

THE OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:

STATE ELECTION BOARD MEETING

GEORGIA STATE CAPITOL BUILDING
ROOM 341
ATLANTA, GEORGIA 30334

TUESDAY, MAY 14, 2013
10:00 A.M.

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

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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. I want to go ahead and call the meeting to order. I apologize for starting late. For some reason the mics at the front up here aren't working, but we'll go ahead and -- there they are right there.

Let me go ahead and call the Tuesday, May 14, 2013, State Election Board meeting to order. Like to welcome everyone here this morning. We apologize for our delayed start. We'll start with our invocation and then if you'll stand, we'll do the Pledge of Allegiance. Let Mr. Webb lead us in both of those this morning.

- - -

INVOCATION

- - -

PLEDGE OF ALLEGIANCE

- - -

SECRETARY KEMP: Thank you, Mr. Webb. Before we move on to the regular agenda, I did want to share a few words of personal point of privilege, if you might, just to thank Kent Webb for his services. This is going to be his last meeting today. Unfortunately, his work and family duties are going to take him off of his service on the board and he's going to be focusing his law practice and other things he's got going on in his personal life. We certainly wish him the best with that.

He has served ably and notably for almost four years. He has helped this board by not only being a great public servant and taking his time and efforts to be a great board member, but he's also helped, since I've been here, to really streamline our meetings to where they are, I believe, a lot faster than they used to be. We have been able to make some changes and been able to move things quicker still doing our due diligence. But certainly streamlining meetings. We have also moved through a lot of old cases that were on our docket. There's a lot of reasons for that. But this board, with Kent's leadership, has moved through most of those cases. And most of the things we take up, unless they're unusual circumstance have been -- you can see on our agenda now that we're in, you know, we're keeping up with the case. Every year after an election, we bog back down again. But we've been able to move through those and I know he's proud of that.

But more importantly, I think he's done that in just a very respectful and statesmanlike way that he's conducted himself in our board meetings. I think his demeanor, you can tell he is prepared. He has treated, I believe, everyone that's been in front of fairly and consistent, which is something this board strives for.

I want to personally thank him for his service. I have an Outstanding Georgian Certificate for him and a letter that I would like to present him on behalf of myself and the board and Secretary of State's office, and I just thank you for your service. We appreciate it.

I'd also like to, before Mr. Webb says a few words, to see if any other board members would like to make any comments.

MR. McIVER: Mr. Chair, may I?

SECRETARY KEMP: Mr. McIver.

MR. McIVER: Well, speaking only for myself and not my fellow board members, I want to thank the Webb family -- Kent's lovely wife Diane is the audience today -- for all the work that they have done. You have to serve on this board to really appreciate the total number of hours that are required; the reading; learning the election code, which is very difficult. I've studied election codes in other states trying to be better with the Georgia election code, and I tell you, it's been amended hundreds of times. And I wouldn't call it a patchwork, but it's very difficult; it's not well-organized. And one day, Mr. Secretary, we've got to get busy about straightening out this election code.

But Kent very quickly got a hold of it. He is obviously quite bright. He applied that intellect to this -- the workings of this board and he has been an extremely valuable member. And just four short years, it seems like he's been here forever and I, for one, will profoundly miss him, Mr. Chair.

SECRETARY KEMP: Mr. Worley.

MR. WORLEY: Mr. Secretary, I would just like to concur in your comments and McIver's comments. It's been a great pleasure to serve with Kent on the board. He is extremely diligent and very hard-working and, most importantly, he has approached, in my experience, every case that has come before this board in a very nonpartisan, fair way. I think he will be missed on this board. It's been a pleasure to get to know him.

SECRETARY KEMP: Mr. Simpson.

MR. SIMPSON: I'd like to join those comments from the rest of the board members

and personally say that since I'm the newest member and I fill the unexpired term of an outgoing member, it's been very helpful to me to have a fast learning curve because of your service on the board and your analysis and explanation for decisions and your comments about the election code. It's been very helpful to me personally, and I think your service has been really a privilege for the State to enjoy your having served on this board.

SECRETARY KEMP: Thank you. Mr. Webb.

MR. WEBB: Thank you all for the kind compliments and comments. I do appreciate it. And I have to say it has been an honor and a privilege to serve on this board. It's amazing that the State can really attract such quality people to volunteer their time to serve in this capacity. It does eat up a lot of time and I'd like to thank my wife for supporting me because there a lot of weekends and evenings when you're pouring through a four-inch binder and reading back to the code to make sure you make fair and impartial decisions. And you really want to focus on representing the people of the State of Georgia well.

I would like to thank former Speaker Glen Richardson for appointing me to this position, as well as current Speaker David Ralston for allowing me to continue to serve.

In the nearly four years I have served, it has been amazing the steps the Secretary of State's office has taken to really improve the process, to improve the meetings, and to really serve the people of Georgia.

One particular matter I'd like to comment on is when I first started serving, every meeting we had two to three cases involving nursing homes. And it was shocking to me to have to come in here and hear how people were taking advantage of the elderly for their own political gain. And the Secretary of State's office saw that this was an issue, addressed it, put some training out there, word by mouth that we're not going to tolerate the elderly being abused. And I can't tell you the last time we had a case from a nursing home.

So the people of this State are very fortunate to have the Secretary of State and his exceptional staff who have worked diligently to represent the people of Georgia. For me, this has made me a better person; it's made me a better attorney. And I really can't tell you how much I have enjoyed serving. So thank you. Thank you all.

SECRETARY KEMP: Thank you, Mr. Webb. We owe you, certainly, a round of applause. Thank you for your service.

And in the good spirit of this working board, we'll now go to work and not let you be lax on your last day of service. We'll make sure you stay on your toes today and we just appreciate you and your family's support and your service to our great State.

With that, we are going to move on to the approval of the minutes. We've actually got two sets of minutes to approve, the first being our January 31, 2013, meeting. If there are no changes, I will take a motion to approve the minutes.

MR. WEBB: I make a motion to approve the January 31, 2013, minutes.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion by Mr. Webb and a second by Mr. Worley to approve the January 13 [sic], 2013, minutes. If there's no other discussion, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Now we need a motion for approval on the February 21, 2013, minutes, if there are no corrections. Do I have a motion?

MR. WEBB: I'll make a motion that we approve the minutes from the February 21, 2013, board meeting.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion again by Mr. Webb and a second again by Mr. Worley to approve the February 21, 2013, minutes. If there's no other discussion, all in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

SECRETARY KEMP: We will now move on to our public comment portion where,

again, I'll remind you we'll have a -- if you'd like to speak to us, we'll allow you two minutes to address the board about any issue you may want to talk to us about today. Just a reminder that this is not for the cases that are on our agenda. We will call those separately.

I only have one person signed up today. So if there's anybody else, just let us know quick. Our first person today will be John Fortune. If you will, just say your name and give us your address for the record.

MR. FORTUNE: Hi. My name is John Fortune. I'm with Defenders of Democracy, and our address is P.O. Box 808, Decatur, Georgia 30031. Today I would like to review some issues of transparency; three issues.

As many of you know, our voting system in this State is computerized and the tabulation systems are opaque and proprietary. But another transparency issue that concerns the conduct of openness and inviting the public to this public meeting is the SEB email list. At different times the email list seems to have been purged, and I know from speaking with my colleague from the League of Women Voters back there, Sally Fitzgerald, that she did not receive an email regarding this meeting; I did not receive an email; other groups from the left and the right did not receive emails regarding this meeting being conducted here today. So they were not able to clear their schedules to attend.

And the last issue of transparency that I want to bring up is the procedural matter regarding the Douglasville Quarterman case. I'm not expected to be a witness in that case, but I am aware that Mr. Quarterman, the complainant, was not notified that this case was on the agenda, and I don't know if he'll be here and be able to speak to the case. If a consent agreement has been reached on this case, I would think it would have been appropriate for him to have the opportunity to attend this meeting and have the opportunity to review the consent agreement.

Thank you very much.

SECRETARY KEMP: Thank you very much. Anyone else wishing to address us in public comment?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, we will move on to our investigative report and our consent agenda. The way the consent agenda works, which is number 4 on your agenda, if there is no one here in the audience or on the board that would like to pull these cases off, they will be voted on in block for dismissal. If there are people here that

would like to hear these cases, or if there are individual board members that have issues or want to hear different concerns, we will gladly pull those cases off and hear them individually.

I know we are going to -- Mr. Harvey, do you want to address the Quarterman case? I know you told me before the meeting we were going to pull that off the consent agenda.

MR. HARVEY: Yes, sir. Mr. Quarterman, he was mailed notice. However, it went to old address. He found out, I think, late Friday about the meeting. He called me yesterday and we confirmed that it was sent to a bad address. So I told him we would take the case off the agenda and put it on the next agenda. I've got his proper contact information, so he should be properly noticed.

SECRETARY KEMP: So we're not moving it to today's. We're moving it to a future meeting?

MR. HARVEY: That's correct. And also on the consent calendar, there is a Brantley County case that's on the consent calendar. An attorney is here -- there are actually two Brantley County cases. Only one of them, however, is on the agenda. I would recommend -- I believe the people from Brantley Board of Elections and the respondents are all here.

As far as Brantley County, 2012-63, which is on the consent case, I would present that as it is. However, I would recommend that we add the Brantley 2012-27 case to the agenda. I believe all the parties are here, and if nobody has an objection, I believe we can handle that today.

The attorney that came, actually came on the case that is not on the agenda. Since they've come from South Georgia, I thought it might be acceptable to add that to the regular new cases.

SECRETARY KEMP: What's the number on that?

MR. HARVEY: It's 2012-27. It's not in your binder. I certainly go over the case. That's the case that case that Mr. Segui is actually here to speak on. He got confused with the two different case numbers. And I believe somebody from Brantley County Board of Elections is here also.

Unless they object -- I think the resolution will be something -- the recommendation will be something that both sides would be okay with. So if we can deal with that under new cases, I would recommend that.

SECRETARY KEMP: All right. We'll deal with that when we get to the new cases. Also, we were going to pull off and hear case number 2012, number 72, the Ronnie Mabra case. Mr. Worley needs to address us on that.

Are there any other cases that the audience would like for us to pull off? Yes, ma'am.

UNIDENTIFIED FEMALE: 2007-42, City of Byromville.

MR. HARVEY: That's on the AG calendar.

SECRETARY KEMP: This is just under number 4, the investigation reports on the agenda. That starts with the Quarterman case which we've scratched and runs through Clayton County, Commissioner Turner case.

Anybody else want us to pull one?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone on the board have a case they want to pull off?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, if you don't mind, I'd like to pull off 2013, number 4, Clayton County case.

Anybody else? Last call.

(Whereupon, there was no response).

SECRETARY KEMP: Hearing none, I will need a motion that we would dismiss the following cases that are on the consent calendar:

2011, number 86, City of Hinesville; 2012, number 36, Greene County Registration Drive; 2012, number 54, Peach County ID at Polls case; 2012, number 60, Webster County; 2012, number 63, Brantley County; 2012, number 73, Clarence Johnson Case; 2012, number 75, Sumpter County case.

If there's no one else that would like to pull any of those cases off, we're going to accept a motion to dismiss.

MR. WORLEY: So moved.

MR. SIMPSON: Second.

SECRETARY KEMP: All right. We've got --

MR. WEBB: I had a point of clarification on Clarence Johnson, the case under tab 10. Was that pulled off?

MR. HARVEY: That case was to be pulled off the agenda, Mr. Secretary.

SECRETARY KEMP: I'm sorry. Did I read that case?

MR. WEBB: You did.

SECRETARY KEMP: Let the record be corrected that we are pulling out -- so that case, are we just going to hear that?

MR. HARVEY: We're going to reset that to the next agenda.

SECRETARY KEMP: Okay. My apologies. So we will not be -- this motion will not deal with 2013, number 73, Clarence Johnson case. Everybody clear? Thank for that, Mr. Webb.

All right. We've got a motion by Mr. Worley and a second by Mr. Simpson to dismiss the previously called cases. If there is no other discussion, all in favor, signify by saying, "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

All right. Mr. Harvey, we'll go ahead and hear the Mabra case; 2012, number 72.

MR. HARVEY: This case involved a candidacy affidavit of candidate Ronnie Mabra. There is an allegation that he may not have been qualified, or met the qualifications that he put on his candidacy affidavit. The investigation revealed that in October of 2011, Mr. Mabra registered to vote in Fayetteville, Georgia. There was a situation with his home going into foreclosure, him moving into his mother's address, and then filing his candidacy and affidavit in May of 2012.

It was determined that he had met the residency requirements for running for office and it is recommended this case be dismissed.

There was a second allegation that there were signs put up that said, Ronnie Mabra, State Representative District 63, Free Wings, with an "I Voted" sticker, no matter who you

voted for. We couldn't find anybody that put those signs up. Mr. Mabra denied having anything to do with the signs. There's no evidence that anyone actually did receive free wings, and I would recommend that charge be dismissed, as well.

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

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here wishing to speak or address that case?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Worley.

MR. WORLEY: Mr. Secretary, I asked that the case being taken off the consent calendar only because I find it necessary to recuse myself from voting on that matter.

SECRETARY KEMP: Let the record reflect Mr. Worley has recused himself and will not be voting. Any other questions or comments from the board?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: If not, I'll take a motion on recommendations to dismiss.

MR. McIVER: I so move.

MR. SIMPSON: Second.

SECRETARY KEMP: Mr. McIver moves to dismiss; Mr. Simpson seconds. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have dismissed case 2012, number 72.

We will now move on to 2013, number 4, the Clayton County case.

MR. HARVEY: This case involves a complaint that Clayton County Commissioner Jeffrey Turner, at the time he filed his candidacy and affidavit put false information regarding his residency. He filed his candidacy affidavit on May 25th, 2012. I believe some of the confusion came that Commissioner Turner, while he had moved -- I'll get into the timeline in just a minute -- while he had moved, he was going through a divorce and going through a bankruptcy, and in some of his filings in these other matters, he had statements where he listed his address at his former address in Henry County.

The investigation determined that in December of 2010, he, in fact, moved to Clayton County where he signed a rental agreement. In -- April, 2011, he registered to vote in Clayton County. Both of those establish his residency in Clayton County, and it appears there was no residency issue, no false information put on his candidacy affidavit. He explained the disparity in the bankruptcy and some of the other civil matters as in order to keep business flowing so they would go to one location.

So I recommend this case be dismissed. I don't find any evidence he put false information.

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

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, I accept a motion.

MR. WORLEY: Mr. Secretary, I make a motion we dismiss this case.

SECRETARY KEMP: Mr. Worley moves to dismiss.

MR. WEBB: Second.

SECRETARY KEMP: Mr. Webb seconds. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

That's got everything on the consent agenda, right, Mr. Harvey?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: All right. We're now going to move to our regular new cases. What I want to do here is to try to help the folks that bothered to show up this morning. As we go through and I call these cases, if you're here for this case, whether you're a respondent or county or whoever, just let us know and we will take those in order that we have them. For the cases where people who are not here, we'll save those, move those to the foot of the calendar, which will hopefully speed things up.

So I'm going to take the Brantley County case first. I know you all are here. We've got Wheeler County, Nobles case?

UNIDENTIFIED MALE: We are here, Mr. Secretary.

SECRETARY KEMP: Thank you. Murray County, Rayburn case.

UNIDENTIFIED MALE: Yes, I'm here.

SECRETARY KEMP: DeKalb County SPLOST case.

UNIDENTIFIED MALE: We're here.

SECRETARY KEMP: City of Clayton, candidate qualification.

(Whereupon, there was no response)

SECRETARY KEMP: Clayton County?

(Whereupon, there was no response)

MR. HARVEY: City of Clayton, sir.

SECRETARY KEMP: I'm sorry. City of Clayton.

MR. WILLARD: Mr. Harvey, is that one we received correspondence from their attorney yesterday?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: All right. City of Alamo.

UNIDENTIFIED MALE: Here

SECRETARY KEMP: City of Quitman.

UNIDENTIFIED MALE: Here

SECRETARY KEMP: City of Porterdale.

UNIDENTIFIED FEMALE: Here

SECRETARY KEMP: City of Warwick.

UNIDENTIFIED FEMALE: Here

SECRETARY KEMP: Gwinnett County.

(Whereupon, there was no response)

SECRETARY KEMP: 2011, number 100, Gwinnett County case.

(Whereupon, there was no response)

SECRETARY KEMP: 2011, 102, Fulton County, Henderson.

(Whereupon, there was no response)

SECRETARY KEMP: City of Monticello.

UNIDENTIFIED MALE: Good morning, Mr. Chairman. We're present and ready to proceed.

SECRETARY KEMP: Thank you. 2012, number 4, Paulding County felons case. Okay.

2012, number 11, Oconee County.

UNIDENTIFIED FEMALE: (Unintelligible)

SECRETARY KEMP: 2012, number 14, Decatur County, PPP.

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, we've pulled off 2012, number 18; is that right -- number 36? It's a PPP.

MR. HARVEY: Yes, sir.

SECRETARY KEMP: All right. 2012, number 25, Clarke case; Clarke County.

(Whereupon, there was no response)

SECRETARY KEMP: 2012, number 26, we've got the Hoffspiegel & Associates case.

UNIDENTIFIED MALE: Yes, sir. Present.

SECRETARY KEMP: Thank you. 2012, number 34, Wheeler qualifying case.

UNIDENTIFIED MALE: (Unintelligible)

SECRETARY KEMP: 2012, number 62, Hall County.

UNIDENTIFIED MALE: We're here.

SECRETARY KEMP: 2012, 152, Douglas County, private voter registration case and 2012, 159, voter registration drive case.

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Mr. Harvey, we can take the Brantley County case first, 2012, number 27.

I want to make sure that -- are all the respondents in the case here?

MR. HARVEY: The attorney for the respondent is here, and I believe someone is here from the Brantley County Board of Elections; is that correct?

UNIDENTIFIED FEMALE: We were for the case number 63.

MR. HARVEY: That was just closed under consent.

UNIDENTIFIED FEMALE: Right.

MR. HARVEY: This involves Brantley County and the respondent. If they would be willing to have the case presented, we could go forward, or at least maybe go forward on the respondents represented by counsel. It's a fairly straightforward case and I believe I'm going to recommend a letter of instruction be issued to the parties.

SECRETARY KEMP: Well, why don't we do this. Let's just go ahead and hear the case and if we have any objections from the board or any respondents or anybody in the audience, we can hold off our decision. I think with the attorney being here, we should

go ahead and at least hear the case.

MR. HARVEY: This case involved an allegation that an officer in the Democratic Party was also serving as the chairman of the Board of Elections in Brantley County. The investigation determined that Mr. Hilton Morgan was, in fact, the Secretary of the Democratic party and also accepted the position as the chairman of the Board of Elections.

As soon as it was brought to their attention that there was a conflict there in the law, the situation rectified. I've got Mr. Segui here representing Mr. Hilton. He's provided some affidavits essentially where people have said they had no idea they were doing anything wrong.

And so I would recommend that both for Mr. Morgan and for the Brantley County Board of Elections, that a letter of instruction be issued reminding them of the necessity to avoid conflicts in those appointments.

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

(Whereupon, there was no response)

SECRETARY KEMP: Anyone from the County or respondents wishing to speak to us?

(Whereupon, there was no response)

SECRETARY KEMP: Well, Mr. Worley, being a Democratic Party appointee, do you have any objection to us moving forward on this?

MR. WORLEY: No. As long as the respondents don't object, I have no objection.

UNIDENTIFIED MALE: (Unintelligible)

SECRETARY KEMP: Sir, are you representing a respondent?

UNIDENTIFIED MALE: Yes. Hilton Morgan.

SECRETARY KEMP: Why don't you just come up and give us your name and address for the record and let us know that you are representing a respondent. I think that would make everybody feel a lot better that the respondents are here.

MR. WEBB: My question is, is Mr. Hilton a respondent?

MR. HARVEY: Yes, sir.

MR. WEBB: Is he represented --

MR. HARVEY: Mr. Segui is representing Mr. Morgan.

MR. WEBB: Thank you.

MR. HARVEY: And then the members of the Brantley County board are here also.

MR. SEGUI: My name is Joseph Segui. I represent Hilton Morgan. My address is P.O. Box 699 Waynesville, 31566.

SECRETARY KEMP: You don't have any objection to the letter of instruction?

MR. SEGUI: We don't. As Mr. Harvey said, as soon as the problem was brought to their attention, immediately, that member resigned from the chairmanship.

SECRETARY KEMP: Very good. Thank you. Any questions for Mr. Segui?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anybody from the board or County wishing to speak?

UNIDENTIFIED FEMALE: (Unintelligible)

SECRETARY KEMP: You're okay with the letter of instruction?

UNIDENTIFIED FEMALE: Yes; fine.

SECRETARY KEMP: Just wanted to make sure. Anyone else wishing to speak? Yes, ma'am. Come up to the mic.

MS. SWINDAL: My name is Deborah Swindal, and I live at 460 Pennahatchee Road, Vienna, Georgia.

I have nothing to do with this Brantley case, but I would like to say that a member of the Board of Elections within a county, the members of the committee, number one, should know enough about the law to be able to determine something as simple as the Chairman of the Democratic Party not eligible to be on that board. This is a problem that we have a small counties, is that people do whatever they wanted to and then say, oh, we didn't know. I mean, common sense can tell you that the Chairman of the Democratic committee for that county shouldn't be anywhere near the Board of Elections committee.

And then just to write it off with a little slap on the wrist, that's the problems that we have

in small counties. Nothing happens when they do what they know was wrong. And nothing happens. And we get elections that they vote absentee when they know they're not supposed to and nothing happens. And this is why. They get a slap on the wrist.

There is nobody in this room will ever believe, in my opinion, if they've got a brain in their head, that this person didn't know and the members of that board of elections committee didn't know.

So I personally am unhappy because the people in the small counties know what results this kind of slap on the wrist that our elections go to hell in a hand basket.

SECRETARY KEMP: Any questions for Ms. Swindal?

(Whereupon, there was no response)

MS. SWINDAL: And I apologize if I was being a little fiery because I got fired up on that one. Again, we're here because of election fraud and it happens all the time. And we're in a small county, and this is why.

SECRETARY KEMP: Thank you for your comments and we appreciate that. And, of course, I'll also make sure that the record reflects that we have actually arrested people for absentee ballot fraud in recent years in the State of Georgia. So if anyone has any allegations about voter fraud of any kind in this state, I can assure you that Mr. Harvey and his team will investigate if we get a complaint and this board will bring every one of those cases to this meeting. They may be dismissed if there is no evidence; they may be given letters of instruction; they may be referred to the AG's office; or we may take other measures. But I can assure you that this office and this board and these investigators will look at every single complaint that we get in the elections process.

Okay. Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: I move we issue a letter of instruction concerning this to the Board of Elections.

SECRETARY KEMP: We have a motion by Mr. Simpson.

MR. SIMPSON: Before I complete that motion, if I may ask the attorney, who appoints election boards? Does the County Commissioners appoint election boards? That may be who we need to send the letter of instruction to is the appointing body.

MR. SEGUI: This particular member, you know, I don't want to speak out of turn, but I'm not exactly sure who appointed this one. But the party appoints one member of each party -- Republican appoints one; Democrat appoints the other -- and I believe the Board of Commissioners appoints the other members; the supervisor.

MR. SIMPSON: Do you know who appointed this member?

UNIDENTIFIED FEMALE: That's correct.

SECRETARY KEMP: Let me do this. Come on up. We need to be able to make sure we can get this on the record and that our reporter can get this correct for the transcript. If you will, give us your name and address for the record, please.

MS. TURNER: My name is Christine Turner. I reside at 352 GW Heisman (unintelligible), Georgia. I am elections supervisor for Brantley County.

And how our board is appointed is two is appointed by the Democrat Party, two are appointed by the Republican Party, and one is appointed by the Board of Commissioners.

SECRETARY KEMP: Any questions for Ms. Turner?

MR. WEBB: I think Mr. Simpson's question was who appointed Mr. Morgan?

MS. TURNER: Hilton Morgan was appointed by the chairman of the Democrat party.

MR. SIMPSON: If he was the chairman --

MS. TURNER: Hilton Morgan the Secretary of the Democrat party. Hilton Morgan was not the Chairman of the Democrat Party. He held secretary position. He was never the chairman of the Democrat party.

SECRETARY KEMP: Okay.

MR. SIMPSON: So is the information we received wrong? I was under the impression he was the Chairman of the Democratic party.

MS. TURNER: No, sir.

MR. HARVEY: That was the original thought. It turns out he was an officer, which is also prohibited. So he's the Secretary, which would also constitute a violation.

MR. SIMPSON: Okay.

SECRETARY KEMP: Thank you very much. Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Simpson, if you want to restate your motion, please.

MR. SIMPSON: Yes. I'd move that we send a letter of instruction not only to Board of Elections, but to the Chairman of the Democratic Party in Brantley County.

SECRETARY KEMP: Okay.

MR. SIMPSON: And it may be helpful to send it to the Chairman of the Democratic Party of the State of Georgia.

SECRETARY KEMP: We could certainly do that as well. I think the problem with the State is a lot of these election boards are decided by local legislation so they're different all over the State. Some of them have County Commissioners do it; some of them have judges doing it; certainly, have the parties doing it a lot. We can certainly send a letter to the State party. But I think it's more of a local issue.

MR. WORLEY: If I might, Mr. Secretary, I think it's perfectly fine to send a copy of whatever letter of instruction you want to send to the State Democratic Party. But the State Democratic Party, as far as I can tell, had no role whatsoever in this case.

MR. SIMPSON: The reason I mention it is for educational purposes so that the party can give guidance to their county chairs and other sub organizations of the party to make sure that in these appointments, they don't violate the law.

MR. WORLEY: By the same token you might as well send a letter to the State Republican Party.

MR. SIMPSON: No problem. That's fine.

SECRETARY KEMP: Well, you want to restate your motion?

MR. SIMPSON: Why don't we just send it to the little girl in the lane.

I move we send a letter of instruction to the election board of Brantley County and the Chairman of the Democratic party in Brantley County.

SECRETARY KEMP: Okay. To the respondent as well?

MR. SIMPSON: And to the respondent.

SECRETARY KEMP: We have a motion for a letter of instruction. Do we have a second? I'll second. Any discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Mr. Harvey, we're on to 2010, number 113, Wheeler County Nobles case.

MR. HARVEY: Yes, sir. This case is, frankly, one of the more disturbing election cases I've come across in recent years. What I'd like to do is take this case, the Alamo case, and the other Wheeler County case in a row. But I'm going to do this case first because there's a common thread that runs through all three of the cases.

Specifically, with 2010, 13, this case exposed to multiple weaknesses in --

SECRETARY KEMP: Mr. Harvey, is this -- you said 13. It's 113, right?

MR. HARVEY: I'm sorry; 113. Yes, sir.

There were numerous allegations; including illegal campaigning at the polls; voters not being in the proper district; improper handling of absentee ballots; actually voting for other people; allowing people to vote for other people; alcohol being exchanged -- being traded in exchange for votes.

What we found as a result of a pretty comprehensive investigation is that many of the electors were not in their properly appointed districts.

When asked about this, the Chief Deputy Registrar Janice Nobles, actually said that she didn't use a map or any other system for determining residency. She just had it all in her head. And she just kind of knew, based on where people lived, what district they would vote in. It ended up with many voters voting in the wrong district. And that's kind of the tip of the iceberg. But that is going to be a big problem in Wheeler County and in the next two cases we deal with.

In addition, in this election Ms. Nobles' daughter was on the ballot was for elected office. There are several cases of voters who went into the -- she's also the assistant tax commissioner. There were at least two cases where voters when in to handle non-election matters -- to get their car tags and their boat tags -- and they were specifically

solicited by Ms. Nobles to vote and to vote for her daughter.

In at least two cases, individuals had their ballots cast by Ms. Nobles. A young man when into get his tag and she essentially kind of lulled him into voting. He says she got the voter access card; put it in the machine; she selected the people to vote for; she cast his ballot; and he never had anything to do with it.

Another voter had a similar story. And then a third voter, Mr. Van, when he went to take care of his tags, he was told he could vote for his daughter. And so Ms. Nobles filled out the voter certificate for his daughter, and then Mr. Van actually cast a ballot for his daughter.

Signatures on absentee ballot applications and absentee ballot envelopes were not compared; the proper times around notice on absentee ballot applications. Ms. Nobles accepted phone requests for absentee ballots and then, essentially, forged the applications herself. So if I called and said, hey, would you send me an absentee ballot, she would fill out an application in the name of Chris Harvey and then sign Chris Harvey's name and send me the absentee ballot.

There were two individuals who did not live in Wheeler County who voted in the election. I'll talk about them in a minute.

There was also a case where she got an absentee ballot application for a gentlemen that she knew did not live at the address where the absentee ballot application came from. In fact, the address was the house where her daughter lived. She accepted the application, she mailed the ballot to the address. It came back and was counted as accepted without a signature. We found the voter and he verified that that was not his signature. So Ms. Nobles sent a ballot to somebody she had to know did not live there and it came back. It was unchecked and it was counted.

In addition, we had a few tangential issues that weren't necessarily connected to Ms. Nobles, but also turned into violations.

One was Laurie Jeter provided assistance to two voters and she didn't sign as assisting. Mary Wright is a voter. She requested an absentee ballot for her son who was living out of state. She filled out the application, she filled out the ballot, she voted the ballot, signed his name, and sent it back in. And that, too, was accepted because, again, Ms. Nobles wasn't doing any checking of absentee ballot applications and signatures to voter registration applications.

The two voters we've got cited as voting living out of the county, Mr. McCallum and Mr.

Fulfer. In looking over their situations a little bit more, it would appear that under 2-17, they still retained the right to vote in Wheeler County because they had been registered there and they had both temporarily moved out, but expressed that it was their intention to return to Wheeler County.

So I recommend, as regarding Mr. Fulfer and Mr. McCallum, those allegations, those charges, be dismissed. However, the -- all the other allegations, I would recommend be bound over to the AG's office for consideration of very serious sanctions.

I believe the attorney for Wheeler county is here. Ms. Nobles was not able to be here. I believe she's received an eye injury. But we've got everyone from the Probate Judge to Chief Registrar to Ms. Nobles cited with some serious violations. And then individual voters for some individual acts.

So I recommend that this case be bound over to the AG's office for appropriate action.

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

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak to us on this case? Come on up to the mic so we can hear you.

MR. AVERY: Mr. Secretary, I am Perry Avery, attorney for Wheeler County. Our office address is 1302 Bellevue, Dublin, Georgia.

I think, if the board would see fit, all of these cases are sort of intertwined together, and maybe if Mr. Harvey would like to go ahead and finish the presentation of the cases, I will reserve my comments for all three cases at the end.

SECRETARY KEMP: Mr. Harvey, what are the cases that we've got?

MR. HARVEY: The next is the City of Alamo, which is also going to contain registration problems in which Ms. Nobles is a respondent, in addition to other people.

And lastly, is going to be the Wheeler County qualifying, which is towards the end on the agenda. But I think Mr. Avery might have a point. Procedurally, it's proper to sort of put it all out there because you're going to see some of the same allegations over and over again.

SECRETARY KEMP: Anyone on the board object to us letting Mr. Harvey go through all three cases?

(Whereupon, there was no response)

SECRETARY KEMP: All right, Mr. Harvey. Why don't you go ahead and proceed. What is the next number? City of Alamo.

MR. HARVEY: The next is City of Alamo, which should be tab 26.

And although this involved the city election which was done by -- the election was not conducted by Ms. Wheeler [sic], it was conducted by Abigail Padgett who was the elections superintendent. Some of the issues we have here -- there was an allegation that there was a person in the polling place with a firearm and a taser and that he, during the counting of the ballots, he actually was handling some of the ballots.

You have multiple allegations that voters were not in their proper district. And you have allegations that absentee ballot applications and absentee ballot envelopes were not properly handled, processed, and documented by the election officials.

What our investigation showed, again, as regarding the Wheeler County Board of Registrars, Ms. Joyce and Ms. Nobles, they were accepting voter registration applications that had no resident address on them. They were accepting applications that simply had a P.O. Box. They were not requiring that information be corrected or amended. And, again, they were keeping the information in their heads as far as where people were registered to vote. They did not have a map; they had no system.

Also, although this may not be a violation, I think it speaks to the level of organization, they filed voter registration applications by date they were received. So there was no way to go back and pull the specific voter registration application. You have to know what date and year somebody registered to vote. In almost every other county you could go and it would be done alphabetically. So they could pull Chris Harvey and to go the H's and find me. Not so in Wheeler County. It was done by date. They had also never been purged and apparently their system was just completely overrun.

So we've got the people in Wheeler County cited for those voter registration applications and failing to put people in proper districts, similar to the previous case. And we've got the city elections superintendent, Abigail Padgett, cited for the failure to properly reject absentee ballots and failure to properly note on absentee ballots times they came in; require the proper information on the applications and certificates.

We've got Gail Brown, who was the chief poll manager, cited for failing to require properly completed voter certificates in 60 cases during the election.

And lastly, Lloyd White, who is the person alleged to be on the polling place property

with a firearm. He, in fact, admitted to having a taser. He did not have a firearm, according to him, and no other sources were able to actually say he actually had a firearm.

He did, however, when it came to tabulation, he did help in removing physical ballots from the ballot box which he was not authorized to do, as being non-sworn -- as not being a sworn poll worker.

So on all of these cases, I recommend that these individuals be bound over to the AG's office for appropriate sanctions.

SECRETARY KEMP: What was the third case number again?

MR. HARVEY: The third case number is going to be 2012-34, which is going to be your tab 39.

This case is simpler. In this case, a candidate planned to qualify for office. He went specifically to Ms. Nobles because he thought that he was in the wrong district. And she looked it up in her system, be that as it is, and she told him specifically, you are in the proper district; you're in this district; you're in this district. So he qualified in that district.

Well, then she told him, you know what? I checked my system again and you're actually in the wrong district, so you're not going to be qualified to run.

Judge Braswell, who is the Probate Judge, then had a conversation with the candidate and simply said, you know what? You're in the wrong district. I'm going to disqualify you and take your name off the ballot. He didn't provide any notice; he didn't have a hearing. There was no formality in terms of properly handling the challenge.

And, again, to get back to the issue with the Wheeler County Board of Registrars not having a system to properly determine where voters were registered. And then, lastly, Probate Judge Braswell got cited for failure to properly challenge a disqualified candidate.

I recommend that they, again, be bound over to the AG's office for appropriate sanctions.

I do have some documents that were submitted with regards to the first case where people were providing assistance, and also a letter from Judge Braswell where he acknowledges he made a mistake and apologizes to the board and accepts the blame for what he did, if the board wants to accept those.

MR. WORLEY: So moved.

MR. McIVER: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have accepted the documents.

Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: I'm sure there will be some when we get done. Mr. Avery, are you ready?

MR. AVERY: Mr. Secretary, without getting into the merits of the case, at this stage, obviously, as County attorney, I am not privy to any of the exhibits, affidavits, or otherwise that the State has. I would like to point out that Wheeler County is the second, I believe we are the second poorest county in the State, but that is no excuse for voting irregularities. We've got some problems that need to be fixed.

I am also under no illusion as to where this more likely than not is headed. But I would like to at least point out to the board that since the investigation and since we've been cited for the problems that we have here, our voter list has been purged. Ms. Nobles has stepped down as Chief Deputy Registrar. In fact, we haven't entirely newly appointed board coming online in July of this year.

We're unique in that the Chief Deputy Registrar office is the same office as the tax commissioner's office. So what we're going to do is we have contacted the State and are working toward getting all the voting instruments, voting documents, moved out of that office and to its own office that would be limited to the new Board of Registrars.

That being said, we will try to do better; we're trying to get it fixed.

SECRETARY KEMP: Thank you, Mr. Avery. Any board members have a question for Mr. Avery? Mr. McIver.

MR. McIVER: Mr. Avery, since you have predicted what our action is likely to be, let me ask you to predict what your reaction is going to be. If we bind this case over, what

will be the position of the County?

MR. AVERY: We're going to fix our problems. Period.

MR. McIVER: Are you going to seek settlement in this matter or will a hearing be required --

MR. AVERY: We want to get it resolved. There's no doubt about it. I mean, we want to get this resolved. We don't have the, for lack of better words, the funds to -- we don't want this to drag out. We want to get it resolved. If it is bound over to the AG's office, then we'll work with the AG's office to resolve it to their satisfaction and it's something the residents of Wheeler County can live with and what's fair to them.

MR. McIVER: Thank you.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak on this case? Yes, sir. Come on up. Mr. Avery, thank you for being here.

MR. AVERY: Yes, sir.

SECRETARY KEMP: I'll just remind you as you come up, just give us your name and address for the record. We appreciate it.

PASTOR BROWNING: My name is Andy Browning. I live at 34 South Broad Street, Alamo, Georgia. My wife and I moved to Alamo seven years ago; I'm a Methodist pastor there.

I want everyone to know in this room that Wheeler County is one of the finest places to live. Alamo City is a wonderful city to live in. The problem is that a small group of people took control of things and put themselves in places, and I believe when they first started they thought they were doing good.

Right now in our county, the biggest joke that there's ever been is the elections. People don't trust going in and having their vote count. They don't know who's vote is going to get counted. I came up here today because I was hoping that somehow this board, especially for the City of Alamo, could uncertify that election and say we need a new election. We need a new mayor; we needed new council, and everything. But I understand now that is not in your authority.

But I just want all of you to know that the majority of the people in Wheeler County are good, honest, Christian people, and things just got caught up and a group of people thought they could get away with anything they wanted to do.

I love that county and I'm going to live there the rest of my life, and I know a lot of other people that love it, too. The young lady sitting beside kept shaking her head; couldn't believe what happened. Well, we know what happens in a lot of small, rural counties, because one man with a lot of money or one woman with a lot of money can get a lot of things done.

Thank you, Sir.

SECRETARY KEMP: Thank you, Pastor. Anyone have questions for the pastor?

(Whereupon, there was no response)

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

MR. EVERETT: My name is Tom Everett. I am the attorney for the City of Alamo. My address is Post Office Box 1840, Vidalia, Georgia 30475.

Like Mr. Avery, our County attorney, I can't speak directly to the specific allegations concerning the voter certificates or absentee ballots because I haven't seen the exhibits. I can tell you I've spoken with Ms. Gail Brown, our former chief poll manager and our mayor. It appears to me that we're going to have a complete change of staff on our local elections in the future for the City of Alamo.

As to the allegation concerning Mr. Lloyd White, the gentleman who appeared with a taser gun, in checking with my mayor regarding that, she tells me that she invited Mr. Wright, who is a bail bondsman from Dublin who was a friend of hers, to come to the polls that day as security, and that he did, in fact wear taster gun, and he, in fact, is not a trained poll worker. My recommendation to the city and the Mayor was that in the future if we need any security, that should be done by local law enforcement, not by private citizens.

I think the allegations demonstrate that we have some fundamental problems in Wheeler County from the top down and that some wholesale changes need to be made with regard to how we conduct our elections. I can tell you by practicing law in three or four rural counties surrounding Wheeler County for the last 18 years, we have some fundamentals problems in South Georgia that probably exist everywhere, in that you cannot separate politics from the election process. I don't know what the answer is. I would be a fan if the Secretary of State's office wants to get involved in the handling elections in South

Georgia. I doubt they want to get into that business, but that might be a cure to this problem.

But I can assure you the City of Alamo will work with the Attorney General's office in fashioning some form of response and resolution to this. Thank you.

SECRETARY KEMP: Any questions for Mr. Everett?

(Whereupon, there was no response)

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

MS. BROWNING: My name is Laura Browning. I live at 34 South Broad Street; I live in Alamo, Georgia, in the County of Wheeler.

I would like to say that since we moved to Wheeler County that I have worked some of the polls as a poll worker. Many times have we brought to the attention of the registrar's office that there were problems within the registrar's books. We have sent people each and every election, the same people back to her office to tell her that there are problems on the roll. It never did get fixed. It was a real problem that was brought to her attention many times and never did any of it get fixed until it came to this board's attention.

So I just wanted to be sure that you're aware of that, that there were people trying to bring that to her attention and it was ignored. I think that it speaks volumes here, and I wanted to make sure that that was a point taken.

SECRETARY KEMP: That is a very important point and I appreciate you taking your time to come here today to let us know that. Any questions from the board?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anyone else wishing to speak? Yes, sir, Mr. Avery.

MR. AVERY: Just one more point of reference. I think throughout this investigation, it seems that Ms. Nobles -- I think most of the allegations are against her. She did want to be here today to field any questions. However, she did suffer a traumatic injury to her eye. She had taken her granddaughter fishing and her granddaughter threw the pole and got a hook caught directly in her eye. As result, she's had several unsuccessful surgeries. So it has nothing to do with the merits of the case, but I would like to submit her doctor's excuse for the injury to the board just to let you know the reason as to why she couldn't be here today.

SECRETARY KEMP: We appreciate that and we believe your testimony.

MR. McIVER: I move to admit.

SECRETARY KEMP: We have a motion to accept. I'll second. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have accepted the doctor's note.

Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Anybody on the board have a comment or motion, discussion? Mr. Worley.

MR. WORLEY: I had a comment. It seems to be the attitude of some people that appeared here on this case that this is just something that happens in South Georgia. I've been on this board for ten years almost and this is not the kind of thing that happens all the time. This is not the kind of complaint that we generally deal with. I can't recall a case in the last ten years -- maybe one or two -- where the violations have been this widespread and where it appears they had the involvement and approval of the local election officials.

I think this is a very, very serious matter. I am sure other members of the board do, as well. This is one that I would want the Attorney General's office to investigate fully. This is not something that I think can be resolved with an ordinary consent order. I think a lot of attention needs to be paid to this.

SECRETARY KEMP: Thank you. Anyone else? Mr. Simpson.

MR. SIMPSON: I would like to ask Mr. Harvey a question. Remember last year we had a case where an employee of the registrar's office did away with all the computer records?

MR. HARVEY: Yes, sir.

MR. SIMPSON: Wasn't that Wheeler County?

MR. HARVEY: No, sir. I believe that was Jeff Davis or Ben Hill.

MR. SIMPSON: I was thinking it was Wheeler County. That's not correct?

MR. HARVEY: No Sir.

MR. SIMPSON: Okay. Thank you.

SECRETARY KEMP: Mr. McIver?

MR. McIVER: Thank you, Mr. Chair. I'm not sure who to present my question to; perhaps Mr. Harvey.

It is suggested that we bind this over to the AG's office citing, among many violations, 21-2-589, which is a willful violation of the election code. Now, that's a very high standard for those of us who are lawyers in the room. I want to make sure there's a basis for us to support that.

So my question is, did anybody, particularly the named individuals from Wheeler County, attend any or all of the training offered by the elections division of Secretary's office? Does anyone know on either side of our table here?

MR. HARVEY: Ms. Ford, do you happen to know?

MS. FORD: I do not know but I can find out. Somebody from the county did attend training. I do not know if it was the named individuals. But somebody from the county, either the registrar or the deputy registrar or a board member would be required to attend at least one of the conferences with the 12 hours of continuing education.

SECRETARY KEMP: Ms. Browning may have an answer for you.

MS. BROWNING: I will tell you that having worked the polls I have attended training. I've gone to Macon and attended training, myself. I know that Brian Gilder, who was a poll manager, he also attended training. But I do not recall having seen any of the others attending training. But he and I both went together, as well as another lady, Mildred Purvis; we attended the training in Macon and had training onsite.

SECRETARY KEMP: Thank you.

MR. McIVER: Then I have remaining question. That would be for the law Department.

Does the Law Department have a recommendation for this board with respect to this specific case?

MR. WILLARD: Are you speaking of the willful admission portion of the case, or are you speaking . . .

MR. McIVER: Actually, for all three cases. Again, if we're charging willful, that, of course, is punishable as a misdemeanor, as we know, under the code. So you'll be -- the Law Department will be bringing this case forward on behalf of the board. So my question is do have a recommendation as to what you think can prove and what you have alleged; things of that nature.

MR. WILLARD: Until we get the investigative file from the Secretary of State's office, I won't know whether the investigative facts support a willful omission. As you are aware, that's almost a specific intent-type crime where they have to consciously set out to avoid filing these records.

One of the individuals -- one of the respondents, Ms. Padgett, there are other allegations that do involve a level of willfulness that we could theoretically proceed on in the absence of specific intent to violate state election codes.

But we are fully comfortable with this board's pleasure to refer this case over our office. We'll do like we every time and evaluate the referral to determine whether we believe we have sufficient evidence to prove a violation and determine whether we can reach an agreement with the respondents that will be acceptable to this board, or if we need to go before an Administrative Law Judge.

I cannot make a specific recommendation that you bind the case over not. That's up to the purview of the board. I share your concerns about the 589 allegation. But I think the rest of the (unintelligible) don't cause me the same consternation in terms of binding over.

MR. McIVER: Thank you Mr. Chair.

SECRETARY KEMP: Anyone else? Mr. Simpson.

MR. SIMPSON: This is a probable cause determination, which means we don't have to have an ironclad case at this stage. But I certainly think the allegations, particularly in regard to Ms. Nobles, show an indication or show probable cause to have further investigation work by the Attorney General's office to determine if these violations were willful or if they were just grossly negligent, which it appears that's the range where we're talking about here. It's not just ordinary negligence or just lack of knowledge or something like that. It seems like we have a level of conduct that is more egregious than that.

So my recommendation, or I speak to the fact that I believe we ought to refer this case to the Attorney General; bind it over. If you want me to make a motion to that effect at this time, I will.

SECRETARY KEMP: Let me just see if there's anyone else wishing to speak. Mr. Webb?

MR. WEBB: I wanted to concur with Mr. Simpson's comments that the situation here is a little shocking. But then you have innocent people who are relying on appointed officials to guide them and then when those officials use the power of their position to influence an election, that can't be stood for and it has to be referred to the Attorney General's office. Unfortunately, in this case, there are going to be some innocent people were going to be drug along.

SECRETARY KEMP: Mr. Harvey -- does anybody else on the board have anything?

(Whereupon, there was no response)

SECRETARY KEMP: I have a question. Is any of this criminal?

MR. HARVEY: Arguably, possibly. I mean, when you vote for somebody, I think you can make an argument that some violations of the election code are criminal. I think forging absentee ballot applications could be a criminal matter. It just depends on whether or not the board chooses to have the DA review it as well, which they've certainly done in the past.

I think of the many election cases that I've seen in almost six years, this is right up there with some -- you know, this is not negligence or really lack of training for the most part. And I believe, to address Mr. McIver's point, I believe there is a lot of evidence of the willful nature of some of these allegations. The investigation was done by three different investigators who, frankly, did an excellent job. We've got a very thick file; we've got lots of interviews; we've got plenty of recorded interviews. I think it would be a case Mr. Willard would be able to really dig into.

As far as investigation, I don't think there's really any more investigation, except as Mr. Willard will pair the evidence with specific charges and maybe modify some of those. But I think the case is ready to go either to the AG's office and/or to the DA's office.

SECRETARY KEMP: So if we referred to the AG's office, but don't refer to the DA, can we do that at a later time?

MR. HARVEY: I believe so. In the past, the AG's office has also forwarded cases to

the DA's office.

SECRETARY KEMP: Okay. Let's see. Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Everett, Mr. Avery, any of you guys have anything?

(Whereupon, there was no response)

SECRETARY KEMP: I'll go ahead and take a motion.

MR. WILLARD: Mr. Secretary, before you receive a motion, if we could, as housekeeping matter, can we refer these cases over individually?

SECRETARY KEMP: Yes.

MR. WILLARD: I know we're talking about all three, but if they could be referred individually.

SECRETARY KEMP: We need to take them individually. Let me just make sure, we don't have any other respondents or individuals here that are involved in this case that would like to address us?

(Whereupon, there was no response)

SECRETARY KEMP: Just want to make sure we're not missing anyone in the process.

(Whereupon, there was no response)

SECRETARY KEMP: All right.

MR. SIMPSON: Mr. Chairman?

SECRETARY KEMP: Yes, sir.

MR. SIMPSON: I'd like to make one comment before we go further.

Someone that spoke said that this is a problem that exists in all of South Georgia, or indicated that this was a problem, or this condition was typical in South Georgia. I would like to say that I'm from South Georgia and I've practiced law for 35, over 35 years in South Georgia. I've tried several cases in Wheeler County; I've tried them in Hazlehurst, MacRae, Dublin, Tifton, Ben Hill County. This has sort of been my stomping ground over the last 35 or 40 years.

I want to say this is not -- this conduct is not typical of what you see in South Georgia rural counties. Most counties tend to their election business and do the best they can. They attend training and make sure their election board members are very familiar with what their duties and obligations are. And they do their very best to comply with the law.

So I would like to make sure that that impression does not go home with anyone that this is the way all of South Georgia conducts elections. Thank you.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. McIVER: If you're willing to entertain a motion, perhaps consistent with Mr. Willard's remarks, I would like to see if we can do in a summary form.

I would move that case 113-076 and 034 be bound over to the Law Department. I believe that reasonable cause exists there's been a violation of the election code. I'm in hopes we can do that without naming all the individuals. But I would yield to the advice of the Department.

SECRETARY KEMP: Mr. Willard?

MR. WILLARD: One of the issues, Mr. Secretary, is that Mr. Harvey stated that for two for the respondents on 1-1-3 they did not have sufficient probable cause to recommend a referral from our office, and that was on Mr. Fulfer and Mr. McCallum.

SECRETARY KEMP: Let's do this; let me back up. Mr. Harvey, case 113, 2010-113, what was the recommendation?

MR. HARVEY: The recommendation would be to dismiss Mr. Fulfer and Mr. McCallum as respondents, and to bind everybody else over, all the other respondents over on the citations as contained in the report.

SECRETARY KEMP: Any other discussion or a motion?

MR. McIVER: I would prefer the Law Department conclude that. No offense to Mr. Harvey and his group, but this thing seems to be so massive that through Mr. Willard's review of the evidence, he may make a different determination. So my intention was to include in the binding over.

SECRETARY KEMP: State that motion then.

MR. McIVER: I move that we bind over to the Law Department cases 113, 076, and 034.

SECRETARY KEMP: Do we have a second?

MR. SIMPSON: Second.

SECRETARY KEMP: Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Let me make a few comments before we vote on this disturbing matter. And I want to speak to Mr. Willard and Mr. Avery and Mr. Everett, and second what many of the board members have said about this is not a normal occurrence in elections in Georgia. We have a lot of fine folks working in different sized counties all over this State. There are mistakes that happen, but there are also mistakes that happen time and time again in certain places that we have to take different measures on.

But I want to assure you these type of things, I have never -- I hate to say never -- but we rarely see these type of activities in elections. And it all starts with the security of your voter rolls. If they're messed up, you can just count on your elections being messed up. And if you're elections are messed up, the local election officials are going to lose the credibility of their constituents. In other countries you see people get killed over that. That's how important these even small city elections are to the fabric of this republic and this democracy. And I think that's why this board is so serious about what we do and about matters like this.

I'm certainly going to support the motion to refer to the AG's office. I want to make it clear to Mr. Willard that we expect there to be changes if there is a consent that is agreed to, and I will ask counselors to make sure that your leadership in the city and county understand how grave this situation is and that there need to be changes and this board is going to expect -- we are not in the business of micromanaging how a county runs its business. But when they can't run it and we have to get involved, we want to make sure there are changes made where this doesn't happen again and you guys don't have to come back up here to see us. Because as bad as this is, that would be even worse. I just felt like I needed to let you guys know that.

We do appreciate you all being here today to address the board. I will certainly allow you all to respond. You don't have to, but I don't want to not give you the last word.

(Whereupon, there was no response)

SECRETARY KEMP: Any other discussion? Mr. Worley.

MR. WORLEY: Mr. Secretary, I just want to stay for the record that I believe there is sufficient evidence in the record to bind over both Mr. Fulfer and Mr. McCallum in case number 2010-113.

SECRETARY KEMP: Mr. McIver you had a motion to bind all three cases over and we have a second, correct?

MR. McIVER: That's correct. Mr. Simpson seconded that.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have bound those over. Thank y'all. For coming.

All right. Let me just make a couple of notes right here.

All right. Mr. Harvey, we have 2011, number 30, Murray County case, which is number 23 in the binders.

MR. HARVEY: This case involved a special election in 2011 for County Commissioner. The original complaint came in from an individual who is mentally and physically challenged. He lives on his own, however, he has a caseworker who helps him handle his affairs.

This individual reported to his landlord that people had come to see him and had told him who to vote for and given him an absentee ballot application and had taken his ballot when he voted. So she was the complainant in this case.

We did an investigation and what we found was, we spoke to his caregiver, who is Laney Peterson, and she corrected the facts to say that, no, in fact, she had assisted him. She had filled out the form; she had signed as assisting; she had done everything properly. Apparently, the gentleman was confused and she said he did not always have a great grip on reality.

So the allegation of some type of voter intimidation or collecting absentee ballots was unsubstantiated. There was nothing to indicate that anything along those lines was done.

As part of our investigation, however, as we went through absentee ballot applications and absentee ballot envelopes in order to determine if we had, you know, common handwriting or other signs of election fraud or absentee ballot issues, we did find that there were a number of absentee ballot applications that should have been rejected but were not because they had different addresses than the registered addresses for the voters. Some were requested by people other the voter, and some that did not contain enough information.

There were nine applications that had requested by Ms. Connie Winkler, who is the director of the Board of Elections and Registration. She was requesting for her family members. The applications, however, were not signed. We found a total of 95 absentee ballots that were missing some form of required information.

It's recommended that this case be bound over on the absentee ballot processing issue. It's not a -- it's not the most serious case in the world. Mr. Sampson has provided a written response, and I believe it's here today. He acknowledged that anything they did was accidental and overlooked and he has got confidence in their office. I don't know if he intends on speaking or not.

But it would be my recommendation that this be bound over to the AG's office so that Murray County can make sure they get their absentee ballot verification process in line.

Here is the statement from Mr. Sampson.

SECRETARY KEMP: Move that we accept the statement.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

So the recommendation is -- can you just call the respondents out again.

MR. HARVEY: Connie Winkler, who is the director of the Board of Elections and Registration; and then the Murray County Board of Elections and Registration both be

bound over on 21-2-381(b)(1) on determination of absentee ballot applications.

SECRETARY KEMP: Ms. Peterson?

MR. HARVEY: If she is listed as a respondent, that's an error. She was determined to be eligible to offer assistance.

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

MR. SAMPSON: I'm Larry Sampson. My address is Box 1015, Chatsworth, and I'm the elections superintendent and chief registrar.

I came down today because I felt like you would appreciate somebody being here. As far as Ms. Peterson and the assistance on that ballot, that lady was doing what we call perhaps erring on the side of the voter, which is what we're so often told to do. I think she meant to do nothing at all wrong. I am aware of that man and he does have some problems, as some other people that live there. And I thank you for the recommendation.

As far as applications for absentee ballots go, I want to sort of reiterate something that was said here a minute ago. We work ourselves to death to try to do everything according to the law. I am not aware of which ballots were missing -- I mean, which applications were missing information. In all actuality, you can request an absentee ballot without all the information coming in, from what we're told in training. A person to write a letter to us: I want an absentee ballot; here's my vital information; and so forth and so on.

We try to get everything we can from everybody. I go all the way back to Ben Fortson working in this, and I can assure you what a couple of you gentleman said a minute ago, ninety percent of the elections people in this State, including myself, are kind of like some of the folks who talk to us at our training. We're passionate about elections and we try to do them right. Mr. Fortson and Ms. Duncan and Ann Hicks, bless her heart, have drummed that into our heads.

So whatever little bits of information were missing on an application, I can assure you it was a mistake and nothing more.

SECRETARY KEMP: Any questions for Mr. Sampson?

(Whereupon, there was no response)

SECRETARY KEMP: I think you answered Mr. McIver's question about training. It was about a week or so ago in Savannah.

MR. McIVER: You anticipated my question.

SECRETARY KEMP: Any other questions for Mr. Sampson?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you, sir.

MR. SAMPSON: Thank you.

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

(Whereupon, there was no response)

SECRETARY KEMP: Any other questions from the board or discussion?

MR. WORLEY: I had a question for Mr. Harvey.

SECRETARY KEMP: Okay.

MR. WORLEY: I just wanted to be clear about this. Did the investigators interview Mr. Rayburn?

MR. HARVEY: Yes, sir. Mr. Rayburn is the individual -- the voter?

MR. WORLEY: Right.

MR. HARVEY: Yes, sir.

MR. WORLEY: Well, Mr. Secretary, members of the board, I have a problem with the recommendation that the intimidation of voters charge not be referred on to the Attorney General's office. It seems to me, essentially, we have conflicting testimony here. One piece of testimony from somebody who is mentally disabled and contradictory testimony from someone else. I don't think we can -- we should just on our own discount Mr. Rayburn's testimony because he is mentally disabled. I mean, the practice on this board is if we have a conflict in the testimony on an issue, that we refer that on to the Attorney General's office.

I don't think at this point it is appropriate for us to decide that, well, because Mr. Rayburn says one thing and is mentally disabled, he's just wrong. I think somebody has to look at that in the Attorney General's office and provide some advice as to the determination.

So I think we also need to refer on the charge of intimidation of electors under 21-2-567.

MR. HARVEY: To Mr. Worley's point, I understand what you're saying. In this case,

however, the facts that the voter were describing were not consistent with what the caregiver was saying. According to the voter, the caregiver was never involved. The caregiver signed as assisting with his application. So his version of events, even the people that were involved and the physical surroundings, was different than the caregiver who signed as assisting on all forms. So she was presumably there handling those documents when he said someone else was doing that. We don't have any evidence that anybody else was ever there intimidating him or taking his ballot.

For example, he said these men took his ballot with them. The ballot was mailed by his attending caregiver. So I understand your point. It's not necessarily a he said/she said scenario. It's a voter said, with significant amount of information that leaned to the attendant caregiver providing a scenario where there wasn't any intimidation, unless the attendant caregiver was part of the intimidation. That was not what the voter alleged.

But that's -- I understand your point. I just wanted to make sure you had a clear understanding. It wasn't just two individuals.

MR. WORLEY: I understand. Thank you, Mr. Harvey.

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

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. McIVER: I move we bind the case over.

SECRETARY KEMP: We have a motion to bind over. I'm going to second that. I think this is an opportunity for the AG's office to investigate, certainly. But also just to work with the County and Mr. Sampson to have a consent that makes sure that these technicalities which assumes that they were on the absentee ballots get fixed and there's an understanding there. So I would support that as well.

Any other discussion from the board?

(Whereupon, there was no response)

SECRETARY KEMP: We've got a motion and a second to bind over. Are we binding everybody over; is that the motion?

MR. McIVER: Yes.

MR. WILLARD: You're referring to the election officials, not Ms. Peterson, right?

SECRETARY KEMP: Mr. McIver.

MR. McIVER: I'm referring to those named in the investigative report in case 2011-30.

MR. WILLARD: I understand. But Mr. Harvey said Ms. Peterson was included erroneously as a respondent. I would also say the board is not in a position to refer Ms. Peterson over if that is the board's druthers. They can postpone consideration of Ms. Peterson until the next meeting as she was not properly noticed; there is no notice in the file of an alleged violation by her.

I have no problem with the board referring Ms. Winkler and the Murray County Board of Elections and Registration. But the board is not a position to refer Ms. Peterson.

MR. WORLEY: I didn't know we had a notice issue so I will exclude that from my motion.

SECRETARY KEMP: You want to just withdraw your motion?

MR. WORLEY: I withdraw my motion with the substitute that we bind over 2011-30, as indicated in the investigative report, with the exception of the caregiver, Ms. Peterson.

SECRETARY KEMP: And I will second. Does that clear everything up?

MR. WORLEY: I want to be clear about this. Does that mean we are going to be noticing Ms. Peterson?

SECRETARY KEMP: That's right.

MR. WORLEY: Then I'm fine with that. Thank you.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

We will move to 2011, number 71, DeKalb County SPLOST. That's tab 24.

MR. HARVEY: This is a case where during the SPLOST election in DeKalb County, one of the polling places, which was a school, there was a flashing marquee that said, We encourage you to vote Tuesday, November 8; and, Education SPLOST vote, Tuesday,

November 8. It was within 150 feet of the area for campaigning.

Frankly, on examining this case, I would defer to the wisdom of the board as whether or not this is a violation. We've got it cited as a possible violation. The sign itself does not specifically encourage somebody to vote one way or the other in the SPLOST election. But it was within 150 feet. Those are the facts.

The County school system dictated the language that was to be placed on the marquee, and the County attorney apparently signed off on the language that was on there.

The complainant in this case, just your information, was a former Attorney General, former Assistant Attorney General, who said he had been a -- he had worked with the State Election Board in the past, and in his mind he thought it was a violation.

I think it could go either way. So I will leave it to the board. It may be a hard case for Mr. Willard to prove at an ALJ hearing, but those are the facts of the case. I believe DeKalb County is here.

SECRETARY KEMP: Let me ask Mr. Willard if he has an opinion on the interpretation of that code section and potential violations.

MR. SIMPSON: Mr. Secretary, I've looked at this case and given the 414 language around solicitation of votes and how that has generally been construed, and the wording on the marquee, I think you have a situation that, while it is more verbose than something put out by election officials saying vote today at polling locations, and that sort of thing, this is not something that rises to the level of a violation of 414 and solicitation of votes as that term is commonly understood.

I don't believe that this is a case, given the facts of this case and the fact that no one was solicited to vote one way or another on a particular issue, that we would be able to prove a violation if went before an Administrative Law Judge.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: I think we need a bright line on this rule, and I think if there's any question that it's within 150 feet of the polling place, that it needs to be referred over because I think is -- unless we have an absolute bright line rule, we're never going to be able to (unintelligible).

So I would be in favor of binding over.

MR. WILLARD: Mr. Secretary, the irony of that is the U.S. Supreme Court has held that you don't have a bright line. It is a sliding scale. Your right to be free from

interference or encouragement to vote a particular way on an issue becomes more and more negligible the further you get away from the polling place so that your right to be free from interference within 10 feet of the polling place is different than your right to be free from interference 200 feet; or even 150 feet the polling place.

I'm saying in this instance, you don't have a vote yes/ vote for. You have a vote on November 8 issue. And I'm saying that is not something contemplated by this statute.

If the board wants to refer it over, we can do additional research. But we have discussed this case in-house. We have looked at the line of cases been both in Georgia as well as nationally. This is not something that, even if we were to get an ALJ, that this will be upheld if it were challenged beyond the ALJ and this board.

SECRETARY KEMP: All right.

MR. WORLEY: Mr. Secretary, I disagree with Mr. Willard. This is a school superintendent urging people to vote in SPLOST. I mean, there is no question in my mind what the intent was in the school system encouraging people to vote.

I would have a further question for Mr. Willard. It seems that from the report, the school superintendent sent a letter to all DeKalb County schools dictating the language to be placed on the marquees at the school. Have we received reports from other schools about this situation? And is this a situation where -- even though it's not been mentioned in this report as a potential violation -- is this a situation where public officials are improperly using school resources, or using taxpayer resources to be involved in an election? And would that be a violation?

MR. SIMPSON: I think also this is at the polling place. This is the sign at the school where the polling place is located. It's, you know, I don't know that the 150-foot rule applies since that tells you where the polling place is. It is directly at the polling place.

I really think -- I can't be anymore forceful about it but to say we need to enforce the rule in a clear manner, or when we revise the code, we need to take that section out of the code.

SECRETARY KEMP: I'm sure Ms. Ford has got that jotted down for her long list.

Mr. Harvey, do we have jurisdiction on the resources part?

MR. HARVEY: I believe we do not. I believe that would be an ethics issue.

MR. WILLARD: It's under 21-5.

MR. HARVEY: And to answer Mr. Worley's question, we did not get any other complaints regarding this from any other schools. It was that one individual.

MR. WEBB: I'd like to just make a couple of comments regarding the sliding scale. Mr. Simpson, we have taken the position that if somebody has a bumper sticker on the car and they're driving it to vote, that's not a violation of this section of the code. We did recently have a church which put on their marquee directing people how to vote. I think that's a clear violation of the law, especially when the pastor would not remove the language.

Here, I'm a little puzzled by the language because it's encouraging you to vote (unintelligible) the education SPLOST. I don't know. I think for educators, I thought it would have been written better.

But to me, I think it's encouraging people to vote for the SPLOST, and to me, I think I may be something that needs to be handled at the Attorney General's level, notwithstanding Mr. Willard's comments.

SECRETARY KEMP: Let's see if we have anyone else wishing to speak in this matter.

MR. REID: My name is Charles Reid, and I am with the DeKalb County Law Department. Our address is 1300 Commerce Drive, Fifth Floor, Decatur, Georgia.

I am here on behalf of Mr. Carpenter, and he is cited for violating two sections, 596, willful neglect or refusal to enforce 21-2-414. I think that the discussion the board has been having is somewhat the problem, which is why he should not be bound over.

First, 596 says it has to be a willful neglect. He is here, but I'm going to summarize what he will say. With the complaint came to him, someone says, hey, there is a signed out there that we thinks violates the law. He went out and took a look at the sign and said, I'm not sure. But he went and talked to the principal, or assistant principal, at the school. He was given an email, or the directive that the board mentioned that -- he gave me; I apologize that I don't have an extra copy. I think the board may already have a copy of this. But it said that -- the actual language was to be, "Education SPLOST vote this Tuesday, November 8. We encourage you to vote."

What ended up on the marquee ended up being some sort of jumble. But the essential message was the only issue for vote was education SPLOST. We encourage you to vote. Not vote for; not vote against. Just vote.

He was also told that the school board attorney -- they said County attorney; it wasn't our office -- but I think the school board's attorney looked at that and said it doesn't advocate

one way or another. It doesn't seem to violate the law.

So Mr. Carpenter, following up with the principal, getting information saying this was vetted by legal counsel, he just said, okay. It looks like this is okay. So he did not willfully neglect or refuse to perform his duty as it is as it relates to investigating that sign.

And then the other issue is the actual language of the statute. It says "solicit or campaign." Those were the two requisite words. So I was looking at the statute and there is no definition of solicit within 21-2-2. So I had to go out and pull Black's Law Dictionary and look and see, well, what does it mean by "solicit." It says: Solicit is to appeal for something or to apply or obtaining something.

Well, the language in here does not say we are encouraging you to vote for SPLOST. It doesn't say vote one way or the other. It just says vote.

Again, I think it's similar to just vote here. I agree it probably could have been simpler just to say, "Vote here; Education SPLOST." But they had more language than that. But I don't think that changes what the intent of that sign was.

The other thing was, a campaign. Campaign is anything that's necessary, legal, factual acts done by a candidate in his adherence to obtain a majority or plurality of the votes to be cast or an organized effort to promote a cause or secure some definite result within any group of persons.

I don't see anything in this language that promotes a cause either to vote for or against the education SPLOST. Just to say that because the message in front of a school, that might be an argument someone could make. But for Mr. Carpenter, who is not an attorney, who did due diligence to look and see what that is, I think that's a very hard and very harsh standard for him to be bound over for investigation by the Attorney General on a question that even the legal minds up here have a disagreement about.

And so we're asking that the case against him be dismissed. I'm not here on behalf of the other respondent, but I'm just here on his behalf. He is here if you have some questions for him.

SECRETARY KEMP: Do we have any questions for Mr. Reid?

MR. WORLEY: I had a question. And I accept your view about the poll manager's culpability in this, and I would be inclined to not forward him on.

But do you know whether the school system put up similar signs in the November 2010

election to encourage people to vote?

MR. REID: I do not know that.

MR. WORLEY: Do you know if they put up more signs in the November 2012 election to encourage people to vote?

MR. REID: Our office does not represent the school board, so I don't know what they did as it relates to putting up marquees anywhere in DeKalb County.

MR. WORLEY: Do you know if anyone is here representing Ms. March, the deputy superintendent, who was named in the action?

MR. REID: I don't know. I don't represent them.

MR. WORLEY: Then I won't ask you any more questions.

SECRETARY KEMP: Congratulations, Mr. Reid. Any other questions for Mr. Reid?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Carpenter, are you satisfied with his testimony? You're welcome to speak if you'd like.

MR. CARPENTER: I think he done well.

SECRETARY KEMP: Thank you for being here. Anyone else?

MS. FITZGERALD: I'm Sally Fitzgerald, and I'm here today on this case --

SECRETARY KEMP: Give us your address.

MS. FITZGERALD: I'm at 7604 Van Eyck Way, Sandy Springs, 30350.

One of the hats that I wear is that I'm on the board of the State of Georgia PTA as the election policy advisor and I've done many, many workshops on the ethics of PTA's getting involved with elections. They are under the IRS code, 501(c)(3). They may take positions and they may advocate for those positions. But our instructions from national and our instructions, as we understood them several years ago when our president, who was a lawyer, investigated with the State elections department, was that they could not advocate within 150 feet of the polls, but they could inform the membership in their community about elections; where they're being held; what are the hours; and what are the dates.

So if you were to take this SPLOST case on the marquee, I can assure you that you would put many, many unpaid volunteers in a position of having violated election law.

I got a call three weeks ago from an adjacent county, not DeKalb, where they had posted signs, Please vote on such and such a date for a SPLOST; an educational SPLOST. And it was posted in the hallways of the school, which was a polling place, by which the voters had to walk to get to where the polls were set up. It did not say vote yes; it did not say vote no. According to our information, that was a perfectly eligible document to have posted within 150 feet of the polls.

So I just give that to you. PTA's do take a position on SPLOST. Most of the time, it's yes; but not always. But they are very, very interested in getting their membership to the polls to decide this issue. And should you decide to pursue that, I just want you to be aware that it would be much harder, from my perspective, if you were to suggest that those kinds of nonpartisan messages could not be posted. Thank you.

SECRETARY KEMP: Any questions for Ms. Fitzgerald?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Any discussion from the board?

MR. WORLEY: I still have a real problem. I understand PTA's may take a position on this, but I'm of the opinion that they may encourage people to vote. And that may not be relevant.

But I have a real problem with a government entity that is going to receive tax receipts from the SPLOST encouraging people to vote in the SPLOST, when they don't encourage people to vote in other situations. I don't think there was any question what their intent was in this action, and I think it's a violation of the code, and I will continue to vote to refer to the Attorney General's office, but only as to the deputy school superintendent. I think the poll manager -- I do think the attorney's argument is correct that he did what he thought he should do and there wasn't any indication of willful violation there.

SECRETARY KEMP: All right. Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. WORLEY: I will make a motion we refer over the charges against the deputy school superintendent, Kendra March, for violation of O.C.G.A. 21-2-414, and dismiss the charge against Mr. Carpenter, the poll manager

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

MR. SIMPSON: Second.

SECRETARY KEMP: Mr. Simpson seconds. Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: Let me just make sure there's no one here representing the school board or Ms. March from DeKalb County?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We're going to refer to the AG's office and we've dismissed the case for Mr. Carpenter.

Thank you, again, Mr. Carpenter, for being here today. We appreciate you showing up.

I think we'll go ahead and break for lunch. It's five after 12. We'll come back and convene at 1 p.m. Do we need a motion to go into executive session today?

MR. WILLARD: (Unintelligible)

SECRETARY KEMP: We will just break for lunch and be back at 1:00.

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(Whereupon, the proceedings were in recess)

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SECRETARY KEMP: Welcome back, everybody. We will reconvene our State Election Board meeting. I'm going to call a case -- we've got a respondent who has

another appointment at the Attorney General's office on another matter this afternoon. So I'm going to move this case up to get him on the road to that other meeting. It's SEB Case Number 2012, number 26, which is 38 in your binder. Chris, go ahead.

MR. HARVEY: This case involves a complaint that somebody had gotten list of voters in DeKalb County and the complainant was solicited by the company and offered to participate in what was apparently some kind of mock trial preparation. She complained that the election information was being used for commercial purposes.

We did the investigation and found out that the respondent had gotten the list of electors from the Secretary of State's office and that he had used the list in order to get people for this mock trial. Upon discussion with the AG's office and attorneys in our office, it has been determined that there is probably no legal violation here in terms of free speech issues.

So it's my recommendation that case be dismissed and closed.

SECRETARY KEMP: Any questions for Mr. Harvey?

MR. WORLEY: Mr. Harvey, is the basis for that a question as to whether the use that was put to the list constituted commercial purposes?

MR. HARVEY: I think in part. In talking with the attorneys, without a pretty well-defined commercial purpose, it's too arbitrary in the way it's written and it would be in unenforceable. So basically it is.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MR. WEBB: Mr. Harvey, can you go over the level of detail of information that was provided?

MR. HARVEY: It would have been name, address, any information that was authorized to be given under the Open Records Act. I don't believe there's an allegation that any personal or confidential information was given out. I don't know exactly the level of detail, but I know the names and addresses were certainly given out.

MR. WEBB: Does that include email addresses?

MR. HARVEY: I don't believe so. I don't believe that's collected as part of voter

registration information.

SECRETARY KEMP: Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MR. HOFFSPIEGEL: Gentlemen, thank you for the accommodation. My name is Lloyd Hoffspiegel. I reside at 1070 Springdale Road, Atlanta, Georgia 30306.

The person to whom this was sent, the respondent, is my son, Alexander. Alexander is now taking his last law school exam as we stand here. He is my son and my employee and the respondent here. So he's my client, I guess, as well, today. We read a book by a man named David Ball. He is a PhD and noted for being a jury consultant, and it's "How to Conduct Your Own Focus Group," which is essentially a mock trial.

So we filled out truthfully -- I sent Alex down to the Secretary of State's office. He truthfully filled out an application and requested voter registration rolls for DeKalb County. It did not include, to my knowledge, email addresses. He told them what the purpose was. The person at Secretary of State's office allowed him to purchase the list and we went and sent out these letters.

It's not a commercial purpose. There's an AG opinion. Also, we didn't sell it to anybody and we didn't sell any services. What we did was we sent a letter to potential focus group attendees and we asked if they were interested in contacting us and told them we'd pay them \$100 for four hours of their time.

Commercial purpose is defined as the manufacture, transportation, traffic and sale of goods, merchandise, and services of all kinds. We were not involved in the sale of anything. There is a 1989 AG opinion, and it's 89-13, which defines what a commercial purpose is. We also believe there's a freedom of speech argument here as well.

But really our initial thought was, well, this fits within the parameters of what is allowable behavior under the law, and we were truthful about it and didn't think anybody would give us a list of we were not supposed to get it.

We paid people to listen to the case and at all times, Alex -- also, this was sent to Alex as the respondent, but he's operating under my direction. I made a couple of calls to the office just to make sure that people understood he was working for me and if anyone should be the respondent in this, it should be me rather than Alex.

So, again, thank you for the accommodation. I don't believe we did anything violating

the law. Just to let you all know, we no longer do that. We get our list of names from other places right now. Again, it's not because I think we did anything wrong, but obviously the last thing we want to is to be standing here explaining our conduct to you.

So thank you.

SECRETARY KEMP: Any questions for Mr. Hoffspiegel?

(Whereupon, there was no response)

SECRETARY KEMP: All right. Thank you, sir.

Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none ready for a motion.

MR. SIMPSON: I move we dismiss this case.

MR. WORLEY: Second.

SECRETARY KEMP: We've got a motion by Mr. Simpson and a second by Mr. Worley to dismiss. Any other discussion?

(Whereupon, there was no response)

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

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That case has been dismissed.

We're going to move -- we're now going to go back to 2011, number 82, which would be number 27 in the binder; City of Quitman.

MR. HARVEY: This case involved municipal election in 2011. The allegations by a candidate were that the DRE's were not working properly and that they had problems uploading the results on election night. She also said the numbers didn't match up with her results from the election.

What we found was that a couple of things happened. One, an elector was mailed an incorrect absentee ballot. However, when they contacted the elections office,

(unintelligible) and the correct one and the elections official spoiled the ballot that was out.

On election night, as the election officials were uploading the results to the GEM (phonetic) server, they erroneously tried to upload cards that had already been uploaded and they wouldn't take them, as the system is designed not to do. But there was some confusion by observers saying that the machines were not working right. In fact, KSU came down to Brooks County and did forensic audit of the GEM server. They found out that there was no tampering, no inconsistencies; everything was straight.

The voter who -- the candidate who said that the numbers were off indicated that in her meaning the numbers were off because she had spoken to a lot of people that said they had voted for her and she didn't get that many votes. So she was disputing the numbers based on anecdotal spoken evidence. So there is no violation there.

We have listed a citation -- John Spearman is the former director of elections. He left about the time this investigation started, or maybe shortly before, and he's been replaced. We have him cited because we couldn't find a master list of absentee ballots that had been mailed out and sent. And nobody, when they went into the office to try to sort through the stuff, was able to find it, either.

This morning, representatives from the Brooks County Elections Office and Board of Elections have shown to me what appears to be a master list of absentee voters that was kept in some cryptic form by Mr. Spearman.

In light of the totality of the investigation and finding out there was really nothing improper done, I recommend that this case be closed.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Ready for a motion. Sorry. Any other questions, then ready for a motion.

SECRETARY KEMP: I move we dismiss.

MR. McIVER: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: We have dismissed. Y'all be careful going home.

All right. Mr. Harvey, 2011, number 83; City of Porterdale.

MR. HARVEY: This case involved an allegation where poll watchers were allowed to handle paper ballots during the tabulation process. As they were tabulating the ballots in the City of Porterdale election, apparently the paper ballots were sticking together and they were having difficulty actually handling them and getting the counts properly. So two poll workers were asked if they could help separate the ballots and sort them out so they could be counted properly. Two poll watchers did actually participate in the separating of the ballots and, therefore, violated 21-2-408 A through D by touching ballots. They're not sworn poll workers. They're poll watchers. They're supposed to stay out of the tabulation process. So we have a poll manager and the two poll watchers cited for those specific violations.

Recommend the case -- this is one that could possibly be resolved with a letter of instruction. I don't think there's any allegation that anything intentional was being done. There was no allegation that anybody did anything wrong with the ballots or tried to manipulate them in any way. So I don't know that a letter of instruction would be out of order in this case.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here from the city wishing to speak? Come on up.

MS. JOHNSON: My name is Judy Johnson; 14 Walnut Street, Porterdale, Georgia 30014.

I was the former elections superintendent for the City of Porterdale and responsible during the November 8, 2011, local election.

The City of Porterdale uses a paper ballot system. During the fifth count tally, I allowed

a poll watcher to handle election ballots. Although I was at the time of the two cited regulations that was violated and allowed to be violated, naivety nor ignorance of the law does not dismiss [sic] that a law was broken.

From appointment of office throughout the election, I did my best to learn and administer election regulations and adhere to all policies and procedures. The count was conducted in an open forum with newspaper representative, candidates, elected officials, and citizens present. Furthermore, when these violations occurred, there was never a discrepancy as to which candidate had the largest number of votes, nor was there any intent to alter or influence the vote in anyway. But simply to solidify the accuracy of the tally by obtaining two like numbers for the conclusion.

It is my personal desire to obey the law, and I would like to apologize to the State Election Board, to the citizens of the State of Georgia, to the citizens of Porterdale, the candidates that were running for office, the staff, and elected officials. It was not my intent to do anything wrong. It was simply I did not have enough training. It was my first election and by paper ballot, you get a lot of training on use of this -- the -- help me out there. The use of the machines, but not with paper ballots. It is very, very cumbersome. And with everything I was trying to learn in order to conduct this election properly, it was not my intent to do anything wrong. But I take full responsibility that I did, in fact, break the law and I apologize for that.

SECRETARY KEMP: Thank you, Ms. Johnson. It says a lot about you, your willingness to be here this morning and this afternoon and explain to us what happened. Any questions for Mr. Johnson?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MR. CHAMBERS: Mr. Chairman, members of the board, my name is Timothy Chambers. I'm the city attorney for the City of Porterdale.

As Ms. Johnson explained, and as I think the board may realize, this was an act of kindness that unfortunately technically violated the law. There were a number of recounts, although the number always consistently showed what candidate was ahead and ultimately won the election. They were under intense scrutiny from the public; the media. I think Mr. Harvey showed in his investigation there were a great many people watching the count. And as the count went on, the two poll watchers offered to assist. So this is one of those acts of kindness that technically violated the law.

In the opening remarks this morning it was mentioned how technical the election law is and it's almost one of those situations where you need a checklist next to the people to make sure they are adhering to the requirements of the law.

We certainly would join with the recommendation of a letter of instruction being appropriate in this case.

Thank you for your time.

SECRETARY KEMP: Thank you, Mr. Chambers. Anyone questions for counsel?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

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

MR. SIMPSON: I move that we send a letter of instruction to the persons affected.

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

MR. McIVER: Second.

SECRETARY KEMP: And a second. Mr. Harvey, what about Joe Bloom and Ms. Spence?

MR. HARVEY: The poll watchers? I would recommend they also get a letter of instruction.

SECRETARY KEMP: I just want to make sure we're covering everybody. Was that the intention, Mr. Simpson, a letter of instruction to all three?

MR. SIMPSON: Yes, it was.

SECRETARY KEMP: All right. We have a motion to do a letter of instruction to all three respondents. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. And we will send those letters. Thank y'all for being here today.

Mr. Harvey, we've got 2011, number 88; City of Warwick.

MR. HARVEY: This was an election where there some discrepancies with where voters were placed within the proper districts. Also an allegation that voters were given incorrect ballots.

Our investigation revealed there were at least four voters who were not in their correct municipal voting district, and that two electors were allowed to vote twice in the election.

We've got the elections superintendent cited for not properly documenting the validation of absentee ballots; not properly rejecting absentee ballots; and then when a voter -- basically, allowing a voter to vote twice. Alexander Myers was the poll officer cited for the same for allowing a voter to vote twice. Sue Potts, who is the County elections supervisor, or I believe possibly County registrar, we've got her cited for not having voters in their proper municipal districts. And, lastly, Shirley and Francis Singleton are voters who went to vote. They voted in and they then encountered the candidate who asked them about voting and they said, well, your name wasn't on our ballot. So they went back to the voting place and were allowed to vote a second time.

Given the nature of those voters, I would recommend Mr. and Mrs. Singleton receive letters of instruction as they were following the directions of the poll worker. The rest of them, as well as Mr. Myers as the poll worker, again, was directed to allow them to cast a second ballot. So I recommend he also receive a letter of instruction. But that Ms. Martin and Ms. Potts be bound over to the AG's office.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

MS. KINCHEN: Good evening I am Juanita Kinchen. I live at P.O. Box 56, Warwick, Georgia; ZIP code 31796. I am the candidate that was running in District 2, and Warwick, they did some violation.

I heard everything you read and I received a letter also that they violated the rights of me because they gave a lot of District 2 people District 1 voter ballots and that is where the count didn't come up right. And I wrote the Secretary of State a letter and I informed them that the ballots was not correctly because they had a map to go by that where they

live at in the city and they just were determined -- the poll people were determined to give some peoples the wrong ballot.

I was running against Donnie Watson, which is white. The other two in District 1, both was both black. So I'm assuming that that -- I felt that it was being violation to me because I was Donnie Watson, and they did not let -- by giving the wrong ballots to the wrong people. As long as they be cited or whatever you said, you know, I just wanted you all to know that it was not valid; it was not right. And I plan on running this year and I want y'all to know I will be running for mayor on (unintelligible) Georgia.

And I hope that this don't be no problem this time. I told the city clerk, which was the superintendent over the polls, that we need to get the district straight. Everybody knew that the district they was in because I campaigned only in the district that I was supposed to campaign in.

So I would like for you all to know I am the one that was violated; that didn't get the vote. About 20 to 19. I had 19, Mr. Watson had 20. I asked Judy if we can recall and they said no. So that's the way that it went. And I don't feel is fair to me because there were some irregularities done in the vote.

SECRETARY KEMP: Thank you Ms. Kinchen. Any questions for her from the board?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you ma'am. Anyone else wishing to speak?

MR. COLEMAN: My name is Franklin Coleman. I'm with the law firm of Perry and Walters in Albany, Georgia. Our address is 212 North Westover Boulevard, Albany, Georgia 31708. We represent the City of Warwick. I am here on behalf of Ms. Martin and Mr. Alex Myers.

Certainly, we join in Mr. Harvey's recommendation that Mr. Myers receive a letter of instruction. I think that is an appropriate course of action.

I would first note that Ms. Judy Martin not here today at my instruction. As I understood, it was going to be the recommendation that she be bound over, and so I actually asked her not to be here and told her I would come and make sure somebody was here to represent her.

As to the allegations that are included in the letter to Ms. Martin, we acknowledge that all things that are -- all the allegations there took place. I believe that our explanation would be that this is Ms. Martin's -- it was her first election; first time she had served as the

elections superintendent anywhere, and she did not mark the ballots when they came in with the date and time she received them and her signature just due to ignorance of the law.

The explanation as to the folks voting twice, I think Mr. Harvey said that they were instructed to do that. Some folks -- I think they were the Singletons -- came down to vote and their names are on the voter list in District 1. So they were given ballots for District 1, and they went home and later on Ms. Kinchen, as she mentioned, she was out campaigning in her district. The Singletons actually live in her district because they had moved there rather recently, or at least if that's not the case, they had been put in the wrong district at some point and they may not have moved there. That's what I understood was the case, but I'm not certain.

Whatever the case, the voter registration list had them listed in District 1. They were technically in District 2. She told them, you know, did you vote for me, or something of that nature. They said your name was not on the ballot. She said, you the wrong ballot, then. Go back down there have them give you another one, which, you know, they went back and nobody knew what to do with the situation because it was just sheer inexperience.

They contacted Ms. Potts who was with the County, and she -- I believe the evidence will show that that is what she is told them to do: Give them another ballot; let them cast another ballot in District 2. So that's what they did.

Nonetheless, if the board should decide to bind this case over for Ms. Martin, we would certainly work with the Attorney General's office to reach a resolution, whether it be a consent order, or what have you, including further training, and take whatever measures will be necessary to see to it this kind of thing doesn't happen again.

I point out that, just for your knowledge, and not that this necessarily makes a difference, the City of Warwick is very, very small. Were talking about less than 100 voters in these districts. The votes, I believe, in District 2 is like 19 to 20, or something like that. We're talking about a really small election, really small town was not a lot of resources. That's all I have.

SECRETARY KEMP: Any questions for Mr. Coleman?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

MR. COLEMAN: Thank you.

SECRETARY KEMP: Thank you. Does the board have any other questions or a motion?

MR. WEBB: Mr. Harvey, for the record, maybe this is for Ms. Ford, in a situation like this where the voter voted the wrong ballot, what is the normal procedure in how that is handled?

MR. HARVEY: Well, normal procedure is that you only get one vote. If there is a question, you could vote a provisional ballot, I assume. That would be the only thing I could think would be an acceptable form. I don't know if that would have much of a real effect other than (unintelligible) on election day. Because once you cast your vote, it's voted and you can't get it back. It's not like you can go back and cancel that out.

It is certainly unfortunate, but, again, as the Secretary has said, when it comes to districting issue, that's why it's so important.

MR. WEBB: Thank you.

SECRETARY KEMP: Anybody else or a motion?

MR. HARVEY: And just for the record, Ms. Potts did not recall speaking with anybody about allowing to vote a second ballot. She claims she did not represent that representation to the elections superintendent.

MR. WEBB: With regard to Mr. Myers, Alexander Myers, was he following direction from Ms. Martin?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: So we've got Ms. Potts cited because the voter rolls were wrong?

MR. HARVEY: Correct.

SECRETARY KEMP: All right. Do we have a motion?

MR. WEBB: I'd like to make a motion to issue a letters of instruction to Alexander Myers, poll worker; and Shirley and Francis Singleton as electors. And then I would make a motion to bind the case for Judy Martin and Sue Potts over the Attorney General's office.

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

MR. WORLEY: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Mr. Harvey, I think we're moving to 2011, number 102; Fulton County, Henderson case.

MR. HARVEY: Did we skip Gwinnett County?

SECRETARY KEMP: We did. They're not here.

MR. HARVEY: Okay. In this case, Mr. Henderson appeared at his normal polling place on November 8, 2011. He completed his voter certificate and was told that he was not registered to vote in Fulton County, but that he, in fact, was registered to vote in Heard County. He had no connection to Heard County and had no reason to believe that his voter registration should have been changed to Heard County. He was allowed to vote a provisional ballot, which was ultimately rejected because he was, in fact, registered in Heard County.

Our investigation revealed that somebody with a very similar name was registered in Heard County and Heard County simply transferred the wrong person to their voter rolls, thereby deleting his voter registration in Fulton County. That has subsequently been changed, but Mr. Henderson was not allowed to vote in that election.

So we've got Caroline Miller and Jay Parker in Heard County cited for 21-2-226 for improperly transferring a voter to their County.

SECRETARY KEMP: What's the recommendation?

MR. HARVEY: Recommendation would be a letter of instruction. It was a clerical mistake. We have not generally had problems with Heard County. I believe a letter of instruction would be appropriate.

SECRETARY KEMP: They have taken steps to fix the problem?

MR. HARVEY: It's been resolved. Yes, sir.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak?

MR. ADAMS: My name is Tommy Adams; 109 Lofton Lane, Franklin, Georgia 30217. I am the new chief registrar for Heard County.

I have a letter outlining the steps we've taken to make sure this never happens again. I would request that this letter be added to our file.

SECRETARY KEMP: We have a motion to accept the letter?

MR. SIMPSON: So moved.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: We will accept the documents.

MR. ADAMS: And I would say that what we've done since I've taken over as chief registrar, we've actually gone through and verified effort single one of our 7,000 voters to make sure we don't have someone else's voter in our county. We've gone through a total redo of our entire registration file. So we appreciate the board.

SECRETARY KEMP: I can feel Mr. McIver wanting to ask you the question, have you attended training recently?

MR. McIVER: Being new.

SECRETARY KEMP: I think we met.

SECRETARY KEMP: You did. Any other questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

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

MR. McIVER: I so move.

MR. WORLEY: Second.

SECRETARY KEMP: Mr. McIver moves; second by Mr. Worley for a letter of instruction. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We will issue a letter. Thank y'all for being here today.

Mr. Harvey, we're moving to 2011, 107, City of Monticello.

MR. HARVEY: The allegations in this case were that there were problems with the election in the December 6, 2011, runoff: That an absentee ballot was illegally rejected; that voters were not allowed to vote provisional ballots; and that somebody voted while there is no record of their vote.

Our investigation revealed that an absentee ballot was turned in to a poll worker, not properly to the registrar, but through the mail, and it was held by the poll worker and was eventually turned into the registrar's office and was rejected because the registrar didn't know who had turned it in. There was nothing on the face of the ballot envelope that necessarily would have caused it to be rejected, and I believe that is in violation of the laws regarding the rejection of absentee ballots.

Now, as it turns out, that voter, her ballot was also illegally taken to be turned in by her mother. Her mother took possession of her ballot, turned it in to the poll worker -- the

voter was not disabled, hospitalized, or handicapped. She reported that she wasn't feeling well that day so her mother turned in her absentee ballot, thereby illegally possessing the absentee ballot.

There were several cases where people were turned away and not offered provisional ballots. And in one case, a voter was offered a provisional ballot, but said she would go home and come back with the proper ID. She didn't come back and she ultimately didn't vote. That's one that I'm not sure you can necessarily get the city on. However, there are other people that showed up to vote who were not allowed to vote provisional ballots for whatever reason, whether they had copies of ID or ID.

There was also an allegation that some of the numbers were off. There was a voter that went to vote, put their voter access card in the machine, and then reported back to the poll officials that their card said "Invalid card" and they stopped the election. They went back and double-checked all the machines to make sure the count was right, and it turned out her vote did count. Whether she understood what was going on, nobody knows. But the record shows that her vote was cast.

So at the end of the day, we have violations for Linda Keller, who is the elections superintendent, and for Carol Morris, the registrar, for improperly rejecting an absentee ballot, and then failing to issue provisional ballots; as well as Patricia Nicks, the mother of a voter -- she turned in her daughter's absentee ballot without any justification.

So I recommend these cases be bound over to the AG's office.

SECRETARY KEMP: For Ms. Nicks, too, instead of a letter?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Thank you. Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

MR. REITMAN: Thank you, Mr. Chairman. My name is Joe Reitman. I am the Monticello city attorney. Here with me today are Judge Keller and Registrar Morris. The candidate who filed the election challenge that was heard about a year ago in front of Judge McConnell down in Jasper County, Molly Pompei, is also with us, as well.

Judge, as I -- Mr. Chairman, as I read through this, I noted that although there are several allegations that Mr. Harvey recited, actually there only two findings of potential violations on, I believe, the third page that references Number 1: Violated 21-2-386(c),

Rejection of Absentee Ballot. By rejecting the delivered absentee ballot of Iyesha (phonetic) Nicks returned by mother, Patricia Nicks. If I could just drop a quick footnote there, Mr. Chairman, I note that two paragraphs down Patricia Nicks, herself, is alleged to have committed a violation by virtue of unlawful possession of that ballot, taking possession, and delivering it to the registrar. The daughter of Ms. Nicks was not hospitalized, disabled, or handicapped. So it appears that the registrar and the Judge did the right thing by rejecting that ballot because it was not properly tendered, and the attempt to tender was in violation of the law.

What I would like to do, with the permission of the Chair and the board, if I may, I have a certified copy of the pleadings in election cases filed in front of Judge McConnell.

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

MR. SIMPSON: So moved.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: We will accept the documents.

MR. REITMAN: Thank you Mr. Chairman and board. With your permission, I'd like to just hit on the highlights of this, particularly focusing just on that last few paragraphs referencing the violations; the alleged violations. Because although Mr. Harvey did note there were several other allegations, ultimately what his office found were just a few potential violations. So with your permission, I would like to turn to page 148, which is actually the second page of Ms. Pompei's petition. Paragraphs 11 and 12 track the allegations that are before this board today.

Paragraph 11 does expressly recited and admit that Ms. Nicks' mother is the one that presented the absentee ballot to the poll watcher. I may also mention -- this is on page 158 of the record, which is the answer I filed in the matter -- Paragraph 11 notes that the ballot was not delivered to the Board of Registrars. Georgia Code Section 21-2-382, that's the one that permits the elections superintendent to designate additional sites for receiving and voting absentee ballots. There were no additional sites. Absentee ballots

are supposed to be taken directly to the registrar. That was not done.

It further recites in the answer that it did not count in that in order to get to the voting room, which is where it was improperly taken by the mother, the person had to walk right past the office of the Board of Registrars, i.e., the mother, without authorization, took in the ballot of her daughter who was not hospitalized, disabled, or handicapped; walked past the registrar's office, where, if she had been authorized to tender the ballot, should have gone, but instead, went to the voting room.

And we finish in Paragraph 11 reciting there was no basis for it, and that is Georgia Code Section 21-2-385, which I believe Mr. Harvey alluded to a little while ago.

Jumping back to the allegations, the complaint filed by Ms. Pompei, Paragraph 12, references a second individual, Ms. Frederica Moore, who presented with a copy of her voter registration card. She was advised, as recited in Paragraph 12 of our answer, that it was not a valid ID; it was a copy. Nor did she have a drivers license on her person or any other form of photo identification. Therefore, she told -- this was Ms. Frederica Moore, the potential voter -- told the registrar she was going to go home, find the original, and then would be back with the original. If she had not stated that, clearly, she would have been told she could vote provisionally. But because Ms. Moore volunteered that she would go home, get the original ID, therefore, she did not vote provisionally.

We then have page 171 of the record, the second page of the affidavit that the registrar, Ms. Morris, signed. This reiterates what I advised previously. I did want you all to know there was a sworn affidavit in the record. And incidentally, there was testimony as the Judge recites his order by all parties, including the Probate Judge and the registrar.

The registrar's affidavit specifically recites that Ms. Nicks did improperly leave an voter absentee ballot in the voting booth. There was no legal basis for her to hand-deliver the ballot, unless the voter was handicapped. And I think it's agreed by all parties and the investigator that, indeed, the voter was not handicapped; no evidence thereof.

Furthermore, it notes that we have the application she filled out in hand. The box for handicapped was not checked by either the younger Ms. Nicks or her mother. We have no evidence that she was handicapped. Furthermore, as mentioned earlier, it was not delivered to the Board of Registrars.

I would then note on page 172 of the record, which is the affidavit of one of the poll workers, Ms. Lillian Standifer, she recites that she knows Ms. Nicks and the daughter and that the daughter is not handicapped from her observation.

Wrapping up, there is an order and judgment, and again you all now have that certified copy. That's at page 177 of page 178. Therein, Judge McConnell provides -- states, "Testimony was provided by multiple witnesses for both plaintiff, contested, and defendants, elections superintendent, and registrar." He then concludes, "Such statutory criteria," referring back to the State statute, "has not been met. The evidence illustrated the defendant's acting in their representative capacities as elections superintendent and registrar of Jasper County, Georgia, conducted the election in a fair and impartial manner utilizing probably certified equipment."

So we have, in essence, two people, one of whose vote did not count because she improperly gave it to her mother; she was not handicapped; and the mother brought it to the wrong place.

And then number 2, the one who said, let me go home and get my ID, she didn't come back. And it's our request, if it pleases this board, that either a letter of instruction be issued or alternatively, dismissal.

If you have any questions, I'll be glad to field them to the best of my ability. Thank you for your patience.

SECRETARY KEMP: Any questions for the counselor?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MS. POMPEI: Good afternoon. My name is Martha Pompei. My address is 568 (Unintelligible) Street, Monticello, Georgia 31064-1024.

In agreement with Mr. Reitman, we did go to trial and Judge McConnelly [sic] did his ruling. But let's start with Ms. Robertson, the young lady who was given a card to vote. It came back invalid.

SECRETARY KEMP: Ma'am, let me interrupt you real quick. If you don't mind, can you slow down just a little bit. We're just trying to get all this on the record. I don't want her to miss anything.

MR. POMPEI: Okay.

SECRETARY KEMP: Thank you.

MS. POMPEI: In reference to Ms. Robertson, she was given a card; she inserted the card; it came back invalid. At the same time that she realized it was invalid, the poll

worker called her back. Like he said, they stopped the election and did their count. Ms. Robertson's name is on that ballot. At what point did she get a chance, if that card came back invalid, to select her candidate?

In reference to Ms. Tonya Dennis, she is adamant that she went to vote, but her information is nowhere to be found, not even on the list or the machine list. Her name is nowhere to be found.

Ms. Talesha (phonetic) Moore, according to her, she did not say anything about going back to get an ID. I asked her was she offered a provisional ballot and she said no. The same thing with Ms. Iyesha Nicks. In talking to her, she told me she wasn't feeling well that day. At what point -- how sick to you have to be to be incapacitated?

I take my children's ballots to the poll all the time. Nobody ever says anything to me. So why are they making selections based on the people?

There was another young lady, she went in to vote. Her card also came back invalid. I do not know her name. Her card came back invalid. They went through the count again, but they allowed her to vote. What's the difference here? What's wrong with this picture?

And in talking to Carol and to Linda, I would not have been here if they hadn't told me file a complaint if you have a problem. So we go through pretty much every election. I'm just standing here. Like you said, Mr. Webb, we all have a right to be represented. I'm standing here trying to represent the community of which I grew up in; I reared, educated, left, came back, and did the same for my children. Because Monticello is an excellent place to live.

All I want you guys to do for our community is make them understand that this kind of stuff will not happen. As a resident, I'm required to live in Monticello to vote; am I not? Well, somebody sit here and explain to me why our elections superintendent does not live in Monticello, yet and still she presides over our election. Somebody tell me that.

Thank you.

SECRETARY KEMP: Any questions for Ms. Pompei?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Any questions?

Whereupon, there was no response)

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

MR. HARVEY: Yes, sir.

MR. McIVER: I'll so move.

SECRETARY KEMP: Mr. McIver moves to bind over. Do we have a second?

MR. WEBB: Second.

SECRETARY KEMP: Mr. Webb seconds. Any other discussion

(Whereupon, there was no response)

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

MR. SIMPSON: Aye.

MR. McIVER: Aye.

SECRETARY KEMP: Aye.

MR. WEBB: Aye.

SECRETARY KEMP: All opposed, same sign.

MR. WORLEY: No.

SECRETARY KEMP: That motion carries. We've bound it over.

All right, Mr. Harvey. We've got 2012, number 4.

MR. HARVEY: Yes, sir. This case is in Paulding County. And I would ask the board members, in your packet there is a respondent chart in here that has nothing to do with the case. It's inserted wrong. Please disregard the respondent chart that may appear at the end of the synopsis.

In this case, three people who were serving felony sentences were reported to the Secretary of State's office by Deidre Holden in Paulding County. They had registered to vote while serving a felony sentence.

Our investigation revealed that all three had registered to vote. The third person, Wayne Saunders, appeared to still be under sentence. However, the Judge had terminated his probation and sentence early. He went and registered to vote so we recommend his case be dismissed.

However, the case of Russell Allen Gassaway, he completed a voter registration application while serving a sentence. He called this morning and said he was sorry, but he couldn't be here. He said it was a mistake; he did not attend intend to register to vote.

And Andre Guiden also registered to vote. His sentence doesn't end until 2021. He registered to vote on January 25th of this year. Mr. Guiden, we weren't able to contact him early in the investigation. He came to us after receiving his notice and alleged that he didn't register; that's not his handwriting. I don't know if he's here today or not. He gave a handwriting sample to our investigator -- this was about a week ago -- and, frankly, based on the handwriting sample and the handwriting on the voter registration application, I recommend he and Mr. Gassaway be bound over to the AG's office.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED MALE: I wish to speak.

SECRETARY KEMP: Yes, sir. Come on up.

MR. GUIDEN: How are you doing today. My name is Andre Guiden. I live at 46 Gregory Court, Dallas, Georgia.

I got a letter in the mail about three weeks ago and I contacted the elections investigator and she informed me somebody had signed my name on a card; a voter card. I asked her immediately -- because I can't vote for the next three years -- I asked her did that person vote, and she said no. I said did they attempt to vote, and she said no. She told me, well, can you fax over your drivers license. I said, I can do better. I'll come down and bring you what you need.

So I came down and I talked to her about the situation. I signed whatever she wanted me to sign she said, well, you have to be here today. Bring document or you can show up person. This is too important to me to give a letter, so I showed up in person.

So for me to hear what he just said, this tells me that y'all don't have no handwriting expert that can just look; that can do this and say that's not me? Because that's not me.

And so for me to have to go through this process, it's kind of overwhelming to me, you know.

So anybody can just go sign a voter registration on a felony and wind up here? Is that what you're saying?

Thank you, sir.

SECRETARY KEMP: Any questions for Mr. Guiden?

MR. McIVER: Mr. Guiden, then you're on probation until 2021; is that correct?

MR. GUIDEN: No; no.

MR. McIVER: Well, let me ask you the better way, then. How long are you on probation?

MR. GUIDEN: Like five-year probation.

MR. McIVER: And when would that be terminated?

MR. GUIDEN: It's going to be three years and something from now.

MR. McIVER: That's all I have.

SECRETARY KEMP: Have you seen the voter registration form that was signed?

MR. GUIDEN: Yes, sir. She showed it to me. The first letter kind of looks like my signature, but nothing else looks like mine, you know. But my whole thing is, you don't have an expert who would look at this and -- I'm not -- since I'm a felon, I don't have no rights?

MR. SIMPSON: You're not saying you didn't sign it. You're just saying we don't have an expert witness saying you signed it; is that right?

MR. GUIDEN: Yes, sir. I mean, I didn't do this. I mean, it seems like to me y'all should have -- y'all got investigators or somebody to look into some kind of (unintelligible) or something and say, well, this is -- they even could have went back when I was voting and compare to with other voter cards.

No, but somebody just say I did this . . .

SECRETARY KEMP: Any other questions?

Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here.

MR. GUIDEN: Thank you, sir.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, have we gone back and looked a prior voter registration cards or other signatures besides the two that we got?

MR. HARVEY: We've looked at the drivers license signature and the voter registration application signature and the signature he provided, handwriting he provided in the writing sample he gave Investigator Williams. My opinion is that it's significantly similar, certainly enough to be bound over for probable cause. If additional samples are needed in order to prove it beyond a necessary level we can certainly do that. But at this point, I believe the signatures are similar.

SECRETARY KEMP: Would you like to add something?

MR. GUIDEN: If the State don't find it convenient to hire a handwriting expert, I'll pay for it. I know I didn't do that. This is not my signature. And if you look at the first letter, it does look similar. But if you look at the rest of it, it don't look nowhere like my signature. Like I said, if the State don't want to pay for a handwriting expert, I will.

I'm coming here today thinking this case gonna be over with because I didn't do this. And I'm like, I got to go further? I'm living my life as quiet as possible . . .

SECRETARY KEMP: This hearing, so you will understand, is a probable cause hearing for this board to decide whether there's probable cause in the cases that are before us to take different sets of action, or whether there is probable cause to refer to the Attorney General's office. I don't know if Mr. Willard has a better explanation than I do for that.

MR. WILLARD: I think you did just fine.

SECRETARY KEMP: But that's what we're charged with. We're not necessarily charged with saying there's guilt or innocence on certain matters. But whether there's enough cause to refer to the Attorney General's office for further investigation. That doesn't mean if we do that the AG's office may come back and say after our investigation, we don't see a violation here, or we do. There's a lot of different outcomes.

Just want to make sure that you understand that.

Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, I don't know that we have a whole lot of other options, ourselves, do we, for this investigation, without referring?

MR. HARVEY: No, sir. I think the proper course of action would be to refer to the AG's office and proceed forward. And if there is additional things Mr. Willard has questions about, we can work with him on that. But this is standard protocol.

SECRETARY KEMP: Okay. Any other discussion or motion.

MR. SIMPSON: Move that we bind both cases over.

MR. McIVER: And that would be Gassaway and Guiden?

MR. SIMPSON: Yes.

MR. McIVER: I second that.

SECRETARY KEMP: We've got a motion and a second. You said Mr. Gassaway couldn't be here; is that correct?

MR. HARVEY: He called this morning and said he couldn't come and was sorry.

SECRETARY KEMP: Any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: We've got a motion and a second to bind over to the AG's office for further review.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

SECRETARY KEMP: That motion carries. Thank you for being here today. The Attorney General's office will be in touch with you to continue to work on your case.

MR. GUIDEN: Okay.

SECRETARY KEMP: Mr. Harvey, we've got 2012, number 14; Decatur County. I'm sorry. We'll skip that. They're not here, are they?

MR. HARVEY: No, sir.

SECRETARY KEMP: Let me move down to 2012, number 62, the Hall County case.

MR. HARVEY: This is a case in Hall County, Georgia, in the primary election of this year. There are two issues.

One was that a person went to vote. They voted on a DRE machine and later that day, I believe on her way home, in speaking with somebody, she determined she got the wrong ballot because it didn't have the candidates she should have gotten on her ballot. This person is the wife of a County Commissioner and the County Commissioner and members of the county government got together and decided the problem needed to be fixed. So after some communication, the voter and the commissioner went back to the elections office and met with Charlotte Sosebee, who is the director of elections, explained what had happened -- that she had voted the wrong ballot -- and they persuaded, ultimately persuaded Ms. Sosebee to allow her to vote a second ballot on the DRE.

It turns out that what caused this problem was a software system Hall County was using to print voter certificates. They would scan the drivers license and it would pull up the voter information to be selected by the poll worker, and it would print out their voter certificate, which then the voter was supposed to verify, sign, and that creates the voter certificate. As opposed to in many places where they give you -- you fill it out yourself and all the information is correct.

Well, there were some possible user errors with the machine in that if the person before or after was still left on the screen and you hit "print", you could inadvertently print a voter certificate for somebody other than the voter who was in front of you. That's apparently what happened in this case because when they went back to try to find her voter certificate, they couldn't find a voter certificate for Ms. Shannon Lutz.

What they found was that she signed the bottom of someone else's voter certificate who happened to have the same date of birth. And I believe she checked the date of birth, verified that was her. She just didn't scan the top of the form to see if it was a different name. She signed it and she was allowed to vote. And, of course, she got the wrong ballot because she got somebody else's ballot.

So when all that was determined, they went back and, like I said, Ms. Sosebee had conversations with people in the county; had conversations with Commissioner Lutz; and sent she ultimately allowed Mrs. Lutz to vote a second ballot.

To compound the problem, Ms. Sosebee shredded the original voter certificate Ms. Lutz had signed that didn't have her name on it. I'm not sure why she did that, but that would have been a valuable piece of information to have to verify what happened. But that was shredded by her.

This second issue in this case was that there were a number of voters who were placed in the wrong district. This was during the redistricting. I want to say there were approximately 60 voters who in the redistricting process had been assigned to the wrong precinct. One of the voters found out when they went to vote. They turned it in and the investigation revealed that about 60 people had been put into District 4 instead of District 3. So potentially 60 of those voters got the wrong ballots, as well.

In the violations we've got cited, we've got a number of people cited for violations. We've Mrs. Lutz cited for violations for voting twice. I believe that -- again, she went back to the elections office and under direction of the elections official, was told to cast a second ballot. I think it would appropriate in that case to issue Ms. Lutz a letter of instruction telling her that she shouldn't do that. But she was operating under the direction of the elections folks.

Similarly, Lewis Martin and Kerry Jones who were working in the elections office allowed her to vote the second ballot. I believe the same principle to her when they were told to allow Ms. Lutz to vote a second ballot, they, too, were sort of acting under orders and allowed her to vote a second ballot. So I would recommend that Mr. Martin and Ms. Jones be issued letters of instruction regarding those violations.

And then for Ms. Sosebee, we've got a series of violations, including allowing her to qualify voters who were not qualified to vote; non requiring the proper ID in terms of issuing the voter certificate and not having it verified. We also found -- we wanted to see how pervasive this problem was where people got the wrong certificates. And we ended up finding four additional people who signed voter certificates that were not theirs. And, again, through no fault of their own, but in terms of scanning the license for the election worker (unintelligible) the voter to print out the certificate, they just got the wrong one. And, again, as people often do, something that says "Sign here" the voters sign their names. They went and voted.

We didn't get any reports from those people that they didn't get the right ballots. A lot of times, frankly, people don't know what the right ballot is in some elections.

So we have Ms. Sosebee and the board cited for numerous violations as far as those four individual (unintelligible) as well.

And we recommend that Ms. Sosebee and the board be bound over to the AG's office and that the other letters of instruction are issued forth.

SECRETARY KEMP: Any questions for Mr. Harvey?

MR. WORLEY: I had a question. I'm having a hard time figuring out what the voter should have done in this case. She came to the conclusion that she voted incorrectly; she went back; the elections officials allowed her to vote again. If we send her a letter of instruction, is it going to say, well, when -- the next time election officials tell you you can vote, don't.

MR. HARVEY: I think the proper letter of instruction would be to inform the voter they only get one ballot, and if they find an error with their ballot, it's incumbent on them to get it corrected before they cast it. We've seen this happen a couple of times in this meeting and in other cases. You're essentially giving somebody two votes and I think the -- I think you're right. It's difficult to place the total burden on the voter to do that, but at the same time, I think if you vote and then you realize you may have gotten the wrong ballot -- we've had cases where people thought they got the wrong ballot when they didn't get the wrong ballot. You know, memory is kind of faulty that way. People need to understand once you cast your ballot, you don't get a second crack at it. So if there's a problem, bring it their attention then. You can't let somebody else later tell you, oh, yeah; you got the wrong ballot.

I understand what you're saying and that's why I would recommend a letter of instruction to these kinds of voters would be to say, if you encounter a problem with a ballot while you're voting, please notify election officials before you cast the ballot. Otherwise, once you hit "Cast ballot" there is no way to pull that back.

We're in a difficult position. But I think part of the burden is on the voter to make sure that they're getting their candidates that they're entitled to based on their residency.

SECRETARY KEMP: Mr. McIver.

MR. McIVER: Would this have been a good situation for a provisional ballot?

MR. HARVEY: It would have. That would have been, I think, a very easy solution and sort of pain-free solution. And Ms. Sosebee indicated that she realizes it was a mistake and she should not have done it, in terms of issuing the second ballot. I think this would be a perfect case for a provisional ballot. I think probably the provisional ballot would have been ultimately rejected, but it would have been out --

MR. McIVER: I guess I've had the impression that provisional ballots are the ultimate

default. If you're in doubt, vote it provisionally, put in an envelope, and it will be there for scrutiny and --

MR. HARVEY: It at least buys you 72 hours to get resolved. In this specific case, I'm not sure if they could have done anything to resolve it. In many cases, when things with voter registration are an issue or residency are an issue, it can be resolved.

MR. McIVER: But you wouldn't have had a double ballot?

MR. HARVEY: That's correct.

MR. McIVER: That's the issue.

MR. HARVEY: That's correct.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else?

MR. GILLIAM: Mr. Secretary, members of the board, Steve Gilliam from Gainesville, Georgia. My law office is located at 301 Green Street. I'm here with Charlotte Sosebee to answer any questions.

Ms. Sosebee agrees that she should have allowed the voter, the elector, to vote a provisional ballot. She's actually given an affidavit and it says that in the affidavit. This is one of those situations where you've got a County Commissioner who was there with his wife. There's been an improper vote and she's trying to do the right thing. I'm not saying Ms. Lutz did anything wrong; I'm not saying Commissioner Lutz put any kind of pressure on her. But she was trying to make the right call. What she did not do was allow that ballot to be a provisional ballot. And I think you've heard this several times today that that is the appropriate way to allow it to be done. So we don't have any objection to that.

We just feel like a letter of instruction should be issued on that one because she assumed it was she did was wrong. It's like a lawyer trying a case and, do I object right now? Should I not object? Do I ask that question, or do I not ask that question? And you're making a split second decision on what you're going to do. Sometimes you make the right call, and sometimes you make the wrong call. And she admits she made the wrong call. It should have been a provisional ballot.

In respect to how it occurred, I do disagree with Mr. Harvey. There was a glitch in the

computer. It happened several times that day. You take a drivers license or identification and you put it into this computer. And then it matches up the state information with the Hall County information.

On this particular one, I believe (unintelligible) where Ms. Lutz's picture comes up with somebody else's name on there. And it still exists on that computer today. We asked Ms. Sosebee to keep it just in case she needed to show that as evidence. But I can show it to you if you don't have it. But Ms. Lutz's picture actually comes up with someone else's name.

Now, what happened was, the best practice is that she had at that time was to move the crowd through get them to vote sort of conflicted with the best practices to verify who was voting and what time. What she did, she allowed someone to take the voter ID, whether it's a drivers license or whatever, put the information in the computer, and it kicks out an application. And then that application was then actually taken by another clerk, and in this case it was Kerry. Kerry took it out and handed it to Ms. Lutz. She prints it out, hands it to Ms. Lutz, and asks Ms. Lutz to sign it, which Ms. Lutz did. And then she gave it back to her. And that's when this card -- voter card -- is an issue that they didn't take it into the voting booth.

So the process was okay. But as soon as this happened, as soon as this happened, Ms. Sosebee immediately started requiring that whoever handed that piece of voter ID to that person, then that person who took it would have to then verify that and initial it, the application for the advance ballot and had it back to them. So immediately that was stopped. So that has already been taken care of, the way they're operating in the future.

Anything you want to add on this?

MS. SOSEBEE: Good afternoon. My name is Charlotte Sosebee. My mailing address is P.O. Box 601, Gainesville, Georgia 30503. And I wanted to just say to you that I have twenty-three-and-a-half years experience in the elections office and I believe in doing things right. My job is to make corrections when there are errors.

When I received a list of this error, and unfortunately it was with Commissioner Lutz's wife -- one of the commissioners I just -- I don't want to mess up on. I don't want to mess up on anybody. But, no. Not the Lutzs.

I got a phone call from the County administrator, the County attorney, and Commissioner Lutz on this conference call informing me that Ms. Lutz had received the wrong ballot. She had just left our office and called her husband and they were on the cell phone conversation. I was in a meeting with my board and so I was really put in a pretty tough

situation. Only to find out when I spoke with my staff, they had no idea that she had been in office.

So I immediately started investigating. You know, I need to find out what happened in this situation. So I looked at all the applications that have been processed within an hour. I did not find her application. So I thought, we're not going to look at the names; look at the signatures. So we found her signature on an application that was, of course, printed under someone else's name.

So I made the determination there that, yes, she did receive the wrong ballot. I came back to the phone conversation and explained what had happened. I also indicated that there is a sign in the outer polling booths that simply says that if you have received the wrong ballot, before hitting "Cast" let an elections official know. From that point, I didn't know if it was over or not, but I felt like that covered me.

A few minutes later -- a couple of hours later, the Lutzs showed in the office, Mr. and Ms. Lutz, and I showed her the application she signed. And several times before that I handed it to somebody to shred. And I kept saying, no; bring it back. Let me look at it again. Because I had a feeling that she was going to show up and she was going to want to see that application. And I don't blame her because when we're told to look at an application and make sure it's ours, we want to know that we made sure it was ours.

And she explained to me she looked at the date of birth, and it was similar -- exactly the same date of birth -- and we made the determination she signed the wrong application. So I just -- I knew I was going to have a battle in front of me because this is a commissioner's wife who has been given a ballot for another district. It wasn't her husband's district because he wasn't on the ballot. But her State House, her State Senate, they were all wrong.

So I didn't really know what to do so I made the decision either deal with her voting the wrong district, or let her vote her district. And I didn't even think about double voting. But I knew my numbers were going to be off, and that's the reason I shredded the application. I wanted at the end of the day, if 250 people voted on the machines, that I was going to have 251 -- well, 249 applications in my hand. Because I knew what had happened.

So that's why I shredded the application. It was after she had seen in thinking that it was over. And I was going to explain in my recap what happened, and if something happened from that point, it would just only include me.

Well, two days later, I get a phone call from our local organ and the Secretary of State's

office to tell me that there was a report. So that's why we're here today.

As far as the districts are concerned, when an error is brought to my attention, immediately I want to make the changes; I want to correct it.

So I received a phone call the day after the general primary election from Mr. Lipscomb stating that he had received a ballot in the wrong district. Had I not gotten that call, I wouldn't have known until we'd done our check system. Unfortunately, the State Legislature did not pass, or did not send our maps of redistricting in until late. There was a discrepancy or some issue going on with our districts.

In the beginning we had, I think, seven State House districts. But we ended up with five. The issue was, or the report was signed by the Governor on the 29th of May. By June 25th we had to have all of our information in the system so that every voter in our county could get cards 30 days before the election. We only had that length of time to get over eighty-some thousand voters changed in the system.

Well, we thought we had them all right, and I'll just tell you that. I'm the elections director. I think when I send a voter card to a voter that they're going to look at their voter card and they're going to know if their districts are right or not. That's me as elections director. But everybody doesn't do that.

So when Mr. Lipscomb went to vote, he didn't realize, I take it that he didn't realize he was in the wrong district. And we did make our corrections; we did them before the (unintelligible) election. Unfortunately, we weren't able to do that checking system just before the election. but we have made all those corrections.

And I do know that when I went home that night on July 25th [sic], I should have resorted to a provisional ballot. But at that time, just didn't think that. So I definitely want to apologize to Mr. Lutz and his wife for putting them in that position, as well as my staff, and to you all for having to hear this today.

MR. GILLIAM: Let me just sum up on the voters being in the wrong district. It was basically one street that was in this new district that was not placed in the correct district. And what Ms. Sosebee was telling you was sort of the guideline. It was not until May 11, 2012, that her office was notified that Department of Justice had approved the reapportionment of the State House districts. And that was submission dated March 16, 2012. She had to get everything ready to start voting on June 25, 2012. So she only had about a month-and-a-half to go through everything the Department of Justice had approved and make sure every street, every road, every voter was in the right district. And what happened was, they just missed a road; they just missed a street. And I've got

a map over there I can put in evidence to show you every street in Hall County and how many streets there are. And it was just one street that was missed. They had to have everything ready to go by June 25.

So, again, it's a complicated system, and mistakes were made. And this was a mistake. And we just feel like there's no reason to send it to the AG's office for probable cause.

And I might add that out of that there were only six -- it only affected 60 voters out of how many voters?

MS. SOSEBEE: About 92,000.

MR. GILLIAM: About 92,000. It only affected 60 voters, and out of those 60 voters, only 26 voted in that election.

So, again, immediately upon learning of this error, it was fixed; it was corrected.

So we would submit to you that there's no probable cause to submit it to the Attorney General's office.

Now, there's one other thing. I wasn't quite sure -- Mr. Harvey talked about some other district cards were issued. Because she's gone back and there were three in question about whether they were signed or not. And what happened was, it was a computer glitch and two folks did not sign the actual application for voter. But they signed another application for advanced. There was also another elector, or voter, that didn't. The same thing that happened to Ms. Lutz happened to her. But they caught that error, so they were able to get her signature on another card.

So we had three, not four. But those three folks -- and Ms. Lutz may have been the four - - those three folks did not actually sign for an advance application. We'll be glad to answer any other questions you have.

SECRETARY KEMP: Mr. McIver.

MR. McIVER: Mr. Gilliam, Would these votes that were, for lack of a better term, improperly cast, would they have been determinative of the results of the election?

MR. GILLIAM: No.

MR. McIVER: And I have one other question and that would be for your client, if you permit me.

Ms. Sosebee, have you gone through all the training that's offered by Ms. Ford and others in her department?

MS. SOSEBEE: Yes, sir.

MR. McIVER: And in that training, do you understand the dynamics of a provisional ballot?

MS. SOSEBEE: I most certainly do, and I did. I sure did.

MR. McIVER: Thank you.

SECRETARY KEMP: Anybody else?

MR. GILLIAM: I think if you read her affidavit, you'll see where that night she was kicking herself over and over and over again for having (unintelligible) provisional ballot.

SECRETARY KEMP: I have a question for either you or Ms. Sosebee. And I think this is a situation, certainly, where Ms. Sosebee won't let this happen again, I'm sure.

But one thing that does concern me a little bit, you mentioned a computer glitch several times. Now, it's true that the Easy Vote is something that the county purchases, correct?

MS. SOSEBEE: It is.

SECRETARY KEMP: So it's not part of the State system, if you will.

And, you know, I don't know -- it concerns me that that issue happened. I haven't -- I can't remember if I've heard that happening in other counties or not, and as to why it only in Hall, I don't know. I don't know if it was an issue with the person having the same birthday, or what. But have y'all done any research into that? Or has the vendor given you any explanation for that? Was it user error by county employees? And I'm not trying to fish for more violations. I'm trying to make sure that if we have an issue with the system that is outside the, you know, on the county side, that we know about that and can address that and make sure this doesn't happen. Because when you say computer glitch, everybody's antennas go up. I know in this case, it was outside of the State system.

MS. SOSEBEE: It was outside of the State system, Mr. Chairman. And what we put in place was -- and it could have been user error -

SECRETARY KEMP: How could it have been user error, do you know?.

MS. SOSEBEE: Well, when you scan a person's ID and you've completed that person thinking you could close it out --

SECRETARY KEMP: So did you print somebody's form twice?

MS. SOSEBEE: Yes.

SECRETARY KEMP: Okay.

MR. GILLIAM: Only if they voted.

MS. SOSEBEE: Yes. Only if they voted. But for this one in particular, this person had not voted. But the system went out and fished the date of birth and that's how we ended up with this other person's application.

But what we put in place was another person who -- like, I would scan the ID and I would give the ID and the application to this person and they would check to make sure it is the person standing in front of us, and have the voter to verify by initialing with an "X". We didn't do that before. But after Ms. Lutz came in we thought, let's put this system in.

Instead of a best practice -- we now have a -- a better practice, we now have a best practice. So I can't really say if it was a user issue or if it was the system, but we definitely put that extra step in there.

MR. GILLIAM: She does not think and staff does not think it was a user issue because the person whose name appeared on the screen never voted. So it wouldn't be a matter of not closing that screen out. They never voted. Now, if they had voted immediately before Ms. Lutz coming in and they didn't close out the screen, that could have happened. But in this case, the lady whose name popped up on the screen and the address and stuff like that, she never voted. So that wouldn't have been the issue that happened there.

SECRETARY KEMP: Drivers license went through?

MS. SOSEBEE: Right.

SECRETARY KEMP: It would be like Brian Kemp's drivers license going through, and Tex McIver's form pops up.

MR. McIVER: Because we have a common birth date, correct?

MS. SOSEBEE: Exactly. That's what happened in that particular situation. They had the same exact birthday.

SECRETARY KEMP: What about the other person that had this situation? Was it the same birthday on that one, too?

MS. SOSEBEE: No, sir. It was not.

SECRETARY KEMP: So how did that happen?

MS. SOSEBEE: I think it was a situation where a voter had already voted.

SECRETARY KEMP: So you voted in front of me; you didn't clear the screen out. So you printed your form out again, and I got it?

MS. SOSEBEE: Exactly.

SECRETARY KEMP: So that would have been user error.

MR. GILLIAM: You're asking the same questions I asked. So I got my drivers license and went through the whole procedure with them and I worked perfectly. But they preserved that evidence on the screen, and I don't know if y'all have seen it or not. I can show it to you where it's got all this information about the lady but it has Ms. Lutz's picture on there. And the problem was the best practice is to move the line through. The person that printed it out did not have the card -- did not have the voter ID.

So I would take it; I would enter it; I would hit print; Ms. Sosebee would pick it up, give it to Ms. Lutz and say, you know, complete this. And then it would be given back to Ms. Sosebee. And that was the glitch.

The best practice was to move the line through. But what she immediately stopped doing when they learned about that, was to now make me verify that signature and verify that information rather than the person who printed it out. That's the best practice.

And I've been voting in Hall County 39 years of my life. We went in there; we voted; there were a lot of people in there -- we did early voting. And I mean people just moved right on through. There weren't any complaints at all. Best voting I've been through.

MS. SOSEBEE: I would like to also add, since that, there's been several versions updates to the Easy Vote. So I don't know if they heard that happened to us. But it was a totally better process in the November election. We didn't notice it happening, but we did have that extra step in place to make sure that it didn't.

SECRETARY KEMP: Any one else; any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: All right.

MR. SIMPSON: Can I just say it seems like to me that Hall County officials have worked hard to try to figure out what caused the problem and how to deal with it. And I know that it would be beneficial to bind this over if we could have some type of a letter of instruction or remedial plan submitted by Hall County to deal with it. I don't know how we would do that conceivably. I'd ask for some guidance on that.

SECRETARY KEMP: I think that if the county wanted to agree with the motion, should the board go along with it, I think they could agree to submit their plan in writing that there are new procedures that they have. I'm sure that's an option.

MR. SIMPSON: That may also be beneficial to some of the other counties that use that same system so that they could be on the lookout for the same problem in the future. We might accomplish more by doing that than we would be trying to bind over a case that we could use as a teaching moment, I guess is what they call it in school.

SECRETARY KEMP: Mr. McIver.

MR. McIVER: With all due deference to Judge Simpson, the Legislature through the election code has given us a world of balls a strikes. Regrettably, Ms. Sosebee just made a bad call. She's very appropriate about that, and I'm quite impressed with it. However, I don't think that's our flexibility. And when the time comes I'm going to propose that we issue a letter of instruction to Lutz, Martin, and Jones, and we bind over Ms. Sosebee and let's let the county demonstrate in what ways they can convince the Law Department this will never happen again.

But I don't believe this is our charge as described by the Election Code and in our own rules of the State Election Board.

SECRETARY KEMP: Anybody else? Mr. Worley.

MR. WORLEY: Mr. Chairman, I would tend to agree with Judge Simpson, I think my preference would be to send a letter of instruction to everybody.

The thing that troubles me about this case, though, more than necessarily the error that was made, is that a County Commissioner took it upon himself to apparently involve the County administrator and the County attorney, or a county attorney in getting this situation corrected as he saw it. It seems to me that it puts the elections director in a very,

very difficult situation when that happens. And I just personally find that very troubling. To me that is somewhat of a mitigating circumstance which leads me to think that letter of instruction to everyone is the most appropriate course.

MR. WEBB: I want to concur with Mr. Worley's comments. I am troubled by the Commissioner getting a little too involved and pulling other people, as well.

And I do I think a letter of instruction is appropriate because Ms. Sosebee definitely outlined a remediation plan that they have been through. And in my opinion, they addressed the issue. I'm a little scared of the software product, it sounds like that's been rectified.

I'm in favor of letter of instruction to all parties.

SECRETARY KEMP: I don't believe we've got a motion yet.

MR. McIVER: I'm ready to move, as I indicated earlier, in the face of defeat.

SECRETARY KEMP: We appreciate a man with conviction.

MR. McIVER: Nonetheless, I do think that is our charge. Therefore, I'll move that Lutz, Martin, and Jones receive letters of instruction, and that we bind over Ms. Sosebee for some very delicate handling by the Law Department.

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

(Whereupon, there was no response)

SECRETARY KEMP: That motion fails for lack of a second. Do we have another motion?

MR. WORLEY: I would make a motion that we send a letter of instruction to each of the respondents in this case, and that the letter of instruction recount the remedial actions that the elections office has taken.

SECRETARY KEMP: That we would ask for remedial actions?

MR. WORLEY: Yes. That we would ask for remedial actions and ask them to recount -- report back to us what they have done.

SECRETARY KEMP: Okay. And that's just for the County, right?

MR. WORLEY: Right.

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

MR. WEBB: Second.

SECRETARY KEMP: Second by Mr. Webb.

Let me just say, too, I'm agreeing with their action. I certainly -- if it hadn't been interference with the County administrator and attorney and Commissioner, I certainly would be more inclined to bind this over. I know you were in a tough spot there. I think it's also important -- I know Ms. Sosebee doesn't need to send this message, but perhaps her counselor could that interference in this process, you know, that is a very difficult and delicate situation for the County attorney to be in. He or she needs to make sure that Charlotte and the board are following elections laws and rules. If there's ever any doubt in that, certainly our office is available for guidance. We can't give legal advice, but we can certainly give guidance on situations.

Any other discussion?

(Whereupon, there was no response)

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

MR. SIMPSON: Aye.

MR. WEBB: Aye.

MR. WORLEY: Aye.

SECRETARY KEMP: All opposed, same sign.

MR. McIVER: Opposed.

SECRETARY KEMP: That motion carries.

MR. GILLIAM: Mr. Secretary, I am not the County attorney. I was hired by the County just to represent her in this matter. But I will pass that on to the County.

SECRETARY KEMP: That was the direction I was going. I thought you might could do that. So thank you.

Mr. Harvey, we are moving to case 2012-152; Douglas County.

MR. HARVEY: This case involved a private voter registration that was done with the

respondent --

SECRETARY KEMP: Mr. Harvey, let me interrupt you. We're going to take a -- was it our intention to take 152 and 159 together?

MR. HARVEY: Yes Sir.

SECRETARY KEMP: Let the record show that we are going to take 2012-152, 2012-159, which are both Douglas County cases. That will be number 41 and 42 in your binder.

(Whereupon, there was a discussion off the record)

SECRETARY KEMP: I never should have called case 159. It should have just been 2012-152. We're dealing with a Douglas County private voter registration issue, and then a voter registration drive. I remember this now. I think when Mr. Harvey goes through this, you'll see why we can't bind the case is. But I'm working off my old agenda because I made notes beforehand.

Go ahead, Mr. Harvey. If there is any objection, will pull a -- I tell you what. Let's take just about a 7 minute break and we will come back at 2:45 if anybody needs to go to the restroom.

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(Whereupon, the proceedings were in recess)

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SECRETARY KEMP: All right. We're going to keep moving. Mr. Harvey, I inadvertently skipped over the 2012, number 11 case; Oconee County. I apologize to my neighbors down my way.

MR. HARVEY: What tab is that, sir?

SECRETARY KEMP: That is tab 34.

MR. HARVEY: 2012-11, Oconee County, has to do with the presidential preference primary in 2012. Dave Axel is the complainant. He said that he and his wife sent in their voter registration applications on the same day dated February 6. His wife was registered to vote and allowed to vote in the presidential primary election. He was not registered to vote by Oconee County and was not allowed to vote, nor was he offered a provisional ballot.

What our investigation revealed, the cards were stamped by the Secretary of State's office on February 9 as having received. They were dated February 6. Both of those would have put them inside the February 10 deadline for cutoff for voter registration. So I don't know why his was not accepted and hers was. But as a result, it wasn't.

So we've got Oconee County Board of Elections and Registration with failing to put him as a registered voter, and also not allowing him to vote a provisional ballot in the presidential preference primary.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MS. HAYES: Good afternoon. Pat Hayes from Oconee County; PO Box 598, Watkinsville, Georgia. I have been the elections supervisor for 17 years. First time I've been in your presence at last, I hope. I won't try to sugarcoat this. I'll make it short and sweet.

There was some confusion with the date stamps and the information that we get from the Secretary of State as to the dates that we use to accept our registration applications. And my clerk inadvertently got confused with the county-to-county transfer date. You're not supposed enter anyone after the 7th, and the 6th was the cutoff date. That's where she came up with the conclusion that Mr. and Mrs. -- Mr. Axel was not registered to vote. Actually, I think both should have been. I was not present at the time. I don't -- I really don't know what all transpired. But they made a mistake and we are here to get reprimanded.

SECRETARY KEMP: Thank you, Pat.

MS. HAYES: As far as the provisional goes, though, we implore our workers to always, always offer a provisional ballot regardless of what they get out of my office on election day because I never know who they are talking to when they call in. So if he wasn't offered one, I don't know why.

SECRETARY KEMP: Mr. McIver.

MR. McIVER: Here I go again. Have you undergone the training Ms. Ford and her mighty staff offer?

MS. HAYES: Yes, Sir. I have.

MR. McIVER: And does that training include that the provisional ballot is the ultimate default if ever in doubt.

MS. HAYES: It does. As I said, we do implore to our workers always, always offer. We have some that refuse them. They want to vote the normal manner. They get belligerent and they don't want provisional ballots. They will walk away and not vote. I mean, this is the first time I have ever heard of someone not being offered one at one of my polling sites. I can't say that he wasn't offered one, you know. I wasn't there.

MR. SIMPSON: The report of investigation says that Mr. Axel was not eligible to vote and he would have been told he could vote a provisional ballot. What bothers me is, but that it would not count. Well, I don't think anybody ought to provide an opinion when they offer a provisional ballot as to, you can fill this out, but is not going to count. Well, I would turn around and walk off, too.

So that concerns me is what your workers are saying when they offer the provisional ballot.

MS. HAYES: When a person goes to the polls to vote, we instruct the workers, if you've got time, call us and let us see if we can figure out why this person is not on the list. And a lot of times we clarify right then and there. We know that this person -- they filled out their application and the deadline was the 6th, and here it is the 10th, you know. That's what they are not registered. But you can always offer that provisional ballot. And if they've got something else to show us that they are registered, then it will count.

MR. SIMPSON: It seems like to me you are to offer the provisional ballot and not express an opinion as to what the outcome is going to be on that provisional ballot. What we are looking at doesn't show that you're eligible, but please vote this provisional ballot and we will check into it.

MS. HAYES: That's what we instruct them to do.

MR. SIMPSON: With this report says is that they were told that the provisional ballot wouldn't count. That's what --

MS. HAYES: That may be what my workers told the poll manager. But the poll managers at trained to always offer their ballot. I don't know why they would have told - you know, they may have looked at it and said what we're looking out is not going to count. I don't know.

MR. SIMPSON: Well, that ought to --

MS. HAYES: Like I said, I wasn't present. My clerk is present if you would like to speak with her.

SECRETARY KEMP: Was that different from the person that was talking about the provisional ballot?

MS. HAYES: It was. They were talking up back and forth to each other. It was really busy that day with people in and out and so forth. So she got confused with -- like I said, county-to-county transfer date and the registration deadline date. If they did tell them that, you know, it would not count, I am sorry. I can give you a hundred reasons why or why not they did something, but it's not going to help the situation. They know now what to do and what not to do.

SECRETARY KEMP: Any other questions for Ms. Hayes?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: One thing I think we might consider, of course, I'm certainly open to the board's thoughts, but I know, like Pat said, this is the first time in 17 years she's been before this board. You know, I know in the past we have entered into consents with the Secretary of State's office writing the consent and working with the county to make sure this doesn't happen again instead of burdening a case like this to the AG's office. That is certainly something I could live with. I don't know what other board members think.

MR. SIMPSON: I'll move that we take that course.

SECRETARY KEMP: All right. Mr. Simpson moves that we do a consent through the Secretary of State's office with the county and board to make sure this issue doesn't happen again. I will second that. Do we have any other discussion?

(Whereupon, there was no response)

SECRETARY KEMP: No one else wishing to speak?

(Whereupon, there was no response)

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

MR. WEBB: Aye.

MR. WORLEY: Aye.

MR. SIMPSON: Aye.

SECRETARY KEMP: All opposed, same sign.

MR. McIVER: Opposed.

SECRETARY KEMP: The motion passes and we will enter into a consent through the Secretary of State's office.

All right. Is there anybody here for any of the cases on the new cases on our agenda that we have not gotten to yet?

UNIDENTIFIED FEMALE: (Unintelligible)

SECRETARY KEMP: What case is that?

UNIDENTIFIED FEMALE: Douglas County.

SECRETARY KEMP: Douglas County?

UNIDENTIFIED FEMALE: Yes.

MR. HARVEY: Which Douglas County case?

UNIDENTIFIED FEMALE: The registration.

MR. HARVEY: Oh, the registration. Fine. That's the last one.

SECRETARY KEMP: We're fixing to get to that, right? All right. So that's 2012-152?

MR. HARVEY: That's correct.

SECRETARY KEMP: Go ahead, Mr. Harvey.

MR. HARVEY: This case involved a private voter registration drive that was conducted that ended up with voters not being registered to vote.

The first complaint we got was from Ms. Amelia Nixon who said that she registered to vote in August of 2012, but when she went to vote during advance voting, she was told there was no record of her voter registration.

After that time, we had a person self-report that they had conducted a voter registration

drive and had inadvertently left 27 voter registration applications in their trunk and had not turned them in. That's why these two cases are essentially combined.

What we had was the -- Virginia Martin, who was the public policy chairperson for the Coalition of 100 Black Women, Northwest Georgia Chapter, reported to us that she had conducted registration drives and she had gotten a call from somebody who was attempting to vote who was not registered. That's when she went out to her car and found out that there were 27 voter registration applications that had not been turned in. Fortunately, in most cases, these voters were previously registered. As far as we know, this complainant, Nixon, was the only voter that we are aware of that was not allowed to vote based on voter registration drive. The other counties checked and they were not able to identify any.

So, at the end of the day, we have a violation of SEB rule 183-1-6.028(a), where Ms. Martin failed to promptly transmit all completed voter registration applications to the Secretary of State or appropriate board of registrars.

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

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MS. MARTIN: Yes.

SECRETARY KEMP: Yes, ma'am. Come on up.

MS. MARTIN: Good afternoon. I am Virginia Martin. My address is 193 Fullerton Ridge Drive, Douglasville, Georgia 30134.

First let me preface this by saying I am 73- years old, and I have been involved all of my life -- my adult life -- in ensuring that people have the right to vote. So, therefore, I would never intentionally deny anybody the right to vote.

On that particular day, we managed to -- I was in a support role; I did not organize it. We registered people to vote. After the voting was over, they asked me if I would take the -- because I was going past the post office -- if I would take the ballots and put them in a box, and I said, yes. Well, I took the ballots and the sign, the instruction sign as to where you go register, I took that and I put it in my passenger seat of my car. Once I got to my car, there were three other people asking if I would give them a ride to their car, and I did that. At that time, I took the ballots and the sign and I put the ballots in the trunk of my

car and put the sign in there.

Now, I had gone back to the trunk of my car at some point. But by the sign be over there, it just never dawned on me they were in there. On my way home that day, I got a call from Augusta, Georgia. One of my brothers, who is now deceased from cancer, one of my brothers was going into the hospital; the other what was coming out. So as I was on the phone with them, then another one, the same brother had to be rushed back. So I'm not making an excuse. I'm just stating a fact. And I don't know what happened mentally, but I never thought about the ballots again.

When I found out -- someone called me to tell me -- what brought it back to me to my memory was when the young lady from Douglasville called someone that she knew that was there at the registration and said that she couldn't vote. Well, I was in the Apple Store and I went to my car -- they called and told me. I said, well, I think I mailed them; I'm not a hundred percent sure. I was praying all the way to the car: Please, don't let them be in my trunk.

When I got to the trunk of the car and opened it up and I moved the cardboard, the ballots were there. I called -- because a lot of the people were from Cobb County. So I called the elections over in Cobb County and I spoke with the supervisor there and I told her what happened. And she said to me did I have the list of names. Well, we had taken the names because we use that to determine how effective we were in registering people. Another organization I'm in, we registered over 100 people.

So when I called Cobb County, she said can you get them. So I called the secretary and she faxed me the list. I, in turn, typed the list of then I emailed it. I don't recall the lady's name in Cobb County. But I did email the names to her and she told me she would get back to me. She didn't ever get back to me. She was going to go through and see if there were any problems with those. So she never got back to me.

The next thing -- and then I called here, the Secretary of State. I spoke to the receptionist and I explained to her what happened. I said do you think this should be an investigation? And she said, well, now that you've reported to me, I have to pass it on to my supervisor. So, obviously she did that, because near the end of -- somewhere in November, maybe the 28th, 29th, I received a call from Ms. Williams who identified herself as an investigator at the Secretary of State's office. Well, I spoke with her.

In the same time, it was this other investigation with the to the young lady from Douglas County that I was supposed to have made contact with somebody and I had never been contacted about that. I finally got a call from one of our members, Mr. Hall, I think his name was, had called her and said nobody had contacted him. Mr. Hall never contacted

me. I only spoke with Williams. And the last conversation I had with her was somewhere around the Christmas holidays. I was on my way back from Florida and I called her, actually. And somehow that's when some sense was made of the whole matter, that it was the same voter registration. And she said she would pass it on to Mr. Hall.

So I'm just saying that whatever has to happen, has to happen. I'm not making an excuse. I'm just stating the fact. Because I don't know what happened with me, but I just didn't remember that they were in there until I got the call about the young lady not being able to vote and Douglasville. And immediately -- I'm with law enforcement. I retired as a police lieutenant in Miami-Dade Florida, and an educator, also. So immediately I knew something needed to be done and that's when I contacted Cobb County and then the Secretary of State's office.

So that's it.

SECRETARY KEMP: Thank you for being here today, Ms. Martin. In your testimony you were referencing the ballots. But you are talking about voter registration forms?

MS. MARTIN: Yeah. See, I'm not trained to do ballots.

SECRETARY KEMP: Right. I just wanted to make sure --

MS. MARTIN: I was trained in Florida, so don't hold that against me. I was not trained in Georgia. I was a poll worker here in Paulding County. So, therefore, I was just there in a support role, and they asked me if I would take the ballots and mail them.

SECRETARY KEMP: I just wanted to make sure for the record that we were talking about voter registration applications, not ballots.

MS. MARTIN: I'm sorry. Not ballots; excuse me. The forms.

SECRETARY KEMP: Thank you, ma'am.

MS. MARTIN: Thank you.

SECRETARY KEMP: Any questions for Ms. Martin?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, do we have a motion or recommendation? I'm not going to make one. I'm scared Mr. McIver may vote against me.

MR. WORLEY: I appreciate Ms. Martin's goodwill come and I also appreciate that she reported this to the Secretary of State's office. I think that's commendable. Unfortunately, I don't think there is any question there was a violation of the statute here, and I think it's very unfortunate that those 27 people (unintelligible) did not vote. So I make a motion that we bind this over to the Attorney General's office.

MR. McIVER: Second.

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

(Whereupon, there was no response)

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

SECRETARY KEMP: All opposed, same sign.

SECRETARY KEMP: That motion carries. Ms. Martin, the Attorney General's office will be in touch with you about the rest of this case, okay?

MS. MARTIN: Thank you.

SECRETARY KEMP: Thank you for being here.

Okay. If there is no one else here for the any of the other new cases we have on the agenda, we will move to the Attorney General's report. I think most of the audience are here for that and we'll try to get to that one next so you folks can get on your way.

Is that all right with you, Mr. Harvey?

MR. HARVEY: Yes, Sir.

SECRETARY KEMP: All right. Mr. Willard.

MR. WILLARD: Yes, Mr. Secretary.

SECRETARY KEMP: I'm sorry. Let me do this. I'm sorry. What has been our order of business on Attorney General cases is we will take these as the consent calendar to accept the recommendations that come back to the State Election Board from the Attorney General's office for these consent orders for dismissals or whatever recommendation is, unless there is someone in the audience that would like for us to pull

the case out if you disagree with the recommendation or if you don't know what it is and you want to hear it. If any board member wants to pull something out, we can do that. If not, we will vote on these in block.

So that's where we are. Any board members that want to pull anything out?

MR. SIMPSON: I would like to pull out number 48; that's tab 48. That's the bumper sticker case.

SECRETARY KEMP: This case number 2010-77?

MR. SIMPSON: Yes, Sir.

SECRETARY KEMP: Okay. We'll pull that out. Anything else?

MR. WEBB: Mr. Secretary, I'd like to pull the next one out, tab 49. That's 2010-80.

SECRETARY KEMP: Okay. We will pull 2010-80 out; Gwinnett, DeKalb case.

Anything else? Yes, ma'am?

UNIDENTIFIED FEMALE: Byromville case; 2007-42.

SECRETARY KEMP: All right. We'll pull out that case; Byromville.

Anything else? Yes, Sir.

UNIDENTIFIED MALE: Fayette County.

SECRETARY KEMP: Okay. 2011-47; Fayette County case. We'll pull that off.

Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: All right. We will hear those individually. But --

UNIDENTIFIED MALE: Sir?

SECRETARY KEMP: Yes, Sir.

UNIDENTIFIED MALE: I would like to hear 2009-50, please. Warm Springs, Georgia.

SECRETARY KEMP: We will pull that out. Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: All right. We will vote in block on the rest of them to accept the consent orders that we have before us. If there are no other objections to that, I will take a motion.

MR. WEBB: I make a motion that we accept the Attorney General recommendation's for case number 2010-5, City of Gray; case 2010-35, Taliaferro County; case 2010-50, Laurens County; case 2010-91, Treutlen County; case 2011-10, Floyd County, Fulton County, Gwinnett County, combined; case 2011-18, Chatham County, Gwinnett County; case 2011-21, Seminole County; case 2011-29, DeKalb County; case 2011-31, Talbot County; case 2011-43, Troup County; and case 2011-99, City of St. Mary's.

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

MR. WORLEY: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Now we will hear, Mr. Willard, 2007, number 42; City of Byromville.

MR. WILLARD: This is one of the cases that was transferred from an attorney that is no longer in our office to a new attorney last year. There are four respondents in this case. This concerns one of the respondents, Bobbie Merrill. The other three respondents remain pending in our office.

Respondent Bobbie Merrill actually resided in the City of Pinehurst, but actually wrote on his voter certificate in the November, 2007 election that he lived in the City of Byromville.

Our office has entered into a consent order in this case for a cease-and-desist, public reprimand, and a \$200 sanction, which the attorney currently handling this case felt was

appropriate given the age of the case.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED FEMALE: I do.

SECRETARY KEMP: You don't have to.

UNIDENTIFIED FEMALE: Do I have to go up?

SECRETARY KEMP: Yes, ma'am.

MS. MURRAY: Yes. My name is Lynn Murray. I live at 225 Thompson Avenue in Byromville.

We've had several problems in the past with our elections. Our elections superintendent is not trained properly. This particular election, there were 10 votes discarded that were not brought up. There were three people that voted that were not on the voter list, or two were on the voter -- all of them were on the voter list, but were improperly registered. One person lost by two votes; one by four; one by six; and one by 12.

With this many votes, the outcome of the election could have been entirely different. It's taken six years. This happened in 2007; we are now in 2013. We've already been through two mayors; we've been through a quarter of a million dollars. So our town has finally started to recover.

I realize we are a small town, but there are a lot of small towns that are the same situation we are. If this had been handled bit more expeditiously, we might could have had a different outcome.

SECRETARY KEMP: Thank you very much. Any questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? If you're going to speak, you have to come up. We've got to get your name and address for the record.

MS. SWINDAL: I just think that a \$200 fine is absolutely ridiculous for what this man did.

SECRETARY KEMP: Would you give us your name and address.

MS. SWINDAL: Deborah Swindal, 460 Pennahatchee Road, Vienna, Georgia.

I know not to vote in Byromville because I live in Vienna. This man that lived in Pinehurst knew he did not live in Byromville. We had a mayor that lost by a number of votes that were (unintelligible). The town of Byromville, every penny that they had was stolen; they were two years behind in paying the county the money for the trash pickup because the people that were fraudulently put into office did all this. And we can get the District Attorney to get off her butt to do anything about it.

But these 12 people -- these people that you are looking at would have made a difference. And to say after completely almost destroying a town, a city, and almost getting the city sanction or -- charter -- almost getting the city charter removed, well, let's just fine this man \$200.

I think that is too much for a small town to bear and to say that \$200 is a fair penalty. It's utterly ridiculous for the people in this town and in that county because when the county didn't get paid for the trash pickup and Byromville for two years, it was the rest of the County that had to pay the burden of that.

So, again, back to where I was earlier, that you cannot make a difference by slapping people on the wrist. The only way you can make a difference is by knowing this man knew -- is there anybody in this room, raise your hand, that thinks this man knew he didn't live in --

SECRETARY KEMP: Ma'am, let me ask the questions, if you don't mind. If you would just address your comments to the board, we would appreciate it.

MS. SWINDAL: I apologize. But this is the type of thing that goes on in the Dooly County election constantly. You know, I'm sorry, again, if I'm passionate about this. But I am passionate about this. I am a poll worker and I watch them like a hawk. There is very few of us that really care about our elections, and I am one of them. We cannot get good people to run in our county because they know what's going to happen. And if it does go anywhere, the people get a slap on the wrist. It has to be harder than a slap on the wrist to make the changes that need to be made.

So I totally, one hundred percent disagree with the \$200 fine.

SECRETARY KEMP: Any questions? Mr. Worley.

MR. WORLEY: What do you think an appropriate penalty would be?

MS. SWINDAL: Well, I personally think the man broke the law. What's most that could happen to him? You tell me. Can he spend any time in jail? Can he go to jail for 30 days? I say let's put them in jail for 30 days. Is that possible? I don't know. What's the most that could happen to him? I don't know. But it has to be something to where he's going to say to himself, I live in Pinehurst; I better not vote again in Byromville. Or maybe I had better not go to Unadilla to try to vote.

I know exactly where the person lives in Pinehurst. I think that's where I better go to vote. Do you think \$200 will make them think that?

SECRETARY KEMP: Mr. Simpson.

MR. SIMPSON: I don't have any questions.

MS. SWINDAL: I'm not trying to be hard to get along with. I mean, please understand. You guys are in a tough position and I know that. But there are those of this that enough is enough is enough is enough.

MR. WORLEY: Mr. Secretary, perhaps we hear from Mr. Willard as to what the maximum penalty would be and how much it would cost to actually try this case rather than --

SECRETARY KEMP: Mr. McIver, what was that?

MR. McIVER: My question for Mr. Willard was going to be, setting aside the issue of this lady's standing in this matter, Mr. Willard, we would like to hear your opinion as to why \$200 was considered. And to Mr. Worley's point, how much more could there (unintelligible)?

MR. WILLARD: As the board is aware, the maximum penalty for any violation is a \$5000 civil penalty. Obviously, that is on a sliding scale depending on the severity of the sanction.

I will point out to the board that both the town of Byromville and the Dooly County Board of Registrars remain as respondents in our office. We are continuing to work those cases. As the board is aware, normally, when you have multiple respondents, I hold the submission until we have all the respondents present so the board can get an idea of the totality of the case. Given the age of this case and the fact that one attorney in our office had had it for so long, I wanted to go ahead and bring it before the board in piecemeal fashion, and I apologize for that.

But given the age of the case, given the fact that there were some discrepancies regarding

who was in Pinehurst, who was in Byromville, we determined that this sanction was appropriate for this individual. We're going to be looking for additional, for lack of a better term, skin in the game from the town of Byromville so the board has confidence going forward that the town of Byromville has it's act together going forward.

But this is an individual voter. Given the facts of this case including the age of the case, we felt it was an appropriate section.

MR. McIVER: Thank you.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Let me just address a couple of things. Number one, the age of the case. I think, certainly this board I know in the last three-and-a-half years we have done a lot to catch up. You do not see many cases from 2006 or 2007. I think you can see on our agenda today that we are dealing with 2011 and 2012 cases. That was certainly a priority of mine. I know Ms. Brumbaugh, who was here previously from the AG's office before Mr. Willard, had that priority and we will have that priority going forward.

Also, and I think Mr. Harvey can back me up on this, we have heard from a lot of individuals in Dooly County during election time about issues that we have had, and we've had investigators on the ground during recent elections. We will continue to do that if we get concerns or complaints. And certainly, if you all are on the ground and see complaints during elections, like I said earlier, we will investigate every single one of them. We've got a stop voter fraud hotline; we've got a 1-800 number. There is nobody that takes that as seriously that we do. If that's not the case, you just call the front office and let me know.

But I can assure you when Mr. Harvey gets a complaint, they don't always play out, but we will investigate every one of them. And that will continue to be our mission at the Secretary of State's office.

What is the will of the board?

MR. WORLEY: I would make a motion that we accept the Attorney General's recommendation and the negotiated consent order.

MR. SIMPSON: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries, and we will continue on as the other respondents come before us. Thank you all for being here today.

MR. WILLARD: The next case on the agenda is the City of Warm Springs, tab number 44; 2009-50. The respondent, Gregory Guy Robertson.

The case was actually a complaint about some election irregularities that were occurring in the City of Warm Springs. During the course of the investigation it was determined that this respondent had taken photos inside a polling place during a time period that voting was taking place. He attempted to do this, according to the statement he made to investigators, to record illegal election activity, or what he viewed as illegal election activity.

He was actually serving a felony prison sentence at the time he was interviewed by state election investigators. When he came off of his sentence, there was no time at the end that he was on supervision or parole.

We have conducted asset record searches trying to locate him and we have been unable to locate a viable address for him to notice him for this hearing. Therefore, we are recommending a dismissal without prejudice at this point in time until such time he can be located and noticed for a hearing at OSAH.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED MALE: I would like to speak.

SECRETARY KEMP: Yes, Sir. You all can both come on up if you are wishing to speak.

MR. RAMSEY: Good afternoon, ladies and gentlemen; board. My name is Michael

Ramsey. I live at PO Box 160, Warm Springs, Georgia.

This concerns the election of my mother, Ms. Hazel Ramsey, in 2009. I have lived there all my life. I know a lot of people; a lot of people know me. I own my own business. I am a construction consultant for Georgia Power. I'm well known by a lot of people I grew up with.

Anyway, when this election started taking place, friends, enemies, and everything else were coming to me telling me what was going on, that the police chief was trying to get my mother out of the office because of the fact that he had taken a job at the Roosevelt Institute of Rehabilitation, which is in Warm Springs, also. President Roosevelt started it during his polio days. He had taken a job there with the security force and he was also the see police chief of Warm Springs.

Well, my mother, was onto him. He was getting paid the same amount of money, you know, on both clocks at the same time.

Well, when she started investigating this, he heard wind of it and wanted her out of there. Period, point blank. At that time, all these people were coming in saying he had these -- there's a BP station there in town. The guy that owns the place is Iraqi or Pakistani, one of the other. Anyhow, he has video gambling machines in there. He pays out cash money. We all know it. The chief basically has him in his pocket, and several other less desirable people in town in his pocket. Basically, he manipulated him into thinking that, you know, you want to do which you want to do, I won't mess with you if you help me do this, so forth and so on. It goes on and on and on.

Myself and Mr. Archie, we've conversed several times about this back with the incident first started and, you know, I gave him names and numbers and addresses where people lived; whether it was gas or beer or cigarettes or cash or even loads of firewood for vote. Like I said, me and Mr. Archie, talked several times.

Well, leading up to the election, I was informed of all this. I had a person, basically inside, who would say, hey, they're making runs today. They would go around and pick people up and drive them 12 miles down the road to Greenville, Georgia to vote when the voting booth is right there in Warm Springs half a mile or less from all of their house. He would take them to Greenville, Georgia and vote on absentee ballots. There were three runoffs in that election. Every time there was a runoff, it was by absentee ballots. None of these people were out of town. All he did was take them from Warm Springs to Greenville to vote on absentee ballots. This went on and on, like I said, for three runoffs.

So this is the second time I'm here. The last time I was here, we were across the street

there at the building there, the twin towers. You know, I took time off work to be here. I wouldn't be doing this if it was unjust. I joined the Marine Corps when I was 17-years old. The best military force in the world to protect rights and to protect wrong. And I won't accept the election. He just thinks he's got it made.

Like I said, my mother ran for office to right his wrong so he would go to prison or whatever. And I feel like you all think is a joke. I mean, don't take it personally, but I feel like, you know, what's the Constitution of this country about? It's very disturbing. I don't like you. I don't like it one bit.

That's all I have to say.

SECRETARY KEMP: Mr. Ramsey, first of all, let us think you did for your service to the country. Mr. Willard, is the problem that we can find this gentleman?

MR. WILLARD: Yes, Sir.

MR. RAMSEY: Let me say this. When they were transporting people back and forth, this insider would called me and say, hey, they're taking people today. Chief is running people up and down the street in Sheila's car, the new Mayor; his ex-wife. He's running them up and down the road. There was a Council member, Fred Wolf, the police chief, and several others were running these people down the road. They were paying them. You're not going to get anybody to say, hey, man, come on and ride with me to Greenville 12 miles away. Get in my car and I'll take you up to Greenville to vote. When I can go half a mile up there to Warm Springs to vote. I mean, come on. It's just common sense.

SECRETARY KEMP: So we obviously don't know where this guy is.

MR. RAMSEY: The pictures; the pictures. I personally sat on the courthouse square in Greenville, Georgia dressed like an ordinary person -- fatigues, had on, sunglasses -- I'm sitting there with my digital camera taking pictures of them shuffling people in and out.

This individual you are referring to, I don't know where he's at. I do know him. And he did go into a phone booth with a cell phone camera taking pictures.

SECRETARY KEMP: We're not saying that he hasn't. I think the issue is we can find him to serve him; is that correct? You might want to explain that to Mr. Ramsey.

MR. WILLARD: Mr. Ramsey, in order for us to go forward with a hearing against Mr. Robertson, we have to have a viable address for the Office of State Administrative Hearings to serve him with notice of the hearing. We don't have that at this point, and so

we cannot move forward on the charges against Mr. Robertson at this point.

MR. RAMSEY: Let me get this clear. You're telling me you are more concerned about bringing charges against him for having a cell phone in a voting poll than you are about what actually was wrong?

MR. WILLARD: Mr. Ramsey, if I could --

MR. RAMSEY: I just want to make this clear, that's all.

MR. WILLARD: The only thing in this case pending before the State Election Board -- Mr. Robertson is the only respondent that was sent over to our office. Mr. Robertson is the only respondent in this case. I can't speak to what may have happened in the City of Warm Springs because that's not part of the investigative file referred to our office. What was referred to our office was Mr. Robertson taking photographic pictures inside of polling place.

MR. RAMSEY: The reason why is because the chief knowed that he was doing wrong. So, again, it's human nature. If you do something wrong and it's detrimental, it's bad thing, and whatever. You're going to do everything you can to pull the attention off of you and put something on someone else. That is human nature.

SECRETARY KEMP: Well, the issue in this case, though is that we have to legally have an address to be able to serve this gentleman to go forward with a hearing or enter into a consent order. We don't have that. Do you know where he is?

MR. RAMSEY: Not offhand, I don't. But I can inquire and find out.

SECRETARY KEMP: Now, if he turns up, can we come back?

MR. WILLARD: That's why I'm recommending a dismissal without prejudice.

MR. RAMSEY: Well, see, took the digital pictures and everything with my digital -- and gave it to Mr. Archie, and all the names and everything. Mr. Archie has all that. He had back when this happened.

SECRETARY KEMP: Right. But what we're dealing with is just one issue on the cameras and we can't move forward until we find a guy. So what we're doing today is we dismiss the case with prejudice. So if he turns up again, if you see him riding down the road or you figure out where he's living, or if we do, then we can serve him and have a hearing.

MR. RAMSEY: Okay. Well, what are you going to do to him is what I'm asking.

SECRETARY KEMP: I can't predetermine what we're going to do to somebody before a hearing. We, as the State Election Board, have referred the case to the Attorney General's office. They have several options of entering into a consent; recommending dismissal. If the respondent, this gentleman, does not want to enter into a consent, he has the ability through the law to have a hearing before an Administrative Law Judge. And then that Judge will make a recommendation from that hearing and it would come back to us and we could either accept the findings of that Judge, which we do, or we could reject those findings, which we do, as well.

But the problem is we can't move forward because we don't know where he is. We can't take action -- correct me if I'm wrong, Mr. Willard to -- but we can't take action I guess unless we properly serve somebody to give them their day in court.

MR. WILLARD: That's correct.

MR. SIMPSON: What the Chairman is saying if you understand due process of law, the Constitution says that you have to have notice and an opportunity to be heard before you can take any legal action against somebody.

MR. RAMSEY: So what you're saying is you want a statement from him --

MR. SIMPSON: No.

MR. RAMSEY: Saying --

MR. SIMPSON: No. You have to notify him that there is a case pending against him and that the hearing is going to be a certain day. And if he wants to come to court that day, he can come. But the Constitution requires that he be provided due process of law. And unless we can provide him with that, if he absconds and disappears and we can't find him, we can't proceed legally against him.

And that is apparently what has happened. He is a convicted felon; he served time; he got out, and now he, in street talk, he's on the lam. He has absconded. Our hands are tied until we can find him and serve him, and then we can proceed.

MR. RAMSEY: With this case.

MR. SIMPSON: Yes.

MR. RAMSEY: So you are deadlocked until you hear from him to continue --

MR. SIMPSON: Not until we hear from him. Until we find him and notify him. He doesn't have to come to court. Once we notify him of the court date, whether he shows

up or not, we can proceed.

SECRETARY KEMP: We just have to be able to prove that we had a good address to serve him or waive serve him and notify him.

MR. SIMPSON: We are bound by the Constitution to give him due process. We've got to give him notice. That's the problem.

MR. HARVEY: Mr. Secretary, if I may, the other allegations that were presented to the board were closed. So that is not holding up your concerns. Your concerns were heard and that was closed by the board. So I don't want him to think that this person is found that all the other allegations are going to come back. Those charges were dismissed.

MR. RAMSEY: So you're saying the election has been dismissed.

MR. HARVEY: I'm saying the complaint has been investigated in the State Election Board voted to close all the allegations except this one. That was the last time you were up here. That was the result.

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

MS. RAMSEY: Good afternoon. I am Hazel Ramsey and I'm here to speak on behalf of what has gone on that what continues to go on, it seems like. Everything I'm going to say to you today is the truth.

I saw the chief and one of the council members, myself, I saw them. I went up and watched them haul people that he wanted to vote in office because he got mad at me because the city was paying him to work for the city in the daytime and we would find him over at the Roosevelt Institute working at the same time. He was double dipping. So help me God that's the truth. Okay.

I called them in the office, talked calmly to him and told him, I said, this is something we cannot have. I said if you want to leave the city and go to the Roosevelt Institute in the daytime, you ask for annual leave. I can have someone fill his place in the city why he's off. I said that would be fine. We could work that out. Because he had a full-time job at the Roosevelt Institute working at night, working eight hours at night. He was supposed to go to work for the city in the morning and work all day.

But, no. He wanted to do what he wanted to do. I guess a lot of people are that way.

But I hired him after I went into office. I spent four years on the City Council after I retired from the U.S. Fish and Wildlife Service. I worked 12 years at the Roosevelt Institute, myself, which was a national foundation for infantile paralysis. And then I

went to work for the U.S. Fish and Wildlife Service there in Warm Springs; they have a hatchery. I was there for 27 years. I retired in 1990.

Then I was asked to fill a vacancy on the City Council; I accepted it. For four years I was on the City Council, and then I was asked to run for mayor, and I did. I was mayor for 12 years.

When I went in office, the city was broke.

SECRETARY KEMP: Ms. Ramsey, are you speaking in regard to Mr. Robertson? Because we've been through this whole case before we are down to this one report from the Attorney General's office on the whereabouts of Mr. Robertson. I'm not trying to cut you off, but what you're telling us I don't think is relative to have to the business of the board. So if you would like to speak to Mr. Robertson in this allegation that we have, we're glad to hear from you.

MS. RAMSEY: Well, I appreciate that fact and I can certainly locate him and have him here. But I was telling you all about what it happened and all that.

SECRETARY KEMP: Well, ma'am, I understand that and I appreciate that. But we have heard that before and already ruled on that matter. So that's behind us. We're trying to move forward, and our issue is we can move forward without knowing where Mr. Robertson is. If you or your son locate him, if you see him --

MS. RAMSEY: He has a job out of town. He works, but I can locate him.

SECRETARY KEMP: Well, if you can locate him -- is Mr. Archie would still with us, Chris?

MR. HARVEY: No, Sir. He's gone. But she can contact me.

SECRETARY KEMP: You can contact anybody in the investigations division if you can find him at we can certainly serve him and we can keep moving forward with this part of the case.

MS. RAMSEY: Okay. Let me say one thing.

SECRETARY KEMP: Okay.

MS. RAMSEY: The camera has been lost. He had pictures. Yes. He had pictures. But that's what I'm trying to tell you, too, that I saw the same thing happening.

SECRETARY KEMP: Right. Unfortunately, there is not anything we can do about that

part because we have already ruled about that and it would be double jeopardy, I believe. But if you find Mr. Robertson and you let us know, we will serve him. And if he won't agree to a consent order, we'll let and Administrative Law Judge have a hearing and after that recommendation is made, this board will gladly look at that and decide where to go next.

MS. RAMSEY: Well, I don't understand what you mean when you say serve him.

SECRETARY KEMP: Well, ma'am, we can take legal action against somebody that doesn't have an opportunity like you have to come before us and give their side of the story. We don't know where to serve him notice that --

MS. RAMSEY: You mean to come to court?

SECRETARY KEMP: Right. To let him know where having a hearing. That's correct. He doesn't have to show up. As long as we can prove to the Court that we served notice of a legitimate address or place of business, we can move forward. But we don't know where that is. So if you know where he's working or where he's living, that would help us out.

MS. RAMSEY: Well, he has a job and I'll find out the address and mail it to him. He has a post office box in Warm Springs. If you send it there, they can probably forward it to him.

SECRETARY KEMP: If that's the case, if you would just give that information to Mr. Harvey, we will continue to move forward.

MS. RAMSEY: Okay. That's Post Office Box 160, Warm Springs Georgia.

SECRETARY KEMP: Do you ever see him go there and pick his mail up?

MS. RAMSEY: Oh, yes. I see him.

MR. SIMPSON: Does the Sheriff know how to find him?

MS. RAMSEY: Well, yes. When he comes home.

SECRETARY KEMP: Thank you, ma'am.

MS. RAMSEY: Okay. Well, is that just for him to come to court? He works out of town and will have to get off and everything.

SECRETARY KEMP: We will worry about all that.

MS. RAMSEY: Okay. So you don't want to hear anything else from me about what I know about it. So --

SECRETARY KEMP: We're really just to find him where we can have a hearing. We have already heard your story and we have referred him to the Attorney General's office and now we're trying to get to a hearing.

MS. RAMSEY: Okay.

SECRETARY KEMP: Anyone else wishing to speak?

MS. RAMSEY: I'm just trying to tell you the facts and everything that went on.

SECRETARY KEMP: We understand that, ma'am. Any questions from the board or comments?

(Whereupon, there was no response)

SECRETARY KEMP: We want to accept the recommendation of Mr. Willard?

MR. SIMPSON: I would move that we remove this case from the calendar today for -- until the next meeting to give Mr. Willard an opportunity to get him served.

MR. WORLEY: I would second that.

SECRETARY KEMP: Do we need to take a motion for that, Mr. Willard?

MR. HARVEY: I'm sorry. Where do you want me to serve him?

MR. SIMPSON: She says the Sheriff knows how to get hold of him. Call the Sheriff down there and have him served. Anybody that's files a civil suit, you've got to have them served and the Sheriff is the person to serve them.

SECRETARY KEMP: Let me ask Mr. Willard to talk about how he is serving and why we have not been able to serve this gentleman.

MR. HARVEY: When you do a records search, there is nothing post-incarceration that shows up for Mr. Robertson. We have used some of the old addresses which are showing up on public record searches, including, I think, there was testimony from, I believe, the young lady who spoke second. The post office box in Warm Springs, those correspondence went unclaimed and were returned to our office. OSAH does not have the ability to use the Sheriff for service, Judge Simpson. They are confined to Administrative Procedure Act and their rules in terms of sending mail notice, Certified Mail to a viable address, and we don't have that in this case.

MS. RAMSEY: He has always had his post office box in Warm Springs.

SECRETARY KEMP: Thank you, ma'am.

MS. RAMSEY: And he still has it.

SECRETARY KEMP: Okay. The question is if we have a motion -- do we need to make a motion to pull this off the agenda and try to re-serve him, or do we just make that decision?

MR. WILLARD: If the board does not want to accept the recommendation from our office at this point, the board doesn't need to do anything. We can continue to attempt to serve him and if we are successful, we will go forward with a hearing. If not, we will recommend dismissal without prejudice at a future meeting.

SECRETARY KEMP: Is that satisfactory, Mr. Simpson?

MR. SIMPSON: I would suggest getting a non est from the Sheriff saying they can't find him in the county. That way we've got some evidence that he is not there. We don't know right now.

SECRETARY KEMP: What he was just saying was that the ALJ cannot use the Sheriff to serve him. We've got to find him. Is that correct, Mr. Willard?

MR. WILLARD: That is.

MR. SIMPSON: You could hire deputy after hours to serve folks.

SECRETARY KEMP: This is what were going to do. We're going to not move on this and will keep trying to serve him. If that guy is living down here, we'll find him.

Yes, sir?

MR. RAMSEY: The election fraud is over?

SECRETARY KEMP: That's correct. On that one case it is.

MR. RAMSEY: Appreciate it.

SECRETARY KEMP: Case 2010, number 77.

MR. WILLARD: This is Chattooga County?

SECRETARY KEMP: That's correct.

MR. WILLARD: This was referred to the Attorney General's office at the February 29, 2012, with two alleged violations by Charles Stoker. One was campaigning within 150 feet of a polling location; and, two, interference with the poll worker.

The only alleged campaigning by the respondent within the 150-foot zone was that the respondent parked his vehicle with political bumper stickers within the 150-foot zone. When the poll manager spoke to the respondent about this he immediately returned to the vehicle and turned the vehicle around, which all witnesses agreed made the bumper stickers not viewable from anyone within the 150-foot zone.

The second allegation concerned interference with a poll worker. The one witness who stated that she thought he might have made a move toward the voter certificate admitted that the motion she saw could have been a number of things, such as him pointing at the certificate, and there were no other poll workers who could testify that he attempted to touch or otherwise remove the voting certificate.

Accordingly, I recommend that both, or that case against Mr. Stoker, and I have spoken with Judge Payne in Chattooga County, and he is in agreement with the recommendation about the dismissal against Mr. Stoker.

I would recommend that the case against Mr. Stoker be dismissed by the board.

SECRETARY KEMP: Any questions for Mr. Willard?

MR. WEBB: Mr. Willard, is this your first case with bumper stickers?

MR. WILLARD: This is my first case with bumper stickers.

MR. WEBB: The precedent has been with bumper stickers to dismiss those as campaigning.

MR. WILLARD: Thank you, Mr. Webb. I appreciate the education on your last meeting.

SECRETARY KEMP: Anyone else? Mr. Simpson.

MR. SIMPSON: I just want to reiterate what I said earlier this morning. We need a bright line here. One of the easiest ways in the world to campaign without violating the campaign is to put some bumper stickers on your pickup truck and go park it next to the courthouse or the polling place. It happens in Tifton. But at least the people in Tifton have got the people to park at least 150 feet away from the entrance to the polling place. And I'm sure the bumper sticker says Vote for John Doe, or something. So it appears to me that is a solicitation of a vote.

It is a violation of the statute. If we're going to have a statute, let's enforce it. If we are not going to have a statute, let's write it off the books and let the Court tell us. Let the Administrative Judge tell us if there is something wrong with it; something wrong with the statute.

So I would speak in favor of rejecting the Attorney General's recommendation on this case.

SECRETARY KEMP: Anyone else?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. WEBB: I will make a motion to accept the Attorney General's recommendation.

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

MR. WORLEY: Second.

SECRETARY KEMP: A second by Mr. Worley. Any other discussion?

(Whereupon, there was no response)

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

MR. WEBB: Aye.

MR. WORLEY: Aye.

SECRETARY KEMP: Aye. All opposed, same sign.

MR. McIVER: Opposed.

MR. SIMPSON: Opposed.

SECRETARY KEMP: That motion carries 3 to 2. So we have dismissed that case.

And we will move on to 2010-80.

MR. WILLARD: Yes. You may recall this from the August 15, 2012 meeting.

Anatoliy Iskhakov, who is the president of King David Community Center violated several State Election Board rules regarding the conduct of a voter registration drive. This was -- his attorney spoke at length about this case.

Basically, he deals with naturalized citizens from Eastern Europe. The violations that came over to our office were a failure to adequately disclose certain of the prophylactic disclosures required by the State Election Board rules when conducting a voter registration drive. The respondent had actually hired someone who held himself out as knowledgeable about the voter registration process to conduct the drive. He agreed to accept responsibility for this individual's actions.

Given that there wasn't an issue that came over to our office regarding the registration of those individuals -- they weren't registering anyone who was not qualified to be registered. It was just failing to adequately disclose certain provisions, like you don't have to turn it in to me. You can go down to the voter registration office and submit the application.

We are recommending a cease-and-desist, public reprimand, and a \$300 civil fine.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone wishing to speak on this case?

MR. WEBB: Mr. Willard, how many applications were made in this case? Registrations to vote; excuse me.

MR. WILLARD: I don't believe we had an actual number from either Gwinnett or DeKalb County that we saw because that wasn't part of the file came over to us. It was just that he acknowledged that they have failed to adequately disclose on the registration applications, or during the registration process that they had certain rights; that they did not have to register through that application drive.

MR. WEBB: And if I remember correctly, they could use his address as the return address; is that correct?

MR. WILLARD: I believe that may have been the case. That is not one of the items that were referred to our office.

MR. WEBB: And you feel that the \$300 fine is adequate?

MR. WILLARD: In this instance, because you didn't have a situation where you had

anyone who wasn't qualified to vote being registered; there was no allegation that someone who was qualified was not registered to vote, it was a ministerial act. In effect, he was basically saying I hired somebody who said they were going to do it, that they knew what to do. I then pulled myself out of being knowledgeable about the situation. When it came time and I realized that they were not doing everything they were required to do, I took responsibility for the actions of this employee. It was a temporary employee at the center at the time.

MR. WEBB: Thank you.

SECRETARY KEMP: Thank you. Anybody else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Is there a motion?

MR. McIVER: I move we accept the report.

SECRETARY KEMP: We have a motion by Mr. McIver. Do we have a second? I'll second. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. I believe that's got all the Attorney General reports taking care of; is that correct?

MR. WILLARD: I believe we may have one additional one, Mr. Secretary. Did we pull Fayette County?

SECRETARY KEMP: I'm sorry. 2011, number 47; Fayette County case. My apologies.

MR. WILLARD: This was the, as you may recall from November 27, 2012, meeting, I think Mr. Harvey referred to Ms. Pucel as someone as an energetic or enthusiastic voter.

MR. HARVEY: Overachieving.

MR. WILLARD: Overachieving voter. That's what it was. This is someone who was registered in both Georgia and Wisconsin. She cast votes intermittently between the two jurisdictions. What we did, we went back and looked at ascertained that there were actually three elections where clearly she cast a vote in both Georgia and Wisconsin. It's my understanding that Wisconsin also has the matter under investigation.

We are recommending a cease-and-desist, public reprimand, and \$3000 civil fine representing \$1000 per election day in which she double-voted. That is consistent with past board sanctions on these issues.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED FEMALE: Is that a crime in the state of Georgia to vote in two places?

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

MR. WILLARD: It is, and that would be subject to prosecution by the local district attorney.

UNIDENTIFIED FEMALE: Could you add that you recommendation that they would do that?

SECRETARY KEMP: I don't think that's something . . .

MR. WORLEY: Could we ask Mr. Willard to clarify. It's illegal to vote in the same election in two different places in Georgia. But does Georgia law say anything about voting in Georgia and another state?

MR. WILLARD: I don't represent the District Attorney. I will be happy to send the and investigative file and turn it over if he thinks that he has a viable case going forward.

SECRETARY KEMP: That would be good if you could send that file.

MR. WILLARD: We will forward it to the appropriate prosecutor in Fayette County.

SECRETARY KEMP: We did have a motion, didn't we? We need a second.

MR. WORLEY: Second.

SECRETARY KEMP: Motion by Mr. McIver, second by Mr. Worley to accept the AG's consent order. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

SECRETARY KEMP: That motion carries.

MR. WILLARD: That concludes the Attorney General's report.

SECRETARY KEMP: All right. We've got to go back and catch, under our new cases, 2011, number 73, the City of Clayton, candidate qualifying case.

MR. HARVEY: This case involved the municipal election in November of 2011 in the city of Clayton. I have a response that was sent by the city attorney regarding this case that I would submit to the board if they will accept.

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

MR. SIMPSON: So moved.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

MR. HARVEY: A candidate qualified in the city election. He had moved into the city and had intended to register to vote in the city. However, he never turned in his voter registration change of address.

So he went through the election and actually won the election, and then it was determined that he was not a qualified elector in the city. There was an election contest and the judge overturned the election and ordered his sole opponent as the winner.

The simple fact is that the candidate, Travis Kyle Webb, violated 21-2-265, by making

false statements in connection with filing of the candidacy when he said he was -- he met the qualifications. He did not. Most of the attorney's response that you have in front of you is regarding the elections superintendent, Tammy Whitmire, and whether or not she was required to do anything beyond essentially looking at his affidavit to determine whether he was qualified.

Mr. Willard and I have spoken about this a little bit and there is some case law that Mr. Willard is familiar with. On the surface it doesn't appear that she determined his qualifications because she didn't check to see if he was a registered voter. However, there is a question as to whether or not she has an obligation to look beyond the sworn affidavit to do that. And, Mr. Willard, do you want to pick up on that?

MR. WILLARD: Well, and we talked about it, the violation that was actually noticed in this case was 21-2-6 violation, which is the candidacy challenge provision, which doesn't impose an affirmative obligation on the election official to determine qualifications outside of the hearing process.

What I spoke with Mr. Harvey about is if it is the board's prerogative to go forward and consider a possible violation against the election official in this instance, it probably needs to be re-noticed with the allegation of a violation of 21-2-70, which does impose an affirmative duty on the elections superintendent.

It's really a policy call by the board at this point in terms of what sort of obligation are you going to impose on election officials to look beyond the sworn statements submitted by the candidate in terms of whether we are going to impose an affirmative obligation on election officials to go and verify every sworn statement by a candidate, absent some evidence that there is a possible false swearing.

But if the board is going to move forward on this, it does need to be re-noticed as to the election official.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have anyone else wishing to speak on this one?

MR. SIMPSON: It seems like to me that an election official would be entitled to accept as prima facie evidence what the affidavit says with the notice of candidacy. It seems like to me that would be where the election official's obligation ceases. And then you move into the other violation, being the false statements provision. I think, in my mind, I see a difference between a failure to determine qualifications and a false swearing, or

false statement. It seems like to me if you've got a false statement, then the election official can accept that notice of candidacy and affidavit as prima facie evidence. And then, unless something shows up which shows that is wrong, then I think the election official has done his duty, or her duty.

Isn't that a reasonable way to look at it?

MR. WILLARD: I think the board can clearly look at it in that way.

SECRETARY KEMP: It's just like we're taking affidavits for secure and verifiable documents. When they signed that affidavit, I mean, we don't have any way of checking. We're not required to.

MR. SIMPSON: You have to accept a prima facie.

MR. McIVER: Plus, Mr. Secretary, I believe we have a precedent for that, as well.

MR. HARVEY: In that case, then, I would recommend that we go forward against the candidate and dismiss the charge against the elections superintendent.

SECRETARY KEMP: All right. We have a recommendation. Is there anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion? The recommendation is to dismiss against the elections superintendent and to bind over Travis Kyle Webb to the AG's office.

MR. SIMPSON: I move to accept the recommendation.

MR. McIVER: Second.

SECRETARY KEMP: Mr. Simpson moves; Mr. McIver seconds. Any other discussion?

(Whereupon, there was no response)

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

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Now we are moving to 2011, number 100;

Gwinnett County case.

MR. HARVEY: In this case, also, the respondent, Mr. Abdullah Hajer, actually came to the office and gave me a brief response that he asked me to present to the board. So if the board wants to accept it --

SECRETARY KEMP: Do we have a motion to accept?

MR. WORLEY: So moved.

MR. WEBB: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

MR. HARVEY: In this case, on election day, Mr. Hajer and his wife entered a polling place. They each completed a voter certificate. They each went to the DRE machines in separate booths and then Mr. Hajer voted and then he stepped into his wife's voting booth and took her card and, essentially voted her ballot. They didn't sign as assisting; she didn't request assistance; there is no indication she was entitled to assistance.

The poll manager tried to stop him but the poll manager felt that anything short of physical force was not going to dissuade Mr. Hajer from assisting his wife illegally. Mr. Hajer, as you can see from the statement, tells a completely different story. He says nothing like that ever happened. He doesn't know where were only came up with this. We've got two statements from poll workers and we've got the statement from Mr. Hajer.

I am recommending based on the evidence that Miriam Hussein, who is his wife, may have is received assistance when she was not entitled to receive assistance. Although, based on the witness statements, the poll worker statements, I'm not sure that she really did anything except stand in the voting booth. I would recommend that Mr. the chair be bound over to the AG's office for illegally assisting and entering a polling -- voting booth and casting another person's ballot.

I recommend he be bound over to the AG's office. I think his wife could receive a letter of instruction, although it's easier to -- it makes more sense to bind them both over. I

don't think that's inappropriate, either.

SECRETARY KEMP: Any questions for Mr. Harvey?

MR. WORLEY: To Mr. Hajer make any attempts to explain his actions to the poll worker?

MR. HARVEY: He did not. He just did what he did and walked out. Mr. Hajer's version is very different than that.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Ready for a motion.

MR. McIVER: I move to bind over.

SECRETARY KEMP: You want to bind them both?

MR. McIVER: Yes Sir.

SECRETARY KEMP: Motion to bind both over to the AG's office. Do we have a second?

MR. WORLEY: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have bound both respondents over to the AG's office. We will move two 2012, number 14; Decatur County PPP case.

MR. HARVEY: In this case, the attorney for Decatur County also submitted a written response that he asked me to present to the board.

SECRETARY KEMP: Motion to accept.

MR. WEBB: So moved.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: We will accept the documents.

MR. HARVEY: In this case, a voter, Candace Brimm, requested three absentee ballots for the presidential preference primary and didn't receive any.

What happened when we investigated was that Ms. Brimm provided her address of 1000 (Unintelligible) Landed, Apartment 2-D, and the county attempted to mail the three ballots to her. What happened each time they printed out the address label, it chopped off the apartment number. So they were all undeliverable and they were returned to the election office. It was only after the third return that they realized the address had been compromised on the printing of the address label.

Other than that, the county responded to each application and attempted to get it out. Mr. Mosley, who is the attorney for Decatur County has written a response and I would recommend that, based on the totality of the circumstances, that a letter of instruction be issued to Decatur County to make sure that they double-check proper printing and alignment for all absentee ballots.

That would be my recommendation in this case that a letter of instruction be issued.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a recommendation? We've got a recommendation for a letter. Do we have a motion?

MR. SIMPSON: So moved.

SECRETARY KEMP: Do we have a second?

MR. McIVER: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

I believe that will take us to our last case, if I'm not mistaken. 2012, number 25; Clarke County.

MR. HARVEY: Yes Sir. This case involved respondent (Unintelligible) Gad. Mr. Gad is not a United States citizen. He registered to vote in 1999. He also re-registered in 2003. He voted in 2004. And he is not a United States citizen. He came to this country from Egypt. He has a child and never went through any naturalization process.

When he was given his jury summons for Athens Clarke County, he responded immediately back to them that he was not a citizen, so he could not serve. He has since been deleted from the list of eligible voters.

His attorney said that it was all a mistake; it was a misunderstanding. However, there are several instances in this case where he would alternate between saying he was a citizen and not a citizen. I don't think the fact that he was confused about his citizenship is really a true issue.

I recommend he be bound over to the AG's office for illegal registration and voting.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

MR. McIVER: I move to bind it over.

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion and a second to bind over Mr. Gad to the Attorney General's office. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. I didn't miss anything, did I?

(Whereupon, there was no response)

SECRETARY KEMP: Let me just say this before we get a motion to adjourn. I want to make sure everybody gets to meet Kayla Young, our new SEB person. We're happy to have her on board with Jenna leaving. We're looking forward to her good work with the State Election Board.

Also, just want to again, thank Mr. Webb for his service. After sitting through this meeting, you may be glad this is your last meeting. But we appreciate your diligence and your service and certainly would be glad to have you back. Hopefully you will be representing somebody and not be before us. But certainly if we can help you as a board or myself the Secretary of State, I hope you will call on us.

MR. WEBB: Thank you very much.

SECRETARY KEMP: Also want to mention that Ms. Ford and Ms. Cam-Anh Le and Erica Hamilton and the rest of our elections crowd is freshly back from a great week of training in Savannah. We continue to work hard on our VR project. We've got voter registrar training and August. So a lot of things are happening in the elections division and there's been a lot of work and a lot of long hours, too. So we appreciate them, as well.

Unless any board member has anything else, I'll take a motion to adjourn.

MR. WEBB: Motion to adjourn.

MR. WORLEY: Second.

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

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: We are adjourned. Safe travels, everyone.

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(Whereupon, the proceedings were concluded)

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C E R T I F I C A T E

STATE OF GEORGIA)

COUNTY OF DEKALB)

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

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

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

This the 3rd day of June, 2013.

Deborah L. Merideth
Deborah L. Merideth
Certified Court
State of Georgia

