

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  
WEDNESDAY, FEBRUARY 5, 2014  
9:30 A.M.

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

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APPEARANCES:

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

David J. Worley, Member, State Election Board

Ralph F. Simpson, Member, State Election Board

Rebecca Sullivan, 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.

9:30 a.m.

## PROCEEDINGS

**SECRETARY KEMP**: Good morning, everyone. Let me go ahead and call the State Election Board meeting for Wednesday, February 5, to order. Ms. Sullivan, one of our board members, will be here in 5 minutes. We are going to go ahead and get started.

First we will do our invocation and Pledge. Mr. McIver will be leading us in that today.

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### INVOCATION

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### PLEDGE OF ALLEGIANCE

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**SECRETARY KEMP**: Thank you, Mr. McIver. Just a couple of housekeeping things. I've got to step out at 10 o'clock this morning for a conference call that I hope will not last much more than an hour. But when I do that, I will state that for the record. We will still have a quorum because Ms. Sullivan has just arrived. Mr. McIver will run the meeting, as he has done before, while I'm gone. I just want to make that note so that when I step out I won't be disruptive to the meeting.

Also, we're fixing to move into our public comment period. Just for those of you who have not been to a State Election Board meeting before, or have not made a public comment before, we will hear from any person that is here today who would like to speak to us for two minutes just about any issue they would like to present to the board. This is not a time to talk about a specific agenda item. If you are here either as a respondent or complainant, or involved in one of the cases, we will have time for you to address the board during that agenda item when we call it up. If you are here to make a public comment, we will be glad to let you do that for two minutes. You just need to fill out a little form so we have your name and address for the record.

At this time, I'll ask and see if anybody has public comment for us today. Yes, ma'am. Ms. Stevens, welcome back. I know you know the drill. Just make sure you speak loudly, slowly, and clearly so we can get our reporter to be able to reflect this in the record correctly. When anybody comes up to speak to us today, just give us your full name and address for the record.

Thank you, and welcome.

**MS. STEVENS**: Nancy Stevens; 389 Roy Smith Road, Sparta, Georgia 31087.

I am Nancy Stevens, a board member of the Hancock County board of elections and registration. I would again ask for your help. There are quite a few cases pending with the Atty. Gen.'s office

as well as the Secretary of State's office in regards to election code violations in Hancock County. For quite a few years there have been any complaints filed in regards to he County elections. So our county problems are definitely not new to the State Election Board or the Atty. Gen.'s office.

We have a five-member board. Of those five members, we have three who have continually conspired to keep Hancock County elections as they always have been. Our elections supervisor is the same employee that had worked in the registrar's office for approximately 30 years. Her assistant had been in the same position for about 20 years. Nothing has changed.

When two board members, James Yeomans and myself, try to bring items to the attention of the board to try and bring us in compliance with the Georgia election code, we are voted down by these three board members. What we try to review records to ensure we are complying with the Georgia election code, we are voted down and told we must request open records and pay for these documents. When I do request open records, I either do not get the records requested or the cost is so inflated I cannot afford the request.

Board members are not allowed to review any action of the staff or any documents without board approval. In the past, when I have tried, the Sheriff has been called to remove me from the office. I have been told I am not allowed in the office. My actions have always been respectful, and there was no reason, other than these board members and staff did not want me to see what was happening.

At our last meeting, the three board members voted that early voting would again be held in the lobby of the county courthouse. In the last election this was also done. There were several violations with the setup of the DRE machines and voter privacy. The DRE machines were not secured at night, but left in the lobby of the courthouse. This will be happening again. We voiced our opinion that we would again be in violation and were again voted down by these three board members.

The only option we have is to file complaints with the Secretary of State's office, and we have filed many. I know a lot of things are still pending, and I am, at this point, begging you to help us. There is nothing else two board members could do.

Several times in the past you have fined Hancock County \$500. There was even one \$5000 fine. They don't care. The county just pays the fine, and business goes on as usual.

One board member has said that if we don't review anything there's nothing to file a complaint on, and therefore we are in compliance with the law.

I have previously asked the State Election Board get involved with Hancock County elections per O.C.G.A. 21-2-603 and 21-2-32, and any other help you can offer. Our situation is that serious. Thank you.

**SECRETARY KEMP:** Thank you, Ms. Stevens, for being here this morning. Anyone else wishing to address us during the public comment period?

(Whereupon, there was no response)

**SECRETARY KEMP**: Okay. Seeing none, we will move on to the approval of the minutes from the board meeting we had on September 24, 2013. Are there any corrections or additions to that? If not, I will take a motion.

**MR. WORLEY**: I make a motion to approve the minutes of the September 24th meeting.

**MR. McIVER**: Second.

**SECRETARY KEMP**: Mr. Worley makes a motion that we approve; Mr. McIver seconds. Any other discussion?

(Whereupon, there was no response).

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

And in your binder, number two, you've got the minutes from the special called board meeting on Tuesday, December 17. Were there any additions or corrections to those minutes?

(Whereupon, there was no response)

**SECRETARY KEMP**: If not, I will accept a motion.

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

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Mr. McIver moves that we approve, as written; Mr. Worley 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 accepted the minutes of the last two meetings.

Now we're going to move on to our consent cases. Our regular practice for quite some time on the consent cases -- all of these cases on the consent agenda are recommended to be dismissed. We'll vote on that in block.

However, if there is a board member, or if there's someone here today who would like for us to discuss this case or make comment on it, we are glad to pull that off the calendar and move that to our regular caseload.

But if not, we'll vote to dismiss these cases in a block vote. The cases are: 2012-194, McIntosh County; 2012-171, Chatham County; 2012-185, Marion County; 2012-186, Macon County; 2012-190, Talbot County; 2012-150, Lowndes County; 2012-68, Pierce County; 2012-41, Stewart County; 2012-129, McDuffie County; 2012-157, Chatham County.

Is there anybody on the board that wants to pull any of these cases out?

(Whereupon, there was no response)

**SECRETARY KEMP:** Is there anyone here in the audience that would like for us to discuss one of these cases?

(Whereupon, there was no response)

**SECRETARY KEMP:** If not, we'll be voting to dismiss. Seeing none, Mr. Harvey, anything you want to add about these?

**MR. HARVEY:** No, sir. Just to reiterate that these were all fully investigated and no violations were found. So I recommend closure.

**SECRETARY KEMP:** Okay. With that I'm prepared to have any discussion with the board or accept a motion on this block of cases.

**MR. SIMPSON:** I move to dismiss all these cases.

**MS. SULLIVAN:** Second.

**SECRETARY KEMP:** We have a motion by Mr. Simpson and a second by Ms. Sullivan to dismiss the consent calendar on the cases I previously named. 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 those cases and we will now move on to our new cases.

As has been customary, to try to benefit those who take the time to show up at our meetings, I will now go through this list of cases. If you are here either as a complaint or a respondent, or if you are interested in this case, if you will just let me know, raise your hand or just say "Here"

when I call these cases. What we will do, for people who were here, we will call those cases first. And for the cases where no one is here, we will wait and hear those after we get through with you all. That way you all -- hopefully, when you get done with your business, you can get out of your little bit quicker. Especially if you are at the bottom of today's agenda.

On our new cases, 2012-141, we granted a customary continuance for that case. So we will not hear that today. That is number 12 in your binder.

The next is 2012-103, Sumter County.

**UNIDENTIFIED MALE**: Yes, sir.

**SECRETARY KEMP**: 2012-76, Atkinson County.

(Whereupon, there was no response)

**SECRETARY KEMP**: 2010, Stewart County, City of Louvale.

(Whereupon, there was no response)

**SECRETARY KEMP**: 2012-81, Berrien County.

(Whereupon, there was no response)

**SECRETARY KEMP**: 2012, number 87, Johnson County.

**UNIDENTIFIED FEMALE**: Here.

**SECRETARY KEMP**: Okay. 2012-136, Peach County.

(Whereupon, there was no response)

**SECRETARY KEMP**: 2012-134, Irwin County.

**UNIDENTIFIED FEMALE**: Here.

**SECRETARY KEMP**: Mr. Harvey, were we going to move the Ben Hill case up too?

**MR. HARVEY**: Yes, sir. We're going to put that with the Irwin County case.

**SECRETARY KEMP**: Let me go ahead and call the Ben Hill. 2012-147, Ben Hill. Y'all are here, aren't you?

**UNIDENTIFIED FEMALE**: Yes.

**SECRETARY KEMP**: 2012-140, Sumter County?

**UNIDENTIFIED MALE**: Here.

**SECRETARY KEMP**: 2012-139, Jeff Davis?

(Whereupon, there was no response)

**SECRETARY KEMP**: 2012-138, City of Zebulon.

**UNIDENTIFIED MALE**: Here.

**SECRETARY KEMP**: 2012-195, Bleckley County?

**UNIDENTIFIED FEMALE**: Here.

**SECRETARY KEMP**: 2013-2, Candler County?

**UNIDENTIFIED MALE**: Here.

**SECRETARY KEMP**: 2012-191, Bibb?

(Whereupon, there was no response)

**SECRETARY KEMP**: 2012-187, Crawford County.

**UNIDENTIFIED MALE**: Here.

**SECRETARY KEMP**: 2012-126, Peach County.

(Whereupon, there was no response)

**SECRETARY KEMP**: 2012-123, Early County.

**UNIDENTIFIED FEMALE**: Here.

**SECRETARY KEMP**: 2012-165 Lincoln County.

**UNIDENTIFIED FEMALE**: Here.

**SECRETARY KEMP**: 2012-115, McIntosh County.

**UNIDENTIFIED FEMALE**: Here.

**SECRETARY KEMP**: 2012-121, Putnam County.

**UNIDENTIFIED FEMALE**: Here.

**SECRETARY KEMP:** I think we're set. Kayla, if you see somebody else come in, you check and see where they're from and mark them off.

With that, Mr. Harvey, we will move into our new cases. The first one will be number 13 in our binder; number 2012-103, Sumter County case.

**MR. HARVEY:** Yes, sir, Mr. Secretary, members of the board. This case involves a runoff election that occurred after the general primary in 2012. At the conclusion of the July 31 primary, their election was certified on August 3, 2012, and the need for a runoff was apparent.

The Sumter County board of elections and registration was notified by the Secretary of State's office on August 6 that they would have to have a runoff, at which point, the newly-appointed elections director, Robert Brady, began the process to order ballots and make sure the election could go ahead.

In the process of preparing that, in ordering ballots, the ballots did not arrive until the last day of early voting, and therefore, there was no advance in-person voting that was scheduled for August 21, 2012.

As a result, we've got the Sumter County board of elections and registration and Mr. Brady cited for violations of 21-2-385(D)(1) for failure to make sure that a period of in-person advance voting took place before election.

Other facts that may be pertinent to this case, one is that Mr. Brady had just been appointed to this position about 30 days before. And once they were notified of the runoff, they did everything they could to get ready. Nonetheless, I'm not sure what the delay was between the 31st and the 6th in terms of preparing for the runoff. They obviously lost about a week in getting ready at that time. It's always a challenge to get advance voting for a runoff election.

But that is the case as we have it. We've got the board and Mr. Brady cited for the list of violations. And in this case, I recommend it be bound over to the AG's office for some kind of consent order.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Anyone wishing to speak on this matter? Yes, sir. Just a reminder if you'll give us your name and address for the record.

**MR. BRADY:** Good morning. My name is Robert Brady. I am the supervisor of elections for Sumter County.

This event took place; there is no doubt it took place. I'm not denying it. A lot of the problems that were there came about due to my inexperience at the time and inability to prevent these

things from happening. I took every action that I knew to take believed that I completed everything in a timely fashion. All of the people involved in the state and Kennesaw State performed their duties as timely as was expected. The ballots, unfortunately didn't arrive. And as you know, without ballots, we can't do our L&A testing and we can't have absentee in-person balloting. There's nothing that I can say beyond, yes, that did happen.

Beyond that, the steps that I have taken to prevent this from happening again are to change our ballot providers; to streamline my means of communications with these people; I have a whole new organization that is currently handling our L&A testing; and I have made every change in the office that is possible for me to change.

And while it is impossible for me to say it will never happen again, I can truthfully say that I have done everything I know to be sure it doesn't happen again. Unfortunately, that's an event that took place that I regret. But all I can do is try to fix it for next time.

And I appreciate the time for you listening to me.

**SECRETARY KEMP**: Yes, sir. Hold tight one second. Any questions? Mr. McIver.

**MR. McIVER**: Mr. Brady, did you undergo all the training that has been afforded to you by the division of elections?

**MR. BRADY**: Since that time or prior to that time, sir?

**MR. McIVER**: Prior to that time.

**MR. BRADY**: Prior to that time, no, sir. I attended all the training that was made available prior to that point. But it was a very incomplete education due to the fact that I came on board 29 days -- well, 27 days later this event took place. And there just simply had not been time for me to conduct the duties of running the office and setting it up and attend the training. So the training, as it was made available, was attended, yes, sir, at the earliest opportunity.

**MR. McIVER**: Did you call on the division of elections?

**MR. BRADY**: I'm sorry, sir?

**MR. McIVER**: Did you call on the division of elections for advice or support when it was apparent that you had a problem?

**MR. BRADY**: Yes, sir. Actually, the truth of the situation is that I am the one that called and told them we had a problem. I brought it to the attention of the board and said, I've got a real problem down here. What can I do? And I was given advice that was sound advice. I attempted to follow it. But unfortunately I was not able to remedy the situation in a timely enough matter.

**MR. McIVER**: Looking backwards, is there anything you could've done that you didn't do at the time?

**MR. BRADY**: Sir, after considerable soul-searching about this matter, No, sir. I really believed I did everything I could do; I asked everybody I could asked; I got all the assistance I could get. The timeline was so short that the people who would -- and they were most helpful -- made every effort to help me with the situation. There was simply not time for anything to be done to correct this. I had already gotten as far as I could get in this and there wasn't anything I could do.

**MR. SIMPSON**: Where was the delay? Where was the time delay? Was it in the printing of the ballots or was it in requesting the ballots? I mean, there's got to be something that caused it not to happen.

**MR. BRADY**: I can only speculate as to the exact reason, okay. But the cause, the root cause of this was that the order for the ballots were placed in a timely fashion. Kennesaw State supplied the information in a timely fashion. The ballot providers and printers did not provide me with the ballots in a timely fashion. I told them of my situation. They told me they would get me as quick as they could. It is my own personal opinion, and that is all I can say that it is personal opinion, that much larger ballot orders had been placed and those were processed before mine was. In other words, they were not especially concerned with my problem.

**MR. SIMPSON**: You changed providers?

**MR. BRADY**: Yes, sir. I have since changed providers.

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

**MR. McIVER**: I do have one for Mr. Harvey.

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

**SECRETARY KEMP**: Again, your recommendation, Mr. Harvey? I don't see it on the presentation here in front of me.

**MR. HARVEY**: It's to bind over for a consent order, possibly a cease and desist. I would mention that Mr. Brady, since becoming elections director, has been in regular communication with me on other matters. He appears to take his job very seriously and appears to be very conscientious. This happened very early in his stint. I think either a simple cease and desist or a letter of instruction will be okay this case.

**MR. McIVER**: Mr. Chair, I wonder if we shouldn't continue to burden the law department with cases like this that seem to have easy answers. I wonder if a motion for a letter of instruction which could be drafted and go forward without further heavy engagement by the law department.

**SECRETARY KEMP**: I certainly could support that. I think it says a lot that Mr. Brady is here this morning and has taken accountability for his actions. And I think the fact, too, that he was only there 29 days prior, you know, and I'm certain we will not see him again, except for maybe a training.

**MR. McIVER**: I thought I would put in my motion that if he came back he would have to buy lunch.

**SECRETARY KEMP**: Mr. McIver, I would not advise that as part of your motion.

Thank you. Anything else for Mr. Brady?

(Whereupon, there was no response)

Let me just ask real quick, is there anyone else wishing to speak before we get to making a motion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Seeing none, if there are no more questions from the board, we can accept a motion. Thank you, Mr. Brady, for being here.

**MR. BRADY**: I appreciate your time. Thank you very much.

**MR. McIVER**: Mr. Secretary, I will move that a letter of instruction be prepared and administered to Mr. Brady and his staff, and, of course, a copy to the commission of that county.

**SECRETARY KEMP**: We've got a motion by Mr. McIver for a letter of instruction. 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.

**SECRETARY KEMP**: Mr. Harvey, we've got 2012, number 76, Atkinson County. Before you start, I'm going to go ahead and step out before we get started on that and let Mr. McIver take the helm and continue to work through the agenda.

**MR. HARVEY**: Mr. McIver, I believe no one is here from Atkinson County.

**SECRETARY KEMP**: I'm sorry. I made the wrong . . .

**MR. HARVEY**: By my count, we should be on Johnson County.

**MR. McIVER**: Before we do that, let's let the record reflect the Secretary is leaving the room. We will identify when he returns so that our record will remain accurate. We continue to have a quorum with Messrs. Sullivan, Worley, Simpson, and myself present.

We will proceed on with the business at hand, and that would be, at this point -- is it 76; 2012-76?

**MR. HARVEY**: I believe we're going to skip down to 2012-87, Johnson County.

**MR. McIVER**: I now have my agenda in front of me.

**MR. HARVEY**: This case involves multiple complaints coming from both the 2012 general primary and the November 6 general election.

The complaints involve allegations of illegal assistance and possession of absentee ballots; an allegation that the Sheriff and a county commissioner were exchanging ballots in people's homes; an allegation that a candidate had transported voters and had been allowed to assist in a precinct; and that a voter was allowed to vote even though she was no longer a resident of Johnson County.

After the investigation, we determined, first of all, that the allegations involving respondent Berneda Darrisaw showed that she did assist without signing and took possession of at least four absentee ballots. We got statements from these four people that Ms. Darrisaw completed the top of the absentee ballot envelope and then took possession of the ballots to return them to the election office. Ms. Darrisaw denies possessing the ballots.

As far as the allegation that the Sheriff and a commissioner had anything to do with exchanging absentee ballots, our investigation revealed there was no evidence to support that. There were some meetings that took place, but there is no evidence that anything was done with absentee ballots, or that money or any other items changed hands.

Candidate Jerronney Darrisaw transported voters to the polls, which is, of course, completely legal. However, he was allowed to assist seven of those voters, and also illegally entered the polls in order to assist those voters while he was a candidate on the ballot. So we found Mr. Darrisaw in violation for those two facts.

Monica Roberts is cited in the report as voting without changing her residence after two years of moving away. By her admission, she had moved out of Johnson County for two years; had come back and had voted. And in the act of voting, had not changed her residence as required under code 21-2-218. So we've got her cited for that violation.

In addition, we've got -- the report lists Hiram Johnson and Stacy Johnson as violations for receiving illegal assistance. The practice of the board is generally not to cite electors who receive unauthorized assistance as it is largely done without their real knowledge or consent that they can't do that. So I recommend that as far as Hiram Johnson and Stacy Johnson goes, their citations be dismissed.

As far as Ms. Hutchinson and Leticia Holland, they possessed a box of -- well, ballots from the 2004 election that had been left in the office when the elections office moved. It had apparently been sitting in the hallway for years. Ms. Holland took the box home and planned on using the box for storage. She didn't realize it had election documents in it. They were not properly destroyed by Ms. Hutchinson, however, we are talking about something that happened eight years prior. I would recommend that the violations against Ms. Hutchinson and Ms. Holland also be dismissed.

As far as Patricia Glover, who is the clerk, and Debbie Killingsworth, who is the elections supervisor, we've got them cited for failure to transmit or accept the election materials as required post-election.

And I believe that brings us to the end of the Johnson County case.

**MR. McIVER**: I'll try to do this in an orderly way. Who is here to appear on this matter, either you are with the county or you're with the respondents? There how many people?

**UNIDENTIFIED MALE**: We have three.

**MR. McIVER**: Let's have the county go first. So whoever will be the spokesperson on behalf of the county. Let me remind you as you approach the microphone, please give us your name and address.

**MR. NORMAN**: My name is Shay Moorman. I'm with Matthew L. Waters, PC. We are the county attorneys. Our address is 8653 South Market Street, Wrightsville, Georgia 31096; or PO Box 151.

With regards to the issue of the election materials transferred to the clerk of court, there is no dispute that the materials were not kept by the clerk of court; they were instead kept by the elections officials.

The reason for that, back in 1999, a resolution was passed creating the Johnson County Board of Elections. Beginning in 2000, prior to the time our current clerk of court took office as the clerk, the election materials have been kept there, is our understanding. After the elections board was formed, they stopped coming to the clerk. I can't stand here today and tell you what happened and how it happened, but that fell through the cracks. Someone was not bringing them to the clerk. So our current clerk was not aware that she was supposed to be keeping them.

When Mrs. Killingsworth, the current elections supervisor took over, the first election she took

them to the clerk of court and left the materials with the clerk. The clerk then contacted Ms. Killingsworth and told her, "I don't keep these," you know. "And I am designating you to keep them." That had been what was happening. It happened in this last election.

Since that time, we have two resolutions that will be passed by the county at next Monday's meeting. We are designating, or redesignating, an official county records manager. And I can assure you from this point on, either the clerk of court will be keeping them or, as authorized by statute, she will be designating the county -- official county records manager to keep those records.

**MR. McIVER**: Any questions of the board to Mr. Norman?

(Whereupon, there was no response)

**MR. McIVER**: Thank you, sir. May we have the next speaker on behalf of the county.

(Whereupon, there was no response)

**MR. McIVER**: All right. Anyone wish to come forward and speak on behalf of respondents? Sir, please, again, give us your name and address.

**MR. HOLLAND**: Yes, sir. My name is Daniel Holland, 36 Union Hill Church Road, Wrightsville, Georgia.

I didn't hear him mention in the charges for my wife, Patricia Holland, I didn't hear him at the fact that her supervisor at the time gave her this box and both of them have been in this office for quite a while. I believe my wife had been there seven or eight years. This box has just been playing around, and they assumed that it was trash.

It would also be hard if a later round that long for Ms. Killingsworth to be responsible for the box. She didn't have no idea that the box was laying there because Ms. Hutchinson had left the box when her employment was discontinued with the county. From what I understand, it was not a happy situation when she left, or whatever the circumstances was, and she just dropped her responsibility and didn't make sure that everything was where it was supposed to be when she left. Thank you.

**MR. McIVER**: Any questions for Mr. Holland?

(Whereupon, there was no response)

**MR. McIVER**: Mr. Holland, I'm just a little confused. You heard Mr. Harvey recommend the dismissal, but is your wife Leticia Holland?

**MR HOLLAND**: Yes, sir.

**MR. McIVER**: So what is it you would have us do?

**MR. HOLLAND:** I just wanted you to know that she didn't just decide to take that box on her own decision. It was given to her by her supervisor.

**MR. McIVER:** So you would agree with Mr. Harvey's recommendation that this matter be dismissed with respect to your wife?

**MR. HOLLAND:** Yes, sir.

**MR. McIVER:** Thank you. Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**MR. McIVER:** Does the board have any questions of Mr. Harvey?

(Whereupon, there was no response)

**MR. McIVER:** This looks like it might be bifurcated into two pieces. One, Mr. Harvey's request that we consider dismissal of Hiram Johnson, Stacy Johnson, Lucy Hutchinson, and Leticia Holland. I think the Chair will accept a motion one way or the other on that matter first.

**MS. SULLIVAN:** So moved to dismiss those.

**MR. SIMPSON:** Second.

**MR. McIVER:** We have a motion by Ms. Sullivan for the dismissal of the four that I earlier indicated earlier, with a second by Judge Simpson. Any discussion?

(Whereupon, there was no response)

**MR. McIVER:** We will then have a vote on that.

**MR. McIVER:** All in favor of the motion, signify by saying "Aye."

(Whereupon, the vote was unanimous)

**MR. McIVER:** Those opposed?

(Whereupon, there was no response)

**MR. McIVER:** That then leaves us with the remainder of 2012-87. Is there any discussion on that?

(Whereupon, there was no response)

**MR. McIVER:** A motion, please, from a member of the board.

**MR. WORLEY:** Mr. McIver, I had understood there were other people here who wanted to

speak on this case.

**MR. McIVER**: I thought I had indicated an opportunity to for them, but I will certainly renew it.

**UNIDENTIFIED MALE**: There's no one here who wishes to speak, sir. It's just we have four in attendance.

**MR. WORLEY**: Oh, okay.

**MR. McIVER**: Anyone on the board have a motion for us on this matter?

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

**MS. SULLIVAN**: Second.

**MR. McIVER**: We have a motion from Mr. Worley, second from Ms. Sullivan, that 2012-87, with the exception of those four individuals dismissed, being bound over to the law department. Any discussion on the motion?

**MR. WILLARD**: Mr. Chairman, I believe there may be some individuals listed as respondents in your tab who no finding was found. In addition, you've got some of the individuals Mr. Harvey indicated received improper assistance, but it's the board's policy typically to issue letters of instruction.

I just want to clarify that we are binding over everyone, including those individuals who received improper assistance.

**MR. WORLEY**: No. Those were dismissed.

**MR. WILLARD**: No, actually --

**MS. SULLIVAN**: Hiram Johnson and Stacy Johnson.

**MR. WILLARD**: All right. So we are binding over Johnson County, Ms. Killingsworth, Mr. and Mrs. Darrisaw -- yeah. The Willises are listed as respondents in your tab, but there are no violations found.

I just want to make sure that the record accurately reflects who is being bound over.

**MR. McIVER**: Well, I've got a motion on the table. So we either need to vote the motion or have a motion to amend Mr. Worley's motion.

**MR. WILLARD**: Mr. Chairman, I'm saying that the motion is deficient for purposes of binding over to OSAH. We need to identify who the respondents are that are actually -- probable cause

was found.

**MR. WORLEY**: All right. I will withdraw my motion to make another motion.

**MR. McIVER**: Ms. Sullivan, do you withdraw your second?

**MS. SULLIVAN**: Yes.

**MR. McIVER**: Mr. Worley.

**MR. WORLEY**: I would make a motion that we bind over the charges in the case against Berneda Darrisaw, against Debbie Killingsworth, against Jerronney Darrisaw, against Patricia Glover, and Monica Roberts.

**UNIDENTIFIED FEMALE**: Before y'all vote, I thought you were just doing the court report thing. May I speak?

**MR. McIVER**: I need your name and address.

**MS. KILLINGSWORTH**: Debbie Killingsworth, 2417 Snail Bridge Road, Wrightsville, Georgia.

**MR. McIVER**: Go ahead. It's out of order, but please go ahead.

**MS. KILLINGSWORTH**: Thank you. When I allowed the commissioner to come in and assist, yes, technically his name is on the ballot, and I do apologize. But he had no opposition at that time. I know it's ignorance, but he was not soliciting votes because he had already won the election, if that helps my case any.

**MR. McIVER**: Any questions for Ms. Killingsworth?

(Whereupon, there was no response)

**MR. McIVER**: Anything else, Ms. Killingsworth?

**MS. KILLINGSWORTH**: No, sir.

**MR. McIVER**: Thank you. All right. I believe you completed your motion, Mr. Worley.

**MR. WORLEY**: I did.

**MR. McIVER**: Is there a second to Mr. Worley's motion?

**MS. SULLIVAN**: Was Johnson County included in that motion?

**MR. WORLEY**: No. Actually, I would add Johnson County elections and registration office to

that motion.

**MR. McIVER**: All right.

**MS. SULLIVAN**: Second.

**MR. McIVER**: Johnson County elections and registration office has been added. Now do I have a second before discussion?

**MR. HARVEY**: Second.

**MR. SIMPSON**: May I ask a question?

**MR. McIVER**: Go ahead.

**MR. SIMPSON**: Basically, what we're doing is we're binding over all the other respondents other than the Willises; is that correct?

**MR. WILLARD**: And the ones that you previously dismissed.

**MR. SIMPSON**: Right. Yes.

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

**MR. SIMPSON**: All right. I understand.

**MR. HARVEY**: The Sheriff is not being bound over. So Willises and Sheriff --

**MR. SIMPSON**: Are the ones that are being excluded from this motion?

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

**MR. SIMPSON**: And we will deal with that in a separate motion, is that --

**MR. HARVEY**: They're not even cited for anything.

**MR. McIVER**: They're just listed as respondents.

**MR. SIMPSON**: Thank you.

**MR. McIVER**: We have a motion and a second. Any discussion by the board?

(Whereupon, there was no response)

**MR. McIVER**: Hearing none, let's put it to a vote. Those who are in favor of the motion, please signify by saying "Aye."

(Whereupon, the vote was unanimous)

**MR. McIVER**: Those opposed?

(Whereupon, there was no response)

**MR. McIVER**: That motion carries. Mr. Harvey, we will go to -- stand by to support me, Mr. Willard -- 2012-134, Irwin County. And that is going to be considered with Ben Hill County; is that correct?

**MR. HARVEY**: Well, Ben Hill County is going to be next because they're -- Irwin County also has Ben Hill as a respondent. So we're going to hear 2012-134, and then immediately, 147 after that.

**MR. McIVER**: Proceed, please, with 134.

**MR. HARVEY**: Case 134 involves an elector who was registered to vote in Ben Hill County; was a long time Ben Hill County registrant. She was residing temporarily in a facility to deal with a medical issue in Irwin County. This woman's daughter requested an absentee ballot from Ben Hill County, which was issued by Ben Hill County.

In the meantime, somebody from Irwin County came to the facility where this voter was living and registered her to vote and requested an absentee ballot in Irwin County, not knowing that the voter was already registered in Ben Hill. and there were some cognitive issues that could have easily explained why the voter would not have remembered that she had already voted a ballot in Ben Hill County.

So when Irwin County got the ballot, the absentee ballot back, they noticed on the system that there was a ballot on the system that had already been issued in Ben Hill County. So they called the election office to see if there was some kind of problem with the system. It turned out that the elections office was able to void the ballot in Irwin County, allow the ballot in Ben Hill County to go forward, whereupon, the voter was allowed to vote in Ben Hill County as she originally intended, as she was originally registered.

The registration and voting attempt in Irwin County was essentially unintentional on the voter's part and on the person who registered her.

Basically, at the end of the day, the election took place; the voter was allowed to vote in the County where she was originally registered.

Several other allegations in this election, they were all unsubstantiated with the exception of one of the precincts had a door unlocked at one of the voting precincts.

You'll see on your violations that the first violation I have listed for Ben Hill County and Cindy Dunlap, I would argue that was actually not a violation.

So the violation of O.C.G.A. 21-2-381 as listed in the summary report, I would request be dismissed. She was temporarily residing out of the County and, I think, was entitled to vote her Ben Hill ballot.

The other violation that is cited is a State Election Board rule regarding securing a door at a voting precinct and one count of a voter who was allowed to assist her son without signing as assisting.

So what ended up happening is you had an unlocked door and one voter being allowed to assist her son without signing as assisting.

Based on all that, I would recommend dismissal of the first charge, and I believe a letter of instruction could be issued to Ben Hill County regarding the unlocked -- the single unlocked door and one person assisting without signing. That would be my recommendation.

**MR. McIVER**: Anyone here to speak on this matter?

**MS. SWAYER**: Yes, sir. Good morning. I am Toni Sawyer. I'm the county attorney for Ben Hill County. My office is located at 311 West Central Avenue, Fitzgerald, Georgia. I also have Ms. Cindy Dunlap, who is the elections supervisor. Their office is located at 115 West Pine Street, Fitzgerald, Georgia.

With regard to the issue of the voter registration, unfortunately Mr. Harvey was a little bit confused. What occurred is that the voter's daughter came to our office in Ben Hill County and requested an absentee ballot. She received an absentee ballot and that ballot was sent back to our office in Ben Hill County. When we attempted to put the voter in the system, we were unable to do it.

We contacted the Secretary of State's office and spoke to Rochelle Simmons and Erica Hamilton and we advised them of what occurred. In their system they showed that the voter was registered in Irwin County. We were advised to stand by and they would get back with us.

In the meantime, we did not know that the voter was actually an Alzheimer's patient residing in a nursing home in Irwin County. But in the meantime, Rochelle and Erica did contact us back and told us what occurred was there was some glitch in the State's system. They don't know how it occurred, but the voter was somehow registered in Irwin County after she was issued an absentee ballot in Ben Hill County.

We were advised that the State's office would have to delete the voter from the Irwin County system and put her back in the Ben Hill system, and they would notify us when that was done. We were, in fact, notified later that the voter was deleted from the Irwin County system and placed back in the Ben Hill system, and her ballot was, in fact, counted in the November 6, 2012, general election.

So we were not at fault at all with regard to that issue. We don't know how it occurred. Like I

said, immediately upon not being able to put the voter in the system, we immediately contacted the elections division at the Secretary of State's office.

With regard to the issue of the door being locked at a precinct, we contend that is not true.

In Ben Hill County, the precinct they're referring to is our west precinct. Our west precinct is actually housed in the social hall of a church. Unfortunately, Ben Hill County is not a large county. We have to really rely on the benevolence of organizations and churches to allow us to use their buildings for elections because we don't own a building in these areas that are large enough to hold an election.

The west precinct is located in the social hall. The social hall is located in a building separate from the actual sanctuary that houses the social hall and a couple of classrooms that are used for -- on Sundays for nursery classroom and a couple of other classrooms.

But in that building, the social hall is an enclosed area. Meaning that it is -- when you lock -- there are stairs that lead into the social hall from the other classrooms. So when you lock the doors in the social hall, you cannot get back and forth from these other buildings.

It's our understanding that the door that was unlocked was a door that was on the side near the classrooms. So even if that door was unlocked, nobody could still access the social hall, which is the voting precinct.

We actually have a diagram for you, if we may approach and show you the diagram; actually, two diagrams of what we are referring to.

If you will allow, I will have Cindy come up and show you the diagram of the building.

**MR. McIVER**: Do we have a motion to receive this document?

**MR. SIMPSON**: So moved.

**MR. WORLEY**: Second.

**MR. SIMPSON**: Both documents.

**MR. McIVER**: Thank you. Both documents. I'm going to mark them BH1 and BH2. We have a second?

**MR. WORLEY**: Second.

**MR. McIVER**: All right. I have a motion and a second to receive the documents. Anyone opposed?

(Whereupon, there was no response)

**MR. McIVER**: I will consider this motion is passed. Are those our copies, or do you want to refer them in your remarks?

**MS. SWAYER**: Those are your copies. Ms. Dunlap, if you could just stand there and show them exactly where the voting precinct is and the locked doors and unlocked doors.

**MS. DUNLAP**: On the front page, the way it's set up, these are the front doors here. These are the double doors that lead down to the second division of the precinct, which the staircase is right here. These are the classrooms here.

It is our understanding that this door here was the door that was left unlocked, or that was being used at the time. But the double doors that lead down those stairs to that door, were locked. And that is the only way you can get in from this section of the Sunday school rooms into the social hall.

So all the doors -- the front doors and the step doors going down to the part of the building the door was supposedly unlocked was not accessible to where the machines were or the precinct.

**MS. SWAYER**: And as to the third issue of the voter assistance, truthfully, we don't know anything about it. We do know the voter in question was let out at the precinct by her son. She is an elderly lady. We do have the poll manager here with us.

The poll manager actually went and got a chair for the voter to sit down while she registered -- well, completed her voter certificate. Her son was not with her at that time. We have submitted documentation showing that the son did not sign off as assisting her. The person that assisted the voter in completing the voting certificate says the son was not with her. So unless the son somehow or another slipped past our barrier, we don't know how that occurred. So we don't know if the voter is confused with another election. But all our workers said this voter was not assisted; the son was not with her whatsoever.

That's all that we have.

**MR. McIVER**: Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**MR. McIVER**: Mr. Harvey, do you have a retort for us?

**MR. HARVEY**: Our investigator spoke with Ms. Taylor and she said she assisted her son by reading the ballot -- I'm sorry. That her son assisted her by reading the ballot to her. She also verified that her son did not sign anything indicating he assisted. And then we've got the copy of the voter certificate and it did not show any indication of assistance. So we have the statement of the voter that she was assisted.

**MR. McIVER**: Do we need to hear from your investigator, Ms. Jones?

**MR. HARVEY**: I don't necessarily think so. She's here, but, I mean --

**MR. McIVER**: I'm leaving that to you, Mr. Harvey.

**MR. HARVEY**: I don't believe so; no, sir.

**MR. McIVER**: Anyone else wishing to speak on this matter?

**MS. SWAYER**: I would actually like to call our poll manager, is Ms. Hannah, so she can speak on it.

**MR. McIVER**: Ms. Sawyer, again, if you would assist her in reminding her that we need her name and address.

**MS. SWAYER**: Okay.

**MS. HANNAH**: My name is Melody Hannah. My address is 323 Delta Road, 31750; Fitzgerald.

I seen the lady when she pulled up, or I seen her son when he pulled up to the door. I recognized the lady. She was trying to come in. I went and got a chair for her. She sat down. She was given the little slip that you fill out, and from there, I was called somewhere else. I don't know what happened. I was busy somewhere else in the room. I just -- I don't know what happened.

**MR. McIVER**: You don't know whether or not her son would have assisted her in voting?

**MS. HANNAH**: No, sir. We had people that was coming in that was from different precincts -- you know, that was not in the right place to vote. And so I was having to help verify that. We had some provincials that come in and I was having to help with that. That day, I was all over the place.

**MR. McIVER**: Anything else?

**MS. HANNAH**: No, sir.

**MR. McIVER**: Any member of the board wish to ask a question of Ms. Hannah?

**MR. SIMPSON**: Ms. Hannah, are you saying you don't know whether or not the son assisted?

**MS. HANNAH**: Yes, sir.

**MR. SIMPSON**: So you can't say he did or did not.

**MS. HANNAH**: Once the lady was seated, I just got up and went to do something else.

**MR. SIMPSON**: So you can't say whether the son did or did not help?

**MS. HANNAH:** No, sir.

**MR. SIMPSON:** Okay. Thank you.

**MR. McIVER:** Any other questions for Ms. Hannah?

(Whereupon, there was no response)

**MR. McIVER:** Counsel, anyone else?

**MS. DUNLAP:** Again, Cindy Dunlap, supervisor. When this came to our attention, I did contact Ms. Hannah, both assistant managers, and other poll workers, and I asked them if they recalled Mr. Taylor coming into assist his mother; if they recalled anything of the incident. There was nobody that recalled Mr. Taylor coming into the precinct. We currently had ten poll workers including a manager and two assistants that don't recall him coming in. Again, we can say it did happen; we can't say it didn't happen. But out of the ten polling workers, they don't recall him coming into the precinct.

Unfortunately, I wasn't there so I can't say either way. We just kind of talked to everybody that was there to see if they could go recall anything, and they could not recall anything as well.

**MR. McIVER:** Okay. Any member of the board wishing to direct remarks or a question to Ms. Dunlap?

**MS. HANNAH:** May I add something?

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

**MS. HANNAH:** When the lady come in and I assisted her to a seat, her son walked back out to park the vehicle somewhere. And after that, you know, I didn't see him. He could have been in there; I don't know.

**MR. McIVER:** Any questions of Ms. Hannah?

(Whereupon, there was no response)

**MR. McIVER:** Counsel, any other remarks?

**MS. SWAYER:** No, sir.

**MR. McIVER:** Any questions of the county attorney?

(Whereupon, there was no response)

**MR. McIVER:** Thank you, Ms. Sawyer. We appreciate that.

**MS. SWAYER**: Thank you.

**MR. McIVER**: Mr. Harvey, anything else you want us to consider?

**MR. HARVEY**: No, sir. Again, my recommendation would be a letter of instruction.

**MS. SULLIVAN**: And to dismiss the violation of 21-2-381?

**MR. HARVEY**: And to dismiss the first violation cited.

**MR. McIVER**: Let's see if I can get a motion first. Any other discussion?

(Whereupon, there was no response)

**MR. McIVER**: All right. I will entertain a motion on 2012-134.

**MS. SULLIVAN**: I make a motion that we dismiss the case regarding the violation of O.C.G.A. 21-2-381 against the board of elections and Cindy Dunlap.

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

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

**MR. McIVER**: We have a motion from Ms. Sullivan and a second by Mr. Worley with respect to the recommended dismissal of Ms. Dunlap. With respect to 21-2-381. Any discussion on the motion?

(Whereupon, there was no response)

**MR. McIVER**: No discussion, we will put it to a vote. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

**MR. McIVER**: Those opposed?

(Whereupon, there was no response)

**MR. McIVER**: Motion carries. Now for the matter -- Judge Simpson has a question.

**MR. SIMPSON**: On this remaining allegation with regard to the storage of the equipment and whether the door was locked or not?

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

**MR. SIMPSON**: Can your investigator say that she can dispute what counsel has said about

that maybe one door was unlocked but it was not the door that someone could have gained access? I mean, if the door the county attorney says was locked you could not have gotten access to the equipment. Was that told to your investigator?

**MR. HARVEY**: I'm checking on that now.

**MR. WILLARD**: Mr. Simpson, if I could interject here. The State Election Board rule requires the DRE machines be in a locked and secure room. So even though the room may have been secure from outside access, part of the reason that State Election Board has required adopted the rule that requires the machines to actually be within a fully locked room is you can't control access into that room. We are not certain who may have had access to the classroom. But if they can gain access to the classrooms, based on the diagrams, they could get in.

They couldn't access the -- so who could access -- where's the unlocked door? If I can ask the --

**MR. SIMPSON**: As I understand what she said, you could not access the room where the equipment was stored because the access -- you had to get through the locked door before you could get to the unlocked door. So that would have barred access to the equipment. The fact that the closest door to the equipment was unlocked, if there was another door further away that was locked that would have prevented access, it seems like to me the statute is complied with.

**MR. McIVER**: It's actually a rule, though. It's an SEB rule.

**MR. WILLARD**: If the board would permit, can I ask the county attorney one question?

**MR. McIVER**: Sure. Would you return to the podium, please, and state your name.

**MS. SWAYER**: Toni Sawyer, county attorney, Ben Hill County.

**MR. WILLARD**: Thank you, Ms. Sawyer. What is in the area outside of the unlocked door?

**MS. SWAYER**: Let me first answer your first question.

As I stated earlier, the precinct is in an enclosed area like this room.

**MR. WILLARD**: Right.

**MS. SWAYER**: All the doors in the precinct were locked. There is a building and in the building there is a stairwell. So the doors that -- to the stairwell were locked. Now, when you go down the stairwell to the classrooms, it's our understanding, because we don't even know; we just know that we secured the building that enclosed -- where the DRE equipment was being held.

Now, there is a stairwell that goes down. And then it's our understanding that possibly the door at the bottom of the stairwell that led in to the classroom may have been unlocked.

But our employee secured the area where the DRE equipment was held, where people were

voting, and that area was locked. You have the front door; you had the door that led to the stairway. Those doors were locked.

Now, you go down the stairwell and there is another door that leads into -- that you access the classrooms. We don't know for sure, but it is our understanding that those doors were locked. That is not part of the precinct. That's part of where the church does their classrooms. We only use that one part of the building as the voting precinct.

**MR. HARVEY**: For what is worth, the groundskeeper at the church said that he entered the building and found the rear door of the church unlocked. He stated that the door can only be locked an Allen wrench and he locked the door and left the building. He said that the social hall that is used as the voting precinct was accessible from the church through a set of double doors that cannot be locked.

**MR. WILLARD**: And the point I'm trying to make to the county attorney is, while somebody would have to normally go through a door to get into that room, it is sounding like, based on the diagram you had and witness statements, if somebody broke in through a window in another area of the church, they could access the DRE machines and the poll manager who is present in the room that the DRE machines are in would have no knowledge that a window had been broken and somebody had come into that area.

**MS. SWAYER**: But what I'm trying to get you to understand is that it's in an enclosed space, and if somebody broke a window, it's downstairs. That's no different than being in a regular building. If somebody broke a window, you still would not know.

**MR. WILLARD**: Exactly. But the rule requires that the machines be kept in a locked room.

**MS. SWAYER**: And they were kept in a locked room.

**MR. WILLARD**: All right.

**MR. WORLEY**: I make a motion that we dismiss this rule violation charge.

**MR. SIMPSON**: Second.

**MR. McIVER**: I have a motion and second that the alleged violation of 183-1-12 -- in that, do you have the assistance of the son?

**MR. WORLEY**: No. I'm talking only about the storage.

**MR. McIVER**: So rule 183-1-12 be dismissed. Second by Judge Simpson. Any discussion?

(Whereupon, there was no response)

**MR. McIVER**: No discussion. We will put it to a vote. Those in favor of Mr. Worley's motion to dismiss 183-1-12, please indicate by saying "Aye."

(Whereupon, the vote was taken)

**MR. McIVER**: Opposed? I'm opposed. That motion carries 3 to 1.

Now, with respect to the assistance by the son, I guess Alan Taylor of Ruth Taylor, do we have a motion? Again, I think we have a recommendation from Mr. Harvey that letter of instruction be issued. Do I have a motion?

**MR. SIMPSON**: I move that we accept Mr. Harvey's recommendation and issue a letter of instruction.

**MR. McIVER**: Do we have a second to the motion?

**MS. SULLIVAN**: Second.

**MR. McIVER**: I have a motion by Judge Simpson that a letter of instruction be issued with respect to the alleged violation of 21-2-409, second by Ms. Sullivan. Any discussion?

(Whereupon, there was no response)

**MR. McIVER**: No discussion, we will put it to a vote. Those in favor of Judge Simpson's motion, please signify by saying "Aye."

(Whereupon, the vote was unanimous)

**MR. McIVER**: Opposed?

(Whereupon, there was no response)

**MR. McIVER**: That motion carries.

**MR. HARVEY**: I believe the next case is going to be 21 2012-147, which is number 27 in your binder; Ben Hill County.

**MR. McIVER**: Please proceed, Mr. Harvey.

**MR. HARVEY**: This case involves the general election in November. The Secretary of State's office got a complaint about people who were requesting assistance not being allowed to be assisted by a person of their choice.

We found out there were three people who had gone to vote that were entitled to assistance. And when they asked that the person they brought be allowed to assist them, they were told they could not because the Ben Hill election officials had interpreted the code that any person who had voted could not reenter a precinct. They had taken the prohibition against a candidate reentering a precinct and mistakenly applied it to individuals.

For these three people, it's important to note that they were all eventually able to vote and were able to be assisted. However, that had to come as a result of contact with the Secretary of State's office.

Ms. Sawyer provided a written response yesterday to this issue, and I believe they essentially acknowledged that it happened, and she reemphasizes the fact that nobody was denied the right to vote and they have reinstructed their poll workers according to the law.

At the risk of starting another debate, I would recommend a letter of instruction also be issued in this in the fact that nobody was disenfranchised; they were allowed to vote; and they have corrected the practice.

**MR. McIVER**: Mr. Harvey, we think debate is healthy.

**MR. HARVEY**: I agree.

**MR. McIVER**: We want to fully air these matters. But your recommendation is a letter of instruction?

**MR. HARVEY**: A letter of instruction. There was no real damage that was caused and they have corrected their practice.

**MR. McIVER**: And that is with respect to 21-2-409?

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

**MR. McIVER**: Anybody wishing to speak on this matter? Ms. Sawyer, if you will acquaint us with who you are.

**MS. SWAYER**: Tony Sawyer, County attorney for Ben Hill County, 311 West Central Avenue, Fitzgerald, Georgia 31750.

What Mr. Harvey said is correct. Our elections workers misinterpreted subsections (a) and (c) of 21-2-413. It was -- in their misinterpretation they believed that once you had already voted you could not come back and assist another person. They did have some voters to come with people to assist them that had already voted. These people, once the voter was advised of our board's interpretation of the statute, they were immediately allowed to have assistant from someone who had not already voted. No one was denied the right to vote. No one turned around and said, Hey, I don't want to do this; I don't want to vote. Everybody voted within minutes.

We were contacted by the Secretary of State's office back in November of -- excuse me -- prior to November during early voting, and advised that we were reading the statute wrong. We immediately corrected the situation. Our workers were immediately trained on the statute prior to the November 6 general election.

We just really truly apologize and will continue to train our workers on this voter assistance.

**MR. McIVER**: Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**MR. McIVER**: Members of the board have any questions?

(Whereupon, there was no response)

**MR. McIVER**: I'll first entertain a motion and then we will have discussion, should that be in order. This is case 2012-147; Ben Hill County. I will entertain a motion.

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

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

**MR. McIVER**: Judge Simpson has moved in this matter we issue a letter of instruction. That has been seconded by Mr. Worley. Any discussion by members of the board?

(Whereupon, there was no response)

**MR. McIVER**: Hearing none, we will put it to a vote. Those in favor of Judge Simpson's motion, please indicate by saying "Aye."

(Whereupon, the vote was unanimous)

**MR. McIVER**: Those opposed?

(Whereupon, there was no response)

**MR. McIVER**: That motion carries. Thank you, Judge Simpson.

**MR. McIVER**: Next will be the Sumter County case. I'm looking at 2012-140, if I have that marked correctly.

**MR. HARVEY**: Yes, sir. This is a simple case. This involved early voting in the 2012 general election. The simple fact is that when the poll was opened in the morning, the person who arrived at the office forgot their key and had to return home delaying opening for about 15 minutes. There were only about one or two voters present and they waited until she was able to return.

Technically, there was a violation in terms of opening the polls. However, I recommend a letter of instruction is sufficient to remedy the problem.

**MR. McIVER**: Anyone wishing to be heard on this matter? This, again, is 2012-140. Yes, sir.

We need your name and address.

**MR. SIMS**: My name is Thomas E. Sims, Sr. My address is 1322 Faith Street, Americus, Georgia.

I would just like to say that I was present that morning that Mrs. Bryant forgot her key. It had been a very trying morning for Mrs. Bryant. Her mother was terminally ill; she found out at the last moment the visiting nurses association had terminated the nurses service.

So in getting ready to come to the office, she just really forgot and picked up the wrong bag that did not have the key to the office. No voters were turned away. We waited very patiently. And Mrs. Bryant was not reprimanded by the board because of the situation that she was in the morning.

That's all I have to say about that. It was just simply a morning where Mrs. Bryant just picked up the wrong bag that did not have the key to the office. Thank you.

**MR. McIVER**: Any member of the board?

(Whereupon, there was no response)

**MR. McIVER**: Sir, I assume you're one of the voters that were caught in this period of delay?

**MR. SIMS**: At the time I was Chairman of the board of elections and I was up there that morning because Mr. Brady was out of town and I was really there to assist her that morning in case we had anything to come up that needed my attention or Mr. Brady's attention.

**MR. McIVER**: Other than that the delay, you are not aware of any voter being impacted by this matter?

**MR. SIMS**: No. No. It wasn't but two voters there, and they were served as soon as she retrieved the key.

**MR. McIVER**: Any questions by the board other than mine?

(Whereupon, there was no response)

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

**MR. SIMS**: Thank you.

**MR. McIVER**: Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**MR. McIVER**: We have Mr. Harvey's recommendation. I'll entertain a motion from a member

of the board.

**MR. WORLEY**: I will make a motion that we accept Mr. Harvey's recommendation and send a letter of instruction on this matter.

**MR. McIVER**: A second by anybody?

(Whereupon, there was no response)

**MR. McIVER**: That motion to dies for lack of a second. Any other motions?

**MR. SIMPSON**: I move that we dismiss this case.

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

**MR. McIVER**: We have Judge Simpson moving that this matter be dismissed, seconded by Mr. Worley. Any discussion by the board?

(Whereupon, there was no response)

**MR. McIVER**: Those in favor of this motion, please signify by saying "Aye."

(Whereupon, the vote was unanimous)

**MR. McIVER**: Those opposed?

(Whereupon, there was no response)

**MR. McIVER**: There are none. The motion carries. Thank you, Judge.

Work with me, Mr. Harvey. The city Zebulon?

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

**MR. McIVER**: This is 2012-138.

**MR. HARVEY**: This is a slightly similar case to the last one. This involved early voting in the city election.

There was a delay in getting all the voters list and paperwork set up on time for the early voting to take place. However, through the county attorney -- I'm sorry. Through the city attorney and the elections supervisor's office, they were able to get with the Pike County registrar and they were going to be able to verify voters' information for people who came to vote early. So there was a system set up to allow early voting.

The system came apart when the elections supervisor had to go out of town and in

communicating it to other people in the office, the ball got dropped and the other people in the office said they were not able to do early voting. So when a voter brought her elderly mother to vote, they were told they could not vote early.

At the end, the people were able to return to vote and early voting did resume as was normal.

So while we've got violations for the City of Zebulon not performing duties in holding the early voting properly, I believe this is a case where they set up everything to work right and miscommunication prevented from doing that.

I think a letter of instruction would be appropriate to dispose of this case. Nobody was disenfranchised.

**MR. McIVER**: Anybody wishing to speak on this matter? Sir, may we have your name and your address.

**MR. MORTON**: Thomas H. Morton, city attorney, the Law firm of Morton Morton in Zebulon, Georgia; 200 Jackson Street, Zebulon, Georgia.

I just want to make some observations. I appreciated the recommendation of Mr. Harvey, a letter of instruction. I'm not sure I know what that involves and I would ask he take a moment to give me that information.

When this matter was called to my attention, I didn't receive Mr. Harvey's letter of January 7 until January 15. So I have not had a lot of time to get prepared for this hearing.

Things have transpired since this matter occurred. We do not dispute and we're not contesting the matter. There was an irregularity.

Contrary to what the perception was that the mayor and city council did not ensure matters being properly handled, that was not the case. The mayor, who is here with me, Mayor Mike Peres, will be able to ask any questions -- he personally met with the elections superintendent to make sure that everything was in place. The only thing that was missing was the voters' registration list. Everything else was there.

The mayor himself came down to make sure the voter forms were there; the voting box was there. He inspected the voter box himself. There was nothing done to the level of willfulness or intentional.

However, the mayor and city council are very concerned that this event took place. It should not have done so. Certainly, the one who filed the complaint expected to be able to vote early. She was not able to do so because of the mix-up in communications. She did vote. And when she arrived, the poll workers were in place; they were there.

What should have taken place and did not was because we did not have the voter list in hand and you needed that to verify the person was on the list to be able to vote. They should have called

the county registrar. My office personally talked to the county registrar and she confirmed that she advised the elections superintendent of the city what the procedure should be if the voter list did not arrive from the State, and that was to call her office and she would verify the voter.

Unfortunately, Ms. Kathy Bernie, the elections superintendent at that time, was out of town because of the wedding of her son. And she stated, and so stated to the mayor, that she had so advised the poll workers exactly what the procedures was to be followed. It was not followed as it should have been and we regret that.

But we need to keep in mind that this was a special election. There was no one voting on any one person. The matter involved the sale of liquor in the City of Zebulon. That is the only thing that was on the agenda.

Notwithstanding, we do agree everyone has the right to vote when the polls are open. This did not quite happen.

What Mr. Harvey does not know, and I am representing to you, that the mayor and city council are very concerned and upset that this even happened. As a consequence, this past year, well before we received Mr. Harvey's letter of January 7, the city council had taken action.

The elections superintendent is no longer employed with the city. The city manager, who was one of the poll workers, no longer holds that position. In addition, the mayor plans to designate a specific, in the future, a specific counsel person out of the five that are on the board to be personally qualified in this matter and to oversee the administrative department, which includes the elections superintendent.

So we are putting into place a program of action.

As city attorney, I am also recommending to the mayor that we have a written protocol for future elections to handle and address matters such as occurred in this case. The mayor and the city council have taken corrective action, and my recommendation to you would be at this time to dismiss the matter, if you would.

I will ask the mayor, if you will, to come up and make any comment he would like to make.

**MR. PERES:** Mike Peres, P-E-R-E-S; 262 Woodland Drive, Zebulon, Georgia 30295.

As our city attorney, Mr. Tom Morton, so eloquently stated, we have done everything possible to ensure this does not happen again. This was a special called election.

The voter list that was in question was not presented to the county until approximately October 19 or the 22nd. Our early voting was supposed to schedule for October 15. Since there was no early voter registration list, we had to extend early voting to October 22. However, since the voting list had not been received from the State, the elections superintendent was instructed to call the county in case someone were to vote early, which she instructed our city clerk and the other two poll workers to do so.

Our city clerk, or someone, contacted the registrar's office in the County of Pike and this was basically told to her. But it was not followed. She also is no longer with the city. So we have a completely new staff. Our staff responsibilities have changed.

So we tried to correct this to make sure that nothing like this would happen in the future. We have had one election since then and everything went accordingly. Early voting was done properly. Everything was secure.

So, therefore, as our city attorney, we are requesting this be dismissed if possible. And I do thank you.

**MR. McIVER**: Any questions by members of the board?

**MR. WORLEY**: I had a question. How many days of early voting were not conducted because of this situation?

**MR. PERES**: The voting election was November 7. So actually the early voting started October 22 -- I'm sorry -- the 23rd. The 22nd was kind of two people came in that day and they were not allowed to vote because we didn't have the registry list and our city clerk failed to contact the county.

**MR. WORLEY**: But I thought I heard you say early voting was supposed to start October 15?

**MR. PERES**: It was three weeks prior to the election, which would have been the 15th. If I'm not mistaken, three weeks is what is required for early voting.

**MR. WORLEY**: And what is the reason voting was not taking place on the 15th?

**MR. PERES**: Our registration list from the State was not received by the county until either October 19 or October 22.

**MR. WORLEY**: But you had made arrangements, or the clerk or whoever had made arrangements with the county to check their list from the 15th going forward?

**MR. PERES**: Well, the county did not have a current voter registration list. When we first announced that we would have early voting on that and the ballots were prepared, we were under the assumption -- and I know everybody knows what assuming means -- but we were under the assumption that we would receive -- we would have received the voter registration list from the State before that period of time. When we did not, we had to postpone early voting until the next week when the list was supposed to be received.

**MR. McIVER**: Any other questions before I ask mine?

(Whereupon, there was no response)

**MR. McIVER**: Do either your counsel or you, Mr. Peres, Your Honor, is there any estimate of

the voters that would have been impacted by these circumstances?

**MR. PERES**: As far as I know, only two.

**MR. McIVER**: Did they ultimately have an opportunity to vote?

**MR. PERES**: Yes, sir. Both of them voted and also what hasn't been indicated is the wife and mother was a -- the councilman's wife and mother of one of our councilman.

**MR. McIVER**: So anybody who sought to vote had an opportunity and did vote?

**MR. PERES**: Yes, sir. No one was denied. It was just an inconvenience that they had to return at a later date, which they did.

**MR. McIVER**: Any other questions from the board? Mr. Martin, do you wish to be heard again?

**MR. MORTON**: No. I think between myself and the mayor we have addressed the issues forthrightly. The city council has taken action. They have employed to be the city clerk that is currently going through training. But this one that they have hired now has an in-depth background in city government. So we are looking for the future.

But the council did take action. I know it's pretty hard for a city manager to lose his position. The elections superintendent who had been an employee for many years lost her job. So I think what has been -- what the mayor and city council has done demonstrates the concern that the mayor and council in have on this matter.

We thank you for your attention and listening.

**MR. McIVER**: I must confess you gave me a start when you talked about the fact that the mayor had personally investigated the ballot box, and so on. Now, had you been a candidate, Mr. Mayor, we would have a huge problem.

**MR. PERES**: I would not even have been doing anything if I were candidate.

**MR. McIVER**: Nowhere and nowhere near there other than to vote. When I heard about the special election, that caused me to calm down. But I had some degree of angst when I heard that. There is lots of training you can participate in as well.

**MR. PERES**: Correct.

**MR. McIVER**: From the division of elections.

**MR. PERES**: And I do thank you for all of the training that is available and I encourage everyone to do so.

**MR. MORTON**: I might say that I have been the city attorney since 1992 and there is no finer group of elected officials, conscientious, as this particular board is.

**MR. McIVER**: I gather you and your brother both are city attorneys?

**MR. MORTON**: My son does practice with me.

**MR. McIVER**: I was thinking that is your brother.

**MR. MORTON**: He is the future.

**MR. McIVER**: Any other questions by the board?

(Whereupon, there was no response)

**MR. McIVER**: Having heard all this, Mr. Harvey, I assume your recommendation remains the same?

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

**MR. McIVER**: I will entertain a motion from the board.

**MS. SULLIVAN**: I move a letter of instruction be issued in this case.

**MR. McIVER**: Ms. Sullivan has a motion for a letter of instruction consistent with the recommendation of Mr. Harvey. Is there a second?

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

**MR. McIVER**: Seconded by Mr. Worley.

**MR. McIVER**: Any discussion by the board?

**MR. WORLEY**: Yeah, I would just like to say that ordinarily I would want to vote to have referred this to the Attorney General's office. I am disturbed that there was an entire week of early voting that was lost, for whatever reason. But I appreciate the fact that the city has taken steps to correct the situation and has terminated, or at least no longer employs the people that are responsible. So under those circumstances, I am willing to support a letter of instruction.

**MR. McIVER**: I failed to ask if anybody else wants to speak. Is there anybody else other than Mr. Morton or Mr. Peres who wanted to speak on this matter?

**MR. SIMPSON**: I would just say I think this case ought to be dismissed. I think the city has taken all the action it could take. They know what the problem was. The lady who was responsible has been removed, and I think the city well knows what its responsibilities are.

I don't think a letter of instruction is going to assist them in any way. I think that with the city having acknowledged fault and taken corrective action, I think that is adequate. I cannot support the letter of instruction in this case.

**MR. McIVER**: Any other discussion?

**MR. WORLEY**: Well, I would just say that I just think it's very serious that a week of voting was lost and that I think it's important for this board to go on record at times stating our position on these issues. I mean, that's why we have letters of instruction. In most cases, when we give a letter of instruction, it is a circumstance where the election body has actually taken some remedial action. Otherwise, we would send it on to the Attorney General's office.

So I would reiterate that I think a letter is the appropriate resolution in this case.

**MR. SIMPSON**: If I can respond to that, I may be under the wrong impression. I may have misunderstood what has been said. My thinking was the reason the time was lost was because the registration list did not get to the city from the State office.

Now, if that is the cause of the loss of the time of the early voting period, then I don't think that should be charged to the city. That devolves on the State's office. Am I correct in understanding that is what caused the delay?

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

**MR. SIMPSON**: I don't think you can fault the city for that.

**MR. WORLEY**: Well, my understanding was that arrangements had been made as of October 15 to contact the county and essentially use the county has the backup registration list. Is that not the case?

**MR. PERES**: May I clarify, please?

**MR. McIVER**: Sure.

**MR. PERES**: The original date was set forth according to law. We did not have, nor the county had, the new updated list. So the list that the county had was an old list. We were waiting on an update from the State. We could have used the old list, but there could have been complications there. So that was the reason that we chose to wait and -- for the new list to come from the state.

Like I said, this was a special election. It was only involving selling alcohol on Sunday. If it had been an election where actual candidates were involved, I don't really know the answer would be, really.

**MR. WORLEY**: I appreciate that and I appreciate that explanation. But there was still at least a day when you had the list, or the county had the list --

**MR. PERES:** Yes.

**MR. WORLEY:** -- or maybe three days when the county had the list when there was still no voting going on or available because the superintendent had left.

I don't . . . I don't accept any distinction between an election on an alcohol sale and election with candidates. The code does not make any distinction with that, and I would imagine there are a number of people in the City of Zebulon who care more about voting on alcohol sales than they do on who the city council and mayor are.

**MR. PERES:** Probably so.

**MR. MORTON:** We do not disagree with that. But in this particular situation, we don't think the situation calls -- we have done everything that is reasonably possible to do after we found that out, well before we received Mr. Harvey's letter.

**MR. WORLEY:** And I accept you have done everything at this point that can be done. I just think it is important to for this board to go on record with a letter of instruction.

**MR. PERES:** May I asked what the letter of instruction entails?

**MR. WORLEY:** It basically says don't do this again. It's the mildest --

**MR. McIVER:** It's the mildest of all the things, other than a dismissal, that we can do.

**MR. PERES:** We accept whatever you so choose to do.

**MR. MORTON:** We do that, but we would request and would prefer a dismissal under the circumstances in that action was promptly taken by the mayor and the council.

**MR. McIVER:** We appreciate your ardent defense of your client, Mr. Morton.

Any other discussion prior to our voting on Mr. Worley's motion?

**MS. FORD:** May have clarify one thing? I just want to clarify that whether or not a list was there, the county registrar has access at all times to the voter registration system an can check to see if a person is registered to vote in Zebulon or not, whether or not a paper list is available.

**MR. PERES:** I'm sorry. I was unaware of that.

**MR. McIVER:** Any other discussion?

(Whereupon, there was no response)

**MR. McIVER:** Thank you, gentlemen. I call for a vote on the motion, please. Those in favor of Mr. Worley's motion --

**MR. WORLEY**: For the record, it's Ms. Sullivan's motion. I seconded it, wholeheartedly.

**MR. McIVER**: Seconded by Mr. Worley. No disrespect intended, Ms. Sullivan. Those in favor of Ms. Sullivan's motion, please indicate by saying "Aye."

(Whereupon, the vote was taken)

**MR. McIVER**: Those opposed?

**MR. SIMPSON**: No.

**MR. McIVER**: It will be recorded the Judge Simpson opposed the motion. That carries by a vote of 3 to 1. Thank you.

Mr. Harvey, next case.

**MR. HARVEY**: The next case is going to be 2012-195, Bleckley County.

The Bleckley County registrar's office reported to the Secretary of State's office that a citizen voted twice in the election. It was determined that Dorothy Taylor requested and completed an absentee ballot for the November, 2012, general election. She also appeared and voted on election day. The way she was able to do that was that when she was entered into the State system by a registrar with her absentee ballots, she wasn't entered into the Easy Vote system.

So when she went to vote with her friend on election day, she didn't appear to have voted. They didn't discover it -- the registrars office didn't discover it until after the election.

They subsequently rejected her absentee ballot once they saw she had voted on election day. They, however, failed to notify her in writing of the rejection of her absentee ballot.

So at the end of the day, we've got the Bleckley County elections superintendent, Judge Powell, the Board of Registrars and the chief registrar's office cited for failing to notify her of the rejection of her ballot; allowing Ms. Taylor to vote twice in an election.

We've got Ms. Taylor cited for voting twice in an election. And we also have a friend of hers, Ms. Cummings, who assisted Ms. Taylor when Ms. Taylor was not entitled to assistance. Ms. Taylor is 80 years old and she did not meet the legal requirements for assistance. She was neither disabled or illiterate.

I would recommend that in Ms. Cummings' case, that a letter of instruction be issued to her, and in the case of Bleckley County, those three respondents, and Ms. Taylor, they be bound over to the Attorney General's office.

Ms. Taylor's explanation is that I thought if I was doing wrong they would have told me. She did not proffer that when she went to vote that, well, I've already voted. Is okay for me to do it

again. She just thought they would let her know if she couldn't vote twice.

So that is the recommendation: Bleckley County elections supervisor, Board of Registrars and chief registrar and Ms. Taylor, go to the AG's office, Ms. Elizabeth Cummings be issued a letter of instruction.

**MR. McIVER**: Anyone here to be heard on this matter?

**MS. CUMMINGS**: My name is Elizabeth Cummings. I live at 300 Limestone Road, Cochran, Georgia. And I would like to respond to some of the things he said.

I called -- she's not my friend; she's my cousin and I've known her all my life. I know she can read and write. We talk everyday. So I called in the evening and I told her, you know, tomorrow is the last day. I got to go to vote. I said, Did you vote yet? She said, no. So I said she could come on and go with me. So we went down. I did not know that someone had been to her home and had her fill out an absentee ballot. That's how it came about.

And how I came to the standing beside her, Ms. Yates, the staff in there, I had finished my vote. And I had to figure it out because I'm not a computer whiz. So I had voted and come back out that she had handed me my form to sign that I have voted.

So Ms. Taylor, she asked her, can you help me? And she said, no. I'm not allowed to. But Ms. Cummings could help you.

I did not go stand beside her and vote for her. She did her own vote. What she needed was where to put the card in, and that's the first time I had (unintelligible). I asked someone. I don't remember who it was, but someone was stepping out the booth beside me and I asked her, Where do you put this card? Oh, she said, right there. And she kept going. That's how I came to be into this. I didn't know she had voted and I didn't -- Ms. -- I think her name is Yates, 'cause her brother-in-law lived down the road from me. So I thought it was okay. But I didn't vote for her. She did her own vote.

Something in there about she couldn't read. That's not true. I been knowing her all our life -- all of my life, rather. And that's how this came down.

She did not indicate -- well, she made her statement that she said I could help her. And didn't know -- she wasn't supposed to do that, obviously. That's how I end up in this. No knowledge of mine about this that she had already voted. I did not know.

**MR. McIVER**: Mr. Worley?

**MR. WORLEY**: Ms. Cummings, so it is your testimony that the only thing you did with regard to your cousin was to point to where the card goes?

**MS. CUMMINGS**: That's all I did. She did her own voting. I didn't know she had filled out an absentee ballot.

**MR. WORLEY**: Thank you.

**MS. CUMMINGS**: Because the lady that went to her house, she don't come to my house. She know better. But I didn't know she had been to her house. That's my explanation for my involvement in it.

**MR. McIVER**: Any other questions from the board with respect to Ms. Cummings' statement?

(Whereupon, there was no response)

**MR. McIVER**: Anyone else wish to be heard in this matter?

**MS. TAYLOR**: My name is Dorothy Bell Taylor. I live on 172 Limestone Road, Cochran, Georgia.

I voted at home. The lady come to my house the lady I signed at home. But I didn't know I had made a bad mistake until Pam Jones come to my house, investigator. That's when I know I have voted twice for the same somebody, but I didn't know I was voting for the same somebody.

Here's what I thought. Just when you vote for a police, you vote for him and then you can vote for the chief. I thought I was (unintelligible) and somebody else at the same time.

But when we get to the courthouse -- I never signed nothing on a computer before. And the girl that work in there, I asked her, I said, can you tell me? She told me, no. Said Ms. Cummings can help you. She didn't help me. She stood on the right hand side of me. She hadn't did nothing.

So when I got through making my mistake, I took the paper back to her. She told me to sign my name to the top and told Ms. Cummings to put her name up under me. See, that's made them think she signed me up because she said I couldn't read and I couldn't write. I've been writing ever since I was 10 years old and now I turned to be 80 years old. And if you can't do your job and tell the truth, you don't supposed to lie on nobody. Because God is not pleased with that.

Now, this lady working in that courthouse, she got to give an account of lies she told on her. Now, I didn't know I made the mistake until Pam Jones come to my house and told me. And I told her then if I had of known I was voting for the same somebody, I never would have voted again, because I did know. And that's a mistake on me. But by the grace of God, it won't be made no more.

But she shouldn't put all that on her because I didn't ask this girl to help me. I asked her. Then I said, is you going to help me? And she said, no; I'm not going to help you. You get her to help you. And then told me to sign my name top when we get through and tell her to put her name on the bottom because I couldn't read are right. She signed the papers and everything. But God in heaven knows she didn't tell the truth.

**MR. McIVER**: One moment, ma'am. Any questions from the board?

(Whereupon, there was no response)

**MR. McIVER**: Thank you very much. Anyone else wishing to speak on this matter?

**MS. DOUGLAS**: My name is Glennis Douglas, chief registrar of Bleckley County; 1018 Reidy Road, Chester, Georgia 31012.

In order to protect the integrity of the system in Bleckley County, I felt it was necessary that this should come before the board.

I do admit that we did make an error in not sending this to her. But I would have to have a video to show you just exactly what transpired that day. Unfortunately, the girl that had a provocation with her could not come today because of a headache. But I am here to tell you we're just here to protect the integrity of the voters of our county. Nothing like this has ever happened before.

Yes, we did make a mistake. But, sir, you would have to have a video to see what was right. I have Ms. Ates here, and I will let her talk on her behalf.

**MR. McIVER**: Name and address, please.

**MS. ATES**: Good morning. My name is Cheryl Ates, 112 Mayor Street, Cochran, Georgia. I am a voter registrar in the Bleckley County board of registrar's office.

On that particular day, Ms. Taylor did sign a form. She did ask is that she needed assistance. Ms. Cummings did, in turn, filled out that part of the form that she needed assistance.

I did not do anything other than as the right of a voter registrar. And that is all I have to say regards to that.

**MR. McIVER**: Any questions by the board?

**MR. WORLEY**: Ms. Ates, did you -- what made you think that Ms. -- that the voter needed assistance, Ms. Taylor?

**MS. ATES**: I did not go to the machine. We do not go to machine with them. Ms. Cummings -  
- Ms. Taylor did ask for assistance, and I told her that Ms. Cummings could assist her and that is why she assisted; signed that form.

**MR. WORLEY**: But you didn't see what Ms. Cummings actually did?

**MS. ATES**: No sir. It was other voters coming in. It's three of us working the voter registrar's office and all of us have different duties in regards to early voting. My position was we had different voters coming in, and that's where I was posted at that time.

**MR. WORLEY**: Thank you.

**MR. McIVER**: Any other?

**MS. DOUGLAS**: On behalf of the three of us, you would have had to have been there and saw the chaos that day that was created because my clerk could not let her vote without proper ID, and there was chaos concerning that because she could not find her drivers license. We were backed up in the hall, down the staircase. We were full. And, sir, it was just chaotic.

**MR. McIVER**: Any others questions?

(Whereupon, there was no response)

**MR. McIVER**: Thank you, ladies. Anyone else indicating an interest in making a statement to us? Ms. Cummings?

**MS. CUMMINGS**: I did not -- I just want to say I did not volunteer to help Ms. Taylor. I had voted and come out, and Ms. Ates gave me my paper to sign, you know, that I voted. I assume that's what it was. And I was just standing there when Ms. Taylor came and asked her if she could help her. Now, she is not saying she told me to help her but, God is my witness, she said, I can't help you because I'm not allowed. But Ms. comics can help you.

And I just walked back there with her, and I will be honest, I showed her the spot where to put the card in. And that's all I did. She can read, she can write.

And that form that I signed that I assisted her, Ms. Yates hand me that form: Ms. Cummings you signed here. I signed it. Now I know better. Never sign nothing. My mother always told me read before you sign, right? And that is what I did. I just signed. There was an area -- the officer that came to my house, she showed me that I put a check mark there that she couldn't read and write. I did not do that. I did what she told me: I signed my name. And that is it. That is all I did. How that check get there, I don't know.

But the officer and was comparing it, the pen I signed my name with was light. This was a dark check. I did not do that. I know she can read and write. Thank you.

**MS. TAYLOR**: Can I say one more something?

**MR. McIVER**: Please.

**MS. TAYLOR**: My name is Dorothy Bell Taylor. God is a good God. But that girl is not telling the truth, Your Honor. When this child was in the booth, I was standing over here. So when she stepped out, I told her, I say, you going to help me? She said, no. I can't help you. Ms. Cummings will help you. When I get in front of this Ms. Cummings was standing here. As God is my witness, I never used a computer because I ain't knowed how to do the thing. But I had already voted with Dorothy Harris and I never would have knowed I did something wrong if Ms. Pam Jones had not come to my house and had the ballot I had filled out and mailed back to

the courthouse.

But this girl know she's worked this girl know she's wrong 'cause God ain't pleased with what she stood up here and told y'all. She the one got to give account of that. Because I wouldn't stand in front of y'all and tell no lie, because I never would have did it if I knowed I was doing something wrong. But I thought I was voting for two people, but I did know I was looking for the same person.

I made the mistake, but God is going to correct it. Thank you.

**MR. McIVER**: Any questions for Ms. Taylor?

(Whereupon, there was no response)

**MR. McIVER**: Mr. Harvey, after hearing the statements, is your recommendation the same?

**MR. HARVEY**: Yes, sir. A letter of instruction for assisting -- actually, based on that, it may not be evidence of assisting if she just stood next to her and showed her where to put the card in. I think we might be able to dismiss the charge concerning the improper assisting.

However, the other charges on voting twice and on the county I believe should be bound over to the AG's office.

**MR. McIVER**: Clarify for me. What is your recommendation to us with respect to Ms. Cummings?

**MR. HARVEY**: Ms. Cummings, I recommend that case be dismissed.

**MR. McIVER**: Do we have a motion before we have any discussion?

**MR. SIMPSON**: I move to dismiss the case against Ms. Cummings, and refer the other cases to the Attorney General.

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

**MR. McIVER**: Motion by Judge Simpson to dismiss with respect to Ms. Cummings and bind over the other four respondents. Seconded by Mr. Worley. Any discussion by members of the board?

**MR. WORLEY**: Actually I just had a question, Mr. Chairman. I didn't hear any discussion from Ms. Douglas, the registrar, about the charges against the board relating to rejecting the ballot and I wonder if they have anything to say about that before we vote.

**MR. McIVER**: Is Ms. Douglas still in the room?

**MS. DOUGLAS**: Yes. I'm sorry. I did not hear his statement.

**MR. McIVER**: Would you come forward, please. Again, give us your name.

**MS. DOUGLAS**: My name is Glennis Douglas.

**MR. McIVER**: Ms. Douglas, we have a motion before us to bind over to bind over all this case except what involves Ms. Cummings' purported assistance to Ms. Taylor.

Mr. Worley may be able to clarify that even more, but we do want to hear from you with respect to how the Board of Registrars may have been involved here.

**MR. WORLEY**: Ms. Douglas, the alleged violations in this matter relating to you and the Board of Registrars are that you rejected Ms. Taylor's absentee ballot without promptly notifying her of the rejection, and that you allowed Ms. Taylor to cast a ballot in the general election after she had been previously issued an absentee ballot.

Before we voted, I wanted to make sure whether or not you have anything to say about that.

**MS. DOUGLAS**: Regarding to her voting a second time?

**MR. WORLEY**: Well, as to both. As to why you did not notify her of the rejection of her absentee ballot, and then she was allowed to cast a ballot after she had been issued an absentee ballot -- cast an election day ballot.

**MS. DOUGLAS**: There again, yes. I am aware after the second vote that she did vote absentee. At that point, she -- with the second vote, it was going to be counted. So I really didn't think twice about sending a letter, to be quite honest. But now I realize I should have.

But then again, if you're talking about the Board of Registrars, yes; I did take the matter to the Board of Registrars. We have five members and I did discuss it with the registrars and they, hearing all the details that surrounded this vote -- and recall, now, I said there was chaos. When I say chaos, I am referring to what happened when these two ladies initially came into our office. They were so intimidating to my clerk, that she actually was beginning to have some nervous effect from it. I think that's why she couldn't be here today because she knew this was going to involve something she would have to talk about.

You have to have a video just to see what happened that day. I really don't understand why we are being slapped on the hand for not sending that letter when the person that come in there was - - I didn't understand why Ms. Cummings was in there to start with because she was creating a lot of the havoc.

**MR. WORLEY**: Well, she was there to vote, right?

**MS. DOUGLAS**: We were full. Why did she walk in there with the lady? We had asked them to please stand behind the line until our machines are empty and she walks in just pushing herself in.

I mean, you would have to be there to see what happened.

**MR. WORLEY**: Are people over 75 allowed to go to the head of the line?

**MS. DOUGLAS**: Yes. But no one was aware she was over 75. It was not told to us at that point. We did see the application for ballot.

**MR. WORLEY**: Is her date of board birth on the voters list?

**MS. DOUGLAS**: She had not -- Ms. Cummings, the one we're talking about, had not completed the application at that time. We were just talking to Ms. Taylor.

As I said, you would've had to be there. You would have had to see it on the video to believe what happened that day. It interrupted the whole process. We were backed up.

**MR. McIVER**: Mr. Worley, any other questions?

**MR. WORLEY**: I don't have any further questions. I'm ready to vote.

**MS. DOUGLAS**: Is there anything else I can clear up?

**MR. WORLEY**: No. I think you have made it quite clear. Thank you.

**MR. McIVER**: Any other questions by the board?

**MS. CUMMINGS**: Sir, I would like to clear up the chaos part. When we went there, it was one lady -- the lady that I asked where did you put this car -- she said, oh, right there. And she kept walking. There was one other person sitting in the hallway. Only two was in there.

Now, when this other lady had went out, it was only me and Ms. Taylor. Please have her show you the video. Because she knows there was no chaos.

I am not a stupid woman. I don't go around disrespecting myself. My mother worked hard to send me to college. I did not vote twice and I did know she had voted twice. There was no chaos.

Now, if she has a video, have her show it to you. One man sitting in the hallway waiting to go in. One lady was leaving. Ms. Taylor and I was the only ones in there.

**MR. McIVER**: Thank you. Any other discussion by the board?

(Whereupon, there was no response)

**MR. McIVER**: Hearing none, we have Judge Simpson's motion. Those in favor of the motion as proposed and seconded by Mr. Worley, please indicate by saying "Aye."

(Whereupon, the vote was unanimous)

**MR. McIVER**: Those opposed?

(Whereupon, there was no response)

**MR. McIVER**: Hearing none, the motion passes. Mr. Harvey.

**MR. HARVEY**: Our next case is 2013-02, Candler County.

This case involves a convicted felon under sentence, Mr. Kerry Byrd, who voted six times while serving a felony sentence. He was under sentence from March 20, 1989, until March 19, 2004, and he voted six times elections in that time.

So it is recommended -- Candler County was not made aware of his felony status until 2009. When they were made aware that he was on the felons list, he was deleted, and he was not reregistered.

It is recommended that Mr. Byrd be bound over to the AG's office for voting while a convicted felon and the associated charges.

**MR. McIVER**: Let the record reflect the Chairman has returned to the meeting. Did you want to take over here?

**SECRETARY KEMP**: You go right ahead.

**MR. McIVER**: Thank you. Mr. Harvey, who was the complainant in this matter? Which entity?

**MR. HARVEY**: The chief deputy registrar, Kelly Boyette, of Candler County reported to the Secretary of State's office.

**MR. McIVER**: Anyone wishing to be heard on this matter?

**MR. BYRD**: Yes, sir. I am Kerry Byrd, 16116 Cool Springs Church Road, Metter, Georgia 30439.

I was convicted of a felony in '88, '89. But I was under the understanding that when you finished your probation and parole -- you know, I didn't realize.

What this really stems from is I didn't know that I couldn't vote. I registered to vote. But to make a long story short, I have been voting like he said. I have been voting. And I wasn't on probation or parole. I work, pay taxes; I thought I was good.

I got a notice that I was no longer registered to vote (unintelligible). So I went to this lady,

Boyette, registrar's office, and we sat down and I told her about that she said, oh, that's back 20-plus years ago. You don't have to worry about that anymore. And she said I could even get my gun rights back. She said all you got to do is get three signatures, and you can get your firearm license back, you know. I said, okay. Well, thank you. You know, everything was good. Everything was straight.

Well, then when I went to vote again, they pulled me out of the line and said I was not eligible to vote. And the reason I am standing here today is because I did not take that lightly. I went home and I called the State Board of Elections on election day, and they called them to take an absentee ballot for me. They said I was eligible to vote. So because I started, that is why I'm standing here today.

But -- and then Ms. Pam Jones called me one time.

Anyway, I done an absentee ballot, one of those ballots you do, you know. I did that. And I got a letter saying -- the elections board called me; they were nice -- a couple of times, making sure I got to vote, and I said I did. And then this Pam Jones called me one time and talked and I told her what I do. And then this other guy -- I can't remember his name -- the other detective -- but anyway, he told me he was working against me because I have voted prior. And I told him I was under the understanding I was eligible to vote.

But anyway, because I thought I was standing up for myself is why I am standing here today. I farm; my wife is a teacher; we raise children. I made a mistake. I went through hard time about life. I did not want to vote if I wasn't eligible. I registered. I feel like I was eligible to vote.

This happened 26 years ago what I'm standing here today four. I've not been in any trouble since, and I don't know what your recommendation is going to be. I pay taxes. I pay four different school taxes; see because I own four different pieces of property. I am a law-abiding, taxpaying citizen.

I made a mistake, but I'm sorry, and y'all do what you need to do. That's all I've got to say.

**MR. McIVER**: Let's see if anybody has questions for you. Any member of the board have questions for Mr. Byrd?

(Whereupon, there was no response)

**MR. McIVER**: Thank you, Mr. Byrd.

**MR. SIMPSON**: I'm thinking --

**MR. McIVER**: Just one second.

**MR. SIMPSON**: You were convicted on March 20, 1989?

**MR. BYRD**: Yes, sir. That's when I went before a judge, but I was incarcerated before then.

**MR. SIMPSON**: Okay. And then end date of your probation was March 19, 2004?

**MR. BYRD**: No, sir. When I was released from prison, I drove to Metter. I reported to a probation and a parole officer. I found work in Savannah, Georgia. I moved to Savannah, Georgia, and I had my probation and parole transferred to Savannah. And to be honest with you, sir, I can't remember with the probation. But I had to do it, or I would have been reincarcerated.

**MR. SIMPSON**: Right.

**MR. BYRD**: But they dropped my probation. But even before the parole, the probation officer said, Mr. Byrd, you're doing fine; you're working. So they dropped it. They said you no longer have to report or call in. Well, I thought that was over with.

**MR. SIMPSON**: Do you remember when that was; what date that was?

**MR. BYRD**: I moved back to Metter in 1992, in Candler County. I moved back from Chatham to Metter. I wasn't on probation or parole at that time.

**MR. SIMPSON**: Let me ask a question now. Was your probation transferred back to Metter when you moved back?

**MR. BYRD**: No, sir.

**MR. SIMPSON**: When do you have to quit reporting to the probation officer, while you were in Savannah?

**MR. BYRD**: It was while I was in Savannah. Yes, sir. I can't remember. You're asking me something that is 20-plus years ago. I really, honest to God, I couldn't give you an honest answer. But I know when I moved back to Candler County, I was neither on probation or parole. I was on neither. Because if I had violated either one, I would have gotten reincarcerated.

I had to make some restitution payments, and I think when they did that they dropped it. I got right out; I went to work; and I have been working ever since. I made the mistake. I was young and dumb. I went through a divorce and lost two children, and that's what's wrong with society today is broken homes. I see it myself. But that's no excuse for what I did. But, you know, I'm older and in hindsight, I know I'm a some stupid mistakes. But it's something to be standing here 26 years later.

According to my letter, they brought back in here for voting, and I didn't know I was doing anything wrong. I wouldn't have called the State Board of Elections if I thought I was in the wrong. But by me calling them, he got turned around on me. So here I stand.

**MR. McIVER**: Any other questions?

(Whereupon, there was no response)

**MR. McIVER**: Mr. Willard, are you in a position to opine to this gentleman, and perhaps even the board, about this particular situation, specifically with regard to restoration of rights?

**MR. WILLARD**: Well, it doesn't sound like he had his restoration of rights at the time that he was voting.

As the board is aware, looking at the facts, these elections have some age on them. It didn't come to our attention until over a decade had passed since the most recent violation. I leave it up to the board as to what they want to do. We have had some of these in the past that have come over to our office and we take the age of this into account when trying to reach a negotiated consent order with the individual.

We have not taken one with this age to OSAH yet. As the board is aware, there has been some litigation in another licensing board, or oversight board, dealing with complaints that have age on them. I leave it up to the board as to whether they want to bind it over to us or handle it administratively.

But I don't think restoration of rights was really implicated at the time he voted here. It sounds like it may have moved from a supervised or unsupervised probation. But it doesn't appear they discharged from probation so he still was under sentence at the time.

**MR. McIVER**: Do you have a recommendation for us as to what the position of the law department would be?

**MR. WILLARD**: I will leave it up to the board. If you bind it over, we will work on getting a consent order that reflects that he violated the election code at the time with a penalty we think is commiserate with both the violation as well as the age on the violation.

But whether the board wants to bind it over that will be up to the board. I don't have a recommendation on that.

**MR. McIVER**: Judge?

**MR. SIMPSON**: Do you have a copy of the sentence in your file?

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

**MR. SIMPSON**: May we see it?

**MR. McIVER**: Judge, I'm going to need a motion to accept that.

**MR. SIMPSON**: I move we accept the copy of this sentence.

**MR. WORLEY**: Second.

**MR. McIVER**: We have a motion and a second to accept the sentence of Mr. Byrd in this matter.

All those in favor of the motion, please indicate by "Aye."

(Whereupon, the vote was unanimous)

**MR. McIVER**: Opposed?

(Whereupon, there was no response)

**MR. McIVER**: That motion carries. Mr. Harvey, I would ask, in the interim, was there ever any evidence that Mr. Byrd filed for restoration of his rights?

**MR. HARVEY**: Not that I'm aware of, sir.

**MR. McIVER**: So your investigator did not determined that one way or the other?

**MR. HARVEY**: I don't believe so. Although he wouldn't have to have his rights restored to vote. He would simply reregister once his sentence --

**MR. McIVER**: But that process would have closed out everything.

**MR. HARVEY**: I don't believe so, sir. In the report, it indicates when he met with Ms. Boyette, she began to assist him with that process.

**MR. WORLEY**: Mr. Harvey, would you just clarify for us, the report says the end date of probation probationary supervision for Mr. Byrd was March 19, 2004.

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

**MR. WORLEY**: What is your understanding about his ability to vote now?

**MR. HARVEY**: Now, if the 2004 time has passed and he registers after that date, he is completely entitled to vote. Once his sentence is completed, he can register the next day and vote.

**MS. SULLIVAN**: I have a question for Mr. Byrd. Mr. Byrd, it was your understanding that when you moved back to Metter in 1992 and you were no longer under active supervision that your sentence was completed at that time?

**MR. BYRD**: Yes, ma'am. That's what I thought. I mean, I never, you know, I thought everything was over with, you know?

**MS. SULLIVAN**: Okay.

**MR. BYRD**: I didn't even know anything about needing my probation -- I had been on probation before. I got a DUI in the past and I had been on probation. And I had a fine to pay and it was like a year of probation and in six months' time the probation officer said, you know, you pay this fine, you're off. So I thought everything was taken off and there was no more probation.

In 1992 when I moved back to Metter, I thought I was -- all that was in my past. That was my understanding; what I thought.

**MR. HARVEY**: Just for the record, I've got a printout from the Department of Corrections that was printed on February -- about a year ago, February, 2013, that shows his felony conviction end date of February 19, 2004, on a 1989 conviction in Dougherty County. It's not unusual that somebody's supervision necessarily ends before their sentence ends. That may have been the confusion with Mr. Byrd that he didn't realize there was a difference between having to report to the probation or parole officer versus having a sentence end.

But the records from the Georgia Department of Corrections indicate that he was -- his end date was 3/19/2004.

**MR. McIVER**: Okay.

**MR. WILLARD**: Mr. Chairman?

**MR. McIVER**: Mr. Willard.

**MR. WILLARD**: Just one point for the board's consideration in light of Ms. Sullivan's question. Mr. Byrd, at least in regards to the 571, voting violation, convicted felon or voting by someone not qualified as an elector, that is a specific intent provision where the voter must knowingly vote knowing that he does not possess the qualifications of an elector.

**MR. SIMPSON**: You know, we've talked about statute of limitations before. These are old, 2002. What's the statute of limitations?

**MR. WILLARD**: Judge Simpson, as I have advised the board previously, we do not have case law stating specifically that there is a statute of limitations for SEB violations. Like I said, it is possible we would get an opinion from the Supreme Court on a related board, not a related board, but a similar board, that would give this board guidance and our office guidance in providing that answer to you.

But right now, the State Election Board does not have a statute of limitations, per se, for finding a civil violation for the state election code.

**MR. McIVER**: Nor has the legislature chosen to.

**MR. WILLARD**: Nor has the legislature chosen to jump into that breach.

**MR. SIMPSON**: But if we were to bind this over -- I'm just thinking out loud -- if we were to

bind this over, it would carry the same statute of limitation any felony would, which would be seven years, right?

**MR. WILLARD**: Actually, Judge Simpson, as you are aware, the provisions for the State Election Board exist independent and of any criminal violation. You are allowed to civilly fine someone, and the General Assembly has not specifically tied that into the felony statute of limitations.

But if the board wanted to use that as guidance in making a policy determination, I would not say that would be an unfounded determination.

**MR. SIMPSON**: Well, what I was thinking, if we bind it over to the Attorney General or if you go to the district attorney in that circuit to prosecute, if it were bound over criminally.

**MR. WILLARD**: Correct.

**MR. SIMPSON**: So then the statute of limitations would be seven years; it would be a felony statute of limitations.

**MR. WILLARD**: Yes. In terms of a recommendation --

**MR. SIMPSON**: So how can we have, as a policy matter or anything else, a statute of limitations greater than what the prosecuting attorney would have?

**MR. WILLARD**: I would say that is a policy -- I'm saying you are not legally bound by that, or there's nothing out there that says that you are. But if the board wanted to adopt that as a policy position, I think it would be a well-founded policy determination.

**MS. SULLIVAN**: Mr. Chairman, I would like to make around a motion when you are ready.

**MR. McIVER**: Just one moment. Mr. Chair?

**SECRETARY KEMP**: Mr. Willard, I know on 571 you were talking about intent, right?

**MR. WILLARD**: Yes, Mr. Secretary.

**SECRETARY KEMP**: Well, what about on 561 where it says after false registration knowingly gives? Is that the same?

**MR. WILLARD**: I cannot find in the report -- and I was looking for that earlier and may have just missed it -- I cannot find when he registered to vote; whether he registered to vote prior to his convictions or whether he registered subsequent to his conviction. But it is also knowingly for 561.

**SECRETARY KEMP**: Thank you.

**MR. McIVER**: Ms. Sullivan, you have a motion for us?

**MS. SULLIVAN**: Yes, I think considering both the fact that these alleged violations are so old, the earliest being 20 years ago, the most recent being 14 years ago, and the, I believe, lack of intent on behalf of Mr. Byrd, I would move that we issue a letter of instruction in this case.

**MR. McIVER**: Second.

**MR. SIMPSON**: Second.

**MR. McIVER**: Ms. Sullivan has a motion for a letter of instruction, seconded by Judge Simpson.

One point of order, does anyone else wish to speak other than Mr. Byrd on this matter?

(Whereupon, there was no response)

**MR. McIVER**: Thank you, Mr. Byrd. Appreciate it.

Any discussion by the board with respect to Ms. Sullivan's motion?

**MR. WORLEY**: I will support that motion. Given that a couple of these -- well, I was support that motion but only as to the first alleged violation, not the other two. I don't believe there is any intent there. So even for a letter of instruction, I don't think -- I think those are not supported by the facts.

**MR. McIVER**: That's not the motion, Mr. Worley. I appreciate your opinion. Rectory I understand that.

**MR. SIMPSON**: Before we vote, let me ask a question. Would you support a motion to dismiss the case?

**MR. WORLEY**: I was support a motion to dismiss.

**MR. SIMPSON**: Could we make it a motion to dismiss on all three counts?

**MS. SULLIVAN**: I withdraw my motion.

**MR. McIVER**: Do you withdraw your second?

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

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

**MR. McIVER**: We have a motion from Judge Simpson to dismiss this matter. By the way, this is 2013-02, and a second by Mr. Worley. Any discussion?

(Whereupon, there was no response)

**MR. McIVER**: All in favor of Judge Simpson's motion, please indicate by saying "Aye."

(Whereupon, the vote was taken)

**MR. McIVER**: Opposed? I am opposed.

That motion carries 4 to 1.

It is five minutes to 12. Mr. Chair, I'm going to return it back over to you. If you will let the record reflect the Chair has returned to the room and will be assuming the position of Chair.

And Mr. Chair, I'm hungry.

**SECRETARY KEMP**: I'm taking your lead. Mr. McIver. Mr. Willard, do we need to go into executive session?

**MR. WILLARD**: Not unless the board has something it wishes to discuss.

**SECRETARY KEMP**: Do we have something we wish to discuss?

**MR. McIVER**: There is no pending litigation that requires a report?

**MR. WILLARD**: Unless the board wants a report on pending litigation. I do not intend to report on any of my own volition.

**MR. McIVER**: When did we last have a report on pending litigation?

**SECRETARY KEMP**: I think we talked a little bit about that at the last meeting.

**MR. WILLARD**: Mr. Chair, do you want to talk about EAC? If so, we could move into executive session to talk about potential litigation on that.

**SECRETARY KEMP**: Sure. Why don't we have a motion to moved to executive session to discuss some legal matters in front of the board, and to return from lunch at 1:00.

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

**SECRETARY KEMP**: Mr. McIver makes that motion. Do we have a second?

**MR. McIVER**: I second.

**SECRETARY KEMP**: Second by Mr. Worley. All 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 move into executive session. Enjoy your lunch, and we'll see you 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 the meeting. Mr. Willard, do we need a motion to come out of executive session?

**MR. WILLARD**: Yes, Mr. Chairman.

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

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: Mr. McIver moves and Mr. Simpson seconds for us to come out of executive session and to continue on with the regular agenda for the State Election Board meeting.

**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 start back with our cases. I believe, Mr. Harvey, we've got 2012-187, Crawford County.

**MR. HARVEY**: That is correct. This case involves the general election of November, 2012. It was reported that candidate Tom Wallace, who was a candidate for Sheriff, entered a polling place while voting was taking place and was passing out business cards.

Also that a supporter of Mr. Wallace's was within 150 feet talking to voters saying things such as, I hope you vote for my man, Wallace; and vote for Wallace.

The investigation revealed that Mr. Wallace and Claxton, who are both here today and are going to speak -- Mr. Wallace admits he did go into the precincts. He tried to give his cards to poll workers, not necessarily to voters. He tried to put his cards on the table.

Mr. Claxton acknowledges that he stood within 150 feet of the Friendship Community House precinct and was talking to voters expressing his support for Mr. Wallace.

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 wishing to speak on this matter? Yes, sir.

**MR. WALLACE**: Thomas R. Wallace, 1856 Lower Hartley Bridge Road, Byron, Georgia; Crawford County. I was the candidate in question at this time.

It is true I did enter two of the precincts on the election day, unknowingly that I was not allowed in there. I did not know I was not allowed in there.

The reason I went by was to check on turnout, not the actual vote, because it was a rainy nasty day that day. I was just seeing how the general turnout was for the county. Like I said, I did not knowingly go in there violating any rules. I did not know I was not allowed to go around there.

As far as business cards, I did ask if I could some cards on the Zenith Mill precinct. The poll worker told me I wasn't allowed to do that. I said okay, and I left. I departed the building.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, thank you for being here. Anyone else wishing to speak?

**MR. CLAXTON**: I am Gary Claxton. My address is 9990 Highway 42 South, Fort Valley, Georgia, 31030.

I live right next door to the Friendship Community Center, which is also the voting precinct. The landline is a state -- it's about one inch wide. I did not know until -- I am 47 years old, and I did not know until I was approached this November 6th and told even though I am on my property, which I've owned this home for 21 years, and whatever candidate I've backed for the last 21 years, I have always put signs up and have always -- virtually the same ten to 20 foot where my driveway has always been the same spot.

I did not know, even though I'm on my own property, that being 134 foot away from a voting precinct where the voting (unintelligible). When the man come over and told me, the poll taker and manager, told me I had to be 150 foot away even though I am on my own property; my home is next-door, that I am in violation. I said I'm sorry, I didn't know it, and immediately walked away.

**SECRETARY KEMP**: Any questions or Mr. Claxton?

**MR. WORLEY**: Mr. Claxton, does the precinct post any signs that say no campaigning within 150 feet of --

**MR. CLAXTON**: No, it does not.

**MR. WORLEY**: Okay.

**MR. CLAXTON**: Had I saw that sign or it was there, I never would have done it, sir. I never heard in 47 years of my life -- I always heard of first constitutional right, in my own property, I could voice my own opinion. I did not know, even though my property line borders theirs, I had to be 150 foot away even on my own property. Otherwise, I wouldn't have done it.

**SECRETARY KEMP**: One question, Mr. Willard. Is there any freedom of speech First Amendment issues with somebody having a sign on their own property even if it violates the 150?

**MR. WILLARD**: I was actually talking to Mr. Harvey about it and we did not realize when we were reviewing the file that he was on his own property. A dismissal or an LOI as to Mr. Claxton would be appropriate action in this case.

**MR. WORLEY**: And that is because --

**MR. WILLARD**: And I really don't think an LOI is justified given that he's on private property. He's not on the public right-of-way. He did not consent to have an election office placed on his property. That's how you can restrict someone like a pastor of a church who actually agrees to have the election there.

In this case, I'll be honest with you, a dismissal would be appropriate as to Mr. Claxton.

**MR. McIVER**: But what is the rule?

**SECRETARY KEMP**: I think what we're saying if we agree to this, we're saying, as I think we should, that the Constitution trumps the law, correct?

**MR. WILLARD**: Correct.

**SECRETARY KEMP**: You've got a freedom of speech issue.

**MR. WILLARD**: What the Supreme Court has said, you have a sliding scale. The interest of government in ensuring an influence-free election fades the farther you get, especially when you're dealing with private property rights.

If you had where you have a polling precinct that was in an apartment right next door, I would argue that maybe we should take that case up. But where you're talking about something out where you have a building and 125 feet away is somebody's private property, I think there the sliding scale is going to come down more on the private property and free speech rights than it is on the right of the government to be free of influence in an election.

**MR. McIVER**: Is that unique to the property owner? Could a county come and say I want to lease six square inches of your property to put my sign on?

**MR. WILLARD**: I think in that case, I would be more than happy to take that case up.

**MR. McIVER**: So it would be unique to the property owner.

**MR. WILLARD**: It would be unique to the fact that his property interest exist independent of the decision of election officials to place the precinct there.

**MR. McIVER**: Okay.

**SECRETARY KEMP**: Any other questions on that legal matter?

(Whereupon, there was no response)

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

**MS. PEACOCK**: My name is Brenda Peacock, 3992 Sandy Point Road, Lizella, 30152. I am the elections supervisor in Crawford county.

I didn't understand what was said about him being on his own property. There is a sign, the rectangular red sign, No Campaigning. It's always posted to a pine tree that is right at the entrance to this particular voting precinct.

I didn't understand what you all were saying about him being on his own property.

**SECRETARY KEMP**: I think what we are saying is that if what we are being told is correct, his property borders the precinct. So if he is putting a sign in his own personal yard, that 150 feet rule would not apply to him because if we did apply that, we would be violating his First Amendment rights per the Constitution.

**MS. PEACOCK**: To have a campaign sign there?

**SECRETARY KEMP**: Right.

**MS. PEACOCK:** I wasn't there when this happened so I don't have first-hand information. But from what I understood from my poll manager, there was no sign -- I mean, he didn't have a political sign. But he was closer to the building.

But like I said, I was not there, so I don't know firsthand about that particular incident.

**SECRETARY KEMP:** It would be a different story, now, if he was in the parking lot of the precinct can campaigning versus being in his own yard or having a sign in his yard.

**MS. PEACOCK:** That's what I understood from my poll manager. But I would definitely not swear to it because I was not there.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Thank you. Mr. Claxton, did you have something -- you're going to have to come back up.

**MR. CLAXTON:** If you look at the tab there for the investigator's investigations, it says I was 134 feet away. Every year -- there's been 16 elections since I've lived in this home for 21 years - - I back my truck right there and I hold a sign up, and yes, I do say vote Wallace as you come out. I don't deny that. It's true.

**SECRETARY KEMP:** But you are on your property when you did that?

**MR. CLAXTON:** This is my particular property.

**SECRETARY KEMP:** Okay.

**MR. CLAXTON:** Where the truck is parked. Okay. All right.

He told me to move the sign. So we moved the sign; we got off the property. About ten minutes to six, I walk over to the precinct on -- after I voted, I walked to the precinct and the poll lady comes out and tells me that I am in violation of the law hanging around the outside of here and I need to leave. So I said I didn't know that, neither. I'm sorry. And I immediately left.

Later on I come back to speak with her and I said, ma'am, I'm sorry if I did anything wrong, whatsoever. She says that even though my property is one foot away, borders the property there, the precinct where the community center is, I cannot solicit or speak about any votes within 150 foot of the voting (unintelligible) even though -- she said even though it's on my property it has nothing to do with it.

**SECRETARY KEMP:** Thank you. Any questions for Mr. Claxton?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Any other discussion from the board, or do we have a motion?

**MR. McIVER:** I will move consistent with Mr. Willard's advice from the law department that we issue a letter of instruction to Mr. Claxton.

**SECRETARY KEMP:** I think the last advice he gave was we shouldn't even issue a letter. If there had been, you know -- if he wasn't violating anything.

**MR. WILLARD:** That's correct, Mr. Chairman.

**SECRETARY KEMP:** But you can certainly make that motion.

**MR. McIVER:** It's just the hardness in me, I guess.

**SECRETARY KEMP:** Unlike most people, you're not getting soft. I won't say old age.

**MR. SIMPSON:** I move we dismiss the case against Mr. Claxton and bind over the case against Mr. Wallace.

**SECRETARY KEMP:** Let me ask you this, Mr. McIver? Did you withdraw your motion?

**MR. McIVER:** Yes. I am yielding to Judge Simpson.

**SECRETARY KEMP:** Mr. Simpson has moved that we dismiss. Do we have a second?

**MR. WORLEY:** Dismiss just as to Mr. Claxton?

**SECRETARY KEMP:** Yes. Just Mr. Claxton.

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

**SECRETARY KEMP:** Mr. Worley 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**: Mr. Claxton, we have dismissed your case. Thank you for being here today.

We still have to deal with Mr. Wallace. Do we have a motion?

**MR. WORLEY**: I move we bind over Mr. Wallace's case to the Attorney General's office.

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

**MS. SULLIVAN**: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we will bind that over to the AG's office. Mr. Wallace, they will be in touch with you about this matter.

We're moving to 2012-123, Early County.

**MR. HARVEY**: This case involves the allegation that a poll manager was family relation to two candidates on the ballot. It was determined that Denise Stewart, who was the poll manager in Early County, was related to the candidate for Probate Judge, Tonya Holly, and sister-in-law, Emily Ann Wilburn, who was the candidate for Superior Court. Each of those candidates appeared on the ballot when Ms. Stewart was a poll manager.

We've got the elections supervisor, Probate Judge Tonya Holly, cited for allowing that situation. We've got Denise Stewart, the poll manager, cited for failing to meet the qualifications of a poll officer.

Initially we had the Early County Board of Elections cited. In reconsideration of that, we are not sure that they would have known that an individual poll worker was a relative of the candidate.

So I recommend Early County Board of Elections be dismissed and that Tonya Holly and Denise Stewart be bound over to the AG's office.

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

(Whereupon, there was no response)

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

**MS. HOLLY:** I am Tonya Holly, 304 King Road, Blakely, Georgia. I'm the superintendent of elections.

We don't have a Board of Elections in Early County.

**MR. HARVEY:** Okay.

**MS. HOLLY:** I guess what I'm here to do is apologize. Denise Stewart is my sister. She has worked in elections for 20 years. I was unopposed in the primary.

My son-in-law was running in the primary for Sheriff, along with -- on the Republican ticket. There was four others on the Democratic ticket. So he was unopposed.

My sister-in-law -- I didn't think about her. My fault.

In defense of Denise, you know, she worked because I hired her. She is the chief, but she handles none of the memory cards. She just makes sure everything in the polls -- that is our central tabulation center. So I'm there most of the time and I'm always there during the calculation. So she has nothing to do with that part of it.

And what I've done to correct this problem is Monday night, the County commissioners, they have voted to create a Board of Elections and I am so excited.

So I guess that's all I have to say.

**SECRETARY KEMP:** Any questions for the Judge?

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Thank you for being here. Anyone else wishing to speak?

(Whereupon, there was no response)

**SECRETARY KEMP:** Okay. Any recommendations, other questions? Mr. Willard, while everybody is thinking about this, if we were to bind this over, what would your posture be on something like this for a consent?

**MR. WILLARD:** Well, any cases bound over that we reach agreement on a consent order, you will have a cease-and-desist and public reprimand. In a case like this, if the board bound that over, I would probably seek a monetary fine. But in this instance, it would probably be a de

minimis fine, unless the board directed me otherwise.

**SECRETARY KEMP**: I'm a little torn on this. I think clearly there has been a violation because the law is pretty clear with respect to the superintendent in charge to know those. I do have concerns about Ms. Stewart not knowing that and not knowingly violating. Anybody else have any thoughts?

**MS. SULLIVAN**: I would make a motion if you're willing to entertain it.

**SECRETARY KEMP**: Sure.

**MS. SULLIVAN**: I will move that we bind it over to the Attorney General's office.

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

**SECRETARY KEMP**: On both individuals?

**MS. SULLIVAN**: Yes.

**SECRETARY KEMP**: 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.

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we have bound that over. They you all for being here today.

The next case is 2012-165, Lincoln County.

**MR. HARVEY**: This case involves the election in -- the November general election of 2012 in Lincoln County. There were a number of allegations brought forth by different parties. Then-Sheriff Lawson was one of the major complainants.

We had allegations of dead people voting; felons under sentence voting; over 100 absentee ballots being transported and submitted by a single person; allegations that a prominent lumber company was requiring their employees to vote a certain way; absentee ballots were allegedly observed outside of envelopes in the elections office; a door at the elections office was left unlocked; and two people voted twice were the allegations.

Upon concluding the investigation, we found out there was a single person who voted while under felony sentence, that is Sylvester Wright. He was actually a federally convicted felon, and he voted in the election while he was still serving a sentence.

Sally Hawes, who has appeared before this board before, is a Lincoln County self-appointed election advocate who acknowledged assisting and transporting approximately 100 ballots, absentee ballots for people. She denied influencing them or affecting the way any person voted, but she acknowledged that she did it; she didn't see anything wrong with it.

There was an unsecured door in the building where the elections office was held. That was found late one night. It was not -- there are no other suspicious indicators and there is nothing to indicate that had anything to do with the election. No machines were tampered with.

No instances found of anybody double voting.

The Board of Elections is cited for two violations, one of which I think needs to be looked at again and dismissed. We do have the Board of Elections issuing absentee ballots to people where they were requested by a family member, but they were not -- it was not indicated why they were being requested by family members. There were 32 applications that were accepted and the ballots were sent out to a person even though there was no reason given why they were being requested for another person.

If you look under the violations, the second violation and the fourth violation which indicate allowing the electors accepting their absentee ballot applications even though they were not signed, I believe that is not a violation.

So I would recommend that the allegation of 21-2-381 and 21-2-431 against the board be dismissed, but that Sylvester Wright be bound over for voting while a convicted felon; that Larinda Bolton and the Board of Elections and Registration be bound over for failing to appropriately handle 32 absentee ballot applications; and that Margaret Sally Hawes be bound over on multiple counts of illegal possession and illegal assistance of absentee ballots.

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

**MR. WORLEY:** Mr. Harvey, you said Ms. Hawes had been before the board before? In what context?

**MR. HARVEY:** This exact same context in a previous election.

**MR. WORLEY:** What was the disposition of that?

**MR. HARVEY:** I don't believe that case has been resolved yet. I think it was in 2010 when she had the exact same situation that she had in 2012.

**SECRETARY KEMP:** Mr. McIver?

**MR. McIVER**: Mr. Harvey, on this chap registered to vote, the federal felon, aren't our system such that we would catch that?

**MR. HARVEY**: As a federal felon, there is no way -- there is a check for that. If he is a state convicted felon, he would be on the felon list that comes from the Department of Corrections. With a federal felon, there is no corresponding sharing of information.

**MR. McIVER**: Is this a correction we need to think about?

**MR. HARVEY**: It may be something the board wants to look at. I don't know how the Department of Justice or federal Department of Corrections, how they handle their information and if they disseminate to other states. My understanding is they do not. You have to find these yourself. It would be something I think would be wise to contemplate because there are certainly numerous people convicted of federal felonies in the state.

**SECRETARY KEMP**: Let me see if Ms. Ford or Ms. Anh have anything to add to that?

MS. FORD: From time to time sporadically from different districts we do get notification of people who are felons. But there is no systematic process we have set up like we do for state felons. But it's something we would certainly be more . . .

MS. LE: We have been contact with them about it and they have reached out to us to see if there's a way for them to set something up. But as of right now there is nothing. I think it's on the radar.

**SECRETARY KEMP**: Perhaps when you all see your congressperson, we can talk to them about that. We will do a little more due diligence on that and report back to the board. So put that on our list of things to follow up on.

**MR. McIVER**: I have one other question for Mr. Harvey. We see 32 electors in one instance and eight in another. By any chance would this have turned the election one way or the other? Does your file reflect what the margin of victory was?

**MR. HARVEY**: It doesn't reflect the exact. I don't believe either of those numbers would have affected the election. Actually, in those cases, the people did vote and, you know, minus the procedural mistake of not marking the box, it appears they were probably legally entitled to vote. So notwithstanding that technical legal violation, it doesn't appear that any improper votes were counted and my understanding is it was not close enough that 30 votes would have made a difference.

**SECRETARY KEMP**: Anyone else?

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone wishing to speak? Yes, sir.

**MR. JACKSON**: Good afternoon. My name is Benjamin A. Jackson. I am the county attorney for Lincoln County. I am representing Ms. Bolton. My address is 2812-A Hillcreek Court, Augusta, Georgia 30909.

I would just like to reiterate what was just previously said. There were no issues of someone voting when they were not supposed to vote or someone being prevented from voting. This was strictly several clerical errors. I have spoken with Ms. Bolton and she has prepared a checklist for herself and for all the employees who work during the election time to make sure documents are signed properly and checked properly.

Again, everybody who wanted to vote did vote and no one was prevented from voting. If you have any specific questions as to the structure of how this occurred, Ms. Bolton is here today.

**SECRETARY KEMP**: Thank you all for being here. Any questions for Mr. Jackson?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Thank you very much. Anyone else wishing to speak?

**MS. BOLTON**: My name is Larinda Bolton, 1268 Highway 220 West, Lincolnton, Georgia 30817.

I would like to say that on those 32 people that requested absentee ballots for other people, between myself and I talked with my poll workers, those were people who came in and said I want to request a ballot for my son or my husband, you know, or their brother -- you know. They were either in school or they would be working out of the county. And that was just an oversight in us not checking that little box at the bottom. But that is what those were. And I have put additional training that we will be doing that will prevent that. It was just that little box at the bottom and those people were eligible to vote.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. WORLEY**: I make a motion to dispose of some of these charges and move that we refer to the Attorney General's office the charge against Sylvester Wright for various violations of the election code, and that we refer to the Attorney General's office the charges against Margaret Sally Hawes for violation of O.C.G.A. 21-2-574 and 21-2-384(c)(1).

**SECRETARY KEMP**: We have a motion by Mr. Worley to bind over Sylvester Wright and

Margaret Sally Hawes. Do we have a second?

**MR. McIVER**: 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 and we have bound over Mr. Wright and Ms. Hawes.

Do we have a motion on the other remaining potential violations?

**MR. McIVER**: I move we bind over all three allegations with respect to Ms. Bolton.

**SECRETARY KEMP**: Well, we had the recommendation to dismiss on two of them, right? Is that right Mr. Harvey?

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

**SECRETARY KEMP**: You still want to leave your motion the same?

**MR. McIVER**: Yes.

**SECRETARY KEMP**: On all three violations?

**MR. McIVER**: Yes.

**SECRETARY KEMP**: We have a motion by Mr. McIver to bind over Ms. Bolton on all three violations that we have listed in our binder. 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**: I'm going to oppose the motion, Mr. McIver, just because I don't think

we should be binding over two of those. But regardless of that fact, we will vote on your motion unless 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 taken)

**SECRETARY KEMP**: All opposed, same sign. No.

**MR. WORLEY**: No.

**MR. WORLEY**: That motion passes on a 3 to 2 vote and we have bound those over. Thank you for being here today.

Next on our agenda we have 2010-115, McIntosh County.

**MR. HARVEY**: This case involves the election in November, 2010.

The Sheriff's office in McIntosh County conducted their own investigation on allegations absentee ballot fraud in McIntosh County and the investigator from the Sheriff's office, Investigator Knudsen, interviewed postal employers that who said that Barbara Williams and Carolyn Quarterman had come in to the post office and bought a bunch of stamps and then later returned a bunch of absentee ballots. I say a bunch, I think approximately nine absentee ballots were returned by Ms. Quarterman and by Ms. Williams.

We actually took out arrest warrants and arrested Ms. Williams and Ms. Quarterman. They were subsequently indicted the McIntosh County grand jury on two occasions and then their cases were nolle prossed just recently.

So they have essentially acknowledged in their initial investigation possessing the ballots and delivering them to the post office. They denied influencing or otherwise improperly dealing with the ballots.

But I recommend both Ms. Quarterman and Ms. Williams be bound over to the AG's office for their counts of violations of possession of absentee ballots.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

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

**MR. SIMPSON:** Second.

**SECRETARY KEMP:** We have a motion by Mr. McIver and a second by Mr. Simpson 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.

Case number 2012-121, Putnam County. Mr. McIver?

**MR. McIVER:** I would like the record to reflect that this is my home county. I am acquainted with Commissioner Reid, who is in the audience; the head of our elections board, Gary, also here; and one of the respondents, Dorothy Adams. So for that reason, and I can tell you I have absolutely no familiarity with this case or the facts; it's rather old, as I can see. But I wanted to offer to recuse myself and I am delighted to do that if any member of the board feels that would be in order.

**SECRETARY KEMP:** From my perspective, I think that is a decision you should make. It certainly does not bother me one way or the other.

**MR. McIVER:** Probably in the best interest of the board, I will recuse myself.

**SECRETARY KEMP:** Let the record reflect Mr. McIver is recusing himself on this case. Mr. Harvey.

**MR. HARVEY:** This case involved the nomination petition of a candidate. When a petition was circulated and turned in for a candidate, it was determined that there were several problems with the petition.

You had -- one of the problems was there was an instance of a person not registered and qualified to sign the petition that signed it, and that is Ms. Rosa Herring.

You had two individuals who signed the petition more than once, and that is William and Robin -

- William Rainey and Robin Manley Rainey. They each signed two petitions.

And then lastly, you had to circulators who circulated the petition who also notarized the petitions on themselves, which is in violation of 21-2-170.

Ultimately, the petition was rejected, however an appeal was filed to the Superior Court who put the candidate on the ballot anyway.

As far as the violations go, I would recommend as far as Ms. Rosa Herring goes, she was a resident but not registered, and therefore not entitled to sign. I recommend she receive a letter of instruction.

As far as Mr. and Mrs. Rainey, they signed more than once. I don't know if there was anything nefarious in that attempt or not. I would leave that up to the wisdom of the board as to whether or not they are to be bound over possibly receive letters of instruction.

Lastly, as far as Karen Shornhorst and Dorothy Adams go, I believe they should be bound over to the AG's office for failure to properly circulate and have the petitions notarized.

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

(Whereupon, there was no response)

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

**MS. REID:** My name is Janie Reid. I reside at 103 Beach Avenue, Eatonton, Georgia 31024.

I am the one who filed this complaint. First and foremost, I will say I'm very satisfied in the way the election turned out, although we had a number of things that in my very limited understanding of the law were wrong.

I'm disappointed in the fact that only three of the things that -- and I don't have all my notes -- only three of the several issues that I pointed out are going to be considered today.

Immediately after it was time to turn in, or the time expired, for a person to submit the petition to be an independent candidate and be allowed on the ballot, I went to the Board of Elections office here in Putnam and by open records request got a copy of all the petitions. To my surprise, almost all of the handwriting looked the same. I am somewhat familiar with the code; I have looked at it. I was, like, again, in my very limited understanding of it, could not believe what I was seeing.

Gary Sanders is here. Gary Sanders is our Board of Elections supervisor. And to his credit, he truly, truly did in our opinion, my opinion and the opinion of others, what he was supposed to, and that is to say, you know, to the opponent, this is not right; we cannot allow it. The opponent, as it was stated, did file in Superior Court, and the judge, in my opinion -- in my opinion -- blatantly disregarded the code and allowed the opponent to be placed on the ballots.

I'm sure this is very easy to investigate because the facts and there and they spoke for themselves.

In addition to the thing in addition to the three things that have been outlined here, one thing that really really struck me as just being wrong and to many people, not just my supporters, but many people in the county looking at it said how can this be; how that how can this be allowed when the opponent and another person were circulating these petitions stood in the courtroom and said, yes, I signed these positions. I filled it out and I went to the people to get them to sign. That's not the code says do.

I know without a doubt that if it had been me, I would have been charged with a felony count of filing or writing people's signatures. It's one thing for you to write my name, Mr. Harvey, as an example, and you ask me is that my signature. No. It's my name because I didn't sign it. And that's what these people did.

Unfortunately, I didn't -- the court did not rule in my favor. I didn't petition the court at that time. I tried my best to come back and to asked to allow me to be an intervener. At that particular time the judge denied it.

But these are truly code violation as stated in 21-2-170, and especially in 21-2-170(c) and 21-2-170(d)(4).

In regards to the recommendation from the investigator, especially with the two circulators, one of them was an attorney. I'm sure she knew what she was doing.

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

**SECRETARY KEMP:** Thank you, Ms. Reid. Just because they may have been an attorney doesn't always mean they know what they are doing. I hope my fellow board members will not take any ill will towards that comment.

**MR. WORLEY:** We should point out the only non-lawyer is the chair.

**SECRETARY KEMP:** Ms. Reid, I couldn't resist that opportunity. Any questions for Ms. Reid?

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. Harvey, -- well, let me ask. Have any others wishing to speak? Yes, sir.

**MR. SANDERS:** My name is Gary Sanders. I am the supervisor of elections for Putnam County, 100 South Jefferson Avenue, Suite 217 in Eatonton.

I did not intend to speak, but I do want to clarify the board's action in rejecting the petition was

exactly in agreement with Ms. Reid's contentions of the violation of a strict interpretation of the code for petitions. The violations that Commissioner Reid is stating were the same violations that the board rejected the petition. It was then put into the Superior Court hands. They overturned the Board of Elections decision and allowed Mr. Brown to be on the ballot.

So to clarify, the board agrees, in essence, with Ms. Reid's assertions about code violations and the technical defects of the petition. I just wanted to give that clarification.

I think Commissioner Reid, some of the actual complaint was with the Judge's overturning of the Board of Elections decision. It was not her disapproval of the board's actions.

**SECRETARY KEMP:** Thank you Mr. Sanders. That is very helpful. Any questions for the elections superintendent?

(Whereupon, there was no response)

**SECRETARY KEMP:** I appreciate you being here today. Ms. Reid, did you have something you wanted to add?

**MS. REID:** Yes, sir. I agree. That is exactly correct what Mr. Sanders is saying. I do not disagree at all with the way the Board of Elections handled it. Not at all.

But the add-on to that is if -- and the Judge, he made his decision -- if we are going to allow -- if the State of Georgia is going to allow the code to be disregarded, we don't have a strong code to follow in the elections.

**SECRETARY KEMP:** Thank you for that comment. I can tell you I don't think this board is going to allow the code to not be enforced. Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. Harvey, I got that Ms. Rosa Herron was not qualified and the Rainey's signed twice.

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

**SECRETARY KEMP:** The two circulators, the violation you found with that was that they signed and notarized?

**MR. HARVEY:** They circulated the petition and then notarized it as -- they're not allowed to do both. You either notarize it or you circulate it. But you are not allowed to notarize it and circulate it. Those are the two violations on Karen Shornhorst and Dorothy Adams.

**SECRETARY KEMP:** Have you spoken with them?

**MR. HARVEY:** I spoke -- I actually spoke with Ms. Adams last week, and we exchanged

emails yesterday.

**SECRETARY KEMP**: Do they contend, I'm sure, that they did not realize they could not do that?

**MR. HARVEY**: Ms. Adams, that was her position, that she just didn't realize that was a violation. I have not spoken with Ms. Shornhorst.

**MS. REID**: Mr. Chairman, Ms. Adams is the attorney.

**SECRETARY KEMP**: I won't reiterate my comment. Any other questions? Judge Simpson.

**MR. SIMPSON**: I just want to clarify one thing. There are some allegations from the podium that the petitions were not signed by the person whose name was on the petition.

**MS. REID**: Yes, sir.

**MR. SIMPSON**: Okay. And apparently that has been ruled on by the Superior Court Judge. So that takes it out of our bailiwick. I just wanted you to understand that we cannot move behind a Superior Court Judge on those issues. The only issues we are able to deal with are the ones here that Mr. Harvey was talking about.

**MS. REID**: Yes, sir. I understand.

**MR. SIMPSON**: I just want to make sure you understand that by not mentioning that, we are not condoning or making any decision whether your allegations are correct or not.

**MS. REID**: All right, sir.

**SECRETARY KEMP**: Any other questions comments or thoughts? I'm wondering if we ought not to just everybody letters. I know this doesn't happen a lot. It sounds like to me nobody really realized what they could and could not do.

Mr. Harvey, what did Rainey's say about signing twice?

**MR. HARVEY**: They verified their signatures on two different pages. I don't have any other information about whether they forgot they had signed it or -- I just don't have any of that information.

**MS. REID**: I have to bring this up. Ms. Adams is an attorney. She is the chairman of the Republican Party. She is also married to an attorney who is a member of the Board of Elections. She knew the rules.

**SECRETARY KEMP**: Any other? Yes, sir.

**MR. SANDERS**: Certainly notice no defense of the Rainey's. I don't personally know them.

Just a little background on this particular election cycle.

We had three nominating petitions for independent candidates circulating in the county at the same time. So, again, just for the full picture of that election cycle, we had multiple petitions going on around the county with multiple circulators supporting the different candidates. So there was not a singular petition that that cycle. There were three simultaneously collecting signatures.

Again, I cannot speak for the Rainey's, but that's a little bit of the background of what environment we had at the time.

**SECRETARY KEMP:** Very helpful, Mr. Sanders. Thank you.

**MR. WORLEY:** Mr. Secretary, just to comment, I am okay with sending a letter of instruction to people when they come and talk about what they did and admit they did the wrong thing and they understand it. I'm reluctant to do that in a case like this where we have five respondents who, as far as I can tell, have not deigned to appear.

**MR. SIMPSON:** I think in just talking about it, we would be better taking Mr. Harvey's recommendation of doing one letter of instruction and binding over the Rainey's and Shornhorst and Adams. That was your recommendation, wasn't it?

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

**MR. SIMPSON:** Well I move we accept Mr. Harvey's recommendation.

**SECRETARY KEMP:** So we have a motion to give a letter of instruction to Rosa Herron, and in that motion we will bind over William Rainey and Robin Rainey and Dorothy Adam and Karen Shornhorst.

**MR. SIMPSON:** That is correct.

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

**MR. WORLEY:** I will go ahead and 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 and we have bound those folks over and we will do a letter of instruction to Ms. Herron.

That's got everybody, right, Mr. Harvey?

**MR. HARVEY**: Everyone who has shown up, yes, sir. I think we go back to Atkinson County.

**SECRETARY KEMP**: Let the record reflect Mr. McIver is back with us. Let's take a quick break until ten after two.

**MR. WILLARD**: Mr. Chairman, if I might, can we see if there is anybody here with the consent orders on the Attorney General's report? I realize we will be taking it a little longer, but that would allow anybody here on those cases --

**SECRETARY KEMP**: We can definitely do that. Is anybody here on the consent orders under the Attorney General's report from Hancock, Montgomery, City of Easton, or City of Pelham?

(Whereupon, there was no response)

**SECRETARY KEMP**: There we go.

**MR. WILLARD**: That takes care of that.

**SECRETARY KEMP**: We'll see everybody here in 10 minutes.

- - -

(Whereupon, the proceedings were in recess)

- - -

**SECRETARY KEMP**: I think we're back ready to go from our break. We didn't have anyone here on our AG consent cases so we will just go back to our regular calendar. Mr. Harvey, we've got Atkinson County.

**MR. HARVEY**: Yes, sir. 2012-76. This case actually involved complaints from the primary election in July of 2012 and the general election in November of 2012.

You had two parties making cross-complaints. There ended up being 18 different complaints that were filed. As you can see, it's everything from people not delivering absentee ballots to machines not working properly to not allowing employees to be assisted to the chairman of Board of Elections representing himself as Probate Judge.

All but five of these allegations were unsubstantiated. The investigation revealed that we did

find five violations involving different folks.

The first involved Stacy Gillis. She took a photograph of her granddaughters who were voting as they cast a vote for their grandfather, Charlton Ellis. That was within the DRE closed space area. She acknowledged taking the photograph and she didn't know it was illegal.

The second violation involved vote tabulation in the Axon precinct. This is in the primary election in July. The primary workers made the general public wait outside while they tabulated the votes at the precinct, which is clearly a violation of an election code.

Allegation number 11 indicated that the county failed to advertise the announcement of the testing, the L&A testing of the DRE's. The elections supervisor didn't realize she had to do that.

Next is also with the Board of Elections and elections supervisor. She was allowing poll workers, I'm sorry, poll managers -- correction; I'll try again. She was allowing poll watchers to simply sign up for precincts and not go through the legally prescribed means of being put forth by parties and candidates.

Lastly, we have one candidate, Samuel Tommy Guthrie, who entered the Willacoochee polling precinct while voting was taking place during the general election. There was about 15 minutes left, and voting was going on.

It is recommended as far as Ms. Gillis, that she receive a letter of instruction regarding taking photographs in a polling place, and that the other respondents are bound over on the list of charges in the summary.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Anyone wishing to speak? I have my doubts, if there are.

(Whereupon, there was no response)

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

**MS. SULLIVAN:** I move we dispose of these cases as recommended by Mr. Harvey.

**MR. McIVER:** Second.

**SECRETARY KEMP:** Does that mean we are dismissing the cases or dismissing and binding over?

**MS. SULLIVAN:** That would be a letter of instruction to Ms. Gillis, and to bind over the remaining allegations.

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

**SECRETARY KEMP**: We have a motion by Ms. Sullivan and Mr. McIver has seconded. 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. 2010-60, Stewart County.

**MR. HARVEY**: It says City of Louvale. It's not City of Louvale. It's the Louvale precinct which was indicated in the title. Just clear that up.

This case involved the July, 2010 primary election. Again, there were multiple allegation back and forth about provisional ballots being denied; ID not being required; voters loitering outside precincts and discussing candidates; payment for votes; voter solicitation; and unethical conduct, etc.

At the end of the investigation, we did identify some violations, some of them involving the elections office.

Theresa Nelson, who was then the elections superintendent for Stewart County, personally delivered an absentee ballot to a neighbor who was not in a hospital, but was elderly. She delivered his absentee ballot to him and then requested that her husband retrieve it and return it to her in violation of the code.

She also, as elections superintendent, gave two absentee ballots to a third-party to give to other people who were in their house, which is also clearly a violation of the election code.

She also did not return the election materials to the clerk of Superior Court after the election as required by the election code.

In addition, we've got three other people listed as respondents. One is William Nelson. That's her husband, and we have him cited for unlawful possession in that he retrieved the ballot from Mr. Riles, who was the person it had been delivered to by Ms. Nelson. He brought it back to her. That is -- that may be one of the sketchier unlawful possession cases that I've put forward. So I will let the board determine what they want to do with that.

Darrell Wilson is cited for illegal possession of ballots for transporting his wife's ballot to the

registrar's office.

Lastly, Kenna Webb Watson is the person who actually received the ballots to give to her boyfriend and other friend, and then returned those ballots back to the registrar's office after they were voted.

So I recommend that Theresa Nelson, Darrell Wilson and Kenna Watson be bound over for their allegations.

As far as William Nelson goes, collecting a ballot at the direction of the election superintendent might make a hard case for Mr. Willard to prove, although he did technically possessed the ballot.

Lastly, the last violation listed under Kenna Wasson, I would recommend dismissing 21-2-381(a). That doesn't appear to be a violation that Kenna Watson has committed.

**SECRETARY KEMP**: Darrell Wilson was transporting whose ballot? His wife?

**MR. HARVEY**: His wife's ballot.

**MR. WILLARD**: He basically carried his and his wife's into the office.

**MS. SULLIVAN**: (Unintelligible)

**MR. HARVEY**: That's been the practice of the board.

**SECRETARY KEMP**: Technically it is a violation. That's something we're working on. Beth Kish, our code rewriter back there, spent years of her life working on that.

Any other questions for Mr. Harvey?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Any thoughts from the board?

(Whereupon, there was no response)

**SECRETARY KEMP**: Mr. Willard, do you have an opinion on us writing a letter to Mr. Nelson in regards to transporting a ballot as directed by the superintendent, or an official?

**MR. WILLARD**: I'll be honest with you, given the language of 574, I think that is probably the better course than us trying to prove a violation.

**SECRETARY KEMP:** If no one objects, I will move to that we can settle that part of it.

**MS. SULLIVAN:** Second.

**SECRETARY KEMP:** Let the record show the Chairman moved to send a letter of instruction to William Nelson; Ms. Sullivan seconded. 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. Is there any discussion or motion on the rest of these folks?

(Whereupon, there was no response)

**SECRETARY KEMP:** I move we bind them all over.

**MR. SIMPSON:** Second.

**MS. SULLIVAN:** We had a recommendation on the very last, 381, to dismiss. Do we need to include that?

**SECRETARY KEMP:** Right. We will still be binding that person over on one violation. Mr. Willard, I think you can figure out what violations we've got and not, right?

**MR. WILLARD:** Yes. It appears from the evidence we've only got a violation of 574 against Ms. Watson. I'll be taking that into account.

**SECRETARY KEMP:** All right. So I made the motion. Who was the first to second?

**MR. SIMPSON:** Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries.

**MR. McIVER:** Mr. Secretary, I wonder if I might take my leave as we had discussed.

**MR. McIVER:** I thought you told me 2:30, Mr. McIver. Thank you for your service, Mr. McIver. We appreciate you chairing the meeting in my absence this morning, and safe travels.

**MR. McIVER:** See my colleagues at the next meeting.

**SECRETARY KEMP:** Let the record reflect that Mr. McIver has had to leave us with pressing important business.

Mr. Harvey, we've got 2012-136, the Peach County case.

**MR. HARVEY:** I believe we have Berrien County, 2012-81.

**SECRETARY KEMP:** All right. 2012-81, Berrien County.

**MR. HARVEY:** This is a relatively simple case. A voter in Berrien County, Jeremy Roberts, was removed by the Berrien County office of elections.

In their auto-precincting, they were redistricting their voters. They mailed him two notices. They had a hearing and he didn't appear; didn't respond to any of the notices. After the hearing, he was deleted as a voter. He subsequently went to vote in an election and it was found that he was not eligible and he filed a complaint.

It was determined that the elections office did everything right up to the point of deleting him. However, they didn't send him a letter notifying him they had deleted him.

I recommend the elections office receive a letter of instruction with regards to that. They obviously made every attempt to comply with the law up to that point. And after deleting him for not being at his address, it's not unreasonable they may think, well, we're not going to send him a letter if he doesn't live at that address.

So I think a letter of instruction would be sufficient in this case.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**MR. WORLEY**: I make a motion that we send a letter of instruction to the Berrien County board.

**MS. SULLIVAN**: Second.

**SECRETARY KEMP**: Mr. Worley moves to send a letter of instruction to the Berrien County board; Ms. Sullivan 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're onto case number 2012-136, Peach County.

**MR. HARVEY**: The complainant in this case was the Peach County Sheriff, Sheriff Terry Deese, who reported that an individual was arrested in his jurisdiction and he was found to have nine or ten completed voter registration applications in his possession when he was arrested. He contacted our office and we conducted a joint investigation with him.

What we found was Quintarious Everett was the person arrested. He had collected nine voter registration applications from people on October 4th, 9th, and 10th, and had not turned them over to the elections office within ten days of receiving them.

He, himself, had completed a voter registration application among those he had while he was a convicted felon serving a felony sentence. We have him cited for 21-2-216 for not meeting the qualifications of an elector.

Lastly, Quintarious Everett told us the person who hired him to collect these voter registration applications was a man named Marvin Crafter. He said that Marvin Crafter had offered him \$50 for every 20 completed registration applications he returned.

Marvin Crafter was interviewed and he said that he was going to pay Quintarious Everett for collecting voter registration applications, although he denied there was any specific amount or number of applications he had to return.

Lastly, Michael Caldwell was one of the people who completed a voter registration application

that Quintarious Everett had retained. Michael Caldwell, who is a convicted felon, said that he told Quintarious Everett he was a convicted felon when offered the application and Quintarious Everett said that's okay; you can go ahead and register anyway. The application was never turned in.

At this point, I would recommend that Quintarious Everett be bound over to the AG's office; Michael Caldwell receive a letter of instruction regarding trying to register to vote while serving a felony sentence; Marvin Crafter is cited for solicitation to register people to vote for money. We have the word of Quintarious Everett that that happened. Marvin Crafter did I say. I recommend that Crafter be bound over as well to the AG's office.

**SECRETARY KEMP:** Judge?

**MR. SIMPSON:** Mr. Harvey, I'm a little concerned about the letter of instruction issue. I thought it was a standard policy that with felons registering that it was a consent order with a civil penalty. I don't remember us just giving a letter of instruction for a felon registering. It's always been bind it over to deal with a consent order.

**MR. HARVEY:** And certainly the board could take deposition. You know, it was never turned in, so I don't know whether or not --

**MR. SIMPSON:** That wasn't his fault, though. He tried to.

**MR. HARVEY:** And that is certainly an option.

**SECRETARY KEMP:** I think the reason the recommendation was made was because he told the guy, look, I don't want to register; I can't register. And the guy told him, well, yeah; you can.

**MR. WILLARD:** Mr. Simpson, in the past, if that has been the situation, we had that before at least at one meeting last year where the registrant had come in and said I was told that because I was on probation it was find that I register to vote. And the board has issued letters of instruction in those cases. Where it's not he's doing it with a government official, but they're doing it with a private registration and they're told something contrary to law, that's when the letters of instruction issue. It's not like you go into DDS and fill out the governmental forms.

**MR. SIMPSON:** Thank you.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. SIMPSON:** I move we accept Mr. Harvey's recommendation.

**SECRETARY KEMP:** You want to give the letter of instruction?

**MR. SIMPSON:** Letter of instruction.

**SECRETARY KEMP:** To Mr. Caldwell and then bind over --

**MR. SIMPSON:** Bind over Everett and Crafter.

**SECRETARY KEMP:** All right.

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

**SECRETARY KEMP:** Mr. Simpson has made a motion to bind over Everett and Crafter and do a letter of instruction to Caldwell. Mr. Worley 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:** I believe we are on to 2012-139, Jefferson Davis County.

**SECRETARY KEMP:** That's what I've got. 2012-139, Jeff Davis County.

**MR. HARVEY:** This involves the general election in 2012. The allegation is the Probate Judge running for reelection was campaigning illegally within 150 feet of a polling place.

What happened is that the Probate Judge parked his truck outside the 150 foot mark. He had signs stickers. So that was not a problem. However, we had a complaint from an individual who said he went in to get a copy of his birth certificate from the Probate Judge and he didn't have the \$25 necessary to obtain it, and the Probate Judge gave him a campaign sign, a hat, and said, oh, you can have your birth certificate as long as you vote for me.

Mr. Fisher, the complainant, took the birth certificate and paraphernalia, however he did not vote.

The Judge stated he sometimes gave out birth certificates for free when people couldn't afford them. But he denied doing it in exchange for votes or political favors.

I believe the evidence shows that there's evidence that Judge Buford violated 21-2-570 in giving things of value in exchange for votes. I recommend he be bound over to the AG's office.

**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**: Any discussion from the board or a motion?

**MR. WORLEY**: In terms of discussion, I think it's very unfortunate given the seriousness of the charge in this case that the respondent did not appear to answer the charges.

I move we bind this over to the Attorney General's office.

**SECRETARY KEMP**: We've got a motion to bind over the former Probate Judge to the Attorney General's office.

**MS. SULLIVAN**: I second.

**SECRETARY KEMP**: A second by 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. Next is 201-191, Bibb County.

**MR. HARVEY**: This case also involved the general election of 2012. Voter Vanessa Lipke was formally registered in Fulton County, or maybe DeKalb County. She had come down here to Macon to receive medical treatment and turned in, she says, her voter registration change of address form to register in Bibb County. She did that through the nursing home where she was living.

She then went to vote in the election and was told her registration had never been received and never been processed. She said that she was sure she had sent it in. She was not offered a provisional ballot and left the polling place without voting.

We've got the Bibb County Board of Elections and Registration cited for violation of 21-2-418(a) for failing to provide a provisional ballot when a voter shows up and expresses they believe they are registered to vote.

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

**SECRETARY KEMP**: Are we recommending that we bind over the poll manager, too?

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

**SECRETARY KEMP**: Do we normally do that?

**MR. HARVEY**: Yes. I can't say we do a 100% of the time, but it is not unusual for the poll manager in a case like this, where it's done sort of at the local level, to include the poll manager.

**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, do we have any discussion or a motion?

**MR. SIMPSON**: I move we bind over Bibb County Board of Elections and Registration and Faye Butts.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We have a motion by Mr. Simpson and a second by Mr. Worley to bind over Bibb County Board of Elections and Registration and Faye W. Butts to the AG's office. Any other discussion?

**MR. WORLEY**: I would be curious to know, Mr. Harvey, was there any discussion with Bibb County about the hearing here today since we are in Bibb County?

**MR. HARVEY**: No, Sir. I sort of expected them to be here. But I have not had any communication with them.

**MR. WORLEY**: I would have expected them to be here, too.

**SECRETARY KEMP:** Any other comments or 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 over the respondents. I believe we're down to 2012-126, Peach County.

**MR. HARVEY:** This case involves a candidate for county coroner.

Otis Lee Daniel was a candidate for corner. On his candidacy a affidavit, he swore he had never been convicted of a felony. He, in fact, had been convicted of a felony in 1972. He was sentenced to probation and a \$150 fine. It was challenged, and I believe he was taken off the ballot.

But we have cited for false information on a qualification affidavit, 21-2-562(a). I recommend he be bound over to the AG's office.

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

**MR. SIMPSON:** I do. What about the fact of the pardon?

**MR. HARVEY:** That was on a subsequent felony conviction.

**SECRETARY KEMP:** It wasn't the same one?

**MR. HARVEY:** No, Sir.

**MR. SIMPSON:** Okay.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, we can have discussion or a motion.

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

**SECRETARY KEMP**: Ms. Sullivan moves that we bind over to the Attorney General's office. Do we have a second?

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Mr. Worley 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, and we have bound that over to the Attorney General's office.

Mr. Harvey, I believe that's got all our business done.

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

**SECRETARY KEMP**: And we can move on to the Attorney General reports.

As has been our posture, we can vote on these in block to accept the recommendations in our binder unless there is someone here in the audience or member of the board that would like to pull a case out. Is there anybody who wishes to do that?

**MR. WILLARD**: Mr. Chairman, if I may, tab 36, City of Eastman, the Attorney General's office is pulling that case. We will not be presenting it to the board today.

**SECRETARY KEMP**: I was going to pull that out let you discuss that, Mr. Willard. But I will hold that.

Let the record show we're going to pull off 2011-81, city of Eastman at the request of the Attorney General's office.

So we have 2010-40, Hancock County; 2010-83, Montgomery County; 2011-108, City of Pelham.

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

**SECRETARY KEMP**: Does anyone wish to pull those out and discuss? If not, I'll accept a motion to accept the consent orders in our binder.

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. We are ready for a motion.

**MR. SIMPSON**: I move we accept those consent orders.

**SECRETARY KEMP**: Mr. Simpson moves we accept the consent orders from Attorney General's report.

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

**SECRETARY KEMP**: Mr. Worley 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 accepted those recommendations.

I believe that's all of our business today on our agenda. Any board members have anything else?

(Whereupon, there was no response)

**SECRETARY KEMP**: I will accept a motion to adjourn.

**MS. SULLIVAN**: So moved.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Ms. Sullivan moves, Mr. Worley 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**: We are adjourned. Hope you all have safe travels back home or wherever you are going.

- - -

(Whereupon, the proceedings were concluded)

- - -

CERTIFICATE

STATE OF GEORGIA        )

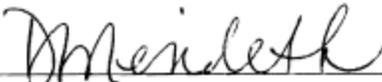
COUNTY OF DEKALB        )

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

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

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

This the 23rd day of February, 2014.



Deborah L. Merideth  
Certified Court Reporter 2708  
State of Georgia



THE OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA

IN THE MATTER OF:

STATE ELECTION BOARD MEETING

SLOPPY FLOYD BUILDING  
2 MARTIN LUTHER KING, JR. DRIVE  
8TH FLOOR, WEST TOWER  
ATLANTA, GEORGIA 30334

TUESDAY, AUGUST 12, 2014  
2:00 P.M.

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

---

*DEBORAH L. MERIDETH, CCR  
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TUCKER, GEORGIA 30085  
(770) 414-9071*

APPEARANCES:

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

Tex McIver, Member, State Election Board (by telephone)

David J. Worley, Member, State Election Board

Ralph F. Simpson, Member, State Election Board (by telephone)

Rebecca Sullivan, Member, State Election Board

ALSO PRESENT:

Chris Harvey, Esquire

Ryan Germany, Esquire

Russell Willard, Esquire (by telephone)

- - -

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:** Let me call to order the Tuesday, August 12, 2014 special called State Election Board teleconference meeting to order.

Our first order of business is we'll have the invocation and the pledge. So if everybody will bow with me, I'll lead us in a prayer.

- - -

INVOCATION

- - -

PLEDGE OF ALLEGIANCE

- - -

**SECRETARY KEMP:** Thank you very much. Our second order of business is public comment. We do have one person who is with us today that would like to make a public comment. Stacy Hopkins, if you want to come up, if you don't mind, we'll let you sit in this chair right here. And if you will, for the record state your name and address, and we'll give you a couple of minutes to address the board.

**MS. HOPKINS:** All right. My name is Stacy Hopkins. I live at 737 Oak Drive, Hapeville, Georgia 30354.

I am the field director for Georgia WAND's We Count Voter Empowerment Program. In doing voter registration drives throughout this state, we've come across one particular problem we found troubling.

In one city municipality, East Point, Georgia, there is a fee of \$175 and a permit process that is necessary that would be traditional for vendors holding a larger event that would require security, sanitation, etc., that is being charged per drive. With East Point having some of the lowest performing districts in terms of voter turnout, it's very concerning to me. As you said, Secretary Kemp, about fair and free elections for all, we're not having - the less people we have participating in our democracy, it hurts us all.

So I'd like to see some of the voices get more engaged in East Point and, not particularly a complaint, per se, yet, but an inquiry about the rules and regulations for city municipalities to charge a fee to do this.

**SECRETARY KEMP**: Thank you very much for being here today. We appreciate that.

**MS. HOPKINS**: Thank you.

**SECRETARY KEMP**: Anyone else wish to make a public comment on an item other than our rules?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we'll move forward with the approval of the minutes. We've got two sets of minutes that we need to approve.

We have the Tuesday, June 10 meeting minutes. Does anybody have any changes to those minutes as drafted? If not, I will take a motion to approve those.

**MR. WORLEY**: Mr. Secretary, I would move that we approve the minutes of June 10, 2014.

**MS. SULLIVAN**: Second.

**SECRETARY KEMP**: We've got a motion by Mr. Worley and a second by Ms. Sullivan to approve the minutes of June 10. 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 approved those minutes. Our second set of minutes is from Tuesday, July 15, our 3:00 p.m. teleconference meeting.

Are there any comments or changes to those minutes, or do we have a motion?

**MS. SULLIVAN**: I move we approve those minutes.

**SECRETARY KEMP**: Ms. Sullivan moves to approve the minutes as written.

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

**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 approved the minutes of the July 15 meeting.

Our next order of business is going to be State Election Board rule amendments. What I'm going to do is I'm going to get Mr. Germany, our general counsel, to go through and discuss each rule in the order that they are in our booklet. And then we'll take those one at a time on allowing public comment and voting on those.

We'll start under Section IV on the agenda, Number 3, as far as the rule goes, dealing with the appearance of the candidate's name on the ballot.

And at this time, if Mr. Worley doesn't object, because he is in person, I believe this would be easier to let him to this, I'm going to ask him if he would take over the chair of the meeting and I'm going to recuse myself so I won't be voting on what would be, I think, a conflict of interest for me to be voting on the appearance of my own name on the ballot or future ballots.

Mr. Worley, if you don't mind, I'll let you take over, and Mr. Germany can give you any explanations or assistance that you need.

**MR. WORLEY**: Thank you, Mr. Chairman. Mr. Germany.

**MR. GERMANY:** Yes, sir. The first rule on the agenda is an amendment to State Election Board rule 183-1-11-.02, Appearance of Candidate's Name on a Ballot. It's tab 3 in the binder.

The purpose of this rule is to clarify how a candidate's name can appear on a ballot, and also to make clear that the elections superintendent can modify the name's appearance on the ballot if necessary to comply with the rule.

We did receive one comment on the rule from Anne Lewis and Bryan Tyson. Mr. Tyson is here when we get to that point, so I will let him comment or let him explain his own comments.

But if there any questions about the rule, I'll be happy to take any.

**MR. WORLEY:** Any questions from any board members for Mr. Germany? Mr. Simpson or Mr. McIver, do you have any questions?

**MR. MCIVER:** Not me.

**MR. SIMPSON:** No.

**MR. WORLEY:** Mr. Germany mentioned Mr. Tyson's comments. Mr. Tyson, would you like to say anything in addition to what you've already presented?

**MR. TYSON:** Yes, sir, just briefly. This particular rule, I think our changes are relatively self-explanatory. Just trying to make sure the discretion language --

**MR. WORLEY:** Mr. Tyson, before you continue, if you would give your name and address for the record and the court reporter.

**MR. TYSON:** Absolutely. My name is Bryan Tyson, and my address is 1170 Peachtree Street, Atlanta, Georgia 30309.

These comments specifically related to the candidate name. Our goal was just to try to make sure that the discretionary language the Secretary and elections superintendent tracked throughout the rule; and to make sure that it was clear that the Secretary or the superintendent had the power to modify the name to make it comply at the right time, which is all the intent. Just some wording changes.

Unless you have any questions, that's all I have to say on that one.

**MR. WORLEY**: Do any of them members have a question for Mr. Tyson?

(Whereupon, there was no response)

**MR. WORLEY**: Is there anyone else present that wanted to comment on this particular rule dealing with candidate names?

**MS. HOPKINS**: I have a question. Stacy Hopkins.

In what instance would a candidate's name have to be clarified on the ballot?

**MR. WORLEY**: Mr. Germany?

**MR. GERMANY**: We've had instances where what the -- the purpose of the rule is to not allow candidates to use what the rule calls spurious phrases, title or degrees.

**MS. HOPKINS**: Like nicknames?

**MR. GERMANY**: Well, nicknames are allowed, but you can't call yourself -- my name is Ryan Germany. So I couldn't say Ryan, you know, Tax Cutter Germany, or something that's more of a message than a name. So that's the purpose.

It also just goes for some uniformity in terms of using nicknames, last names, middle names, first names, and that sort of thing.

**MS. HOPKINS**: And this would give the elections supervisor the power to change anyone who would attempt to do that because it would be a partisan basis?

**MR. GERMANY**: Correct. In the past what's happened is when a person is qualified trying to use an inappropriate name, the elections superintendent or the party, as the case may be, has told them that's an appropriate name and you can't qualify using that. And a candidate will say I will not request that.

But in the instance where the candidate won't reach that understanding, it would be in the hands of the elections superintendent.

**MS. HOPKINS**: Well, thank you for the clarification.

**MR. GERMANY**: Mr. Worley, I would just add that for this rule and regarding Mr. Tyson's comments, if the board chose to accept those comments, we could re-post the rule and vote on it at the next SEB meeting. This rule will not -- the upcoming election does not really have any effect on this. It doesn't matter if it goes into effect before that or after that.

**MR. WORLEY**: As long as it's in effect by the time of qualifying in the next election cycle?

**MR. GERMANY**: Yes, sir.

**MR. WORLEY**: Another comment?

**MR. SIMPSON**: Let me ask one question. If we accept these suggested changes from Mr. Tyson, does that change our time frame with regard to accepting the rule?

**MR. GERMANY**: Yes. If we accept the changes, we would have to re-post the rule, which we could do. And then the board would have to vote on final acceptance after the rule has been posted.

**MR. SIMPSON**: It would not affect either way the upcoming election?

**MR. GERMANY**: No, sir. This rule would not because it deals with qualifying.

**MR. SIMPSON**: If I can speak to the proposal, I think those proposed changes do clarify the rule and make a couple of things that were not explicit more explicit and clearer. So I would be in favor of accepting the proposed changes.

**MR. WORLEY**: Thank, you, Judge. We have another person who wishes to comment on the rule. Mr. Benoit, you could just state your name and address.

**REV. BENOIT**: Reverend Jesse Benoit; 5783 Rex Mill Drive, Clayton County, Georgia.

My question is as to the name on the ballot. Should it be just the name, middle initial or middle name, and last name, as opposed to name, skip, some other nickname, last name? Because, again, where we're talking about names to be able to send a signal of some type, that would not be appropriate.

If I was to say Reverend Jeffrey Benoit on mine, then that would indicate minister so the religious community would follow me there. But if I was so say Red Buck, or something else, that would send another message.

So in your change, are we excluding all of that just to go with name, middle name, middle initial, last name? I think that would be the more clearer, appropriate approach as for nicknames. And if the nicknames are open game, then so is Reverend and Ph.D., and so forth.

**MR. WORLEY**: Mr. German, would you like to comment on that?

**MR. GERMANY**: I would just say the rule, as it's written, does allow nicknames as long as the nickname is one by which the candidate is commonly known in the community. However, the nickname must not contain any spurious phrases, titles or degrees, or political slogan or message.

So there is some governance over the nickname. Reverend, for example, would not be allowed. Dr., Reverend, Judge, Mr., Miss, Ms. are ones that are particularly in there. Military or professional rank are also -- would not be allowed.

So nicknames are allowed, but there is some oversight to make sure that they do not designate a phrase, title or degree, or contain a political slogan or message.

**MR. WORLEY**: The issue with nicknames is not really a change from existing law, is it? Nicknames are currently allowed.

**MR. GERMANY**: That is correct. That is not a change from the current law.

**REV. BENOIT**: Understand that nicknames can be disparaging as well. So just for the record, the nicknames ought to be removed, if you're asking for a suggestion. But the current rule does use that. I've seen that previously, but it also casts that disparity as well.

**MR. WORLEY**: We certainly appreciate that comment, Reverend. Is there anyone else present who would like to comment on this rule change relating to the names of candidates on the ballot?

**MR. WILLARD**: Mr. Chairman, before we go on, I just wanted to clarify the three changes, or three areas, proposed by Mr. Tyson to alter.

The second one, the removal of the quotation marks phrase from the new paragraph 3 is going to remove the ability of any elections superintendent to add quotation marks to any nickname the candidate propounds, correct?

**MR. WORLEY**: Mr. Tyson, did you want to respond to that?

**MR. TYSON**: That wasn't the intent. I believe the intent was just to remove quotation marks from counting against the limit. Let's see. Wait a minute. Here we go.

Right. So you would not be able to add quotation marks.

I think one of the challenges this last time was we had, for example, Thomas Price, a candidate for Congress, who was listed as T.E. "Tom" Price, as opposed to listed as just Tom Price, which is his nickname commonly known in the community. So there wouldn't be a need to set off quotation marks in that scenario.

So I believe that's what we were aiming at there for removing quotation marks from that provision.

**MR. WILLARD**: That may have been what you were aiming at, but what you actually did in the second amendment is remove the ability of an elections superintendent or the Secretary of State to add quotation marks at all because that's the empowering clause for making grammatical changes to a candidate's listed name.

**MS. SULLIVAN**: Mr., Chairman, if I can make a comment.

**MR. WORLEY**: Ms. Sullivan.

**MS. SULLIVAN**: The previous rule required using quotation marks for a nickname, correct? I think the intent of this amended rule was to no longer require the use of quotation marks for nicknames. But I don't think we wanted to eliminate the possibility if someone wants to use quotation marks for their nickname.

So I would support approving the rest of the changes without eliminating the words "quotation marks" in the third paragraph.

**MR. WORLEY**: Any other questions or comments?

(Whereupon, there was no response)

**MR. WORLEY**: I would entertain a motion related to this proposed new rule, 183-1-11-.02.

**MR. SIMPSON**: I move we accept the rule with the changes by Mr. Tyson, with the exception of the deletion of the words "quotation marks" in paragraph sub-3.

**MS. SULLIVAN**: Second.

**MR. WORLEY**: We have a motion and a second. All in favor of that motion say, "Aye."

(Whereupon, the vote was unanimous)

**MR. WORLEY**: All opposed, same sign.

(Whereupon, there was no response)

**MR. WORLEY**: Let the record reflect that Secretary Kemp has abstained on that vote and recused himself on this issue.

That rule has been passed, and with that, I will turn the chair back over to the Secretary.

**SECRETARY KEMP**: Thank you, Mr. Worley. The next rule discussion we have is tab 4 in our book. Mr. Germany, you want to talk about that?

**MR. GERMANY**: Yes, sir. This is a rule regarding -- it's an amendment to State Election Board rule 183-1-14-.01, Absentee Ballot Envelope, Use of Symbols. The purpose of the rule is to define advanced age and it lowers the age by which a person can make one request for an absentee ballot and get that ballot for the entire election cycle from 75 to 65. It also attempts to clarify disability, which is -- the same rule applies to disability where a voter can make one absentee request and get an absentee ballot for the entire election cycle.

The final part of the rule simply updates the potential symbols that elections offices use. The purpose is really to make the rule more in line with current practice that counties are currently using.

We received one comment on the rule, again, from Mr. Tyson.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, Mr. Tyson, you want to address us on this rule?

**MR. TYSON**: The same thing unless there are questions. Our goal, we didn't find the word disabled as defined otherwise in the Georgia code and wanted to be clear about what we're talking about: a physical disability, and someone who informs the registrar.

So, again, clarifying changes, unless you questions. That's the purpose.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Any discussion among the board members about the comments that we had or the direction we want to go?

**MR. SIMPSON**: Is deleting the word "or" in subparagraph 1, is the word "or" in there just as a typo or an error or mistake? I don't read it as being necessary to that sentence, Mr. Worley.

**SECRETARY KEMP**: Mr. Germany, do we know?

**MR. GERMANY**: That appears to be a typo that Mr. Tyson caught in his . . .

**SECRETARY KEMP**: So we need the "or" in there, correct?

**MR. GERMANY**: We do not need the "or" in there. The "or" is in there, but it should not be.

**SECRETARY KEMP**: Judge Simpson, we don't need the "or."

**MR. SIMPSON**: Okay. Thank you.

**MR. GERMANY**: I was going to say one thing, Mr. Secretary. Similar to the last rule,

this rule could be re-posted and voted on at the next meeting due to where we are in the election cycle. It's not something that would take effect this election cycle because we are already at the last portion of it.

**SECRETARY KEMP**: Ms. Sullivan?

**MS. SULLIVAN**: Looking at paragraph 2 and the comment suggested by Mr. Tyson, it looks like we're defining elector meets the criteria of disability when he has a disability. That's how that reads to me. It just seems kind of redundant. Do you want to address that?

**MR. TYSON**: If I could, yes.

In the statute, meeting the criteria of disability was the language from the statute. And so what we understood the rule was intending to do was to say that refers to a physical disability where someone has been told they have -- that they've informed the elections superintendent they have a disability. So we were trying to separate it to make it clear these are the two things it means.

That disability doesn't necessarily refer to other types of disability someone may have. It strictly means a physical disability when you've informed the registrar to meet the criteria of disability as laid out in the statute.

So in a sense it is saying disability means disability. But for purposes of getting the absentee ballot, disability means you have a physical disability, and you informed the registrar of that.

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

**MS. SULLIVAN**: Is disabled otherwise -- is it defined somewhere in Title 21?

**MR. TYSON**: We couldn't locate a place where it was.

**MS. SULLIVAN**: But the rule did permit the SEB from -- permit [sic] State Election Board from promulgating a rule that defines physical disability. And if we take this language out as you propose, then that takes away -- well, I guess we're not taking away our own power to make a rule.

**MR. GERMANY**: For our purposes, I think the intent of the rule is we don't think county registrars can really determine disability. The point is -- but they do have to be

told.

**MS. SULLIVAN**: Okay.

**MR. GERMANY**: The voter at least has to say, yes, I have a disability. And that's really -- we don't want someone to be able to say, I'm disabled. But if you didn't tell the registrar, you're basically not for these purposes.

**SECRETARY KEMP**: Anyone else?

(Whereupon, there was no response)

**SECRETARY KEMP**: Do we have a motion or any other discussion on what direction you want to go? Again, we don't have a real time constraint here so we can amend this rule and re-post it; we can table it and work on it; we can vote on it as is.

**MS. SULLIVAN**: If the intent of the rule is just to specify that, or the intent of the amendment is just to specify that you only qualify as disabled for purposes of getting an absentee ballot if you tell the registrar of that request, I'm fine with the amended changes.

**MR. SIMPSON**: I believe the original recommendation with paragraph 2, paragraph sub-2, if you read that grammatically, it really doesn't -- it's not a very clear sentence. If you read, it says:

“Purposes of this rule and purposes applying O.C.G.A., disability shall mean disabled as specified by Title 21 of the Georgia code or by State Election Board rule or regulation of any elector.”

That really is sort of -- I don't know that “of any elector” who has a physical disability doesn't follow, in my mind. Disability just means disabled as specified by Title 21 or by rule.

It looks like to me that sentence needs to be worked on.

**SECRETARY KEMP**: All right. Anyone else? Mr. Germany?

**MR. GERMANY**: Mr. Secretary, to Judge Simpson I would say that Mr. Tyson's comment I think does sort of correct that issue and says basically the same thing but in clearer language.

**MR. SIMPSON:** Do you have any objection to approving the rule with Mr. Tyson's proposed changes?

**MR. GERMANY:** No, sir.

**MR. SIMPSON:** Okay.

**MR. GERMANY:** And that would be voting to re-post the rule and then we vote final adoption at a later time.

**MR. SIMPSON:** Just like the last one.

**MR. GERMANY:** Yes, sir.

**MR. SIMPSON:** I move we accept the rule with Mr. Tyson's proposed changes.

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

**SECRETARY KEMP:** So we've got a motion by Mr. Simpson and a second by Mr. Worley to accept the amendments to the rule that Mr. Tyson has offered. And that's all of his amendments, correct?

**MS. SULLIVAN:** Yes.

**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. So that takes us to our last rule change, which will be dealing with poll watchers for advance voting. Mr. Germany, do you want to walk us through the last rule?

**MR. GERMANY:** This would be a new State Election Board rule, Rule 183-1-13-.06, entitled Poll Watchers for Advance Voting.

The purpose of the rule is to clarify that during advance voting a party or a candidate, as the case may be, may assign -- may appoint poll watchers for each day of advance voting. The way the -- it's not clear under the current code that you can only appoint two for the entire 21-day period.

So the purpose of the rule is to make clear that you can have two for each day and they can be different people, but it's just there can be a max of two for each day.

This rule, the timing is a little bit different on the other ones. Advance voting for this election starts October 13. I just wanted the board to be aware of that. And remember, the rule, once it's finally adopted, we would send a certified copy and it goes into effect 20 days after that.

There were two comments received to this rule. One was from Cobb County, and it's in the back of your -- it's the last page of your binder. Ms. Evelor in Cobb County makes a point that she would like the badges of poll watchers to indicate the dates on which they're allowed to be at the polls.

And then Mr. Tyson also had comments that changed -- tried to clarify some of the language without really changing substance of the rule.

**SECRETARY KEMP:** Mr. Worley, did you want to add anything?

**MR. WORLEY:** Well, sure. Since I have proposed this rule, I paid rather careful attention to the comments.

First let me talk about the comments that Ms. Eveler made from Cobb County. She suggested first that the designation letter provide dates that the different people would be doing their observation. That, I think, is implicit in the rule. I mean, they have the ability to designate a different date, and basically they have to do that or there is no effect.

And then as for the superintendent-provided badge containing the dates, that, it seems to me, is in the description of the superintendent to do that, and they would have the power to do that. And there's a rule that indicates what the rule, in fact, that she references, 183-1-13-.04, that does provide information that is to be contained on the badge. And I don't think there's anything that prevents the superintendent from putting those dates on the badge.

So I don't think those changes are necessary or appropriate to this rule.

As for Mr. Tyson's comments, I don't think those changes really change anything in the rule. And the rule, as Mr. Germany drafted it originally, made it clear that it was for the purpose of applying O.C.G.A. 21-2-408-(a)(2) and -408-(b)(3)(a), which already essentially contain all the information that Mr. Tyson wanted contained in the rule.

So I think the rule as it was originally proposed and as we originally posted it has all the information anyone would need to interpret the rule.

**SECRETARY KEMP**: Any other board members have questions for Mr. Germany or comments?

(Whereupon, there was no response)

**SECRETARY KEMP**: Mr. Tyson, you want to address us again?

**MR. TYSON**: Mr. Secretary. I definitely understand Mr. Worley's points on that. Our goal was, as we represent one of the political parties, and we didn't want to have a situation where in a general election where there's not a statutory right to submit names, that we're flooded with a bunch of candidates submitting names to us that we're required to do something with.

But I understand the -- our purpose in the changes was the same as the purpose of the original rule, and just to mirror the statute to be clear that independent candidates get one, parties get two, and then you only have the limitation for the primary versus the general to distinguish those two.

So that was the goal behind the rule, but I understand what you're saying.

**SECRETARY KEMP**: Any questions for Mr. Tyson? I think one of the things, too, we could consider as a board being under the time situation we are with the election, is if the board is comfortable with this rule and would like to get it implemented before this general election cycle, we can certainly pass this rule and then if we want, we can address any other issues that we have at a later time and tweak the rule down the road or not. I'm open for whatever.

I think we can deal with the Cobb County issue. I think the comment is very well intended and good, but I think we can handle that administratively right now as well.

And then if we need to address that later by rule, we can do that as well.  
But it is certainly up to the will of the board.

Any other board members have comments or questions?

(Whereupon, there was no response)

**SECRETARY KEMP**: Was there anyone else here wishing to speak on this rule?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we can move forward with a recommendation or further comment or discussion.

**MR. WORLEY**: I would make a motion that we adopt rule 183-1-13-.06, as we had posted it last month.

**SECRETARY KEMP**: So this will be final passage.

**MS. SULLIVAN**: I'll second that.

**SECRETARY KEMP**: We have a motion by Mr. Worley for final passage on this rule; a second Ms. Sullivan. 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.

That, I believe, is all that we have on our agenda today. I want to thank everybody for being with us today. Hopefully we look forward to seeing you at our next State Election Board meeting.

Let's see, Mr. Willard, I apologize. Were you going to give us an update, status update? Do we need to go into executive session for that?

**MR. WILLARD:** Mr. Chairman, I had not put that on the agenda. That was put on by your staff. But I can give the board a brief update in open session.

Pursuant to our discussions at our last meeting, a letter was sent to the Fulton County Board of Elections attorney and we are continuing to have ongoing discussions about that.

That's all I want to say in open meeting at this point, Mr. Chairman.

**SECRETARY KEMP:** Any questions for Mr. Willard or, we could certainly move to executive session if we need to. But it sounds like we don't necessarily need to do that, unless Mr. Germany tells me different.

(Whereupon, there was no response)

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

Now I think that concludes our business for this meeting. I'll be glad to take a motion for adjournment.

**MS. SULLIVAN:** I move.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Ms. Sullivan moves that we adjourn this meeting; Mr. Worley seconds.

All those in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries. We are adjourned.

- - -

(Whereupon, the proceedings were concluded)

- - -

CERTIFICATE

STATE OF GEORGIA)

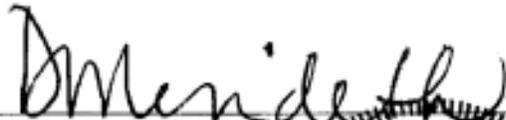
COUNTY OF DEKALB)

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

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

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

This the 25th day of July, 2014.

  
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, JUNE 10, 2014  
10:00 A.M.

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

---

*DEBORAH L. MERIDETH, CCR  
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APPEARANCES:

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

David J. Worley, Member, State Election Board

L. Kent Webb, Member, State Election Board

Ralph F. Simpson, Member, State Election Board

ALSO PRESENT:

Mr. Chris Harvey

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. Welcome again.

I will call the Tuesday, June 10, 2014 State Election Board meeting to order. Our first order of business is for Mr. Worley to lead us in the invocation and the Pledge of Allegiance.

- - -

INVOCATION

- - -

PLEDGE OF ALLEGIANCE

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**SECRETARY KEMP:** Thank you, Mr. Worley. We're going to change a couple of things on the agenda today. We are going to move into public comment period next, which is number 3 on the agenda. If anybody has filled out a card and would like to address us in the public comment period, we're going to use this front desk for public comment and our speakers today.

Ms. Sally Fitzgerald wants to address us this morning for two minutes. Welcome back.

Today, too, all speakers give us your names clearly and your address so we can record that in the record of our transcripts.

Welcome back, Ms. Fitzgerald.

**MS. FITZGERALD:** Thank you. I'm Sally Fitzgerald. 7604 Van Eyck Way in Sandy Springs. I am here today as a poll manager. Have a copy of my comments for the transcriber as well.

I have three things to share with you. I don't know whether you can do anything about them but I think you should know about them.

In Fulton County where I live three incumbents filed for reelection using government-provided e-mail addresses. And I have given a copy of that qualified candidate listed Mr. Kemp.

One was a State Court judge who was unopposed; a county commissioner and a school board candidate, both opposed. The judge and school board candidate were nonpartisan.

If the government funds it, it is taxpayer provided and thus it is prohibited by O.C.G.A. 21-5-30.2(B) from being utilized in any campaign. I reported this to the local Board of Registration and Elections. They did their due diligence and researched it. Two lawyers on the board and the county lawyer who serves the board concluded there was no authority provided in law for this board, local board, to correct the situation, either to remove the information as it was posted on the website or to require the candidate to request removal.

I'm not sure what the remedy is, whether the law has to be changed or whether there's this is something you as a board can do or the Elections Division can do administratively. But someone needs to designate a policing effort to give that law enforcement teeth. And someone needs to let the citizenry know how they can report such things.

The second thing I'd like to talk about is online voter registration. It is certainly an upgrade and it attracts voters who are busy, computer literate in need to register or reregister.

Prior to the May 20 I got on with my personal information just so I could see the screens to and be able to explain the process to voters who might want to use the system. I never got past entering my address. The software uses a verification file for the address, perhaps the U.S. Postal Service file. It insisted my street address was in the city of Atlanta when it is within the boundaries of the city of Sandy Springs.

**SECRETARY KEMP:** Ms. Fitzgerald, your time is up. So if you can wrap up, we'll appreciate it.

**MS. FITZGERALD:** I was unable to override or delete it in any way. I would ask that you allow the voter who knows their address to override that.

And the third thing I would ask is the voter certificate has the reduced font on the front side. It makes it very difficult for voters with writing impairments to fill in the facts and information that needs to be filled in, and it's also difficult for the poll workers. I would hope that we can get that changed.

Thank you.

**SECRETARY KEMP:** Thank you for being here. We'll look into those issues for you.

Anyone else wishing to make a public comment?

(Whereupon, there was no response)

**SECRETARY KEMP**: Seeing and hearing none, I will close that part of the meeting and move on to approval of minutes from the State Election Board meeting on February 5, 2014. If there are no additions or corrections, I'm ready for a motion.

**MR. McIVER**: I move.

**SECRETARY KEMP**: Mr. McIver moves to approved the minutes.

**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 approved the minutes.

I'm also going to move the board rule amendments that we have. It's a been a tradition of the State Election Board to discuss that after our case load to try to help get you all out of this room quicker if that's your objective today. So we are going to move agenda item number 4 to the bottom of the calendar today after the Attorney General report. Just so you know, those of you that are not here, that would only be a vote, should the board decide to do so, on posting the rules so we can receive comments. It is not final passage. It will only be to post the proposed rules.

Mr. Harvey, we're going to move to the investigative report. First on that agenda is the consent cases. Our posture here at the State Election Board is for any board member that would like to discuss one of these cases, the details of it, we can pull it out. Also, if there is anyone in the audience that would like to have a discussion on a case, we will pull it out. If no one does, these cases will be voted on in block to be dismissed per the recommendation of the investigative team and Mr. Harvey's report.

For the agenda items under the consent cases, is there any board member that would like to pull a specific case or two, or however many, to discuss today?

**MR. WORLEY**: I would like to pull out case number 2012-00132, Clayton County.

**SECRETARY KEMP**: We'll pull that out for Mr. Worley. Anyone else?

**MR. HARVEY**: Mr. Secretary, I was going to ask that the last case on the consent calendar, Towns County, 2012-168, be reset. I got a phone call yesterday from a complainant who had additional information we need to look at. I recommend we take that off the calendar and present that at a future date.

**SECRETARY KEMP**: We will make note that SEB case number 2012, number 168 is going to be pull off the calendar. We will discuss that hopefully at our next meeting.

Is there anyone in the audience that would like to hear a specific case on our consent calendar?  
Yes, ma'am.

**UNIDENTIFIED FEMALE**: 2012-000127, Fulton County.

**SECRETARY KEMP**: That will be pulled out for discussion.

**UNIDENTIFIED FEMALE**: Troup County, number 2012, number 93.

**SECRETARY KEMP**: Troup County, 2012, number 93 will be pulled out.

**UNIDENTIFIED FEMALE**: There are actually two other cases for Troup County, too, 161 and 151. Perhaps all can be discussed at one time.

**SECRETARY KEMP**: We will pull those off as well. Anyone else? Yes, ma'am.

**UNIDENTIFIED FEMALE**: 2011- 00085, East Point.

**MR. WILLARD**: That's on the regular calendar, Mr. Secretary.

**SECRETARY KEMP**: This is just consent cases. We will hear that case.

Any other consent cases?

(Whereupon, there was no response)

**SECRETARY KEMP:** Okay. We've got our calendar set. I will take a motion to dismiss the following cases under the consent calendar: 2012-15; 2012-92; 2012-160; 2012-166; 2012-174; 2012-175; 2012-179; 2012-188; 2012-189; 2011-111.

Do we have a motion to dismiss these consent calendar cases?

**MR. SIMPSON:** So moved.

**SECRETARY KEMP:** Mr. Simpson moves to dismiss. Do we have a second?

**MR. WORLEY:** Second.

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

**MR. WILLARD:** Mr. Secretary, before we move on, did Baldwin and Floyd County, 2012-130 and 2012-143, did those get pulled off?

**SECRETARY KEMP:** They did not. Did I miss those?

**MR. WILLARD:** Yes, sir. You omitted those.

**SECRETARY KEMP:** Let the record show -- Mr. Simpson, would you just withdraw your motion?

**MR. SIMPSON:** Yes.

**SECRETARY KEMP:** Mr. Simpson has withdrawn his motion. Let the record show that in addition to the cases I mentioned for dismissal under the consent cases, we need to add 2012-130, 2012, number 143. Now I will take a motion to dismiss those named cases.

**MR. SIMPSON:** So moved.

**SECRETARY KEMP:** Mr. Simpson moves.

**MR. McIVER:** Second.

**SECRETARY KEMP:** Mr. Worley seconds.

**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 dismissed the recorded cases.

Mr. Harvey, 2012, number 93.

**MR. HARVEY**: This case involved the Troup County special election July 31, 2012. The allegation was that several districts -- during redistricting there were some voters that were redistricted and get the wrong ballots. Our investigation revealed that there was redistricting done and some voters were unaware they had been assigned to new districts.

There were two individuals that had their ballot cards improperly coded, however they brought to the attention of the election workers who were able to reassign them their proper ballot and they were able to cast them properly.

One voter was incorrectly listed as having voted absentee ballot. They were given a provisional ballot and it was determined they had not voted and so their provisional ballot was vote was counted.

Other than the temporary violation -- temporary problems of issuing the wrong district cards, everything was corrected at the polls and everyone was able to vote and we did not find any other violations.

I recommend this case be dismissed.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to speak on this case? Yes, ma'am. If you will,

just come up to this microphone and give us your name and address for the record.

**MS. GILMORE:** Thank you. My name is Ellen Gilmore, 210 Old Gabbottville Road, West Point, Georgia.

Mr. Harvey mentioned the redistricting problem. I understood in addition to what you said about the card being encoded incorrectly, that was the case in one of the issues where the voter was an astute voter. He knew immediately the person he was supposed to -- he wanted to vote for was not on the ballot, and immediately called that to the attention of the election officials. And that was corrected by changing the person who was encoding the cards.

I would like to ask about the redistricting because we had in that particular race in District 2, seven votes would have made a runoff. There were people who were not put in the right district at the very last minute because of the federal -- the federal order was not received in a timely manner. And right up until the last minute I think that was an issue as far as putting people in the right districts and some were in District 2, some in District 3. To this day we would not know whether or not seven votes cast in the wrong district could have caused a runoff one of those districts.

Did you find anything about that?

**MR. HARVEY:** We did not find any evidence that people had been improperly districted.

**UNIDENTIFIED FEMALE:** Thank you very much. I appreciate your time.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, ready for a motion or further discussion.

**MR. SIMPSON:** I move this case be dismissed.

**SECRETARY KEMP:** Mr. Simpson moves that we dismiss 2012 , number 93. Do we have a second?

**MS. SULLIVAN:** Second.

**SECRETARY KEMP:** Second by 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. We have dismissed that case.

**SECRETARY KEMP:** Mr. Harvey, 2012-127, Fulton County, East Point.

**MR. HARVEY:** This complaint, looking back, is sort of melded into the Fulton County complaint that this board has dealt with earlier in the year from the 2012 elections.

The specific complaint from the City of East Point was the city clerk in East Point was having a hard time getting communication back and forth from Fulton County regarding problems they saw in their district.

In the time span from her filing the complaint in 2011 until the current date, East Point has reported they have received assistance from Fulton County. They believe errors have been corrected. They didn't have any specific issues except to just complain that Fulton County was unresponsive.

The current response from the City of East Point is they get much improved service from Fulton County.

So we don't have a specific violation here and I recommend this case be closed. I believe in dealing with Fulton County's larger issues the board will address any issues that may have been involved in this case.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, do we have a motion or further discussion.

**MR. McIVER**: Move to dismiss.

**SECRETARY KEMP**: Mr. McIver moves we dismiss case 2012, number 127. Do we have a second?

**MR. SIMPSON**: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. We have dismissed that case.

Next we have 2012-132, Clayton County.

**MR. HARVEY**: This case involved an election in Clayton County November of 2012. The issue is that there was a voter in line in line waiting to vote and he overheard a conversation between the poll worker and two elderly voters who were getting their certificates, or asking about voting. They asked about voting for a specific Sheriff candidate, a write-in candidate, and the complainant overheard the poll worker say, "Oh, you don't want to vote for him." The complainant interjected and said you shouldn't tell people who to vote for and not to vote. He made a complaint.

The elections director, Amy Bright, responded pretty much immediately. She interviewed the poll worker who denied saying that nobody should vote for any person and denied any type of

advocacy or talking down a candidate. The complainant insisted what he heard. We were left with sort of a he said/she said scenario. I understand Mr. Worley's concern that in a lot of these cases we do bind them over if there is a conflict in the evidence.

Ms. Bright responded immediately, so my initial recommendation was that I just didn't have evidence of a violation. It wasn't spoken directly to the complainant. He may have misunderstood something about voting for a write-in candidate who wasn't qualified. We just don't know.

It is certainly to the wisdom of the board, but I recommend the case be dismissed.

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

(Whereupon, there was no response)

**MR. WORLEY:** I didn't have any questions for Mr. Harvey, but Mr. Harvey is correct that I asked that this be discussed because it is a situation where we have two conflicting reports and in that situation our policy is to bind it over rather than determine the truth of the allegation. So that's why I asked that it be pulled.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**MR. WORLEY:** It is clear that -- it seems clear from the report that Ms. Bright, the elections supervisor, handled this appropriately and immediately. But I would still argue that this is a case that needs to be reviewed and bound over. So I would make a motion that it be bound over to the Attorney General.

**SECRETARY KEMP:** Who would we be binding over, so I can make sure we're clear on that.

**MR. WORLEY:** The respondent would be Betty Simonds, the poll worker who made the alleged comment.

**SECRETARY KEMP:** Okay. We've got a motion by Mr. Worley to bind over Betty Simonds. Do we have a second?

(Whereupon, there was no response)

**SECRETARY KEMP**: I'll second the motion. Do we have any other discussion?

**MR. WORLEY**: A little further discussion, and I appreciate your second of the motion.

The reason that it seems it was recommended for dismissal was that the investigator couldn't find any other witnesses to verify the complainant's account. But we do have the complainant's account and the only thing we have to contradict that is the statement from Ms. Simonds. So, again, it's just a straight he said/she said situation and our policy in those cases has been in the past to bind those over to the Attorney General.

**SECRETARY KEMP**: Let me just say I certainly don't disagree with Mr. Worley, obviously, as I seconded the motion. I want to thank Ms. Bright for her quickly responding to the issue. But I think also we have to consider, too, the workload we are giving the AG's office when the complainant doesn't show up at the meeting to give their side of the story. So I understand this is an interesting dilemma, if you will, that we are in. But I think it's just something the board needs to vote on and we'll see what the wisdom of the board is.

Judge Simpson?

**MR. SIMPSON**: Is there some sort of training that is given to poll workers about comments and communications to voters?

**SECRETARY KEMP**: There is. Ms. Ford can elaborate on that if you need her to.

**MR. SIMPSON**: You think maybe there was a breakdown in that communication and the training wasn't given to that poll worker? Or do we know whether or not the poll worker was talked to about this or if there was any training given in this instance?

**MR. HARVEY**: The poll worker was spoken to by Ms. Bright. The poll worker denied saying it. I know Ms. Bright does conduct training with poll workers and, you know, I think if the poll worker had said, oh, I said it because I didn't realize I couldn't say that, it would be an indication the training wasn't effective.

**MR. SIMPSON**: I thought you said earlier the matter was tended to on the spot, so to speak. Apparently, something had to be done if it was tended to on the spot. Was the poll worker talked to?

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

**MR. SIMPSON**: Was the complainant there when that conversation was had?

**MR. HARVEY**: I do not know whether or not the complainant was there. I got the impression it happened almost instantaneously. Ms. Bright is here if you would like to address that.

**MS. BRIGHT**: Good morning, Chairman of the Board and board members. My name is Annie Bright. I am the director of elections and registration for Clayton County. My address is 11985 Scottish Court, Fayetteville, Georgia.

On the date that this incident occurred, I called Ms. Sims into my office once I got the complaint from the complainant and spoke with Ms. Sims. Ms. Sims stated she did not make that remark. We do have poll worker training and my poll workers are trained not to address any voters in any such manner as to who to vote for.

So Ms. Sims continues to say as of this date that she never said that to the voter. They are trained not to tell a voter who to vote for or how to vote.

**MR. SIMPSON**: Was the complainant there when you talked with Ms. Sims?

**MS. BRIGHT**: No, sir. The complainant was not there.

**MR. SIMPSON**: Has he ever come back and followed up on the complaint at all?

**MS. BRIGHT**: No, sir.

**MR. SIMPSON**: Nobody has approached your office and he's not come back?

**MS. BRIGHT**: No, sir. No.

**MR. SIMPSON**: Thank you.

**SECRETARY KEMP**: Ms. Bright, did the complaint come to you at the main office?

**MS. BRIGHT**: Yes. It came to me and said that Ms. Sims had said that she told him not to vote for Mr. Watkins; not to vote for a write-in candidate. I called Ms. Simpson immediately into my office to discuss that. Ms. Sims said she never did say that. As far as I was concerned, they must have misunderstood or it was a he said/she said conversation. I was not there and I didn't hear the conversation.

Once the complaint was filed with the State, the investigator came out and questioned Ms. Sims in my office and that was the same situation. Ms. Sims stuck to her word and said that she never said that to the voter because she has never said that to any voter. Ms. Sims has worked with me for 12 years as an assistant manager at the precincts and I've never had a complaint from her or about her.

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

**MR. WORLEY**: Given Ms. Wright's explanation and given the fact that the complainant is not here to contradict that, I will withdraw my motion.

**SECRETARY KEMP**: Okay. Thank you, Ms. Bright.

**MS. BRIGHT**: Thank you.

**SECRETARY KEMP**: Mr. Worley has withdrawn his motion. Do we have another motion?

**MR. SIMPSON**: I move the case be dismissed.

**MS. SULLIVAN**: Second.

**SECRETARY KEMP**: Mr. Simpson moves for dismissal and Ms. Sullivan 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 that case.

Mr. Harvey, 2012-151, another Troup County case.

**MR. HARVEY**: This involves the election in November of 2012. We got complaint that Jane

McCoy was interfering with poll workers by asking questions and giving directions to poll workers during early voting.

The investigation revealed that Ms. McCoy had been asked, I believe, by the county manager to observe the election process and see if she could come up with improvements or find areas -- this was in the pendency of the board taking over from the Probate Judge, Judge Boyd.

Ms. McCoy went to where the voting was taking place. She denied interfering with poll workers or telling them what to do. Judge Boyd came down and spoke with her and asked her to leave, and she complied and left.

We didn't find any evidence that Ms. McCoy was interfering with poll workers by asking questions. She was simply observing. She left upon being asked by Judge Boyd and we don't find violation.

We recommend this case be dismissed.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Is there anyone else wishing to speak on this matter? Yes, ma'am. Just give us your name and address again.

**MS. GILMORE**: Ellen Gilmore, 210 Old Gabbottville Road, West Point, Georgia.

I have a question about the indication that the county manager gave this individual the authority to go observe. And, obviously from Judge Boyd's analysis of that, she was giving some kind of direction or some kind of information that was incorrect.

My question is about the county manager having the authority to do that.

**MR. HARVEY**: I think anybody would have the authority to ask anybody to observe the election. So I don't think this board has any jurisdiction over the county manager making that request. I think a county official could reasonably ask somebody to observe the process and report back to them. If in doing that she interfered with the election, then I think this board would get jurisdiction.

I think the facts are that she went down, either at the direction of the county manager or somebody else, and was involved with the observation. For whatever reason, Judge Boyd came down and asked her to leave. I'm not sure she would have had to have left at that point. But she chose to leave there were no other issues.

So I don't know whether the board would be able to make any determination about the authority of a county official asking somebody to observe the election process.

**MS. GILMORE:** I just wanted that cleared up. Thank you.

**SECRETARY KEMP:** Any questions for Ms. Gilmore from the board?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MS. SULLIVAN:** Move to dismiss.

**SECRETARY KEMP:** Ms. Sullivan moves to dismiss. Do we have a second?

**MR. WORLEY:** Second

**SECRETARY KEMP:** Second by Mr. Worley to dismiss case 2012, number 151. 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 that case.

Mr. Harvey, I believe the last one on our consent calendar is 2012, number 161, another Troup County case; number 34 in our binder.

**MR. HARVEY:** This is November 6, 2012 election. We got several complaints. One was that a voter claimed they did not have President Barack Obama on their ballot at early voting, and also that the poll watcher was asked to leave the polls.

The investigation revealed that there was no reason to believe that President Obama was left off of the ballot. There were no other complaints. How somebody may have missed it is, I guess, anybody's guess. But if he had been left off the ballots, I'm sure we would have gotten more the one complaint. So we didn't find anything to substantiate that allegation.

As far as the poll watcher, a poll watcher was in the precinct. She apparently would roam around the poll and was looking over shoulders of poll workers; was creating a general issue. Judge Boyd used his discretion and asked her to leave the polling place. She left and I think at that point the matter was finished.

I recommend this case be closed and dismissed.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, is there anyone else wishing to speak or address us on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, I'm ready for a motion or further discussion. I move we dismiss. Do we have a second?

**MR. McIVER:** Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

And now, Mr. Harvey, we have one case under our re-presentation part of the investigative report agenda. It is case 2011, number 30, Murray County, Rayburn case; number 17 in our binders.

**MR. HARVEY**: Yes, sir. This case was presented at a previous meeting. The allegations were that two individuals had influenced a voter to vote absentee. They had taken his ballot. And that case was presented and all the respondents, save one, were bound over to the Attorney General's office. The one person not bound over due to a notice issue was Laney Peterson.

Just to refresh the board's memory, the complainant in this case was a mentally disabled man. Laney Peterson was his caseworker. She assisted him with his absentee ballot application and signed properly as assisting. There was a question as to whether or not she was able to verify the other individuals took possession of the absentee ballot. She wasn't sure about that. But there was never any indication that Ms. Peterson had done anything improper or that she had influenced a voter.

So we re-noticed her. I'm presenting the case again. I don't see that Ms. Peterson has done anything wrong. The complainant never alleged that she forced him to vote for somebody.

I recommend that she be dismissed as a respondent, and that the case that is currently bound over stay with the Attorney General's office and the rest of the issue be closed.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. WORLEY**: I make a motion that Ms. Peterson be dismissed.

**SECRETARY KEMP**: We have a motion by Mr. Worley that Ms. Peterson be dismissed. Do we have a second?

**MS. SULLIVAN**: Second

**SECRETARY KEMP**: A second by 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. We have dismissed that individual in the case.

We're moving on to our regular investigative report, our new cases. What we have tried to do with these cases is go through the roll real quickly and see who is here representing or being a respondent or complainant or anything else regarding these cases. That way we can call the cases where people bother to show up first and hopefully get you home a little quicker. The ones which no one is here, we will move to the bottom of the calendar. If somebody is here for one of these cases, when I call, if you would raise your hand we'll make note of that and move through the agenda.

The first is 2008-107, Dodge County; 2010-18, City of Nicholson; 2011-53, Tingler, Paulding County case; 2011-75, Lake City, Clayton County; 2011-85, City of East Point; 211, number 95, City of Waynesboro; 2011-96, Clarke County, Thomas case; 2011-101, Paulding County, felons case; 2012-141, Fayette County Board of Elections; 2012-145, DeKalb County; 2012, number 146, Fulton County; 2012-148, Lincoln County; 2012-149, Pierce County; 2012-153, Gwinnett/Peach County; 2012-158 Gwinnett County again; 2012-161 -- I'm sorry that was moved; 2012-162, Rockdale County; 2012, number 163, Union County; 2012-164, another Gwinnett; 2012-168 was moved; 2012-169, Coweta County.

All right. Mr. Harvey, we've got our agenda.

Mr. Harvey, our first one will be 2008- 107, Dodge County; number 18 in our binder.

**MR. HARVEY**: Mr. Secretary, members of the board, this case involves a 2008 election for Sheriff. It is unusual to get a case that this in front of the State Election Board. Let me offer some explanation as to why.

This case was originally opened by our office and then was co-joined by the FBI the Georgia Bureau of Investigation. They did an extensive investigation stretching over several years. They interviewed hundreds of people and gathered hundreds of documents. At the end of their investigation, two individuals pled guilty in federal court to charges. The former Sheriff , Lawton Douglas and the former chief deputy, (Unintelligible) Gibson, pled guilty in federal court to violations that happened in 2004 involving vote buying and other charges.

The case was then forwarded on the local District Attorney who recused himself to consider state charges. The case was then transferred to an additional District Attorney, District Attorney Kelly in south Georgia, whose office had the case for several years. They, at different times, said they were going to prosecute it. At other times didn't. They eventually did not prosecute the case in State Court.

So at the conclusion of that process, we got the file. We went through and identified the primary offenders and we've got them cited for the violations that are listed.

The primary allegations are that of paying people to vote, voter intimidation, illegal possession and distribution of absentee ballots. I believe those are the primary charges.

Former Sheriff Lawton Douglas is cited for intimidating voters, paying a voter to move her registration to Dodge County and cast a vote, and possessing multiple absentee ballots.

The chief deputy Gibson is cited for two illegal possessions of absentee ballots and five counts of paying voters for votes.

Deneen Gordon, a.k.a. Betty McLeod, is cited for illegally possessing six absentee ballots and offering to pay for one voter for a vote.

Alice Wimby illegally possessed three absentee ballots.

Faith Howell illegally possessed four absentee ballots.

Darlene King offered one offered one person money in exchange for voting.

And Deborah Seay illegally possessed 13 absentee ballots.

I believe the board members are aware that the history in Dodge County is one that is not absent of allegations of election fraud and people paying to vote. The investigation done by the GBI, primarily by the GBI, did indicate this was a problem at the time. We believe that in citing these individuals even at this late date, it will have some effect. I would say that in the last years we have not had these similar allegations in Dodge County. But I believe in binding these individuals over on these allegations to the AG's office to put a final touch on these issues from the 2000 election may signal a new day for Dodge County.

So I recommend these respondents be bound over on the allegations as listed.

**SECRETARY KEMP:** Thank you, Mr. Harvey. One other note in regard to this being a 2008 case, as we have had a lot of people question why it is been so long. It is our posture that the State Election Board cannot get out in front of a criminal investigation, which is what has been going on up until this point. So that's why we're just now acting on these matters. We have other cases where it had been dealt with, or still being dealt with in a criminal matter, that this board will hear at some point in time. But just to make sure the record is clear on that.

Any questions from the board for Mr. Harvey?

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, anyone wish to address the board in regard to this case? Yes, sir.

**MR. CARROLL:** Mr. Secretary, Mr. Harvey, members of the board, my name is Ken Carroll, 346 Gum Swamp Road, Eastman, Georgia.

Sadly, as was alluded to, Dodge County does have a lengthy and well-earned reputation for voter fraud. In fact, we've become somewhat of a punch line for jokes, and I'm concerned that the tendency to write this off as a culture of corruption at times in the past has encouraged people not to pursue things because they feel it's not warranted based on that.

Any time a candidate or a poll worker or a campaign worker makes a decision to break the law, that is an individual decision and not based on culture. And if there has been a culture of corruption, the truth is, it's only encouraged whenever we readily accept quick answers and quick excuses for that. And the fact that it's gone on for so long, I mean, there was a front-page story in the local paper back in early 60's where two political camps had called a truce on vote-

buying and it was reported on the front page of the paper.

So it's been going on for 50 years, at least, and I appreciate what the board is doing. I really recommend you go forward on this because it does make a difference. There are people down there who truly want this to be a non-corrupt county, and as citizens of this state, we deserve that.

**SECRETARY KEMP**: Thank you Mr. Carroll. Any questions for Mr. Carroll?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Any other discussion from the board, or do we have a motion.

**MS. SULLIVAN**: I move that we bind over all of the respondents in this case to the Attorney General's office.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We have a motion and a second to bind over all the respondents in this case. Any other discussion?

**MR. WILLARD**: Mr. Secretary, before you proceed, I did want to apprise the board we had had discussions in our meeting before on this issue. We have since had internal discussions in the Attorney General's office. I will say that as of today I am not ready to tell the board as a matter of law that the board cannot proceed with this case. But I do want the board to be aware of the issues that are in this case that may arise and may result in us coming back and making that presentation to the board.

Specifically, it centers around a plea agreement reached in federal court that the charges were dismissed for the 2008 because of their willingness to enter the plea on the 2004 charges. That also resulted in an agreement not to go forward on the state charges at the time.

Given that, and given the age of this case, I don't know whether the board can proceed in an administrative hearing in good conscience and with some legal footing.

Once again, we are not prepared to make that statement today. But I did want the board be

cognizant of that before it bound the case over.

**SECRETARY KEMP:** Thank you, Mr. Willard. I know that doesn't change my opinion of binding over. Any other discussion?

**MR. McIVER:** It is charge of the board to go forward with matters like this. In this process, we are of one face. This is the phase where we conclude if there's enough evidence, we bind it over. And if the Law Department sees it differently, we'll come back and (unintelligible). But at least I, for one, speaking only for myself, we should bind over this case given the egregious nature of these findings.

**SECRETARY KEMP:** That's the motion and the second we have. Any other discussion?

**MR. WORLEY:** I agree with Mr. McIver.

**MR. SIMPSON:** I agree we need to bind this case over. I'm not sure a plea agreement in federal court relating to criminal charges would preclude us from moving forward administratively. I feel confident that the board was not represented to discuss those plea arrangements. I don't know, an individual does not have the authority to find a public (unintelligible). So unless we move forward ourselves as a board, I don't see that any plea agreement that was made in federal court would preclude us from moving forward. I encourage us to move forward with this case.

**SECRETARY KEMP:** Okay. Any other discussion from the board?

(Whereupon, there was no response)

**SECRETARY KEMP:** We have a motion and a second to bind this case 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. We have bound that over.

Mr. Harvey, 2011, number 85, City of East Point, which is number 22 in our binder.

**MR. HARVEY**: This case involved the November, 2011 election and the allegation was that a candidate, Karen Renee, allegedly entered a polling place and was heard offering people food in exchange for votes and offered to assist people voting.

Our investigation revealed the candidate did come to the polling place, however, she brought her family members who needed assistance and she stood at the entry of the polling place and asked that they be allowed assistance while voting. I don't believe there is evidence that she entered the polling place, but she was certainly around the polling place. We found no evidence that she was offering food or anything in exchange for voting or illegally assisting people with voting.

The finding in the report is that she entered the polling place. I would maybe back off of that a little bit and recommend that she actually did not enter the polling place. She appeared at a polling place. She did not enter the polling place.

I think given the circumstances, a letter of instruction to her regarding entering a polling place or appearing at a polling place maybe proper.

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

(Whereupon, there was no response)

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

If you're wanting to speak on this case, when Mr. Harvey gets finished you can make your way up front and we will be glad to hear from you. Use these chairs if you have to wait on us. Please just give us your name and address for the record.

**MS. GOLSON**: My Name is Erica Golson; address is 10786 Spring Creek Drive, Hampton, Georgia 30228.

I was the poll watcher for that polling place. I did see Karen Renee inside the polling place. She came inside the polling place. I was only inside; I never left the polling place. I let, I guess it's the manager of the polling place know that she was she was a candidate running and he asked her to leave.

That's all I have.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. Harvey, does that change recommendation or did you have anything to add?

**MR. HARVEY:** I think this is the first time we've heard from this witness. I think the facts and the evidence are still that the reason she was at that polling place was to secure assistance for her family members. I think, based on this witness, she may have crossed the plane into the polling place. She did leave when asked by the poll manager. She was there to request assistance.

I think a letter of instruction would be an appropriate resolution to the respondent in this case.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** No one else wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP:** We're ready for a motion or further discussion.

**MS. SULLIVAN:** I move that the board issue a letter of instruction in this case.

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

**MR. McIVER:** Second.

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

**MR. SIMPSON:** I there was a violation, and I think we ought to bind this case over.

**SECRETARY KEMP:** Was it clear there was a violation?

**MR. SIMPSON:** We just heard from the lady who was a direct witness.

**SECRETARY KEMP:** What were the details of the polling location, Mr. Harvey, and why the respondent was there?

**MR. HARVEY:** She was there to bring her family members and request that they receive assistance when voting. Like I said, based on this witness, she may have physically entered the polling place.

I think in light of the circumstances of her being -- now, if there were not an explanation for being there and she had to be asked to leave, in my mind that might create a slight difference of intent on why someone would be there. But I think the evidence is that she was there to secure assistance for her family members and then left when confronted by the poll manager.

It's certainly up to the judgment of the board as to whether or not that's something to be bound over.

**MR. SIMPSON:** There is no exception in the statute.

**MR. HARVEY:** No, sir. There's not.

**SECRETARY KEMP:** There is also -- you also have in the statute where you can assist somebody, correct?

**MR. HARVEY:** You can certainly request assistance. Candidates are prohibited from entering a polling place. The different circumstances in these cases, sometimes the board considers extenuating circumstances and issues letters in cases without malicious intent, or evidence of a malicious intent.

**SECRETARY KEMP:** Any other discussion or comments from the board?

(Whereupon, there was no response)

**SECRETARY KEMP:** We do have a motion and a second for a letter, correct?

**MR. McIVER:** Correct.

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

**MR. McIVER:** Aye.

**SECRETARY KEMP:** Aye.

**MR. McIVER**: Aye.

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

**MR. WORLEY**: No.

**MR. SIMPSON**: No.

**SECRETARY KEMP**: The motion carries 3 to 2 so we will issue a letter of instruction in case number 2011, number 85, correct?

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

**SECRETARY KEMP**: Our next item is 2011, number 95, City of Waynesboro; number 23 in our binder.

**MR. HARVEY**: The allegation in this case was that a woman reported that there was large-scale absentee ballot mishandling and collection and tampering.

When we met with the complainant, she was unable to provide much specificity with her allegations. We did, however, review the absentee ballot applications and envelopes, themselves, and spoke to some people that may have evidence of illegal possession.

What we determined was that one person, Annette Walker Williams, did illegally possess an absentee ballot. She took possession of the ballot of (Unintelligible) Jones and turned it in.

We also found the Board of Elections and Registration improperly handled five absentee ballots in terms of failing to reject. There were five absentee ballots that were accepted when they should have been rejected for failure to include signatures and addresses on the absentee ballot envelope, itself.

The board will note there is a second allegation under Annette Walker Williams alleging assistance. Upon further review, it was determined that Ms. Walker Williams did not provide illegal assistance in that case, and I recommend that allegation be dismissed.

So I recommend that Annette Walker Williams be bound over for illegal possession of an absentee ballot, and then the board and other listed respondents be bound over regarding the improper rejection of five absentee ballots -- actually, the failure to properly reject five absentee ballots.

**SECRETARY KEMP:** Did you recommend dismissal for one of them?

**MR. HARVEY:** Just dismissal of the one charge, the second charge under Annette Walker Williams, the illegal assistance.

**SECRETARY KEMP:** Still recommending bind over for the other charges.

**MR. HARVEY:** On the possession, yes, sir.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Any other discussion? We've got a recommendation to bind over all the respondents. Do we have a motion?

**MR. McIVER:** I move we bind over the respondents consistent with the recommendation of Mr. Harvey.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Motion by Mr. McIver, second by Mr. Worley. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

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

Next I've got 2012-141, Fayette County Board of Elections; number 27 in our binders.

**MR. HARVEY:** This case involves a residency challenge. It's a little bit unusual in Fayette County. The allegation was that Marilyn Watts and Lane Watts, who were both members of the Fayette County Republican Party had conspired to have Lane Watts falsely registered to vote at an address where he did not live in order to maintain a position on the board. A residency challenge was given to the Fayette County Board of Elections and Registration.

In the time that this allegation was made, Mr. Watts -- at one point he was living at an address on Patricia Lane. In September of 2011, he registered to vote at an address on Gelding Garth Drive, which is in Fayette County in a different district. And then in March of 2012, he registered to vote again at Patricia Lane.

By the time this case got to the Board of Elections and Registration in Fayette County, he had returned to his original registration. There was no question he was living there.

So the board had a hearing, and I think you'll hear from counsel on both sides, both the plaintiff and respondent, that the board had a hearing -- Mr. Sawyer is here also -- and they were asked to determine whether or not he had properly registered to vote when he registered to vote on Gelding Garth. Gelding Garth was a property he owned. The allegation was that Lane Watts never lived there; that he falsely registered at that address.

What our investigation concluded was that, first of all, Marilyn Watts, there is no evidence Marilyn Watts had conspired to commit election fraud or do anything regarding anything Lane Watts had done.

As regards to Lane Watts, our investigation revealed that witnesses were spoken to that lived at the Gelding Garth Drive. They denied that Lane Watts lived there during the time he was registered to vote. There were two people that lived there that said they didn't know him; he didn't live at the house. The next door neighbor who was dating one of the people that lived at that house said she did not know him; he didn't live there.

When the report was done, that was what we found regarding Lane Watts. We determined that he did not live at the Gelding Garth address when he changed his voter registration.

On Thursday and Friday of this past week, Mr. Watts' attorney contacted me. He had contacted me before, but he contacted me and provided affidavits from three individuals, two of which live in Florida. They say that on one or two occasions in December of 2011 they visited Mr. Watts at the home on Gelding Garth and they spent the night there and that he appeared to be living there also.

They provided a third witness, Peggy Perkins, who was deposed by the complainant and Mr. Watts' counsel, and she said that she visited him there at the Gelding Garth address twice in November or December of 2011 and it appeared he lived there.

So, again, we've got -- there are a lot of internal issues among these parties. I believe there is civil litigation that is continued on them over some of these issues and some party issues I don't think the board has jurisdiction over.

The question for the board today is that when Lane Watts changed his voter registration to Gelding Garth, did he actually live there. The evidence in our investigation is he did not.

And so on that explanation, I would recommend that Lane Watts be bound over to the AG's office for falsely registering to vote.

I'll also point out that once the Fayette Board of Elections and Registration heard the case, they forwarded the matter to the District Attorney's office. The District Attorney's office contacted me and asked what would normally be done in these cases and I explained to the D.A. that the State Election Board often handled these kinds of issues and often resolved them. So in lieu of any criminal action by the District Attorney, he referred it to us and asked that we handle it in a manner consistent with how we would normally handle these things.

The long way around is it appears Lane Watts did not live at the address where he registered to vote, although he did own the house there. And I recommend that he be bound over to the AG's office on that violation.

I suspect several people will want to speak, Mr. Chairman.

**SECRETARY KEMP:** Mr. Harvey, we've got Ms. Watts listed on the respondents. You recommend nothing there, right?

**MR. HARVEY:** Yes, sir. Dismissal or no violation regarding Ms. Watts.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Anyone wishing to speak? Yes, sir.

**MR. SPARKS:** John Sparks. I'm an attorney at Austin Sparks at 2974 Lookout Place, Atlanta,

Fulton County, Georgia. I represent Lane Watts and Marilyn Watts.

Briefly, this is a dispute between Richard Hobbs, a lawyer in Fayetteville, and the Watts family. It's been going on since at least 2007. For reasons that I don't know, Mr. Hobbs started and continued a campaign of harassment using the law, using Fayette County Republican Party, to do whatever he could use to pursue his personal vendetta.

I got involved in this case in September of 2012 -- in the summer of 2012 when there was a challenge filed on the Fayette County Board of Elections concerning Mr. Watts' residency. Mr. Hobbs was able to obtain subpoenas in blank from that board. We believe the evidence presented was that the board did not vote on granting those subpoenas. Subpoenas were served on Mr. Watts, Ms. Watts, and other people.

We had the hearing and the hearing determined that it was a denial. The Board of Elections in Fayette County denied the challenge. The problem was for us, was the board went on and included superfluous language in that determination. Mr. Watts appealed to the Fayette County Superior Court.

At that time, the county got a new attorney and he and I negotiated a resolution that resulted in a Consent Order and Judgment by the Fayette County Superior Court that determined that the challenge and determination was incorrect and a new determination should be entered simply denying the challenge. This order was entered on August 8, 2013. It was a consent order and not appealed, and I have a copy for the board.

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

**MR. WORLEY:** 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:** We have accepted the document.

**MR. SPARKS**: You would think this would end the matter because the Superior Court of Fayette County has already resolved this issue. But it did not. The Fayette County Republican Party sent a letter to the Fayette County Board of Commissioners nominating a new member to the Fayette County Board of Elections, even though there was no vacancy. The county, of course, had to either accept or deny. They didn't have much authority.

I filed a motion for temporary restraining order preventing the county from proceeding with that nomination. And in that, they were trying to remove Marilyn Watts based on the same allegations heard by the Superior Court.

Judge Hankinson, in Fayette County Superior Court, entered the temporary restraining order, and I have a copy of that for the board as well, if I may approach.

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

**MR. WORLEY**: So moved.

**MR. SIMPSON**: Second.

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We have accepted the document.

**MR. SPARKS**: Again, you would think that would resolve this matter. It did not. Mr. Hobbs -- I'm sorry -- Scott Fabricius, who then was the Chairman of the Fayette County Republican Party, filed a petition, again based upon the exact same allegations that were heard and resolved by the Fayette County Superior Court, again seeking to remove Marilyn Watts from the Fayette County Board of Elections, and I have a copy of that for the board as well.

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

**MR. WORLEY**: So moved.

**MR. SIMPSON**: Second.

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We have moved to accept the document.

**MR. SPARKS**: Significantly, I point out that I deposed Mr. Fabricius. He was the petitioner seeking to remove Marilyn Watts based upon the allegation that Lane didn't live in Gelding Garth. Mr. Fabricius has no personal knowledge, whatsoever, about that, and yet he signed the petition. I've marked everywhere he says, "I have no personal knowledge about that" in a copy of his deposition transcript right here, and I would ask to present that as well.

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

**MR. WORLEY**: So moved.

**MR. SIMPSON**: Second.

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We have accepted the document.

**MR. SPARKS**: Mr. Harvey mentioned the affidavits and the deposition that I submitted to him. He seems, however, to completely disregard them. He said his evidence shows that Mr. Watts did not live there. I don't know if Mr. Hobbs revealed to the investigator the identities of Debbie Heard and Jeff Heard. These are people who have lived in Fayette County a long time. They

present affidavits, sworn testimony, that they spent the night at the house on Gelding Garth and Mr. Watts was in the bedroom next door. He was living there. No one apparently told Mr. Harvey about the identity of these folks until I told him just recently.

I have their affidavits here for the board.

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

**MR. WORLEY**: So moved.

**MR. SIMPSON**: Second.

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

**MR. SPARKS**: The witnesses listed in the report from the investigator include Keegan Overton. Keegan Overton was a friend of Lane Watts, and Keegan Overton, in the litigation that's pending, provided an affidavit. He, of course, says that he never lived at Gelding Garth and he says that Lane Watts didn't live there.

However, I point out to the board an item that apparently Mr. Harvey did not notice, and I told him about it recently. Keegan Overton admits in his sworn affidavit that he filled out a voter registration saying he lived at Gelding Garth and never lived there.

The question I have is why isn't Keegan Overton sitting out here being investigated when he swears that he filled out a false registration.

May I present that affidavit to the board?

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

**MR. WORLEY**: So moved.

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

**MR. McIVER:** Second.

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries.

**MR. SPARKS:** The last document I have is the final determination by the Fayette County Board of Elections. This is the one that was signed after the consent judgment was entered by the Fayette County Superior Court. It simply denies the challenge without superfluous language in it, and I submit that to the board.

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

**MR. WORLEY:** So moved.

**SECRETARY KEMP:** 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:** We have accepted this last document.

**MR. SPARKS:** I think what we have here is the latest step in a vendetta that's been going on since at least 2007. It is a personal war between Mr. Hobbs and the Watts. It has nothing to do with elections. It has something to do with the relationship between these parties. I don't know what that relationship is. I don't know why it fell apart. But I don't think it's proper what's going on here.

There are currently two lawsuits pending concerning this matter. There is a defamation lawsuit Mr. Lane Watts has filed concerning some allegations that were published by various members of the Republican Party in Fayette County accusing Mr. Watts of perjury. We believe that letter was written by Richard Hobbs. He didn't sign it, but we believe he wrote it and it was published by other people. We filed a defamation action against the people who signed it.

There is also the petition to remove Marilyn Watts as a Board of Elections member of the Fayette County Board of Elections. Again, they are all based on the exact same allegations.

I believe that the matter is not proper here, and we have testimony from other people. And I believe what you'll see is that, again, this is simply a vendetta.

And I believe Mr. Watts is here to explain his move to Peactree City.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Thank you

**MR. WATTS:** Good morning, Mr. Secretary and members of the board. My name is Lane Watts. I reside at 201 Patricia Lane, Fayetteville, Georgia.

I cannot not improve upon what my legal counsel said. But I would like to add one thing contained in Mr. Harvey's preliminary report was that the allegation that I moved from the Third District -- from Patricia Lane to Gelding Garth to maintain some kind of power or control I had in the Third District. As chairman of the Fayette County Republican Party during this timeframe, I would have had the same amount of power whatever Congressional district I lived in.

Also, another allegation made was that I did it because I was trying to gain some power and because the Governor had signed the redistricting bill in that period, September of 2011. My moving had nothing to do with redistricting. I simply wanted to move to a house I had owned since 2003.

So I ask for your consideration, members of the board.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you. Anyone else?

**MS. WATTS**: Good morning. I'm Marilyn Watts. I'm Chairman of the Fayette County Board of Elections. I reside at 201 Patricia Lane, Fayetteville, Georgia.

I want to reiterate that this is a personal grudge that's been going on since 2007. Mr. Hobbs protested the county convention and the district convention on to the State in 2007. He was denied at each time. Then in 2012, he filed two entirely separate actions to try to remove Lane Watts as chairman of the Fayette County Republican Party, both of which failed.

Then he challenged Lane's residency to the Fayette County Board of Elections, which was denied. And now they've filed a petition to remove me.

He has been denied at everything he's filed and tried to do, but yet he persists.

As far as me being a respondent, in January I received a letter saying I was a respondent in this case, and see attached. But there was nothing attached. It took a phone call to Secretary Kemp for me to get what the findings finally in May, and the findings were dated July of 2013. So the case had already been investigated without ever contacting me in any way, whatsoever. I did not have an attorney at that time; didn't think I needed an attorney because I didn't know I had a challenge.

I noticed on the list of witnesses there are two people that know absolutely nothing about Lane or his residency. Yet there are no witnesses that know about his residency. So I don't think this was a thorough investigation and I don't see how they could conclude that he didn't live there without ever talking to his witnesses.

That's all I have to say. Any questions for me?

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

**MR. McIVER**: Ms. Watts, how long have you served as an election official?

**MS. WATTS**: Since 1998.

**MR. McIVER**: Thank you for your service to Fayette County.

**MS. WATTS**: Thank you.

**SECRETARY KEMP:** Yes, ma'am.

**MS. MANGAN:** My name is Jean Mangan. I am currently practicing with Mr. John Sparks. The address is 2974 Lookout Place, Atlanta, Georgia.

I would like to address the issue of determination that has been made in this case already.

Mr. Harvey did allude, or did state that the board had a hearing and they were to determine if Mr. Watts was properly registered. That determination was made. As Mr. Sparks said -- that's in your Exhibit 1 -- that was signed August 8, 2013. You will see that's two weeks after this date of the report issued by Mr. Harvey that we have been provided. This resolution did occur afterwards.

If you look at Exhibit 1, look at -- well, let's start here. This is a Consent Order and Judgment. One of the purposes of a Consent Order and Judgment, there is a reason we have settlements. It's in order to resolve cases without having to go through the entire process of litigation. It was referred to earlier that there is a substantial work load for the AG's office. There is also a workload for the whole judicial system.

One of the ways that we practice judicial economy is by ensuring that when parties reach a resolution, that resolution is honored. I have a case cite for you. It's *City of Demorest vs. Roberts and Dunahoo Properties*.

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

**MR. SIMPSON:** So moved.

**MR. WORLEY:** Second.

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries.

**MS. MANGAN:** This case is not the only case pulled. I just thought it summarizes very well the position here.

It states in the case such compromises are upheld -- talking about a settlement agreement that was reached between the city and a construction company -- such compromises are upheld by general policy, as tending to prevent litigation, in all enlightened systems of jurisprudence.

So there is a preference, a heavy favoritism, towards accepting these consent orders and judgments that, for instance, have been entered because of what they do.

Another thing that is brought up is, well, okay, how do you know what the intent of the parties is? And that case will go on to say that while the cardinal rule of construction is to determine the intention of the parties, no construction is required or permitted when the language employed by the parties in the contract -- a settlement is a contract -- is plain, unambiguous, and capable of only one reasonable interpretation.

I would ask that you look at the first document presented by my co-counsel, the Consent Order and Judgment.

If you look at paragraph 2, it states that the purpose of this Consent Order and Judgment entered into was to resolve this litigation. It further goes to say that a material part of resolving this litigation, in paragraph 3, was an order to modify the determination to show appropriately what the facts were they were saying had occurred; what determination had been made.

In paragraph 4, which is where the Judge orders what had occurred, particularly in what I've labeled subpart (D), is the third item that has been decreed ordered and adjudged, is that all issues raised in this appeal have been satisfied in their entirety by the parties, and this Consent Order and Judgment operates to completely resolve all issues brought forth in this appeal.

Attached to the Consent Order and Judgment you'll see an unsigned determination that was subsequently signed and that signed document has been provided to you labeled as Exhibit 8.

The pertinent part there is that there's factual findings that are presented that are, without passing judgment on what fact occurred, that Mr. Lane lived at Patricia Lane; he moved to Gelding Garth; six months later he moved back to Patricia Lane.

The finding that is in that determination that is signed by the Fayette County Board of Elections is that having heard evidence presented, the board determined that the challenge must be and is denied.

Something that has also been brought up previously in the hearing today is talking about conflicting reports. My understanding is that it's the position of the board that when there are conflicting reports, simply a he/said, she/said, that y'all prefer to bind them over.

However, this is not just a he/said, she/said case. This is not just a war of affidavits. There has already been a determination made in this case that has been consented to and has been signed by a Superior Court Judge as of August 8, 2013. The finding of facts and the weighing of the truth has already been performed in this case.

At a bare minimum, the fact that Mr. Watts did not falsely register, did not register to vote fraudulently, has to be taken as true because those facts have already been accepted, consented, and have been enter in a court. That is what the facts are.

By allowing this case to go forward, it would essentially say this doesn't matter; that the weighing of the facts that has already been done and already been found doesn't matter. And that defeats the purpose of being able to negotiate, being able to resolve, and I believe Mr. Sparks has certainly shown that these facts have been gone over again and again, and no one is buying them.

I would respectfully request that at the end of y'all hearing all of this evidence, that y'all would move to dismiss this case and allow Mr. Watts to proceed forward with his life unencumbered by these very poor charges.

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

**MR. McIVER:** Following the consent decree, the Fayette Republican Party then petitioned the Court in a novation, or new matter, altogether.

What was the response of the Watts at that time? What did they do by way of answering that petition?

**MS. MANGAN:** I would have to allow Mr. Sparks to speak to that.

**SECRETARY KEMP:** We'll certainly allow Mr. Sparks to speak.

**MR. SPARKS:** Ms. Mangan wasn't with me at the time. I wish she was.

What happened was we got the temporary restraining order preventing the County Commission from hearing the nomination of this new person. The TRO was entered.

Subsequently, the petition that you have was filed by Mr. Fabricius and that matter is still pending.

**MR. McIVER**: But what was your response to the petition? You had a certain amount of time to answer.

**MR. SPARKS**: Oh, yes. We answered it. It's frivolous. There is absolutely no basis.

**MR. McIVER**: Did you move to dismiss? I mean, what did you do?

**MR. SPARKS**: It's an odd situation. It goes only before Judge Hankinson. We are in discovery the period right now. We are gathering information, we're taking depositions. I took the deposition of Mr. Fabricius; I've taken -- planning the deposition of the Heards. Our position is, number one, there's no credible evidence to say he was not living there. In fact, the evidence is absolutely overwhelming that he was living there.

Secondly, is that it's been resolved. There is no reason to have this matter before the court.

**MR. McIVER**: Counsel, it sounds like you're turning a little bit here to me. Respectfully as I can, let me put it this way. When they file a petition, why wouldn't you cite the consent decree and move to dismiss? Why is discovery necessary? Why do the lawyers have to churn this thing some more? She speaks of judicial economy. I very much agree with that concept.

**MR. SPARKS**: Yes, sir.

**MR. McIVER**: We give up our days here as practicing lawyers trying to make sure of judicial economy, or at least administrative economy, in this process.

**MR. SPARKS**: Here's why.

**MR. McIVER**: Do you have an easy way to get rid of this?

**MR. SPARKS**: I don't believe there is an way. He's presented affidavits from Keegan Overton, an affidavit from Keegan Overton, who is now, I believe, in the Army. That affidavit -- Keegan Overton provided an affidavit which says that Lane Watts wasn't living there creating a question of fact, I believe, that we have to counter with facts.

**MR. McIVER**: Well, look, you're the representative of your client. It occurs to me we've not gone down the most efficient road possible.

**MR. SPARKS**: Perhaps.

**MR. McIVER**: So this matter reaches us so we can do something we're supposed to do.

**SECRETARY KEMP**: Mr. Simpson.

**MR. SIMPSON**: I'm confused about one thing. What is the jurisdiction of the local election board? The matter would have been subject to the jurisdiction of this board. What gives -- what statute gives the local election board any jurisdiction in this matter at all? And if it had no jurisdiction at all, the Superior Court order is void.

Tell me where the jurisdiction -- how jurisdiction is grounded in the local election board?

**MR. SPARKS**: I believe -- and I can't cite the statute; I apologize -- under Title 23, I'm sorry, 21, there is a procedure for an elector, the voter, to challenge another person's registration. There is a procedure set forth in that that allows the county Board of Elections, they call registrars in the statute, to hear --

**MR. SIMPSON**: Where is that?

**MR. SPARKS**: I apologize. I don't have the citation with me.

**SECRETARY KEMP**: Ms. Ford, does any of your team happened to know where that is?

**MR. HARVEY**: 21-2-229 speaks about -- that's the challenge. 228 is the examination rights of appeal. 229 and 230.

**MR. SIMPSON**: As I look at the statute, that would have to do with a challenge to the registration.

**MR. SPARKS**: Yes, sir.

**MR. SIMPSON**: Would the criminal matter be subject to another investigation? I mean, this only deals with the limited issue of the challenge to the registration. It does not have to do with the legality of the registration, itself, or the violation of the statute which precludes false registration.

**MR. SPARKS**: Our position is that the board made the determination of the facts, and those facts have been determined and concluded by the Superior Court of Fayette County. If those facts would result in a criminal charge, they are still the facts that have been resolved.

Here, the facts, as they've been resolved, do not result in charges.

**MR. SIMPSON**: Well, you can try a civil case and try a criminal case. One is not binding on the other. That seems to me where we are. We've got a civil matter of whether or not someone was properly registered. And then you've got a criminal matter of whether or not somebody falsely registered.

**MR. SPARKS**: Perhaps.

**MR. SIMPSON**: Seems like we're dealing with two separate issues. I don't think -- that's what I'm struggling with is you're telling us that your position is that the Superior Court order is res judicata and we can't proceed. That's which are telling us.

**MR. SPARKS**: Yes.

**MR. SIMPSON**: Thank you.

**SECRETARY KEMP**: Any other questions for counsel?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you Mr. Sparks. Who's next? Yes, sir.

**MR. HOBBS**: Richard Hobbs; 205 Tinsley Mill Road, Peachtree City, Georgia.

There's a lot of issues here, and there's a lot of complications. I'm here to answer any of your questions. This is very confusing. The whole case is confusing. But confusion benefits the Watts and that's what they're wanting to do, which is why, after 18 months of investigation, they don't provide us any affidavits or any evidence until the day before this hearing.

Confusion has helped them from the beginning. So I'll tell you the story and it will help fill in the gaps of what has been going on.

In February of 2012, I was called by several people from the Republican Party. I hadn't been involved in politics for years; didn't want to get into it anymore. It's nasty stuff. I don't like it. I was told that Marilyn, who was part of the party, had been going around looking at voter elector list of people coming to vote. She was looking at Ron Paul voters and seeing whether or not their proper registrations were correct and somebody got wind of this.

One of the Ron Paul people went up and said, wait a minute, Marilyn. You're trying to knock off our people? Your own son doesn't even live where he says he lives. He's been living with you the whole time. Immediately, she backed off.

They go to the convention. Steve Brown, the chairman of the board of Fayette County, approaches Lane at a hearing and says, Lane, you don't live there. He says, oh, oh, oh; I moved back home recently. So he said he moved back home in February at that hearing.

Later we find out he changes his registration. But I want you to go back in time to understand how ridiculously funny and silly and shameful this is.

In September of 2011, Governor Deal signed a bill redistricting. Now, Lane Watts has lived with his mother his entire life. I've known them since '81, I suppose. He's lived there the whole time.

They brought a witness in last week, an 80-year old woman with a heart condition who couldn't go through the deposition; doesn't even remember her own attorney; doesn't know where Lane's lived for 40 years, but gave a testimony in an affidavit the he lived there. She's known him for that many years and didn't know he lived with his mother for 40 years, or thirty-some years.

So in September, we provided an affidavit from Keegan Overton who lived Marilyn, who lived with Lane, at their home on Patricia Lane. Keegan Overton had come into the party some time before, and because of his associations with Marilyn and with Lane, he was allowed to learn how to get into the business of politics and was on the Third District.

So when they changed everything around, when they moved the lines, Keegan Overton couldn't maintain that particular position and Lane wanted to have (unintelligible). Lane had been on the board many times in the Third District. It was important to him for whatever reason. I thought it was ridiculous, but that's what they chose to do.

If you read Keegan Overton's affidavit, which I have a problem with how Chris is defining some of these things -- excuse me -- Mr. Harvey has defined these things. Keegan said Marilyn and Lane worked with me about changing my registration to that and he said I wanted to move there. I was living with them. I wanted to go to this other house. But they had three renters in there and I didn't understand how they were going to do this.

So this all of a sudden has come to our attention, and we're going, my I goodness. You got your hand in the cookie jar.

So we went to them and said, hey, you've got all this. You gotta get out of here; you gotta

resign. I mean, this is ridiculous. But he wouldn't do that. He just kept on going on. So we filed -- he fought it all the way until August.

Well, I filed a challenge. Let me tell you what they did during this challenge because this is the kind of stuff that's embarrassing for this kind of stuff to go on.

I filed a challenge. What do they do? They go behind my back and they appear before the board on their own and they challenge themselves. Lane Watts challenges himself, and found that determination, what they're trying to do today. They found the determination that his records were in order that day. Nobody was there to object to it.

So they filed that motion with the Court to try to keep us from going before the Board of Elections. So they filed that motion, and that's where they got me. I made a mistake at that point. I filed a response.

I said, listen, according to the law, when you didn't really move from the home with your mother, you were no longer an elector at that time. Since you became, or you re-filed in February or March and said I'm living back with my mother, you didn't provide proof of residency. You didn't provide that. You don't have to do that normally if you're moving from one residence to another. But if you ever get into a status of where you are not a qualified elector, when you re-register, you have to show proof of residency.

So I brought that before the board in a motion. Sure enough, a week later, Lane appears before the Board of Elections and he provides his passport. So just a few days before this hearing he comes before the board and provides the last tidbits of information. I subpoena everybody and their son to get there.

Now, here's what -- I don't know how some of this was missed. But we asked for subpoenas. We go before the board. Tom Sawyer is there; Ms. Watts is there; everybody's there. They allow them to be issued. We go through the procedures. What did they do? They file a motion with the Superior Court to have them thrown out.

Now, how do they do that? They get Ms. Watts to sign an affidavit saying they never had to vote on it. We had to get Tom Sawyer -- somebody got Tom Sawyer to sign that affidavit saying, yes, we did. We had to provide the minutes of that hearing to show that, yes; they did vote on this. They were trying to keep the subpoenas out because we subpoenaed Lane; we subpoenaed Marilyn; we subpoenaed all of these friends they said they had. We subpoenaed and asked them to produce any records that showed anybody lived there. Show us the leases of the three people that we brought to court, that came to this hearing we, that testified under oath that they lived there. They didn't even know who Lane Watts was. They knew who Marilyn was, but they

didn't know who Lane was.

So to try to quash these subpoenas, Marilyn signs an affidavit on behalf of her son and then accepts service on behalf of the Board of Elections waiving civil defenses. She is assisting her son to quash the subpoenas from her own attorney.

Coincidentally, she then hired Mr. Sparks to represent her and he advised them not to testify; to ignore the subpoenas. Now, they can listen to the advice of her counsel, but she is a member of the Board of Elections. She was subpoenaed by her board to come to court. She chose not to come. I don't care what her attorney says. That subpoena was valid. She ignored it.

She filed an affidavit denying what Mr. Sawyer had signed and the minutes said, and she signed an affidavit in acknowledgement of service furthering this ridiculous attempt to thwart justice.

I go to court that day and Ms. Peggy Perkins, who showed up here in an affidavit today, was there. I gave her a subpoena. She went over to Mr. Sparks and he said, I have retained her as my client -- I've been retained by her, and I am advising her to leave. She's not going to be testifying today.

This is the stuff we've been dealing with.

So, of course, the board listens to all of this and they look at it and they say, well, shoot. Just last week he brought us a passport. So technically, as of today, as of this moment, it appears to be in order and we don't really have the right -- if you read the original order -- we don't have the right to go back and challenge something that's already been taken care of. We don't have that opportunity.

So that is what they ruled upon. They said we believed the credibility of these witnesses and we referred it over to the District Attorney.

Well, then here they come again doing something I find very questionable. They filed a motion to appeal. Did they tell me about this? No. Am I served papers with this? No. Did I know anything about this attempt to change the very challenge I brought in the determination? No. I didn't find out about this until six or eight months later after everybody had been taking care of. I'm not on any of the pleadings. He never served me with these papers. This is the way -- this is what we've been fighting.

So they can say this is personal agenda. Fine. I was on the Board of Elections. I resigned because I refused to work in that sort of environment where this kind of stuff is going on. I walked away. But I can't stop and not stand up when people come to me and say it's continuing

to happen.

So, yes, you didn't find determination that Marilyn did anything wrong. I say she did. She wasn't allowed to accept service for her own son's case; she wasn't allowed to file affidavits which were in direct violation of the facts; she was supposed to answer the subpoenas. Tell us, Marilyn, where is the leases for these three people? You won't provide it to us. Show us where they moved out. Shows these things. Show us that he has changed his driver's license. Show us a utility bill from that particular area. Show us anything other than a couple of people who were dear friends.

Ms. Perkins says she's known her all of her life. She loves her; she is the most wonderful woman in the world according to Ms. Perkins. She didn't even know her attorney. She said, I just met him here the first day. Well, she had forgotten she had hired him two years before. So, I mean, she was just -- admitted she did remember much.

And the Heards, that's the first time we've heard of the Heards. We -- they get to testify the first time. They've been given all this opportunity. They have given no evidence at all and then they have the audacity of Lane Watts filing a defamation suit against the people who said he did exactly what he did. I will say here today, you filed a false affidavit. Sue me. I've said that here. If that's defamation, sue me.

That's what they're doing here. They're using all of the processes, all of this hearing detrimentally. And we don't need Board of Elections numbers to behave this way. Come on, guys. She shouldn't have done all these things, and she's been thwarting it from the very beginning. Even today, no evidence other than a couple of superfluous people saying he lived there. You didn't Marilyn say he lived there. You didn't hear her contradict anything Keegan Overton said. He didn't hear her contradict anything. No. Because she knows it's the truth.

So I would ask you, for God's sake, Lane Watts should be bound over. But Marilyn Watts should not be on the Board of Elections. She should be fined for her behavior or removed, if at all possible. If not, I'm moving forward on the matter before the Superior Court.

But all this other stuff, this consent judgment that they did not my back, that was against Lane. That wasn't against Marilyn. Marilyn was assisting him, which she shouldn't have. She should have recused herself. She has an ethical duty to do that. But I didn't hear any of that coming down here today. So I'm embarrassed that didn't come forward.

So I'm asking you, again, if you've got any questions about the particulars, I'll tell you. But there is underhanded stuff being done here. You need to know the truth, not with these wonderful written briefs are saying. But what the actual facts are.

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

(Whereupon, there was no response)

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

**MR. FABRICIUS:** My name is Scott Fabricius. I reside at 760 Birkdale Drive, Fayetteville, Georgia. I am the Republican Party Chair for Fayette County.

**SECRETARY KEMP:** Mr. Chairman, if you don't mind, would you spell your last name?

**MR. FABRICIUS:** Sure. F-A-B-R-I-C-I-U-S.

Let me say this right from the start. This is not vindictiveness. This is an attempt to clean up the Board of Elections of Fayette County. Let me explain why.

You've heard a little bit of the background on this -- I'm going to be very brief -- I just want to give you an update so you can clearly understand what we're talking about here.

Ms. Watts appointed by her son to be the Republican Party's representative to the Board of Elections. As soon as he was out as Chairman, the executive board and the county committee voted overwhelmingly to remove her as our representative to the board because she had brought disgrace and dishonor to the Board of Elections of Fayette County.

Hardly a meeting goes by where I'm not questioned by people coming up to me saying, why is Marilyn still allowed to be on the Board of Elections? And I have to tell them, first the District Attorney was investigating them; now the Secretary of State is investigating. Thank God we came before a hearing today to finally get this before you because it's dragging on much too long.

Indeed, after the Fayette County Republican Party voted to immediately remove her, we asked the board of county commissioners to get involved and honor that request. They had it on their agenda and were planning to do so. But on the eve of that meeting, Mr. Sparks, their attorney, filed a motion for a temporary restraining order to keep the county commission from going forward and removing her as our representative on the Board of Elections.

There is no question that improper and illegal conduct was involved in the voter registration submitted by Ms. Watts' son. The Board of Elections conducted a hearing and found specifically that the un rebutted testimony of three witnesses was credible and found that based upon this

evidence, the board found it had an ethical obligation to report the matter to the District Attorney for further consideration. That is a quote from the first determination that we have for you.

The only reason it was changed -- they didn't give you that. What they gave you today was the second one which was changed, again, as you heard from Mr. Hobbs, without any notice to any other party to make an objection to that change.

But, again, remember what the determination was. The determination was they heard through the sworn testimony of the witnesses and found it was credible, and found they needed to go forward with an investigation by the District Attorney.

In addition to that, even after the hearing, a further affidavit has been provided to you and to Mr. Harvey from Mr. Keegan Overton, to his own detriment. Mr. Sparks would have you say disregard that affidavit because he, himself, admits that he filed a false affidavit -- a false registration with the Fayette County Republicans -- Fayette County Board of Elections. He was being honest. To the extent he might even be subject to some type of prosecution, he, himself, still came forward and honestly prepared an affidavit which set forth -- which has not been in any way rebutted -- saying that not only was he filing this false affidavit -- false registration along with Lane, but that Ms. Watts, the mother, knew about it.

Even when he questioned her about it, she said, oh, I'm very familiar with the procedures. I sit on the Board of Elections. It's okay. Lane owns that house. That's not sufficient, and she knew it wasn't sufficient. These are reasons that require her to be the one that is bound over.

What is further enlightening, as you heard, is that on the eve of that hearing, Lane Watts changed his registration back again to the address of his mother's home. Think about this. Here is someone who knew that if he changed it back at that late hour, the Board of Elections couldn't fine him or do anything to him because at that particular moment when the hearing came before them, he was properly registered at that point. But that doesn't take away from the fact that for the period of months before that where he claimed to live in that new address, he, in fact, did not live in the new address, an address that even his mother knew was not the right one.

Those actions, themselves, require the immediate withdrawal, or discharge of her from the Board of Elections for being involved in something like that.

Let me say this. As an attorney, I'm told I have to be at a higher -- treat everything at a higher level; that I am to avoid even the appearance of impropriety. I suggest to you that someone who is on the Board of Elections has even a higher duty to avoid even the appearance and to create a situation where there is no distrust for anyone involved in the voting process. But that is not what we have here.

Even if you felt there was some question as to whether or not Lane Watts lived at that other address, this is not a he said/she said. Again, it is unrebutted testimony from the people who testified.

But even if you felt that was the case, what is totally rebutted and under no dispute are her actions in thwarting the efforts of the board to get to the bottom of that issue. She had an opportunity to speak at the hearing. She knew what was going on. She knew where her son lived. She did not show up to testify despite the fact that she had been subpoenaed to testify. She chose not to help the board out. She chose to obstruct and disrupt their activities by not coming forward to testify as she knew despite the fact she had a subpoena.

She hired an attorney, again, a conflict of interest. She hired the same attorney who was representing her son in that matter to file a motion to quash the subpoenas. Even when that motion failed to court, she still refused to go forward and adhere to that subpoena and testify.

When people do things like that, it does, obviously, reflect in a negative way on the integrity of the whole voting process. Perhaps one of the most important rights we have as citizens is our right to vote. When there's doubt cast upon the integrity of the whole process, that needs to be adjusted and that needs to be changed immediately.

Not only did she refuse to testify at that hearing, not only did she refuse to comply with the subpoena, but there was another person there who also failed to comply, a person by the name of Peggy Perkins. And that name will come up again in just a moment.

But she also refused to testify at that hearing. So what was heard at that hearing was totally unrefuted. If they had any evidence at all to support that Mr. Watts lived at that address, they could have come forward at that time.

Even today, we continue to ask for any piece of evidence that shows he, in fact, lives there. Show us a driver's license change that is mandated by the State of Georgia indicating a change of address; show us a utility bill which demonstrated that he lived at that address. They have not provided anything because there is no such evidence to be provided.

Now, while it is understandable that a mother might not want to testify against her son, that does not override the oath that she took to carry out her responsibilities under the Constitution of the State of Georgia to faithfully adhere to the requirements of the person who is sitting as a Board of Elections member.

Now, again, we hear finally, on the eve of this hearing today, Peggy Perkins, the same woman

we talked about, 40-year-old friend, 40 year relationship with the Watts, who comes in and testified that she believed he lived there. She opined he lived there because she supposedly remembers visiting him there a couple of times.

But on cross-examination, if you look through the deposition, she admits that she really does not know where he lived during that time. It's her opinion that she thought he lived at that location.

There again, there is nothing in the record which shows the testimony given at the hearing has, in fact, been refuted.

One can only wonder now why Ms. Perkins would testify today when she waited over two years; when, in fact, she was at the hearing and left and wouldn't even honor that subpoena

I ask that the State Election Board restore dignity to the Fayette County Board of Elections and take all necessary steps immediately to effectuate the removal of Ms. Watts from the board.

Thank you.

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

**MR. WORLEY:** I have a question. I'm having a hard time understanding what you all contend motivated Mr. Watts to falsely register in Peachtree City. Why did he do that?

**MR. FABRICIUS:** I can give you my opinion; that's all it would be. But I can tell you what I think it is.

I think that, yes, he could have still remained on the Third District in some capacity as a result of being Chairman of the Fayette County Republican Party. But that was coming to an end very quickly. He was not going to be reelected that position. In fact, even his successor, so to speak, the person who was his vice-chair, was overwhelmingly defeated at the following election.

My suggestion is even though he could have maybe stayed in the Third District as being a member because of his holding the position of Fayette County Chairman, he certainly wouldn't have been able to stay on not living in that particular district to hold any other position.

**SECRETARY KEMP:** Any other questions?

**MR. McIVER:** Do you think we have the authority to replace a member of the BOER in any particular county?

**MR. FABRICIUS:** I don't think so, to be honest with you. And that's why I've asked you to

take the steps that are necessary to effectuate that removal. If that means binding her over for further investigation by the AG's office, I'm all for that because I think it's a shame that we have to live with that cloud, not just over the Republican Party, but over the whole Board of Elections for people wondering what's going on with people like that serving in that capacity.

**MR. McIVER**: Counsel, why would you ask us to do something we don't have authority to do? Why would you confuse this process?

**MR. FABRICIUS**: I'm not trying to confuse the process. I'm just saying to you that if it is bound over, I think that ultimately that decision can be made. We are, as we've indicated already, we do have a lawsuit pending now to remove her for cause and we think we'll prevail on that.

But that does not mean there aren't other avenues to be approached. And I think that further investigation by the Attorney General will indicate that, in fact, she does deserve to be removed from office.

**SECRETARY KEMP**: Any other questions?

(Whereupon, there was no response)

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

**MS. MANGAN**: My name is Jean Mangan. I'm with Austin & Sparks.

Before I came back to civil practice, I practiced -- I was an Assistant District Attorney. Mr. Simpson has brought up we're looking at a potentially criminal matter. Is there an intent here. Something that has also being brought up, I believe by Mr. McIver -- Mr. Worley, actually, I believe -- is what evidence has been presented that there is any kind of criminal intent here?

The two possible violations that are stated by Mr. Harvey require a knowing or a willful intent. There has been nothing presented that there is any kind of criminal activity here. We need a preponderance of the evidence in order to go forward. Mr. Fabricius's opinion or suggestion alone is not sufficient in order to prove that.

A criminal case requires an actus reus and a mens rea. There has been plenty of argument that there is potentially an actus reus present here, but there is no basis for a mens rea to support a criminal case even by a preponderance of the evidence being bound over for a criminal matter.

I just wanted to take a little bit of emotion out of this and try and get back to the facts at hand,

which is should this be bound over under the proper standard.

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

**MR. HOBBS:** Again, to reaffirm, Ms. Watts did not get up here to testify under oath to anything denying any of these allegations. She has yet to give any testimony under oath denying any of these things.

Waiting 18 months before you do anything about this case -- let me just tell you. Last week during the deposition, I called Chris on the phone because they brought this 80-year-old woman who has a heart pacemaker, who had to get up and leave on several occasions; she didn't that she can make it through it. And I wondered why they were doing this deposition until the very end. And that's when he asked, did Chris Harvey ever call you and ask you about anything you knew about this? And that's when I knew. They wanted to bring forth evidence that Chris had not done his job; Chris had not asked people that they had.

That's the only reason they brought this particular deposition because Chris' investigation had nothing to do with the Superior Court matter. None at all. But he deliberately did that just to be able to put on the record and get up here and say, I told you so. That's why the only reason you got affidavits today was because during that deposition, I brought it to their attention with Chris Harvey on the phone. And I said here's Chris telephone number. He wants to talk to you. He has called you repeatedly.

Mr. Harvey, how many times -- I would ask you this. How many times did Mr. Sparks offer any testimony --

**SECRETARY KEMP:** Mr. Hobbs, we'll do the question asking. Thank you.

Anyone else have anything to add?

(Whereupon, there was no response)

**SECRETARY KEMP:** Any discussion among the board?

**MR. McIVER:** May we ask Mr. Harvey again just so that -- I'm confused about his -- what his recommendation is? And then, Mr. Willard, I'm going to ask if the Law Department would like to log in before we do what we are constitutionally required to do.

**SECRETARY KEMP:** Mr. Harvey, anything you want to add?

**MR. HARVEY**: My recommendation is that Lane Watts be bound over to the AG's office for 21-2-565, false registration.

**MR. McIVER**: Any recommendation with respect to Ms. Watts?

**MR. HARVEY**: I didn't find evidence that she's liable to be bound over for a violation of the election code.

**MR. McIVER**: She should be dismissed?

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

**SECRETARY KEMP**: Mr. Harvey, do we know where Keegan Overton is?

**MR. HARVEY**: I don't know where he is right now. His affidavit was provided by Mr. Hobbs, and upon reading his affidavit, he talked about the plan to move to that house. But I believe Mr. Overton left before Mr. Watts actually registered to vote there, or around that time. I don't know whether Keegan Overton -- I know Mr. Overton says he never lived in the house with Mr. Watts.

**SECRETARY KEMP**: Have you ever talked with Peggy Perkins?

**MR. HARVEY**: Yes, sir. I spoke with her on either Thursday or Friday of last week. She called me after the deposition with Mr. Sparks and Mr. Hobbs.

Her testimony was that she had visited Lane Watts twice at the house in November or December of 2011. She assumed that he lived there. She said she had heard from an unknown source, or possibly could have been Ms. Watts, the Lane had moved to that address. So when she visited twice, she said that it had all the appearance that he lived there in the sense that he opened the door, and . . .

But she just sat in his living room and they discussed some rules that he had provided to her, which is about all she knew. She was questioned pretty extensively and she said, you know, I never went into the -- never went through the house and saw if he had clothes in the closets or drawers. I don't think it was an issue in her mind. Somebody invites you to a house and they open the door when you knock on the door, she just assumed they live there, as I think many people would make that assumption.

The difficulty, or the contradictory evidence in that, which, as Mr. Hobbs pointed out, was in the hearing, where these people that actually lived there during that time, was that, look, we're there every day. We don't know who this guy is.

There is a difference if Mr. Watts owned the house. Whether he could have visited from time to time between tenants or with tenants being gone, we don't know. We asked, through Mr. Sparks, for a statement and have not gotten anything from Mr. Watts regarding evidence that he lived there.

**SECRETARY KEMP:** Are you familiar with the continuing legal issues or court cases that are going on in the county?

**MR. HARVEY:** You know, I have just sort of background knowledge about those things. I don't think those matters have anything to do with this specific issue. I think those are -- Mr. Hobbs' allegation Ms. Watts did things improperly as the Board of Elections person may have impact at a challenge hearing or a contest for her to stay on the board. That might be a board issue determined by a Superior Court Judge in Fayette County.

But our investigation, as far as whether she didn't honor subpoenas or something like that, I don't think that violates the election code.

I am not an attorney so I can't speak to all the documents that he gave you and a complete understanding of all the different challenges going on with the suits and pending suits and countersuits. We tried to stay pretty focused to the allegation that Lane Watts improperly registered to vote. We disregarded all the obvious personal animus and any political machinations. Like I said, we try to call balls and strikes and looked at just the facts that were presented; the evidence that he did not live there at the time he registered to vote.

And that's why I make the recommendation it be bound over.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Any other discussion among the board?

**MR. McIVER:** I asked Mr. Willard if the Law Department would like to log on with any advice.

**MR. WILLARD:** Any specific aspect, Mr. McIver?

**MR. McIVER:** I'm inclined to think that we should send this back to Mr. Harvey for further investigation from all that we've heard here today. But you are the gentleman that would have to

try this case on our behalf.

**MR. WILLARD**: Mr. McIver, I appreciate that. I will say, as I have advised the board previously, you don't send it over to our office for further investigation when the case is fully concluded with its investigative purpose as far as the board is concerned before you send it to our office.

That being said, I have not seen the material that was presented today. I know what Mr. Harvey is saying about what their investigation has concluded up to this point. It's up to the individual board as board members to determine whether or not they think an additional investigation is appropriate or whether they are prepared to dispose of the matter or refer the matter today.

I don't -- I can't advise the board on what your individual conscience dictates you should do in this matter.

**MR. McIVER**: If we were to bind this over, are you ready to try it as you've heard it?

**MR. WILLARD**: I will say the difficulties in this case, Mr. McIver, I believe what Mr. Sparks and his co-counsel were attempting to argue is that the Board of Registration and Elections is given the responsibility under the code to determine the accuracy of a voter's registration. As Mr. Hobbs pointed out, though, the limitation of that is they are looking at it in a window in time on the date and time the challenge is heard whether an elector's registration is valid at that point in time.

In this instance, you have allegations that there were fraudulent statements made prior to that challenge that had subsequently been altered by the change in registration by Mr. Watts back to his mother's address. That would give rise to a viable case that we could take forward if the allegations could be proved.

I will say that it is going to be a difficult case, whether it's at the current stage of investigation or whether the board sends it back for additional investigation, given the fact that it is a knowing and willful violation; given the fact that you look to the voter's intent in registration to determine the appropriate residence address.

I don't know whether Mr. Watts would be able to establish that he had ever resided there or that he intended to return to that residence if he had, in fact, resided there.

I will say, and I think the board is cognizant of this based upon what they have heard today, this is not going to be an easy case to try or to prove.

**MR. McIVER**: Thank you.

**SECRETARY KEMP**: Mr. Worley.

**MR. WORLEY**: Mr. Willard, I just want a little more clarification on this, your view that the argument that Mr. Sparks and Ms. Mangan put forward that the Superior Court determined that Mr. Watts had not filed false information on his voter registration form. Is that going to be dispositive?

**MR. WILLARD**: Mr. Worley, I haven't seen a copy of the order. It has not been provided to me.

I will say to the extent that the Superior Court did anything beyond determining whether or not an elector was entitled to stay on the list of qualified electors, was beyond the scope of the matter before the Superior Court.

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

**MS. SULLIVAN**: I have a question for Mr. Harvey.

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

**MS. SULLIVAN**: Do you believe you would benefit -- that you would need to do further investigation; that you have not satisfied the investigation?

**MR. HARVEY**: I actually don't. I believe we've got -- there is convincing evidence from the people that were living there. If Mr. Watts and Ms. Watts wanted to provide evidence for us to consider, that may change the story. But on two occasions Mr. Sparks has not provided information. That may change. But, of course, that is their prerogative.

Absent that, I would say it's unlikely we would get new information about facts. It's always possible, and it's not unheard of for me to work with Mr. Willard and the AG's office on a case that is largely ready to go and may need one or two additional things looked at. We can do that after it is been bound over, as well.

**MR. SIMPSON**: My understanding is that through all these civil proceedings, the hearing before the Election Board, the hearings in Superior Court, all these affidavits that have been filed, neither Lane Watts or Marilyn Watts has testified directly that he did live in that house; is that correct? Is there any testimony given from either of those people throughout all of this -- these proceedings?

**MR. HARVEY**: It's my understanding that has not happened.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Mr. Sparks, would you like to elaborate?

**MR. SPARKS**: John Sparks, 2974 Lookout Place, Atlanta, Georgia.

A couple of points. First of all, Mr. Harvey has never asked me for an interview with Lane Watts or Marilyn Watts. That is simply not true. If he had asked, I certainly would have made them available.

Secondly, they didn't testify at the hearing on my advice. This was the hearing in August of 2012. We believed the subpoenas were invalid, number one.

Number two, there was no judge at that hearing. You've seen Mr. Hobbs, and my clients did not want to be subjected to a cross-examination by Mr. Hobbs were there was no judge to control him.

The litigation that is currently pending on the petition to remove Ms. Watts has a discovery period. Mr. Hobbs has never taken the opportunity to depose Ms. Watts. Even though she was scheduled, he canceled that deposition. He hasn't deposed Lane Watts.

He only sent discovery about two weeks ago for the very first time, written discovery, regarding the case. My clients do not have an obligation in those civil cases to provide Mr. Hobbs information he has never asked for. That's the way civil litigation works.

**MR. SIMPSON**: The documents we have in the investigation indicate that you sent an e-mail to Investigator Williams on June 19, 2013 saying that you would submit a written statement on behalf of your clients.

**MR. SPARKS**: Those were the affidavits that we just got. Yes, sir.

**MR. HARVEY**: And on the 16th of July, you also said you would provide a response from your client, which we have never received.

**MR. SIMPSON**: That was the next date I was going to suggest. You promised written

statements on behalf of your clients on July 16, 2013, and they have not been forthcoming.

**MR. SPARKS**: That's true. And I apologize for the mistake. I had forgotten those things. Mr. Harvey never called me to follow-up on that. But they were available for him to talk to.

We're involved in civil litigation right now and potential criminal litigation. I am protecting my clients from being harassed by Mr. Hobbs, and that's part of what we're doing. I apologize, Mr. Harvey, for the implication that you are not doing your job concerning those statements.

**MR. HARVEY**: Thank you.

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

**MR. WORLEY**: Mr. Sparks, the hearing the Board of Elections held on August 12, that was for the purpose of challenging Mr. Watts' registration?

**MR. SPARKS**: Yes. They were challenging his registration concerning his move to Gelding Garth in Peachtree City.

**MR. WORLEY**: Right. And the basis for that challenge was that he didn't actually live in Peachtree City?

**MR. SPARKS**: That was the allegation. Yes, sir.

**MR. WORLEY**: And that, in your view, is the determination that the Superior Court made, essentially, that that challenge was not proper, correct?

**MR. SPARKS**: Correct.

**MR. WORLEY**: So the only basis for the Superior Court's decision was -- would have been, in fact, that he lived did live in Fayetteville and not Peachtree City?

**MR. SPARKS**: Right.

**MR. WORLEY**: And that is the factual issue you contend determines this case?

**MR. SPARKS**: Yes, sir. We based it upon the challenge, itself; what the challenge was arguing, and that's what was heard by the board and heard by the Court. Thank you.

**SECRETARY KEMP**: Any other questions?

**MR. McIVER**: I have one.

**SECRETARY KEMP**: Mr. McIver, in the spirit of fairness, if you don't mind, we gave Mr. Sparks an opportunity to rebut. Mr. Hobbs, did you have anything else you wanted to add?

**MR. HOBBS**: We have not deposed her. I am ready to put her on the stand. I'm not going to sit in a deposition and have Mr. Sparks object to every single thing and we never get anything taken care of. That's what happened last week. We didn't get anything done in that deposition and it was all a ruse just so they could say Chris Harvey never called you, Peggy, and asked you about this investigation. You've heard Mr. Harvey say he's asked Mr. Sparks to provide him (unintelligible). They've not done anything.

I'm just asking you guys, we're supposed to have a fair playing field. We follow the rules. I subpoenaed them. I gave them interrogatories. I did everything I was supposed to.

Ms. Watts was not a party to this case. She did not need to retain John Sparks to represent her. She took his advice. She didn't have to. She chose not to cooperate on a matter before her own Board of Elections and Mr. Harvey doesn't seem to think that is a violation. I think it is a violation. She should have recused herself. She should not have acknowledge service on any of those papers. She should have acknowledged the subpoenas and provided us the production of any documents or told us if there was any.

She has denied everything and never given anything in any hearing that I know of, but she will be very shortly when I have her before Tommy Hankinson and she is not going to have the attorney to hide behind.

So I'm asking you to bind this back to Mr. Harvey and do an investigation dealing with these specifics. I've got the affidavits. I thought Mr. Harvey had all this. But it's pretty obvious that the mother of the challengee should not be accepting service nor signing affidavits that are in direct violation of the Board of Elections. And then it's in direct violation of the actual sworn testimony of this gentleman sitting next to Mr. Watts.

For Gosh sakes, why are we here? Why is this taking so long? Eighteen months and just this week they finally provide -- again, Ms. Watts, you can come and testify. You could --

**SECRETARY KEMP**: Mr. Hobbs, you need to be addressing us.

**MR. HOBBS**: That's all I have.

**MR. FABRICIUS:** Scott Fabricius. I just want to make one quick comment.

Mr. Sparks is so concerned about protecting his clients. Protecting them from what? I understand why he would want to protect Lane Watts who filed a fraudulent registration. But why would Marilyn Watts need representation?

Even assuming she had not received a subpoena to appear before her own committee, before her own board to testify to help them get to the bottom of the truth of the issue, she chose not to. And, in fact, sought to have the attorney, who is also representing her son, file a motion to keep her from having to testify before the board. What is she hiding?

**SECRETARY KEMP:** Thank you. Any questions for Mr. Fabricius?

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. McIver, before your motion, let me just say something for the record.

I want to make sure that everyone is clear, and I think most people know that this State Election Board wants to hear from all sides to make sure we're making the best educated decision that we can. That's my goal when I chair these meetings. But we are going to be respectful to the other parties or the opposite party in these cases. I just want to remind everybody that is how we're going to operate in these type meetings.

Mr. McIver.

**MR. McIVER:** I have a motion. It's in two parts.

I move that we dismiss Marilyn Watts from this matter. Again, I'll make my arguments later if that's necessary. And that we direct Mr. Harvey to reopen this investigation and to thoroughly pursue these various additional matters that have been brought before us today, some of which occurred as early as last week. But that that be reopened.

**SECRETARY KEMP:** Mr. McIver when you say reopen, you mean just send it back for further investigation?

**MR. McIVER:** Continued investigation. Whatever the operative word would be. That it be returned to Mr. Harvey to bring back to us once he's really gotten his arms around all these additional things that, regrettably, have come up so late in the process.

**SECRETARY KEMP**: Mr. McIver's got a motion. Do we have a second?

**MR. WORLEY**: I'd be happy to second the first part of his motion about dismissing Ms. Watts.

**MR. McIVER**: I'm glad to bifurcate the motion.

**SECRETARY KEMP**: We've got a motion to dismiss Ms. Watts. Mr. McIver has made that motion.

**MR. WORLEY**: I second.

**SECRETARY KEMP**: Mr. Worley seconds that motion. Is there any other discussion amongst the board regarding that motion?

(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 Ms. Watts.

Mr. McIver, you want to make your second motion again?

**MR. McIVER**: That we send this matter back to Mr. Harvey for continued investigation.

**SECRETARY KEMP**: We have a motion to send the remaining case back to Mr. Harvey for further investigation. Do we have a second?

(Whereupon, there was no response)

**MR. SIMPSON**: I would like to say before we vote on that, or before there's a second, I don't know whether we can discuss it before there's a second or not --

**SECRETARY KEMP**: I'll second that motion.

**MR. SIMPSON:** Our determination here is a determination of probable cause. It is not a finding of guilt or innocence. It's just a finding that there's probable cause to go forward to do exactly what you've asked: do further investigation, and if it warrants, to prosecute the case.

We're not making a decision here today as to whether or not the case should be prosecuted. We're just making a motion that -- I mean, if we find it should be bound over, that's just a finding of probable cause to bring on further investigation.

So, in that sense, I would oppose a motion to retain the file with Mr. Harvey and would prefer that we take the step to find probable cause realizing that is going to bring on more investigation, but it's moving the case closer to resolution, which I think all the parties have indicate they need done. They need closure on this matter. It's been going on a long time. By finding probable cause, I think we would get one step closer to resolution.

**SECRETARY KEMP:** All right. Any other comments?

**MR. WORLEY:** Well, I would oppose Mr. McIver's motion to send it back to Mr. Harvey and I would also oppose sending it on to the Attorney General because while our job is to determine whether there is probable cause, oftentimes that means that one person says one thing and another person says something different and we send it on.

In this case, this seems to me as a matter of law there -- we can't find that Mr. Watts filed a false registration because Superior Court found that he did not. The only basis for the challenge to his registration was his residency. And when the Superior Court entered an order adopting the determination of the Election Board that he was eligible, that his registration was correct, essentially the Superior Court was ratifying the finding that he lived in Fayetteville and not Peachtree City. Therefore we're bound by that.

So that is my view. I would vote to dismiss the case as a matter of law.

**SECRETARY KEMP:** Anybody else?

(Whereupon, there was no response)

**SECRETARY KEMP:** We have a motion and a second to send the case back to Mr. Harvey for further investigation. Any other discussion?

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

**MR. McIVER:** Aye.

**SECRETARY KEMP**: Aye.

All opposed, same sign.

**MR. WORLEY**: No.

**MR. SIMPSON**: No.

**MS. SULLIVAN**: No.

**SECRETARY KEMP**: That motion fails 2 to 3. I will take another motion.

**MS. SULLIVAN**: I move to bind this case over to the Attorney General's office.

**SECRETARY KEMP**: We've got a motion by Ms. Sullivan to bind over to the AG's office. Is there 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."

**MS. SULLIVAN**: Aye.

**MR. SIMPSON**: Aye.

**SECRETARY KEMP**: Aye.

All opposed, same sign.

**MR. WORLEY**: Aye.

**MR. McIVER**: Aye.

**SECRETARY KEMP**: That motion passes 3 to 2. So we have bound that case over to the Attorney General's office.

Thank you all for being here today so far. It's 12:22. Mr. Willard, do we have any business we need to take care of in Executive Session?

**MR. WILLARD**: I do not, Mr. Secretary.

**SECRETARY KEMP**: We'll come back at 1:20 from lunch and continue.

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(Whereupon, the proceedings were in recess)

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**SECRETARY KEMP**: I think we're ready to reconvene our afternoon session. Let the record show that Mr. Worley is going to be away for just a few minutes dealing with some client business and he will return shortly.

Mr. Harvey, I believe we are on 2012, number 145, DeKalb County; number 28 in our binders..

**MR. HARVEY**: Yes, sir. This case was reported to us by a poll worker in DeKalb County. He told us he was required to sign the blank ballot recap sheets before the polls were closed the ballots were counted, and he felt that was a real problem because, of course, a ballot recap sheet is where you're listing the total number of votes that were in a precinct. So we did an investigation.

We spoke with people from DeKalb County and what we learned was that was, in fact, an isolated policy from one regional director. It was not DeKalb County Board of Elections and Registration policy to have forms, ballot recap forms pre-filled out. However, the people that came up with the idea were trying to avoid having forms left blank at the end of the night when a lot of work had to be done.

So DeKalb County acknowledged that they did this. They acknowledged that Billie Sherard, who was area manager, had sort of taken a policy on herself and promoted it.

They have since changed their practice and recommend that people do not sign recap sheets prior to the close of polls, and I believe people from DeKalb County are here to speak.

I recommend this case be bound over to the AG's office just because the ballot recap sheets, as we saw in the Fulton County case, are critical. That's really the score sheet. And I think

anything that involves improper use of them is something that should at least preserved with someone at the AG's office.

So I recommend the respondents be bound over and I would expect it that a reasonable consent order to be reached.

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

(Whereupon, there was no response)

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

**MS. DANIELS**: Good afternoon. I am Maxine Daniels, Director of Registration and Elections in DeKalb County.

I'm just here to speak on behalf of the two poll officials. They asked me to convey to the board that one of them, Ms. Sherard, is out of town because of a sick sister, so she could not be here. Ms. (Unintelligible) is actually tied up with work so she could not be here. I'm just here to represent that information to the board and to let you know they are not unconcerned about this, but they were unable to attend today.

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

(Whereupon, there was no response)

**MS. BRILL**: Good afternoon. My name is Lori Brill; 1300 commerce Drive, Decatur, Georgia. I am here on behalf of DeKalb County.

First, I want to say signing recap sheets prior to closing has never been a policy or procedure of the DeKalb County Elections Board or Ms. Daniels. Ms. Daniels never instructed anyone that this was okay to do. They knew that they should not sign them until after the polls closed.

When Ms. Daniels was made aware of this issue by the Secretary of State, she immediately took corrective action. What she did was the week before the July election at the area managers meeting, she reiterated what the procedures were as far as filling out the recap sheets, and under no uncertain circumstances could they ever be filled out prior to the close of the polls and tallying everything that needed to be tallied for the recap sheet.

Furthermore, Ms. Latasha Howard, who is the elections coordinator for the Elections Division, met individually with Ms. Sherard and made sure that she knew she was not supposed to do this.

She made sure she understood the proper procedure.

Furthermore, prior to the November election at the poll managers training session, again, they went over what the proper procedures were and how to fill out the recap sheets; when you are supposed to do it, when you can sign it.

Ms. Daniels thought that this had been stopped. She was unaware that there were any other further complaints until she received something from the Secretary of State. We have never had this issue come up. It is this one isolated incident with this one manager.

We would respectfully request that, at least against DeKalb County Board of Elections and Ms. Daniels, that this be dismissed. They took all corrective action that they were supposed to. They never told them they could do this. And they reiterated more than once and individually to Ms. Sherard that under no uncertain circumstances should it be ever be done how she was asking the poll managers to sign ahead of time.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. McIVER:** Let me ask Mr. Harvey again. Please tell us -- I read your recommendation. Is that consistent even now with what you've heard?

**MR. HARVEY:** Yes, sir. I would recommend that all respondents be bound over to the AG's office.

**MR. McIVER:** All right.

**SECRETARY KEMP:** All right. Anyone else wish to speak?

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Do we have a motion?

**MR. McIVER**: I move that we bind this matter over.

**SECRETARY KEMP**: Motion by Mr. McIver to bind over. Do we have a second?

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: 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. Thank you all for being here today. I'm sure Mr. Willard can handle this in a good manner.

Mr. Harvey, case 2012-146.

**MR. HARVEY**: This case involves a person who took a photograph of their ballot in their polling place and posted it on Facebook. The respondent, Moriama Ivory, she approached me as we broke for lunch. She was here; she was here all morning. She wanted to be here to address the board, but she has to pick up her daughter from camp so she said she had to leave.

She did express that she was planning on apologizing to the board. She didn't know it was improper to do this and she would not do it again.

So given the past practice of the board, I recommend that she be issued a letter of instruction regarding the legality, or illegality, of taking photographs at polling places.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MS. SULLIVAN**: I move the board issue a letter of instruction on this matter.

**SECRETARY KEMP**: Ms. Sullivan has moved for a letter of instruction.

**MR. McIVER**: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. We will issue the letter.

2012-148, Lincoln County; number 30 in our binder.

**MR. HARVEY**: This case started in Cobb County where Mr. William Randall King wanted to vote and was told that he was not registered to vote. His voter registration had been transferred to Lincoln County. Having never lived in Lincoln County, he was concerned and reported it to us.

What we determined was that somebody else had registered with the same name. He was mistakenly pulled by Lincoln County. He was allowed to vote provisionally. His vote was accepted. The two counties worked well together to resolve the problem. Lincoln County technically violated 21-2-226 regarding proper eligibility determination of voters.

I would recommend in this case a letter of instruction be issued to Lincoln County. This is actually an example of counties working pretty well together to resolve problems on election day (unintelligible) correct the records.

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

(Whereupon, there was no response)

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

**MR. JACKSON**: Good afternoon, lady and gentlemen. I am Ben Jackson. I am the county attorney for Lincoln County. My address is 2812-A, (Unintelligible) Creek Court, Augusta, Georgia 30909.

We don't dispute anything the investigator just said.

I would like to point out that what happened was, as he said, there is an identical name in Lincoln County and in Cobb County. And apparently a former clerk at the office was looking at the Department of Driver Services reports and saw Mr. King in Cobb County's name identical to a gentleman she knew from Lincoln County. So she just saw the name and transferred it to Lincoln County.

I talked with her and she said she didn't look down to see the address or county or anything. She just saw an identical name to a good friend of hers and transferred it to Lincoln County, and then Mr. King in Lincoln County voted. And later, Mr. King from Cobb County went to vote and that's when he had a problem.

As Mr. Harvey said, everybody worked well together. So we would just ask the board to follow the recommendation of Mr. Harvey.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Any discussion or motion from the board?

**MR. McIVER**: I move a letter of instruction be issued consistent with Mr. Harvey's recommendation.

**MS. SULLIVAN**: Second.

**SECRETARY KEMP:** Mr. McIver moves for a letter of instruction. Ms. Sullivan seconds that.

I would like to say, too, we appreciate the counties working together to resolve the issue. That's good stuff. Thank you for that.

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.

Mr. Harvey, we're jumping down to 2012, number 153; it is of Gwinnett County/Peach County case; it's number 32 in our binder.

**MR. HARVEY:** Mr. Chairman, members of the board, this case has almost the exact same fact pattern as the previous case. Somebody went to vote and told they were registered to vote in Peach County.

We found out the exact same thing happened again. He was erroneously pulled by Peach County. He was allowed to vote provisionally in Gwinnett, as he should have been. They resolved it.

I would make the same recommendation that a letter of instruction be issued to Peach County regarding verifying voters. But again, this is another case where the counties worked well together to resolve a dispute on election day and make sure that everybody got to vote.

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

(Whereupon, there was no response)

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

**MR. LIIPERT:** Mr. Chairman, my name is Jeff Liipfert. I am the county attorney for Peach County. My address is 202 Central Avenue, Fort Valley. I am with Michelle Riley, who is our elections supervisor with our Board of Elections. She has worked in elections for over 11 years, first in Probate Court in Peach County, and the Board of Elections now. She has done a diligent job, I would have to say, during her time working in elections there.

As Mr. Harvey said, this is almost the identical facts that happened in the last case in Lincoln County. In this case, the people -- the voters had the same last name and the same birth date. Therefore, the voter in Gwinnett County was pulled up.

We do have -- especially in 2012, we had a lot of student registrations in Fort Valley because of Fort Valley State College. And those student registrations, lots of them, I would say the vast majority of them, have local residence addresses, dorms and apartments. But the mailing address is somewhere else.

In this case, the lady that was a voter who had a mailing address in Fairburn, though she had a residence address in Fort Valley.

We made a mistake. That's all we can say. That's the only time in the time I've been the county attorney -- and I assisted a part of mine had died in 1987 for about 15 years prior to that as county attorney -- this is the only time I've ever seen it happened in the county that I'm aware of.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** We appreciate you all being here today and thank you for working with Gwinnett County to this resolve this. It's amazing they had the same birth date.

Anyone else wishing to speak or any questions?

(Whereupon, there was no response)

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

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

**SECRETARY KEMP:** All right. Mr. Simpson moves for a letter of instruction.

**MR. McIVER**: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. Thank you for being here.

Mr. Harvey, 2012-158. This is Gwinnett County deceased voter case; number 33 in our binder.

**MR. HARVEY**: Yes, sir. This came from Lynn Ledford regarding an absentee ballot that was received by a voter who had died prior to requesting the absentee ballot.

So the board can see the actual paperwork to look at the handwriting and see if they're alike, this is from the file so you can see the similarity of the handwriting.

Mr. Ronald R. Brannen, date of birth 4/16/28, died on October 16, 2012. On October 23, 2012, an absentee ballot application was sent in for him with a signature that appears to be his signature. There is nobody signing for a relative.

A ballot was issued and was returned to Gwinnett County Board of Elections with his date of birth, his address and a signature that matches -- appears to match what is on the absentee ballot application.

We did an investigation found that his son, Ronald R. Brannen, date of birth 11/13/56, had also completed an absentee ballot application on the same day, October 23, 2012, and submitted it with a signature that looks practically identical to the signature on the elder Brannen's.

We attempted to contact Mr. Brannen. We went out to his house and were unable to make contact with them. It appears as though the younger Mr. Brannen forged an absentee ballot application and sent it in -- voted absentee ballot for the deceased Brannen.

I believe Mr. Brannen is here today. He called me this morning and said he was coming.

But based on the evidence as it stands now, I would recommend the case be bound over to the AG's office.

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

**MR. McIVER**: Did the younger Brannen vote himself?

**MR. HARVEY**: I believe he also returned an absentee ballot. Yes, sir. He did.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Yes, sir

**MR. BRANNEN**: My name is Randall Brannen. My name is not Ronald Brannen, so there may be a misunderstanding on that.

When my father died and the family was gathering together with my mother there, she had a listing of a variety of things to have done.

**SECRETARY KEMP**: Mr. Brannen, can you give us your address. I'm sorry to stop you.

**MR. BRANNEN**: 1675 Terrace Lake Drive, Lawrenceville, Georgia 30043.

So the family was gathered together and my mother is almost -- she's 90 now, but she is very spry and able to do for herself. She had mapped out all the paperwork for my father as he had prepared and instructed.

And so, as the power of attorney for my father and my mother, I inadvertently signed paperwork and gave it back to her. She mailed items. I didn't send anything in to any insurance company -- we had about seven different either mutual funds, retirement account, life insurance -- a variety of different things that had to be done. So she laid them all out and the signing of that was done.

I suppose it was -- I don't recall at this moment even signing the document knowing that I did that. I did think I was voting for myself. I did not realize it was being voted for him. But I did not send anything. I gave it to her. She had the stack. She went through all the documentation

and what was done was done by her from the standpoint of mailing, and so on.

So it was certainly an oversight. It was not intentional at all. And I did not have any notification until I got this letter in May that there was even a problem.

So that's why I'm here today. I did call you this morning because I didn't want to be late. This is important. So I just wanted to clarify that my intention was 100% pure: taking care of my mother's business on her behalf. I had no intention, whatsoever, of any violation. I didn't even know, had no clue there was a violation of any sort until I got the letter.

I'm sorry I'm taking the time of this group, and I'm sorry for myself for the situation that's here. But that is the sincere and honest truth of what happened.

**SECRETARY KEMP**: Thank you for being here. You certainly don't have to be sorry for taking our time. We want to make sure that we're hearing from all parties. I believe Mr. McIver has a question.

**MR. McIVER**: It sounds as if what you've described was the application you had signed for an absentee ballot. The process is that then a ballot comes to your house and then the voting of the ballot occurs. Do you remember that?

**MR. BRANNEN**: I do not.

**MR. McIVER**: Did you, yourself, cast absentee ballot?

**MR. BRANNEN**: I did for myself.

**MR. McIVER**: But if you had done this twice in a short period of time, you would not recall?

**MR. BRANNEN**: Well, I don't know what date my absentee ballot went in. Was it on the very same day?

**MR. HARVEY**: The applications went in on the same day. The ballots, themselves --

**SECRETARY KEMP**: Mr. Harvey, while you are looking at that, let the record reflect Mr. Worley has returned.

**MR. HARVEY**: Your late father's was received -- I take that back. I don't see a postmark. I've only got the rear copy of front of me. So I can say what date the ballots were returned.

**MR. McIVER**: Ronald voted on the 26th of October, 2012. From this document, I can't tell when Randall voted. But the window for absentee balloting is relatively short.

The question I'm putting to your is, it sounds as if you applied, although inadvertently, for your father's absentee ballot. But then to cast an absentee ballot actually is a lot of work. That's the way I vote. And you have to sit down and think and read carefully through the referenda and things that appear there.

**MR. BRANNEN**: I didn't do any of the voting for my mother; I didn't do any voting myself. If she completed that, that was her doing. I did not complete that. Now, if she gave me paperwork to sign for him and documentation, because we were doing a number of business transactions for her because she did not know all of the specific details. But she would take things and give them to me and I would sign or -- she'd do the mailing. So there was a list of documents that were there. So if the signing was done, it was not intentional.

**MR. McIVER**: On an absentee ballot, Mr. Harvey, you sign the envelope, not the ballot, itself, of course, because otherwise you would be identifying yourself as the voter.

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

**MR. McIVER**: Which is not what we want people to do. Nonetheless, casting an absentee ballot is a lot of work. From me it is. You have to read and study and check off and fold it up and put it in the envelope and sign my name and mail it, and so on. And you don't recall?

**MR. BRANNEN**: I did not do that.

**MR. McIVER**: Somebody would have had to sign the envelope in which the ballot was placed in the mail to return back to the polling place.

**MR. BRANNEN**: I don't recall doing that.

**SECRETARY KEMP**: Mr. Simpson?

**MR. SIMPSON**: What is the stamp on his this is October 23, 2012, faxed?

**MR. HARVEY**: I believe that is actually to the application underneath it. That's not the date the ballot came back, I don't believe. I did see --

**MR. SIMPSON**: Both of them are dated the 26th, but I'm trying to try to figure out what this fax on October 23, 2012 date is.

**MR. HARVEY**: That's the date it was received by the elections office. Ronald R Brannen --

**MR. SIMPSON**: How is it received by the election office three days before it says ballot mailed?

**MR. HARVEY**: The ballot was mailed to the voter on the 26th. It was received by the elections office on the 23rd. The ballot was mailed to the voter on the 26th.

**SECRETARY KEMP**: That is the application to ask for ballot.

**MR. SIMPSON**: Okay. So both of them --

**MR. HARVEY**: The applications were dated the same.

**MR. SIMPSON**: But the ballot was mailed to both of them on October 26, I thought.

**MR. HARVEY**: We have a front copy of our Ronald R. Brannen's absentee ballot envelope. The ballot, itself, was postmarked October 31. We don't have a copy of the front of the other ballot.

Mr. Brannen, would you be able to verify your signature on your father's absentee ballot application -- ballot to determine whether you signed it?

**MR. BRANNEN**: I don't know that I did. I don't know that I didn't. But I would say if you say it's there, I will look at it. I haven't seen what you're referring to.

**MR. HARVEY**: We attempted to reach you. If the board would like, he could review and confirm whether or not it's his signature.

**SECRETARY KEMP**: You talking about sending it back?

**MR. HARVEY**: I'm saying if I can show it to him now.

**SECRETARY KEMP**: What exactly are you doing?

**MR. HARVEY**: I'm showing him the back of the envelopes, the absentee ballot envelopes, for Mr. Brannen, date of birth 1928, and Mr. Brannen, date of birth 1956. 1956, this is you, correct?

**MR. BRANNEN**: Yes.

**MR. HARVEY**: Is that your signature?

**MR. BRANNEN**: Yes, sir.

**MR. HARVEY**: Okay. And this is your father's date of birth?

**MR. BRANNEN**: Yes.

**MR. HARVEY**: And is that your signature?

**MR. BRANNEN**: I don't know if it's mine. It could be. I don't know. It looks like mine.

**MR. HARVEY**: But you don't know for certain?

**MR. BRANNEN**: I didn't do that knowingly. I know that.

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

(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**: Any other discussion from the board or recommendation?

**MR. McIVER**: I will make a motion that we bind this matter over consistent with Mr. Harvey's recommendation.

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

**MS. SULLIVAN**: Second.

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

(Whereupon, there was no response)

**MR. WORLEY**: Let the record reflect I'm going to abstain since I wasn't here for all of the

(unintelligible).

**SECRETARY KEMP**: Okay. Very understandable.

**MR. WILLARD**: Mr. Chairman, we had a lively conversation about this when we met earlier about the case.

I will point out to the board there has been no expert analysis conducted on the handwriting. There has been no admission today that the signature is, in fact, his. I would point to the board that there appears to be no credible evidence that we would be able to present at a hearing establishing that a violation has occurred.

Therefore, unless the board has some additional argument or evidence it wants to present, I would say as a matter of law, the board has not established that probable cause exists that this individual violated the law on this instance.

**MR. WORLEY**: I have a question for Mr. Willard. Mr. Willard, have you ever gotten a handwriting expert to give testimony of one of your hearings?

**MR. WILLARD**: Mr. Worley, we don't typically engage in handwriting analysis. We actually have witness statements that corroborate evidence. When you take a criminal matter, you must have expert handwriting analysis to establish that handwriting is in fact the individual's.

**MR. WORLEY**: So the Attorney General's office from time-to-time does consult with handwriting experts, hires them, and has them to give testimony?

**MR. WILLARD**: Once again, this goes back to an earlier conversation, Mr. Worley --

**MR. WORLEY**: Just yes or no. Do you do that or not do that?

**MR. WILLARD**: I would have to speak with our special prosecutions unit to see if they do that.

**MR. WORLEY**: Okay.

**MR. WILLARD**: I would say if the board wants to undertake that, that is a matter that needs to be referred back to Mr. Harvey for additional investigation.

**MR. McIVER**: I assume we would not object to your bringing back a consent order if that were affected through your negotiations with Mr. Brannen in this case. But in my view, we have enough to bind it over and that's the reason for the motion.

**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 it over.

Mr. Harvey, 2012-162; Rockdale County.

**MR. HARVEY:** This case involved November, 2012 election. There was a complaint regarding a poll watcher's activity in Rockdale County. The allegation is the poll watcher was illegally assisting voters and advising voters and a voter was allowed to vote two times.

The poll watchers in question were interviewed as were the poll workers. It was determined that the poll watchers, who are Faye Hines and Francine Henderson, were in the polling place. They were poll watchers. However, they were seen following voters out of the voting polling place, talking to voters, and urging voters to come back into the polling place, and then correcting and admonishing election workers, poll workers, telling them things like you shouldn't have done that; that person is allowed to vote here; and essentially interfering with the poll workers.

I'm recommending those two poll watchers be bound over to the AG's office.

In addition, there was one voter who voted and reported to poll workers that her card ejected before she was able to cast her ballot. The poll workers reprogrammed her another card before they check to independently verify whether or not that vote had been cast. They allowed her to vote a second ballot and it turned out the first ballot had counted. So they enabled that voter to vote a second time.

So I recommend Cynthia Welch and Denise Stanfield for allowing a voter to vote twice; and Faye Hines and Francine Henderson violated the code section regarding poll workers interfering with elections.

I recommend all respondents 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. WELCH:** Good afternoon, board members. I am Cynthia Welch and I am the supervisor of elections with Rockdale County. Our address is 1400 Parker Road, Conyers, Georgia.

Board members, what I want to say in regards to this case as it relates to the voter being allowed to vote twice, the poll workers followed the procedures that we have in place. They were to man the voting units and any voter that has any problems, there is a notice that is placed into every voting unit that tells the voter if you have any problem, before pressing Cast Ballot, alert the worker manning the voting station.

The voter did that. The unit actually froze. The poll worker went over. He said he saw the card eject from the machine. That's when they called my office to get permission to issue another card.

The question that I asked the poll worker and the poll manager was did anyone see the card eject from the machine. The poll worker manning the voting station stated that he went over to assist and he saw the card eject without the voter pressing Cast Ballot. He even confirmed that it was not at the Cast Ballot screen so we knew there was some type of malfunction with the unit.

I also talked with the voter to confirm what happened and I talked with the poll manager.

So in that case, I authorized the poll worker to give the voter another ballot because the voter had not finished voting.

Also -- may I give you this?

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

**MR. WORLEY:** So moved.

**MR. SIMPSON:** Second.

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

**MS. WELCH**: Thank you. Based on the summary report from the election results that we tabulated for that precinct, it does show that one ballot was cast, but it does not confirm that the voter actually voted for any other race other than President. So in that case, had we even issued a provisional ballot -- which we do not have a procedure that we do that in this type of case -- we would have also counted that provisional ballot because it could not be concluded that the voter actually had opportunity to vote their ballot.

**SECRETARY KEMP**: So the numbers, then, you had one more vote cast than people who checked into the precinct, is that what you're saying?

**MS. WELCH**: Right. We had one additional ballot cast but we also have to take into consideration total votes, which is the sum of all votes cast for a race indicating votes have been cast for a candidate. If you look at the report, outside of the President, you will see there were 657 total votes for President, but for all the other races, there are not 657.

So we could not conclude that voter had the opportunity to cast their (unintelligible) ballot.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: You have anything else, Mr. Harvey?

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

**SECRETARY KEMP**: Okay.

**MR. McIVER**: What is your recommendation with respect to this particular issue?

**MR. HARVEY**: Based on the response of the election officials, I think -- I still think a provisional vote would have been a better option. But I think a letter of instruction might be appropriate for the election officials. They took it under consideration and they made -- they contacted the supervisor and made what sounds like a reasonable decision.

So I would change my recommendation regarding them to a letter of instruction.

**SECRETARY KEMP**: Mr. Harvey, so that instance Ms. Welch is talking about, that's separate from the other two, Henderson and Hines?

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

**SECRETARY KEMP**: So we have a recommendation for --

**MR. HARVEY**: A letter of instruction for the poll workers and bound over for the poll watchers.

**MR. McIVER**: What is it that this lady did wrong? What did she do that you would have done differently?

**MR. HARVEY**: I would have issued a provisional ballot because once a vote goes into the DRE, you can't -- if you determined later the ballot was cast properly, you cannot get the other vote back. With the provisional ballot, you can always -- if you determined the first vote did count, you can always discount the provisional ballot.

**MR. McIVER**: Then the voter has to come back within 72 hours.

**MR. HARVEY**: No, sir. Only if they do not have ID.

**SECRETARY KEMP**: If there was an issue where the person that had forgotten their ID, they might have to come back. But on an issue like that, I don't believe they have to.

**MR. HARVEY**: The voter would not have had any other obligations once they cast the provisional ballot.

**MR. McIVER**: I just don't want to do anything that diminishes the interest of the voter. They come to vote and that should be painless as much as we can make it.

**MR. HARVEY**: I agree. You asked me what I would do, and that's what I would have done. Whenever there is a question as to whether or not a vote counted or a card ejected, if you offer a provisional, you get days to go through and fact check it and decide what to do with it. You may make the same decision, but at least you buy yourself some time.

**SECRETARY KEMP**: Ms. Welch?

**MS. WELCH**: Board members, I agree with Mr. Harvey. But, however, in this case, nothing different would have changed in that the poll workers confirmed that they assisted the voter and saw the card eject from the unit.

If it was a case where something happened and the voter did not alert the worker and they came back with the card and I wasn't finished voting, but here's my card, that is a case where we have a procedure in place where we can check the card. There is no such procedure that we give a provisional ballot when we have a unit to malfunction. However, I do recommend that we take that under consideration.

But at this time, we did not have a procedure that gives us clear instructions on what is to be done when the voter has done their part and the unit ejects that card and what do we do.

Some counties may issue the card again and some may issue a provisional ballot. But in my particular case, had I done either, the provisional ballot would have counted based on the poll worker's statement, as well as we would have issued another card.

**MR. McIVER**: It seems to me Ms. Walsh and Ms. Stanfield did exactly what they were supposed to do.

**MS. WELCH**: They did.

**MR. McIVER**: What else could they do? They called their boss and got an opinion and then took the instructions and executed it.

**MS. WELCH**: Yes.

**SECRETARY KEMP**: Anything else for Ms. Welch?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. McIVER**: I will move to dismiss Welch and Stanfield. Since these. Since Mr. Worley like these things bifurcated, I will do that one at a time. So my first motion will be that we dismiss Welch and Stanfield, and to the extent there was in the allegation against Rockdale County or their election officials, I would include the memo motion.

**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.

You have another motion?

**MR. WILLARD**: Mr. Secretary, before we hear the other motion, I have a question for Mr. Harvey.

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

**MR. WILLARD**: As to Ms. Hines, was there any allegation that she was actually speaking to voters, or just poll workers?

**MR. HARVEY**: I believe some were talking to voters and some were talking to poll workers.

**MR. WILLARD**: You've got in your summary that Ms. Henderson had spoken with voters and Ms. Hines had questioned poll workers.

**MR. HARVEY**: I'll stand by that. I don't have any other independent knowledge.

**SECRETARY KEMP**: Ms. Welch?

**MS. WELCH**: Both poll watchers were speaking with voters as well as they were interfering talking with poll workers. The poll manager did call me and I asked the poll manager to give both of them a warning that if they continued to interrupt that we would ask them to leave. What came back to us was that after that, they started following voters out to the parking lot and they would tell the voter, you don't have to go to your precinct. Go back in and request a provisional ballot.

As I recall for this particular precinct, we issued 29 provisional ballots, and over half of those they were voters that were voters in other precincts in our county. But because those poll workers went out to tell those voters you don't have to go to your precinct; just go back and request a provisional ballot, we felt that was interfering with our duties to direct that voter to their correct precinct.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: We've got a motion and a second, to bind those two over, correct?

**MR. McIVER**: No. But I will move.

**MR. SIMPSON**: I will second.

**SECRETARY KEMP**: All right. We've got a motion and a second now 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. We have bound poll watchers Henderson and Hines to the AG's office.

Let the record reflect that Mr. McIver has some lawyering to do and he won't be with us the rest of the afternoon.

Mr. Harvey, 2012-163, Union County; 36 in our binder.

**MR. HARVEY:** This case involved a voter who was attempting to vote on the DRE. She asked for help from a poll worker to adjust the screen. It was tilted at an angle that was difficult for her. In doing that, adjusting the screen, the Cast Ballot button was hit and the vote was voted without the voter's full knowledge and consent.

There was also a second complaint from a voter did she got a ballot that only had federal candidates and didn't have any local candidates.

In both cases we determined -- in the second case we determined that the poll worker simply pulled up the wrong ballot.

In the first case where the poll worker acknowledged in trying to adjust the screen they may have hit the button and cast the ballot, they were both sort of independent errors.

I would recommend that the Union County respondents receive a letter of instruction regarding adjusting machines and making sure people get the proper ballot.

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

(Whereupon, there was no response)

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

**MS. STEVENS:** I am Libby Stevens, and I am the Board of Elections supervisor.

As soon as the incident where the lady complained about the issue of the screen not being right, that is not exactly what was called in to me.

The poll manager, Ms. Hudson, called me and said that the lady had come in to vote. She could not -- she had had her eyes dilated, or some such thing. She had some person assisting her and that the lady assisting her was reading the ballot out loud. So that doesn't sound like there was a screen issue. She was reading the ballot out loud to her and one of the poll workers went over to

assist her. And at that point in time, she said, I can't find the candidates that I want to vote for. And at that point, the Cast Ballot got hit and she said, well, I didn't get to vote for who I wanted to vote for. And then it went from there. Now, that's the story I have gotten on several occasions.

I will have to say that the poll worker that was there was my husband.

**SECRETARY KEMP:** Okay. I appreciate your honesty. Are you going to keep being a poll worker?

**MS. HUDSON:** My name is Carolyn Hudson. I am the poll manager at the Choestoe precinct in Blairsville. 237 Chantelle Lane is where I live in Blairsville, Georgia.

I had stepped away from where I had been working as the manager to take a phone call. When I stepped back in, they called me over to that -- to help with the situation.

When she registered her certificate, she signed in and I asked her daughter who was with her -- she was in a wheelchair -- I asked her daughter if she would need help and she told me she would. So her daughter signed to help her. She had, indeed, been reading it out loud to her because I questioned whether I could -- if it was going to disturb anyone else. But it didn't seem to be bothering anyone so I just let it continue.

It was a very slow process. The mother had a hard time understanding what was being said. She would say, what? And she would re-read it very patiently with her.

I received a phone call and I stepped away and I saw -- he happens to be by brother-in-law, too -- but I saw him get up to go over and help her and then he signaled for me and told me that the ballots have been cast. I shook my head and I said, I don't think there's anything we can do. But I called the supervisor and she said, no. If the ballot is gone, it's gone.

I apologized to her and I said, I'm so sorry. But there is nothing I can do now. She was angry and I can understand that she was angry. She told me sorry wasn't good enough. It just wasn't good enough.

She also was kin to one of the candidates, and I know she wanted to cast her vote. He lost by quite a margin, so that one vote did not make any difference.

I can't tell you who pushed the button. I don't know.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MS. SULLIVAN**: I move the board issue a letter of instruction in this case.

**SECRETARY KEMP**: Ms. Sullivan is recommending a letters of instruction for the three respondents in the case. Do we have a second?

**MR. SIMPSON**: Is that in addition to the instruction, I'm sure he has already been given? 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.  
Thank y'all for being here today.

Mr. Harvey, 2012-169, Coweta County; number 39 in our binder.

**MR. HARVEY**: This is sort of an interesting case where a soldier who is in Afghanistan e-mailed her mother and said will you request an absentee ballot for me. Have it come to the house and you can vote for me. Vote all Republican.

The mother requested an absentee ballot, as she was allowed to for a family member, but included the e-mail that her daughter has sent and it came to the registrar's office and they reject

it the absentee ballot, presumably on the idea that it was going to be voted by somebody other than the elector.

While that may make some form of sense, it is not a legal reason to reject an absentee ballot. The suspicion or the possibility, or maybe even probability that someone was going to vote a ballot is not a reason to reject the ballot. The mother was entitled to ask for it. She did ask for it and it was rejected for an invalid reason.

So the ballot should have been issued and if it was returned with an invalid signature or questionable signature, it could have been examined and could have been rejected for that reason. Or we could have gotten with the voter and they could have voted it themselves.

So we find a violation for the rejecting of an absentee ballot application for the wrong reason. I think this is one where a letter of instruction would not be out of order for the registrar's office.

So that would be my recommendation.

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

(Whereupon, there was no response)

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

**MS HAMILTON**: My name is Joan Hamilton. Address is 1484 Corinth Road, Newnan, Georgia.

Also in the e-mail, the soldier had also told her mother just to forge her signature. So that was another reason -- I based it upon strictly the fact that she had told her mother to vote for her and to forge her signature.

I did notify the mother to please instruct the daughter -- I did not have an e-mail address for her - - that she would be able to go to Secretary of State's website and request an e-ballot. The application was turned in on October 23. The election was November 6. It's a very short period of time. And I feel like if we had got the application back in an e-mail, we could have e-mailed her an e-ballot. She probably would have gotten it. We know she had communications by her e-mail. And we also have an extended period of time for our military to return. And then it would have been possibly back to us and counted that way.

From now on, she definitely will be mailed a ballot. I have not spoken with her mother. She has never contacted us and neither has the voter. Also, I checked the voter's history. She had never

voted and still has never voted.

So, that being said, we will definitely be sure -- we always try to go the extra mile for our military.

**SECRETARY KEMP**: We appreciate that, Ms. Hamilton. Any questions for Ms. Hamilton?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. WORLEY**: Well, I'll have some discussion. I don't think what Ms. Hamilton did was wrong. I mean, when someone sends in an application and there's other information that indicates they are going to forge the ballot, I don't know that the appropriate thing is to send them a ballot, wait till it comes back, and check the signature to see if they did, in fact, forge it.

So I can understand if you want to send a letter of instruction, and I can support that. But really don't think the elections officials did anything other than what they ought to have done in this case.

**SECRETARY KEMP**: All right. Any other discussion or a motion?

**MS. SULLIVAN**: Mr. Harvey, is there any clear authority what to do? Is it very clear here?

**MR. HARVEY**: I think if you get an absentee ballot application, you send an absentee ballot and then you compare the signatures to make sure it is to the right person. I think if the application had come in without the e-mail, it would have been a valid application and it would have merited getting a ballot back.

I certainly don't disagree with Mr. Worley's overall assessment of the situation. But from a very procedural point of view, I believe she exceeded her authority. I would not recommend anything more than a letter of instruction given all the circumstances.

**MR. SIMPSON**: I have to agree with Mr. Worley that you don't need to have to wait until fraud occurs if you see something that indicates something fraudulent is going on, you ought to take

whatever action you can to stop it. I don't know whether that requires a rule change, but that seems to me the practical way to deal with these kind of issues. I think we have had other cases in the past where there was good reason to reject an absentee ballot, but technically it was improper to do so. So I wonder if we don't need to look at that rule again.

In the meantime, I agree with Mr. Worley. I don't think this warrants any action other than a dismissal.

**SECRETARY KEMP**: We are ready for a motion.

**MS. SULLIVAN**: So moved.

**SECRETARY KEMP**: What is your motion?

**MS. SULLIVAN**: That we dismiss.

**SECRETARY KEMP**: More ready than I thought. We've got a motion to dismiss. I feel certain we're going to get a second.

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

**SECRETARY KEMP**: Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: I will say that I saw Ms. Ford writing over there. So we will look at that as far as future training or potential rule changes, as well.

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, Ms. Hamilton.

Now, what I want to do is move from the new cases down to the UOCAVA cases. Let me go through those real quick. If you are here for one of these cases, let me know.

Mr. Harvey, who've we got on tap?

**MR. HARVEY:** On the first case, is one UOCAVA case that includes six or seven counties. The other cases are listed individually.

What I've done, I've got two charts that show each of the counties in the two separate matters. It shows the county involved, how many total UOCAVA ballots were issued, the electors, how far after the deadline they were issued, whether or not it was returned, and whether or not the voter voted.

I think if you look at that chart for the first case, it's actually the second sheet, 2013 UOCAVA violations is going to be what applies to -- I'm sorry; the first page starting with Bartow County, Brantley, DeKalb, Muscogee, Paulding, Polk, and Worth. In analyzing these, I looked at, like I said, the total number and how many of which there were a problem.

Several counties have provided letters. As you know, we're getting ready for a primary runoff. So some of the counties, especially from South Georgia, have sent letters acknowledging this meeting and explaining some of their actions.

As you go down the first page and you look at Bartow County, they have a total of 29 UOCAVA ballots that were issued. There was one issued two days late. I recommend a letter of instruction in that case. The issue here is the ballots were issued after the deadline.

The second case, Brantley, they had one voter who was UOCAVA. That was issued a couple of days late. They followed up with the voter and confirmed that the voter got the ballot. The voter then just decided never to send it in. So that voter did not vote, but the voter received the ballot in time to cast their vote.

Brantley County sent a letter, which is in the packet I gave you.

DeKalb County had a total of 240 --

**SECRETARY KEMP:** Mr. Harvey, what is your recommendation on Brantley County?

**MR. HARVEY:** A letter of instruction.

**SECRETARY KEMP:** Okay.

**MR. HARVEY:** DeKalb County, 245 total UOCAVA. They had problem with seven of them. Again, going out two days late. This is a difference between going out Friday afternoon and Monday morning. They have all but one of the UOCAVA voters vote. And even then, that's not saying they didn't get their ballot. That's just saying it wasn't return to DeKalb.

Again, seven out of 245. I recommend a letter of instruction.

Muscogee County had one of 78 that went out two days late. A letter of instruction would be my recommendation for Muscogee.

Paulding, again, one out of nine, two days late. The person voted. I recommend a letter of instruction.

Polk County had 11 total issued and they had five that were issued late. These were more along the lines of almost two weeks late. Four of those five voters did not vote.

I recommend that Polk County to be bound over to the AG's office for a consent order.

Worth County also send a letter, and I spoke with the elections director there on several occasions. She was very concerned that she couldn't be at the meeting. But she felt she had to be in Worth County. I said I would express her concern that she was not disregarding us at all.

They had five voters. They had two vote, and three not vote. I recommend bind over on Worth County.

**SECRETARY KEMP:** How late were those getting out?

**MR. HARVEY:** Again, they were just two days late, which, again, that would be one that I, frankly, I believe it would be appropriate to go either way with a letter of instruction or with a bind over.

So that covers the first case, 2012-40.

**SECRETARY KEMP:** Okay.

**MR. HARVEY:** If you want to just deal with this one first --

**SECRETARY KEMP:** Yes. I want to do with this one. Are there any questions for Mr. Harvey?

(Whereupon, there was no response)

**SECRETARY KEMP:** Anyone here who would like to address the board on these from those counties or these cases?

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. Harvey, on Polk County, what feedback did you get from Polk County about the meeting, that they said they couldn't come?

**MR. HARVEY:** I have not heard from Polk County regarding the meeting.

**SECRETARY KEMP:** Okay.

**MR. HARVEY:** Polk County, they were the latest of all of them. They were 12 days after the deadline.

**SECRETARY KEMP:** Any discussion?

(Whereupon, there was no response)

**SECRETARY KEMP:** Let me just say I don't have an issue with the recommendations that Mr. Harvey has given. You know, this is very important work of the county election officials getting these UOCAVA ballots out, as well as the Secretary of State's office. I know in the primary, Linda Ford and Erica and Ryan Germany, our counsel, and a number of other members of our team actually ended up working on Saturday to make sure we got all of that done. That's how important this is. One day when you're dealing with the federal legal deadline is important. I know we stress that a lot. So we cannot take these UOCAVA ballots for granted.

The position the State gets in is if you have a county that doesn't deliver, the State ends up getting -- potentially could get sued over that matter. So it's a little bit of a unique situation. And I appreciate all the counties are doing to make this happen and all of our team is doing that.

So I don't have an issue with letters of instruction for the first five counties listed. I don't necessarily have an issue with binding over Polk County.

I'm a little concerned about binding Worth County over being that they wanted to be here. I

would rather, if the board sees fit, maybe send that, or just hold that until they could appear before us. I feel like we owe it to the county elections officials if they would like to say something to the board to perhaps change the recommendation that we should offer to do that when they let us know they couldn't come. If they just decide not to show up, that's a whole other matter.

That's my feelings. I don't know if the board has feelings on that or if you want to add any other further to this case before a motion.

**MR. SIMPSON:** I move that we issue letters of instruction in accordance to Mr. Harvey's recommendation with regard to Paulding, Muscogee, DeKalb, Brantley and Bartow Counties; and that we bind over Polk County; and we table the Worth County matter and reschedule it for the next meeting.

**SECRETARY KEMP:** Mr. Simpson has moved. Is there a second? I'll second.

Ms. Sullivan, did you want to ask something?

**MS. SULLIVAN:** A little discussion. I understand were tabling the Worth case so that she can have an opportunity to appear. We are provided this letter here where they say they were aware that they were one day late and she doesn't have anything else to say. So I don't know if we're gaining anything by giving her another opportunity to present -- to be here to present. She is very concerned that she wasn't here, but I'm not sure that were going to get -- I'm sure she would apologize. I'm not sure we would get any more information that would help us resolve this case.

**MR. WORLEY:** I would agree with Ms. Sullivan. The letter says I've talked to the investigator numerous times and I don't have anything else to say. Since it's so far and gas is so high, I ask you all to accept my apologies for not being able to attend.

As Ms. Sullivan said, I'm not sure putting off one more time (unintelligible).

**SECRETARY KEMP:** Well, I seconded the motion and I will stand by that unless Mr. Simpson was to change it. But if that's the will of the board to go ahead and bind it over, I can support that as well.

But we've got a motion and a second so will vote on that. All in favor of Mr. Simpson's motion, signify by saying, "Aye."

**MR. SIMPSON:** Aye.

**SECRETARY KEMP:** Aye.

All opposed, same sign.

**SECRETARY KEMP:** That motion carries.

**MR. WORLEY:** No.

**MS. SULLIVAN:** No.

**SECRETARY KEMP:** We have a tie, so that motion failed.

**MR. WORLEY:** I would make a motion, Mr. Chairman, that we bind over Polk County and Worth County and that we issue letters of instruction to Bartow, DeKalb, Brantley, Muscogee, and Paulding.

**SECRETARY KEMP:** Mr. Worley moves. Do we have a second? Can you restate that motion?

**MR. WORLEY:** I would bind over Polk and Worth Counties to the Attorney General's office and issue letters of instruction to Paulding, Muscogee, DeKalb, Brantley, and Bartow Counties.

**SECRETARY KEMP:** Mr. Worley moves. Is there a second? I'll second.

Mr. Willard, before we vote, just want to make sure. I don't remember having a tie since I've been chairman of the State Election Board. But I just want to make sure I made the proper ruling that a tie would fail, correct?

**MR. WILLARD:** That is correct, Mr. Chairman.

**SECRETARY KEMP:** Now, back to the motion at hand by Mr. Worley. We have a motion and a second. Any other discussion?

(Whereupon, there was no response)

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

**MR. WORLEY:** Aye.

**SECRETARY KEMP**: Aye.

All opposed, same sign.

**MR. SIMPSON**: No.

**MS. SULLIVAN**: No.

**SECRETARY KEMP**: Okay. That motion fails, too.

**MS. SULLIVAN**: I will make a motion --

**SECRETARY KEMP**: Are you going to move that we adjourn?

**MS. SULLIVAN**: I move that we issue a letter of instruction on all of the cases except for Polk and bind them over to the Law Department.

**SECRETARY KEMP**: We have a letter of instruction for Bartow, Brantley, Dekalb, Muscogee, Paulding, and Worth; and bind Polk over?

**MS. SULLIVAN**: Yes.

**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 issued letters of instruction for everyone except for Polk County. They have the bound over to the AG's office

Mr. Harvey, I want to go through the rest of this list if you will give me just one second. Is there

anybody here from Bryan County on the UOCAVA cases?

(Whereupon, there was no response)

**SECRETARY KEMP**: Chatham?

(Whereupon, there was no response)

**SECRETARY KEMP**: Clarke?

(Whereupon, there was no response)

**SECRETARY KEMP**: Columbia?

(Whereupon, there was no response)

**SECRETARY KEMP**: Dougherty?

(Whereupon, there was no response)

**SECRETARY KEMP**: Haralson?

(Whereupon, there was no response)

**SECRETARY KEMP**: Lowndes?

(Whereupon, there was no response)

**SECRETARY KEMP**: Stewart?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thomas?

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Mr. Harvey, it looks like we can go with Clarke County first; number 43 in our binder.

**MR. HARVEY**: Mr. Secretary, I would make the recommendation we handle this kind of the

same way. It is basically the same issue. We can go down -- frankly, I wanted to point out that Columbia County sent a letter to the board along with a plan of correction they've implemented. Their excuse for being a couple of days late is the person handling had a personal emergency about a time she got back into the office, she was able to correct in.

Lowndes County also sent a letter. Ms. Cox said she was getting ready for the primary and could not come. She gave a remedial plan that the board has, and Ms. Cox pointed out that the first we she's sure this will happen again is because she did not get a performance raise this year because of this. So she is confident this will never happen again in Lowndes County.

As I look at all these cases, I see very similar scenarios to the first. I see, generally, a very large number of UOCAVA ballots that are handled by these counties and a relatively, in some cases, very small number of voters that were affected. And I see these cases, with the exception of one voter in Bryan County, everybody was able to vote.

My recommendation would be in all these cases, and even Bryan County, the Board of Elections went to extraordinary efforts to try to contact the voter. I would recommend, if possible, in all these cases that letters of instruction be issued to all of the respondents regarding the necessity of getting the UOCAVA ballots out by the deadline if the board would entertain such a presentation.

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

**MR. WILLARD:** Mr. Chairman, I just had one. Your recent for recommending LOI on Thomas County, which got there is out later than Polk County is simply because all of them were returned and the elector voted?

**MR. HARVEY:** Generally, yes. Even though it was late, we know they were successful.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. Harvey, on the Thomas County, do we know why they were 32 days late versus a couple of days?

**MR. HARVEY:** They misfiled the applications. In some cases -- the person who normally handled them in Thomas County was on maternity leave with they began coming in. A temporary clerk was assigned. They just didn't advise her of the procedure for separating applications. They acknowledge that they overlooked that in the training with the team for every

worker.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone here wishing to speak of these matters?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any other discussion by the board or a motion?

**MS. SULLIVAN**: I move that we issue a letter of instruction in each of the remaining UOCAVA cases.

**MR. WORLEY**: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. We have issued letters there.

Mr. Harvey, we're going back to the first page of the agenda. We've got everything on the first page, correct?

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

**MR. WILLARD**: Except for the rules change.

**SECRETARY KEMP**: At the top of the second page, we've got case 2010-18, City of Nicholson, which is tab 19 in our binder.

**MR. WILLARD**: Mr. Chairman, before we do that, would it be possible, since we're taking them a little out of order, and to accommodate anybody here, can we see if anybody is here for the Attorney General's report?

**SECRETARY KEMP**: Is there anyone here still waiting on a case?

**MR. WILLARD**: I think there was at least one individual here, at least this morning, on one of my cases.

**SECRETARY KEMP**: Oh, AG cases. Yes. We can do that. Good point. Who is here for Attorney General reports? It doesn't matter what order it is. Let the record reflect we are on the Attorney General reports, 2011-33, Coweta County.

**MR. WILLARD**: That is the first page and tab 50 of your report. There was a scrivener's error by the attorney handling this. It's actually the Coweta County SEB case 2011-33.

This is a case we have referred over at the February, 2013 meeting. The respondent had registered to vote in 2008 and did not vote in any subsequent elections, but the respondent was not a citizen. We had reached an oral agreement to execute a consent order in this case.

The consent order was never returned by the respondent. So we sent the case into OSAH. From that point on, the respondent disappeared from sight. Neither our office nor OSAH were able to serve him with notice of the hearing, which is the prerequisite for going forward with the OSAH hearing. We have done searches on all of the asset and identification databases that we have access to at the Attorney General's office to attempt to locate this gentleman. I don't know whether he self-removed or what the circumstances may be as to why he has completely disappeared.

But in light of the lack of a viable service address, we are recommending the board dismiss the matter without prejudice until such time as Mr. Hernandez can be found.

**SECRETARY KEMP**: We have a recommendation to dismiss without prejudice because we can't find this gentleman. Any questions for Mr. Willard?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Any other discussion on the board or do we have a motion? I will move that we accept the recommendation.

**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.

Is there anyone else here for one of the Attorney General's cases?

(Whereupon, there was no response)

**SECRETARY KEMP:** Okay. We can vote on the rest of those in block unless somebody wants to pull one out. But I think we can probably go back to the regular calendar, Mr. Harvey, if that's all right.

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

**SECRETARY KEMP:** 2010-18, City of Nicholson, which is number 19 in our binder.

**MR. HARVEY:** This case involved a city election in Nicholson. The allegation is that non-city residents were voting and there was some campaigning that was taking place too close to the polls, and that absentee ballots were improperly transported to a nursing home.

What we determined was that there was no evidence of illegal campaigning within 150 feet. There was no evidence the ballots were improperly taken to or from the nursing home. As a matter of fact, three ballots were mailed there, and two of the three were returned with no evidence of any type of tampering or mishandling.

When we started examining some of the paperwork, we did find that the elections superintendent, Wendy Carter, had actually illegally provided assistance to two voters with absentee ballots and that she had two cases where she failed to certify absentee ballots when they came back with date and time.

In addition, when we looked at the absentee ballots to make sure there was no evidence of problems with them, we found five individuals who assisted -- legally assisted family members or people otherwise assisted. They all signed, however, they either did not put the proper relationship or didn't put the reason for the assistance.

My recommendation would be that the five people listed, which are Nelson Penia (phonetic), (Unintelligible) Barnett, Clarence (Unintelligible), Rhonda Gosnell, and Marilyn Hill either be dismissed or be issued letters of instruction.

Ms. Marilyn Hill did provide a letter to the board. She assisted her husband who is totally blind and also has other physical problems. So she acknowledged assisting him and apologizes for failing to fill out the form properly.

So I recommend those five individuals either be given letters of instruction or dismissed, and that Wendy Carter be bound over to the AG's office for illegally providing assistance to two voters with absentee ballots while she was elections superintendent, and two instances of failing to certify absentee ballots.

**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:** Any other discussion from the board?

(Whereupon, there was no response)

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

**MR. SIMPSON:** Move to accept Mr. Harvey's recommendation.

**SECRETARY KEMP:** Mr. Harvey, could you go through those recommendations one more time.

**MR. HARVEY:** Yes, sir. I recommend binding over Wendy Carter, the elections superintendent on her violation, and on the other five, Penia, Barnett, (Unintelligible), Gosnell, and Hill, I will leave it to the board's discretion either to issue a letter of instruction or dismiss. They essentially complied with the law. They signed as assisting; they were entitled to assist. They just didn't check every proper box.

**SECRETARY KEMP:** And we had a recommendation to dismiss against Ronnie Maxwell, who was a respondent?

**MR. HARVEY:** Yes, sir. He's not cited for anything. He is listed as a respondent, but not cited.

**SECRETARY KEMP:** Okay. I just wanted to make sure we were missing anybody.

So Mr. Simpson, you recommend binding over Wendy Carter and the City of Nicholson and issuing letters of instruction for the others?

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

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

All right. Mr. Harvey, 2011, number 53.

**MR. HARVEY:** This is a case with a very technical violation. Mr. Tingler, was a candidate in

the November, 2011 election. He appeared in the elections office with his aunt's absentee ballot to show the election superintendent, Deirdre Holden, that his name was on the ballot improperly. She had inadvertently put the middle initial in the wrong -- I believe it should have been -- it was C and should have been an A, or it was A and should have been a C. Marvin L. Tingler, not Marvin A. Tingler.

So in point that out to her, she acknowledged she made a mistake; she simply didn't read the ballot properly. And then she reported him for possessing his aunt's absentee ballot illegally in the polling place.

This is one of those cases where I know the board has a very strict interpretation of the possession of absentee ballots. He did possess it without authorization. He retained an attorney, Mr. Mason, who sent a letter to the board. He and I spoke briefly and I explained that the board generally has a very strict policy regarding illegal possession of absentee ballots.

He has requested that the board consider a letter of instruction given the circumstances. He never tried to vote the ballot. He was using it to illustrate a point. He realizes now it might just have been easier to say, would you pull one of those up and look at it, rather than bring it in.

But in this case, I would tend to agree with the recommendation, again, using the term judicial economy. I recommend letters of instruction issued to both Mr. Tingler and Ms. Holden regarding the relatively minor errors and otherwise dispose of the case.

**MR. WILLARD**: Mr. Chairman, if I may ask Mr. Harvey a question. Isn't it true that the investigator, when he contacted the aunt, confirmed that the aunt had actually accompanied him to the office?

**MR. HARVEY**: She accompanied him in the car. She stayed in the car. So she had arguably shared possession of her ballot until she he got out of the car. So I think it's clear there was no intent to do anything and he was using it for demonstrative purposes only.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. HARVEY**: Mr. Chairman, for the record, can I introduce a letter his attorney sent us?

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

**MR. WORLEY**: I make a motion we accept the letter.

**SECRETARY KEMP**: That's not the motion I was looking for, Mr. Worley. I'll take a motion and 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)

**MS. SULLIVAN**: Mr. chair, what we have three alleged violations in this case. Do we have a recommendation on all three of them.

**SECRETARY KEMP**: Yes. Ms. Holden is the superintendent of elections, Board of Elections. Is that what you're asking?

**MR. HARVEY**: Are you referring to complaint number two?

**MS. SULLIVAN**: One, two, and three.

**MR. HARVEY**: I'm sorry. I neglected to say there was no evidence -- there was also an allegation that maybe his aunt was not eligible to vote and therefore she shouldn't have gotten a ballot in the first place. She was able to vote; she was eligible to receive ballot. So complaint number two is unsubstantiated.

**MR. WORLEY**: But complaint number two was made by Ms. Holden, the elections official?

**MR. HARVEY**: Yes, sir. There was a question of whether or not she was actually living at the address of her registration.

**MR. SIMPSON**: So your recommendation is a letter of instruction to Margaret Tingler and Deirdre Holden?

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

**MR. SIMPSON**: So moved.

**SECRETARY KEMP**: Mr. Simpson moves for a letter of instruction for both.

**MS. SULLIVAN**: Second.

**SECRETARY KEMP**: Ms. Sullivan 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.

Okay. 2011, number 75; tab 21.

**MR. HARVEY**: This case involved Lake City election in November of 2011. There were multiple allegations.

The biggest, most serious problem was that the election officials did not properly use voter certificates. They used provisional certificates instead of regular voter certificates. They had nine voters use notebook paper to write voter certificates. They then took the nine pieces of notebook paper and transposed the information and signed the voter signature on the voter certificates when they got them.

There were allegations that voters were not allowed to view the tabulation. That was found to be unsubstantiated.

On the last page of the summary, the last three violations, we did not find evidence in those. I recommend those be dismissed. They were somewhat inartfully written and we do not have evidence to support any of those things that were written.

So the violation is regarding execution of the voter certificates and the provisional ballot voter

certificates. I recommend that the respondents be bound over on the allegations regarding voter certificates.

**SECRETARY KEMP**: Would you just name the respondents.

**MR. HARVEY**: Roy Dunne, Eric Beckman, Francis Hill, Tamara Dunne, and Maggie Jervis.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MS. SULLIVAN**: I move that we accept Mr. Harvey's recommendation.

**SECRETARY KEMP**: Ms. Sullivan moves to bind over. Do we have a second?

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: 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.

Case 2011, number 96; tab 24.

**MR. HARVEY**: This case involves a convicted felon who was registered three times illegally

using false names and Social Security numbers. The respondent in this case was actually turned in by the mother who discovered a lot of documentation of her house.

Melinda Thomas has been convicted and is serving a felony sentence. She registered on three separate occasions, and on one occasion -- three applications when she was serving a felony sentence and one with a fictitious name.

And discussing with Mr. Willard before this meeting, I would recommend this is a case the board might consider referring to the District Attorney's office in Clarke County for criminal prosecution. With the issues of identity theft and obvious illegal voter registration, it might be one the board would consider referring to the DA's office.

**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**: Do we have a motion?

**MS. SULLIVAN**: I move we refer this case to Clarke County District Attorney for criminal prosecution.

**SECRETARY KEMP**: 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 will refer that case to the DA's office.

2011-101, Paulding County; tab 25.

**MR. HARVEY**: This case involves eight people involved suspected of registering to vote while serving a felony sentence.

Our investigation determined that all of them, with the exception of respondent number two, that is Kimberly McMurray, all the other respondents, 1, 3, 5, 6, 7, 8, were serving felony sentence says when they registered to vote in Georgia.

Ms. McMurray, respondent number 2, was under the Florida equivalent of first offender status and therefore she was eligible to vote. So I recommend that Kimberly McMurray be dismissed and that Joseph (Unintelligible), Kevin McCraney, Anissa Crim, Elizabeth Hollis, Michael Holden, Michael Treadwell, and Dennis Stanley be bound over to the AG's office for false registration.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. SIMPSON**: So moved.

**SECRETARY KEMP**: Mr. Simpson moves that we bind over respondents 1, 3, 4, 5, 6, 7, 8, and dismiss respondent 2. Do we have a second?

**MR. WORLEY**: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

Mr. Harvey, 2012-149; tab 31..

**MR. HARVEY**: This is an interesting case. The respondent, Leah Williamson, was not at the time, but is now the elections superintendent of Pierce county. I spoke to her several times since she got the notice and I got the letter that she sent explaining the situation to the board. I also have a letter of support written by (unintelligible) Lovett, the chairman of the Board of Elections in Pierce county with support for Ms. Williamson.

This incident came out of a divorce action. Ms. Williamson had been married for a long time, over 20 years, to her husband. She had a habit of signing his name -- they ran a business. She was in the habit of signing his name, requesting ballots for him.

When he voted in this election, he voted his ballot. She signed his name on the absentee ballot envelope and sent it in.

In the course of the divorce proceedings, that was brought up and it was alleged that she had voted his ballot without him. She says that she didn't know that she couldn't do that at the time. She certainly knows now that was wrong and she never intended to commit any kind of fraud. She puts this down to a nasty divorce, (unintelligible) allegations from another woman.

So I would, for the record, like to tender this letter from Ms. Williamson and the letter of support from the chairman of the Board of Elections for the board's consideration.

My recommendation is that this be bound over to the AG's office. I think there may be circumstances that can be considered by the AG when he gets it, but I think the fact that she acknowledges that she signed her husband's name to his absentee ballot and sent it in, I recommend that some type of formal consent order needs to be established in this case.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. WORLEY:** I make a motion we bind this over to the Attorney General's office.

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

**MS. SULLIVAN:** Second.

**SECRETARY KEMP:** We have a second by 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.

All right, Mr. Harvey. Case number 2012-164, Gwinnett County.

**MR. HARVEY:** The voter in this case, Kenneth Roman, had voted very early during advance voting and was encouraged by his wife to vote on election day. He didn't realize he had voted. So he went to vote a second time. The poll worker saw that he had voted an absentee ballot. He told them he had not. He didn't remember doing it. So against her better judgment, the poll worker overwrote the system and allow him to vote the ballot. It was determined that he actually voted twice.

I've spoken with Mr. Roman and his wife. He sent a letter expressing his concern. He said he just started a new job after being unemployed for several months and would not be able to make the meeting. He says it was a case of lack of communication and misunderstanding. I assure you this will not happen again. So the board can consider that letter.

I would recommend that Mr. Roman be bound over for double voting. And although they were not listed as a respondent, I think it would be appropriate for the board to issue a letter of instruction to Gwinnett County regarding allowing a voter to vote who is already voted absentee.

I believe a letter of instruction would be appropriate for us to.

**SECRETARY KEMP:** Would it be appropriate for us to do that if they are not listed as a respondent and are not here?

**MR. HARVEY:** I think it would be appropriate. I think in a perfect world it would be that they be given a chance to answer. I don't think there's anything wrong with it. But rather than calling everybody back, I think it would be appropriate to do that. I think if the board wanted to not consider, that would be okay, too.

But I don't think they would be getting anything more than a letter of instruction to, as a result of that. If the board wanted to consider that or not, it would be appropriate.

**MR. SIMPSON:** I don't see how we can taken action with somebody has not been notified. I mean, we are America and we do have due process, which is the opportunity to be heard. Notice and the opportunity to be heard is the basis of that. So I don't see how we could do that.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Do we have a recommendation? I move that we delay action on Gwinnett County and just notify them and add that to our next meeting.

**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 still have the issue with the double voter, Mr. Roman. Do we have a motion?

**MR. SIMPSON**: I move we bind over that part of the case.

**SECRETARY KEMP**: Mr. Simpson moves that we bind over. Do we have a second?

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Second by Mr. Worley. Do we have any discussion?

**MS. SULLIVAN**: One question. This is a criminal provision. I don't believe Mr. Roman had any intent to vote twice in this election. I'm wondering if the intent to -- this is a criminal statute that we are proceeding under.

**MR. SIMPSON**: We just always seem to take the hard line on these type of cases and bind them over and if some mitigating or extenuating circumstances come out after it goes to the Attorney General's office, then we can deal with that later.

**MS. SULLIVAN**: Mr. Willard has clarified this is a -- stated as fraudulently does not state willingly (unintelligible).

**MR. WILLARD**: If the board elected to, the board could refer this case over to us based on this violation for the double voting. It's not a situation where he just walked in off the street and thought he hadn't voted a second time and they didn't catch it through express poll. They caught it, told him to go home, return with his unspoiled absentee ballot. He went home and couldn't locate his ballot. He came back. I think that establishes sufficient facts in support of a violation of the 572 provision.

**SECRETARY KEMP**: All right. Any other questions?

(Whereupon, there was no response)

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

**MS. SULLIVAN**: Yes.

**SECRETARY KEMP**: Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor to bind over Mr. Roman, 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 got us, Mr. Harvey, on new cases?

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

**SECRETARY KEMP**: Mr. Willard, we are back on the Attorney General reports. We can vote on these recommendations in block or we can pull them out if board members want to pull out any of the remaining cases, absent the Coweta County one.

**MS. SULLIVAN**: Mr. Chairman, I would just like to note that in one of these cases, the memo is inconsistent with the consent order.

**MR. WILLARD**: Right. You're looking at tab 55. Mr. Chairman, you've got the memo on the Gilmer County case. Up in the proposed resolution, that is actually correct. But in the text of the recommendation, it says it just calls for a cease-and-desist and public reprimand. The proposed resolution up in the line items in the top is actually what the consent order calls for, and that's a cease-and-desist, a public reprimand, and a \$1000 fine.

**SECRETARY KEMP**: Okay. Duly noted. Anything else? That is the recommendation. Did any board member want to pull anything out?

(Whereupon, there was no response)

**SECRETARY KEMP**: Does anyone here in the audience want to pull out one of these cases for discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I will accept a motion to accept the Attorney General reports and recommendations on case numbers 2011-73, 81, 105, 108, 2012-4, 2012-49.

**MR. WORLEY**: So moved.

**SECRETARY KEMP**: We have a motion by Mr. Worley. Second?

**MS. SULLIVAN**: Second.

**SECRETARY KEMP**: We have a second by 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.

The last item on our agenda other than potential business will be rule changes. I'm inclined to take a five-minute break if you all would like to do that. Let's do 10 minutes. We will come back -- let's do nine minutes. Let's come back at 3:15. We will reconvene at 3:15 after a short break.

- - -

(Whereupon, there was a short break)

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**SECRETARY KEMP**: Ready to go, folks? We are now on page 1, part IV of our agenda, the State Election Board Rule Amendments. I wanted to take the second rule first. Mr. Germany's printing out some more stuff on the name changes we might discuss.

Mr. Willard, can you give us just a quick reminder of how this process works so everyone is clear on what we're doing here today.

**MR. WILLARD**: Yes, Mr. Chairman. The board, today, is going to consider tentatively adopting and promulgating the proposed version of new SEB rules, and I believe those rules are 183-1-14-.01, 183-1-11-.02, and 183-1-13-.06.

If the board agrees with staff recommendations to promulgate these rules out, there will be notice to the public and notice to the General Assembly.

The board will invite oral and written comment. The board is required to entertain oral comment after a certain threshold of requestors is met on the proposed revisions. But after receiving oral comment on the proposed rules, the board -- and any recommendations and advice from members of the General Assembly -- the board can ultimately adopt the rule at least 30 days after notice to the General Assembly has gone out.

**SECRETARY KEMP**: All right. So basically we are moving forward to post these rules for public comment. This is not final passage.

**MR. WILLARD**: That's correct. The board, though, does have to sort of agree with the writing. If the board, at a subsequent meeting, were to go back and change anything, you would then go into a re-notice provision and have the final adoption after that.

**SECRETARY KEMP**: I'm going to call on Mr. Worley if he is prepared to discuss one of the rule changes that he brought forward.

**MR. WORLEY**: Thank you, Mr. Chairman. This will be proposed rule 183-1-15-.06, Poll Watchers for Advance Voting. First of all, like to thank Mr. Germany for his assistance in helping draft this rule and the other board members for their helpful comments on this rule.

The purpose of this rule is very simple. When the statute relating to poll watchers in advance voting was passed, it set the numbers for poll watchers to be allowed. But it didn't seem to consider the fact that advance voting occurs over a long period of weeks so that, essentially, it seems like, although it's not entirely clear, but it could be read that it might be limited to two poll watchers, for instance, for an entire three-week period.

All this rule does is clarify that and say that anyone who is already entitled to designate or propose a poll watcher can propose a different poll observer, or set up poll observers if there's more than one, for each day of the campaign.

That is essentially the rule, the proposed role.

**SECRETARY KEMP**: All right. Any questions regarding that proposed rule or comments from any other board member?

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone in the audience that would like to comment or has any thoughts on that?

(Whereupon, there was no response)

**SECRETARY KEMP**: If not, Mr. Worley, we need to accept a motion to post this rule?

**MR. WORLEY**: I would so move.

**MR. GERMANY**: Mr. Chairman, before we do that, I have one comment. Ryan Germany, General Counsel for the Secretary of State.

In the rule, as it's drafted -- and this is just a drafting error I wanted to bring to you all's attention -- it says for the purpose of applying O.C.G.A. 21-2-408 (a)(1)(2), it should just say, 408(a)(2), I believe. So we should strike that "(1)" from the rule when we post it.

**MR. WORLEY**: Thank you very much, Mr. Germany. That is correct.

**SECRETARY KEMP**: All right.

**MR. WORLEY**: With that change, I would move that we vote to post the rule, proposed role.

**SECRETARY KEMP**: We have a motion by Mr. Worley to post the proposed rule as amended. Do we have a second?

**MR. SIMPSON**: Second.

**SECRETARY KEMP**: 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. We have moved to post that rule.

The next rule, we will let Mr. Germany talk about that, regarding the absentee ballot envelope.

**MR. GERMANY**: Thank you, Mr. Chairman. This is a proposed rule amendment to State Election Board rule chapter 183-1-14-.01, and the purpose of this rule is to do two things.

One, to just update the rule to reflect the current use of symbols that the counties are already using. The old rule was updated.

Second, to lower the -- to define advanced age as meaning 65 years of age or older. And that means a person who is 65 years of age or older will receive an absentee ballot for the entire cycle with only one request. The rule also defines disability, and that same rule applies where a disabled person will receive an absentee ballot for the entire election cycle with just one request.

**SECRETARY KEMP**: Does anyone have any questions for Mr. Germany regarding the rule?

**MR. WILLARD**: Mr. Secretary, before we get too far down the road, I do want to point out to the board, and I apologize; I have been reading the substance of the rule as opposed to the synopsis and notice provision. The board is required as part of the notice to both the public and General Assembly to give specific dates for when oral and written comment can be received, as well as the date and time the final adoption of the rule will be considered. It is the board's prerogative that they're going to leave that up to the Secretary of State's office to determine when promulgating that, or does the board actually want to set a date and time that they will consider adoption of the rule as a vote of the board?

**SECRETARY KEMP**: I don't know that we could set the date because we don't know the State Election Board dates. I don't think we have those set.

**MR. WILLARD**: You can do this as we do when we are ratifying an ALJ decision. We can do it telephonic if the board wanted to set the date time and have a telephonic board meeting.

**MR. SIMPSON**: Do we delegate that to the Secretary of State's office? The board doesn't have

to do it. We can allow the Secretary of State's office to do it.

**MR. WILLARD**: That's correct. I just want to make sure the board is cognizant that before the notice is posted publicly, you must have a date and time that you will anticipate final ratification of the rule.

**MS. SULLIVAN**: I believe we can delegate that to the Secretary of State's office.

**SECRETARY KEMP**: We've got to coordinate that meeting date with you all, anyway.

**MR. WILLARD**: Right. But it has to be done before you post the notice and send a notice to the General Assembly.

**SECRETARY KEMP**: So do we need to put that into a motion? I guess we will wait to make that motion after we've talked about all these rules.

**MR. WILLARD**: That's correct, Mr. Secretary.

**SECRETARY KEMP**: Okay. Is there any other questions on the rules Mr. Germany just discussed?

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone else wishing to speak regarding the rule?

(Whereupon, there was no response)

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

**MR. WORLEY**: Mr. Chair, I would make a motion that we post proposed rule 183-1-14-.01.

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

**MS. SULLIVAN**: Second.

**SECRETARY KEMP**: Second by 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.

The last rule that we have been working on, Ms. Sullivan has had a good deal of input on this, as well. It's an issue that came up during qualifying about the way the names appear on the ballot under the current rule that we have. And we've been working to try to bring a little bit of clarity to that and, I will let Mr. Germany speak to that.

But I also want him to speak to one of the parts that is not in the rule that we passed out that may warrant some consideration dealing with nicknames being in quotation marks. We'll just let him talk through that and we can decide what we think would be best to end up doing.

**MR. GERMANY**: Thank you, Mr. Chairman. This proposed rule is an amendment to SEB rule 183-1-11-.02 dealing with the appearance of a candidate's name on the ballot.

It came out that the rule as it is currently drafted, we just think needs some clarification to let candidates know their options. The point of this rule is to allow some flexibility for a candidate that might go by a nickname, middle name, or an abbreviated name to appear by that name on the ballot.

The proposed rule keeps in place the current restriction on nicknames that does not allow titles, military ranks, professional ranks, or any phrases designating business, fraternal, or religious, or professional affiliation of the candidate or any political slogan or message.

The rule also makes clear that the candidate's name will be cross-checked with the voter registration records as that is the database that both the county election officials and Secretary of State's office has access to.

The part the Secretary was talking about, I have in front of me a previous version of the rule I could circulate to the board, if that would be all right.

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

**MR. GERMANY**: The version I just handed you, I'll just go through it line by line. But it

deals with -- this rule states that a candidate's name on the ballot shall include the candidate's last name as shown on the candidate's voter registration records, and at least one of first name or middle initial; middle name or middle initial; an abbreviated name by which the candidate is commonly known in the community; or a nickname by which the candidate is commonly known in the community.

The purpose of this is to allow people that go by a nickname to include just that nickname. Examples include Sonny Perdue, who was on the ballot as Sonny Perdue; or Chipper Jones, for example will, could be just Chipper Jones.

Section 2 of the rule deals with nicknames as we previously discussed.

Section 3 of the rule, the one I just handed out, states that if a candidate chooses to include a nickname or abbreviated name in addition to the first and middle name, the abbreviated name or nick name shall appear set off within quotation marks immediately before the last name.

The purpose of that is to -- what that is trying to say is that if a candidate goes by just a nickname or abbreviated name, they do not need to use quotation marks. Like if someone wanted to just be Sonny Perdue, there would be no quotation marks; or Chipper Jones. But if somebody wanted to be Larry Chipper Jones, the nickname would be separated in quotation marks. And that's something the board can discuss.

The other part of the rule remains the same regarding just the number of spaces that are available to a candidate, and that has been the current practice and I don't believe there been any issues with that practice.

The final part of the rule just states that a determination as to whether a candidate's name complies with this subsection is within the discretion of the Secretary of State or the local election superintendent depending on who the candidate qualifies with.

**SECRETARY KEMP:** Thank you, Mr. Germany. In light of this rule could end up -- would definitely would affect the appearance of my name on the ballot, I'm going to recuse myself from this discussion and I will turn the meeting over to Mr. Worley to preside over these deliberations.

**MR. WORLEY:** I've been waiting for this for 10 years.

**SECRETARY KEMP:** Congratulations, Mr. Worley.

**MR. WORLEY:** Mr. Germany, do you have anything else?

**MR. GERMANY**: No, sir. I'm happy to answer any questions the board may have.

**MR. WORLEY**: Do any of the board members have any questions of Mr. Germany?

**MR. WILLARD**: Mr. Chairman, I have a question for Mr. Germany.

**MR. WORLEY**: Mr. Willard.

**MR. WILLARD**: Mr. Germany, we are going from the system where you designated a nickname in quotation marks, but getting away from using some variation of the first and middle name or the first and middle name [sic], which were capable of being checked against voter registration records.

The rule doesn't appear to give any guidance to an election superintendent whether on the state level or local level as to what is commonly known in the community.

Is it basically going to be if they affirm that the nickname is one they are commonly known in the community by that that is going to be accepted?

**MR. GERMANY**: That's how I envision it, yes. You're correct. There is not a way to check cross-check a nickname or an abbreviated name via records. But it would basically be if somebody says that's a nickname they're commonly known by, I envision there would be some deference to that.

The rule does leave it within the election superintendent's discretion. So if they know that's just not the case, then it would not be allowed.

The rule also includes the current restrictions on nicknames which doesn't allow for any spurious phrases, titles, or degrees. I think that would help check with that. So if someone wanted to say they are known by something they are not really known by, that couldn't get through. If it's a spurious phrase, title, or degree, or something that otherwise wouldn't be allowed, that would still not be allowed.

**MR. WILLARD**: Right. Let's say Bob Jones in Troup County wanted to be on the ballot as Dr. Chipper Jones. The Doctor would be disallowed, but Chipper Jones would be allowed under this version of the rule, correct?

**MR. GERMANY**: Assuming that local election superintendent is okay with that, yes.

**MR. WILLARD**: And I don't know, you may have given a different version of the rule to the board, but the determination language is just found within the current subpart that talks about business, fraternal, religious, or professional affiliations, not so much the propriety of the --

All right. So we're not going by what was in the folder today. We're going by what you handed the board currently?

**MS. SULLIVAN**: It's number 4 in the previous one.

**MR. GERMANY**: That section should be in the section you're looking at. It's the final section, determination as to whether a candidate's name complies with this subsection shall be within the discretion of the Secretary of State or elections superintendent, as appropriate, who may modify the candidate's name so that it complies with this subsection.

**MR. WILLARD**: So that's an additional discretion of the election superintendent in addition to the spurious title designation?

**MR. GERMANY**: Correct.

**MR. WORLEY**: Does anyone else have any questions for Mr. Germany?

**MS. SULLIVAN**: I think we need to discuss number 3; whether or not we include number 3 or delete number 3.

My thought, number 3 requires if you use a nickname in addition to your first and middle name, then your nickname has to be in quotes. My concern with that is if you just use your nickname, you don't have to put your nickname in quotes. So I didn't see why you would need to use quotes if you were going to use your real name as well.

I could be Becca Sullivan and not put my name in quotes. But if I wanted to be Becca Nash Sullivan, now I have to put Becca in quotes if we leave 3.

So I thought there was some inconsistency there. And it was my suggestion that we delete the requirement to use quotation marks for a nickname if you use it in addition to a first and middle.

I'd be happy to hear your thoughts on that.

**MR. SIMPSON**: Is there some way that you could add some language in the paragraph sub-4 to say that the -- it's within the Secretary of State's determination as to whether or not the name used on the ballot properly identifies the candidate? Because, you know, you could use Sammy Jones and, you know, that may be a nickname, but it may be a nickname that might not properly identify the person who is the candidate in terms of his name on the registration logs.

What I'm getting back to is the point Mr. Willard made about identifying the candidate as, you know, according to his voter registration. There's no cross-check there, so it would be within the Secretary of State's determination as to whether or not the name used on the ballot corresponded with a registered voter, elector.

Is that necessary?

**MR. WORLEY**: How would the Secretary of State determine that?

**MR. SIMPSON**: I guess you would -- well, for example, in my case. My voter registration says Ralph F. Simpson. If I tried to use -- say I tried to use Russ, that wouldn't work because the identifier there wouldn't correspond with my nickname, which would be Rusty. See what I'm saying? I may be worrying about something we don't need to worry about.

**MR. WORLEY**: Well, in that case you would want whatever nickname you put there to be the correct one.

**MR. SIMPSON**: Unless you had a name like -- I can't remember what it was, but we had two names on the ballot that were confusingly similar last election. I can't remember who they were. It may have just been in our local election. I think a school superintendent named Jones and then we had somebody running for county commissioner with the name Jones.

**MR. WORLEY**: Well, it seems to me that the person with the most incentive to get it correct is the candidate. (Unintelligible).

**MR. GERMANY**: One thing we did do, Mr. Simpson, I understand what you're saying, and I think an issue that we have to consider is one like Mr. Willard brought up where someone with the last name Jones might want to use the nickname Chipper for some reason. We could add a subsection (1) as just a starting point and say a candidate's name as it appears on the ballot shall properly identify that candidate.

**MR. SIMPSON**: Well you also have the situation like you have somebody -- you know, we run into cases a lot where somebody doesn't live in the district they're running in. And there's no way to determine that unless you get the right Sammy Jones or Chipper Jones. There may be a Chipper Jones in one district and Chipper Jones in the other district and people will think they're running [sic] for Chipper that lives in the right district, but the candidate is actually this guy that lives in a district he couldn't qualify.

**MR. GERMANY**: There are still mechanisms in place to make sure that you list your residency address and that sort of thing. So those would not be affected by this rule.

**MR. WORLEY**: Does anyone have any suggested changes to the text that we've been presented with? Any other changes in addition to the one Ms. Sullivan suggested?

**MS. SULLIVAN**: I'm curious as to the way the rest of the board feels about whether or not we use the number 3 or delete number 3 regarding abbreviations for nicknames.

**MR. GERMANY**: I will add, Mr. Worley, that when I drafted this, I was thinking of a situation where someone's nickname, you know, would kind of be in addition to their first name, like Larry Chipper Jones. I was not thinking of a situation like Ms. Sullivan brought up where she wanted to be Becca Nash Sullivan. This number 3 does state that she will have to put Becca in quotes, and that's not the real purpose of it.

So I'm trying to think of a way to put that in writing. But I think that would be a worthwhile change to make.

**MR. WORLEY**: Well, it seems, Ms. Sullivan, that your suggestion would be to adopt this rule change, post this new rule with the deletion of section 3; is that correct?

**MS. SULLIVAN**: That is correct. I will so move.

**MR. WORLEY**: We have a motion to post this rule 183-1-11-.02 as we have it here with the deletion of section 3. Is there a second to that motion?

**MR. WILLARD**: Actually, Mr. Chairman, if we could, just so we're clear and we know what to promulgate, Ms. Sullivan is proposing adopting a rule that revises subparagraph (1); retains unaltered subparagraph (2); deletes the existing subparagraphs (3) and (4); renumbers the existing paragraph (5) as paragraph (3); and adds a new paragraph (4)?

**MS. SULLIVAN**: Correct.

**MR. WORLEY**: Is there a second to that motion?

**MR. SIMPSON**: Second.

**MR. WORLEY**: We have a motion and a second. Is there additional discussion of that motion?

(Whereupon, there was no response)

**MR. WORLEY**: All in favor of the motion as stated, say, "Aye."

(Whereupon, the vote was unanimous)

**MR. WORLEY**: All opposed, same sign.

(Whereupon, there was no response)

**MR. WORLEY**: The motion to post the rule as amended passes unanimously. With that, I will return the chair back to the Chair.

**SECRETARY KEMP**: Thank you, Mr. Worley. The last thing we have on our agenda, then, is we need to discuss a motion regarding the date of when we should post this or give that responsibility to the Secretary of State.

**MR. SIMPSON**: I move we delegate the responsibility determining the dates that need to go in the notice to the Secretary of State.

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

**SECRETARY KEMP**: We have a motion and a second.

Mr. Willard, would that motion suffice for everything we need?

**MR. WILLARD**: Yes, Mr. Chairman.

**SECRETARY KEMP**: Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone wishing to speak in that regard?

(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 us for today. Anything else we need to bring up?

**MR. SIMPSON:** Mr. Chairman, I'd like to bring up a matter that was brought to my attention by the county attorney for Decatur County.

Several months ago, probably in October or November, we did a letter of instruction to the Decatur County Board of Elections regarding some mistake that transpired in that office. The county attorney asked me to see if the board might reconsider that letter of instruction because the language in the letter was more like a letter of admonition. It was almost like it was indicating that the board had done something intentionally wrong, and they just wanted the board to reconsider that language and see if that letter of instruction, the language could be changed somewhat so that it did not imply intentional fault on the part of the Board of Elections.

I'd just like to see if the board will consider putting that issue on the agenda for our next meeting and that gives us an opportunity to look at the letter of instruction and then at that time we can decide whether or not to make some changes in the language.

**SECRETARY KEMP:** Mr. Willard, can we do that?

**MR. WILLARD:** The board has always taken the position in the past that the language of a letter of instruction is left to the discretion of the Chair and his staff. If you on your own volition want to reissue the letter of instruction, you are fully within your authority to do that. If the board were to consider adopting form language for a letter going forward, that's an item that would be proper for an item for the board to discuss much as we've discussed the rules changes here. It's whatever the board and the Chairman --

**SECRETARY KEMP:** So it wouldn't be an issue if we put that on the agenda to discuss the letter that we've sent to them?

**MR. WILLARD:** Correct. If the board wanted to reissue it, much like the board could go back at any point in any cases they bound over today, determine that it was an improper action and issue a letter of instruction.

**SECRETARY KEMP:** Mr. Harvey, I know you've gone back and forth with Mr. Brown on that letter. I remember us talking about that. Anything you want to add?

**MR. HARVEY:** I believe -- I didn't write the letter. I went back and forth with him, but not lately; not within six or eight months.

I can check with your staff --

**SECRETARY KEMP**: I'm sorry. I certainly don't mind looking at the letter and discussing why we wrote it that way.

**MR. HARVEY**: My initial conversation with him was he was concerned that they got one at all. I'm not sure I had a discussion with him about what's in the letter. I'm not sure I've even seen the letter.

**MR. SIMPSON**: I think he had sent a letter with specific complaints about the language.

**SECRETARY KEMP**: Seems to me he was disagreeing that we wrote the letter like it was a violation. But instead of -- it was a, I guess, small enough violation that we decided to handle it with a letter of instruction versus referring it to the AG's office. He had the impression that because we were issuing a letter, that there was not violation, which, to me, if there's not violation, we wouldn't need to issue a letter. We would dismiss.

But, look, I certainly don't mind looking back and putting that on the agenda and we can talk about it.

**MR. SIMPSON**: Thank you.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: I would like to comment real quick -- I know we've still got a few diehard local election officials back in the back of the room. We appreciate y'all being here.

As we post these rules, we've mainly gotten feedback from candidates and mostly legislators and people that are in this building. But now that we've moved forward on posting the rules, we would certainly like to have local officials speak back on those if you have thoughts on that, or if your folks back home do. So we'll look forward to getting those as we post everything.

That wraps up. We need a motion to adjourn.

**MS. SULLIVAN**: So moved.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We have a motion by Ms. Sullivan, second by Mr. Worley to adjourn. All in favor, signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we are adjourned. Everybody have a safe trip home.

- - -

(Whereupon, the proceedings were concluded)

- - -

CERTIFICATE

STATE OF GEORGIA        )

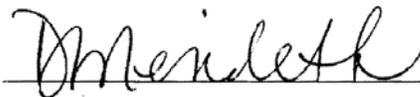
COUNTY OF DEKALB        )

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

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

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

This the 27th day of June, 2014.



Deborah L. Merideth  
Certified Court Reporter 2708  
State of Georgia



THE OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA

IN THE MATTER OF:

SPECIAL CALLED STATE ELECTION BOARD MEETING

GEORGIA STATE CAPITOL BUILDING  
ROOM 341  
ATLANTA, GEORGIA 30334

WEDNESDAY, SEPTEMBER 17, 2014  
3:00 P.M.

PRESIDING OFFICER:

BRIAN KEMP  
SECRETARY OF STATE  
STATE OF GEORGIA

LATASHA D. BETHEL, CCR  
HAPPY FACES COURT REPORTING  
POST OFFICE BOX 1063  
TUCKER, GEORGIA 30085  
(770) 414-9071

APPEARANCES:

Brian P. Kemp, Chairperson, State Election Board

Tex McIver, Vice Chairperson, State Election Board

David J. Worley, Member, State Election Board

Rebecca N. Sullivan, Member, State Election Board

Ralph F. Simpson, Member, State Election Board

Chris Harvey, Chief Investigator, Secretary of State Office, State of Georgia

Stefan Ritter, Senior Assistant Attorney General, Office of the Attorney General

TRANSCRIPT LEGEND

--                    --                    (Dash) Interruption in speech

Quoted material is typed as spoken

P-R-O-C-E-E-D-I-N-G-S

**SECRETARY KEMP:** Good afternoon everyone. Let's go ahead and call the 3:00 P.M. specially called meeting of the State Election Board to order.

Our first order of business will be Mr. Simpson has agreed to lead us in the invocation and then we will stand and do the pledge of allegiance.

Mr. Simpson?

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**SECRETARY KEMP:** Thank you, Mr. Simpson. Again I want to thank everyone for being here today especially the members of the Board who have rearranged their personal and professional schedules to accommodate this meeting.

I want to make it clear that we are here today to hear an informational update from Chief Investigator Chris Harvey regarding our open investigation with the New Georgia Project of Third Sector Development. This is not a formal hearing, simply an update in the interest of transparency.

At this time I would like to ask the Board to move the executive session part on our agenda further down to the end of our meeting. When this agenda was put out Monday, we thought we would have a legal issue to be discussed and that's not come to pass and we really don't have a need to go into the executive session at this time. We may not need it but we certainly can reserve the right to do that if the Board would like to do that.

Also I just wanted to mention I had someone from the audience to ask me about public comment. At our normal scheduled State Election's Board meeting we always have public comments at the start of those meetings and we will continue to do that. Our next meeting, I believe, is on October the 7<sup>th</sup>. but in the past at our special called meetings when we are, just dealing with one specific issue we have not, in the essence of time for the Board members schedules, we have not allowed public comments because we are here not in a hearing process, but this is the informational process for the Board. There will certainly be plenty of dialogue with that, I am sure.

If the Board does not object to moving the executive session on the agenda, I will go ahead and recognize Chief Investigator Chris Harvey to begin our update, and we have his PowerPoint presentation in your packets.

Mr. Harvey?

**MR. HARVEY:** Thank you, Mr. Secretary and Members of the Board. The presentation this

morning is going to be a brief summary and preliminary results from what we have determined in our investigation of the New Georgia Project and problems the with voter registration.

I want to start off by pointing out to the Board Members and to the public that the security and integrity of elections in Georgia is dependent upon security and integrity of the voter registration system and I will bring to the attention of the Board recent cases that the Board has dealt with involving large canvassers, such as Fulton County and Hancock County, that illustrate what kind of problems can occur on election day when the voter registration system is not updated regularly and properly. As you know, with those cases, by the time the problem has developed, it is often too late to fix the problem and voters either have to vote provisional ballots or are turned away.

So with that in mind I would like to start the presentation briefly by going through the process of registering to vote in Georgia by mail. I would point out that as far as we are aware now, all of the issues coming from these allegations have involved registering to vote by mail with the paper voter registration applications that are available from the Secretary of State's office that are being collected and submitted by members of the New Georgia Project.

In the regular procedure an applicant or prospective voter can complete a paper application that will be transmitted to either the Secretary of State's office or to the county voter registrar. I want to remind the Board that voter registration is done at the county level. The Secretary of State's office does not register people to vote. Applications that come to the Secretary of State's office are transmitted to each respective county so that they can do the due diligence and enter the data and register electors to vote.

When the registrar gets the application, they enter the data in the voter registration system. At that point one of two things happen. If the voter applying is recognized as a voter, if they were previously registered, if they are making a name change, address change, updating their status, they are recognized in the system, and their information is updated and the voter is completely fine. The voter is registered to vote. The process ends and they are good to go. No issue. If, however, it is a new voter or somebody that is not recognized in the voter registration system then that information is sent to the Department of Driver Services for identity verification and citizenship verification. When that process is completed, the information is sent back to each county. If the Department of Driver Services verifies the application and verifies citizenship, it notifies the county registrar and that voter is registered to vote.

Should the Department of Driver Services have difficulty verifying, or if they are unable to verify the identity or the citizenship of the voter, that information will be again returned to the county where the county will then have the obligation of contacting the voter and conducting their own investigation to determine whether or not the voter is eligible to vote. If the applicant, after contact by the county, presents proper verification then the county registers that voter and that voter is registered to vote. If the applicant does not respond to the county or is not able to

produce verification that shows their identification, that shows they are properly citizens, then their application would be rejected and they would be dropped from the system.

So in a nutshell this is what happens when anyone attempts to register to vote requirement whether it is a first time registrant, somebody changing a mailing address, somebody changing a residence address, somebody changing a name, they would go through this process.

The issues that we are dealing with in this case so far involve the following potential violations of State law and State Election Board rules: forgery, making false statements on election documents, false voter registrations and providing fraudulent information on election documents. I will note that all four of these are violations of State law. Three are under Title 21. One is under Title 16. They are all felonies.

Each forged voter registration is a felony and the provisions of Title 21-2-561 allows for a sentence of up to imprisonment for one to ten years and a fine not to exceed a hundred thousand dollars or both per violation.

I would also point out, and I will get into this a little bit later, that each forged waiver of the voter to retain voter registration information is also a felony. To go back to the previous slide, a forged voter registration is actually the four violations that I mentioned. It's forgery, it's false registrations, it's false information, and it is putting false information on election documents. So one forged voter registration can be multiple felonies.

I want to go briefly over the timeline of the investigation and show how this came about. On May 5<sup>th</sup> of this year I was contacted by the Elections Director in Butts County. She told me that she was getting complaints from people in the courthouse and from citizens in the street that citizens were being contacted by people who were asking them about registering to vote. They were asking for personal identifying information; dates of birth, Social Security numbers, drivers' licenses and things like that. She said that people in the courthouse were being told by these canvassers that they had to re-register to vote or they wouldn't be eligible to vote.

When she gave me this information, I told her that was really something for local law enforcement if there was any type of identity theft going on. I recommended that she contact law enforcement if she got any specific reports of fraudulent activity. She contacted me the next day and said that she had contacted the sheriff. The sheriff had gone out and had met with people that were doing the canvassing and had spoken with them and had taken copies of documents from them and still had the documents.

On May 7<sup>th</sup> investigators from our office, including myself, went to Butts County where we met with the election official and Sheriff's Office. We looked at the documents that had been collected by the sheriff. We spoke to the election official and what we determined at that point was that it appeared to be a private voter registration drive, which is completely legal. There is certainly nothing inherently wrong with individuals or groups conducting a private voter

registration drive. There are certainly requirements and limits that somebody must maintain when they are doing these, but based on what we saw in the documents, we didn't know exactly what was going on. We didn't have contact information for the group, so over the course of the next week we continued to maintain contact with the election officials and on May 13<sup>th</sup> we opened a formal investigation regarding the allegations.

On June 3<sup>rd</sup> I spoke with Representative Stacey Abrams, who is the CEO of the New Georgia Project about the organization. I called her upon her request and we spoke briefly about what was going on. She explained what the group was about and what they were trying to do. We spoke briefly about the requirements for conducting a voter registration drive. I certainly provided my contact information so she could get in touch with me if she had any problems. We had a professional, amiable conversation. I explained to her that we were still evaluating what had gone on in Butts County, but that we were still evaluating the issue.

On June 6<sup>th</sup> of 2014, while conducting a preliminary investigation, investigators from the Secretary of State's office, including myself, met with the Executive Director of the New Georgia Project a Lauren Groh-Wargo. She came to our office with members of her staff and her legal counsel and we discussed some of the issues that had come up in the voter registration drive. We explained what we found and she actually asked for input from us on what they could do better and what would be helpful for them in terms of working with the counties. At that point I mentioned that they may want to, although it was not a requirement, it may be helpful to notify the counties as they went into the counties so that the county election officials would know that there was an organization in there conducting a voter registration drive. In case they get calls from people they would have a point of contact for the New Georgia Project. She indicated that she thought that was a good idea.

We also talked a little bit about fraud and she disclosed that they had a data base of every voter that they registered to vote. They enter it into the system and that way they kept their canvassers from double dipping and from registering the same person over and over again. They said that would be caught in the system. She did explain that their canvassers were paid, not per registrant, which you know is illegal under Georgia law, but they did say that at the end of the day and the end of the project, they would invite back the workers that had been the most productive which would be the people that had collected the most voter registration cards. So while there was not a pay per registration system there was certainly a financial incentive for people to complete voter registration applications.

On July 15<sup>th</sup> the attorneys for New Georgia Project contacted our office and said that they implemented some of our ideas for their worker's advanced training and quality control. At this point we are working well with the New Georgia Project.

On August 11<sup>th</sup> of 2014, I spoke again with Executive Director Groh-Wargo at the request of Elections Director Linda Ford for the Secretary of State's office. Two issues had come up. One

that apparently the New Georgia Project was delivering massive amounts of voter registration applications to the Fulton County Commission office and that was taxing the Fulton County's ability to process the applications. They would get them from all over the State and would end up in Fulton County and therefore Fulton County would have to separate them out taxing their system. I recommended to Executive Director Groh-Wargo that any voting list they needed they could get more easily from the Secretary of State's office. So I made the request for everybody's sake if she would either direct the county applications to the specific county or in lieu of that give them directly to the Secretary of State's office because we have the ability and the mechanism to quickly sort them and get them out to the counties. She took those two pieces of advice and our conversation ended amicably.

In Mid-August of 2014 The Secretary of State's investigators started receiving reports from Henry, DeKalb and Gwinnett counties about suspicious voter registration applications that had been turned in by the New Georgia Project. In some cases the election officials had confirmed actual forgeries of voter registration applications. Our investigation began to expand. We added each county as it was reported to us. Keep in mind, that these are not simply incomplete voter registration applications, these are voter registration applications that have the voter's signature on it and when confronted with it the voter denied every signing or seeing the document.

On August 22<sup>nd</sup>, 2014 after a meeting between Executive Director Groh-Wargo and Linda Ford, I met briefly again with the Executive Director Linda Groh-Wargo, at her request, and at that meeting in our office I expressed an additional concern that we were starting to see additional counties that were reporting fraudulent cards. She said that she would continue to work on it. At no point in any of the conversations or telephone calls that I had with Executive Director Groh-Wargo did she every point out that they knew that they had forgeries or what type of problems they were encountering.

August 20<sup>th</sup> to September 15<sup>th</sup> marked an increase in reported suspicious applications from numerous counties.

On Friday September 5<sup>th</sup> I received seven different county complaints, including two that day, from election officials, complaining about suspicious applications being turned in by the New Georgia Project. At that point, I notified a senior staff at the Secretary of State's office and recommended that we issue a subpoena to continue our investigation and on September 9<sup>th</sup> the investigative subpoena was prepared and issued to the New Georgia Project.

As I mentioned briefly, what is being forged? We are talking about forgeries here. There is a whole separate issue about incomplete cards and cards leaving out information. What we are talking about right now are actually forged voter registration applications.

As you can see on the display, I've got a copy of a blank Georgia voter registration application that the Secretary of State's office makes available to anybody conducting voter registration drives. You will note that I have identified three areas of sensitive identity information namely

the date of birth, Social Security number and driver's license number of the voter, which is to varying degrees, needed to register a person to vote. I believe, it was in asking for this information that caused a lot of consternation among people that were complaining to election officials. They were encountering these folks sometimes on the street, sometimes these canvassers were coming to their home. They are asking for this information and it's needed for voter registration but the people felt uncomfortable giving it. In this age of identity theft it is somewhat understandable that somebody would be concerned about giving that information to somebody on the street.

If you will notice, the yellow arrow indicates where the voter is to sign the oath affirming that all the information is correct. I know it is difficult to read but above the signature of the oath is where the person swears that they are a citizen of the United States. They are not serving a felony, they have not been ruled incompetent and that they are eligible to vote and on that line is where the voter and nobody except the voter is to sign their name.

You will notice to the right, the red arrow is pointing to a warning that is actually on every voter registration application. It warns anyone against fraud or false information and you can see yourself, I will read it. It says any person who registers to vote knowing that such person does not possess the qualifications required by law, who registers under any name other than such person's own name or who knowingly gives false information in registering, shall be guilty of a felony. And that warning and admonition is present on every voter registration application.

The second item we found that was being forged are canvassing sheets and waivers that are prepared by the New Georgia Project. Under State Election Board rules, if a private entity is conducting a voter registration drive they are allowed to copy and retain copies of the voter registration application, so that they can come back later and check to make sure that these people were properly registered. The only way they can go copy and keep that information is if they have a signed written consent from the voter who is giving them the application. So the State Election Board rules require that a voter sign a waiver allowing the organization to copy and keep their information.

This is a sample of a form the New Georgia Project uses and again the oath is at the top where the voter releases their right to keep their information from the New Georgia Project. You will see under the print names where the canvasser would write the name of the person that they are registering and then the signature is where the voter, and only the voter, signs the waiver which allows the organization to keep and copy their voter registration information and in the signature area is where, so far, we have found and confirmed three cases of forgery where the voter, who supposedly is registered, not only did not sign or receive the application, they also did not sign or see the waiver that was signed in their name.

I point out that at the bottom of the form is the identity of that person who obtained the signature on the application. That is critical. We know these documents exist. We know that New

Georgia Project has them and we know that if we identify a person who did this confirmed forgery we will be able to identify the person who is responsible for turning in that application and will be a considerable lead in determining who is conducting these activities.

This is a map showing the counties and the dates that we received complaints from the New Georgia Project and you can see that there are twelve represented on the map. I would add that yesterday afternoon we got additional complaints from Paulding County. So there are now thirteen counties that have reported problems with voter registration applications from the New Georgia Project. You can see the earliest that we have is May 5<sup>th</sup>, and the latest on the map is September 10<sup>th</sup>, but again I would update that to September 15<sup>th</sup>, because it came in yesterday.

I am going to go quickly county by county and indicate the problems that have been reported and what our preliminary indications found.

Butts County, as I mentioned, was the first on May 5<sup>th</sup>. We have not, so far, identified any voter registration applications that are fraudulent there, however, we know that county officials were actually told inaccurate information about being required to re-register in order to vote in subsequent elections.

On August 12<sup>th</sup>, we got a report from Henry County. They reported eight suspicious voter registration applications. Six of them had been confirmed as forgeries and two of them were unknown. When I refer to a card as unknown it can be one of about three different things. It is either unknown because we have not been able to make contact with the voter to determine whether or not that is their signature. It could be unknown because the information on the card is unintelligible or the information on the card is inaccurate, as in a street name that doesn't exist. There have been numerous cards that have been turned in with street names that do not exist and also with names and dates of birth, Social Security numbers and drivers licenses that don't correspond to anybody in any of our data bases. So unknown is just that. We do not know whether or not there is a problem with it but it has been brought to our attention by the election officials. So six confirmed, two unknown in Henry County.

DeKalb County has made two reports. On August 20<sup>th</sup>, and September 5<sup>th</sup>, of four suspicious voter registration applications. We have confirmed three forgeries. We have one unknown and it is in DeKalb County where we have the three forged waivers on the sheet that I showed you before where voters have their signatures forged ostensibly allowing the New Georgia Project to keep and copy their voter registration information.

Gwinnett County has reported twice on August 21<sup>st</sup>, and September 4<sup>th</sup>, eight suspicious voter registration application cards, three confirmed forgeries, four unknown. One has been confirmed legitimate.

Cobb County reported on August 26<sup>th</sup>, three suspicious cards with one confirmed forgery and two confirmed legitimate.

Bartow County reported September 5<sup>th</sup>, 2014. They reported first that there was over a month long delay in returning completed voter registration applications from the New Georgia Project to the Bartow County election officials. They also reported that members of the New Georgia Project were giving inaccurate information to potential registrants about being required to register to vote in order to get a voter ID card. There is also a case in Bartow County where a potential registrant was confronted at her door and while speaking with the canvasser she could see and read the information that was on previously copied voter registration information. As a matter of fact, she saw some of her neighbors information out there exposed and not kept confidential.

Muscogee County reported September 5<sup>th</sup>, 2014. They reported six suspicious applications. We have confirmed three forgeries and three were still unknown.

Coweta County reported September 9<sup>th</sup>, fifteen suspicious applications, ten have been confirmed legitimate. I would point out, that all ten of these are from the same individual, who was friends with members of the New Georgia Project, and he agreed to register about every other day for them to help them get their numbers so that they would be able to turn in applications by the end of the day. Five of those in Coweta County are still unknown.

Terrell County, moving a little bit further South, reported on September 10<sup>th</sup>. We have three suspicious applications that have been all three confirmed as forgeries.

Toombs County has reported on September 10<sup>th</sup>, six suspicious applications, three confirmed forgeries, three unknown.

Tatnall County has reported on September 10<sup>th</sup>, three suspicious, two confirmed forgeries, one unknown.

Effingham County has reported on September 10<sup>th</sup>, six suspicious, one has been confirmed valid, five are still unknown.

So the totals that we have in this preliminary look at the counties, that have reported to us,, we have twenty five confirmed forged voter registration applications in seven counties. We have twenty six suspicious but unconfirmed voter registration applications in other counties. We have fourteen confirmed valid voter registration applications and keep in mind ten of those are from one individual and we have three confirmed waivers of voter signatures on waiver and canvassing forms. So we are looking at twenty five forged voter registration cards and unknown cards with the three confirmed forged waivers. I went over this already. The unknowns are unknown for one of these reasons: address, problems with names or inability to contact the voter to verify the application.

How is the forgery being done. In some voters, we have spoken to, they reported being contacted over the phone by people. So somebody will call from the New Georgia Project and

talk to them about registering. They won't get consent, not that consent can be given over the phone, but they will call and ask about their address. Do you still live at this address. Is this information still accurate. People have a phone conversation and then lo and behold a signed voter registration application turns up in the county office. When the supposed voter is confronted with it they have no knowledge of that but they do recall a conversation that happened over the telephone with somebody from the New Georgia Project.

We have voters that have absolutely no idea how their application with their names have been submitted. In some of these cases there is information that would have been accurate but is old such as an address that may have been valid about ten or fifteen years ago or a maiden name or something along those lines but the voter themselves has had no contact with any member of the New Georgia Project. They have had telephone calls and they have certainly not signed and completed a voter registration application that bears their name and apparent signature.

We know that the New Georgia Project is using some form of address list or voter list when they canvass and we've talked very briefly about the New Georgia Project, when they go into an area where there is a city or a county, they go to certain areas and to some extent they have data that they are dealing with when they are going out to meet these voters. I don't know if these lists are accurate. I don't know if they are old. I don't know if that has anything to do with inaccurate information ending up on forged voter registration cards or not.

We also know that some members of the New Georgia Project have admitted to registering family members and friends just on their own. They have told us, well we didn't know we couldn't do that. So they simply fill out voter registration applications for their family members and then they sign the family member's name, which is forgery.

A forged voter registration scenario -- and this is one of the reasons why this is going to be critical not just in November but could be critical in two years, four years, six years in special elections. If a forged voter application is submitted in my name, for example, with all of the accurate information, it's going to go to my county registrar and they are going to enter it into the system and I am going to show up, as I showed you in that first flow chart. It is going to recognize me as a voter and it is going to update the system with this information. More importantly it is going to capture the signature on my voter registration application. That is going to become my new voting signature. I get no notification of that. It is updated in the system and I don't have any idea that has happened. Fast forward six months, two years, eight years down the line I decide I want to vote an absentee ballot or I decide I want to sign a nomination petition or something along those lines. I sign it and send it into the county. The county compares my signature on my voter registration application. If my cousin filled out my voter registration application my signature will not match. If my girlfriend filled out my voter registration application my signature will not match. If somebody I don't know filled out my voter registration application my signature won't match. My ballot is rejected and my vote doesn't count. These are potential land mines that are sewn into the election system that may

take years to determine what happens. In four years someone's absentee ballot doesn't get counted. They go to the registrar's office and that's when they look at their voter registration application and says that's not my signature. The county election officials are going to do exactly what they are required to do by law. They are going to look at the signature on my absentee ballot and they are going to look at the signature on the application and they are going to say it doesn't match. Vote no good. My vote is gone.

As that scenario is just pointed out, one of the reasons why this matters is because it can change the status of a voter if inaccurate information is given. If somebody completes a voter registration in my name with an address I lived at five years ago I get redistricted. I am voting in a different part of the county where I live or possibly in a separate county that I don't live in. So it affects my ability to register to vote.

As I mentioned, it changes the voter signature on record and subjects petitions and absentee ballots for rejection and inaccurate addresses. This can result in voting for candidates for issues where the voter does not reside.

Again these are the violations that we are dealing with so far for the State law: forgery, false statements, false voter registration and providing fraudulent information on a registration document.

In addition, there are a host of rules that the State Election Board has passed that govern private voter registration drives and you can see here, there are five or six different mandates that anyone conducting a private voter registration has to fulfill. You have to notify the person that they can return their own registration form. You have an obligation to notify each registrant that they are not registered until the Board of Registrars accepts their application. You have to inform the registrant that if this is their first registration they will need to show ID. You have to inform the registrant of the availability of the online system to check voter registration status. You have to inform the registrant of their right to cast a provisional ballot if there is a problem when they vote. You have to inform the registrant that the entity cannot accept an unsealed ballot unless they have signed a waiver, and that's the waiver form I am talking about, and that when they sign that waiver they are giving the entity the right to copy and keep their voter registration information. We know that these requirements have not been completed in every case with the New Georgia Project. So there are multiple violations of these rules. I showed the violation of the State law.

This is what we are seeking as investigators in the Secretary of State's office. As I mentioned, we've had previous interaction with the New Georgia Project. They have given us some records that we know exist. So we know some of these records exist. We know we can trace specific applications to specific canvassers. We want those documents. We need those documents. We need to make the connections and identify other evidence of fraud. We need to identify counties that may have unidentified problems and we need to identify individuals who participated in this

conduct that has resulted in the multiple felonies. As demonstrated, multiple felonies, frauds and violation of State Election Board rules have been occurring on numerous and a state-wide bases.

In response to a subpoena issued last week we have been in communication with attorneys for the New Georgia Project and they have indicated a willingness to work with us and get us documents that we need by September 26<sup>th</sup>. Therefore, I recommend that the State Election Board issue a revised subpoena with that due date and that we continue this investigation.

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

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

**SECRETARY KEMP:** Mr. McIver.

**MR. MCIVER:** Do you have any idea how long the remainder of this investigation will take?

**MR. HARVEY:** I don't know the extent of what is out there. We don't know how many counties they have been in. We know that they have reported to the media that they have collected approximately eighty-five thousand voter registration applications. If that is correct, it is obviously an awful lot of data, and it could take months but I can't give you a firm estimate because I just don't know what we are looking at.

**MR. MCIVER:** Can you estimate the impact it will have on the election in November?

**MR. HARVEY:** I can't give you a quantification, but as I indicated, I think it is going to have the most impact with people voting absentee and people signing petitions. It has certainly put a burden on the election officials, now, who are dealing with these voter registration applications and are having to conduct their own independent investigation before getting it to us but I think the problem is going to be -- we are going to see the problem in two areas. We are going to see the problem with absentee ballots being rejected for signatures not matching and we may well see problems with people going to where they are supposed to be registered to vote and finding that they have been redistricted because they were re-registered under an old address or an address that is not current. I think those are the two areas where we are going to see that. Whether that will be as pronounced or widespread as other problems we have seen I simply don't know.

**SECRETARY KEMP:** Mr. Simpson.

**MR. SIMPSON:** Is there any impact if the voter votes in person from the forged applications and the forged documents?

**MR. HARVEY:** The only impact would be if the information supplied somehow caused a problem with their districting or the information somehow matched another voter who was possibly -- see if somebody submitted an application with your name and let's say they

transpose the month and the date of birth and there happened to be another Mr. Simpson who had died two years earlier and had matched with him and it had removed you from the system that could happen. I am not saying that that's necessarily a high probability but that is a scenario that could affect an in-person voter.

**MR. SIMPSON:** Could the person who forged the signature come and vote in that person's name because the signatures would match?

**MR. HARVEY:** The signature is not inherit for in-person voting. So, no, that is not an immediate threat that somebody would show up and vote that person's name because as you know when you go to vote in person they check your ID but your signature is not compared. So thankfully that is not an issue.

**MR. SIMPSON:** Thank you.

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

**SECRETARY KEMP:** Mr. Worley.

**MR. WORLEY:** Mr. Harvey you have indicated that the New Georgia Project have submitted to you five thousand applications.

**MR. HARVEY:** That is what they said. I read that in the media . That is what, I believe, Representative Abrams said.

**MR. WORLEY:** And as far as you know out of that there were twenty-five forgeries, and let's be clear, you do know or don't you know, those forgeries are from the New Georgia Project applications or are they from some other organization?

**MR. HARVEY:** These are forgeries that have come from applications turned in by the New Georgia Project.

**MR. WORLEY:** So there were twenty-five forgeries and twenty six you can't figure out and it might be forgeries; correct?

**MR. HARVEY:** At this point. Yes, sir.

**MR. WORLEY:** So that is fifty-one out of eighty-five thousand applications?

**MR. HARVEY:** That have been identified by election officials. That is kind of where I am at. Yes, sir.

**MR. WORLEY:** So have you done the math on that?

(Applause from audience)

**SECRETARY KEMP:** Ladies and gentlemen, I would appreciate it if you wouldn't interrupt the discussion. One thing the State Election Board prides itself on is having an orderly meeting. We appreciate all of you being here today. If the Board can continue their question and answer session I would certainly appreciate that. Thank you very much.

**MR. HARVEY:** Mr. Worley, with respect I know that is a small percentage. I also know that anytime an organization is alleged to have committed twenty-five forgeries which are felonies that may be expanded four times or five times each and you are looking at possibly a hundred felonies I know in an investigative law enforcement world that is significant.

**MR. WORLEY:** Well, let's talk about that for a minute. The forgeries, could you give us an example of how you know something has been forged?

**MR. HARVEY:** For example -- and keep in mind that the voter registration applications, by law, are protected from public disclosure, so we can't show you those publically but, for example, in one of the counties they get a voter registration application that looks suspicious for some reason. They contact the voter and they say did you turn in this voter registration application. The voter says no. I have no idea. That is not my signature. I didn't fill that out. Our investigators have gone out and spoken to those people and they have confirmed that's not my signature. I did not fill that out and like I said in some cases they got a phone call from somebody about registering to vote. In other cases, they have no idea and they are confronted with a voter registration application that purportedly bears their signature that is not their signature.

**MR. WORLEY:** Who do you think forged the signature? Is it some other voter that filled out a form and just didn't want to do it completely or do you think it is the canvasser?

**MR. HARVEY:** I think it would be interesting to get these documents from the New Georgia Project and trace that application back to the canvassing form and find out who the canvasser is and find out if we have a common canvasser. It may be that there is one person who has done all these forgeries. It may be that there are twenty-five people who have done forgeries. It may be that we can contact people up and down the canvassing list and find out, hey do you remember who signed this, or if we find that there are three in a row that have been forged from three different people, that would be some indicator.

So do I know now exactly who forged each signature? No, I can't say right now that I know who did but I know that a great place to start is looking at the form that the New Georgia Project retained where they tracked that form and I will give them credit for doing that. They track forms. They say they enter them all into a data base. So, if they would provide that data base of completed voter registration cards we can do searches and we can check. You know, when we've got a canvasser that we know has submitted forged voter registrations we can check that with other canvassing forms that that person has completed and counties may want to go back and check those voter records to make sure that those applications are good. Keep in mind, that

some of the smaller counties where the registrars know people, they can get six forms in and they may call the voter because they know who they are and at least half of our complaints have come from smaller counties where that's happened. Now a place like Dekalb or Fulton County, Gwinnett County, Cobb County you have thirty to forty people entering this information and they may not recognize that they keep seeing the same name over and over again. They keep seeing the same name with different hand writing and different signatures over and over again.

So I hope that is responsive to your question about how we would identify who is doing this.

**MR. WORLEY:** Based on your experience in previous elections this very small percentage seems to be far less than one percent--

(Applause from audience)

**SECRETARY KEMP:** Ladies and gentlemen let's hold the applause please. We don't want to have to take other actions. Thank you very much.

**MR. WORLEY:** How does that compare to just the regular rate of forgeries for all applications that are turned in.

**MR. HARVEY:** We don't get a lot of forged voter registration applications. That is a relatively rare thing to be reported to our office so I don't know that I could--

**MR. WORLEY:** Seems like I recall you having some cases before the Board.

**MR. HARVEY:** There may have been individual cases where an application or a voter registration card was completed but was forged. I know there have been forgery cases that were presented but those are, I believe, in all the cases that kind of went off of scenarios. I don't believe we have dealt with a case where we've gotten multiple cases of confirmed forgeries on voter registration applications all coming from the same source.

Keep in mind ,that if somebody were to submit these cards by mail anonymously we wouldn't necessarily have any idea that they came from the New Georgia Project but these have all specifically been identified by the New Georgia Project as, you know, hey, these are ones that we have turned in.

**MR. WORLEY:** In your discussions with the New Georgia Project have you gotten any idea from them about how many canvassers they have working on this?

**MR. HARVEY:** I have not. I know some of our investigators, who have been working on this, have had communication with them but I don't believe we have a number whether it's twenty-five or fifty or a hundred I don't know.

**MR. WORLEY:** In your conversations with the New Georgia Project have they been anything less than forthcoming in providing information you have asked them for?

**MR. HARVEY:** I believe that they have provided us with what we have asked for. There was one indication in the last meeting on August 22<sup>nd</sup>, that I had with Ms. Groh-Wargo were she had mentioned that our investigator had asked for a specific document and she said well I think it would better for him to get this document and I said well, with all due respect, you don't always know why we are asking for a document and I think that she was essentially trying to be helpful however, that would be the only indication that I would give that they have been less than helpful in giving what we have asked for.

**MR. WORLEY:** Do you have any indication from anything you have seen in discussions with the New Georgia Project that they had any intent to go out and forge applications?

**MR. HARVEY:** In speaking with the -- and keep in mind, I have spoken with Representative Abrams and I have spoken with the Executive Director I have not detected anything that they have said or done that leads me to believe that it is a goal of the New Georgia Project to go commit voter fraud. I think what is clear is that some elements within the New Georgia Project are doing just that. Where that begins and ends I don't know. I think the information we are asking for would be a good indicator of how widespread this is. Like I said, there may be two people that have done all these forgeries. There may be twenty people that have done all these forgeries. We simply don't know at this point.

**MR. WORLEY:** And I just want to be clear, you also don't know whether it is the canvassers doing the forging or the voters?

**MR. HARVEY:** Well I guess the voter whose name it bears is confirming it is not them but yes-

**MR. WORLEY:** But it could be another person and not the canvasser; correct?

**MR. HARVEY:** Yes as far as -- certainly beyond a reasonable doubt. There is absolutely no proof beyond a reasonable doubt that the canvassers are doing it.

**MR. WORLEY:** For instance, it could be somebody's daughter who thinks, oh, my mother should be registered, I'll fill out this form for her and I'll sign her name and they don't ever have to tell the canvasser that they are not that person.

**MR. HARVEY:** That is a possible scenario, yes.

**MR. WORLEY:** I just had a couple of questions also about your timeline of when these complaints were brought to your attention. If I could please have the map with the dates?

**MR. HARVEY:** Okay.

**MR. WORLEY:** At some point recently Secretary Kemp sent out an email and the email said that you've got six complaints about the New Georgia Project that basically said warning, warning, something is going on. When was that sent out in time relation to these complaints?

**MR. HARVEY:** From my understanding it was sent out on September 9<sup>th</sup> the same day the subpoena was issued. I didn't send it out myself so I don't know.

**MR. WORLEY:** We got a copy of it at some other time, right?

**SECRETARY KEMP:** Yes it was after that.

**MR. WORLEY:** So it was after September 9<sup>th</sup>.

**MR. HARVEY:** September 9<sup>th</sup>. I believe was the Tuesday--

**SECRETARY KEMP:** I think we sent it out the same day but it was also forwarded on to the Board so that they would receive the communication. And that was six counties not necessarily six complaints. There were six counties that had complained.

**MR. WORLEY:** I had just a general question about our process. Normally -- the normal process for handling a case is that a complaint comes to the Secretary of State's office and an investigation is conducted and a matter eventually comes to this Board after you have conducted your investigation.

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

**MR. WORLEY:** Apparently, with this case at some point, a press conference was held and the email was broadcast all across the State and a subpoena was issued and at your request for action you are asking us to issue -- the Board to issue a revised subpoena. The Board didn't issue the subpoena that was sent out in this case and our practice in the past, as I understand it, is that frequently you will issue subpoenas in the course of your investigation; is that correct?

**MR. HARVEY:** In election cases it happens occasionally. I wouldn't say it happens frequently but it happens on occasion.

**MR. WORLEY:** I guess what I am trying to figure out here is was this subpoena validly issued that was sent out and do we have to do something to make it valid here today or has it been the practice in the past that you will not come to the Board to issue subpoenas.

**SECRETARY KEMP:** Let me answer that question because as you know, Mr. Worley, just like in the Chatham County case and the Fulton County case we have issued subpoenas before through the office but we felt like since we were having this informational meeting today we could bring this forward to the Board but certainly if the Board does not want to act on that that is in their prerogative.

**MR. WORLEY:** My concern is just setting precedence for our practice and procedures and it seems in the past we've allowed Mr. Harvey to issue investigative subpoenas without ever coming to the Board and I don't have a problem with that but if he is asking us to do something different, I want to know does that mean that every time he wants to send a subpoena to

somebody it's going to have to come to the Board for its approval. That is my concern. Legal counsel in the Attorney General's office here that -- the provision on which this subpoena was issued cited a section in the code that gives the Board the ability to issue a subpoena. (Inaudible)

**MR. HARVEY:** I can tell you that. In our view, it has long been a practice of the Board and also some other agencies to have investigators issue the subpoena on behalf of the Board with an understanding that it was delegated authority to do so. I certainly don't think it would hurt for the Board to make clear today, if it chooses to do so, that it is indeed formally delegated at authority to the Secretary of State's office to issue those subpoenas as part of the investigation (inaudible) investigative subpoenas were valid but right now I have no evidence that they were not but that's an issue that can be easily resolved as well.

**MR. WORLEY:** I just have a few more questions and I'm happy to take a break from my questions and let other people ask their questions.

**SECRETARY KEMP:** Go right ahead.

**MR. WORLEY:** You had in your PowerPoint presentation back towards the back potential SEB rules violations regarding the New Georgia Project administration and you had five -- basically you had the first five sections of rule 183-1-6-.02.

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

**MR. WORLEY:** Now, it's unclear to me, whether you actually had any evidence as to whether those rules had been violated or is this just an assumption that some of them had been and maybe some of them hadn't been?

**MR. HARVEY:** We have actually spoken with people who encountered the New Georgia Project and have confirmed violations in failures to meet those requirements.

**MR. WORLEY:** From each one of those sections?

**MR. HARVEY:** To varying degrees. In one case, I can think of, where they actually mentioned the ability to vote provisional ballot but they didn't mention some of the others. We got a questionnaire dealing with the voters where we are asking very specific questions about whether or not -- what was the communication. Did the canvasser mention this. Did they mention this, did they mention this and then conversely as you know, there were five or six provisions for why you are conducting private -- and we asked about those too so I don't have the totals for all of that but we are looking at each one of these things specifically with each voter.

**MR. WORLEY:** Just to be clear, the core provisions that you cite that may have been violated they require intent, right?

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

**MR. WORLEY:** I just wanted to be clear. And so far you don't have any evidence that the management of the New Georgia Project had any intent to violate them?

**MR. HARVEY:** Right now, having had very limited contact with the people, the correct answer to your question is yes, we have no evidence, however, we have not spoken to many of the people that we think we need to speak to yet.

**MR. WORLEY:** Right, but you don't have any evidence that Representative Abrams or Ms. Groh-Wargo had any intent?

**MR. HARVEY:** No, sir. There is no evidence that I'm aware of that they--

**MR. WORLEY:** And the reason that that's a concern to me is that I see a story on the news that says Representative Abrams charged with voter fraud and there is not any indication anywhere that Representative Abrams--

**MR. HARVEY:** And I don't believe that I have indicated anywhere that anybody is specifically accused of voter fraud. We are simply reporting facts about fraudulent activity that has been tied to an organization. As I just said I have no evidence that Representative Abrams has committed or orchestrated voter registration fraud. That is not what this is about. This is about confirmed felonies, confirmed forgeries of people's voter registration information that seriously may compromise their ability to cast a ballot.

**MR. WORLEY:** For those twenty-five people?

(Laughter from the audience)

**MR. HARVEY:** I would say yes--

**MR. WORLEY:** Twenty-five per person.

**MR. HARVEY:** Twenty-five people that we--

**MR. WORLEY:** And I am not making light of the fact that for those people it is quite a serious thing.

**MR. HARVEY:** And I would share that and I would say that's why we are here. There may be twenty-five more, there may be twenty-five hundred more but for twenty-five people to have their voter registration information changed without their knowledge or consent is a serious enough matter, I think, to bring to the Board's attention and to pursue as far as possible and so, yes, if people think that twenty five is not a sufficient number of people to sustain or substantiate this investigation they may feel that way. I, however, feel that twenty-five forgeries compounded with multiple felonies is a significant thing that needs to be investigated.

**MR. WORLEY:** Well and I would certainly agree with you about that. The thing that concerns

me is that I agree with you completely that it is something to be investigated, to be brought to this Board's attention, to be treated very seriously and have those completed investigations to be brought back to the Board. What concerns me is that in all of the other matters that we have had before this Board we have done all of that without having to do press conferences--

(Applause from audience)

**MR. WORLEY**: --to bring back to the Board. If you were comfortable with what you had I'm sure you would come to the Board and ask us to find probable cause and send it on to the Attorney General's office but that is not what we are doing here today.

**MR. HARVEY**: I would say that in other cases we have done just that. We did that in Fulton County. We did that in Chatham County.

**MR. WORLEY**: Well, actually those were different instances because in the case in Fulton County that was something that was a major news story that first they came to us and then we investigated it and then with Chatham, it was really the same way, so I do think that those are different situations. But I had one more question. I have read various things in various news stories and I'm just trying to verify if they are accurate or not. One of the news stories indicated that the New Georgia Project had come to the Secretary of State's office and asked for the Secretary of State to review and approve the New Georgia Project's training manual. Is that correct?

**MR. HARVEY**: I believe they submitted a copy of the training manual to the Secretary of State's office to the Elections Director. They gave us a copy of their training manual upon our request as part of our investigation. As far as I'm aware, certainly at the investigative division we had no endorsement or approval or critique of their training manual. I don't believe that ever happened in the elections division either.

**MR. WORLEY**: Are you saying that you didn't find anything improper in their training manual? Their training manual instructed the canvassers in a way that complied?

**MR. HARVEY**: I think that I could say that the training manual didn't instruct people to break the law. I don't know that it was complete in all the details necessary to conduct a private voter registration drive. Frankly, it has been a little while since I have seen it so I don't want to speak too authoritatively about it but I remember expressly telling the Executive Director that we will not be endorsing or proving your actions.

Like I said, we spoke with them in a sense of professional dialogue. We pointed out things like it would be helpful if you would make contact with the counties and certainly I went out of my way to say it is not required by code. It is not required by State Election Board rules that you send a letter to the county election officials when you go in there. I said, but if you are trying to maximize your effectiveness I think it would be helpful to send the letter and say these are our

contact numbers, if you hear about problems with our organization please call us so we can take appropriate action. I mentioned that to them. They reported back that they had taken that advice. I thought that was something that would be reasonable. I thought it would be helpful and it also indicates that -- we have not had a particularly contentious relationship with the New Georgia Project. We have met with them. We shared information with them and initially when we were just out here doing Butts County we thought it was essentially a large misunderstanding with locals and not dealing with private voter registration drives. It wasn't until we got repeated confirmed forgeries that we realized this is bigger than just one isolated incident.

**MR. WORLEY**: All right and then finally you said that the New Georgia Project, you believe, had said that they have submitted eighty-five thousand applications. How many of those have been processed so that those are new voters?

**MR. HARVEY**: I have no idea. As I've said before, they have not been submitted to the Secretary of State's office. They have been submitted to individual counties. So I don't know when they've been submitted. I don't know if they have been submitted six months ago, six days ago. Again, I think, that was one of the goals in reaching out to the counties to see has anybody had problems and like I said Bartow reported that there had been over a month delay in getting applications but I don't know when and where they were all submitted.

**MR. WORLEY**: Somebody stopped me as I was coming into the Capitol today and said that there was a press conference earlier today and I don't know if this is true or not where the New Georgia Project had said that fifty-one thousand of those applications had not even been processed. Fifty-one thousand is a number that concerns me a lot more than twenty-five.

**SECRETARY KEMP**: Well, I think, Ms. Ford can get up and explain the voting registration process. We can go through it again and explain the voter registrations go to the county. They enter information and, like in the presentation, if there is missing information they can't process that application. They have to reach back out to that individual to complete the information that is required by law, by rule in the State of Georgia to be registered to vote before those forms can be processed. Anybody right now with a driver's license in Georgia can go online and register to vote right now while you are sitting in the audience, if you would like to. With a paper application there is certain information that has to be filled out. If that is incomplete and the county does not have that information they actually have to try to find the voter and get that information from them to complete applications. There is certainly nothing wrong with the New Georgia Project or anybody else submitting an application that is incomplete. That is actually required but it does end the process if we don't have the information. And the number of others that may or may not be in the system really moves daily because every day the county processes the applications and the statewide voter registration system keeps up with that. They process those votes and then the next day you have got a whole new batch. I think those names only stay in the system four days before they are moved out, so that number is already moving and I don't know, Ms. Ford, if you want to add anything else to that.

**MR. HARVEY**: While she is coming up, Mr. Worley, I want to say that I spoke with Ms. Boran in Muscogee County I think it was on September 5<sup>th</sup>. She said that they had I think received about six thousand from the New Georgia Project. Seven hundred and fifty which were in the unverified status meaning that there was some kind of problem with the information that was put in. Now how all that is being resolved, I don't know.

**MR. WORLEY**: And before Ms. Ford responds, that raises another issue that I have again read about in the paper and I just want to get verification of this, but the New Georgia Project says they have to and they are required by law to submit an application, even if it is not entirely complete or if they make a mistake on it, but that is not the problem that you are talking about today?

**MR. HARVEY**: That's not the problem we are talking about today, however, in terms of the problem that you are talking about, with the allegedly fifty-one thousand that have not been processed, that may well be the problem with that because we have seen -- you know some of the ones that have been reported to us as suspicious have addresses that simply don't exist in counties and the county can't do anything with that. They can put a name in or a missing date of birth but you know you if don't have a last name there is only so much the county can do. And again that is just one example of seven hundred and fifty. I asked how many she normally has at a time, in a not verified status, she said forty to fifty. So I think that is the answer to that. Ms. Ford?

**SECERTARY KEMP**: Any other questions from the Board members?

(No response)

**SECRETARY KEMP**: A couple of things I just wanted to get a few clarifications on. Number one, you know, we have been working with the New Georgia Project for many months and I think Mr. Harvey had a good point in explaining this that the issues that we had, did not raise to this level until the last couple of weeks when we started getting documented, in our eyes, cases of forgeries. We have had a lot of complaints from the counties that they were giving us from individuals about their personal information being taken and they were concerned about giving out driver's license numbers, Social Security numbers, dates of birth and things of that nature which is why several weeks ago, before all of this started, we put out a press release just letting Georgians know they were eligible to register to vote, there is a way to do that, several ways, without having to give that personal information. Just trying to raise awareness to the issue, so I just wanted to make sure that was clear.

Also just the process of how this works. There has been a lot of talk about process. This investigation has come about just like all the other ones do. We had gotten in complaints from six counties originally and that has expanded to thirteen, or even suspicious information that they are sending along to us and as an investigative body this is our duty to look into those complaints and that is where this investigation is gone. I think anybody that has watched an investigation in

the Secretary of State's office knows that we follow the information that we got and it will take us where it's going to lead us and that's where we go, that is we are wanting to continue the investigation--

**UNIDENTIFIED SPEAKER:** What about Quitman?

**SECRETARY KEMP:** --to address the point about the number of registrations, you know, to me twenty-eight felonies that account for three of the forgeries that were on the canvassing forms is a lot. I know in the last Presidential Election we had a handful of Morehouse College students who were disenfranchised because they didn't get properly registered to vote. I could only imagine what would have happened if we had not investigated that. So we take all of the complaints that we get wherever they come from and we look into them and if they lead us some where we will go there and if they don't then we will come back and move for dismissal and not bring the case forward to the Election Board but I think it is important for everyone to know that, because like Mr. Worley was saying, we've all been reading a lot in the press. I think a lot quite honestly has been speculation and a lot of it has been exaggerated--

**UNIDENTIFIED SPEAKER:** Quitman.

**SECRETARY KEMP:** --but one thing I will tell you is we will continue to do the investigations like we always have in the Secretary of State's office. And certainly if any of the Board members will have any questions about that feel free to contact Mr. Harvey or myself or Ms. Ford as far as the number of voter registration forms we have outstanding around the State with the counties and we will be glad to provide that information.

Any other information from -- well I'm sorry Ms. Ford why don't you add anything you would like to that I may have missed on the process.

**MS. FORD:** I don't really have much to add just to clarify the way the process works I can't speak to the specific fifty-one thousand I might not see that number--

**UNIDENTIFIED SPEAKER:** I delivered them to the Secretary of State's office today.

**SECRETARY KEMP:** Sir, I am not going to allow you to do that please. If you would just let us continue with the meeting. I certainly appreciate that.

**MS. FORD:** Mail forms are either mailed directly to the counties. The county processes them or they come to our office, the Secretary of State's office, and we then give those out to the county and currently we're caught up so to speak. We don't have anything outstanding in the mailroom. We of course have in our budget and in our plan leading up to the election plans to hire help to make sure we get the mail out to the counties as we should. The counties process them, then as Mr. Harvey said, some of those went into pending status. So those may appear to be unprocessed but they are processed. They are just not completely through the system to turn that voter active.

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

( No response)

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

**MR. MCIVER**: Mr. Harvey one of Mr. Worley's questions has prompted me to ask this one. How long have you been in this position with the Secretary of State's office?

**MR. HARVEY**: Over seven years.

**MR. MCIVER**: And to your knowledge have you and/or your predecessors of which there has been many have we ever encountered an investigation of this scope before?

**MR. HARVEY**: I don't think we have encountered one that encounters the number of counties -- the brethren counties, that deals with something of this serious nature. I can speak for the time that I have been here. I can't speak too much beyond that, but knowing what we know now twenty-five confirmed forgeries in seven counties, I think it is one of the larger ones we have dealt with. That is one of the reasons why when it came -- when I realized toward the end that first week of September we were getting more complaints and we were getting multiple complaints from counties and I got two phone calls that day from counties complaining of problems, I said, I think we need to move this forward. I think we need to treat this very, very seriously.

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

(No response)

**SECRETARY KEMP**: All right we have a recommendation on extending the subpoena for next Friday September the 26<sup>th</sup>. Do we have a motion or any other discussion from the Board?

**MR. MCIVER**: I'd like to make a motion when it is appropriate. Judge?

**MR. SIMPSON**: Mr. Chairman, I would think that the New Georgia Project would welcome the assistance of the Office of the Secretary of State to help investigate this. I'm sure that that organization, if there are irregularities in their process and if they have people out there that are registering people improperly or committing forgeries, that they probably don't have the capability to investigate that like the Secretary of State's office has. It would appear to me that they would welcome the assistance so that they can get to the bottom of it and they can make the corrections if they find corrections are necessary and I don't see this as an adversary situation. It seems like to me that by moving forward with the investigation is just as helpful to the New Georgia Project as it is to the Secretary of State's office.

We all have the same objective and that is to make sure that everyone that is entitled to vote has an opportunity to vote but we also don't want a process being used which will have the

unattended consequence of disenfranchising voters because of forgeries and other things like that. So I would certainly urge that we move forward with the investigation and do whatever necessary and I see that as not an adversary process but a helpful process for the New Georgia Project just as much as for the Secretary of State's office and to fulfill our responsibility.

**SECRETARY KEMP**: Thank you, Mr. Simpson. Mr. McIver?

**MR. MCIVER**: I make a motion the Board issue a subpoena which is consistent with the Secretary's already sent subpoena directing the respondents to produce documents no later than September 26<sup>th</sup>, 2014, which I understand is the date they requested to be able to comply. Also that the Board authorize the Secretary of State to issue that subpoena in the work of the New Georgia Project and other organizations to obtain all documents required for complete investigation.

**SECRETARY KEMP**: All right, we had a motion. Do we have a second?

**MS. SULLIVAN**: I second.

**SECRETARY KEMP**: We had a second from Ms. Sullivan. Any other discussion from the Board?

**MR. WORLEY**: I just want to be clear on a couple of things. I don't think the Board has to do that or needs to do that. I think Mr. Harvey has the Board to issue the subpoena. I don't think the Board needs to vote on it. Frankly, I don't think there is any real point to this meeting other than having the opportunity to slap on the New Georgia Project a little bit. That being said, I don't have a problem with the subpoena as I understand (inaudible) the New Georgia Project and use that in accordance to request this information and I think we have an obligation to investigate complaints when they come to us. I just think this could have been done in a much less news worthy and confrontational manner and I just don't think it is helpful to brand an organization and to call into question its worth right before the election in a way that may have the effect of discouraging people to register to vote.

(Applause from audience)

**MR. WORLEY**: So with that being said I would still support the subpoena.

**SECRETARY KEMP**: Thank you, Mr. Worley. Let me just say that I know myself and I think I can speak for Mr. Harvey here that we did not, I don't think, said anything derogatory about the New Georgia Project For the Third Sector Development. Certainly I have not said anything about Representative Abrams who I have worked with on many occasions. So I don't want that to be the impression even though it has been written that way. That is certainly not what the Secretary of State's office has said and I don't think anything that we are doing is trying to keep people from registering to vote. Matter of fact, the voter registration drive is still going on. I got an email from somebody in Cobb County the other day that one of their members of their group

had emailed me about some of the solicitations that they've gotten from individuals but there is nothing improper about that, so we did not send that on. It was just more of the same complaint but when something does escalate to an individual Georgian who's having their signature forged then that is against the law. It is a felony in Georgia and I took an oath in our office to protect and defend the Constitution and the laws of this State and that is one of the prime functions of the Secretary of State's office Investigative Division so we have a duty to do that. Down the road the Board might want to discuss how we do that which I'm certainly amenable to having that discussion.

Any other discussion from the Board before we take a vote?

(No response)

**SECRETARY KEMP:** Hearing none. All in favor of Mr. McIver's motion please signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** The motion carries and we will continue to work to get the information we need from the New Georgia Project to continue the investigation.

We also have an executive session on our agenda I don't know if any of the Board members still want to go into the executive session to discuss any legal issues that we have and we certainly look to Mr. Ritter to weigh in on whether we should or we should not do that but if he thinks he needs to but I motion for that and we can move to adjourn.

**MR. RITTER:** Mr. Secretary, I don't see any need for an executive session.

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

**SECRETARY KEMP:** All right Mr. Worley moves we adjourn. Do we have second?

**MR. SIMPSON:** Second.

**SECRETARY KEMP:** A second by Judge Simpson. All in favor signify by saying, "Aye."

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** We have adjourned. Thank y'all for being here today.

(Whereupon, the proceedings were concluded)

CERTIFICATE OF COURT REPORTER

STATE OF GEORGIA  
COUNTY OF FULTON

I hereby certify that the foregoing meeting was reported as stated in the caption and the proceedings were reduced to writing by me; that the foregoing 29 pages represent a true, correct, and complete transcript of the proceedings given on September 17, 2014.

I certify that I am not disqualified for a relationship of interest under O.C.G.A. 9-11-28(c); I am a Georgia Certified Court Reporter here as a representative of Happy Faces Court Reporting Firm; I was contacted by Happy Faces Court Reporting Firm to provide court reporting services for this proceeding; I will not be taking this proceeding under any contract that is prohibited by O.C.G.A. 15-14-37(a) and (b) or Article 7.C. of the Rules and Regulations of the Board; and by the attached disclosure form I confirm that Happy Faces Court Reporting Firm is not a party to a contract prohibited by O.C.G.A. 15-14-37 or Article 7.C. of the Rules and Regulations of the Board.

This 1<sup>st</sup> day of October, 2014

LaTasha D. Bethel  
Certified Court Reporter  
Georgia Certificate #2660

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, OCTOBER 7, 2014  
10:00 A.M.

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

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*DEBORAH L. MERIDETH, CCR  
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APPEARANCES:

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

Tex McIver, Member, State Election Board (by telephone)

David J. Worley, Member, State Election Board

Rebecca Sullivan, Member, State Election Board

ALSO PRESENT:

Chris Harvey, Esquire

Ryan Germany, Esquire

Russell Willard, Senior Assistant Attorney General

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TRANSCRIPT LEGEND

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

Quoted material is typed as spoken.

10:00 a.m.

PROCEEDINGS

**SECRETARY KEMP:** Good morning, everyone. If we could go ahead and get started, let me call the State Election Board meeting for Tuesday, October 7 to order.

Our first order of business is the invocation, and I'm going to lead us in the invocation today, and then Mr. McIver is going to lead us with the Pledge of Allegiance.

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INVOCATION

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PLEDGE OF ALLEGIANCE

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Thank you to Mr. McIver. Our first order of business is public comment. As I mentioned earlier, you'll have two minutes to address the State Election Board. We'll let you come up front to this first microphone here and you can sit or stand, whatever pleases you the best. Just remember, if you would, to speak clearly into the microphone where our person taking a transcript of the meeting can hear you and make sure we get all that down so we have a correct public record.

We also need you -- when you first get there, give us your name and address so we can have that as part of the record.

Our first speaker will be Rev. Timothy McDonald. Rev. McDonald, welcome.

**REV. MCDONALD:** I am Rev. Jim McDonald, the founder of the African-American Ministers Leadership Council.

**SECRETARY KEMP:** I'm sorry to interrupt you. If you would, just us your name and address for the record and we'll get you going.

**REV. MCDONALD:** Rev. Timothy McDonald, pastor of the First Iconium Baptist Church in East Atlanta; 542 Moreland Avenue, 30316. Also the founder of the African-American

Ministers Leadership Council of People for the American Way. We are in 16 states across the United States and we deal primarily with voter empowerment issues.

I come today to express my concern of what is happening with the New Georgia Project, particularly the tens of thousands of people who registered and are still waiting for their confirmation of their registration. We are aware that there have been some questions raised regarding the New Georgia Project. However, we are deeply concerned that those who legitimately felt they were registering to participate in our democratic process have not yet been processed by the Secretary of State's office, and we are wondering what is the holdup and why is this happening.

A few years ago in the State of Ohio these same kind of tactics were tried spearheaded then by Mr. Blackwell, who was the Secretary of State of the State of Ohio. He is no longer there, by the way, because of some of the actions that he took.

This kind of voter suppression -- there's no other way to define it -- is not good for our state; it's not good for our democracy; it's not good for the citizens of Georgia who believe in democracy, who believe in our democratic process.

I would hope, and I believe you to be fair men and women, that you would do the right thing and that you would expeditiously move forward and ensure that these tens of thousands who have registered will, indeed, be able to vote.

Thank you so much.

**SECRETARY KEMP:** Thank you for being here today, Reverend.

The next person that signed up is Rev. George Tatro.

**REV. TATRO:** I'm Rev. George Tatro, pastor at Memorial Drive Presbyterian Church, 5140 Memorial Drive in Stone Mountain, Georgia. I was born at DeKalb Medical Center back in 1967, so I'm a Georgia Peach, and I'm here still.

I am concerned about this voter registration that is being held up. I think it is an issue of justice I'm concerned for the people who are being denied their rights of citizenship, which is a theological issue for me; rights of citizenship here in the State of Georgia. I'm here for those people and for the eight people we signed up on Saturday concerned that their applications are not going to get processed.

So I think the group of clergy that I'm with, with ABLE and other groups, we are all very

concerned that the State of Georgia process these applications as they come in.

We are thankful that the State of Georgia has been so wise that they had the law passed that you have to have proper ID so we don't have to worry about much fraudulent applications being made and people being able to vote because they have to present proper ID.

We would just like to see the board act on this and go ahead and make sure those applications that have been submitted are processed.

Thank you.

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

The next person we have is Roger Wise, Jr.

**MR. WISE**: Thank you, Mr. Secretary. I want to compliment you on what you have to do. I'm Roger Wise, Jr., 215 Back Tea Court, Roswell, Georgia. I'm not representing any organization, or whatever. I'm just a Georgia Citizen that's been working under this dome for forty-plus years and I want to see the right thing happen for the State of Georgia.

I compliment you. I'm not here to talk down to you and threaten you in way, shape, or form. I'm one that pays my civic rent. Voting is a very precious thing.

I grew up in eastern North Carolina and I remember the days when we had what they called power brokers. They went to graveyards and took names off the tombstones and registered and voted for them. They thought that was a good process. I didn't think it was a good then, and I don't think it is now.

For 40 years I've been here. I've been paying my civic rent. I want you to do the right thing and not the wrong thing.

There are some individuals and organizations that try to make this process black and white. It's not black and white; it's wrong and right. I would expect you and hope that you will do just that.

I'm very concerned that we're trying to put voting booths in churches. That's not the place to put them. They use peer pressure. They use one-on-one to make feel they've got to vote. If people want to vote, they should vote. If they choose not to participate in the process, that's them. That's what they do.

So all I've got say is I think you -- I'm sure you're going to do right thing; you're doing the right thing -- let's not make it black and white. Let's make it wrong and right and do the right thing

for Georgians.

Maintain the integrity of our process. Give everybody the opportunity that wants to vote, the right to vote. Let's not push them into it and pressure them into it and try in any way, shape, or form to influence their vote.

Thank you very much.

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

The next person we have to is Rev. Brown. Do we have Rev. Brown?

**REV. BROWN**: Thank you so much Mr. Kemp and committee. I am Rev. Frank Brown, pastor of the Mount Olive Missionary Baptist Church, 2685 Barge Road here in the City of Atlanta; president of Concerned Black Clergy Metropolitan Atlanta located at 1583 Westhaven Drive, also here in our great city.

I am here, as so many others are, to express our concern over so many persons who have attempted to register to participate in the voting process here in our state, but for whatever reason, it seems they are being inhibited from fully participating in a process that is our constitutional right.

When we began this meeting today you opened with a prayer. And, certainly, we recognize that our faith guides us. I would hope that as you consider these things today that your faith will indeed guide you to do what is right. Our faith calls upon us to be open to all people and to make sure that all people have the opportunity to fully participate in those things that affect them each and every day. And the political process in our state and throughout this nation and the world affects people each and every day. And all those persons are attempting to do is make sure their voice is heard concerning those men and women they would choose to allow to sit in seats that will make decisions on their lives each and every day.

So all we are asking, Mr. Kemp, is that we allow those persons who are attempting to register, even with the registration process closing on yesterday, to have that opportunity to register and participate in the process as move forward, recognizing that the early voting process begins next week and we will proceed towards voting day on November 4. Looking forward to having all of those persons who in the past have not been willing to participate but now, because their conscience has been pricked to the issues that permeate in our society each and every day, desire to participate fully in this process.

We pray, indeed, that this committee will do the right thing. Thank you so much.

**SECRETARY KEMP**: Thank you, Rev. Brown. We appreciate you being here today.

Next we have Nancy Saunders.

**MS. SAUNDERS**: Nancy Saunders. I am at 3060 Far Court North, Atlanta, Georgia 30305.

I am just here to say thank you. Thank you for protecting the voter process; thank you for doing everything necessary to make sure everyone who is legitimately registered to vote has that opportunity. Also making sure people are identified. We know these are people who are Georgians who are eligible to vote.

There is nothing more sacred in this country than the right to vote. There is nothing more important than keeping the integrity of all elections because we know if we cannot depend on you guys to make sure everyone registered is appropriately registered and is rightfully registered, that we then come to question our government.

We must be able to have faith in our elections and election board and the process. And for that and for taking care of the things in democracy that sometimes are messy, I just want to say thank you.

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

Next is David Lewiki.

**PASTOR LEWIKI**: My name is David Lewiki. I am the co-pastor at the North Decatur Presbyterian Church in Decatur, Georgia; 611 Matlock Road 30033.

I'm standing here because I made a phone call last week to the Secretary of State's office after hearing through the news that there were maybe upwards of 40,000 new voter registrations that had not yet appeared on the eligible voter rolls. That was concerning to me and I called the Secretary of State's office and asked for an explanation. I was told I would get a call back. I'm still waiting for a call back.

So I'm here today to ask you all to explore this situation and ask the Secretary of State's office to provide an explanation for why these, perhaps upwards of 40,000 legally registered voters, are not appearing on the voter rolls.

This is, as I know you know, an urgent matter. Voting is the foundation of our democracy. Voting is what establishes what the Declaration of Independence calls the consent of the

governed. There can be no consent of the governed unless those who are eligible to vote can cast their votes. Abraham Lincoln, in the Gettysburg Address, which I know you know, said we have a government of, by, and for the people, but that we are engaged in a great struggle always to make sure that such a government exists.

That government that all of us believe in only exists unless [sic] people who want to vote are able to vote.

Please ask our Secretary of State to do his job to serve the residents of Georgia and to ensure that those who have registered are able to vote on election day.

Thank you for your time today.

**SECRETARY KEMP**: Thank you for being here this morning, Pastor.

That's all the forms I've got.

We will now move on to our next agenda item, which will be the approval of the minutes.

First we have the special called State Election Board meeting from August 12, 2014. This will be number two in your binder. I will take a motion to approve, or if there are changes or edits we need to make, we can do that as well.

**MR. WORLEY**: I move that we approve the minutes.

**MR. MCIVER**: Second.

**SECRETARY KEMP**: Mr. Worley moves, 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.

We also need to approve the special called State Election Board meeting of September 17, 2014.  
I will again take a motion.

**MR. WORLEY**: I move we approve the minutes of that meeting.

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

**MS. SULLIVAN**: Second.

**SECRETARY KEMP**: We have a second by Ms. Sullivan.

**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. Thank you very much.

Our next agenda item is our investigative report, our consent cases. If you haven't been here before, on our consent cases we have a block of cases that the board votes on all in one vote for dismissal on those cases because there was no violation found and the investigative team has recommended that we dispense of these cases.

However, if any board member or if anyone in the audience is concerned about any of these cases or whatnot, if they will just notify us now, we will pull those cases out and let Mr. Harvey give the board an explanation on that and we will move forward with that like we normally do. Actually, we will move those to our new cases part of the agenda.

Any board members want to pull out any cases?

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone in the audience wanting to pull out any of the cases on the consent agenda at this time?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I would entertain a motion that we -- anything you want to add, Mr. Harvey?

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

**SECRETARY KEMP**: I'll entertain a motion that we dismiss the cases on the consent agenda, Items 3 through 14.

**MR. WORLEY**: So moved.

**SECRETARY KEMP**: We have a motion by Mr. Worley. 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.

Next on our agenda is a status update on the SEB case 2014 number 14 regarding the New Georgia Project, which is number 15 in your binder. Mr. Harvey, do you want to give us a quick update?

**MR. HARVEY**: Mr. Secretary, members of the board, I'm here to report a brief status update on what our investigation has determined to date regarding the New Georgia Project.

Currently, as of last evening we have confirmed 50 incidences of forgery with voter registration applications that have been submitted by the New Georgia Project. We have 49 voter registration applications that are still determined to be suspicious, meaning we can't determine yet whether or not it's a legitimate application.

We have also confirmed that there are 34 legitimate bona fide voter registration applications that have been turned in. I would point out that these 133 applications we have examined in detail so far have all been provided by county election officials.

Just last week our office started receiving documents from the New Georgia Project that were ordered under the subpoena. We began receiving copies of voter registration applications and the canvassing sheets that identify the canvassers who recovered the voter registration applications. We are still working to work with those documents to categorize them and investigate them.

But, again, I want to point out that the documents we've worked with so far have all come from county election officials.

I want to make clear something that I believe has maybe been misunderstood or misspoken regarding the people that are in pending status or the people who believe they have registered who have not appeared on the voter lists. On the 17th when we had the meeting before, the representatives from New Georgia Project brought I think what they identified as 41- or 51,000 copies of people that had claimed they had registered to vote and were not on the voter list. Again, want to make sure that it's very clear those were not voter registration applications.

The Secretary of State's office has not received voter registration applications from the New Georgia Project except as they may have come in through the regular mail process. Any applications that have been received by the Secretary of State's office, as is required by the law, have to go to the county registrar. The county registrar is the agency that registers people to vote. The Secretary of State does not register anyone from vote. The Secretary of State does not prevent anyone from getting registered to vote.

Our only mission upon receiving voter registration applications is to transfer them immediately to the respective counties. We don't evaluate them; we don't inspect them. We transmit them directly to the counties.

If there is any lag in any county in Georgia, it is as a result of that county working to process voter registration applications, and that has to be addressed at a county level. The Secretary of State can provide guidance, they can help answer questions. But the Secretary of State, the elections office, investigators, cannot process voter registration applications. And I think that's a

critical thing to understand in this process.

In talking with county election officials, we have determined, and it have been reported, I believe, in the media, that there are very high numbers of voters -- uncharacteristically high number of voters that were in pending status. A pending status voter is someone who has submitted a voter registration application either online or with a paper card, and whether it was done by the New Georgia Project or voluntarily or some other group, that card is submitted, and as I explained last time, the data is put into the voter registration system.

If that data has a conflict with previous data, or there is a problem with the citizenship recognition; or if the date of birth is different; or if a drivers license doesn't match, that applicant is put in a pending status. Again, each of the 159 counties then is notified of that status. That county has to make contact with the voter to determine what is wrong with the application: Is the date of birth missing?

I can tell you of the documents we've looked at from New Georgia Project -- and they have provided thousands of documents -- we have seen multiple cases of cards being incomplete, whether it's a date of birth missing; or whether it's an address missing; whether it's an address missing; whether it's a signature missing. Any of those omissions, whether accidental or intentional, we don't know -- not making a judgment on that -- but any of those omissions or errors is going to cause a problem with pending status.

So anybody who has registered to vote with the New Georgia Project, with a party, with any organization, or just by themselves that can't find themselves on the voter list accessible through the Secretary of State's office or through the county, needs to contact their county registrar and determine what the issue is.

Again, the counties should be contacting all these voters in pending status and saying, "Mr. Voter, when we submitted your application we got a conflict on the date of birth; we got a conflict on the Social Security number; we got a conflict on the drivers license number. We need you to provide information so we can correct this and get you registered to vote."

I believe that is the sincere mission of every county registrar and every election official in the state. I know that it's the goal of the Secretary of State's office to facilitate that process as much as we can with the limitations I mentioned before about our being able to process any applications.

Again, I would refer anybody that's interested to the Official Code of Georgia, 21-2-220, paragraph (d), which describes the process for county registrars handling incomplete voter registration applications.

Since the meeting on the 17th, we have received additional complaints and suspicious voter registration applications, and those have come largely from DeKalb, Douglas, and Muscogee Counties.

As I mentioned before, we have complaints on erroneous information being given to voters in two counties. We have one complaint so far on a delay of transmittal of completed registration applications from one county.

We are aware of the many voters still in pending status. Again, those are voters we can look at if the New Georgia Project will give us the database we've asked for under subpoena, which they say is coming. If they would give us the database that contains all of those 41- or 51,000 people they say are not registered to vote, we could determine very quickly how many of those people are in pending status, what counties they're in, and work with the counties to get those resolved.

Again, I want to emphasize that nothing we are doing in this investigation, not a single thing that's going on in this investigation, is stopping, slowing down, impeding, affecting anybody's ability to register to vote. Anything we are looking at on a suspicious voter registration application is being done to the side of the regular legal process a voter registration application follows. The fact that Muscogee County may have give us six applications that for whatever reason they determined to be suspicious or they've gotten feedback on does not prevent those from being processed by the county registrar. If we determine a violation has taken place later, the board will certainly learn of that and be able to take appropriate action at that time. But, again, that in no way impedes the applicant from going through the registration process.

I can report to the board that on the 22nd September myself and Mr. Germany from the Secretary of State's office met with attorneys for the New Georgia Project and we wanted to talk about our subpoena and we wanted to assist in prioritizing the information we were asking for in the subpoena -- that you were asking for in the subpoena. We identified the areas we thought were most important which were the copies of voter registration applications; the copies of the canvas sheets; and their electronic database -- every application they have reported.

As I said, we've gotten -- at last count it was approximately 60,000 copies from those, and I understand we got some additional documentation late yesterday afternoon noon or evening we haven't had a chance to look at yet.

But I want to be clear there was no negotiation or backing down or compromise on what we were asking for. The information that was demanded in the subpoena is information we believe is important and critical to have so we can conduct as thorough an investigation as possible.

As soon as we get that database they say they have, I believe it will speed up our investigation and it will also allow for a continuing evaluation of problems as they come up.

As I mentioned before, one of the problems with forged voter registration applications even if all the information is the same is that a forged voter registration application changes the signature of the voter so that in two years or four years or six years a voter who may vote in person in November and has no idea there is an issue with their voter registration signature, maybe in two years when they go to vote for president, they're going to be out of town so they request an absentee ballot. When the absentee ballot is rejected because the signature doesn't match, I presume they will come to the county and they will come to us and they will demand an answer as to why their absentee ballot was rejected.

Presumably, with this database we'll be able to go and see if this was something that happened with New Georgia Project or any other group that has turned in voter registration applications, and that may answer questions for years to come.

Lastly, getting the database will again be instrumental in determining how many of these pending applications are the result of applications that have been turned in by the New Georgia Project. I've spoken to county election officials that say it's normal for them to have maybe 50 to 70 voters in pending status this late in the registration process that now have 2000 or 3000 voters in pending status, which is very unusual for them.

Again, I'm not saying that all those, or I don't know for certain how many of those were the result of New Georgia Project, but we would like to know that and I think that would go a long way towards answering what's happening with these folks.

Lastly, I'll give an example that I think illustrates the problem that can come with these forgeries.

There is a county election official who is one of the senior election officials in the state who was processing a voter registration application. And in processing it, she looked at the previous voter registration application and saw different address and saw the handwriting was very different. The original handwriting was from a woman born in the 30's, and it was, as you may expect, a signature, handwriting for someone born in the 30's, an older person. It was a little shaky.

When they processed the new one, they saw that the handwriting and signature were all very flowing and very fluid and very almost elegant. In contacting the voter, because there was a different address change with three different addresses, we have yet to hear back from the voter.

Again, we don't know whether this is a mistake; whether it's a forgery. It's clear this voter did

not sign the voter registration application. Their address has been changed and that is one of the 49 unknowns that we are still working on right now.

So, again, our investigation is continuing. It's helpful to get these documents from New Georgia Project. It will be more helpful as we continue to get them. But I just want to emphasize again that any delay in voter registration has nothing to do with this investigation; has nothing to do with the actions of the Secretary of State's office; and has nothing to do with anything we're doing. Everything we are doing is on the side of the regular voter registration process.

I can answer any question you may have.

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

**MR. WORLEY**: I had some questions, Mr. Secretary.

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

**MR. WORLEY**: You indicated that the county should be contacting voters in the pending status. First of all, how many people statewide are in this pending status?

**MR. HARVEY**: I don't know the number. Linda, do you know if we've got a number of the statewide pending status?

**MS. FORD**: We don't have the statewide number.

**MR. WORLEY**: Is that a number that can be obtained?

**SECRETARY KEMP**: Well, I think probably it can once things close out. The problem is it's probably changing daily as people are entered and we're still getting applications that may have been mailed yesterday and postmarked, which those will get processed, too.

But we should have those numbers shortly and we'll be glad to get them to the board.

**MR. WORLEY**: You had indicated that they the counties should be contacting the people in pending status. How do the counties do that; what is it that counties are supposed to be doing; and how long is that process going to take?

**MR. HARVEY**: That's the process outlined in 21-2-220. The counties are supposed to contact voters by mail if there is an issue with a pending status or information that is not complete on the voter registration application and get whatever clarification they can regarding that voter.

In a lot of cases, that has been the basis for referring voter registration applications to us. The county will send a letter to a voter who will contact them to say, "What are you talking about? I didn't register to vote."

They'll show them a copy of the registration and confirm that's not your signature, they didn't do it. And so they may refer it to us.

Again, we don't even know yet exactly every county that New Georgia Project has been active in. We've got complaints from 13 counties. That may be it. There may be other counties, but I don't know.

**SECRETARY KEMP:** One other point on that, Mr. Worley, I think, too, is why it's important as Mr. Harvey said earlier -- and hopefully the members of the press that are here will talk about this, as well -- it's important -- you know, some of the problems we've heard from the counties is that the voter registration has incomplete addresses or addresses that don't exist. Obviously, if that's the case, that letter is not going to get to them from the county.

So it's important for people to know, whether it's New Georgia Project, individual voters, or other groups, to let people know if they did register to vote or try to register and they're not showing up in the system -- and they can check the Secretary of State's MVP page for that -- to contact their county registrar and they can help them finish up the process if there's something missing.

**MR. WORLEY:** Does the MVP webpage indicate that, that they should contact their county registrar if it's not working?

**SECRETARY KEMP:** I just know the individual part of the MVP where you put your information in, and if you're a registered voter it pulls up your information. If you're not the system that's your clue that your registration has not gone through for the reasons discussed and that you should contact the county. Linda is saying it does say contact the county.

**MR. WORLEY:** Mr. Harvey, does the Secretary of State's office have any procedure in place to make sure the county officials are being notified they need to be following up with these kinds of applications?

**MR. HARVEY:** A procedure in the Secretary of State's office to remind counties to follow up?

**MR. WORLEY:** Yes.

**MR. HARVEY:** I know there is regular communication with the Elections Division and county election officials. That's kind of outside of my area of operations, so I can't specifically to what kind of communication that is.

I know if you think back to the Fulton County case two years ago when we had the meeting and they had the problem with the provisional ballots, the voter registrations weren't handled properly and that caused that problem.

But I just can't answer the question as to specifically how or how often or in what manner the elections office communicates with county election officials.

**MR. WORLEY:** When do you expect to get this database from the New Georgia Project which would allow you to further check the pending applications?

**MR. HARVEY:** As soon as they deliver to us we'll work on it. I believe Mr. Germany was in conversation with their attorneys yesterday afternoon. If they were able to print off 41- or 51,00 forms and deliver to us, I imagine that came from a database they could put on a thumb drive or disk and give to us this afternoon, tomorrow morning, and let us start to work with some of that.

As soon as they get it to us, will be happy to work on it.

**MR. WORLEY:** All right. Getting to the suspicious or fraudulent applications that you have discovered, you found 99, which is about one out of every 85 the New Georgia Project submitted?

**MR. HARVEY:** Again, we don't know what the New Georgia Project has submitted. They haven't given us a database of the numbers they have submitted. And, again, we haven't looked at what they have submitted independent of what the election offices have provided to us. So this is 99 out of 133 that we're looking at.

I can tell you yesterday afternoon we were pulling some canvassing sheets and pulling voter registration applications that just on the surface looked suspicious and gave us cause to do some additional investigation. We're dealing with thousands and thousands of documents. So we're still in the process.

**MR. WORLEY:** Have you been able to link the 50 incidents of forgery that you have found to specific canvassing sheets?

**MR. HARVEY:** We have not because we just started getting the canvassing sheets. So now

we're just going to be able to connect canvassers with voter registration applications. We haven't been able to do that.

The data we've gotten from the counties has just been the application, and it was really at the end of last week and the beginning of this week that we're getting copies of these forms. It takes a while to categorize them and organize them so we can work with them. That's what we're in the process of doing right now. That's one of our top priorities.

**MR. WORLEY**: That's all the questions I have.

**SECRETARY KEMP**: Mr. Worley, thank you. Mr. McIver.

**MR. MCIVER**: Mr. Harvey, I'm very encouraged by this report. It sounds as if things are going well; is that correct?

**MR. HARVEY**: They're going well in the sense that the counties are doing a good job of identifying problems and reporting those problems to us. We're able to follow up pretty quickly in cases where we got complete information and were able to confirm or (unintelligible) -- as I said, we've confirmed 34 bona fide voter registration applications which I think is success also.

So, yeah, I think it's successful so far. I think we're getting ready to move into a new level in terms of scale where we're going to have lots and lots of data to work with. So we will have to get our arms around that and I'm confident we can do it.

**MR. MCIVER**: Let remind you, in our meeting on the 17th of September on my motion by unanimous vote this board voted to issue a subpoena and you cared for that as best I know.

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

**MR. MCIVER**: So I'll put this question to you, but I wouldn't be surprised if Mr. Germany wanted to respond. But have you or your staff or the Secretary of State's office encountered any resistance or any attempt not to fully I with our subpoena in this investigation so far?

**MR. HARVEY**: I wouldn't characterize anything we've encountered as refusal. It has taken them time to get us documents. I don't know exactly what their document retrieval system is and storage system is. They have gotten us four or five CDs that have mostly digital copies of canvass sheets and voter registration applications.

We knew when we issued the subpoena we were requesting a lot of information and that's why we met with them so we could prioritize and say we'd rather get this stuff as you get it done than

wait two months and get everything at one time. So they're aware of the priority we've place on things and we're expecting additional compliances as soon as possible.

But I would not characterize anything as obstructive or resistant. Like I said, I don't know how long it takes them to retrieve this data, but I hope that we get the database very, very soon.

**SECRETARY KEMP**: Mr. Harvey, I did have a question. The 133 number, is that the number of complaints we got from the counties?

**MR. HARVEY**: Those are the number of applications that have been submitted by the counties.

**SECRETARY KEMP**: So they saw an issue, submitted those, and our investigators have confirmed 50 forgeries; is that correct?

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

**SECRETARY KEMP**: Anybody else on this part of agenda?

(Whereupon, there was no response)

**SECRETARY KEMP**: If not, we're going to move forward.

Let me say quickly in wrapping this up, on a slightly different topic, I know we've got a lot of county election officials and registrars in the audience and I just want to say thank you for how hard you have been working. There's been a lot of things that in the paper. But one thing's for sure: we know in the Secretary of State's office how hard the counties are working to process the applications that are being delivered to their office and the applications that we daily sent to the counties.

I just appreciate the efforts that you all have been through and will continue to go through to make sure we get people who properly submitted an application and registered to vote for the November election.

So I hope you'll pass that along to your colleagues back in your home counties and your neighboring counties if they are not here today. Thank you very much.

Mr. Harvey, we're going to move on to new cases, correct?

**MR. HARVEY**: That's correct. Are you going to call the agenda to identify people?

**SECRETARY KEMP:** We'll do that.

Under our new cases, which will start with 2011 number 69, the Douglas County case, what our posture is is that we want to try to accommodate people who have taken time to come to our meeting today. So I'm going to just call these cases real quick, and if you're here on that case as a respondent, complainant, or as the attorney, just let us know; just say, "Here" and we will call your cases in order from the agenda.

For the cases where no one is here, we will move those to the foot of the calendar. That way it'll speed up the process for you all that did take time to show up this morning.

City of Lithonia, case 2011 number 91; Douglas County, presidential preference primary; Paulding County George Klein case; Paulding County registered felons case; Fulton County Shoji case; Madison County affidavit case; Clayton/Dooly County registration; Clarence Johnson candidacy affidavit case; Twiggs County case; Fulton County photographing in booth; Cobb County wrong ballot case; 2012 number 84, Floyd County; number 86, Floyd County again; Cobb County district issues; Toombs County; Baker County; Clay County absentee ballots; Meriwether County; Dodge County; Talbot County; and Dougherty County.

Mr. Harvey, let's start with 2011-169, the Douglas County case.

**MR. HARVEY:** Mr. Secretary, members of the board, this case involved the November election of 2011. There is a candidate and two co-workers of the candidate at a polling place offering free hotdogs to voters coming out of the polling place on Chapel Hill Road. They were set up outside of the 150 feet no campaigning zone, but they were in the parking lot of the polling place.

The elections director, Lori Fulton, responded to the scene and had a conversation with Ms. Robinson and they pack up and they left. There was no specific direct indication that somebody had to vote in order to receive a hotdog.

Based on the response of the candidate upon being confronted by election officials, I think this is a case that is appropriate for consideration of dismissal. I think they were approaching the line, but I think it is one that based on the response and based on the lack of specific positive requirement that somebody vote in order to get food, it is a candidate for dismissal by the board.

I believe there is an attorney for the respondent here to speak to the board.

**SECRETARY KEMP:** Yes, sir, if you would, give your name and address.

**MR. FOWLER:** Joe Fowler, Douglasville, Georgia; 6622 East Broad Street.

We encourage you to adopt the recommendation. Thank you for the consideration. We appreciate our interview with Chris and would urge you to adopt the recommendation.

It was a gift from somebody that we did not realize could result in this type of circumstance. But we'd appreciate your adoption of the recommendation. Thank you.

**SECRETARY KEMP:** Mr. McIver.

**MR. MCIVER:** Are you satisfied this is not likely to occur again?

**MR. FOWLER:** Quite certain it will not occur again. Someone offered to do it, and the candidate didn't realize it should not be done and stopped immediately when it happened. Hot dogs were given to some agency somewhere else where people needed food.

**MR. MCIVER:** The board can rely but your assertion.

**MR. FOWLER:** If you knew the candidate, you certainly could, and I believe you can rely on my assertion as well.

**MR. MCIVER:** Thank you.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Do you have any questions for Mr. Harvey?

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, I'm prepared to take a motion.

**MR. MCIVER:** On Mr. Fowler's assertion, I'll move this matter be dismissed.

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

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries. Thank you for being here today.

Mr. Harvey, the 2012 number 21, Douglas County PPP case; number 18 in our binders.

**MR. HARVEY:** This case involved the presidential preference primary in 2012. There was a voter who was given the wrong ballot in the primary election. Also, there were voters who reported they were told they could not vote in the Democratic election, or that it was useless for them to vote in the Democratic primary because there was only one candidate.

Douglas County conducted their own investigation. They determined that a single poll worker, Mr. Hugh Bremmer, did make a comment or comments to the effect of there was no point in voting on the Democratic because there was only one person on the ballot. And at one point accidentally issued a Republican ballot to a voter who requested a Democratic ballot.

Douglas County responded by terminating Mr. Bremmer. There was no indication that it has gone any further than that.

It is my recommendation that Mr. Bremmer is no longer working in Douglas County elections that Douglas County be dismissed and that the State Election Board issue a letter of instruction to Mr. Bremmer regarding any -- should he work in any future elections about propriety of giving advice to voters regarding their election choices.

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

(Whereupon, there was no response)

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

**MR. COLE:** My name is David Cole. I'm with the law firm of Freeman, Mathis & Gary, 100 Galleria Parkway, Suite 1600, Atlanta, Georgia 30329. I represent the Douglas County Board of Elections and its elections supervisor, Ms. Fulton.

We do agree with the facts as recited by Mr. Harvey and also the recommendation with respect to the Board of Elections.

There was no intent by Mr. Bremmer to do any wrong, but he did say what he said. The facts are undisputed. It was contrary to his training, contrary to the policy of the city, of the county.

Without any knowledge of the poll manager of the board, all this occurred. As soon as they found out they fired him. They are not going to hire him again. It will not happen again.

So it is with respect to the board we request the board adopt the recommendation of dismissal.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, ready for motion.

**MS. SULLIVAN**: I move that this case against Douglas County Board of Elections be dismissed and a letter of instruction be issued to Mr. Bremmer.

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

**SECRETARY KEMP**: Do we have Mr. Bremmer as a respondent?

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

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

We now move to SEB case number 2012 number 22, Paulding County, George Klein case.

**MR. HARVEY**: This is a very simple case. A felon under sentence, Mr. Klein, had pled guilty a month prior to voting. He then went and voted in the presidential preference primary election. He admitted voting and simply said he didn't realize he couldn't vote while serving a felony sentence.

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

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: I'm ready for a motion if no one else wishing to speak.

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

**MR. MCIVER**: Second.

**SECRETARY KEMP**: Mr. Worley moves to bind over to the AG's office; 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.

We are on to 2012 number 28, the Paulding County registered felons case.

**MR. HARVEY**: Again, another fairly simple case. There were six felons in Paulding County who registered to vote while they were serving sentences. They were reported by elections supervisor Deidre Holden. All six did register to vote by hand. None of them voted after registering to vote, and I recommend all six be over to the AG's office.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. WORLEY**: I move the matter be bound over to the Attorney General's office.

**MR. MCIVER**: Second.

**SECRETARY KEMP**: Motion by Mr. Worley, second by Mr. McIver to bind this case 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.

Mr. Harvey, next is case number 2012 number 38, Shoji case; it's number 21 in our binder.

**MR. HARVEY**: Mr. Shoji and his attorney, Attorney Waters, are present also.

This case involved Yasuo (phonetic) Shoji who registered to vote in 2001. However, on his voter registration application he marked that he was not a citizen. He is, in fact, not a citizen. He completed the rest of the form, submitted it, and Fulton County registered him to vote despite the fact that he indicated he was not a citizen.

Mr. Shoji has voted by his own admission at least twice, last in 2008. In speaking with his attorney, his attorney, I believe, will represent that he believed that when Mr. Shoji was sent a precinct card by Fulton County that he was allowed to vote, and that when he registered and voted, he was not aware that he could not do that.

Based on the circumstances, I would recommend that Fulton County be bound over for registering a voter who acknowledged they were not a citizen.

I believe Mr. Shoji is probably in sort of the gray area between a letter of instruction and a consent order for registering to vote and voting. I think the fact that he filled out the application truthfully goes towards indication he was not trying to do something he couldn't do. But the fact is he did register to vote and he was not eligible and he did vote at least twice.

I believe Mr. Waters is present to speak.

**SECRETARY KEMP**: Let me see if we have questions for Mr. Harvey first. Mr. McIver.

**MR. MCIVER**: Mr. Harvey, in your summary there is a sentence that says Mr. Shoji's voting history indicated he had voted five times since registering. There were several references to that.

Does that sentence connote, or at least may I assume that you have validated the fact that he voted five times?

**MR. HARVEY**: What we have learned since then is that he told the investigator he voted about five times. He has come back and said he only remembers voting twice. I don't know that we've got his voter history in the file. We could certainly --

**MR. MCIVER**: Was any attempt made to validate whether or not he voted?

**MR. HARVEY**: I believe there was, although as I stand here right now I'm not sure that I can swear to that.

**MR. MCIVER**: That's all I have.

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

(Whereupon, there was no response)

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

**MR. WATERS**: My name is Arthur Waters representing Mr. Shoji. My address is 555 Sun Valley Drive, Suite P-3 in Roswell, Georgia 30076. This is Mr. Shoji. Your address, please.

**MR. SHOJI**: 123 Equestrian Lane, Woodstock, Georgia 30188.

**MR. WATERS**: Thank you, Mr. Secretary, board members, for the opportunity to address you this morning. We'll try to be brief.

I'm here to select elicit testimony from Mr. Shoji, and if I may, ask him a few questions in your presence. I'd like to substantiate the fact that he did not knowingly register to vote without being a citizen. The testimony I'm about to solicit will show that Mr. Shoji registered to vote because he was mailed a voter registration in the mail and he thought he could by virtue of the fact he had a Georgia drivers license.

Yes, it was a mistake, but he did not knowingly register to vote, which is what the code section speaks to.

Mr. Shoji, are you a US citizen?

**MR. SHOJI**: No.

**MR. WATERS**: Have you ever represented to anyone at any time that you are a US citizen?

**MR. SHOJI**: No.

**MR. WATERS**: You registered to vote in Fulton County; is that true?

**MR. SHOJI**: No.

**MR. WILLARD**: Mr. Secretary, if I could interject. If we could put the witness under oath if he's going to actually present testimony to the board.

**MR. WATERS**: Yes, sir.

**SECRETARY KEMP**: Counsel, I think this board is very adaptive to hearing what your client is going to say if you would just like to tell us that. If we need to go further than that, we can. I think that might be the best way to address this.

**MR. WATERS**: Let me do that if I may, please. Firstly, we are here to request a dismissal and letter of instruction.

The code section refers to a violation for those that register to vote -- that knowingly register to vote despite the fact that they do not meet qualifications. As stated, Mr. Shoji did not do so. It was not knowingly. Yes, it was a mistake, but there was no intention to defraud.

He was honest. He said I am not a citizen and it was Fulton County that then processed it and issued a voter card. That's the essence of our case.

Again, we would request a dismissal; we request a letter of instruction. Mr. Shoji now knows he must be a US citizen to vote and he has no intention to vote or attempting to do so ever again.

Thank you.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: I have one. Does your client aware of where the form, voter registration form came from?

**MR. WATERS**: We have one with us. It was mailed to him -- this just came to your home by US mail?

**MR. SHOJI**: Yes.

**SECRETARY KEMP**: That's when he actually registered?

**MR. SHOJI**: No, sir. This received about three or four weeks.

**SECRETARY KEMP**: So somebody basically years ago sent it a voter registration form to your house and you thought you could fill that out, even though you were not a citizen; is that what happened?

**MR. SHOJI**: Yes, sir.

**SECRETARY KEMP**: And you don't know where that voter registration form came from; who mailed that to you?

**MR. SHOJI**: I do not know. Sorry.

**SECRETARY KEMP**: Any other questions?

**MR. HARVEY**: Mr. Secretary, just to respond to Ms. McIver's previous question, his voter history does show voting five times. I believe he said he remembers voting twice, but we did check his voter history and it does show five elections.

**SECRETARY KEMP**: Any more questions for Mr. Waters or Mr. Shoji?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for being here. Anyone else wish to address us on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Mr. Harvey, we've got Fulton County cited as well for registering somebody that --

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

**SECRETARY KEMP**: They basically registered the voter even though they checked they were not a citizen on their form?

**MR. HARVEY**: Correct.

**MR. WILLARD**: Question for Mr. Harvey. They are not listed as a respondent. Did they receive notice?

**MR. HARVEY**: They should have received notice. I personally e-mailed Mr. Brower a copy of the complaint several weeks ago.

**SECRETARY KEMP**: We don't have them listed as a respondent?

**MR. HARVEY**: That's correct. They are not listed as a respondent in the case before us. However, Mr. Brower contacted me via e-mail and saw that Fulton County was on twice and I sent him copies of the summary at that time.

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

(Whereupon, there was no response)

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

**MR. MCIVER**: To Mr. Willard's point, I think we need better confirmation, no offense to you, Mr. Harvey, that Fulton County is on notice. They've not been listed as a respondent here. Therefore, I'd be inclined to table the matter until we can confirm Fulton County has been noticed.

**SECRETARY KEMP**: Do you want to table Mr. Shoji, as well?

**MR. MCIVER**: No. I think we can go forward with that one.

**SECRETARY KEMP**: So is that a motion on the Fulton County part?

**MR. MCIVER**: I move that we table Fulton County until we determine they've been noticed as a respondent.

**MS. SULLIVAN**: Second.

**SECRETARY KEMP**: We have a motion and a second to table the Fulton county part of this case. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries. We will have them as a respondent at the next meeting.

Any discussion or motion on Mr. Shoji's part of the case?

**MS. SULLIVAN**: I move that a letter of instruction be issued to Mr. Shoji.

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

**SECRETARY KEMP**: We've got a motion by Ms. Sullivan, and a second by Mr. Worley to issue 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. Waters and Mr. Shoji, thank you for showing up today.

The next case is 2012 number 48, Madison County candidacy affidavit case.

**MR. HARVEY**: This case involves candidate Christopher Lee Parker who was a resident of Madison County. He originally registered to vote in 2008 at an address on Holman Autry Road. He voted on Holman Autry Road through March of 2012, and then he decided to change his registration and qualify to run as a candidate for board of commissioners. He claimed on his affidavit that he had lived at the new address for six years when he had only lived there approximately one year.

So we've got him cited for inaccurate information on a nomination candidacy affidavit. Mr.

Parker is present represented by Mr. Bowers.

Mr. Bowers has called me and we've spoken about the case, and he has indicated that his client would be amenable to resolving this case quickly with a cease-and-desist, public reprimand, and a fine of \$100 to \$200 if the SEB is inclined to accept that this morning.

**SECRETARY KEMP**: Thank you, Mr. Harvey. Any questions for Mr. Harvey?

**MR. MCIVER**: Would a \$200 fine be consistent with our pattern in the past?

**MR. HARVEY**: I believe, generally, yes or.

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

**MR. MCIVER**: No, sir.

**MR. WILLARD**: Mr. Secretary, typically these cases if they go to an NCO for a false swearing on a candidacy affidavit, they've been settled for between 500 and \$1,000.

**SECRETARY KEMP**: Mr. Bowers? Would you like to address the board? Welcome.

**MR. BOWERS**: My name is Mike Bowers. I am an attorney; Balch & Bingham, 30 Ivan Allen Boulevard, Suite 700, Atlanta, 30308.

This is my client. There is no excuse for what he did. We agree with the recommendation. We ask your agreement with it.

That's all I've got to say.

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

**MR. MCIVER**: It will be a great honor to ask you a question. You've asked me a few, Mr. Bowers.

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

**MR. MCIVER**: It actually feels good.

We understand that you have offered a cease-and-desist and \$200; is that correct?

**MR. BOWERS:** Yes, sir.

**MR. MCIVER:** What would be the position of your client in the event Mr. Willard draws us to a more patterned direction which might be something in the zone of 500 to \$1000?

**MR. BOWERS:** Well, we're of course going to do exactly what you all say, but it will be with some regret. My client is a working man. He works for a living. He's a blue-collar worker, and we would ask that you make it just as reasonable as you can make it. We will much prefer 200. If you make it 500, we're going to do exactly what you say. We would ask for mercy. That's all I can say.

**MR. WORLEY:** Why should we give your client mercy, Mr. Bowers?

**MR. BOWERS:** Because you all are merciful folks. And I'll give you another one.

**MR. WORLEY:** Are there any extenuating circumstances?

**MR. BOWERS:** Yes there are. Today is my birthday.

**MR. WORLEY:** We're not fining you; we're fining your client. But my question was are there extenuating circumstances?

**MR. BOWERS:** Not really, no.

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

(Whereupon, there was no response)

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

**MR. PARKER:** Christopher Lee Parker, 415 Buford Carey Road, Hull, Georgia 30646.

During this whole process I was building a house which was a quarter mile from the district lines which I did not know at the time. When I filled out the candidacy affidavit, I just for whatever reason put down the address of the property that I owned and was building the house on under the same line as how long I'd been in the county.

There was not intent to mislead. It was just an accident and a mistake in filling out the affidavit. That's all.

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

(Whereupon, there was no response)

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

**MR. WILLARD:** Mr. Secretary if the board is going to attempt to resolve this today as opposed to binding it over, we do need to perfect the record and get him under oath to state that he did violate O.C.G.A. 21-2-565 so we can wrap up the contested case under the ADA.

**SECRETARY KEMP:** Let's figure out what the recommendation is first and then we can see if Mr. Bowers and his client would like to do that. Will that work for the board?

(Whereupon, there was no response)

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

**MR. MCIVER:** I move that consistent with Mr. Bowers' recommendation that the board determine and resolve this case today with a cease-and-desist and a \$200 fine, and take that position because of the convenience that has been made available to our investigative staff and the contrition evidenced by Mr. Parker. They've saved us time and money and we're able to move on to another case and I think that brings value to the process.

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

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

**MR. WILLARD:** Was there a reprimand in that recommendation?

**SECRETARY KEMP:** Not in that motion, unless you want to restate it. I think the original recommendation was a cease-and-desist, public reprimand, and a fine. But the motion did not have all --

**MR. MCIVER:** I will amend my motion to the extent it can be seconded to include a reprimand.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, Mr. Willard, before we vote what, legal process do we need to go through to make sure we're taking care of this today?

**MR. WILLARD:** If the court reporter or Mr. Bowers will swear in the respondent, all we need to do is get him to state on the record that he admits to violating O.C.G.A. 21-2-565 in that he made a false statement on his candidacy affidavit.

(Whereupon, the witness was duly sworn)

**MR. WILLARD:** Mr. Chairman, may I inquire?

**SECRETARY KEMP:** Pull that mic up just a little so she can hear you.

All right. Mr. Willard.

Whereupon,

CHRISTOPHER LEE PARKER

was called as a witness herein, and having previously been duly sworn, testified and was examined as follows:

EXAMINATION

BY MR. WILLARD:

Q You are Christopher Lee Parker?

A Yes, sir.

Q Your address is 1964 Holman Autry Road, Danielsville, Georgia?

A No, sir.

Q What is your address, please.

A 415 Buford Carey Road, Hull, Georgia 30646.

Q Mr. Parker, you've heard the dialogue between your attorney and the board today. Do you admit that in preparing your candidacy affidavit for the July 2012 primary you made a false statement on that candidacy affidavit?

A Yes, sir.

**MR. WILLARD**: Mr. Chairman, you may proceed.

**SECRETARY KEMP**: We are ready for a vote on the recommendation. All in favor, signify by saying, "Aye."

**SECRETARY KEMP**: Aye.

**MR. MCIVER**: Aye.

**MS. SULLIVAN**: Aye.

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

**MR. WORLEY**: No.

**SECRETARY KEMP**: That motion carries. Thank you all for being here today.

Mr. Willard, the documents for this and payment of the fine, is that something you'll get together.

**MR. WILLARD**: I'll work with your staff on the order. There won't be a need for Mr. Parker's signature on it. It would just be a final order of the board.

**SECRETARY KEMP**: Very good. We'll be in touch.

**MR. BOWERS**: Do we give y'all a check today?

**MR. WILLARD**: You'll have 30 days from the time he receives the order.

**MR. BOWERS**: You'll notify me?

**MR. WILLARD**: Yes, sir. You'll receive a copy of the final order from the board.

**MR. BOWERS**: You know how to get in touch with me.

**MR. WILLARD**: I'll send folks after you, Mr. Bowers.

**MR. BOWERS:** Thank you.

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

Mr. Harvey, case 2012 number 67, Clayton/Dooly County cases.

**MR. HARVEY:** This is a case involving a voter, Mr. Smothers, who went to vote in 2012 and was told he was deleted from -- he went to vote in Clayton County and was told he was deleted from the system; that he had been deleted in Dooly County because he was showing up as a convicted felon.

Mr. Smothers actually came to our office in 2012 and met with us. After being released from custody in the 80's, he was -- he left Dooly County and was never told that his probation was continuous in Dooly County. So he left his probation in Dooly County in 1990.

Dooly County never indicated he was still under sentence -- the Department of Corrections never indicated he was under sentence. He said he had several encounters with law enforcement between that time and 2012. There was never any warrant for his arrest. He was never under any advisement that he was still serving a felony sentence. Dooly County said they tolled his felony sentence in 1990.

He did not appear on a felon until March 1 of 2012 which caused him to be deleted. Actually, when he left our office, he went to the tower next door to the Department of Corrections to find out what his status was and why he was listed as a felon when he had no indication that he was.

He was actually arrested by the Department of Corrections at that time and transported to DeKalb County jail and then to Doraville where he had an outstanding fine, and then ultimately back to Dooly County, where he reported paying a two dollar probation fine and his sentence was ended; his probation was ended at that point.

At this point, I believe his situation has been resolved. He is not a felon under sentence and I believe there is sufficient evidence that he has more than made up for any error that may or may not have been his fault, and I recommend this case be dismissed.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we will take a motion.

**MS. SULLIVAN**: I move this case be dismissed.

**MR. MCIVER**: Second.

**SECRETARY KEMP**: We have a motion by Ms. Sullivan and a second by Mr. McIver to dismiss this 2012 number 67 case. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

Mr. Harvey, we're moving to case 2012 number 74, Twiggs County case, which is number 25 in our binder.

**MR. HARVEY**: I would point out that in Twiggs County the -- one of listed respondents, Marette Fair, is deceased since this case was originally brought. So as far as that respondent goes, certainly not a respondent in this case any longer.

The allegations were that dead people voted and that people had absentee ballots cast without their knowledge. Some voters were allegedly told they could only vote a single party.

Our investigation found there was no substantiation to any allegations that deceased people voted or that people were having absentee ballots cast without their knowledge. It was determined that -- there was some question about the Sheriff's race and whether or not somebody wanted to vote for the Sheriff. If you wanted to vote for the Sheriff, they were told specifically they had to vote a Democratic ballot if they wanted to vote in local races.

So to the extent similar to the Douglas County case before where a poll worker was telling

people if you want to go for Sheriff you have to pull this ballot, I believe it is a technical violation of the system. However, I believe that a letter of instruction to the Twiggs County Board of Elections would suffice to resolve this case.

As far as the absentee ballot log, the absentee ballot log is kept in the system now. So the list of violations for failure to keep an absentee ballot log is not applicable.

So, again, I would recommend this case be resolved with the letter of instruction to the Twiggs County Board of Elections.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, anyone wishing to speak in regard to this matter?

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. I'll take a motion if there is no more discussion. Recommendation is for a letter of instruction, correct, Mr. Harvey?

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

**MR. MCIVER:** I move a letter of instruction be directed to Twiggs County Board of Elections.

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

**MR. WORLEY:** Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries.

**MR. WILLARD:** Mr. Chairman, did we not have additional respondents besides the board in that case?

**SECRETARY KEMP:** Ms. Fair was cited, but she has passed away.

**MR. WILLARD:** Yes, but we also had Deborah Stevens and Doris Blackshear cited.

**MR. MCIVER:** My motion went simply to the board.

**SECRETARY KEMP:** Do we need to discuss the other two, Graham and Blackshear, Mr. Harvey?

**MR. HARVEY:** Those were the poll manager and the poll watcher. We have them cited basically for the same thing, for informing people that they needed to vote a Democratic ballot in order to vote for local candidates.

I would recommend those respondents also be issued letters of instruction along the same lines.

**SECRETARY KEMP:** Any questions for Mr. Harvey in regard to that? Mr. Harvey, we're talking about Deana Graham and Doris Blackshear; is that correct?

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

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Anyone else wishing to speak in regards to the letter of instruction recommendation for Ms. Graham and Blackshear?

(Whereupon, there was no response)

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

**MR. MCIVER:** I move that Deana Graham and Doris Blackshear be included in our directive to have a letter of instruction issued.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: We have a motion and a second for a letter of instruction to the two respondents. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

Now we will move to 2012 number 78, Cobb County wrong ballot case, which is number 27 in our binders.

**MR. HARVEY**: This is another primary case where a voter requested one ballot and was issued a nonpartisan ballot. The voter cast the ballot before notifying poll workers so that they could change and give them the proper ballot.

This did happen. It is an apparent single human error from a normally very fine office.

Cobb County responded with copies of their training that they give to their poll workers and also copies of notices that were placed about the polling place urging voters to make sure they had the proper ballot.

Given this is a one-off scenario, I would recommend that Cobb County receive a letter of instruction regarding issuing the proper ballot.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MS. SULLIVAN**: I move that the Cobb County elections office be issued a letter of instruction in this case.

**MR. WORLEY**: Second that.

**SECRETARY KEMP**: Mr. Sullivan moves, Mr. Worley seconds 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 are moving to 2012 number 88, which is another Cobb County case; number 30 in our binders.

**MR. HARVEY**: This case involved allegations that there were districting errors in one of the precincts; the absentee ballots that were sent to some voters were not correct in Senate District 46; and that a candidate was denied a recount.

What we found in our investigation was there was an error in the districting that was discovered before the election and corrected by Cobb County. There were only four absentee ballots that were corrected that had to be mailed to voters who were impacted by the districting.

The allegation that absentee ballots were sent -- and that's different from the allegation that incorrect absentee ballots were sent out -- these were four correct ballots that showed the proper district.

The issue of incorrect absentee ballots was unable to be substantiated. Voters, after they voted the ballot, claimed they might not have gotten the right candidates. However, the issuing

software showed they got the right candidates, the right ballot for their district. The recount was denied and was not otherwise required by law.

Having all that, the fact that Cobb County basically corrected the error before the election, and was able to correct the absentee ballots, the four that were sent out, I think this is a case that I would recommend closing by the State Election Board.

**SECRETARY KEMP:** All right. We've got a recommendation for dismissal. Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MR. WORLEY:** I move that we dismiss this case.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Mr. Worley moves we dismiss; Mr. 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.

2012 number 89, Toombs County case; number 31 in our binders.

**MR. HARVEY:** This case involved a voter who was a regular voter who voted in most

elections. She went to vote and was told she was not in the VR system. She had an extended conversation with the election officials to try to figure out how she could vote, where she was in the system. She was there for 10 or 15 minutes and was not offered a provisional ballot.

The investigation revealed that there is really no explanation as to why she could not be located in the system. She was in the VR system. I don't know if the poll workers were having a hard time or there was something else going on. But she was not offered a provisional ballot until later in the day with the election supervisor was made aware of it and the election supervisor called the voter and said if you come back now, we'll let you vote a provisional ballot. At that point, the voter couldn't return to the polling place.

In this case I recommend that Toombs County be bound over for failing to offer a provisional ballot to a voter who believed they were properly registered.

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

**MR. WILLARD**: Is your recommendation only as to Toombs County, or are you also recommending that for Carey Alligood and Edie Rogers?

**MR. HARVEY**: All the respondents.

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

(Whereupon, there was no response)

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

**MS. ALLIGOOD**: My name is Carey Alligood. I'm the elections supervisor for Toombs County. My address is 125 West Lincoln Avenue, Lyons, Georgia 30436.

The events that took place for this were extremely unusual. The manager that's normally at that precinct had got sick. We had to restaff that precinct within a week before the election actually took place so everyone there was new. The lady that had agreed to be the manager had only worked one other election for me before and it was not a manager position.

They did come in and do training, but what it boiled -- they got nervous. They didn't -- you know, they were trying, but it just didn't work out. They had been calling me all during the day asking me questions and I think by that time of night, they felt they were bothering me, which they weren't. They did call me after Ms. Losolla left and they asked me what they should have done, and I -- they should have given her a provisional ballot

But in lieu of this happening -- we are a small county (unintelligible) a lot of precincts. So we went from 14 to five precincts which has alleviated our problems with having extra poll workers. We've also put in provisional training; that's a class all by itself. And before each -- when they come to pick up their poll boxes the day before election, the first thing they do is get my cell phone number make sure they have our office number and we assure them that they are to call us any time that they are in doubt.

So those are some steps we've taken to make sure this does not happen again.

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

**MR. MCIVER:** Ms. Alligood, the way we designed that training is it's abundantly clear over and over and over and over and over again if there is any doubt you are to issue a provisional ballot. In your accelerated and hurried training in this it appears they simply didn't get that message.

**MS. ALLIGOOD:** I would love to say -- I would love a great answer for that. But it seems like -- and in all honesty, everyone doesn't understand provisionals. And even though we've had classes and we've explained it over and over, it seems like precincts just struggle with provisional ballots and when to use it; that type thing. And that's one of the things we say now that if you just don't know, just please call the office and let us step you through.

I don't know what it is about provisional ballots. I don't know if it intimidates them; I don't know what it is. I've even started going out on election day and letting them walk me through and kind of go through the steps of if I had to a provisional ballot with them that day, just to kind of put it in place for them because it's not something they do a lot, I guess, and they get nervous and they just don't for whatever reason. And I hate that.

This the only time we've had this happen. Like I said, when she called and asked me to verify the registration, I said, you're there and you're more than welcome to come and do a provisional ballot. But she had to be back and work and she just couldn't turn around and go back.

**MR. MCIVER:** You anticipated my next question: This is the first time this has happened?

**MS. ALLIGOOD:** Yes, sir.

**SECRETARY KEMP:** Any other questions?

(Whereupon, there was no response)

**SECRETARY KEMP:** Thank you for being here. Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP:** Do we have a motion or recommendation or any other discussion?

**MS. SULLIVAN:** I appreciate Ms. Alligood coming in and explaining the County's position on this. As this was a first-time violation, I'll move that a letter of instruction be issued in this case.

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

**SECRETARY KEMP:** We have a motion by Ms. Sullivan and second by Mr. Worley for a letter of instruction. Any other discussion?

**MR. MCIVER:** That would include the board and two individuals, Ms. Alligood and Ms. Roberts?

**MS. SULLIVAN:** Yes.

**MR. MCIVER:** Thank you.

**SECRETARY KEMP:** Okay. We have a motion and a second for a letter of instruction for all respondents.

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 the Baker County case.

**MR. HARVEY:** The original allegation in the Baker County case, primary allegation, was that people were being paid in order to vote; paid to vote for a candidate.

As is often the case in these incidences, there seem to be a lot of word on the street, but there were no witnesses who actually come forward to say they were paid or that knew somebody who was paid in order to vote for a particular candidate.

Particularly troublesome were that there were problems with some absentee ballots, specifically, when the absentee ballots were counted there were 14 ballots marked identically and they were marked so that -- for the Sheriff's candidate there were two candidates, and in 14 of them they were marked identically where it looked like somebody got a Sharpie magic marker and went completely across the ballot marking the bottom candidate, and then marking instead a vote for the top candidate. And there were 14 that were identical.

Of course, there is no way to tie absentee ballots back to the voters so there's no way to go back and find out who cast those absentee ballots. But it certainly casts suspicion on the absentee ballot process.

As I said, we were never able to determine whether or not people were paid. However, in going through the absentee ballot process, we found some problems that constituted violations.

One of these were that the respondent Jeanette Jackson, we compared the absentee ballots and we found that 27 have very consistent handwriting. We determined that 19 of these 27 had been assisted by Ms. Jackson.

We also found that Ms. Jackson assisted a voter who did not live there anymore. The voter had temporarily lived in Ms. Jackson's nursing home; had moved away years prior; and this voter voted absentee ballot in Baker County with Ms. Jackson signing as assisting.

We subpoenaed records from Ms. Jackson regarding this specific incident with Delores Gerald and we found out that she provided us documents that appeared to be manufactured or forged or copied improperly from her nursing home. We spoke with Ms. Gerald who was living in Albany at the time. She confirmed that she never voted by absentee ballot in Baker County and that Ms. Jackson never assisted her, and she only lived in Ms. Jackson's nursing home for a short time. And the documents backed her up.

As far as the violations go, we found that the county had some failures in terms of validating and certifying absentee ballots, and those are listed in the violations, in terms of accepting absentee

ballots didn't have the necessary data on the envelope; they didn't have all signatures; in some cases they didn't have dates of birth; they didn't have the address.

I would point out that I believe the final citation is for failure to accept signatures on the ballots where the voter made a mark and they were assisted by somebody who signs as assisting. I would dismiss that last violation because, of course, when people are legally assisted by somebody they are entitled to make a mark and then the assistor signs as assisting. So that's not an actual violation.

However, I would recommend that the county respondents be bound over for the failure to properly certify and handle the absentee ballots, and I recommend that Jeanette Jackson be bound over for the violations regarding improperly assisting, improperly possessed absentee ballots, and dealing with Delores Gerald.

In addition, after consultation with the Attorney General's office, I think it would be appropriate to refer the matter of the forged documents that were gathered under a subpoena to the District Attorney in Baker County to consider evidence of criminal violations regarding the documents that appear to be counterfeit or forged and were turned in.

So the recommendation is dismiss the last violation; bind over the county respondents for their failures to certify the ballots; bind over Ms. Jackson for her list of violations, with the exemption forwarding a copy of Ms. Jackson's report to the District Attorney for consideration of criminal prosecution.

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

(Whereupon, there was no response)

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

**MR. COLEMAN:** My name is Franklin Coleman. I'm with the law firm Perry & Walters in Albany, Georgia. Address is 212 North Westover Boulevard, Albany, 31707.

I'm here on behalf of the Baker County Board of Elections and the elections superintendent. I'm not here on behalf of Jeanette Jackson.

I would point out initially that in the findings and the information given to you by Mr. Harvey, it was indicated that the case, the investigation of this case was started because of a complaint, or a report, by some citizen that he had been paid, and they indicated that there was no evidence, or that no one had come forward about that.

There was an election contest filed just after this took place, just after this election, and there was a two-day trial and hearing in which -- let's see, one, two -- at least five, and perhaps a greater number of people, testified that they were given \$20; that they were given a bottle of gin; \$20 and a half-gallon of liquor and two beers; other things like that. One person was given \$25. I don't know why he got an extra five. But the evidence is there that it happened and these people testified under oath.

This then went to the supreme Court on appeal and the Supreme Court -- I should go back and say that the judge in this found that -- he did throw out the election and order a new election.

It then went to the Supreme Court on appeal, and the Supreme Court overturned it and let the election stand, but not because they determined no one was paid to vote. It was because there were not enough ballots to call the election into question.

So I don't know why. I mean, it may be just oversight, or what have you. But the transcript of this hearing is in the Supreme Court and the Superior Court down in Baker County and is easily accessible and the names of the people are on order right here from the Superior Court that said A, B, C testified under oath that they were paid \$20 to vote for a certain candidate. So I'm not sure why that was overlooked, but it is there.

I say that -- the county doesn't really have a dog in that fight. But, you know, this is the reason that . . . this is the reason that we are here because otherwise there wouldn't have been this complaint; we wouldn't have had this investigation. Certainly the county acknowledges the things that happened and the mistakes were made and accepting these absentee ballots did happen.

The first accusation is that two ballots were accepted that were not certified by -- well, I mean, at least one of those. I've gone and actually been through the box and looked at all the ballots. At least one of those, the certification mark was torn off the envelope. We have no way of knowing if it was torn off before or after.

There was a couple them where they said they didn't sign, that the voter didn't sign the absentee ballot. Well, at least one of those was a man by the name of Jaleel Assad. I don't know Mr. Assad, but he wrote on there "JA", and, you know, I'm guessing Mr. Assad meant for that to serve as his the nature. Whether it's insufficient or not, I don't know.

I say these things -- there are other similar things like that. For instance, they have accused the board of elections for accepting the absentee ballots without a street address, which they did do. All except for one, maybe two, had PO boxes listed.

Baker County, I don't know if any of you all have been to Baker County, but it is an extremely rural county. There is really no city in Baker County other than Newton, which is not as big as this building. So everyone in that county gets their mail at the PO box because some -- it's very -- land wise, acreage -- by acreage, or whatever you want to call it -- square miles; sorry -- it is enormous. But there are very few people actually in it.

And so people live -- you might live from one side of the county to the other and it would be 45 minutes away. And I know for those of you who live in Atlanta that's not a long trip. But in South Georgia, it's a pretty good ways.

So what I'm saying is they don't always get -- almost no one gets their mail at a mailbox at their house. They get it at a PO box at the -- they have little post offices in different sections of the county.

So to accept a ballot with the PO box is certainly a mistake. But it is very common for everyone's address to be a PO box.

I say that not as an excuse for this because it is in right there in the law and we understand that. But I'm saying that for the purpose just to demonstrate that there is no intent here and they were just simple mistakes that could be made by anybody.

There's, you know, there's one count of a person who didn't put his date of birth on the application or on the envelope of the absentee ballot. And that individual wrote the date that it was that he was voting on, I mean, whatever, August 12, 2012; I don't remember the exact date right off the top of my head. But the elections superintendent certainly should have caught that but it just was -- you know, slipped by.

So I don't know whether this board would consider a letter of reprimand or something like that to the county and Board of Elections. If you choose to bind over, we certainly accept that and would be looking forward to finding a way to resolve this matter.

But I do -- it would not be -- I don't -- I mentioned these other things with regard to the people being paid to vote because I just don't feel like this board can properly consider this without knowing everything. I don't know why it's -- again, I don't know why it's not included, but I wanted to bring that to your attention. Thank you.

**SECRETARY KEMP**: Thank you, Mr. Coleman. Any questions for Mr. Coleman?

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you. Mr. Harvey, I know what Mr. Watson was saying about the violations of the county. The other vote buying violation, that's more of a criminal, correct?

**MR. HARVEY**: That is something we could look at. I was not aware of that testimony. If the board wants to return that issue to us we can certainly we go back and access those documents. I know -- what may have happened was that our investigation was done at the time before the election. And then if the election contest came later after the election, we could have just missed the events.

So if the board would like, we can certainly go back and look at the allegations of people being paid to vote because that is a violation of the election code and that is something this board could consider.

**SECRETARY KEMP**: Mr. McIver?

**MR. MCIVER**: Any evidence, Mr. Harvey, that the District Attorney in whatever circuit in which Baker County resides has taken any action with respect to paying for these ballots?

**MR. HARVEY**: I'm not aware of any criminal investigation outside of our investigation.

In speaking with people in Baker County, there seems to be a little bit of disbelief that a prosecution would go very far, for whatever reason. I don't know what the local politics are like. We have not been in contact with the DA as far as I'm aware, but we certainly could be.

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

**MR. KING**: My name is Maurice King. I'm an attorney in Albany, Georgia, and I represent Ms. Jackson. My mailing address is Post Office Box 72071, Albany, Georgia, and that's 31708-2071.

Basically, as I understand this, there are some allegations of vote buying and I don't know if they were made by someone who was with or against the Sheriff that eventually won the election.

You know, as I look at the charges against Ms. Jackson, if they were true, I think the election was won by 25 or less votes, I think. Don't quote me on that. And the Supreme Court did not even find that there were 25 votes at issue to even -- to uphold Superior Court Judge's decision to throw out those ballots.

It also seems to me if this was in 2012, this was a presidential year where the -- basically, where

the rules with regard to absentee ballots changed and I think with regard to the reasons also changed.

You know, I think you all referred something here recently down in Brooks County where there were maybe 10 or 11 black people who were basically charged with allegations such as this, and I think after two mistrials on maybe 25 counts there was an acquittal.

I tried a couple of years ago a case you referred against another black woman in Dooly County where there were 25 charges and they were acquitted.

It seems to me that when you start referring these type actions it always seems to be with regard to black people and also with regard to South Georgia. I'm not aware of any success with criminal prosecutions with regard to these cases. It seems to me that rather than referring black people for criminal prosecution with regard to these allegations, what you ought to try to do is to see if you could work it out with regard to the civil process that you have.

Basically, what you're going to have down in Baker County is a situation where you're going to have people who were for the Sheriff that won and people who were against the Sheriff that won. And what this basically is is a proxy fight between the opponents and the proponents of the people running for Sheriff, and I think you ought not to get into that, especially when it seems to me, based on what's going on in Brooks County and other counties in South Georgia, that the people you are referring for prosecution always just happen to be black. Thank you.

**SECRETARY KEMP:** Any --

**MR. WORLEY:** I'd like to say something regarding that.

I'm the Democratic member of this board, and, frankly, I think what you just said is insulting to every member of this board, Democratic and Republican.

We refer cases not because of the color of the skin of the particular person in front of us. We have referred -- I have been on this board for 10 years and I sat on more than 1,000 cases and we have always looked at the facts of the case and referred them based on the facts.

Now, I looked at this case and I see a nursing home operator who, it appears, has committed numerous violations of the law in getting people in her nursing home to vote for one candidate or another. I don't care which candidate it was and never care which candidate wins or loses.

The issue is not whether there are enough votes for us. The issue is not whether there are enough votes to call an election into question. The issue is whether there appears to be probable cause

that there was a violation of the law. To me, it appears that in this case there is plenty of probable cause that there was violation of the law and it should be referred to the Attorney General's office.

So this idea that we only refer cases because the respondents are African-American is just absurd and, again, insulting to every person here. You are wrong. It's not true if you look at the cases, and it's something I will tell you, Mr. King, that I, myself, am very, very sensitive to make sure that we do not do that.

We have tried to be -- I have tried to be extremely consistent in how respondents are treated in this forum for 10 years. Frankly, you are wrong and you do a disservice to the board. But more importantly, you do a disservice to your client. It's just a stupid argument to make.

**MR. KING:** Mr. Worley, I'm sorry you feel that way. But I'm in the trenches and I'm not going to let you or anybody else you tell me what I see.

(Overtalk)

**MR. WORLEY:** Have you seen every one of the thousand cases --

**SECRETARY KEMP:** Mr. King --

**MR. WORLEY:** that I have sat on in the last 10 years? Have you seen those cases? Can you testify to what happened in those cases; to the race of the respondent and how those cases were handled? Can you testify to that, yes or no?

**MR. KING:** You know, I don't --

**MR. WORLEY:** Yes or no?

(Overtalk)

**SECRETARY KEMP:** All right. Let -- hold on. Hold on.

**MR. KING:** You're not going to talk --

**SECRETARY KEMP:** Sir, sir -- now, let me tell you something. One other thing we pride ourselves on in this meeting is having civil conversations. So we're not going to start yelling at each other. I'm going to let everybody have their say, and we're going to go from there.

Mr. Worley, I'm going to let Mr. King finish and we'll continue our dialogue.

**MR. KING:** Let me say when it was pretty clear that Mr. Worley was attacking me, you didn't say anything to him. You know, I remember in 1996 when what you're talking about, a white nursing home operator I went to high school with did the same thing and nothing happened. Okay? So when I say what I'm saying, I'm saying it from being in the trenches actually dealing with these type cases. Whether you think that is true or not, I don't know. I don't see a black person's perspective on this board who might look at it a little bit different than you do, Mr. Worley.

And by the way, I voted Democrat every time I voted and I've never voted for one Republican. So your being a Democrat and saying that to me means nothing to me.

All I'm trying to say is down in South Georgia you have a case in Brooks County where I don't know how much money y'all have wasted in two mistrials, and then an acquittal, and you still got, what, nine, 10, 11 more black people to go.

I mean, you're not going to win these type cases in those circumstances, regardless of what you think, if people think you're being unfair.

**MR. WILLARD:** Mr. Chairman?

**SECRETARY KEMP:** Yes, sir.

**MR. WILLARD:** Can I address one issue, and I believe we may have started to tie some issues together.

Mr. King was objecting to the recommendation by the staff that one element of these charges be referred for criminal prosecution. Mr. King, you and I have litigated against each other. I would like to think that you thought I had been fair in my past dealings with you.

I will say that Mr. Harvey makes that recommendation after consultation with me. We are not referring any of the quote, unquote election violations to the District Attorney. What we are referring, or what is recommended being referred to the District Attorney is when Mr. Harvey's office issued a subpoena to Ms. Jackson, we have evidence that she falsely responded to that subpoena. And when you have allegations that someone was manufacturing evidence and falsifying evidence in response to a lawful subpoena, we felt that warranted a recommendation to the board that that charge and that charge alone be referred to the local prosecutor.

**MR. KING:** Well, I'm sort of puzzled by that because in your report you said that she was

represented by counsel and she didn't say anything and there was a subpoena. And I don't know -- I didn't represent her then -- I don't know if that came before or after she was represented by counsel.

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

**MR. WORLEY**: I just want Mr. King to tell me whether or not he's been here for each of the thousand cases that have --

**SECRETARY KEMP**: Well, let me just --

**MR. WORLEY**: Can you just answer that yes or no?

**MR. KING**: No, I have not. But let me ask you have you ever tried a case --

**SECRETARY KEMP**: Mr. King, I'd rather just stay on the case at hand. Y'all can argue, yourselves, after we're done on Brooks County and any other cases we have out there.

Do we have any other questions for Mr. King regarding this specific case and his client, Ms. Jackson?

(Whereupon, there was no response)

**SECRETARY KEMP**: Mr. King, anything else for us?

**MR. KING**: No. I just ask Mr. Worley will you spend a million dollars of taxpayer money trying to get convictions in this case and the cases down in Brooks County?

**MR. WORLEY**: I think we all need to be clear about what this board does. This board does not decide which of these cases need to be prosecuted. We decide whether there is enough evidence for probable cause to look at that issue and we refer it on to the appropriate authorities, either to the Attorney General or the local District Attorney. We are not the ones who make the decision whether those cases should be prosecuted or not. We merely decide if there is probable cause.

**MR. KING**: Well, let me do this. This case has gone to Superior Court which means -- I mean, 2012, it's two years old. Don't you think by now that the District Attorney in Baker County knows about it, and if the District Attorney in Baker County wanted to prosecute the case he could have by now?

**MR. WORLEY**: I don't know the answer to that question, but I know there are civil charges

that we deal with that we refer over that never get to the District Attorneys, that get to an administrative law judge.

**MR. KING:** And I understand. And as Mr. Willard said -- and we have dealt with many of these cases before -- basically, what I'm at is this criminal referral. When you talk about a DA for a case that had an election contest where the Sheriff was probably in the courtroom, and then you went all the way up to the Supreme Court of Georgia and you got a reversal and you're still talking about criminal charges two years later.

So if any criminal charges were to come now, you can't tell me this board would not have anything to do with it because if the DA wanted to do it, he could've did it two years ago?

**MR. WORLEY:** And so what's the harm in our referring it to the District Attorney who's going to make that ultimate decision?

**MR. KING:** But aren't you making that decision?

**MR. WORLEY:** No. It's the District Attorney who makes the decision.

**MR. KING:** It seems to me the DA has made his decision by not doing anything for two years.

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Thank you, Mr. King. Anyone else?

(Whereupon, there was no response)

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

**MS. SULLIVAN:** Mr. Harvey, could you please restate your recommendation in this case.

**MR. HARVEY:** Recommendation is that the county election officials be bound over to the AG's office for failure to properly process the absentee ballots; that Ms. Jeanette Jackson be bound over to the AG's office for the election absentee ballot issues; and that the issue of the production of counterfeit documents be referred to the District Attorney for consideration of criminal prosecution.

At this point, I would be willing to accept the case back from the board if the board would like us

to look at the issue of people's testimony regarding paying for -- we can keep that case and review that if the board is of a mind.

**SECRETARY KEMP**: Any other questions, comments, discussion, motions?

**MR. WORLEY**: I make a motion that we adopt Mr. Harvey's recommendation.

**SECRETARY KEMP**: We have a motion to bind over the respondents and also look into the other allegations.

**MR. WILLARD**: Is there also a component of referral to the local DA on the response to subpoena issue, Mr. Chairman?

**MR. WORLEY**: Well, that's what Mr. Harvey recommended.

**SECRETARY KEMP**: Right. Mr. Willard, why don't you lay out the -- what exactly we're doing here with Mr. Worley's motion.

**MR. WILLARD**: Mr. Chairman and any board member, correct me if I'm mistaken. I believe Mr. Worley's motion is that Ms. Jackson be bound over on all the charges except for the O.C.G.A. 21-2-560, making false statement in response to subpoena; that Baker County Board of Elections and Registration and Melissa Watson be bound over on all the violations listed in the complaint except for the O.C.G.A. 21-2-381(a)(1)(c) violation regarding a ballots; that Ms. Jackson be referred to Baker County District Attorney's Office in regard to the violation of O.C.G.A. 21-2-560.

**MR. WORLEY**: And that Mr. Harvey look into the issues of the payment for votes.

**MR. HARVEY**: Correct.

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

**MS. SULLIVAN**: Second.

**SECRETARY KEMP**: We have a second by Ms. Sullivan. Any other discussion? Let me just make sure there was no one else wishing to speak on this matter, correct? Make sure we didn't miss anybody.

**MR. WORLEY**: I would just like to make one point relating to referring over Baker County.

It seems to me the allegations here against Ms. Jackson are very serious, but it seems like many of them would not have been able to have been done without Baker County falling down on its job.

So I think the charges against them are equally serious and they should be bound over.

**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.

It's a little after 12. Mr. Willard, do we need to have executive session for any legal matters?

**MR. WILLARD**: No, Mr. Secretary.

**SECRETARY KEMP**: Being that we don't need to go into executive session, we'll break for lunch and come back at 1:00 sharp.

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(Whereupon, the proceedings were in recess)

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**SECRETARY KEMP**: Welcome back, everybody. I think we are all ready to go. We will convene reconvene the meeting.

The first case, Mr. Harvey, is going to be 2012, 111, Meriwether County; number 34 in our binders.

**MR. HARVEY**: This case involved allegations that a nomination petition was not properly circulated, was not signed, and was not properly documented.

A petition was -- a nomination petition was circulated for a candidate and it was ultimately rejected by the election officials and a complainant alleged that there were forgeries and other irregularities with it.

The GBI actually investigated this and consulted with the DA's office and decided there was no evidence of any type of criminal action. However, they and we did find some problems.

The first was that of the signers, 51 of the signers were not registered to vote. One of the requirements to sign a nomination petition is be a registered voter in the county where one signed the petition.

We interviewed a number of those people, I think nine individuals we were able to contact, and they all essentially said we didn't know we had to be registered voters in order to sign the petition.

Thirty-eight signatures were rejected for not matching the voter registration applications. We ended up interviewing 13 of these individuals and found out that six of the signatures that were actually rejected were valid signatures of the people identified. Seven of the people acknowledged signing for family members.

So a petitioner would come to a door and the husbands would sign and say, "I'm going to sign for my wife too because I know she supports this guy." So he would sign his wife's name or cousin's name, or something along those lines. There were 19 circulators of the petition.

Like I said, at the end of the day, the GBI and the DA's office looked at it. They determined that although there were some technical problems, there was no real criminal intent.

Currently we have 51 individuals cited for basically unqualified signing of a petition. I would point out that one individual who is listed is named Victor Tuszyqski; I think he's in the third column. He actually -- I spoke with him -- he actually is registered to vote. He should be dismissed. So Victor Tuszyqski should be dismissed as one of the 51 people who are cited for unqualified signing.

I would recommend that those 50 individuals receive letters of instruction from our office pointing out the need that before they sign a petition they meet the legal requirements. We've got nine individuals cited for failing to properly verify that all the signers signed their own names. These are petitioners who allowed a husband to sign a wife's name, wife to sign their husband's names. And we've got eight people cited for signing somebody's name other than their own to the petition.

So nine cited for failure to properly verify that all signers only signed their own names; eight cited for individuals who signed, in most cases, a family member's name.

And, again, my recommendation would be to issue a letter of instruction for the 50 unqualified signers minus Victor Tuszyqski. And then for the nine who failed to properly verify that all signers signed their own names and for the eight cited for signing other people's names, I recommend both groups be bound over to the AG's office.

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

**MR. WORLEY**: I had some questions, Mr. Secretary.

Is there any requirement -- first of all, did the petition that these people signed indicate on it that they needed to be electors?

**MR. HARVEY**: I believe it did; yes, sir.

**MR. WORLEY**: And is that a requirement that the petitions need to let people know they to be electors before signing them? Is that a statutory requirement?

**MR. HARVEY**: The wording of the petition says each of the undersigned petitioners hereby declares that he or she is a qualified and registered elector in the State of Georgia.

What was your second question?

**MR. WORLEY**: The second question is, is that a requirement for the petitions to have that language?

**MR. HARVEY**: Yes, sir. If it's not -- if somebody is not qualified, the signature doesn't count.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Anyone here to speak on this case? Yes, ma'am. Come on up. Just give us your name and address for the record.

**MS. JONES**: My name is Nancy Jones, 1062 Stribling Road, Woodberry, Georgia 30293.

As an elected official, I feel it is my duty to be here today to let you know that I did sign my husband's name who is standing to my left. I have signed his name on many documents and did not even think twice. We've been married 47 years.

I did not read or know the election law. Lack of knowledge is probably no excuse, but in no way was there any malfeasance or anything malicious or that was intentionally illegal done wrong.

This had been discussed between him husband and I and when the petition was brought before me, I signed his name without a second thought.

I am sorry for what I've done, but I can tell you I've signed his name many times in 47 years.

**SECRETARY KEMP**: Thank you Ms. Jones. Any questions for Ms. Jones? I appreciate you taking the time to come and explain that to us today.

**MR. MCIVER**: I have a question.

**SECRETARY KEMP**: Mr. McIver.

**MR. MCIVER**: What office do you hold, Ms. Jones?

**MS. JONES**: I am chairman of the Meriwether Board of Commissioners and up for re-election this term.

**MR. MCIVER**: Well, good luck.

MR. JONES: Thank you.

**SECRETARY KEMP**: All right. Thank you ma'am. Anyone else wishing to speak on this matter? Yes, sir. Come on up and make your way to the front.

**MR. CARTER HUDSON**: My name is Carter Hudson. My address is 789 Hudson Road, Manchester, Georgia.

Whether there was an intent to cause fraud or not, I'm not sure. But the acting chair's brother, who is also assistant vice-chairman of the county commissioners, called the Sheriff -- and this is all on tape -- telling the Sheriff to go over and get the signatures of the commissioners while they're over there.

So my understanding, and I wasn't there -- this is what I heard went on -- is the Sheriff actually

gave the petition to Mrs. Jones and he witnessed her sign her name and her husband's name; gave it to another commissioner, had him sign his name and his wife's name.

Now, if that's against the law, the acting chair, in my opinion, committed fraud also. And if it was probable cause, which I believe it is, then I think it should be turned over to the DA. Like he said, the GBI investigated and Pete Skandalakis did.

Pete said he didn't think it was serious enough fraud to prosecute. How serious does have to get? Either it's right or it's wrong.

That's what I had to say. Thank you.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: All right. Yes, sir.

**MR. CHARLES HUDSON**: My name is Charles Hudson of Hudson Farm, 1680 Riley Road, Manchester, Georgia 31816.

My family has lived, or does live, in the county for seven generations and I'm appalled at the corruption of what's been going on lately in our county government.

Actually, the tape that he referred to was from Larry Whitlock. Larry Whitlock, the commissioner, is an ex-GBI employee so he should know the law. He called his brother Steve on this tape recording and said, "Bring some of those petitions to the commissioner's office. Nancy is here and she'll sign for her and Gary," which is her husband.

This evidence was given to the DA and his comment, like Carter says, in the paper was this is serious enough of a felony for me to prosecute.

Then a year-and-a-half later, the same DA, Pete Skandalakis, came before the county commissioners, not with his hat in hand, but demanding that they subsidize his office an extra 150- to \$200,000. Well, you know, that is the same three commissioners that he refused to prosecute.

They also, not only did they do that, they left petitions at liquor stores and convenience stores unattended, and then Sheriff deputies who worked for Steve Whitlock, former Sherriff, signed on the back of those petitions swearing he saw everyone on those petition sign it. And when law

enforcement will willingly and openly easily lie as much as they did, which the courts and everybody else takes law enforcement's word before they would mine, you know, it's appalling and something ought to be done about it. Thank you.

**SECRETARY KEMP**: Thank you. Any questions for Mr. Hudson?

(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**: Any other discussion from the board, motions?

(Whereupon, there was no response)

**SECRETARY KEMP**: We have a big group of folks we're dealing and two different recommendations. Mr. McIver.

**MR. MCIVER**: Mr. Harvey, I'm not finding on this list the individual you said we should dismiss.

**MR. HARVEY**: In Violations, it's the third column about halfway down; first name Victor, and then the last name begins with a "T."

**MR. MCIVER**: So it's your recommendation that this individual should be dismissed?

**MR. HARVEY**: Correct. He is a registered voter. I don't know how that happened.

**MR. MCIVER**: Everyone else should be bound over?

**MR. HARVEY**: Correct. Letter of instruction for the first 50.

**SECRETARY KEMP**: So if we want to vote on these separately, we could do that, Mr. McIver, if you're ready.

**MR. MCIVER**: I would move that -- I'm sure I'll mispronounce the last name -- but Victor Tuszyqski dismissed. I'll make that a single motion.

**SECRETARY KEMP:** We've got a motion by Mr. McIver to dismiss Victor, last name is T-U-S-Z-Y-Q-S-K-I.

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

**SECRETARY KEMP:** Mr. Worley 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 him.

**MR. MCIVER:** I don't know how to refer to this next section, those that you want subject to a letter of instruction.

**SECRETARY KEMP:** That'll be the rest of those.

**MR. MCIVER:** Did you want me to read them off?

**SECRETARY KEMP:** No. You can just make a motion.

**MR. MCIVER:** Well, I'll move that the remainder of the individuals who appear in this list from which Mr. Tuszyqski's name came be issued a letter of instruction.

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

**SECRETARY KEMP:** All right. We've got a motion and a second to issue letters of instruction to the 50 individuals that are in the report that signed the nominating petitions and weren't duly qualified and registered voters.

**MR. WILLARD:** Mr. Chairman, for clarification of the minutes those would be the 50 individuals who were signatories to the petition who were not duly registered and qualified to

vote in Meriwether County.

**SECRETARY KEMP**: That's right.

**MR. MCIVER**: The first of which is Theresa Peterson, and the last Paula Dooly.

**SECRETARY KEMP**: Very good. 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 nine individuals left regarding petition circulators, and we have the eight that signed somebody else's name.

**MR. WORLEY**: I would make a motion that we bind over the remaining persons in the report who violated O.C.G.A. 21-2-163(b)(1) and (2) and O.C.G.A. 21-2-563(5) to the Attorney General's office.

**SECRETARY KEMP**: So that motion would include all 17 remaining people?

**MR. WORLEY**: Yes.

**SECRETARY KEMP**: We have a motion to bind over the other 17 respondents. 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.

That's it, isn't it, Mr. Harvey?

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

**SECRETARY KEMP**: All right. We're going to move to 2012, 112, Dodge County case; number 35 in our binders.

**MR. HARVEY**: This case had allegations of illegal campaigning going on at polling places and family members of candidates were working at the polls, and allegations that voters were improperly moved in districts before the election.

We investigated all those allegations and found nothing to substantiate that.

In the course of our investigation as we were going through the paperwork, we did find that two poll workers did not sign their oaths after being sworn in on election day.

I recommend this case be resolved with letters of instruction to the respondents to make sure they signed their oaths and the case be resolved that way.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we have a recommendation for two letters of instruction. Anyone else wish to speak? Yes, sir.

**MR. DENNIS**: My name is Charles Dennis. I'm at 1043 Log Cabin Road, Eastman, Georgia. Thank you for letting me come up here and speak you on this particular incident.

I was involved in this because I was one of the candidates running and I was the one that made

the complaint about the districts, how people were moved around during or just before this election in the precincts. There was no justification.

In Dodge County we have 16 precincts. And for such a small county population-wise, that's a lot of precincts. For years people have wanted them reduced, by nobody can do anything about it.

Well, these people that were moved, some of them live right on the outskirts of town. They had to drive right by our courthouse, which is the Lee voting precinct, one-quarter mile up the 5 miles. You drive right by the courthouse to go to a precinct that was called Rawlins Precinct. It was seven miles further out in the country, out in nowhere.

Now, Lee Precinct is a nice big courthouse and has about six to eight machines for voters. Out at Rawlins, they usually carry about two machines, and the actual precinct is about as big as an outhouse. It's got less room than this room right here for parking.

During that election, as I was campaigning around the edge of town and everything, and these people were being moved, I was recognizing person after person who said, I'm not going to vote this time. I says, why? Well, we've been moved out to a different precinct and we've got to drive way out there and we don't even know where this precinct is; it's lost out in the country. It's just about lost. It's not close anything; no towns, no nothing.

And another person would say, well, I guess I'm going to have to drive out there and vote because I don't trust this; I don't that. You'd hear all these stories.

But as I was going around I was getting this story from a lot of people. So I compared voting lists from the previous election against this election. It came up almost 100 people were moved from right around the edge of town seven miles out into the country.

I went to him and to Ms. Grimes, she's the chairman of the board of elections, I said, "Ms. Grimes, these people are complaining that they're being moved this year; this year, right now." "Oh, they don't know what they're talking about," was exactly her answer. "They've been voting out there all the time but they've been early voting and just didn't know anything about it."

So I'm a candidate running for office and she's telling me this.

Well, I go over to the supervisor of elections, John Kelly, whose office was right across from her office. I said what's the story on all these people getting move from this precinct to another precinct? He told me, he says, "Oh, that was a mistake and we're just getting around to correcting it." Well, how long has it been since this is going on? How long has it been going

on? He says, "Well, we redistrict back in 2006."

Here it is 2012, six years later, and they made a mistake of 100 people, which in our county is a lot of voters.

Well, I got to checking even further. On the other side of town in someone else's district, they were doing the same thing. They were moving people to Chauncey who were voting there (unintelligible). So I don't know how many people in that district got moved.

The gentleman I was running against, you mentioned about relatives, it wasn't a relative running their precinct, it's his sister sitting on the Board of Elections. I don't know if anything is wrong with that, but it's his own sister sitting on the Board of Elections and he's already a county commissioner and she is the city manager. And I just don't think that was right because he had an inside track anyway over anybody running against him.

But I'd like for you all to consider what I say and thank you for letting me speak.

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Thank you for your time here. Anyone else wish to speak on this matter?

(Whereupon, there was no response) Any discussion.

**SECRETARY KEMP**: Any discussion from the board?

(Whereupon, there was no response)

**SECRETARY KEMP**: That recommendation, Mr. Harvey, was letters instructions to the two poll workers?

**MR. HARVEY**: Correct.

**SECRETARY KEMP**: Which of the four respondents are we --

**MR. HARVEY**: Margie May and Christine Graham.

**SECRETARY KEMP**: And the other respondents there are no violation.

**MR. HARVEY**: The elections superintendent Kelly and Melvin Graham, who is the chief manager. So the four are John Kelly, Melvin Graham, Christine Graham, and Margie May.

**SECRETARY KEMP**: So letters to all of them?

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

**SECRETARY KEMP**: Mr. Kelly has resigned, correct?

**MR. HARVEY**: Correct.

**SECRETARY KEMP**: So would that letter be to the new superintendent or the board, or how do we do that?

**MR. HARVEY**: I think it would still go to Mr. Kelly since it happened while he was there. Maybe a copy sent to the new elections superintendent just so they're aware of the issue.

**SECRETARY KEMP**: Okay. Any other questions or discussion or anyone else wishing to speak?

(Whereupon, there was no response)

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

**MR. WORLEY**: I make a motion we send a letter of instruction to the poll managers.

**SECRETARY KEMP**: That includes all four respondents, Mr. Worley?

**MR. WORLEY**: Yes.

**SECRETARY KEMP**: We have a motion to send letters of instruction to all four respondents. Do we have a second? I'll second. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries.

**SECRETARY KEMP:** Mr. Harvey, we've got Talbot County.

**MR. HARVEY:** This case also, unfortunately, has a respondent who is deceased. Ms. Pinkston, the elections supervisor in Talbot County passed away earlier this year, so she should not be considered a respondent.

The allegation in this case were the absentee ballot issues including improper handling, improper distributing, improper voting, and counting of absentee ballots.

Our investigation found that there was no improper mishandling or improper tabulation of absentee ballots by election officials with the exception of two individuals who illegally possessed absentee ballots, Fannie Heath and Alfreda Benning.

Ms. Heath possessed two absentee ballots; Ms. Benning possessed one absentee ballot; and the Talbot County board of elections accepted 51 ballots -- absentee ballots that did not have residential addresses, or in three cases, didn't have any address as required by the code. So they accepted those when those ballots should have been rejected.

As far as the possession goes, it appears that Ms. Heath and Ms. Benning were really more interested in assisting individuals rather than -- there is no indication they worked for any campaign or any type of organized group. They just took possession of the ballots to send them for other people.

Nevertheless, I would recommend that Ms. Heath, Ms. Benning, and the Talbot County board of elections be bound over to the AG's office.

**SECRETARY KEMP:** So in that recommendation you have all the board members listed, correct?

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

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Anyone else wishing to speak on this matter? Yes ma'am.

**MS. HOWARD:** My name is Marjorie Howard. I am the new elections supervisor for Talbot County. Our address is 141 North Jefferson in Talbotton, and it's 31827.

I became aware of this when I received a letter intended for Cheyenne, and I wanted to come today because I just wanted to state that she did address what was a training issue shortly after this incident occurred. She had her chief registrar go through some intense training and it's still going on under my watch in terms of how absentee ballots should be handled.

Our circumstances were in Talbot County, being we're a very rural county also, most people didn't even have a physical address until our code red emergency system came into play, and at that point they were assigned physical addresses, and some of them even to this day don't know what it is. We have to look it up with they come to the office.

But it has been addressed, and I found details about this by going through Cheyenne's files when I moved into the office. I saw where each one of the, like, two of the ladies are no longer board members. Ms. Kathy (Unintelligible) resigned shortly after. (Unintelligible) Willis is also not a board member anymore.

But each one of them have written letters stating exactly what happened and how they had verified the identification; they verified signatures to make sure that the voter was who they identified themselves to be. But that was where the confusion came in in terms of them being so accustomed to being able to use those PO boxes that it was a major issue.

I brought a copy of Cheyenne's letter. Is it okay if I read it because she did talk about how she addressed this.

**SECRETARY KEMP:** You can just submit that and we can look at it.

**MS. HOWARD:** I think it would have gone to a Mr. Touchton, J. Touchton is who it looks like the letter went to.

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

**MR. WORLEY:** So moved.

**MR. MCIVER:** Second.

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

**MS. HOWARD**: That was written in 2013 after the investigation was completed because during that time there were over 697 absentee ballots that were handled and she talked about the ones that PO boxes and the three that came in and did not have any physical address on them.

But at the bottom of that she does talk about how they had an intense training that was done by Ms. Robinson, the registrar, to be able to address that issue. And I, myself, that's been something we have constantly already been training on for this forthcoming election.

**SECRETARY KEMP**: Any questions for Ms. Howard? Ms. Howard, do you feel confident this issue is resolved and people understand what they need to do now and we're not going to see you or anybody else here again in regard to this matter?

**MS. HOWARD**: I feel very confident about it. This is my first time coming and I like you all, but --

**SECRETARY KEMP**: We're glad to have you.  
No questions. Thank you, Ms. Howard.

Anyone else wish to speak on this matter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any other discussion by the board after you've had a chance to see the letter?

(Whereupon, there was no response)

**SECRETARY KEMP**: Any recommendations or further discussion?

**MR. WORLEY**: Mr. Harvey, the two persons who were accused of unlawfully possessing the ballots, they each handled only one ballot, or ballots for their relatives?

**MR. HARVEY**: One handled two, and one handled one.

**MR. WORLEY**: Okay. And they were for what they considered distant cousins but not someone who falls within the statute?

**MR. HARVEY**: Correct.

**MR. WORLEY**: I make a motion we send a letter of instruction to the Talbot County Board of Elections and Registration and also Fannie, aka, Peggy Heath and Alfreda Benning.

**MS. SULLIVAN**: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we will issue letters.

All right. Mr. Harvey, we've got Dougherty County, 2012, 202; number 37 in our binders.

**MR. HARVEY**: This is a other nomination petition case a little bit similar to Meriwether County but not exactly.

In this case the candidate was trying to nominated via petition and when they did their nomination petition, they apparently just -- for lack of a better term -- they just sort of decided to wing it with the petitions. They didn't follow the statutory requirements for the petitions, themselves. They didn't have the proper labeling; they didn't have the proper documentation; they didn't have the backing where the circulator would sign the petition.

It turned out that the petition was rejected. They didn't get enough signature. We did not have the issue with allegations of people -- all the same issues with people signing improperly. Most

of the issues were with the circulators that improperly circulated the additions.

So it is my recommendation, with one exception that I will make, all of the circulators listed, and I believe there are 34 of them, and the candidate be issued letters of instruction regarding the proper circulation of the nomination petition.

One of the circulators, Mr. Teron Hayes, contacted our office after getting the letter and he said he never circulated a petition. He said somebody must have forged his name on five petitions that he's listed as circulator.

So I would ask that the board let us keep that part of the case and begin an investigation to see if we can determine who, if anyone, forged Mr. Hayes's name and resolve the rest of the respondents with a letter of instruction regarding the proper circulation of a nomination petition.

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

**MR. WORLEY**: Mr. Harvey, essentially the problem with these petitions was that the format was not correct?

**MR. HARVEY**: Largely, yes, sir. On the petitions, you've got to have a number. They don't have numbers. On the back of the petition, you've got to have a place for the circulator to sign.

I've got a sample here. You can see they've got original petitions, and then the backing is a separate piece of paper. And then when they copied them, they apparently got all mixed up. So there is no way to tie, which is why (unintelligible) one piece of paper, I think.

But that is essentially the problem. They did not have enough signatures at any rate to satisfy the petition requirements.

**SECRETARY KEMP**: So we've got -- Clinton Johnson was a commissioner or candidate or both?

**MR. HARVEY**: He was one of the circulators. I don't recall off the top of my head if he were was commissioner or a candidate. But he was one of the more prolific circulators of the petition. He claimed to have circulated a lot of petitions in a very short time, which he may have.

**SECRETARY KEMP**: And then we've got Rev. Lorenzo Heard.

**MR. HARVEY**: He was the actual candidate. But I believe Mr. Johnson may have been a city commissioner or elected official at the time.

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

(Whereupon, there was no response)

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

**REV. HEARD:** Good day. My name is Lorenzo Heard. My address is 1210 Netherland Lane, Albany, Georgia 31705.

I have been in Albany for 21 years and I've pastured the same church for the last 21 years. I've been preaching for 34 years, pasturing a total of 31; at this church for 21.

I've got an ethical career. I've served my community. I've been a committed voter since 17. I attended Morehouse and drove back to Leesburg, Georgia every election because that's what I was taught by my great-grandmother, my grandparents, by my parents, and my family. I am a civic worker. Our church is extremely involved in our community.

The people who worked on the campaign were all honorable people. Some of them I knew; some of them I did not know. Some people saw the need to help, saw what our church and what I've done over the last 21 years. There were people in law enforcement; there were people -- chief of probation; there were teachers and principals; they were pastors. And all those people worked hard because they believed in me and they believed that I would have brought great value to the Dougherty County school board.

As I said to people when I ran, the only reason I was running was because I felt our community needed better representation. The real truth is our church and our outreach have probably, with furloughing, have hired more than 75 to 110 teachers to help them keep their income up through after school programs and summer camps that have been going on for 21 years: three sites of after school and three sites of summer camp.

So I ran. The powers that be did not want me, and that was fine. But I wanted to give my community a better option.

No one I know tried to do anything illegal or anything immoral or anything unethical. He is right. We didn't number the petitions, but we were not given some documentation to say number every petition. If we had known, we would have numbered every petition if we had known that.

They said -- we were told later we didn't photocopy the State emblem or something. Maybe Dougherty County should have given us a sheet to say this is how you do it. If they had given us

a sheet to explain steps one, two, and three -- I think initially we ran off some copies and we did them on letter. And then we had some on legal. If we had known to keep them all on legal, we would have done that.

There was never any interest in doing anything dishonest. I had parishioners young and old, retired teachers and all, who believed.

We did our best. We ran as hard as we could. As I told them, the position is \$250 a month. I wasn't running because I needed the money; \$250 certainly wasn't going to help my income. But I did it because I love the kids.

So I'm here today.

**SECRETARY KEMP:** Thank you, Reverend. We appreciate you being here. Any questions? Mr. McIver.

**MR. MCIVER:** Do you intend to run again?

Couldn't he man Lorenzo. There is a good chance.

**REV. HEARD:** There is a good chance. If I believe that the community needs me, I will. I don't have the time; didn't have the time them. But I can't say I'll never run again. I was always taught to give all you've got to make your community better.

So if it becomes what our community feels like they need me to do to help make our community better, then I will.

**MR. MCIVER:** Then let me ask a follow-up question. I'm going to assume your answer is partially yes.

To the extent you now or far more aware of our rules and requirements of the law in this area, can this board rest assured if you were to run again we would not have this before us?

**REV. HEARD:** Absolutely. I never intend to run as a write-in candidate again. So, absolutely, any errors were out of ignorance, never out of dishonesty or deception. And you're absolutely correct that we'll make sure if I ever had to do it this way again that we would make sure that we get every letter of the law whether it be reaching beyond the Dougherty County voter registration to Atlanta, or wherever, we would absolutely do that. Yes, sir.

**SECRETARY KEMP:** Anything else for Rev. Heard?

(Whereupon, there was no response)

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

**REV. HEARD:** Thank you, sir.

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

**REV. JONES:** My name is Rev. A.J. Jones, and my address is 1336 Route 1, Rochelle, Georgia.

What you've heard from today is my best friend and colleague. I'm a Methodist preacher; he's a Baptist preacher for over 30 years and he's been a man of integrity all of our relationship.

If you could see what happens -- East Albany is a poverty belt where his educational program are giving young people a hand up, and in our culture, you know you can't make it in this world without education. They spend a lot of money in their outreach programs. And if you could see his affordable housing project that's over millions and millions of dollars, and the work that he do to help the poor, you would better understand the advocate for children who stood here today.

I hope that you understand and take this with some level of integrity and understand the man that just spoke. Thank you just so much.

**SECRETARY KEMP:** Thank you for being here today, Rev. Jones. We appreciate that. Anyone have a question for Rev. Jones?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Mr. Harvey, what was the recommendation, again?

**MR. HARVEY:** Recommendation was letters of instruction to everyone with the exception of Teron Hayes who is claiming to be the victim of forgery and we would like to follow-up on that. But everybody else would receive a letter of instruction.

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

(Whereupon, there was no response)

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

**MS. SULLIVAN**: I'll make a motion. As these violations all relate to (unintelligible), it seems the most appropriate sanction would be for the petitions to be rejected, which it was in this case. So I would make a motion that we dismiss this case.

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

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

(Whereupon, there was no response)

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

**SECRETARY KEMP**: Aye.

**MR. WORLEY**: Aye.

**MS. SULLIVAN**: Aye.

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

**MR. MCIVER**: Aye.

**SECRETARY KEMP**: That motion carries. So we have dismissed this case. Thank y'all for being here today.

Mr. Harvey, we're moving back, I believe, if I'm correct, to case number 2011 number 91, City of Lithonia.

**MR. HARVEY**: That's correct. The allegations in this case were that the municipal governing authority did not call for a special election, and that non-city residents voted and a non-city resident was elected to city council, and the elector's list was not reviewed by the city.

What the investigation revealed was that the -- there was no apparent call for a special election by the municipal governing authority. However, the election went forth, anyway. The city

contracted with DeKalb County to run the election.

There was a candidate who was living in -- registered to vote at a property that was partially within the city and partially within the county. I had been believed for years that was a city address. The landowner had been paying city taxes the entire time.

After the election it was determined that the county line went through the property and it was mostly in the county, and not in the city, although nobody really knew that prior to the election.

The call for election was published six days late, and I recommend that the city and the mayor, the then-mayor, be bound over to the Attorney General's office for failing to call for a special election. And then the city did not have and did not provide current and accurate maps to the county for their districting purposes.

Hopefully with binding it over, the city and county can make sure they are on the same page and prevent problems in the future.

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

**MR. MCIVER**: Is Tanya Peterson the current mayor?

**MR. HARVEY**: I do not know. They were the Mayor report was written.

**MR. WORLEY**: Under our rules, is the proper respondent the currently elected mayor.

**MR. HARVEY**: The way I believe we've done it in the past is whoever was in the position at the time the violation occurred would be the proper respondent. We could certainly copy the current mayor so they are aware of what's going on.

**SECRETARY KEMP**: We're binding the city over, too, correct?

**MR. HARVEY**: Correct.

**MR. MCIVER**: The recommendation is the former mayor and the city?

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

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Any discussions or a motion?

**MR. MCIVER:** I move consistent with the recommendation of Mr. Harvey that this matter be bound over and that covers both former Mayor Tanya Peterson and the City of Lithonia.

**SECRETARY KEMP:** We have a motion to bind over those two. Is there a second?

**MR. WORLEY:** Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries.

Mr. Harvey, 2012 number 73; number 24 in our binders.

**MR. HARVEY:** Clarence Johnson was a candidate for Superior Court judge. When he filed his candidacy affidavit in May of 2012, he stated he was not at fault on federal or state taxes.

At the time he filed his application, his candidacy affidavit, he was involved in a payment plan with the IRS for federal taxes. However, he had not yet entered into a similar agreement with the Georgia Department of Revenue.

Subsequent to filing his candidacy affidavit, he did enter into a payment plan with the Georgia Department of Revenue. He was challenged as a candidate, and because he had corrected the deficit, he was qualified as a candidate. He went on to face election and don't believe he was successful.

But we have him cited for the inaccurate information on his candidacy affidavit. Like I said, he did resolve it very shortly after filing his candidacy affidavit and I would recommend this case, if

anything, be issued a letter of instruction, or possibly be dismissed at the pleasure of the board.

**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:** One hearing none, do we have a motion?

**MR. MCIVER:** I move that a letter of instruction be issued to Mr. Clarence Johnson consistent with the recommendation of the investigator.

**SECRETARY KEMP:** We have a motion for a letter of instruction, and I will second.

Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** That motion carries.

Mr. Harvey, 2012, 77, Fulton County.

**MR. HARVEY:** This is a classic case of a voter going in to vote and taking a photograph of his ballot at the DRE in the photo booth and posting it on Facebook.

Consistent with the previous practice of the board -- this is a first-time offense -- I recommend that he be issued a letter of instruction.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

**MS. SULLIVAN**: Move a letter of instruction be issued in this case.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Ms. Sullivan moves, Mr. Worley seconds for a letter of instruction. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

All right. I call case number 2012 number 80. It's the Floyd County case, number 28 in our binders.

**MR. HARVEY**: This case has two components to it. Again, it's like the Fulton County case.

A voter admitted taking a photograph of the DRE, but claimed ignorant of the prohibition.

I recommend he get a letter of instruction.

The elections superintendent, however, acknowledged that the DRE's where the voters were casting votes was across the hall from where they checked in and there was nobody actually monitoring or viewing the DRE's.

So I recommend that Floyd County Board of Elections be bound over on the failure to monitor DRE's while voting was taking place, and that a letter of instruction be issued to the voter who photographed the DRE.

**MR. WORLEY**: I just want to be clear, Mr. Harvey. The people checked in in one area, then they went across the hall to a different room where the machines were?

**MR. HARVEY**: Correct.

**MR. WORLEY**: And there would be more than one person in there at a time.

**MR. HARVEY**: There could be. There were multiple machines in that room. It was a small room but DRE's were not attended as required by -- not under the observation of the election officials.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: So, Mr. Harvey, the letter would go to Adam Clemmons for taking the picture?

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

**SECRETARY KEMP**: And then binding over Yvonne Billups?

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

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, do we have a motion or any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: I move we issue a letter of instruction to Adam Clemmons. Do we have a second?

**MR. WORLEY**: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries.

Do we have a motion in regards to the remaining respondent?

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

**SECRETARY KEMP**: Mr. Worley moves for binding over to the AG's office. Do we have a second?

**MS. SULLIVAN**: Second.

**SECRETARY KEMP**: Second by 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 and we have bound Ms. Billups over.

The next case is also Floyd County, 2012 number 86, which is number 29 in our binders.

**MR. HARVEY**: This case involves a couple of issues. One was the districting. After starting early voting, Floyd County determined that they had some streets that were improperly districted.

They contacted the election officials at KSU who created a second database, which almost invariably causes difficulties with tabulation and delays.

It's probable that at least five voters voted out of their district during the election, and one memory card to a DRE was left at a polling place after the election materials were supposed to have been delivered to the election office. It recovered the same night by the poll manager.

Based on the failure to provide security for the election materials and districting issues, I recommend respondents be bound over to the AG's office on this case.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, any discussion or motion? We've got a recommendation to bind over the Floyd County Board of Elections and Voter Registration; the superintendent, Ms. Billups; and the poll manager, Robert Pegler. Is that correct, Mr. Harvey?

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

**MR. MCIVER**: I so move.

**MR. WILLARD**: Mr. Chairman, a question for Mr. Harvey before we proceed.

**SECRETARY KEMP**: Yes, sir.

**MR. WILLARD**: I see that you've listed Ms. Billups in the respondents, but the potential violations do not list her.

**MR. HARVEY**: We've got her under the Floyd County Board of Elections and Voter Registration. She is covered in that.

**MR. WILLARD**: She received notice. But I'm saying in the potential violations, she is not listed as committing any violation.

**MR. HARVEY**: Right. I think she is incorporated in the Board of Elections and voter registration. She is the chairperson of the board -- not chairperson. She is the elections supervisor.

**MR. WILLARD**: I understand all that. I'm saying --

**SECRETARY KEMP**: Are you saying that we need to list her?

**MR. WILLARD**: I'm saying she received -- they received copies of this?

**MR. HARVEY**: Yes.

**MR. WILLARD**: She did not receive notice that there was any potential violation against her for this case, is what I'm saying. She is not listed as having committed a violation.

**MR. HARVEY**: Okay.

**SECRETARY KEMP**: Well, that would be like saying we have to list every board member, too, right?

**MR. WILLARD**: No. You've got a corporate entity for the Board of Elections and Registration. I'm saying she received notice as a respondent, but we give notice all the time if someone is listed as a respondent, even if we're recommending dismissal against them. Here, you don't have -- you have not put her on notice that she is in peril for this case number. She was just bound over on the last case. But there's nothing in the complaint that would put her on notice that she was in peril for this case.

**SECRETARY KEMP**: She's listed as a respondent.

**MR. WILLARD**: I understand that and that's why she gets a letter. But over here, you actually say what violations of the law occurred and she is not listed.

**SECRETARY KEMP**: Well, we can notice her again, I guess.

**MR. HARVEY**: All right. I can do that.

**SECRETARY KEMP**: Do we want to go ahead and take action on the rest of the respondents?

**MR. WORLEY**: That would be my preference.

**SECRETARY KEMP**: Okay. I'll take a motion whenever anybody's ready.

**MR. WORLEY**: I'd make a motion that we bind over the Floyd County Board of Elections and Voter Registration, Robert Pegler to the Attorney General's office.

**SECRETARY KEMP**: Mr. Worley moves. Is there a second? I'll second. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion carries and we have bound those two over and we will --

**MR. HARVEY**: Notice Ms. Billups.

**SECRETARY KEMP**: All right. Mr. Harvey, I believe our last one, if I'm not mistaken, is 2012, 109, Clay County case.

**MR. HARVEY**: This case involved allegations that individuals were taking advantage of elderly voters by manipulating -- taking possession of their absentee ballots.

Our investigation found that several individuals worked together to assist voters voting their absentee ballots, but in the process of assisting, also illegally possessed them and in some cases, illegally marked the absentee ballots.

Byron Sands was apparently the organizer, the -- I'm not sure I'd use the term ring leader -- but he was the leader of this group that went around to elderly voters and assisted them with absentee ballots.

He acknowledged illegally possessing 29 absentee ballots that he got after he assisted voters.

There were additional individuals, his wife Lavonne Sands, Jamar Smith, Angela Smith, and Randy Timson also illegally assisted voters and illegally possessed their absentee ballots as listed in the report.

There were -- it's a little bit strange because in some cases the people would sign as assisting when they didn't actually assist. We talked to a voter who said, yeah, I voted myself and I gave it to Mr. Sands, but nobody helped me with it. Well, when we checked the ballot, it came back with Jamar Smith or Angela Smith having signed as assisting that voter.

In some cases we had illegal possession, and in some cases we had illegally assisting or marking as having assisted when they actually did not.

I recommend all respondents, Byron Sands, Randy Timson, Lavonne Sands, Jamar Smith, and Angela Smith be bound over to the AG's office.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

**SECRETARY KEMP:** Hearing none, do we have any other discussion or motion from the board?

**MR. WORLEY:** I make a motion we bind over all five respondents to the Attorney General's office.

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

**MS. SULLIVAN:** Second.

**SECRETARY KEMP**: Second by 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.

**SECRETARY KEMP**: Mr. Harvey, I believe we gotten through the new cases, correct?

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

**SECRETARY KEMP**: Mr. Willard, we now move to the Attorney General's report. We have also been voting on the recommendations that are in your binders on the cases on our agenda which is tab 38 and 30, 40, 41, 42, and 43 in block unless there's a reason that we want to pull any of those cases out, or if there's anyone in the audience here on those cases that would like for us to pull that case out to discuss. We can do that as well.

Is there anybody that wants to pull any cases out at this time? Yes, ma'am.

**MS. HOLLIS**: I'd like to ask a question. How far out -- these cases are 2012. So does it take two years for cases to come to the board?

**SECRETARY KEMP**: That's a very good question. It depends a lot of times on the investigation.

I tell you what, if you don't mind, will you come up and just give us your name and address for the record? I hate to make you get up. I just want to make sure we have a good record for the meeting. That's a very, very good question.

**MS. HOLLIS**: My name is Lonnie Hollis. My address is 706 Ringer Street, LaGrange, Georgia 30241.

I am a member on the election board in LaGrange and we've sent in some complaints to the

board. As a matter of fact, one of the complaints you went over today about somebody taking pictures in the booth, but this person was asked to remove their Republican pin and he refused to remove it. And I understand this year was not the first time this has happened. So I wanted to know what case concerning Dale Jackson, who is the Republican chair of the (unintelligible) County Democratic [sic] party.

**SECRETARY KEMP:** We'll have to check on that case.

The way the cases work -- I don't know if Mr. Willard wants to interject. I'm sure Mr. Harvey will be back in a second -- Mr. Harvey, you might want to answer this question for us. I think I know the answer, but I know you do.

Ms. Hollis is on the board. She's from LaGrange, Georgia, and was asking does it take two years sometimes to get cases, and I thought you might be able to explain the process we go through and how that works.

**MR. HARVEY:** It does. Unfortunately, the way the cases work, and especially in large election years like 2012, we opened over 200 cases in 2012. When the case is completed, it takes several months -- it's usually completed within, you know, two or three months. But then there's a persistent -- I'm not sure I'd use the term backlog -- a persistent set of cases that are in front of it. Right now we've probably got 40 or 50 cases that are ready to go for another State Election Board meeting that we do as soon as the board could meet again.

So it's not that the investigations, themselves, take that long to do. It's getting them done and getting them in line to appear in front of the State Election Board.

**SECRETARY KEMP:** The second part of that is on the Attorney General's report that we're on right now, and certainly Mr. Willard can interject here, as well, if he would like. But after this board takes action like today when we've referred several cases to the Attorney General's office, then they have to work with the parties involved and try to reach agreements or consent orders and get those signed and collect the fines and sometimes the respondents are to get a hold of; they're hard to find. Sometimes they won't respond to us and they have to go and try to find them.

So there's a lot of reasons that there could be delays.

And then there are other cases if there has been potential criminal violations, the board doesn't act on the civil part of it until the criminal part has already been worked over and either prosecuted or decided not to prosecute. We don't like to try to get in front of a criminal investigation.

I hope that answers your question.

**MS. HOLLIS:** Kind of. But my next question is I talked to you last week and you didn't remember seeing that case. Did you ever find out if the case was filed?

**MR. HARVEY:** As I explained on the phone, when we get a complaint in a county where we get multiple complaints, we put them all in one case. I don't specifically remember the complaint you mentioned, but I did indicate we did have a case in Troup County assigned to an investigator and he would handle all the complaints for that case that were around that one election.

**SECRETARY KEMP:** Was that the Dale Jackson case you're referring to?

**MS. HOLLIS:** Yes.

**MR. HARVEY:** Again, as I stand here right now, I can't tell you all the different things that are in LaGrange. I know we've got several complaints in Troup County, and we do have least one open investigation in Troup County.

But I would have to go back and look at notes and look at the case file and talk to investigator to know what, specifically, has gotten -- if a complaint comes to our office in a form we can act on it in an e-mail or a written letter we add it to the file. You hear these cases. There are multiple different kinds of complaints.

Now, if somebody calls our office and talks to somebody and says something happened, I can't guarantee it gets to me and gets into a file. If they talk to me, it does, but if they talk to somebody, maybe in the elections office or the front office and they think they've reported something to them, you know, in Troup County, they're doing X, Y, and Z, and that doesn't make it to us in written form, I can't guarantee it will be part of an investigation.

But I do know we have a case in Troup County that our investigator is working as we speak.

**MS. HOLLIS:** I'm not sure if the elections supervisor did it in written form or he just made a phone call. The board there is kept in the dark about a lot of things that are going on. It seems we are totally ignored as being an election board.

**SECRETARY KEMP:** By who?

**MS. HOLLIS:** By the elections supervisor. We don't get accurate minutes because everything

that's discussed at a meeting is not reported in the minutes. And basically, to tell the truth about it, the election board is basically being run by the county manager because the chairperson goes to the county manager; the supervisor goes to the county manager. And a lot of things they go to the county manager about, the board does not know about.

**SECRETARY KEMP:** Ms. Hollis, I can sympathize with that, but that is a local county government issue that this board is not going to be able to help you with. But we're glad to get you information on cases. Unfortunately, the board be kept in the dark by the superintendent, I don't know that that violates any State Election Board rules.

**MS. HOLLIS:** That's why was here because I would make sure things work right.

**SECRETARY KEMP:** Yes, ma'am. We appreciate your service.

**MS. HOLLIS:** Who is it I can go to in the state to get this resolved so that we will know what our job is, what we're supposed to do.

I was thinking that even in the certification, the board members are responsible for the certifications. We don't sign the certification.

I'm not sure of everything that is supposed to be going on, so if anybody could give me that information, I would certainly appreciate it.

**SECRETARY KEMP:** We'll be glad to follow up with you. I know there's some training that we do for board members and there is no doubt about it, with elections there's a lot of moving parts and a lot of things that are going on, and there's certainly a lot to learn. We appreciate your service on the board.

If we can help answer questions, we're glad to do that. But if there's something that the superintendent or the county is doing that's violating a State Election Board rule or the Georgia State law and you make a complaint about it, you can rest assured we'll look into it.

**MS. HOLLIS:** Well, I'll stay in touch.

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

Is there anybody else that wishes to pull off any cases before we vote to accept the recommendations on the Attorney General's report? Any board members or anyone in the audience?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, I will accept a motion to approve the cases that are on the Attorney General's report under the consent orders.

**MS. SULLIVAN**: So moved.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Ms. Sullivan moves that we approve and accept. Mr. Worley seconds. 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 accepted those recommendations.

The next item on our agenda is number VII, State Election Board rule amendments. I need to recuse myself on the first rule, 183-1-11-.02 because I will be voting on something that will affect the name potentially could appear on the ballot.

So I'm going to recuse myself and ask Mr. McIver to take the reins here and let Mr. Germany walk us through where we are with this rule and I can come back, I believe, for the last one. Mr. McIver.

**MR. MCIVER**: Mr. Germany, let the record reflect I'm chairing the meeting at this point.

**MR. GERMANY**: Thank you, Mr. Chairman. Ryan Germany, general counsel for the office of Secretary of State.

The first rule is an amendment to SEB rule number 183-1-11-.02, Appearance of Candidate's Name on the Ballot. As the board recalls, there is a rule we've worked with previously and the version in here reflects the slight edits to the rule made at our last meeting where we discussed this.

The purpose of the amendment is to clarify the procedures for how a candidate's name appears on the ballot and to allow the candidate flexibility to use a first name, a middle name, a full name, an abbreviated name, or a nickname as long as it's consistent with the rule.

If there any questions, I would be happy to answer them.

**MR. MCIVER**: Will you speak to the issue of notice of the rule, public notice?

**MR. GERMANY**: Yes. Public notice was posted on August 25, 2014, and it was published and sent to the interested parties list for the State Election Board as well as posted in the elections office and on the Internet.

We did not receive any comment in this posting.

**MR. MCIVER**: Is there any action the SEB needs to take at this point?

**MR. GERMANY**: At this point, the action would be to vote on whether or not the board would like to adopt the rule.

**MR. MCIVER**: Any discussion or questions for Mr. Germany?

(Whereupon, there was no response)

**MR. MCIVER**: I will entertain a motion that we adopt the rule or whatever our board decides.

**MS. SULLIVAN**: So moved.

**MR. WORLEY**: Second.

**MR. MCIVER**: A motion from Ms. Sullivan and a second by Mr. Worley that the board adopt the rule. Any other discussion?

(Whereupon, there was no response)

**MR. MCIVER**: All right. I'll call for a vote, then, on the motion. All those in favor of the motion, please indicate by saying, "Aye."

(Whereupon, the vote was unanimous)

**MR. MCIVER**: Those opposed?

(Whereupon, there was no response)

**MR. MCIVER**: Motion carries. Mr. Germany.

**MR. GERMANY**: The next rule is an amendment to State Election Board rule 183-1-14-.01, and this rule is entitled Absentee Ballot Envelope, Use of Symbols. The rule was posted on August 25, 2014, and sent to the State Election Board interested parties list, posted on the Internet as well is the elections office. We have not received any comments from this posting.

The purpose of the rule is to update the symbols that counties use when an absentee ballot comes in to reflect the symbols that are currently used. The previous rule had gotten a bit outdated, so this is just meant to update the symbols to something that better reflects current practices.

The second purpose is to amend the definition of advanced age from 75 years of age to 65 years of age. That would mean that a person 65 or over can make one request for an entire election cycle, as opposed to that currently kicks in at 75. This would change that down to 65.

Happy to take any questions.

**MR. MCIVER**: Were there any comments?

**MR. GERMANY**: No, sir. The previous meeting, I believe the board adopted, and this version reflects the edits made from those comments.

**MR. MCIVER**: Any questions for Mr. Germany?

(Whereupon, there was no response)

**MR. MCIVER**: Since there were no comments during the period, I'll entertain a motion with respect to this new rule.

**MR. WORLEY**: I make a motion we adopt the rule 183-1-14-.01.

**MS. SULLIVAN**: Second.

**MR. MCIVER**: Mr. Worley moved accordingly and Ms. Sullivan has seconded.

**SECRETARY KEMP**: Mr. McIver, could you let the record reflect I'm back so I can vote. I don't want to miss a vote that I don't need to.

**MR. MCIVER**: Let the record reflect the Chair has returned to the meeting. I'm not willing to give up the chair. But that will qualify Mr. Kemp to vote on this matter.

We have a motion and a second on the floor. Any discussion on the motion?

(Whereupon, there was no response)

**MR. MCIVER**: Hearing none, those in favor of Mr. Worley's motion, please indicate by saying, "Aye."

(Whereupon, the vote was unanimous)

**MR. MCIVER**: Those opposed?

(Whereupon, there was no response)

**MR. MCIVER**: Hearing no opposition, this motion carries and we have a new rule.

Mr. Chair, is there any other business to come before us today?

**SECRETARY KEMP**: I believe that's it.

**MR. MCIVER**: Well, moving much quicker than the Secretary, here, I'm going to entertain a motion that we be adjourned.

**MR. WORLEY**: So moved.

**SECRETARY KEMP**: I'll second that motion.

**MR. MCIVER**: Mr. Worley makes the motion; Mr. Kemp seconds the motion. Any discussion on the motion?

(Whereupon, there was no response)

**MR. MCIVER**: Those in favor of our motion that we be adjourned for today, please indicate by saying, "Aye."

(Whereupon, the vote was unanimous)

**MR. MCIVER**: Those opposed?

(Whereupon, there was no response)

**MR. MCIVER**: Motion carries and we are adjourned ladies and gentlemen.

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

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(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 23rd day of October, 2014.

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Deborah L. Merideth  
Certified Court Reporter 2708  
State of Georgia

SEAL

THE OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA

IN THE MATTER OF:

SPECIAL-CALLED STATE ELECTION BOARD MEETING (TELECONFERENCE)

SLOPPY FLOYD BUILDING  
WEST TOWER 8<sup>th</sup> FLOOR  
ROOM 810  
ATLANTA, GEORGIA 30334

MONDAY OCTOBER 20, 2014  
10:00 A.M.

PRESIDING OFFICER:

BRIAN KEMP  
SECRETARY OF STATE  
STATE OF GEORGIA

LATASHA D. BETHEL, CCR  
HAPPY FACES COURT REPORTING  
POST OFFICE BOX 1063  
TUCKER, GEORGIA 30085  
(770) 414-9071

APPEARANCES:

Brian P. Kemp, Chairperson, State Election Board

Tex McIver, Vice Chairperson, State Election Board (by telephone)

David J. Worley, Member, State Election Board (by telephone)

Chris Harvey, Chief Investigator, Secretary of State's Office

Ryan Germany, General Counsel, Secretary of State's Office

Russell Willard, Senior Assistant, Attorney General's Office

TRANSCRIPT LEGEND

--                    --                    (Dash) Interruption in speech

Quoted material is typed as spoken

P-R-O-C-E-E-D-I-N-G-S

**SECRETARY KEMP:** We'll go ahead and get started. Mr. Simpson and Ms. Sullivan are unable to be with us, but we do have a quorum, so let me go ahead and call the October 20<sup>th</sup> special-called State Election Board meeting to order.

Our first order of business is our invocation and our Pledge of Allegiance, and I will lead us in that if y'all will pray with me.

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**SECRETARY KEMP:** Our next order of business which we normally don't have public comment at special-called meetings, but we do have that on our agenda, so I am going to allow that today since we did post it this way. I believe we have one person that wanted to make two minutes of public comment.

Laura Bordeaux.

**MS. BORDEAUX:** Yes, sir.

**SECRETARY KEMP:** Yes. Good morning. If you will just have a seat, and if you don't mind, if you will just speak very clearly and give your name and address for the record so we can have that.

**MS. BORDEAUX:** Yeah, my name is Laura Bordeaux, and I reside at 783 Clement Drive Atlanta, 30306.

**SECRETARY KEMP:** Okay, go ahead.

**MS. BORDEAUX:** Well, since I haven't heard anything yet of what this meeting is going to be about, I'm reserving comments about the content because I haven't been updated in a while. It's hard to get information, but I do want to say to you, sir, that I spent thirty minutes on hold trying to get a hold of your office this morning to make sure that this meeting was still taking place, same time, same place. Could not find it on the website. Called three times, one time just for the heck of it, I put it on speaker phone and listened to the music for thirty minutes. That is not acceptable, and I am sure you are going to agree with that. That a citizen should be able to reach your office? Yes? No?

**SECRETARY KEMP:** This is your public comment, ma'am.

**MS. BORDEAUX:** Okay, well, that is my comment. Thank you, very much.

**SECRETARY KEMP:** Thank you for being here. All right. Did anybody else want to address something during the public comment period?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, we will move on to the business of the special-called meeting, our rule variance request. I'm going to ask Mr. Germany to come up and give us the latest. I understand we may have had a few little changes even this morning.

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

So the purpose of this rule variance -- it was a variance requested by Third Sector Development that the Board will -- subpoena that the Board issued. Third Sector Development's legal counsel has requested a variance from SEB rule 183-1-6-.02(9)(c). That is the rule that requires them to destroy archival copies of voter registration forms within ninety days after receipt. They request the variance because their counsel would like to keep a copy of what they send to the Board in production pursuant to the subpoena, and from my perspective, I think that is a fair request. I think it makes sense that they should be allowed to keep a copy of what they send us and frankly, I think it will assist in ensuring compliance with the subpoena and also in the related investigation.

The Board should have a copy of the latest order. I have been in discussion with Third Sector Development's counsel to hammer out any edits, and I know she is here if she wants to weigh in on any of this.

The order granting the variance allows Third Sector Development's counsel to keep a copy of the voter registration applications that they send to the Secretary of State in compliance with the subpoena for the purpose of ensuring compliance with the subpoena and also for the purpose of the State Election Board investigation. At the end of the investigation the Secretary of State the State Election Board Chair will notify the Third Sector Development that the investigation is complete, and Third Sector Development will then certify that the copies have been destroyed pursuant to the rules and I have the order in front of me. I have made one slight change to it in the third from the -- the fourth from the bottom paragraph where it says, It is so ordered that Third Sector Development, Inc. shall have a variance from State Elections Board Rule 183-1-6-.02(9)(c) by and through its legal counsel, and I added for the purpose of its legal counsel for the purpose of representing Third Sector Development in connection with the State Election Board investigation.

**MR. MCIVER**: Could you repeat that, please.

**MR. GERMANY**: Yes, sir. The paragraph says, It is so ordered that Third Sector Development shall have a variance from State Election Board Rule 183-1-6-.02(9)(c), by and through its legal counsel, for the purpose of representing Third Sector Development in connection with the State Election Board investigation, and that was an addition that was made at the request of Third Sector Development's counsel.

**SECRETARY KEMP**: That is not on this one you gave me, right?

**MR. GERMANY**: Correct. I just wrote that in.

**SECRETARY KEMP:** Okay. All right, did anybody have any questions for Mr. Germany regarding the last little change there?

**MR. MCIVER:** No. I have one in the next paragraph, but I don't have on that one.

**SECRETARY KEMP:** All right, go ahead Mr. McIver.

**MR. MCIVER:** The third to last paragraph reads -- causes me to have a question. The beginning in the third line it says, Chairman of the State Elections Board, SEB case number such and such has closed. When is it that we actually consider a case closed? When it is brought back to us by the law department and we vote ultimately or when the investigation is done? I am unclear as to when it is that Sutherland Asbill & Brennan would need to take this action.

**MR. GERMANY:** I think it would be the former, Mr. McIver, when it is brought back -- when the case has closed, and I can put some language in reflecting that. What we are envisioning is that Sutherland will have until after -- you know once the State Election Board Chair notifies them that at this point the investigation is complete, that is when their clock starts and that would be in my view after the entire case is complete.

**MR. WILLARD:** Right. Mr. McIver, I think that would be when the Secretary of State investigative staff have come before and puts forth the consent agenda, the start of our (inaudible) cases presentation, and that the State Election Board determined that no violation had occurred and the case had been dismissed, if it went to a hearing after the hearing order had been adopted by the Board in this final order, or if there was a negotiated consent order in a case after that had been approved by the State Elections Board.

**MR. MCIVER:** Thank you. That clarifies my question.

**SECRETARY KEMP:** Did anybody else have any other questions about the amended order or the order that is before us?

(Whereupon, there was no response)

**SECRETARY KEMP:** All right. Did anybody else wish to address this matter?

(Whereupon, there was no response)

**SECRETARY KEMP:** All right, hearing none, I'll take a motion to approve as presented by Mr. Germany.

**MR. MCIVER:** I so move.

**MR. WORLEY:** Second.

**SECRETARY KEMP**: All right, Mr. McIver moves for approval. Mr. Worley seconds. Any other discussion?

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, there were a chorus of ayes)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: That motion has been approved unanimously with all three members voting aye. That is all we have on our agenda today. Do we have a motion to adjourn?

**MR. MCIVER**: I so move.

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

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

(Whereupon, there was no response)

**SECRETARY KEMP**: Hearing none, all in favor signify by saying, “aye”.

(Whereupon, there were a chorus of ayes)

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

(Whereupon, there was no response)

**SECRETARY KEMP**: And we have adjourned. Thank you, gentlemen.

(Proceedings concluded)

CERTIFICATE OF COURT REPORTER

STATE OF GEORGIA  
COUNTY OF FULTON

I hereby certify that the foregoing meeting was reported as stated in the caption and the proceedings were reduced to writing by me; that the foregoing 6 pages represent a true, correct, and complete transcript of the proceedings given on October 20th, 2014.

I certify that I am not disqualified for a relationship of interest under O.C.G.A. 9-11-28(c); I am a Georgia Certified Court Reporter here as a representative of Happy Faces Court Reporting Firm; I was contacted by Happy Faces Court Reporting Firm to provide court reporting services for this proceeding; I will not be taking this proceeding under any contract that is prohibited by O.C.G.A. 15-14-37(a) and (b) or Article 7.C. of the Rules and Regulations of the Board; and by the attached disclosure form I confirm that Happy Faces Court Reporting Firm is not a party to a contract prohibited by O.C.G.A. 15-14-37 or Article 7.C. of the Rules and Regulations of the Board.

This 22nd day of October, 2014



LaTasha D. Bethel  
Certified Court Reporter  
Georgia Certificate #2660