the list of electors after being deceased. The investigation revealed that the deceased person was on the list of electors, however, they did not vote after being deceased. But there were three individuals who -- Lonnie Crosby, Bronnie Crosby, and Donna Crosby -- used the address of 9800 Golden Isles West, Hazlehurst, as their residential address. It had formerly been a business owned by the company [sic]. They had never lived there and they used that as a residential address. In addition, Lonnie Crosby had registered to vote while he was serving a felony sentence. In addition, he had voted in an election in 2009, therefore violating 21-2-561(3).

It is recommended that Lonnie Crosby, Bronnie Crosby, and Donna Crosby all be bound over on the list of charges.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Okay.

MR. WEBB: I'm sorry. Mr. Harvey, I had a couple of questions on the facts. The Crosby family had used the 9800 Golden Isles West address as their mailing address. Am I reading from

the facts that their residence actually did not have a numerical address and that one was assigned later when the Appling County 911 system was put into effect?

MR. HARVEY: That appears to be correct.

MR. WEBB: And do we know what year that was?

SECRETARY KEMP: I tell you what, Mr. Harvey, while you take a few minutes to look for that, we can hear from the others.

MR. HARVEY: Yes, sir. That would be good.

SECRETARY KEMP: Is that okay with you?

MR. WEBB: Yes, that's fine.

SECRETARY KEMP: Did you all want to speak?

UNIDENTIFIED MALE: He is the complainant, but I would like to respond.

SECRETARY KEMP: Okay. Mr. Fogarty?

MR. FOGARTY: Yes, sir.

SECRETARY KEMP: Come on up.

MR. FOGARTY: For the record, my name is John T. Fogarty, Junior. I live at 88 Lord Street, Baxley, Georgia, 81513. Did you have questions?

SECRETARY KEMP: No, sir. Did you want to tell us what's going on here, or is there anything you want the Board to know? You don't have to speak. I just thought you wanted to.

MR. FOGARTY: There's just a lot of things that was unanswered in this election. I did mention to you about the five absentee ballots, and you didn't say nothing about it just then, so I guess that's been resolved after you checked that out, sir, Mr. Harvey.

I didn't understand this because the election was over on Tuesday night at 7:00. I got a phone call on Thursday morning from the Probate Judge which holds our elections saying that she had received five absentee ballots after the election polls closed, and she was considering to accept

these absentees. And I thought when the election was over at 7:00 that night, that's it. You don't wait two days later to accept absentee ballots.

And that's reason I made the phone call. I didn't want to seem like a poor loser because these five absentees that she counted made me go into a runoff with another gentlemen. And I don't want till after the election is over to call and seem like a bad sport and crying because I lost. I didn't do that. These calls were made between the time of the original election and the two-week later runoff. I don't understand why she can except five absentee ballots two days, 48 hours, after the election.

SECRETARY KEMP: Okay.

MR. FOGARTY: It's just not making sense to me and according to what I found out, she's able to do this. When you can do that, why, you can change anybody's election any time, couldn't you? You can change the outcome by accepting absentee ballots late. How can this be happening?

SECRETARY KEMP: Anything else? Any questions for Mr. Fogarty?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here.

MR. HARVEY: As far as the date, we've got a letter from Appling 911. It doesn't give a date. It just says that address 9800 Golden Isles was a previous address of the Crosby store, but was never a residence and is not active at the time.

SECRETARY KEMP: What about the five absentee ballots. Did you look into that?

MR. HARVEY: I don't see any record of complaint regarding five absentee ballots in the complaint. I've got a copy of his complaint here and there is no mention of absentee ballots.

MR. FOGARTY: Those the first thing I asked you on the telephone. That's the first thing I had complained about.

SECRETARY KEMP: We can certainly look into that, right, Mr. Harvey?

MR. HARVEY: Yes, we can.

SECRETARY KEMP: We'll make sure we go back and review that allegation.

MR. HARVEY: Are you still at the same address, sir?

MR. FOGARTY: Yes, sir.

MR. HARVEY: I will contact you. In that case, members of the Board, I recommend that we table this for further investigation and re-present it at a later time.

SECRETARY KEMP: Do we want to go ahead and hear . . .

MR. HARVEY: Oh, yes. I'm sorry.

MR. CROSBY: Yes, sir. I'm Bronnie Crosby, P.O. Box 936, Hazlehurst, 31539.

SECRETARY KEMP: You're Bronnie Crosby?

MR. CROSBY: Yes, sir.

SECRETARY KEMP: Okay. Just want to make sure.

MR. CROSBY: The residence of 9800 Golden Isles, that was my Uncle Lonnie. That was -- he lived in a house right there and when my dad retired, he put a trailer right there beside it. And my dad purchased a house and I moved into the trailer. The only time I've been -- I had been told that was the only address for that area, for that residence. The reason I needed the address was because I had tried to get my AT&T and get some DSL and they had to have a residence. They would not accept a P.O. box. So I've got my bill all the way back from 2009, as far as I can go.

I did go to the registrars office and she informed me that -- see, once I got a phone number, the 911 lady called me and as far as giving me an address as far as for Golden Isles, they couldn't come up with one. So what they done was they gave me -- there's a pond right there behind the house and there's another entry way to the trailer. So she put me at that address. And, honestly, I don't recall that address.

But upon receiving this paperwork, if I can present you, I can show you where it was -- she told me it was changed nearly 18 months ago, which since then, I have myself moved to 420 Graham Methodist Church Road. I had an investigator -- I'm nervous as the dickens.

SECRETARY KEMP: I'm sorry. You're good.

MR. CROSBY: Brian McNeil, He came out. He seen me and I showed him my evidence, and on my voter registration card, he corrected it. And right now, that is where my voter registration cards are correct, 420. And Donna Crosby was my wife up until about two weeks ago and I got the divorce papers in my vehicle a outside.

I have been paying taxes for Appling. I mean, even the complainant can, under oath or however y'all do it, he knows where I live and he knows where I live at now. I do live in the limits. I'm a legal voter there.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: Do I understand you to say you had an address on Golden Isles, right? That's where you were living.

MR. CROSBY: I was informed that -- yeah. The only address there was 9800 Golden Isles.

MR. SIMPSON: Okay.

MR. CROSBY: That's when I inquired in order to get a telephone number and DSL. They had to have a physical address.

MR. SIMPSON: And that's the same address you gave the Board of Registrars when you registered to vote?

MR. CROSBY: When I registered, that was the only address that I knew, sir. Yes, sir.

MR. SIMPSON: And then sometime later, somebody came out there and gave you another address off another street --

MR. CROSBY: No. She called -- a woman called me after I had already done the registration.

MR. SIMPSON: Right. But --

MR. CROSBY: A woman called me for the 911 service and I asked her about the 9800 and she said that she could not come up and they would just do it off of Ryan Crosby --

MR. SIMPSON: That's the point I'm trying to get to. All right. Let me ask you this question.

MR. CROSBY: Yes, sir.

MR. SIMPSON: You stayed in the same place. The trailer didn't move. But they gave you an address off another street to get into the trailer; is that right?

MR. CROSBY: Not a numerical address. What it is is you've got 341, you've got Ryan Crosby. The house is here; the trailer is right there beside it. I'm on the corner. I would reference to it as on the corner of Ryan Crosby and Golden Isles West.

MR. SIMPSON: You never moved?

MR. CROSBY: I moved since then.

MR. SIMPSON: I know it. But during this period of time you lived there?

MR. CROSBY: During that time, yes, sir.

MR. SIMPSON: And you voted where they told you to live [sic] with that address?

MR. CROSBY: Yes, sir.

MR. SIMPSON: Okay.

MR. CROSBY: I voted at the fire station right there. The City Hall is pretty much in sight from where I'm at. And I went to the Registrar's office. I've got everything from her and I've got my - - everything is corrected. If I can approach you to --

SECRETARY KEMP: We'll take a motion to accept.

MR. SIMPSON: So moved.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion and a second to accept. 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: If you'll let us have those documents, we'll make some copies of that and give those back to you.

MR. CROSBY: I mean, even after I left, everything was in the Registrar's. This was where I voted; right here it is again. 420, I had everything changed. And see, the funny thing about it -- it's not funny; I mean, it worried me to death -- once I moved out, the trailer got broke into and the police come out. The only incident location they would put was 341 West. That's it. Like I said, I went to -- I seen the Probate Judge, I spoke to Brian McNeil, the investigator. And, in all honesty, I thought I had all this took care of.

SECRETARY KEMP: Any more question for Mr. Bronnie Crosby?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here. Just sit tight there for a minute.

MR. CROSBY: Thank you, sir.

SECRETARY KEMP: Mr. Harvey, do you have anything to add to that?

MR. HARVEY: No, sir, I don't. We can certainly look at the information he's provided and see if there's -- see if we can figure out exactly what happened.

SECRETARY KEMP: Okay.

MR. HARVEY: In addition to allegation about the five votes.

SECRETARY KEMP: Mr. Willard?

MR. WILLARD: Unless the absentee ballot issues -- and Mr. Fogarty may be best able to address this -- unless they deal with the Crosbys, we may be able to dispose, whether it's bind-over or whether it's a dismissal, however the Board wants to proceed on the Crosbys, just because you had Mr. Bronnie Crosby already here today. And if we needed to go forward on absentee ballots, that may be a separate presentation.

SECRETARY KEMP: Right. And I would like to try to do that if we can. It would be a lot easier for the parties involved not to have to come -- I don't know whether we'll be -- I guess if we were in Savannah, that wouldn't be too bad. But if our next meeting is in Atlanta, that would be a long way for you guys to travel.

Is there anyone else wishing to speak that has not spoken yet on this case?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Fogarty, did you have something you want to add?

MR. FOGARTY: Yes, sir. What he is telling you is where his address he's using is between Ryan Crosby Road and the intersection of 341, that is not 9800. 9800 is on the corner of Graham Methodist Road and 341, two blocks east of where he's talking about. I know where he lived at. It was not no 9800. His uncle lives on the corner of Ryan Road and 341. There's a house right next to it. (Unintelligible) and he lived in a trailer behind there. But he was registered on an empty lot two blocks up where the old store used to be. There's nobody on that lot. Nobody lives on that lot.

SECRETARY KEMP: All right.

MR. WEBB: May I ask Mr. Fogarty a question?

SECRETARY KEMP: Mr. Fogarty? Mr. Webb had a question for you.

MR. FOGARTY: Yes, sir.

MR. WEBB: You were a candidate for office; is that correct?

MR. FOGARTY: Yes, sir. And I still am a city council member for the City of Graham.

MR. WEBB: And is there a jurisdiction change between the two addresses? Are they in the same --

MR. FOGARTY: No, sir. They're still in Graham. See, what it is is Hazlehurst mailing address is on the north side of 341, even though it's still Graham. And Graham is on the south side. That's where the mail is delivered. He's right there. But 9800 is a empty lot where the convenience store -- his uncle used to own that lot. He sold that lot years ago. And there's now a CITGO gas station and convenience store on that lot. Now, he was right that he lived down there by his uncle's house, but that ain't 9800. That's a completely different address. That ain't no 9800.

MR. SIMPSON: What difference does that make? He lived in the same place.

MR. FOGARTY: He never lived on 9800. There was a convenience store there.

MR. SIMPSON: He voted in the right place. He had a right to vote.

MR. FOGARTY: But 9800 is a empty lot.

MR. SIMPSON: He was in the same precinct. It wouldn't have made any difference. Is that right? I'm asking a question. I don't know the answer.

MR. FOGARTY: Well, when you register, you're supposed to register on or either reside on that address where you register to vote at. That's what my understanding was of the law that you have to either own or reside on that lot. He didn't reside on 9800.

MR. SIMPSON: The information he was given told him he did.

MR. FOGARTY: He lives at his uncle's house two blocks down, not 9800.

SECRETARY KEMP: Any other questions for Mr. Fogarty?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Willard?

MR. WILLARD: If the Board is considering it -- and I think I see where the Board is going with Bronnie and Donna, and I think, based on the 911 number assistance it's probably an appropriate resolution. But in terms of Lonnie, apart from the registration issue, you do have the fact that he was voting while he was under federal supervision. I just want to point that out to the Board.

MR. SIMPSON: Different person?

MR. WILLARD: Lonnie. Is that your cousin?

MR. CROSBY: I'm Bronnie.

MR. WILLARD: Right. But Lonnie is your cousin?

MR. CROSBY: Yes, sir.

MR. SIMPSON: He's Bronnie. That's two different people.

MR. WILLARD: Right. I understand that you've got three respondents. But anything that applied to Bronnie in terms of the residence address would also apply to Donna.

SECRETARY KEMP: Bronnie and Donna applied at the same address?

MR. WILLARD: Yes.

SECRETARY KEMP: So Lonnie is not here, correct?

(Whereupon, there was an affirmative response)

SECRETARY KEMP: Well, Mr. Harvey?

MR. HARVEY: Yes, sir. What might be an acceptable resolution is, given the way the Board seems to be inclined is to bind over the case of Lonnie Crosby, who, regardless of where he was registered, registered to vote while under felony sentence. If the Board is satisfied that Bronnie and Donna Crosby were properly registered, we can close that case. And when I get the information from Mr. Fogarty regarding the absentee ballots, we could open another case, if that's appropriate. That way we can dispose of these individuals today, if that's the Board's desire.

MR. WEBB: I'm sorry. Mr. Crosby, did you have an AT&T bill?

MR. CROSBY: Yes, sir. The only thing it's got is my telephone number and my post office box.

MR. WEBB: Okay.

MR. CROSBY: What I had to have in order to get my modem is a physical address. And that's the only physical address they would give me. They still receive their mail there. That's the only mail that I had and the only address that I knew. And as soon as I got my business straightened out, I went and I took care of it.

MR. WEBB: Thank you, very much.

MR. CROSBY: Thank you, sir.

SECRETARY KEMP: Mr. McNeil is not here, is he, Mr. Harvey?

MR. HARVEY: No, sir.

SECRETARY KEMP: So we don't really know about the trailer and the empty lot and the store, do we?

MR. HARVEY: We do know that that is where the store that his relatives owned previously.

SECRETARY KEMP: I'm kind of confused here. So the trailer is where the store was or is or ...

MR. HARVEY: My understanding is the trailer, according to Mr. Fogarty, is two blocks away from where the family store used to be. So the family store and then you've got the trailer two blocks away. 9800 applies to the vacant lot where the store formerly was and where the CITGO is now. I think Judge Simpson's question was essentially they may be two blocks apart, but what is the real harm if he was going to be voting there anyway.

MR. SIMPSON: And someone else gave him that address and said this is what we want you to use for a physical address. I can't see any intentional wrongdoing on -- may not be saying that, but I don't see any intentional wrongdoing on this man's part because he was doing the best he could to comply with the rule.

MR. HARVEY: I think Mr. Fogarty's point is that he wasn't actually where -- they said the address of the store was 9800, but he doesn't live there. He lives two blocks away.

MR. SIMPSON: We have to have a map and a city directory to tell us that. I mean, the highest and best evidence is something else, you know, with the lettering of the street addresses.

MR. WEBB: I would just like to add, I mean, it wasn't too long ago my parents' address was Route 2, and they didn't have a number for their house. I suspect that what they had here was some land, a house was put up, trailer was added later. The one address they did have was 9800 and that's the address that was used, and just the best address that was passed down over and over. And I agree with Mr. Simpson. I don't believe there was any intent here. I think the people were just using the number they'd been using and that's just the way it's been. And I really don't even think this has any need for further investigation.

MR. WORLEY: I would concur.

SECRETARY KEMP: All right. So we've -- as they say, we've got a situation here.

MR. WORLEY: Mr. Secretary, I make a motion that we dismiss Bronnie Crosby and Donna Crosby.

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

MR. WEBB: Second.

SECRETARY KEMP: All right. We've got a motion to dismiss Bronnie and Donna Crosby.

MR. CROSBY: Thank you very much.

SECRETARY KEMP: Hold on. We're going to vote on it. I know you're optimistic. Any other questions for the Board or discussions with the board?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. And we have dismissed. Thank you for being here today.

MR. CROSBY: Thank y'all very much.

SECRETARY KEMP: Now we've got the issue with Lonnie Crosby. Do we have a motion for that?

MR. WORLEY: I would make a motion that we bind over Lonnie Crosby 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 Lonnie Ryan Crosby to the attorney general's office. Any other discussion by 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: Now, I think we still have the issue with Mr. Fogarty on the absentee ballots, which we can look into.

MR. HARVEY: Yes, sir. I would recommend that -- you said you had information. We can evaluate it and, if necessary, open a new case so that we dispose of this case.

SECRETARY KEMP: You understand what we're asking you to do, Councilman? If you'll just get with our investigators in the next few days and just get us that information, we will take that on and go from there, just like we do on any other SEB case. We appreciate you being here today.

I believe that's got I on this one, right?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Am I correct that we're moving on to the 2012, number 43, Lowndes County?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Photo case.

MR. HARVEY: This case is quite simple. The July 31, 2012, primary, Joseph Wheeler was voting and he took a photograph of the DRE in the enclosed space. He was stopped by election officials, deleted the photograph, and apologized. He didn't realize it was illegal.

I recommend a letter of instruction be issued to Mr. Wheeler informing him of the prohibition against photographing ballots in an enclosed space.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak?

(Whereupon, there was no response)

MR. HARVEY: The only other thing I like to add is that this is a good example of a Lowndes County official being aware of what's going on they immediately seized on it. They should be commended for that.

SECRETARY KEMP: Ms. Cox is here. We appreciate your leadership on that. I know we have had several of these cases so it would something good for us to talk about at GEOA and other training sessions. People get excited casting a vote and want to take a picture and put on Facebook. We're just going to have to educate the folks working at the polls and elections superintendents that aren't aware of this. We will have to do a good job, too, of getting that out and just educating the public. So we appreciate you all some leadership on that.

Anyone else wishing to speak on this one?

(Whereupon, there was no response)

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

MR. WORLEY: I move we send a letter of instruction.

SECRETARY KEMP: We have a motion to send a letter of instruction to Joseph Wheeler. Do we have a second?

(Whereupon, there was no response)

SECRETARY KEMP: 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: That motion carries. And we will send a letter.

Mr. Harvey, we've got case number 2012, number 52, Columbia County.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This is almost the exact same fact pattern in Columbia County. This time there were two respondents who did the exact same thing. They photographed their DRE machines and posted the pictures on Facebook.

I recommend, again, each of them receive a letter of instruction and close the case.

SECRETARY KEMP: Anyone here -- any 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: Do we have a motion?

MR. SIMPSON: I move we issue letters of instruction on both cases.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion and a second to issue letters of instruction to Lee Benedict and Thomas Gardner. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We will send both of those individuals letters.

We're moving on to 2012, number 53, Long County primary.

MR. HARVEY: This case is the July 31, 2012, primary election. The complainant was the sheriff who reported that, I believe, one of his deputies had gone to vote very early in the stage of advance voting and did not get the local candidates on the ballot when he voted. It was determined that three individuals during early voting had gotten the wrong ballot. They had simply been improperly chosen. I think only the federal candidates were on the ballot, none of the local people.

Long County Board of Elections and Registration responded. They corrected the error and didn't have any problems after that. I spoke with the Sheriff and he was satisfied with the response.

We have the County Board and Ms. Hopkins, the poll worker, cited. This is a case that could be resolved with letters of instruction to each.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes ma'am. How are you doing?

MS. CUNNINGHAM: I'm fine. Vanessa Cunningham. My address is 469 South McDonald Street, Ludowici, Georgia, 31316.

THE COURT REPORTER: I didn't get the city.

MR. WEBB: Ludowici, L-U-D-O-W-I-C-I.

SECRETARY KEMP: Don't speed there.

MS. CUNNINGHAM: Don't speed there; yes.

I just wanted to further note we did take care of the issue. What we did do, in Long County, I guess they typically only to vote a Democratic ballot. So what we did was this notice was put in each booth twice. You also had it all around the polls.

KSU typically, when they build our ballots, they would put the federal ballot at the very bottom or at the very top. This time, they had it right in the center. So when you would touch the DRE -

- we don't use the express poll; we use DRE -- so when you would touch it, it would actually move. And you didn't realize it unless that person would come and tell you. So what we did was the little box that you have inside the DRE, we had to make sure that you saw that. So what happened is when you touched one, I guess because of the touch screen, it moved the -- instead of touching one thing, it pulled something else down. So they created the card. So we had measures in place when we realized that, but we took additional measures.

SECRETARY KEMP: You've got all straightened out now, don't you?

MS. CUNNINGHAM: Oh, yes.

SECRETARY KEMP: Any questions for Ms. Cunningham?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for taking the time to be here today.

MS. CUNNINGHAM: Thank you.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Anything else, Mr. Harvey?

MR. HARVEY: No, sir.

SECRETARY KEMP: We've got a recommendation for a letter of instruction for the Board of Elections and Registration. Does that go for Ms. Hopkins, too?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: I move we issue a letter of instruction to both people.

SECRETARY KEMP: We've got a motion to issue 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. Thanks again for being here.

Mr. Harvey, we're on to 2012, 79, Bryan County case.

MR. HARVEY: This case also involved the July 31, 2012, general primary election.

In this case the Probate Judge of Bryan County, Honorable Sam Davis, failed to place the candidates for Senate District 1 on the ballot. He indicated he thought that was something that was done at the State level. It is recommended that Judge Davis be bound over to the AG's office on violation of 21-2-285 and the listed SEB rule.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak?

JUDGE DAVIS: Sam Davis, Probate Judge, Bryan County; 151 South College Street, Pembroke, 31324.

It was my understanding, sir, that Mr. Carter's name should have been placed on the ballot by Kennesaw State. They initially sent me the ballot, the first ballot, and all the local candidates except Constitutional officers were all jumbled up. It was like a puzzle. We are one of those few counties that went through drastic changes due to population shift. We changed district lines, precinct lines, moved precincts. It was total chaos. So when they sent us that initial ballot, Mr. Secretary, they -- all of our local people were just in the wrong place, wrong district, wrong precincts. They were wrong split ballots.

When I called Michael Barnes at Kennesaw State about that issue after we proofread that initial ballot, he said he got the information from the elections office. I said, wait a minute. I send you the information about local. He said, yeah, but they got the precinct numbers, or whatever, from the elections office. I said, well, Michael, it ain't right. So there was so many changes, there was no way I could just write the corrections. I had to submit a new candidate submission form to Kennesaw State, which I did.

So he called back and said that he's been in contact with Ms. Ford's office and they got numbers - I'm assuming combo numbers, but I'm not sure exactly what he was talking about. But he said he got those numbers straight and they sent me an additional proof of the ballot. So we went back and proofread all of those.

It's contention, Mr. Secretary and Board, that on that initial ballot, Mr. Carter's name was on there. It was drastic changes on the second time when the ballot came back. Yes, it's my responsibility; the buck stops on my desk. We proofread it the second time, but we were concentrating on all of the changes that we had to make with the local candidates. But I assumed the rest of it would have been fine.

After the election, I called Michael and I said, Michael, we discovered the issue on the day of election. Michael immediately called Ms. Ford's office. They called Mr. Carter. He said, yeah, I hate it, but it's no big deal. I had no opposition. I'm fine with it. So we let it go at that.

A few days after the election, I called Michael. I said, tell me what happened that Mr. Carter's name was not on the ballot. He told me the person who did our ballot for us at Kennesaw State - he told me her name. I said, tell you what, Michael, make sure on your end it doesn't happen again, and I'll make sure on my end we catch it if it does. And I left it at that.

But it was my understanding that Kennesaw is responsible for putting those State officers on the ballot, not me. Where I made the mistake, obviously, was in that second proofreading didn't catch that name. So I asked Michael, I said, do you have the first ballot you sent me, a copy of it, so we can see if Mr. Carter's name was on there? Michael say he didn't have that. I didn't have it, either. I said can you guarantee me it was on there or wasn't on there? He said, I have no way of knowing, Sam.

My contention is that it was, but I can't prove it, sir.

SECRETARY KEMP: Any questions for the Judge?

MR. WEBB: So there was no opposition for Mr. Carter?

JUDGE DAVIS: No, sir.

MR. WEBB: No write-in candidate?

JUDGE DAVIS: He is also on the ballot in Liberty County and Chatham County, so he got plenty of votes to be re-elected, and he had no opposition.

MR. WEBB: Okay. Thank you.

SECRETARY KEMP: Anything else for Judge Davis?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here today, Judge. Anyone else wishing to speak on this case?

(Whereupon, there was no response)

SECRETARY KEMP: Judge, if you don't mind, let me ask you a question. I think it's pretty clear here that we understand going forward what responsibilities you have and Kennesaw State that this will not happen again.

JUDGE DAVIS: Yes, sir. I talked at length with Mr. Barnes and he and I came to an understanding, sir.

SECRETARY KEMP: Well, I, for one, appreciate the Judge taking the time to come today and, I mean, I think that being that this is a -- while it is very unfortunate to have a candidate left off the ballot, fortunately it was not a contested race. But I also appreciate your willingness to come and talk to us about it and wonder if we might not just issue a letter of instruction and hope that we won't see you back on a matter like this.

JUDGE DAVIS: I don't want to come back, sir.

MR. SIMPSON: I make that motion.

MR. WEBB: Second.

SECRETARY KEMP: We have a motion and a second for a letter of instruction. Any other discussion?

MR. SIMPSON: I've got one question. Ms. Ford, who is supposed to put the State candidates on the ballot?

MS. FORD: The way the ballot normally works is we master list that we look at the State level that has all the State and federal candidates on that. That goes back and forth between our office and KSU and we both proof that. Then KSU draws from that list and gives it to the County. But the final signoff is always at the County level.

MR. SIMPSON: I would like to amend that motion and suggest that the letter of instruction should only be for proofreading the ballot. I don't know that, based on what she is saying, he didn't have the responsibility to place the name on the ballot to start with. But he should have proofread to make sure. So I would amend it and have the letter of instruction related only to the proofreading.

SECRETARY KEMP: I'll second that amended motion. And I think we will do that. We'll make sure that we're not giving the Judge's instructions outside of he is supposed to have. Is everybody good with that?

(Whereupon, there was no response)

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 send you a letter, Judge. Thank you again for being here.

JUDGE DAVIS: May I say something else to you, sir?

SECRETARY KEMP: Yes, sir.

JUDGE DAVIS: (Unintelligible) Gill of McIntosh County told me to tell you any time you want to go fishing, she's ready to take you. She promises the boat won't break down.

SECRETARY KEMP: I appreciate that.

JUDGE DAVIS: Thank you.

SECRETARY KEMP: All right. Mr. Harvey, I think we're staring over, here, with the no-shows. 2011, number 54, Troup County, which is number 12 in our binder.

MR. HARVEY: I've got a proposed consent order that was sent to me by the attorney for Troup County that I would like to present to the State Election Board for their consideration.

SECRETARY KEMP: I move we accept the proposed consent order.

MR. SIMPSON: Second.

SECRETARY KEMP: We've got 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: That motion carries.

MR. HARVEY: This is the November, 2011, election. There were five allegations.

One, that Judge Boyd omitted a ballot question from the ballot. That was sustained. He did forget to include a ballot question. However, upon immediately learning of it, he immediately drove to Kennesaw State. He corrected it and was very responsive to the problem.

There was the allegation that there were several voters that were in the wrong State Senate district. That was substantiated. We found out there were about 35 voters who were in the wrong State Senate district and had been for some time. There were complaints about failures of the cards in voting machines. It turns out there was no failure of the cards. Judge Boyd had a difficult time uploading the results as a result of the dual database that he set up with KSU upon learning of the improper ballot.

Then there was a question because voters were made to re-register when voting provisional ballots. Well, that's a requirement. If you're not in the system, you have to submit, as we learned last month in Fulton County, you're supposed to submit a new voter registration application when you vote provisionally for not being in the system.

There was another allegation that a voter had to vote provisionally because the system indicated he had already voted. He voted provisionally. It was accepted and there was nothing really wrong with that.

As I said, the attorney for Troup County has submitted a proposed consent order. He asked me to advise you there is now a new Board of Elections and Registration in Troup County. Judge Boyd is no longer in charge of elections. The corrections have been made to the voter registration system and I would recommend that the Board consider accepting the consent order offered a Troup County.

SECRETARY KEMP: What is the consent order doing, just saying they have a board in place now and they're properly trained to handle all this?

MR. HARVEY: He goes into the corrective actions that Judge Boyd took upon learning of the problem that the ballot question left off. He went into the corrective action that the Registrar did in making sure the voters were in the proper district. There is no fine or anything like that attached to it. But essentially, it's basically a remedial plan, not an explanation of what happened.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: I trust there is nobody here that has arrived from Troup County?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: I move we accept the consent order.

MR. WORLEY: Second.

SECRETARY KEMP: We have a motion and a second to accept the consent order. All --

MR. WILLARD: Mr. Chairman, you probably need to modify that contingent upon them actually submitting an executed copy. I don't believe they've executed --

SECRETARY KEMP: All right.

MR. HARVEY: He may have submitted an executed one in the original file.

MR. WORLEY: He did.

MR. WILLARD: Our copies are not executed.

SECRETARY KEMP: Mr. Simpson won the prize today. So our motion is in order, correct? The original motion is in order?

MR. WILLARD: Yes, Mr. Chairman.

SECRETARY KEMP: We had a second, correct?

MR. WORLEY: Yes.

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 have accepted the consent order.

Mr. Harvey, we're moving on to 2011, number 76, City of Gumbranch?

MR. HARVEY: I hope so. This involves the November, 2011, municipal election in the City of Gumbranch. The simple allegation is that elections superintendent was married to the mayor candidate, and the son a city council candidate. The alternate city clerk was not appointed at a public meeting as required by the code, 21-2-71(b).

So we've got the city and the mayor cited for failing to properly appoint a city election clerk. Recommend the city and mayor be issued a letter of instruction informing the proper procedure for appointing a municipal elections supervisor.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here wishing to speak?

(Whereupon, there was no response)

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

MR. SIMPSON: I make a motion to send a letter of instruction.

SECRETARY KEMP: Who are we sending that letter to, the City of Gumbranch?

MR. HARVEY: City and the mayor.

SECRETARY KEMP: We've got a motion to send a letter of instruction to the City of Gumbranch and to Richard Strickland. 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. We are now moving to 2011, number 94, City of Wadley.

MR. HARVEY: This also is a November, 2011, municipal election in the City of Wadley. Most of the issues here involve improper handling and recording documentation of absentee ballots.

There were some ballots that weren't properly notated. There were ballots there not properly notated on the date and time received. There were ballots that were not marked rejected when they should have been rejected. There were seven voters that were not informed that their absentee ballots were rejected when they should have been notified. The elections superintendent did not keep three copies of the number of listed voters, rejected absentee electors, and two absentee ballots came in minus the inner envelope, and those ballots were rejected when they should have been corrected with new envelopes.

So there are four or five issues with absentee ballots that I think warrant binding over to the Attorney General's office. In addition, Ms. Debbie McGee, accidentally voted her husband's absentee ballot. Her husband requested an absentee ballot, it came to the house and she assumed it was hers. She voted it; she turned it in, though there was no indication of any type of fraud or malice. I recommend that she received a letter of instruction informing her of the necessity of applying for her own absentee ballot, or being careful when voting absentee ballots.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, I am ready for a motion. The recommendation is bind over Sally Adams, elections superintendent; Ms. Jackson, absentee ballot clerk; and send a letter of instruction to Debbie McGee.

MR. HARVEY: Yes.

SECRETARY KEMP: Are we binding over the City of Wadley, too?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Okay. The superintendent and the city. Okay. Do we have a motion?

MR. SIMPSON: So moved.

MR. WEBB: Second.

SECRETARY KEMP: We have a motion by Mr. Simpson and a second by Mr. Webb to bind over Sally Adams, the city clerk, elections superintendent, the City of Wadley, Ms. Jackson, the absentee ballot clerk, and then to do a letter of instruction to Debbie McGee. 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 move to 2011, 99, City of St. Mary's.

MR. HARVEY: This case also involves the November, 2011, general municipal election. There were two violations.

There's a lot of confusion about people going to vote and being told to go to one precinct or the other precinct. What we determined was there were 214 voters who did receive precinct change cards when their precinct was moved for the municipal election.

In addition, we found out that the Probate Judge Gillette did not publish a notice for the L&A testing of the DRE machines prior to November 8, 2011, municipal election.

The good news was that is a single voting city so there are no districts, but people were re-routed and confused about where they voted. Given the nature of the necessity of L&A testing for DRE's, I recommend this case be bound over to the AG's office on the charge.

MR. WEBB: Mr. Harvey, it's only for the incident? Everything else was investigated and looked into, there seemed to be adequate answers?

MR. HARVEY: Yes. I think technically you could argue there is a violation in not sending out the precinct cards under 21-2-226, but it was essentially harmless in that people were able to vote wherever they went.

But, yes, the other allegations were unfounded.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here wishing to speak on this matter?

(Whereupon, there was no response)

SECRETARY KEMP: So, Mr. Harvey we've got the county doing the city election here?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Now, didn't we have the county in fairly recent history --

MR. WILLARD: Hancock. It was the Hancock County case.

SECRETARY KEMP: Well, I'm thinking about -- I think it was Camden that didn't hold early voting a while back? Back when Representative Cicely Hill, maybe two cycles ago?

MR. HARVEY: I recall the allegation. I can't recall if it was Camden.

SECRETARY KEMP: So the recommendation, again, was to bind over the county board?

MR. HARVEY: There is no county board. It's the Probate Judge, Martin Gillette for failure to conduct L&A testing, or publish L&A testing.

SECRETARY KEMP: You got the Camden County Board as a respondent.

MR. HARVEY: Well, the Board of Registrars would be on the issue if the Board wanted to go forward on the precinct card failures.

SECRETARY KEMP: Oh, okay.

MR. HARVEY: They would be the responsible party for that.

SECRETARY KEMP: So we've get the Judge for the L&A testing?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: That would be the only thing we're binding over? The rest of this is being dismissed?

MR. HARVEY: It could be. I think the failure to announce L&A testing is certainly the more significant of the citations.

SECRETARY KEMP: The other citations were just with the first allegation you talked about?

MR. HARVEY: Yes, sir. With the precinct cards not going out to . . .

SECRETARY KEMP: Right. All right. Any other discussion, motion?

(Whereupon, there was no response)

SECRETARY KEMP: I move we bind the Judge over to the Attorney General's office. Do we have a second?

MR. WORLEY: Second.

SECRETARY KEMP: We have a motion and a second. 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. We have bound that over. Now, does the Board want to take action on the registrars or do we want to dismiss?

(Whereupon, there was no response)

SECRETARY KEMP: Could you run through that again real quick, Mr. Harvey?

MR. HARVEY: Yes, sir. There were precinct cards that were not sent out to 214 voters in time for the election so there was a lot of confusion on election day about where people voted. At the

end of the day, it didn't affect the election because it was -- the whole city was at-large, so wherever you voted --

SECRETARY KEMP: So why was that not done, do you know?

MR. HARVEY: The explanation, I believe, was that they just got behind.

SECRETARY KEMP: Would it be appropriate, instead of doing nothing to send a letter of instruction so we are on the record as making sure they've got to find time?

MR. HARVEY: Yes, sir. I believe that would have been appropriate.

SECRETARY KEMP: Had this not been an at-large situation, it could have been a disaster on election day, correct?

MR. HARVEY: That's correct.

SECRETARY KEMP: We can do whatever the Board thinks. I just wanted to make sure I understood.

MR. WEBB: I think that's an appropriate remedy. I would prefer, as you would, to send some sort of documentation to make sure it's recorded.

SECRETARY KEMP: Do you move for letter of instruction?

MR. WEBB: I move for a letter of instruction.

MR. WORLEY: And I second that.

SECRETARY KEMP: We've got a motion and a second for a letter of instruction for the -- that would go to the Camden County Board of Registrars, including the chief registrar, Mary Anne Kicklighter and Heidi Butler, the assistant registrar. Would that be in order, Mr. Harvey?

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

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. Okay, Mar. Harvey. 2011, number 108, City of Pelham.

MR. HARVEY: This is the December 6, 2011, general runoff election; a little similar to the last case we had. There was a school board runoff election and you had four voters that went to vote who didn't live in the proper district. They were allowed to vote, even though they were not eligible to vote.

All three electors said, we thought we were able to vote in the election. They went and when they were pulled up on the list, the poll worker just -- apparently it was a long list and when they read across the line they saw the wrong district these three voters were in. They allowed them to cast ballots. They should not have been able to vote and the voters should not have voted.

So we've got the city and the poll manager cited for qualifying voters who were not qualified to vote and then three voters for voting where they didn't reside.

I think it would be appropriate in this case to consider letters of instruction for all parties. I don't think that would be inappropriate.

MR. WEBB: Mr. Harvey, are you including Nicole Bailey, Yolanda Thomas, and Nathaniel Harvey?

MR. HARVEY: Yes, sir.

MR. WEBB: I mean, weren't they given the ballot to vote?

MR. HARVEY: Yes, sir. Well, they went to vote and they were looked up incorrectly, so they were given the ballot and they voted. So I think you could argue they attempted to vote in a district in which they didn't have the eligibility to vote in. So to that extent I think they're culpable for that. I think the fact that they showed up and they were given the ballot when they shouldn't have been is -- part of the culpability lies with the city.

Does that answer your question.

MR. WEBB: I'm scratching my head, but . . .

SECRETARY KEMP: I think Mr. Harvey, and tell me if I'm wrong, Mr. Harvey, but you're saying that even though the voter may have been confused, it's still important for them to know what district they're supposed to voting in. I mean, we're seeing this more and more in these bigger elections where you have people just going into any polling location saying I want to vote a provisional ballot, and that causes a lot of issues. And that is something were going to have to be addressing in the future, as well. I think these letters will explain to folks that, look, you've got to know where it is that you are eligible to vote. There's got to be some, in my opinion, some responsibility for the voters. I don't think that we're trying to be too harsh just educating these folks and, obviously, the others, as well.

Mr. Simpson?

MR. SIMPSON: I think this is a widespread problem, and you've got to remember that this is a runoff election. And so, even though you can give people the benefit of the doubt and say, well, maybe they just got there by mistake, it's a lot easier in my mind to say they had a friend who needed some help and they went and voted. This is pretty much widespread in rural areas where people vote out of precinct if they get an opportunity to.

So I don't think a letter of instruction is adequate. I think we need to bind it over. I think we need to make a statement and I don't think a letter of instruction is an adequate statement. Election officials need to know people have to have a physical address, it's got to be correct, and people have got vote where they are supposed to vote because this is a real problem in rural areas.

SECRETARY KEMP: Is there anyone else here who wishes to speak on this case?

(Whereupon, there was no response)

SECRETARY KEMP: Certainly if they were here to explain, I think I would be a little more willing to do a letter. But, certainly, with them not showing up, I'm fine binding it over, too.

Do we have any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Am I correct in saying we don't have a motion yet?

MR. WORLEY: We don't.

MR. WEBB: Mr. Harvey, how were these people voting? Were they voting DRE or were they voting paper?

MR. HARVEY: I believe they were voting DRE, though I'm not 100% sure. Let me correct that. I think they were voting paper ballots.

SECRETARY KEMP: Anything else from the Board?

MR. WORLEY: I make a motion to bind all respondents over to the Attorney General's office.

MR. SIMPSON: Second.

SECRETARY KEMP: We've got a motion to bind the City of Pelham, Gloria Anderson, assistant poll manager, Lenora Butler, assistant poll manager, Nicole Bailey, Nathaniel Harvey, and Yolanda Thomas. Did I get everybody, Mr. Harvey?

MR. HARVEY: Yes, sir.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Let's see, 2012, number 12, Treutlan County.

MR. HARVEY: This case involved the March 6, 2012, presidential preference primary. There were allegations that three polling places did not open at 7:00, as required by the code. We determined there were three fire stations that -- volunteer fire stations that when the workers arrived, the fire trucks are still in the area and they were not able to set up the equipment. It took a while to get the equipment set up and the polls to open. So the polls opened sometime after seven a.m.

I believe this is not the first time Treutlan County has had this issue with opening polls. I would recommend that, based on that, Treutlan County Probate Judge, Honorable Torri Hudson, and the poll managers listed be bound over to the AG's office.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here wishing to speak?

MR. EVERETT: Gentlemen, my name is Tom Everett. I'm the Treutlan County attorney. My address is Post Office Box 1840, Vidalia, 30475. I'm here today with Probate Judge, T.J. Hudson.

My conversations with Mr. Hudson and the poll workers -- Treutlan County does not dispute the allegations made in the complaint. It appears there was a communication failure along the way somewhere where our county fire chief did not receive a call to coordinate removal of the fire trucks from the various volunteer department stations.

Once the county was aware of the problem, they acted as quickly as they could and rectified the situation. I don't believe there was any intent on the part of any poll worker or Mr. Hudson to delay the opening of the polls that day.

Generally, an unfortunate experience we hope not to repeat.

SECRETARY KEMP: We appreciate that. Any questions for Mr. Everett?

MR. WORLEY: There was some discussion this happened in the past?

MR. EVERETT: To the best of my memory, gentlemen, I believe there was a complaint two or two-and-a-half years ago before you for a similar incidence where the trucks were not removed in time and polls were delayed in opening.

SECRETARY KEMP: Mr. Webb?

MR. WEBB: To follow-up on that, was Judge Hudson in office at the time?

MR. EVERETT: Yes, sir.

SECRETARY KEMP: I think that begs the question with my good friend, Judge Hudson, where's the failure to communicate, as they say? One thing, I think this Board is very consistent in the way it treats people. But we just don't like repeat offenders. So if y'all could help us here, it would be helpful.

MR. EVERETT: TJ, correct me if I'm wrong. I believe the arrangement they had was our county manager was to contact our county fire chief in order to coordinate removal of the trucks the evening before. Our county manager had been suffering from some health concerns for some time. I don't mean to lay the blame on him, but I suspect the call was not made.

Ultimately, though, it's Mr. Hudson's responsibility as elections supervisor.

MR. WEBB: And I guess those health concerns were known, right?

MR. EVERETT: Yes, sir.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Judge, can we trust that you're going to make that call next time and not rely on anybody else?

JUDGE HUDSON: I guarantee it.

SECRETARY KEMP: I do not want to see you other than GEOA and other things. I like seeing you. I just don't want to see you here at the State Election Board.

Well, I'm willing to do another letter of instruction if the Board would go with me. Certainly, if you don't, I understand being that this is a repeat offender. But I can assure you, if we do a letter, Judge, you're not going to want to be here next time.

JUDGE HUDSON: All right.

SECRETARY KEMP: Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: I make a motion we do a letter of instruction to Judge Hudson.

MR. WORLEY: I'll second that.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: All right, judge. It's all on you now.

JUDGE HUDSON: Thank you. I appreciate it.

SECRETARY KEMP: I didn't miss anything did I, Mr. Harvey?

MR. HARVEY: I don't believe so.

SECRETARY KEMP: We're going to move to the Attorney General reports. As well with the Attorney General reports, we have been voting these consent orders in block unless we have board members that want to pull these out individually and discuss the outcomes of those consent orders, or was there some in the audience that would like to hear about the consent order.

So at this time, if there is anyone, any Board member who would like to pull one of these consent orders out, to have some explanation from Mr. Willard, let me know this time.

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, anyone in the audience that wishes to hear more specifics on any consent orders?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, Mr. Webb is asking for a minute, which we'll be glad to give him.

MR. WEBB: Mr. Secretary, I would like to pull case number 2008, 01, number one returning concerning respondent Turner Bostwick.

SECRETARY KEMP: All right. We'll do that for Mr. Webb. Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: I tell you what, Mr. Willard, let's go ahead and pull that case and give us the explanation and we'll get rid of that one first. Then we can deal with the other ones, if that's all right with you.

MR. WILLARD: That's fine. This case involves three respondents, Turner Bostwick, William Clark, and Raymond Williams, concerning the November, 2007, municipal general election in the City of Arlington.

Mr. Bostwick was the most egregious actor in this instance. He completed a substantial number of absentee ballot applications. We had over 180; I believe the exact number was 189 absentee ballot applications that he helped fill out or completed on his own and failed to sign as assisting. He then assisted 39 voters in completing their absentee ballots without signing as assisting. And he actually possessed at least one absentee ballot and mailed it on behalf of the voter. He is down for a \$5000 civil fine.

Mr. Clark and Mr. Williams were involved in just filling out absentee ballot applications without signing. They are down for a \$250 fine each.

All of the consent orders also call for a cease-and-desist and a public reprimand. I'll be happy to answer any questions the Board has.

MR. WEBB: The magnitude of the \$5000 fine, if you could you add any color to that? Is there any kind of background?

MR. WILLARD: We view this as serious in terms of the number of absentee ballot applications that were completed, although, as you're aware, the Board has not fined that as much in the past as they have taking possession of an absentee ballot, itself. This would probably, if there wasn't so much age on the case, would have been subject to an even larger fine given the volume that you're talking about. But given the age of the case, we felt a \$5000 fine was appropriately punitive enough in nature.

MR. WEBB: Thank you, Mr. Willard.

MR. WILLARD: Thank you, Mr. Webb.

SECRETARY KEMP: Any other questions on this one?

(Whereupon, there was no response)

SECRETARY KEMP: Do you have a motion Mr. Webb? Wait. Let me ask you this. Is there anyone else wishing to speak on this.

(Whereupon, there was no response)

SECRETARY KEMP: Your motion, Mr. Webb?

MR. WEBB: I would make a motion that we accept the arrangements that the Attorney General has recommended.

MR. WORLEY: Second.

SECRETARY KEMP: We have a motion and a second to accept the consent order on SEB case 2008, number 1, dealing with 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. We have accepted that consent order.

That leaves us with the remaining cases, the -- I may just wait and let somebody make a motion and give all these numbers so we don't have to do that twice.

MR. SIMPSON: I move we accept the recommendations of the District Attorney [sic] on case number 2010,90; 2010, 92; 2010, 108; 2010, 117; 2011, 15; 2011, 20; and 2011, 41.

SECRETARY KEMP: We've got a motion. Just for the record, that would be the recommendation of the Attorney General. I think you said District Attorney, Mr. Simpson.

We have a motion. Do we have a second?

MR. WEBB: Second.

SECRETARY KEMP: 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 accepted those.

One thing I would just mention and I would like to thank our investigative team and our elections division staff, Mr. Willard and, previously, Ms. Brumbaugh. I think it's pretty clear by looking at our agenda, by taking up cases in 2011 and 2012 that this Board continues to keep a pretty torrid pace to try to stay up to date on the election cycles. We appreciate Mr. Willard and the Attorney General's office for trying also to keep up with their work after we refer issues to them where they can. That's not always possible for people who want hearings. But we are committed to continuing to do that I know the Board, as well as myself, appreciates all those parties being involved in continuing to try to keep up with everything.

If there is no other old or new business, I will take a motion to adjourn.

MR. WEBB: Motion to adjourn.

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion to adjourn this 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. Thank you all for being with us today and have safe travels back to where you are headed.

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(Whereupon, the proceedings were concluded at 2:45p.m.)

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C E R T I F I C A T E

1
2 STATE OF GEORGIA)
3 COUNTY OF DEKALB)
4

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

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

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

19 This the 13th day of March
20 2013.

21
22 
23 Deborah L. Merideth
24 Certified Court Reporter
25 State of Georgia



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, MAY 14, 2013
10:00 A.M.

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

*DEBORAH L. MERIDETH, CCR
HAPPY FACES COURT REPORTING
POST OFFICE BOX 1063
TUCKER, GEORGIA 30085
(770) 414-9071*

APPEARANCES:

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

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

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.

10:00 a.m.

PROCEEDINGS

SECRETARY KEMP: Good morning, everyone. I want to go ahead and call the meeting to order. I apologize for starting late. For some reason the mics at the front up here aren't working, but we'll go ahead and -- there they are right there.

Let me go ahead and call the Tuesday, May 14, 2013, State Election Board meeting to order. Like to welcome everyone here this morning. We apologize for our delayed start. We'll start with our invocation and then if you'll stand, we'll do the Pledge of Allegiance. Let Mr. Webb lead us in both of those this morning.

- - -

INVOCATION

- - -

PLEDGE OF ALLEGIANCE

- - -

SECRETARY KEMP: Thank you, Mr. Webb. Before we move on to the regular agenda, I did want to share a few words of personal point of privilege, if you might, just to thank Kent Webb for his services. This is going to be his last meeting today. Unfortunately, his work and family duties are going to take him off of his service on the board and he's going to be focusing his law practice and other things he's got going on in his personal life. We certainly wish him the best with that.

He has served ably and notably for almost four years. He has helped this board by not only being a great public servant and taking his time and efforts to be a great board member, but he's also helped, since I've been here, to really streamline our meetings to where they are, I believe, a lot faster than they used to be. We have been able to make some changes and been able to move things quicker still doing our due diligence. But certainly streamlining meetings. We have also moved through a lot of old cases that were on our docket. There's a lot of reasons for that. But this board, with Kent's leadership, has moved through most of those cases. And most of the things we take up, unless they're unusual circumstance have been -- you can see on our agenda now that we're in, you know, we're keeping up with the case. Every year after an election, we bog back down again. But we've been able to move through those and I know he's proud of that.

But more importantly, I think he's done that in just a very respectful and statesmanlike way that he's conducted himself in our board meetings. I think his demeanor, you can tell he is prepared. He has treated, I believe, everyone that's been in front of fairly and consistent, which is something this board strives for.

I want to personally thank him for his service. I have an Outstanding Georgian Certificate for him and a letter that I would like to present him on behalf of myself and the board and Secretary of State's office, and I just thank you for your service. We appreciate it.

I'd also like to, before Mr. Webb says a few words, to see if any other board members would like to make any comments.

MR. McIVER: Mr. Chair, may I?

SECRETARY KEMP: Mr. McIver.

MR. McIVER: Well, speaking only for myself and not my fellow board members, I want to thank the Webb family -- Kent's lovely wife Diane is the audience today -- for all the work that they have done. You have to serve on this board to really appreciate the total number of hours that are required; the reading; learning the election code, which is very difficult. I've studied election codes in other states trying to be better with the Georgia election code, and I tell you, it's been amended hundreds of times. And I wouldn't call it a patchwork, but it's very difficult; it's not well-organized. And one day, Mr. Secretary, we've got to get busy about straightening out this election code.

But Kent very quickly got a hold of it. He is obviously quite bright. He applied that intellect to this -- the workings of this board and he has been an extremely valuable member. And just four short years, it seems like he's been here forever and I, for one, will profoundly miss him, Mr. Chair.

SECRETARY KEMP: Mr. Worley.

MR. WORLEY: Mr. Secretary, I would just like to concur in your comments and McIver's comments. It's been a great pleasure to serve with Kent on the board. He is extremely diligent and very hard-working and, most importantly, he has approached, in my experience, every case that has come before this board in a very nonpartisan, fair way. I think he will be missed on this board. It's been a pleasure to get to know him.

SECRETARY KEMP: Mr. Simpson.

MR. SIMPSON: I'd like to join those comments from the rest of the board members

and personally say that since I'm the newest member and I fill the unexpired term of an outgoing member, it's been very helpful to me to have a fast learning curve because of your service on the board and your analysis and explanation for decisions and your comments about the election code. It's been very helpful to me personally, and I think your service has been really a privilege for the State to enjoy your having served on this board.

SECRETARY KEMP: Thank you. Mr. Webb.

MR. WEBB: Thank you all for the kind compliments and comments. I do appreciate it. And I have to say it has been an honor and a privilege to serve on this board. It's amazing that the State can really attract such quality people to volunteer their time to serve in this capacity. It does eat up a lot of time and I'd like to thank my wife for supporting me because there a lot of weekends and evenings when you're pouring through a four-inch binder and reading back to the code to make sure you make fair and impartial decisions. And you really want to focus on representing the people of the State of Georgia well.

I would like to thank former Speaker Glen Richardson for appointing me to this position, as well as current Speaker David Ralston for allowing me to continue to serve.

In the nearly four years I have served, it has been amazing the steps the Secretary of State's office has taken to really improve the process, to improve the meetings, and to really serve the people of Georgia.

One particular matter I'd like to comment on is when I first started serving, every meeting we had two to three cases involving nursing homes. And it was shocking to me to have to come in here and hear how people were taking advantage of the elderly for their own political gain. And the Secretary of State's office saw that this was an issue, addressed it, put some training out there, word by mouth that we're not going to tolerate the elderly being abused. And I can't tell you the last time we had a case from a nursing home.

So the people of this State are very fortunate to have the Secretary of State and his exceptional staff who have worked diligently to represent the people of Georgia. For me, this has made me a better person; it's made me a better attorney. And I really can't tell you how much I have enjoyed serving. So thank you. Thank you all.

SECRETARY KEMP: Thank you, Mr. Webb. We owe you, certainly, a round of applause. Thank you for your service.

And in the good spirit of this working board, we'll now go to work and not let you be lax on your last day of service. We'll make sure you stay on your toes today and we just appreciate you and your family's support and your service to our great State.

With that, we are going to move on to the approval of the minutes. We've actually got two sets of minutes to approve, the first being our January 31, 2013, meeting. If there are no changes, I will take a motion to approve the minutes.

MR. WEBB: I make a motion to approve the January 31, 2013, minutes.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion by Mr. Webb and a second by Mr. Worley to approve the January 13 [sic], 2013, minutes. If there's no other discussion, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Now we need a motion for approval on the February 21, 2013, minutes, if there are no corrections. Do I have a motion?

MR. WEBB: I'll make a motion that we approve the minutes from the February 21, 2013, board meeting.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion again by Mr. Webb and a second again by Mr. Worley to approve the February 21, 2013, minutes. If there's no other discussion, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

SECRETARY KEMP: We will now move on to our public comment portion where,

again, I'll remind you we'll have a -- if you'd like to speak to us, we'll allow you two minutes to address the board about any issue you may want to talk to us about today. Just a reminder that this is not for the cases that are on our agenda. We will call those separately.

I only have one person signed up today. So if there's anybody else, just let us know quick. Our first person today will be John Fortune. If you will, just say your name and give us your address for the record.

MR. FORTUNE: Hi. My name is John Fortune. I'm with Defenders of Democracy, and our address is P.O. Box 808, Decatur, Georgia 30031. Today I would like to review some issues of transparency; three issues.

As many of you know, our voting system in this State is computerized and the tabulation systems are opaque and proprietary. But another transparency issue that concerns the conduct of openness and inviting the public to this public meeting is the SEB email list. At different times the email list seems to have been purged, and I know from speaking with my colleague from the League of Women Voters back there, Sally Fitzgerald, that she did not receive an email regarding this meeting; I did not receive an email; other groups from the left and the right did not receive emails regarding this meeting being conducted here today. So they were not able to clear their schedules to attend.

And the last issue of transparency that I want to bring up is the procedural matter regarding the Douglasville Quarterman case. I'm not expected to be a witness in that case, but I am aware that Mr. Quarterman, the complainant, was not notified that this case was on the agenda, and I don't know if he'll be here and be able to speak to the case. If a consent agreement has been reached on this case, I would think it would have been appropriate for him to have the opportunity to attend this meeting and have the opportunity to review the consent agreement.

Thank you very much.

SECRETARY KEMP: Thank you very much. Anyone else wishing to address us in public comment?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, we will move on to our investigative report and our consent agenda. The way the consent agenda works, which is number 4 on your agenda, if there is no one here in the audience or on the board that would like to pull these cases off, they will be voted on in block for dismissal. If there are people here that

would like to hear these cases, or if there are individual board members that have issues or want to hear different concerns, we will gladly pull those cases off and hear them individually.

I know we are going to -- Mr. Harvey, do you want to address the Quarterman case? I know you told me before the meeting we were going to pull that off the consent agenda.

MR. HARVEY: Yes, sir. Mr. Quarterman, he was mailed notice. However, it went to old address. He found out, I think, late Friday about the meeting. He called me yesterday and we confirmed that it was sent to a bad address. So I told him we would take the case off the agenda and put it on the next agenda. I've got his proper contact information, so he should be properly noticed.

SECRETARY KEMP: So we're not moving it to today's. We're moving it to a future meeting?

MR. HARVEY: That's correct. And also on the consent calendar, there is a Brantley County case that's on the consent calendar. An attorney is here -- there are actually two Brantley County cases. Only one of them, however, is on the agenda. I would recommend -- I believe the people from Brantley Board of Elections and the respondents are all here.

As far as Brantley County, 2012-63, which is on the consent case, I would present that as it is. However, I would recommend that we add the Brantley 2012-27 case to the agenda. I believe all the parties are here, and if nobody has an objection, I believe we can handle that today.

The attorney that came, actually came on the case that is not on the agenda. Since they've come from South Georgia, I thought it might be acceptable to add that to the regular new cases.

SECRETARY KEMP: What's the number on that?

MR. HARVEY: It's 2012-27. It's not in your binder. I certainly go over the case. That's the case that case that Mr. Segui is actually here to speak on. He got confused with the two different case numbers. And I believe somebody from Brantley County Board of Elections is here also.

Unless they object -- I think the resolution will be something -- the recommendation will be something that both sides would be okay with. So if we can deal with that under new cases, I would recommend that.

SECRETARY KEMP: All right. We'll deal with that when we get to the new cases. Also, we were going to pull off and hear case number 2012, number 72, the Ronnie Mabra case. Mr. Worley needs to address us on that.

Are there any other cases that the audience would like for us to pull off? Yes, ma'am.

UNIDENTIFIED FEMALE: 2007-42, City of Byromville.

MR. HARVEY: That's on the AG calendar.

SECRETARY KEMP: This is just under number 4, the investigation reports on the agenda. That starts with the Quarterman case which we've scratched and runs through Clayton County, Commissioner Turner case.

Anybody else want us to pull one?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone on the board have a case they want to pull off?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, if you don't mind, I'd like to pull off 2013, number 4, Clayton County case.

Anybody else? Last call.

(Whereupon, there was no response).

SECRETARY KEMP: Hearing none, I will need a motion that we would dismiss the following cases that are on the consent calendar:

2011, number 86, City of Hinesville; 2012, number 36, Greene County Registration Drive; 2012, number 54, Peach County ID at Polls case; 2012, number 60, Webster County; 2012, number 63, Brantley County; 2012, number 73, Clarence Johnson Case; 2012, number 75, Sumpter County case.

If there's no one else that would like to pull any of those cases off, we're going to accept a motion to dismiss.

MR. WORLEY: So moved.

MR. SIMPSON: Second.

SECRETARY KEMP: All right. We've got --

MR. WEBB: I had a point of clarification on Clarence Johnson, the case under tab 10. Was that pulled off?

MR. HARVEY: That case was to be pulled off the agenda, Mr. Secretary.

SECRETARY KEMP: I'm sorry. Did I read that case?

MR. WEBB: You did.

SECRETARY KEMP: Let the record be corrected that we are pulling out -- so that case, are we just going to hear that?

MR. HARVEY: We're going to reset that to the next agenda.

SECRETARY KEMP: Okay. My apologies. So we will not be -- this motion will not deal with 2013, number 73, Clarence Johnson case. Everybody clear? Thank for that, Mr. Webb.

All right. We've got a motion by Mr. Worley and a second by Mr. Simpson to dismiss the previously called cases. If there is no other discussion, all in favor, signify by saying, "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

All right. Mr. Harvey, we'll go ahead and hear the Mabra case; 2012, number 72.

MR. HARVEY: This case involved a candidacy affidavit of candidate Ronnie Mabra. There is an allegation that he may not have been qualified, or met the qualifications that he put on his candidacy affidavit. The investigation revealed that in October of 2011, Mr. Mabra registered to vote in Fayetteville, Georgia. There was a situation with his home going into foreclosure, him moving into his mother's address, and then filing his candidacy and affidavit in May of 2012.

It was determined that he had met the residency requirements for running for office and it is recommended this case be dismissed.

There was a second allegation that there were signs put up that said, Ronnie Mabra, State Representative District 63, Free Wings, with an "I Voted" sticker, no matter who you

voted for. We couldn't find anybody that put those signs up. Mr. Mabra denied having anything to do with the signs. There's no evidence that anyone actually did receive free wings, and I would recommend that charge be dismissed, as well.

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

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here wishing to speak or address that case?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Worley.

MR. WORLEY: Mr. Secretary, I asked that the case being taken off the consent calendar only because I find it necessary to recuse myself from voting on that matter.

SECRETARY KEMP: Let the record reflect Mr. Worley has recused himself and will not be voting. Any other questions or comments from the board?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: If not, I'll take a motion on recommendations to dismiss.

MR. McIVER: I so move.

MR. SIMPSON: Second.

SECRETARY KEMP: Mr. McIver moves to dismiss; 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. We have dismissed case 2012, number 72.

We will now move on to 2013, number 4, the Clayton County case.

MR. HARVEY: This case involves a complaint that Clayton County Commissioner Jeffrey Turner, at the time he filed his candidacy and affidavit put false information regarding his residency. He filed his candidacy affidavit on May 25th, 2012. I believe some of the confusion came that Commissioner Turner, while he had moved -- I'll get into the timeline in just a minute -- while he had moved, he was going through a divorce and going through a bankruptcy, and in some of his filings in these other matters, he had statements where he listed his address at his former address in Henry County.

The investigation determined that in December of 2010, he, in fact, moved to Clayton County where he signed a rental agreement. In -- April, 2011, he registered to vote in Clayton County. Both of those establish his residency in Clayton County, and it appears there was no residency issue, no false information put on his candidacy affidavit. He explained the disparity in the bankruptcy and some of the other civil matters as in order to keep business flowing so they would go to one location.

So I recommend this case be dismissed. I don't find any evidence he put false information.

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

(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 accept a motion.

MR. WORLEY: Mr. Secretary, I make a motion we dismiss this case.

SECRETARY KEMP: Mr. Worley moves to dismiss.

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: That motion carries.

That's got everything on the consent agenda, right, Mr. Harvey?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: All right. We're now going to move to our regular new cases. What I want to do here is to try to help the folks that bothered to show up this morning. As we go through and I call these cases, if you're here for this case, whether you're a respondent or county or whoever, just let us know and we will take those in order that we have them. For the cases where people who are not here, we'll save those, move those to the foot of the calendar, which will hopefully speed things up.

So I'm going to take the Brantley County case first. I know you all are here. We've got Wheeler County, Nobles case?

UNIDENTIFIED MALE: We are here, Mr. Secretary.

SECRETARY KEMP: Thank you. Murray County, Rayburn case.

UNIDENTIFIED MALE: Yes, I'm here.

SECRETARY KEMP: DeKalb County SPLOST case.

UNIDENTIFIED MALE: We're here.

SECRETARY KEMP: City of Clayton, candidate qualification.

(Whereupon, there was no response)

SECRETARY KEMP: Clayton County?

(Whereupon, there was no response)

MR. HARVEY: City of Clayton, sir.

SECRETARY KEMP: I'm sorry. City of Clayton.

MR. WILLARD: Mr. Harvey, is that one we received correspondence from their attorney yesterday?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: All right. City of Alamo.

UNIDENTIFIED MALE: Here

SECRETARY KEMP: City of Quitman.

UNIDENTIFIED MALE: Here

SECRETARY KEMP: City of Porterdale.

UNIDENTIFIED FEMALE: Here

SECRETARY KEMP: City of Warwick.

UNIDENTIFIED FEMALE: Here

SECRETARY KEMP: Gwinnett County.

(Whereupon, there was no response)

SECRETARY KEMP: 2011, number 100, Gwinnett County case.

(Whereupon, there was no response)

SECRETARY KEMP: 2011, 102, Fulton County, Henderson.

(Whereupon, there was no response)

SECRETARY KEMP: City of Monticello.

UNIDENTIFIED MALE: Good morning, Mr. Chairman. We're present and ready to proceed.

SECRETARY KEMP: Thank you. 2012, number 4, Paulding County felons case. Okay.

2012, number 11, Oconee County.

UNIDENTIFIED FEMALE: (Unintelligible)

SECRETARY KEMP: 2012, number 14, Decatur County, PPP.

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, we've pulled off 2012, number 18; is that right -- number 36? It's a PPP.

MR. HARVEY: Yes, sir.

SECRETARY KEMP: All right. 2012, number 25, Clarke case; Clarke County.

(Whereupon, there was no response)

SECRETARY KEMP: 2012, number 26, we've got the Hoffspiegel & Associates case.

UNIDENTIFIED MALE: Yes, sir. Present.

SECRETARY KEMP: Thank you. 2012, number 34, Wheeler qualifying case.

UNIDENTIFIED MALE: (Unintelligible)

SECRETARY KEMP: 2012, number 62, Hall County.

UNIDENTIFIED MALE: We're here.

SECRETARY KEMP: 2012, 152, Douglas County, private voter registration case and 2012, 159, voter registration drive case.

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Mr. Harvey, we can take the Brantley County case first, 2012, number 27.

I want to make sure that -- are all the respondents in the case here?

MR. HARVEY: The attorney for the respondent is here, and I believe someone is here from the Brantley County Board of Elections; is that correct?

UNIDENTIFIED FEMALE: We were for the case number 63.

MR. HARVEY: That was just closed under consent.

UNIDENTIFIED FEMALE: Right.

MR. HARVEY: This involves Brantley County and the respondent. If they would be willing to have the case presented, we could go forward, or at least maybe go forward on the respondents represented by counsel. It's a fairly straightforward case and I believe I'm going to recommend a letter of instruction be issued to the parties.

SECRETARY KEMP: Well, why don't we do this. Let's just go ahead and hear the case and if we have any objections from the board or any respondents or anybody in the audience, we can hold off our decision. I think with the attorney being here, we should

go ahead and at least hear the case.

MR. HARVEY: This case involved an allegation that an officer in the Democratic Party was also serving as the chairman of the Board of Elections in Brantley County. The investigation determined that Mr. Hilton Morgan was, in fact, the Secretary of the Democratic party and also accepted the position as the chairman of the Board of Elections.

As soon as it was brought to their attention that there was a conflict there in the law, the situation rectified. I've got Mr. Segui here representing Mr. Hilton. He's provided some affidavits essentially where people have said they had no idea they were doing anything wrong.

And so I would recommend that both for Mr. Morgan and for the Brantley County Board of Elections, that a letter of instruction be issued reminding them of the necessity to avoid conflicts in those appointments.

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

(Whereupon, there was no response)

SECRETARY KEMP: Anyone from the County or respondents wishing to speak to us?

(Whereupon, there was no response)

SECRETARY KEMP: Well, Mr. Worley, being a Democratic Party appointee, do you have any objection to us moving forward on this?

MR. WORLEY: No. As long as the respondents don't object, I have no objection.

UNIDENTIFIED MALE: (Unintelligible)

SECRETARY KEMP: Sir, are you representing a respondent?

UNIDENTIFIED MALE: Yes. Hilton Morgan.

SECRETARY KEMP: Why don't you just come up and give us your name and address for the record and let us know that you are representing a respondent. I think that would make everybody feel a lot better that the respondents are here.

MR. WEBB: My question is, is Mr. Hilton a respondent?

MR. HARVEY: Yes, sir.

MR. WEBB: Is he represented --

MR. HARVEY: Mr. Segui is representing Mr. Morgan.

MR. WEBB: Thank you.

MR. HARVEY: And then the members of the Brantley County board are here also.

MR. SEGUI: My name is Joseph Segui. I represent Hilton Morgan. My address is P.O. Box 699 Waynesville, 31566.

SECRETARY KEMP: You don't have any objection to the letter of instruction?

MR. SEGUI: We don't. As Mr. Harvey said, as soon as the problem was brought to their attention, immediately, that member resigned from the chairmanship.

SECRETARY KEMP: Very good. Thank you. Any questions for Mr. Segui?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anybody from the board or County wishing to speak?

UNIDENTIFIED FEMALE: (Unintelligible)

SECRETARY KEMP: You're okay with the letter of instruction?

UNIDENTIFIED FEMALE: Yes; fine.

SECRETARY KEMP: Just wanted to make sure. Anyone else wishing to speak? Yes, ma'am. Come up to the mic.

MS. SWINDAL: My name is Deborah Swindal, and I live at 460 Pennahatchee Road, Vienna, Georgia.

I have nothing to do with this Brantley case, but I would like to say that a member of the Board of Elections within a county, the members of the committee, number one, should know enough about the law to be able to determine something as simple as the Chairman of the Democratic Party not eligible to be on that board. This is a problem that we have a small counties, is that people do whatever they wanted to and then say, oh, we didn't know. I mean, common sense can tell you that the Chairman of the Democratic committee for that county shouldn't be anywhere near the Board of Elections committee.

And then just to write it off with a little slap on the wrist, that's the problems that we have

in small counties. Nothing happens when they do what they know was wrong. And nothing happens. And we get elections that they vote absentee when they know they're not supposed to and nothing happens. And this is why. They get a slap on the wrist.

There is nobody in this room will ever believe, in my opinion, if they've got a brain in their head, that this person didn't know and the members of that board of elections committee didn't know.

So I personally am unhappy because the people in the small counties know what results this kind of slap on the wrist that our elections go to hell in a hand basket.

SECRETARY KEMP: Any questions for Ms. Swindal?

(Whereupon, there was no response)

MS. SWINDAL: And I apologize if I was being a little fiery because I got fired up on that one. Again, we're here because of election fraud and it happens all the time. And we're in a small county, and this is why.

SECRETARY KEMP: Thank you for your comments and we appreciate that. And, of course, I'll also make sure that the record reflects that we have actually arrested people for absentee ballot fraud in recent years in the State of Georgia. So if anyone has any allegations about voter fraud of any kind in this state, I can assure you that Mr. Harvey and his team will investigate if we get a complaint and this board will bring every one of those cases to this meeting. They may be dismissed if there is no evidence; they may be given letters of instruction; they may be referred to the AG's office; or we may take other measures. But I can assure you that this office and this board and these investigators will look at every single complaint that we get in the elections process.

Okay. Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: I move we issue a letter of instruction concerning this to the Board of Elections.

SECRETARY KEMP: We have a motion by Mr. Simpson.

MR. SIMPSON: Before I complete that motion, if I may ask the attorney, who appoints election boards? Does the County Commissioners appoint election boards? That may be who we need to send the letter of instruction to is the appointing body.

MR. SEGUI: This particular member, you know, I don't want to speak out of turn, but I'm not exactly sure who appointed this one. But the party appoints one member of each party -- Republican appoints one; Democrat appoints the other -- and I believe the Board of Commissioners appoints the other members; the supervisor.

MR. SIMPSON: Do you know who appointed this member?

UNIDENTIFIED FEMALE: That's correct.

SECRETARY KEMP: Let me do this. Come on up. We need to be able to make sure we can get this on the record and that our reporter can get this correct for the transcript. If you will, give us your name and address for the record, please.

MS. TURNER: My name is Christine Turner. I reside at 352 GW Heisman (unintelligible), Georgia. I am elections supervisor for Brantley County.

And how our board is appointed is two is appointed by the Democrat Party, two are appointed by the Republican Party, and one is appointed by the Board of Commissioners.

SECRETARY KEMP: Any questions for Ms. Turner?

MR. WEBB: I think Mr. Simpson's question was who appointed Mr. Morgan?

MS. TURNER: Hilton Morgan was appointed by the chairman of the Democrat party.

MR. SIMPSON: If he was the chairman --

MS. TURNER: Hilton Morgan the Secretary of the Democrat party. Hilton Morgan was not the Chairman of the Democrat Party. He held secretary position. He was never the chairman of the Democrat party.

SECRETARY KEMP: Okay.

MR. SIMPSON: So is the information we received wrong? I was under the impression he was the Chairman of the Democratic arty.

MS. TURNER: No, sir.

MR. HARVEY: That was the original thought. It turns out he was an officer, which is also prohibited. So he's the Secretary, which would also constitute a violation.

MR. SIMPSON: Okay.

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

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Simpson, if you want to restate your motion, please.

MR. SIMPSON: Yes. I'd move that we send a letter of instruction not only to Board of Elections, but to the Chairman of the Democratic Party in Brantley County.

SECRETARY KEMP: Okay.

MR. SIMPSON: And it may be helpful to send it to the Chairman of the Democratic Party of the State of Georgia.

SECRETARY KEMP: We could certainly do that as well. I think the problem with the State is a lot of these election boards are decided by local legislation so they're different all over the State. Some of them have County Commissioners do it; some of them have judges doing it; certainly, have the parties doing it a lot. We can certainly send a letter to the State party. But I think it's more of a local issue.

MR. WORLEY: If I might, Mr. Secretary, I think it's perfectly fine to send a copy of whatever letter of instruction you want to send to the State Democratic Party. But the State Democratic Party, as far as I can tell, had no role whatsoever in this case.

MR. SIMPSON: The reason I mention it is for educational purposes so that the party can give guidance to their county chairs and other sub organizations of the party to make sure that in these appointments, they don't violate the law.

MR. WORLEY: By the same token you might as well send a letter to the State Republican Party.

MR. SIMPSON: No problem. That's fine.

SECRETARY KEMP: Well, you want to restate your motion?

MR. SIMPSON: Why don't we just send it to the little girl in the lane.

I move we send a letter of instruction to the election board of Brantley County and the Chairman of the Democratic party in Brantley County.

SECRETARY KEMP: Okay. To the respondent as well?

MR. SIMPSON: And to the respondent.

SECRETARY KEMP: We have a motion for a letter of instruction. Do we have a second? I'll second. Any discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Mr. Harvey, we're on to 2010, number 113, Wheeler County Nobles case.

MR. HARVEY: Yes, sir. This case is, frankly, one of the more disturbing election cases I've come across in recent years. What I'd like to do is take this case, the Alamo case, and the other Wheeler County case in a row. But I'm going to do this case first because there's a common thread that runs through all three of the cases.

Specifically, with 2010, 13, this case exposed to multiple weaknesses in --

SECRETARY KEMP: Mr. Harvey, is this -- you said 13. It's 113, right?

MR. HARVEY: I'm sorry; 113. Yes, sir.

There were numerous allegations; including illegal campaigning at the polls; voters not being in the proper district; improper handling of absentee ballots; actually voting for other people; allowing people to vote for other people; alcohol being exchanged -- being traded in exchange for votes.

What we found as a result of a pretty comprehensive investigation is that many of the electors were not in their properly appointed districts.

When asked about this, the Chief Deputy Registrar Janice Nobles, actually said that she didn't use a map or any other system for determining residency. She just had it all in her head. And she just kind of knew, based on where people lived, what district they would vote in. It ended up with many voters voting in the wrong district. And that's kind of the tip of the iceberg. But that is going to be a big problem in Wheeler County and in the next two cases we deal with.

In addition, in this election Ms. Nobles' daughter was on the ballot was for elected office. There are several cases of voters who went into the -- she's also the assistant tax commissioner. There were at least two cases where voters when in to handle non-election matters -- to get their car tags and their boat tags -- and they were specifically

solicited by Ms. Nobles to vote and to vote for her daughter.

In at least two cases, individuals had their ballots cast by Ms. Nobles. A young man when into get his tag and she essentially kind of lulled him into voting. He says she got the voter access card; put it in the machine; she selected the people to vote for; she cast his ballot; and he never had anything to do with it.

Another voter had a similar story. And then a third voter, Mr. Van, when he went to take care of his tags, he was told he could vote for his daughter. And so Ms. Nobles filled out the voter certificate for his daughter, and then Mr. Van actually cast a ballot for his daughter.

Signatures on absentee ballot applications and absentee ballot envelopes were not compared; the proper times around notice on absentee ballot applications. Ms. Nobles accepted phone requests for absentee ballots and then, essentially, forged the applications herself. So if I called and said, hey, would you send ma an absentee ballot, she would fill out an application in the name of Chris Harvey and then sign Chris Harvey's name and send me the absentee ballot.

There were two individuals who did not live in Wheeler County who voted in the election. I'll talk about them in a minute.

There was also a case where she got an absentee ballot application for a gentlemen that she knew did not live at the address where the absentee ballot application came from. In fact, the address was the house where her daughter lived. She accepted the application, she mailed the ballot to the address. It came back and was counted as accepted without a signature. We found the voter and he verified that that was not his signature. So Ms. Nobles sent a ballot to somebody she had to know did not live there and it came back. It was unchecked and it was counted.

In addition, we had a few tangential issues that weren't necessarily connected to Ms. Nobles, but also turned into violations.

One was Laurie Jeter provided assistance to two voters and she didn't sign as assisting. Mary Wright is a voter. She requested an absentee ballot for her son who was living out of state. She filled out the application, she filled out the ballot, she voted the ballot, signed his name, and sent it back in. And that, too, was accepted because, again, Ms. Nobles wasn't doing any checking of absentee ballot applications and signatures to voter registration applications.

The two voters we've got cited as voting living out of the county, Mr. McCallum and Mr.

Fulfer. In looking over their situations a little bit more, it would appear that under 2-17, they still retained the right to vote in Wheeler County because they had been registered there and they had both temporarily moved out, but expressed that it was their intention to return to Wheeler County.

So I recommend, as regarding Mr. Fulfer and Mr. McCallum, those allegations, those charges, be dismissed. However, the -- all the other allegations, I would recommend be bound over to the AG's office for consideration of very serious sanctions.

I believe the attorney for Wheeler county is here. Ms. Nobles was not able to be here. I believe she's received an eye injury. But we've got everyone from the Probate Judge to Chief Registrar to Ms. Nobles cited with some serious violations. And then individual voters for some individual acts.

So I recommend that this case be bound over to the AG's office for appropriate action.

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

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak to us on this case? Come on up to the mic so we can hear you.

MR. AVERY: Mr. Secretary, I am Perry Avery, attorney for Wheeler County. Our office address is 1302 Bellevue, Dublin, Georgia.

I think, if the board would see fit, all of these cases are sort of intertwined together, and maybe if Mr. Harvey would like to go ahead and finish the presentation of the cases, I will reserve my comments for all three cases at the end.

SECRETARY KEMP: Mr. Harvey, what are the cases that we've got?

MR. HARVEY: The next is the City of Alamo, which is also going to contain registration problems in which Ms. Nobles is a respondent, in addition to other people.

And lastly, is going to be the Wheeler County qualifying, which is towards the end on the agenda. But I think Mr. Avery might have a point. Procedurally, it's proper to sort of put it all out there because you're going to see some of the same allegations over and over again.

SECRETARY KEMP: Anyone on the board object to us letting Mr. Harvey go through all three cases?

(Whereupon, there was no response)

SECRETARY KEMP: All right, Mr. Harvey. Why don't you go ahead and proceed. What is the next number? City of Alamo.

MR. HARVEY: The next is City of Alamo, which should be tab 26.

And although this involved the city election which was done by -- the election was not conducted by Ms. Wheeler [sic], it was conducted by Abigail Padgett who was the elections superintendent. Some of the issues we have here -- there was an allegation that there was a person in the polling place with a firearm and a taser and that he, during the counting of the ballots, he actually was handling some of the ballots.

You have multiple allegations that voters were not in their proper district. And you have allegations that absentee ballot applications and absentee ballot envelopes were not properly handled, processed, and documented by the election officials.

What our investigation showed, again, as regarding the Wheeler County Board of Registrars, Ms. Joyce and Ms. Nobles, they were accepting voter registration applications that had no resident address on them. They were accepting applications that simply had a P.O. Box. They were not requiring that information be corrected or amended. And, again, they were keeping the information in their heads as far as where people were registered to vote. They did not have a map; they had no system.

Also, although this may not be a violation, I think it speaks to the level of organization, they filed voter registration applications by date they were received. So there was no way to go back and pull the specific voter registration application. You have to know what date and year somebody registered to vote. In almost every other county you could go and it would be done alphabetically. So they could pull Chris Harvey and to go the H's and find me. Not so in Wheeler County. It was done by date. They had also never been purged and apparently their system was just completely overrun.

So we've got the people in Wheeler County cited for those voter registration applications and failing to put people in proper districts, similar to the previous case. And we've got the city elections superintendent, Abigail Padgett, cited for the failure to properly reject absentee ballots and failure to properly note on absentee ballots times they came in; require the proper information on the applications and certificates.

We've got Gail Brown, who was the chief poll manager, cited for failing to require properly completed voter certificates in 60 cases during the election.

And lastly, Lloyd White, who is the person alleged to be on the polling place property

with a firearm. He, in fact, admitted to having a taser. He did not have a firearm, according to him, and no other sources were able to actually say he actually had a firearm.

He did, however, when it came to tabulation, he did help in removing physical ballots from the ballot box which he was not authorized to do, as being non-sworn -- as not being a sworn poll worker.

So on all of these cases, I recommend that these individuals be bound over to the AG's office for appropriate sanctions.

SECRETARY KEMP: What was the third case number again?

MR. HARVEY: The third case number is going to be 2012-34, which is going to be your tab 39.

This case is simpler. In this case, a candidate planned to qualify for office. He went specifically to Ms. Nobles because he thought that he was in the wrong district. And she looked it up in her system, be that as it is, and she told him specifically, you are in the proper district; you're in this district; you're in this district. So he qualified in that district.

Well, then she told him, you know what? I checked my system again and you're actually in the wrong district, so you're not going to be qualified to run.

Judge Braswell, who is the Probate Judge, then had a conversation with the candidate and simply said, you know what? You're in the wrong district. I'm going to disqualify you and take your name off the ballot. He didn't provide any notice; he didn't have a hearing. There was no formality in terms of properly handling the challenge.

And, again, to get back to the issue with the Wheeler County Board of Registrars not having a system to properly determine where voters were registered. And then, lastly, Probate Judge Braswell got cited for failure to properly challenge a disqualified candidate.

I recommend that they, again, be bound over to the AG's office for appropriate sanctions.

I do have some documents that were submitted with regards to the first case where people were providing assistance, and also a letter from Judge Braswell where he acknowledges he made a mistake and apologizes to the board and accepts the blame for what he did, if the board wants to accept those.

MR. WORLEY: So moved.

MR. McIVER: Second.

SECRETARY KEMP: We've got a motion to accept the documents 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. We have accepted the documents.

Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: I'm sure there will be some when we get done. Mr. Avery, are you ready?

MR. AVERY: Mr. Secretary, without getting into the merits of the case, at this stage, obviously, as County attorney, I am not privy to any of the exhibits, affidavits, or otherwise that the State has. I would like to point out that Wheeler County is the second, I believe we are the second poorest county in the State, but that is no excuse for voting irregularities. We've got some problems that need to be fixed.

I am also under no illusion as to where this more likely than not is headed. But I would like to at least point out to the board that since the investigation and since we've been cited for the problems that we have here, our voter list has been purged. Ms. Nobles has stepped down as Chief Deputy Registrar. In fact, we haven't entirely newly appointed board coming online in July of this year.

We're unique in that the Chief Deputy Registrar office is the same office as the tax commissioner's office. So what we're going to do is we have contacted the State and are working toward getting all the voting instruments, voting documents, moved out of that office and to its own office that would be limited to the new Board of Registrars.

That being said, we will try to do better; we're trying to get it fixed.

SECRETARY KEMP: Thank you, Mr. Avery. Any board members have a question for Mr. Avery? Mr. McIver.

MR. McIVER: Mr. Avery, since you have predicted what our action is likely to be, let me ask you to predict what your reaction is going to be. If we bind this case over, what

will be the position of the County?

MR. AVERY: We're going to fix our problems. Period.

MR. McIVER: Are you going to seek settlement in this matter or will a hearing be required --

MR. AVERY: We want to get it resolved. There's no doubt about it. I mean, we want to get this resolved. We don't have the, for lack of better words, the funds to -- we don't want this to drag out. We want to get it resolved. If it is bound over to the AG's office, then we'll work with the AG's office to resolve it to their satisfaction and it's something the residents of Wheeler County can live with and what's fair to them.

MR. McIVER: Thank you.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak on this case? Yes, sir. Come on up. Mr. Avery, thank you for being here.

MR. AVERY: Yes, sir.

SECRETARY KEMP: I'll just remind you as you come up, just give us your name and address for the record. We appreciate it.

PASTOR BROWNING: My name is Andy Browning. I live at 34 South Broad Street, Alamo, Georgia. My wife and I moved to Alamo seven years ago; I'm a Methodist pastor there.

I want everyone to know in this room that Wheeler County is one of the finest places to live. Alamo City is a wonderful city to live in. The problem is that a small group of people took control of things and put themselves in places, and I believe when they first started they thought they were doing good.

Right now in our county, the biggest joke that there's ever been is the elections. People don't trust going in and having their vote count. They don't know who's vote is going to get counted. I came up here today because I was hoping that somehow this board, especially for the City of Alamo, could uncertify that election and say we need a new election. We need a new mayor; we needed new council, and everything. But I understand now that is not in your authority.

But I just want all of you to know that the majority of the people in Wheeler County are good, honest, Christian people, and things just got caught up and a group of people thought they could get away with anything they wanted to do.

I love that county and I'm going to live there the rest of my life, and I know a lot of other people that love it, too. The young lady sitting beside kept shaking her head; couldn't believe what happened. Well, we know what happens in a lot of small, rural counties, because one man with a lot of money or one woman with a lot of money can get a lot of things done.

Thank you, Sir.

SECRETARY KEMP: Thank you, Pastor. Anyone have questions for the pastor?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir.

MR. EVERETT: My name is Tom Everett. I am the attorney for the City of Alamo. My address is Post Office Box 1840, Vidalia, Georgia 30475.

Like Mr. Avery, our County attorney, I can't speak directly to the specific allegations concerning the voter certificates or absentee ballots because I haven't seen the exhibits. I can tell you I've spoken with Ms. Gail Brown, our former chief poll manager and our mayor. It appears to me that we're going to have a complete change of staff on our local elections in the future for the City of Alamo.

As to the allegation concerning Mr. Lloyd White, the gentleman who appeared with a taser gun, in checking with my mayor regarding that, she tells me that she invited Mr. Wright, who is a bail bondsman from Dublin who was a friend of hers, to come to the polls that day as security, and that he did, in fact wear taster gun, and he, in fact, is not a trained poll worker. My recommendation to the city and the Mayor was that in the future if we need any security, that should be done by local law enforcement, not by private citizens.

I think the allegations demonstrate that we have some fundamental problems in Wheeler County from the top down and that some wholesale changes need to be made with regard to how we conduct our elections. I can tell you by practicing law in three or four rural counties surrounding Wheeler County for the last 18 years, we have some fundamentals problems in South Georgia that probably exist everywhere, in that you cannot separate politics from the election process. I don't know what the answer is. I would be a fan if the Secretary of State's office wants to get involved in the handling elections in South

Georgia. I doubt they want to get into that business, but that might be a cure to this problem.

But I can assure you the City of Alamo will work with the Attorney General's office in fashioning some form of response and resolution to this. Thank you.

SECRETARY KEMP: Any questions for Mr. Everett?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes ma'am.

MS. BROWNING: My name is Laura Browning. I live at 34 South Broad Street; I live in Alamo, Georgia, in the County of Wheeler.

I would like to say that since we moved to Wheeler County that I have worked some of the polls as a poll worker. Many times have we brought to the attention of the registrar's office that there were problems within the registrar's books. We have sent people each and every election, the same people back to her office to tell her that there are problems on the roll. It never did get fixed. It was a real problem that was brought to her attention many times and never did any of it get fixed until it came to this board's attention.

So I just wanted to be sure that you're aware of that, that there were people trying to bring that to her attention and it was ignored. I think that it speaks volumes here, and I wanted to make sure that that was a point taken.

SECRETARY KEMP: That is a very important point and I appreciate you taking your time to come here today to let us know that. Any questions from the board?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anyone else wishing to speak? Yes, sir, Mr. Avery.

MR. AVERY: Just one more point of reference. I think throughout this investigation, it seems that Ms. Nobles -- I think most of the allegations are against her. She did want to be here today to field any questions. However, she did suffer a traumatic injury to her eye. She had taken her granddaughter fishing and her granddaughter threw the pole and got a hook caught directly in her eye. As result, she's had several unsuccessful surgeries. So it has nothing to do with the merits of the case, but I would like to submit her doctor's excuse for the injury to the board just to let you know the reason as to why she couldn't be here today.

SECRETARY KEMP: We appreciate that and we believe your testimony.

MR. McIVER: I move to admit.

SECRETARY KEMP: We have a motion to accept. 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: That motion carries. We have accepted the doctor's note.

Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Anybody on the board have a comment or motion, discussion? Mr. Worley.

MR. WORLEY: I had a comment. It seems to be the attitude of some people that appeared here on this case that this is just something that happens in South Georgia. I've been on this board for ten years almost and this is not the kind of thing that happens all the time. This is not the kind of complaint that we generally deal with. I can't recall a case in the last ten years -- maybe one or two -- where the violations have been this widespread and where it appears they had the involvement and approval of the local election officials.

I think this is a very, very serious matter. I am sure other members of the board do, as well. This is one that I would want the Attorney General's office to investigate fully. This is not something that I think can be resolved with an ordinary consent order. I think a lot of attention needs to be paid to this.

SECRETARY KEMP: Thank you. Anyone else? Mr. Simpson.

MR. SIMPSON: I would like to ask Mr. Harvey a question. Remember last year we had a case where an employee of the registrar's office did away with all the computer records?

MR. HARVEY: Yes, sir.

MR. SIMPSON: Wasn't that Wheeler County?

MR. HARVEY: No, sir. I believe that was Jeff Davis or Ben Hill.

MR. SIMPSON: I was thinking it was Wheeler County. That's not correct?

MR. HARVEY: No Sir.

MR. SIMPSON: Okay. Thank you.

SECRETARY KEMP: Mr. McIver?

MR. McIVER: Thank you, Mr. Chair. I'm not sure who to present my question to; perhaps Mr. Harvey.

It is suggested that we bind this over to the AG's office citing, among many violations, 21-2-589, which is a willful violation of the election code. Now, that's a very high standard for those of us who are lawyers in the room. I want to make sure there's a basis for us to support that.

So my question is, did anybody, particularly the named individuals from Wheeler County, attend any or all of the training offered by the elections division of Secretary's office? Does anyone know on either side of our table here?

MR. HARVEY: Ms. Ford, do you happen to know?

MS. FORD: I do not know but I can find out. Somebody from the county did attend training. I do not know if it was the named individuals. But somebody from the county, either the registrar or the deputy registrar or a board member would be required to attend at least one of the conferences with the 12 hours of continuing education.

SECRETARY KEMP: Ms. Browning may have an answer for you.

MS. BROWNING: I will tell you that having worked the polls I have attended training. I've gone to Macon and attended training, myself. I know that Brian Gilder, who was a poll manager, he also attended training. But I do not recall having seen any of the others attending training. But he and I both went together, as well as another lady, Mildred Purvis; we attended the training in Macon and had training onsite.

SECRETARY KEMP: Thank you.

MR. McIVER: Then I have remaining question. That would be for the law Department.

Does the Law Department have a recommendation for this board with respect to this specific case?

MR. WILLARD: Are you speaking of the willful admission portion of the case, or are you speaking . . .

MR. McIVER: Actually, for all three cases. Again, if we're charging willful, that, of course, is punishable as a misdemeanor, as we know, under the code. So you'll be -- the Law Department will be bringing this case forward on behalf of the board. So my question is do have a recommendation as to what you think can prove and what you have alleged; things of that nature.

MR. WILLARD: Until we get the investigative file from the Secretary of State's office, I won't know whether the investigative facts support a willful omission. As you are aware, that's almost a specific intent-type crime where they have to consciously set out to avoid filing these records.

One of the individuals -- one of the respondents, Ms. Padgett, there are other allegations that do involve a level of willfulness that we could theoretically proceed on in the absence of specific intent to violate state election codes.

But we are fully comfortable with this board's pleasure to refer this case over our office. We'll do like we every time and evaluate the referral to determine whether we believe we have sufficient evidence to prove a violation and determine whether we can reach an agreement with the respondents that will be acceptable to this board, or if we need to go before an Administrative Law Judge.

I cannot make a specific recommendation that you bind the case over not. That's up to the purview of the board. I share your concerns about the 589 allegation. But I think the rest of the (unintelligible) don't cause me the same consternation in terms of binding over.

MR. McIVER: Thank you Mr. Chair.

SECRETARY KEMP: Anyone else? Mr. Simpson.

MR. SIMPSON: This is a probable cause determination, which means we don't have to have an ironclad case at this stage. But I certainly think the allegations, particularly in regard to Ms. Nobles, show an indication or show probable cause to have further investigation work by the Attorney General's office to determine if these violations were willful or if they were just grossly negligent, which it appears that's the range where we're talking about here. It's not just ordinary negligence or just lack of knowledge or something like that. It seems like we have a level of conduct that is more egregious than that.

So my recommendation, or I speak to the fact that I believe we ought to refer this case to the Attorney General; bind it over. If you want me to make a motion to that effect at this time, I will.

SECRETARY KEMP: Let me just see if there's anyone else wishing to speak. Mr. Webb?

MR. WEBB: I wanted to concur with Mr. Simpson's comments that the situation here is a little shocking. But then you have innocent people who are relying on appointed officials to guide them and then when those officials use the power of their position to influence an election, that can't be stood for and it has to be referred to the Attorney General's office. Unfortunately, in this case, there are going to be some innocent people were going to be drug along.

SECRETARY KEMP: Mr. Harvey -- does anybody else on the board have anything?

(Whereupon, there was no response)

SECRETARY KEMP: I have a question. Is any of this criminal?

MR. HARVEY: Arguably, possibly. I mean, when you vote for somebody, I think you can make an argument that some violations of the election code are criminal. I think forging absentee ballot applications could be a criminal matter. It just depends on whether or not the board chooses to have the DA review it as well, which they've certainly done in the past.

I think of the many election cases that I've seen in almost six years, this is right up there with some -- you know, this is not negligence or really lack of training for the most part. And I believe, to address Mr. McIver's point, I believe there is a lot of evidence of the willful nature of some of these allegations. The investigation was done by three different investigators who, frankly, did an excellent job. We've got a very thick file; we've got lots of interviews; we've got plenty of recorded interviews. I think it would be a case Mr. Willard would be able to really dig into.

As far as investigation, I don't think there's really any more investigation, except as Mr. Willard will pair the evidence with specific charges and maybe modify some of those. But I think the case is ready to go either to the AG's office and/or to the DA's office.

SECRETARY KEMP: So if we referred to the AG's office, but don't refer to the DA, can we do that at a later time?

MR. HARVEY: I believe so. In the past, the AG's office has also forwarded cases to

the DA's office.

SECRETARY KEMP: Okay. Let's see. Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Everett, Mr. Avery, any of you guys have anything?

(Whereupon, there was no response)

SECRETARY KEMP: I'll go ahead and take a motion.

MR. WILLARD: Mr. Secretary, before you receive a motion, if we could, as housekeeping matter, can we refer these cases over individually?

SECRETARY KEMP: Yes.

MR. WILLARD: I know we're talking about all three, but if they could be referred individually.

SECRETARY KEMP: We need to take them individually. Let me just make sure, we don't have any other respondents or individuals here that are involved in this case that would like to address us?

(Whereupon, there was no response)

SECRETARY KEMP: Just want to make sure we're not missing anyone in the process.

(Whereupon, there was no response)

SECRETARY KEMP: All right.

MR. SIMPSON: Mr. Chairman?

SECRETARY KEMP: Yes, sir.

MR. SIMPSON: I'd like to make one comment before we go further.

Someone that spoke said that this is a problem that exists in all of South Georgia, or indicated that this was a problem, or this condition was typical in South Georgia. I would like to say that I'm from South Georgia and I've practiced law for 35, over 35 years in South Georgia. I've tried several cases in Wheeler County; I've tried them in Hazlehurst, MacRae, Dublin, Tifton, Ben Hill County. This has sort of been my stomping ground over the last 35 or 40 years.

I want to say this is not -- this conduct is not typical of what you see in South Georgia rural counties. Most counties tend to their election business and do the best they can. They attend training and make sure their election board members are very familiar with what their duties and obligations are. And they do their very best to comply with the law.

So I would like to make sure that that impression does not go home with anyone that this is the way all of South Georgia conducts elections. Thank you.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. McIVER: If you're willing to entertain a motion, perhaps consistent with Mr. Willard's remarks, I would like to see if we can do in a summary form.

I would move that case 113-076 and 034 be bound over to the Law Department. I believe that reasonable cause exists there's been a violation of the election code. I'm in hopes we can do that without naming all the individuals. But I would yield to the advice of the Department.

SECRETARY KEMP: Mr. Willard?

MR. WILLARD: One of the issues, Mr. Secretary, is that Mr. Harvey stated that for two for the respondents on 1-1-3 they did not have sufficient probable cause to recommend a referral from our office, and that was on Mr. Fulfer and Mr. McCallum.

SECRETARY KEMP: Let's do this; let me back up. Mr. Harvey, case 113, 2010-113, what was the recommendation?

MR. HARVEY: The recommendation would be to dismiss Mr. Fulfer and Mr. McCallum as respondents, and to bind everybody else over, all the other respondents over on the citations as contained in the report.

SECRETARY KEMP: Any other discussion or a motion?

MR. McIVER: I would prefer the Law Department conclude that. No offense to Mr. Harvey and his group, but this thing seems to be so massive that through Mr. Willard's review of the evidence, he may make a different determination. So my intention was to include in the binding over.

SECRETARY KEMP: State that motion then.

MR. McIVER: I move that we bind over to the Law Department cases 113, 076, and 034.

SECRETARY KEMP: Do we have a second?

MR. SIMPSON: Second.

SECRETARY KEMP: Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Let me make a few comments before we vote on this disturbing matter. And I want to speak to Mr. Willard and Mr. Avery and Mr. Everett, and second what many of the board members have said about this is not a normal occurrence in elections in Georgia. We have a lot of fine folks working in different sized counties all over this State. There are mistakes that happen, but there are also mistakes that happen time and time again in certain places that we have to take different measures on.

But I want to assure you these type of things, I have never -- I hate to say never -- but we rarely see these type of activities in elections. And it all starts with the security of your voter rolls. If they're messed up, you can just count on your elections being messed up. And if you're elections are messed up, the local election officials are going to lose the credibility of their constituents. In other countries you see people get killed over that. That's how important these even small city elections are to the fabric of this republic and this democracy. And I think that's why this board is so serious about what we do and about matters like this.

I'm certainly going to support the motion to refer to the AG's office. I want to make it clear to Mr. Willard that we expect there to be changes if there is a consent that is agreed to, and I will ask counselors to make sure that your leadership in the city and county understand how grave this situation is and that there need to be changes and this board is going to expect -- we are not in the business of micromanaging how a county runs its business. But when they can't run it and we have to get involved, we want to make sure there are changes made where this doesn't happen again and you guys don't have to come back up here to see us. Because as bad as this is, that would be even worse. I just felt like I needed to let you guys know that.

We do appreciate you all being here today to address the board. I will certainly allow you all to respond. You don't have to, but I don't want to not give you the last word.

(Whereupon, there was no response)

SECRETARY KEMP: Any other discussion? Mr. Worley.

MR. WORLEY: Mr. Secretary, I just want to stay for the record that I believe there is sufficient evidence in the record to bind over both Mr. Fulfer and Mr. McCallum in case number 2010-113.

SECRETARY KEMP: Mr. McIver you had a motion to bind all three cases over and we have a second, correct?

MR. McIVER: That's correct. Mr. Simpson seconded that.

SECRETARY KEMP: All in favor of binding over, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have bound those over. Thank y'all. For coming.

All right. Let me just make a couple of notes right here.

All right. Mr. Harvey, we have 2011, number 30, Murray County case, which is number 23 in the binders.

MR. HARVEY: This case involved a special election in 2011 for County Commissioner. The original complaint came in from an individual who is mentally and physically challenged. He lives on his own, however, he has a caseworker who helps him handle his affairs.

This individual reported to his landlord that people had come to see him and had told him who to vote for and given him an absentee ballot application and had taken his ballot when he voted. So she was the complainant in this case.

We did an investigation and what we found was, we spoke to his caregiver, who is Laney Peterson, and she corrected the facts to say that, no, in fact, she had assisted him. She had filled out the form; she had signed as assisting; she had done everything properly. Apparently, the gentleman was confused and she said he did not always have a great grip on reality.

So the allegation of some type of voter intimidation or collecting absentee ballots was unsubstantiated. There was nothing to indicate that anything along those lines was done.

As part of our investigation, however, as we went through absentee ballot applications and absentee ballot envelopes in order to determine if we had, you know, common handwriting or other signs of election fraud or absentee ballot issues, we did find that there were a number of absentee ballot applications that should have been rejected but were not because they had different addresses than the registered addresses for the voters. Some were requested by people other the voter, and some that did not contain enough information.

There were nine applications that had requested by Ms. Connie Winkler, who is the director of the Board of Elections and Registration. She was requesting for her family members. The applications, however, were not signed. We found a total of 95 absentee ballots that were missing some form of required information.

It's recommended that this case be bound over on the absentee ballot processing issue. It's not a -- it's not the most serious case in the world. Mr. Sampson has provided a written response, and I believe it's here today. He acknowledged that anything they did was accidental and overlooked and he has got confidence in their office. I don't know if he intends on speaking or not.

But it would be my recommendation that this be bound over to the AG's office so that Murray County can make sure they get their absentee ballot verification process in line.

Here is the statement from Mr. Sampson.

SECRETARY KEMP: Move that we accept the statement.

MR. WORLEY: Second.

SECRETARY KEMP: 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.

So the recommendation is -- can you just call the respondents out again.

MR. HARVEY: Connie Winkler, who is the director of the Board of Elections and Registration; and then the Murray County Board of Elections and Registration both be

bound over on 21-2-381(b)(1) on determination of absentee ballot applications.

SECRETARY KEMP: Ms. Peterson?

MR. HARVEY: If she is listed as a respondent, that's an error. She was determined to be eligible to offer assistance.

SECRETARY KEMP: Anyone else wishing to address on this case?

MR. SAMPSON: I'm Larry Sampson. My address is Box 1015, Chatsworth, and I'm the elections superintendent and chief registrar.

I came down today because I felt like you would appreciate somebody being here. As far as Ms. Peterson and the assistance on that ballot, that lady was doing what we call perhaps erring on the side of the voter, which is what we're so often told to do. I think she meant to do nothing at all wrong. I am aware of that man and he does have some problems, as some other people that live there. And I thank you for the recommendation.

As far as applications for absentee ballots go, I want to sort of reiterate something that was said here a minute ago. We work ourselves to death to try to do everything according to the law. I am not aware of which ballots were missing -- I mean, which applications were missing information. In all actuality, you can request an absentee ballot without all the information coming in, from what we're told in training. A person to write a letter to us: I want an absentee ballot; here's my vital information; and so forth and so on.

We try to get everything we can from everybody. I go all the way back to Ben Fortson working in this, and I can assure you what a couple of you gentleman said a minute ago, ninety percent of the elections people in this State, including myself, are kind of like some of the folks who talk to us at our training. We're passionate about elections and we try to do them right. Mr. Fortson and Ms. Duncan and Ann Hicks, bless her heart, have drummed that into our heads.

So whatever little bits of information were missing on an application, I can assure you it was a mistake and nothing more.

SECRETARY KEMP: Any questions for Mr. Sampson?

(Whereupon, there was no response)

SECRETARY KEMP: I think you answered Mr. McIver's question about training. It was about a week or so ago in Savannah.

MR. McIVER: You anticipated my question.

SECRETARY KEMP: Any other questions for Mr. Sampson?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you, sir.

MR. SAMPSON: Thank you.

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

(Whereupon, there was no response)

SECRETARY KEMP: Any other questions from the board or discussion?

MR. WORLEY: I had a question for Mr. Harvey.

SECRETARY KEMP: Okay.

MR. WORLEY: I just wanted to be clear about this. Did the investigators interview Mr. Rayburn?

MR. HARVEY: Yes, sir. Mr. Rayburn is the individual -- the voter?

MR. WORLEY: Right.

MR. HARVEY: Yes, sir.

MR. WORLEY: Well, Mr. Secretary, members of the board, I have a problem with the recommendation that the intimidation of voters charge not be referred on to the Attorney General's office. It seems to me, essentially, we have conflicting testimony here. One piece of testimony from somebody who is mentally disabled and contradictory testimony from someone else. I don't think we can -- we should just on our own discount Mr. Rayburn's testimony because he is mentally disabled. I mean, the practice on this board is if we have a conflict in the testimony on an issue, that we refer that on to the Attorney General's office.

I don't think at this point it is appropriate for us to decide that, well, because Mr. Rayburn says one thing and is mentally disabled, he's just wrong. I think somebody has to look at that in the Attorney General's office and provide some advice as to the determination.

So I think we also need to refer on the charge of intimidation of electors under 21-2-567.

MR. HARVEY: To Mr. Worley's point, I understand what you're saying. In this case,

however, the facts that the voter were describing were not consistent with what the caregiver was saying. According to the voter, the caregiver was never involved. The caregiver signed as assisting with his application. So his version of events, even the people that were involved and the physical surroundings, was different than the caregiver who signed as assisting on all forms. So she was presumably there handling those documents when he said someone else was doing that. We don't have any evidence that anybody else was ever there intimidating him or taking his ballot.

For example, he said these men took his ballot with them. The ballot was mailed by his attending caregiver. So I understand your point. It's not necessarily a he said/she said scenario. It's a voter said, with significant amount of information that leaned to the attendant caregiver providing a scenario where there wasn't any intimidation, unless the attendant caregiver was part of the intimidation. That was not what the voter alleged.

But that's -- I understand your point. I just wanted to make sure you had a clear understanding. It wasn't just two individuals.

MR. WORLEY: I understand. Thank you, Mr. Harvey.

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

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. McIVER: I move we bind the case over.

SECRETARY KEMP: We have a motion to bind over. I'm going to second that. I think this is an opportunity for the AG's office to investigate, certainly. But also just to work with the County and Mr. Sampson to have a consent that makes sure that these technicalities which assumes that they were on the absentee ballots get fixed and there's an understanding there. So I would support that as well.

Any other discussion from the board?

(Whereupon, there was no response)

SECRETARY KEMP: We've got a motion and a second to bind over. Are we binding everybody over; is that the motion?

MR. McIVER: Yes.

MR. WILLARD: You're referring to the election officials, not Ms. Peterson, right?

SECRETARY KEMP: Mr. McIver.

MR. McIVER: I'm referring to those named in the investigative report in case 2011-30.

MR. WILLARD: I understand. But Mr. Harvey said Ms. Peterson was included erroneously as a respondent. I would also say the board is not in a position to refer Ms. Peterson over if that is the board's druthers. They can postpone consideration of Ms. Peterson until the next meeting as she was not properly noticed; there is no notice in the file of an alleged violation by her.

I have no problem with the board referring Ms. Winkler and the Murray County Board of Elections and Registration. But the board is not a position to refer Ms. Peterson.

MR. WORLEY: I didn't know we had a notice issue so I will exclude that from my motion.

SECRETARY KEMP: You want to just withdraw your motion?

MR. WORLEY: I withdraw my motion with the substitute that we bind over 2011-30, as indicated in the investigative report, with the exception of the caregiver, Ms. Peterson.

SECRETARY KEMP: And I will second. Does that clear everything up?

MR. WORLEY: I want to be clear about this. Does that mean we are going to be noticing Ms. Peterson?

SECRETARY KEMP: That's right.

MR. WORLEY: Then I'm fine with that. Thank you.

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.

We will move to 2011, number 71, DeKalb County SPLOST. That's tab 24.

MR. HARVEY: This is a case where during the SPLOST election in DeKalb County, one of the polling places, which was a school, there was a flashing marquee that said, We encourage you to vote Tuesday, November 8; and, Education SPLOST vote, Tuesday,

November 8. It was within 150 feet of the area for campaigning.

Frankly, on examining this case, I would defer to the wisdom of the board as whether or not this is a violation. We've got it cited as a possible violation. The sign itself does not specifically encourage somebody to vote one way or the other in the SPLOST election. But it was with 150 feet. Those are the facts.

The County school system dictated the language that was to be placed on the marquee, and the County attorney apparently signed off on the language that was on there.

The complainant in this case, just your information, was a former Attorney General, former Assistant Attorney General, who said he had been a -- he had worked with the State Election Board in the past, and in his mind he thought it was a violation.

I think it could go either way. So I will leave it to the board. It may be a hard case for Mr. Willard to prove at an ALJ hearing, but those are the facts of the case. I believe DeKalb County is here.

SECRETARY KEMP: Let me ask Mr. Willard if he has an opinion on the interpretation of that code section and potential violations.

MR. SIMPSON: Mr. Secretary, I've looked at this case and given the 414 language around solicitation of votes and how that has generally been construed, and the wording on the marquee, I think you have a situation that, while it is more verbose than something put out by election officials saying vote today at polling locations, and that sort of thing, this is not something that rises to the level of a violation of 414 and solicitation of votes as that term is commonly understood.

I don't believe that this is a case, given the facts of this case and the fact that no one was solicited to vote one way or another on a particular issue, that we would be able to prove a violation if went before an Administrative Law Judge.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: I think we need a bright line on this rule, and I think if there's any question that it's within 150 feet of the polling place, that it needs to be referred over because I think is -- unless we have an absolute bright line rule, we're never going to be able to (unintelligible).

So I would be in favor of binding over.

MR. WILLARD: Mr. Secretary, the irony of that is the U.S. Supreme Court has held that you don't have a bright line. It is a sliding scale. Your right to be free from

interference or encouragement to vote a particular way on an issue becomes more and more negligible the further you get away from the polling place so that your right to be free from interference within 10 feet of the polling place is different than your right to be free from interference 200 feet; or even 150 feet the polling place.

I'm saying in this instance, you don't have a vote yes/ vote for. You have a vote on November 8 issue. And I'm saying that is not something contemplated by this statute.

If the board wants to refer it over, we can do additional research. But we have discussed this case in-house. We have looked at the line of cases been both in Georgia as well as nationally. This is not something that, even if we were to get an ALJ, that this will be upheld if it were challenged beyond the ALJ and this board.

SECRETARY KEMP: All right.

MR. WORLEY: Mr. Secretary, I disagree with Mr. Willard. This is a school superintendent urging people to vote in SPLOST. I mean, there is no question in my mind what the intent was in the school system encouraging people to vote.

I would have a further question for Mr. Willard. It seems that from the report, the school superintendent sent a letter to all DeKalb County schools dictating the language to be placed on the marquees at the school. Have we received reports from other schools about this situation? And is this a situation where -- even though it's not been mentioned in this report as a potential violation -- is this a situation where public officials are improperly using school resources, or using taxpayer resources to be involved in an election? And would that be a violation?

MR. SIMPSON: I think also this is at the polling place. This is the sign at the school where the polling place is located. It's, you know, I don't know that the 150-foot rule applies since that tells you where the polling place is. It is directly at the polling place.

I really think -- I can't be anymore forceful about it but to say we need to enforce the rule in a clear manner, or when we revise the code, we need to take that section out of the code.

SECRETARY KEMP: I'm sure Ms. Ford has got that jotted down for her long list.

Mr. Harvey, do we have jurisdiction on the resources part?

MR. HARVEY: I believe we do not. I believe that would be an ethics issue.

MR. WILLARD: It's under 21-5.

MR. HARVEY: And to answer Mr. Worley's question, we did not get any other complaints regarding this from any other schools. It was that one individual.

MR. WEBB: I'd like to just make a couple of comments regarding the sliding scale. Mr. Simpson, we have taken the position that if somebody has a bumper sticker on the car and they're driving it to vote, that's not a violation of this section of the code. We did recently have a church which put on their marquee directing people how to vote. I think that's a clear violation of the law, especially when the pastor would not remove the language.

Here, I'm a little puzzled by the language because it's encouraging you to vote (unintelligible) the education SPLOST. I don't know. I think for educators, I thought it would have been written better.

But to me, I think it's encouraging people to vote for the SPLOST, and to me, I think I may be something that needs to be handled at the Attorney General's level, notwithstanding Mr. Willard's comments.

SECRETARY KEMP: Let's see if we have anyone else wishing to speak in this matter.

MR. REID: My name is Charles Reid, and I am with the DeKalb County Law Department. Our address is 1300 Commerce Drive, Fifth Floor, Decatur, Georgia.

I am here on behalf of Mr. Carpenter, and he is cited for violating two sections, 596, willful neglect or refusal to enforce 21-2-414. I think that the discussion the board has been having is somewhat the problem, which is why he should not be bound over.

First, 596 says it has to be a willful neglect. He is here, but I'm going to summarize what he will say. With the complaint came to him, someone says, hey, there is a sign out there that we think violates the law. He went out and took a look at the sign and said, I'm not sure. But he went and talked to the principal, or assistant principal, at the school. He was given an email, or the directive that the board mentioned that -- he gave me; I apologize that I don't have an extra copy. I think the board may already have a copy of this. But it said that -- the actual language was to be, "Education SPLOST vote this Tuesday, November 8. We encourage you to vote."

What ended up on the marquee ended up being some sort of jumble. But the essential message was the only issue for vote was education SPLOST. We encourage you to vote. Not vote for; not vote against. Just vote.

He was also told that the school board attorney -- they said County attorney; it wasn't our office -- but I think the school board's attorney looked at that and said it doesn't advocate

one way or another. It doesn't seem to violate the law.

So Mr. Carpenter, following up with the principal, getting information saying this was vetted by legal counsel, he just said, okay. It looks like this is okay. So he did not willfully neglect or refuse to perform his duty as it is as it relates to investigating that sign.

And then the other issue is the actual language of the statute. It says "solicit or campaign." Those were the two requisite words. So I was looking at the statute and there is no definition of solicit within 21-2-2. So I had to go out and pull Black's Law Dictionary and look and see, well, what does it mean by "solicit." It says: Solicit is to appeal for something or to apply or obtaining something.

Well, the language in here does not say we are encouraging you to vote for SPLOST. It doesn't say vote one way or the other. It just says vote.

Again, I think it's similar to just vote here. I agree it probably could have been simpler just to say, "Vote here; Education SPLOST." But they had more language than that. But I don't think that changes what the intent of that sign was.

The other thing was, a campaign. Campaign is anything that's necessary, legal, factual acts done by a candidate in his adherence to obtain a majority or plurality of the votes to be cast or an organized effort to promote a cause or secure some definite result within any group of persons.

I don't see anything in this language that promotes a cause either to vote for or against the education SPLOST. Just to say that because the message in front of a school, that might be an argument someone could make. But for Mr. Carpenter, who is not an attorney, who did due diligence to look and see what that is, I think that's a very hard and very harsh standard for him to be bound over for investigation by the Attorney General on a question that even the legal minds up here have a disagreement about.

And so we're asking that the case against him be dismissed. I'm not here on behalf of the other respondent, but I'm just here on his behalf. He is here if you have some questions for him.

SECRETARY KEMP: Do we have any questions for Mr. Reid?

MR. WORLEY: I had a question. And I accept your view about the poll manager's culpability in this, and I would be inclined to not forward him on.

But do you know whether the school system put up similar signs in the November 2010

election to encourage people to vote?

MR. REID: I do not know that.

MR. WORLEY: Do you know if they put up more signs in the November 2012 election to encourage people to vote?

MR. REID: Our office does not represent the school board, so I don't know what they did as it relates to putting up marquees anywhere in DeKalb County.

MR. WORLEY: Do you know if anyone is here representing Ms. March, the deputy superintendent, who was named in the action?

MR. REID: I don't know. I don't represent them.

MR. WORLEY: Then I won't ask you any more questions.

SECRETARY KEMP: Congratulations, Mr. Reid. Any other questions for Mr. Reid?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Carpenter, are you satisfied with his testimony? You're welcome to speak if you'd like.

MR. CARPENTER: I think he done well.

SECRETARY KEMP: Thank you for being here. Anyone else?

MS. FITZGERALD: I'm Sally Fitzgerald, and I'm here today on this case --

SECRETARY KEMP: Give us your address.

MS. FITZGERALD: I'm at 7604 Van Eyck Way, Sandy Springs, 30350.

One of the hats that I wear is that I'm on the board of the State of Georgia PTA as the election policy advisor and I've done many, many workshops on the ethics of PTA's getting involved with elections. They are under the IRS code, 501(c)(3). They may take positions and they may advocate for those positions. But our instructions from national and our instructions, as we understood them several years ago when our president, who was a lawyer, investigated with the State elections department, was that they could not advocate within 150 feet of the polls, but they could inform the membership in their community about elections; where they're being held; what are the hours; and what are the dates.

So if you were to take this SPLOST case on the marquee, I can assure you that you would put many, many unpaid volunteers in a position of having violated election law.

I got a call three weeks ago from an adjacent county, not DeKalb, where they had posted signs, Please vote on such and such a date for a SPLOST; an educational SPLOST. And it was posted in the hallways of the school, which was a polling place, by which the voters had to walk to get to where the polls were set up. It did not say vote yes; it did not say vote no. According to our information, that was a perfectly eligible document to have posted within 150 feet of the polls.

So I just give that to you. PTA's do take a position on SPLOST. Most of the time, it's yes; but not always. But they are very, very interested in getting their membership to the polls to decide this issue. And should you decide to pursue that, I just want you to be aware that it would be much harder, from my perspective, if you were to suggest that those kinds of nonpartisan messages could not be posted. Thank you.

SECRETARY KEMP: Any questions for Ms. Fitzgerald?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Any discussion from the board?

MR. WORLEY: I still have a real problem. I understand PTA's may take a position on this, but I'm of the opinion that they may encourage people to vote. And that may not be relevant.

But I have a real problem with a government entity that is going to receive tax receipts from the SPLOST encouraging people to vote in the SPLOST, when they don't encourage people to vote in other situations. I don't think there was any question what their intent was in this action, and I think it's a violation of the code, and I will continue to vote to refer to the Attorney General's office, but only as to the deputy school superintendent. I think the poll manager -- I do think the attorney's argument is correct that he did what he thought he should do and there wasn't any indication of willful violation there.

SECRETARY KEMP: All right. Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. WORLEY: I will make a motion we refer over the charges against the deputy school superintendent, Kendra March, for violation of O.C.G.A. 21-2-414, and dismiss the charge against Mr. Carpenter, the poll manager

SECRETARY KEMP: We have 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: Let me just make sure there's no one here representing the school board or Ms. March from DeKalb County?

(Whereupon, there was no response)

SECRETARY KEMP: All right. 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. We're going to refer to the AG's office and we've dismissed the case for Mr. Carpenter.

Thank you, again, Mr. Carpenter, for being here today. We appreciate you showing up.

I think we'll go ahead and break for lunch. It's five after 12. We'll come back and convene at 1 p.m. Do we need a motion to go into executive session today?

MR. WILLARD: (Unintelligible)

SECRETARY KEMP: We will just break for lunch and be back at 1:00.

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(Whereupon, the proceedings were in recess)

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SECRETARY KEMP: Welcome back, everybody. We will reconvene our State Election Board meeting. I'm going to call a case -- we've got a respondent who has

another appointment at the Attorney General's office on another matter this afternoon. So I'm going to move this case up to get him on the road to that other meeting. It's SEB Case Number 2012, number 26, which is 38 in your binder. Chris, go ahead.

MR. HARVEY: This case involves a complaint that somebody had gotten list of voters in DeKalb County and the complainant was solicited by the company and offered to participate in what was apparently some kind of mock trial preparation. She complained that the election information was being used for commercial purposes.

We did the investigation and found out that the respondent had gotten the list of electors from the Secretary of State's office and that he had used the list in order to get people for this mock trial. Upon discussion with the AG's office and attorneys in our office, it has been determined that there is probably no legal violation here in terms of free speech issues.

So it's my recommendation that case be dismissed and closed.

SECRETARY KEMP: Any questions for Mr. Harvey?

MR. WORLEY: Mr. Harvey, is the basis for that a question as to whether the use that was put to the list constituted commercial purposes?

MR. HARVEY: I think in part. In talking with the attorneys, without a pretty well-defined commercial purpose, it's too arbitrary in the way it's written and it would be in unenforceable. So basically it is.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MR. WEBB: Mr. Harvey, can you go over the level of detail of information that was provided?

MR. HARVEY: It would have been name, address, any information that was authorized to be given under the Open Records Act. I don't believe there's an allegation that any personal or confidential information was given out. I don't know exactly the level of detail, but I know the names and addresses were certainly given out.

MR. WEBB: Does that include email addresses?

MR. HARVEY: I don't believe so. I don't believe that's collected as part of voter

registration information.

SECRETARY KEMP: Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MR. HOFFSPIEGEL: Gentlemen, thank you for the accommodation. My name is Lloyd Hoffspiegel. I reside at 1070 Springdale Road, Atlanta, Georgia 30306.

The person to whom this was sent, the respondent, is my son, Alexander. Alexander is now taking his last law school exam as we stand here. He is my son and my employee and the respondent here. So he's my client, I guess, as well, today. We read a book by a man named David Ball. He is a PhD and noted for being a jury consultant, and it's "How to Conduct Your Own Focus Group," which is essentially a mock trial.

So we filled out truthfully -- I sent Alex down to the Secretary of State's office. He truthfully filled out an application and requested voter registration rolls for DeKalb County. It did not include, to my knowledge, email addresses. He told them what the purpose was. The person at Secretary of State's office allowed him to purchase the list and we went and sent out these letters.

It's not a commercial purpose. There's an AG opinion. Also, we didn't sell it to anybody and we didn't sell any services. What we did was we sent a letter to potential focus group attendees and we asked if they were interested in contacting us and told them we'd pay them \$100 for four hours of their time.

Commercial purpose is defined as the manufacture, transportation, traffic and sale of goods, merchandise, and services of all kinds. We were not involved in the sale of anything. There is a 1989 AG opinion, and it's 89-13, which defines what a commercial purpose is. We also believe there's a freedom of speech argument here as well.

But really our initial thought was, well, this fits within the parameters of what is allowable behavior under the law, and we were truthful about it and didn't think anybody would give us a list of we were not supposed to get it.

We paid people to listen to the case and at all times, Alex -- also, this was sent to Alex as the respondent, but he's operating under my direction. I made a couple of calls to the office just to make sure that people understood he was working for me and if anyone should be the respondent in this, it should be me rather than Alex.

So, again, thank you for the accommodation. I don't believe we did anything violating

the law. Just to let you all know, we no longer do that. We get our list of names from other places right now. Again, it's not because I think we did anything wrong, but obviously the last thing we want to is to be standing here explaining our conduct to you.

So thank you.

SECRETARY KEMP: Any questions for Mr. Hoffspiegel?

(Whereupon, there was no response)

SECRETARY KEMP: All right. Thank you, sir.

Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none ready for a motion.

MR. SIMPSON: I move we dismiss this case.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion by Mr. Simpson 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."

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That case has been dismissed.

We're going to move -- we're now going to go back to 2011, number 82, which would be number 27 in the binder; City of Quitman.

MR. HARVEY: This case involved municipal election in 2011. The allegations by a candidate were that the DRE's were not working properly and that they had problems uploading the results on election night. She also said the numbers didn't match up with her results from the election.

What we found was that a couple of things happened. One, an elector was mailed an incorrect absentee ballot. However, when they contacted the elections office,

(unintelligible) and the correct one and the elections official spoiled the ballot that was out.

On election night, as the election officials were uploading the results to the GEM (phonetic) server, they erroneously tried to upload cards that had already been uploaded and they wouldn't take them, as the system is designed not to do. But there was some confusion by observers saying that the machines were not working right. In fact, KSU came down to Brooks County and did forensic audit of the GEM server. They found out that there was no tampering, no inconsistencies; everything was straight.

The voter who -- the candidate who said that the numbers were off indicated that in her meaning the numbers were off because she had spoken to a lot of people that said they had voted for her and she didn't get that many votes. So she was disputing the numbers based on anecdotal spoken evidence. So there is no violation there.

We have listed a citation -- John Spearman is the former director of elections. He left about the time this investigation started, or maybe shortly before, and he's been replaced. We have him cited because we couldn't find a master list of absentee ballots that had been mailed out and sent. And nobody, when they went into the office to try to sort through the stuff, was able to find it, either.

This morning, representatives from the Brooks County Elections Office and Board of Elections have shown to me what appears to be a master list of absentee voters that was kept in some cryptic form by Mr. Spearman.

In light of the totality of the investigation and finding out there was really nothing improper done, I recommend that this case be closed.

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: Ready for a motion. Sorry. Any other questions, then ready for a motion.

SECRETARY KEMP: I move we dismiss.

MR. McIVER: Second.

SECRETARY KEMP: We've got a motion and four seconds 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: We have dismissed. Y'all be careful going home.

All right. Mr. Harvey, 2011, number 83; City of Porterdale.

MR. HARVEY: This case involved an allegation where poll watchers were allowed to handle paper ballots during the tabulation process. As they were tabulating the ballots in the City of Porterdale election, apparently the paper ballots were sticking together and they were having difficulty actually handling them and getting the counts properly. So two poll workers were asked if they could help separate the ballots and sort them out so they could be counted properly. Two poll watchers did actually participate in the separating of the ballots and, therefore, violated 21-2-408 A through D by touching ballots. They're not sworn poll workers. They're poll watchers. They're supposed to stay out of the tabulation process. So we have a poll manager and the two poll watchers cited for those specific violations.

Recommend the case -- this is one that could possibly be resolved with a letter of instruction. I don't think there's any allegation that anything intentional was being done. There was no allegation that anybody did anything wrong with the ballots or tried to manipulate them in any way. So I don't know that a letter of instruction would be out of order in this case.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here from the city wishing to speak? Come on up.

MS. JOHNSON: My name is Judy Johnson; 14 Walnut Street, Porterdale, Georgia 30014.

I was the former elections superintendent for the City of Porterdale and responsible during the November 8, 2011, local election.

The City of Porterdale uses a paper ballot system. During the fifth count tally, I allowed

a poll watcher to handle election ballots. Although I was at the time of the two cited regulations that was violated and allowed to be violated, naivety nor ignorance of the law does not dismiss [sic] that a law was broken.

From appointment of office throughout the election, I did my best to learn and administer election regulations and adhere to all policies and procedures. The count was conducted in an open forum with newspaper representative, candidates, elected officials, and citizens present. Furthermore, when these violations occurred, there was never a discrepancy as to which candidate had the largest number of votes, nor was there any intent to alter or influence the vote in anyway. But simply to solidify the accuracy of the tally by obtaining two like numbers for the conclusion.

It is my personal desire to obey the law, and I would like to apologize to the State Election Board, to the citizens of the State of Georgia, to the citizens of Porterdale, the candidates that were running for office, the staff, and elected officials. It was not my intent to do anything wrong. It was simply I did not have enough training. It was my first election and by paper ballot, you get a lot of training on use of this -- the -- help me out there. The use of the machines, but not with paper ballots. It is very, very cumbersome. And with everything I was trying to learn in order to conduct this election properly, it was not my intent to do anything wrong. But I take full responsibility that I did, in fact, break the law and I apologize for that.

SECRETARY KEMP: Thank you, Ms. Johnson. It says a lot about you, your willingness to be here this morning and this afternoon and explain to us what happened. Any questions for Mr. Johnson?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MR. CHAMBERS: Mr. Chairman, members of the board, my name is Timothy Chambers. I'm the city attorney for the City of Porterdale.

As Ms. Johnson explained, and as I think the board may realize, this was an act of kindness that unfortunately technically violated the law. There were a number of recounts, although the number always consistently showed what candidate was ahead and ultimately won the election. They were under intense scrutiny from the public; the media. I think Mr. Harvey showed in his investigation there were a great many people watching the count. And as the count went on, the two poll watchers offered to assist. So this is one of those acts of kindness that technically violated the law.

In the opening remarks this morning it was mentioned how technical the election law is and it's almost one of those situations where you need a checklist next to the people to make sure they are adhering to the requirements of the law.

We certainly would join with the recommendation of a letter of instruction being appropriate in this case.

Thank you for your time.

SECRETARY KEMP: Thank you, Mr. Chambers. Anyone questions for counsel?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

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

MR. SIMPSON: I move that we send a letter of instruction to the persons affected.

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

MR. McIVER: Second.

SECRETARY KEMP: And a second. Mr. Harvey, what about Joe Bloom and Ms. Spence?

MR. HARVEY: The poll watchers? I would recommend they also get a letter of instruction.

SECRETARY KEMP: I just want to make sure we're covering everybody. Was that the intention, Mr. Simpson, a letter of instruction to all three?

MR. SIMPSON: Yes, it was.

SECRETARY KEMP: All right. We have a motion to do a letter of instruction to all three respondents. 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 those letters. Thank y'all for being here today.

Mr. Harvey, we've got 2011, number 88; City of Warwick.

MR. HARVEY: This was an election where there some discrepancies with where voters were placed within the proper districts. Also an allegation that voters were given incorrect ballots.

Our investigation revealed there were at least four voters who were not in their correct municipal voting district, and that two electors were allowed to vote twice in the election.

We've got the elections superintendent cited for not properly documenting the validation of absentee ballots; not properly rejecting absentee ballots; and then when a voter -- basically, allowing a voter to vote twice. Alexander Myers was the poll officer cited for the same for allowing a voter to vote twice. Sue Potts, who is the County elections supervisor, or I believe possibly County registrar, we've got her cited for not having voters in their proper municipal districts. And, lastly, Shirley and Francis Singleton are voters who went to vote. They voted in and they then encountered the candidate who asked them about voting and they said, well, your name wasn't on our ballot. So they went back to the voting place and were allowed to vote a second time.

Given the nature of those voters, I would recommend Mr. and Mrs. Singleton receive letters of instruction as they were following the directions of the poll worker. The rest of them, as well as Mr. Myers as the poll worker, again, was directed to allow them to cast a second ballot. So I recommend he also receive a letter of instruction. But that Ms. Martin and Ms. Potts be bound over to the AG's office.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes ma'am.

MS. KINCHEN: Good evening I am Juanita Kinchen. I live at P.O. Box 56, Warwick, Georgia; ZIP code 31796. I am the candidate that was running in District 2, and Warwick, they did some violation.

I heard everything you read and I received a letter also that they violated the rights of me because they gave a lot of District 2 people District 1 voter ballots and that is where the count didn't come up right. And I wrote the Secretary of State a letter and I informed them that the ballots was not correctly because they had a map to go by that where they

live at in the city and they just were determined -- the poll people were determined to give some peoples the wrong ballot.

I was running against Donnie Watson, which is white. The other two in District 1, both was both black. So I'm assuming that that -- I felt that it was being violation to me because I was Donnie Watson, and they did not let -- by giving the wrong ballots to the wrong people. As long as they be cited or whatever you said, you know, I just wanted you all to know that it was not valid; it was not right. And I plan on running this year and I want y'all to know I will be running for mayor on (unintelligible) Georgia.

And I hope that this don't be no problem this time. I told the city clerk, which was the superintendent over the polls, that we need to get the district straight. Everybody knew that the district they was in because I campaigned only in the district that I was supposed to campaign in.

So I would like for you all to know I am the one that was violated; that didn't get the vote. About 20 to 19. I had 19, Mr. Watson had 20. I asked Judy if we can recall and they said no. So that's the way that it went. And I don't feel is fair to me because there were some irregularities done in the vote.

SECRETARY KEMP: Thank you Ms. Kinchen. Any questions for her from the board?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you ma'am. Anyone else wishing to speak?

MR. COLEMAN: My name is Franklin Coleman. I'm with the law firm of Perry and Walters in Albany, Georgia. Our address is 212 North Westover Boulevard, Albany, Georgia 31708. We represent the City of Warwick. I am here on behalf of Ms. Martin and Mr. Alex Myers.

Certainly, we join in Mr. Harvey's recommendation that Mr. Myers receive a letter of instruction. I think that is an appropriate course of action.

I would first note that Ms. Judy Martin not here today at my instruction. As I understood, it was going to be the recommendation that she be bound over, and so I actually asked her not to be here and told her I would come and make sure somebody was here to represent her.

As to the allegations that are included in the letter to Ms. Martin, we acknowledge that all things that are -- all the allegations there took place. I believe that our explanation would be that this is Ms. Martin's -- it was her first election; first time she had served as the

elections superintendent anywhere, and she did not mark the ballots when they came in with the date and time she received them and her signature just due to ignorance of the law.

The explanation as to the folks voting twice, I think Mr. Harvey said that they were instructed to do that. Some folks -- I think they were the Singletons -- came down to vote and their names are on the voter list in District 1. So they were given ballots for District 1, and they went home and later on Ms. Kinchen, as she mentioned, she was out campaigning in her district. The Singletons actually live in her district because they had moved there rather recently, or at least if that's not the case, they had been put in the wrong district at some point and they may not have moved there. That's what I understood was the case, but I'm not certain.

Whatever the case, the voter registration list had them listed in District 1. They were technically in District 2. She told them, you know, did you vote for me, or something of that nature. They said your name was not on the ballot. She said, you the wrong ballot, then. Go back down there have them give you another one, which, you know, they went back and nobody knew what to do with the situation because it was just sheer inexperience.

They contacted Ms. Potts who was with the County, and she -- I believe the evidence will show that that is what she is told them to do: Give them another ballot; let them cast another ballot in District 2. So that's what they did.

Nonetheless, if the board should decide to bind this case over for Ms. Martin, we would certainly work with the Attorney General's office to reach a resolution, whether it be a consent order, or what have you, including further training, and take whatever measures will be necessary to see to it this kind of thing doesn't happen again.

I point out that, just for your knowledge, and not that this necessarily makes a difference, the City of Warwick is very, very small. Were talking about less than 100 voters in these districts. The votes, I believe, in District 2 is like 19 to 20, or something like that. We're talking about a really small election, really small town was not a lot of resources. That's all I have.

SECRETARY KEMP: Any questions for Mr. Coleman?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

MR. COLEMAN: Thank you.

SECRETARY KEMP: Thank you. Does the board have any other questions or a motion?

MR. WEBB: Mr. Harvey, for the record, maybe this is for Ms. Ford, in a situation like this where the voter voted the wrong ballot, what is the normal procedure in how that is handled?

MR. HARVEY: Well, normal procedure is that you only get one vote. If there is a question, you could vote a provisional ballot, I assume. That would be the only thing I could think would be an acceptable form. I don't know if that would have much of a real effect other than (unintelligible) on election day. Because once you cast your vote, it's voted and you can't get it back. It's not like you can go back and cancel that out.

It is certainly unfortunate, but, again, as the Secretary has said, when it comes to districting issue, that's why it's so important.

MR. WEBB: Thank you.

SECRETARY KEMP: Anybody else or a motion?

MR. HARVEY: And just for the record, Ms. Potts did not recall speaking with anybody about allowing to vote a second ballot. She claims she did not represent that representation to the elections superintendent.

MR. WEBB: With regard to Mr. Myers, Alexander Myers, was he following direction from Ms. Martin?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: So we've got Ms. Potts cited because the voter rolls were wrong?

MR. HARVEY: Correct.

SECRETARY KEMP: All right. Do we have a motion?

MR. WEBB: I'd like to make a motion to issue a letters of instruction to Alexander Myers, poll worker; and Shirley and Francis Singleton as electors. And then I would make a motion to bind the case for Judy Martin and Sue Potts over the Attorney General's office.

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

MR. WORLEY: Second.

SECRETARY KEMP: 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.

Mr. Harvey, I think we're moving to 2011, number 102; Fulton County, Henderson case.

MR. HARVEY: Did we skip Gwinnett County?

SECRETARY KEMP: We did. They're not here.

MR. HARVEY: Okay. In this case, Mr. Henderson appeared at his normal polling place on November 8, 2011. He completed his voter certificate and was told that he was not registered to vote in Fulton County, but that he, in fact, was registered to vote in Heard County. He had no connection to Heard County and had no reason to believe that his voter registration should have been changed to Heard County. He was allowed to vote a provisional ballot, which was ultimately rejected because he was, in fact, registered in Heard County.

Our investigation revealed that somebody with a very similar name was registered in Heard County and Heard County simply transferred the wrong person to their voter rolls, thereby deleting his voter registration in Fulton County. That has subsequently been changed, but Mr. Henderson was not allowed to vote in that election.

So we've got Caroline Miller and Jay Parker in Heard County cited for 21-2-226 for improperly transferring a voter to their County.

SECRETARY KEMP: What's the recommendation?

MR. HARVEY: Recommendation would be a letter of instruction. It was a clerical mistake. We have not generally had problems with Heard County. I believe a letter of instruction would be appropriate.

SECRETARY KEMP: They have taken steps to fix the problem?

MR. HARVEY: It's been resolved. Yes, sir.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak?

MR. ADAMS: My name is Tommy Adams; 109 Lofton Lane, Franklin, Georgia 30217. I am the new chief registrar for Heard County.

I have a letter outlining the steps we've taken to make sure this never happens again. I would request that this letter be added to our file.

SECRETARY KEMP: We have a motion to accept the letter?

MR. SIMPSON: 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: We will accept the documents.

MR. ADAMS: And I would say that what we've done since I've taken over as chief registrar, we've actually gone through and verified effort single one of our 7,000 voters to make sure we don't have someone else's voter in our county. We've gone through a total redo of our entire registration file. So we appreciate the board.

SECRETARY KEMP: I can feel Mr. McIver wanting to ask you the question, have you attended training recently?

MR. McIVER: Being new.

SECRETARY KEMP: I think we met.

SECRETARY KEMP: You did. 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: We have a recommendation of a letter. Do we have a motion?

MR. McIVER: I so move.

MR. WORLEY: Second.

SECRETARY KEMP: Mr. McIver moves; second by Mr. Worley 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. We will issue a letter. Thank y'all for being here today.

Mr. Harvey, we're moving to 2011, 107, City of Monticello.

MR. HARVEY: The allegations in this case were that there were problems with the election in the December 6, 2011, runoff: That an absentee ballot was illegally rejected; that voters were not allowed to vote provisional ballots; and that somebody voted while there is no record of their vote.

Our investigation revealed that an absentee ballot was turned in to a poll worker, not properly to the registrar, but through the mail, and it was held by the poll worker and was eventually turned into the registrar's office and was rejected because the registrar didn't know who had turned it in. There was nothing on the face of the ballot envelope that necessarily would have caused it to be rejected, and I believe that is in violation of the laws regarding the rejection of absentee ballots.

Now, as it turns out, that voter, her ballot was also illegally taken to be turned in by her mother. Her mother took possession of her ballot, turned it in to the poll worker -- the

voter was not disabled, hospitalized, or handicapped. She reported that she wasn't feeling well that day so her mother turned in her absentee ballot, thereby illegally possessing the absentee ballot.

There were several cases where people were turned away and not offered provisional ballots. And in one case, a voter was offered a provisional ballot, but said she would go home and come back with the proper ID. She didn't come back and she ultimately didn't vote. That's one that I'm not sure you can necessary get the city on. However, there are other people that showed up to vote who were not allowed to vote provisional ballots for whatever reason, whether they had copies of ID or ID.

There was also an allegation that some of the numbers were off. There was a voter that went to vote, put their voter access card in the machine, and then reported back to the poll officials that their card said "Invalid card" and they stopped the election. They went back and double-checked all the machines to make sure the count was right, and it turned out her vote did count. Whether she understood what was going on, nobody knows. But the record shows that her vote was cast.

So at the end of the day, we have violations for Linda Keller, who is the elections superintendent, and for Carol Morris, the registrar, for improperly rejecting an absentee ballot, and then failing to issue provisional ballots; as well as Patricia Nicks, the mother of a voter -- she turned in her daughter's absentee ballot without any justification.

So I recommend these cases be bound over to the AG's office.

SECRETARY KEMP: For Ms. Nicks, too, instead of a letter?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Thank you. Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir.

MR. REITMAN: Thank you, Mr. Chairman. My name is Joe Reitman. I am the Monticello city attorney. Here with me today are Judge Keller and Registrar Morris. The candidate who filed the election challenge that was heard about a year ago in front of Judge McConnell down in Jasper County, Molly Pompei, is also with us, as well.

Judge, as I -- Mr. Chairman, as I read through this, I noted that although there are several allegations that Mr. Harvey recited, actually there only two findings of potential violations on, I believe, the third page that references Number 1: Violated 21-2-386(c),

Rejection of Absentee Ballot. By rejecting the delivered absentee ballot of Iyesha (phonetic) Nicks returned by mother, Patricia Nicks. If I could just drop a quick footnote there, Mr. Chairman, I note that two paragraphs down Patricia Nicks, herself, is alleged to have committed a violation by virtue of unlawful possession of that ballot, taking possession, and delivering it to the registrar. The daughter of Ms. Nicks was not hospitalized, disabled, or handicapped. So it appears that the registrar and the Judge did the right thing by rejecting that ballot because it was not properly tendered, and the attempt to tender was in violation of the law.

What I would like to do, with the permission of the Chair and the board, if I may, I have a certified copy of the pleadings in election cases filed in front of Judge McConnell.

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

MR. SIMPSON: 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: We will accept the documents.

MR. REITMAN: Thank you Mr. Chairman and board. With your permission, I'd like to just hit on the highlights of this, particularly focusing just on that last few paragraphs referencing the violations; the alleged violations. Because although Mr. Harvey did note there were several other allegations, ultimately what his office found were just a few potential violations. So with your permission, I would like to turn to page 148, which is actually the second page of Ms. Pompei's petition. Paragraphs 11 and 12 track the allegations that are before this board today.

Paragraph 11 does expressly recited and admit that Ms. Nicks' mother is the one that presented the absentee ballot to the poll watcher. I may also mention -- this is on page 158 of the record, which is the answer I filed in the matter -- Paragraph 11 notes that the ballot was not delivered to the Board of Registrars. Georgia Code Section 21-2-382, that's the one that permits the elections superintendent to designate additional sites for receiving and voting absentee ballots. There were no additional sites. Absentee ballots

are supposed to be taken directly to the registrar. That was not done.

It further recites in the answer that it did not count in that in order to get to the voting room, which is where it was improperly taken by the mother, the person had to walk right past the office of the Board of Registrars, i.e., the mother, without authorization, took in the ballot of her daughter who was not hospitalized, disabled, or handicapped; walked past the registrar's office, where, if she had been authorized to tender the ballot, should have gone, but instead, went to the voting room.

And we finish in Paragraph 11 reciting there was no basis for it, and that is Georgia Code Section 21-2-385, which I believe Mr. Harvey alluded to a little while ago.

Jumping back to the allegations, the complaint filed by Ms. Pompei, Paragraph 12, references a second individual, Ms. Frederica Moore, who presented with a copy of her voter registration card. She was advised, as recited in Paragraph 12 of our answer, that it was not a valid ID; it was a copy. Nor did she have a drivers license on her person or any other form of photo identification. Therefore, she told -- this was Ms. Frederica Moore, the potential voter -- told the registrar she was going to go home, find the original, and then would be back with the original. If she had not stated that, clearly, she would have been told she could vote provisionally. But because Ms. Moore volunteered that she would go home, get the original ID, therefore, she did not vote provisionally.

We then have page 171 of the record, the second page of the affidavit that the registrar, Ms. Morris, signed. This reiterates what I advised previously. I did want you all to know there was a sworn affidavit in the record. And incidentally, there was testimony as the Judge recites his order by all parties, including the Probate Judge and the registrar.

The registrar's affidavit specifically recites that Ms. Nicks did improperly leave an voter absentee ballot in the voting booth. There was no legal basis for her to hand-deliver the ballot, unless the voter was handicapped. And I think it's agreed by all parties and the investigator that, indeed, the voter was not handicapped; no evidence thereof.

Furthermore, it notes that we have the application she filled out in hand. The box for handicapped was not checked by either the younger Ms. Nicks or her mother. We have no evidence that she was handicapped. Furthermore, as mentioned earlier, it was not delivered to the Board of Registrars.

I would then note on page 172 of the record, which is the affidavit of one of the poll workers, Ms. Lillian Standifer, she recites that she knows Ms. Nicks and the daughter and that the daughter is not handicapped from her observation.

Wrapping up, there is an order and judgment, and again you all now have that certified copy. That's at page 177 of page 178. Therein, Judge McConnell provides -- states, "Testimony was provided by multiple witnesses for both plaintiff, contested, and defendants, elections superintendent, and registrar." He then concludes, "Such statutory criteria," referring back to the State statute, "has not been met. The evidence illustrated the defendant's acting in their representative capacities as elections superintendent and registrar of Jasper County, Georgia, conducted the election in a fair and impartial manner utilizing probably certified equipment."

So we have, in essence, two people, one of whose vote did not count because she improperly gave it to her mother; she was not handicapped; and the mother brought it to the wrong place.

And then number 2, the one who said, let me go home and get my ID, she didn't come back. And it's our request, if it pleases this board, that either a letter of instruction be issued or alternatively, dismissal.

If you have any questions, I'll be glad to field them to the best of my ability. Thank you for your patience.

SECRETARY KEMP: Any questions for the counselor?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MS. POMPEI: Good afternoon. My name is Martha Pompei. My address is 568 (Unintelligible) Street, Monticello, Georgia 31064-1024.

In agreement with Mr. Reitman, we did go to trial and Judge McConnelly [sic] did his ruling. But let's start with Ms. Robertson, the young lady who was given a card to vote. It came back invalid.

SECRETARY KEMP: Ma'am, let me interrupt you real quick. If you don't mind, can you slow down just a little bit. We're just trying to get all this on the record. I don't want her to miss anything.

MR. POMPEI: Okay.

SECRETARY KEMP: Thank you.

MS. POMPEI: In reference to Ms. Robertson, she was given a card; she inserted the card; it came back invalid. At the same time that she realized it was invalid, the poll

worker called her back. Like he said, they stopped the election and did their count. Ms. Robertson's name is on that ballot. At what point did she get a chance, if that card came back invalid, to select her candidate?

In reference to Ms. Tonya Dennis, she is adamant that she went to vote, but her information is nowhere to be found, not even on the list or the machine list. Her name is nowhere to be found.

Ms. Talesha (phonetic) Moore, according to her, she did not say anything about going back to get an ID. I asked her was she offered a provisional ballot and she said no. The same thing with Ms. Iyesha Nicks. In talking to her, she told me she wasn't feeling well that day. At what point -- how sick to you have to be to be incapacitated?

I take my children's ballots to the poll all the time. Nobody ever says anything to me. So why are they making selections based on the people?

There was another young lady, she went in to vote. Her card also came back invalid. I do not know her name. Her card came back invalid. They went through the count again, but they allowed her to vote. What's the difference here? What's wrong with this picture?

And in talking to Carol and to Linda, I would not have been here if they hadn't told me file a complaint if you have a problem. So we go through pretty much every election. I'm just standing here. Like you said, Mr. Webb, we all have a right to be represented. I'm standing here trying to represent the community of which I grew up in; I reared, educated, left, came back, and did the same for my children. Because Monticello is an excellent place to live.

All I want you guys to do for our community is make them understand that this kind of stuff will not happen. As a resident, I'm required to live in Monticello to vote; am I not? Well, somebody sit here and explain to me why our elections superintendent does not live in Monticello, yet and still she presides over our election. Somebody tell me that.

Thank you.

SECRETARY KEMP: Any questions for Ms. Pompei?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Any questions?

Whereupon, there was no response)

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

MR. HARVEY: Yes, sir.

MR. McIVER: I'll so move.

SECRETARY KEMP: Mr. McIver moves to bind over. 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 binding over all the respondents, signify by saying, "Aye."

MR. SIMPSON: Aye.

MR. McIVER: Aye.

SECRETARY KEMP: Aye.

MR. WEBB: Aye.

SECRETARY KEMP: All opposed, same sign.

MR. WORLEY: No.

SECRETARY KEMP: That motion carries. We've bound it over.

All right, Mr. Harvey. We've got 2012, number 4.

MR. HARVEY: Yes, sir. This case is in Paulding County. And I would ask the board members, in your packet there is a respondent chart in here that has nothing to do with the case. It's inserted wrong. Please disregard the respondent chart that may appear at the end of the synopsis.

In this case, three people who were serving felony sentences were reported to the Secretary of State's office by Deidre Holden in Paulding County. They had registered to vote while serving a felony sentence.

Our investigation revealed that all three had registered to vote. The third person, Wayne Saunders, appeared to still be under sentence. However, the Judge had terminated his probation and sentence early. He went and registered to vote so we recommend his case be dismissed.

However, the case of Russell Allen Gassaway, he completed a voter registration application while serving a sentence. He called this morning and said he was sorry, but he couldn't be here. He said it was a mistake; he did not attend intend to register to vote.

And Andre Guiden also registered to vote. His sentence doesn't end until 2021. He registered to vote on January 25th of this year. Mr. Guiden, we weren't able to contact him early in the investigation. He came to us after receiving his notice and alleged that he didn't register; that's not his handwriting. I don't know if he's here today or not. He gave a handwriting sample to our investigator -- this was about a week ago -- and, frankly, based on the handwriting sample and the handwriting on the voter registration application, I recommend he and Mr. Gassaway be bound over to the AG's office.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED MALE: I wish to speak.

SECRETARY KEMP: Yes, sir. Come on up.

MR. GUIDEN: How are you doing today. My name is Andre Guiden. I live at 46 Gregory Court, Dallas, Georgia.

I got a letter in the mail about three weeks ago and I contacted the elections investigator and she informed me somebody had signed my name on a card; a voter card. I asked her immediately -- because I can't vote for the next three years -- I asked her did that person vote, and she said no. I said did they attempt to vote, and she said no. She told me, well, can you fax over your drivers license. I said, I can do better. I'll come down and bring you what you need.

So I came down and I talked to her about the situation. I signed whatever she wanted me to sign she said, well, you have to be here today. Bring document or you can show up person. This is too important to me to give a letter, so I showed up in person.

So for me to hear what he just said, this tells me that y'all don't have no handwriting expert that can just look; that can do this and say that's not me? Because that's not me.

And so for me to have to go through this process, it's kind of overwhelming to me, you know.

So anybody can just go sign a voter registration on a felony and wind up here? Is that what you're saying?

Thank you, sir.

SECRETARY KEMP: Any questions for Mr. Guiden?

MR. McIVER: Mr. Guiden, then you're on probation until 2021; is that correct?

MR. GUIDEN: No; no.

MR. McIVER: Well, let me ask you the better way, then. How long are you on probation?

MR. GUIDEN: Like five-year probation.

MR. McIVER: And when would that be terminated?

MR. GUIDEN: It's going to be three years and something from now.

MR. McIVER: That's all I have.

SECRETARY KEMP: Have you seen the voter registration form that was signed?

MR. GUIDEN: Yes, sir. She showed it to me. The first letter kind of looks like my signature, but nothing else looks like mine, you know. But my whole thing is, you don't have an expert who would look at this and -- I'm not -- since I'm a felon, I don't have no rights?

MR. SIMPSON: You're not saying you didn't sign it. You're just saying we don't have an expert witness saying you signed it; is that right?

MR. GUIDEN: Yes, sir. I mean, I didn't do this. I mean, it seems like to me y'all should have -- y'all got investigators or somebody to look into some kind of (unintelligible) or something and say, well, this is -- they even could have went back when I was voting and compare to with other voter cards.

No, but somebody just say I did this . . .

SECRETARY KEMP: Any other questions?

Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here.

MR. GUIDEN: Thank you, sir.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, have we gone back and looked a prior voter registration cards or other signatures besides the two that we got?

MR. HARVEY: We've looked at the drivers license signature and the voter registration application signature and the signature he provided, handwriting he provided in the writing sample he gave Investigator Williams. My opinion is that it's significantly similar, certainly enough to be bound over for probable cause. If additional samples are needed in order to prove it beyond a necessary level we can certainly do that. But at this point, I believe the signatures are similar.

SECRETARY KEMP: Would you like to add something?

MR. GUIDEN: If the State don't find it convenient to hire a handwriting expert, I'll pay for it. I know I didn't do that. This is not my signature. And if you look at the first letter, it does look similar. But if you look at the rest of it, it don't look nowhere like my signature. Like I said, if the State don't want to pay for a handwriting expert, I will.

I'm coming here today thinking this case gonna be over with because I didn't do this. And I'm like, I got to go further? I'm living my life as quiet as possible . . .

SECRETARY KEMP: This hearing, so you will understand, is a probable cause hearing for this board to decide whether there's probable cause in the cases that are before us to take different sets of action, or whether there is probable cause to refer to the Attorney General's office. I don't know if Mr. Willard has a better explanation than I do for that.

MR. WILLARD: I think you did just fine.

SECRETARY KEMP: But that's what we're charged with. We're not necessarily charged with saying there's guilt or innocence on certain matters. But whether there's enough cause to refer to the Attorney General's office for further investigation. That doesn't mean if we do that the AG's office may come back and say after our investigation, we don't see a violation here, or we do. There's a lot of different outcomes.

Just want to make sure that you understand that.

Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, I don't know that we have a whole lot of other options, ourselves, do we, for this investigation, without referring?

MR. HARVEY: No, sir. I think the proper course of action would be to refer to the AG's office and proceed forward. And if there is additional things Mr. Willard has questions about, we can work with him on that. But this is standard protocol.

SECRETARY KEMP: Okay. Any other discussion or motion.

MR. SIMPSON: Move that we bind both cases over.

MR. McIVER: And that would be Gassaway and Guiden?

MR. SIMPSON: Yes.

MR. McIVER: I second that.

SECRETARY KEMP: We've go a motion and a second. You said Mr. Gassaway couldn't be here; is that correct?

MR. HARVEY: He called this morning and said he couldn't come and was sorry.

SECRETARY KEMP: Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: We've got a motion and a second to bind over to the AG's office for further review.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

SECRETARY KEMP: That motion carries. Thank you for being here today. The Attorney General's office will be in touch with you to continue to work on your case.

MR. GUIDEN: Okay.

SECRETARY KEMP: Mr. Harvey, we've got 2012, number 14; Decatur County. I'm sorry. We'll skip that. They're not here, are they?

MR. HARVEY: No, sir.

SECRETARY KEMP: Let me move down to 2012, number 62, the Hall County case.

MR. HARVEY: This is a case in Hall County, Georgia, in the primary election of this year. There are two issues.

One was that a person went to vote. They voted on a DRE machine and later that day, I believe on her way home, in speaking with somebody, she determined she got the wrong ballot because it didn't have the candidates she should have gotten on her ballot. This person is the wife of a County Commissioner and the County Commissioner and members of the county government got together and decided the problem needed to be fixed. So after some communication, the voter and the commissioner went back to the elections office and met with Charlotte Sosebee, who is the director of elections, explained what had happened -- that she had voted the wrong ballot -- and they persuaded, ultimately persuaded Ms. Sosebee to allow her to vote a second ballot on the DRE.

It turns out that what caused this problem was a software system Hall County was using to print voter certificates. They would scan the drivers license and it would pull up the voter information to be selected by the poll worker, and it would print out their voter certificate, which then the voter was supposed to verify, sign, and that creates the voter certificate. As opposed to in many places where they give you -- you fill it out yourself and all the information is correct.

Well, there were some possible user errors with the machine in that if the person before or after was still left on the screen and you hit "print", you could inadvertently print a voter certificate for somebody other than the voter who was in front of you. That's apparently what happened in this case because when they went back to try to find her voter certificate, they couldn't find a voter certificate for Ms. Shannon Lutz.

What they found was that she signed the bottom of someone else's voter certificate who happened to have the same date of birth. And I believe she checked the date of birth, verified that was her. She just didn't scan the top of the form to see if it was a different name. She signed it and she was allowed to vote. And, of course, she got the wrong ballot because she got somebody else's ballot.

So when all that was determined, they went back and, like I said, Ms. Sosebee had conversations with people in the county; had conversations with Commissioner Lutz; and sent she ultimately allowed Mrs. Lutz to vote a second ballot.

To compound the problem, Ms. Sosebee shredded the original voter certificate Ms. Lutz had signed that didn't have her name on it. I'm not sure why she did that, but that would have been a valuable piece of information to have to verify what happened. But that was shredded by her.

This second issue in this case was that there were a number of voters who were placed in the wrong district. This was during the redistricting. I want to say there were approximately 60 voters who in the redistricting process had been assigned to the wrong precinct. One of the voters found out when they went to vote. They turned it in and the investigation revealed that about 60 people had been put into District 4 instead of District 3. So potentially 60 of those voters got the wrong ballots, as well.

In the violations we've got cited, we've got a number of people cited for violations. We've Mrs. Lutz cited for violations for voting twice. I believe that -- again, she went back to the elections office and under direction of the elections official, was told to cast a second ballot. I think it would appropriate in that case to issue Ms. Lutz a letter of instruction telling her that she shouldn't do that. But she was operating under the direction of the elections folks.

Similarly, Lewis Martin and Kerry Jones who were working in the elections office allowed her to vote the second ballot. I believe the same principle to her when they were told to allow Ms. Lutz to vote a second ballot, they, too, were sort of acting under orders and allowed her to vote a second ballot. So I would recommend that Mr. Martin and Ms. Jones be issued letters of instruction regarding those violations.

And then for Ms. Sosebee, we've got a series of violations, including allowing her to qualify voters who were not qualified to vote; non requiring the proper ID in terms of issuing the voter certificate and not having it verified. We also found -- we wanted to see how pervasive this problem was where people got the wrong certificates. And we ended up finding four additional people who signed voter certificates that were not theirs. And, again, through no fault of their own, but in terms of scanning the license for the election worker (unintelligible) the voter to print out the certificate, they just got the wrong one. And, again, as people often do, something that says "Sign here" the voters sign their names. They went and voted.

We didn't get any reports from those people that they didn't get the right ballots. A lot of times, frankly, people don't know what the right ballot is in some elections.

So we have Ms. Sosebee and the board cited for numerous violations as far as those four individual (unintelligible) as well.

And we recommend that Ms. Sosebee and the board be bound over to the AG's office and that the other letters of instruction are issued forth.

SECRETARY KEMP: Any questions for Mr. Harvey?

MR. WORLEY: I had a question. I'm having a hard time figuring out what the voter should have done in this case. She came to the conclusion that she voted incorrectly; she went back; the elections officials allowed her to vote again. If we send her a letter of instruction, is it going to say, well, when -- the next time election officials tell you you can vote, don't.

MR. HARVEY: I think the proper letter of instruction would be to inform the voter they only get one ballot, and if they find an error with their ballot, it's incumbent on them to get it corrected before they cast it. We've seen this happen a couple of times in this meeting and in other cases. You're essentially giving somebody two votes and I think the -- I think you're right. It's difficult to place the total burden on the voter to do that, but at the same time, I think if you vote and then you realize you may have gotten the wrong ballot -- we've had cases where people thought they got the wrong ballot when they didn't get the wrong ballot. You know, memory is kind of faulty that way. People need to understand once you cast your ballot, you don't get a second crack at it. So if there's a problem, bring it their attention then. You can't let somebody else later tell you, oh, yeah; you got the wrong ballot.

I understand what you're saying and that's why I would recommend a letter of instruction to these kinds of voters would be to say, if you encounter a problem with a ballot while you're voting, please notify election officials before you cast the ballot. Otherwise, once you hit "Cast ballot" there is no way to pull that back.

We're in a difficult position. But I think part of the burden is on the voter to make sure that they're getting their candidates that they're entitled to based on their residency.

SECRETARY KEMP: Mr. McIver.

MR. McIVER: Would this have been a good situation for a provisional ballot?

MR. HARVEY: It would have. That would have been, I think, a very easy solution and sort of pain-free solution. And Ms. Sosebee indicated that she realizes it was a mistake and she should not have done it, in terms of issuing the second ballot. I think this would be a perfect case for a provisional ballot. I think probably the provisional ballot would have been ultimately rejected, but it would have been out --

MR. McIVER: I guess I've had the impression that provisional ballots are the ultimate

default. If you're in doubt, vote it provisionally, put in an envelope, and it will be there for scrutiny and --

MR. HARVEY: It at least buys you 72 hours to get resolved. In this specific case, I'm not sure if they could have done anything to resolve it. In many cases, when things with voter registration are an issue or residency are an issue, it can be resolved.

MR. McIVER: But you wouldn't have had a double ballot?

MR. HARVEY: That's correct.

MR. McIVER: That's the issue.

MR. HARVEY: That's correct.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else?

MR. GILLIAM: Mr. Secretary, members of the board, Steve Gilliam from Gainesville, Georgia. My law office is located at 301 Green Street. I'm here with Charlotte Sosebee to answer any questions.

Ms. Sosebee agrees that she should have allowed the voter, the elector, to vote a provisional ballot. She's actually given an affidavit and it says that in the affidavit. This is one of those situations where you've got a County Commissioner who was there with his wife. There's been an improper vote and she's trying to do the right thing. I'm not saying Ms. Lutz did anything wrong; I'm not saying Commissioner Lutz put any kind of pressure on her. But she was trying to make the right call. What she did not do was allow that ballot to be a provisional ballot. And I think you've heard this several times today that that is the appropriate way to allow it to be done. So we don't have any objection to that.

We just feel like a letter of instruction should be issued on that one because she assumed it was she did was wrong. It's like a lawyer trying a case and, do I object right now? Should I not object? Do I ask that question, or do I not ask that question? And you're making a split second decision on what you're going to do. Sometimes you make the right call, and sometimes you make the wrong call. And she admits she made the wrong call. It should have been a provisional ballot.

In respect to how it occurred, I do disagree with Mr. Harvey. There was a glitch in the

computer. It happened several times that day. You take a drivers license or identification and you put it into this computer. And then it matches up the state information with the Hall County information.

On this particular one, I believe (unintelligible) where Ms. Lutz's picture comes up with somebody else's name on there. And it still exists on that computer today. We asked Ms. Sosebee to keep it just in case she needed to show that as evidence. But I can show it to you if you don't have it. But Ms. Lutz's picture actually comes up with someone else's name.

Now, what happened was, the best practice is that she had at that time was to move the crowd through get them to vote sort of conflicted with the best practices to verify who was voting and what time. What she did, she allowed someone to take the voter ID, whether it's a drivers license or whatever, put the information in the computer, and it kicks out an application. And then that application was then actually taken by another clerk, and in this case it was Kerry. Kerry took it out and handed it to Ms. Lutz. She prints it out, hands it to Ms. Lutz, and asks Ms. Lutz to sign it, which Ms. Lutz did. And then she gave it back to her. And that's when this card -- voter card -- is an issue that they didn't take it into the voting booth.

So the process was okay. But as soon as this happened, as soon as this happened, Ms. Sosebee immediately started requiring that whoever handed that piece of voter ID to that person, then that person who took it would have to then verify that and initial it, the application for the advance ballot and had it back to them. So immediately that was stopped. So that has already been taken care of, the way they're operating in the future.

Anything you want to add on this?

MS. SOSEBEE: Good afternoon. My name is Charlotte Sosebee. My mailing address is P.O. Box 601, Gainesville, Georgia 30503. And I wanted to just say to you that I have twenty-three-and-a-half years experience in the elections office and I believe in doing things right. My job is to make corrections when there are errors.

When I received a list of this error, and unfortunately it was with Commissioner Lutz's wife -- one of the commissioners I just -- I don't want to mess up on. I don't want to mess up on anybody. But, no. Not the Lutzs.

I got a phone call from the County administrator, the County attorney, and Commissioner Lutz on this conference call informing me that Ms. Lutz had received the wrong ballot. She had just left our office and called her husband and they were on the cell phone conversation. I was in a meeting with my board and so I was really put in a pretty tough

situation. Only to find out when I spoke with my staff, they had no idea that she had been in office.

So I immediately started investigating. You know, I need to find out what happened in this situation. So I looked at all the applications that have been processed within an hour. I did not find her application. So I thought, we're not going to look at the names; look at the signatures. So we found her signature on an application that was, of course, printed under someone else's name.

So I Made the determination there that, yes, she did receive the wrong ballot. I came back to the phone conversation and explained what had happened. I also indicated that there is a sign in the outer polling booths that simply says that if you have received the wrong ballot, before hitting "Cast" let an elections official know. From that point, I didn't know if it was over or not, but I felt like that covered me.

A few minutes later -- a couple of hours later, the Lutzs showed in the office, Mr. and Ms. Lutz, and I showed her the application she signed. And several times before that I handed it to somebody to shred. And I kept saying, no; bring it back. Let me look at it again. Because I had a feeling that she was going to show up and she was going to want to see that application. And I don't blame her because when we're told to look at an application and make sure it's ours, we want to know that we made sure it was ours.

And she explained to me she looked at the date of birth, and it was similar -- exactly the same date of birth -- and we made the determination she signed the wrong application. So I just -- I knew I was going to have a battle in front of me because this is a commissioner's wife who has been given a ballot for another district. It wasn't her husband's district because he wasn't on the ballot. But her State House, her State Senate, they were all wrong.

So I didn't really know what to do so I made the decision either deal with her voting the wrong district, or let her vote her district. And I didn't even think about double voting. But I knew my numbers were going to be off, and that's the reason I shredded the application. I wanted at the end of the day, if 250 people voted on the machines, that I was going to have 251 -- well, 249 applications in my hand. Because I knew what had happened.

So that's why I shredded the application. It was after she had seen in thinking that it was over. And I was going to explain in my recap what happened, and if something happened from that point, it would just only include me.

Well, two days later, I get a phone call from our local organ and the Secretary of State's

office to tell me that there was a report. So that's why we're here today.

As far as the districts are concerned, when an error is brought to my attention, immediately I want to make the changes; I want to correct it.

So I received a phone call the day after the general primary election from Mr. Lipscomb stating that he had received a ballot in the wrong district. Had I not gotten that call, I wouldn't have known until we'd done our check system. Unfortunately, the State Legislature did not pass, or did not send our maps of redistricting in until late. There was a discrepancy or some issue going on with our districts.

In the beginning we had, I think, seven State House districts. But we ended up with five. The issue was, or the report was signed by the Governor on the 29th of May. By June 25th we had to have all of our information in the system so that every voter in our county could get cards 30 days before the election. We only had that length of time to get over eighty-some thousand voters changed in the system.

Well, we thought we had them all right, and I'll just tell you that. I'm the elections director. I think when I send a voter card to a voter that they're going to look at their voter card and they're going to know if their districts are right or not. That's me as elections director. But everybody doesn't do that.

So when Mr. Lipscomb went to vote, he didn't realize, I take it that he didn't realize he was in the wrong district. And we did make our corrections; we did them before the (unintelligible) election. Unfortunately, we weren't able to do that checking system just before the election. but we have made all those corrections.

And I do know that when I went home that night on July 25th [sic], I should have resorted to a provisional ballot. But at that time, just didn't think that. So I definitely want to apologize to Mr. Lutz and his wife for putting them in that position, as well as my staff, and to you all for having to hear this today.

MR. GILLIAM: Let me just sum up on the voters being in the wrong district. It was basically one street that was in this new district that was not placed in the correct district. And what Ms. Sosebee was telling you was sort of the guideline. It was not until May 11, 2012, that her office was notified that Department of Justice had approved the reapportionment of the State House districts. And that was submission dated March 16, 2012. She had to get everything ready to start voting on June 25, 2012. So she only had about a month-and-a-half to go through everything the Department of Justice had approved and make sure every street, every road, every voter was in the right district. And what happened was, they just missed a road; they just missed a street. And I've got

a map over there I can put in evidence to show you every street in Hall County and how many streets there are. And it was just one street that was missed. They had to have everything ready to go by June 25.

So, again, it's a complicated system, and mistakes were made. And this was a mistake. And we just feel like there's no reason to send it to the AG's office for probable cause.

And I might add that our of that there were only six -- it only affected 60 voters out of how many voters?

MS. SOSEBEE: About 92,000.

MR. GILLIAM: About 92,000. It only affected 60 voters, and out of those 60 voters, only 26 voted in that election.

So, again, immediately upon learning of this error, it was fixed; it was corrected.

So we would submit to you that there's no probable cause to submit it to the Attorney General's office.

Now, there's one other thing. I wasn't quite sure -- Mr. Harvey talked about some other district cards were issued. Because she's gone back and there were three in question about whether they were signed or not. And what happened was, it was a computer glitch and two folks did not sign the actual application for voter. But they signed another application for advanced. There was also another elector, or voter, that didn't. The same thing that happened to Ms. Lutz happened to her. But they caught that error, so they were able to get her signature on another card.

So we had three, not four. But those three folks -- and Ms. Lutz may have been the four - - those three folks did not actually sign for an advance application. We'll be glad to answer any other questions you have.

SECRETARY KEMP: Mr. McIver.

MR. McIVER: Mr. Gilliam, Would these votes that were, for lack of a better term, improperly cast, would they have been determinative of the results of the election?

MR. GILLIAM: No.

MR. McIVER: And I have one other question and that would be for your client, if you permit me.

Ms. Sosebee, have you gone through all the training that's offered by Ms. Ford and others in her department?

MS. SOSEBEE: Yes, sir.

MR. McIVER: And in that training, do you understand the dynamics of a provisional ballot?

MS. SOSEBEE: I most certainly do, and I did. I sure did.

MR. McIVER: Thank you.

SECRETARY KEMP: Anybody else?

MR. GILLIAM: I think if you read her affidavit, you'll see where that night she was kicking herself over and over and over again for having (unintelligible) provisional ballot.

SECRETARY KEMP: I have a question for either you or Ms. Sosebee. And I think this is a situation, certainly, where Ms. Sosebee won't let this happen again, I'm sure.

But one thing that does concern me a little bit, you mentioned a computer glitch several times. Now, it's true that the Easy Vote is something that the county purchases, correct?

MS. SOSEBEE: It is.

SECRETARY KEMP: So it's not part of the State system, if you will.

And, you know, I don't know -- it concerns me that that issue happened. I haven't -- I can't remember if I've heard that happening in other counties or not, and as to why it only in Hall, I don't know. I don't know if it was an issue with the person having the same birthday, or what. But have y'all done any research into that? Or has the vendor given you any explanation for that? Was it user error by county employees? And I'm not trying to fish for more violations. I'm trying to make sure that if we have an issue with the system that is outside the, you know, on the county side, that we know about that and can address that and make sure this doesn't happen. Because when you say computer glitch, everybody's antennas go up. I know in this case, it was outside of the State system.

MS. SOSEBEE: It was outside of the State system, Mr. Chairman. And what we put in place was -- and it could have been user error -

SECRETARY KEMP: How could it have been user error, do you know?.

MS. SOSEBEE: Well, when you scan a person's ID and you've completed that person thinking you could close it out --

SECRETARY KEMP: So did you print somebody's form twice?

MS. SOSEBEE: Yes.

SECRETARY KEMP: Okay.

MR. GILLIAM: Only if they voted.

MS. SOSEBEE: Yes. Only if they voted. But for this one in particular, this person had not voted. But the system went out and fished the date of birth and that's how we ended up with this other person's application.

But what we put in place was another person who -- like, I would scan the ID and I would give the ID and the application to this person and they would check to make sure it is the person standing in front of us, and have the voter to verify by initialing with an "X". We didn't do that before. But after Ms. Lutz came in we thought, let's put this system in.

Instead of a best practice -- we now have a -- a better practice, we now have a best practice. So I can't really say if it was a user issue or if it was the system, but we definitely put that extra step in there.

MR. GILLIAM: She does not think and staff does not think it was a user issue because the person whose name appeared on the screen never voted. So it wouldn't be a matter of not closing that screen out. They never voted. Now, if they had voted immediately before Ms. Lutz coming in and they didn't close out the screen, that could have happened. But in this case, the lady whose name popped up on the screen and the address and stuff like that, she never voted. So that wouldn't have been the issue that happened there.

SECRETARY KEMP: Drivers license went through?

MS. SOSEBEE: Right.

SECRETARY KEMP: It would be like Brian Kemp's drivers license going through, and Tex McIver's form pops up.

MR. McIVER: Because we have a common birth date, correct?

MS. SOSEBEE: Exactly. That's what happened in that particular situation. They had the same exact birthday.

SECRETARY KEMP: What about the other person that had this situation? Was it the same birthday on that one, too?

MS. SOSEBEE: No, sir. It was not.

SECRETARY KEMP: So how did that happen?

MS. SOSEBEE: I think it was a situation where a voter had already voted.

SECRETARY KEMP: So you voted in front of me; you didn't clear the screen out. So you printed your form out again, and I got it?

MS. SOSEBEE: Exactly.

SECRETARY KEMP: So that would have been user error.

MR. GILLIAM: You're asking the same questions I asked. So I got my drivers license and went through the whole procedure with them and I worked perfectly. But they preserved that evidence on the screen, and I don't know if y'all have seen it or not. I can show it to you where it's got all this information about the lady but it has Ms. Lutz's picture on there. And the problem was the best practice is to move the line through. The person that printed it out did not have the card -- did not have the voter ID.

So I would take it; I would enter it; I would hit print; Ms. Sosebee would pick it up, give it to Ms. Lutz and say, you know, complete this. And then it would be given back to Ms. Sosebee. And that was the glitch.

The best practice was to move the line through. But what she immediately stopped doing when they learned about that, was to now make me verify that signature and verify that information rather than the person who printed it out. That's the best practice.

And I've been voting in Hall County 39 years of my life. We went in there; we voted; there were a lot of people in there -- we did early voting. And I mean people just moved right on through. There weren't any complaints at all. Best voting I've been through.

MS. SOSEBEE: I would like to also add, since that, there's been several versions updates to the Easy Vote. So I don't know if they heard that happened to us. But it was a totally better process in the November election. We didn't notice it happening, but we did have that extra step in place to make sure that it didn't.

SECRETARY KEMP: Any one else; any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: All right.

MR. SIMPSON: Can I just say it seems like to me that Hall County officials have worked hard to try to figure out what caused the problem and how to deal with it. And I know that it would be beneficial to bind this over if we could have some type of a letter of instruction or remedial plan submitted by Hall County to deal with it. I don't know how we would do that conceivably. I'd ask for some guidance on that.

SECRETARY KEMP: I think that if the county wanted to agree with the motion, should the board go along with it, I think they could agree to submit their plan in writing that there are new procedures that they have. I'm sure that's an option.

MR. SIMPSON: That may also be beneficial to some of the other counties that use that same system so that they could be on the lookout for the same problem in the future. We might accomplish more by doing that than we would be trying to bind over a case that we could use as a teaching moment, I guess is what they call it in school.

SECRETARY KEMP: Mr. McIver.

MR. McIVER: With all due deference to Judge Simpson, the Legislature through the election code has given us a world of balls a strikes. Regrettably, Ms. Sosebee just made a bad call. She's very appropriate about that, and I'm quite impressed with it. However, I don't think that's our flexibility. And when the time comes I'm going to propose that we issue a letter of instruction to Lutz, Martin, and Jones, and we bind over Ms. Sosebee and let's let the county demonstrate in what ways they can convince the Law Department this will never happen again.

But I don't believe this is our charge as described by the Election Code and in our own rules of the State Election Board.

SECRETARY KEMP: Anybody else? Mr. Worley.

MR. WORLEY: Mr. Chairman, I would tend to agree with Judge Simpson, I think my preference would be to send a letter of instruction to everybody.

The thing that troubles me about this case, though, more than necessarily the error that was made, is that a County Commissioner took it upon himself to apparently involve the County administrator and the County attorney, or a county attorney in getting this situation corrected as he saw it. It seems to me that it puts the elections director in a very,

very difficult situation when that happens. And I just personally find that very troubling. To me that is somewhat of a mitigating circumstance which leads me to think that letter of instruction to everyone is the most appropriate course.

MR. WEBB: I want to concur with Mr. Worley's comments. I am troubled by the Commissioner getting a little too involved and pulling other people, as well.

And I do I think a letter of instruction is appropriate because Ms. Sosebee definitely outlined a remediation plan that they have been through. And in my opinion, they addressed the issue. I'm a little scared of the software product, it sounds like that's been rectified.

I'm in favor of letter of instruction to all parties.

SECRETARY KEMP: I don't believe we've got a motion yet.

MR. McIVER: I'm ready to move, as I indicated earlier, in the face of defeat.

SECRETARY KEMP: We appreciate a man with conviction.

MR. McIVER: Nonetheless, I do think that is our charge. Therefore, I'll move that Lutz, Martin, and Jones receive letters of instruction, and that we bind over Ms. Sosebee for some very delicate handling by the Law Department.

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

(Whereupon, there was no response)

SECRETARY KEMP: That motion fails for lack of a second. Do we have another motion?

MR. WORLEY: I would make a motion that we send a letter of instruction to each of the respondents in this case, and that the letter of instruction recount the remedial actions that the elections office has taken.

SECRETARY KEMP: That we would ask for remedial actions?

MR. WORLEY: Yes. That we would ask for remedial actions and ask them to recount -- report back to us what they have done.

SECRETARY KEMP: Okay. And that's just for the County, right?

MR. WORLEY: Right.

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

MR. WEBB: Second.

SECRETARY KEMP: Second by Mr. Webb.

Let me just say, too, I'm agreeing with their action. I certainly -- if it hadn't been interference with the County administrator and attorney and Commissioner, I certainly would be more inclined to bind this over. I know you were in a tough spot there. I think it's also important -- I know Ms. Sosebee doesn't need to send this message, but perhaps her counselor could that interference in this process, you know, that is a very difficult and delicate situation for the County attorney to be in. He or she needs to makes sure that Charlotte and the board are following elections laws and rules. If there's ever any doubt in that, certainly our office is available for guidance. We can't give legal advice, but we can certainly give guidance on situations.

Any other discussion?

(Whereupon, there was no response)

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

MR. SIMPSON: Aye.

MR. WEBB: Aye.

MR. WORLEY: Aye.

SECRETARY KEMP: All opposed, same sign.

MR. McIVER: Opposed.

SECRETARY KEMP: That motion carries.

MR. GILLIAM: Mr. Secretary, I am not the County attorney. I was hired by the County just to represent her in this matter. But I will pass that on to the County.

SECRETARY KEMP: That was the direction I was going. I thought you might could do that. So thank you.

Mr. Harvey, we are moving to case 2012-152; Douglas County.

MR. HARVEY: This case involved a private voter registration that was done with the

respondent --

SECRETARY KEMP: Mr. Harvey, let me interrupt you. We're going to take a -- was it our intention to take 152 and 159 together?

MR. HARVEY: Yes Sir.

SECRETARY KEMP: Let the record show that we are going to take 2012-152, 2012-159, which are both Douglas County cases. That will be number 41 and 42 in your binder.

(Whereupon, there was a discussion off the record)

SECRETARY KEMP: I never should have called case 159. It should have just been 2012-152. We're dealing with a Douglas County private voter registration issue, and then a voter registration drive. I remember this now. I think when Mr. Harvey goes through this, you'll see why we can't bind the case is. But I'm working off my old agenda because I made notes beforehand.

Go ahead, Mr. Harvey. If there is any objection, will pull a -- I tell you what. Let's take just about a 7 minute break and we will come back at 2:45 if anybody needs to go to the restroom.

--

(Whereupon, the proceedings were in recess)

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SECRETARY KEMP: All right. We're going to keep moving. Mr. Harvey, I inadvertently skipped over the 2012, number 11 case; Oconee County. I apologize to my neighbors down my way.

MR. HARVEY: What tab is that, sir?

SECRETARY KEMP: That is tab 34.

MR. HARVEY: 2012-11, Oconee County, has to do with the presidential preference primary in 2012. Dave Axel is the complainant. He said that he and his wife sent in their voter registration applications on the same day dated February 6. His wife was registered to vote and allowed to vote in the presidential primary election. He was not registered to vote by Oconee County and was not allowed to vote, nor was he offered a provisional ballot.

What our investigation revealed, the cards were stamped by the Secretary of State's office on February 9 as having received. They were dated February 6. Both of those would have put them inside the February 10 deadline for cutoff for voter registration. So I don't know why his was not accepted and hers was. But as a result, it wasn't.

So we've got Oconee County Board of Elections and Registration with failing to put him as a registered voter, and also not allowing him to vote a provisional ballot in the presidential preference primary.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MS. HAYES: Good afternoon. Pat Hayes from Oconee County; PO Box 598, Watkinsville, Georgia. I have been the elections supervisor for 17 years. First time I've been in your presence at last, I hope. I won't try to sugarcoat this. I'll make it short and sweet.

There was some confusion with the date stamps and the information that we get from the Secretary of State as to the dates that we use to accept our registration applications. And my clerk inadvertently got confused with the county-to-county transfer date. You're not supposed enter anyone after the 7th, and the 6th was the cutoff date. That's where she came up with the conclusion that Mr. and Mrs. -- Mr. Axel was not registered to vote. Actually, I think both should have been. I was not present at the time. I don't -- I really don't know what all transpired. But they made a mistake and we are here to get reprimanded.

SECRETARY KEMP: Thank you, Pat.

MS. HAYES: As far as the provisional goes, though, we implore our workers to always, always offer a provisional ballot regardless of what they get out of my office on election day because I never know who they are talking to when they call in. So if he wasn't offered one, I don't know why.

SECRETARY KEMP: Mr. McIver.

MR. McIVER: Here I go again. Have you undergone the training Ms. Ford and her mighty staff offer?

MS. HAYES: Yes, Sir. I have.

MR. McIVER: And does that training include that the provisional ballot is the ultimate default if ever in doubt.

MS. HAYES: It does. As I said, we do implore to our workers always, always offer. We have some that refuse them. They want to vote the normal manner. They get belligerent and they don't want provisional ballots. They will walk away and not vote. I mean, this is the first time I have ever heard of someone not being offered one at one of my polling sites. I can't say that he wasn't offered one, you know. I wasn't there.

MR. SIMPSON: The report of investigation says that Mr. Axel was not eligible to vote and he would have been told he could vote a provisional ballot. What bothers me is, but that it would not count. Well, I don't think anybody ought to provide an opinion when they offer a provisional ballot as to, you can fill this out, but is not going to count. Well, I would turn around and walk off, too.

So that concerns me is what your workers are saying when they offer the provisional ballot.

MS. HAYES: When a person goes to the polls to vote, we instruct the workers, if you've got time, call us and let us see if we can figure out why this person is not on the list. And a lot of times we clarify right then and there. We know that this person -- they filled out their application and the deadline was the 6th, and here it is the 10th, you know. That's what they are not registered. But you can always offer that provisional ballot. And if they've got something else to show us that they are registered, then it will count.

MR. SIMPSON: It seems like to me you are to offer the provisional ballot and not express an opinion as to what the outcome is going to be on that provisional ballot. What we are looking at doesn't show that you're eligible, but please vote this provisional ballot and we will check into it.

MS. HAYES: That's what we instruct them to do.

MR. SIMPSON: With this report says is that they were told that the provisional ballot wouldn't count. That's what --

MS. HAYES: That may be what my workers told the poll manager. But the poll managers at trained to always offer their ballot. I don't know why they would have told - you know, they may have looked at it and said what we're looking out is not going to count. I don't know.

MR. SIMPSON: Well, that ought to --

MS. HAYES: Like I said, I wasn't present. My clerk is present if you would like to speak with her.

SECRETARY KEMP: Was that different from the person that was talking about the provisional ballot?

MS. HAYES: It was. They were talking up back and forth to each other. It was really busy that day with people in and out and so forth. So she got confused with -- like I said, county-to-county transfer date and the registration deadline date. If they did tell them that, you know, it would not count, I am sorry. I can give you a hundred reasons why or why not they did something, but it's not going to help the situation. They know now what to do and what not to do.

SECRETARY KEMP: Any other questions for Ms. Hayes?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak on this one?

(Whereupon, there was no response)

SECRETARY KEMP: One thing I think we might consider, of course, I'm certainly open to the board's thoughts, but I know, like Pat said, this is the first time in 17 years she's been before this board. You know, I know in the past we have entered into consents with the Secretary of State's office writing the consent and working with the county to make sure this doesn't happen again instead of burdening a case like this to the AG's office. That is certainly something I could live with. I don't know what other board members think.

MR. SIMPSON: I'll move that we take that course.

SECRETARY KEMP: All right. Mr. Simpson moves that we do a consent through the Secretary of State's office with the county and board to make sure this issue doesn't happen again. I will second that. Do we have any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: No one else wishing to speak?

(Whereupon, there was no response)

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

MR. WEBB: Aye.

MR. WORLEY: Aye.

MR. SIMPSON: Aye.

SECRETARY KEMP: All opposed, same sign.

MR. McIVER: Opposed.

SECRETARY KEMP: The motion passes and we will enter into a consent through the Secretary of State's office.

All right. Is there anybody here for any of the cases on the new cases on our agenda that we have not gotten to yet?

UNIDENTIFIED FEMALE: (Unintelligible)

SECRETARY KEMP: What case is that?

UNIDENTIFIED FEMALE: Douglas County.

SECRETARY KEMP: Douglas County?

UNIDENTIFIED FEMALE: Yes.

MR. HARVEY: Which Douglas County case?

UNIDENTIFIED FEMALE: The registration.

MR. HARVEY: Oh, the registration. Fine. That's the last one.

SECRETARY KEMP: We're fixing to get to that, right? All right. So that's 2012-152?

MR. HARVEY: That's correct.

SECRETARY KEMP: Go ahead, Mr. Harvey.

MR. HARVEY: This case involved a private voter registration drive that was conducted that ended up with voters not being registered to vote.

The first complaint we got was from Ms. Amelia Nixon who said that she registered to vote in August of 2012, but when she went to vote during advance voting, she was told there was no record of her voter registration.

After that time, we had a person self-report that they had conducted a voter registration

drive and had inadvertently left 27 voter registration applications in their trunk and had not turned them in. That's why these two cases are essentially combined.

What we had was the -- Virginia Martin, who was the public policy chairperson for the Coalition of 100 Black Women, Northwest Georgia Chapter, reported to us that she had conducted registration drives and she had gotten a call from somebody who was attempting to vote who was not registered. That's when she went out to her car and found out that there were 27 voter registration applications that had not been turned in. Fortunately, in most cases, these voters were previously registered. As far as we know, this complainant, Nixon, was the only voter that we are aware of that was not allowed to vote based on voter registration drive. The other counties checked and they were not able to identify any.

So, at the end of the day, we have a violation of SEB rule 183-1-6.028(a), where Ms. Martin failed to promptly transmit all completed voter registration applications to the Secretary of State or appropriate board of registrars.

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

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MS. MARTIN: Yes.

SECRETARY KEMP: Yes, ma'am. Come on up.

MS. MARTIN: Good afternoon. I am Virginia Martin. My address is 193 Fullerton Ridge Drive, Douglasville, Georgia 30134.

First let me preface this by saying I am 73- years old, and I have been involved all of my life -- my adult life -- in ensuring that people have the right to vote. So, therefore, I would never intentionally deny anybody the right to vote.

On that particular day, we managed to -- I was in a support role; I did not organize it. We registered people to vote. After the voting was over, they asked me if I would take the -- because I was going past the post office -- if I would take the ballots and put them in a box, and I said, yes. Well, I took the ballots and the sign, the instruction sign as to where you go register, I took that and I put it in my passenger seat of my car. Once I got to my car, there were three other people asking if I would give them a ride to their car, and I did that. At that time, I took the ballots and the sign and I put the ballots in the trunk of my

car and put the sign in there.

Now, I had gone back to the trunk of my car at some point. But by the sign be over there, it just never dawned on me they were in there. On my way home that day, I got a call from Augusta, Georgia. One of my brothers, who is now deceased from cancer, one of my brothers was going into the hospital; the other what was coming out. So as I was on the phone with them, then another one, the same brother had to be rushed back. So I'm not making an excuse. I'm just stating a fact. And I don't know what happened mentally, but I never thought about the ballots again.

When I found out -- someone called me to tell me -- what brought it back to me to my memory was when the young lady from Douglasville called someone that she knew that was there at the registration and said that she couldn't vote. Well, I was in the Apple Store and I went to my car -- they called and told me. I said, well, I think I mailed them; I'm not a hundred percent sure. I was praying all the way to the car: Please, don't let them be in my trunk.

When I got to the trunk of the car and opened it up and I moved the cardboard, the ballots were there. I called -- because a lot of the people were from Cobb County. So I called the elections over in Cobb County and I spoke with the supervisor there and I told her what happened. And she said to me did I have the list of names. Well, we had taken the names because we use that to determine how effective we were in registering people. Another organization I'm in, we registered over 100 people.

So when I called Cobb County, she said can you get them. So I called the secretary and she faxed me the list. I, in turn, typed the list of then I emailed it. I don't recall the lady's name in Cobb County. But I did email the names to her and she told me she would get back to me. She didn't ever get back to me. She was going to go through and see if there were any problems with those. So she never got back to me.

The next thing -- and then I called here, the Secretary of State. I spoke to the receptionist and I explained to her what happened. I said do you think this should be an investigation? And she said, well, now that you've reported to me, I have to pass it on to my supervisor. So, obviously she did that, because near the end of -- somewhere in November, maybe the 28th, 29th, I received a call from Ms. Williams who identified herself as an investigator at the Secretary of State's office. Well, I spoke with her.

In the same time, it was this other investigation with the to the young lady from Douglas County that I was supposed to have made contact with somebody and I had never been contacted about that. I finally got a call from one of our members, Mr. Hall, I think his name was, had called her and said nobody had contacted him. Mr. Hall never contacted

me. I only spoke with Williams. And the last conversation I had with her was somewhere around the Christmas holidays. I was on my way back from Florida and I called her, actually. And somehow that's when some sense was made of the whole matter, that it was the same voter registration. And she said she would pass it on to Mr. Hall.

So I'm just saying that whatever has to happen, has to happen. I'm not making an excuse. I'm just stating the fact. Because I don't know what happened with me, but I just didn't remember that they were in there until I got the call about the young lady not being able to vote and Douglasville. And immediately -- I'm with law enforcement. I retired as a police lieutenant in Miami-Dade Florida, and an educator, also. So immediately I knew something needed to be done and that's when I contacted Cobb County and then the Secretary of State's office.

So that's it.

SECRETARY KEMP: Thank you for being here today, Ms. Martin. In your testimony you were referencing the ballots. But you are talking about voter registration forms?

MS. MARTIN: Yeah. See, I'm not trained to do ballots.

SECRETARY KEMP: Right. I just wanted to make sure --

MS. MARTIN: I was trained in Florida, so don't hold that against me. I was not trained in Georgia. I was a poll worker here in Paulding County. So, therefore, I was just there in a support role, and they asked me if I would take the ballots and mail them.

SECRETARY KEMP: I just wanted to make sure for the record that we were talking about voter registration applications, not ballots.

MS. MARTIN: I'm sorry. Not ballots; excuse me. The forms.

SECRETARY KEMP: Thank you, ma'am.

MS. MARTIN: Thank you.

SECRETARY KEMP: Any questions for Ms. Martin?

(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 or recommendation? I'm not going to make one. I'm scared Mr. McIver may vote against me.

MR. WORLEY: I appreciate Ms. Martin's goodwill come and I also appreciate that she reported this to the Secretary of State's office. I think that's commendable. Unfortunately, I don't think there is any question there was a violation of the statute here, and I think it's very unfortunate that those 27 people (unintelligible) did not vote. So I make a motion that we bind this over to the Attorney General's office.

MR. McIVER: Second.

SECRETARY KEMP: We've got a motion by Mr. Worley and a second by Mr. McIver. 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.

SECRETARY KEMP: That motion carries. Ms. Martin, the Attorney General's office will be in touch with you about the rest of this case, okay?

MS. MARTIN: Thank you.

SECRETARY KEMP: Thank you for being here.

Okay. If there is no one else here for the any of the other new cases we have on the agenda, we will move to the Attorney General's report. I think most of the audience are here for that and we'll try to get to that one next so you folks can get on your way.

Is that all right with you, Mr. Harvey?

MR. HARVEY: Yes, Sir.

SECRETARY KEMP: All right. Mr. Willard.

MR. WILLARD: Yes, Mr. Secretary.

SECRETARY KEMP: I'm sorry. Let me do this. I'm sorry. What has been our order of business on Attorney General cases is we will take these as the consent calendar to accept the recommendations that come back to the State Election Board from the Attorney General's office for these consent orders for dismissals or whatever recommendation is, unless there is someone in the audience that would like for us to pull

the case out if you disagree with the recommendation or if you don't know what it is and you want to hear it. If any board member wants to pull something out, we can do that. If not, we will vote on these in block.

So that's where we are. Any board members that want to pull anything out?

MR. SIMPSON: I would like to pull out number 48; that's tab 48. That's the bumper sticker case.

SECRETARY KEMP: This case number 2010-77?

MR. SIMPSON: Yes, Sir.

SECRETARY KEMP: Okay. We'll pull that out. Anything else?

MR. WEBB: Mr. Secretary, I'd like to pull the next one out, tab 49. That's 2010-80.

SECRETARY KEMP: Okay. We will pull 2010-80 out; Gwinnett, DeKalb case.

Anything else? Yes, ma'am?

UNIDENTIFIED FEMALE: Byromville case; 2007-42.

SECRETARY KEMP: All right. We'll pull out that case; Byromville.

Anything else? Yes, Sir.

UNIDENTIFIED MALE: Fayette County.

SECRETARY KEMP: Okay. 2011-47; Fayette County case. We'll pull that off.

Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: All right. We will hear those individually. But --

UNIDENTIFIED MALE: Sir?

SECRETARY KEMP: Yes, Sir.

UNIDENTIFIED MALE: I would like to hear 2009-50, please. Warm Springs, Georgia.

SECRETARY KEMP: We will pull that out. Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: All right. We will vote in block on the rest of them to accept the consent orders that we have before us. If there are no other objections to that, I will take a motion.

MR. WEBB: I make a motion that we accept the Attorney General recommendation's for case number 2010-5, City of Gray; case 2010-35, Taliaferro County; case 2010-50, Laurens County; case 2010-91, Treutlen County; case 2011-10, Floyd County, Fulton County, Gwinnett County, combined; case 2011-18, Chatham County, Gwinnett County; case 2011-21, Seminole County; case 2011-29, DeKalb County; case 2011-31, Talbot County; case 2011-43, Troup County; and case 2011-99, City of St. Mary's.

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

MR. WORLEY: Second.

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

(Whereupon, there was no response)

SECRETARY KEMP: 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.

Now we will hear, Mr. Willard, 2007, number 42; City of Byromville.

MR. WILLARD: This is one of the cases that was transferred from an attorney that is no longer in our office to a new attorney last year. There are four respondents in this case. This concerns one of the respondents, Bobbie Merrill. The other three respondents remain pending in our office.

Respondent Bobbie Merrill actually resided in the City of Pinehurst, but actually wrote on his voter certificate in the November, 2007 election that he lived in the City of Byromville.

Our office has entered into a consent order in this case for a cease-and-desist, public reprimand, and a \$200 sanction, which the attorney currently handling this case felt was

appropriate given the age of the case.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED FEMALE: I do.

SECRETARY KEMP: You don't have to.

UNIDENTIFIED FEMALE: Do I have to go up?

SECRETARY KEMP: Yes, ma'am.

MS. MURRAY: Yes. My name is Lynn Murray. I live at 225 Thompson Avenue in Byromville.

We've had several problems in the past with our elections. Our elections superintendent is not trained properly. This particular election, there were 10 votes discarded that were not brought up. There were three people that voted that were not on the voter list, or two were on the voter -- all of them were on the voter list, but were improperly registered. One person lost by two votes; one by four; one by six; and one by 12.

With this many votes, the outcome of the election could have been entirely different. It's taken six years. This happened in 2007; we are now in 2013. We've already been through two mayors; we've been through a quarter of a million dollars. So our town has finally started to recover.

I realize we are a small town, but there are a lot of small towns that are the same situation we are. If this had been handled bit more expeditiously, we might could have had a different outcome.

SECRETARY KEMP: Thank you very much. Any questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? If you're going to speak, you have to come up. We've got to get your name and address for the record.

MS. SWINDAL: I just think that a \$200 fine is absolutely ridiculous for what this man did.

SECRETARY KEMP: Would you give us your name and address.

MS. SWINDAL: Deborah Swindal, 460 Pennahatchee Road, Vienna, Georgia.

I know not to vote in Byromville because I live in Vienna. This man that lived in Pinehurst knew he did not live in Byromville. We had a mayor that lost by a number of votes that were (unintelligible). The town of Byromville, every penny that they had was stolen; they were two years behind in paying the county the money for the trash pickup because the people that were fraudulently put into office did all this. And we can get the District Attorney to get off her butt to do anything about it.

But these 12 people -- these people that you are looking at would have made a difference. And to say after completely almost destroying a town, a city, and almost getting the city sanction or -- charter -- almost getting the city charter removed, well, let's just fine this man \$200.

I think that is too much for a small town to bear and to say that \$200 is a fair penalty. It's utterly ridiculous for the people in this town and in that county because when the county didn't get paid for the trash pickup and Byromville for two years, it was the rest of the County that had to pay the burden of that.

So, again, back to where I was earlier, that you cannot make a difference by slapping people on the wrist. The only way you can make a difference is by knowing this man knew -- is there anybody in this room, raise your hand, that thinks this man knew he didn't live in --

SECRETARY KEMP: Ma'am, let me ask the questions, if you don't mind. If you would just address your comments to the board, we would appreciate it.

MS. SWINDAL: I apologize. But this is the type of thing that goes on in the Dooly County election constantly. You know, I'm sorry, again, if I'm passionate about this. But I am passionate about this. I am a poll worker and I watch them like a hawk. There is very few of us that really care about our elections, and I am one of them. We cannot get good people to run in our county because they know what's going to happen. And if it does go anywhere, the people get a slap on the wrist. It has to be harder than a slap on the wrist to make the changes that need to be made.

So I totally, one hundred percent disagree with the \$200 fine.

SECRETARY KEMP: Any questions? Mr. Worley.

MR. WORLEY: What do you think an appropriate penalty would be?

MS. SWINDAL: Well, I personally think the man broke the law. What's most that could happen to him? You tell me. Can he spend any time in jail? Can he go to jail for 30 days? I say let's put them in jail for 30 days. Is that possible? I don't know. What's the most that could happen to him? I don't know. But it has to be something to where he's going to say to himself, I live in Pinehurst; I better not vote again in Byromville. Or maybe I had better not go to Unadilla to try to vote.

I know exactly where the person lives in Pinehurst. I think that's where I better go to vote. Do you think \$200 will make them think that?

SECRETARY KEMP: Mr. Simpson.

MR. SIMPSON: I don't have any questions.

MS. SWINDAL: I'm not trying to be hard to get along with. I mean, please understand. You guys are in a tough position and I know that. But there are those of this that enough is enough is enough is enough.

MR. WORLEY: Mr. Secretary, perhaps we hear from Mr. Willard as to what the maximum penalty would be and how much it would cost to actually try this case rather than --

SECRETARY KEMP: Mr. McIver, what was that?

MR. McIVER: My question for Mr. Willard was going to be, setting aside the issue of this lady's standing in this matter, Mr. Willard, we would like to hear your opinion as to why \$200 was considered. And to Mr. Worley's point, how much more could there (unintelligible)?

MR. WILLARD: As the board is aware, the maximum penalty for any violation is a \$5000 civil penalty. Obviously, that is on a sliding scale depending on the severity of the sanction.

I will point out to the board that both the town of Byromville and the Dooly County Board of Registrars remain as respondents in our office. We are continuing to work those cases. As the board is aware, normally, when you have multiple respondents, I hold the submission until we have all the respondents present so the board can get an idea of the totality of the case. Given the age of this case and the fact that one attorney in our office had had it for so long, I wanted to go ahead and bring it before the board in piecemeal fashion, and I apologize for that.

But given the age of the case, given the fact that there were some discrepancies regarding

who was in Pinehurst, who was in Byromville, we determined that this sanction was appropriate for this individual. We're going to be looking for additional, for lack of a better term, skin in the game from the town of Byromville so the board has confidence going forward that the town of Byromville has it's act together going forward.

But this is an individual voter. Given the facts of this case including the age of the case, we felt it was an appropriate section.

MR. McIVER: Thank you.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Let me just address a couple of things. Number one, the age of the case. I think, certainly this board I know in the last three-and-a-half years we have done a lot to catch up. You do not see many cases from 2006 or 2007. I think you can see on our agenda today that we are dealing with 2011 and 2012 cases. That was certainly a priority of mine. I know Ms. Brumbaugh, who was here previously from the AG's office before Mr. Willard, had that priority and we will have that priority going forward.

Also, and I think Mr. Harvey can back me up on this, we have heard from a lot of individuals in Dooly County during election time about issues that we have had, and we've had investigators on the ground during recent elections. We will continue to do that if we get concerns or complaints. And certainly, if you all are on the ground and see complaints during elections, like I said earlier, we will investigate every single one of them. We've got a stop voter fraud hotline; we've got a 1-800 number. There is nobody that takes that was seriously that we do. If that's not the case, you just call the front office and let me know.

But I can assure you when Mr. Harvey gets a complaint, they don't always play out, but we will investigate every one of them. And that will continue to be our mission at the Secretary of State's office.

What is the will of the board?

MR. WORLEY: I would make a motion that we accept the Attorney General's recommendation and the negotiated consent order.

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, and we will continue on as the other respondents come before us. Thank you all for being here today.

MR. WILLARD: The next case on the agenda is the City of Warm Springs, tab number 44; 2009-50. The respondent, Gregory Guy Robertson.

The case was actually a complaint about some election irregularities that were occurring in the City of Warm Springs. During the course of the investigation it was determined that this respondent had taken photos inside a polling place during a time period that voting was taking place. He attempted to do this, according to the statement he made to investigators, to record illegal election activity, or what he viewed as illegal election activity.

He was actually serving a felony prison sentence at the time he was interviewed by state election investigators. When he came off of his sentence, there was no time at the end that he was on supervision or parole.

We have conducted asset record searches trying to locate him and we have been unable to locate a viable address for him to notice him for this hearing. Therefore, we are recommending a dismissal without prejudice at this point in time until such time he can be located and noticed for a hearing at OSAH.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED MALE: I would like to speak.

SECRETARY KEMP: Yes, Sir. You all can both come on up if you are wishing to speak.

MR. RAMSEY: Good afternoon, ladies and gentlemen; board. My name is Michael

Ramsey. I live at PO Box 160, Warm Springs, Georgia.

This concerns the election of my mother, Ms. Hazel Ramsey, in 2009. I have lived there all my life. I know a lot of people; a lot of people know me. I own my own business. I am a construction consultant for Georgia Power. I'm well known by a lot of people I grew up with.

Anyway, when this election started taking place, friends, enemies, and everything else were coming to me telling me what was going on, that the police chief was trying to get my mother out of the office because of the fact that he had taken a job at the Roosevelt Institute of Rehabilitation, which is in Warm Springs, also. President Roosevelt started it during his polio days. He had taken a job there with the security force and he was also the see police chief of Warm Springs.

Well, my mother, was onto him. He was getting paid the same amount of money, you know, on both clocks at the same time.

Well, when she started investigating this, he heard wind of it and wanted her out of there. Period, point blank. At that time, all these people were coming in saying he had these -- there's a BP station there in town. The guy that owns the place is Iraqi or Pakistani, one of the other. Anyhow, he has video gambling machines in there. He pays out cash money. We all know it. The chief basically has him in his pocket, and several other less desirable people in town in his pocket. Basically, he manipulated him into thinking that, you know, you want to do which you want to do, I won't mess with you if you help me do this, so forth and so on. It goes on and on and on.

Myself and Mr. Archie, we've conversed several times about this back with the incident first started and, you know, I gave him names and numbers and addresses where people lived; whether it was gas or beer or cigarettes or cash or even loads of firewood for vote. Like I said, me and Mr. Archie, talked several times.

Well, leading up to the election, I was informed of all this. I had a person, basically inside, who would say, hey, they're making runs today. They would go around and pick people up and drive them 12 miles down the road to Greenville, Georgia to vote when the voting booth is right there in Warm Springs half a mile or less from all of their house. He would take them to Greenville, Georgia and vote on absentee ballots. There were three runoffs in that election. Every time there was a runoff, it was by absentee ballots. None of these people were out of town. All he did was take them from Warm Springs to Greenville to vote on absentee ballots. This went on and on, like I said, for three runoffs.

So this is the second time I'm here. The last time I was here, we were across the street

there at the building there, the twin towers. You know, I took time off work to be here. I wouldn't be doing this if it was unjust. I joined the Marine Corps when I was 17-years old. The best military force in the world to protect rights and to protect wrong. And I won't accept the election. He just thinks he's got it made.

Like I said, my mother ran for office to right his wrong so he would go to prison or whatever. And I feel like you all think is a joke. I mean, don't take it personally, but I feel like, you know, what's the Constitution of this country about? It's very disturbing. I don't like you. I don't like it one bit.

That's all I have to say.

SECRETARY KEMP: Mr. Ramsey, first of all, let us think you did for your service to the country. Mr. Willard, is the problem that we can find this gentleman?

MR. WILLARD: Yes, Sir.

MR. RAMSEY: Let me say this. When they were transporting people back and forth, this insider would called me and say, hey, they're taking people today. Chief is running people up and down the street in Sheila's car, the new Mayor; his ex-wife. He's running them up and down the road. There was a Council member, Fred Wolf, the police chief, and several others were running these people down the road. They were paying them. You're not going to get anybody to say, hey, man, come on and ride with me to Greenville 12 miles away. Get in my car and I'll take you up to Greenville to vote. When I can go half a mile up there to Warm Springs to vote. I mean, come on. It's just common sense.

SECRETARY KEMP: So we obviously don't know where this guy is.

MR. RAMSEY: The pictures; the pictures. I personally sat on the courthouse square in Greenville, Georgia dressed like an ordinary person -- fatigues, had on, sunglasses -- I'm sitting there with my digital camera taking pictures of them shuffling people in and out.

This individual you are referring to, I don't know where he's at. I do know him. And he did go into a phone booth with a cell phone camera taking pictures.

SECRETARY KEMP: We're not saying that he hasn't. I think the issue is we can find him to serve him; is that correct? You might want to explain that to Mr. Ramsey.

MR. WILLARD: Mr. Ramsey, in order for us to go forward with a hearing against Mr. Robertson, we have to have a viable address for the Office of State Administrative Hearings to serve him with notice of the hearing. We don't have that at this point, and so

we cannot move forward on the charges against Mr. Robertson at this point.

MR. RAMSEY: Let me get this clear. You're telling me you are more concerned about bringing charges against him for having a cell phone in a voting poll than you are about what actually was wrong?

MR. WILLARD: Mr. Ramsey, if I could --

MR. RAMSEY: I just want to make this clear, that's all.

MR. WILLARD: The only thing in this case pending before the State Election Board -- Mr. Robertson is the only respondent that was sent over to our office. Mr. Robertson is the only respondent in this case. I can't speak to what may have happened in the City of Warm Springs because that's not part of the investigative file referred to our office. What was referred to our office was Mr. Robertson taking photographic pictures inside of polling place.

MR. RAMSEY: The reason why is because the chief knowed that he was doing wrong. So, again, it's human nature. If you do something wrong and it's detrimental, it's bad thing, and whatever. You're going to do everything you can to pull the attention off of you and put something on someone else. That is human nature.

SECRETARY KEMP: Well, the issue in this case, though is that we have to legally have an address to be able to serve this gentleman to go forward with a hearing or enter into a consent order. We don't have that. Do you know where he is?

MR. RAMSEY: Not offhand, I don't. But I can inquire and find out.

SECRETARY KEMP: Now, if he turns up, can we come back?

MR. WILLARD: That's why I'm recommending a dismissal without prejudice.

MR. RAMSEY: Well, see, took the digital pictures and everything with my digital -- and gave it to Mr. Archie, and all the names and everything. Mr. Archie has all that. He had back when this happened.

SECRETARY KEMP: Right. But what we're dealing with is just one issue on the cameras and we can't move forward until we find a guy. So what we're doing today is we dismiss the case with prejudice. So if he turns up again, if you see him riding down the road or you figure out where he's living, or if we do, then we can serve him and have a hearing.

MR. RAMSEY: Okay. Well, what are you going to do to him is what I'm asking.

SECRETARY KEMP: I can't predetermine what we're going to do to somebody before a hearing. We, as the State Election Board, have referred the case to the Attorney General's office. They have several options of entering into a consent; recommending dismissal. If the respondent, this gentleman, does not want to enter into a consent, he has the ability through the law to have a hearing before an Administrative Law Judge. And then that Judge will make a recommendation from that hearing and it would come back to us and we could either accept the findings of that Judge, which we do, or we could reject those findings, which we do, as well.

But the problem is we can't move forward because we don't know where he is. We can't take action -- correct me if I'm wrong, Mr. Willard to -- but we can't take action I guess unless we properly serve somebody to give them their day in court.

MR. WILLARD: That's correct.

MR. SIMPSON: What the Chairman is saying if you understand due process of law, the Constitution says that you have to have notice and an opportunity to be heard before you can take any legal action against somebody.

MR. RAMSEY: So what you're saying is you want a statement from him --

MR. SIMPSON: No.

MR. RAMSEY: Saying --

MR. SIMPSON: No. You have to notify him that there is a case pending against him and that the hearing is going to be a certain day. And if he wants to come to court that day, he can come. But the Constitution requires that he be provided due process of law. And unless we can provide him with that, if he absconds and disappears and we can't find him, we can't proceed legally against him.

And that is apparently what has happened. He is a convicted felon; he served time; he got out, and now he, in street talk, he's on the lam. He has absconded. Our hands are tied until we can find him and serve him, and then we can proceed.

MR. RAMSEY: With this case.

MR. SIMPSON: Yes.

MR. RAMSEY: So you are deadlocked until you hear from him to continue --

MR. SIMPSON: Not until we hear from him. Until we find him and notify him. He doesn't have to come to court. Once we notify him of the court date, whether he shows

up or not, we can proceed.

SECRETARY KEMP: We just have to be able to prove that we had a good address to serve him or waive serve him and notify him.

MR. SIMPSON: We are bound by the Constitution to give him due process. We've got to give him notice. That's the problem.

MR. HARVEY: Mr. Secretary, if I may, the other allegations that were presented to the board were closed. So that is not holding up your concerns. Your concerns were heard and that was closed by the board. So I don't want him to think that this person is found that all the other allegations are going to come back. Those charges were dismissed.

MR. RAMSEY: So you're saying the election has been dismissed.

MR. HARVEY: I'm saying the complaint has been investigated in the State Election Board voted to close all the allegations except this one. That was the last time you were up here. That was the result.

SECRETARY KEMP: Anyone else wishing to speak? Yes, ma'am.

MS. RAMSEY: Good afternoon. I am Hazel Ramsey and I'm here to speak on behalf of what has gone on that what continues to go on, it seems like. Everything I'm going to say to you today is the truth.

I saw the chief and one of the council members, myself, I saw them. I went up and watched them haul people that he wanted to vote in office because he got mad at me because the city was paying him to work for the city in the daytime and we would find him over at the Roosevelt Institute working at the same time. He was double dipping. So help me God that's the truth. Okay.

I called them in the office, talked calmly to him and told him, I said, this is something we cannot have. I said if you want to leave the city and go to the Roosevelt Institute in the daytime, you ask for annual leave. I can have someone fill his place in the city why he's off. I said that would be fine. We could work that out. Because he had a full-time job at the Roosevelt Institute working at night, working eight hours at night. He was supposed to go to work for the city in the morning and work all day.

But, no. He wanted to do what he wanted to do. I guess a lot of people are that way.

But I hired him after I went into office. I spent four years on the City Council after I retired from the U.S. Fish and Wildlife Service. I worked 12 years at the Roosevelt Institute, myself, which was a national foundation for infantile paralysis. And then I

went to work for the U.S. Fish and Wildlife Service there in Warm Springs; they have a hatchery. I was there for 27 years. I retired in 1990.

Then I was asked to fill a vacancy on the City Council; I accepted it. For four years I was on the City Council, and then I was asked to run for mayor, and I did. I was mayor for 12 years.

When I went in office, the city was broke.

SECRETARY KEMP: Ms. Ramsey, are you speaking in regard to Mr. Robertson? Because we've been through this whole case before we are down to this one report from the Attorney General's office on the whereabouts of Mr. Robertson. I'm not trying to cut you off, but what you're telling us I don't think is relative to have to the business of the board. So if you would like to speak to Mr. Robertson in this allegation that we have, we're glad to hear from you.

MS. RAMSEY: Well, I appreciate that fact and I can certainly locate him and have him here. But I was telling you all about what it happened and all that.

SECRETARY KEMP: Well, ma'am, I understand that and I appreciate that. But we have heard that before and already ruled on that matter. So that's behind us. We're trying to move forward, and our issue is we can move forward without knowing where Mr. Robertson is. If you or your son locate him, if you see him --

MS. RAMSEY: He has a job out of town. He works, but I can locate him.

SECRETARY KEMP: Well, if you can locate him -- is Mr. Archie would still with us, Chris?

MR. HARVEY: No, Sir. He's gone. But she can contact me.

SECRETARY KEMP: You can contact anybody in the investigations division if you can find him at we can certainly serve him and we can keep moving forward with this part of the case.

MS. RAMSEY: Okay. Let me say one thing.

SECRETARY KEMP: Okay.

MS. RAMSEY: The camera has been lost. He had pictures. Yes. He had pictures. But that's what I'm trying to tell you, too, that I saw the same thing happening.

SECRETARY KEMP: Right. Unfortunately, there is not anything we can do about that

part because we have already ruled about that and it would be double jeopardy, I believe. But if you find Mr. Robertson and you let us know, we will serve him. And if he won't agree to a consent order, we'll let an Administrative Law Judge have a hearing and after that recommendation is made, this board will gladly look at that and decide where to go next.

MS. RAMSEY: Well, I don't understand what you mean when you say serve him.

SECRETARY KEMP: Well, ma'am, we can take legal action against somebody that doesn't have an opportunity like you have to come before us and give their side of the story. We don't know where to serve him notice that --

MS. RAMSEY: You mean to come to court?

SECRETARY KEMP: Right. To let him know where having a hearing. That's correct. He doesn't have to show up. As long as we can prove to the Court that we served notice of a legitimate address or place of business, we can move forward. But we don't know where that is. So if you know where he's working or where he's living, that would help us out.

MS. RAMSEY: Well, he has a job and I'll find out the address and mail it to him. He has a post office box in Warm Springs. If you send it there, they can probably forward it to him.

SECRETARY KEMP: If that's the case, if you would just give that information to Mr. Harvey, we will continue to move forward.

MS. RAMSEY: Okay. That's Post Office Box 160, Warm Springs Georgia.

SECRETARY KEMP: Do you ever see him go there and pick his mail up?

MS. RAMSEY: Oh, yes. I see him.

MR. SIMPSON: Does the Sheriff know how to find him?

MS. RAMSEY: Well, yes. When he comes home.

SECRETARY KEMP: Thank you, ma'am.

MS. RAMSEY: Okay. Well, is that just for him to come to court? He works out of town and will have to get off and everything.

SECRETARY KEMP: We will worry about all that.

MS. RAMSEY: Okay. So you don't want to hear anything else from me about what I know about it. So --

SECRETARY KEMP: We're really just to find him where we can have a hearing. We have already heard your story and we have referred him to the Attorney General's office and now we're trying to get to a hearing.

MS. RAMSEY: Okay.

SECRETARY KEMP: Anyone else wishing to speak?

MS. RAMSEY: I'm just trying to tell you the facts and everything that went on.

SECRETARY KEMP: We understand that, ma'am. Any questions from the board or comments?

(Whereupon, there was no response)

SECRETARY KEMP: We want to accept the recommendation of Mr. Willard?

MR. SIMPSON: I would move that we remove this case from the calendar today for -- until the next meeting to give Mr. Willard an opportunity to get him served.

MR. WORLEY: I would second that.

SECRETARY KEMP: Do we need to take a motion for that, Mr. Willard?

MR. HARVEY: I'm sorry. Where do you want me to serve him?

MR. SIMPSON: She says the Sheriff knows how to get hold of him. Call the Sheriff down there and have him served. Anybody that's files a civil suit, you've got to have them served and the Sheriff is the person to serve them.

SECRETARY KEMP: Let me ask Mr. Willard to talk about how he is serving and why we have not been able to serve this gentleman.

MR. HARVEY: When you do a records search, there is nothing post-incarceration that shows up for Mr. Robertson. We have used some of the old addresses which are showing up on public record searches, including, I think, there was testimony from, I believe, the young lady who spoke second. The post office box in Warm Springs, those correspondence went unclaimed and were returned to our office. OSAH does not have the ability to use the Sheriff for service, Judge Simpson. They are confined to Administrative Procedure Act and their rules in terms of sending mail notice, Certified Mail to a viable address, and we don't have that in this case.

MS. RAMSEY: He has always had his post office box in Warm Springs.

SECRETARY KEMP: Thank you, ma'am.

MS. RAMSEY: And he still has it.

SECRETARY KEMP: Okay. The question is if we have a motion -- do we need to make a motion to pull this off the agenda and try to re-serve him, or do we just make that decision?

MR. WILLARD: If the board does not want to accept the recommendation from our office at this point, the board doesn't need to do anything. We can continue to attempt to serve him and if we are successful, we will go forward with a hearing. If not, we will recommend dismissal without prejudice at a future meeting.

SECRETARY KEMP: Is that satisfactory, Mr. Simpson?

MR. SIMPSON: I would suggest getting a non est from the Sheriff saying they can't find him in the county. That way we've got some evidence that he is not there. We don't know right now.

SECRETARY KEMP: What he was just saying was that the ALJ cannot use the Sheriff to serve him. We've got to find him. Is that correct, Mr. Willard?

MR. WILLARD: That is.

MR. SIMPSON: You could hire deputy after hours to serve folks.

SECRETARY KEMP: This is what were going to do. We're going to not move on this and will keep trying to serve him. If that guy is living down here, we'll find him.

Yes, sir?

MR. RAMSEY: The election fraud is over?

SECRETARY KEMP: That's correct. On that one case it is.

MR. RAMSEY: Appreciate it.

SECRETARY KEMP: Case 2010, number 77.

MR. WILLARD: This is Chattooga County?

SECRETARY KEMP: That's correct.

MR. WILLARD: This was referred to the Attorney General's office at the February 29, 2012, with two alleged violations by Charles Stoker. One was campaigning within 150 feet of a polling location; and, two, interference with the poll worker.

The only alleged campaigning by the respondent within the 150-foot zone was that the respondent parked his vehicle with political bumper stickers within the 150-foot zone. When the poll manager spoke to the respondent about this he immediately returned to the vehicle and turned the vehicle around, which all witnesses agreed made the bumper stickers not viewable from anyone within the 150-foot zone.

The second allegation concerned interference with a poll worker. The one witness who stated that she thought he might have made a move toward the voter certificate admitted that the motion she saw could have been a number of things, such as him pointing at the certificate, and there were no other poll workers who could testify that he attempted to touch or otherwise remove the voting certificate.

Accordingly, I recommend that both, or that case against Mr. Stoker, and I have spoken with Judge Payne in Chattooga County, and he is in agreement with the recommendation about the dismissal against Mr. Stoker.

I would recommend that the case against Mr. Stoker be dismissed by the board.

SECRETARY KEMP: Any questions for Mr. Willard?

MR. WEBB: Mr. Willard, is this your first case with bumper stickers?

MR. WILLARD: This is my first case with bumper stickers.

MR. WEBB: The precedent has been with bumper stickers to dismiss those as campaigning.

MR. WILLARD: Thank you, Mr. Webb. I appreciate the education on your last meeting.

SECRETARY KEMP: Anyone else? Mr. Simpson.

MR. SIMPSON: I just want to reiterate what I said earlier this morning. We need a bright line here. One of the easiest ways in the world to campaign without violating the campaign is to put some bumper stickers on your pickup truck and go park it next to the courthouse or the polling place. It happens in Tifton. But at least the people in Tifton have got the people to park at least 150 feet away from the entrance to the polling place. And I'm sure the bumper sticker says Vote for John Doe, or something. So it appears to me that is a solicitation of a vote.

It is a violation of the statute. If we're going to have a statute, let's enforce it. If we are not going to have a statute, let's write it off the books and let the Court tell us. Let the Administrative Judge tell us if there is something wrong with it; something wrong with the statute.

So I would speak in favor of rejecting the Attorney General's recommendation on this case.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. WEBB: I will make a motion to accept the Attorney General's recommendation.

SECRETARY KEMP: We have a motion by Mr. Webb to accept. Do we have a second?

MR. WORLEY: Second.

SECRETARY KEMP: A second by Mr. Worley. Any other discussion?

(Whereupon, there was no response)

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

MR. WEBB: Aye.

MR. WORLEY: Aye.

SECRETARY KEMP: Aye. All opposed, same sign.

MR. McIVER: Opposed.

MR. SIMPSON: Opposed.

SECRETARY KEMP: That motion carries 3 to 2. So we have dismissed that case.

And we will move on to 2010-80.

MR. WILLARD: Yes. You may recall this from the August 15, 2012 meeting.

Anatoliy Iskhakov, who is the president of King David Community Center violated several State Election Board rules regarding the conduct of a voter registration drive. This was -- his attorney spoke at length about this case.

Basically, he deals with naturalized citizens from Eastern Europe. The violations that came over to our office were a failure to adequately disclose certain of the prophylactic disclosures required by the State Election Board rules when conducting a voter registration drive. The respondent had actually hired someone who held himself out as knowledgeable about the voter registration process to conduct the drive. He agreed to accept responsibility for this individual's actions.

Given that there wasn't an issue that came over to our office regarding the registration of those individuals -- they weren't registering anyone who was not qualified to be registered. It was just failing to adequately disclose certain provisions, like you don't have to turn it in to me. You can go down to the voter registration office and submit the application.

We are recommending a cease-and-desist, public reprimand, and a \$300 civil fine.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak on this case?

MR. WEBB: Mr. Willard, how many applications were made in this case? Registrations to vote; excuse me.

MR. WILLARD: I don't believe we had an actual number from either Gwinnett or DeKalb County that we saw because that wasn't part of the file came over to us. It was just that he acknowledged that they have failed to adequately disclose on the registration applications, or during the registration process that they had certain rights; that they did not have to register through that application drive.

MR. WEBB: And if I remember correctly, they could use his address as the return address; is that correct?

MR. WILLARD: I believe that may have been the case. That is not one of the items that were referred to our office.

MR. WEBB: And you feel that the \$300 fine is adequate?

MR. WILLARD: In this instance, because you didn't have a situation where you had

anyone who wasn't qualified to vote being registered; there was no allegation that someone who was qualified was not registered to vote, it was a ministerial act. In effect, he was basically saying I hired somebody who said they were going to do it, that they knew what to do. I then pulled myself out of being knowledgeable about the situation. When it came time and I realized that they were not doing everything they were required to do, I took responsibility for the actions of this employee. It was a temporary employee at the center at the time.

MR. WEBB: Thank you.

SECRETARY KEMP: Thank you. Anybody else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Is there a motion?

MR. McIVER: I move we accept the report.

SECRETARY KEMP: We have a motion by Mr. McIver. 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. I believe that's got all the Attorney General reports taking care of; is that correct?

MR. WILLARD: I believe we may have one additional one, Mr. Secretary. Did we pull Fayette County?

SECRETARY KEMP: I'm sorry. 2011, number 47; Fayette County case. My apologies.

MR. WILLARD: This was the, as you may recall from November 27, 2012, meeting, I think Mr. Harvey referred to Ms. Pucel as someone as an energetic or enthusiastic voter.

MR. HARVEY: Overachieving.

MR. WILLARD: Overachieving voter. That's what it was. This is someone who was registered in both Georgia and Wisconsin. She cast votes intermittently between the two jurisdictions. What we did, we went back and looked at ascertained that there were actually three elections where clearly she cast a vote in both Georgia and Wisconsin. It's my understanding that Wisconsin also has the matter under investigation.

We are recommending a cease-and-desist, public reprimand, and \$3000 civil fine representing \$1000 per election day in which she double-voted. That is consistent with past board sanctions on these issues.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED FEMALE: Is that a crime in the state of Georgia to vote in two places?

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

MR. WILLARD: It is, and that would be subject to prosecution by the local district attorney.

UNIDENTIFIED FEMALE: Could you add that you recommendation that they would do that?

SECRETARY KEMP: I don't think that's something . . .

MR. WORLEY: Could we ask Mr. Willard to clarify. It's illegal to vote in the same election in two different places in Georgia. But does Georgia law say anything about voting in Georgia and another state?

MR. WILLARD: I don't represent the District Attorney I will be happy to send the and investigative file and turn it over if he thinks that he has a viable case going forward.

SECRETARY KEMP: That would be good if you could send that file.

MR. WILLARD: We will forward it to the appropriate prosecutor in Fayette County.

SECRETARY KEMP: We did have a motion, didn't we? We need a second.

MR. WORLEY: Second.

SECRETARY KEMP: Motion by Mr. McIver, second by Mr. Worley to accept the AG's consent order. 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.

MR. WILLARD: That concludes the Attorney General's report.

SECRETARY KEMP: All right. We've got to go back and catch, under our new cases, 2011, number 73, the City of Clayton, candidate qualifying case.

MR. HARVEY: This case involved the municipal election in November of 2011 in the city of Clayton. I have a response that was sent by the city attorney regarding this case that I would submit to the board if they will accept.

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

MR. SIMPSON: So moved.

SECRETARY KEMP: I will 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. HARVEY: A candidate qualified in the city election. He had moved into the city and had intended to register to vote in the city. However, he never turned in his voter registration change of address.

So he went through the election and actually won the election, and then it was determined that he was not a qualified elector in the city. There was an election contest and the judge overturned the election and ordered his sole opponent as the winner.

The simple fact is that the candidate, Travis Kyle Webb, violated 21-2-265, by making

false statements in connection with filing of the candidacy when he said he was -- he met the qualifications. He did not. Most of the attorney's response that you have in front of you is regarding the elections superintendent, Tammy Whitmire, and whether or not she was required to do anything beyond essentially looking at his affidavit to determine whether he was qualified.

Mr. Willard and I have spoken about this a little bit and there is some case law that Mr. Willard is familiar with. On the surface it doesn't appear that she determined his qualifications because she didn't check to see if he was a registered voter. However, there is a question as to whether or not she has an obligation to look beyond the sworn affidavit to do that. And, Mr. Willard, do you want to pick up on that?

MR. WILLARD: Well, and we talked about it, the violation that was actually noticed in this case was 21-2-6 violation, which is the candidacy challenge provision, which doesn't impose an affirmative obligation on the election official to determine qualifications outside of the hearing process.

What I spoke with Mr. Harvey about is if it is the board's prerogative to go forward and consider a possible violation against the election official in this instance, it probably needs to be re-noticed with the allegation of a violation of 21-2-70, which does impose an affirmative duty on the elections superintendent.

It's really a policy call by the board at this point in terms of what sort of obligation are you going to impose on election officials to look beyond the sworn statements submitted by the candidate in terms of whether we are going to impose an affirmative obligation on election officials to go and verify every sworn statement by a candidate, absent some evidence that there is a possible false swearing.

But if the board is going to move forward on this, it does need to be re-noticed as to the election official.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have anyone else wishing to speak on this one?

MR. SIMPSON: It seems like to me that an election official would be entitled to accept as prima facie evidence what the affidavit says with the notice of candidacy. It seems like to me that would be where the election official's obligation ceases. And then you move into the other violation, being the false statements provision. I think, in my mind, I see a difference between a failure to determine qualifications and a false swearing, or

false statement. It seems like to me if you've got a false statement, then the election official can accept that notice of candidacy and affidavit as prima facie evidence. And then, unless something shows up which shows that is wrong, then I think the election official has done his duty, or her duty.

Isn't that a reasonable way to look at it?

MR. WILLARD: I think the board can clearly look at it in that way.

SECRETARY KEMP: It's just like we're taking affidavits for secure and verifiable documents. When they signed that affidavit, I mean, we don't have any way of checking. We're not required to.

MR. SIMPSON: You have to accept a prima facie.

MR. McIVER: Plus, Mr. Secretary, I believe we have a precedent for that, as well.

MR. HARVEY: In that case, then, I would recommend that we go forward against the candidate and dismiss the charge against the elections superintendent.

SECRETARY KEMP: All right. We have a recommendation. Is there anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion? The recommendation is to dismiss against the elections superintendent and to bind over Travis Kyle Webb to the AG's office.

MR. SIMPSON: I move to accept the recommendation.

MR. McIVER: Second.

SECRETARY KEMP: Mr. Simpson moves; Mr. McIver seconds. Any other discussion?

(Whereupon, there was no response)

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

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Now we are moving to 2011, number 100;

Gwinnett County case.

MR. HARVEY: In this case, also, the respondent, Mr. Abdullah Hajer, actually came to the office and gave me a brief response that he asked me to present to the board. So if the board wants to accept it --

SECRETARY KEMP: Do we have a motion to accept?

MR. WORLEY: 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.

MR. HARVEY: In this case, on election day, Mr. Hajer and his wife entered a polling place. They each completed a voter certificate. They each went to the DRE machines in separate booths and then Mr. Hajer voted and then he stepped into his wife's voting booth and took her card and, essentially voted her ballot. They didn't sign as assisting; she didn't request assistance; there is no indication she was entitled to assistance.

The poll manager tried to stop him but the poll manager felt that anything short of physical force was not going to dissuade Mr. Hajer from assisting his wife illegally. Mr. Hajer, as you can see from the statement, tells a completely different story. He says nothing like that ever happened. He doesn't know where were only came up with this. We've got two statements from poll workers and we've got the statement from Mr. Hajer.

I am recommending based on the evidence that Miriam Hussein, who is his wife, may have is received assistance when she was not entitled to receive assistance. Although, based on the witness statements, the poll worker statements, I'm not sure that she really did anything except stand in the voting booth. I would recommend that Mr. the chair be bound over to the AG's office for illegally assisting and entering a polling -- voting booth and casting another person's ballot.

I recommend he be bound over to the AG's office. I think his wife could receive a letter of instruction, although it's easier to -- it makes more sense to bind them both over. I

don't think that's inappropriate, either.

SECRETARY KEMP: Any questions for Mr. Harvey?

MR. WORLEY: To Mr. Hajer make any attempts to explain his actions to the poll worker?

MR. HARVEY: He did not. He just did what he did and walked out. Mr. Hajer's version is very different than that.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Ready for a motion.

MR. McIVER: I move to bind over.

SECRETARY KEMP: You want to bind them both?

MR. McIVER: Yes Sir.

SECRETARY KEMP: Motion to bind both over to the AG's office. Do we have a second?

MR. WORLEY: Second.

SECRETARY KEMP: We have 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. We have bound both respondents over to the AG's office. We will move two 2012, number 14; Decatur County PPP case.

MR. HARVEY: In this case, the attorney for Decatur County also submitted a written response that he asked me to present to the board.

SECRETARY KEMP: Motion to accept.

MR. WEBB: So moved.

MR. WORLEY: 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 will accept the documents.

MR. HARVEY: In this case, a voter, Candace Brimm, requested three absentee ballots for the presidential preference primary and didn't receive any.

What happened when we investigated was that Ms. Brimm provided her address of 1000 (Unintelligible) Landed, Apartment 2-D, and the county attempted to mail the three ballots to her. What happened each time they printed out the address label, it chopped off the apartment number. So they were all undeliverable and they were returned to the election office. It was only after the third return that they realized the address had been compromised on the printing of the address label.

Other than that, the county responded to each application and attempted to get it out. Mr. Mosley, who is the attorney for Decatur County has written a response and I would recommend that, based on the totality of the circumstances, that a letter of instruction be issued to Decatur County to make sure that they double-check proper printing and alignment for all absentee ballots.

That would be my recommendation in this case that a letter of instruction be issued.

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: Do we have a recommendation? We've got a recommendation for a letter. Do we have a motion?

MR. SIMPSON: So moved.

SECRETARY KEMP: Do we have a second?

MR. McIVER: Second.

SECRETARY KEMP: We have a motion by Mr. Simpson and a second by Mr. McIver 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.

I believe that will take us to our last case, if I'm not mistaken. 2012, number 25; Clarke County.

MR. HARVEY: Yes Sir. This case involved respondent (Unintelligible) Gad. Mr. Gad is not a United States citizen. He registered to vote in 1999. He also re-registered in 2003. He voted in 2004. And he is not a United States citizen. He came to this country from Egypt. He has a child and never went through any naturalization process.

When he was given his jury summons for Athens Clarke County, he responded immediately back to them that he was not a citizen, so he could not serve. He has since been deleted from the list of eligible voters.

His attorney said that it was all a mistake; it was a misunderstanding. However, there are several instances in this case where he would alternate between saying he was a citizen and not a citizen. I don't think the fact that he was confused about his citizenship is really a true issue.

I recommend he be bound over to the AG's office for illegal registration and voting.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

MR. McIVER: I move to bind it over.

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion and a second to bind over Mr. Gad 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: That motion carries. I didn't miss anything, did I?

(Whereupon, there was no response)

SECRETARY KEMP: Let me just say this before we get a motion to adjourn. I want to make sure everybody gets to meet Kayla Young, our new SEB person. We're happy to have her on board with Jenna leaving. We're looking forward to her good work with the State Election Board.

Also, just want to again, thank Mr. Webb for his service. After sitting through this meeting, you may be glad this is your last meeting. But we appreciate your diligence and your service and certainly would be glad to have you back. Hopefully you will be representing somebody and not be before us. But certainly if we can help you as a board or myself the Secretary of State, I hope you will call on us.

MR. WEBB: Thank you very much.

SECRETARY KEMP: Also want to mention that Ms. Ford and Ms. Cam-Anh Le and Erica Hamilton and the rest of our elections crowd is freshly back from a great week of training in Savannah. We continue to work hard on our VR project. We've got voter registrar training and August. So a lot of things are happening in the elections division and there's been a lot of work and a lot of long hours, too. So we appreciate them, as well.

Unless any board member has anything else, I'll take a motion to adjourn.

MR. WEBB: Motion to adjourn.

MR. WORLEY: Second.

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

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: We are adjourned. Safe travels, everyone.

(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 3rd day of June, 2013.

Deborah L. 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 MEETING

GEORGIA STATE CAPITOL BUILDING
ROOM 341
ATLANTA, GEORGIA 30334

TUESDAY, SEPTEMBER 24, 2013
10:00 A.M.

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

*DEBORAH L. MERIDETH, CCR
HAPPY FACES COURT REPORTING
POST OFFICE BOX 1063
TUCKER, GEORGIA 30085
(770) 414-9071*

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
Rebecca Sullivan, Member, State Election Board

ALSO PRESENT:

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.

10:00 a.m.

PROCEEDINGS

SECRETARY KEMP: Good morning, everyone. We want to go ahead and get started. I think Mr. Worley will be here shortly.

I will call to order the Tuesday, September 24, 2013 State Election Board meeting. Our first order of business is the invocation and the Pledge of Allegiance. I would ask Mr. McIver to lead us in that this morning.

- - -

INVOCATION

- - -

PLEDGE OF ALLEGIANCE

- - -

Thank you, Mr. McIver.

A couple of things before we get into the approval of our minutes. It's an honor for me today to welcome the newest State Election Board member, Rebecca Sullivan, to our work here at the State Election Board. She is a recent appointee of Speaker Ralston, and great appointment, I might add. She has worked in a lot of different areas dealing with state and federal political law. Prior to joining the political law group, she served as a policy advisor executive counsel to Governor Sonny Perdue, so she certainly knows her way around the Capitol. During her service to the Governor, she has worked on the tri-state water negotiations, which, as we know, are still ongoing. She has worked on the pre-clearance of Georgia's voter ID laws and dealt with the litigation that ultimately upheld the voter ID law. She also has a strong commitment to public service and civic involvement serving as a consumer member of the Georgia Board of Nursing, which is underneath the Secretary of State's office. And is a member of the Board of Directors of MCG Health, Incorporated. She is currently a member of the Medical College of Georgia Health System board of directors, where she serves as chair of the finance committee. She is also a member of the local Chapter of the Daughters of the American Revolution and serves as vice president to the Glen Oaks Elementary School, the parent teacher organization. Rebecca, I am proud to say, is double Dawg, having gotten both her degrees from the University of Georgia.

So we are glad to have you on board with us and we know you will do a great job.

MS. SULLIVAN: Thank you.

SECRETARY KEMP: I also want to just let everyone know that today is National Voter Registration Day. Secretaries of State around the country have been celebrating September as Voter Registration Month leading up to our fall elections. So I just wanted to make sure that

everybody is aware of that. I know that our elections officials and registrars that are in the room have certainly been getting the word out in their communities. But for any of you that are involved with any interest groups, I know the League of Women Voters is here this morning promoting Voter Registration Day. We are doing that, as well. So I just wanted to make sure that the State Election Board and the folks here with us today were aware that.

As you know, there are a lot of easy ways to register and vote in the State of Georgia. You can get forms from your county elections office or registrar's office, and a lot of different government entities like libraries, and other things. And, certainly, in our office, and off of the State's website as well. So we certainly want to participate today in promoting National Voter Registration Day as we lead up to the elections.

Our next order of business is we need to improve our minutes. I will accept a motion or any corrections from the minutes of our last meeting.

MR. McIVER: I move to accept.

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion by Mr. McIver, and a second by Mr. Simpson to approve the minutes as written. Is there any other discussion by the Board?

(Whereupon, there was no response)

SECRETARY KEMP: **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 approved the minutes.

We will now move into our public comment period. Is there anyone here that wishes to speak to the Election Board today? Yes, ma'am.

If there is anybody here today that wishes to speak to the Election Board about any issues that is ongoing, we will give you 2 minutes to do that. I will remind everybody that this is not a time for us to discuss the cases that we have coming up today. You will have an ample opportunity to be heard during the testimony on that case. But if there are other issues you wish to talk to us about, we are glad to hear from you. You do need to fill out a card. So if you have not done that, please do that at this time.

We will let Mr. James Quarterman speak to us real quick. Welcome back, Mr. Quarterman.

MR. QUARTERMAN: Thank you, Mr. Secretary.

I am here this morning to address the Board on these elections we got in Georgia when we hold these elections, mostly city elections. You guys got a code that says that if nobody runs against the incumbent or if only one person qualify, you don't have to hold an election. I think the code uses the word "assume" -- that person has assumed to would have voted for himself.

But as I read and understand the laws of these United States and the State of Georgia, it says elections -- you're elected by the vote of the people. So when you don't hold an election, I know you have to run a notice in the paper telling the people there's not going to be an election. But when no election is held, you can't assume that person has voted because you have to have an election even for them to vote by absentee ballot. So when you have no election, you can't assume to have voted for yourself.

Not only that, but when you don't hold an election, you deny the people, being National Voter Registration Day, you deny the write-in voters an opportunity to vote. A lot of times in small towns, we may not like the person that's running, and people don't want to get scandalized and scrutinized in the media, so they won't run. But they're eligible to be a write-in candidate. And you can be elected in this state as a write-in candidate.

So when you -- I'm just asking you to revisit that law and look at it because you're denying us the right to vote just because nobody wants to run or only one person run or the incumbent is the only person running. You have to hold an election. You cannot be assumed to be elected because you would vote for yourself because you can't vote for yourself if there is no election.

There is also a thing about paying for votes and you can't buy votes. Well, if nobody is running and I decide I want to be the mayor and I go down there and pay three hundred and some dollars to qualify and nobody else runs, what did I just do if I didn't buy my own vote or bought me a seat, an elected position?

SECRETARY KEMP: Thank you for those comments. All right. Ms. Stephens, welcome back to you, as well.

Mr. Worley has arrived, let the record show.

MS. STEPHENS: My name is Nancy Stephens. I'm a board member of the Hancock County Board of Elections and Registration.

As the Board is aware, we have many problems in Hancock County with the legality of our elections, and there are several board members that are working hard to try and correct these problems. On the other hand, we have several board members who are doing everything they can to keep elections as they've been in the past.

As a board member, to my knowledge, there have not been any changes made to bring Hancock County into compliance with the Georgia election code because of interference from some of the

board members. Senate Bill 173, which created our board, states that board members “shall be subject to removal from the board by the Chief Judge of the Superior Court of Hancock County at any time for cause after notice of hearing.”

At this time there are two cases pending in Hancock County Superior Court: 13-CV-057, *Stephens vs. Wadell*; and 13-CV-102, *Stephens vs. Ingraham*, for the purpose of having both of these members removed for cause. The case of *Stephens v. Waddell* goes to court October 1.

As you probably know, this is very costly and time-consuming for board members to do this. But there are some members of the board who want Hancock County elections handled legally. You have certainly helped us in our effort to have legal elections in Hancock County, and any additional help the State Election Board and Secretary of State’s office or anyone can give us will be greatly appreciated. Thank you.

SECRETARY KEMP: Good to have you back with us. Anyone else for public comment?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, we’ll move on to our investigative reports. Mr. Harvey, we’ve got 2010-131, Picket/Clayton County case. It’s number 2 in your binders.

MR. HARVEY: These are consent cases, Mr. Secretary.

SECRETARY KEMP: I’m sorry. As Mr. Harvey said, we’re on our consent agenda right now. These are cases where we have a recommendation to dismiss those cases for lack of evidence or for other reasons. However, if there is any board member that would like for us to go over the detail of that case, we will move it to our investigative report of new cases part of our agenda. Or if there is someone else in the audience here, you know, complainant, respondent -- anyone else that wishes to speak on these cases, as well, we’ll also move that case and put it on our new cases.

So are there any board members that has an agenda item under the consent cases that would like to have that removed and discussed?

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Is there anyone in the audience here? Mr. Quarterman, which case have you got?

MR. QUARTERMAN: Number 2.

SECRETARY KEMP: Okay. We’ll pull number 2 out. Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, I’m ready for a motion to -- Mr. Harvey, you want to just

tell us what you want us to do on the consent cases?

MR. HARVEY: I would make a recommendation that everything listed under consent cases from 2010-131 through 2012-120 be closed and dismissed by the Board.

SECRETARY KEMP: All right. So we need a motion for that, except for --

MR. HARVEY: With the exception of Mr. Quarterman's.

SECRETARY KEMP: We're going to pull out the Clayton County case, number 2 in the binder would come out.

(Crosstalk)

SECRETARY KEMP: Mr. Quarterman, you're on the Douglasville election. All right. So we're going to vote to dismiss everything on the consent calendar except for case number 2011, number 52; is that correct, Mr. Harvey?

MR. HARVEY: That's correct. That's my recommendation.

SECRETARY KEMP: Do we have a motion?

MS. SULLIVAN: So moved.

SECRETARY KEMP: Ms. Sullivan moves to dismiss. 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. We have dismissed the consent cases except for 2011, number 52, which is number 3 in our binders. Mr. Harvey, I'll let you start with that one.

MR. HARVEY: Mr. Chairman, members of the Board, this case involved a November, 2011 -- it was a municipal election and a county SPLOST election. James Quarterman was the complainant and he made two complaints.

The first complaint was that the SPLOST ballot -- SPLOST votes were illegal because he contends that they were going to be -- Douglas County was going to be using the money in an unauthorized manner. The State Election Board doesn't have any jurisdiction over that issue. So I don't find any violation the State Election Board can deal with regarding the SPLOST.

The second complaint Mr. Quarterman made was when he went to vote in Douglasville for the election during early voting, he was able to vote for the county SPLOST. However, he had moved into the city but had not changed his voter registration by the deadline in order to reflect that. He had a conversation, I think, with the election supervisor who was there, and who I believe is present today. He acknowledged he did not change his voter registration.

At one point he asked for a provisional ballot and that was denied based on the fact that he essentially didn't believe he was properly registered to vote. He asked if he could vote a provisional ballot and then returned with something that showed he lived in Douglasville. And that wouldn't have really made any difference with his voter registration status.

Eventually, before the election, the elections superintendent did offer Mr. Quarterman a provisional ballot if he really wanted one. I don't think he ever accepted that offer.

I don't find any violation in this case, and I recommend it be dismissed.

SECRETARY KEMP: Anyone wishing to speak on this matter? Mr. Quarterman, if you don't mind -- I forgot to tell you earlier -- just give us your name and address for the record, please.

MR. QUARTERMAN: James Quarterman, 6238 North Summer Circle, Douglasville, Georgia 30135.

Now, I'm not here to dispute your investigators and all this. But you pulled this off the calendar last time you had a State Election Board meeting because the people conducted an illegal investigation and used an address that I lived at five years ago in doing their investigation. I talked to Mr. Harvey about it and you have a black guy that's a new investigator. He reassigned him to go back and investigate the thing.

Now, the problem is, yes, I did move; yes, we did mail in the voter registration cards. Me and my wife both went to vote and we were denied the right to vote. We asked to vote provisional ballot and we were denied that right, as well. I had proof of residency. According to your laws, it states if there is any discrepancy, or whatever, that person is entitled to cast a vote as long as they are an eligible voter, and they have so many hours or days to bring back proof that they do reside and that they're eligible to vote, and that. We tried to do all that.

Now, I'm not going to stand here and argue with you because the fact of the matter is the person in the Board of Elections that I'm up here competing against now, I already have three cease-and-desists and three fines by you against the same people. But you will take no actions against these people and you continue to allow them to violate the election.

What good is having authority if the authority is not going to act? How many cease-and-desists, how many fines do you have to give the same person before some action is taken against that person? And the reason you and I know each other is because you done seen me three or four times, and you've given three or four cease-and-desists against the Douglas County Board of Elections for violating elections law.

Now, he can say whatever they want to say. You pulled this off of your own calendar last time to have it be investigated because they did not conduct an investigation and they did use an address that was five years old. Now you want to dismiss it and just throw it out? Well, why didn't you dismiss it and throw it out the last time? Because you knew you was wrong and I have a right to vote. I mailed in the card. I don't work for you. If the card don't reach you by whatever time, it tells me I have a date to file that card by. We filed it. That's all I could do.

I should have been allowed to vote. And when you did not allow me to vote, you denied me my right as a citizen to vote in an election which according, I think it's 521 or 522, that I was an eligible person to vote. Therefore, if I wasn't eligible to vote in that election [sic].

Now, I remind you, now, get this: According to 21-2-521 or 522, if I was not eligible to vote in that election, I would not be standing right here today because you have to be eligible in order to file the complaint or protest the election which was held. So if I'm standing here right now, that means that I was entitled to vote in that election.

SECRETARY KEMP: Any questions for Mr. Quarterman?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir. Name and address for the record, please.

MR. COLE: Good morning. My name is David Cole. I'm with the law firm of Freeman, Mathis & Gary; 100 Galleria Parkway, Suite 1600, Atlanta, Georgia 30339. I represent Douglas County Board of Elections and Registration. I will try not to address too many of Mr. Quarterman's allegations maligning the elections superintendent, except I will say I have the pleasure of representing a number of counties and cities around the State. I've worked with Lori Fulton, the elections supervisor, and Greg Riffie (phonetic), the assistant supervisor for many years. They are two fine people who do their level best and some of the best people I've had the opportunity to work for.

In this case they did exactly what the law requires of them. The fact of the matter is that Mr. Quarterman had not changed his address and he showed up to vote claiming that he had now moved into the city limits, but he had never changed his address to show that. They simply could not let someone vote in an election they had not registered for even if he claimed he had recently moved there in the past few weeks. The election code is very clear under 21-2-216, that an individual cannot vote in an election they are not registered for. And 21-2-218 says if you change addresses, you have to change that and the registration at least by the fifth Monday preceding the election. That never happened. So they could not let them vote.

When they asked Mr. Quarterman if he had done that, he admitted he had not. The rules for voting provisional ballot says someone who is entitled to vote a provisional ballot is someone who must present themselves believing that they had actually registered to vote. Mr. Quarterman admitted he didn't change his address. So it's clear even he did not believe he was registered to vote.

Nonetheless, he continued to throw a stink about it over the next few days. So Ms. Fulton did write him a letter and offer him the opportunity to vote a provisional ballot. And we have submitted that letter to the investigator. It's not in dispute that that offer was made. But, as anyone knows who's voted a provisional ballot, to vote that ballot, you must sign an affidavit that swears under oath that you have properly registered to vote in that election and you changed your address, and so forth.

Mr. Quarterman knew he did not do that and he refused to take the opportunity to vote the provisional ballot, probably because he knew he would be committing perjury if he signed that affidavit. And that, in and of itself, is telling of the fact that this complaint really has no merit; it never did.

We appreciate Mr. Hall and Mr. Harvey's investigation of this. We think the conclusion is correct: it should be dismissed.

SECRETARY KEMP: Any questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, any other discussion from the Board, or do we have a motion?

MR. SIMPSON: I move we dismiss this case.

SECRETARY KEMP: We have a motion from Mr. Simpson to dismiss. 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. We have dismissed case 2011, number 52.

All right. Mr. Harvey, now we're back on track with our new cases. Are we going to go ahead and do Hancock County?

MR. HARVEY: The plan was to go ahead and do the first Hancock County case because that involves different respondents and a different attorney. The other three Hancock County cases we're going to push to the end of the meeting.

SECRETARY KEMP: Okay. So we're going to call 2008, 131, Hancock County, which is number 13 in our binder?

MR. HARVEY: That's correct. And, Mr. Chairman, I didn't know if you want to take a roll call to see who is here on cases so we could --

SECRETARY KEMP: Oh, yeah. One other thing that we try to do to speed the Election Board meetings up, and also not to have people who have joined us today in person have to wait around for folks that didn't bother to show up for these cases, is to find out who is here this morning on individual cases. If we have some folks that are not here, we'll skip over those and take them up later in the day, which, hopefully, will get you folks out of this room quicker.

I think we're at 2008-131. Do we have someone here from Hancock County?

UNIDENTIFIED FEMALE: We do.

SECRETARY KEMP: 2010-93, Liberty County case?

UNIDENTIFIED MALE: Yes, sir.

SECRETARY KEMP: 2010-111, Screven County?

UNIDENTIFIED FEMALE: Yes.

SECRETARY KEMP: 2011-58, DeKalb County, the Ware case?

UNIDENTIFIED MALE: Yes.

SECRETARY KEMP: 2011-59, Hancock -- we moved that.

MR. HARVEY: That's one -- yes, sir.

SECRETARY KEMP: We're going to move that case to the end. City of Eatonton case?

UNIDENTIFIED FEMALE: Yes.

SECRETARY KEMP: City of Brunswick?

UNIDENTIFIED FEMALE: Yes.

SECRETARY KEMP: Okay. City of Braswell?

UNIDENTIFIED FEMALE: Yes, sir.

SECRETARY KEMP: Fulton County PPP Clinic?

UNIDENTIFIED MALE: Present.

SECRETARY KEMP: Gwinnett County PPP case?

UNIDENTIFIED MALE: Present.

SECRETARY KEMP: Taliaferro County qualifying case?

UNIDENTIFIED MALE: Present.

SECRETARY KEMP: Atkinson County primary (unintelligible). Elbert County?

(Whereupon, there was no response)

SECRETARY KEMP: Anybody here for the Elbert County 2012, number 44?

(Whereupon, there was no response)

SECRETARY KEMP: We'll move that one to the back of our agenda.

Randolph County district line?

UNIDENTIFIED MALE: Here for Randolph County.

SECRETARY KEMP: We've continued the Madison County case, right, Mr. Harvey?

MR. HARVEY: That's correct.

SECRETARY KEMP: All right. Gilmer County?

(Whereupon, there was no response)

SECRETARY KEMP: Polk County?

(Whereupon, there was no response)

SECRETARY KEMP: Marion County?

(Whereupon, there was no response)

SECRETARY KEMP: Dougherty County?

(Whereupon, there was no response)

SECRETARY KEMP: Habersham County?

(Whereupon, there was no response)

SECRETARY KEMP: Fannin County?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, you've got a crystal ball moving all those ones at the end of the agenda. Must have known they weren't going to show up.

Okay. Really, the only case I'd take and move out of order would be the Elbert County case. So we'll go ahead and call the 2008, number 131, Hancock County case. Mr. Harvey?

MR. HARVEY: Yes, sir. The first thing I need to say is this case is, as you can tell, was very old, and I don't have a tremendously good excuse for it. It was assigned originally to an investigator who went out on extended medical leave and in the process of cases being reassigned and shuffled, it just fell through the cracks, and I apologize to Hancock County and the Board for the delay bringing this case forward. We have generally done a good job of being up-to-date. I know it doesn't make it easier on the respondents when the allegation is this old.

The allegation was there were multiple absentee ballot problems in this election. There were allegations the ballots were being intercepted; the ballots were being forged. We did a thorough investigation and we found out that, at the end, there was no evidence of absentee ballot fraud or manipulation. We did find a lot of administrative errors with the ballots. And this is where it gets a little bit complicated due to the changes in Hancock County.

In 2008, you had the Probate Judge, Judge Rice, who was the elections superintendent, and you had a chief registrar and Board of Registrars. Under that system, the registrar would generally be responsible for absentee ballots. However, as the Board has acted in the past, the elections superintendent is generally also held accountable for errors in absentee ballots with the registrar.

In this case, the actual registrar at the time is now deceased. They now have a combined Board of Elections and Registration and identifying respondents is a little bit tricky. We have judge Rice, the former elections superintendent and the elections superintendent at the time of these actions, as a respondent.

The ultimate findings were that there were 39 absentee ballots that were not certified as having been received as required; there were 66 absentee ballot applications accepted without proper documentation; and there were 30 voter certificates that were not properly completed. Nine of them had no ID checked, three were not signed by the voter, and one gave no reason for assistance.

Given the nature the allegations and given what's going on in Hancock County and what we'll be dealing with in Hancock County in the future -- Hancock County is under new management. I know some people have mixed feelings about that. These mistakes were largely administrative. But those are the facts of the case.

If it's in the interest of convenience to let this go with a letter of instruction to people who are not essentially responsible anymore, I think that might be a reasonable resolution. However, given the history of Hancock County, it's checkered history with administrative tasks in elections, that might not be something that's palatable to the Board.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

UNIDENTIFIED FEMALE: Yes, sir.

SECRETARY KEMP: Give us your name and address for the record, please.

MS. SHAFER: My name is Lee Oxendine Shafer. I'm with the firm of Wall Shafer, and my address is 3635 Peachtree Industrial Boulevard, Suite 400, Duluth, Georgia 30096.

This is a really tricky case because we had a Board of Registrars and Mr. Willie Williams died, in 2010, I might add. Okay? And this is a 2008 case. But there is a deputy registrar, there are people on the Board of Registrars who should have been here instead of Ms. Rice.

I, yesterday, contacted Mr. Harvey and asked him what specific law did my client violate? She didn't violate any of them. She may have been overseeing them, but she didn't violate any. She didn't violate 21-2-431, 21-2-286. She didn't violate any of them because she didn't do it. Now, if you want to hold her responsible, you can. But we're going to fight it because I don't know what statute she violated.

In your petition, itself, you've listed several of the code sections, and she didn't violate any of them. I mean, 21-2-386, 21-2-381, and 21-2-431. All she's guilty of, if anything, is overseeing this, which there is a Board of Registrars. Just because Mr. Willie Williams is deceased doesn't mean you can't bring the rest of the board in on this action. Because they are the ones ultimately responsible.

If, in fact, you claim there is a statute that she has violated, we will entertain it. But Mr. Harvey couldn't give me one. He just said it was the standard practice of the Board. So without anything other than that, we ask that it be dismissed.

SECRETARY KEMP: Any questions for Ms. Shafer?

MR. McIVER: Thank you, Mr. Chair. I have great confidence in Judge Rice for enabling herself with such a fine lawyer in the State of Georgia. Ms. Shafer is long-known to many of us on the elections side. Your mere presence here means a lot; it really does.

MS. SHAFER: Thank you.

MR. McIVER: However, I just so humbly wish we weren't so familiar with Judge Rice. However, in this instance, I think you may well have a case, as is viewed by me. I am curious about one item, and that is who should be standing before us if not Judge Rice?

MS. SHAFER: The deputy registrar or one of the Board of Registrars. I've got their names.

MR. McIVER: Despite the fact she was in an oversight capacity --

MS. SHAFER: If she is in an oversight capacity, that's fine. Give me the statute that she violated. You can't give me one. It's just the practice of the Board. I hate to say that, but that's the way it is. In your -- in the letter you wrote to Ms. Rice, which Chris Harvey did, he says that "you may have violated Georgia's election code rules and regulations." So where is the code, the rule, or the regulation that she violated?

MR. McIVER: To some extent I think Mr. Harvey has identified that for us. But, anyway, I guess my question has been answered. The deputy registrar and one or more board members would be the likely individuals.

MS. SHAFER: Sure. That did this, yes. That were in charge of this, yes.

MR. McIVER: No other questions.

SECRETARY KEMP: Any other questions of Ms. Schaefer?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Ms. Stephens. Give us your name and address for the record, again, if you would, please.

MS. STEPHENS: Nancy Stephens, 389 Roy Smith Road, Sparta, Georgia 31087.

At the 2008 election that is before y'all now, I copied all the election documents before they were sealed and the unsealed election documents and compiled all the information and turned it into the Secretary of State on a complaint. And all this did happen and it is a problem with us at the registrar's office. However, Judge Rice was the superintendent of elections. We have a new board, but we still have the same staff and this problem has not been corrected all and it continues.

I just wanted to add that.

SECRETARY KEMP: Any questions for Ms. Stephens?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Judge Rice, welcome.

JUDGE MARVA RICE: Good morning. Judge Marva Rice. I have to give my address as Post Office Box 331, Sparta, Georgia; 31087 is the ZIP Code.

To the Board, good morning, again, in reference to recognizing my attorney here with me, Ms. Schaefer.

In reference to the 2008, when Mr. Hernandez and Pam Jones came down to investigate the 2008 situation, I, myself, here have all the copies of some of the problems he and I sat down with the deputy registrar, Aretha Cooper Hill, in reference to the vote certificates. Envelopes came in that were not certified like they supposed to have been correctly, and with the voter certificate applications; (unintelligible) came to the registrar's office; there was errors there. I did address that and bring that to their attention, as superintendent of elections at that time, and told him they needed to be very careful as to even with the timeframe and capacity, (unintelligible); whatever the case may be. To take their time and carefully examine every envelope and the absentee application that comes into the office to make sure all the proper areas are completed like they need to be. Whether that was done -- we have a Board of Elections there that went into place July 1, 2011. They're still having serious problems with that issue, even though with the Senate Bill 173 to have me removed as superintendent of elections that I had no problem with from the very beginning, they're still having problems in Hancock County.

SECRETARY KEMP: Judge Rice, I have a question for you.

JUDGE MARVA RICE: Yes, sir.

SECRETARY KEMP: If you and your attorney are making the . . . the -- I guess, the position that you haven't violated one of the State election laws, but folks underneath your supervision, are you suggesting and do you agree with her that we should go after individuals instead of the County and superintendents in charge? Because I think that's going to change. Mr. Willard or Mr. Harvey can give their insight to the Board, but that is going to change the way we've been operating. And I think, in my opinion, it really puts us in a pretty interesting spot if we start going after individuals that are working in registrar's offices and don't include the superintendents of registrars. Many times we have the superintendents come and say, yea; this problem happened; this is what we did to fix it; we take responsibility for it. And we move on.

So I just wanted to get your opinion as a former elections superintendent on that.

JUDGE MARVA RICE: I agree with my attorney, Ms. Schaefer. With the position as superintendent of elections, you all know as well as the board know that, yes, we are the head of authority. But at the same time, there needs to be that fallback. Whoever is handling the materials -- the registrar's office handle a lot of things and at the end of the evening, at 7:00 when it's time to count the absentee ballots, whatever they review and certify to say this is the correct information that they're handing over to us, we did not have time to stand there and go through every envelope to see have they been certified, or anything. We are given accountability that comes from them to us.

Yes, I agree with her that you all need to go after the ones that are actually in charge of handling it because they are held accountable just like the superintendents of elections are.

Now, if you had said about poll precincts from the districts that I'm responsible for the action from 7:00 that morning to 7:00 that night to closing and certifying everything, yes. I will stand here and say hold me accountable. But when we're dealing with the registrar's office, we're dealing on their accountability to give us the correct information so we can go forward to enter the absentee that night and we can count (unintelligible).

So I agree with my attorney. You need to go directly to the registrars on this incident because I did address it. Mr. Hernandez could attest. We sat in a room. We went over every absentee ballot application that had problems with it, as you heard Ms. Stephens say that came up here and gave her comments behind my attorney. She the one made the copies. She filed the complaint. So she know that. It exactly came out the registrar's office.

SECRETARY KEMP: So if that scenario plays out and we bring those people before us and then they tell us they were never trained --

JUDGE MARVA RICE: They went to the training classes

SECRETARY KEMP: -- who do we hold accountable then?

JUDGE MARVA RICE: Accountability. When you take that position, just like I had to learn, and everybody else sitting in this room who is a registrar or superintendent of election, past and present, you have to sit there; you have to go to training classes; you have to read; you have to understand; you have to ask questions if you don't understand to get the full knowledge of everything. It is a learning process. No one is perfect, and you will make a human mistake. But then, at the same time, you learn from your mistakes, too. I have learned a lot dealing with elections and having Attorney Shafer to represent me.

SECRETARY KEMP: Any other questions for Judge Rice?

MR. McIVER: I do.

SECRETARY KEMP: Mr. McIver.

MR. McIVER: Judge, since 2008, has this problem reoccurred in Hancock County?

JUDGE MARVA RICE: It's still going on. Mr. Kemp can attest to the 2012 election. He had to come to Hancock County, it was such a big uproar down there. And I'm no longer the superintendent. They have a Board of Elections now. So you see that the blame went on me as the superintendent, but it's still an uproar, and I have been removed from the position now. So the problem is still there. So the problem lies now with the staff as a whole. The problem was never me. But by me being superintendent at that particular time, I was held responsible for everything. I corrected everything that I could correct, but then at the same time, you have to be a team player; you have to read; you have to understand; you have to have the knowledge and ability. If you don't have that, these are things you have to deal with. You have to come in front of y'all and present your case.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: I've got a question for the Attorney General. I've looked at these statutes, and 21-2-431 refers to the poll officer. It doesn't say anything but the poll officer. 21-2-386 says the Board of Registrars or absentee clerk shall keep safe. And then 381 just has to do --

381(a)(1)(C) only applies to the application having to be in writing and containing certain information, and stuff like that.

So my question to the Attorney General, is in the statute allowing the Probate Judge to oversee the elections, is there anything that specifies what his or her duties are with regard to making sure there is compliance with these code sections?

Unfortunately, I tend to agree with the lawyer that unless there is something placing the responsibility on the Probate Judge, it seems like we are misdirected. We may have to change the rules -- we are in a rewrite of the code right now -- but we may need to address this problem in that process. But I just don't see how we can proceed after reading the statute. Is there something I'm unaware of in terms of placing responsibility on the Probate Judge?

MR. WILLARD: Mr. Simpson -- and I'm sorry if I seem like I'm yelling at you. I don't have a microphone and I want to make sure the court reporter gets what I'm saying.

In this situation, as you are aware, in the past we've had a number of cases that deal with the overlapping duties of the Probate Judge and the staff in the election and registration office. In this instance, I think for 381 and 386, I think judge Rice and her attorney are clear that there probably isn't any liability that attaches to the Probate Judge under the system Hancock County had in place at the time. The liability there would lie with Mr. Williams, who is now deceased.

As you are aware, in this situation where they changed systems, you really probably wouldn't even go to the successor-in-interest because you've got somebody who was in charge at the time and they are deceased now and you've got a new system in place. So there is really no carryover liability.

Now, I am a little concerned about the 431 provision because to me, the execution of the voter certificates probably does fall, at least in part, on the elections superintendent, in this case, Judge Rice. It's my understanding -- and Mr. Harvey can correct me -- the investigative findings are not completely clear on this point. But I believe you're talking about voter certificates that were executed on the day of the election by poll workers out in the field. And to me, the Board is has consistently attached liability to election superintendents, whether they are Probate Judges or whether they are appointed election superintendents on those type of issues. And that is found when you talk about the general duties and responsibilities of the elections superintendent to oversee the election. That is something that would probably clearly fall within their purview.

MR. SIMPSON: The code sections says the poll officer. The way you are interpreting this code section, you're telling me that the poll officer is the Probate Judge.

MR. WILLARD: No. I'm saying --

MR. SIMPSON: Otherwise, the responsibility would lie on the person not handling the ballot correctly when it came into the office. And that would be the poll officer.

MR. WILLARD: Well, I think what you've got there is a situation where in the past we've attached liability to the elections superintendent for, in effect, a failure to train and adequately supervise individuals under their responsibility and control.

MR. SIMPSON: That's not what she's charged with.

MR. WILLARD: That is not what she is charged with in this case.

MR. SIMPSON: Thank you.

SECRETARY KEMP: Ms. Rice, I have one more question for you. Who hires those folks that were doing all that work?

JUDGE MARVA RICE: In the registrar's office or . . .

SECRETARY KEMP: Back during this election, the people you're saying we should bring before us, who hired those people? Did you hire those?

JUDGE MARVA RICE: The registrar's office you're referring to, specifying? Aretha Cooper Hill and Deputy Williams -- we know he's deceased. He died March of 2010. They hired who they would like to have staffing during the time of the elections.

SECRETARY KEMP: Right. But who hired them? Were they appointed or hired?

JUDGE MARVA RICE: Okay. Now, the board was appointed. We have a four-year term through Judge Frye that reports to the Board of Registrars. Aretha is the deputy registrar in the registrar's office.

SECRETARY KEMP: Okay. Was she hired?

JUDGE MARVA RICE: She was hired.

SECRETARY KEMP: Okay. Who hired her?

JUDGE MARVA RICE: Through the Board of Registrars once they're appointed. She's been there for 30-plus years.

SECRETARY KEMP: So the board does the hiring?

JUDGE MARVA RICE: Yes, sir. She's been there for many.

SECRETARY KEMP: Any other questions for Judge Rice?

(Whereupon, there was no response)

MR. HARVEY: Mr. Secretary, if I could just clarify what Mr. Willard said. Although she is not specifically cited, the authority, I think, for the citation and where she assumes authority is going to be under 21-2-70, in paragraph 8, where it says, it shall be the duty to instruct poll officers and others in their duties, calling them together in meetings whenever deemed advisable, and to inspect systematically and thoroughly the conduct of primaries and elections in the several precincts of his or her county to the end that primaries and elections may be honestly, efficiently, and uniformly conducted.

She is not specifically cited for that, but that's the authority under which she is cited for the failures of the other people in the elections office. I believe there had been previous cases. I remember a case, I believe it was Echols County, where the Probate Judge showed up and he was lamenting the fact that the registrar was a beloved member of the community but they weren't doing a very good job and he was sort of in an untenable position because he couldn't get rid of her. But she was making his life difficult. And I believe the Board did assign the responsibility to the elections superintendent at the end of the day in that case.

SECRETARY KEMP: Ms. Schaefer, you have something else?

MS. SHAFER: Yes, sir. If she's in violation of that code section, then you ought to put it in your complaint. There's really nothing in here that she is in violation of. We have to pull and push and shove and do whatever so we can find Ms. Marva responsible. If she's in violation of the code section, tell us what it is, and we will deal with it. But there's not any here.

MR. SIMPSON: What is the statute of limitations for the violation we were just talking about?

MS. SHAFER: I don't think there is a statute of limitations?

MR. HARVEY: Not in administrative hearings, Mr. Willard, is that correct?

MR. WILLARD: There are no reported appellate cases on that issue, although the Supreme Court just accepted cert in an ethics case on that issue.

MR. SIMPSON: What is the position of the parties in that case?

MR. WILLARD: The appellants are taking the issue that there is a statute of limitation. We've won at this point arguing that there is not.

MR. SIMPSON: And what are they saying the statute of limitations is?

MR. WILLARD: I think they're arguing in that case that it's either the misdemeanor or the felony, depending on the particular violation. I think they've got a misdemeanor provision that's predominantly in the ethics code. And so it would attach to the underlying criminal violation that the administrative body is proceeding on.

MR. SIMPSON: That would be a misdemeanor, two or four years?

MR. WILLARD: In that case, I think you're talking about a two-year statute.

MR. SIMPSON: Two years. Okay.

MR. WILLARD: But, I mean, you do -- we don't have as big an issue -- I mean, we've had cases, and you will have them on the agenda when you're talking about the Attorney General's report, where we're going back, in some instances, 15-plus years. In this instance, you're just talking about five years. But if the Supreme Court does come out with a bright and hard line, these kind of case are going to have to either be moved much more quickly through the system, or we're going to lose the ability to bring enforcement actions.

MR. SIMPSON: Thank you.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: I'm willing to entertain a motion.

MR. McIVER: I move we dismiss this case, primarily for the reasons cited by Judge Simpson. But, moreover, it appears that we really don't have the right people in the room. I am not persuaded that full responsibility of this falls on the shoulders of Judge Rice.

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 taken)

SECRETARY KEMP: All opposed, same sign.

MR. WORLEY: No.

SECRETARY KEMP: No.

That motion carries three to two and that case has been dismissed.

Mr. Harvey, we will move on to 2010, number 93, the Liberty County case.

MR. HARVEY: I have a letter that was sent to the Board through counsel for Liberty County for the Board to accept. The attorney is here and he may wish to speak himself.

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

MR. SIMPSON: So moved.

MR. WORLEY: 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. Go ahead, Mr. Harvey.

MR. HARVEY: This case involved the November, 2010, election in Liberty County. There were two complaints.

The first complaint was from a voter who received an absentee ballot even though she didn't request an absentee ballot. When she looked at the application, it was filled out properly. However, it was not her signature; she did not request it. There was, frankly, no evidence to go on to determine who may have requested for her. And so there is no finding of any respondent responsible for that.

There were also allegations that absentee ballots were being manipulated through various post office boxes. What we found was that there were 46 absentee ballots that were sent to a total of five PO boxes. The five PO boxes were in Liberty County, and they were all associated with a church in Liberty County. The voters who requested the absentee ballots were registered at a different address in Liberty County, and, therefore were not eligible to have their ballot sent to a different address in the county unless they were disabled, and that was not the case.

There was no evidence of any type of manipulation by the church members. However, the church members generally did not cooperate with the investigation and did not answer questions about why they were sending their ballots to these post office boxes.

The Liberty County elections office acknowledged sending them to the in-county addresses and they believed -- they just mistakenly believed they were not to do so under the code.

At this point I would recommend that this case be bound over to the AG's office for a consent order on Liberty County, and I believe the attorney is here to speak to the case.

SECRETARY KEMP: Can you just go over -- never mind. Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MR. DAVIS: Kelly Davis, county attorney for Liberty County, Georgia; Jones Osteen & Jones, 206 East Court Street, Hinesville, Georgia 31313. I'll be happy to answer any questions you have.

I think we set forth in our position statement, the board, after conducting its own review, agrees that departures from recommended practice did take place, but they were completely unintentional. I think the understanding of our absentee ballot staff was that once they received an absentee ballot which specified a different mailing address, so long as the other information conformed to the voter registration records, including signature, that constituted a request for a change in the permanent mailing address. So those absentee ballots were mailed to addresses which weren't at the time listed as their permanent mailing address. After our review, we identified at least 27 absentee ballots that were sent ballots to addresses other than those specifically listed as their permanent mailing address.

It was entirely unintentional was our staff's position, that was the legitimate request by the elector to have his permanent mailing address changed. But, nonetheless, those ballots were sent to the address other than listed as the permanent mailing address in that application. Again, it was purely unintentional and no one had any intent to depart from State practice or recommended practice. And it did not result in any adverse consequences in the election that is in question, particularly the special election of Liberty County Sherriff held in conjunction with the 2010 general election.

So since that time, we've identified and implemented remedial measures to ensure this never happens again to include instructing our staff to restrict the name on absentee ballots to only those addresses shown as the permanent mailing address in the records at the time the application is received. We are additionally scheduling additional training and instruction to our staff regarding absentee ballot processing, as well as educational programs for the candidates and other concerned groups and citizens to ensure they understand the importance of having a current and updated permanent mailing address on file with the voter registration office so that these mistakes don't occur in the future.

SECRETARY KEMP: Any questions for Mr. Davis? Mr. McIver?

MR. McIVER: What would you recommend we do here, Mr. Davis?

MR. DAVIS: I would hopefully recommend that you endorse the actions proposed by the Liberty County Board of Registration and Elections with respect to remedial (unintelligible) addressed. I think it was an isolated incident. I has not occurred in subsequent elections and we don't anticipate it occurring in future elections.

So my recommendation would be, if not [sic], a letter of instruction to ensure those remedial actions are carried forward and implemented.

MR. McIVER: Thank you. No other questions.

SECRETARY KEMP: Any other questions for Mr. Davis?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anyone else wishing to speak in regards to this case?

(Whereupon, there was no response)

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

MR. McIVER: I move we have a letter of instruction prepared much like described by Mr. Davis which confirms the actions of the county in this instance. And that the matter, otherwise, be closed.

SECRETARY KEMP: All right. We've got a motion by Mr. McIver. Do we have a second?

MR. SIMPSON: Second.

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

MR. WORLEY: I'd be more comfortable if we voted to send this to the Attorney General for the negotiation of the consent order that has the remedial instructions in place. So I'll vote against it.

SECRETARY KEMP: Any other discussion?

MS. SULLIVAN: I concur with Mr. Worley. I appreciate and applaud the efforts that Liberty County has taken to address this. But I would like a formal agreement where those remedial measures are spelled out and formally agreed to.

SECRETARY KEMP: Mr. McIver, you got any other thoughts?

MR. McIVER: I want my motion voted on.

SECRETARY KEMP: All right. We're ready to vote if there is no other discussion. All in favor, signify by saying "Aye."

(Whereupon, the vote was taken)

SECRETARY KEMP: All opposed, same sign.

MR. WORLEY: No.

MS. SULLIVAN: No.

SECRETARY KEMP: No.

That motion fails. Do we have another motion?

MS. SULLIVAN: Motion to refer this to the Attorney General's office for a consent order.

MR. WORLEY: Second.

SECRETARY KEMP: We have a motion and a second to send to the Attorney General's office. I certainly think that even though the Board is split on this, I think we all agree we appreciate the county taking ownership of this and coming up with a plan. And I'm certain that if this motion passes that Mr. Willard can work out an agreement with the county and we can move on. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was taken)

SECRETARY KEMP: All opposed, same sign.

MR. McIVER: No.

MR. SIMPSON: No.

SECRETARY KEMP: That motion carries three to two and we have referred to the Attorney General's office.

Now we're on to 2010, number 111, Screven County case.

MR. HARVEY: This case involved November, 2010, election. There were a number of allegations made by the complainant. He believed that provisional ballots were accepted after the deadline; he believes that provisional ballots were not properly documented; he believes that the DRE's were not functioning properly at all the precincts; and that precincts ran out of provisional ballots.

What we found through the course of the investigation is that the DRE problems at the polls resulted from creation of a dual ballot list. There had been a problem with the ballot and after, I believe, the first day of advance voting, Screven County corrected the ballot and KSU had to provide a dual database for them. And as members of the Board know, almost as soon as you create a dual database, you might as well take an Election Board investigation number because there are going to be problems.

They were able to largely get the polls working. One of the problems was that when they -- they didn't do logic and accuracy testing on the machines after the new database was created. They had memory cards that needed to be in certain machines at certain precincts, and there ended up being different memory cards in the machines.

There was an allegation that precincts were left open longer, which was unsustainable.

The other allegation was that a voter -- a candidate withdrew from the election and posting at the precincts the candidate had withdrawn didn't conform to the required code. The posting noting the candidate had withdrawn simply said the candidate was "bowing out of the race." It didn't

say anything about votes for that candidate not being counted. So that was insufficient for the code to post.

They did have problems with DRE's. They were largely able to get them fixed.

The allegation that they didn't have enough provisional ballots at the precinct was found not to be true. There ended up only being four provisional ballots voted. Three of were accepted. One of them was not because the person didn't return to show ID.

Now, the violation for the improper posting of the withdrawal, I believe, is not on the summary. But I believe it should be added. It's 21-2-134(d)(3).

I recommend this case being bound over to the Attorney General's office on failure to conduct logic and accuracy testing; failure to post proper notice. And those are the issues. The other stuff was unsubstantiated.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

JUDGE DEBBIE BROWN: I am Judge Debbie Brown, and I am the Probate Judge and also the superintendent of elections. My address is 216 Mims Road, Savannah, Georgia 30467. I'm here to answer any questions you might have regarding this matter.

SECRETARY KEMP: Any questions for the Judge? Thank you for being here this morning.

(Whereupon, there was no response)

SECRETARY KEMP: Do you dispute anything Mr. Harvey is saying happened in the investigation?

JUDGE DEBBIE BROWN: Actually, we received -- when we noticed that we had one of the names missing, one of the candidates' names was missing, we immediately contacted KSU and they sent us another database. So we were actually operating under two databases. And once we realized that -- what we did, we corrected that and then we thought everything was okay. Early voting went okay; there was no problem.

Then election morning, when we went to actually open up the machines, it actually wasn't. So we had to get one of the voting machines and create the cards. Once we did that, we had it up and going with no problem.

SECRETARY KEMP: Any other questions for Judge Brown?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here this morning. Anyone else wishing to speak?

MS. RHODES: My name is Ella Rhodes and I have the same address. The only thing I have to add to that, they made contact with KSU and asked about that database, about the one precinct being corrected. They said that it was fine. So the only thing that was corrected was that one precinct thinking that everything else was fine.

It wasn't until the actual precincts were open that we found out that now only that one precinct was working with that database at that time and the rest of them were not. One of the DRE units -- touch screen units -- was used immediately to use as a card printer and everything went fine that day.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

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

MS. GLISSON: I'm Dorothy Glisson, the chief registrar. Did I understand you to say --

SECRETARY KEMP: You'll have to speak louder and slower where she can get your name and address.

MS. GLISSON: I'm Dorothy Glisson, 216 Mims Road, Savannah, Georgia, the chief registrar.

Did I understand that you said that posting of the candidate's withdrawal notice was not --

MR. HARVEY: It was insufficient.

MS. GLISSON: Right; okay. Because it was posted, and I just wanted to make sure that I understood that was part of --

MR. HARVEY: There was a posting. However, I don't think what was posted conformed with what the law requires of the posting, to simply say the candidate is bowing out of the race with no mention of votes cast for the candidate shall not be counted.

MS. GLISSON: It was posted. You did the wording on it.

JUDGE DEBBIE BROWN: Yes.

MS. GLISSON: And we showed it to the investigator, right?

JUDGE DEBBIE BROWN: Right.

MR. HARVEY: We have a copy of it, but I think that could be something that AG's office could look at.

SECRETARY KEMP: Any questions for Ms. Glisson?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, any additional discussion with the Board? Do we have a motion?

I would move that we bind over to the AG's office and let Mr. Willard work with making sure the county understands the violations here and works with them to make sure we get an understanding that this has been corrected and won't happen again. As much as I like seeing you fine folks here this morning, we'd rather you not have to make the trip to Atlanta for this reason.

So I would make that motion.

MR. WORLEY: I will second that.

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

MR. McIVER: I intend to vote with for this motion just because it would be consistent with our earlier decision in our previous case. I'm not sure that we should be burdening the Law Department with cases like this, but that seems to be our direction. And therefore, to be consistent, I'll vote for it.

SECRETARY KEMP: Very good point. 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 move to 2011, number 58, the DeKalb County Ware case.

MR. HARVEY: This case involves a gentleman who qualified to run for a city council seat in the City of Lithonia and he provided false information on his candidacy affidavit regarding his residence. He did not live where he said he did.

I've spoken to the respondent, Mr. Ware, who I believe is present today. Mr. Ware called and expressed his remorse to me for having done it. He apologized, and I believe he wants to address the Board with similar concerns.

I recommend this case be bound over given the seriousness of the false information the candidacy affidavit. But I believe Mr. Ware wants to speak.

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

MR. McIVER: Did Mr. Ware admit that he had given false information on his candidacy affidavit?

MR. HARVEY: Only after receiving notice of the hearing today. Initially, I believe -- let me check. Apparently, when the investigator spoke to Mr. Ware, according to Investigator Hall, he said during the telephone conversation, Mr. Ware starting yelling at the investigator and on several occasions told the investigator to shut up. He went on to threaten to have the investigator's job and stated he refused to make a statement that would incriminate him. Mr. Ware advised he was going to contact a civil rights attorney to rectify the situation. So I think that qualifies as a no.

MR. McIVER: That was certainly my reading of the document. I somewhere got the impression that he had made an admission. So your recommendation --

MR. HARVEY: He made the admission after-the-fact once he got notice of the hearing. My recommendation is to be bound over to AG's office.

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

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Ware, would you like to address us?

MR. WARE: Yes, I would. My name is Leonard Neal Ware. My address is 1055 Castle Point Lane, Grayson, Georgia 30017. And this is my mother, Betty Ware.

I just come to apologize to the Secretary of State's office investigator -- I wish Mr. Hall was here.

MR. HARVEY: He's in the back of the room.

MR. WARE: Mr. Hall, I apologize you for my emotional response. It was really done out of ignorance; caught by surprise. I have an emotional attachment to the property. This is the home where my mother was raised and my parents were married and always spent so much time there. And I helped to pay the property taxes there and cut the grass there. It's very important to her, the home, and I was wrong for the way I spoke with you, and I apologize.

I come to, you know, to admit that I was wrong in filling out the form for qualifying for a candidate and my voter registration form. I take responsibility for my actions. If I had to do this

again, to register, vote, or to qualify for candidate, I would not do what I did. I was trying to -- I was going through difficult time. Under no circumstances going forward will I ever do what I have done. I'm very sorry for making the statements I wrote on the two forms. I did talk to Mr. Harvey, chief investigator, and I did express my remorse for what I did.

I did not calculate the consequences fully of the law, and I did not realize some of the intricate details of residency. I should have done that.

As for -- I never really understood that I qualified. When Ms. Daniels, the director of voter registration, sent me the letter, I understood it to say that I needed to show up at a meeting to see if my candidacy would be contested. And when I read that, I really reasoned in my mind I should not be a candidate. And the letter, I understood, said if I do not show up then I would be removed from consideration as being a candidate on the ballot. That's the reason I did not show up to self-eliminate myself as a candidate. I thought that would be the end of it.

Once again, I believed -- my misjudgment was based upon the fact that I spent -- I was trying to move back into the property, you know, and I realized I'd been in and out of town for that one year; I didn't even qualify for the one year. So I thought it was best that by not showing up, I would not be on the ballot and I would not be in the election and would not tamper with the special election of Lithonia.

I exercised bad judgment and that is the reason for not appearing. My intent was not to cause any fraud for Lithonia. I love Lithonia. Lithonia is where my ancestors are from, and I wanted to help Lithonia, not hurt Lithonia. I apologize to the Secretary of State's investigator and I apologize to Ms. Daniels, the director of registration for my emotional (unintelligible).

I believe in the right to vote and I do believe in everyone having civil rights. In my defense, I did not vote in the special election. I chose not to vote in the general election. I was encouraged by Ms. Daniels, she said, go ahead; you can vote; you can vote. But I chose because of the confusion, because I didn't want to tamper with that election or vote -- do or violate the laws, election laws, I just took away my own right to vote and did not vote the general election.

I come admitting my statement was wrong. I had the wrong attitude, the wrong behaviors, was not in good character. As a Christian, it was just wrong. To show my repentance by my deeds, I have filled out a voter registration form showing my correct and current address ,1055 Castle Point Lane, Grayson, Georgia 30017. And the change of address part, I filled that out changing it from 6984 Braswell Street to the address I just stated. I will fill out a change of address for my ID and my license, and all of that.

This is my mother, Betty Ware. She owns the property. (Unintelligible) my misjudgment and we were trying to move back into the house. The house, before and after Ms. Daniels did her investigation, was broken into. I boarded up the windows of the property.

Mama, do you want to say anything?

MS. WARE: I just want to say that --

SECRETARY KEMP: Ms. Ware, if you don't mind, if you will just give us your full name and address for the record.

MS. WARE: My name is Betty Ware, and my address is 1055 Castle Point Lane in Grayson, Georgia.

The hose in Lithonia that he was supposed to be staying in, I wanted him to stay there because it was a family house and I thought if he stayed there he could keep the house going, and so forth, mowing the lawn and taking care of the house, period, because it's a large lot and everything was growing up.

So after he moved out, the house was broken into twice. They stole the air conditioning and they took furniture out of the house, and everything. So the reason I had wanted him to stay there, my sister had been living there and they took her and they carried her to a nursing home. And all of her furniture was there and she had very nice furniture and they took some of that. And they also took the air conditioner and they carried some of her jewelry away, and everything. So after that, I just told him to come on and stay with me since they said he wasn't supposed to be there.

So that's all I have to say.

SECRETARY KEMP: Thank you very much for being here, both of you. Any questions for Mr. or Ms. where?

(Whereupon, there was no response)

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

MR. WILLARD: Mr. Chairman, may I ask a couple of questions?

SECRETARY KEMP: Yes.

MR. WILLARD: Have you ever resided at the Braswell Street location?

MR. WARE: When I first came to Georgia, I resided there. My license, my first license was from there. That address was my mailing address. Yes. But after my aunt moved out, went to the nursing home, I was trying to -- well, around the 2010 time, I was trying to move back in. But just real early on in 1994, '95.

MR. WILLARD: So '94, '95 was the last time you actually lived at that address?

MR. WARE: It was kind of in and out. I'm a minister and I've been trying to find -- so it was a few years early on into my . . . into my . . . A few years early on.

MR. WILLARD: When you moved out, where did you move to after you moved out of that location?

MR. WARE: I moved to Panola Mill Drive in Lithonia where my mother stays. And from there I went to school after a few years living with my mother.

MR. WILLARD: Okay.

SECRETARY KEMP: Any other questions for Mr. Ware?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you, Mr. Ware.

MS. WARE: I sold the house he was living in in Lithonia at Panola Road. And that's when I moved to Gwinnett County where I'm living now, and he moved out there with me. So we don't live there. Nobody lives in the house now. But we go back there now to cut the lawn and try to keep the place going.

SECRETARY KEMP: Thank you, very much. Anyone else wishing to speak on this matter?

MR. HARVEY: Mr. Secretary, just for the record, Mr. Ware registered to vote in Tennessee in 2011. So that was his voter registration in 2011. So at some time you lived in Tennessee?

MR. WARE: I tried to contact my friend. I was trying to get a position, a job, in Memphis, Tennessee. And the owner of that property was trying to rent it to me. But the former tenant had an excessive electric bill, therefore, making it -- I could not move in there. Once again, I did not calculate -- I believed I was going to get the job; I knew I was going to have a place to stay. But when I didn't, I came back to Georgia.

SECRETARY KEMP: All right. Thank you. Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Any discussion on the Board or a motion?

MS. SULLIVAN: I move that we bind this over to the Attorney General's office.

MR. McIVER: Second.

SECRETARY KEMP: **SECRETARY KEMP**: We have a motion to bind over and a second. I think I speak for the Board that we appreciate Mr. Ware coming and apologizing today, especially to our investigator. I know that elections are very emotional on all sides. We see that time and time again and try to wade through that to do what is right.

We've got 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.

SECRETARY KEMP: That motion carries. We have bound that over.

Mr. Harvey, we've got 2011, number -- we're going to move that Hancock case, right?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Next we'll have 2011, number 74, City of Eatonton.

MR. HARVEY: This involved the November, 2011, election in the City of Eatonton. There were four basic allegations made, one, that candidate's family members were assisting voters with their voting; second, that a poll worker removed something from the poll place on election day; that the election results were not posted at all precincts by poll workers; and there was a tent set up across from City Hall giving out free cell phones and had a sign for the current mayor. It was suspected that he was giving out cell phones in exchange for votes.

The investigation revealed that the mayor's wife, Ms. Janie Reid, did assist voters while her husband was on the ballot. She assisted seven voters with their ballots and she was not entitled to assist them.

The allegation documents removed from the precinct was unfounded.

The election results not being posted was unfounded.

And the phones that were being set up across from the polling place, there had previously been a sign for Candidate Reid, Mayor Reid, and this was the federal phone giveaway program set up across the street from that. There was no connection to the candidate with this phone giveaway.

So at the end of the day, the only sustained allegation was that Janie Reid illegally assisted seven voters as her husband was on the ballot.

Given the -- also, and I guess I should also point out that when Ms. Reid asked the elections superintendent if she could do it, they told her she could. The elections superintendent was just mistaken. She was focused on the number 10. She told her she couldn't do more than 10. But she didn't realize the code also prohibited family members from assisting.

Given that, now, we've got the -- I believe we've got the city and elections superintendent as respondents. I don't believe they are actual respondents. They gave her bad information, but they didn't do anything themselves.

So I recommend the city and Sarah Abrams be dropped or dismissed as respondents. And given the fact that Ms. Reid was given inaccurate information by the elections superintendent, I recommend a letter of instruction to her regarding illegally assisting voters.

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

MR. McIVER: Mr. Harvey, did the investigator reveal to you that Ms. Reid is a county commissioner in the County of Putnam?

MR. HARVEY: I don't know if that was -- I don't see that in the report. It may have been mentioned. I received a phone call earlier this week or last week and they mentioned that she was a county commissioner.

MR. McIVER: So is that something you want us to consider? She's a county commissioner, meaning she has stood for elective office and should have some familiarity with the code.

MR. HARVEY: I agree. That was not an intentional omission, but that is correct.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

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

MS. REID: Good morning. My name is Janie Reid. I reside at 103 Beech Avenue, Eatonton, Georgia 31024.

In looking at the paperwork and in discussing this particular issue with the investigator, it is exactly what the letter states in that I did assist. I assisted seven people with the election. I did this not knowingly -- not knowing I cannot. I asked the elections superintendent if I could assist and how many, and she told me I can assist up to 10 people. That was the end of the discussion. I think several times I had to ask that because -- not several times I had to ask, but several times other people asked her and she told them the same thing: she can assist up to 10 people. She knew who I was; she knew I was married to the mayor that is no secret. It's no secret I'm a county commissioner, either. When the investigator spoke to me, I revealed to him, I told him, which he probably already knew, that I was a county commissioner.

There was nobody, I don't believe, in Putnam County or Eatonton who wanted the mayor to win the election more than I did. Therefore, I would not have done anything that would jeopardize the election, which is why asked the superintendent could I do this. Had she told me no, that would have been the end of the story.

I did not know the law; I did not believe it was incumbent upon me to find the law given, that I had asked the person who I felt should have known the answers.

I am deeply sorry and I regret it. It will not happen again because I do have the law with me and I keep it with me at all times.

In reference to Mr. McIver's question whether or not it was revealed I was a commissioner, and therefore should have known a little bit about the law, I think is what you're saying, I've even asked in the county election can I assist and they would tell me 10 people. So, no. No one never said that I couldn't or they had to be related to me. No one ever told me that.

SECRETARY KEMP: Any questions for Commissioner Reid? Mr. McIver?

MR. McIVER: Thank you, Commissioner Reid. My question really goes to how many times have you stood for election in any capacity?

MS. REID: I ran for clerk of court; I ran for magistrate; and I ran and won the Putnam County commissioner election for district commissioner three different times. No one, sir, has ever told me I could not assist. And I'm sorry. I mean, I didn't do this intentionally. I did not.

MR. McIVER: That's five election cycles?

MS. REID: Yes, sir.

MR. McIVER: All right. Anything else you would want us to consider?

MS. REID: Considering the fact that I didn't do this intentionally, that I asked and I was given permission and advised, I was told I could do it. The elections superintendent didn't say let's look at the law. She said you can do it. If I have looked at the law, then I wouldn't. But I didn't feel -- I didn't believe it was incumbent upon me to research the law because I went to the person who, in my opinion, should have known the law. She advised everyone else, you know. Why not advise me?

My husband is mayor. I wanted him to win. But I was not going to jeopardize this election in any form or fashion willingly. No way.

MR. McIVER: No other questions.

SECRETARY KEMP: Any other questions for Commissioner Reid?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you.

MR. HARVEY: Mr. Secretary, also, I should have presented this at the beginning. An attorney for Ms. Reid sent a proposed consent order for the Board to consider. I said I would present it to the Board for consideration.

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

MR. SIMPSON: So moved.

MR. WORLEY: Second.

SECRETARY KEMP: We have a motion and a second to accept the proposed 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: Motion carries. What's in the consent?

MR. HARVEY: Essentially, it's what Ms. Reid said. Ms. Reid said that she didn't realize it was wrong; she didn't do it intentionally. There is no sanction in the proposed consent order. I told the attorney that I would present it to the Board, but I didn't know what the Board's position would be.

MS. REID: Mr. Kemp, may I address Item 3 in that consent order now that it's been presented?

SECRETARY KEMP: Sure.

MS. REID: I agree State's respondent has admitted that she misunderstood the law and thought that she could assist up to 10 electors during the municipal election, and that she did not realize she was restricted to only assisting voters to whom she was related. That should read, as I said, that respondent admitted -- and I do admit. But I was told and given permission by the elections superintendent to assist. Not that I misunderstood the law.

SECRETARY KEMP: Thank you.

MR. WILLARD: Mr. Chairman, before we go on, a point of clarification for something that Mr. McIver said. The five election cycles Ms. Reid had previously participated in were all even-numbered year elections, at which point you're going to have a federal candidate on the ballot. So that would fall under (b)(1) and not (b)(2). So a different set of rules actually govern those elections as opposed to this odd-numbered year municipal election cycle.

SECRETARY KEMP: Thank you, Mr. Willard. Anyone else wishing to speak?

MS. ABRAMS: Good morning, Board. My name is Sarah Abrams. I live at 117 Sherwood Avenue in Eatonton, Georgia.

I come before the Board because I did study the law and when Investigator Glen Archie came to my office and I showed him all the paperwork we had, and I was -- we did to 10; that's what my paperwork, the old paperwork said you are able to assist up to 10, any elector, in the polling place that need assistance. And we allowed them to assist up to 10. And then he pointed out the further part in the law where it says if you is [sic] a candidate on the ballot, you can only assist a family member.

What we are planning to do in the City of Eatonton is train our poll workers and my poll managers, as well as myself, and post something in the polling place to remind us to ask an elector when they are asking for assistance, you know, if they are related in any way to anyone that they are assisting to make sure that we are following the law completely.

I ask your forgiveness for my misunderstanding of the law. Thank you.

SECRETARY KEMP: We appreciate you coming this morning. I think that helps us to clear up what happened here. Any questions for Ms. Abrams?

(Whereupon, there was no response)

SECRETARY KEMP: Did you have something else, Commissioner Reid?

MS. REID: Yes, sir. Mr. Kemp, I want to really and truly say that I am humbly sorry that this happened. I did not do it intentionally and it won't happen again.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Any other discussion or motion from the Board?

MR. McIVER: Is Mayor Reid in the audience?

MR. REID: Yes.

MR. McIVER: I thought we should at least acknowledge his presence.

SECRETARY KEMP: Good to have you with us, Mayor.

MR. REID: Thank you.

MR. SIMPSON: I move we bind the case against Ms. Reid over to the Attorney General and reject this consent order.

SECRETARY KEMP: Do we have a second?

(Whereupon, there was no response)

SECRETARY KEMP: That motion dies for lack of a second.

Do we have another motion?

MR. WORLEY: I would move we bind the case over to the Attorney General's office for negotiation of a consent order.

SECRETARY KEMP: Perhaps I moved too quickly on your motion, Mr. Simpson. I've got a motion from Mr. Worley to bind over. Do we have a second?

MR. SIMPSON: Second.

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

MR. WORLEY: Well, to distinguish my motion from Simpson's motion, I don't have any problem with a consent order along the lines the one the respondent has suggested.

MR. SIMPSON: Mr. Chairman, I don't believe we can place requirements on the Attorney General once we bind it over. Our job is to find probable cause. We find probable cause to go the Attorney General. Now, we can recommend or suggest something, but we can't refer it for the purpose of arriving at a consent order. I think that is an improper motion.

MR. WORLEY: Well, I mean, I don't agree. We do it all the time.

MR. SIMPSON: I don't think we do it in those terms. I think what we do is do it in terms of recommending to the Attorney General that they consider that. But I don't think we can tell the Attorney General what to do except to bind it over.

MR. WORLEY: Well, your motion was to send it to the Attorney General and tell him not to enter this consent order.

MR. SIMPSON: No. I moved to reject the consent order in front of us today.

MR. WORLEY: Right. So how can we tell him what consent order to take and not take?

(Overtalk)

SECRETARY KEMP: Let's move on here. Mr. Worley, can you restate your motion?

MR. WORLEY: I would move we bind the case over to the Attorney General's office and recommend the Attorney General Greg consider the entry of the consent order.

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

(Whereupon, there was no response)

SECRETARY KEMP: I will second. Any other discussion? Yes, Ms. Sullivan?

MS. SULLIVAN: Mr. Chairman, I have a question regarding -- is this motion just dealing with the respondent, Ms. Reid, or are we going to do a separate motion with regard to Superintendent Abrams?

SECRETARY KEMP: I don't think we have --

MS. SULLIVAN: She is listed as a respondent and the city.

SECRETARY KEMP: It was recommended by Mr. Harvey not to move forward with the city, but I think we can certainly consider that.

Mr. Worley, your motion is only dealing with Commissioner Reid, correct?

MR. WORLEY: Yes. Only Ms. Reid.

SECRETARY KEMP: All right. Mr. Mr. McIver?

MR. McIVER: Thank you , sir. I am not going to vote for this motion because it is my belief that Ms. Reid spoke to a figure of authority, received advice, acted on that advice. And as one who treasures those in authority (unintelligible) good advice, I think she's done the right thing.

My motion, if I ever get the chance to make one, will be a letter of instruction entered against Ms. Sarah Abrams and Ms. Reid simply, as we do with all our other letters of instruction, advising them that it is their responsibility to know and understand the code and that they commit to doing so going forward.

MR. WORLEY: Mr. Secretary, I'll withdraw my motion.

SECRETARY KEMP: Now we're getting somewhere. Your motion, Mr. McIver?

MR. McIVER: I move that a letter of instruction be crafted and directed to Ms. Reid and Ms. Abrams advising them of their responsibility to be knowledgeable of the code and hopefully committing not have any other violations in the future.

MR. WORLEY: I'll second that.

SECRETARY KEMP: Ms. Sullivan, you all right?

MS. SULLIVAN: Yes, sir.

SECRETARY KEMP: Just want to make sure everyone's had their time here. Good discussion.

All right. We've got a motion and a second to do letters of instruction to Commissioner Reid and to Ms. Abrams; is that correct?

MR. McIVER: That's correct.

SECRETARY KEMP: Any other discussion?

MR. SIMPSON: I would say I will vote against this motion because I think when a candidate qualifies to run for public office, particularly a candidate with this history of having run five times, it's incumbent on that candidate to understand and know what the requirements are under the election code. And I think by this motion we would be sending a message that the candidate can take advice from anybody, and if it's wrong, it's wrong and they don't have to suffer the consequences. I think it is particularly important, to ensure the integrity of elections, that the candidates, themselves, be at the forefront of making sure that the election procedures and election laws are carried out.

So I oppose this motion.

SECRETARY KEMP: Thank you, Mr. Simpson. Anyone else or discussion from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, all in favor of the motion for two letters of instruction, signify by saying "Aye."

(Whereupon, the vote was taken)

SECRETARY KEMP: All opposed, same sign.

MR. SIMPSON: No.

SECRETARY KEMP: That motion carries four to one.

Mr. Harvey, we're on to the City of Brunswick, 2011, number 105.

MR. HARVEY: Yes, sir. This case involved a runoff election. The original complainant was Ms. Cindy Johnson, who is the elections superintendent. She received three absentee ballot envelopes that were signed as assisting by one of the candidates that didn't note any relation to the person being assisted. She contacted our office and we opened an investigation.

And, I guess before I say anything else, the first respondent name, Jonathan Williams, is deceased. So he, certainly, is out of the picture. So Jonathan Williams is deceased.

We found that he did, in fact, assist three voters while he was a candidate on the ballot. We also found that three other individuals possessed and illegally assisted voters. Betty McKenzie assisted and possessed 11 absentee ballots; Bernice Singleton possessed 10 absentee ballots; Pamela Page assisted and possessed 11 ballots.

As far as the Board of Elections rejecting the ballot, I believe the board did not have authority to reject the ballot because -- the ballots where the commissioner candidate had assisted, simply because there was no relationship listed between the assister and voter. Otherwise the ballot envelope was complete, and I believe that is not a legal reason for rejecting the ballot.

So at the end of the day, I would recommend Ms. McKenzie, Ms. Singleton, and Ms. Page be bound over to the AG's office for the illegal assistance and possession of ballots. And I believe the Board of Elections could benefit from a letter of instruction regarding the proper legal reasons for rejecting absentee ballots.

I do have three statements that were presented by the three respondents apologizing. In each case, they apologize and said they didn't know that they were -- they could not assist people and take possession of the ballots. So I'll present those to the Board if you'd like to see them.

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

MS. SULLIVAN: 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.

Before we get to the questions for Mr. Harvey, we'd like to welcome back Ann Brumbaugh to the State Election Board meeting, our former counsel with the AG's office. We appreciate Ann's work over the years with this board and the work she's doing now helping us with the work on the elections code. So it's great to have Ann back with us.

All right. Any questions for Mr. Harvey?

(Whereupon, there was no response).

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

MS. CRUTHIRDS: Members of the Board, my name is Melissa Cruthirds, C-R-U-T-H-I-R-D-S. I am with the Williams Litigation Firm at 1709 Reynolds Street, Brunswick, Georgia 31520. I am here to represent the respondent, Cynthia Johnson. I do have handouts that I wish to present.

SECRETARY KEMP: We have a motion to accept?

MR. WORLEY: So moved.

SECRETARY KEMP: I'll second. We have 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: That motion carries. We have accepted the documents. Go right ahead.

MS. CRUTHIRDS: Thank you. We are requesting dismissal of this complaint against Ms. Johnson. As you know, Mr. Williams was the assister in these three ballots. He did not write his relationship to the elector on his oath. O.C.G.A. 21-2-385 requires the assister to sign an oath, and that oath is in 384(c)(1). And that oath requires the assister to state his relationship to the elector. Mr. Williams did not state his relationship to the elector.

21-2-386(a)(1)(C), which this board contends Ms. Johnson violated, requires a ballot to be rejected if the elector fails to furnish required information. In these three ballots the elector failed to furnish required information of the relationship of the assister. Therefore, we believe these ballots were properly rejected.

Furthermore, in the summer of 2011, Ms. Johnson -- Ms. Johnson and staff attended training by the Secretary of State's office. That is the first page of your handout. In this training, the staff was taught that a valid reason to reject a ballot was because the assister did not identify his relationship to the elector. The top part, if you press the R on the -- to reject a ballot, that second screen pops up. Number 7 states that the person assisting voter did not state relationship as a reason to reject the ballot.

The second page of your handout is a computer printout of the screen on, I think, November 30 of that year, again, showing reason Number 7 as a reason to reject the ballot.

Furthermore, Ms. Johnson called the elections division and spoke with Erica Hamilton to inquire about the proper act to take on these ballots. She was informed that her board needed to consult the election code and make that determination for themselves. She did. That is the determination that the board made.

For all these reasons, the ballots were properly rejected.

SECRETARY KEMP: Any questions?

(Whereupon, there was no response).

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

MS. JOHNSON: Good morning, members of the Board. Cindy Johnson, elections supervisor, Glynn County Board of Elections. We conduct the elections for the City of Brunswick. The address is 1815 Gloucester Street in Brunswick, Georgia.

I just wanted to say the actions that we took in rejecting those ballots, we felt that was done in good faith. He was a candidate on the ballot. It didn't seem proper that he could assist when he was a candidate. And because this was listed as a reason under the absentee subsystem, we didn't realize there could be any conflict between these reasons listed and the code, itself.

But as soon as we became aware that this was considered improper through our conversations with the investigator, we did change our procedures. I know that they changed the reasons in the spring of 2012. The elections division staff said we have gotten rid of a lot the reasons. So they did make a change 2012. But this actually, of course, was November of 2011, and we did feel we were allowed to reject the ballot for this reason.

But we are definitely aware of the procedures, the correct procedures now.

SECRETARY KEMP: Any questions for Ms. Johnson?

(Whereupon, there was no response)

MS. CRUTHIRDS: If we did anything wrong, we do apologize and we request a letter of instruction. But we do believe that the facts warrant a dismissal.

SECRETARY KEMP: Anyone else wishing to speak on this case? Any other respondents here?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, the letter you would suggest for the county, why was that, again?

MR. HARVEY: I think the rationale that Ms. Johnson spoke about, it didn't seem right to accept a ballot where a candidate was assisting. Mr. Williams was wrong in doing that. I believe Mr. Williams was also the respondent in the illegal assisting. He is the one who didn't provide the information on the oath. I don't think that goes back to the voter. I don't think the voter gets penalized because the assister failed to put information on the absentee ballot envelope.

So I would recommend a letter to the board be to just emphasize that fact and emphasize that there are only specific statutory reasons for rejecting absentee ballots. We had this come up, I think, last meeting where the idea that if an absentee ballot was improperly delivered, it should

be to rejected. And I think the Board took the position, rightly so, that you shouldn't penalize the voter for somebody else taking their ballot.

So that's why I recommend that they review, and possibly we enumerate to them, the actual legal reasons for rejecting absentee ballots. I certainly believe it was unintentional.

MS. SULLIVAN: I have a question for Mr. Harvey.

SECRETARY KEMP: Ms. Sullivan.

MS. SULLIVAN: Is this document that was provided to us, is this an accurate screenshot of the absentee ballot rejection reasons that was provided by the Secretary of State; one of the reasons that were offered during the training was assisting voter did not state relationship? Do we know if this is accurate?

MR. HARVEY: I'm not familiar with that system; I don't use the system. I don't know if there's anyone from the elections office that can verify. I would suspect it is, though.

MS. JOHNSON: May I answer that?

SECRETARY KEMP: Yes, Ms. Johnson.

MS. JOHNSON: If you see the date at the top of that screen is November 30, 2011. That was actually the date of our called meeting. And the time was 11:56 a.m. I took the screenshot and I printed it out. So that was done on the day of the called meeting that we held to consider what to do.

SECRETARY KEMP: I will just say for our office, I feel certain these documents are correct. I know Ms. Johnson and the Glynn County elections division down there. Great partner of ours. So I don't have any doubt about these documents.

What is the pleasure of the Board?

MR. McIVER: I move we vote to have a letter of instruction as defined by Mr. Harvey issued to their board.

SECRETARY KEMP: We've got a motion for a letter of instruction to the county by Mr. McIver. 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.

MR. WORLEY: No.

SECRETARY KEMP: That motion carries. We appreciate y'all being here today. It means a lot to us. Keep up the good work.

We now have -- of course, Mr. Williams is deceased. We have Betty McKenzie, Bernice Singleton, and Pamela Page who, Mr. Harvey, the violations were dealing with more than the 10 absentee ballots?

MR. HARVEY: No. They were illegally possessing and assisting absentee ballots.

SECRETARY KEMP: Do we have a motion?

MR. WORLEY: I make a motion we bind those respondents over to the Attorney General's office.

SECRETARY KEMP: Mr. Worley makes a motion we bind over those respondents. I'll second. 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. We have bound those folks over.

Mr. Harvey, can we get through this next case relatively quickly, you think?

MR. HARVEY: I believe so.

SECRETARY KEMP: All right. 2012, number 7, City of Braswell.

MR. HARVEY: This case involves -- the allegation was that Braswell was not opening precincts for early and advance voting for their March, 2012, municipal special election.

We did an investigation. We actually had a previous case in 2011 that dealt with a lot of these issues. So we have essentially combined the 2011-45 case with this 2012-7 case. It is a slightly complicated story.

The mayor and city council were appointing members to seats on the council without any real authority. Helen Waters, the city elections superintendent, was not properly trained and certified even though she signed a consent order in 2008 agreeing to attend all training and be properly certified. They didn't hold early voting in 2012 because Ms. Waters said she didn't get the ballots in time. When our investigators went out to Braswell during early voting, the city hall, which is their only polling place, was locked and the lights were off and there was a sample ballot taped to the door.

When they did hold the election, we had an investigator go out and monitor and we found a litany of violations regarding the precinct set-up; the different notices that have to be posted; getting ballots in time; not holding a municipal election in November of 2011; not holding early voting. Ms. Waters was not -- she didn't have a provisional ballot booth at the election and she didn't properly attend training and was not properly certified.

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

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MS. WATERS: My name is Helen Waters, City of Braswell. I live 1751 (Unintelligible) Road, Rockmart, 30153.

I agreed to do the training. I did the training on eLearn. I'm appreciative to Deidre Pope, (unintelligible), for helping. The voter training I was unable to attend at Kennesaw State University, and I did receive waiver from Linda Ford.

Some of the posters that were not posted on the wall were on the table.

Provisional ballot booth, I agree I didn't have a sign that said Provisional Ballot Booth.

But I'm here to say I'm sorry and I know it won't happen again. I retired from full-time job at the end of June. I firmly intend to retire from this as soon as possible. So I'll do whatever you want me to do because I got a great grandbaby coming.

SECRETARY KEMP: Any questions for Ms. Waters?

(Whereupon, there was no response)

MR. McIVER: Looks like she's standing in a hangman's noose. Relax.

SECRETARY KEMP: Any other -- anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Any other discussion or motion? We've got a recommendation to bind over, correct, Mr. Harvey?

MR. HARVEY: That's correct. It's a pretty dysfunctional municipal election system in Braswell.

MS. SULLIVAN: I move that we bind this over to the Attorney General's office.

MR. WORLEY: I'll second that motion.

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: That motion carries. Thank you for being here today, Ms. Waters.

Is the next one going to take us a little while?

MR. HARVEY: I don't believe so. It's a pretty simple point.

SECRETARY KEMP: All right. We call 2012, number 18, Fulton County PPP Clinic. Go right ahead, Mr. Harvey.

MR. HARVEY: This case involved the presidential preference primary in 2012. The issue is that one of the Fulton County polling precincts is also a community health center that closes at 5 p.m. The door is locked and the elevator to get the third floor where the polling place is requires a key card, swiped, to activate the elevator doors. And if there is not a security guard there, you can't get on the elevator.

We've got, I think, three complaints from voters who said that they would go by and it would appear that the poll was closed at 5 o'clock because the doors were closed.

We recommend -- I believe Fulton County is in violation of 21-2-74 and 21-2-266 in that they failed to provide the proper polling place and access to voters. I recommend the case be bound over.

I believe Mr. Walbert will speak.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Walbert?

MR. WALBERT: David Walbert, counsel for Fulton County respondent. Address is 26th Floor, 75 14th Street, Atlanta, Georgia 30309. I think the critical thing here is just to understand what the facts are in this because they aren't quite what Mr. Harvey has suggested, and I think he's going off of some other investigator, and so on.

This is a medical building; it's a three-story medical building. It was selected pursuant to the code giving authority to the county Board of Elections to select such. Because it is very well-located; it's got great foot traffic; it's got great parking; and it's a great location electronically, and in terms of systems, and so and so. It's an excellent location. And 266, which Mr. Harvey was citing to, is the responsibility to select sites.

Now, the building is owned and operated by a medical facility. And on the first floor, is intake, and so on. So there's a lot of people there. The second floor is the clinical area where people are actually seen by physicians, and so on, during regular hours. And the third floor is the corporate offices.

On the third floor, which is accessible by the elevator, that's where that polling place has always been located. This was not new in this election. You get off of the third floor elevator, and there's a big general purpose area room there. And that's the actual polling place, itself.

What really happens here is not that the security guard disappears or anything of that nature, which is sort of the insinuation. I don't think Mr. Harvey would say he's got any evidence of that. How it operates is this way. From 5 o'clock to 7 o'clock, a security guard is there and literally escorts the voters in the elevator upstairs to the third floor, not stopping at the second floor, which is the clinical offices, that are not then being used after 5 o'clock. And that security guard, who I interviewed yesterday, comes back down and, therefore, is gone for whatever amount of time it takes for an elevator to go two stories and return two stories. Because when she gets up to the third floor and lets people off, whether they are elderly or in a wheelchair and they might be a little slower, you're talking a matter of seconds. And the place they actually vote is directly across from the elevator doors when they open up on the third floor.

That security officer who is sensitive to not being away from 5 to 7, she told me she takes no breaks during that time. There wasn't a single instance when she was away from her post.

So let's pretend you didn't have a security guard there and you just took the elevator up. It's exactly the same situation. It takes the same amount of time. She is just escorting them up, comes right back down, and the voter who would come in and might not happen to see the elevator going up might, conceivably, end up waiting wait a minute; conceivably, two minutes.

There has not been an allegation that this actually ever confused anyone. As I understand it -- Mr. Harvey, correct me if I'm wrong -- the allegation was this was a possibility. Because until 10 o'clock at night, the first floor is still being used by the medical facility that operates and owns it. So there's people there and anybody that could conceivably be confused -- and there is a sign there that says voting on the third floor. There is someone there to ask how I get to the third floor, and the people there will say the elevator will be down in a minute. That's all there is to it.

So the real question here is, is there something in the code that makes it illegal to have an elevator access to a voting place? And there certainly isn't. Or is there something in the code that says waiting a minute, two minutes, conceivably, for an elevator to come and take you up to the polling place is somehow illegal? And I -- the section that is cited in the report and that Mr. Harvey cites here today doesn't making anything that occurs in these circumstances remotely illegal.

So I would respectfully suggest here that there are better and more perfect ways for polling places to be designed. But it is within the authority of the county to designate the best places that they can -- and that's even stronger than the language there -- but find places that work and that satisfy the code and then maintain them and open from 7 to 7. And that is exactly what happened in this situation.

So I think it's -- the place has been used for years and there's never been any suggestion that anybody actually came in there -- you would never come there and find it vacant without anybody there for a start. You've got the sign posted on where voting is. You come in and is there a possibility someone would come in, see the sign, hit the button, the door wouldn't open, and then they would be so mad they would run out without waiting a few minutes or without asking the surrounding people, how do we get to the third floor? I guess it's that conceivable possibility, theoretically, that is the underlying basis for this complaint.

I suggest, respectfully, to the Board that one can conjure up conceivable theoretical objections to everything in life. But as a practical matter, this is a very good polling place. It's very well-located; it's got great foot traffic in the area, so it's very convenient to voters. And it's got great parking, as well, and it would be a shame to lose, it but the reality is you get to the third floor by an elevator before 5 and after 5. And it's no slower after 5 than it is before. It's probably faster. You've got a security guard on there who's getting on; hits 3; goes up; everybody gets off; goes right back down. So, ironically, after 5, it's actually more accessible because before 5, someone could get off at two, which is not in operation after 5 o'clock.

So the rationale behind this complaint, I would respectfully say, is not one is founded in Georgia law. There's nothing in the code remotely that says this is not appropriate, that this is not proper. If it was to be banned that one cannot have elevators to polling places, that would take the legislature, it would seem to me, to do that. Certainly, the Board would have the authority to promulgate a rule (unintelligible), subjected to notice of hearing and all that. I don't think that's a rule the Board would probably want to adopt anyway.

SECRETARY KEMP: Any questions for Mr. Walbert?

MR. WILLARD: Mr. Chairman, I have one.

SECRETARY KEMP: Mr. Willard.

MR. WILLARD: Our investigative report says that Valencia Smith, who is the poll manager, was interviewed.

MR. WALBERT: Yes.

MR. WILLARD: She provided a written statement. And that indicates that not only is the elevator restricted access, but that access to the building is restricted after 5 p.m. Are you disputing the poll manager's assertion that access to the building is restricted after 5 p.m.?

SECRETARY KEMP: Repeat that for us, Mr. Willard.

MR. WILLARD: Our investigative report says that Valencia Smith, who is the poll manager at that precinct gave a written statement and she indicated that after 5 p.m., a security guard has to give you access to the building. Are you disputing that the door is locked and the security guard has to let you into the building?

MR. WALBERT: Absolutely disputing that. That's a misstatement by her. I talked to both the security guard yesterday and building manager yesterday who said they actually have people -- they have people coming in for their visits until 10 o'clock at night. So that is not correct. No; that is not correct.

SECRETARY KEMP: Any other questions? Mr. Simpson?

MR. SIMPSON: Is the claimant a voter in this precinct?

MR. HARVEY: Yes, sir. I can provide a little bit more information. I could read parts of the statement that would provide little bit more. But, yes, sir.

MR. SIMPSON: Did she allege that anyone was prevented access?

MR. HARVEY: She alleged that her son was -- well, let me read this.

(Reading) I encouraged one of my sons to go vote. I tried to call him on his cellular phone to tell him to ask the security guard to let him in up on the elevator when I realized he left his phone home. My son came back and said they're closed. I said the polls, they don't close until 7 p.m. I talked him into going back. We walked together. We looked for a security guard, and when we could not find one, we took the stairs in vain because we could not get out of the stairwell on the third or second floor because the doors to the stairwells were locked. Finally, we saw the female security guard and went up to the third floor. But then she had to swipe her card, and one lady was disabled. So even if we could use the stairs, she couldn't.

So her son would have been disenfranchised. He was under the impression --

MR. SIMPSON: But he was able to vote?

MR. HARVEY: Because she went back and found a security guard; yes, sir.

MR. SIMPSON: Because a security guard was available, like he said?

MR. HARVEY: When she found them.

MR. SIMPSON: Yeah.

MR. WALBERT: My understanding from talking to the security guard is she would have been on a trip up the elevator, gone 60 seconds, two minutes, maximum; something of that order.

I don't have -- I'd ask for the statement. All I had was the one from the poll manager. I didn't get the other one. I would like to interview that person and son, but I just didn't find anything, to see what exactly in terms of his -- maybe he's that one guy that just got frustrated and didn't ask anybody how to get up to the third floor. Don't know without talking to him.

MR. SIMPSON: What would you propose to solve this problem? What if the county elections board placed somebody there at 5 o'clock to make sure everybody got up immediately in addition to a security guard?

MR. WALBERT: Really, two security guards. I think that is implicitly done, but that can be done. Implicitly done, I'd say, because of the people that are there working already with regard to the medical company, which somebody asked. But they are not under our jurisdiction; they're not under our control. So, you know, we could spend the money to have a second person there -- two security guards, if you will -- and that way if somebody did have an emergency and had to go to the bathroom for two minutes -- I don't think the law requires it, but we would certainly be willing to do that.

MR. WORLEY: Wouldn't it be just as effective to have a sign there by the elevator that says the elevator will come in a few minutes; please wait?

MR. WALBERT: Right. The security guard will be here in a minute, if there is not someone there. I agree that would be more practical.

SECRETARY KEMP: Any other questions?

MS. SULLIVAN: Yes, Mr. Chairman. Is there any reason why you cannot leave the door to the third floor unlocked to the stairwell with a sign?

MR. WALBERT: I never heard about the stairwell being used before, frankly. That's news to me. The biggest problem is on the second floor you've got clinical offices and have HIPPA issues. You can't have people just generally having access. Whether the third floor would have some of that issue in it, too, I don't know the answer to that. But I have not -- I never heard of anyone using the stairwell before because elevator will be there within a minute.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, what's the pleasure?

MR. SIMPSON: I move we issue a letter of instruction to the Fulton County Elections Board to make sure there's access provided to that voting precinct, if it used in the future.

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

MS. SULLIVAN: Second.

SECRETARY KEMP: We have a motion and a second. Any other discussion by the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Walbert, did you have something else?

MR. WALBERT: The only question I have, and I think that's fine, would be I assume that letter of instruction, rather than being a generic "follow the law" because I think we are, would be more specific to make clear that the sign is such that that the security guard will be there. Is that the sense of your motion, sir?

MR. SIMPSON: I moved for a letter of instruction. I'm not going to write it.

SECRETARY KEMP: We will write a letter of instruction so will make sure were detailed in our efforts. Ahn is writing it as we speak.

We've got a motion and 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. Mr. Willard, do we need to go into executive session?

MR. WILLARD: Mr. Chairman, I think we have a very brief discussion about potential and pending litigation, and that's all I have for the executive session.

SECRETARY KEMP: We'll need to have a motion to break for lunch and move into executive session and then come back at 1:45.

MR. SIMPSON: So moved.

MR. WORLEY: Second.

SECRETARY KEMP: I'm sorry. We'll come back at 1:15; my apologies. We've got a motion. We have a motion and second to go into executive session to discuss pending litigation. 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.

(Whereupon, the proceedings were in recess)

SECRETARY KEMP: Welcome back, everybody. We want to go ahead and reconvene the -- there was a motion made and a vote taken at our executive session to move out of executive session and back into our regularly scheduled meeting. We're good with all that, right, Mr. Willard?

MR. WILLARD: Yes, sir.

SECRETARY KEMP: So we're ready to roll.

MR. WILLARD: Mr. Chairman, you actually do need to take a vote.

SECRETARY KEMP: I do? I thought y'all took a vote.

MR. WORLEY: We did.

MR. SIMPSON: We did.

MS. SULLIVAN: You stepped out.

SECRETARY KEMP: I need a motion to move out of executive session and reconvene our regularly scheduled September 24 State Election Board meeting.

MR. SIMPSON: 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. And now we can proceed, Mr. Harvey, 2012, number 18.

MR. HARVEY: This case is a little bit complicated. Board members, you'll note that I've given you a packet of five or six documents so that you can follow along. I'll do my best to summarize without making it too cumbersome.

In October of 2010, twin sisters, Jeanette and Janet Mihoci -- if they're here, I'm probably mispronouncing their last name -- moved their voter registration from DeKalb County to Gwinnett County via the Department of Driver Services. However, it was done after the deadline for registering for the November election. So on November 2, 2010, they returned to their DeKalb County polling place and voted, as they should have, one last election. After November 2, 2010, they both believed themselves to be registered in Fulton County.

And, Board members, what you have before you are the two voter certificates for Jeanette and Janet Mihoci on -- their first two documents are November 2, 2010.

In the March presidential preference primary of 2012, both sisters go to vote in Gwinnett County. One of the sisters is told that she is registered in DeKalb County. The other sister is allowed to vote in Gwinnett County.

When the sister that was not allowed to vote, Jeanette Mihoci, went to DeKalb County to find out why she was still registered to vote in DeKalb County, she got a copy of her voter registration application, which is the third page of the document, and she said, that is not my handwriting; that's not my signature; I didn't fill that out. You will notice the date on that voter registration application is November 2, 2010, the same day as the voter certificate. And you'll notice that the Flat Rock Drive address is their current address in Gwinnett County, which is what they used on their voter -- on their voter certificates, as they should have. Also notice there is no personal information: there is no drivers license information, there's no Social, there's no telephone number in that voter registration application. On the fourth page, there is almost the exact same document for Janet Mihoci.

So Ms. Mihoci reported to us that someone had forged her voter registration application and we started an investigation.

Now, you'll notice, staying on the fourth document, the registration application for Janet Mihoci, you'll notice at the bottom left written in cursive, it says, located card attached to another card for Janet Mihoci. That will be important in a minute.

Lastly, if you go to the last two pages, you will see a signature of Jeanette -- the forged signature of Jeanette Mihoci with the 11-2-10, and then the signature of a poll worker named Janice Ross, who was working in that precinct on that day. The last page is another signature of Ms. Ross, just as an example.

You will also notice on the first two pages, the two voter certificates, the initials of Janet Ross as the person who checked their ID and checked them in to vote on November 2, 2010.

What appears to have happened is that when the Mihocis went to vote in November of 2010, they voted as they should have and they filled out their voter certificate showing their Gwinnett County address. Because they were in the system still registered in DeKalb County, we believe that in looking at the voter certificates, somebody saw that they had voted using a Gwinnett County address thought, oh, no; I've made a mistake. I should have had them fill out a voter registration application when they voted. I believe somebody went back and created these two voter registration applications to cover something that didn't really need covering. The Walkers did everything they should have done.

When we looked at the signatures and the handwriting samples of the poll workers, we found that the handwriting signature of Janet Ross matched most closely with the signature for Jeanette Mihoci.

Now, Ms. Ross vehemently denies she had anything to do this. She has counsel here today. In addition, the poll manager is Mr. Paul Hammond. We've got him cited for, essentially, allowing this to happen. Lastly, and it just seems like if anything could happen in this case it would be this, we have the county cited because when these two documents, the two forged voter registration applications went to the county, the person who got them thought they were duplicates. Everything is the same except for Jeanette and Janet. And they stapled them together thinking it was a duplicate.

So what actually should have happened was that Jeanette and Janet should not have been allowed to vote in Gwinnett and should have had to come back to DeKalb because someone falsely registered them in DeKalb County. That's why we have the county cited for failing to determine the proper voter registration. However, the county, in failing to do that, actually did the -- not the proper thing, but the right thing in allowing Jeanette Mihoci to remain registered in Gwinnett County.

A lot of this case revolves around the handwriting, the sample of Ms. Ross. Ms. Ross has submitted an affidavit that I will present to the Board in which she expressly denies having done this. Mr. Hammond denies having done this. And her counsel, Mr. Fontenot, is present, and I believe he's going to speak.

Given the nature of the handwriting analysis and the lack of scientific handwriting analysis, it is something we looked at and we believe meets the probable cause standard. I've talked spoken to Mr. Willard about the position the State takes towards handwriting and he is concerned if it were based solely on the handwriting, I think it would be an issue. However, we've got Ms. Ross checking them in.

The other thing I didn't mention is these voter registration applications were done on beige voter registration forms, which are generally only available at the precincts on election day. So it seems to be these were certainly completed at that precinct. They were certainly not completed

by the Mihocis. And when they were turned into the county, the person processing them glanced at it and thought it was the same person and stapled them together so that only one voter got moved. If everything worked properly, both voters would have been moved.

Having said all that, I would recommend that DeKalb County receive a letter of instruction regarding the proper intake of the voter registration applications because they should not have stapled them together thinking they were the same one. I believe Ms. Ross and Mr. Hammond -- I believe there is some evidence that Ms. Ross created this voter registration application, and I believe -- Mr. Hammond says he doesn't know anything about it. He may or may not have known it happened. He was the poll manager, however, so it falls on his watch.

I'll be happy to take questions.

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

MR. SIMPSON: 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. We have accepted the document. Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to address us on this case?

MR. FONTENOT: My name is Ronald Fontenot. My address is 160 Clairemont Avenue in Decatur 30330. I represent Ms. Ross. Ms. Ross is present at the hearing, as is her husband of 36 years, Robert.

She has asked that I request of the Board that you dismiss this case, at least as it pertains to her as a respondent. She specifically denies by a sworn affidavit submitted that she inserted any fictitious name or fraudulent entry on any voter registration card. Not in bad faith, if bad faith is an element; not (unintelligible) intentionally or deliberately. Simply not at all. She simply did not sign the document in question.

Those are the facts. And as a result, she cannot be charged with the willful violation pursuant to 21-2-562(a)(1).

We would like you to consider who we were before you in Janice Ross. She has worked at least five elections; all supervised; all with related training. She is a retired schoolteacher of 31 years, the bulk of those years with specific learning disability students. She has no criminal record and she is never been a defendant in any criminal action. And but for one moving violation, has never been a defendant in any case. So the facts and the background all support dismissal of this case as it pertains to Janice Ross as a respondent.

As to 21-2-596, on the question of duty, the code defines a person in an official capacity as a poll officer or a public officer or any officer of a political party or body on whom a duty is laid by this chapter, and Ms. Ross is neither public officer nor any officer. So we don't think that section of the code applies.

And as to the other section of the code, she simply did not sign this document in question. What we hear in this report and summary is that we think someone did something, and that may be the case. But, clearly, it was not Janice Ross.

Thank you for your consideration.

SECRETARY KEMP: Any questions for Mr. Fontenot? Does Ms. Ross or you have any idea of how this all happened, because somebody clearly signed these.

MR. FONTENOT: We can only speculate as it was speculated in the report. Did someone sign it? Perhaps. We just know it was not Janice Ross.

MR. WORLEY: Mr. Fontenot, do you know how many people working at the polls -- at this particular poll that day?

MS. FONTENOT: I do not. I was not present, obviously. But there are two people in supervisory positions who might be better qualified to answer that question.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

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

MR. HAMMOND: My name is Paul Hammond, poll manager at the Rockbridge poll. I live at 7448 Woodruff Way, Stone Mountain, Georgia. I have known Janice Ross for over 20 years; her husband; I've watched them raise their kids. And I just cannot believe that Janice Ross would sign someone else's name to any document.

Now, this is not the first election that we have worked. We have worked together on at least five elections prior -- I mean, at least five elections prior to that. I may be wrong on that. But it's at least five, and we've never had a problem. Now, I just cannot believe that I'm standing here before you today because of the credibility of Ms. Ross. And I don't know if that will help you or not. I am a retired military veteran of 25 years in the United States Air Force; did 20 years with the Internal Revenue Service, and never had any problems like this before.

Working the poll was something that we did because we enjoyed it and we felt it was a public duty that we enjoyed, and we did it. Had we known this, we probably wouldn't have done it.

That's all I have to say.

SECRETARY KEMP: Thank you for being here, Mr. Hammond. I have a question for you. How many people were in that polling location that were working there that elections day?

MR. HAMMOND: Five. I had myself, assistant manager, two express poll clerks, and one person working the voter registration line.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Do you have any idea who might have done this?

MR. HAMMOND: I've tried to figure it out. I didn't see the voter certificate, the one they fill out to vote, and I don't know what address the voter put on that card. Was that the same address that she lived in DeKalb County when she was registered to vote?

MR. HARVEY: No. They put their new Gwinnett County on the certificate on November 10. But they were still in the system as DeKalb County voters because they changed after the deadline.

MR. HAMMOND: Okay.

MR. HARVEY: So the only way that information could have gotten on a voter registration application was someone taking it from the voter certificate and using that as the presumed address. And, Mr. Secretary, there appear appeared to be eight people who were working at the precinct. There were eight people on the payroll sheet.

MR. HAMMOND: Okay. Let me ask you this. Did Ms. Mohoci, did she say that she was advised that she couldn't vote there because of the address was different on her -- should have been different in the machine than her address on the certificate?

MR. HARVEY: She did vote. In November, 2010, she and her sister both voted in DeKalb. They put their new address on the voter certificate. I suspect that's what triggered somebody to think either we let someone from Gwinnett vote in DeKalb, or we forgot to have them fill out the voter registration application. It's almost a perfect storm of twins and deadlines and timing, and things like that.

MR. HAMMOND: I don't know how that could have happened.

SECRETARY KEMP: Any other questions for Mr. Hammond?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here. Anyone else?

MR. REID: My name is Charles Reed, 1300 Commerce Drive, Fifth Floor Decatur, Georgia 30034, DeKalb County Law Department representing DeKalb County.

I just wanted to add that we are willing to accept a letter of recommendation.

I'd like to comment on the perfect storm aspect of this. This is a highly unusual situation, but what we have put in place is some additional training for temp workers to make sure that they cover all of the information on the cards. Also, we have revamped our computer system that it

will catch -- if you just put partial name "Jan" it will give more information so that we can make sure it's not -- someone won't mistake Janet for Jeanette. So we can cover those things.

But I honestly think the likelihood of something like this happening again is really slim. But we would accept the letter of recommendation, anyway you see fit.

SECRETARY KEMP: We appreciate that, Mr. Reid. I certainly see how this could be very confusing for the election workers with all that's going on and having twins and whatnot. So speaking for myself, I certainly understand that situation and what the county personnel is dealing with.

SECRETARY KEMP: Any other questions for Mr. Reid?

(Whereupon, there was no response)

MS. ROSS: My name is Janice Ross, 7476 Waters Edge Drive, Stone Mountain, Georgia 30087.

My position, as my attorney has said, is I have vehemently denied ever signing someone else's name to a document. I would never do that. I have known all my life that that is a serious criminal act. There's nothing in the voter experience that would allow me to take my reputation of all the people that I've known, my parents, how I was raised, how I raise my kids -- I would never do anything like that.

I don't want to accept an instruction -- any kind of letter. I'm innocent. I don't want to negotiate. I'm innocent. I don't want -- I have not, would not, would never.

Now, as to how this got done, I have created all kinds of thoughts in my head. It was a beige card. Okay. So a beige card, I guess it could originate at the polling -- at the Memorial Drive. They have access to that. I don't know -- I have no idea of how it happened, but I know that if the investigation has been limited to our precinct because of that -- I think because of that card; because of that card.

I know those cards come in to -- I was really surprised that there were voter registration cards in our packet. I didn't find that out until this case. I happened to look at the old voter thing online and I said, I didn't even know we got voter registration cards at our precinct. This is a surprise to me. So once I found that out, I said, okay. So there should have been a record of how many voter registration cards were turned in, if that's the case.

But I looked at the checklist and nobody ever keeps up with how many voter registration cards were filled. So there could have been one filled out or not. I never remember -- I wouldn't fill out anybody's registration card anyway. That wouldn't be something I do. The voter registration cards that I found out were there, would have been kept in -- I think it says some kind of salmon-colored envelope, which I just found out about since this is case.

So if there were a packet full of those, who would, I mean, who would be able to keep up with that? It's like, okay. Maybe it didn't happen at our poll; it happened somewhere else. So maybe once someone else found out that this happened, they thought they needed those cards and created them later. I'm ready to get a handwriting person in to see when the ink was created because I know I didn't do it.

I hope you all will believe me. I never would do anything like that. I don't want a letter; I don't want anything. I don't want anything to be against my reputation for something I never, ever did or would ever do.

SECRETARY KEMP: Thank you for being here, Ms. Ross. Any questions?

(Whereupon, there was no response)

SECRETARY KEMP: Is there anyone else wishing to speak? Mr. Willard.

MR. WILLARD: Mr. Harvey and I have discussed this case on a couple occasions. I'm not going to address Ms. Daniels and the DeKalb County board and the stapling of the twins' application together. I'll let the Board determine what is in the Board's interest to on that particular violation.

But in terms of Ms. Ross and Mr. Hammond, I have discussed it with Mr. Harvey. Basically, this all stems from the investigative unit's layperson handwriting analysis, and really all the other violations dovetail off of that. There is some circumstantial evidence that Ms. Ross actually came in contact with the Mihoci sisters on the day of the election. But other than that, there is no competent evidence to indicate that Ms. Ross executed these voter registration applications, or that Mr. Hammond knowingly, purposefully, or willfully allowed this to be done.

It would be my advice to the Board that as the a matter of law there is no competent evidence that would authorize binding over a case against either Ms. Ross or Mr. Hammond to our office.

SECRETARY KEMP: Any questions for Mr. Willard?

MR. WORLEY: Not for Mr. Willard, but I have a question for Mr. Harvey, just so I can understand it.

You handed the Board members a packet and I want to direct your attention to page 5 in that.

MR. HARVEY: Yes, sir.

MR. WORLEY: These are the two signatures, one of Jeannette Mihoci and the other of Janice Ross here. Was it my understanding that your report indicated that the suspicion of Ms. Ross was based on the fact that these signatures were supposed to be similar?

MR. HARVEY: That and the fact that she was one that checked them in on their voter certificate. She would have seen that and had access to that.

MR. WORLEY: Well, I'm no expert on handwriting, certainly. But they don't look similar at all to me. So I would concur with Mr. Willard to dismiss the charges, certainly against Ms. Ross.

SECRETARY KEMP: Any other questions from the board?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion or any other discussion?

MS. SULLIVAN: I would move that we dismiss the case against Ms. Ross and Mr. Hammond, and issue a letter of instruction to the DeKalb County registration and elections and the board.

MR. WORLEY: I would second that.

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

(Whereupon, there was no response)

SECRETARY KEMP: Let me say, Ms. Ross and Mr. Hammond, I appreciate you all being here today. I know this is a difficult situation for our investigators, for the Board, and certainly for you all. But to me, it is pretty clear that somebody has forged these documents. I think it is also pretty clear it's hard to figure out who that is. I hope you will not think negatively about our

investigations for bringing this case forward to the State Election Board because that is a serious problem when we have someone that's forging documents. I think those are things that if we did not look into that people, would say what are you all doing?

I certainly appreciate the position you are in and I am sympathetic to that and I hope you understand that. I just wanted to make sure you all know that and I appreciate you showing up today to give us your side of the story. I think one thing you'll find about this board is that we will listen to all sides of all stories and try to come to the right conclusion. I think that's what we're doing in this case to the best of our ability with the evidence we have before us.

With that, if there is no other discussion, we will take a vote on the motion dismiss Ms. Ross and Mr. Hammond and send a letter of instruction to DeKalb County elections department.

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 now move on, Mr. Harvey, to 2012, number 30, Taliaferro County.

MR. HARVEY: This case involved the qualifying for candidates for Sheriff in Taliaferro County.

On the last day of qualifying on May 25, Candidate Richard Seals turned in his qualifying document and qualifying fee to Probate Judge Mayo in Taliaferro County. Shortly after that, the incumbent Sheriff, who is Ms. Mayo's nephew, came down to the office to look at the paperwork. He informed Ms. Mayo that Mr. Seals' paperwork was not complete and that he didn't believe he had the proper documents. He was missing his criminal history.

Judge Mayo contacted the county attorney who was trying to figure out what she should do. She never qualified or disqualified Mr. Seals. She then recused herself from this case and the Superior Judge appointed a second judge to handle the candidate challenge that Sheriff Richards had put on the candidate.

Before the hearing, Judge Mayo approached Mr. Seals and offered him his money back, qualifying money back, if he withdrew from the qualifying challenge, and if he didn't withdraw and lost the challenge, she said he would lose his money.

I will point out that on the summary the Board has, the last violation, I believe, is not sufficient. I would recommend you dismiss that charge. But I recommend that Judge Mayo did violate the code sections listed and I recommend it be bound over to the Attorney General's office.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

JUDGE MARTHA MAYO: I am Martha Mayo. I am the former Probate Judge in Taliaferro County.

I did hold qualifying in 2012 for the July 31 election. It was definitely my understanding in 2012 regarding criminal histories was that they had to be turned in at the close of qualifying. I read that time and time again. Mr. Seals did not do that.

The bill changed in 2013. It was House Bill 169; it was signed by the Governor on 5-6-13, and became effective on 7-1-3. This bill changed the law so that it gave the candidates three additional days after qualifying ended to turn in their criminal histories. Prior to that, it was not the case.

Mr. Seals qualified in the previous primary in the same position. He turned in his criminal history along with his fingerprint cards and we didn't have any problem with that. Mr. Seals signed an affidavit stating that he had been fingerprinted and a search made of the local and national files to disclose any criminal record. He signed that statement. He brought his paperwork in my office at about 11:36 on the last day of qualifying.

He had been given specific written instructions. Now, I got a lot of this off the Internet where other judges were talking about what they require of sheriff candidates. He had gotten written instructions to go to Taliaferro County Sheriff's office or Wilkes County Sheriff's office. By the time he came in on Friday afternoon, I had learned that the AFIS machine was not working properly -- I mean Friday morning -- that it was not operating properly in Taliaferro County. Therefore, I told him to go to Wilkes County.

He took it upon himself instead to go to the Greene County Probate Office. Taliaferro County can fingerprint you, but they cannot provide you with a criminal history for pay, or for no reason. It's not allowed. And I assume the same thing applies to the Greene County Probate Court where Mr. Seals went to get his criminal history and his fingerprinting done.

He returned with the cards in his hand, fingerprint cards. I told him to put everything in a sealed envelope. That was done by the agent there in Greene County -- Tal -- I'll get it in a minute. Wilkes County. Anyway, he had just come in with the cards in his hand waiving the cards. I said where is the criminal history to myself later, not right then because I had another candidate that came in late. But as I said, he had qualified the previous primary and he provided those without any problems. He said there was some miscommunication in regard to the fingerprints.

I did not qualify him. I did tell him I felt he was not qualified. That's the reason I wouldn't rule on it. Mark Richards was my nephew; he was the local sheriff. He had to provide a criminal history, even though he was a standing Sheriff.

Yes, I did offer to return his qualifying fees. I had failed to see that he did not have his history with him when he first came in. My nephew did come in and ask if he provided it and I said, I don't know; I'll have to see. And we looked and it was not there.

There was some comment made about me showing the paperwork. I don't think there is any ruling or any law that says I cannot show somebody's candidate papers to another person.

I don't want to be accused of being biased and that's the reason I did not qualify him. I got the feeling that I would be. My nephew had run in the former election with Mr. Seals. I didn't need to help him. I mean, I didn't need to conspire with him. My nephew got 94% of the vote in the previous election, and there were two candidates, Mr. Seals being one of them, who shared approximately 6% of the vote. I felt my nephew could handle his own his own business; I didn't need to handle it for him.

I am not a thief. I did not qualify him. I just felt like that it would cause me lots of trouble because I would be accused of being biased since I put him out and my nephew qualified. I'm not a thief and I wouldn't do that.

I did offer the money back. I don't think there's a law about that and I did not mean it in a way to bribe him. I meant it in a compassionate way because I do have compassion for people that struggle and people that would come into my office. So in my way of thinking, I was trying to help him, not bribe him.

Does anybody have any questions for me?

SECRETARY KEMP: Judge Mayo, so your thinking is is that for you to give him -- if you would have qualified him and kept his money, he would have been ruled ineligible anyway?

JUDGE MARTHA MAYO: That's the way I'm thinking; yes.

SECRETARY KEMP: Because he didn't have his criminal background check, or whatever?

JUDGE MARTHA MAYO: Right.

SECRETARY KEMP: But you didn't realize that when he first qualified. So when you found out --

JUDGE MARTHA MAYO: When he first gave me the papers, I did not.

SECRETARY KEMP: Right. And when you figured that out, are you saying you felt guilty that you could have told him, I can't qualify you because you don't have this. Therefore, you would have never taken his money to start with?

JUDGE MARTHA MAYO: I did.

SECRETARY KEMP: Any other questions for Judge Mayo?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Any other discussion with the Board? Mr. Harvey, do you have anything else?

MR. HARVEY: No, sir. Although, there is a law against returning qualifying fees.

JUDGE MARTHA MAYO: There is?

MR. HARVEY: Yes, ma'am.

JUDGE MARTHA MAYO: I didn't know that.

SECRETARY KEMP: Judge Mayo, you're the former Probate Judge, correct?

JUDGE MARTHA MAYO: That's correct.

SECRETARY KEMP: So you're not having to deal with these fun and games anymore?

JUDGE MARTHA MAYO: Thank you, Jesus, no.

SECRETARY KEMP: Mr. Harvey, did you have a recommendation for us?

MR. HARVEY: I recommend the case be bound over to the AG's office.

MR. WILLARD: As to 6-594 or 596, but not 603; is that correct?

MR. HARVEY: Correct.

MR. WILLARD: That was 564, not 594.

SECRETARY KEMP: I'm just wondering if we need to bind this over or could we get by with a letter since we have a former judge that is not dealing with this. I'm open for either way.

MR. McIVER: Would the letter be to the county and Judge Mayo?

SECRETARY KEMP: I think we certainly could do that from an educational learning perspective.

MR. McIVER: I think I favor that.

SECRETARY KEMP: Anybody else have any other thoughts?

MR. WORLEY: I just had a question for Mr. Harvey. About the potential violation that's listed, the first one, you said the facts indicate that Judge Martha Mayo may have violated O.C.G.A. 21-2-6 by not determining the qualifications of Mr. Seals as candidate for Sheriff.

It sounds like she did determine that he was not qualified.

MR. HARVEY: Well, I believe that upon receipt of the candidacy, you have to determine. I don't believe she ever determined it. And I don't believe she ever communicated it to him until the Sheriff filed a challenge against the candidacy that may or may not have been qualified to begin with.

SECRETARY KEMP: So the check should have been done the first time he got there, and --

MR. HARVEY: Right. If it had been done and she had seen deficiency in the qualification, she would have not qualified him and that would have ended everything right there. But by not making a decision, was he qualified or was he not qualified?

MR. SIMPSON: Can I ask a question?

SECRETARY KEMP: Yes, sir.

MR. SIMPSON: Once again, we've got a statute quoted here, 21-2-564. 21-2-564 deals with willful obstruction or suppression of nomination materials. Hasn't got anything to do with qualifying documents. I mean, what . . . And then 586 -- 596 just says that public officials will do their duty.

MR. HARVEY: Right. The --

MR. SIMPSON: It looks like to me that this is a stretch, you know, to find some -- you know, I understand that, and pardon my south Georgianess, but this may not pass the smell test because she's dealing with her nephew, and all that. But in terms of violating the law, I just don't believe I see it. You know, I mean, correct me if I'm wrong, but -- you know?

MR. HARVEY: Well, that's why I put it to the Board. I believe she was not legally able to refund his qualifying fee.

MR. SIMPSON: Maybe that's a technical violation about giving the qualifying fee back and offering to do the thing. Based on her explanation, she's trying to do what she probably would

have done had she looked the papers over closer when she first got them, you know? That's my take on that.

MS. SULLIVAN: Judge Mayo, I have a question. It appears from our record that you consulted the county attorney who advised you to recuse yourself from this process.

JUDGE MARTHA MAYO: I called the election office, I placed a call and called and I called and called and never could get anybody. Finally, somebody said call the county attorney. I called him and he said, well, maybe it would be best if you recuse yourself. He helped me write up something to send to the Superior Court Judge for the Superior Court Judge to appoint another person to make that qualifying decision. I told him, to me, he's not qualified; he didn't bring it in. I missed at that moment I should've seen it.

But I wanted to be fair and give him the benefit of the doubt. If I was wrong in my call, which I didn't feel I was, that's why I called the county attorney to get some help on how to go forward.

MS. SULLIVAN: So you did or did not recuse yourself and then rule on --

JUDGE MARTHA MAYO: I did at one point; yes, I did.

MS. SULLIVAN: And then ruled on his qualifications after?

JUDGE MARTHA MAYO : And then rule on what?

MS. SULLIVAN: His qualifications after you recused yourself?

JUDGE MARTHA MAYO: No. He withdrew.

MS. SULLIVAN: Okay.

MR. HARVEY: But it was after you recused yourself that you offered his money back, right?

JUDGE MARTHA MAYO: I believe it was; yes, sir.

MS. SULLIVAN: I think what is most disturbing to me here is the potential conflict of interest, the smell test issue. If I could ask Mr. Willard, does this board have any jurisdiction over that issue?

MR. WILLARD: I think it's better that you focus on the black letter violations and to address a point that Judge Simpson made earlier in regards to 564. I think Mr. Harvey is saying is that by sort of encouraging and putting off ruling on the qualifying or the nomination petition of the qualifying challenge, in effect, Ms. Mayo's actions resulted in the suppression of a nomination petition qualification form.

And then with the 596 violation, you've got a situation where, by her refusal to rule and really becoming -- staying involved in it, I guess, Ms. Sullivan, that would be the only place that a so-called conflict of interest would really fall within this Board's purview is she recognized if she needed to recuse herself or should recuse herself. And yet, by her continued involvement she was, in fact, neglecting her duty as an election official by staying involved in a case she should have recused herself in.

Other than that, you don't really have anything.

MS. SULLIVAN: So basis for 596 violation?

MR. WILLARD: Right.

SECRETARY KEMP: Any other questions for Judge Mayo? Judge, I have a quick question. This is not really relative to the case. But when you were trying to call the elections office, was there any certain person you were calling when called? Were you calling your liaison, or . . .

JUDGE MARTHA MAYO: Yes, there were. But to be honest with you at this point, I can't remember the names. To be really honest with you, the last six months I was in office calling elections division you always get, I'm away from my desk or I'm on another phone. You know, you just didn't get anybody. And I was frantic.

SECRETARY KEMP: Did you try to -- but you did talk to your county attorney, right?

JUDGE MARTHA MAYO: Yes, I did.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? If not, we've got to make a decision here.

MR. WORLEY: Well, I would tend to agree with Judge Simpson. I really don't see how this fits within the statutory violations that have been cited. So I would move to dismiss this case.

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. We have dismissed. Thank you for being here today.

JUDGE MARTHA MAYO: Thank you.

SECRETARY KEMP: Mr. Harvey, we're going to move to the Atkinson County case, right?

MR. HARVEY: That's correct.

SECRETARY KEMP: All right. 2012, number 39, Atkinson County primary case.

MR. HARVEY: This case involved the 2012 primary. By all accounts I heard, it was not particularly pleasant.

The two specific allegations were that Shea Browning, who was the chairman of the Board of Elections, had a political blog that he ran on his own that -- I believe it was called Atkco (phonetic) Chatter, where he independently said things about candidates and parties and issues in which he didn't identify himself as any type of board member. That irked a lot of people in the community.

At one point, Commissioner McClellan and his son came into the office, allegedly raised their voice, grabbed some documents from the election office, and Shea Browning actually filed a police report and had them arrested for, I believe, terroristic threats.

In the same course of the primary, Loraine White in the elections office, when copying some documents, left an absentee ballot in another office on a photocopier. In addition, the Board of Elections did not keep a list of all addresses absentee ballots were sent to as required by absentee ballot law.

Mr. Browning, I believe, was arrested on complaint from Commissioner McClellan for disorderly conduct in an unrelated incident. So, clearly, a lot of hard feelings in this case.

Based on the allegations, I recommend that all respondents be bound over to the AG's office.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

UNIDENTIFIED MALE: I will.

SECRETARY KEMP: Come on up.

MR. McCLELLAN: I'm Dwayne McClellan from Pearson, Georgia, Atkinson County; U.S. Highway 441, 4314 North.

On June, 2012, I received two phone calls. One was being that an absentee ballot was laying in the Commissioner's office. I was currently Commissioner from 2002 to 2012. But I received two phone calls that there was a absentee ballot laying by the stamp machine in the Commissioner's office. That's several pictures there.

SECRETARY KEMP: Can we get a motion to accept these photographs?

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: Go ahead.

MR. McCLELLAN: So I had taken those pictures with my phone and they was about a -- probably a good thousand yards from the Board of Elections office, which is behind the Commissioner's office. And so me and my son Justin, we had walked across there and when we walked in the office there, Ms. Loraine, she was at her desk and Shea Browning was over there in the corner on his phone. And Ms. Loraine White, she was the supervisor of elections.

So I asked her because the two calls I got was one about absentee ballots being by the post machine; and the other question on the phone was about getting a list of absentee people that hadn't been mailed the absentees.

So asked her, I said, Ms. Loraine, could I get a list of the absentees? She said, well, you'll have to sign an open record request and it could be up to 72 hours before we get it. I said, I understand that. You know, you open request; 72 hours. I understand all that. But, I said, being you're not doing anything, I said, could I get a copy of it now?

And, Shea, he was standing probably about here to that window and he said, it will be 72 hours. And me and him, we don't get along, and we're probably not going to get along.

SECRETARY KEMP: We've heard that.

MR. McCLELLAN: So he said, that will be 72 hours. And I said, but if you're not doing anything, she could process that and let me have it. No; she can't do it. I said okay. But another thing you got here, I said, you got an absentee over there by the stamp machine in the Commissioner's office. I said, what's the deal there? And he looked surprise, and she did too. So he said, what does it look like? So I walked up to a shelf where they have them stacked up on the shelf. And I said, well, right there's one of them, and I laid it back down.

And so then I told him, I said, well, being you're so interested in talking to me, I said, I got something to tell you. I said, I don't chatterbox, I don't Facebook. I said, I don't want you to put nothing else about me and my family on that thing, or you're going to be sorry. He said, you threatened me. I'm going to call the police. And I got it on the phone, go on and listened to it. I said, no; I ain't threatening you. I'm just telling you that I'm tired of you. People are bringing me stuff and showing me stuff that they printed off at their house showing me stuff what you put

on your chatterbox and your Facebook. And I said, if I see it again, you're going to be sorry. He said you threatened me.

So I left. And when I left, I went back to the Commissioner's office. The police come; they ask me to go to the courthouse. So we went over there and I was questioned. And three days later, the local Sheriff, David Moore, he called me. He said, Dwayne, you need to come to the courthouse. I said, what for? He said, I got a warrant for you. I said, okay. So I went.

And as I was being processed -- Shea Browning is about six foot. I don't know if y'all have ever met Shea Browning or not. He's about six foot, about 200 pounds. I was in the Sheriff's office and my daughter Eliza went with me that day. I said I wasn't going to do this.

SECRETARY KEMP: That's all right.

MR. McCLELLAN: But my little girl, she's 20-years old, he run her down in the courthouse and he told her, he said, you're a little bitch; you're a little bitch; you're a little bitch; you're a little bitch; you're little bitch just like your daddy. Thank God I wasn't in the Sheriff's office.

So I was arrested and signed out on bond. So then he put in that he wanted to get my son, too. So then we went and had to do that process. And they got a warrant for my son. And my daughter, at that time, got an arrest for him. So they -- we were three criminals. We was all out on bond.

And then it's on the bond right here -- I got it -- mine and Justin's. We're out on bond; can't go within 500 foot of elections office; got get within 500 foot of him. And this was all in June. This was before the July primary.

As far as me having anything to with throwing an election, interfering with an election, I don't see it. I don't understand it. It's something personal between me and Shea Browning.

And then this come on the 17th day of December where our local DA had released mine and Justin's bond and she had turned us loose. Up until a month ago I received a letter in the mail from the Secretary of State's office that we was -- we could come, but we didn't have to come. So here I am. I want to clear my name and my son's.

SECRETARY KEMP: Let me get a motion and a second to accept the rest of these documents.

MR. McIVER: I so move.

MR. WORLEY: 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: All right. Commissioner, I want to make sure I'm straight on this. So you got calls about absentee ballots being at the copy machine, and that was n another building besides where the elections office is, right?

MR. McCLELLAN: Right.

SECRETARY KEMP: So that's the reason you went down to the elections office to start with -
-

MR. McCLELLAN: I was not looking for Shea Browning that morning. I didn't really expect him in there because --

SECRETARY KEMP: He's the Chairman of the Board, right?

MR. McCLELLAN: Chairman of the Board of Elections in our county.

SECRETARY KEMP: So he doesn't work there every day.

MR. McCLELLAN: No.

SECRETARY KEMP: Any other questions?

MR. SIMPSON: What was he doing?

MR. McCLELLAN: He was over in the corner on the phone. I don't know if it's -- the investigator, here, he mentioned about his chatterbox. He is the administrator of the Atko Chatter. It's been shut down now. He was administrator of Atko Chatter. He was on there as Atticus. He's bashed people -- a girl that was helping me. He got it on there, he said, you're doing nothing but prostituting yourself for these guys, you know. It's -- he . . .

MR. SIMPSON: As far as this goes, there's some statement here that a complaint was made about him campaigning there, too?

MR. HARVEY: Yes, sir.

MR. SIMPSON: What was the outcome of that?

MR. HARVEY: The outcome of that is that all of his Facebook and online postings were -- they didn't mention his position and there is no evidence he was doing it from the office. There was a lot of people upset about being put out there. But he was within his rights posting that stuff on his own time.

MR. SIMPSON: Was he doing it from the election office?

MR. HARVEY: There's no evidence he was; no, sir.

MR. McCLELLAN: I've got some more picture here. This is basically his front yard with signs in his yard. And I have one here that's pretty plain to see that he is -- that's at his law office. That's his sign in front of his law office. He was campaigning as he was the Chairman of the Board of Elections.

SECRETARY KEMP: Do we have a motion to accept the additional pictures? You got anything else you want to give us before we move?

MR. McCLELLAN: I'll give you the one where the local DA dismissed our cases.

SECRETARY KEMP: All right. We have a motion?

MR. McIVER: So moved.

SECRETARY KEMP: We've got a motion and I'll second to accept the pictures. 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 other questions for him?

(Whereupon, there was no response)

SECRETARY KEMP: So the violations, Mr. Harvey, for Mr. McClellan, we had one of them was for interfering, right?

MR. HARVEY: Yes, sir. I believe that's the only violation.

SECRETARY KEMP: Do you feel like you interfered with Mr. Browning or the superintendent doing their work in the elections office?

MR. McCLELLAN: No, sir. I wasn't in that room five minutes. And then you seen my warrant three days later, 500 foot from him, 500 foot from the Board of Elections; no phone, no email, no texting. I do not feel like I interfered with our election. I lost. I was (unintelligible) 10 years and it feels, you know, I wake up every morning and I just feel better about myself not being in politics; not having to comply with that daily routine.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: I think it says a lot about you you took time to drive all the way up here today.

MR. McCLELLAN: And, by the way, I was hoping I would get to say Good Morning. But . . .

SECRETARY KEMP: Any other discussion or do we have a motion? Mr. Harvey, the violations for the county and superintendent --

MR. HARVEY: That's the absentee ballot log and the leaving a ballot unattended.

SECRETARY KEMP: Do we know what happened there?

MR. HARVEY: It was just a mistake. They were making some photocopies, and they just left it on the copier and walked away.

SECRETARY KEMP: We've got the elections superintendent and Mr. Browning cited for that?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: I move we dismiss the case against Commissioner McClellan and his son, Justin, and send a letter of instruction to the Atkinson Board of Elections and the chairman, Shea Browning.

SECRETARY KEMP: 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: Thank you for being here. Have a good safe trip home.

SECRETARY KEMP: We're moving to -- did anybody from Elbert County happen to come in since this morning?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, we're going to move to 2012, number 46, the Randolph County district issues.

MR. HARVEY: This case, one voter when he went to vote, he was in District 4, but he got a District 3 ballot. The voter, recognizing he got the wrong ballot, brought it to the attention of the poll workers who said don't touch it; leave it alone. We can fix it. And he went ahead and cast the ballot anyway. So they weren't able to allow him to re-vote.

Randolph County, I believe, has violated the code section requiring to put their electors in the proper districts. However, this is a good example of one voter whose problem could have been alleviated if had he paid attention to the poll workers.

I believe this case could be resolved with a letter of instruction to the county to double-check their district lines and make sure voters are in the proper area.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

MR. RAULERSON: Mr. Secretary, I'm Kelly Raulerson, attorney from Albany, Perry & Walters law firm, representing Randolph County and Sanford Thompson, elections superintendent. Address is Post Office Box 71209, Albany, Georgia 31708-1209.

I'm here on behalf Randolph County and Sandra Thompson, elections superintendent. I think Mr. Harvey recited the facts mostly correctly. I submitted three affidavits, which you already have on file, that were submitted from the poll manager, Ms. Whitaker and Mr. Holmes and Ms. Sandra Thompson.

Just a brief background. The Board of Registrars at the time the (unintelligible) changes on the district pending in 2011 redistricting, the Board of Registrars was in Randolph County then. In

2012 it was changed to the Board of Elections and Registrars. When you have redistricting, you're going to have some problems pertaining to (unintelligible).

The situation was he came in, told the lady outside where he was filling out the -- this is the wrong district. And she said, when you go inside to vote, you tell them. He never said a word. He walked in there and he gave them the ballot. He got over there. They said don't push the thing. He said I've got the wrong one, wrong ballot. (Unintelligible). Don't do it; don't vote. He slammed his hand and he voted.

It could have been very easily corrected. In fact, before that, he would have had the precinct card. (Unintelligible). He never said a word about it. He was a disgruntled former officeholder and threatened to call the TV station the next day. Just a disgruntled politician, that's what he was.

Now, Ms. Thompson had nothing to do with placing the man. That was the Board of Registrars. She was not part of that. This was corrected after (unintelligible). So we submit there really should not even be a letter of instruction in this case. We respectfully submit it should be dismissed and should not even be before you considering the circumstances.

SECRETARY KEMP: Any questions from the Board?

(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: So the only potential violation is the redistricting issue, right?

MR. HARVEY: Just one person involved. Yes, sir.

MR. RAULERSON: And that could have been easily corrected.

SECRETARY KEMP: Okay. Any other discussion or motion?

MR. SIMPSON: I move we issue a letter of instruction to Randolph County Board of Elections and Registration concerning determining eligibility of voters to make sure they are in the right district, and dismiss the complaint against Sandra Thompson.

MR. WORLEY: I second that.

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. Thank you for being here today.

MR. RAULERSON: Thank you, Mr. Secretary.

SECRETARY KEMP: Mr. Harvey, we're moving to 2012, number 49, Gilmer County.

MR. HARVEY: This case involves the candidacy affidavit of Timothy (Unintelligible) for Sheriff in Gilmer County. Mr. (Unintelligible) wrote a statement and asked me to present it the Board.

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

MR. SIMPSON: So moved.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: We have accepted the documents. Go ahead, Mr. Harvey.

MR. HARVEY: On his candidacy affidavit in May of 2012, he filled out and said he had been a resident of Gilmer County for seven consecutive years. In 2010, he had run for Sheriff in the state of Kentucky in Cumberland County. He had already he is also voted in Cumberland County, Kentucky in 2010, and there is no way he could have been a resident of Gilmer County for seven years having lived for two years in Kentucky up to 2010. He claims that he owned property in both states and lived here the entire time.

I believe there is proper evidence to suggest that he violated 21-2-565 when he made a false statement on his candidacy affidavit.

SECRETARY KEMP: Any questions for Mr. Harvey?

MR. WILLARD: The District Attorney is a complainant in this case. Do you know if he sent it to the Board in lieu of prosecution or in addition to prosecution?

MR. HARVEY: At the time, it was in lieu of prosecution. But he is no longer District Attorney. But I don't believe he was contemplating proceedings.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

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

MR. SIMPSON: I've got a question. On the summary sheet we have, there are three violations listed and you just mentioned one. We've got one voting outside the precinct on four occasions and making false entries using incorrect address on absentee ballots.

MR. HARVEY: You may have the wrong tab.

SECRETARY KEMP: We had to skip a case. This is Gilmer County, number 29, Judge. I'm sorry.

MR. SIMPSON: Oh, okay.

SECRETARY KEMP: So we're just dealing with one violation, correct, Mr. Harvey?

MR. HARVEY: That's correct.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

MR. HARVEY: He has moved to Kentucky since this case.

SECRETARY KEMP: Any thoughts?

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

SECRETARY KEMP: We have a motion by Mr. Worley to bind over. Do we have a second?

MR. McIVER: Second.

SECRETARY KEMP: 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. We have bound that case over.

Mr. Harvey, Polk County, 2012, number 50.

MR. HARVEY: This is a fairly simple case. The elections director, Susan Williams, failed to put two of the four ballot referendum questions on the ballot. She claims she didn't get any information from our office. However, our office had a confirmation email it had been accepted. Ms. Williams said someone else may have opened it. She just simply never got it. So the ballot was incomplete with two referendum questions. They ended up having a special election after that.

Ms. Williams sent an email to me to present to the Board. She has had some medical issues and cannot be in attendance today. I don't know if there's anybody else from the county.

SECRETARY KEMP: Motion to accept the letter.

MR. SIMPSON: So moved.

MR. McIVER: 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.

Is there anybody here wishing to speak on this case?

(Whereupon, there was no response)

SECRETARY KEMP: So what is your recommendation, Mr. Harvey?

MR. HARVEY: I believe this could be resolved with a letter of instruction. It was an error that was fairly easily correctable. Polk County normally does a good job with elections. I think a letter of instruction would not be out of her order.

SECRETARY KEMP: We would concur with that about Polk County. I was out there the last couple of months visiting.

MR. McIVER: Is there a current failsafe to catch something like this? Did we send her something she says she didn't get?

SECRETARY KEMP: That's probably a question we could run by Ms. Ford and get back to you. She couldn't be here today. She left yesterday. Just so you all know, our elections director is testifying in the case, if you remember a couple of years ago about the Brooks County where we did a joint investigation with the GBI and actually arrested 10 people. I believe there were 11 indicted and there having a trial. So she had to testify. She started yesterday and they held her over to today. But we can get the process for that. I'm not sure that I know. I don't know that we have anybody here that can answer that.

MR. HARVEY: The report indicates that we have a receipt. So the email was delivered. Whether somebody opened it instead of her and deleted it, and whether Ms. Williams actually saw it, she thinks she didn't. But we have evidence that we actually sent it. I believe it would bounce back if it were not received.

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

MS. SULLIVAN: So moved.

MR. McIVER: Second.

SECRETARY KEMP: Ms. Sullivan moves for a letter of instruction; 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.

Mr. Harvey, we're on to Marion County, 2012, number 51.

MR. HARVEY: This is very similar to the last case. In this case the elections superintendent left two judicial candidates from the ballot. It was discovered on the first day of early voting and was corrected the next day.

We've got the citation for failure to proofread the ballot and omitting the judicial candidates' names. Again, because it was corrected immediately, I believe this case might be one that is appropriate for a letter of instruction.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

MR. DIXON: Yes, sir. My name is Anthony Dixon, 98 Village Lane, Mauk, Georgia, and I am the part-time Marion County elections supervisor.

Yes, the names were left off. It was an oversight. We corrected that, and hopefully that won't happen anytime in the near future. A letter of instruction would be great for me to take back and make sure it doesn't happen again.

SECRETARY KEMP: Mr. Dixon, have you all implemented anything or have any procedures or training to make sure this doesn't happen again?

MR. DIXON: Yes, sir; we sure have.

SECRETARY KEMP: How are you all addressing that?

MR. DIXON: Actually, it was my responsibility to do this. But now we have at least three other people that's going to be assisting in that since I'm part-time because it was an oversight on my part.

SECRETARY KEMP: Any other questions for Mr. Dixon? You know we're always glad to see you. We just don't want to see you here.

MR. DIXON: Absolutely. Thank you, sir.

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? We have a recommendation for a letter of instruction.

MS. SULLIVAN: So moved.

MR. McIVER: Second.

SECRETARY KEMP: Ms. Sullivan moves again; Mr. McIver seconds again. 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 issue a letter of instruction.

Mr. Harvey, we've got case number 2012, number 64, Dougherty County.

MR. HARVEY: This case was reported by the Dougherty County elections official Ginger Nickerson. They received six voter registration applications and absentee ballot applications from one location and they all had the same person signing as assisting and appeared to have the same signature in the voter's name.

We tracked down the person who worked at the care home. Her name is Cynthia Reid. Ms. Reid acknowledged that when she was assisting people to register to vote and requesting absentee ballot, she filled out the form for them. She then signed as assisting, and she then signed their name in her handwriting not realizing she couldn't do that.

So the facts are that on six occasions she signed somebody else's name on a voter registration application absentee ballot.

There is a secondary complaint that a precinct opened 30 minutes late in Albany. That, it was determined, was not necessarily the fault of the election officials. They couldn't get into the building; they were on site. They had the polls extended 30 minutes by court order. So there was no problem with that.

I recommend those two allegations be dismissed against Ginger Nickerson and Dougherty County board for precinct opening late.

I recommend that Ms. Reid be bound over to the AG's office on the fraudulent entries.

SECRETARY KEMP: Any 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: Do we have a motion?

MR. SIMPSON: I move we bind over the case on Cynthia Reid and dismiss the cases against Dougherty County Board of Registration and Elections and Ginger Nickerson.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion and a second by Mr. Simpson. 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. We have bound over Ms. Reid and dismissed the other two respondents.

Let's see, Mr. Harvey, 2012, number 65, Habersham County.

MR. HARVEY: Similar to some previous cases that happened, a voter went to vote in a primary. They requested one party ballot and got the other party ballot. The voter said, I recognized these were not my candidates, but I went ahead and voted, anyway, and then I told the poll worker I got the wrong ballot. She did not get the ballot other than what she asked for. So the facts indicate that the Board of Elections and Registration did give the voter the wrong ballot. Again, the ballot -- the voter could have chosen to notify the poll worker before she cast it, but did not. However, I think there is also responsibility on the elections people to give the proper ballot that is requested .

We have not had issues out of Habersham County in years. I don't know that a letter of instruction would be inappropriate in this case, either.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here to speak from Habersham County?

(Whereupon, there was no response)

SECRETARY KEMP: We have a recommendation from Mr. Harvey for a letter of instruction

MS. SULLIVAN: So moved.

MR. WORLEY: 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.

2012, number 70, Fannin County.

MR. HARVEY: This case involves the incumbent Sheriff, Dane Kirby, in Fannin County campaigning within 150 feet and entering a polling place during the July 31, 2012 primary.

This is a case where, again, we come up with a competing interest of the Sheriff and the election code. The Sheriff, of course, by his office is required to attend elections and provide security for elections. However, in this case the Sheriff was riding around to all the precincts, entering the polling places with his wife, talking to voters at polling places. It appears that he was at least straddling the line between performing his duties and campaigning at the polls.

I think the Board has taken these cases based on individual circumstances as to whether the Sheriff was maintaining his oath by going to the polling places, or whether he was campaigning. I think there is evidence to suggest she was campaigning by bringing his wife and having she and him talk to voters at polling places.

I believe there is evidence he violated 21-2-414, campaigning within 150 feet of a polling place, and that he entered a polling place that was not its own. The second one, entering a polling place, might be a harder one for Mr. Willard to press.

SECRETARY KEMP: Any questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here wishing to speak on a case?

(Whereupon, there was no response)

SECRETARY KEMP: All right. What's the pleasure?

MR. SIMPSON: I move we bind over the case.

MR. WORLEY: Second.

SECRETARY KEMP: We have a motion and a second to bind over to the Attorney General's office. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have bound 2012, number 70 over to the Attorney General's office.

Mr. Harvey, are we going back and catch all the Hancock County cases?

MR. HARVEY: I believe we skipped over Elbert County, tab 26.

SECRETARY KEMP: We're waiting on Hancock counsel, right?

MR. HARVEY: Correct.

SECRETARY KEMP: So we'll go on to tab 26, 2012, number 44.

MR. HARVEY: Yes, sir. This was in the July 31st primary. A voter, Mr. Dustin Ayers, used his cell phone in the voting booth to take a photograph of his ballot, therefore violating election code section 21-2-413 and 414.

Therefore, I recommend Mr. Ayers be sent a letter of instruction, which is no normally our case in the first offense of photographing a ballot.

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, do have a motion?

MS. SULLIVAN: I move the Board issue a letter of instruction in this case.

MR. McIVER: Second.

SECRETARY KEMP: We have a motion and a second for 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 taken)

SECRETARY KEMP: All opposed, same sign.

MR. SIMPSON: No.

SECRETARY KEMP: Mr. Simpson votes no on that. That motion carries for the letter of instruction.

So, Mr. Harvey, all we've got left on the new cases is Hancock, right?

MR. HARVEY: That's correct.

SECRETARY KEMP: And their counsel had made arrangements for us to be here at 3:30, I believe. So I guess we could go ahead and do the Attorney General report.

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Mr. Willard. We've been doing the Attorney General reports the same way we've done our consent calendar. The Board has the recommendation of the Attorney General's office. We will vote on those in block to accept those, unless one of the Board members or somebody in the audience that has some interest in that case would like to pull it off and have Mr. Willard talk about that case.

So at this time, is there any board member or anybody in the audience that would like to hear any of these consent orders under the agenda portion of the Attorney General's report?

Yes, sir. What case is it?

UNIDENTIFIED MALE: City of College Park.

SECRETARY KEMP: All right. We'll pull that out. Anybody else want to pull one out?

MR. WILLARD: Mr. Chairman, I'm not sure if this -- if these got pulled out of the binders that you have in front of you, but on Early County, which is tab 39, the Attorney General's office is pulling from consideration the recommended dispositions of Anthony Lingo, Althraus (phonetic)

Hutchins, and Georgie Foster. But the remaining respondents, we are moving forward on our recommendation of disposition on today. And that is tab 39, Early County.

SECRETARY KEMP: And to avoid any confusion, I'm just going to pull that case out and we'll hear that so we can get all the details and make sure everybody's clear on what we're doing there. So we're pulling out the City of College Park and Early County.

Anybody else here or any of the board members want us to pull out anything else?

MS. SULLIVAN: I would like to clarify what we have before us in the City of Pelham. I understand we had a substitution in our books.

MR. WILLARD: A substituted memo. There was a typo on the recommendation from the attorney in our office. At one point she referred to a \$900 fine in the subject line and \$1250 fine in the body. It should have read \$900 in both places.

MS. SULLIVAN: Thank you.

SECRETARY KEMP: Okay. Unless there's any other objections to us moving forward to vote on the consents, we're going to accept the Attorney General's recommendation on case number 2011, number 33; case number 2011, number 97; and case number 2011, 108, if we can get a motion.

MR. WORLEY: So moved.

SECRETARY KEMP: We've got a motion by Mr. Worley to accept the recommendations. Is there a second?

MS. SULLIVAN: Second.

SECRETARY KEMP: We have a second from Ms. Sullivan. 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, can you give us the rundown on City of College Park case, 2011, number 87?
That's number 37 in the binder.

MR. WILLARD: Mr. Chairman, this is a case that was referred to our office at the February meeting this year. It was in against Lakethia (phonetic) Reeves, an election official in the City of College Park, as well as the City of College Park, itself.

The allegations that were actually bound over were that Ms. Reeves, as the elections superintendent, prevented a candidate and his wife from viewing the tabulation process during the November, 2011, municipal general election.

We have entered into and are recommending the Board adopt a consent order with the city and Ms. Reeves that calls for a cease-and-desist, a public reprimand, and a \$350 civil fine.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Anybody else wish to address us? Yes, sir.

MR. GAY: Good afternoon. My name is Roderick Gay. I reside at 4215 Fredericksburg Drive, City of College Park, Georgia. I was the complainant that election. I was a candidate for mayor in the last three elections. But before I continue, I would like to publicly thank the Board for the opportunity speak today and for hearing the case in February.

I especially like to thank Mr. Chris Harvey and let you all know that prior to the 2011 election, I began having conversations with his office about what could possibly be irregularities that have occurred in the prior two elections, and he made himself available at all times. He is extremely professional, and after the election, I had the opportunity to talk to him about the regulations that the Attorney General has consented today. His staff came to my home. They were very cordial and very thorough and I'd like to just publicly thank him and his staff for what they've done.

In the February 21 minutes, the City of College Park threw itself at the mercy of this board and also said they would take certain remedial actions to try to prevent this from occurring. One of the things that they did acknowledge that they were undertaking, perhaps, the solicitation for city elections to be conducted by a third-party; possibly the county.

If I could just briefly give you some quick background. College Park is one of the few cities that continues to conduct its own elections. It is conducted by the mayor, the incumbent's secretary, and the appointed clerk, and the incumbent's family, agent, and friends. They act as the incumbent's poll watchers and poll managers, and they also count the ballots, as well as accept the absentee ballots. We have very low voter turnout and a very interesting demographic.

I did run in the last three elections. The incumbent has been in that position for approximately 33 years. Each time, I observed the same letter regularities why we're here today, but I didn't know how to complain of them or who to complain. I am guilty of not being represented by an attorney. There have been legal people in the community that looked over the filings that I filed. They made comments and I understand that's not the same as being represented by an attorney. I even went as far as to talk to the ACLU.

When I filed the most recent complaint the night of the election, it wasn't just myself and my spouse. I think Attorney Williams represented this board when he spoke February 21. The last election, we all go to the city hall and the poll workers bring the sealed boxes. I was told that we couldn't go back and view the tabulation process. Now, this is what Mr. Harvey as well as Fulton County had told us prior to the elections. They also gave us a presiding judge phone number. I think it was Judge Brasher; Fulton County Judge.

So I began to complain that we had a right to go back. There was another candidate named Wesley Maddox -- he is also an attorney -- who resides in College Park. It was him and his wife, as well as I brought a criminal defense attorney who is my neighbor, (Unintelligible) Nassau. So for approximately one hour, we were partitioned by an officer of College Park who told us that the superintendent would not let us go back.

It wasn't until I called Judge Brasher and I reached his cell phone, his voice mail, did they let us go back. But they still didn't let me go back. They only (Unintelligible) Nassau, the attorney, go back. He purported that when he got back there, he saw on the desk printouts and he gave us the results of the election.

Now, prior to that, the first election was paper ballots. I've never seen how they -- keep in mind, we're talking about the exact same people in all three elections. It happens exactly this way.

So the second election was the voting machine. Fulton County also conducts their elections in the same room with our elections, so it can kind of get a little bit confusing at times because we continue to refuse to let anyone conduct our elections.

Also, it's worth pointing out that we don't even let Kennesaw State University do our L&A testing. It's done by a consultant who we bought the machines from. That same consultant also is actively involved in the night of the elections.

So when I complained to Mr. Harvey the next day -- the Judge called me back that next morning and asked me was I okay. I told him what happened. He said, well, what do you want to do about it? I said I didn't really know. But I did call Mr. Harvey's office and when I told him we were denied the public viewing, he said, well, I'll take up a complaint because that is a violation.

And you only have 10 days, as you know. He says that this board does not have the jurisdiction to overturn an election if the findings of fact which warrant that -- that you have to file it with the Superior Court. You only have 10 days to do that. Because I lost the last two elections for procedural errors, I thought I knew what I was doing, and I thought it was a crystal clear case because we had four people who would swear affidavits.

Unfortunately, the third mistake I made was that the notice that you're given to answer the complaint, you're only supposed to give them 10 days, and not 30. Judge Wendy Shoob was the judge presiding over that. She dismissed it. She did not even deal with any of the facts of the case. But it is worth pointing out that they did answer it within 10 days. And the lawyers that I talked to said it's not (unintelligible), but you are a pro se litigant, and, unfortunately, you just probably won't be heard on it.

So 12 or 14 months later, you all have a hearing and I was working and it was in Macon. And Mr. Harvey -- I read the notice. I was impressed; I was impressed. I was feeling good that finally I wasn't being looked at as a frivolous litigant, you know; this disgruntled guy.

And I'll be quickly, but I also want to tell you all that I'm a degreed horticulturist. I'm a native Atlantan, fourth generation. I have a family. My son is going to Morehouse. I have two children. I don't want to be a career politician, but if you've ever watched WSB, you're going to hear about College Park a lot. And in my community, we've got guys -- since this meeting you all had -- and I'm getting back to the point. But I just want to let you know I felt there was a political void in our community. So I thought I would get involved because you have guys taking trucks running them into buildings and taking ATM machines out; you have police officers getting shot; people shooting each other; break-ins; school closings. And this is where I reside.

So back to the case at hand. I thought that finally I had been heard. But, unfortunately, I don't know if it's in retaliation to this meeting today, I don't know if it's because I'm running as the city councilman for Ward 4, but a gentleman came to our house with a summons and he didn't identify himself. This was about three weeks ago. And I asked the councilman what was it about. I said, don't you know the Attorney General has a public reprimand in place that you're about to consent to? And his exact words are, "We don't care about the Attorney General. But you need to worry about the \$60,000 judgment you have." We thought he was kidding.

But as it turns out, this attorney Williams, who is about to speak, he somehow goes and gets the ear of Judge Tussan, who now hears Judge Shoob's calendar. But they didn't make a motion. So it says that there was some unsettled business of the Court.

So I was given a hearing on this to the P.O. box I had as a candidate. I wasn't there; I got a default judgment. They asked for \$27,000. She says, no. Why don't we give you \$60,000. So I have a \$60,000 judgment against me -- he wrote the order. If you read the order, nowhere in the order does it say anything about appearing before y'all at the mercy of y'all. He's right down the street at the Superior Court telling the Judge --

SECRETARY KEMP: Mr. Gay, let me just get you back on track here. This board can't do anything about that judgment. Is there anything else you'd like to address on this consent order?

MR. GAY: The final thing is that Mr. Harvey investigated and consented that a non-sworn poll worker, John Ray, acts as the absentee poll manager. But I was told by the Attorney General that that is not going to be in the consent order.

So in closing, I don't mean to be disrespectful, but I want to say that there's nothing you can do, I suppose. But you're setting a precedent so if people complaint this board and they lose the civil portion, they can pay 350 and I can have to pay 60,000; and they can have a sworn affidavit and it doesn't mean anything.

So I would like this board to deny the consent order based on the information before you today.

SECRETARY KEMP: What would you have us do instead of accept the consent order?

MR. GAY: You should publicly reprimand this attorney for telling another jurisdiction that works hand-in-hand with this process.

SECRETARY KEMP: Well, that's a little out of our scope. I'm talking about dealing with what happened in the election. The specific violation was you not being able to view the

counting of the ballots, right? I mean, that's really the only thing we can deal with, right, Mr. Willard?

MR. WILLARD: That is correct.

MR. GAY: Well, if not -- if the candidate not being able to see his ballots being counted, it's out of the chain of custody. It's a criminal code -- it's a violation of the criminal code, which is a misdemeanor. If you can see you tabulations, if they're out of the public view, personally, in other races -- cycling, school boards -- when you cheat, you're disqualified.

SECRETARY KEMP: Any questions for Mr. Gay? Thank you for being here today, by the way.

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MR. WILLIAMS: Good afternoon. My name is Mike Williams. I'm the city attorney for College Park. My address is 8024 (Unintelligible) Court, Jonesboro, Georgia 30236. Just want to thank the Board for the opportunity to speak once again.

I would really just like to reiterate what we said in the February hearing that we acknowledge there was a period of time where candidates were not allowed into the tabulation. Ms. Lakethia Reeves, the former elections superintendent, who is no longer employed with the city, acknowledged that she made a mistake and we corrected it as soon as we could. That's not going to happen again.

The letter we entered into the record indicates the other steps the city has taken and we have had discussion with the Attorney General's office. We are in agreement with the consent order and we would hope you would adopt it.

SECRETARY KEMP: Any questions for Mr. Williams?

(Whereupon, there was no response)

SECRETARY KEMP: I'm sure that the city understands how important it is to be transparent during the counting process. And when people can't get back there to see that, I can see as a candidate where that could cause concern. So we hope not to see you again on that issue.

MR. WILLIAMS: Yes, sir.

SECRETARY KEMP: 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: Any other discussion with the board or a motion to proceed?

MR. WORLEY: I move we accept the consent order negotiated between the city and Attorney General's office.

SECRETARY KEMP: We've got a motion to accept.

MR. SIMPSON: Second.

SECRETARY KEMP: 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 accepted the consent. Thank you, gentlemen, for both being here today.

Okay, Mr. Willard, Early County, correct? Case number 2011, 103.

MR. WILLARD: Yes, sir. As I mentioned earlier, we are withdrawing and will not be proceeding on our recommendation as to respondents Lingo, Althraus Hutchins, and George Foster. And We'll pick up with Eddie Stapleton.

This case concerns the December, 2011, runoff election in the City of Blakely. Mr. Stapleton unlawfully possessed the ballot of two electors, and we've got a consent order calling for a cease-and-desist, public reprimand, and a \$200 civil fine.

For Mr. Thornton, in this instance, we had evidence supporting the fact that he failed to sign the oath that he assisted his disabled sister in voting her ballot. And we've got a consent order calling for a cease-and-desist, public reprimand, and a \$100 civil fine.

Ms. Alice Hutchins, in this instance we have got that she failed to sign the oath stating the facts in the absentee ballot application of Wilma Lee were true and correct in violation of 21-2-381. We have a consent order calling for a cease-and-desist and a public reprimand in that instance.

And then the final consent order is against Patricia Tolbert. In this instance, she unlawfully possessed the ballot of five electors. For two of those electors, they were not authorized to receive assistance. And then she interfered with the voting of the elector Takeya Griffith. For that one we have a cease-and-desist, public reprimand, and a \$1000 civil fine.

I'll be happy to answer any questions the Board has.

SECRETARY KEMP: So Mr. Willard, on Lingo, Hutchins, and George Foster, where are we on those?

MR. WILLARD: Mr. Harvey had provided the --

SECRETARY KEMP: Those are the ones we didn't have the files for?

MR. WILLARD: Yes, Mr. Chairman. We have that information now and we will be going back to those respondents and see if we can work out a resolution. If not, we will most likely be sending those in for a hearing.

SECRETARY KEMP: Okay. Very good. The Board has heard the recommendation. Anyone else wishing to speak on Early County case?

(Whereupon, there was no response)

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

(Whereupon, there was no response)

MR. SIMPSON: I move we accept the Attorney General's recommendation.

MR. McIVER: Second.

SECRETARY KEMP: We have a motion and a second to accept the recommendations for the Early County, 2011-103 case for Stapleton, Frank Thornton, Alice Hutchins, Patricia Tolbert. 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: That concludes the Attorney General's report, Mr. Chairman.

SECRETARY KEMP: Mr. Harvey, we expect Representative Glenn will be here at 3:30?

MR. HARVEY: That's what he said.

SECRETARY KEMP: That's everything except for Hancock County, right? All right. Well, let's take a break until 3:30. Hopefully Representative Glenn will be here to represent Hancock County.

(Whereupon, the proceedings were in recess)

SECRETARY KEMP: I believe representation for Hancock County just arrived. So we're glad to have Representative Fleming, no stranger to the Capitol, certainly, with us now. We'll come back from our break.

Mr. Harvey, how do you want to do this? Do you want me to call all these cases, or take them one at a time?

MR. HARVEY: I think it would make more sense to take them one at a time because two of them are similar, but one is a little bit different.

SECRETARY KEMP: All right. So the first one I've got is 2011, number 59.

MR. HARVEY: That's correct.

SECRETARY KEMP: Which is tab 17 in our binders.

MR. HARVEY: I would point out that some of the people listed as respondents in this case have already been bound over to -- Garnishia Bryant and Ms. Brundage, I believe, were bound over at a previous meeting. And the City of Sparta and the city elections superintendent, Virginia Brown, have requested a continuance. So all though we'll talk about them, they won't actually be referenced or request any action taken on them.

SECRETARY KEMP: Who were those two?

MR. HARVEY: The City of Sparta and the city superintendent, Virginia Brown. We'll bring them up, specifically, at a subsequent meeting.

SECRETARY KEMP: Okay.

MR. HARVEY: As board members might recall, this case was first brought, I believe, earlier this year. It had to do with -- it started off with L&A testing and absentee ballot issues. There was some dispute and there was some ambiguity about who was responsible for L&A testing of machines. This is for the 2011 municipal election in Sparta.

Sparta was doing their own election day voting, however, they contracted with Hancock County to do all their absentee and early voting. That, I believe, put the onus for the L&A testing on the city and on Virginia Brown. So I believe that Hancock County is clear of that specific charge.

There were numerous absentee ballot problems and violations that we discovered, and I'm going to go through them fairly quickly.

As far as Hancock County and the Board of Elections and Aretha Hill goes, most of their errors were primarily administrative. Aretha Hill was not able to supply the supervisor cards in order to do the L&A testing that the city was trying to do when it was announced. So I believe Ms. Hill has violated the code section requiring failure to provide supplies which is 21-2-379.6.

There -- a case that they essentially put a registration number the wrong ballot application; they put the same voter on an absentee ballot list; they left a voter off the list of electors; and they allowed a voter to register to vote on a DRE on the same day. All of those are violations of the election code.

The other issues had to do with the absentee ballots, primarily. And there are sort of two classes of people with violations of absentee ballots. The first are going to be three individuals. It's going to be Sylvia Culver, Sheila Culver, and Betty Wheeler. Each of those ladies assisted family members who were entitled to assistance. However, they did not sign as assisting any of their ballots.

For those three individuals, I would recommend a letter of instruction be issued.

In the bind over, I'm just going to go down individually and talk about what they did and make a recommendation. I'm going to recommend all these individuals be bound over to the Attorney General's office.

The first is going to be Maxine Evans, who assisted without signing and assisting while a family member was on the ballot. Susan Pearson possessed absentee ballots and assisted absentee ballots without signing. Gwendolyn Ashley assisted and -- three voters without signing. Wanda Dawson applied for and voted a ballot for her father; I recommend that be bound over. Ruby

Richardson assisted without signing for two voters. Annie Kemp possessed absentee ballots and assisted without signing. Charlie Kendrick possessed two absentee ballots. Vequishia Kitchens signed voters names to absentee ballot applications. Angela and Glen Ingraham voted out of the city with a false address on their voter certificate. Patrick Warren voted out of the city and gave false information. Felicia Evans voted out of the city and gave false information. And Jennifer Pitts voted out of the city and gave false information.

There was actually a contest following this election by Mr. Gilman, who is present today, where some of these things were explored in the court record. Due to the cost of getting the transcript - we do not have the transcript yet. I don't know if it will be necessary, but the cost would be fairly prohibitive. There were many allegations of the absentee ballots being improperly handled. None of those really came back to the Hancock County Board of Elections and Registration office. Like I mentioned, the administrative errors they had, which are, as you heard, sort of a perennial problem with the Hancock County Board of Elections and Registration, in this case, it appeared to be more of a grassroots effort to illegally possess or assist with absentee ballots.

So in this case of 2011-139, I recommend that the board, Hancock County board and Aretha Hill be bound over on the administrative errors; that Sylvia and Sheila Culver and Betty Wheeler be given letters of instruction on the failure to sign as assisting family members; and the rest of the respondents be bound over to the AG's office on the various absentee ballot violations.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED FEMALE: I do.

SECRETARY KEMP: Okay. Come on up.

MS. SUZANNE PEARSON: My name is Suzanne Pearson. I reside at 50 Reese Drive, Sparta, Georgia, ZIP Code 31087. Good afternoon.

First I would like to say that I did not knowingly or intentionally do anything that was wrong. My mother, who is over 75 years of age, asked me to write on the back of her ballot envelope the copy -- there's something to be copied on the back. I don't remember exactly. But she asked me to copy for her. The reason she asked me to copy for her was because I wrote neater than she did and she could not write in that small space. So I did as she asked me.

I did not obtain the ballot; I did not vote the ballot; and I did not sign the ballot. I was not aware that doing what my mother asked me to do -- I provide various types of care for my mother. I was not aware that was illegal.

That is my case I would take any questions.

SECRETARY KEMP: Thank you, Ms. Pearson. What was the violation for Ms. Pearson again, Mr. Harvey?

MR. HARVEY: Illegally assisting and possessing absentee ballot.

MR. WILLARD: Mr. Chairman?

SECRETARY KEMP: Yes, sir.

MR. WILLARD: I have a question for Ms. Pearson, if I could.

SECRETARY KEMP: Sure.

MR. WILLARD: Ms. Pearson, during the interview with the Secretary of State's investigators, you and your mother were both present?

MS. SUZANNE PEARSON: Yes.

MR. WILLARD: Did your mother tell the investigators at that point that she wasn't sure if she would have been able to physically fill out the absentee ballot if you have not filled it out for her?

MS. SUZANNE PEARSON: I did not fill out the absentee ballot, sir. My mother is --

MR. WILLARD: The oath on the back is what I'm talking about.

MS. SUZANNE PEARSON: She told you what I've told you. But she's here today. So you can ask her. When I told you is what she told you.

SECRETARY KEMP: Any other questions for Ms. Pearson?

(Whereupon, there was no response)

SECRETARY KEMP: Does your mother wish to address the board today?

MS. SUZANNE PEARSON: Mama, do you wish to say anything?

MS. BESSIE PEARSON: No. I asked her to fill it out.

SECRETARY KEMP: We need to take her that microphone, if you don't mind and let her -- have her give her name and address for us. She can just sit back there and do just fine.

MS. BESSIE PEARSON: My name is Bessie Pearson, Bessie M. Pearson, Sparta Georgia, 50 Reese Street.

What my daughter told you all, that's what I asked her to do. I write smaller -- I mean, she writes smaller and I write larger. And I didn't figure I can get the information in the space.

SECRETARY KEMP: Okay. Any questions for Ms. Pearson?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here, ma'am.

Mr. Harvey, if they signed as legally assisting, would that be okay, or is there not --

MR. HARVEY: She was obligated to sign as assisting even for that action. The absentee ballot envelope is considered part of the ballot. So that would require a signature. The report indicates that at the time, Ms. Bessie Pearson indicated she was not illiterate or physically disabled and therefore not entitled to assistance. I don't know if that's -- how accurate it is. Of course, that was two years ago. But that is the basis for the allegation. Regardless of whether she is entitled to assistance, Ms. Susan [sic] Pearson had to sign as assisting.

Given those circumstances, I could see moving Susan Pearson up to the letter of instruction when you're talking about a family member. I distinguish the letters of instruction for family members versus people that went out into the community and assisted multiple people without signing. I think that shows more of an electioneering aspect.

SECRETARY KEMP: Right. We don't have any allegations that Ms. Pearson did that, right?

MR. HARVEY: No, sir. So I would revise my recommendation to Susan Pearson be recommended for a letter of instruction.

SECRETARY KEMP: Any other questions for either Ms. Pearsons?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Representative Fleming.

Just so the Board, if they don't know, Representative Fleming is the honorable member of the Georgia House of Representatives, so he is no stranger to the Capitol, as well. Welcome.

REPRESENTATIVE FLEMING: Thank you, Mr. Chairman. I appreciate that. Let me mention to the Chairman and the Board, I am new to my position as the county attorney of Hancock County. I have not done this very long. In fact, I have not done this very long to the extent that I had another engagement case I had already committed myself to that I was supposed to be with my some of my legislative colleagues. Thus, I apologize for being a little bit late. But I appreciate y'all allowing me the time to get from Augusta up here for that today.

As I mentioned, I have only been recently hired as the county attorney for Hancock County, and the Board of Commissioners has asked me in a limited capacity to try to assist the Board of Elections in Hancock County for future going forward in hopes that we don't have come see you as much or as often.

As I'm just settling into this role as the county attorney, and thus assisting Board of Elections members, I can tell you I haven't gotten deep into that project yet. But we hope between now and the next election that we'll be able to do that.

I can tell you the limited interaction I've had with the chairwoman, Jeanette Waddell, of the Board of Elections, who is here to my left, and also Ms. Aretha Hill. They have been very willing so far to work with me. They have also been willing to pick up the phone and ask questions. In my experience in being a city or county attorney for about eight other local governments, that is the beginning of trying to resolve situations and prevent problems from happening in the future if they have someone they can call and ask questions of.

Obviously, as the county attorney, I do not intend to be significantly involved with the Board of Elections except when I need to. But that has been the request of the new chairperson of the

Board of Commissioners of Hancock County. Her name is Cissy Hudson. She was a long-time member of the House of Representatives, was recently elected in Hancock County (unintelligible) because there were several issues. And she was going to try to improve in the County, this being one of them. So that is my role here today.

I do have some knowledge of some of the specificity of things that we're talking about with the 2011 municipal elections in Sparta. Ms. Hill, of course, is here and can answer any more questions that you may have about that.

You have already noted, though, Mr. Harvey has, that the role limited to the Board of Elections for the city elections was simply to handle absentee ballots. And I do think some of the issues that have arisen -- not specifically (unintelligible) -- some of the issues that have arisen had material problems that the city had -- obviously, they had been working on. And that came into the Board of Elections process and they had some limited control over that. But obviously, some mistakes were made.

Along those lines, unless the Board has any additional questions, I'll try not to belabor the issue any further. I look forward to working with the Attorney General's office as many of these will be handed over to them to resolve these issues.

SECRETARY KEMP: Thank you, Representative.

MR. McIVER: You would not object if we bind this matter over?

REPRESENTATIVE FLEMING: Absolutely not.

MR. McIVER: Thank you.

SECRETARY KEMP: Any other questions for Representative Fleming?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak today? Yes, sir.

MR. YOUMANS: Good afternoon. My name is Jim Youmans, 256 Maiden Lane, Sparta, Georgia 3106. Thank you for this opportunity to speak. I did, indeed, as a pro se litigant contest that municipal election in 2011 in Sparta Georgia.

At our first evidentiary hearing I presented 89 instances where absentee ballots were in violation of either 385 and/or 386.

It seems like the big confusion has to do with not only the absentee ballots proper, and more specifically, pointed toward the envelopes being mishandled, but also that the applications were also extra ordinarily filled out without being marked as being assisted. We're talking hundreds of instances in that particular instance. I would say there are probably collectively gross errors of about three or 400 that have to be yet to be resolved. So I would certainly advocate the transcripts being obtained.

I've also got a rather large case file that has every absentee ballot envelope front and back digitally imaged; every absentee ballot application digitally imaged; and every pertinent voter registration card. These were unsealed by senior Superior Court Judge (Unintelligible). And it was, indeed, Judge Martha Rice who presided over the unsealing.

The problem seems to be that you can fill out an absentee ballot and you don't have to sign as being an assister when a person is ineligible because they aren't -- ineligible because they aren't - I'm sorry. You don't have to fill it out because they are ineligible. That means they can read or write; they are (unintelligible); they are not handicapped. So anybody can fill it out for them, right? And I think that methodology will prevail even in this (unintelligible) election.

I think the same thing applies to absentee ballot envelopes. Our office staff sees -- has no compunction, sees no problem, whatsoever, with accepting absentee ballots just because somebody didn't sign an oath of assistance. You can graphically see an elderly person signed it, and that someone in very clear print filled out the top of the absentee ballot with regards to the address, county, month and date of birth, etc. Scores of issues on that; not just a few that have been uncovered heretofore.

So I do urge the Board to continue investigation. I will avail myself anytime, anyplace to share that digitized information. Of course, they can be unsealed on court order again and copied for establishing a more proper for veracity. But I do submit that they have already been included and introduced an accepted before the Superior Court of Hancock County in case 11-CV-203.

SECRETARY KEMP: Any questions for Mr. Youmans?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Mr. Harvey, I have one question on the applications. What's the -- we don't have an issue with people filling those out, do we?

MR. HARVEY: No Sir. I'm not sure Mr. Youmans has the same understanding the Board does.

On an absentee ballot application, anybody can fill out the top portion as long as the elector signs. You don't have to sign as assisting. So I can fill out an application for everybody in this room and as long as the people sign their own application, it would be acceptable.

The second thing he mentioned is in cases where someone else has clearly filled out the ballot envelope, the top of the ballot envelope, and there is an elderly person scrawled signature, that seems to be a clear indication that someone has assisted. However, that is not a case for rejecting the ballot. That would be a case for identifying somebody for failing to sign as assisting. In many cases, there is no way to know who that person was. In some cases we can't identify who provided assistance.

So I think the hundreds of applications Mr. Youmans is talking about will probably not be fruitful for that very reason. I believe that if the Board's practice is to accept absentee ballot envelopes that appear to have problems with assisting, as long as they meet the criteria where the signature matches, I believe the board is acting properly in accepting the ballots.

SECRETARY KEMP: I'll say this, too, Mr. Youmans, and I appreciate you being here today, you know, absentee ballot fraud is sometimes very difficult to get a handle on because you have to catch people in the act. And that is why we created the stop voter fraud hotline where people have a 1-800 number they can call or they can email us. They can call, and we get complaints all the time about that. So I would just tell you in future elections, if you have any people watching the elections process, or if you know of individuals running so-called absentee ballot rings and illegally handling ballots or filling them out, if there's any way we can get evidence or get our investigator where we can actually see that happening, it helps us a lot more for dealing with those things when it does get to the State Election Board.

MR. HARVEY: I think a lot of those ballots were like Ms. Pearson's case where a family member does it, and, frankly, many, many people are not familiar with the requirements. When I speak at places I try to educate people about the necessity of doing that. I don't doubt that there are a lot of them that appear to be filled out that way. I would suspect that a good number of them are family members and, while it may be legal assistance, it is a failure to sign as assisting. And as we can get those, we get them. But I think Ms. Pearson's case is an illustration of what is going on, especially in more rural areas.

SECRETARY KEMP: Hold on one minute Ms. Pearson. Anyone else wishing to speak on this case?

(Whereupon, there was no response)

I'll allow you all just another minute or two if you'd like to come up and grab the microphone.

MR. YOUMANS: Thank you for that correction with regard to assistance in filling out an absentee ballot application. I stand corrected and grateful for the correction.

In the case of the assistance on the absentee ballot envelope, there have been identified -- and that is where we have the testimony in the Superior Court -- where we had the testimony of who did this for you? And you just don't even have to be a graphologist or a handwriting expert to run through the envelopes and even to just the naked plain layman's eye see who these people are; these four primary absentee ballot runners. So just I think there should be some justice with those four major players. Garnishia Bryant has already been identified. But she's only been identified out of just a handful.

SECRETARY KEMP: All right. Ms. Pearson, did you have something you wanted to add?

MS. PEARSON: Yes. I just wanted to say, perhaps these people are just like me. Maybe they don't know; and I didn't know. So maybe -- voting is a right and when voting becomes so stringent, so controlled that it makes a person afraid to help their parent or grandparent, something needs to be done. And perhaps maybe we need to let the people know because I did not know I did anything wrong, and I did not purposely do anything wrong. I am not even an elector in Hancock County so I don't even have a dog in this fight. I thank you.

SECRETARY KEMP: Yes, ma'am. Okay. Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, any other discussion from the Board or do we have a motion?

MR. McIVER: Move we bind the case over.

SECRETARY KEMP: Mr. McIver, you want to go through all this, or you want -- you want to bind over everybody and then we've got a couple of recommendations for letters.

MR. McIVER: I'm sorry. Everybody but those with the letters.

SECRETARY KEMP: So, Mr. Harvey, let me make sure. I'm going to go through this and tell me if I'm missing anything.

We're going to bind over the Hancock Board of Registration and Elections; Jeanette Waddell, chair of Hancock Board of Registration and Elections; Aretha Hill and Virginia Brown --

MR. HARVEY: Not Virginia Brown. She's part of the city and she's been continued.

SECRETARY KEMP: Okay. Continued; all right. So not Ms. Brown.

Maxine Evans; Annie Kemp; Gwendolyn Ashley; Ruby Richardson; Charlie Kendrick; Vequishia Kitchens; Wanda Dawson; Alicia Evans; Angela and Glen Ingraham; Patrick Warren; and Jennifer Pitts.

MR. HARVEY: That's correct.

SECRETARY KEMP: Okay. We've got a motion to bind these over. Do we have a second?

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion and a second. 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.

Now, we had recommendations for letters of instruction for Sheila Culver; Betty Wheeler; Sylvia Culver; and Susan Pearson.

MR. HARVEY: That is correct.

MR. SIMPSON: So moved.

MR. McIVER: Second.

SECRETARY KEMP: Second by Mr. McIver. Any other discussion?

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Mr. Harvey, I think that's got us for this one, right?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: So we're moving to 24.

MR. HARVEY: Yes, sir.

SECRETARY KEMP: SEB case number 2012, number 37.

MR. HARVEY: This is another Hancock County case. The complainant is Ms. Nancy Stephens, who spoke earlier in the public comments. She made four different allegations.

One is DRE machines were not being properly stored and were being left unattended while awaiting L&A testing.

The second was that poll workers were not checking photo ID for in-person absentee voting.

This third was that white absentee ballot envelopes were visible inside the absentee ballot box indicating they were not in the yellow absentee ballot envelopes.

And, lastly, voters were assigned to the wrong precincts.

We had an investigator go to the area, and we did find there were three DRE machines that were located in the registrar's office that were apparently being used as sort of a bookshelf for papers and other items. They were not stored in the third-floor storage room with the remaining DRE machines. Ms. Hill advised that they were safe. However, they were not secured as required by the code.

We had an investigator randomly check the voting, checking through ID's. And we did find, upon our investigation, ID's were being checked and were being noted properly. Also the investigator examined -- looked into the ballot box as much as we could; did not see any evidence of abnormal ballots in the ballot box.

There were, however, in excess of a thousand voters who were assigned to the wrong voting districts and required extensive work with the Secretary of State's office and the apportionment office to try to get voters in their proper districts.

So having said all that, the Board of Elections and Aretha Hill failed to assign voters to their proper district in accordance with guidelines, and also violated the security of the DRE's by failing to store them in a proper manner.

I will also say that in this case and the next case, as stated by Ms. Stephens, there is a lot of animosity on the board, as I believe the Board knows. I've gotten complaints from many parties on the board alleging things that the State Election Board has no authority over: infighting and procedures and rules, and all that kind of stuff. Ms. Stephens is very vigilant in observing -- scrupulous, almost -- in observing election law and holding the board to that standard. And I think she is the complainant on the next case, too.

But having said all that, I believe the named respondents should be bound over to the Attorney General's office on failure to secure DRE's and failure to assign voters to their proper districts.

SECRETARY KEMP: Anyone wishing to speak? Representative, do you want to speak first?

REPRESENTATIVE FLEMING: She can speak first.

SECRETARY KEMP: Ms. Stephens, you can come on up.

MS. STEPHENS: Nancy Stephens, 389 Roy Smith Road, Sparta, Georgia 31087.

On June 25, 2012, L&A testing was to have been performed on 23 DRE machines in the courtroom at 10 a.m., and was advertised in the local newspaper that it was going to be contacted at that time. When I arrived to view the testing, I found the machines unattended in the courtroom. When I checked the machines, I found only 10 of 23 machines were sealed. I stayed there waiting for them to begin the L&A testing on the machines and left at 1 p.m. And I informed Ms. Hill at that time the machines could not be left unattended. Her response was, why? There's nothing on them.

I asked Ms. Hill how long the machines had been in the courtroom They have moved them Sunday evening, the night before, and left them unintended in the courtroom and anyone with a key to the courthouse could have come in and tampered with the machines. And after 7 o'clock, around 7 o'clock on that Monday morning, anyone could have gone in and tampered with the machines.

I did take pictures and I took them to Chris Harvey and I still have those available is those are needed. Thank you.

SECRETARY KEMP: Questions for Ms. Stephens?

(Whereupon, there was no response)

SECRETARY KEMP: Did you want to speak?

UNIDENTIFIED MALE: Let Mr. Fleming speak. (Unintelligible). I'll let him speak.

SECRETARY KEMP: It doesn't matter to us. We're going to hear everybody, sir. May save him another trip if you go ahead and speak.

MR. BEVILL: My name is Don Bevill. I live at 104 Magnolia Lane, Sparta, Georgia 31087.

And I have sort of a question about these voter cards that went out. I've heard various numbers of 1000, 1500, 1800. Whatever it was, they were numerous. I have asked at meetings a couple of times and still don't have a clear answer. And I also belong to the property owners association, and back in January we wrote a letter.

The fact that it happened was bad enough. But we are rather concerned about who did it and how do we get to the bottom of it and how does it not happen again. Aretha Hill, our supervisor, has told us that the information just appeared on their computer one morning. And she said that twice, I think.

So we have to wonder if it happened at the State. I believe, Chris, you said you didn't think it happened at the State. I'm not making an accusation here. But where are we at on finding out how this happened and how to keep it from happening again?

MR. HARVEY: The issue is that the -- and it's a fairly complex system. But the street files in the county system are arranged in a -- they're very precise. If you were to do Pine Street and one listing was Pine S-T period and one was Pine Street spelled out, you'd get different addresses. There were -- I believe there were 97, maybe more, errors in the street file.

So after reapportionment came, their street files had to be (unintelligible) and done manually. It was a very painstaking process. Ms. Hill and another person came to Atlanta and met with the elections officials and the reapportionment people at the Capitol for several days, I think. And our staff worked with them almost page by page showing them how they had to clean up their street files.

I can't get into a lot more specific detail than that except to say that -- because I don't know the technical side better -- except to say when the data is essentially neglected for a long period of time and changes take place, everything gets scrambled.

SECRETARY KEMP: The way it works is the information that the cities and counties give us to go in our system, if it's bad information, it's going to be bad in our system. I mean, we rely on the counties and cities, when they do their redistricting, to set their districts. If their information is bad, it's going to be bad in our system. We're like the postmaster, you know? We collect the mail and we send it up. We don't know what's inside the envelope.

MR. BEVILL: Okay. But as a citizen of the county, I'm hearing all this. But is there a solution in sight is what I'm looking for?

SECRETARY KEMP: You're gonna have to go back home to get that solution. This board can't -- we can't hire who's doing the work in the elections. That's something the local government -- you know, the counties and cities run those elections and that's where the rubber meets the road. We have done everything we can to try to work with Hancock County to fix that redistricting problem once we were aware of what happened. But there's really nothing we can do about it. We can't go down there and do that work for 159 counties.

MR. BEVILL: I understand. Thank you.

SECRETARY KEMP: Thank you for being here. Yes, sir.

MR. HILL: Good evening. My name is Johnny Hill. I'm Aretha's husband.

SECRETARY KEMP: What's your address there, Mr. Johnny?

MR. HILL: 377 Hancock Street, Sparta, Georgia 31087.

As you noted, I don't know if there's any animosity between Ms. Stephens and the voters registration. But I don't know what needs to be done, but something needs to be done. You're saying it may have to be handled by the local government. Something has to be done. I don't see how anybody can get anything done in that office with Ms. Stephens. I just don't -- I don't understand how anybody get anything done. If this is her first time here, I'm quite sure it won't be the last. She's put things in the paper; she's did -- if you name it, pretty much she has done it.

I don't know where it goes from here or should be handled on the local level. But I thought since I was here and I'm talking to somebody of some importance, I should say this. Thank you.

SECRETARY KEMP: Thank you for being here. Any questions?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anyone else? Representative?

REPRESENTATIVE FLEMING: Mr. Chairman, members of the Board, once again, being new to this process in trying to assist Hancock County, I cannot personally speak to the several matters that were mentioned other than to say it is my intention to try to be available to help remedy going forward. So far, in my -- working with Ms. Hill and Ms. Waddell, they have expressed that same willingness to work with me to try to resolve this.

So we certainly have no objection to these being bound over to the AG's office and look forward to working with them towards a solution.

I can tell you, just as a matter of information, before, as you know, about three or four years ago, the Probate Judge of Hancock County ran the Board of Elections. And there was concern by the State legislature at that time, one of which happened to be (unintelligible), that as many counties were moving to a board of elections it might be better to do that in Hancock County. And so the legislature did create a board of elections of five members: two appointed by the Democratic party; two by the Republican party; and the third, chairperson, appointed by the Chief Superior Court Judge in the judicial circuit.

So although, of course, the county commissioners and the city, to some extent, have to fund the board of elections, the commissioners have agreed in this occasion to provide (unintelligible) and

try to assist. They don't have any direct control over them, with the exception of the two parties the Chief Judge. Once those members have taken office, of course, they cannot be removed from office (unintelligible) member of the board of elections unless the Chief Judge finds due cause, which, as you know, is a very high standard. It's almost intentional wrongdoing, rather than just a (unintelligible). That matter actually will be brought before the Chief Judge of the circuit in the near future. And I am working on that case, as well.

So, once again, my hope is through this process with the AG's office, through the willingness of the members to work with me, and also through the Chief Judge's interaction, we will begin to resolve some of these issues going forward and come see you a whole lot less.

SECRETARY KEMP: All right. Any questions for Representative Fleming?

MR. McIVER: Representative Fleming, would you object if we were to bind this matter over?

REPRESENTATIVE FLEMING: No, sir. I would not.

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED MALE: I do.

SECRETARY KEMP: Come on up, sir.

MR. PERKINS: My name is Charles Perkins. I live at 325 Jamesway Drive, Sparta, Georgia 31087.

I wasn't going to say anything. I just wanted to come and observe and learn something. I was one of the original members of the Board of Elections and Registration. And I went to Kennesaw State and learned it was very complicated. The election process is a lot more complicated. But this gentleman just spoke about problems and we need some help outside. We do.

If you do not do something to correct the problems with this Board of Elections and Registration -- I don't know what you can do -- but if you don't, it's never going to get fixed. It's not going to be fixed locally; it's not going to get fixed by a hearing. It's going to take somebody at the State level. I have observed, as a member, unethical behavior; potential, if not illegal, behavior, in the hiring process and in the meetings and the voting process that goes on.

So there's been a lot of stuff -- the least thing I can say about this board when I was on it, it was totally unethical and dysfunctional. The worst is they violated election codes, and probably some labor laws. I'm not a lawyer. I can't tell you that. But just as a layperson who was on the board trying to do a good job, it was so bad that I had to resign because I didn't want to go to jail based on what they were doing. So that's the reason I resigned from this board.

And I plead with you as a citizen, a taxpayer, a Veteran, to do something to fix this Board of Elections or it's going to go away; we're not have going to have it. It is not going to stay like it is right now. It will just continue to fester and fester and if you don't help us, we're just kind of lost. So I'm just pleading as a citizen and taxpayer and a voter. Thank you.

SECRETARY KEMP: Any questions for Mr. Perkins?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: Any other discussion on the Board or a motion? We have a recommendation to bind over.

MS. SULLIVAN: So moved.

MR. WORLEY: 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. We have bound that over.

Mr. Harvey, we're on the last one, right?

MR. HARVEY: Yes, sir. 2012, 167.

This was a complaint filed by Ms. Nancy Stephens on November 11, 2012. The allegations she made were, again, she found the DRE's left unsecured in the storage room; that the oaths of custodians and deputy custodians of the DRE were not properly completed; that DRE election supplies were unsecured in trucks and vans in the parking lot; that the Hancock County Board of Elections and Registration failed to keep a log of the file -- log on file listing personnel who had access to the room where the DRE's are stored; some voters were placed in the wrong districts; that a voter went to vote and found he had been transferred to another county; and that someone complained that a person was allegedly handing out marked sample ballots in the parking lot telling people how to vote on election day.

Again, as regarding the DRE's being unsecured, that violation was sustained. There were DRE's that were in a storage room and the locks had been cut, allegedly because Ms. Hill had misplaced the key and couldn't find them. So they had to cut the chains or the cord that bound them.

As far as DRE's being unsecured in trucks, I believe they were in the process of being moved and there may have been moments or two when somebody taking one out to a truck had to come back and leave it unattended in a vehicle. I don't know if that's -- the Board wants to get that specific in the unattended portion. But there were some that were unattended in a storage room.

The second allegation, and this is, I think, serious and maybe telling about some of the animosity on the board, the oath of custodians and deputy custodians that Ms. Hill provided had been altered. It appeared that she had simply taken the oaths that had been signed in August and whited out the date, and then put the November date on top of them. And she at first said she couldn't find them. Eventually, she acknowledged to Investigator Archie that she used the altered copy and just changed the date. I think this is an example of something that breeds significant distrust among board members.

Allegation 4 showed they did not keep a log on file listing personnel that had access to the storage room where DRE's and accessories were secured. Again, I think Ms. Stephens, as diligent as she is with DRE security, I think the consistent failure to take care of these little items causes some of these things to be aggravated.

And, again, and this may be what Mr. Bevill was referring to. We did get a letter from Lake St. Clair Property Owners Association regarding this election. And, again, there were -- street files were not fully updated and there were voters that were getting the wrong precinct card. So a voter who had been voting at Precinct 1, which is a mile from the house, were now getting precinct cards that said they'd have to vote in Precinct 20, which was 25 miles away. And, again, it was a result of that street file on that day that had not been currently maintained.

They were having difficulty with auto precincting, which is the process by which they assigned voters to their districts automatically. Again, if the data is not good, street files aren't good, then auto precincting would be about as helpful as putting the balls in a bingo thing and letting them go round and round.

They also -- Hancock also did not have a current map. They've not had a map since 1994 that showed their actual districts. They came and they were able to get maps from the apportionment office.

Given the allegation, and given the nature the allegation, I would point out that this is the second case in a year, maybe two years, where there have been allegations documents have been altered in Hancock County elections.

In Macon, Judge Rice, this was, I think, last year, on the L&A testing, I think had been altered after they'd been given to us to appear it had been signed on time. This is another case where documents appear to have been altered to create a false impression.

And while individual actions might not be that -- on the surface may not seem that egregious, the custodian oath was altered. I think the willingness and the apparent ease with which that is done is -- may be evident of some significant issues that need to be dealt with.

So I recommend this case be bound over to the AG's office on the list of charges.

SECRETARY KEMP: Do we have any idea who altered the oath?

MR. HARVEY: Ms. Hill.

SECRETARY KEMP: And could you just, before we get into discussion on this case, when you look back at all these cases with Hancock that we've had, what different election cycles were these happening on?

MR. HARVEY: I'm sorry?

SECRETARY KEMP: The different election cycles? We've got some of the same allegations that we just heard for different elections.

MR. HARVEY: One was a primary, one was a -- the last two cases involved the primary in 2012 and then general 2012. So they were only five months apart.

SECRETARY KEMP: Haven't we visited these issues before --

MR. HARVEY: Yes, sir.

SECRETARY KEMP: -- in Hancock County, maybe when Judge Rice was --

MR. HARVEY: L&A testing has been a perennial issue. Either it's not advertised or it's not done completely or the documentation is not done completely. There seems to be a pernicious lack of attention to detail. I believe Ms. Stephens used to work for the IRS. And at the risk of putting myself in the IRS' crosshairs, I think she's very much a stickler for detail, and I think that's -- again, we're sort of talking about a perfect storm situation where you have an office seems to fly by the seat of their pants, and you've got somebody watching over them that knows the election code backwards and forward and will catch everything that goes on. It makes the election folks feel like they are being persecuted, and I believe it probably makes Ms. Stephens feel like she's being ignored. And it's where we are today.

I've spoken to Mr. Bevill several times. I went out to Mr. Bevill's house in July; I've spoken to Mr. Perkins before. And Mr. McIver certainly has been here longer than anybody. 2008 had numerous cases of people voting from places that weren't their own in Hancock County. And that was under Judge Rice; that's not the current folks, although some of the current people are still working in elections.

As you said, the Board has limited authority to make changes. But I think people are hoping this is sort of a breakthrough moment for people to come together and decide elections properly.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

MR. YOUMANS: James, Jim, Youmans, 256 Maiden Lane, Sparta, Georgia 31087.

What I would like to -- I guess ask a question. I've read Senate Bill 173, our founding document, and I'm real familiar with the Georgia election code, 21-2. But I can't find any real description -- we don't even have a good functioning set of bylaws for our board. We do we do have a functioning set that we were trying to work on. But work got suspended on that because we're a five-member board, but we are passing motions and doing actions of the board with only two-member votes. In other words, we establish a quorum and perhaps only three members are there. Senate bill 173 specifically states action shall be by the majority of the members of the board. It does not say majority of members of the quorum.

We have asked Representative Fleming for an opinion on that. We basically didn't get one. And it's before the Attorney General that that was a violation of open meetings, Title 50 kind of stuff. So we can't -- we're pretty helpless right now.

SECRETARY KEMP: Let me just stop you for a minute. I don't want us getting off on a tangent on something the Board has no jurisdiction on. Mr. Willard, we wouldn't have jurisdiction over that issue as far as the board voting in violation of State law. That would be more of the AG's investigation, wouldn't it?

MR. WILLARD: Actually, what he is describing is sort of -- you would have to bring some sort of action to enjoin the board from taking any legal action. That would be a private citizen's cause of action.

The open meetings violations, yes; our office could handle. But in terms of the board acting contrary to what their action was, that would be a private cause of action.

SECRETARY KEMP: In local court?

MR. WILLARD: Yes, sir.

SECRETARY KEMP: So State Election Board would not have any --

It's not that we're not interested in hearing that. But for the sake of time, I'm trying to keep on to the case at hand.

MR. YOUNG: If I do have some knowledge, then, of the election code and our founding document, I just would like some guidance, please. Do we -- is there some kind of a tradition or knowledge that members of boards of election and registration have unfettered access to their office? Can I just go in there and ask for a copy, look at an absentee ballot log? Do I have to pay for copies?

SECRETARY KEMP: Mr. Harvey, do you have an answer for that? I know we've dealt with that.

MR. HARVEY: The Board of Elections is the superintendent for the county. So as a body, you are the elections superintendent. Now, does every individual board member have that same authority? I don't know. That might be a question --

MR. YOUMANS: I'm just looking for unfettered access. So if action by the board is required, then if I can get a majority of members of the board to do some action, then I can feel like it's been done.

If we are not allowed unfettered access as individuals, not as the collection, the board proper, if we can't go in here and dig around -- and I don't care how much animosity it creates; somebody's got to oversee these wrongdoings to get them corrected. Without that physical execution of oversight, we can't really do our jobs. If we're going to be hamstrung by only having a majority, excuse me, quorum, and then all march ourselves down there, that's not going to work.

I'm real concerned with the open records laws where board members are being charged for copies of things. When they would be highly (unintelligible) to possibly getting action by the board, or bringing complaints up to your level.

SECRETARY KEMP: I can speak for the State Election Board. If any of these board members wanted documents on any of our cases, I guarantee they'd get it.

MR. YOUMANS: Would they have to pay?

SECRETARY KEMP: No, sir.

MR. YOUMANS: Now, let me ask this. Under the open meetings open records law, you can be charged 25 cents a copy. After the first hour time it takes to do a copy, you can be charged a labor rate, typically \$8 an hour; somewhere close to minimum wage. However, under -- in 21-2, there is a section that states actual costs should be applied in the neighborhood of 10 cents a copy. So we're being charged 25 cents a copy and labor.

SECRETARY KEMP: If I was on the elections board I wouldn't pay anything to get documents.

MR. YOUMANS: And then have to file an open records request to get it. I definitely hope there is some feedback in having people say that can happen.

SECRETARY KEMP: This board of the Secretary of State's office cannot give you legal advice. We are not your lawyer, and don't take that the wrong way. That's just not something we can do. You're asking us questions I would think Mr. Willard would probably tell us not to answer. Those are things you're going to have to probably talk to an attorney about or take action Mr. Willard described earlier.

Anything else, Mr. Youmans?

MR. YOUMANS: No, sir. Thank you very much.

SECRETARY KEMP: Anyone else wishing to speak? Let me let Ms. Stephens speak real quick, and then we'll come back.

MS. STEPHENS: I've been looking into elections since 2004. Almost every election I've either helped the candidates or myself make copies of all the documents and gone through and found problems. So when I had a chance get on the board, I thought, great. Now we can start having some legal elections.

But when I try to work with our staff and work with other board members, what I'm running into is the majority of board members wanting to keep the elections the way they've always been in the county, and that's been illegal. If that's animosity, then that's just it. I just want legal elections.

SECRETARY KEMP: Thank you. Any questions for Ms. Stephens?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MS. HILL: My name is Aretha Hill. I live at 377 Hancock Street, Sparta, Georgia 31087. My position is elections supervisor in Hancock County.

I just want to comment on the oath form that appeared to be altered. Those form was not altered. What I did, I got some form that had been used, copied them -- attempt to clear the form so that I could use the form for my new custodian to sign off on.

In the meantime, I found some original forms and I let them sign off. So it was not an intention to offer those old form from a previous election.

Also, according to -- the DRE machine left unattended, they was not unattended, sir. The DRE machine was not in the courtroom overnight. They were brought downstairs the morning of about 8 o'clock. They was not -- Ms. Stephens said they was unattended. As Ms. Stephens was entering into the courtroom, I was entering out the courtroom to answer the telephone. My techs were there; I had a custodian at the door. So the machines were not unattended. I just wanted to make that clear.

And Mr. Youmans speaking about the 25 cents, we had a citizen come in wanting to purchase an elector list. And I was charging them 25 cents a page. And I did write something to the board asking their approval, which they have not approved.

I'm not trying to change laws or anything. That's all I had to say.

SECRETARY KEMP: Any questions for Ms. Hill?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here. Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Any other discussion from the Board? We've got a recommendation to bind over the board; Ms. Waddell, the chair of the board; and Ms. Hill, elections superintendent. Is that correct, Mr. Harvey?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: So moved.

MR. McIVER: Second.

SECRETARY KEMP: We have a motion by Mr. Simpson, second by Mr. McIver. Any other discussion?

Before we vote, Representative Fleming, I hope that when -- first of all, I appreciate your willingness to not fight on moving things to the AG's office. I'm hopeful that Mr. Willard and his staff can work with you to come up with some resolutions where we can get some of these issues that continue to pop up in every election, which, honestly, are very disturbing for me. I know they are for Mr. McIver and other members of the board, and certainly a lot of members of the community. There are some of these things that are very simple and easy things that every superintendent has to do as far as testing and securing equipment, and things of that nature. Unfortunately, this Board has seen this more than we should have.

And I'm not trying to take this on you because I know you're new to this job. But I do tell you that because I hope this will be an opportunity for you Mr. Willard to work together where something can be done where we are not having to deal with these issues every single election and every single cycle because it's not good. It's not good for public confidence and for having a secure process that, you know, no matter -- you been a candidate just like I have; and you've won some and lost some just like I have. And you're all right with that as long as you know you've had a fair process.

But when process isn't fair and things aren't done right, you know, it just makes you wonder and gives you a bitter taste about that. So I hope something good can come out of today's hearing and work with AG's office and I appreciate your willingness to be able to do that.

With that, we have a motion and a second to bind over. 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. We have bound that over.

That's all I've got on my agenda, Mr. Harvey. I'm not missing anything?

MR. HARVEY: No, sir.

SECRETARY KEMP: Anybody from the Board have anything? We want to, again, welcome Ms. Sullivan. You can tell by her actions today that she's going to be a very competent and welcomed addition to the Board. We're glad to have you with us.

MR. McIVER: Motion to adjourn.

SECRETARY KEMP: I will now accept Mr. McIver's motion to adjourn.

MR. WORLEY: I second.

SECRETARY KEMP: Mr. Worley seconds. Any discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

We are adjourned. Everybody have a safe trip home.

- - -

(Whereupon, the proceedings were concluded)

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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 8th day of October, 2013.

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

GEORGIA STATE CAPITOL BUILDING
ROOM 341
ATLANTA, GEORGIA 30334

TUESDAY, DECEMBER 17, 2013
9:00 A.M.

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

*DEBRA MONTGOMERY
HAPPY FACES COURT REPORTING
POST OFFICE BOX 1063
TUCKER, GEORGIA 30085
(770) 414-9071*

APPEARANCES:

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

David J. Worley, Member, State Election Board

Tex McIver, Member, State Election Board

Rebecca Sullivan, Member, State Election Board

ALSO PRESENT:

Chris Harvey, Esquire

David Walbert, 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.

9:00 a.m.

PROCEEDINGS

SECRETARY KEMP: Okay. Welcome again, everyone to the special call State Election Board meeting, Tuesday, December 17th, 9 a.m. I want to go ahead and call the meeting to order.

We think Mr. McIver is en route. So we'll go ahead and get started today. We'll bow our heads – briefly for the invocation and then we'll say the Pledge and then we'll get started.

- - -

INVOCATION

- - -

PLEDGE OF ALLEGIANCE

- - -

SECRETARY KEMP: Just a couple of quick announcements, Mr. Simpson is not with us today. He had some back surgery so we certainly wish him well with his recovery and look forward to having him back soon. Also, I just want to remind everybody, as I often do, this is a probable cause hearing. Basically, what we're here today to do is to determine if there is enough evidence for the board to take certain actions with the different cases that are before us like being referred to the attorney general's office or send them back for further investigation or dismissing the case altogether.

With that being said, the way this is going to work today is, we're going to let Mr. Harvey present the different cases before us one at a time. Once he goes through that we'll then allow the election board members to ask questions of him and then once we're finished with that we'll let Mr. Walbert, the attorney for Fulton County, give a presentation or make remarks or be able to address the board however he sees fit. And then, we'll also see if there's anyone who would like to make a public comment involved with these cases. So with that Mr. Harvey, I'm going to let you present to us SEB Case No. 2012 No. 156 which is the 2012 General Election case for Fulton County.

MR. HARVEY: Thank you, Mr. Secretary, members of the board. This election drew a large amount of scrutiny. It's -- everybody knows that elections are about accountability. Accountability for elected officials and also the accountability of people performing the elections to make sure the results are properly and accurately reported. On November 6, 2012, Fulton County held a general election that included the offices of the President, members of Congress,

and other officials and there were significant problems with the election. What I've got on the screen now is the left side is stacks of provisional ballots and on the right side is a copy of a certification that was submitted by Fulton County in which they say that a true and accurate count of votes cast is represented therein. I think by the end of the presentation there will be reason to believe that that might be called into question.

There are five key areas that I want to discuss on the November 6th general election. They involve pre-election failures, absentee ballot problems, problems at polling places, problems with provisional voting, and problems with provisional tabulation and notification of voters. The pre-election failures begin in the days, weeks, and months prior to the election. One of the most important jobs of election officials prior to election is making sure that election --voter registration applications get processed by the deadline. In this case, the deadline for registering to vote in this election in Georgia was October 9th. And there's always a flood of voter registration applications in the days, weeks, and months leading up to the election.

Fulton County, as we were shown, was unable to complete the task of properly entering all those registration applications. These include new voters, voters who were changing addresses, voters who were changing names, voters who had additional information, whether they lacked sufficient ID, or they asked questions of the citizenship status. There were thousands and thousands of these applications that came to Fulton County. In the past, Fulton County had brought in additional data processors to meet this need. In this case, Fulton County did not. There ended up being a significant problem as a result. When they failed to update the voter registration system, they ended up with a huge supplemental list that I'll talk about in a little bit more detail that included over 6000 voters who were not included in the ExpressPoll.

When it came to Election Day Fulton County also failed to prepare precincts with the number of provisional ballots and paperwork and they demonstrated that poll workers were inadequately trained and largely unprepared to deal with a lot of the challenges that they would count. In the electors list, when most people go to vote and they show their identification they're pulled up on a machine that is called an ExpressPoll. And that ExpressPoll contains all the registered voters within a county each; county has their own list. That's important because if somebody is not on that list, according to the poll worker sitting there, they're not eligible to vote and secondary steps have to be taken. In order to complete the ExpressPoll, the information has to be entered in the system, in this case by October 26, 2012. After October 26, any additional entries would not be in the ExpressPoll system and would have to go on the supplemental list. Supplemental list are usually quite small.

In this case, Fulton County had over 6000 voters that were on the provisional -- I'm sorry, that were on the supplemental list. That list was closed on Saturday, November 1st. In addition, on Sunday and Monday, days prior to the election, an additional over 300 voters were then added after the supplemental list was posted so those voters were essentially invisible to election officials. They were not going to be able to ExpressPoll and they were not going to be on the supplemental list that poll workers would look for to find voters who were not on the ExpressPoll. There were another 412 voters that were entered after the supplemental list was printed.

And on November 5th, this is a copy of an email I sent to Secretary Kemp and the elections director. I sent investigators to Fulton County to check on the – we had gotten a large number of complaints regarding people not showing up as being registered to vote in Fulton County. I sent two investigators over to Fulton County to check with the elections director, Sharon Mitchell, to see if they had solved the problem. Ms. Mitchell informed the investigators that everything was taken care of, everything had been entered. There were a few extra that they had found on Monday, but everything was going to be fine. That ended up not being correct.

This is the short summary of the people that were added after the close of the ExpressPoll: Seventy-three of those people voted. Eleven of those 73 that voted provisional ballots were rejected by Fulton County even though they were properly registered. And this will come up a little bit more when we get into the provisional ballot tabulation system. But these are 11 voters who were entered late into the system by Fulton County and then when they were offered a provisional ballot and voted it when Fulton County went to check on it and Fulton County again said, oh, you're not in the system your ballot is rejected. So these are 11 voters who were not – whose vote did not count.

Fulton County conducted an internal survey, internal audit, into their practices and one of the more telling responses came here from an election official who said, visiting Fulton County, registration elections officials could not obtain clear verification of the staffing and heavy workload requirements because voters registration cards were moved from the sign out location and placed around the office so no one would be able to identify the workload. Cards were hidden at employee work stations, thousands of voter registration cards were not entered into the system or addresses updated and that's from a Fulton County poll worker.

Ralph Jones in Fulton County election office admitted that in the pressure before the election that they stopped entering address changes in the voter registration system, which again, caused a voter who had moved and presumably changed their address to go to the wrong voter precinct attempt to vote and be told that they weren't on the list and either be forced to go somewhere else or vote a provisional ballot. And in a lot of cases people would be in line for several hours getting to the ExpressPoll to be told, oh, you're not registered to vote. You either have to go to a different precinct or you have to go to a provisional ballot.

There was some debate back and forth as to whether or not the Fulton County was largely responsible for the failures to enter the information in the voter registration system or whether not it was the result of errors or delays from the Secretary Of State's office. And what we determined was that the Secretary Of State's office had a system where they had to call Fulton County and in several cases Fulton County would normally come and pick up two boxes of voter registration applications in the days before the cutoff. There were some days when no Fulton County staff responded to pick up those registration applications. There were times when Fulton County said they would only take two even when there were more boxes.

The Secretary Of State's office had an all hands on deck pressed right before the deadline were everybody in the office including upper-level managers and staff were clearing these voter registration applications and sorting them to get to the counties. The evidence is that Fulton County can't really lay the blame for the late registration on the Secretary Of State's office.

There's a 145 report, I cannot profess to say I know exactly what 145 is, but it's a report that summarizes all the data entry that's done by the counties in the days -- you can pick any timeframe. In the days before the election, these show the last time that entries were made. So you can see starting the 26th and going through the 5th there were three days when entries were made after 10 p.m., but there were several days where entries were made one, three, and several at the normal closing time.

So the idea that there was some type of huge push doesn't appear to be substantiated by the 145 report. The total 145 report, and this where I'm going to compare Dekalb County to Fulton County, from October 1st until November 1st, 2012, Dekalb County processed 278,190 entries into their VR system. And they did that with 34 workers. And this is everything from absentee ballot applications to new voters to change of address forms to missing ID. This is basic total entry into the voter registration system. Dekalb County did 278,190 in 30 days or between October and November. Fulton County did just slightly more in that same time period with a hundred workers. Fulton County completed 284,317 entries and they still did not complete the entries into the VR system.

I mentioned this before, the most obvious reason why the VR systems is not updated appears to be -- this was reported by Gary Smith, who was the election consultant Fulton County hired to evaluate their elections, he mentioned this and this was also the most constant and consistent complaint that poll workers had in this internal poll I mentioned, was that Fulton County did not supplement their office with temporary workers.

In terms of failing to prepare precincts and poll workers, there was no specific increase in the number of provisional ballots that were distributed after it would've been known that they were going to have a huge supplemental list. They did not identify precincts that might have problems and give them additional provisional ballots. There was no communication with poll workers about this huge supplemental list that was coming. It ended up that almost 2500 provisional ballots had to be printed and distributed on Election Day.

The communication system, which had been billed as state-of-the-art and which may have been state-of-the-art, was ineffective and failed miserably on Election Day. And that's based on reports from poll workers, monitors we had on the ground, and a lot of people. The communications system simply did not work. There are some reports that it was untested before it was put into place. And lastly, poll workers seemed remarkably ill-trained to handle supplemental lists and provisional ballots. Sir?

SECRETARY KEMP: I just would like the record to show that Mr. McIver has arrived.

MR. MCIVER: Mr. Secretary, my apologies.

SECRETARY KEMP: No, no, not a problem. Go ahead Mr. Harvey

MR. HARVEY: When you're dealing with 10,000 provisional ballots, which is a huge increase and wouldn't normally happen, many poll workers simply didn't have the experience to deal with that certainly in those numbers and in some cases not at all. And lastly, there were at least

two precincts where the supplemental list was not provided to the poll workers. And this would be devastating to poll workers when you have the VR system and the ExpressPoll that is missing over 6,000 names on it. To not have a supplemental list to go to as your backup list proved pretty damaging to lease two precincts in Fulton County.

As far as absentee ballot problems go, they were relatively small compared to previous elections and in light of everything else that happened. We did get approximately 22 complaints received, most of the ballots didn't arrive, and the ballots arrived late or on Election Day. We had three cases where more than one ballot was sent to individual voters. And we had reports of ballots that were mailed back in plenty of time but were not received and accredited by Fulton County. This is – again, part of the survey from a poll worker in Fulton County -- it's difficult to read but it says under What did not go well?, on the date that all ballots were to mail out for applications received prior to that date, all ballots did not go out within the two day period.

Once the volume picked up and Advance Voting began, efficiency declined because staff was pulled to work Advance Voting. In addition, there was a lack of communication between the application processing team and the mailing team. This resulted in the entry of absentee ballot issues being late or not entered at all, in violation of state law.

And again, we found that was true although to a much smaller extent than we received in other cases in Fulton County. These are three copies of the second absentee ballot that was sent to three voters in Fulton County. The Hovaters, Mr. and Mrs. Hovater, each received two ballots and Ms. Keuller received two ballots. They both returned -- all three people returned their unvoted second absentee ballots to the Secretary Of State's office. But it's not known if there were others that were mailed out and not returned or voted or what happened to any of them. I mentioned this at the January 31st hearing and I'll just sort of put it into the record again.

Rollie Buchanan, it's a case where he requested an absentee ballot in early October and he did a remarkable job of documenting the steps he took and the conversations he had and the documentation with Fulton County election officials to try to get an absentee ballot mailed to I believe is was New York. And it ended up after repeated phone calls and repeated faxing of applications and repeated assurances that things would happen his ballot arrived actually on Election Day in New York and was unable to be voted and cast by him even though he took extraordinary steps. And again, somebody that has taken extraordinary steps with an absentee ballot and still not getting it is certainly problematic as far as absentee ballots go.

Moving on to the problems at polling places: I've got three complaints that are fairly typical. We received over 120 different complaints about polling places. And again, without reading every single word of all these complaints they're essentially in the record. This gentleman, Mr. Hamby, was lamenting the fact that his 18-year-old son, who was looking forward to his first time voting, was not able to vote. The poll worker shook her head and apologized as this was becoming a frequent occurrence at her polling place. He says how he's really sad how this young man was excited to take part in the American dream and was declined because of the gross mismanagement and complete inaptness of Fulton County.

This is a complaint from Rebecca Roesener who was complaining -- her complaint ends up being

a sort of impression as we'll see later in this report. She reports that she moved to Georgia from across the country. Imagine my frustration when arriving at my polling place I was told multiple times that under no uncertain terms that I would not be allowed to vote even though I was at the proper polling location and had register to vote before the cut-off time. Only when I insisted that I be allowed to speak to the polling judge was I allowed to vote using a provisional ballot. At that point, it was clearly pointed out to me that if Fulton County did not bother to find out if I was a registered voter, they can choose to not count my ballot. I am a registered voter, and yet I was told I am not. If Fulton County can't figure out if I am register in the four weeks between when I registered and the election, how are they planning to do that in the three days following the election?

And the third is from Molly Jones: I moved to Midtown from Fairburn about 3 years ago and have changed my address. My polling place was Grady High School. When I arrived to vote there, they told me that I had to vote in Fairburn. I was not given a provisional ballot and was not allowed to vote. And this is – these next two slides, and you can't read them, but they are in the PowerPoint as the record and they're a little bit more legible. I can certainly make them more legible. These are some of the complaints that we received about polling places. And they contain complaints for everything from long lines to not being allowed to vote provisionally, to machines not working, poll workers not understanding how to work the equipment, waited an hour and a half to get the provisional ballot.

So you can see we were inundated with complaints about polling place problems on the Election Day. And then, sort of a summary of the problems at the polls, you had over 5,000 properly registered voters who had to vote provisional ballots. And this will speak somewhat, I believe, to the performance of the poll workers, 3,732 voters who cast provisional ballots were in the ExpressPoll who should have voted on DRE. It's baffling how that many people who were in the ExpressPoll system were not able to vote on the DRE. Now, you could argue that if every single one of those people went to the wrong precinct they may have voted a provisional ballot. I don't think the evidence would support that at all. Whether the poll workers didn't know how to look people up there's really no explanation why that number of voters would not be allowed to vote on DRE and would have to vote provisional ballots.

In addition, there were about 1100 voters who were on the supplemental list should have been allowed to vote on the DRE but had to vote provisional ballots. There were several precincts that ran out of provisional ballots and caused delays of hours, in some cases, before provisional ballots could be brought to them. If you recall back in January I read some affidavits from people who waited hours and had to make three and sometimes four trips back to polling places to see if more provisional ballots had been delivered, in some cases, having to go after the closing of the polls. As I mentioned, Fulton County printed almost 2500 provisional ballots. The last batch was printed at almost 6:30 p.m. and was delivered after 7 p.m. Of course, people that were in line to vote were still able to vote, but one has to wonder how many people would've made multiple trips back to a polling place after being told there are no provisional ballots to be cast.

There didn't appear to be any coherent or effective plan to deliver or stock the provisional ballots

as they began to run out. Our office contacted Fulton County officials early in the day after we started getting multiple reports that there were an usually high number of provisional ballots and precincts that were running out of ballots. There didn't seem to be much of a plan for delivering those provisional ballots. Poll managers reported spending hours on the telephone trying to get assistance, which often never materialized. And some voters were simply told they would not be able to vote at all because they weren't on the list.

ExpressPoll recapping and DRE recap problems, part of the accounting process at the end of the night with voting is that you have the ExpressPoll which would indicate how many voter cards were created which should indicate the number of people who voted or at least were issued a ballot. The DRE should show the number of votes that were cast on a specific machine or on all the machines in the precinct and those numbers should add up. If there are one or two exceptions it could be accounted for.

Of the 247 recap sheets provided to the Secretary Of State's office, 138 of them appear to be accurate, but 109 of them had errors, omissions, or other problems. This chart highlights some of the worst problems, some of the most disparity in the DRE and ExpressPoll Recap sheets. And if you look at the -- the two arrows show the difference in what the DRE and the statements of votes cast and the ExpressPoll show with these 18 or 19 precincts you end up with a difference of almost 2,000 those between what the ExpressPoll says and with the DRE Recap sheets said. In some cases, recap sheets were not filled out properly. In some cases, they were completed. But again, you've got a massive problem, I think, with accountability trying to reconcile systems.

With regard to provisional ballot problems and this is the largest area of concern in this election I believe. How many people voted provisionally in Fulton County? I'm not confident that anybody would ever be able to answer that question with much precision at all. I'm not sure how well you would be able to ballpark it. Fulton County had approximately 95 - 9600 provisional ballots that were cast on Election Day. Of that, Fulton County reported that almost 2500 were out of precinct provisional ballots. And out of precinct provisional ballots is if I were registered in the Sandy Springs precinct and instead I went a Midtown precinct and it was late they would let me vote a provisional ballot in Midtown because I wouldn't able to get to my precinct is Sandy Springs.

The fact that there were 2442 may not be as obvious as it would appear because remember the voter registration system had not been updated and addresses had not been changed so even if all 2442 voters did go to the wrong precinct, it's not clear that it would've been their fault and it's not clear that all of those voters actually went to the wrong precinct. But anyway, these provisional ballots accounted for about 54 percent of all the provisional ballots cast in the state in that election. And as the board members know, that voting a provisional ballot is sort of a "vote of last resort." It's the last attempt to protect somebody's right to vote if they believe their properly registered. The problem on the backside of that is it becomes incredibly intensive both during the vote casting process and on the backend when it comes to the documentation and the security and the counting and the verification of those ballots.

So as soon as somebody issues -- decides a provisional ballot must be issued they start a chain of

paper and human accountability that goes through several iterations. And if any one of those steps is omitted or failed you can come up with some significant problems. This chart represents different numbers of provisional ballots that were reported. Now granted, some of the early columns were estimates that were given either to the media or the Secretary Of State's office, but the final number appears to be about 9,585 although the report that was given to the Secretary Of State's office said 9,575. It appears they did the math wrong and were off by 10.

You'll see, and I'll point out several times, nowhere in any of this accounting do provisional ballots add up with voters with provisional voter certificates, with the envelopes themselves, with the list of voters, with people getting credit for voting, for people having their provisional votes rejected. And just to quickly run through so that everybody understands how significant this process is, I want to just very quickly go through what a poll worker is supposed to do with a provisional vote. He supposed to have the voter complete a voter's certificate, check the voter's ID, they then enter the voter's name on a list of provisional voters, the poll worker enters the voter's name, precinct and the other data on the outer envelope and they provide the ballot and two envelopes to the voter. The voter then returns it to the poll worker who verifies the information is complete, marks the reason for the provisional ballot, directs voter to deposit the ballot, then takes the voter's certificate and voter registration application puts those together and puts them off to the side.

So you can see that that so far is a fairly -- already it's a document intensive procedure, accounting procedure. The provisional ballot documentation process was practically and largely ignored by many poll workers of Fulton County. I'll go into each of these in a little bit more detail but I just want to get them out there. First, the provisional voter's certificates were often not completed properly if they were completed all. Many provisional ballot envelopes were not properly marked or documented. The lists of provisional voters were often not completed properly, if at all. Many voters were not given voter registration applications as is required in most cases when somebody goes to file a provisional ballot. And all provisional voters were not given information about checking their ballot status after the election.

Completing a provisional voter's certificate is important in determining why a voter is voting provisionally. There are several reasons why somebody might want to vote provisionally. This is what a provisional voter's certificate looks like. You see on the left is the front side and the right is the backside. The front is properly filled out by this voter. You'll notice on the back and this is the actual certificate not just a blank one, none of the information on the back is completed in terms of why this person is indicating why they believe they are eligible to vote and what the poll officer's marking as to the type of provisional voter.

In Precinct 03A, there were 91 certificates that were just like this completed on the front but no indication whatsoever on the back. Like I said, there were 91 provisional voter certificates and most errors were failing to designate why a voter was voting provisionally. All this stuff comes back to the verification processes. Its information, it's not just there because somebody thought it would be a good idea to put in there. There were poll workers that had difficulty accepting and documenting ballot envelopes. There were many poll workers that did not know how to process, secure, and accept provisional ballot envelopes. We mentioned this at the January hearing about

six Bridget Jackson ballots that were accepted by the poll workers.

The reason it's so important for the provisional ballot envelopes to be properly documented is that once they're voted the ballots themselves should be secured in a container until the time that the decision is made whether it should be accepted or rejected. Once the list of accepted ballots is determined then the worker is to go and pull every one of those envelopes that has the accepted person on it and they open it and they count that ballot. When these ballots are put away properly and you get a list of the names of the people that are supposed to vote there's no way to go back and determine who these people are if their names are not properly documented on the ballot envelope. Fulton County explained it was determined that this was an error on the part of the poll worker.

There did not appear to be anything nefarious about it, but you'll notice even as the poll worker improperly put her name rather than the voters name on it, in several cases she failed to complete the provisional code as to why, first of all, what type of election it was and the provisional code. In this case, you'll see the one on the right 90003 she's marked Democrat for some reason. In the general primary that should never be marked. There were several times were she marked some but she didn't mark others and it's just an indication of poor ballot security in this case.

Provisional ballot recaps polls, and this is something that we talked about at the January meeting as well, the recap sheet errors are – again, it's even probably more important for the provisional ballots the documentation be done properly because there is no digital company there's no digital fall back where you can go to ExpressPoll or you can go to DRE and say we definitely have an X number of votes cast on this machine. With provisional ballots you're dealing with people, you're dealing with paper, and dealing with things that can be accidentally destroyed, intentionally destroyed, accidentally altered, intentionally altered, and it became clear that a lot of people simply did not know how to complete recap sheets.

This is an example, again, of what we used in January. This shows Precinct 11G and you'll see that there's no serialization for provisional ballots. There are 59 names on a list where there's absolutely no accounting for how many ballots they started out with, how many were cast, how many were unused. The list of voters on the right again has no ballot style that was issued and no indication as to whether or not ballots were accepted or rejected. You'll notice here the poll worker said that they had to bring some more ballots but there's no indication of how many extra ballots were brought, what happened to the extra ballots were they accounted for, were they destroyed, were they voted, were they transferred to somebody else, there's simply no answer to that.

And this is Precinct 01A provisional recap sheet you can see is completely blank. That's as much documentation that was done in Precinct 018A for the recap sheets. And as you'll see, Precinct 01A had, depending on how you do the math, over a hundred provisional ballots were cast. Again, no indication on any of this stuff, how many did they start with, how many were voted, how many were returned? And then the list of provisional voters, as I mentioned before every voter that votes a provisional ballot was supposed to be added manually to a list. And that list is what's used to document the acceptance or the rejection it's what's supposed to be used to document the acceptance or the rejection of the ballots. The list of provisional voters, again,

many were incomplete, they were incorrect, they were missing, some didn't exist at all, and some were severely undocumented. This again is Precinct 03A, and the list of provisional voters on the left appears to have been done properly at the precinct and you'll see the notations accepted/rejected. You also see the precincts that the voter was voting in, is written in red. And on the right, is a second part of the list that was obviously created after the election for what reason we're not sure, it shows acceptance or rejection of these provisional ballots. In those cases, it doesn't show when they were accepted and what precinct they were voting in. Did the poll manager start doing it properly and then stop, was the one on the right labeling correctly, who completed it, we simply don't know.

This is a random list of provisional voters. There was a stack, a fairly large stack of lists that were just like this. Notice there's no indication whatsoever of what precinct it was, what time it was voted, anything even frankly what election it was. We presume it was from the general election because it was with all the others from the general election, but if you look at this briefly you'll see that it appears that it was worked properly; however, you've got five voters where there's no indication if ballots were accepted or rejected. And in this case, all five of these voters had registered prior to the deadline. None of them received credit for voting and Fulton County did not provide provisional ballot envelopes for these five voters.

You'll notice at the bottom left where it says rejected ballot Gheorghe, Sima or Sima Gheorghe, has a provisional ballot rejected but he was registered prior to the October deadline. We've got voters that were not given credit for voting though the ballots were marked as accepted. So again, you get back to the question, how many people voted, whose votes counted? It's very difficult to understand; very difficult to determine.

More provisional ballot problems at the polls, a lot of poll workers did not provide the required documentation with provisional ballots. When somebody votes a provisional ballot because they are not on the list, they are required to be given a voter registration application. And anyone who votes provisional ballot is required to be given written documentation that explains how they can check on the progress of the ballot. We had many reports of people that didn't receive any voter's registration application for the provisional ballots. I think if you recall back in January the question was raised, how many voter registration applications they have received since the election? They weren't sure.

Fulton County subsequently reported that their provisional voter registration applications got commingled with the regular voter registration applications so they really couldn't say how many provisional voter registration applications came in. But just by example, these are 22 people that we spoke with in the course the investigation who voted a provisional ballot and we just asked them, hey, did you get the voter registration application when you voted a provisional ballot? All 22 of these people did not get voter registration applications. And one of the problems with that is that if these people were, in fact, not registered to vote they're still not registered to vote. That was the reason for issuing the voter registration application because for whatever reason it didn't get entered, it was lost or it was destroyed, it was incorrectly coded now they at least, if they didn't get a vote this election, they'll be registered to vote in the next one.

If you'll notice, based on the registration date entry which is the second last column on the right, all of these people were entered right before the election so it's unlikely that they would have shown up on the ExpressPoll which would indicate that they should assume to have not been registered and should have been given a voter registration application. And we had cases where people assumed they'd been denied the opportunity to even vote a provisional ballot. In some cases, it was because there were simply no provisional ballots to offer them. But in some cases, we had voters who actually asked to vote provisional ballots and were simply told they could not and they left without voting a provisional ballot.

We get to provisional ballot verification process; all provisional ballots have to be determined by 5 o'clock on the Friday after the election. Fulton County didn't even start verifying their 9,575 provisional ballots until Thursday after the election so they lost an entire day of verification. The law actually allows election officials to pick up provisional ballots from the precinct while the polls are still open so that they can start the verification process. And again, when provisional ballots were provisioned by the lawmakers they envisioned one or two people voting provisional ballots had to be checked. They weren't thinking 10,000 people voting provisional ballots in the largest county in the state.

So if they started Thursday morning that gave them 41 hours to validate 9,575 provisional ballots. If they took three and a half minutes per ballot verification, which I think is a pretty conservative estimate, it would have taken 443 hours to complete the process. Fulton officials did not work around the clock, although, they did work some late shifts. Ralph Jones further testified that in addition to one person checking basically we had two people check every provisional vote. So you can take all of those numbers and double them because according to election officials they had every provisional ballot checked by at least two people.

In order to check – just briefly going through the process, they would check the “Go” screen, which was in the VR system that would show whether or not somebody was registered, show where they were registered, when they were registered. If somebody showed up on the “Go” screen they would be approved if they were registered in time, their provisional ballot would be approved and would be moved to the side to be counted. If it was not in the “Go” system the next step would be to go to the unprocessed voter registration applications that had come in that were in boxes and go through each of those to try to find if the person's voter registration application came in late. Lastly, they would check the Department of Driver Services website to determine if somebody registered to vote. So you can see as a three and a half minute per ballot twice that seems a very conservative estimate, and we'll see that there are significant failures with provisional ballot verification.

We had provisional ballots that were rejected for people who registered to vote. In the case of the McGlashans, this was a husband-and-wife who registered at the same time at the same address. They both went to vote at their designated precinct. Mr. McGlashan was allowed to vote Mrs. McGlashan was not. Mr. McGlashan's ballot was accepted Mrs. McGlashan's ballot was not. You also had voters who had provisional ballots accepted even though they weren't registered to vote and I've got some slides that will indicate that. The provisional ballots were not secured during the tabulation process.

When I went over to the Fulton County elections office the day after the election, there were provisional ballot envelopes that were scattered through cubicles, there were 2 or 3 rooms where the ballots were being evaluated, they were at computer stations with individuals handling them, writing on them, marking on them, they were then returned to a central room. So the ballots themselves, which were required to be kept basically under lock-and-key during the verification process, were simply not done at all. Fulton County could not even produce physical evidence that everybody listed as voting provisionally cast a ballot.

I'll get into the 10th Precinct provisional ballot analysis but there were hundreds and hundreds of people that were listed as having voted a provisional ballot but when we asked to see the envelope the person cast Fulton County was not able to present us the envelope and/or the voter's certificate the person would have marked. There were voters that were shown to have voted provisional ballots who never cast provisional ballots. We found 95 names that were listed as having cast provisional ballots and voting on DRE so the concern there was the voter casting two ballots, and that could conceivably happen. What we found when we talked to as many of the 95 as we could, most of those people only voted on DRE. Most of them did not cast a provisional ballot and they did not have a provisional ballot certificate. How they ended up on the list of accepted provisional ballots is a mystery. And this is just documentation on Mrs. McGlashan this is her email explaining her attempts to voting and having been rejected. And on the right is a letter of rejection saying that Fulton County was not able to determine that she was properly registered when in fact she was.

These are people from Precinct 01A whose names were on the list of accepted provisional ballots who don't care to be in the voter registration system. How these people had ballots accepted is a mystery, as well? There didn't appear to be any type of system for the recording acceptance or rejection of a provisional ballot. If you recall on those provisional voter lists some of them indicated if the ballots were accepted or rejected others were completely blank. The envelopes themselves were marked accepted or rejected and as you recall in January Ms. Mitchell testified that that was the ultimate answer as to whether or not a ballot was accepted or rejected. You go to the ballot envelope itself rather than the lists. So how they were able to put together a list of all the provisional ballots that were accepted or rejected is mysterious and is probably why there are so many errors because there was not a single system that was used.

Fulton County didn't follow their own policies regarding handling provisional ballots and the chain of custody that Fulton County had in place on paper was virtually ignored. And this is the 10th Precinct provisional ballot analysis. We showed you this in January, and again, if you go down the columns to the left, if you just take these 10 precincts and take the numbers of list provisional voters the total was 911. If you take the list on the recap sheet it's 789. If you take the provisional voter certificates that Fulton County was able to produce it's 755. If you take the actual provisional ballot envelopes that Fulton County was able to produce you get 649. So almost a 300 voter discrepancy between what's on the list of voters, what's on the recap sheet, and what they were able to actually show us? Here's an envelope that was cast by Joe Lector that shows they voted a provisional ballot.

SECRETARY KEMP: Mr. Harvey, just a quick question. Up to this point you've basically been talking about countywide numbers for the election, correct?

MR. HARVEY: Yes.

SECRETARY KEMP: And then on this provisional ballot your investigators just did 10 precincts out of 300?

MR. HARVEY: Yes, sir. Out of 342 I believe. So yeah, these numbers are just for 10 precincts that we highlighted. Certainly, not every precinct was problematic but there were more precincts than this that had similar problems. You can see, just in here you've got a 300 number difference between what's from the beginning to end the highest possible to lowest possible. If you'll also recall in January the poll managers that were subpoenaed to testify in front of the State's Election Board said that none of these poll managers were questioned by election officials when they turned their documents in. They were not asked to account for not having a recap sheet, for not having the same number of provisional ballots that they had listed, for having missing information, nobody was challenged or questioned. And the question is where are all the documents?

You then get into the notification of provisional voter's ballot rejection. The law requires that if a provisional voter's ballot is rejected for any reason that they be notified by US mail of the reason for the rejection. Fulton County provided 4,681 letters of rejection that they sent to provisional ballot voters. The 34 of them had no reason for why the ballots were rejected. Thirty-five of the letters had no city, state, or zip code on the address. 11,154 letters had no mailing address at all. And you'll see this is one where there's no reason for the rejection that would normally be up there; there were 34 of those. Thirty-five of these simply had a street name without any city or zip code. And then, over 1100 of these that were sent out had simply the voters name and had no address at all. There was absolutely no way this letter could've gotten to the voter.

The theory as to why there's no additional information is because the provisional voter certificates were not filled out completely in a lot of these cases and the only way you would get the voters name and address is from a provisional voter certificate. If those are not properly filled out and/or retained and/or used to document the ballots you would end up with the situation that you have here where there is absolutely no way that letter is getting to the voter. Now, if you go, and this is a little more specific than I mentioned before, if you go by the provisional ballots or the voter lists Fulton County is missing 267. If you go to the recap sheets of just these ten precincts Fulton County is missing 131 provisional ballots. If you go according to the number of voter certificates Fulton County is missing 203 provisional ballots. And again, just out of those ten precincts.

This is a document that was presented in January that caused a lot of concern. This is the SS14 where you had voters that were added to the list of provisional voters after it was turned in, in red ink and they were all accepted. If you call, in January when asked about why this was done or what would account for this, the election officials didn't have any explanation. They also didn't have an explanation when we asked them in December about this same issue. It turns out that

apparently, again, apparently these five voters went to the wrong precinct and they may have filled out a voters certificate but they never cast a provisional ballot and the reconciliation process back at the election office somebody thought, well, we need to add these voters. We've got a voter certificate I assume they cast a ballot and so they were added to the list. And then when somebody looked them up to see if their vote should have counted they would've seen, hey, they're in the system we would accept their ballot. So their ballots were accepted when, in fact, they really weren't cast so they didn't vote two ballots. There again, on the left they have -- this is from the list of provisional ballots that were accepted from Fulton County and then the numbered of list of voters from Precinct 7A. And you'll see that Ms. Bradshaw is listed on both lists as are the other four voters that were in SS14.

And again, the concern that there was some type of nefarious activity, I think, is larger than -- I don't believe there's an indication that somebody was intentionally trying to make it appear that somebody was voting twice, but again, unless you go through every single one of these names there's really no way you can determine how many voters cast ballots and why they ended up on one list or another. Of the letters that were provided there were no letters that were sent out of 45, again, that's just out of the ten precincts, 45 Out Of Precinct voters who had their provisional ballots duplicated. And again, if somebody votes out of precinct and they're properly registered their ballot has to be taken and it has to be duplicated down to the point where they're no longer eligible to vote for a candidate. So in this case it was the presidential election.

If I voted in Buckhead and I live in Sandy Springs they would accept my vote for President, Congress, and possibly for County Commissioner, but once it got down to the very local election if I was in a different school board district then if what was available in Buckhead they would not count that. So my ballot would only be completed down to the most common candidate or the most common issue. Forty-five voters were in this position out of these 10 precincts and there were no letters that were sent to them; none indicating that the ballot had been duplicated. Again, this gets back to the other thing about all the red writing and there was a lot of concern about that at the January election.

The standard practice of the election officials explained to the -- when they met at the Fulton County commissioners, I think the next day or maybe two days after the meeting with the State Election Board, they explained, oh, this is very common, we use the red ink so it won't be confused with what happens at the precinct. If you recall, they weren't able to say anything like that on the day that they met with the State Election Board. And frankly, the provisional ballot system was in such a wreck that red writing and trying to manipulate something in the provisional ballot system had been just about all but impossible.

When we get to the list of violations we were able to determine in this case, in Fulton County, we've got I think four pages. I'm not going to go through each of them individually unless somebody would like me to. They range from the registration issues, to the provisional ballot issues, security of provisional ballots, SEB rules regarding documentation of provisional ballots. And again, I'll be happy to go over them if somebody wanted me to but I think that would be pretty time intensive. And at this point, that concludes the presentation of SEB 2012-156.

SECRETARY KEMP: Thank you, Mr. Harvey. We're now going to take some questions from

the board for Mr. Harvey and then we'll give Mr. Walbert an opportunity to address the board and make remarks. Three quick questions that I have, it appears to me that we've had people that were disenfranchised that never even got a vote that were not properly registered even though they made the deadline. Would you agree with that?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: It also appears that we have the disenfranchised that actually voted but then their ballot or vote was rejected?

MR. HARVEY: Yes, sir. That's correct too.

SECRETARY KEMP: And then, we had people that it appears voted that should not have voted.

MR. HARVEY: They're at least recorded as having voted. But then again, in some of these cases peoples name would be on the list of ballots that were accepted and then there's no envelope for them. So whether they actually cast ballots or not we don't know but there are certainly people that are listed as having credit or whose ballots were accepted who were not registered to vote.

SECRETARY KEMP: So I guess this is a little in-line with one of the last points you made about the provisional ballots that they were out of precinct and they were not duplicated. Potentially, you could have people that were voting in some of the more local races like the school board or county commission seats because they were voting out of precinct they could have been voting in the wrong election.

MR. HARVEY: They could have. I want to just clarify a little bit. Whether all these were duplicated properly we don't know. We do know that, the point I made at the end, was that they were not properly notified that their ballots had been duplicated. That's presuming that they were properly duplicated. That's assuming they were properly duplicated.

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

MR. WALBERT: My name is David Walbert. I represent the respondents to some extent in this case. Just to be clear, I don't represent, if there is personal individual cases against the ex-Sam Westmoreland or Ms. Mitchell, I'm here on behalf of the County and I represent them in an official capacity who would be their successor now at this time. My address is Parks Chesin and Walbert, 75 14th Street Northeast, Atlanta, Georgia 30309. And I appreciate the opportunity to respond, the members of the board and Mr. Secretary. I want to say just a few general things here; make a few different points.

Number one, I think it's important to keep in mind that we have never actually, until we got the report from Mr. Harvey dated February 26th, that's the first time we've gotten a written specification of allegations against the Fulton County Board with all this almost a year going on at this point. I think one of Mr. Harvey's last points I was disappointed in was his comment that at the January 31st hearing at which time we had been given zero prior notice of what the

allegations would be. That was a matter that Mr. Harvey didn't show at that time and I'm not belittling that but that was all without any notice about what the allegations were. And he sits there and says today Mr. Jones I think it was said that he used red ink on something several days after but didn't offer that at the time of the January 31st hearing. If we put this in context remember that that was a probable cause hearing. There was no evidence given by our side on that, no response of evidence and we had no prior notice at all of what the questions or allegations were. So I think that needs to be put in context.

There are many things in Mr. Harvey's allegations that we would take issue with. In saying that, I don't mean to sit here and say that the Fulton County elections were handled entirely appropriate at that time. But let's do keep in mind several things I think that are most important which is, what happens going forward? Fulton County Board of Elections had gone through some tremendous problems with leadership; we agree to that. I think you all know the history of Mr. Westmoreland how he ended up becoming the chairperson of the board. He was in over his head and that's reflected in the lack of leadership and the changes administratively he implemented like many of the actual problems that occurred since that time.

And then Ms. Mitchell was the interim head or interim director of the department waiting until there was a new permanent director that was hired. And there has been a complete wholesale change in the board itself. They've got four new appointees and chairperson here Mary Carole Cooney who is here today is fantastic in terms of her knowledge, her dedication, and her leadership. Ms. Cooney, I think most of you know, is very experienced, very well-respected attorney and been with the City of Atlanta for years and has been in her own practice subsequent to that point in time. Under her leadership, they have hired just in the last few months a new director of the Atlanta -- executive director of the Fulton County Department of Registration Elections Mr. Rick Barron who was in Austin, Texas prior to that time after a comprehensive and intensive nationwide search for someone who could lead the Department of Elections and get rid of some of the problems it has had in the past.

So on the one hand, we're very much focused on dealing with the future and doing as good a job as is possible. Looking back to these other matters, I think it is appropriate that this be referred to the attorney general because the gulf of factored perception of what happened is so great that I think in that context of hearings, unfortunately, is the only way to kind of shake this down to the kind of -- what really were problems that need to be addressed retrospectively. Just to give you a couple of examples: Mr. Harvey talks about provisional ballots and the number of provisional ballots and that being such a great problem in Fulton County.

There were a large number of provisional ballots in Fulton County which was not at all inconsistent with what is seen in other counties of that size around the nation. And I think you all have at this point a response that we did to the January 31st hearing that we did in March and provided that initially to Mr. Harvey and I understood it didn't get to the board so I sent copies to the board itself. One of the things that we point out in there is very, very important, I think it was glossed over by Mr. Harvey, is what federal law says about provisional ballots. Yes, Fulton County is liberal, for a lack of a different term, in the provision of provisional ballots in these elections and it's our view that we're following a clear explicit mandate of federal law. And it's

says that, and I'm quoting, "in the election for federal office a person must be permitted to cast a -- must be permitted to cast a provisional ballot if his or her name does not appear on the official list of eligible voters for the polling place." So as we read that and that's Section 1542 of 42 USC that law as we read it specifically demands that the County give a provisional ballot to a voter whose voting out of precinct. The State Election Board – the state law is a little different than that and the State Election Board is different from that. It's more restrictive and it's like Mr. Harvey said in his report. And as he says in here – and he dances around this issue and doesn't come to grips with it and it's critical to resolve this question of the number of provisional voters, which way Fulton County needs to go. And again, I think the federal law is pretty clear on this but that's something that needs to be resolved because as their current practice is it's going to continue to have a lot of provisional ballots.

It's going to continue to have that if Fulton County continues to do what it historically has, which if you read federal law that seems to be what they need to be doing. Mr. Harvey says, well, you know, you could, and this is more consistent with the state rule, one could have directed people to come to the wrong precinct to go to another precinct. That's really what I recall an exact language in the state rule is required. It would seem to be a direct conflict with what the "must language" of the federal statute. Point being, why there's so many provisional ballots is not because of incompetence or so something like that the vast number of them are because of people and they do have a traditional expectation to be able to vote out of precinct in Fulton County because they have and that does seem to be mandated. If that gets stopped and that's another question that's a legal issue but that's something that needs to be addressed and that goes more to the heart of provisional ballots than anything else that's been said.

SECRETARY KEMP: Mr. Walbert, let me ask you a question about that because if you're stating federal law then you're also saying that Fulton would be in violation of that federal law because there are a lot of people that didn't get provisional ballots that tried to go vote.

MR. WALBERT: Well, that would be a – we're going to have the hearing, because that's where we take great issue. I think another problem, Mr. Secretary, is you know one of the things we get is 150 anonymous complaints about the people saying this or that and the ones that we finally get out who it is and we can track it down, you know, it's out of 375,000 voters 150 people are making different complaints about not having been given a voter registration or being offered that and so on.

SECRETARY KEMP: You know, you use the word incompetence but, you know, wouldn't you agree that when you don't properly get people registered to vote and they're not in the system correctly whether on the electronic poll or on the paper list and even if they are the paper list doesn't get to the precinct then you get into the part where you're talking about federal law and getting provisional ballots out. The point is that should have never happened to start with and I personally talked to people that tried to vote in the primary election in July that never got registered and they finally gave up and called the Secretary Of State's office and after four calls we finally got the child registered and she got to vote in the general election. I mean, that's where our frustration comes from and that's completely documented. I if you want to dispute that we're glad to see any documentation that you have.

MR. WALBERT: Here's what is completely documented is that Fulton County received from the Secretary Of State's office 3,849 applications after the close of the ExpressPolls. That's a fact. So when we talk about we're going out at registration and who got it wrong -- Mr. Harvey says 40 temporary workers were hired by Fulton County and unless I'm having a hearing problem I thought he just said that there were no extra people brought in and that was the problem. In fact, it was 40 temporary people brought in solely to be processing these applications. And almost 4,000 were received from the Secretary's office after the close of the ExpressPoll, which is of course, weeks after the deadline for registering, but they had either got to one of the legally enabled agencies that could take them and they were slow getting them to your office or they were at your office.

As Mr. Harvey said, "all hands on deck" were trying to get those processed in the Secretary Of State's office. They would be there for weeks at times before they got from the Secretary Of State's office to Fulton County. That's what caused 3,849 of them to get there actually after the time then they could have possibly -- even if we put them in instantaneously and 3849 of them ended up too late to even get in the ExpressPoll. So there's problem's all -- I hear the allegations and I think there's two sides to these stories. And I think that's one of the problems about getting all of these things resolved.

I think that's why, unfortunately -- because really, our goal here, and I think Mr. McIver's suggestion was the best thing happened in the January 31st hearing and that is, let's come up with a -- I want to hear a creative solution because the issue here is to make this as good as possible going forward, we're all for that. And we, of course, explored that. I still hope that that will be the outcome of going forward here. We have totally new leadership and we have real professional leadership on the Fulton County Board. We don't want to gloss over what's happened in the past nor do we want to get accused of things that are one side of the story. That's the problem we're having at this point. And I think with the attorney general it's the place to maybe dig into some of the facts more.

There are two sides and some of them are right some of them are wrong, whatever, everybody would be focused I think on what's the best way at going forward. I think that is everybody's interest. So that's really -- I don't want to go through all the litany of accusations and so on and talk about the response. You do have my response from the January 31st hearing and I appreciate you all taking that into consideration. But we are in agreement, and I don't know if this my motion, but we are in agreement with the -- being referred to the attorney general so that there can be further investigation of the facts and hearings as necessary or propose resolutions of the entire matter however that falls.

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

MR. WORLEY: Mr. Walbert, Mr. Harvey indicated in his presentation that there were various numbers, what was the actual number of provisional ballots cast in Fulton County in the general election in 2012? Which is the correct number in your opinion?

MR. WALBERT: I thought it was 9575. He said there was a mistake in the arithmetic. I'm not aware of that. And let's be clear, Mr. Worley, about cast, some people use cast meaning

accepted as opposed to filled out. We're talking about filled out.

MR. WORLEY: Yes, I meant filled out. How many were filled out in the 2008 general election?

MR. WALBERT: That would have been radically different. I don't know that offhand.

SECRETARY KEMP: Does anybody from the elections division staff happen to know that number?

(Let the record reflect, there was no response.)

MR. WALBERT: One thing I might add, Mr. Worley, I think Mr. Harvey is right that on occasion the reasons for acceptance or rejection of the provisional ballot is not written on the ballot envelope and the reason for that is the primary system for recording that data it's all computerized. When a person does it it's entered into the computer. So it's not like there's no record of that, it's just that it's not duplicated hand written on the thing. Rural counties often just write it and they do it by hand. That's not what you do in a county of this size. And so all those entries and that data is there. So it's not like that data doesn't exist.

MR. WORLEY: I have another question. You indicated there had been some personnel changes in the election's office; could you go into that in a little more detail?

MR. WALBERT: Yes. More specifically, again, it was a very intensive nationwide search for an executive director with professional leadership abilities and experience in election management with no ax to grind and no agendas and so on. And that was extended out through the very intensive efforts of Ms. Cooney and the other people on the board but Ms. Cooney in particular and advertisement was done nationwide. A number of people were interviewed in June I believe it was. Mr. Rick Barron from Austin, Texas was hired to be the new executive director. He has moved here with his family to Atlanta from Austin and he is the head that we are very optimistic that will be what it needs.

MR. WORLEY: Has Mr. Baron made any personnel changes in the office?

MR. WALBERT: I don't want to answer that question, Mr. Worley. I think this would be me speaking way out of school but --

MR. WORLEY: Is Ms. Mitchell still there?

MR. WALBERT: Oh, I'm sorry, Ms. Mitchell is not there.

MR. WORLEY: Do you know of any other people who --

MR. WALBERT: I don't. I can't say that's accurate. I do think, in all fairness, there needs to be a better system of determining who are poll managers and some sense of greater control of that to make sure that the best possible people are available. And Fulton County, you know, has got financial constraints and so on maybe worse than other people because it's got some special laws and so on. I do think that focusing on and I think Mr. Harvey and I would agree on some

things probably more than one would think from me sitting here throwing trash at him this morning but I think that getting -- making a real effort to get good poll managers is very important.

SECRETARY KEMP: Mr. McIver.

MR. MCIVER: Mr. Walbert, can you identify for me, who in here is from Fulton County?

MR. WALBERT: The chairperson of the board, Ms. Mary Carole Cooney and I don't know -- and this individual here.

COMMISSIONER HOUSEMAN: Commissioner Houseman.

SECRETARY KEMP: Commissioner Liz Houseman. Welcome to you both.

MR. MCIVER: Mr. Barron's not here?

MR. WALBERT: No. He asked whether he needed to be here and I said I thought this would be a matter that would be referred. You know, he will certainly see all this. When we get a transcript and he's read the transcript of January. I assure you, his being here is not a lack of interest. Hopefully he's gotten -- it's not that at all.

MR. MCIVER: Well, you anticipated my question. Should we draw any inference from that --

MR. WALBERT: You should criticize the --

MR. MCIVER: -- other than the Commissioner and the Chair seems to be a lack of interest from the staff --

MR. WALBERT: You should criticize his lawyer if you're going to criticize someone, Mr. McIver. I didn't see a value of his being here as opposed to something else. Not that this is irrelevant, I actually thought this was going to be a -- I didn't realize we were going to go into this kind of presentation. I actually thought the hearing was going to be something where we would agree it would be referred to the attorney general for further hearing is what I thought. I didn't realize that Mr. Harvey would be getting into this kind of presentation. We will get from Mr. Harvey his slides and I think there's a transcript so I'm sure he would have given -- it did turn out to be substantive in that regard. Mr. Barron will most surely be involved.

MR. MCIVER: So we shouldn't draw an inference?

MR. WALBERT: No. The only inference you could draw really would be criticizing his lawyer.

SECRETARY KEMP: Well, let me just say this for the record. Despite some of the issues, in my opinion anyway, I think we have and continue to have in Fulton County past Mr. Barron has shown a lot of good initiatives through the last election process here in the last few months in working with our office so we're certainly embracing that. And my goal and this Board's to, like Mr. Walbert said, is to have well run elections in Fulton County. But I will caveat that with, you

know, I still remain deeply concerned about what happened. This problem, it seems to recycle every few years and that's, I think, unacceptable in my opinion especially when you're having people that are disenfranchised during the elections process and you're seeing the systematic problems in one county in the state and nowhere else -- you know the rest of the 150 cases. And I think that's what we've got to reach a conclusion so we don't have to deal with this again in the future and that's certainly my goal. Are there any other questions for Mr. Walbert? All right, do we have anyone else that wishes to speak on this matter? Commissioner Houseman, did you want to speak?

COMMISSIONER HOUSEMAN: I would like to say that I do have a staff attorney here from Fulton County.

SECRETARY KEMP: Let the record show that there is also a staff attorney from Fulton County in the room with Commissioner Houseman. All right, anyone else wishes to speak on this matter? Ms. Ford, if you don't mind I'd like for you to address the board just on exactly how the voter registration process works leading up to the election and what we were doing and what your staff is doing and what our past practice in getting voter registrations to Fulton County and how they are getting them from us just so we're clear on that matter.

MS. FORD: Linda Ford, 323 8th Street NE Unit 6, Atlanta, Georgia 30309. Our office receives voter registration forms into our mailroom. And it is as has been stated in the weeks and particularly the days before the general election we get thousands of those applications in for every county in the state. We date stamp those so that if an application for example is mailed on the Monday of the voter registration deadline, which I believe was October 9th for the general election, if it is date stamped any time up until that Friday coming into our mailroom then that voter registration application is deemed when the County receives it eligible to be registered to vote if it does not have a postmark on it. And so that way we're given -- we're airing on the side of the voter. Because you'd be surprised how many voter registration applications we receive that are not postmarked for whatever reason. And so that way it relieves any doubt when the County gets that.

And then of course, we are also receiving in the mail during that whole week voter registration applications that were mailed on the voter registration deadline, which was October 9th of this case. So those are all shipped out to the counties. Every day we get trays and trays of mail and during that week and the week preceding we ask investigators, we ask people from the front office, we have people come up from Macon to go through those applications to make sure they're date stamped, sort them into the counties, and then they're mailed out to the counties. So there is no sorting into a specific county and holding that county. They're all sorted and they're all going out.

For Fulton County, we had an arrangement because, of course, they're only two blocks down the street, where somebody from Fulton County would come every day and pick up those voter registration applications. And that way they don't have to be mailed two blocks down the street and that seemed to have worked out very well. Leading up to the voter registration deadline we did have some issues. Some days they would not come and we had to reach out to Fulton County to ask them to send someone and also some days they would come and not pick up all of

the voter registration applications in which case we call Fulton County and reported that to them. And that was what I believe you heard Mr. Harvey speaking to.

SECRETARY KEMP: Any questions for Ms. Ford? Okay, anyone else wishing to speak on this matter?

MR. HARVEY: Yes, Mr. Secretary. If I could just clarify two things that are in response to what Mr. Walbert said: One, as far as the provisional ballots go, I don't think that anything I said was necessarily designed to indicate that Fulton County should not issue the provisional ballots. It was unfortunate that the voter registration system caused that to happen but if Fulton County issued 50,000 provisional ballots they're obligated to account for every single one. And I think in my opinion that's the bigger concern not the issuing of provisional ballots but the lack of documentation and security.

And the second, Mr. Walbert mentioned 3,000 voter registration applications were sent after the deadline, it was practice that our office continued to send voter registration applications to the counties even after the deadline. And these could have been some that came in a week before the election. We had a continuous stream so if any county received a voter registration application say the week before the election it would be up to them to determine if they want triage or do they want -- you know we're not going to touch these until after the election because we know these people won't be registered.

SECRETARY KEMP: And they shouldn't be registered because they didn't --

MR. HARVEY: Correct. The other practice could be that we would just hold everything that came in and then unleash on them after the election but we don't do that. We keep a steady stream of voter registration applications coming through the days leading up to the election. I don't know, specifically, the 3,000 he spoke about, but yes, it would be an accurate statement to say we continue to send voter registration applications after the deadline but they may well be not suitable for registration.

SECRETARY KEMP: Anyone else wishing to speak? This is the last call on this particular case, 2012 No. 156. If not, do we have a motion? Any discussion with the board?

MR. WORLEY: I make a motion. Mr. Secretary, I make a motion that we refer Case No. SEB 2012-156 to the attorney general's office.

SECRETARY KEMP: We have a motion from Mr. Worley do we have a second?

MR. MCIVER: Second.

SECRETARY KEMP: Second from Mr. McIver. Any other discussions?

MR. WILLARD: Mr. Chairman, can the record reflect which respondents the board is finding probable cause against to refer over to our office?

SECRETARY KEMP: Mr. Harvey, do you have any suggestions on that?

MR. HARVEY: In this case we've got Sharon Mitchell who was the acting election superintendent at the Fulton County Board of Registration and Elections is the only respondents.

MR. WILLARD: So I would amend my motion to reflect that we're referring that case and those two respondents to the attorney general's office.

SECRETARY KEMP: Okay, and Mr. McIver do you want to second that amended motion?

MR. MCIVER: Yes, sir.

SECRETARY KEMP: He does. We have a motion and a second to refer the AG's office. Any other discussion amongst the board? Hearing none, all in favor signify by saying, aye.

(Let the record reflect that the vote was aye unanimously.)

SECRETARY KEMP: All oppose; same sign. The motion will carry and we have referred that case. Mr. Harvey, we also got SEB Case No. 2012 No. 56, with issues that were dealt with in the primary election. Mr. Walbert, do you want us to present the case or do you have a preference?

MR. WALBERT: Thank you, Mr. Secretary. I had the impression from talking to Mr. Harvey that there was on that he was recommending further action and one of them not.

SECRETARY KEMP: That's correct. I think the next case dealing with the 2011 case was the recommendation from Mr. Harvey to dismiss. We can certainly do that. I just want to handle this.

MR. WALBERT: No problem. We're happy with taking his report and if he wants to put the slides in as part of the complaint if you will and I will deal with that after the referral.

SECRETARY KEMP: All right. Let me just call for the record so we can properly do this. Let me just call the next Case SEB No. 2012 No. 56 which is the 2012 primary election case against Fulton County. Mr. Walbert, the County's attorney, has agreed that he will be all right with us referring the case to the AG's office. Was there anyone here that wanted to speak in regard to this case? Did any of the board members have an issue with us doing that without hearing a report? Mr. Harvey, do you need the name of the respondents?

MR. HARVEY: In this case, it would be Sam Westmoreland is the elections superintendent and the board.

SECRETARY KEMP: Do we have a motion?

MR. WORLEY: Mr. Secretary, can we make a motion to accept the PowerPoint presentation and print a copy and send it to the board on SEB 2012-156.

SECRETARY KEMP: Well, we can. Is that a motion?

MR. WORLEY: Yes.

SECRETARY KEMP: All right. Mr. Worley makes a motion to accept the investigative

report, the PowerPoint, and make it part of what we will be taking action on, do we have a second?

MR. MCIVER: Second.

SECRETARY KEMP: Mr. McIver seconds. Any other discussions? Hearing none, all in favor signify by saying, aye. All oppose; same sign. That motion carries and we have accepted the report. Now, we're ready for a motion on SEB Case No. 56.

(Let the record reflect that the vote was aye unanimously.)

MR. MCIVER: I motion to bond over Case No. 56.

SECRETARY KEMP: All right, Mr. McIver has a motion to bond over 2012 No. 56 SEB case with Sam Westmoreland and Fulton County Elections as respondents.

MR. WORLEY: I second.

SECRETARY KEMP: We have a second. Any other discussion? Hearing none, all in favor signify by saying, aye.

(Let the record reflect that the vote was aye unanimously.)

SECRETARY KEMP: All oppose; same sign. That motion carries and we have referred that case. The last case on our agenda today is SEB Case No. 2011 No. 110. I'll just call that case. Real quickly, Mr. Harvey, if you would just give us a brief description.

MR. HARVEY: Yes, sir. This case involved allegations or concerns that Fulton County former residence of public housing facilities in Fulton County where the facilities had been demolished and people were still registered to vote at those addresses. A previous SEB case in 2009 from a complaint indicated that almost nobody falsely or improperly voted from those addresses. In this case, there was no election at hand. The concern was that there were thousands of people registered at addresses that didn't even exist anymore. That becomes a problem from a voter registration status point of view.

The only way to change somebody's voter registration is to delete them or alter them for a legal reason. Death, felony conviction, somebody rescinding their voter registration, the way the law is written in Georgia with regards to residents, it gives a very wide latitude to voters to move and that plan on returning. There's simply no indication that anybody that was registered in Fulton County had done anything wrong in terms of either voting from where they shouldn't have or anything else. It's possible that any summer all of those voters may have intended to return back to the location after it was rebuilt.

It sort of became a controversy when Mr. Westmoreland sent about 2400 letters to voters saying that they were going to be challenged because they didn't live where they registered. Fulton County backed off of that. They didn't challenge any voters. And then shortly before the general election, Ms. Mitchell decided she replace these voters in a pending status and require them to show proof of residency before they were allowed to vote in the general election.

After receiving some encouragement from our office they checked with their attorneys before they took such a step Fulton County decided not to take that step. So there were no voters that were in any way changed or affected or disenfranchised. There was no violation. Fulton County would have to deal with these questionable voters like any other voters. There simply doesn't appear to be any violation of state election law and I recommend this case be dismissed.

SECRETARY KEMP: Any questions for Mr. Harvey? Hearing none, anyone else wishing to speak on this matter? Okay, last call. Hearing none, do we have a motion on SEB Case No. 2011 No. 110? The recommendation is to dismiss. Any thoughts you want to share with us, Mr. McIver?

MR. MCIVER: I'm perplexed, sir, that's all. Inaudible.

SECRETARY KEMP: Anything else, Mr. Harvey?

MR. HARVEY: No, sir.

MR. WORLEY: I'll make a motion that we accept Mr. Harvey's recommendation to dismiss.

SECRETARY KEMP: We've got a motion to dismiss? Do we have a second? I'll second. All in favor -- or any other discussions? Hearing none, all in favor signify by saying, aye.

SECRETARY KEMP: All oppose; same sign.

MR. MCIVER: Aye.

SECRETARY KEMP: That motion carries 3 to 1 so that case has been dismissed. I believe that takes care of all of our business here today unless the board members have any other comments. I believe this will be our last meeting before Christmas and the holidays so I wish everybody the best this season and safe travels. We'll see you in the New Year. Thank you very much. I guess we need a motion to adjourn.

MR. MCIVER: I so move.

MR. WORLEY: I second.

SECRETARY KEMP: Mr. McIver moves that we adjourn and Mr. Worley seconds. Any discussion? Hearing none, all in favor signify by saying, aye.

(Let the record reflect that the vote was aye unanimously.)

SECRETARY KEMP: All oppose; same sign. That motion carries. Everybody have a great day.

(Whereupon, the proceedings ended at 10:35 a.m.)

CERTIFICATE

STATE OF GEORGIA)

COUNTY OF COBB)

I, Debra Montgomery, Certified Court Reporter, certify that the foregoing transcript is a true, correct and complete record of the said proceedings; that I am not a relative, employee, attorney or counsel of any of the parties; nor financially interested in the action.

This certificate is expressly withdrawn and denied upon disassembly and/or photocopying of the foregoing transcript, or any portion thereof, unless such disassembly or photocopying is done by the undersigned Certified Court Reporter and original signature and official seal is attached hereto.

WITNESS my hand and seal at Marietta, Cobb County, Georgia is the 7th day of January, 2014.


Debra Montgomery
Certificate No. 2838