

THE OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:
STATE ELECTION BOARD MEETING

THE OFFICE OF THE SECRETARY OF STATE
SECRETARY OF STATE PROFESSIONAL
LICENSING BOARD
237 COLISEUM DRIVE
BUILDING B
MACON, GA 31217

THURSDAY, FEBRUARY 21, 2013
10:00 A.M.

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

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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:

Chris Harvey, Esquire

Russ Willard, Esquire

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TRANSCRIPT LEGEND

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

Quoted material is typed as spoken.

10:00 a.m.

PROCEEDINGS

SECRETARY KEMP: Good morning, everyone. Can y'all hear me in the back okay? Welcome to our meeting. Before I call the meeting to order, if anybody is here that wants to make a public comment, we allow people a couple of minutes at the start of our meetings to talk to us about any issues that they'd like to address the State Election Board with. This is not a time to talk about specific cases that we'll be calling later on our agenda. So if you're here for a specific case, we'll allow you time when we call that case. But if there's other issues that you wanted to talk to us about, we're glad to hear you for a couple of minutes this morning.

We do need you to fill out a public comment form just so we can have your name and address and your contact information for the record. So if anybody does want to speak to us this morning and you have not filled a sheet out, please do so at this time.

Not seeing anybody, we'll go ahead and move into -- I'll call our meeting to order, the State Election Board meeting for Thursday, February 21, is officially called to order.

Again, let me welcome you to Macon. For the last several years, we've had this February meeting in Macon because during the Legislature it's hard for us to find a good room around the Capitol to accommodate the size of our meetings. It's also hard on you all trying to find a place to park. So it's been good for us to come to Macon. It also gives us the opportunity for different press outlets throughout the State to pick up on what State Election Board does and how seriously we take these type issues. And I think the Board being willing to drive from Atlanta, for those members that are from Atlanta, to Macon and in Savannah has helped kind of educate Georgians on what we do here at the State Election Board and help them understand the process and how seriously we take that.

If you would bow with me, I'll lead us in the invocation and the Pledge of Allegiance.

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(Invocation)

- - -

(Pledge of Allegiance)

- - -

SECRETARY KEMP: Our next order of business is public comment. Jenna, do we have anyone that's signed up?

MS. COOPER: We do.

SECRETARY KEMP: Last call for anyone who would like to address us this morning. Sir, you can come right up.

Let me just remind everybody here today when you're addressing the Board, we're taking a transcript. So just speak fairly slowly and clearly and into the microphone so we can pick up on your testimony. Also, when you come to the podium, we need you to state your name and your address for the record. Yes, sir. Mr. James Green. Welcome.

MR. GREEN: Yes, sir. My name is James Green. My address is 75 Blount Street, Forsyth, Georgia.

I come before the Board today -- I've had the privilege of seeing some of the information of the investigation of the voting supposed fraud in Monroe County, Forsyth. But I come today because I was a, I would say, a political candidate for several offices: mayor, school board, and even county commission chairman. During those times when I was campaigning, I had to -- I had people to approach me, I guess grunts you would call them, who would put signs up for you for a fee. I said, no, I don't have fees and I don't have money to pay for fees. I'm just a person campaigning trying to do what's right for the community.

Those same persons were the same people that did the same thing for Mayor Howard, Mr. Tye Howard. So again, that kind of bothered me, too. So for Mr. Howard to bring charges of that sort kind of bothered me and I just really think he did not understand what was going on and why he would be bringing charges (unintelligible).

Also, Mr. Tye Howard was in the election when I campaigned for the city mayor of Forsyth. I was disqualified because of the residence where I lived. I had two houses in Monroe County and the house at 73 Blount Street. They said I had not lived there long enough, so I was disqualified.

I went to Mr. Tye Howard. I said, Mr. Tye Howard, listen. I'm going to support you and you're going to win. And I said, now, I'm going to go out and talk to the voters in the City of Forsyth, and you're going to win. But I wanted him to know those same people that he filed charges against -- whoever filed the charges, was the same people that put him in office. The same ones. It was just his time for the next -- for Mr. John Howard. He lost. Take a loss and go home.

I would advise him and anyone else who ran and got this issue about voting fraud, come to sideline like I done and watch what the candidates are doing. Stop bringing these allegations against people. And we just need some clarification of what these claims are because, hey, I'm

not here to get a ticket, but I'm guilty of what they've said. I went down and people that were absentee ballots weren't able to go, I filled out the ballot, but they signed --

SECRETARY KEMP: Mr. Green, let me stop you right there. I don't want you to incriminate yourself because anything you say here is going to be public record.

MR. GREEN: Understand that.

SECRETARY KEMP: If you have an elections complaint or you feel like you did something wrong and you want to talk to somebody about that, you can certainly do that with our investigator, Mr. Harvey.

MR. GREEN: Yes.

SECRETARY KEMP: But I did not want you to incriminate yourself not understanding how this meeting works, now.

MR. GREEN: But I'm saying, if the charges that I have seen for some of the people, I can say --

SECRETARY KEMP: Let me stop you right there, too, now. I don't know if you heard the announcement a few minutes ago.

MR. GREEN: No, I did not. I was late.

SECRETARY KEMP: We're going to get into the cases and if you want to speak in regards to the City of Forsyth case, you will have a opportunity to do that. This is the time to address the State Election Board about matters not on our agenda.

MR. GREEN: Okay. Very good. Thank you for that, sir. The only thing I would say, well, for the State, I would like more clarification of the rights of the voters of whatever it is, for the absentee ballots stuff. It's not enough information. Thank you, Sir.

SECRETARY KEMP: Is there anyone else wishing to address us in the public comment period?

(Whereupon, there was no response)

SECRETARY KEMP: We'll move one to the next part of our agenda, which is approval of the minutes. We have in your binders, for the Board members, the State Election Board meeting from November 27, 2012. Do we have any corrections or a motion to approve those minutes.

MR. WORLEY: I make a motion we approve the minutes of the meeting of November 27, 2012.

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion by Mr. Worley and a second. Any other comments?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries unanimously. Next we have the special called State Election Board teleconference from December 20, 2012. Do we have any corrections to that or a motion to approve those minutes?

MR. WORLEY: I make a motion to approve those minutes.

MR. WEBB: Second.

SECRETARY KEMP: We have a motion and a second to approve the minutes. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. I do want to make a note that the minutes from our January 31, 2013, State Election Board meeting have been held from this agenda and will be placed on the agenda for the next meeting. We have not had time to get the transcript and prepare those minutes. Or if we did have the transcript, we haven't had the time to get through

those. So we will vote to approve the minutes of that meeting at our next State Election Board meeting.

Now were going to move to our investigations report. What we're doing here today is having a probable cause hearing. The agenda item, number 4, which underneath you have a couple of divisions there, one of them is consent cases. These are cases that, after doing an investigation, that our investigators have decided there is not enough information there and these cases should be dismissed. We have started voting on those issues in block to save time from having to go through every single case.

However, if there is a board member or anyone in the audience today that would like for us to have a hearing on that case, we are glad to pull those cases off the consent calendar. If there is no one who wants to do that, we will vote to dismiss these cases with one motion and one vote.

So at this time, I'd like to ask the State Election Board members if there is a case they would like to pull off and have heard.

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, is there anyone in the audience that would like to hear more information on SEB case number 2012-8, Newton County ballot issue; SEB case number 2012-16, Carroll County presidential preference primary; SEB case number 2012, Sumter County, 2012 election; SEB case number 2012-29, Clayton County, qualifying Youhoing case.

MS. YOUHOING: It's Youhoing.

SECRETARY KEMP: Okay. Would you like for us to have a discussion about that case today?

MS. YOUHOING: Yes, I do.

SECRETARY KEMP: Okay. We'll pull that one off. SEB case 2012-32, the Dougherty County precinct card case; and lastly, SEB 2012-57, Houston County, July 31 voter registration case.

Is there anyone else here today that would like to hear -- Yes, sir?

UNIDENTIFIED MALE: Did you do 2012-0020, Sumter County?

SECRETARY KEMP: Yes, sir. Would you like --

UNIDENTIFIED MALE: Yes.

SECRETARY KEMP: We will pull that one off. Okay. Anybody else? Last call.

(Whereupon, there was no response)

SECRETARY KEMP: Is everybody clear on what we're doing? We're going to vote in block to dismiss the Newton County case, Carroll County case, Dougherty County case, and the Houston County case. And then we will move on to the presentations on Sumter County and Clayton County.

Do I have a motion to dismiss the cases that we are not pulling off of the consent calendar?

MR. WORLEY: I make a motion we dismiss SEB case numbers 2012 -8, 16, 32, and 57.

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion by Mr. Worley to dismiss the stated cases and a second by Mr. Simpson. Any other discussion by the Board?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

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

Also, just for the record, I want to make sure that we state that Mr. McIver is not with us today. I believe he is in court somewhere around the country. So he is not here with us today.

Mr. Harvey, let me call SEB case 2012, number 20, the Sumter County case. How it will work from now on, we will let Mr. Harvey take a few minutes to present the case and we'll allow the State Election Board to ask him questions. And then if there is anyone in the audience wishing to speak, we'll give you a few minutes to state your side or your views on the case. And then the

Board will have the ability to ask you questions, and we'll let whoever is here to speak to those cases, we will give them a few minutes and then we'll decide what action to take.

So Mr. Harvey, you can go with the Clayton County case. That's number 6 in our binder.

MR. HARVEY: This case involved the Sumter County general primary election in July of 2012. There are two allegations. One was that a candidate was challenged, his qualifications were challenged, and there was no hearing held. The second was that the then-elections supervisor, Sharon Ratliff, violated her oath of office by supporting a position that was going to be voted on in the election.

The first allegation that the candidate was not notified about qualification hearing was found to be not true. They did hold the qualification hearing and the candidate appeared and the candidates announced he would not seek reelection. So that allegation was unfounded.

The second allegation regarding Ms. Ratliff centered primarily around a posting that she made on Facebook regarding the Department of Justice and the redistricting of school board districts in Sumter County. She had posted something encouraging people to contact the Department of Justice. It was unclear specifically if she was trying to, in my mind, she was trying to encourage or discourage the redistricting, or what was going on. There were allegations that she spoke publicly about it, however, we did not have any evidence of that.

So there was, essentially, no evidence of a violation that Ms. Ratliff had used her position as elections supervisor to take a political position on something. So I recommend this case be dismissed.

SECRETARY KEMP: Okay. Let me just state for the record, I think I told you all the wrong space in the binder. This is on Sumter County case, Mr. Harvey?

MR. HARVEY: That's correct.

SECRETARY KEMP: That was number 5 in the binder, just so we've got the record right. Any questions for Mr. Harvey from Board members?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak on the Sumter County case? Did you want to say anything or address the Board on this case, sir?

MR. WRIGHT: No. I don't really. I just wanted to hear you -- hear what you had actually done and what the --

SECRETARY KEMP: Why don't you come up here and just give us your name and address for the record and you can restate your comments. We're glad you're here. Welcome.

MR. WRIGHT: May name is Mathis Kearse Wright, Junior, and I know that --

SECRETARY KEMP: Could you spell your name for us, sir?

MR. WRIGHT: M-A-T-H-I-S, K-E-A-R-S-E, W-R-I-G-H-T, Junior.

SECRETARY KEMP: Thank you Mr. Wright. Did you get the address?

MR. WRIGHT: It's 217 Forest Street, Americus, Georgia, 31709.

SECRETARY KEMP: Go ahead. Thank you, Sir.

MR. WRIGHT: Okay. Well, I wanted to hear what Mr. Harvey really had to say about the investigation. He and I had several conversations about it and it is, I believe, in the Sumter County area that Ms. Ratliff did, indeed, violate the policy as it relates to our supporting one candidate over the other one in her capacity as being supervisor of the election. And, of course, about the candidate receiving the information, it was very clear to us, and we submitted that information to Mr. Harvey, that she had sided one way or the other when she was supposed to be in a neutral capacity. Certainly, the evidence that we could see that we provided, did show that there were some violations because Mr. Harvey and I, you can tell, we still disagree at this point. So it's going to be basically up to you which way you rule today whether or not it is grounds to look into it further or you are going to dismiss it today and we will go back to Sumter County and move forward from there.

SECRETARY KEMP: Any questions for Mr. Wright?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here, Mr. Wright.

Anyone else wishing to speak on the Sumter County case?

(Whereupon, there was no response)

SECRETARY KEMP: Any other questions from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, I am prepared to accept a motion.

MR. WEBB: I make a motion to dismiss this case.

SECRETARY KEMP: Do we have a second?

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion by Mr. Webb and a second by Mr. Simpson to dismiss. Do we have any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries and we have dismissed the Sumter County case. Thank you for being here today, Mr. Wright.

All right. SEB case 2012, number 29, Clayton County case; Number 6 in our binder. Mr. Harvey.

MR. HARVEY: This case involves complainant, Ms. Youhoing --

MS. YOUHOING: Youhoing.

MR. HARVEY: -- who made several allegations regarding Clayton County elections. Several of the allegations she made are well outside the purview of the State Election Board.

The main complaint she made regarding elections was that she attempted to qualify as the Chief Magistrate Judge in Clayton County and was told by Ms. Annie Bright that she did not meet the

qualifications in that she did not hold a law degree. Ms. Youhoing alleged that Ms. Bright gave her forged documents and false information about the requirements for Chief Magistrate Judge. It was determined that, in fact, Ms. Bright was correct and one did have to be -- have a law degree to had to be magistrate. Therefore, she was not allowed to qualify.

Ms. Youhoing went on to make several other allegations about Clayton County attorney and them having information about criminal activity that is unrelated to elections.

For that reason, I recommend that the State Election Board dismiss this case regarding her specific election complaint.

SECRETARY KEMP: Any questions from the Board for Mr. Harvey?

(Whereupon, there was no response)

MS. YOUHOING: I need to speak.

SECRETARY KEMP: Yes, ma'am. Ms. Youhoing, please come forward and give us your name and address for the record.

MS. YOUHOING: Yes, good morning. My name is Shennielle Youhoing.

SECRETARY KEMP: Let me just spell that name for you. It's S-H-E-N-N-I-E-L-L-E, Y-O-U-H-O-I-N-G.

MS. YOUHOING: Yes.

SECRETARY KEMP: And if you could just give us your address, please.

MS. YOUHOING: 383 Staton Street in Jonesboro, Clayton County. Long-term resident of Clayton County. I would like to challenge the Secretary of State in some information that they stated to this Board which is incorrect.

I would like Mr. Harvey to present the Board and to present me with what information does he have that shows where a candidate in order to qualify for Chief Magistrate must be an attorney. I have information here that stated otherwise, and I also have with me here today the code that governs the qualifications for Chief Magistrate Judge. It's O.C.G.A. 10-20 [sic]. There is nowhere in this document that says one have to be an attorney in order to run. This is the only Judge position does that require one.

So I would like to challenge Mr. Harvey to provide proof before the Board and to me show that information.

Secondly, and real briefly, the document which was presented to me -- here is the document. I can exhibit it. I'm not sure whether or not the Board will want me to enter this into exhibit.

SECRETARY KEMP: Yes, ma'am. If you want to just finish, we will have a motion hearing in just a second to accept that.

MS. YOUHOING: Yes, sir. That document stated that the Clayton County was asking the House and the Senate to change the law to amended it to allow one to first obtain a law degree in order to qualify for Chief Magistrate. If you look, this document is fraudulent because if you compare it with the existing law in which they also strike Paragraph A and enter in lieu this information, that did not happen. This document is fraudulent.

Furthermore, I was intimidated on election property. I was actually given false information and discriminated against and actually told that I could not run for this position. And in the United States that is not supposed to happen, and I would briefly like to touch on one point why this happened to me, and which Mr. Harvey said is irrelevant. It's not irrelevant because this is the motive why they tried to get rid of me.

My incumbent, Daphne Walker, she was involved in an incident in 2010 where law enforcement in Clayton County kicked my door down without a warrant, murdered unborn child, had me in handcuffs and sexually assaulted me. After that incident law enforcement conspired with Ms. Walker and she had made a fraudulent warrant to, not only cover up the murder, but to make it appear as if officers had a right to come in my home.

And when she found out that I was about to challenge her for her job, what she did was conspire with elections officials to present fraudulent documents to me and disqualify me. And, as I stated, the Secretary of State's office is in violation because if they stand right here, Mr. Harvey before this Board and says one must have a law degree in order to run for Chief Magistrate Judge, I'm telling you that information is false.

SECRETARY KEMP: Okay. We'll be glad to wade through that here in just a minute. What else do you have for us?

MS. YOUHOING: I'm sorry?

SECRETARY KEMP: What else do you have? We're going to get to the point you're making here in a second. Did you have anything else you wanted to discuss with us?

MS. YOUHOING: Yes, sir. I just want to conclude and say it's a hate crime. It's civil rights violation. When elected official takes an oath of office to uphold the Constitution, he or she is forbidden by law to be involved in these criminal activities. This is not right. And she must be investigated, held accountable, and imprisoned for what she have done to me. This is not a simple situation. This is serious crime. This is serious crime.

The Secretary of State, if the Secretary of State refused to turn this information over to the Attorney General for investigation, he's also violating his oath of office, and I therefore challenge Mr. Harvey and challenge the Secretary of State that they have to. It's the law. They must, they must, they must -- again, I'm going to say must -- abide by the law. There should be no favoritism here because she is Judge Walker, so therefore she can commit a crime against a citizen and get away with it. She must be held accountable.

No one is above the laws of the United States. And it does not matter if there is a dismissal. I will continue to pursue this to the fullest extent of the law. She was involved in election crimes and she must be held accountable.

SECRETARY KEMP: Any questions of the Board for Ms. Youhoing?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here today.

MS. YOUHOING: Thank you for listening.

MR. WEBB: Do we need a motion to accept the documents?

SECRETARY KEMP: Yes, ma'am. Do you want us to accept those documents?

MS. YOUHOING: Yes, I do. Do I approach -- bring them to you?

SECRETARY KEMP: You can bring them to me.

We've got a motion by Mr. Webb to accept the documents. Do we have a second?

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion to --

MS. YOUHOING: So just to be clear, this is Exhibit B, and that is the document which was presented that somehow (unintelligible) House of Representative. And here is the current law for the qualification for one to become the Magistrate Judge.

SECRETARY KEMP: Okay. We've got a motion and a second to accept the documents. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have accepted the documents. All right. Mr. Harvey, now --

MR. HARVEY: I believe Mr. Willard can speak to the qualifications issue.

SECRETARY KEMP: I had three questions I want to make sure we understand. If there was a law change on Magistrate Judge qualifications and when that was; the documents that we're looking at, that Mr. Harvey has, there was talk of them being fraudulent, or are they just old and outdated and there are new ones because of the new law passage; and then, certainly, some of the things mentioned that this Board just does not have jurisdiction over. Anything else you would like to add, Mr. Willard.

MR. WILLARD: Mr. Secretary, at the outset, if I may, could I see what has presented to the Board?

SECRETARY KEMP: Absolutely.

MR. WILLARD: Mr. Secretary, members of the Board, what you had was in 1998 the General Assembly passed a piece of local legislation -- it was Senate Bill 683 -- that for Clayton County Georgia imposed additional qualifications on the office of Chief Magistrate over and above what the general statute provided. That provides that in order to seek the office of Chief Magistrate for Clayton County, you have to be a member good standing with the State Bar and must have been in practice for the four years prior to running in order to qualify for the office.

SECRETARY KEMP: That was 1998?

MR. WILLARD: Yes, sir. That legislation was pre-cleared by the Department of Justice and remains in force and effect.

Ms. Youhoing has brought a suit against Clayton County Board of Elections and others alleging these same arguments, that she was qualified and was improperly disqualified from running. Judge Collier of the Superior Court dismissed, sua sponte, this lawsuit for failure to state a claim on June 11, 2012.

It has since come to our attention that approximately one month after the dismissal, Ms. Youhoing filed an almost identical complaint re-alleging the same issues. Apparently, the only two changes that she made in the subsequent complaint were she misspelled her own name and she added Judge Daphne Walker as an extra defendant. But I would imagine it that the Court would dismiss that as res judicata, at this point for Ms. Youhoing.

But Ms. Bright was correct in terms of qualifications for office to run for Chief Magistrate of Clayton County at the time. Ms. Youhoing has pursued the matter in a civil action. That civil action was dismissed, as it properly should have been, and I would contend that there is nothing for the Board to go forward on at this point.

MS. YOUHOING: May I respond, please?

SECRETARY KEMP: Well, wait just a minute. Anything on other jurisdictions about some of the other allegations? I know those are outside the purview of the Board, believe.

MR. HARVEY: That's correct. We can certainly pass the information on to the District Attorney's office or to the AG's office. I believe she has filed other election challenges, as well. We don't have -- we simply have allegations of criminal activity --

SECRETARY KEMP: Let me ask you this. Do we normally pass along allegations, or do we just let the individuals know that they can go to the local law enforcement with these type issues?

MR. HARVEY: We normally let them know where best to respond so they can deal directly with the appropriate law enforcement agency, and I can certainly provide that information to Ms. Youhoing today.

SECRETARY KEMP: Any other questions for Mr. Willard or Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Ms. Youhoing, I'm going to allow you a little bit of leeway here, but we need to move on. But if there is something else you would like to add, also if you would like we will be glad to let you know your options on, you know, other agencies with jurisdiction with your allegations where you can report those type of claims.

MS. YOUHOING: Yes. What I hate is elected official giving misleading information to the public. This gentleman, Mr. Willard, has stated information which is incorrect.

First of all, he stated that I filed some civil suit in the Walker situation. That could not be further from the truth. That's what he said. He stated even that I misspelled my own name.

Now, there is a pending petition in the Court regarding the election crime which had happened. I was contesting that. There is no ruling in that as yet, and furthermore, the Defendant defaulted by failing to respond to that. So I made a motion in that case for default judgment based on them not responding.

So in all legality, this petition should be set aside and there should be a new election Clayton County because of ineffective response.

SECRETARY KEMP: That's something this Board does not have jurisdiction over.

MS. YOUHOING: He was just going into that information, sir, and that's why I mentioned that.

Secondly, such as -- now, there is no proof -- they stayed there and alleged that one needs to be an attorney in order to run for Chief Magistrate, but they have failed to present an iota of evidence to prove (unintelligible). Mere allegation is not enough. At least --

SECRETARY KEMP: Ma'am, there was a law passed in 1998 that stated that.

MS. YOUHOING: But the current law that I just presented to the Board does not state anything like that. And no one had show me where to find the law. This is either old or outdated or there is a problem with it. When a law is changed and it amend, it's strikethrough and you can see where that had happened. There is nothing in the current law that stated that. And that's why I challenge the Secretary of State to present me with it. The law is the law, and I need proof.

And just to conclude -- I'm not going to hold your time, and I appreciate you allowing me to come back up here -- the question as to what the duty of the Secretary of State is, and to instruct the public to go and file their own complaint with the law enforcement for investigation, this is

the law. It is the duty of the Secretary of State to do that and not my duty. And I cited that code, sir --

SECRETARY KEMP: Ma'am --

MS. YOUHOING: It's in O.C.G.A. It is the duty of the Secretary of State to do that, and not my duty.

SECRETARY KEMP: Okay. Ma'am --

MS. YOUHOING: So when they found out that the crime had been committed, it's the duty of the Secretary of State to do it. It doesn't say I can't do it on my own as well. I'm simply trying to say it's the law and the duty and the Secretary of State should abide by the law like anyone else.

So I'm concluding by saying I need to see proof; I don't need allegation. I need to ask them to present me with evidence to see what are they talking about. I present documents here. They're not above the law and they need to abide by the law. Thank you.

SECRETARY KEMP: Mr. Harvey?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: When you talked to Ms. Bright, she informed the candidate of the current law?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Therefore not allowing her to qualify; is that correct?

MR. HARVEY: Just to clarify, I did not speak with Ms. Bright. The investigator did.

SECRETARY KEMP: Investigator.

MR. HARVEY: That's right.

SECRETARY KEMP: Any other questions?

MR. WEBB: Mr. Harvey, there is State law that sets the requirements for Chief Magistrate, correct?

MR. HARVEY: That's correct.

MR. WEBB: And then the counties can add an additional threshold on that; is that correct?

MR. WILLARD: Well, the General Assembly can add it on behalf of the counties through local legislation. And, in fact, Ms. Youhoing presented the Board her Exhibit B, the local legislation that was adopted by the General Assembly signed into law by Governor Miller in 1998 that did exactly that.

MR. WEBB: For Clayton County?

MR. WILLARD: For Clayton County; (unintelligible) number 792.

SECRETARY KEMP: Can we see those documents back?

MR. WILLARD: Yes, sir.

SECRETARY KEMP: Any other questions from the Board?

(Whereupon, there was no response)

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

MS. BARNES: Good morning, Mr. Secretary, members of the Board. My name is Christy Barnes, and I am representing the Clayton County Board of Elections and Registration. My -- do you need my home address or would my work address be sufficient?

SECRETARY KEMP: Work will work.

MS. BARNES: Okay. 112 Smith Street, Jonesboro, Georgia, 30236. And Ms. Annie Bright, the director of elections and registration is here, as well, and we just wanted to say for the record that we agree with the investigation's findings.

Ms. Bright did provide Ms. Youhoing with a copy of the local law that was signed into effect in 1998. She was provided that information. As the member said, there can be State law, there can be Federal law. She was given information from the Secretary of State's office regarding how to qualify for Chief Magistrate. She was also informed that there could be additional local legislation such as Senate Bill 683 that would govern the qualifications for Chief Magistrate Judge. That was information she was given by our director of elections.

Ms. Bright is here if you have any additional questions for her, or if you have any questions for me.

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

MR. WORLEY: I don't have a question, Mr. Secretary, but I would like to say that I was a resident of Clayton County for nearly 35 years. I was a resident of Clayton County in 1998 and legislation was passed making the Chief Magistrate an elected position. And that is what happened.

MS. YOUHOING: Sorry, sir. I couldn't hear you.

MR. WORLEY: I was a resident of Clayton County at the time that local legislation was passed making the Chief Magistrate an elected -- making the qualifications for Chief Magistrate include having to have a law degree and practicing law.

MS. YOUHOING: Don't you think that comment of you being a member of the Board --

SECRETARY KEMP: Okay. Ma'am --

MS. YOUHOING: -- a prejudicial comment? I think it is.

SECRETARY KEMP: Ma'am, we can't have a discussion going back and forth from the audience. I think we've heard all sides here on this issue. Are there any other questions or comments from the Board for Ms. Barnes?

MS. YOUHOING: I have a question for Ms. Barnes.

SECRETARY KEMP: That's not how this process works, ma'am. We do the questioning, okay?

MS. YOUHOING: Yes, sir. But she state incorrect information, just for the record. And that's what I --

SECRETARY KEMP: Well, we've had a lot of discussion about who's right and who's wrong. Any other questions from the Board for any of the parties that are here today?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you Ms. Barnes.

MS. BARNES: Thank you.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Do we have a motion, any other discussion from the Board?

MR. SIMPSON: I move we dismiss case number 2012, 29.

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

MR. WEBB: Second.

SECRETARY KEMP: Second by Mr. Webb. Any other discussion from the Board?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That case has been dismissed.

MS. YOUHOING: You will be hearing from me. Have a lovely day.

SECRETARY KEMP: Ms. Youhoing, thank you for being here. If you would like information on other options, Mr. Harvey or our investigators would be glad to help you with that.

We're going to move on to our new investigative reports. One thing that I failed to do at our last meeting was to -- to speed up the process, what we tried to do at the State Election Board, a lot of times we have people that do not show up for their cases. So what I want to try to do is just go around the room. If you will just raise your hand if you are here for a case that you -- well, if you're here for a case, if you will just raise your hand when I call that case. We're going to take the cases of our agenda in order of the people that are here. The cases where there's nobody here, we're going to move them to the foot of the calendar so you all don't have to sit here any longer than you have to for us to call the cases.

So if you will just raise your hand if you are here on the Lincoln County case. Okay.

Case number 2011, 33, non-citizen case. Okay.

Case number 35, Macon municipal election. Okay.

Troup County case? Number 54, Troup County? Okay.

City of Gumbranch? (Whereupon, there was no response)

City of Albany? (Whereupon, there was no response)

City of Eastman. Okay.

City of College Park? (Whereupon, there was no response)

City of Forsyth? (Whereupon, there was no response)

City of Wadley? Sir, were you City of Wadley? Wadley? Anybody? (Whereupon, there was no response) Okay.

City of Richland? Okay.

City of St. Mary's? City of St. Mary's? (Whereupon, there was no response)

City of Graham? Okay.

City of Pelham? Pelham, Georgia? (Whereupon, there was no response)

Treutlen County, presidential primary? Treutlen County? (Whereupon, there was no response)

Brantley County has been continued.

Lowndes County? Okay.

Columbia County? (Whereupon, there was no response)

Long County? Okay.

And Bryan County? Okay.

All right. We'll get started. The first case is the 2010, number 102, Lincoln County case, Mr. Harvey. That's number 9 in our binder.

MR. HARVEY: Mr. Secretary, members of the Board, this case involved the general election on November 2, 2010, in Lincoln County. There were sort of cross-complaints here. The original complainant was Ms. Margaret Rose, or Sally Hawes. She complained that she was assisting electors complete absentee ballot applications. Some of those absentee ballot applications were rejected and Ms. Hawes complained that were being rejected improperly by the elections office. The elections director, Ms. Lilvender [sic], alleged that she believed Ms. Hawes was improperly assisting voters and possibly forging signatures on absentee ballot applications.

As a result of the investigation, members have been a respondent chart that shows, essentially, Ms. Bolton and the Lincoln County Board of Elections and Registration had a few technical violations as far as documenting absentee ballot applications and envelopes when they came in. There were five incidences where they either failed to mark the reason for rejecting or didn't compare a signature. But essentially low-level oversight as far as election officials go.

Ms. Hawes, however, acknowledged that she assisted voters that were not entitled to assistance. She illegally possessed and transported ballots. At one point, on election day on two occasions, she went to the polling place and was confrontational with the election officials to the point where twice they had to call local law enforcement to come and ask her to leave. In both cases she left when law enforcement arrived. They did not actually encounter her. But twice she was reported to local law enforcement for disturbing the polls.

On the third page of the respondent chart, you will see that Ms. Blackwell signed her mother's name on the absentee ballot application, and Ms. Banks signed her husband's name on the absentee ballot application. Those are both violations. They should not have done that, but they are little bit more understandable.

The last two people listed, Ruby Cunningham and Maureen Zellers, I recommend those cases be dismissed. There's an allegation that Ms. Hawes illegally assisted Ms. Cunningham when voting at the polls and Ms. Zellers was the poll manager and Ms. Cunningham was the voter. We generally don't cite people who receive assistance and there was no indication that the poll manager had any reason to doubt Ms. Cunningham was entitled to assistance. So I recommend those two cases be dropped.

I recommend that Ms. Bolton and the Lincoln County Board of Elections and Registration be bound over to the AG's office, and that Ms. Hawes be bound over to the AG's office. Ms. Blackwell and Ms. Banks, I could see receive letters of instruction. And as far as Lincoln County goes, it would not shock my conscience to get letters of instruction due to the nature of the sort of hit and miss violations they had. I've spoken extensively with Ms. Hawes. She has another case coming up regarding the last election.

But that is essentially what we've got with Lincoln County.

SECRETARY KEMP: Any questions for Mr. Harvey from the Board?

(Whereupon, there was no response)

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

MR. JACKSON: Mr. Secretary, if I may.

SECRETARY KEMP: Absolutely. Just come on up and give us your name and address for the record, please.

MR. JACKSON: My name is Benjamin A. Jackson. I'm the attorney for Lincoln County and I'm here today to represent the Board of Elections and Ms. Bolton.

Basically, I would just want to address the Board and explain that at the time that these incidences occurred, Ms. Bolton had just been hired by Lincoln County to run the Board of Elections. I think she was hired in July of 2010, and these incidents occurred prior to the November, 2010 election.

That's all I wish to say at this time, Mr. Secretary.

SECRETARY KEMP: Any questions for Mr. Jackson?

(Whereupon, there was no response)

SECRETARY KEMP: I have one for you, Mr. Jackson. I'm inclined, if the other members of the Board are, to do a letter of instruction if you can make sure that we'll have assurances that the folks in the elections office are working with our staff to make sure they fully understand, you know, how these ballots need to be handled properly in the future.

MR. JACKSON: Yes. I'll speak extensively, Mr. Secretary . Thank you.

SECRETARY KEMP: Any other questions for Mr. Jackson?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here today.

MR. JACKSON: May I give my card to your court reporter?

SECRETARY KEMP: Absolutely.

SECRETARY KEMP: Let the record show we're taking the card so we have the correct information for the record.

Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: any other thoughts from the Board, motions?

MR. WEBB: Does anyone else here want to speak?

SECRETARY KEMP: I don't think. Last call. Anybody else wishing to speak on the Lincoln County case?

(Whereupon, there was no response)

SECRETARY KEMP: I'm ready for a motion.

MR. SIMPSON: May I ask one question?

SECRETARY KEMP: Yes, sir. Mr. Simpson.

MR. SIMPSON: Mr. Harvey, what is your recommendation on Ms. Bolton?

MR. HARVEY: I would recommend a letter of instruction. I think that would be appropriate.

MR. WEBB: Mr. Harvey, can we go back through the list again.

MR. HARVEY: Yes, sir.

MR. WEBB: Go ahead.

MR. HARVEY: I've got letters of instruction for Ms. Bolton and the Board of Elections and Registration; I recommend Ms. Hawes be bound over to the Attorney General's office; I recommend Ms. Blackwell and Ms. Banks receive letters of instruction; and I recommend Ms. Cunningham and Ms. Zellers are dismissed as respondents.

SECRETARY KEMP: Mr. Harvey, on Blackwell and Banks, have you or your investigators talked with them?

MR. HARVEY: I believe we did interview both of them.

SECRETARY KEMP: So is it your belief that if we were to send them letters, they would get them and understand what they did wrong?

MR. HARVEY: I believe so; Yes, sir.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Any motions?

MR. SIMPSON: Move we issue a letter of instruction to Ms. Bolton, the Lincoln County Board of Elections and Registration, Ms. Blackwell and Ms. Banks; that we dismiss the case against Ruby Cunningham and Maureen Zellers; and we bind over the case against Ms. Hawes.

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

MR. WORLEY: Second.

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

(Whereupon, there was no response)

SECRETARY KEMP: All the Board members clear on the motion? Okay.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Mr. Harvey, we're going to move on to SEB case number 2011, number 33.

MR. HARVEY: Yes, sir. Mr. Chairman, members of the Board, this case is an amalgam of cases reported to the Secretary of State's office where it appears that non-citizens had registered to vote. It covers several counties. You should have a respondent chart with you of four pages.

As has been the custom of the Board and our division, the standard form, sort of knowledgeable voter registration through the department of driver services has been set in February, 2010. Prior to that time, the documentation and the evidence needed to show that someone intentionally intended to register to vote has been very difficult to come by. So it has been our practice, and the Board has always accepted the recommendation, that anybody who registered or who was registered to vote through DDS prior to February of 2010, absent any other evidence, is really not presumed to have knowingly and willingly registered to vote.

Fro that reason, if you look at the respondent chart, you will see that all but the four individuals were recommended for dismissal. If you look down the right column with Title 21 violations, you'll see for Mr. Joel Franco, who is the third down on the list, he actually registered by hand. He is not a United States citizen. I spoke with him. He said he doesn't remember registering, but he, in fact, did. I recommend Mr. Franco be bound over to the AG's office.

The same with Mr. Hernandez, directly below him, in Coweta County. He, again, registered by hand in 2008.

Continuing down the list, we've got Myria Dabouze, who, again, registered in person and she has voted three times. I spoke with her couple of days ago and she said she did not realize she could not vote. But she has voted three times.

On the next page, you'll actually see, I think, the fifth or sixth down, Mr. Nguyen, Que Tri Nguye. He actually is a US citizen. He reported to the clerk that he was not, possibly to get out of jury duty. But he was a naturalized US citizen.

Now, on the last page you've got Florence Dorvil, who has voted two times in Newton County.

And lastly, I have the Clayton County Board of Elections and Registration as a respondent based on the second person on the list, Mr. Kevin Renard Hester. Mr. Hester actually was not a non-citizen. He was, in fact, a convicted felon, but, again, was registered prior to 2010 through DDS, again, making it very difficult to prove that he knowingly and willfully registered to vote while a felon. So I'm recommending Clayton County Board of Elections and Registration be dismissed and that we bind over Mr. Franco, Mr. Hernandez, Ms. Darbouze, and Ms. Dorvil.

SECRETARY KEMP: And you're recommending dismissal for Clayton County?

MR. HARVEY: Yes, sir. And all other respondents.

SECRETARY KEMP: And all -- Okay. Any questions for Mr. Harvey?

MR. WEBB: Why the recommendation on Clayton County to dismiss?

MR. HARVEY: Because at the time, 2007, Clayton County was not automatically getting the felon list. So when he was registered through DDS, there was no -- not a system set up like today where they would get a list every month that he was registered and they could remove him from the voting list at that time.

MR. WEBB: The respondents that registered in person, though, don't we usually include a claim against the county in those cases that they should have been vetted further?

MR. HARVEY: Again, generally given the timeframe when they weren't receiving the regular documents, it's been a little bit more hit and miss as far as establishing --

SECRETARY KEMP: Would we have had the checks in place then?

MR. HARVEY: Regarding Mr. Hester, I don't believe so. In talking to the elections office, that was near the beginning of the transition time where they were becoming automatic. But I don't think we can say with confidence that -- at what point they would've gotten the list.

MR. WEBB: And with regard to Mr. Franco and Hernandez, the County is relying on them when they checked the box and said that they were citizens?

MR. HARVEY: Yes, sir.

MR. WEBB: Thank you.

SECRETARY KEMP: Of course now, we have different checks in place, right?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak on this case? Yes, ma'am.

MS. B. DARBOUZE: Good morning. My name is Bathschebba Darbouze and I'm here with my mother. I'm here to --

SECRETARY KEMP: Can you just speak a little slower where we can make sure we pick you up.

MS. B. DARBOUZE: Good morning. My name is Bathschebba Darbouze.

SECRETARY KEMP: Could you spell that for us.

MS. B. DARBOUZE: B-A-T-H-S-C-H-E-B-B-A. Darbouze is D-A-R-B-O-U-Z-E. And I'm here with my mother, Myria Darbouze, and I'm here to help her understand what's going on. She really does understand.

SECRETARY KEMP: Mr. Harvey, do you want to explain to the Darbouzes?

MR. HARVEY: Yes, sir. Ma'am, Ms. Myria Darbouze registered to vote in 1997 by hand by filling out an application that said I'm eligible to vote and I'm a citizen of the United States, and that's not accurate from what I understand. She's not a United States citizen, correct?

MS. B. DARBOUZE: She said she didn't know was she supposed to vote or didn't, or wasn't. So she really didn't know.

MR. HARVEY: I understand she says she doesn't know.

MS. B. DARBOUZE: She didn't know she didn't supposed to do that.

MR. HARVEY: Right. But she voted three times after registering while not entitled to be registered. So that's what this is about. She should not have registered to vote because she's not United States citizen. And then she should not have voted once she registered to vote.

MS. B. DARBOUZE: Yes, I think -- she explained to me that since she didn't know the first time -- I think nobody told her she wasn't supposed to -- that she thought it was okay. So that's why she did three times.

MR. HARVEY: I understand.

SECRETARY KEMP: Okay. Is there anything else you would like to add?

MS. MYRIA DARBOUZE: Yes, sir. I would like to know about, you know, if am not citizen, how come they let me vote? That's what I want to know.

SECRETARY KEMP: Mr. Harvey, did she check she was a citizen?

MR. HARVEY: She filled out a voter registration application by hand.

SECRETARY KEMP: I think what happened was on your form, you filled out you were a citizen. So they would have had no way of knowing.

MS. MYRIA DARBOUZE: No. No. I got my green card, so I wasn't citizen at the time. I truly did not know if am eligible to vote or not.

SECRETARY KEMP: Any questions from the Board for the Darbouzes?

(Whereupon, there was no response)

SECRETARY KEMP: Think you're being here today. Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Any other questions from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. WORLEY: Mr. Secretary, I make a motion that we bind over Mr. Hester, Mr. Franco, Ms. Darbouze, and Ms. Dorvil to the Attorney General's office; and dismiss all the other response respondents.

MR. WILLARD: Mr. Secretary, Mr. Hester is actually a US citizen.

MR. WORLEY: I'm sorry. Let me restate that motion.

SECRETARY KEMP: Mr. Worley is going to restate the motion.

MR. WORLEY: I make a motion that we bind over Mr. Franco, Mr. Hernandez, Ms. Darbouze, and Ms. Dorvil; and dismiss all the remaining respondents.

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

MR. SIMPSON: Second.

SECRETARY KEMP: Got a second by Mr. Simpson. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)/

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Ms. Darbouze, just so you understand, we have voted to refer your mother to the Attorney General's office. So they will be in touch with you about the continuance of this. I think it's pretty clear to the Board and Mr. Willard that we appreciate you taking the time and coming here today and addressing the Board. But they will be in touch with you as this moves forward. If you have any questions, you can talk to Mr. Harvey's office or Mr. Willard, and they will be glad to make sure you all understand how this process works.

MS. B. DARBOUZE: Thank you.

SECRETARY KEMP: Thank you.

Okay. Mr. Harvey, 2011, number 35 Macon municipal elections.

MR. HARVEY: Yes, sir. This case involved the 2011 municipal election here in the City of Macon, Bibb County. There were allegations that some voters were not allowed to vote in the city election, and that there were voters that were given misinformation about where they could vote, and that there were problems with some of the machines on election day.

The first allegation was that there were two precincts where poll workers had mistakenly programmed ballots on voter access cards. There were some precincts where people were city residents and some county residents, and there were several occasions where the poll workers simply programmed the wrong card and the voters were not allowed to vote; didn't see the issues on the city ballot.

That was brought to the poll manager's attention and the voters were allowed to fill additional provisional ballots, which were ultimately rejected. But Ms. Carr and the Bibb County Elections and Registration responded and corrected the problem.

There was a precinct that was delayed in opening by about five minutes because a poll manager left the voter access cards and had to have them delivered. And the allegation that people were being given inaccurate information about voting stemmed from people showing up, I believe, at City Hall, where there had been (unintelligible) advance voting and they were being told that they had to do it at their precinct on election day. So there was no misinformation. There was just misunderstanding about what was going on.

So at the end of the day, there were some violations of the State Election Board rules that are noted on the executive summary for failure to properly program an access card; for delaying the precinct opening by about 5 minutes.

I think it would be appropriate in this case that the Bibb County Board of Elections and Registration be issued a letter of instruction. The problems were relatively minor, they were addressed immediately, and I think that would be an appropriate resolution.

SECRETARY KEMP: That would cover all the respondents?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Any questions from the Board for Mr. Harvey?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, I'm ready for a motion or further discussion.

MR. SIMPSON: I move a letter of instruction be issued.

SECRETARY KEMP: We have a motion by Mr. Simpson that a letter of instruction be issued to the Bibb County Board of Elections and the attached respondents. Do we have a second?

(Whereupon, there was no response)

SECRETARY KEMP: I'll second. Any other discussion?

MR. WEBB: Mr. Willard, have we had any cases involving the Board of Elections for Macon -- the City of Macon or the County of Bibb? Have we had many cases involving those, either one of those?

MR. WILLARD: I'll be honest, Mr. Webb, I don't believe that we have had many instances.

SECRETARY KEMP: I don't recall many, either.

MR. HARVEY: I don't believe so.

MR. WEBB: Thank you.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)/

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We will issue a letter of instruction.

We're going to move, Mr. Harvey, to SEB case 2011, number 72, City of Albany. That's number 14 in our binder.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This case involves two complaints that are related.

There was a candidate running for the City Council in Ward 1, Mrs. Calhoun. She went to qualify at the elections office and was told that she was in a ward other than where she thought she lived. So she qualified in that ward. It was later determined that there was a section of the city -- a street that had formally been on a military base that had a different numbering system on street names than the rest of the city did. That caused about 100 voters to be in the wrong districts, including Ms. Calhoun.

So she qualified and paid her qualifying fee and was disqualified shortly before the election because it was found that she lived in the wrong district. And there were about 100 voters that were in the wrong district based on the not recognizing the difference in the street signs of the numbered addresses in the city of Albany. I believe there was a civil suit contesting the election, and I believe an attorney for the city is here who will speak to some of that.

But at the end of the day, it appears that the city -- I'm sorry, Ms. Nickerson and the Dougherty County Board of Elections and Registration are in violation of 21-2-226 for not having voters in their proper district and for not determining the proper qualifications of voters.

The last allegation was that there were not signs -- the signs noting the disqualification of Ms. Calhoun were not properly and prominently displayed at the elections office. The Judge signed an order in the civil case, essentially affirming that decision that the Judge believed they were not properly and prominently displayed. So we've got that as a violation, as well.

I would note in your executive summary that the last citation under Ms. Nickerson, I think is repetitive of the first one. I think it could be dismissed. But I would recommend that in this case, based on the failure to properly qualify Ms. Calhoun and to not properly have 100 voters in their district, that Ms. Nickerson and the Dougherty County Board of Elections and Registration be bound over to the Attorney General's office.

SECRETARY KEMP: Questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak on this case? Yes, sir.

UNIDENTIFIED MALE: I think Ms. Calhoun is here, Your Honor, the complainant.

SECRETARY KEMP: We'll hear from you, if you want to, first, Ms. Calhoun.

MS. CALHOUN: Hello, everybody.

SECRETARY KEMP: Good morning.

MS. CALHOUN: I am Cheryl Calhoun. The only thing I would like to say --

SECRETARY KEMP: Ms. Calhoun, if you would just give us your address for the record.

MS. CALHOUN: I live at 1908 Whispering Pines Road. But when this happened, I was living on 1525 Georgia Avenue. I lived in transitional homes and you can only stay there two years. So we were at the end of our two years.

But anyway, I just thank you all for you've done and Mr. Harvey and everyone. The only thing I just wanted to say is that I can understand making mistakes because we all are human. But it was how it was handled that made the mistake even worse. I felt like I wasn't treated like a human being, because it wasn't my fault.

I was issued two voter registration cards. One said that I was in Ward 1, and I don't know anyone in this room, if you get your voter registration card, you're going to believe what it says. You don't question it. But they told me I lived in Ward 2. So I went to qualify for that.

Then, maybe two weeks before -- me and my husband we paid for signs. We did -- we didn't have many people. I wanted to get to know the people. So we did a lot of walking, and I enjoyed it. But two weeks before the election, while I'm out -- I'm a school bus driver, also. I hear that I'm in Ward 2. And a few days before it was time to vote, me and my husband get new registration cards that we are in Ward 2. And I think that's not fair as a citizen to be treated like that. I did get a letter a month later telling me that I was disqualified. After all this was over.

So I just feel like when we make mistakes, let's treat people with integrity; the way you would want to be treated. You wouldn't want no one to treat you that way. I would have felt better if they had told me they were sorry for the mistake and gave me my money back. But they didn't even give me my money back. The city manager did. And I felt like if they had handled in the right and proper way, with integrity, then the next candidate -- when they didn't put my name saying that they couldn't vote for me, 250 something people voted for me anyway because they were so confused. And the 100 people that didn't get to vote, their votes were thrown out, I mean, that's not fair to them.

So I think we need to have more integrity and treat people the way you would love to be treated. I don't hold no grudges because a mistake is a mistake. But it was just the way it was handled. Thank you.

SECRETARY KEMP: Thank you for being here, Ms. Calhoun. Any questions?

MR. WORLEY: Mr. Secretary, I have a question.

SECRETARY KEMP: Mr. Worley.

MR. WORLEY: Ms. Calhoun, I just want to be clear about the facts of this case. You thought you lived in Ward 1, correct?

MS. CALHOUN: I was told I . . .

MR. WORLEY: But they had you qualify in Ward 2?

MS. CALHOUN: Yes, sir.

MR. WORLEY: And then it turned out you actually were in Ward 1?

MS. CALHOUN: Yes, sir.

MR. WORLEY: So they disqualified you from Ward 2.

MS. CALHOUN: Yes, sir.

MR. WORLEY: And how much did you pay as a qualifying fee?

MS. CALHOUN: It was \$450.

MR. WORLEY: Thank you.

SECRETARY KEMP: Any other questions for Ms. Calhoun? Mr. Simpson has a question for you. Come on back up.

MR. SIMPSON: Ms. Calhoun, did you say you were reimbursed the \$450?

MS. CALHOUN: The State Election didn't. They told me that they couldn't, because according their law, since this had never happened, it wasn't even in the books. Most of the candidates are, you know, they'll say I don't want to run and they want their money back. But they never had in their books that an innocent candidate can get their money back when they make a mistake.

MR. SIMPSON: But you did get your money back?

MS. CALHOUN: Yes, from the city.

MR. SIMPSON: From the city?

MS. CALHOUN: Yes, sir.

MR. SIMPSON: Thank you.

MR. WEBB: Ms. Calhoun -- we'll just keep it going -- Thank you. Did you say you incurred some out-of-pocket expenses?

MS. CALHOUN: Oh, Yes, sir. We had to pay for all those signs.

MR. WEBB: Can you estimate how much that was?

MS. CALHOUN: It was a hundred and something dollars. This a place in Alabama that one of the commissioners told me they was cheap. It's just the labor of it; the walking. I didn't have people I could pay to do my campaigning. Me and my husband, we did it.

MR. WEBB: And you were reimbursed for out-of-pocket expenses?

MS. CALHOUN: No, sir.

MR. WEBB: Thank you.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: You're dismissed, Ms. Calhoun. Thank you. Anyone else?

MR. LEE: Mr. Secretary and members of the Board, my name is Spencer Lee. I'm the county attorney for Dougherty County. And my address is Post Office Box 1376, Albany, Georgia, 31702.

Now, I've been the county attorney in Dougherty County since we went from multi-member districts to single member districts in 1979, and I guess I have longevity in continuous serving in Dougherty County. But in addition to that, I was also on the Board of Elections, our superintendent in Dougherty County. For about ten to 15 years I served in that capacity.

Now, I have been sued; I have been part of a grand jury investigation; we've had recounts; and we've had reruns on the elections. And I, of course, understand exactly what you're doing because we have 500 or more cities. We have 159 counties. We have elections in each of those. The governing bodies are made up differently and I can sympathize at what you're doing and I understand it. And I think you've heard it all. If you haven't heard it all, I don't know when you'll hear at all. I think you've heard everything that can be said.

In this particular case, though, I would agree with Mr. Harvey on the findings, to some extent. What happened here, he is correct in bringing these code sections. There are two things that happened, I think, we need to talk about. One of them is what Ms. Calhoun has just said. She attempted to qualify in Ward -- well, she came in and she qualified in Ward 2. The supervisor, Ginger Nickerson, who is standing here next to me and is the supervisor of the Dougherty County Board of Elections, her staff looked up the address in the computer system and it showed her in Ward 2. That is the only election she could have qualified on the day she went in for.

The reason for that is this was a special election. This was a city election. I do not represent the city of Albany. I represent the Election Board and Ginger Nickerson. But this was a special election. It was not a primary and it was not a regular election. The election for Ward 1 for the city election had already closed on the qualifying time. So the only place she could qualify that particular day was for Ward 2, the special election.

And it is a special election due to the fact that the incumbent in that position had vacated it by deciding to run for mayor. That person was Dorothy Hubbard. She ran for mayor and she was selected. The opening time for qualifying was a three-day window. She went in early. And I will have to say this, in all the years that I've been involved in Dougherty County and City of

Albany politics, the three best candidates I have ever seen in one race were in this race. There was Ivey Hinds, Melissa Stroller, and Cheryl Calhoun. And Cheryl Calhoun made a very, very fine candidate, and would have made a very, very fine city commissioner.

The problem was that she came in, they looked up the address. The address showed that she was in Ward 2. It comes, of course, from the Secretary of State's office. But we are not saying the Secretary of State's office is involved here. That address in the computer system comes from there. What had happened was, Ms. Calhoun lived out in what is called base housing. It used to be the old military base. And that property, when the military left, was spun off out of the military, out of the government, into private hands, and it changed hands several times. Finally, a church bought the property and went in and began to rehab it. And they rehabbed part of what is called -- rehabbed Georgia Avenue. Georgia Avenue was a long street. Ms. Calhoun lived on one part of Georgia Avenue.

For many years that property has been listed in the wrong ward. It is been listed in Ward 2 and should have been listed in Ward 1. It made no difference in one sense of the word because it was vacant and it was in ill-repair and nobody could move into it. But when the new owner started the rehab, they started the rehab on the section of the street that Ms. Calhoun eventually moved into, not on the other section of the street. But on the section that Ms. Calhoun moved into.

Now, what ended up happening with this was that the process is our IGS -- GIS manager who works for the city, and also works for the county through a contract, but it's a city department, the GIS manager is supposed to, when a new subdivision is created and people move in, supposed to get that information and disseminate it to the post office, fire station, and other organizations, including Ms. Nickerson's office. Then she is supposed to take that information, input it, and change the Secretary of State's records. That did not happen.

What did happen was this. Ms. Calhoun was allowed to qualify in Ward 2, because that's what the record showed. Nobody realized that this property had been rehabilitated and now people have moved in. What we found out was the day that it was reported to Ms. Nickerson, she immediately sat there with the person that reported it and called upstairs to Randy Weathersby, who was the GIS manager, and said, Randy, we've got a problem. Somebody tells me Ms. Calhoun is not Ward 2; she's in Ward 1. So Randy looked it up and called her back and said that was correct. She is not in Ward 2. So we found out immediately that that happened. Ms. Nickerson self-reported that issue to Secretary of State. And I think Mr. Harvey will say there was self-reporting on this.

MR. HARVEY: That's correct.

MR. LEE: Then we had to go to the code to find out what to do next. Well, what ended up happening there was, Ms. Nickerson talked to the chairman of the Board of Elections. The chairman of the Board of Elections set up a hearing in order to determine the qualification Ms. Calhoun. The hearing was held and Ms. Calhoun was here there was a big brouhaha over it, as you can imagine. She's correct. She had been out stomping around and getting votes and she was excited about it; she wanted to be a city Commissioner. Then all of a sudden she is not the right district.

They found that to be the case and they disqualified her; the Board of Elections disqualified her. Now, that is unfortunate. That is absolutely unfortunate, and as she has said, that was a mistake.

Well, what did we do about it? What did the Board of Elections do about it? I, along with the city attorney, Ms. Nickerson, and the GIS manager, Randy Weathersby, along with planning and development director, who Randy supervisor is, sat down and found out what happened. And what happened in this case was the person that had been there managing this, Eric Gossley, had retired about five or six years ago. He had started this process when the construction started out there and changed the addresses. The old base housing addresses the military used were exactly opposite of the addresses that the city used under their present system of numbering in the city of Albany.

So they had had it in the wrong district all these many years and it didn't bother anybody at the time, simply because the structures were not habitable. So the new owner went in and rehabbed the area in Ward 2. That's when Ms. Calhoun moved him. And the addresses on there were the military addresses that showed up in Ward 2. They weren't the correct City of Albany addresses that Eric Gossley had started working on. When Eric left, they went back to his files and found out in his files that he had notified the post office, but his whole checklist was not ready and he had not notified Ginger Nickerson's office; the Board of Registrar. So we did not have any notice of that.

Now, we're not trying to blame anybody. That's not blame. That's just an explanation. That is what happened. And when it was reported to Ms. Nickerson that Ms. Calhoun did not live there, they took the appropriate action.

Now, let me tell you what has happened since that time. Of course, Ms. Nickerson has met with the city manager, the county administrator, staff up at planning and development services, with Randy Weathersby in GIS. And Randy has come down and instructed Ms. Nickerson's office on how to use the GIS system. That doesn't mean that they can change addresses on their own. But they can go in and verify street addresses and those kinds of things, and elections changes. And they have done that. They have done a complete overhaul on the verification of all county commission districts and the city commission districts.

So that's what happened, and it is unfortunate; it's really unfortunate. Nobody likes it.

Now, the second that happened, and what Mr. Harvey is talking about on the charges that have been made, is that we didn't properly post the notice of disqualification -- that she was disqualified. There was nothing we could do about it. There was a ton of publicity about it. A lot of publicity. And Ms. Calhoun was noticeably upset as a result of this.

So now, the second thing that happens is the election is held and there is a code section -- I think we're operating under the wrong code section on the charges, but they're similar. What it simply says is that we're supposed to post a notice that the person has been withdrawn or disqualified. Now, what happened was Ms. Nickerson called the Secretary of State. She got the withdrawn candidate notice. It says withdrawn. Of course, that concerned Ms. Calhoun, and it should have, because she did not withdraw. She was disqualified. So she happened to run into her friends and they would say, well, you withdrew. No. I didn't withdraw; I was disqualified. But that's the form that was given to us and that's the one that we posted.

Now, how do you post it? Well, the code section that you really operate under is 21-2-6(c) that says the superintendent shall determine if the candidate is qualified to seek and hold public office. Well, that happens after a challenge is made. That challenge was made by the Board of Elections on their own volition. Then we go to (c) once we find that. And if the superintendent determines that the candidate is not qualified, which they did, the superintendent shall withhold the name of the candidate from the ballot or strike such candidate's name from the ballot if the ballots have been printed.

And it says if there is insufficient time to strike the candidates name or reprint the ballots, then prominent notice shall be placed in each affected polling place advising voters of the disqualification of the candidate. The candidate is disqualified. This is not withdrawn, which is the code section Mr. Harvey talked about. Same thing. We don't disagree with that. We're not trying to get out of that. We're not going to make a technical argument here.

But this is what we're supposed to do. We're supposed to place a prominent notice at each affected polling place. And that all votes cast for each candidate should be void and not be counted. These are void cast votes; void cast ballots. The judge in the case that Mr. Harvey talked about called them irregular ballots, and said he that he would order a new election due to the fact that the 200 plus that Ms. Calhoun got could have affected the election.

Well, the judge was wrong about that. You don't get to count the irregular ballots. They are void. They don't even count. So you don't count them against the numbers to show that there could be a change.

Now, to go back a little bit, what did Ms. Nickerson do when she found out that 100 people were in Ward 2 that should have been in Ward 1, including Ms. Calhoun? Well, she went back and pulled every one of them and then she did send new cards. She sent new cards to all 100, including Ms. Calhoun, that said you are not Ward 2, you're in Ward 1.

Now, how many of those had already voted? Two. Two of those had already voted. Now, we don't like that, but they're only two of them that had already voted. So Ms. Nickerson did the remedial work on it and straightened it out as best we could. Can't get over the fact that we didn't have the right information in our computer to show she was in Ward 1.

Now, again, she couldn't have qualified for Ward 1 because this was a special election and the Ward 1 qualifying had already closed. But she did qualify for Ward 2.

I want to speak a second about the money. At the disqualification hearing, where she was disqualified -- I'm the County attorney; I represent the Board. I was there because it was a board hearing. I don't represent the city, and this is a municipal election. The city attorney was there. So Ms. Calhoun rightly asked for her money back. The city attorney read the statute and the statute seems to indicate you can't get it back. But I made the comment, I said, well, in my literal interpretation of that, might mean cannot get back, but I think the city attorney is really saying that he will look into it and see if you can get it back. And, indeed, they refund her the money. You're right that signs and all of those things, she had to pay for. And she didn't get that back. She didn't get the shoe leather back, when she hauled up and down the streets soliciting votes. But she got that money back.

I think there's been an amendment to the state law because of the Dougherty County incident that's there. There's been an amendment to that that says you can get it back if through no fault of your own this happens.

And let me quickly on what's taken place on the posting of the notices. The posting of a prominent notice. It says a notice shall be posted; a prominent notice. As you all know, in every single precinct, the geography of that precinct sets up differently with the tables; entranceways are different; everything is different. I've been there and you all have been there, and you know that. So you set them up differently. We had poll managers. Poll managers were instructed to post this notice in a prominent place. They did that.

What happened after that, there was a follow-up from the Board of Elections. Each board of election member went out and looked at it to see that it was posted. So they went out and did that. Now, Ms. Stroller filed a lawsuit asking for another election because of these things. We filed a motion to dismiss and the -- I didn't file the motion to dismiss. Nathan Davis, the city

attorney represented the city. It's a municipal election. Maurice Luther King represented the winner, the candidate who won. Melissa Stroller was represented by her lawyer and she was seeking a new election because of this 200 votes that Ms. Calhoun got.

Now, they filed a motion to dismiss because of an indispensable party. They didn't name the superintendent. The superintendent of elections is Board of Elections. It's the Albany Dougherty Board of Registration and Elections. That's the board of elections. They're the only ones that can give a new election. So it named it. We filed a motion to dismiss, or they did. We filed it way in advance. He didn't add the -- it was made prior to the case being called. It was made after the case was called, and he never added it. He added them after the case (unintelligible) after the case was over.

But that's one of the reasons the Judge dismissed this. Not just on service, but he had the wrong party, and they never should have heard the case. The case should have never been heard. I mean, that's basic 101 law. The case never should have been heard. But he went ahead and heard it; give everybody their time in court, I'm sure.

But a lot was said. I wasn't involved in that because the Board of Elections was not served. Had the Board of Elections been served, we would have presented a different case. But the Court tries to find that, he says, I'm going to grant the motion to dismiss both on service and indispensable party. But, in addition to that, I'm going to make a finding that she would've got a new trial. Well, he did that based on the fact that the void ballots were counted towards making the election and putting the election in jeopardy had it not been voided. But they are not -- they're void ballots. They don't count towards that, and

Anyway, since that time, what Ginger has done, I think, she has -- we had another election after that -- prominent posting, we had another election after that where a state representative trying to run was disqualified. Learning from this experience, the Board of Elections and Ginger went out and they posted the same notice -- they posted the same one. But in addition to that, they went to each of the voting machines and on the screen put a notice that the candidate had been disqualified.

So we did go one step further and we tried to cure that. And I think that speaks highly of what the County has done, what the Board of Registrars has done, what Ginger has done, and what the Board of Elections has done. So I don't disagree with the two issues that we're dealing with here today. But by way of explanation I would certainly think that maybe let's get this thing over with here.

Our board has worked well. Ginger is here and she can speak to any questions you might have of her.

SECRETARY KEMP: Any questions for Mr. Lee from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here. We appreciate it. Anyone else wishing to speak on this matter? Ms. Calhoun? If you will, just state your name and address for the record again, please.

MS. CALHOUN: Cheryl Calhoun, 1908 Whispering Pines Road, Albany. Thank you all. I appreciate you all had said and done.

But he brought to mind that I forgot to address that I did call to qualify for Ward 1. I had my money and I wanted to make sure I was in Ward 1 because that's what I thought I was in in the first place. My husband went on the computer pulled up the map and by the map he said, Baby, we're in Ward 1.

During the election time for Ward 1, I called because I wanted to know what time they opened. When I called, she said, give me your address. I told her I live 1525 Georgia Avenue, and they said -- you know, they told me to hold on. They came back on the phone and they said, no, ma'am. You're in Ward 2. I said, so you are saying that if I go down there and bring you my money you're not going to take it? You know, I was being humorous about it. And she said, no. You really are in Ward 2.

And that's why I could not qualify for Ward 1 is because they told me I was in Ward 2. So I waited and that's why I missed the qualifying period for Ward 1 because I was told I was in Ward 2. Like I said, I understand the mistake. But I was withheld the right to run from 1; I didn't even have the right to run for 2. Even I had lost, it didn't matter. I just wanted a chance.

SECRETARY KEMP: Any questions for Ms. Calhoun?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone who has not spoken want to speak on this case?

(Whereupon, there was no response)

SECRETARY KEMP: Any other questions or comments or motions from the Board?

MR. WEBB: I would like to ask Mr. Harvey about Mr. Lee's recommendation that maybe -- well, we do have something on Section 21-2-6(c), correct?

MR. HARVEY: That's correct. We have both, I discovered.

MR. WEBB: I think that's sufficient. Thank you.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

Let me just say this while everybody is pondering here. I certainly appreciate Ms. Calhoun being here today so we heard your side of the story. I appreciate the County, Ms. Nickerson, being here. Obviously, this is a pretty complex issue. Certainly, we appreciate the steps that have been taken by the legislature to adjust the reimbursement of the qualifying fee. And also the steps that have been taken to, hopefully, remedy what happened in this election.

I think my personal opinion is there are some complex issues I think it may be wise for the Board to send this to the AG's office and let Mr. Willard work with the parties that seem very amenable to bringing a conclusion of this that will be good for all parties involved. That is certainly my opinion, but I appreciate the wisdom of this board.

If there's another motion somebody likes to make we can move forward with that. If not, I'm prepared to make a motion.

MR. SIMPSON: We don't have the ability to order restitution or make any arrangements for restitution. That would have to be voluntary on the part of the city or the county; is that correct?

SECRETARY KEMP: That's correct. Mr. Willard is going to --

MR. SIMPSON: So unfortunately, we don't have the ability to try to help you with the damages you suffered because of the mistake.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: If nobody has any thing else, I move that we bind over to the Attorney General's office the Board of Elections and Ms. Nickerson.

MR. WORLEY: Second.

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

Again, Mr. Willard, I would reiterate, this is not an adversarial binding over, in my opinion. It's something that I think with your wisdom and oversight you can work out an agreement that the parties would be happy with and bring it back to us.

Any other discussion from the Board?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have bound that over. Thank you all for being here today.

Mr. Harvey, City of Eastman.

MR. HARVEY: Yes, sir. Yes, sir, Mr. Chairman, members of the Board. This involved the November, 2011 municipal election in the City of Eastman, Dodge County.

The complainant, Faye Jessup, made five plus allegations regarding improper (unintelligible) during the election. she claimed that the polls were not open for vote tabulation; the machines malfunctioned; the votes -- the absentee ballots were not scrutinized when they were read out; and that a candidate's wife illegally assisted and possessed absentee ballots.

The result of the investigation was that the tabulation was open to the public. The poll manager closed down the precinct while they secured their documents, but before they began any tabulation they allowed the public back in. So there is no evidence of a violation there. They were using the old lever machines and there was a question whether or not the curtain moving

back and forth was affecting the votes where the votes were being registered. They had a technician come out and confirm that there was no problem with the machine; the votes were being recorded properly.

There was nothing against the code with the reading of the absentee ballots in public but the poll manager.

We did find, however, that a candidate's wife, Ms. Wilma Slye, assisted three voters and possessed their absentee ballots after assisting them for mailing.

We also found that the elections superintendent, Bea Edge, had a single case where she failed to document the receipt of absentee ballots.

In addition, Ms. Jessop also made some general allegations about voter fraud and vote buying, and things like that. Our investigators tracked down every lead she provided and spoke to everybody who may have information and were not able to substantiate any claims of paying for votes or voter fraud in this election.

So the end of the day, I would recommend that Ms. Slye, who acknowledged assisting and possessing ballots but claims she did not know anything was wrong with it, that she be bound over to the AG's office and Ms. Bea Edge, the elections supervisor, receive just a letter of instruction for the single absentee ballot she failed to properly certify.

SECRETARY KEMP: Questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir. Welcome, and just state your name and address for the record. Thank you.

MR. SLYE: My name is Robert Slye. I live at 509 Evergreen Circle, Eastman, Georgia. I'm the candidate's wife -- I'm the candidate; she's my wife. That is a bad thing to start off with, isn't it?

SECRETARY KEMP: You cleared it up, though.

MR. SLYE: I'm here just for her character. My wife, we've been married 50 years, and she's never done anything wrong in those 50 years I know about on purpose. Now, she might have accidentally done something like I feel like this is here now. She just made a mistake and she admitted to it. But we all make mistakes.

I got a letter from the State Department saying that I was running for mayor. I was running for city council; we don't have a mayor. So even they make mistakes on documents and they haven't -- oh, also that I possessed an absentee ballot, which I never touched one. I never put my hands on an absentee ballot.

I want to say this for her character that this was not in malice or any kind of way to take advantage or getting me any votes. There was a lady she helped in the nursing home, she was a black lady, and she was our maid for years and years and years and she had no family. She was by herself and that's why she took her absentee ballot and mailed it for her.

But I just wanted to that I appreciate any leniency you can show towards her and I appreciate all that you've done for us.

SECRETARY KEMP: Thank you, Mr. Slye. We appreciate you being here. Any questions for Mr. Slye?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak on this matter? Yes ma'am.

MS. SLYE: I'm Wilma Slye, 509 Evergreen Circle, Eastman, Georgia. I would just like to say that I did, indeed, assist these three people that were elderly in their absentee voting. I did, indeed, take three ballots to the post office and mail them for them. I assure you, if I had known that this was something I should not have been doing, I would've not done it. Thank you.

SECRETARY KEMP: Any questions for Ms. Slye?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here this morning. We appreciate it. Anyone else wishing to speak this morning?

(Whereupon, there was no response)

SECRETARY KEMP: Anything else from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, what was the recommendation, again?

MR. HARVEY: Recommendation was that Ms. Slye be bound over to the General's office and Ms. Edge to receive a letter of instruction.

SECRETARY KEMP: Any thoughts from the Board; motion?

MR. WEBB: I would agree with Mr. Harvey. I think we should bind Ms. Slye over to the Attorney General's office. I think something can be worked out reasonably there. And a letter of instruction issued to Ms. Bea Edge.

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

MR. WORLEY: Second.

SECRETARY KEMP: We've got a second by Mr. Worley. Any other discussion? I think the record is clear about the direction Mr. Willard will take with making notice that the Slys were here today admitting their mistake and we certainly appreciate them taking the time to come here and be before the Board. I think for us that means a lot to hear from individual respondents.

Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, we've got a motion and a second to bind over this line to a letter of instruction for the elections superintendent, Bea Edge. All in favor, signify by saying, "Aye." You've

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We will move now, Mr. Harvey, to case number 2011, 87, City of College Park.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This case involves College Park municipal election in November of 2011.

One of the candidates made several allegations regarding the election. He contested the election in Superior Court and was unsuccessful. There was a question as to whether or not a voter who voted absentee in person, filled out a paper ballot. She complained she did not actually put her ballot in the box. Instead, she had to hand it to an election official who had to not the date and time received. So there was not a violation evident in that that any ballots were being mishandled.

Mr. Robert Gay, who is the other complaint in this case, said he was refused admittance to tabulation the evening of the election and that is a violation of Georgia code 21-2-585.

In addition, there was a poll observer of the mayor, his opponent, was in there to observe the tabulation. He was actually used to assist open the absentee ballots. I don't have that listed as the violation, but I think it would be appropriate to add that. That's code section 21-2-386(a)(2), for a non-sworn person to be handling ballots in the tabulation process.

So at the of the day, those are the two violations we found that could be substantiated and recommend that the respondents be bound over to the AG's office on the violations.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir. Welcome.

MR. WILLIAMS: My name is Mike Williams. I am the city attorney for College Park. My address is 2262 Mount Zion Road, Jonesboro, Georgia, 30326.

I appreciate the opportunity to be here. I do have a brief written statement I would like, Mr. Secretary, present to you all at the conclusion.

SECRETARY KEMP: Absolutely. Let me get that motion out of the way. Motion to accept the document.

MR. WEBB: So moved.

MR. SIMPSON: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: We will accept that when you get ready. Thank you.

MR. WILLIAMS: Thank you. I'm authorized to speak on behalf of the city as well as Ms. Laketha Reeves, who is the elections superintendent at the time.

With respect to the failure to permit the candidates to observe the tabulation, Ms. Reeves admits that she made that mistake and she is deeply regretful. There were two factors involved at least as part of her explanation.

One was that the room that was chosen for the tabulation was quite small. The second reason was she was just overwhelmed that night. Those are explanations, not excuses. The city is deeply regretful and has taken steps to ensure that this does not happen again.

Just incidentally, Ms. Reeves has retired from the city for unrelated purposes, so she is no longer with the city. The city has a new city clerk who is committed. She's already taken the elections training and she is committed to -- there's another course coming up in a couple of weeks. In addition, the entire staff associated with the handling of elections are all going to receive training, as well as the volunteers who are associated with the elections.

Additionally, one of the things that the City of College Park is currently undertaking is they have solicited a proposal from Fulton County to actually manage the municipal elections in the future. No final decision has been made. As you are well aware, (unintelligible) factors rely on cost, but we've solicited a proposal from Fulton County and we will receive that. That will be evaluated.

One thing that I omitted from the letter is in the future, all the tabulations are going to be held in the City Hall chambers that provides more than enough space to allow public viewing. So on that note, we are deeply regretful and prepared to throw ourselves on the mercy of the Board.

As to the additional factor that was raised today, unfortunately I'm not able to respond to that. But we will be happy to work with you the Attorney General's office to work out whatever remedial or corrective action needs to take place on that.

SECRETARY KEMP: Thank you, Mr. Williams. You can just hand Mr. Harvey that copy and he will pass it around.

SECRETARY KEMP: Any questions from the Board for Mr. Williams?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you, Sir. Anyone else here wishing to speak on this case, the City of College Park?

(Whereupon, there was no response)

SECRETARY KEMP: Any thoughts from the Board or a motion?

MR. SIMPSON: I think it would be appropriate to bind the case over. Looking at this letter, it looks like it's offer of sort of remediation or statement of what actions have been taken to remediate the problem. It looks like with this being put in a more formal form, this -- maybe the Attorney General could resolve the matter along these lines and bring it back to us. So I will move to bind it over.

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

MR. WORLEY: I would second that and I would reiterate that this seems like an appropriate remedial action that's been already undertaken.

SECRETARY KEMP: Mr. Worley seconds and I certainly concur with those comments. Anything for Mr. Webb?

MR. WEBB: Nothing.

SECRETARY KEMP: Okay. Good to go. We've got a motion to bind over with mutual understanding, I think. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have bound that over.

SECRETARY KEMP: We've got the City of Forsyth case next. I've got a lot of friends from City of Forsyth and Monroe County here today, including Will Davis. I don't know if the sheriff and the DA are here. I'm inclined -- this case may take a little while. I'm inclined to hear it before lunch. If you'd rather go eat, we can do that. Would you rather hear it? Okay.

We'll go ahead and call the City of Forsyth case, number 2011, number 92.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This case involves the municipal election in the City of Forsyth, November, 2011. We had three complainants, including the District Attorney, Mr. Mylam; the losing incumbent mayor, Mr. Howard; and a third individual, Ms. Williams.

There were concerns from all parties about the number of absentee ballots. Apparently, it was a large number increase from previous elections. I spoke fairly extensively with Mr. Howard and explained to him that absentee ballots have become a much more popular way for people to vote, but we would look for any type of problems. We didn't have specific allegations that any one person was orchestrating anything.

So what our investigators did, we interviewed approximately a quarter of the absentee voters and we found that there were numerous violations of the election code regarding absentee ballots. I would sort of put these in two categories. You have a lot of people that were in a similar situation as Ms. Slye was earlier in terms of people who readily admitted to accepting absentee ballots, taking possession of absentee ballots, transporting them, illegally assisting people. And they simply said they had no idea that it was wrong.

We had very few cases, if any, none that I can recall, where people were evasive or denied what they did. Everyone, for the most part, owned up to what they did.

We did have several cases, however, that I think were a little bit different. We had three cases where individuals requested and voted absentee ballots for family members that apparently the family members had no knowledge of. I think that's a slightly different -- more than slightly different scenario.

If you look at the respondent chart I've provided, the second name on the list, Meoshia Bowden, she completed absentee ballots for two of her brothers and signed their names on the absentee

ballot envelope. There is also -- I'm not sure what the evidence is, but she may have also requested one for father. I believe her father made a statement the he, in fact, voted his own absentee ballot. Ms. Bowden acknowledge signing her brothers' names and said they gave her permission. Well, we spoke to each of her brothers and they both said they didn't have any idea that they were voting, or that they had given her permission.

The next name on the list, Shertila Brantley, had a similar situation where she signed the ballot of her brother, (Unintelligible) Brantley. She fraudulently voted that and illegally possessed it.

And lastly, Naomi Donelli, , had the same situation with her grandson, Quingarius King. Again, he was not -- let's see -- she completed his ballot and she illegally possessed it.

So those are three cases where it is a little bit different were it appears there may have been some -- a little bit more malice involved. I think in the rest of the cases, and there a lot of respondents, I think there are about 25 respondents, there were similar violations. However, they were the typical, I didn't know I could take the ballot; I didn't know that someone needed to be entitled to assistance with a physical disability or blindness or illiteracy.

As regards the election officials, Judge Pittman and the Chief Registrar, Truitt Goodwin, they had what I call a smattering of administrative errors, much like Lincoln County where there were just individual ballots that were not noted properly or individual administrative errors. I think in those cases, it would be appropriate for Ms. Goodwin and Judge Pittman to receive a letter of instruction just to tighten up there administrative efforts.

Another specific individual, Dyan Davis, who is just directly below Ms. Danley, the fifth one down, she assisted her mother. She signed as assisting, however, she didn't check the box indicating why she provided assistance. In the discussion with the AG's office, it was determined that is not necessarily part of the oath, and I don't think there's any indication of ill intent in that case. So I recommend Ms. Dyan Davis be dismissed as a respondent.

So at the end of the day, I would recommend that all the respondents, with the exception of Ms. Davis, Judge Pittman and Truitt Goodwin, be bound over to the AG's office, and that Judge Pittman and Chief Registrar Goodwin receive letters of instruction.

And, again, at the end of the day, there did not appear to be any type of organized plan. There didn't appear to be any connection between a lot of these individuals. They were just disparate people. And, frankly, they were saying that what they've been doing they had been doing for years and never had a problem. So that's the City of Forsyth.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: Mr. Harvey, there is one name that appears four or five times here, is Quingarius King. It appears under Naomi Daneli, Truitt Goodwin, Judge Pittman, and Bernice Smith. I can understand the difference in the charges with the Judge and the registrar. But what is -- why is Quingarius King the subject of violations for Bernice Smith and Naomi Daneli?

MR. HARVEY: He's not, sir. He is under the column of electors. What this chart did, it sort of a cross-referenced the respondents with their corresponding electors. So if there was a question as to who assisted who, in this case, Quingarius King was the elector and Naomi Daneli filled out his ballot and it should have been rejected by the Chief Registrar and the Judge. So Mr. King is not cited as a respondent.

MR. SIMPSON: I understand those two. But what is the violation with Bernice Smith and Mr. King.

MR. HARVEY: She possessed his ballot.

MR. SIMPSON: Oh, okay.

MR. HARVEY: She picked up the ballot.

MR. SIMPSON: So one of them completed it and gave it to someone else to process it, and then the two officials did not perform their duties correctly.

MR. HARVEY: That's correct. Bernice Smith, she had the most. She collected 14 absentee ballots.

MR. SIMPSON: Thank you.

MR. HARVEY: Yes, sir.

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

(Whereupon, there was no response)

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

MR. MELTON: My name is Robert Melton . I'm the city attorney for the City of Forsyth. And my address is 87 North Lee Street in Forsyth, if I may give my card to the reporter.

SECRETARY KEMP: Yes, sir.

MR. MELTON: The purpose of my talking with you now, and I will be as brief as I can, is just to speak on behalf of Truitt Goodwin, who was the Chief Registrar at the time. He is no longer the Chief Registrar or a registrar. And to speak on behalf of Judge Pittman.

Judge Pittman is the Probate Judge for Monroe County, and by agreement with the City Forsyth County, acts as the city's elections superintendent.

Judge Pittman and Mr. Goodwin have provided me with some information of things that they did. First all, in certifying the election, Judge Pittman had a review made by the Board of Registrars and then in certifying to the Secretary of State, attached a copy of the report of the registrar. So all of that was done at the certification process.

The things that were determined to have been questionable have been addressed by both the registrars and the Judge and those include -- I need to go back to one more thing, too.

As happens in a number of these places, as you've heard and will continue to hear over the years, I'm sure, personnel things happen. In this particular case, the deputy registrar was relieved of her duties because of some matters which caused some questions with absentee voting and a new person had to be trained. There were some discrepancies noted immediately after the election, which caused the Judge to request the audit by the registrars. The Judge contacted the city attorney, which was me, and we discussed that. The advice that I gave was followed by Judge Pittman. The Board of registrars reviewed all this. The discrepancies were taken into consideration before certifying the election, and after the election.

The county has gone forward and the city will use these same facilities. The county has an easy vote, easy absentee computer program. It's a quite expensive program, but is designed alleviate all the questions that have come up here.

About 40,000 voter records, from voter registration cards to other things, have been entered into that system. Two new deputy registrars have been hired. They've been trained in the election laws. There was a community education form, a class, that was held to educate the public on Georgia election laws, and the case was also discussed -- these matters were discussed with the District Attorney, which precipitated the District Attorney's letter to the State Election Board, I think.

I bring those things to your attention and I think a letter of instruction would be acceptable to both Judge Pittman and Mr. Goodwin under these circumstances.

I want to address two other people. One is Jannie Thombley. She's shown in the listing there. Ms. Thombley is a Forsyth police officer and it's acceptable to her to work through the Attorney General's office to work to resolve this matter. What she did was totally unintentional. She helped a friend out never knowing, as a lot of people don't know what the election laws are.

The other person -- and Ms. Thombley is here today. The other person is Elena Jones. Ms. Jones serves as a member of the development authority of the City of Forsyth and has served for a number of years. She assisted a second cousin and friend, the same person, in an absentee ballot matter. Again, unintentionally doing that. I think it would be acceptable to Ms. Jones also to work with the Attorney General's office to resolve this.

Unless there are questions, that's all I want to present this morning.

SECRETARY KEMP: Any questions for Mr. Melton?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you, sir.

MR. MELTON: Yes, sir.

SECRETARY KEMP: Anyone else? Yes, sir. Welcome.

MR. HOWARD: Thank you gentlemen and Secretary. I'm Tye Howard, 526 Virginia Street, Forsyth, Georgia. I am the prior mayor of the City of Forsyth.

Having seen what the Election Board is faced with, it's an unbelievable task that you gentlemen have and you serve well.

SECRETARY KEMP: Thank you.

MR. HOWARD: What I'd like to do is just basically, there are several comments that I'd like to bring up concerning this case.

What I have seen in the last several years in the City of Forsyth and Monroe County, specifically, and the State of Georgia throughout, is an enormous amount of cases relative to slight changes in how ballots are touched and moved, and whatever. In the paper ballot environment, we had a 36.1% paper ballots cast, which is about 250% higher than it had been before.

So from y'all's recommendations to the State, what I would like to see is someone get the legislature, because I know they are very interested in trying to find some resolution so that the number of cases that come up about mishandling of votes and paperwork concerning votes be put to rest.

So I hope the resolution of this case -- I know some of the issues will go to the Attorney General's office, but from the City of Forsyth and our citizens, I want to thank you all, and appreciate your efforts.

SECRETARY KEMP: Thank you, Mr. Mayor. I appreciate you being here. Any questions for Mr. Howard?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir.

MR. HOWARD: John Howard, Mayor of the City of Forsyth. My address is 383 Brookwood Drive, Forsyth Georgia. I came here today just to say a few words on behalf of the citizens of Forsyth and -- as well as the people my city attorney has spoken of.

I think this is a case of misfortune more than anything. I know we had a significant number of absentee ballots from the last -- from this election versus the last one when former Mayor Howard won. But I want to make note that I think that number rose because people were excited about the fact that I was running for mayor. That's not to just brag or anything. That's because I got out and work. I walked the streets and I knocked on doors and I talked to folks and I got intimate with people and made a relationship with folks. So I think that has something to do with that.

I think that these people that we have that are going to have to go to the AG's office, it's not so much that they intentionally did anything wrong, which we understand. I think if they are guilty of anything, they're guilty of doing what they've always done over the years. However, it was just brought forward until I won election. I guess you can't put a timeframe on when something is supposed come forth. But I think that's pretty much the case.

I'm just sad to see that we have this stain on the City of Forsyth because it's just a situation that looks bad because there were a lot of impressions when I won. The first impression was maybe I had something to do with it. But I am happy to report that I have no idea how absentee ballots work because I go inside the booth and I vote. That's something I like to do. So that was the first impression.

Then the second impression was that a group of people got together and made sure I got in office. Both of those impressions are false. However, I did get out and I did make a connection with the citizens. I did get out and talk to people, and I think that's what happened. I think why what our number was significantly higher than what it was before. That's pretty much all I have.

SECRETARY KEMP: Thank you for being here, Mayor. Any questions for the mayor?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anyone else wishing to speak? Yes ma'am. If y'all want to, anybody wishing to speak, just come on up and have a seat on the front row, and we'll keep you rolling here. Welcome.

MS. GRANT: My name is Connie Grant. My address is 175 Straight Street, Forsyth, Georgia.

I'm here because I'm one of the ones that got out and worked for voters for our new mayor. First all, I would like to say this. When Tye Howard was running for mayor, we did the same exact thing we did for this mayor. We worked our butts off. And Tye, I don't know why he brought a suit against this, because he lost. And a matter of fact, we told him we was going to put him out of office; we was going to get out there and work against him. He went up there in Atlanta, he embarrassed us the first meeting he went to.

SECRETARY KEMP: Ms. Grant, let's talk about the specifics of the case. We don't want to get into any arguments and start attacking people personally.

MS. GRANT: Okay.

SECRETARY KEMP: Let's just stick to the merits of the election and the case, if you don't mind. Thank you.

MS. GRANT: Right. Okay. With me, I saw there's two counts. They said I assisted two people. One lady, she's an elderly lady. I took her to the voter registration office on the day of the election because she's an elderly lady and we knew her ballot was not going to be mailed on time. I parked at the registrar's office, I got out because she walks with a cane and took her ballot in. The people at the registrar's office came out to verify that was her in the car. That's why that's what I did.

And the second lady saw me at the store and asked me just to drop her ballot in the mail. So I had two counts against me by me dropping in the mail. Like I said, I didn't have no idea neither of those things I did was wrong.

You know, we learn by our mistakes. But it don't discourage me getting out there and helping people. I just know the right way to do it without handling ballots unless sign. But basically that's what I wanted to say that, you know, we got out there and worked for Mr. Tye Howard just as well as we worked for Mr. John Howard.

SECRETARY KEMP: Thank you. Any questions for Ms. Grant?

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Who's next?

MS. ALLEN: My name is Lois Allen and I live at 364 Brookwood Drive, Forsyth, Georgia. I was one of the ones that got out and helped with the voting process and everything.

But like Ms. Grant said, during the time when Tye Howard was, you know, elected, we went and we worked hard for him and it wasn't any problem. I'm sorry that he lost the race, and I think I saw him in my neighborhood about two weeks before the election campaigning. But John Howard -- he have to realize that -- I'm going to say this --- is a young man, have a lot of young friends; mama taught high school, daddy taught high school -- step daddy, rather, taught high school. So it's just a lot of people out there.

And when I went to people, people talked to me. Well, then, they explained to me well why they weren't going to vote. That's the first thing they said, I'm not going to vote for Mr. Howard, blah, blah, because -- I'm not going to say all of that.

But, again, like I said, I'm sorry that he lost the race, but we had told him if he did not do the right thing when he got in there, well, then we was going to try to get him out. So he didn't do the right thing, I'm sorry to say.

SECRETARY KEMP: Any questions for Ms. Allen?

(Whereupon, there was no response)

SECRETARY KEMP: Okay.

MS. WEST: Good evening, and thank you all. My name is Phanny West and I live at 385 Watson Road, Forsyth. I don't live in the city, so, naturally, I wasn't able to voted.

But my concern, and I can say this, when I moved back to Georgia, I saw the need for people to register and vote. I didn't do too many absentee ballots due to the fact that I live in Monroe County. But the main thing is, I think whoever did whatever, if they did it, I don't believe it was intentionally done because I try to go by the book and I would go to the registrar office and get a lot of material and then tried to explain to different ones that you have to go by the book.

So I truly believe if anything was done it was not intentional. It was just lack of training or maybe been done years that way. I ask you all to consider leniency on these people that's involved because, like I said, my name wasn't on the list, but I'm here to support the ones, because I worked faithfully with them. And the day of the election, see, I was in the poll in the county. So I wasn't able to vote. So, believe me, I still certainly got the heart of voting and registering people, not doing anything wrong. They just want to -- and a lot of times with the primary and general election, the rules are changing sometimes, too. Sometimes you can help a lot of people, and sometimes you can't. If you don't know that rule, what's the rule, you can be misled.

So I ask again that you consider that they -- I don't believe they did it intentionally, whatever was done. Thank you.

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

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Yes, sir.

MR. PARKER: My name is Tony Parker speaking on behalf of my wife, Lilly Ruth Parker. Anyway, the investigator, what she did, I work 95% out of town. So she was doing it for me because I was not going to be here. I brought the marriage certificate so the investigator can see because he could never catch me there. And I did call him two or three times after 5:00, but didn't get an answer. He rode by the house two times when I was there, but he wouldn't stop. That's all I got to say.

SECRETARY KEMP: Any questions for Mr. Parker?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Any questions from the Board for Mr. Harvey or thoughts?

MR. WEBB: Just to recap, Mr. Harvey, your recommendations were for the Chief Registrar and the Judge, that they get letters of instruction?

MR. HARVEY: That's correct. And that Dyan Davis be dismissed, and everybody else be bound over.

MR. WEBB: I think given the circumstances, I would make a motion along those lines and I will do so shortly.

I believe that given the spirit of the testimony we heard today, I think the Attorney General's office can handle this correctly and assess the penalties that would be appropriate. I think there are varying degrees of involvement on these cases.

With that said, I will make a motion to issue a letter of instruction to Truitt Goodwin, the Chief Registrar, as well as Judge Karen Pittman, the Probate Judge. And I will make a recommendation -- a motion to dismiss the charge against Dyan Davis. I would have the rest of the respondents bound over to the Attorney General's office.

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

MR. SIMPSON: Second.

SECRETARY KEMP: We have a second by Mr. Simpson. Do we have any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Let me just say this for the record. I agree wholeheartedly with Mr. Webb. One of the things this Board, I think, can do in a lot of instances where you had things going on and people didn't know exactly what the laws were, I think Mr. Willard and the Attorney General's office will be able to weed through who potentially could have been trying to manipulate the process versus folks that were simply trying to exercise their right to vote and the rights of those in their family and friends and just didn't know the laws and rules.

That's one good thing about this State Election Board. We help people. We're not shy about going after people who do try to manipulate, but we are also trying to educate and learn, the rest of our citizens and elections. I have been on a trip to Dodge County recently where we had for years, years and years ago, problems with absentee ballots and you have people that will not vote an absentee ballot because they're worried about an inspector coming to visit them if they do.

And I think that's just because of the educational part of making sure that if you're handling an absentee ballot that you are following the laws that are in place and you understand when and when not you can do that. And I think that will be part of Mr. Willard's job to make sure that those of you in this last election that were not understanding the law, that will be not an issue in the future and we won't get to see you again in the future, hopefully.

Those who potentially were trying to manipulate, I'm sure Mr. Willard will be consistent with actions than this Board is taken in the past.

With that, I'm going to support the motion. Do we have any other comments?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. And we will -- Mr. Willard are we going into executive session?

MR. WILLARD: Yes, Mr. Chairman. We need to go into executive session to discuss a matter pursuant to the exemption in OCGA 50-14-2 for attorney client discussion regarding potential litigation.

SECRETARY KEMP: Before I accept a motion for us to go into executive session, we had the City of Richland next. Can you be back at 1:15? Will that give you time to get lunch and get back?

(Whereupon, there was an affirmative response)

SECRETARY KEMP: Okay. I'll accept a motion to go into executive session and for us to come back at 1:15.

MR. WEBB: So moved.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: We will go into executive session and we'll see those of you back at 1:15.

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(Whereupon, the proceedings were in recess)

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SECRETARY KEMP: Let us reconvene the Thursday, February 21, 2013, State Election Board meeting here in Macon Georgia.

Mr. Harvey, we're back on our investigator report with case number 2011, number 97, City of Richland.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This involves the City of Richland municipal election in Stewart County, Georgia, November, 2011. The allegation was that the -- there were absentee ballots that were being transported back to voters after they had been turned in, that the registrar was sending them back out so that they could be corrected and not rejecting them.

It was a little bit of an unusual investigation because initially the elections superintendent, Theresa Nelson, said, yes, I did that, and I had Mattie Johnson to run the errands for me. We spoke to Mattie Johnson and she said that is absolutely not true; that never happened.

We went back to the elections superintendent, Ms. Nelson, and she said, oh, I was mistaken. Actually I didn't do that. And her attorney at the time, Mr. Coleman, responded and said that he didn't know why she had essentially changed her story, or she just got confused about the allegations. But it was determined that she, in fact, did not send absentee ballots to be corrected.

However, we did find some other violations. We found that Mattie Johnson assisted her son in voting his absentee ballot. However, she failed to sign the oath as assisting. She also improperly possessed and transported his ballot.

We did find that Theresa Nelson improperly rejected an absentee ballot without legal grounds. There was an elderly woman in a nursing home, Ferry Lee Jackson. Mrs. Maryneal Castleberry, who is the mother of a candidate, went to Ms. Jackson, and they, apparently, had been longtime associates. I believe Ms. Jackson had formerly worked for the Castleberrys. When Ms. Maryneal Castleberry went out to assist her in voting, according to Ms. Jackson, Ms. Castleberry, said, I'm here to help you vote. You want to vote for my son, don't you? Ms. Jackson said she would rather vote, her words, "her color," indicating another candidate. She said that Ms. Castleberry then took her ballot. Ms. Jackson never marked her ballot herself. Ms. Castleberry marked the ballot and took it and turned it back in. So we've got Ms. Castleberry cited for unlawful possession, interfering with electors, and illegal assistance.

In the executive report, executive summary, we've got a Charlie Johnson and John Johnson cited for receiving unauthorized assistance. I recommend those citations be dropped. As I said before, we generally don't cite people for unknowingly receiving illegal assistance.

But anyway, the family of Ms. Jackson contacted Ms. Nelson and said, hey, we don't want our mom's ballot to count because we don't think she voted it properly. Ms. Nelson canceled the ballot based on the family's request, which is not legal grounds for canceling an absentee ballot.

So, it's my recommendation that Superintendent Nelson, Ms. Castleberry, and Ms. Mattie Johnson all be bound over to the AG's office.

SECRETARY KEMP: Questions for Mr. Harvey from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak? Yes, sir.

MR. RAULERSON: Yes, sir, Mr. Chairman, members of the Board. Kelly Raulerson. I've given her my card. I'm an attorney in Albany. I'm here on behalf of the City of Richland, Ms. Mattie Johnson, and Ms. Theresa Nelson.

Basically what Mr. Harvey has recited is basically what I understand the facts to be. I just want to look -- clarify a thing or two after talking with Ms. Nelson and Ms. Johnson. It's true that Ms. Nelson, first of all, did reject the ballot of Ms. Ferry Lee Jackson. I think the family came to her and objected strenuously to the fact that she had been helped by Ms. Castleberry and some

question about whether Ms. Jackson actually cast the ballot or didn't. So she did reject the ballot, which I think under the circumstances, was certainly understandable. It may have been a technical violation of the law, but certainly did not do it with any ulterior motive in that regard on that.

As far as Ms. Johnson, what she tells us is that her husband is eighty-eight years old and I think she did assist him and sign the oath. I don't think that's the problem. Her son John was present. What she did was she read the ballot to her husband and John was in her presence and she states that John actually filled out his ballot. So that is the reason she did not sign the oath on the back as assisting him. But Charlie, her husband, she did assist him and signed the oath and delivered.

As far as the unlawful possession, the situation there is after talking to Ms. Nelson and Ms. Johnson, Ms. Johnson states that she did not take the husband and son's ballot back to the office. Now, what she did do, she did find, when she came to the office, two ballots in the door which she gave to Ms. Nelson, and I think that's where the confusion comes in after further questioning. Ms. Nelson assumed that was her son, Charlie's, ballots.

But in summarizing, any violations here were certainly unintentional. Ms. Johnson states she didn't take the ballots back and even if you look at it, it's really a technical violation and it certainly -- and I just want to say this. Ms. Nelson, that was one-time employment. The city now intends to have a city clerk who is very competent and they intend to send her to training and feel that she can do the job and want to ensure that. The things that have happened, they are unfortunate, but we will take steps to ensure that they don't happen in the future.

I really think a letter would be appropriate, but we will certainly abide by your leadership.

SECRETARY KEMP: Any questions for Mr. Raulerson?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir. Come on up.

MR. CLARK: My name is Jason Clark, Junior. I live in Richland, Georgia. My address is 217 Parker Street.

I was one of those candidates that in the process of running. All that was stated was not true. Ms. Nelson did any and everything that she could do to disqualify me by every means. And I would like to commend your office; I'd like to commend Mr. Miller. He got out and tried to get as much evidence and people to cooperate with him as much as he could.

But Ms. Nelson was used as a smoking gun. That's all she was used for. Like he stated, she was a one-time employee that the mayor put there and when -- I was on the council. At the time we realized Ms. Nelson was put in place to oversee the election, she was in school and the city council knew anything about it [sic].

But only thing I want to say, I appreciate you all for looking at some of these cases and I understand sometimes that the evidence that you get is limited and people to cooperate. But I appreciate you all. That's what I'd like to say.

SECRETARY KEMP: Mr. Clark?

MR. CLARK: Yes, sir.

SECRETARY KEMP: So you were on the city council?

MR. CLARK: Yes, sir.

SECRETARY KEMP: And you were a candidate in this election?

MR. CLARK: I was a candidate.

SECRETARY KEMP: You lost that election?

MR. CLARK: Yes, sir.

SECRETARY KEMP: Any other questions for Mr. Clark?

(Whereupon, there was no response)

SECRETARY KEMP: Do you feel like any of the rejected ballots or any of those things, you know, factor in the outcome of the election?

MR. CLARK: Yes, sir. I feel like the play [sic] that Ms. Nelson played -- I'm going to say this right here. Mr. Coleman is the city attorney and he is also the county attorney. Ms. Nelson was tied up with some stuff that went on within the county that -- then when it voted, was all messed.

His advice to her was to stay out the election as a whole. She went to retirement. When she went in retirement from the county, that's when she was pulled in in the city as a smoking gun to eliminate any and everybody that the mayor wanted to eliminate. That's what happened.

SECRETARY KEMP: Any other questions for Mr. Clark?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here today. Anyone else wishing to speak on this case? All right. Mr. Raulerson?

MR. RAULERSON: Yes, to clarify one thing. In the letters we got, one of the them was -- I didn't hear any mention -- violating (unintelligible) absentee ballots on potential violations, Mr. Harvey, and I didn't hear any mention of that. I would like to know that would be.

MR. HARVEY: This is for improperly rejecting the ballot.

MR. RAULERSON: Oh, okay. I didn't know if that was two separate things. Okay. I was confused about that. I just want to make sure there was nothing else.

And, well, you heard Mr. Clark and it was a one-time deal with Ms. Nelson, and we've taken steps to rectify any of these problems that developed. Thank you very much.

SECRETARY KEMP: Mr. Simpson.

MR. SIMPSON: Mr. Harvey, on that ballot rejection issue, should the ballot have been rejected since it was improperly handled?

MR. HARVEY: In my opinion, no. That is not a statutory reason to reject a ballot.

MR. SIMPSON: If the registrar is told that there is fraud or mishandling of a ballot they should not reject it? Seem like to me there should be some stop gap there if knowledge comes to the registrar or election personnel knowing that the ballot was handled improperly to stop it right then.

MR. HARVEY: It doesn't appear to be a provision of the code to allow that to happen. I guess somebody could go to court and get an injunction.

MR. SIMPSON: Is that a gap there that needs to be addressed in looking at the election code?

SECRETARY KEMP: Ms. Ford can make a note of that and we can look at that in our code review committee that's going on with the whole code rewrite. It is kind of a tough call when

you've got, you know, if someone thinks that a valid the ballot was voted by somebody who didn't know what they were doing, whether you should count that or not.

MR. SIMPSON: It seem like to me, the registrar ought to at least have an opportunity to look into it and if they think there is some substance to it, treat that as a provisional ballot until the issue is resolved or something.

SECRETARY KEMP: Mr. Willard, did you have something?

MR. WILLARD: We had a similar discussion at either the August or November meeting where an instance in a different jurisdiction, identical facts, someone had -- mishandling -- somebody had brought in ballots that they unlawfully possessed; the registrar rejected those ballots because of the unlawful possession. What the Board did with that was issue a letter of instruction going forward with the acknowledgment that there really wasn't anything in the code that you count the ballot and then you refer the person who unlawfully possessed the ballot to the State Election Board for potential punitive action.

MR. SIMPSON: Would that be an appropriate resolution of this matter? I mean, it's the same problem. Why not treat it the same way?

MR. HARVEY: It would not be inconsistent with what was done before.

MR. WEBB: I echo Mr. Simpson's comments. I mean, if the registrar had turned around called the Secretary of State's office for direction, you have to look at what the answer would have been. Oh, let's go ahead and count the ballot and go through this procedure and then the candidate wins by one vote. So we just don't want to get into a situation like that. I think it is something that should be looked into.

SECRETARY KEMP: We will make sure that Ms. Ford passes that along to Ann Brumbaugh so they can try to address that in the code rewrite, and we will certainly take consistent action as a Board.

What was the recommendation on Mattie Johnson and Castleberry? Was that bind over?

MR. HARVEY: Yes, sir. Bind over on both of them.

SECRETARY KEMP: All right. Mr. Simpson. Before you do that, if you don't mind, is there anyone else that had anything else they want to add?

(Whereupon, there was no response)

SECRETARY KEMP: I just wanted to make sure everybody had an opportunity to speak.

All right. Mr. Simpson.

MR. SIMPSON: I make a motion that we issue a letter of instruction to Theresa Nelson and bind over Maryneal Castleberry and Mattie Johnson, and dismiss the cases against Charlie Johnson and John Johnson.

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

(Whereupon, there was no response)

SECRETARY KEMP: I will second.

MR. WEBB: I just have a question, Mr. Simpson. Shouldn't the letter of instruction also go to the county --was this a city election? The City of Richland?

MR. SIMPSON: They are not charged; they're not a party. So I don't know that could . . .

MR. WEBB: I think you're right. Thank you.

SECRETARY KEMP: Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

SECRETARY KEMP: That motion carries. Thank y'all for being here.

MR. RAULERSON: I just want to make sure I understand.

SECRETARY KEMP: Yes, sir.

MR. RAULERSON: Letter of instruction to Ms. Nelson reference on Ms. Johnson?

SECRETARY KEMP: That's correct. We're going to send a letter to Ms. Nelson, and then Mattie Johnson and Maryneal Castleberry will be bound over to the AG's office and you can work with them resolution.

MR. RAULERSON: Thank you very much.

SECRETARY KEMP: Yes, sir. Thank you.

All right. Mr. Harvey, 2011, 108, City of Pelham.

(Whereupon, there was a brief discussion off the record)

SECRETARY KEMP: Let me back up. Disregard that last call. We will call SEB case 2011, 106, City of Graham.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This involves a municipal election in 2009 in the City of Graham.

It was reported that three individuals in a family were registered to vote at an address that was not a residence, and that one person was on the list of electors after being deceased. The investigation revealed that the deceased person was on the list of electors, however, they did not vote after being deceased. But there were three individuals who -- Lonnie Crosby, Bronnie Crosby, and Donna Crosby -- used the address of 9800 Golden Isles West, Hazlehurst, as their residential address. It had formerly been a business owned by the company [sic]. They had never lived there and they used that as a residential address. In addition, Lonnie Crosby had registered to vote while he was serving a felony sentence. In addition, he had voted in an election in 2009, therefore violating 21-2-561(3).

It is recommended that Lonnie Crosby, Bronnie Crosby, and Donna Crosby all be bound over on the list of charges.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Okay.

MR. WEBB: I'm sorry. Mr. Harvey, I had a couple of questions on the facts. The Crosby family had used the 9800 Golden Isles West address as their mailing address. Am I reading from

the facts that their residence actually did not have a numerical address and that one was assigned later when the Appling County 911 system was put into effect?

MR. HARVEY: That appears to be correct.

MR. WEBB: And do we know what year that was?

SECRETARY KEMP: I tell you what, Mr. Harvey, while you take a few minutes to look for that, we can hear from the others.

MR. HARVEY: Yes, sir. That would be good.

SECRETARY KEMP: Is that okay with you?

MR. WEBB: Yes, that's fine.

SECRETARY KEMP: Did you all want to speak?

UNIDENTIFIED MALE: He is the complainant, but I would like to respond.

SECRETARY KEMP: Okay. Mr. Fogarty?

MR. FOGARTY: Yes, sir.

SECRETARY KEMP: Come on up.

MR. FOGARTY: For the record, my name is John T. Fogarty, Junior. I live at 88 Lord Street, Baxley, Georgia, 81513. Did you have questions?

SECRETARY KEMP: No, sir. Did you want to tell us what's going on here, or is there anything you want the Board to know? You don't have to speak. I just thought you wanted to.

MR. FOGARTY: There's just a lot of things that was unanswered in this election. I did mention to you about the five absentee ballots, and you didn't say nothing about it just then, so I guess that's been resolved after you checked that out, sir, Mr. Harvey.

I didn't understand this because the election was over on Tuesday night at 7:00. I got a phone call on Thursday morning from the Probate Judge which holds our elections saying that she had received five absentee ballots after the election polls closed, and she was considering to accept

these absentees. And I thought when the election was over at 7:00 that night, that's it. You don't wait two days later to accept absentee ballots.

And that's reason I made the phone call. I didn't want to seem like a poor loser because these five absentees that she counted made me go into a runoff with another gentlemen. And I don't want till after the election is over to call and seem like a bad sport and crying because I lost. I didn't do that. These calls were made between the time of the original election and the two-week later runoff. I don't understand why she can except five absentee ballots two days, 48 hours, after the election.

SECRETARY KEMP: Okay.

MR. FOGARTY: It's just not making sense to me and according to what I found out, she's able to do this. When you can do that, why, you can change anybody's election any time, couldn't you? You can change the outcome by accepting absentee ballots late. How can this be happening?

SECRETARY KEMP: Anything else? Any questions for Mr. Fogarty?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here.

MR. HARVEY: As far as the date, we've got a letter from Appling 911. It doesn't give a date. It just says that address 9800 Golden Isles was a previous address of the Crosby store, but was never a residence and is not active at the time.

SECRETARY KEMP: What about the five absentee ballots. Did you look into that?

MR. HARVEY: I don't see any record of complaint regarding five absentee ballots in the complaint. I've got a copy of his complaint here and there is no mention of absentee ballots.

MR. FOGARTY: Those the first thing I asked you on the telephone. That's the first thing I had complained about.

SECRETARY KEMP: We can certainly look into that, right, Mr. Harvey?

MR. HARVEY: Yes, we can.

SECRETARY KEMP: We'll make sure we go back and review that allegation.

MR. HARVEY: Are you still at the same address, sir?

MR. FOGARTY: Yes, sir.

MR. HARVEY: I will contact you. In that case, members of the Board, I recommend that we table this for further investigation and re-present it at a later time.

SECRETARY KEMP: Do we want to go ahead and hear . . .

MR. HARVEY: Oh, yes. I'm sorry.

MR. CROSBY: Yes, sir. I'm Bronnie Crosby, P.O. Box 936, Hazlehurst, 31539.

SECRETARY KEMP: You're Bronnie Crosby?

MR. CROSBY: Yes, sir.

SECRETARY KEMP: Okay. Just want to make sure.

MR. CROSBY: The residence of 9800 Golden Isles, that was my Uncle Lonnie. That was -- he lived in a house right there and when my dad retired, he put a trailer right there beside it. And my dad purchased a house and I moved into the trailer. The only time I've been -- I had been told that was the only address for that area, for that residence. The reason I needed the address was because I had tried to get my AT&T and get some DSL and they had to have a residence. They would not accept a P.O. box. So I've got my bill all the way back from 2009, as far as I can go.

I did go to the registrars office and she informed me that -- see, once I got a phone number, the 911 lady called me and as far as giving me an address as far as for Golden Isles, they couldn't come up with one. So what they done was they gave me -- there's a pond right there behind the house and there's another entry way to the trailer. So she put me at that address. And, honestly, I don't recall that address.

But upon receiving this paperwork, if I can present you, I can show you where it was -- she told me it was changed nearly 18 months ago, which since then, I have myself moved to 420 Graham Methodist Church Road. I had an investigator -- I'm nervous as the dickens.

SECRETARY KEMP: I'm sorry. You're good.

MR. CROSBY: Brian McNeil, He came out. He seen me and I showed him my evidence, and on my voter registration card, he corrected it. And right now, that is where my voter registration cards are correct, 420. And Donna Crosby was my wife up until about two weeks ago and I got the divorce papers in my vehicle a outside.

I have been paying taxes for Appling. I mean, even the complainant can, under oath or however y'all do it, he knows where I live and he knows where I live at now. I do live in the limits. I'm a legal voter there.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: Do I understand you to say you had an address on Golden Isles, right? That's where you were living.

MR. CROSBY: I was informed that -- yeah. The only address there was 9800 Golden Isles.

MR. SIMPSON: Okay.

MR. CROSBY: That's when I inquired in order to get a telephone number and DSL. They had to have a physical address.

MR. SIMPSON: And that's the same address you gave the Board of Registrars when you registered to vote?

MR. CROSBY: When I registered, that was the only address that I knew, sir. Yes, sir.

MR. SIMPSON: And then sometime later, somebody came out there and gave you another address off another street --

MR. CROSBY: No. She called -- a woman called me after I had already done the registration.

MR. SIMPSON: Right. But --

MR. CROSBY: A woman called me for the 911 service and I asked her about the 9800 and she said that she could not come up and they would just do it off of Ryan Crosby --

MR. SIMPSON: That's the point I'm trying to get to. All right. Let me ask you this question.

MR. CROSBY: Yes, sir.

MR. SIMPSON: You stayed in the same place. The trailer didn't move. But they gave you an address off another street to get into the trailer; is that right?

MR. CROSBY: Not a numerical address. What it is is you've got 341, you've got Ryan Crosby. The house is here; the trailer is right there beside it. I'm on the corner. I would reference to it as on the corner of Ryan Crosby and Golden Isles West.

MR. SIMPSON: You never moved?

MR. CROSBY: I moved since then.

MR. SIMPSON: I know it. But during this period of time you lived there?

MR. CROSBY: During that time, yes, sir.

MR. SIMPSON: And you voted where they told you to live [sic] with that address?

MR. CROSBY: Yes, sir.

MR. SIMPSON: Okay.

MR. CROSBY: I voted at the fire station right there. The City Hall is pretty much in sight from where I'm at. And I went to the Registrar's office. I've got everything from her and I've got my - - everything is corrected. If I can approach you to --

SECRETARY KEMP: We'll take a motion to accept.

MR. SIMPSON: So moved.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: If you'll let us have those documents, we'll make some copies of that and give those back to you.

MR. CROSBY: I mean, even after I left, everything was in the Registrar's. This was where I voted; right here it is again. 420, I had everything changed. And see, the funny thing about it -- it's not funny; I mean, it worried me to death -- once I moved out, the trailer got broke into and the police come out. The only incident location they would put was 341 West. That's it. Like I said, I went to -- I seen the Probate Judge, I spoke to Brian McNeil, the investigator. And, in all honesty, I thought I had all this took care of.

SECRETARY KEMP: Any more question for Mr. Bronnie Crosby?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here. Just sit tight there for a minute.

MR. CROSBY: Thank you, sir.

SECRETARY KEMP: Mr. Harvey, do you have anything to add to that?

MR. HARVEY: No, sir, I don't. We can certainly look at the information he's provided and see if there's -- see if we can figure out exactly what happened.

SECRETARY KEMP: Okay.

MR. HARVEY: In addition to allegation about the five votes.

SECRETARY KEMP: Mr. Willard?

MR. WILLARD: Unless the absentee ballot issues -- and Mr. Fogarty may be best able to address this -- unless they deal with the Crosbys, we may be able to dispose, whether it's bind-over or whether it's a dismissal, however the Board wants to proceed on the Crosbys, just because you had Mr. Bronnie Crosby already here today. And if we needed to go forward on absentee ballots, that may be a separate presentation.

SECRETARY KEMP: Right. And I would like to try to do that if we can. It would be a lot easier for the parties involved not to have to come -- I don't know whether we'll be -- I guess if we were in Savannah, that wouldn't be too bad. But if our next meeting is in Atlanta, that would be a long way for you guys to travel.

Is there anyone else wishing to speak that has not spoken yet on this case?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Fogarty, did you have something you want to add?

MR. FOGARTY: Yes, sir. What he is telling you is where his address he's using is between Ryan Crosby Road and the intersection of 341, that is not 9800. 9800 is on the corner of Graham Methodist Road and 341, two blocks east of where he's talking about. I know where he lived at. It was not no 9800. His uncle lives on the corner of Ryan Road and 341. There's a house right next to it. (Unintelligible) and he lived in a trailer behind there. But he was registered on an empty lot two blocks up where the old store used to be. There's nobody on that lot. Nobody lives on that lot.

SECRETARY KEMP: All right.

MR. WEBB: May I ask Mr. Fogarty a question?

SECRETARY KEMP: Mr. Fogarty? Mr. Webb had a question for you.

MR. FOGARTY: Yes, sir.

MR. WEBB: You were a candidate for office; is that correct?

MR. FOGARTY: Yes, sir. And I still am a city council member for the City of Graham.

MR. WEBB: And is there a jurisdiction change between the two addresses? Are they in the same --

MR. FOGARTY: No, sir. They're still in Graham. See, what it is is Hazlehurst mailing address is on the north side of 341, even though it's still Graham. And Graham is on the south side. That's where the mail is delivered. He's right there. But 9800 is a empty lot where the convenience store -- his uncle used to own that lot. He sold that lot years ago. And there's now a CITGO gas station and convenience store on that lot. Now, he was right that he lived down there by his uncle's house, but that ain't 9800. That's a completely different address. That ain't no 9800.

MR. SIMPSON: What difference does that make? He lived in the same place.

MR. FOGARTY: He never lived on 9800. There was a convenience store there.

MR. SIMPSON: He voted in the right place. He had a right to vote.

MR. FOGARTY: But 9800 is a empty lot.

MR. SIMPSON: He was in the same precinct. It wouldn't have made any difference. Is that right? I'm asking a question. I don't know the answer.

MR. FOGARTY: Well, when you register, you're supposed to register on or either reside on that address where you register to vote at. That's what my understanding was of the law that you have to either own or reside on that lot. He didn't reside on 9800.

MR. SIMPSON: The information he was given told him he did.

MR. FOGARTY: He lives at his uncle's house two blocks down, not 9800.

SECRETARY KEMP: Any other questions for Mr. Fogarty?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Willard?

MR. WILLARD: If the Board is considering it -- and I think I see where the Board is going with Bronnie and Donna, and I think, based on the 911 number assistance it's probably an appropriate resolution. But in terms of Lonnie, apart from the registration issue, you do have the fact that he was voting while he was under federal supervision. I just want to point that out to the Board.

MR. SIMPSON: Different person?

MR. WILLARD: Lonnie. Is that your cousin?

MR. CROSBY: I'm Bronnie.

MR. WILLARD: Right. But Lonnie is your cousin?

MR. CROSBY: Yes, sir.

MR. SIMPSON: He's Bronnie. That's two different people.

MR. WILLARD: Right. I understand that you've got three respondents. But anything that applied to Bronnie in terms of the residence address would also apply to Donna.

SECRETARY KEMP: Bronnie and Donna applied at the same address?

MR. WILLARD: Yes.

SECRETARY KEMP: So Lonnie is not here, correct?

(Whereupon, there was an affirmative response)

SECRETARY KEMP: Well, Mr. Harvey?

MR. HARVEY: Yes, sir. What might be an acceptable resolution is, given the way the Board seems to be inclined is to bind over the case of Lonnie Crosby, who, regardless of where he was registered, registered to vote while under felony sentence. If the Board is satisfied that Bronnie and Donna Crosby were properly registered, we can close that case. And when I get the information from Mr. Fogarty regarding the absentee ballots, we could open another case, if that's appropriate. That way we can dispose of these individuals today, if that's the Board's desire.

MR. WEBB: I'm sorry. Mr. Crosby, did you have an AT&T bill?

MR. CROSBY: Yes, sir. The only thing it's got is my telephone number and my post office box.

MR. WEBB: Okay.

MR. CROSBY: What I had to have in order to get my modem is a physical address. And that's the only physical address they would give me. They still receive their mail there. That's the only mail that I had and the only address that I knew. And as soon as I got my business straightened out, I went and I took care of it.

MR. WEBB: Thank you, very much.

MR. CROSBY: Thank you, sir.

SECRETARY KEMP: Mr. McNeil is not here, is he, Mr. Harvey?

MR. HARVEY: No, sir.

SECRETARY KEMP: So we don't really know about the trailer and the empty lot and the store, do we?

MR. HARVEY: We do know that that is where the store that his relatives owned previously.

SECRETARY KEMP: I'm kind of confused here. So the trailer is where the store was or is or ...

MR. HARVEY: My understanding is the trailer, according to Mr. Fogarty, is two blocks away from where the family store used to be. So the family store and then you've got the trailer two blocks away. 9800 applies to the vacant lot where the store formerly was and where the CITGO is now. I think Judge Simpson's question was essentially they may be two blocks apart, but what is the real harm if he was going to be voting there anyway.

MR. SIMPSON: And someone else gave him that address and said this is what we want you to use for a physical address. I can't see any intentional wrongdoing on -- may not be saying that, but I don't see any intentional wrongdoing on this man's part because he was doing the best he could to comply with the rule.

MR. HARVEY: I think Mr. Fogarty's point is that he wasn't actually where -- they said the address of the store was 9800, but he doesn't live there. He lives two blocks away.

MR. SIMPSON: We have to have a map and a city directory to tell us that. I mean, the highest and best evidence is something else, you know, with the lettering of the street addresses.

MR. WEBB: I would just like to add, I mean, it wasn't too long ago my parents' address was Route 2, and they didn't have a number for their house. I suspect that what they had here was some land, a house was put up, trailer was added later. The one address they did have was 9800 and that's the address that was used, and just the best address that was passed down over and over. And I agree with Mr. Simpson. I don't believe there was any intent here. I think the people were just using the number they'd been using and that's just the way it's been. And I really don't even think this has any need for further investigation.

MR. WORLEY: I would concur.

SECRETARY KEMP: All right. So we've -- as they say, we've got a situation here.

MR. WORLEY: Mr. Secretary, I make a motion that we dismiss Bronnie Crosby and Donna Crosby.

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

MR. WEBB: Second.

SECRETARY KEMP: All right. We've got a motion to dismiss Bronnie and Donna Crosby.

MR. CROSBY: Thank you very much.

SECRETARY KEMP: Hold on. We're going to vote on it. I know you're optimistic. Any other questions for the Board or discussions with the board?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. And we have dismissed. Thank you for being here today.

MR. CROSBY: Thank y'all very much.

SECRETARY KEMP: Now we've got the issue with Lonnie Crosby. Do we have a motion for that?

MR. WORLEY: I would make a motion that we bind over Lonnie Crosby to the attorney general's office.

MR. SIMPSON: Second.

SECRETARY KEMP: We've got a motion by Mr. Worley and a second by Mr. Simpson to bind over Lonnie Ryan Crosby to the attorney general's office. Any other discussion by the Board?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: Now, I think we still have the issue with Mr. Fogarty on the absentee ballots, which we can look into.

MR. HARVEY: Yes, sir. I would recommend that -- you said you had information. We can evaluate it and, if necessary, open a new case so that we dispose of this case.

SECRETARY KEMP: You understand what we're asking you to do, Councilman? If you'll just get with our investigators in the next few days and just get us that information, we will take that on and go from there, just like we do on any other SEB case. We appreciate you being here today.

I believe that's got I on this one, right?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Am I correct that we're moving on to the 2012, number 43, Lowndes County?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Photo case.

MR. HARVEY: This case is quite simple. The July 31, 2012, primary, Joseph Wheeler was voting and he took a photograph of the DRE in the enclosed space. He was stopped by election officials, deleted the photograph, and apologized. He didn't realize it was illegal.

I recommend a letter of instruction be issued to Mr. Wheeler informing him of the prohibition against photographing ballots in an enclosed space.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak?

(Whereupon, there was no response)

MR. HARVEY: The only other thing I like to add is that this is a good example of a Lowndes County official being aware of what's going on they immediately seized on it. They should be commended for that.

SECRETARY KEMP: Ms. Cox is here. We appreciate your leadership on that. I know we have had several of these cases so it would something good for us to talk about at GEOA and other training sessions. People get excited casting a vote and want to take a picture and put on Facebook. We're just going to have to educate the folks working at the polls and elections superintendents that aren't aware of this. We will have to do a good job, too, of getting that out and just educating the public. So we appreciate you all some leadership on that.

Anyone else wishing to speak on this one?

(Whereupon, there was no response)

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

MR. WORLEY: I move we send a letter of instruction.

SECRETARY KEMP: We have a motion to send a letter of instruction to Joseph Wheeler. Do we have a second?

(Whereupon, there was no response)

SECRETARY KEMP: I'll second. Do we have any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. And we will send a letter.

Mr. Harvey, we've got case number 2012, number 52, Columbia County.

MR. HARVEY: Yes, sir, Mr. Chairman, members of the Board. This is almost the exact same fact pattern in Columbia County. This time there were two respondents who did the exact same thing. They photographed their DRE machines and posted the pictures on Facebook.

I recommend, again, each of them receive a letter of instruction and close the case.

SECRETARY KEMP: Anyone here -- any questions for Mr. Harvey?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: I move we issue letters of instruction on both cases.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion and a second to issue letters of instruction to Lee Benedict and Thomas Gardner. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We will send both of those individuals letters.

We're moving on to 2012, number 53, Long County primary.

MR. HARVEY: This case is the July 31, 2012, primary election. The complainant was the sheriff who reported that, I believe, one of his deputies had gone to vote very early in the stage of advance voting and did not get the local candidates on the ballot when he voted. It was determined that three individuals during early voting had gotten the wrong ballot. They had simply been improperly chosen. I think only the federal candidates were on the ballot, none of the local people.

Long County Board of Elections and Registration responded. They corrected the error and didn't have any problems after that. I spoke with the Sheriff and he was satisfied with the response.

We have the County Board and Ms. Hopkins, the poll worker, cited. This is a case that could be resolved with letters of instruction to each.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes ma'am. How are you doing?

MS. CUNNINGHAM: I'm fine. Vanessa Cunningham. My address is 469 South McDonald Street, Ludowici, Georgia, 31316.

THE COURT REPORTER: I didn't get the city.

MR. WEBB: Ludowici, L-U-D-O-W-I-C-I.

SECRETARY KEMP: Don't speed there.

MS. CUNNINGHAM: Don't speed there; yes.

I just wanted to further note we did take care of the issue. What we did do, in Long County, I guess they typically only to vote a Democratic ballot. So what we did was this notice was put in each booth twice. You also had it all around the polls.

KSU typically, when they build our ballots, they would put the federal ballot at the very bottom or at the very top. This time, they had it right in the center. So when you would touch the DRE -

- we don't use the express poll; we use DRE -- so when you would touch it, it would actually move. And you didn't realize it unless that person would come and tell you. So what we did was the little box that you have inside the DRE, we had to make sure that you saw that. So what happened is when you touched one, I guess because of the touch screen, it moved the -- instead of touching one thing, it pulled something else down. So they created the card. So we had measures in place when we realized that, but we took additional measures.

SECRETARY KEMP: You've got all straightened out now, don't you?

MS. CUNNINGHAM: Oh, yes.

SECRETARY KEMP: Any questions for Ms. Cunningham?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for taking the time to be here today.

MS. CUNNINGHAM: Thank you.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Anything else, Mr. Harvey?

MR. HARVEY: No, sir.

SECRETARY KEMP: We've got a recommendation for a letter of instruction for the Board of Elections and Registration. Does that go for Ms. Hopkins, too?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: I move we issue a letter of instruction to both people.

SECRETARY KEMP: We've got a motion to issue a letter of instruction. Do we have a second? I'll second. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Thanks again for being here.

Mr. Harvey, we're on to 2012, 79, Bryan County case.

MR. HARVEY: This case also involved the July 31, 2012, general primary election.

In this case the Probate Judge of Bryan County, Honorable Sam Davis, failed to place the candidates for Senate District 1 on the ballot. He indicated he thought that was something that was done at the State level. It is recommended that Judge Davis be bound over to the AG's office on violation of 21-2-285 and the listed SEB rule.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak?

JUDGE DAVIS: Sam Davis, Probate Judge, Bryan County; 151 South College Street, Pembroke, 31324.

It was my understanding, sir, that Mr. Carter's name should have been placed on the ballot by Kennesaw State. They initially sent me the ballot, the first ballot, and all the local candidates except Constitutional officers were all jumbled up. It was like a puzzle. We are one of those few counties that went through drastic changes due to population shift. We changed district lines, precinct lines, moved precincts. It was total chaos. So when they sent us that initial ballot, Mr. Secretary, they -- all of our local people were just in the wrong place, wrong district, wrong precincts. They were wrong split ballots.

When I called Michael Barnes at Kennesaw State about that issue after we proofread that initial ballot, he said he got the information from the elections office. I said, wait a minute. I send you the information about local. He said, yeah, but they got the precinct numbers, or whatever, from the elections office. I said, well, Michael, it ain't right. So there was so many changes, there was no way I could just write the corrections. I had to submit a new candidate submission form to Kennesaw State, which I did.

So he called back and said that he's been in contact with Ms. Ford's office and they got numbers - I'm assuming combo numbers, but I'm not sure exactly what he was talking about. But he said he got those numbers straight and they sent me an additional proof of the ballot. So we went back and proofread all of those.

It's contention, Mr. Secretary and Board, that on that initial ballot, Mr. Carter's name was on there. It was drastic changes on the second time when the ballot came back. Yes, it's my responsibility; the buck stops on my desk. We proofread it the second time, but we were concentrating on all of the changes that we had to make with the local candidates. But I assumed the rest of it would have been fine.

After the election, I called Michael and I said, Michael, we discovered the issue on the day of election. Michael immediately called Ms. Ford's office. They called Mr. Carter. He said, yeah, I hate it, but it's no big deal. I had no opposition. I'm fine with it. So we let it go at that.

A few days after the election, I called Michael. I said, tell me what happened that Mr. Carter's name was not on the ballot. He told me the person who did our ballot for us at Kennesaw State - he told me her name. I said, tell you what, Michael, make sure on your end it doesn't happen again, and I'll make sure on my end we catch it if it does. And I left it at that.

But it was my understanding that Kennesaw is responsible for putting those State officers on the ballot, not me. Where I made the mistake, obviously, was in that second proofreading didn't catch that name. So I asked Michael, I said, do you have the first ballot you sent me, a copy of it, so we can see if Mr. Carter's name was on there? Michael say he didn't have that. I didn't have it, either. I said can you guarantee me it was on there or wasn't on there? He said, I have no way of knowing, Sam.

My contention is that it was, but I can't prove it, sir.

SECRETARY KEMP: Any questions for the Judge?

MR. WEBB: So there was no opposition for Mr. Carter?

JUDGE DAVIS: No, sir.

MR. WEBB: No write-in candidate?

JUDGE DAVIS: He is also on the ballot in Liberty County and Chatham County, so he got plenty of votes to be re-elected, and he had no opposition.

MR. WEBB: Okay. Thank you.

SECRETARY KEMP: Anything else for Judge Davis?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here today, Judge. Anyone else wishing to speak on this case?

(Whereupon, there was no response)

SECRETARY KEMP: Judge, if you don't mind, let me ask you a question. I think it's pretty clear here that we understand going forward what responsibilities you have and Kennesaw State that this will not happen again.

JUDGE DAVIS: Yes, sir. I talked at length with Mr. Barnes and he and I came to an understanding, sir.

SECRETARY KEMP: Well, I, for one, appreciate the Judge taking the time to come today and, I mean, I think that being that this is a -- while it is very unfortunate to have a candidate left off the ballot, fortunately it was not a contested race. But I also appreciate your willingness to come and talk to us about it and wonder if we might not just issue a letter of instruction and hope that we won't see you back on a matter like this.

JUDGE DAVIS: I don't want to come back, sir.

MR. SIMPSON: I make that motion.

MR. WEBB: Second.

SECRETARY KEMP: We have a motion and a second for a letter of instruction. Any other discussion?

MR. SIMPSON: I've got one question. Ms. Ford, who is supposed to put the State candidates on the ballot?

MS. FORD: The way the ballot normally works is we master list that we look at the State level that has all the State and federal candidates on that. That goes back and forth between our office and KSU and we both proof that. Then KSU draws from that list and gives it to the County. But the final signoff is always at the County level.

MR. SIMPSON: I would like to amend that motion and suggest that the letter of instruction should only be for proofreading the ballot. I don't know that, based on what she is saying, he didn't have the responsibility to place the name on the ballot to start with. But he should have proofread to make sure. So I would amend it and have the letter of instruction related only to the proofreading.

SECRETARY KEMP: I'll second that amended motion. And I think we will do that. We'll make sure that we're not giving the Judge's instructions outside of he is supposed to have. Is everybody good with that?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We'll send you a letter, Judge. Thank you again for being here.

JUDGE DAVIS: May I say something else to you, sir?

SECRETARY KEMP: Yes, sir.

JUDGE DAVIS: (Unintelligible) Gill of McIntosh County told me to tell you any time you want to go fishing, she's ready to take you. She promises the boat won't break down.

SECRETARY KEMP: I appreciate that.

JUDGE DAVIS: Thank you.

SECRETARY KEMP: All right. Mr. Harvey, I think we're staring over, here, with the no-shows. 2011, number 54, Troup County, which is number 12 in our binder.

MR. HARVEY: I've got a proposed consent order that was sent to me by the attorney for Troup County that I would like to present to the State Election Board for their consideration.

SECRETARY KEMP: I move we accept the proposed consent order.

MR. SIMPSON: Second.

SECRETARY KEMP: We've got a second. All in favor, say "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

MR. HARVEY: This is the November, 2011, election. There were five allegations.

One, that Judge Boyd omitted a ballot question from the ballot. That was sustained. He did forget to include a ballot question. However, upon immediately learning of it, he immediately drove to Kennesaw State. He corrected it and was very responsive to the problem.

There was the allegation that there were several voters that were in the wrong State Senate district. That was substantiated. We found out there were about 35 voters who were in the wrong State Senate district and had been for some time. There were complaints about failures of the cards in voting machines. It turns out there was no failure of the cards. Judge Boyd had a difficult time uploading the results as a result of the dual database that he set up with KSU upon learning of the improper ballot.

Then there was a question because voters were made to re-register when voting provisional ballots. Well, that's a requirement. If you're not in the system, you have to submit, as we learned last month in Fulton County, you're supposed to submit a new voter registration application when you vote provisionally for not being in the system.

There was another allegation that a voter had to vote provisionally because the system indicated he had already voted. He voted provisionally. It was accepted and there was nothing really wrong with that.

As I said, the attorney for Troup County has submitted a proposed consent order. He asked me to advise you there is now a new Board of Elections and Registration in Troup County. Judge Boyd is no longer in charge of elections. The corrections have been made to the voter registration system and I would recommend that the Board consider accepting the consent order offered a Troup County.

SECRETARY KEMP: What is the consent order doing, just saying they have a board in place now and they're properly trained to handle all this?

MR. HARVEY: He goes into the corrective actions that Judge Boyd took upon learning of the problem that the ballot question left off. He went into the corrective action that the Registrar did in making sure the voters were in the proper district. There is no fine or anything like that attached to it. But essentially, it's basically a remedial plan, not an explanation of what happened.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: I trust there is nobody here that has arrived from Troup County?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: I move we accept the consent order.

MR. WORLEY: Second.

SECRETARY KEMP: We have a motion and a second to accept the consent order. All --

MR. WILLARD: Mr. Chairman, you probably need to modify that contingent upon them actually submitting an executed copy. I don't believe they've executed --

SECRETARY KEMP: All right.

MR. HARVEY: He may have submitted an executed one in the original file.

MR. WORLEY: He did.

MR. WILLARD: Our copies are not executed.

SECRETARY KEMP: Mr. Simpson won the prize today. So our motion is in order, correct? The original motion is in order?

MR. WILLARD: Yes, Mr. Chairman.

SECRETARY KEMP: We had a second, correct?

MR. WORLEY: Yes.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have accepted the consent order.

Mr. Harvey, we're moving on to 2011, number 76, City of Gumbranch?

MR. HARVEY: I hope so. This involves the November, 2011, municipal election in the City of Gumbranch. The simple allegation is that elections superintendent was married to the mayor candidate, and the son a city council candidate. The alternate city clerk was not appointed at a public meeting as required by the code, 21-2-71(b).

So we've got the city and the mayor cited for failing to properly appoint a city election clerk. Recommend the city and mayor be issued a letter of instruction informing the proper procedure for appointing a municipal elections supervisor.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here wishing to speak?

(Whereupon, there was no response)

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

MR. SIMPSON: I make a motion to send a letter of instruction.

SECRETARY KEMP: Who are we sending that letter to, the City of Gumbranch?

MR. HARVEY: City and the mayor.

SECRETARY KEMP: We've got a motion to send a letter of instruction to the City of Gumbranch and to Richard Strickland. Do we have a second? I'll second. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We are now moving to 2011, number 94, City of Wadley.

MR. HARVEY: This also is a November, 2011, municipal election in the City of Wadley. Most of the issues here involve improper handling and recording documentation of absentee ballots.

There were some ballots that weren't properly notated. There were ballots there not properly notated on the date and time received. There were ballots that were not marked rejected when they should have been rejected. There were seven voters that were not informed that their absentee ballots were rejected when they should have been notified. The elections superintendent did not keep three copies of the number of listed voters, rejected absentee electors, and two absentee ballots came in minus the inner envelope, and those ballots were rejected when they should have been corrected with new envelopes.

So there are four or five issues with absentee ballots that I think warrant binding over to the Attorney General's office. In addition, Ms. Debbie McGee, accidentally voted her husband's absentee ballot. Her husband requested an absentee ballot, it came to the house and she assumed it was hers. She voted it; she turned it in, though there was no indication of any type of fraud or malice. I recommend that she received a letter of instruction informing her of the necessity of applying for her own absentee ballot, or being careful when voting absentee ballots.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, I am ready for a motion. The recommendation is bind over Sally Adams, elections superintendent; Ms. Jackson, absentee ballot clerk; and send a letter of instruction to Debbie McGee.

MR. HARVEY: Yes.

SECRETARY KEMP: Are we binding over the City of Wadley, too?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Okay. The superintendent and the city. Okay. Do we have a motion?

MR. SIMPSON: So moved.

MR. WEBB: Second.

SECRETARY KEMP: We have a motion by Mr. Simpson and a second by Mr. Webb to bind over Sally Adams, the city clerk, elections superintendent, the City of Wadley, Ms. Jackson, the absentee ballot clerk, and then to do a letter of instruction to Debbie McGee. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. And we move to 2011, 99, City of St. Mary's.

MR. HARVEY: This case also involves the November, 2011, general municipal election. There were two violations.

There's a lot of confusion about people going to vote and being told to go to one precinct or the other precinct. What we determined was there were 214 voters who did receive precinct change cards when their precinct was moved for the municipal election.

In addition, we found out that the Probate Judge Gillette did not publish a notice for the L&A testing of the DRE machines prior to November 8, 2011, municipal election.

The good news was that is a single voting city so there are no districts, but people were re-routed and confused about where they voted. Given the nature of the necessity of L&A testing for DRE's, I recommend this case be bound over to the AG's office on the charge.

MR. WEBB: Mr. Harvey, it's only for the incident? Everything else was investigated and looked into, there seemed to be adequate answers?

MR. HARVEY: Yes. I think technically you could argue there is a violation in not sending out the precinct cards under 21-2-226, but it was essentially harmless in that people were able to vote wherever they went.

But, yes, the other allegations were unfounded.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here wishing to speak on this matter?

(Whereupon, there was no response)

SECRETARY KEMP: So, Mr. Harvey we've got the county doing the city election here?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Now, didn't we have the county in fairly recent history --

MR. WILLARD: Hancock. It was the Hancock County case.

SECRETARY KEMP: Well, I'm thinking about -- I think it was Camden that didn't hold early voting a while back? Back when Representative Cicely Hill, maybe two cycles ago?

MR. HARVEY: I recall the allegation. I can't recall if it was Camden.

SECRETARY KEMP: So the recommendation, again, was to bind over the county board?

MR. HARVEY: There is no county board. It's the Probate Judge, Martin Gillette for failure to conduct L&A testing, or publish L&A testing.

SECRETARY KEMP: You got the Camden County Board as a respondent.

MR. HARVEY: Well, the Board of Registrars would be on the issue if the Board wanted to go forward on the precinct card failures.

SECRETARY KEMP: Oh, okay.

MR. HARVEY: They would be the responsible party for that.

SECRETARY KEMP: So we've get the Judge for the L&A testing?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: That would be the only thing we're binding over? The rest of this is being dismissed?

MR. HARVEY: It could be. I think the failure to announce L&A testing is certainly the more significant of the citations.

SECRETARY KEMP: The other citations were just with the first allegation you talked about?

MR. HARVEY: Yes, sir. With the precinct cards not going out to . . .

SECRETARY KEMP: Right. All right. Any other discussion, motion?

(Whereupon, there was no response)

SECRETARY KEMP: I move we bind the Judge over to the Attorney General's office. Do we have a second?

MR. WORLEY: Second.

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

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have bound that over. Now, does the Board want to take action on the registrars or do we want to dismiss?

(Whereupon, there was no response)

SECRETARY KEMP: Could you run through that again real quick, Mr. Harvey?

MR. HARVEY: Yes, sir. There were precinct cards that were not sent out to 214 voters in time for the election so there was a lot of confusion on election day about where people voted. At the

end of the day, it didn't affect the election because it was -- the whole city was at-large, so wherever you voted --

SECRETARY KEMP: So why was that not done, do you know?

MR. HARVEY: The explanation, I believe, was that they just got behind.

SECRETARY KEMP: Would it be appropriate, instead of doing nothing to send a letter of instruction so we are on the record as making sure they've got to find time?

MR. HARVEY: Yes, sir. I believe that would have been appropriate.

SECRETARY KEMP: Had this not been an at-large situation, it could have been a disaster on election day, correct?

MR. HARVEY: That's correct.

SECRETARY KEMP: We can do whatever the Board thinks. I just wanted to make sure I understood.

MR. WEBB: I think that's an appropriate remedy. I would prefer, as you would, to send some sort of documentation to make sure it's recorded.

SECRETARY KEMP: Do you move for letter of instruction?

MR. WEBB: I move for a letter of instruction.

MR. WORLEY: And I second that.

SECRETARY KEMP: We've got a motion and a second for a letter of instruction for the -- that would go to the Camden County Board of Registrars, including the chief registrar, Mary Anne Kicklighter and Heidi Butler, the assistant registrar. Would that be in order, Mr. Harvey?

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

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Okay, Mar. Harvey. 2011, number 108, City of Pelham.

MR. HARVEY: This is the December 6, 2011, general runoff election; a little similar to the last case we had. There was a school board runoff election and you had four voters that went to vote who didn't live in the proper district. They were allowed to vote, even though they were not eligible to vote.

All three electors said, we thought we were able to vote in the election. They went and when they were pulled up on the list, the poll worker just -- apparently it was a long list and when they read across the line they saw the wrong district these three voters were in. They allowed them to cast ballots. They should not have been able to vote and the voters should not have voted.

So we've got the city and the poll manager cited for qualifying voters who were not qualified to vote and then three voters for voting where they didn't reside.

I think it would be appropriate in this case to consider letters of instruction for all parties. I don't think that would be inappropriate.

MR. WEBB: Mr. Harvey, are you including Nicole Bailey, Yolanda Thomas, and Nathaniel Harvey?

MR. HARVEY: Yes, sir.

MR. WEBB: I mean, weren't they given the ballot to vote?

MR. HARVEY: Yes, sir. Well, they went to vote and they were looked up incorrectly, so they were given the ballot and they voted. So I think you could argue they attempted to vote in a district in which they didn't have the eligibility to vote in. So to that extent I think they're culpable for that. I think the fact that they showed up and they were given the ballot when they shouldn't have been is -- part of the culpability lies with the city.

Does that answer your question.

MR. WEBB: I'm scratching my head, but . . .

SECRETARY KEMP: I think Mr. Harvey, and tell me if I'm wrong, Mr. Harvey, but you're saying that even though the voter may have been confused, it's still important for them to know what district they're supposed to voting in. I mean, we're seeing this more and more in these bigger elections where you have people just going into any polling location saying I want to vote a provisional ballot, and that causes a lot of issues. And that is something were going to have to be addressing in the future, as well. I think these letters will explain to folks that, look, you've got to know where it is that you are eligible to vote. There's got to be some, in my opinion, some responsibility for the voters. I don't think that we're trying to be too harsh just educating these folks and, obviously, the others, as well.

Mr. Simpson?

MR. SIMPSON: I think this is a widespread problem, and you've got to remember that this is a runoff election. And so, even though you can give people the benefit of the doubt and say, well, maybe they just got there by mistake, it's a lot easier in my mind to say they had a friend who needed some help and they went and voted. This is pretty much widespread in rural areas where people vote out of precinct if they get an opportunity to.

So I don't think a letter of instruction is adequate. I think we need to bind it over. I think we need to make a statement and I don't think a letter of instruction is an adequate statement. Election officials need to know people have to have a physical address, it's got to be correct, and people have got vote where they are supposed to vote because this is a real problem in rural areas.

SECRETARY KEMP: Is there anyone else here who wishes to speak on this case?

(Whereupon, there was no response)

SECRETARY KEMP: Certainly if they were here to explain, I think I would be a little more willing to do a letter. But, certainly, with them not showing up, I'm fine binding it over, too.

Do we have any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Am I correct in saying we don't have a motion yet?

MR. WORLEY: We don't.

MR. WEBB: Mr. Harvey, how were these people voting? Were they voting DRE or were they voting paper?

MR. HARVEY: I believe they were voting DRE, though I'm not 100% sure. Let me correct that. I think they were voting paper ballots.

SECRETARY KEMP: Anything else from the Board?

MR. WORLEY: I make a motion to bind all respondents over to the Attorney General's office.

MR. SIMPSON: Second.

SECRETARY KEMP: We've got a motion to bind the City of Pelham, Gloria Anderson, assistant poll manager, Lenora Butler, assistant poll manager, Nicole Bailey, Nathaniel Harvey, and Yolanda Thomas. Did I get everybody, Mr. Harvey?

MR. HARVEY: Yes, sir.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Let's see, 2012, number 12, Treutlan County.

MR. HARVEY: This case involved the March 6, 2012, presidential preference primary. There were allegations that three polling places did not open at 7:00, as required by the code. We determined there were three fire stations that -- volunteer fire stations that when the workers arrived, the fire trucks are still in the area and they were not able to set up the equipment. It took a while to get the equipment set up and the polls to open. So the polls opened sometime after seven a.m.

I believe this is not the first time Treutlan County has had this issue with opening polls. I would recommend that, based on that, Treutlan County Probate Judge, Honorable Torri Hudson, and the poll managers listed be bound over to the AG's office.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here wishing to speak?

MR. EVERETT: Gentlemen, my name is Tom Everett. I'm the Treutlan County attorney. My address is Post Office Box 1840, Vidalia, 30475. I'm here today with Probate Judge, T.J. Hudson.

My conversations with Mr. Hudson and the poll workers -- Treutlan County does not dispute the allegations made in the complaint. It appears there was a communication failure along the way somewhere where our county fire chief did not receive a call to coordinate removal of the fire trucks from the various volunteer department stations.

Once the county was aware of the problem, they acted as quickly as they could and rectified the situation. I don't believe there was any intent on the part of any poll worker or Mr. Hudson to delay the opening of the polls that day.

Generally, an unfortunate experience we hope not to repeat.

SECRETARY KEMP: We appreciate that. Any questions for Mr. Everett?

MR. WORLEY: There was some discussion this happened in the past?

MR. EVERETT: To the best of my memory, gentlemen, I believe there was a complaint two or two-and-a-half years ago before you for a similar incidence where the trucks were not removed in time and polls were delayed in opening.

SECRETARY KEMP: Mr. Webb?

MR. WEBB: To follow-up on that, was Judge Hudson in office at the time?

MR. EVERETT: Yes, sir.

SECRETARY KEMP: I think that begs the question with my good friend, Judge Hudson, where's the failure to communicate, as they say? One thing, I think this Board is very consistent in the way it treats people. But we just don't like repeat offenders. So if y'all could help us here, it would be helpful.

MR. EVERETT: TJ, correct me if I'm wrong. I believe the arrangement they had was our county manager was to contact our county fire chief in order to coordinate removal of the trucks the evening before. Our county manager had been suffering from some health concerns for some time. I don't mean to lay the blame on him, but I suspect the call was not made.

Ultimately, though, it's Mr. Hudson's responsibility as elections supervisor.

MR. WEBB: And I guess those health concerns were known, right?

MR. EVERETT: Yes, sir.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Judge, can we trust that you're going to make that call next time and not rely on anybody else?

JUDGE HUDSON: I guarantee it.

SECRETARY KEMP: I do not want to see you other than GEOA and other things. I like seeing you. I just don't want to see you here at the State Election Board.

Well, I'm willing to do another letter of instruction if the Board would go with me. Certainly, if you don't, I understand being that this is a repeat offender. But I can assure you, if we do a letter, Judge, you're not going to want to be here next time.

JUDGE HUDSON: All right.

SECRETARY KEMP: Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: I make a motion we do a letter of instruction to Judge Hudson.

MR. WORLEY: I'll second that.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: All right, judge. It's all on you now.

JUDGE HUDSON: Thank you. I appreciate it.

SECRETARY KEMP: I didn't miss anything did I, Mr. Harvey?

MR. HARVEY: I don't believe so.

SECRETARY KEMP: We're going to move to the Attorney General reports. As well with the Attorney General reports, we have been voting these consent orders in block unless we have board members that want to pull these out individually and discuss the outcomes of those consent orders, or was there some in the audience that would like to hear about the consent order.

So at this time, if there is anyone, any Board member who would like to pull one of these consent orders out, to have some explanation from Mr. Willard, let me know this time.

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, anyone in the audience that wishes to hear more specifics on any consent orders?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, Mr. Webb is asking for a minute, which we'll be glad to give him.

MR. WEBB: Mr. Secretary, I would like to pull case number 2008, 01, number one returning concerning respondent Turner Bostwick.

SECRETARY KEMP: All right. We'll do that for Mr. Webb. Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: I tell you what, Mr. Willard, let's go ahead and pull that case and give us the explanation and we'll get rid of that one first. Then we can deal with the other ones, if that's all right with you.

MR. WILLARD: That's fine. This case involves three respondents, Turner Bostwick, William Clark, and Raymond Williams, concerning the November, 2007, municipal general election in the City of Arlington.

Mr. Bostwick was the most egregious actor in this instance. He completed a substantial number of absentee ballot applications. We had over 180; I believe the exact number was 189 absentee ballot applications that he helped fill out or completed on his own and failed to sign as assisting. He then assisted 39 voters in completing their absentee ballots without signing as assisting. And he actually possessed at least one absentee ballot and mailed it on behalf of the voter. He is down for a \$5000 civil fine.

Mr. Clark and Mr. Williams were involved in just filling out absentee ballot applications without signing. They are down for a \$250 fine each.

All of the consent orders also call for a cease-and-desist and a public reprimand. I'll be happy to answer any questions the Board has.

MR. WEBB: The magnitude of the \$5000 fine, if you could you add any color to that? Is there any kind of background?

MR. WILLARD: We view this as serious in terms of the number of absentee ballot applications that were completed, although, as you're aware, the Board has not fined that as much in the past as they have taking possession of an absentee ballot, itself. This would probably, if there wasn't so much age on the case, would have been subject to an even larger fine given the volume that you're talking about. But given the age of the case, we felt a \$5000 fine was appropriately punitive enough in nature.

MR. WEBB: Thank you, Mr. Willard.

MR. WILLARD: Thank you, Mr. Webb.

SECRETARY KEMP: Any other questions on this one?

(Whereupon, there was no response)

SECRETARY KEMP: Do you have a motion Mr. Webb? Wait. Let me ask you this. Is there anyone else wishing to speak on this.

(Whereupon, there was no response)

SECRETARY KEMP: Your motion, Mr. Webb?

MR. WEBB: I would make a motion that we accept the arrangements that the Attorney General has recommended.

MR. WORLEY: Second.

SECRETARY KEMP: We have a motion and a second to accept the consent order on SEB case 2008, number 1, dealing with the City of Arlington. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have accepted that consent order.

That leaves us with the remaining cases, the -- I may just wait and let somebody make a motion and give all these numbers so we don't have to do that twice.

MR. SIMPSON: I move we accept the recommendations of the District Attorney [sic] on case number 2010,90; 2010, 92; 2010, 108; 2010, 117; 2011, 15; 2011, 20; and 2011, 41.

SECRETARY KEMP: We've got a motion. Just for the record, that would be the recommendation of the Attorney General. I think you said District Attorney, Mr. Simpson.

We have a motion. Do we have a second?

MR. WEBB: Second.

SECRETARY KEMP: Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have accepted those.

One thing I would just mention and I would like to thank our investigative team and our elections division staff, Mr. Willard and, previously, Ms. Brumbaugh. I think it's pretty clear by looking at our agenda, by taking up cases in 2011 and 2012 that this Board continues to keep a pretty torrid pace to try to stay up to date on the election cycles. We appreciate Mr. Willard and the Attorney General's office for trying also to keep up with their work after we refer issues to them where they can. That's not always possible for people who want hearings. But we are committed to continuing to do that I know the Board, as well as myself, appreciates all those parties being involved in continuing to try to keep up with everything.

If there is no other old or new business, I will take a motion to adjourn.

MR. WEBB: Motion to adjourn.

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion to adjourn this meeting. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Thank you all for being with us today and have safe travels back to where you are headed.

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(Whereupon, the proceedings were concluded at 2:45p.m.)

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C E R T I F I C A T E

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 13th day of March
2013.

Deborah L. Merideth
Deborah L. Merideth
Certified Court Reporter
State of Georgia

