

THE OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:

STATE ELECTION BOARD MEETING

GEORGIA STATE CAPITOL BUILDING
ROOM 341
ATLANTA, GEORGIA 30334

TUESDAY, SEPTEMBER 24, 2013
10:00 A.M.

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

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APPEARANCES:

Brian P. Kemp, Secretary of State, State of Georgia
Tex McIVER, Member, State Election Board
David J. Worley, Member, State Election Board
Ralph F. Simpson, Member, State Election Board
Rebecca Sullivan, 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. We want to go ahead and get started. I think Mr. Worley will be here shortly.

I will call to order the Tuesday, September 24, 2013 State Election Board meeting. Our first order of business is the invocation and the Pledge of Allegiance. I would ask Mr. McIver to lead us in that this morning.

- - -

INVOCATION

- - -

PLEDGE OF ALLEGIANCE

- - -

Thank you, Mr. McIver.

A couple of things before we get into the approval of our minutes. It's an honor for me today to welcome the newest State Election Board member, Rebecca Sullivan, to our work here at the State Election Board. She is a recent appointee of Speaker Ralston, and great appointment, I might add. She has worked in a lot of different areas dealing with state and federal political law. Prior to joining the political law group, she served as a policy advisor executive counsel to Governor Sonny Perdue, so she certainly knows her way around the Capitol. During her service to the Governor, she has worked on the tri-state water negotiations, which, as we know, are still ongoing. She has worked on the pre-clearance of Georgia's voter ID laws and dealt with the litigation that ultimately upheld the voter ID law. She also has a strong commitment to public service and civic involvement serving as a consumer member of the Georgia Board of Nursing, which is underneath the Secretary of State's office. And is a member of the Board of Directors of MCG Health, Incorporated. She is currently a member of the Medical College of Georgia Health System board of directors, where she serves as chair of the finance committee. She is also a member of the local Chapter of the Daughters of the American Revolution and serves as vice president to the Glen Oaks Elementary School, the parent teacher organization. Rebecca, I am proud to say, is double Dawg, having gotten both her degrees from the University of Georgia.

So we are glad to have you on board with us and we know you will do a great job.

MS. SULLIVAN: Thank you.

SECRETARY KEMP: I also want to just let everyone know that today is National Voter Registration Day. Secretaries of State around the country have been celebrating September as Voter Registration Month leading up to our fall elections. So I just wanted to make sure that

everybody is aware of that. I know that our elections officials and registrars that are in the room have certainly been getting the word out in their communities. But for any of you that are involved with any interest groups, I know the League of Women Voters is here this morning promoting Voter Registration Day. We are doing that, as well. So I just wanted to make sure that the State Election Board and the folks here with us today were aware that.

As you know, there are a lot of easy ways to register and vote in the State of Georgia. You can get forms from your county elections office or registrar's office, and a lot of different government entities like libraries, and other things. And, certainly, in our office, and off of the State's website as well. So we certainly want to participate today in promoting National Voter Registration Day as we lead up to the elections.

Our next order of business is we need to improve our minutes. I will accept a motion or any corrections from the minutes of our last meeting.

MR. McIVER: I move to accept.

MR. SIMPSON: Second.

SECRETARY KEMP: We have a motion by Mr. McIver, and a second by Mr. Simpson to approve the minutes as written. Is there any other discussion by the Board?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have approved the minutes.

We will now move into our public comment period. Is there anyone here that wishes to speak to the Election Board today? Yes, ma'am.

If there is anybody here today that wishes to speak to the Election Board about any issues that is ongoing, we will give you 2 minutes to do that. I will remind everybody that this is not a time for us to discuss the cases that we have coming up today. You will have an ample opportunity to be heard during the testimony on that case. But if there are other issues you wish to talk to us about, we are glad to hear from you. You do need to fill out a card. So if you have not done that, please do that at this time.

We will let Mr. James Quarterman speak to us real quick. Welcome back, Mr. Quarterman.

MR. QUARTERMAN: Thank you, Mr. Secretary.

I am here this morning to address the Board on these elections we got in Georgia when we hold these elections, mostly city elections. You guys got a code that says that if nobody runs against the incumbent or if only one person qualify, you don't have to hold an election. I think the code uses the word "assume" -- that person has assumed to would have voted for himself.

But as I read and understand the laws of these United States and the State of Georgia, it says elections -- you're elected by the vote of the people. So when you don't hold an election, I know you have to run a notice in the paper telling the people there's not going to be an election. But when no election is held, you can't assume that person has voted because you have to have an election even for them to vote by absentee ballot. So when you have no election, you can't assume to have voted for yourself.

Not only that, but when you don't hold an election, you deny the people, being National Voter Registration Day, you deny the write-in voters an opportunity to vote. A lot of times in small towns, we may not like the person that's running, and people don't want to get scandalized and scrutinized in the media, so they won't run. But they're eligible to be a write-in candidate. And you can be elected in this state as a write-in candidate.

So when you -- I'm just asking you to revisit that law and look at it because you're denying us the right to vote just because nobody wants to run or only one person run or the incumbent is the only person running. You have to hold an election. You cannot be assumed to be elected because you would vote for yourself because you can't vote for yourself if there is no election.

There is also a thing about paying for votes and you can't buy votes. Well, if nobody is running and I decide I want to be the mayor and I go down there and pay three hundred and some dollars to qualify and nobody else runs, what did I just do if I didn't buy my own vote or bought me a seat, an elected position?

SECRETARY KEMP: Thank you for those comments. All right. Ms. Stephens, welcome back to you, as well.

Mr. Worley has arrived, let the record show.

MS. STEPHENS: My name is Nancy Stephens. I'm a board member of the Hancock County Board of Elections and Registration.

As the Board is aware, we have many problems in Hancock County with the legality of our elections, and there are several board members that are working hard to try and correct these problems. On the other hand, we have several board members who are doing everything they can to keep elections as they've been in the past.

As a board member, to my knowledge, there have not been any changes made to bring Hancock County into compliance with the Georgia election code because of interference from some of the

board members. Senate Bill 173, which created our board, states that board members “shall be subject to removal from the board by the Chief Judge of the Superior Court of Hancock County at any time for cause after notice of hearing.”

At this time there are two cases pending in Hancock County Superior Court: 13-CV-057, *Stephens vs. Wadell*; and 13-CV-102, *Stephens vs. Ingraham*, for the purpose of having both of these members removed for cause. The case of *Stephens v. Waddell* goes to court October 1.

As you probably know, this is very costly and time-consuming for board members to do this. But there are some members of the board who want Hancock County elections handled legally. You have certainly helped us in our effort to have legal elections in Hancock County, and any additional help the State Election Board and Secretary of State’s office or anyone can give us will be greatly appreciated. Thank you.

SECRETARY KEMP: Good to have you back with us. Anyone else for public comment?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, we’ll move on to our investigative reports. Mr. Harvey, we’ve got 2010-131, Picket/Clayton County case. It’s number 2 in your binders.

MR. HARVEY: These are consent cases, Mr. Secretary.

SECRETARY KEMP: I’m sorry. As Mr. Harvey said, we’re on our consent agenda right now. These are cases where we have a recommendation to dismiss those cases for lack of evidence or for other reasons. However, if there is any board member that would like for us to go over the detail of that case, we will move it to our investigative report of new cases part of our agenda. Or if there is someone else in the audience here, you know, complainant, respondent -- anyone else that wishes to speak on these cases, as well, we’ll also move that case and put it on our new cases.

So are there any board members that has an agenda item under the consent cases that would like to have that removed and discussed?

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Is there anyone in the audience here? Mr. Quarterman, which case have you got?

MR. QUARTERMAN: Number 2.

SECRETARY KEMP: Okay. We’ll pull number 2 out. Anyone else?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, I’m ready for a motion to -- Mr. Harvey, you want to just

tell us what you want us to do on the consent cases?

MR. HARVEY: I would make a recommendation that everything listed under consent cases from 2010-131 through 2012-120 be closed and dismissed by the Board.

SECRETARY KEMP: All right. So we need a motion for that, except for --

MR. HARVEY: With the exception of Mr. Quarterman's.

SECRETARY KEMP: We're going to pull out the Clayton County case, number 2 in the binder would come out.

(Crosstalk)

SECRETARY KEMP: Mr. Quarterman, you're on the Douglasville election. All right. So we're going to vote to dismiss everything on the consent calendar except for case number 2011, number 52; is that correct, Mr. Harvey?

MR. HARVEY: That's correct. That's my recommendation.

SECRETARY KEMP: Do we have a motion?

MS. SULLIVAN: So moved.

SECRETARY KEMP: Ms. Sullivan moves to dismiss. Do we have a second?

MR. SIMPSON: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have dismissed the consent cases except for 2011, number 52, which is number 3 in our binders. Mr. Harvey, I'll let you start with that one.

MR. HARVEY: Mr. Chairman, members of the Board, this case involved a November, 2011 -- it was a municipal election and a county SPLOST election. James Quarterman was the complainant and he made two complaints.

The first complaint was that the SPLOST ballot -- SPLOST votes were illegal because he contends that they were going to be -- Douglas County was going to be using the money in an unauthorized manner. The State Election Board doesn't have any jurisdiction over that issue. So I don't find any violation the State Election Board can deal with regarding the SPLOST.

The second complaint Mr. Quarterman made was when he went to vote in Douglasville for the election during early voting, he was able to vote for the county SPLOST. However, he had moved into the city but had not changed his voter registration by the deadline in order to reflect that. He had a conversation, I think, with the election supervisor who was there, and who I believe is present today. He acknowledged he did not change his voter registration.

At one point he asked for a provisional ballot and that was denied based on the fact that he essentially didn't believe he was properly registered to vote. He asked if he could vote a provisional ballot and then returned with something that showed he lived in Douglasville. And that wouldn't have really made any difference with his voter registration status.

Eventually, before the election, the elections superintendent did offer Mr. Quarterman a provisional ballot if he really wanted one. I don't think he ever accepted that offer.

I don't find any violation in this case, and I recommend it be dismissed.

SECRETARY KEMP: Anyone wishing to speak on this matter? Mr. Quarterman, if you don't mind -- I forgot to tell you earlier -- just give us your name and address for the record, please.

MR. QUARTERMAN: James Quarterman, 6238 North Summer Circle, Douglasville, Georgia 30135.

Now, I'm not here to dispute your investigators and all this. But you pulled this off the calendar last time you had a State Election Board meeting because the people conducted an illegal investigation and used an address that I lived at five years ago in doing their investigation. I talked to Mr. Harvey about it and you have a black guy that's a new investigator. He reassigned him to go back and investigate the thing.

Now, the problem is, yes, I did move; yes, we did mail in the voter registration cards. Me and my wife both went to vote and we were denied the right to vote. We asked to vote provisional ballot and we were denied that right, as well. I had proof of residency. According to your laws, it states if there is any discrepancy, or whatever, that person is entitled to cast a vote as long as they are an eligible voter, and they have so many hours or days to bring back proof that they do reside and that they're eligible to vote, and that. We tried to do all that.

Now, I'm not going to stand here and argue with you because the fact of the matter is the person in the Board of Elections that I'm up here competing against now, I already have three cease-and-desists and three fines by you against the same people. But you will take no actions against these people and you continue to allow them to violate the election.

What good is having authority if the authority is not going to act? How many cease-and-desists, how many fines do you have to give the same person before some action is taken against that person? And the reason you and I know each other is because you have seen me three or four times, and you've given three or four cease-and-desists against the Douglas County Board of Elections for violating elections law.

Now, he can say whatever they want to say. You pulled this off of your own calendar last time to have it be investigated because they did not conduct an investigation and they did use an address that was five years old. Now you want to dismiss it and just throw it out? Well, why didn't you dismiss it and throw it out the last time? Because you knew you were wrong and I have a right to vote. I mailed in the card. I don't work for you. If the card doesn't reach you by whatever time, it tells me I have a date to file that card by. We filed it. That's all I could do.

I should have been allowed to vote. And when you did not allow me to vote, you denied me my right as a citizen to vote in an election which according, I think it's 521 or 522, that I was an eligible person to vote. Therefore, if I wasn't eligible to vote in that election [sic].

Now, I remind you, now, get this: According to 21-2-521 or 522, if I was not eligible to vote in that election, I would not be standing right here today because you have to be eligible in order to file the complaint or protest the election which was held. So if I'm standing here right now, that means that I was entitled to vote in that election.

SECRETARY KEMP: Any questions for Mr. Quarterman?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Yes, sir. Name and address for the record, please.

MR. COLE: Good morning. My name is David Cole. I'm with the law firm of Freeman, Mathis & Gary; 100 Galleria Parkway, Suite 1600, Atlanta, Georgia 30339. I represent Douglas County Board of Elections and Registration. I will try not to address too many of Mr. Quarterman's allegations maligning the elections superintendent, except I will say I have the pleasure of representing a number of counties and cities around the State. I've worked with Lori Fulton, the elections supervisor, and Greg Riffie (phonetic), the assistant supervisor for many years. They are two fine people who do their level best and some of the best people I've had the opportunity to work for.

In this case they did exactly what the law requires of them. The fact of the matter is that Mr. Quarterman had not changed his address and he showed up to vote claiming that he had now moved into the city limits, but he had never changed his address to show that. They simply could not let someone vote in an election they had not registered for even if he claimed he had recently moved there in the past few weeks. The election code is very clear under 21-2-216, that an individual cannot vote in an election they are not registered for. And 21-2-218 says if you change addresses, you have to change that and the registration at least by the fifth Monday preceding the election. That never happened. So they could not let them vote.

When they asked Mr. Quarterman if he had done that, he admitted he had not. The rules for voting provisional ballot says someone who is entitled to vote a provisional ballot is someone who must present themselves believing that they had actually registered to vote. Mr. Quarterman admitted he didn't change his address. So it's clear even he did not believe he was registered to vote.

Nonetheless, he continued to throw a stink about it over the next few days. So Ms. Fulton did write him a letter and offer him the opportunity to vote a provisional ballot. And we have submitted that letter to the investigator. It's not in dispute that that offer was made. But, as anyone knows who's voted a provisional ballot, to vote that ballot, you must sign an affidavit that swears under oath that you have properly registered to vote in that election and you changed your address, and so forth.

Mr. Quarterman knew he did not do that and he refused to take the opportunity to vote the provisional ballot, probably because he knew he would be committing perjury if he signed that affidavit. And that, in and of itself, is telling of the fact that this complaint really has no merit; it never did.

We appreciate Mr. Hall and Mr. Harvey's investigation of this. We think the conclusion is correct: it should be dismissed.

SECRETARY KEMP: Any questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, any other discussion from the Board, or do we have a motion?

MR. SIMPSON: I move we dismiss this case.

SECRETARY KEMP: We have a motion from Mr. Simpson to dismiss. Do we have a second? I'll second.

Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have dismissed case 2011, number 52.

All right. Mr. Harvey, now we're back on track with our new cases. Are we going to go ahead and do Hancock County?

MR. HARVEY: The plan was to go ahead and do the first Hancock County case because that involves different respondents and a different attorney. The other three Hancock County cases we're going to push to the end of the meeting.

SECRETARY KEMP: Okay. So we're going to call 2008, 131, Hancock County, which is number 13 in our binder?

MR. HARVEY: That's correct. And, Mr. Chairman, I didn't know if you want to take a roll call to see who is here on cases so we could --

SECRETARY KEMP: Oh, yeah. One other thing that we try to do to speed the Election Board meetings up, and also not to have people who have joined us today in person have to wait around for folks that didn't bother to show up for these cases, is to find out who is here this morning on individual cases. If we have some folks that are not here, we'll skip over those and take them up later in the day, which, hopefully, will get you folks out of this room quicker.

I think we're at 2008-131. Do we have someone here from Hancock County?

UNIDENTIFIED FEMALE: We do.

SECRETARY KEMP: 2010-93, Liberty County case?

UNIDENTIFIED MALE: Yes, sir.

SECRETARY KEMP: 2010-111, Screven County?

UNIDENTIFIED FEMALE: Yes.

SECRETARY KEMP: 2011-58, DeKalb County, the Ware case?

UNIDENTIFIED MALE: Yes.

SECRETARY KEMP: 2011-59, Hancock -- we moved that.

MR. HARVEY: That's one -- yes, sir.

SECRETARY KEMP: We're going to move that case to the end. City of Eatonton case?

UNIDENTIFIED FEMALE: Yes.

SECRETARY KEMP: City of Brunswick?

UNIDENTIFIED FEMALE: Yes.

SECRETARY KEMP: Okay. City of Braswell?

UNIDENTIFIED FEMALE: Yes, sir.

SECRETARY KEMP: Fulton County PPP Clinic?

UNIDENTIFIED MALE: Present.

SECRETARY KEMP: Gwinnett County PPP case?

UNIDENTIFIED MALE: Present.

SECRETARY KEMP: Taliaferro County qualifying case?

UNIDENTIFIED MALE: Present.

SECRETARY KEMP: Atkinson County primary (unintelligible). Elbert County?

(Whereupon, there was no response)

SECRETARY KEMP: Anybody here for the Elbert County 2012, number 44?

(Whereupon, there was no response)

SECRETARY KEMP: We'll move that one to the back of our agenda.

Randolph County district line?

UNIDENTIFIED MALE: Here for Randolph County.

SECRETARY KEMP: We've continued the Madison County case, right, Mr. Harvey?

MR. HARVEY: That's correct.

SECRETARY KEMP: All right. Gilmer County?

(Whereupon, there was no response)

SECRETARY KEMP: Polk County?

(Whereupon, there was no response)

SECRETARY KEMP: Marion County?

(Whereupon, there was no response)

SECRETARY KEMP: Dougherty County?

(Whereupon, there was no response)

SECRETARY KEMP: Habersham County?

(Whereupon, there was no response)

SECRETARY KEMP: Fannin County?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, you've got a crystal ball moving all those ones at the end of the agenda. Must have known they weren't going to show up.

Okay. Really, the only case I'd take and move out of order would be the Elbert County case. So we'll go ahead and call the 2008, number 131, Hancock County case. Mr. Harvey?

MR. HARVEY: Yes, sir. The first thing I need to say is this case is, as you can tell, was very old, and I don't have a tremendously good excuse for it. It was assigned originally to an investigator who went out on extended medical leave and in the process of cases being reassigned and shuffled, it just fell through the cracks, and I apologize to Hancock County and the Board for the delay bringing this case forward. We have generally done a good job of being up-to-date. I know it doesn't make it easier on the respondents when the allegation is this old.

The allegation was there were multiple absentee ballot problems in this election. There were allegations the ballots were being intercepted; the ballots were being forged. We did a thorough investigation and we found out that, at the end, there was no evidence of absentee ballot fraud or manipulation. We did find a lot of administrative errors with the ballots. And this is where it gets a little bit complicated due to the changes in Hancock County.

In 2008, you had the Probate Judge, Judge Rice, who was the elections superintendent, and you had a chief registrar and Board of Registrars. Under that system, the registrar would generally be responsible for absentee ballots. However, as the Board has acted in the past, the elections superintendent is generally also held accountable for errors in absentee ballots with the registrar.

In this case, the actual registrar at the time is now deceased. They now have a combined Board of Elections and Registration and identifying respondents is a little bit tricky. We have judge Rice, the former elections superintendent and the elections superintendent at the time of these actions, as a respondent.

The ultimate findings were that there were 39 absentee ballots that were not certified as having been received as required; there were 66 absentee ballot applications accepted without proper documentation; and there were 30 voter certificates that were not properly completed. Nine of them had no ID checked, three were not signed by the voter, and one gave no reason for assistance.

Given the nature the allegations and given what's going on in Hancock County and what we'll be dealing with in Hancock County in the future -- Hancock County is under new management. I know some people have mixed feelings about that. These mistakes were largely administrative. But those are the facts of the case.

If it's in the interest of convenience to let this go with a letter of instruction to people who are not essentially responsible anymore, I think that might be a reasonable resolution. However, given the history of Hancock County, it's checkered history with administrative tasks in elections, that might not be something that's palatable to the Board.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

UNIDENTIFIED FEMALE: Yes, sir.

SECRETARY KEMP: Give us your name and address for the record, please.

MS. SHAFER: My name is Lee Oxendine Shafer. I'm with the firm of Wall Shafer, and my address is 3635 Peachtree Industrial Boulevard, Suite 400, Duluth, Georgia 30096.

This is a really tricky case because we had a Board of Registrars and Mr. Willie Williams died, in 2010, I might add. Okay? And this is a 2008 case. But there is a deputy registrar, there are people on the Board of Registrars who should have been here instead of Ms. Rice.

I, yesterday, contacted Mr. Harvey and asked him what specific law did my client violate? She didn't violate any of them. She may have been overseeing them, but she didn't violate any. She didn't violate 21-2-431, 21-2-286. She didn't violate any of them because she didn't do it. Now, if you want to hold her responsible, you can. But we're going to fight it because I don't know what statute she violated.

In your petition, itself, you've listed several of the code sections, and she didn't violate any of them. I mean, 21-2-386, 21-2-381, and 21-2-431. All she's guilty of, if anything, is overseeing this, which there is a Board of Registrars. Just because Mr. Willie Williams is deceased doesn't mean you can't bring the rest of the board in on this action. Because they are the ones ultimately responsible.

If, in fact, you claim there is a statute that she has violated, we will entertain it. But Mr. Harvey couldn't give me one. He just said it was the standard practice of the Board. So without anything other than that, we ask that it be dismissed.

SECRETARY KEMP: Any questions for Ms. Shafer?

MR. McIVER: Thank you, Mr. Chair. I have great confidence in Judge Rice for enabling herself with such a fine lawyer in the State of Georgia. Ms. Shafer is long-known to many of us on the elections side. Your mere presence here means a lot; it really does.

MS. SHAFER: Thank you.

MR. McIVER: However, I just so humbly wish we weren't so familiar with Judge Rice. However, in this instance, I think you may well have a case, as is viewed by me. I am curious about one item, and that is who should be standing before us if not Judge Rice?

MS. SHAFER: The deputy registrar or one of the Board of Registrars. I've got their names.

MR. McIVER: Despite the fact she was in an oversight capacity --

MS. SHAFER: If she is in an oversight capacity, that's fine. Give me the statute that she violated. You can't give me one. It's just the practice of the Board. I hate to say that, but that's the way it is. In your -- in the letter you wrote to Ms. Rice, which Chris Harvey did, he says that "you may have violated Georgia's election code rules and regulations." So where is the code, the rule, or the regulation that she violated?

MR. McIVER: To some extent I think Mr. Harvey has identified that for us. But, anyway, I guess my question has been answered. The deputy registrar and one or more board members would be the likely individuals.

MS. SHAFER: Sure. That did this, yes. That were in charge of this, yes.

MR. McIVER: No other questions.

SECRETARY KEMP: Any other questions of Ms. Schaefer?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Ms. Stephens. Give us your name and address for the record, again, if you would, please.

MS. STEPHENS: Nancy Stephens, 389 Roy Smith Road, Sparta, Georgia 31087.

At the 2008 election that is before y'all now, I copied all the election documents before they were sealed and the unsealed election documents and compiled all the information and turned it into the Secretary of State on a complaint. And all this did happen and it is a problem with us at the registrar's office. However, Judge Rice was the superintendent of elections. We have a new board, but we still have the same staff and this problem has not been corrected all and it continues.

I just wanted to add that.

SECRETARY KEMP: Any questions for Ms. Stephens?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Judge Rice, welcome.

JUDGE MARVA RICE: Good morning. Judge Marva Rice. I have to give my address as Post Office Box 331, Sparta, Georgia; 31087 is the ZIP Code.

To the Board, good morning, again, in reference to recognizing my attorney here with me, Ms. Schaefer.

In reference to the 2008, when Mr. Hernandez and Pam Jones came down to investigate the 2008 situation, I, myself, here have all the copies of some of the problems he and I sat down with the deputy registrar, Aretha Cooper Hill, in reference to the vote certificates. Envelopes came in that were not certified like they supposed to have been correctly, and with the voter certificate applications; (unintelligible) came to the registrar's office; there was errors there. I did address that and bring that to their attention, as superintendent of elections at that time, and told him they needed to be very careful as to even with the timeframe and capacity, (unintelligible); whatever the case may be. To take their time and carefully examine every envelope and the absentee application that comes into the office to make sure all the proper areas are completed like they need to be. Whether that was done -- we have a Board of Elections there that went into place July 1, 2011. They're still having serious problems with that issue, even though with the Senate Bill 173 to have me removed as superintendent of elections that I had no problem with from the very beginning, they're still having problems in Hancock County.

SECRETARY KEMP: Judge Rice, I have a question for you.

JUDGE MARVA RICE: Yes, sir.

SECRETARY KEMP: If you and your attorney are making the . . . the -- I guess, the position that you haven't violated one of the State election laws, but folks underneath your supervision, are you suggesting and do you agree with her that we should go after individuals instead of the County and superintendents in charge? Because I think that's going to change. Mr. Willard or Mr. Harvey can give their insight to the Board, but that is going to change the way we've been operating. And I think, in my opinion, it really puts us in a pretty interesting spot if we start going after individuals that are working in registrar's offices and don't include the superintendents of registrars. Many times we have the superintendents come and say, yea; this problem happened; this is what we did to fix it; we take responsibility for it. And we move on.

So I just wanted to get your opinion as a former elections superintendent on that.

JUDGE MARVA RICE: I agree with my attorney, Ms. Schaefer. With the position as superintendent of elections, you all know as well as the board know that, yes, we are the head of authority. But at the same time, there needs to be that fallback. Whoever is handling the materials -- the registrar's office handle a lot of things and at the end of the evening, at 7:00 when it's time to count the absentee ballots, whatever they review and certify to say this is the correct information that they're handing over to us, we did not have time to stand there and go through every envelope to see have they been certified, or anything. We are given accountability that comes from them to us.

Yes, I agree with her that you all need to go after the ones that are actually in charge of handling it because they are held accountable just like the superintendents of elections are.

Now, if you had said about poll precincts from the districts that I'm responsible for the action from 7:00 that morning to 7:00 that night to closing and certifying everything, yes. I will stand here and say hold me accountable. But when we're dealing with the registrar's office, we're dealing on their accountability to give us the correct information so we can go forward to enter the absentee that night and we can count (unintelligible).

So I agree with my attorney. You need to go directly to the registrars on this incident because I did address it. Mr. Hernandez could attest. We sat in a room. We went over every absentee ballot application that had problems with it, as you heard Ms. Stephens say that came up here and gave her comments behind my attorney. She the one made the copies. She filed the complaint. So she know that. It exactly came out the registrar's office.

SECRETARY KEMP: So if that scenario plays out and we bring those people before us and then they tell us they were never trained --

JUDGE MARVA RICE: They went to the training classes

SECRETARY KEMP: -- who do we hold accountable then?

JUDGE MARVA RICE: Accountability. When you take that position, just like I had to learn, and everybody else sitting in this room who is a registrar or superintendent of election, past and present, you have to sit there; you have to go to training classes; you have to read; you have to understand; you have to ask questions if you don't understand to get the full knowledge of everything. It is a learning process. No one is perfect, and you will make a human mistake. But then, at the same time, you learn from your mistakes, too. I have learned a lot dealing with elections and having Attorney Shafer to represent me.

SECRETARY KEMP: Any other questions for Judge Rice?

MR. McIVER: I do.

SECRETARY KEMP: Mr. McIver.

MR. McIVER: Judge, since 2008, has this problem reoccurred in Hancock County?

JUDGE MARVA RICE: It's still going on. Mr. Kemp can attest to the 2012 election. He had to come to Hancock County, it was such a big uproar down there. And I'm no longer the superintendent. They have a Board of Elections now. So you see that the blame went on me as the superintendent, but it's still an uproar, and I have been removed from the position now. So the problem is still there. So the problem lies now with the staff as a whole. The problem was never me. But by me being superintendent at that particular time, I was held responsible for everything. I corrected everything that I could correct, but then at the same time, you have to be a team player; you have to read; you have to understand; you have to have the knowledge and ability. If you don't have that, these are things you have to deal with. You have to come in front of y'all and present your case.

SECRETARY KEMP: Mr. Simpson?

MR. SIMPSON: I've got a question for the Attorney General. I've looked at these statutes, and 21-2-431 refers to the poll officer. It doesn't say anything but the poll officer. 21-2-386 says the Board of Registrars or absentee clerk shall keep safe. And then 381 just has to do --

381(a)(1)(C) only applies to the application having to be in writing and containing certain information, and stuff like that.

So my question to the Attorney General, is in the statute allowing the Probate Judge to oversee the elections, is there anything that specifies what his or her duties are with regard to making sure there is compliance with these code sections?

Unfortunately, I tend to agree with the lawyer that unless there is something placing the responsibility on the Probate Judge, it seems like we are misdirected. We may have to change the rules -- we are in a rewrite of the code right now -- but we may need to address this problem in that process. But I just don't see how we can proceed after reading the statute. Is there something I'm unaware of in terms of placing responsibility on the Probate Judge?

MR. WILLARD: Mr. Simpson -- and I'm sorry if I seem like I'm yelling at you. I don't have a microphone and I want to make sure the court reporter gets what I'm saying.

In this situation, as you are aware, in the past we've had a number of cases that deal with the overlapping duties of the Probate Judge and the staff in the election and registration office. In this instance, I think for 381 and 386, I think judge Rice and her attorney are clear that there probably isn't any liability that attaches to the Probate Judge under the system Hancock County had in place at the time. The liability there would lie with Mr. Williams, who is now deceased.

As you are aware, in this situation where they changed systems, you really probably wouldn't even go to the successor-in-interest because you've got somebody who was in charge at the time and they are deceased now and you've got a new system in place. So there is really no carryover liability.

Now, I am a little concerned about the 431 provision because to me, the execution of the voter certificates probably does fall, at least in part, on the elections superintendent, in this case, Judge Rice. It's my understanding -- and Mr. Harvey can correct me -- the investigative findings are not completely clear on this point. But I believe you're talking about voter certificates that were executed on the day of the election by poll workers out in the field. And to me, the Board is has consistently attached liability to election superintendents, whether they are Probate Judges or whether they are appointed election superintendents on those type of issues. And that is found when you talk about the general duties and responsibilities of the elections superintendent to oversee the election. That is something that would probably clearly fall within their purview.

MR. SIMPSON: The code sections says the poll officer. The way you are interpreting this code section, you're telling me that the poll officer is the Probate Judge.

MR. WILLARD: No. I'm saying --

MR. SIMPSON: Otherwise, the responsibility would lie on the person not handling the ballot correctly when it came into the office. And that would be the poll officer.

MR. WILLARD: Well, I think what you've got there is a situation where in the past we've attached liability to the elections superintendent for, in effect, a failure to train and adequately supervise individuals under their responsibility and control.

MR. SIMPSON: That's not what she's charged with.

MR. WILLARD: That is not what she is charged with in this case.

MR. SIMPSON: Thank you.

SECRETARY KEMP: Ms. Rice, I have one more question for you. Who hires those folks that were doing all that work?

JUDGE MARVA RICE: In the registrar's office or . . .

SECRETARY KEMP: Back during this election, the people you're saying we should bring before us, who hired those people? Did you hire those?

JUDGE MARVA RICE: The registrar's office you're referring to, specifying? Aretha Cooper Hill and Deputy Williams -- we know he's deceased. He died March of 2010. They hired who they would like to have staffing during the time of the elections.

SECRETARY KEMP: Right. But who hired them? Were they appointed or hired?

JUDGE MARVA RICE: Okay. Now, the board was appointed. We have a four-year term through Judge Frye that reports to the Board of Registrars. Aretha is the deputy registrar in the registrar's office.

SECRETARY KEMP: Okay. Was she hired?

JUDGE MARVA RICE: She was hired.

SECRETARY KEMP: Okay. Who hired her?

JUDGE MARVA RICE: Through the Board of Registrars once they're appointed. She's been there for 30-plus years.

SECRETARY KEMP: So the board does the hiring?

JUDGE MARVA RICE: Yes, sir. She's been there for many.

SECRETARY KEMP: Any other questions for Judge Rice?

(Whereupon, there was no response)

MR. HARVEY: Mr. Secretary, if I could just clarify what Mr. Willard said. Although she is not specifically cited, the authority, I think, for the citation and where she assumes authority is going to be under 21-2-70, in paragraph 8, where it says, it shall be the duty to instruct poll officers and others in their duties, calling them together in meetings whenever deemed advisable, and to inspect systematically and thoroughly the conduct of primaries and elections in the several precincts of his or her county to the end that primaries and elections may be honestly, efficiently, and uniformly conducted.

She is not specifically cited for that, but that's the authority under which she is cited for the failures of the other people in the elections office. I believe there had been previous cases. I remember a case, I believe it was Echols County, where the Probate Judge showed up and he was lamenting the fact that the registrar was a beloved member of the community but they weren't doing a very good job and he was sort of in an untenable position because he couldn't get rid of her. But she was making his life difficult. And I believe the Board did assign the responsibility to the elections superintendent at the end of the day in that case.

SECRETARY KEMP: Ms. Schaefer, you have something else?

MS. SHAFER: Yes, sir. If she's in violation of that code section, then you ought to put it in your complaint. There's really nothing in here that she is in violation of. We have to pull and push and shove and do whatever so we can find Ms. Marva responsible. If she's in violation of the code section, tell us what it is, and we will deal with it. But there's not any here.

MR. SIMPSON: What is the statute of limitations for the violation we were just talking about?

MS. SHAFER: I don't think there is a statute of limitations?

MR. HARVEY: Not in administrative hearings, Mr. Willard, is that correct?

MR. WILLARD: There are no reported appellate cases on that issue, although the Supreme Court just accepted cert in an ethics case on that issue.

MR. SIMPSON: What is the position of the parties in that case?

MR. WILLARD: The appellants are taking the issue that there is a statute of limitation. We've won at this point arguing that there is not.

MR. SIMPSON: And what are they saying the statute of limitations is?

MR. WILLARD: I think they're arguing in that case that it's either the misdemeanor or the felony, depending on the particular violation. I think they've got a misdemeanor provision that's predominantly in the ethics code. And so it would attach to the underlying criminal violation that the administrative body is proceeding on.

MR. SIMPSON: That would be a misdemeanor, two or four years?

MR. WILLARD: In that case, I think you're talking about a two-year statute.

MR. SIMPSON: Two years. Okay.

MR. WILLARD: But, I mean, you do -- we don't have as big an issue -- I mean, we've had cases, and you will have them on the agenda when you're talking about the Attorney General's report, where we're going back, in some instances, 15-plus years. In this instance, you're just talking about five years. But if the Supreme Court does come out with a bright and hard line, these kind of case are going to have to either be moved much more quickly through the system, or we're going to lose the ability to bring enforcement actions.

MR. SIMPSON: Thank you.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: I'm willing to entertain a motion.

MR. McIVER: I move we dismiss this case, primarily for the reasons cited by Judge Simpson. But, moreover, it appears that we really don't have the right people in the room. I am not persuaded that full responsibility of this falls on the shoulders of Judge Rice.

MR. SIMPSON: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was taken)

SECRETARY KEMP: All opposed, same sign.

MR. WORLEY: No.

SECRETARY KEMP: No.

That motion carries three to two and that case has been dismissed.

Mr. Harvey, we will move on to 2010, number 93, the Liberty County case.

MR. HARVEY: I have a letter that was sent to the Board through counsel for Liberty County for the Board to accept. The attorney is here and he may wish to speak himself.

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

MR. SIMPSON: So moved.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Go ahead, Mr. Harvey.

MR. HARVEY: This case involved the November, 2010, election in Liberty County. There were two complaints.

The first complaint was from a voter who received an absentee ballot even though she didn't request an absentee ballot. When she looked at the application, it was filled out properly. However, it was not her signature; she did not request it. There was, frankly, no evidence to go on to determine who may have requested for her. And so there is no finding of any respondent responsible for that.

There were also allegations that absentee ballots were being manipulated through various post office boxes. What we found was that there were 46 absentee ballots that were sent to a total of five PO boxes. The five PO boxes were in Liberty County, and they were all associated with a church in Liberty County. The voters who requested the absentee ballots were registered at a different address in Liberty County, and, therefore were not eligible to have their ballot sent to a different address in the county unless they were disabled, and that was not the case.

There was no evidence of any type of manipulation by the church members. However, the church members generally did not cooperate with the investigation and did not answer questions about why they were sending their ballots to these post office boxes.

The Liberty County elections office acknowledged sending them to the in-county addresses and they believed -- they just mistakenly believed they were not to do so under the code.

At this point I would recommend that this case be bound over to the AG's office for a consent order on Liberty County, and I believe the attorney is here to speak to the case.

SECRETARY KEMP: Can you just go over -- never mind. Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MR. DAVIS: Kelly Davis, county attorney for Liberty County, Georgia; Jones Osteen & Jones, 206 East Court Street, Hinesville, Georgia 31313. I'll be happy to answer any questions you have.

I think we set forth in our position statement, the board, after conducting its own review, agrees that departures from recommended practice did take place, but they were completely unintentional. I think the understanding of our absentee ballot staff was that once they received an absentee ballot which specified a different mailing address, so long as the other information conformed to the voter registration records, including signature, that constituted a request for a change in the permanent mailing address. So those absentee ballots were mailed to addresses which weren't at the time listed as their permanent mailing address. After our review, we identified at least 27 absentee ballots that were sent ballots to addresses other than those specifically listed as their permanent mailing address.

It was entirely unintentional was our staff's position, that was the legitimate request by the elector to have his permanent mailing address changed. But, nonetheless, those ballots were sent to the address other than listed as the permanent mailing address in that application. Again, it was purely unintentional and no one had any intent to depart from State practice or recommended practice. And it did not result in any adverse consequences in the election that is in question, particularly the special election of Liberty County Sheriff held in conjunction with the 2010 general election.

So since that time, we've identified and implemented remedial measures to ensure this never happens again to include instructing our staff to restrict the name on absentee ballots to only those addresses shown as the permanent mailing address in the records at the time the application is received. We are additionally scheduling additional training and instruction to our staff regarding absentee ballot processing, as well as educational programs for the candidates and other concerned groups and citizens to ensure they understand the importance of having a current and updated permanent mailing address on file with the voter registration office so that these mistakes don't occur in the future.

SECRETARY KEMP: Any questions for Mr. Davis? Mr. McIver?

MR. McIVER: What would you recommend we do here, Mr. Davis?

MR. DAVIS: I would hopefully recommend that you endorse the actions proposed by the Liberty County Board of Registration and Elections with respect to remedial (unintelligible) addressed. I think it was an isolated incident. It has not occurred in subsequent elections and we don't anticipate it occurring in future elections.

So my recommendation would be, if not [sic], a letter of instruction to ensure those remedial actions are carried forward and implemented.

MR. McIVER: Thank you. No other questions.

SECRETARY KEMP: Any other questions for Mr. Davis?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anyone else wishing to speak in regards to this case?

(Whereupon, there was no response)

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

MR. McIVER: I move we have a letter of instruction prepared much like described by Mr. Davis which confirms the actions of the county in this instance. And that the matter, otherwise, be closed.

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

MR. SIMPSON: Second.

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

MR. WORLEY: I'd be more comfortable if we voted to send this to the Attorney General for the negotiation of the consent order that has the remedial instructions in place. So I'll vote against it.

SECRETARY KEMP: Any other discussion?

MS. SULLIVAN: I concur with Mr. Worley. I appreciate and applaud the efforts that Liberty County has taken to address this. But I would like a formal agreement where those remedial measures are spelled out and formally agreed to.

SECRETARY KEMP: Mr. McIver, you got any other thoughts?

MR. McIVER: I want my motion voted on.

SECRETARY KEMP: All right. We're ready to vote if there is no other discussion. All in favor, signify by saying "Aye."

(Whereupon, the vote was taken)

SECRETARY KEMP: All opposed, same sign.

MR. WORLEY: No.

MS. SULLIVAN: No.

SECRETARY KEMP: No.

That motion fails. Do we have another motion?

MS. SULLIVAN: Motion to refer this to the Attorney General's office for a consent order.

MR. WORLEY: Second.

SECRETARY KEMP: We have a motion and a second to send to the Attorney General's office. I certainly think that even though the Board is split on this, I think we all agree we appreciate the county taking ownership of this and coming up with a plan. And I'm certain that if this motion passes that Mr. Willard can work out an agreement with the county and we can move on. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was taken)

SECRETARY KEMP: All opposed, same sign.

MR. McIVER: No.

MR. SIMPSON: No.

SECRETARY KEMP: That motion carries three to two and we have referred to the Attorney General's office.

Now we're on to 2010, number 111, Screven County case.

MR. HARVEY: This case involved November, 2010, election. There were a number of allegations made by the complainant. He believed that provisional ballots were accepted after the deadline; he believes that provisional ballots were not properly documented; he believes that the DRE's were not functioning properly at all the precincts; and that precincts ran out of provisional ballots.

What we found through the course of the investigation is that the DRE problems at the polls resulted from creation of a dual ballot list. There had been a problem with the ballot and after, I believe, the first day of advance voting, Screven County corrected the ballot and KSU had to provide a dual database for them. And as members of the Board know, almost as soon as you create a dual database, you might as well take an Election Board investigation number because there are going to be problems.

They were able to largely get the polls working. One of the problems was that when they -- they didn't do logic and accuracy testing on the machines after the new database was created. They had memory cards that needed to be in certain machines at certain precincts, and there ended up being different memory cards in the machines.

There was an allegation that precincts were left open longer, which was unsustainable.

The other allegation was that a voter -- a candidate withdrew from the election and posting at the precincts the candidate had withdrawn didn't conform to the required code. The posting noting the candidate had withdrawn simply said the candidate was "bowing out of the race." It didn't

say anything about votes for that candidate not being counted. So that was insufficient for the code to post.

They did have problems with DRE's. They were largely able to get them fixed.

The allegation that they didn't have enough provisional ballots at the precinct was found not to be true. There ended up only being four provisional ballots voted. Three of were accepted. One of them was not because the person didn't return to show ID.

Now, the violation for the improper posting of the withdrawal, I believe, is not on the summary. But I believe it should be added. It's 21-2-134(d)(3).

I recommend this case being bound over to the Attorney General's office on failure to conduct logic and accuracy testing; failure to post proper notice. And those are the issues. The other stuff was unsubstantiated.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

JUDGE DEBBIE BROWN: I am Judge Debbie Brown, and I am the Probate Judge and also the superintendent of elections. My address is 216 Mims Road, Savannah, Georgia 30467. I'm here to answer any questions you might have regarding this matter.

SECRETARY KEMP: Any questions for the Judge? Thank you for being here this morning.

(Whereupon, there was no response)

SECRETARY KEMP: Do you dispute anything Mr. Harvey is saying happened in the investigation?

JUDGE DEBBIE BROWN: Actually, we received -- when we noticed that we had one of the names missing, one of the candidates' names was missing, we immediately contacted KSU and they sent us another database. So we were actually operating under two databases. And once we realized that -- what we did, we corrected that and then we thought everything was okay. Early voting went okay; there was no problem.

Then election morning, when we went to actually open up the machines, it actually wasn't. So we had to get one of the voting machines and create the cards. Once we did that, we had it up and going with no problem.

SECRETARY KEMP: Any other questions for Judge Brown?

(Whereupon, there was no response)

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

MS. RHODES: My name is Ella Rhodes and I have the same address. The only thing I have to add to that, they made contact with KSU and asked about that database, about the one precinct being corrected. They said that it was fine. So the only thing that was corrected was that one precinct thinking that everything else was fine.

It wasn't until the actual precincts were open that we found out that now only that one precinct was working with that database at that time and the rest of them were not. One of the DRE units -- touch screen units -- was used immediately to use as a card printer and everything went fine that day.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

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

MS. GLISSON: I'm Dorothy Glisson, the chief registrar. Did I understand you to say --

SECRETARY KEMP: You'll have to speak louder and slower where she can get your name and address.

MS. GLISSON: I'm Dorothy Glisson, 216 Mims Road, Savannah, Georgia, the chief registrar.

Did I understand that you said that posting of the candidate's withdrawal notice was not --

MR. HARVEY: It was insufficient.

MS. GLISSON: Right; okay. Because it was posted, and I just wanted to make sure that I understood that was part of --

MR. HARVEY: There was a posting. However, I don't think what was posted conformed with what the law requires of the posting, to simply say the candidate is bowing out of the race with no mention of votes cast for the candidate shall not be counted.

MS. GLISSON: It was posted. You did the wording on it.

JUDGE DEBBIE BROWN: Yes.

MS. GLISSON: And we showed it to the investigator, right?

JUDGE DEBBIE BROWN: Right.

MR. HARVEY: We have a copy of it, but I think that could be something that AG's office could look at.

SECRETARY KEMP: Any questions for Ms. Glisson?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you all for being here this morning. Anyone else wishing to speak on this case?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, any additional discussion with the Board? Do we have a motion?

I would move that we bind over to the AG's office and let Mr. Willard work with making sure the county understands the violations here and works with them to make sure we get an understanding that this has been corrected and won't happen again. As much as I like seeing you fine folks here this morning, we'd rather you not have to make the trip to Atlanta for this reason.

So I would make that motion.

MR. WORLEY: I will second that.

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

MR. McIVER: I intend to vote with for this motion just because it would be consistent with our earlier decision in our previous case. I'm not sure that we should be burdening the Law Department with cases like this, but that seems to be our direction. And therefore, to be consistent, I'll vote for it.

SECRETARY KEMP: Very good point. Any other discussion?

(Whereupon, there was no response).

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. And we will move to 2011, number 58, the DeKalb County Ware case.

MR. HARVEY: This case involves a gentleman who qualified to run for a city council seat in the City of Lithonia and he provided false information on his candidacy affidavit regarding his residence. He did not live where he said he did.

I've spoken to the respondent, Mr. Ware, who I believe is present today. Mr. Ware called and expressed his remorse to me for having done it. He apologized, and I believe he wants to address the Board with similar concerns.

I recommend this case be bound over given the seriousness of the false information the candidacy affidavit. But I believe Mr. Ware wants to speak.

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

MR. McIVER: Did Mr. Ware admit that he had given false information on his candidacy affidavit?

MR. HARVEY: Only after receiving notice of the hearing today. Initially, I believe -- let me check. Apparently, when the investigator spoke to Mr. Ware, according to Investigator Hall, he said during the telephone conversation, Mr. Ware starting yelling at the investigator and on several occasions told the investigator to shut up. He went on to threaten to have the investigator's job and stated he refused to make a statement that would incriminate him. Mr. Ware advised he was going to contact a civil rights attorney to rectify the situation. So I think that qualifies as a no.

MR. McIVER: That was certainly my reading of the document. I somewhere got the impression that he had made an admission. So your recommendation --

MR. HARVEY: He made the admission after-the-fact once he got notice of the hearing. My recommendation is to be bound over to AG's office.

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

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Ware, would you like to address us?

MR. WARE: Yes, I would. My name is Leonard Neal Ware. My address is 1055 Castle Point Lane, Grayson, Georgia 30017. And this is my mother, Betty Ware.

I just come to apologize to the Secretary of State's office investigator -- I wish Mr. Hall was here.

MR. HARVEY: He's in the back of the room.

MR. WARE: Mr. Hall, I apologize you for my emotional response. It was really done out of ignorance; caught by surprise. I have an emotional attachment to the property. This is the home where my mother was raised and my parents were married and always spent so much time there. And I helped to pay the property taxes there and cut the grass there. It's very important to her, the home, and I was wrong for the way I spoke with you, and I apologize.

I come to, you know, to admit that I was wrong in filling out the form for qualifying for a candidate and my voter registration form. I take responsibility for my actions. If I had to do this

again, to register, vote, or to qualify for candidate, I would not to what I did. I was trying to -- I was going through difficult time. Under no circumstances going forward will I ever do what I have done. I'm very sorry for making the statements I wrote on the two forms. I did talk to Mr. Harvey, chief investigator, and I did express my remorse for what I did.

I did not calculate the consequences fully of the law, and I did not realize some of the intricate details of residency. I should have done that.

As for -- I never really understood that I qualified. When Ms. Daniels, the director of voter registration, sent me the letter, I understood it to say that I needed to show up at a meeting to see if my candidacy would be contested. And when I read that, I really reasoned in my mind I should not be a candidate. And the letter, I understood, said if I do not show up then I would be removed from consideration as being a candidate on the ballot. That's the reason I did not show up to self-eliminate myself as a candidate. I thought that would be the end of it.

Once again, I believed -- my misjudgment was based upon the fact that I spent -- I was trying to move back into the property, you know, and I realized I'd been in and out of town for that one year; I didn't even qualify for the one year. So I thought it was best that by not showing up, I would not be on the ballot and I would not be in the election and would not tamper with the special election of Lithonia.

I exercised bad judgment and that is the reason for not appearing. My intent was not to cause any fraud for Lithonia. I love Lithonia. Lithonia is where my ancestors are from, and I wanted to help Lithonia, not hurt Lithonia. I apologize to the Secretary of State's investigator and I apologize to Ms. Daniels, the director of registration for my emotional (unintelligible).

I believe in the right to vote and I do believe in everyone having civil rights. In my defense, I did not vote in the special election. I chose not to vote in the general election. I was encouraged by Ms. Daniels, she said, go ahead; you can vote; you can vote. But I chose because of the confusion, because I didn't want to tamper with that election or vote -- do or violate the laws, election laws, I just took away my own right to vote and did not vote the general election.

I come admitting my statement was wrong. I had the wrong attitude, the wrong behaviors, was not in good character. As a Christian, it was just wrong. To show my repentance by my deeds, I have filled out a voter registration form showing my correct and current address ,1055 Castle Point Lane, Grayson, Georgia 30017. And the change of address part, I filled that out changing it from 6984 Braswell Street to the address I just stated. I will fill out a change of address for my ID and my license, and all of that.

This is my mother, Betty Ware. She owns the property. (Unintelligible) my misjudgment and we were trying to move back into the house. The house, before and after Ms. Daniels did her investigation, was broken into. I boarded up the windows of the property.

Mama, do you want to say anything?

MS. WARE: I just want to say that --

SECRETARY KEMP: Ms. Ware, if you don't mind, if you will just give us your full name and address for the record.

MS. WARE: My name is Betty Ware, and my address is 1055 Castle Point Lane in Grayson, Georgia.

The house in Lithonia that he was supposed to be staying in, I wanted him to stay there because it was a family house and I thought if he stayed there he could keep the house going, and so forth, mowing the lawn and taking care of the house, period, because it's a large lot and everything was growing up.

So after he moved out, the house was broken into twice. They stole the air conditioning and they took furniture out of the house, and everything. So the reason I had wanted him to stay there, my sister had been living there and they took her and they carried her to a nursing home. And all of her furniture was there and she had very nice furniture and they took some of that. And they also took the air conditioner and they carried some of her jewelry away, and everything. So after that, I just told him to come on and stay with me since they said he wasn't supposed to be there.

So that's all I have to say.

SECRETARY KEMP: Thank you very much for being here, both of you. Any questions for Mr. or Ms. where?

(Whereupon, there was no response)

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

MR. WILLARD: Mr. Chairman, may I ask a couple of questions?

SECRETARY KEMP: Yes.

MR. WILLARD: Have you ever resided at the Braswell Street location?

MR. WARE: When I first came to Georgia, I resided there. My license, my first license was from there. That address was my mailing address. Yes. But after my aunt moved out, went to the nursing home, I was trying to -- well, around the 2010 time, I was trying to move back in. But just real early on in 1994, '95.

MR. WILLARD: So '94, '95 was the last time you actually lived at that address?

MR. WARE: It was kind of in and out. I'm a minister and I've been trying to find -- so it was a few years early on into my . . . into my . . . A few years early on.

MR. WILLARD: When you moved out, where did you move to after you moved out of that location?

MR. WARE: I moved to Panola Mill Drive in Lithonia where my mother stays. And from there I went to school after a few years living with my mother.

MR. WILLARD: Okay.

SECRETARY KEMP: Any other questions for Mr. Ware?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you, Mr. Ware.

MS. WARE: I sold the house he was living in in Lithonia at Panola Road. And that's when I moved to Gwinnett County where I'm living now, and he moved out there with me. So we don't live there. Nobody lives in the house now. But we go back there now to cut the lawn and try to keep the place going.

SECRETARY KEMP: Thank you, very much. Anyone else wishing to speak on this matter?

MR. HARVEY: Mr. Secretary, just for the record, Mr. Ware registered to vote in Tennessee in 2011. So that was his voter registration in 2011. So at some time you lived in Tennessee?

MR. WARE: I tried to contact my friend. I was trying to get a position, a job, in Memphis, Tennessee. And the owner of that property was trying to rent it to me. But the former tenant had an excessive electric bill, therefore, making it -- I could not move in there. Once again, I did not calculate -- I believed I was going to get the job; I knew I was going to have a place to stay. But when I didn't, I came back to Georgia.

SECRETARY KEMP: All right. Thank you. Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Any discussion on the Board or a motion?

MS. SULLIVAN: I move that we bind this over to the Attorney General's office.

MR. McIVER: Second.

SECRETARY KEMP: **SECRETARY KEMP:** We have a motion to bind over and a second. I think I speak for the Board that we appreciate Mr. Ware coming and apologizing today, especially to our investigator. I know that elections are very emotional on all sides. We see that time and time again and try to wade through that to do what is right.

We've got a motion and a second to bind over. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

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

Mr. Harvey, we've got 2011, number -- we're going to move that Hancock case, right?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Next we'll have 2011, number 74, City of Eatonton.

MR. HARVEY: This involved the November, 2011, election in the City of Eatonton. There were four basic allegations made, one, that candidate's family members were assisting voters with their voting; second, that a poll worker removed something from the poll place on election day; that the election results were not posted at all precincts by poll workers; and there was a tent set up across from City Hall giving out free cell phones and had a sign for the current mayor. It was suspected that he was giving out cell phones in exchange for votes.

The investigation revealed that the mayor's wife, Ms. Janie Reid, did assist voters while her husband was on the ballot. She assisted seven voters with their ballots and she was not entitled to assist them.

The allegation documents removed from the precinct was unfounded.

The election results not being posted was unfounded.

And the phones that were being set up across from the polling place, there had previously been a sign for Candidate Reid, Mayor Reid, and this was the federal phone giveaway program set up across the street from that. There was no connection to the candidate with this phone giveaway.

So at the end of the day, the only sustained allegation was that Janie Reid illegally assisted seven voters as her husband was on the ballot.

Given the -- also, and I guess I should also point out that when Ms. Reid asked the elections superintendent if she could do it, they told her she could. The elections superintendent was just mistaken. She was focused on the number 10. She told her she couldn't do more than 10. But she didn't realize the code also prohibited family members from assisting.

Given that, now, we've got the -- I believe we've got the city and elections superintendent as respondents. I don't believe they are actual respondents. They gave her bad information, but they didn't do anything themselves.

So I recommend the city and Sarah Abrams be dropped or dismissed as respondents. And given the fact that Ms. Reid was given inaccurate information by the elections superintendent, I recommend a letter of instruction to her regarding illegally assisting voters.

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

MR. McIVER: Mr. Harvey, did the investigator reveal to you that Ms. Reid is a county commissioner in the County of Putnam?

MR. HARVEY: I don't know if that was -- I don't see that in the report. It may have been mentioned. I received a phone call earlier this week or last week and they mentioned that she was a county commissioner.

MR. McIVER: So is that something you want us to consider? She's a county commissioner, meaning she has stood for elective office and should have some familiarity with the code.

MR. HARVEY: I agree. That was not an intentional omission, but that is correct.

SECRETARY KEMP: Any other questions for Mr. Harvey?

(Whereupon, there was no response)

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

MS. REID: Good morning. My name is Janie Reid. I reside at 103 Beech Avenue, Eatonton, Georgia 31024.

In looking at the paperwork and in discussing this particular issue with the investigator, it is exactly what the letter states in that I did assist. I assisted seven people with the election. I did this not knowingly -- not knowing I cannot. I asked the elections superintendent if I could assist and how many, and she told me I can assist up to 10 people. That was the end of the discussion. I think several times I had to ask that because -- not several times I had to ask, but several times other people asked her and she told them the same thing: she can assist up to 10 people. She knew who I was; she knew I was married to the mayor that is no secret. It's no secret I'm a county commissioner, either. When the investigator spoke to me, I revealed to him, I told him, which he probably already knew, that I was a county commissioner.

There was nobody, I don't believe, in Putnam County or Eatonton who wanted the mayor to win the election more than I did. Therefore, I would not have done anything that would jeopardize the election, which is why asked the superintendent could I do this. Had she told me no, that would have been the end of the story.

I did not know the law; I did not believe it was incumbent upon me to find the law given, that I had asked the person who I felt should have known the answers.

I am deeply sorry and I regret it. It will not happen again because I do have the law with me and I keep it with me at all times.

In reference to Mr. McIver's question whether or not it was revealed I was a commissioner, and therefore should have known a little bit about the law, I think is what you're saying, I've even asked in the county election can I assist and they would tell me 10 people. So, no. No one never said that I couldn't or they had to be related to me. No one ever told me that.

SECRETARY KEMP: Any questions for Commissioner Reid? Mr. McIver?

MR. McIVER: Thank you, Commissioner Reid. My question really goes to how many times have you stood for election in any capacity?

MS. REID: I ran for clerk of court; I ran for magistrate; and I ran and won the Putnam County commissioner election for district commissioner three different times. No one, sir, has ever told me I could not assist. And I'm sorry. I mean, I didn't do this intentionally. I did not.

MR. McIVER: That's five election cycles?

MS. REID: Yes, sir.

MR. McIVER: All right. Anything else you would want us to consider?

MS. REID: Considering the fact that I didn't do this intentionally, that I asked and I was given permission and advised, I was told I could do it. The elections superintendent didn't say let's look at the law. She said you can do it. If I have looked at the law, then I wouldn't. But I didn't feel -- I didn't believe it was incumbent upon me to research the law because I went to the person who, in my opinion, should have known the law. She advised everyone else, you know. Why not advise me?

My husband is mayor. I wanted him to win. But I was not going to jeopardize this election in any form or fashion willingly. No way.

MR. McIVER: No other questions.

SECRETARY KEMP: Any other questions for Commissioner Reid?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you.

MR. HARVEY: Mr. Secretary, also, I should have presented this at the beginning. An attorney for Ms. Reid sent a proposed consent order for the Board to consider. I said I would present it to the Board for consideration.

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

MR. SIMPSON: So moved.

MR. WORLEY: Second.

SECRETARY KEMP: We have a motion and a second to accept the proposed consent order and a second. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: Motion carries. What's in the consent?

MR. HARVEY: Essentially, it's what Ms. Reid said. Ms. Reid said that she didn't realize it was wrong; she didn't do it intentionally. There is no sanction in the proposed consent order. I told the attorney that I would present it to the Board, but I didn't know what the Board's position would be.

MS. REID: Mr. Kemp, may I address Item 3 in that consent order now that it's been presented?

SECRETARY KEMP: Sure.

MS. REID: I agree State's respondent has admitted that she misunderstood the law and thought that she could assist up to 10 electors during the municipal election, and that she did not realize she was restricted to only assisting voters to whom she was related. That should read, as I said, that respondent admitted -- and I do admit. But I was told and given permission by the elections superintendent to assist. Not that I misunderstood the law.

SECRETARY KEMP: Thank you.

MR. WILLARD: Mr. Chairman, before we go on, a point of clarification for something that Mr. McIver said. The five election cycles Ms. Reid had previously participated in were all even-numbered year elections, at which point you're going to have a federal candidate on the ballot. So that would fall under (b)(1) and not (b)(2). So a different set of rules actually govern those elections as opposed to this odd-numbered year municipal election cycle.

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

MS. ABRAMS: Good morning, Board. My name is Sarah Abrams. I live at 117 Sherwood Avenue in Eatonton, Georgia.

I come before the Board because I did study the law and when Investigator Glen Archie came to my office and I showed him all the paperwork we had, and I was -- we did to 10; that's what my paperwork, the old paperwork said you are able to assist up to 10, any elector, in the polling place that need assistance. And we allowed them to assist up to 10. And then he pointed out the further part in the law where it says if you is [sic] a candidate on the ballot, you can only assist a family member.

What we are planning to do in the City of Eatonton is train our poll workers and my poll managers, as well as myself, and post something in the polling place to remind us to ask an elector when they are asking for assistance, you know, if they are related in any way to anyone that they are assisting to make sure that we are following the law completely.

I ask your forgiveness for my misunderstanding of the law. Thank you.

SECRETARY KEMP: We appreciate you coming this morning. I think that helps us to clear up what happened here. Any questions for Ms. Abrams?

(Whereupon, there was no response)

SECRETARY KEMP: Did you have something else, Commissioner Reid?

MS. REID: Yes, sir. Mr. Kemp, I want to really and truly say that I am humbly sorry that this happened. I did not do it intentionally and it won't happen again.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Any other discussion or motion from the Board?

MR. McIVER: Is Mayor Reid in the audience?

MR. REID: Yes.

MR. McIVER: I thought we should at least acknowledge his presence.

SECRETARY KEMP: Good to have you with us, Mayor.

MR. REID: Thank you.

MR. SIMPSON: I move we bind the case against Ms. Reid over to the Attorney General and reject this consent order.

SECRETARY KEMP: Do we have a second?

(Whereupon, there was no response)

SECRETARY KEMP: That motion dies for lack of a second.

Do we have another motion?

MR. WORLEY: I would move we bind the case over to the Attorney General's office for negotiation of a consent order.

SECRETARY KEMP: Perhaps I moved too quickly on your motion, Mr. Simpson. I've got a motion from Mr. Worley to bind over. Do we have a second?

MR. SIMPSON: Second.

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

MR. WORLEY: Well, to distinguish my motion from Simpson's motion, I don't have any problem with a consent order along the lines the one the respondent has suggested.

MR. SIMPSON: Mr. Chairman, I don't believe we can place requirements on the Attorney General once we bind it over. Our job is to find probable cause. We find probable cause to go the Attorney General. Now, we can recommend or suggest something, but we can't refer it for the purpose of arriving at a consent order. I think that is an improper motion.

MR. WORLEY: Well, I mean, I don't agree. We do it all the time.

MR. SIMPSON: I don't think we do it in those terms. I think what we do is do it in terms of recommending to the Attorney General that they consider that. But I don't think we can tell the Attorney General what to do except to bind it over.

MR. WORLEY: Well, your motion was to send it to the Attorney General and tell him not to enter this consent order.

MR. SIMPSON: No. I moved to reject the consent order in front of us today.

MR. WORLEY: Right. So how can we tell him what consent order to take and not take?

(Overtalk)

SECRETARY KEMP: Let's move on here. Mr. Worley, can you restate your motion?

MR. WORLEY: I would move we bind the case over to the Attorney General's office and recommend the Attorney General Greg consider the entry of the consent order.

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

(Whereupon, there was no response)

SECRETARY KEMP: I will second. Any other discussion? Yes, Ms. Sullivan?

MS. SULLIVAN: Mr. Chairman, I have a question regarding -- is this motion just dealing with the respondent, Ms. Reid, or are we going to do a separate motion with regard to Superintendent Abrams?

SECRETARY KEMP: I don't think we have --

MS. SULLIVAN: She is listed as a respondent and the city.

SECRETARY KEMP: It was recommended by Mr. Harvey not to move forward with the city, but I think we can certainly consider that.

Mr. Worley, your motion is only dealing with Commissioner Reid, correct?

MR. WORLEY: Yes. Only Ms. Reid.

SECRETARY KEMP: All right. Mr. Mr. McIver?

MR. McIVER: Thank you , sir. I am not going to vote for this motion because it is my belief that Ms. Reid spoke to a figure of authority, received advice, acted on that advice. And as one who treasures those in authority (unintelligible) good advice, I think she's done the right thing.

My motion, if I ever get the chance to make one, will be a letter of instruction entered against Ms. Sarah Abrams and Ms. Reid simply, as we do with all our other letters of instruction, advising them that it is their responsibility to know and understand the code and that they commit to doing so going forward.

MR. WORLEY: Mr. Secretary, I'll withdraw my motion.

SECRETARY KEMP: Now we're getting somewhere. Your motion, Mr. McIver?

MR. McIVER: I move that a letter of instruction be crafted and directed to Ms. Reid and Ms. Abrams advising them of their responsibility to be knowledgeable of the code and hopefully committing not have any other violations in the future.

MR. WORLEY: I'll second that.

SECRETARY KEMP: Ms. Sullivan, you all right?

MS. SULLIVAN: Yes, sir.

SECRETARY KEMP: Just want to make sure everyone's had their time here. Good discussion.

All right. We've got a motion and a second to do letters of instruction to Commissioner Reid and to Ms. Abrams; is that correct?

MR. McIVER: That's correct.

SECRETARY KEMP: Any other discussion?

MR. SIMPSON: I would say I will vote against this motion because I think when a candidate qualifies to run for public office, particularly a candidate with this history of having run five times, it's incumbent on that candidate to understand and know what the requirements are under the election code. And I think by this motion we would be sending a message that the candidate can take advice from anybody, and if it's wrong, it's wrong and they don't have to suffer the consequences. I think it is particularly important, to ensure the integrity of elections, that the candidates, themselves, be at the forefront of making sure that the election procedures and election laws are carried out.

So I oppose this motion.

SECRETARY KEMP: Thank you, Mr. Simpson. Anyone else or discussion from the Board?

(Whereupon, there was no response)

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

(Whereupon, the vote was taken)

SECRETARY KEMP: All opposed, same sign.

MR. SIMPSON: No.

SECRETARY KEMP: That motion carries four to one.

Mr. Harvey, we're on to the City of Brunswick, 2011, number 105.

MR. HARVEY: Yes, sir. This case involved a runoff election. The original complainant was Ms. Cindy Johnson, who is the elections superintendent. She received three absentee ballot envelopes that were signed as assisting by one of the candidates that didn't note any relation to the person being assisted. She contacted our office and we opened an investigation.

And, I guess before I say anything else, the first respondent name, Jonathan Williams, is deceased. So he, certainly, is out of the picture. So Jonathan Williams is deceased.

We found that he did, in fact, assist three voters while he was a candidate on the ballot. We also found that three other individuals possessed and illegally assisted voters. Betty McKenzie assisted and possessed 11 absentee ballots; Bernice Singleton possessed 10 absentee ballots; Pamela Page assisted and possessed 11 ballots.

As far as the Board of Elections rejecting the ballot, I believe the board did not have authority to reject the ballot because -- the ballots where the commissioner candidate had assisted, simply because there was no relationship listed between the assister and voter. Otherwise the ballot envelope was complete, and I believe that is not a legal reason for rejecting the ballot.

So at the end of the day, I would recommend Ms. McKenzie, Ms. Singleton, and Ms. Page be bound over to the AG's office for the illegal assistance and possession of ballots. And I believe the Board of Elections could benefit from a letter of instruction regarding the proper legal reasons for rejecting absentee ballots.

I do have three statements that were presented by the three respondents apologizing. In each case, they apologize and said they didn't know that they were -- they could not assist people and take possession of the ballots. So I'll present those to the Board if you'd like to see them.

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

MS. SULLIVAN: So moved.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Before we get to the questions for Mr. Harvey, we'd like to welcome back Ann Brumbaugh to the State Election Board meeting, our former counsel with the AG's office. We appreciate Ann's work over the years with this board and the work she's doing now helping us with the work on the elections code. So it's great to have Ann back with us.

All right. Any questions for Mr. Harvey?

(Whereupon, there was no response).

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

MS. CRUTHIRDS: Members of the Board, my name is Melissa Cruthirds, C-R-U-T-H-I-R-D-S. I am with the Williams Litigation Firm at 1709 Reynolds Street, Brunswick, Georgia 31520. I am here to represent the respondent, Cynthia Johnson. I do have handouts that I wish to present.

SECRETARY KEMP: We have a motion to accept?

MR. WORLEY: So moved.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

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

MS. CRUTHIRDS: Thank you. We are requesting dismissal of this complaint against Ms. Johnson. As you know, Mr. Williams was the assister in these three ballots. He did not write his relationship to the elector on his oath. O.C.G.A. 21-2-385 requires the assister to sign an oath, and that oath is in 384(c)(1). And that oath requires the assister to state his relationship to the elector. Mr. Williams did not state his relationship to the elector.

21-2-386(a)(1)(C), which this board contends Ms. Johnson violated, requires a ballot to be rejected if the elector fails to furnish required information. In these three ballots the elector failed to furnish required information of the relationship of the assister. Therefore, we believe these ballots were properly rejected.

Furthermore, in the summer of 2011, Ms. Johnson -- Ms. Johnson and staff attended training by the Secretary of State's office. That is the first page of your handout. In this training, the staff was taught that a valid reason to reject a ballot was because the assister did not identify his relationship to the elector. The top part, if you press the R on the -- to reject a ballot, that second screen pops up. Number 7 states that the person assisting voter did not state relationship as a reason to reject the ballot.

The second page of your handout is a computer printout of the screen on, I think, November 30 of that year, again, showing reason Number 7 as a reason to reject the ballot.

Furthermore, Ms. Johnson called the elections division and spoke with Erica Hamilton to inquire about the proper act to take on these ballots. She was informed that her board needed to consult the election code and make that determination for themselves. She did. That is the determination that the board made.

For all these reasons, the ballots were properly rejected.

SECRETARY KEMP: Any questions?

(Whereupon, there was no response).

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

MS. JOHNSON: Good morning, members of the Board. Cindy Johnson, elections supervisor, Glynn County Board of Elections. We conduct the elections for the City of Brunswick. The address is 1815 Gloucester Street in Brunswick, Georgia.

I just wanted to say the actions that we took in rejecting those ballots, we felt that was done in good faith. He was a candidate on the ballot. It didn't seem proper that he could assist when he was a candidate. And because this was listed as a reason under the absentee subsystem, we didn't realize there could be any conflict between these reasons listed and the code, itself.

But as soon as we became aware that this was considered improper through our conversations with the investigator, we did change our procedures. I know that they changed the reasons in the spring of 2012. The elections division staff said we have gotten rid of a lot the reasons. So they did make a change 2012. But this actually, of course, was November of 2011, and we did feel we were allowed to reject the ballot for this reason.

But we are definitely aware of the procedures, the correct procedures now.

SECRETARY KEMP: Any questions for Ms. Johnson?

(Whereupon, there was no response)

MS. CRUTHIRDS: If we did anything wrong, we do apologize and we request a letter of instruction. But we do believe that the facts warrant a dismissal.

SECRETARY KEMP: Anyone else wishing to speak on this case? Any other respondents here?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, the letter you would suggest for the county, why was that, again?

MR. HARVEY: I think the rationale that Ms. Johnson spoke about, it didn't seem right to accept a ballot where a candidate was assisting. Mr. Williams was wrong in doing that. I believe Mr. Williams was also the respondent in the illegal assisting. He is the one who didn't provide the information on the oath. I don't think that goes back to the voter. I don't think the voter gets penalized because the assister failed to put information on the absentee ballot envelope.

So I would recommend a letter to the board be to just emphasize that fact and emphasize that there are only specific statutory reasons for rejecting absentee ballots. We had this come up, I think, last meeting where the idea that if an absentee ballot was improperly delivered, it should

be to rejected. And I think the Board took the position, rightly so, that you shouldn't penalize the voter for somebody else taking their ballot.

So that's why I recommend that they review, and possibly we enumerate to them, the actual legal reasons for rejecting absentee ballots. I certainly believe it was unintentional.

MS. SULLIVAN: I have a question for Mr. Harvey.

SECRETARY KEMP: Ms. Sullivan.

MS. SULLIVAN: Is this document that was provided to us, is this an accurate screenshot of the absentee ballot rejection reasons that was provided by the Secretary of State; one of the reasons that were offered during the training was assisting voter did not state relationship? Do we know if this is accurate?

MR. HARVEY: I'm not familiar with that system; I don't use the system. I don't know if there's anyone from the elections office that can verify. I would suspect it is, though.

MS. JOHNSON: May I answer that?

SECRETARY KEMP: Yes, Ms. Johnson.

MS. JOHNSON: If you see the date at the top of that screen is November 30, 2011. That was actually the date of our called meeting. And the time was 11:56 a.m. I took the screenshot and I printed it out. So that was done on the day of the called meeting that we held to consider what to do.

SECRETARY KEMP: I will just say for our office, I feel certain these documents are correct. I know Ms. Johnson and the Glynn County elections division down there. Great partner of ours. So I don't have any doubt about these documents.

What is the pleasure of the Board?

MR. McIVER: I move we vote to have a letter of instruction as defined by Mr. Harvey issued to their board.

SECRETARY KEMP: We've got a motion for a letter of instruction to the county by Mr. McIver. Do we have a second?

MR. SIMPSON: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

MR. WORLEY: No.

SECRETARY KEMP: That motion carries. We appreciate y'all being here today. It means a lot to us. Keep up the good work.

We now have -- of course, Mr. Williams is deceased. We have Betty McKenzie, Bernice Singleton, and Pamela Page who, Mr. Harvey, the violations were dealing with more than the 10 absentee ballots?

MR. HARVEY: No. They were illegally possessing and assisting absentee ballots.

SECRETARY KEMP: Do we have a motion?

MR. WORLEY: I make a motion we bind those respondents over to the Attorney General's office.

SECRETARY KEMP: Mr. Worley makes a motion we bind over those respondents. I'll second. Any other discussion?

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have bound those folks over.

Mr. Harvey, can we get through this next case relatively quickly, you think?

MR. HARVEY: I believe so.

SECRETARY KEMP: All right. 2012, number 7, City of Braswell.

MR. HARVEY: This case involves -- the allegation was that Braswell was not opening precincts for early and advance voting for their March, 2012, municipal special election.

We did an investigation. We actually had a previous case in 2011 that dealt with a lot of these issues. So we have essentially combined the 2011-45 case with this 2012-7 case. It is a slightly complicated story.

The mayor and city council were appointing members to seats on the council without any real authority. Helen Waters, the city elections superintendent, was not properly trained and certified even though she signed a consent order in 2008 agreeing to attend all training and be properly certified. They didn't hold early voting in 2012 because Ms. Waters said she didn't get the ballots in time. When our investigators went out to Braswell during early voting, the city hall, which is their only polling place, was locked and the lights were off and there was a sample ballot taped to the door.

When they did hold the election, we had an investigator go out and monitor and we found a litany of violations regarding the precinct set-up; the different notices that have to be posted; getting ballots in time; not holding a municipal election in November of 2011; not holding early voting. Ms. Waters was not -- she didn't have a provisional ballot booth at the election and she didn't properly attend training and was not properly certified.

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

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MS. WATERS: My name is Helen Waters, City of Braswell. I live 1751 (Unintelligible) Road, Rockmart, 30153.

I agreed to do the training. I did the training on eLearn. I'm appreciative to Deidre Pope, (unintelligible), for helping. The voter training I was unable to attend at Kennesaw State University, and I did receive waiver from Linda Ford.

Some of the posters that were not posted on the wall were on the table.

Provisional ballot booth, I agree I didn't have a sign that said Provisional Ballot Booth.

But I'm here to say I'm sorry and I know it won't happen again. I retired from full-time job at the end of June. I firmly intend to retire from this as soon as possible. So I'll do whatever you want me to do because I got a great grandbaby coming.

SECRETARY KEMP: Any questions for Ms. Waters?

(Whereupon, there was no response)

MR. McIVER: Looks like she's standing in a hangman's noose. Relax.

SECRETARY KEMP: Any other -- anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Okay. Any other discussion or motion? We've got a recommendation to bind over, correct, Mr. Harvey?

MR. HARVEY: That's correct. It's a pretty dysfunctional municipal election system in Braswell.

MS. SULLIVAN: I move that we bind this over to the Attorney General's office.

MR. WORLEY: I'll second that motion.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Thank you for being here today, Ms. Waters.

Is the next one going to take us a little while?

MR. HARVEY: I don't believe so. It's a pretty simple point.

SECRETARY KEMP: All right. We call 2012, number 18, Fulton County PPP Clinic. Go right ahead, Mr. Harvey.

MR. HARVEY: This case involved the presidential preference primary in 2012. The issue is that one of the Fulton County polling precincts is also a community health center that closes at 5 p.m. The door is locked and the elevator to get the third floor where the polling place is requires a key card, swiped, to activate the elevator doors. And if there is not a security guard there, you can't get on the elevator.

We've got, I think, three complaints from voters who said that they would go by and it would appear that the poll was closed at 5 o'clock because the doors were closed.

We recommend -- I believe Fulton County is in violation of 21-2-74 and 21-2-266 in that they failed to provide the proper polling place and access to voters. I recommend the case be bound over.

I believe Mr. Walbert will speak.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Walbert?

MR. WALBERT: David Walbert, counsel for Fulton County respondent. Address is 26th Floor, 75 14th Street, Atlanta, Georgia 30309. I think the critical thing here is just to understand what the facts are in this because they aren't quite what Mr. Harvey has suggested, and I think he's going off of some other investigator, and so on.

This is a medical building; it's a three-story medical building. It was selected pursuant to the code giving authority to the county Board of Elections to select such. Because it is very well-located; it's got great foot traffic; it's got great parking; and it's a great location electronically, and in terms of systems, and so and so. It's an excellent location. And 266, which Mr. Harvey was citing to, is the responsibility to select sites.

Now, the building is owned and operated by a medical facility. And on the first floor, is intake, and so on. So there's a lot of people there. The second floor is the clinical area where people are actually seen by physicians, and so on, during regular hours. And the third floor is the corporate offices.

On the third floor, which is accessible by the elevator, that's where that polling place has always been located. This was not new in this election. You get off of the third floor elevator, and there's a big general purpose area room there. And that's the actual polling place, itself.

What really happens here is not that the security guard disappears or anything of that nature, which is sort of the insinuation. I don't think Mr. Harvey would say he's got any evidence of that. How it operates is this way. From 5 o'clock to 7 o'clock, a security guard is there and literally escorts the voters in the elevator upstairs to the third floor, not stopping at the second floor, which is the clinical offices, that are not then being used after 5 o'clock. And that security guard, who I interviewed yesterday, comes back down and, therefore, is gone for whatever amount of time it takes for an elevator to go two stories and return two stories. Because when she gets up to the third floor and lets people off, whether they are elderly or in a wheelchair and they might be a little slower, you're talking a matter of seconds. And the place they actually vote is directly across from the elevator doors when they open up on the third floor.

That security officer who is sensitive to not being away from 5 to 7, she told me she takes no breaks during that time. There wasn't a single instance when she was away from her post.

So let's pretend you didn't have a security guard there and you just took the elevator up. It's exactly the same situation. It takes the same amount of time. She is just escorting them up, comes right back down, and the voter who would come in and might not happen to see the elevator going up might, conceivably, end up waiting wait a minute; conceivably, two minutes.

There has not been an allegation that this actually ever confused anyone. As I understand it -- Mr. Harvey, correct me if I'm wrong -- the allegation was this was a possibility. Because until 10 o'clock at night, the first floor is still being used by the medical facility that operates and owns it. So there's people there and anybody that could conceivably be confused -- and there is a sign there that says voting on the third floor. There is someone there to ask how I get to the third floor, and the people there will say the elevator will be down in a minute. That's all there is to it.

So the real question here is, is there something in the code that makes it illegal to have an elevator access to a voting place? And there certainly isn't. Or is there something in the code that says waiting a minute, two minutes, conceivably, for an elevator to come and take you up to the polling place is somehow illegal? And I -- the section that is cited in the report and that Mr. Harvey cites here today doesn't making anything that occurs in these circumstances remotely illegal.

So I would respectfully suggest here that there are better and more perfect ways for polling places to be designed. But it is within the authority of the county to designate the best places that they can -- and that's even stronger than the language there -- but find places that work and that satisfy the code and then maintain them and open from 7 to 7. And that is exactly what happened in this situation.

So I think it's -- the place has been used for years and there's never been any suggestion that anybody actually came in there -- you would never come there and find it vacant without anybody there for a start. You've got the sign posted on where voting is. You come in and is there a possibility someone would come in, see the sign, hit the button, the door wouldn't open, and then they would be so mad they would run out without waiting a few minutes or without asking the surrounding people, how do we get to the third floor? I guess it's that conceivable possibility, theoretically, that is the underlying basis for this complaint.

I suggest, respectfully, to the Board that one can conjure up conceivable theoretical objections to everything in life. But as a practical matter, this is a very good polling place. It's very well-located; it's got great foot traffic in the area, so it's very convenient to voters. And it's got great parking, as well, and it would be a shame to lose, it but the reality is you get to the third floor by an elevator before 5 and after 5. And it's no slower after 5 than it is before. It's probably faster. You've got a security guard on there who's getting on; hits 3; goes up; everybody gets off; goes right back down. So, ironically, after 5, it's actually more accessible because before 5, someone could get off at two, which is not in operation after 5 o'clock.

So the rationale behind this complaint, I would respectfully say, is not one is founded in Georgia law. There's nothing in the code remotely that says this is not appropriate, that this is not proper. If it was to be banned that one cannot have elevators to polling places, that would take the legislature, it would seem to me, to do that. Certainly, the Board would have the authority to promulgate a rule (unintelligible), subjected to notice of hearing and all that. I don't think that's a rule the Board would probably want to adopt anyway.

SECRETARY KEMP: Any questions for Mr. Walbert?

MR. WILLARD: Mr. Chairman, I have one.

SECRETARY KEMP: Mr. Willard.

MR. WILLARD: Our investigative report says that Valencia Smith, who is the poll manager, was interviewed.

MR. WALBERT: Yes.

MR. WILLARD: She provided a written statement. And that indicates that not only is the elevator restricted access, but that access to the building is restricted after 5 p.m. Are you disputing the poll manager's assertion that access to the building is restricted after 5 p.m.?

SECRETARY KEMP: Repeat that for us, Mr. Willard.

MR. WILLARD: Our investigative report says that Valencia Smith, who is the poll manager at that precinct gave a written statement and she indicated that after 5 p.m., a security guard has to give you access to the building. Are you disputing that the door is locked and the security guard has to let you into the building?

MR. WALBERT: Absolutely disputing that. That's a misstatement by her. I talked to both the security guard yesterday and building manager yesterday who said they actually have people -- they have people coming in for their visits until 10 o'clock at night. So that is not correct. No; that is not correct.

SECRETARY KEMP: Any other questions? Mr. Simpson?

MR. SIMPSON: Is the claimant a voter in this precinct?

MR. HARVEY: Yes, sir. I can provide a little bit more information. I could read parts of the statement that would provide little bit more. But, yes, sir.

MR. SIMPSON: Did she allege that anyone was prevented access?

MR. HARVEY: She alleged that her son was -- well, let me read this.

(Reading) I encouraged one of my sons to go vote. I tried to call him on his cellular phone to tell him to ask the security guard to let him in up on the elevator when I realized he left his phone home. My son came back and said they're closed. I said the polls, they don't close until 7 p.m. I talked him into going back. We walked together. We looked for a security guard, and when we could not find one, we took the stairs in vain because we could not get out of the stairwell on the third or second floor because the doors to the stairwells were locked. Finally, we saw the female security guard and went up to the third floor. But then she had to swipe her card, and one lady was disabled. So even if we could use the stairs, she couldn't.

So her son would have been disenfranchised. He was under the impression --

MR. SIMPSON: But he was able to vote?

MR. HARVEY: Because she went back and found a security guard; yes, sir.

MR. SIMPSON: Because a security guard was available, like he said?

MR. HARVEY: When she found them.

MR. SIMPSON: Yeah.

MR. WALBERT: My understanding from talking to the security guard is she would have been on a trip up the elevator, gone 60 seconds, two minutes, maximum; something of that order.

I don't have -- I'd ask for the statement. All I had was the one from the poll manager. I didn't get the other one. I would like to interview that person and son, but I just didn't find anything, to see what exactly in terms of his -- maybe he's that one guy that just got frustrated and didn't ask anybody how to get up to the third floor. Don't know without talking to him.

MR. SIMPSON: What would you propose to solve this problem? What if the county elections board placed somebody there at 5 o'clock to make sure everybody got up immediately in addition to a security guard?

MR. WALBERT: Really, two security guards. I think that is implicitly done, but that can be done. Implicitly done, I'd say, because of the people that are there working already with regard to the medical company, which somebody asked. But they are not under our jurisdiction; they're not under our control. So, you know, we could spend the money to have a second person there -- two security guards, if you will -- and that way if somebody did have an emergency and had to go to the bathroom for two minutes -- I don't think the law requires it, but we would certainly be willing to do that.

MR. WORLEY: Wouldn't it be just as effective to have a sign there by the elevator that says the elevator will come in a few minutes; please wait?

MR. WALBERT: Right. The security guard will be here in a minute, if there is not someone there. I agree that would be more practical.

SECRETARY KEMP: Any other questions?

MS. SULLIVAN: Yes, Mr. Chairman. Is there any reason why you cannot leave the door to the third floor unlocked to the stairwell with a sign?

MR. WALBERT: I never heard about the stairwell being used before, frankly. That's news to me. The biggest problem is on the second floor you've got clinical offices and have HIPPA issues. You can't have people just generally having access. Whether the third floor would have some of that issue in it, too, I don't know the answer to that. But I have not -- I never heard of anyone using the stairwell before because elevator will be there within a minute.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, what's the pleasure?

MR. SIMPSON: I move we issue a letter of instruction to the Fulton County Elections Board to make sure there's access provided to that voting precinct, if it used in the future.

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

MS. SULLIVAN: Second.

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

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Walbert, did you have something else?

MR. WALBERT: The only question I have, and I think that's fine, would be I assume that letter of instruction, rather than being a generic "follow the law" because I think we are, would be more specific to make clear that the sign is such that that the security guard will be there. Is that the sense of your motion, sir?

MR. SIMPSON: I moved for a letter of instruction. I'm not going to write it.

SECRETARY KEMP: We will write a letter of instruction so will make sure were detailed in our efforts. Ahn is writing it as we speak.

We've got a motion and second for a letter of instruction. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Mr. Willard, do we need to go into executive session?

MR. WILLARD: Mr. Chairman, I think we have a very brief discussion about potential and pending litigation, and that's all I have for the executive session.

SECRETARY KEMP: We'll need to have a motion to break for lunch and move into executive session and then come back at 1:45.

MR. SIMPSON: So moved.

MR. WORLEY: Second.

SECRETARY KEMP: I'm sorry. We'll come back at 1:15; my apologies. We've got a motion. We have a motion and second to go into executive session to discuss pending litigation. All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

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(Whereupon, the proceedings were in recess)

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SECRETARY KEMP: Welcome back, everybody. We want to go ahead and reconvene the -- there was a motion made and a vote taken at our executive session to move out of executive session and back into our regularly scheduled meeting. We're good with all that, right, Mr. Willard?

MR. WILLARD: Yes, sir.

SECRETARY KEMP: So we're ready to roll.

MR. WILLARD: Mr. Chairman, you actually do need to take a vote.

SECRETARY KEMP: I do? I thought y'all took a vote.

MR. WORLEY: We did.

MR. SIMPSON: We did.

MS. SULLIVAN: You stepped out.

SECRETARY KEMP: I need a motion to move out of executive session and reconvene our regularly scheduled September 24 State Election Board meeting.

MR. SIMPSON: So moved.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. And now we can proceed, Mr. Harvey, 2012, number 18.

MR. HARVEY: This case is a little bit complicated. Board members, you'll note that I've given you a packet of five or six documents so that you can follow along. I'll do my best to summarize without making it too cumbersome.

In October of 2010, twin sisters, Jeanette and Janet Mihoci -- if they're here, I'm probably mispronouncing their last name -- moved their voter registration from DeKalb County to Gwinnett County via the Department of Driver Services. However, it was done after the deadline for registering for the November election. So on November 2, 2010, they returned to their DeKalb County polling place and voted, as they should have, one last election. After November 2, 2010, they both believed themselves to be registered in Fulton County.

And, Board members, what you have before you are the two voter certificates for Jeanette and Janet Mihoci on -- their first two documents are November 2, 2010.

In the March presidential preference primary of 2012, both sisters go to vote in Gwinnett County. One of the sisters is told that she is registered in DeKalb County. The other sister is allowed to vote in Gwinnett County.

When the sister that was not allowed to vote, Jeanette Mihoci, went to DeKalb County to find out why she was still registered to vote in DeKalb County, she got a copy of her voter registration application, which is the third page of the document, and she said, that is not my handwriting; that's not my signature; I didn't fill that out. You will notice the date on that voter registration application is November 2, 2010, the same day as the voter certificate. And you'll notice that the Flat Rock Drive address is their current address in Gwinnett County, which is what they used on their voter -- on their voter certificates, as they should have. Also notice there is no personal information: there is no drivers license information, there's no Social, there's no telephone number in that voter registration application. On the fourth page, there is almost the exact same document for Janet Mihoci.

So Ms. Mihoci reported to us that someone had forged her voter registration application and we started an investigation.

Now, you'll notice, staying on the fourth document, the registration application for Janet Mihoci, you'll notice at the bottom left written in cursive, it says, located card attached to another card for Janet Mihoci. That will be important in a minute.

Lastly, if you go to the last two pages, you will see a signature of Jeanette -- the forged signature of Jeanette Mihoci with the 11-2-10, and then the signature of a poll worker named Janice Ross, who was working in that precinct on that day. The last page is another signature of Ms. Ross, just as an example.

You will also notice on the first two pages, the two voter certificates, the initials of Janet Ross as the person who checked their ID and checked them in to vote on November 2, 2010.

What appears to have happened is that when the Mihocis went to vote in November of 2010, they voted as they should have and they filled out their voter certificate showing their Gwinnett County address. Because they were in the system still registered in DeKalb County, we believe that in looking at the voter certificates, somebody saw that they had voted using a Gwinnett County address thought, oh, no; I've made a mistake. I should have had them fill out a voter registration application when they voted. I believe somebody went back and created these two voter registration applications to cover something that didn't really need covering. The Walkers did everything they should have done.

When we looked at the signatures and the handwriting samples of the poll workers, we found that the handwriting signature of Janet Ross matched most closely with the signature for Jeanette Mihoci.

Now, Ms. Ross vehemently denies she had anything to do this. She has counsel here today. In addition, the poll manager is Mr. Paul Hammond. We've got him cited for, essentially, allowing this to happen. Lastly, and it just seems like if anything could happen in this case it would be this, we have the county cited because when these two documents, the two forged voter registration applications went to the county, the person who got them thought they were duplicates. Everything is the same except for Jeanette and Janet. And they stapled them together thinking it was a duplicate.

So what actually should have happened was that Jeanette and Janet should not have been allowed to vote in Gwinnett and should have had to come back to DeKalb because someone falsely registered them in DeKalb County. That's why we have the county cited for failing to determine the proper voter registration. However, the county, in failing to do that, actually did the -- not the proper thing, but the right thing in allowing Jeanette Mihoci to remain registered in Gwinnett County.

A lot of this case revolves around the handwriting, the sample of Ms. Ross. Ms. Ross has submitted an affidavit that I will present to the Board in which she expressly denies having done this. Mr. Hammond denies having done this. And her counsel, Mr. Fontenot, is present, and I believe he's going to speak.

Given the nature of the handwriting analysis and the lack of scientific handwriting analysis, it is something we looked at and we believe meets the probable cause standard. I've talked spoken to Mr. Willard about the position the State takes towards handwriting and he is concerned if it were based solely on the handwriting, I think it would be an issue. However, we've got Ms. Ross checking them in.

The other thing I didn't mention is these voter registration applications were done on beige voter registration forms, which are generally only available at the precincts on election day. So it seems to be these were certainly completed at that precinct. They were certainly not completed

by the Mihocis. And when they were turned into the county, the person processing them glanced at it and thought it was the same person and stapled them together so that only one voter got moved. If everything worked properly, both voters would have been moved.

Having said all that, I would recommend that DeKalb County receive a letter of instruction regarding the proper intake of the voter registration applications because they should not have stapled them together thinking they were the same one. I believe Ms. Ross and Mr. Hammond -- I believe there is some evidence that Ms. Ross created this voter registration application, and I believe -- Mr. Hammond says he doesn't know anything about it. He may or may not have known it happened. He was the poll manager, however, so it falls on his watch.

I'll be happy to take questions.

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

MR. SIMPSON: So moved.

MR. McIVER: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have accepted the document. Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

MR. FONTENOT: My name is Ronald Fontenot. My address is 160 Clairemont Avenue in Decatur 30330. I represent Ms. Ross. Ms. Ross is present at the hearing, as is her husband of 36 years, Robert.

She has asked that I request of the Board that you dismiss this case, at least as it pertains to her as a respondent. She specifically denies by a sworn affidavit submitted that she inserted any fictitious name or fraudulent entry on any voter registration card. Not in bad faith, if bad faith is an element; not (unintelligible) intentionally or deliberately. Simply not at all. She simply did not sign the document in question.

Those are the facts. And as a result, she cannot be charged with the willful violation pursuant to 21-2-562(a)(1).

We would like you to consider who we were before you in Janice Ross. She has worked at least five elections; all supervised; all with related training. She is a retired schoolteacher of 31 years, the bulk of those years with specific learning disability students. She has no criminal record and she is never been a defendant in any criminal action. And but for one moving violation, has never been a defendant in any case. So the facts and the background all support dismissal of this case as it pertains to Janice Ross as a respondent.

As to 21-2-596, on the question of duty, the code defines a person in an official capacity as a poll officer or a public officer or any officer of a political party or body on whom a duty is laid by this chapter, and Ms. Ross is neither public officer nor any officer. So we don't think that section of the code applies.

And as to the other section of the code, she simply did not sign this document in question. What we hear in this report and summary is that we think someone did something, and that may be the case. But, clearly, it was not Janice Ross.

Thank you for your consideration.

SECRETARY KEMP: Any questions for Mr. Fontenot? Does Ms. Ross or you have any idea of how this all happened, because somebody clearly signed these.

MR. FONTENOT: We can only speculate as it was speculated in the report. Did someone sign it? Perhaps. We just know it was not Janice Ross.

MR. WORLEY: Mr. Fontenot, do you know how many people working at the polls -- at this particular poll that day?

MS. FONTENOT: I do not. I was not present, obviously. But there are two people in supervisory positions who might be better qualified to answer that question.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

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

MR. HAMMOND: My name is Paul Hammond, poll manager at the Rockbridge poll. I live at 7448 Woodruff Way, Stone Mountain, Georgia. I have known Janice Ross for over 20 years; her husband; I've watched them raise their kids. And I just cannot believe that Janice Ross would sign someone else's name to any document.

Now, this is not the first election that we have worked. We have worked together on at least five elections prior -- I mean, at least five elections prior to that. I may be wrong on that. But it's at least five, and we've never had a problem. Now, I just cannot believe that I'm standing here before you today because of the credibility of Ms. Ross. And I don't know if that will help you or not. I am a retired military veteran of 25 years in the United States Air Force; did 20 years with the Internal Revenue Service, and never had any problems like this before.

Working the poll was something that we did because we enjoyed it and we felt it was a public duty that we enjoyed, and we did it. Had we known this, we probably wouldn't have done it.

That's all I have to say.

SECRETARY KEMP: Thank you for being here, Mr. Hammond. I have a question for you. How many people were in that polling location that were working there that elections day?

MR. HAMMOND: Five. I had myself, assistant manager, two express poll clerks, and one person working the voter registration line.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Do you have any idea who might have done this?

MR. HAMMOND: I've tried to figure it out. I didn't see the voter certificate, the one they fill out to vote, and I don't know what address the voter put on that card. Was that the same address that she lived in DeKalb County when she was registered to vote?

MR. HARVEY: No. They put their new Gwinnett County on the certificate on November 10. But they were still in the system as DeKalb County voters because they changed after the deadline.

MR. HAMMOND: Okay.

MR. HARVEY: So the only way that information could have gotten on a voter registration application was someone taking it from the voter certificate and using that as the presumed address. And, Mr. Secretary, there appear appeared to be eight people who were working at the precinct. There were eight people on the payroll sheet.

MR. HAMMOND: Okay. Let me ask you this. Did Ms. Mohoci, did she say that she was advised that she couldn't vote there because of the address was different on her -- should have been different in the machine than her address on the certificate?

MR. HARVEY: She did vote. In November, 2010, she and her sister both voted in DeKalb. They put their new address on the voter certificate. I suspect that's what triggered somebody to think either we let someone from Gwinnett vote in DeKalb, or we forgot to have them fill out the voter registration application. It's almost a perfect storm of twins and deadlines and timing, and things like that.

MR. HAMMOND: I don't know how that could have happened.

SECRETARY KEMP: Any other questions for Mr. Hammond?

(Whereupon, there was no response)

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

MR. REID: My name is Charles Reed, 1300 Commerce Drive, Fifth Floor Decatur, Georgia 30034, DeKalb County Law Department representing DeKalb County.

I just wanted to add that we are willing to accept a letter of recommendation.

I'd like to comment on the perfect storm aspect of this. This is a highly unusual situation, but what we have put in place is some additional training for temp workers to make sure that they cover all of the information on the cards. Also, we have revamped our computer system that it

will catch -- if you just put partial name "Jan" it will give more information so that we can make sure it's not -- someone won't mistake Janet for Jeanette. So we can cover those things.

But I honestly think the likelihood of something like this happening again is rally slim. But we would accept the letter of recommendation, anyway you see fit.

SECRETARY KEMP: We appreciate that, Mr. Reid. I certainly see how this could be very confusing for the election workers with all that's going on and having twins and whatnot. So speaking for myself, I certainly understand that situation and what the county personnel is dealing with.

SECRETARY KEMP: Any other questions for Mr. Reid?

(Whereupon, there was no response)

MS. ROSS: My name is Janice Ross, 7476 Waters Edge Drive, Stone Mountain, Georgia 30087.

My position, as my attorney has said, is I have vehemently denied ever signing someone else's name to a document. I would never do that. I have known all my life that that is a serious criminal act. There's nothing in the voter experience that would allow me to take my reputation of all the people that I've known, my parents, how I was raised, how I raise my kids -- I would never do anything like that.

I don't want to accept an instruction -- any kind of letter. I'm innocent. I don't want to negotiate. I'm innocent. I don't want -- I have not, would not, would never.

Now, as to how this got done, I have created all kinds of thoughts in my head. It was a beige card. Okay. So a beige card, I guess it could originate at the polling -- at the Memorial Drive. They have access to that. I don't know -- I have no idea of how it happened, but I know that if the investigation has been limited to our precinct because of that -- I think because of that card; because of that card.

I know those cards come in to -- I was really surprised that there were voter registration cards in our packet. I didn't find that out until this case. I happened to look at the old voter thing online and I said, I didn't even know we got voter registration cards at our precinct. This is a surprise to me. So once I found that out, I said, okay. So there should have been a record of how many voter registration cards were turned in, if that's the case.

But I looked at the checklist and nobody ever keeps up with how many voter registration cards were filled. So there could have been one filled out or not. I never remember -- I wouldn't fill out anybody's registration card anyway. That wouldn't be something I do. The voter registration cards that I found out were there, would have been kept in -- I think it says some kind of salmon-colored envelope, which I just found out about since this is case.

So if there were a packet full of those, who would, I mean, who would be able to keep up with that? It's like, okay. Maybe it didn't happen at our poll; it happened somewhere else. So maybe once someone else found out that this happened, they thought they needed those cards and created them later. I'm ready to get a handwriting person in to see when the ink was created because I know I didn't do it.

I hope you all will believe me. I never would do anything like that. I don't want a letter; I don't want anything. I don't want anything to be against my reputation for something I never, ever did or would ever do.

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

(Whereupon, there was no response)

SECRETARY KEMP: Is there anyone else wishing to speak? Mr. Willard.

MR. WILLARD: Mr. Harvey and I have discussed this case on a couple occasions. I'm not going to address Ms. Daniels and the DeKalb County board and the stapling of the twins' application together. I'll let the Board determine what is in the Board's interest to on that particular violation.

But in terms of Ms. Ross and Mr. Hammond, I have discussed it with Mr. Harvey. Basically, this all stems from the investigative unit's layperson handwriting analysis, and really all the other violations dovetail off of that. There is some circumstantial evidence that Ms. Ross actually came in contact with the Mihoci sisters on the day of the election. But other than that, there is no competent evidence to indicate that Ms. Ross executed these voter registration applications, or that Mr. Hammond knowingly, purposefully, or willfully allowed this to be done.

It would be my advice to the Board that as the a matter of law there is no competent evidence that would authorize binding over a case against either Ms. Ross or Mr. Hammond to our office.

SECRETARY KEMP: Any questions for Mr. Willard?

MR. WORLEY: Not for Mr. Willard, but I have a question for Mr. Harvey, just so I can understand it.

You handed the Board members a packet and I want to direct your attention to page 5 in that.

MR. HARVEY: Yes, sir.

MR. WORLEY: These are the two signatures, one of Jeannette Mihoci and the other of Janice Ross here. Was it my understanding that your report indicated that the suspicion of Ms. Ross was based on the fact that these signatures were supposed to be similar?

MR. HARVEY: That and the fact that she was one that checked them in on their voter certificate. She would have seen that and had access to that.

MR. WORLEY: Well, I'm no expert on handwriting, certainly. But they don't look similar at all to me. So I would concur with Mr. Willard to dismiss the charges, certainly against Ms. Ross.

SECRETARY KEMP: Any other questions from the board?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion or any other discussion?

MS. SULLIVAN: I would move that we dismiss the case against Ms. Ross and Mr. Hammond, and issue a letter of instruction to the DeKalb County registration and elections and the board.

MR. WORLEY: I would second that.

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

(Whereupon, there was no response)

SECRETARY KEMP: Let me say, Ms. Ross and Mr. Hammond, I appreciate you all being here today. I know this is a difficult situation for our investigators, for the Board, and certainly for you all. But to me, it is pretty clear that somebody has forged these documents. I think is also pretty clear it's hard to figure out who that is. I hope you will not think negatively about our

investigations for bringing this case forward to the State Election Board because that is a serious problem when we have someone that's forging documents. I think those are things that if we did not look into that people, would say what are you all doing?

I certainly appreciate the position you are in and I am sympathetic to that and I hope you understand that. I just wanted to make sure you all know that and I appreciate you showing up today to give us your side of the story. I think one thing you'll find about this board is that we will listen to all sides of all stories and try to come to the right conclusion. I think that's what we're doing in this case to the best of our ability with the evidence we have before us.

With that, if there is no other discussion, we will take a vote on the motion dismiss Ms. Ross and Mr. Hammond and send a letter of instruction to DeKalb County elections department.

All in favor, signify by saying "Aye."

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. And we will now move on, Mr. Harvey, to 2012, number 30, Taliaferro County.

MR. HARVEY: This case involved the qualifying for candidates for Sheriff in Taliaferro County.

On the last day of qualifying on May 25, Candidate Richard Seals turned in his qualifying document and qualifying fee to Probate Judge Mayo in Taliaferro County. Shortly after that, the incumbent Sheriff, who is Ms. Mayo's nephew, came down to the office to look at the paperwork. He informed Ms. Mayo that Mr. Seals' paperwork was not complete and that he didn't believe he had the proper documents. He was missing his criminal history.

Judge Mayo contacted the county attorney who was trying to figure out what she should do. She never qualified or disqualified Mr. Seals. She then recused herself from this case and the Superior Judge appointed a second judge to handle the candidate challenge that Sheriff Richards had put on the candidate.

Before the hearing, Judge Mayo approached Mr. Seals and offered him his money back, qualifying money back, if he withdrew from the qualifying challenge, and if he didn't withdraw and lost the challenge, she said he would lose his money.

I will point out that on the summary the Board has, the last violation, I believe, is not sufficient. I would recommend you dismiss that charge. But I recommend that Judge Mayo did violate the code sections listed and I recommend it be bound over to the Attorney General's office.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

JUDGE MARTHA MAYO: I am Martha Mayo. I am the former Probate Judge in Taliaferro County.

I did hold qualifying in 2012 for the July 31 election. It was definitely my understanding in 2012 regarding criminal histories was that they had to be turned in at the close of qualifying. I read that time and time again. Mr. Seals did not do that.

The bill changed in 2013. It was House Bill 169; it was signed by the Governor on 5-6-13, and became effective on 7-1-3. This bill changed the law so that it gave the candidates three additional days after qualifying ended to turn in their criminal histories. Prior to that, it was not the case.

Mr. Seals qualified in the previous primary in the same position. He turned in his criminal history along with his fingerprint cards and we didn't have any problem with that. Mr. Seals signed an affidavit stating that he had been fingerprinted and a search made of the local and national files to disclose any criminal record. He signed that statement. He brought his paperwork in my office at about 11:36 on the last day of qualifying.

He had been given specific written instructions. Now, I got a lot of this off the Internet where other judges were talking about what they require of sheriff candidates. He had gotten written instructions to go to Taliaferro County Sheriff's office or Wilkes County Sheriff's office. By the time he came in on Friday afternoon, I had learned that the AFIS machine was not working properly -- I mean Friday morning -- that it was not operating properly in Taliaferro County. Therefore, I told him to go to Wilkes County.

He took it upon himself instead to go to the Greene County Probate Office. Taliaferro County can fingerprint you, but they cannot provide you with a criminal history for pay, or for no reason. It's not allowed. And I assume the same thing applies to the Greene County Probate Court where Mr. Seals went to get his criminal history and his fingerprinting done.

He returned with the cards in his hand, fingerprint cards. I told him to put everything in a sealed envelope. That was done by the agent there in Greene County -- Tal -- I'll get it in a minute. Wilkes County. Anyway, he had just come in with the cards in his hand waiving the cards. I said where is the criminal history to myself later, not right then because I had another candidate that came in late. But as I said, he had qualified the previous primary and he provided those without any problems. He said there was some miscommunication in regard to the fingerprints.

I did not qualify him. I did tell him I felt he was not qualified. That's the reason I wouldn't rule on it. Mark Richards was my nephew; he was the local sheriff. He had to provide a criminal history, even though he was a standing Sheriff.

Yes, I did offer to return his qualifying fees. I had failed to see that he did not have his history with him when he first came in. My nephew did come in and ask if he provided it and I said, I don't know; I'll have to see. And we looked and it was not there.

There was some comment made about me showing the paperwork. I don't think there is any ruling or any law that says I cannot show somebody's candidate papers to another person.

I don't want to be accused of being biased and that's the reason I did not qualify him. I got the feeling that I would be. My nephew had run in the former election with Mr. Seals. I didn't need to help him. I mean, I didn't need to conspire with him. My nephew got 94% of the vote in the previous election, and there were two candidates, Mr. Seals being one of them, who shared approximately 6% of the vote. I felt my nephew could handle his own his own business; I didn't need to handle it for him.

I am not a thief. I did not qualify him. I just felt like that it would cause me lots of trouble because I would be accused of being biased since I put him out and my nephew qualified. I'm not a thief and I wouldn't do that.

I did offer the money back. I don't think there's a law about that and I did not mean it in a way to bribe him. I meant it in a compassionate way because I do have compassion for people that struggle and people that would come into my office. So in my way of thinking, I was trying to help him, not bribe him.

Does anybody have any questions for me?

SECRETARY KEMP: Judge Mayo, so your thinking is is that for you to give him -- if you would have qualified him and kept his money, he would have been ruled ineligible anyway?

JUDGE MARTHA MAYO: That's the way I'm thinking; yes.

SECRETARY KEMP: Because he didn't have his criminal background check, or whatever?

JUDGE MARTHA MAYO: Right.

SECRETARY KEMP: But you didn't realize that when he first qualified. So when you found out --

JUDGE MARTHA MAYO: When he first gave me the papers, I did not.

SECRETARY KEMP: Right. And when you figured that out, are you saying you felt guilty that you could have told him, I can't qualify you because you don't have this. Therefore, you would have never taken his money to start with?

JUDGE MARTHA MAYO: I did.

SECRETARY KEMP: Any other questions for Judge Mayo?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Any other discussion with the Board? Mr. Harvey, do you have anything else?

MR. HARVEY: No, sir. Although, there is a law against returning qualifying fees.

JUDGE MARTHA MAYO: There is?

MR. HARVEY: Yes, ma'am.

JUDGE MARTHA MAYO: I didn't know that.

SECRETARY KEMP: Judge Mayo, you're the former Probate Judge, correct?

JUDGE MARTHA MAYO: That's correct.

SECRETARY KEMP: So you're not having to deal with these fun and games anymore?

JUDGE MARTHA MAYO: Thank you, Jesus, no.

SECRETARY KEMP: Mr. Harvey, did you have a recommendation for us?

MR. HARVEY: I recommend the case be bound over to the AG's office.

MR. WILLARD: As to 6-594 or 596, but not 603; is that correct?

MR. HARVEY: Correct.

MR. WILLARD: That was 564, not 594.

SECRETARY KEMP: I'm just wondering if we need to bind this over or could we get by with a letter since we have a former judge that is not dealing with this. I'm open for either way.

MR. McIVER: Would the letter be to the county and Judge Mayo?

SECRETARY KEMP: I think we certainly could do that from an educational learning perspective.

MR. McIVER: I think I favor that.

SECRETARY KEMP: Anybody else have any other thoughts?

MR. WORLEY: I just had a question for Mr. Harvey. About the potential violation that's listed, the first one, you said the facts indicate that Judge Martha Mayo may have violated O.C.G.A. 21-2-6 by not determining the qualifications of Mr. Seals as candidate for Sheriff.

It sounds like she did determine that he was not qualified.

MR. HARVEY: Well, I believe that upon receipt of the candidacy, you have to determine. I don't believe she ever determined it. And I don't believe she ever communicated it to him until the Sheriff filed a challenge against the candidacy that may or may not have been qualified to begin with.

SECRETARY KEMP: So the check should have been done the first time he got there, and --

MR. HARVEY: Right. If it had been done and she had seen deficiency in the qualification, she would have not qualified him and that would have ended everything right there. But by not making a decision, was he qualified or was he not qualified?

MR. SIMPSON: Can I ask a question?

SECRETARY KEMP: Yes, sir.

MR. SIMPSON: Once again, we've got a statute quoted here, 21-2-564. 21-2-564 deals with willful obstruction or suppression of nomination materials. Hasn't got anything to do with qualifying documents. I mean, what . . . And then 586 -- 596 just says that public officials will do their duty.

MR. HARVEY: Right. The --

MR. SIMPSON: It looks like to me that this is a stretch, you know, to find some -- you know, I understand that, and pardon my south Georgianess, but this may not pass the smell test because she's dealing with her nephew, and all that. But in terms of violating the law, I just don't believe I see it. You know, I mean, correct me if I'm wrong, but -- you know?

MR. HARVEY: Well, that's why I put it to the Board. I believe she was not legally able to refund his qualifying fee.

MR. SIMPSON: Maybe that's a technical violation about giving the qualifying fee back and offering to do the thing. Based on her explanation, she's trying to do what she probably would

have done had she looked the papers over closer when she first got them, you know? That's my take on that.

MS. SULLIVAN: Judge Mayo, I have a question. It appears from our record that you consulted the county attorney who advised you to recuse yourself from this process.

JUDGE MARTHA MAYO: I called the election office, I placed a call and called and I called and called and never could get anybody. Finally, somebody said call the county attorney. I called him and he said, well, maybe it would be best if you recuse yourself. He helped me write up something to send to the Superior Court Judge for the Superior Court Judge to appoint another person to make that qualifying decision. I told him, to me, he's not qualified; he didn't bring it in. I missed at that moment I should've seen it.

But I wanted to be fair and give him the benefit of the doubt. If I was wrong in my call, which I didn't feel I was, that's why I called the county attorney to get some help on how to go forward.

MS. SULLIVAN: So you did or did not recuse yourself and then rule on --

JUDGE MARTHA MAYO: I did at one point; yes, I did.

MS. SULLIVAN: And then ruled on his qualifications after?

JUDGE MARTHA MAYO : And then rule on what?

MS. SULLIVAN: His qualifications after you recused yourself?

JUDGE MARTHA MAYO: No. He withdrew.

MS. SULLIVAN: Okay.

MR. HARVEY: But it was after you recused yourself that you offered his money back, right?

JUDGE MARTHA MAYO: I believe it was; yes, sir.

MS. SULLIVAN: I think what is most disturbing to me here is the potential conflict of interest, the smell test issue. If I could ask Mr. Willard, does this board have any jurisdiction over that issue?

MR. WILLARD: I think it's better that you focus on the black letter violations and to address a point that Judge Simpson made earlier in regards to 564. I think Mr. Harvey is saying is that by sort of encouraging and putting off ruling on the qualifying or the nomination petition of the qualifying challenge, in effect, Ms. Mayo's actions resulted in the suppression of a nomination petition qualification form.

And then with the 596 violation, you've got a situation where, by her refusal to rule and really becoming -- staying involved in it, I guess, Ms. Sullivan, that would be the only place that a so-called conflict of interest would really fall within this Board's purview is she recognized if she needed to recuse herself or should recuse herself. And yet, by her continued involvement she was, in fact, neglecting her duty as an election official by staying involved in a case she should have recused herself in.

Other than that, you don't really have anything.

MS. SULLIVAN: So basis for 596 violation?

MR. WILLARD: Right.

SECRETARY KEMP: Any other questions for Judge Mayo? Judge, I have a quick question. This is not really relative to the case. But when you were trying to call the elections office, was there any certain person you were calling when called? Were you calling your liaison, or . . .

JUDGE MARTHA MAYO: Yes, there were. But to be honest with you at this point, I can't remember the names. To be really honest with you, the last six months I was in office calling elections division you always get, I'm away from my desk or I'm on another phone. You know, you just didn't get anybody. And I was frantic.

SECRETARY KEMP: Did you try to -- but you did talk to your county attorney, right?

JUDGE MARTHA MAYO: Yes, I did.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? If not, we've got to make a decision here.

MR. WORLEY: Well, I would tend to agree with Judge Simpson. I really don't see how this fits within the statutory violations that have been cited. So I would move to dismiss this case.

MR. SIMPSON: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

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

JUDGE MARTHA MAYO: Thank you.

SECRETARY KEMP: Mr. Harvey, we're going to move to the Atkinson County case, right?

MR. HARVEY: That's correct.

SECRETARY KEMP: All right. 2012, number 39, Atkinson County primary case.

MR. HARVEY: This case involved the 2012 primary. By all accounts I heard, it was not particularly pleasant.

The two specific allegations were that Shea Browning, who was the chairman of the Board of Elections, had a political blog that he ran on his own that -- I believe it was called Atkco (phonetic) Chatter, where he independently said things about candidates and parties and issues in which he didn't identify himself as any type of board member. That irked a lot of people in the community.

At one point, Commissioner McClellan and his son came into the office, allegedly raised their voice, grabbed some documents from the election office, and Shea Browning actually filed a police report and had them arrested for, I believe, terroristic threats.

In the same course of the primary, Loraine White in the elections office, when copying some documents, left an absentee ballot in another office on a photocopier. In addition, the Board of Elections did not keep a list of all addresses absentee ballots were sent to as required by absentee ballot law.

Mr. Browning, I believe, was arrested on complaint from Commissioner McClellan for disorderly conduct in an unrelated incident. So, clearly, a lot of hard feelings in this case.

Based on the allegations, I recommend that all respondents be bound over to the AG's office.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

UNIDENTIFIED MALE: I will.

SECRETARY KEMP: Come on up.

MR. McCLELLAN: I'm Dwayne McClellan from Pearson, Georgia, Atkinson County; U.S. Highway 441, 4314 North.

On June, 2012, I received two phone calls. One was being that an absentee ballot was laying in the Commissioner's office. I was currently Commissioner from 2002 to 2012. But I received two phone calls that there was a absentee ballot laying by the stamp machine in the Commissioner's office. That's several pictures there.

SECRETARY KEMP: Can we get a motion to accept these photographs?

MR. McIVER: So moved.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: Go ahead.

MR. McCLELLAN: So I had taken those pictures with my phone and they was about a -- probably a good thousand yards from the Board of Elections office, which is behind the Commissioner's office. And so me and my son Justin, we had walked across there and when we walked in the office there, Ms. Loraine, she was at her desk and Shea Browning was over there in the corner on his phone. And Ms. Loraine White, she was the supervisor of elections.

So I asked her because the two calls I got was one about absentee ballots being by the post machine; and the other question on the phone was about getting a list of absentee people that hadn't been mailed the absentees.

So asked her, I said, Ms. Loraine, could I get a list of the absentees? She said, well, you'll have to sign an open record request and it could be up to 72 hours before we get it. I said, I understand that. You know, you open request; 72 hours. I understand all that. But, I said, being you're not doing anything, I said, could I get a copy of it now?

And, Shea, he was standing probably about here to that window and he said, it will be 72 hours. And me and him, we don't get along, and we're probably not going to get along.

SECRETARY KEMP: We've heard that.

MR. McCLELLAN: So he said, that will be 72 hours. And I said, but if you're not doing anything, she could process that and let me have it. No; she can't do it. I said okay. But another thing you got here, I said, you got an absentee over there by the stamp machine in the Commissioner's office. I said, what's the deal there? And he looked surprise, and she did too. So he said, what does it look like? So I walked up to a shelf where they have them stacked up on the shelf. And I said, well, right there's one of them, and I laid it back down.

And so then I told him, I said, well, being you're so interested in talking to me, I said, I got something to tell you. I said, I don't chatterbox, I don't Facebook. I said, I don't want you to put nothing else about me and my family on that thing, or you're going to be sorry. He said, you threatened me. I'm going to call the police. And I got it on the phone, go on and listened to it. I said, no; I ain't threatening you. I'm just telling you that I'm tired of you. People are bringing me stuff and showing me stuff that they printed off at their house showing me stuff what you put

on your chatterbox and your Facebook. And I said, if I see it again, you're going to be sorry. He said you threatened me.

So I left. And when I left, I went back to the Commissioner's office. The police come; they ask me to go to the courthouse. So we went over there and I was questioned. And three days later, the local Sheriff, David Moore, he called me. He said, Dwayne, you need to come to the courthouse. I said, what for? He said, I got a warrant for you. I said, okay. So I went.

And as I was being processed -- Shea Browning is about six foot. I don't know if y'all have ever met Shea Browning or not. He's about six foot, about 200 pounds. I was in the Sheriff's office and my daughter Eliza went with me that day. I said I wasn't going to do this.

SECRETARY KEMP: That's all right.

MR. McCLELLAN: But my little girl, she's 20-years old, he run her down in the courthouse and he told her, he said, you're a little bitch; you're a little bitch; you're a little bitch; you're a little bitch; you're little bitch just like your daddy. Thank God I wasn't in the Sheriff's office.

So I was arrested and signed out on bond. So then he put in that he wanted to get my son, too. So then we went and had to do that process. And they got a warrant for my son. And my daughter, at that time, got an arrest for him. So they -- we were three criminals. We was all out on bond.

And then it's on the bond right here -- I got it -- mine and Justin's. We're out on bond; can't go within 500 foot of elections office; got get within 500 foot of him. And this was all in June. This was before the July primary.

As far as me having anything to with throwing an election, interfering with an election, I don't see it. I don't understand it. It's something personal between me and Shea Browning.

And then this come on the 17th day of December where our local DA had released mine and Justin's bond and she had turned us loose. Up until a month ago I received a letter in the mail from the Secretary of State's office that we was -- we could come, but we didn't have to come. So here I am. I want to clear my name and my son's.

SECRETARY KEMP: Let me get a motion and a second to accept the rest of these documents.

MR. McIVER: I so move.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: All right. Commissioner, I want to make sure I'm straight on this. So you got calls about absentee ballots being at the copy machine, and that was in another building besides where the elections office is, right?

MR. McCLELLAN: Right.

SECRETARY KEMP: So that's the reason you went down to the elections office to start with -
-

MR. McCLELLAN: I was not looking for Shea Browning that morning. I didn't really expect him in there because --

SECRETARY KEMP: He's the Chairman of the Board, right?

MR. McCLELLAN: Chairman of the Board of Elections in our county.

SECRETARY KEMP: So he doesn't work there every day.

MR. McCLELLAN: No.

SECRETARY KEMP: Any other questions?

MR. SIMPSON: What was he doing?

MR. McCLELLAN: He was over in the corner on the phone. I don't know if it's -- the investigator, here, he mentioned about his chatterbox. He is the administrator of the Atko Chatter. It's been shut down now. He was administrator of Atko Chatter. He was on there as Atticus. He's bashed people -- a girl that was helping me. He got it on there, he said, you're doing nothing but prostituting yourself for these guys, you know. It's -- he . . .

MR. SIMPSON: As far as this goes, there's some statement here that a complaint was made about him campaigning there, too?

MR. HARVEY: Yes, sir.

MR. SIMPSON: What was the outcome of that?

MR. HARVEY: The outcome of that is that all of his Facebook and online postings were -- they didn't mention his position and there is no evidence he was doing it from the office. There was a lot of people upset about being put out there. But he was within his rights posting that stuff on his own time.

MR. SIMPSON: Was he doing it from the election office?

MR. HARVEY: There's no evidence he was; no, sir.

MR. McCLELLAN: I've got some more picture here. This is basically his front yard with signs in his yard. And I have one here that's pretty plain to see that he is -- that's at his law office. That's his sign in front of his law office. He was campaigning as he was the Chairman of the Board of Elections.

SECRETARY KEMP: Do we have a motion to accept the additional pictures? You got anything else you want to give us before we move?

MR. McCLELLAN: I'll give you the one where the local DA dismissed our cases.

SECRETARY KEMP: All right. We have a motion?

MR. McIVER: So moved.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Any other questions for him?

(Whereupon, there was no response)

SECRETARY KEMP: So the violations, Mr. Harvey, for Mr. McClellan, we had one of them was for interfering, right?

MR. HARVEY: Yes, sir. I believe that's the only violation.

SECRETARY KEMP: Do you feel like you interfered with Mr. Browning or the superintendent doing their work in the elections office?

MR. McCLELLAN: No, sir. I wasn't in that room five minutes. And then you seen my warrant three days later, 500 foot from him, 500 foot from the Board of Elections; no phone, no email, no texting. I do not feel like I interfered with our election. I lost. I was (unintelligible) 10 years and it feels, you know, I wake up every morning and I just feel better about myself not being in politics; not having to comply with that daily routine.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: I think it says a lot about you you took time to drive all the way up here today.

MR. McCLELLAN: And, by the way, I was hoping I would get to say Good Morning. But . . .

SECRETARY KEMP: Any other discussion or do we have a motion? Mr. Harvey, the violations for the county and superintendent --

MR. HARVEY: That's the absentee ballot log and the leaving a ballot unattended.

SECRETARY KEMP: Do we know what happened there?

MR. HARVEY: It was just a mistake. They were making some photocopies, and they just left it on the copier and walked away.

SECRETARY KEMP: We've got the elections superintendent and Mr. Browning cited for that?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: I move we dismiss the case against Commissioner McClellan and his son, Justin, and send a letter of instruction to the Atkinson Board of Elections and the chairman, Shea Browning.

SECRETARY KEMP: I will second. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here. Have a good safe trip home.

SECRETARY KEMP: We're moving to -- did anybody from Elbert County happen to come in since this morning?

(Whereupon, there was no response)

SECRETARY KEMP: Mr. Harvey, we're going to move to 2012, number 46, the Randolph County district issues.

MR. HARVEY: This case, one voter when he went to vote, he was in District 4, but he got a District 3 ballot. The voter, recognizing he got the wrong ballot, brought it to the attention of the poll workers who said don't touch it; leave it alone. We can fix it. And he went ahead and cast the ballot anyway. So they weren't able to allow him to re-vote.

Randolph County, I believe, has violated the code section requiring to put their electors in the proper districts. However, this is a good example of one voter whose problem could have been alleviated if had he paid attention to the poll workers.

I believe this case could be resolved with a letter of instruction to the county to double-check their district lines and make sure voters are in the proper area.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

MR. RAULERSON: Mr. Secretary, I'm Kelly Raulerson, attorney from Albany, Perry & Walters law firm, representing Randolph County and Sanford Thompson, elections superintendent. Address is Post Office Box 71209, Albany, Georgia 31708-1209.

I'm here on behalf Randolph County and Sandra Thompson, elections superintendent. I think Mr. Harvey recited the facts mostly correctly. I submitted three affidavits, which you already have on file, that were submitted from the poll manager, Ms. Whitaker and Mr. Holmes and Ms. Sandra Thompson.

Just a brief background. The Board of Registrars at the time the (unintelligible) changes on the district pending in 2011 redistricting, the Board of Registrars was in Randolph County then. In

2012 it was changed to the Board of Elections and Registrars. When you have redistricting, you're going to have some problems pertaining to (unintelligible).

The situation was he came in, told the lady outside where he was filling out the -- this is the wrong district. And she said, when you go inside to vote, you tell them. He never said a word. He walked in there and he gave them the ballot. He got over there. They said don't push the thing. He said I've got the wrong one, wrong ballot. (Unintelligible). Don't do it; don't vote. He slammed his hand and he voted.

It could have been very easily corrected. In fact, before that, he would have had the precinct card. (Unintelligible). He never said a word about it. He was a disgruntled former officeholder and threatened to call the TV station the next day. Just a disgruntled politician, that's what he was.

Now, Ms. Thompson had nothing to do with placing the man. That was the Board of Registrars. She was not part of that. This was corrected after (unintelligible). So we submit there really should not even be a letter of instruction in this case. We respectfully submit it should be dismissed and should not even be before you considering the circumstances.

SECRETARY KEMP: Any questions from the Board?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here. Anyone else wishing to speak on this matter?

(Whereupon, there was no response)

SECRETARY KEMP: So the only potential violation is the redistricting issue, right?

MR. HARVEY: Just one person involved. Yes, sir.

MR. RAULERSON: And that could have been easily corrected.

SECRETARY KEMP: Okay. Any other discussion or motion?

MR. SIMPSON: I move we issue a letter of instruction to Randolph County Board of Elections and Registration concerning determining eligibility of voters to make sure they are in the right district, and dismiss the complaint against Sandra Thompson.

MR. WORLEY: I second that.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. Thank you for being here today.

MR. RAULERSON: Thank you, Mr. Secretary.

SECRETARY KEMP: Mr. Harvey, we're moving to 2012, number 49, Gilmer County.

MR. HARVEY: This case involves the candidacy affidavit of Timothy (Unintelligible) for Sheriff in Gilmer County. Mr. (Unintelligible) wrote a statement and asked me to present it the Board.

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

MR. SIMPSON: So moved.

MR. WORLEY: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: We have accepted the documents. Go ahead, Mr. Harvey.

MR. HARVEY: On his candidacy affidavit in May of 2012, he filled out and said he had been a resident of Gilmer County for seven consecutive years. In 2010, he had run for Sheriff in the state of Kentucky in Cumberland County. He had already he is also voted in Cumberland County, Kentucky in 2010, and there is no way he could have been a resident of Gilmer County for seven years having lived for two years in Kentucky up to 2010. He claims that he owned property in both states and lived here the entire time.

I believe there is proper evidence to suggest that he violated 21-2-565 when he made a false statement on his candidacy affidavit.

SECRETARY KEMP: Any questions for Mr. Harvey?

MR. WILLARD: The District Attorney is a complainant in this case. Do you know if he sent it to the Board in lieu of prosecution or in addition to prosecution?

MR. HARVEY: At the time, it was in lieu of prosecution. But he is no longer District Attorney. But I don't believe he was contemplating proceedings.

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

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

MR. SIMPSON: I've got a question. On the summary sheet we have, there are three violations listed and you just mentioned one. We've got one voting outside the precinct on four occasions and making false entries using incorrect address on absentee ballots.

MR. HARVEY: You may have the wrong tab.

SECRETARY KEMP: We had to skip a case. This is Gilmer County, number 29, Judge. I'm sorry.

MR. SIMPSON: Oh, okay.

SECRETARY KEMP: So we're just dealing with one violation, correct, Mr. Harvey?

MR. HARVEY: That's correct.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

MR. HARVEY: He has moved to Kentucky since this case.

SECRETARY KEMP: Any thoughts?

MR. WORLEY: I make a motion to bind over to the Attorney General's office.

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

MR. McIVER: Second.

SECRETARY KEMP: Second by Mr. McIver. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

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

Mr. Harvey, Polk County, 2012, number 50.

MR. HARVEY: This is a fairly simple case. The elections director, Susan Williams, failed to put two of the four ballot referendum questions on the ballot. She claims she didn't get any information from our office. However, our office had a confirmation email it had been accepted. Ms. Williams said someone else may have opened it. She just simply never got it. So the ballot was incomplete with two referendum questions. They ended up having a special election after that.

Ms. Williams sent an email to me to present to the Board. She has had some medical issues and cannot be in attendance today. I don't know if there's anybody else from the county.

SECRETARY KEMP: Motion to accept the letter.

MR. SIMPSON: So moved.

MR. McIVER: Second.

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Is there anybody here wishing to speak on this case?

(Whereupon, there was no response)

SECRETARY KEMP: So what is your recommendation, Mr. Harvey?

MR. HARVEY: I believe this could be resolved with a letter of instruction. It was an error that was fairly easily correctable. Polk County normally does a good job with elections. I think a letter of instruction would not be out of her order.

SECRETARY KEMP: We would concur with that about Polk County. I was out there the last couple of months visiting.

MR. McIVER: Is there a current failsafe to catch something like this? Did we send her something she says she didn't get?

SECRETARY KEMP: That's probably a question we could run by Ms. Ford and get back to you. She couldn't be here today. She left yesterday. Just so you all know, our elections director is testifying in the case, if you remember a couple of years ago about the Brooks County where we did a joint investigation with the GBI and actually arrested 10 people. I believe there were 11 indicted and there having a trial. So she had to testify. She started yesterday and they held her over to today. But we can get the process for that. I'm not sure that I know. I don't know that we have anybody here that can answer that.

MR. HARVEY: The report indicates that we have a receipt. So the email was delivered. Whether somebody opened it instead of her and deleted it, and whether Ms. Williams actually saw it, she thinks she didn't. But we have evidence that we actually sent it. I believe it would bounce back if it were not received.

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

MS. SULLIVAN: So moved.

MR. McIVER: Second.

SECRETARY KEMP: Ms. Sullivan moves for a letter of instruction; Mr. McIver seconds. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Mr. Harvey, we're on to Marion County, 2012, number 51.

MR. HARVEY: This is very similar to the last case. In this case the elections superintendent left two judicial candidates from the ballot. It was discovered on the first day of early voting and was corrected the next day.

We've got the citation for failure to proofread the ballot and omitting the judicial candidates' names. Again, because it was corrected immediately, I believe this case might be one that is appropriate for a letter of instruction.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

MR. DIXON: Yes, sir. My name is Anthony Dixon, 98 Village Lane, Mauk, Georgia, and I am the part-time Marion County elections supervisor.

Yes, the names were left off. It was an oversight. We corrected that, and hopefully that won't happen anytime in the near future. A letter of instruction would be great for me to take back and make sure it doesn't happen again.

SECRETARY KEMP: Mr. Dixon, have you all implemented anything or have any procedures or training to make sure this doesn't happen again?

MR. DIXON: Yes, sir; we sure have.

SECRETARY KEMP: How are you all addressing that?

MR. DIXON: Actually, it was my responsibility to do this. But now we have at least three other people that's going to be assisting in that since I'm part-time because it was an oversight on my part.

SECRETARY KEMP: Any other questions for Mr. Dixon? You know we're always glad to see you. We just don't want to see you here.

MR. DIXON: Absolutely. Thank you, sir.

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

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, do we have a motion? We have a recommendation for a letter of instruction.

MS. SULLIVAN: So moved.

MR. McIVER: Second.

SECRETARY KEMP: Ms. Sullivan moves again; Mr. McIver seconds again. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: We have moved to issue a letter of instruction.

Mr. Harvey, we've got case number 2012, number 64, Dougherty County.

MR. HARVEY: This case was reported by the Dougherty County elections official Ginger Nickerson. They received six voter registration applications and absentee ballot applications from one location and they all had the same person signing as assisting and appeared to have the same signature in the voter's name.

We tracked down the person who worked at the care home. Her name is Cynthia Reid. Ms. Reid acknowledged that when she was assisting people to register to vote and requesting absentee ballot, she filled out the form for them. She then signed as assisting, and she then signed their name in her handwriting not realizing she couldn't do that.

So the facts are that on six occasions she signed somebody else's name on a voter registration application absentee ballot.

There is a secondary complaint that a precinct opened 30 minutes late in Albany. That, it was determined, was not necessarily the fault of the election officials. They couldn't get into the building; they were on site. They had the polls extended 30 minutes by court order. So there was no problem with that.

I recommend those two allegations be dismissed against Ginger Nickerson and Dougherty County board for precinct opening late.

I recommend that Ms. Reid be bound over to the AG's office on the fraudulent entries.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: I move we bind over the case on Cynthia Reid and dismiss the cases against Dougherty County Board of Registration and Elections and Ginger Nickerson.

MR. WORLEY: Second.

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

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have bound over Ms. Reid and dismissed the other two respondents.

Let's see, Mr. Harvey, 2012, number 65, Habersham County.

MR. HARVEY: Similar to some previous cases that happened, a voter went to vote in a primary. They requested one party ballot and got the other party ballot. The voter said, I recognized these were not my candidates, but I went ahead and voted, anyway, and then I told the poll worker I got the wrong ballot. She did not get the ballot other than what she asked for. So the facts indicate that the Board of Elections and Registration did give the voter the wrong ballot. Again, the ballot -- the voter could have chosen to notify the poll worker before she cast it, but did not. However, I think there is also responsibility on the elections people to give the proper ballot that is requested .

We have not had issues out of Habersham County in years. I don't know that a letter of instruction would be inappropriate in this case, either.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here to speak from Habersham County?

(Whereupon, there was no response)

SECRETARY KEMP: We have a recommendation from Mr. Harvey for a letter of instruction

MS. SULLIVAN: So moved.

MR. WORLEY: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

2012, number 70, Fannin County.

MR. HARVEY: This case involves the incumbent Sheriff, Dane Kirby, in Fannin County campaigning within 150 feet and entering a polling place during the July 31, 2012 primary.

This is a case where, again, we come up with a competing interest of the Sheriff and the election code. The Sheriff, of course, by his office is required to attend elections and provide security for elections. However, in this case the Sheriff was riding around to all the precincts, entering the polling places with his wife, talking to voters at polling places. It appears that he was at least straddling the line between performing his duties and campaigning at the polls.

I think the Board has taken these cases based on individual circumstances as to whether the Sheriff was maintaining his oath by going to the polling places, or whether he was campaigning. I think there is evidence to suggest she was campaigning by bringing his wife and having she and him talk to voters at polling places.

I believe there is evidence he violated 21-2-414, campaigning within 150 feet of a polling place, and that he entered a polling place that was not its own. The second one, entering a polling place, might be a harder one for Mr. Willard to press.

SECRETARY KEMP: Any questions?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone here wishing to speak on a case?

(Whereupon, there was no response)

SECRETARY KEMP: All right. What's the pleasure?

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

MR. WORLEY: Second.

SECRETARY KEMP: We have a motion and a second to bind over to the Attorney General's office. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have bound 2012, number 70 over to the Attorney General's office.

Mr. Harvey, are we going back and catch all the Hancock County cases?

MR. HARVEY: I believe we skipped over Elbert County, tab 26.

SECRETARY KEMP: We're waiting on Hancock counsel, right?

MR. HARVEY: Correct.

SECRETARY KEMP: So we'll go on to tab 26, 2012, number 44.

MR. HARVEY: Yes, sir. This was in the July 31st primary. A voter, Mr. Dustin Ayers, used his cell phone in the voting booth to take a photograph of his ballot, therefore violating election code section 21-2-413 and 414.

Therefore, I recommend Mr. Ayers be sent a letter of instruction, which is no normally our case in the first offense of photographing a ballot.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, do have a motion?

MS. SULLIVAN: I move the Board issue a letter of instruction in this case.

MR. McIVER: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was taken)

SECRETARY KEMP: All opposed, same sign.

MR. SIMPSON: No.

SECRETARY KEMP: Mr. Simpson votes no on that. That motion carries for the letter of instruction.

So, Mr. Harvey, all we've got left on the new cases is Hancock, right?

MR. HARVEY: That's correct.

SECRETARY KEMP: And their counsel had made arrangements for us to be here at 3:30, I believe. So I guess we could go ahead and do the Attorney General report.

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Mr. Willard. We've been doing the Attorney General reports the same way we've done our consent calendar. The Board has the recommendation of the Attorney General's office. We will vote on those in block to accept those, unless one of the Board members or somebody in the audience that has some interest in that case would like to pull it off and have Mr. Willard talk about that case.

So at this time, is there any board member or anybody in the audience that would like to hear any of these consent orders under the agenda portion of the Attorney General's report?

Yes, sir. What case is it?

UNIDENTIFIED MALE: City of College Park.

SECRETARY KEMP: All right. We'll pull that out. Anybody else want to pull one out?

MR. WILLARD: Mr. Chairman, I'm not sure if this -- if these got pulled out of the binders that you have in front of you, but on Early County, which is tab 39, the Attorney General's office is pulling from consideration the recommended dispositions of Anthony Lingo, Althraus (phonetic)

Hutchins, and Georgie Foster. But the remaining respondents, we are moving forward on our recommendation of disposition on today. And that is tab 39, Early County.

SECRETARY KEMP: And to avoid any confusion, I'm just going to pull that case out and we'll hear that so we can get all the details and make sure everybody's clear on what we're doing there. So we're pulling out the City of College Park and Early County.

Anybody else here or any of the board members want us to pull out anything else?

MS. SULLIVAN: I would like to clarify what we have before us in the City of Pelham. I understand we had a substitution in our books.

MR. WILLARD: A substituted memo. There was a typo on the recommendation from the attorney in our office. At one point she referred to a \$900 fine in the subject line and \$1250 fine in the body. It should have read \$900 in both places.

MS. SULLIVAN: Thank you.

SECRETARY KEMP: Okay. Unless there's any other objections to us moving forward to vote on the consents, we're going to accept the Attorney General's recommendation on case number 2011, number 33; case number 2011, number 97; and case number 2011, 108, if we can get a motion.

MR. WORLEY: So moved.

SECRETARY KEMP: We've got a motion by Mr. Worley to accept the recommendations. Is there a second?

MS. SULLIVAN: Second.

SECRETARY KEMP: We have a second from Ms. Sullivan. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Mr. Willard, can you give us the rundown on City of College Park case, 2011, number 87?
That's number 37 in the binder.

MR. WILLARD: Mr. Chairman, this is a case that was referred to our office at the February meeting this year. It was in against Lakethia (phonetic) Reeves, an election official in the City of College Park, as well as the City of College Park, itself.

The allegations that were actually bound over were that Ms. Reeves, as the elections superintendent, prevented a candidate and his wife from viewing the tabulation process during the November, 2011, municipal general election.

We have entered into and are recommending the Board adopt a consent order with the city and Ms. Reeves that calls for a cease-and-desist, a public reprimand, and a \$350 civil fine.

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Anybody else wish to address us? Yes, sir.

MR. GAY: Good afternoon. My name is Roderick Gay. I reside at 4215 Fredericksburg Drive, City of College Park, Georgia. I was the complainant that election. I was a candidate for mayor in the last three elections. But before I continue, I would like to publicly thank the Board for the opportunity speak today and for hearing the case in February.

I especially like to thank Mr. Chris Harvey and let you all know that prior to the 2011 election, I began having conversations with his office about what could possibly be irregularities that have occurred in the prior two elections, and he made himself available at all times. He is extremely professional, and after the election, I had the opportunity to talk to him about the regulations that the Attorney General has consented today. His staff came to my home. They were very cordial and very thorough and I'd like to just publicly thank him and his staff for what they've done.

In the February 21 minutes, the City of College Park threw itself at the mercy of this board and also said they would take certain remedial actions to try to prevent this from occurring. One of the things that they did acknowledge that they were undertaking, perhaps, the solicitation for city elections to be conducted by a third-party; possibly the county.

If I could just briefly give you some quick background. College Park is one of the few cities that continues to conduct its own elections. It is conducted by the mayor, the incumbent's secretary, and the appointed clerk, and the incumbent's family, agent, and friends. They act as the incumbent's poll watchers and poll managers, and they also count the ballots, as well as accept the absentee ballots. We have very low voter turnout and a very interesting demographic.

I did run in the last three elections. The incumbent has been in that position for approximately 33 years. Each time, I observed the same letter regularities why we're here today, but I didn't know how to complain of them or who to complain. I am guilty of not being represented by an attorney. There have been legal people in the community that looked over the filings that I filed. They made comments and I understand that's not the same as being represented by an attorney. I even went as far as to talk to the ACLU.

When I filed the most recent complaint the night of the election, it wasn't just myself and my spouse. I think Attorney Williams represented this board when he spoke February 21. The last election, we all go to the city hall and the poll workers bring the sealed boxes. I was told that we couldn't go back and view the tabulation process. Now, this is what Mr. Harvey as well as Fulton County had told us prior to the elections. They also gave us a presiding judge phone number. I think it was Judge Brasher; Fulton County Judge.

So I began to complain that we had a right to go back. There was another candidate named Wesley Maddox -- he is also an attorney -- who resides in College Park. It was him and his wife, as well as I brought a criminal defense attorney who is my neighbor, (Unintelligible) Nassau. So for approximately one hour, we were partitioned by an officer of College Park who told us that the superintendent would not let us go back.

It wasn't until I called Judge Brasher and I reached his cell phone, his voice mail, did they let us go back. But they still didn't let me go back. They only (Unintelligible) Nassau, the attorney, go back. He purported that when he got back there, he saw on the desk printouts and he gave us the results of the election.

Now, prior to that, the first election was paper ballots. I've never seen how they -- keep in mind, we're talking about the exact same people in all three elections. It happens exactly this way.

So the second election was the voting machine. Fulton County also conducts their elections in the same room with our elections, so it can kind of get a little bit confusing at times because we continue to refuse to let anyone conduct our elections.

Also, it's worth pointing out that we don't even let Kennesaw State University do our L&A testing. It's done by a consultant who we bought the machines from. That same consultant also is actively involved in the night of the elections.

So when I complained to Mr. Harvey the next day -- the Judge called me back that next morning and asked me was I okay. I told him what happened. He said, well, what do you want to do about it? I said I didn't really know. But I did call Mr. Harvey's office and when I told him we were denied the public viewing, he said, well, I'll take up a complaint because that is a violation.

And you only have 10 days, as you know. He says that this board does not have the jurisdiction to overturn an election if the findings of fact which warrant that -- that you have to file it with the Superior Court. You only have 10 days to do that. Because I lost the last two elections for procedural errors, I thought I knew what I was doing, and I thought it was a crystal clear case because we had four people who would swear affidavits.

Unfortunately, the third mistake I made was that the notice that you're given to answer the complaint, you're only supposed to give them 10 days, and not 30. Judge Wendy Shoob was the judge presiding over that. She dismissed it. She did not even deal with any of the facts of the case. But it is worth pointing out that they did answer it within 10 days. And the lawyers that I talked to said it's not (unintelligible), but you are a pro se litigant, and, unfortunately, you just probably won't be heard on it.

So 12 or 14 months later, you all have a hearing and I was working and it was in Macon. And Mr. Harvey -- I read the notice. I was impressed; I was impressed. I was feeling good that finally I wasn't being looked at as a frivolous litigant, you know; this disgruntled guy.

And I'll be quickly, but I also want to tell you all that I'm a degreed horticulturist. I'm a native Atlantan, fourth generation. I have a family. My son is going to Morehouse. I have two children. I don't want to be a career politician, but if you've ever watched WSB, you're going to hear about College Park a lot. And in my community, we've got guys -- since this meeting you all had -- and I'm getting back to the point. But I just want to let you know I felt there was a political void in our community. So I thought I would get involved because you have guys taking trucks running them into buildings and taking ATM machines out; you have police officers getting shot; people shooting each other; break-ins; school closings. And this is where I reside.

So back to the case at hand. I thought that finally I had been heard. But, unfortunately, I don't know if it's in retaliation to this meeting today, I don't know if it's because I'm running as the city councilman for Ward 4, but a gentleman came to our house with a summons and he didn't identify himself. This was about three weeks ago. And I asked the councilman what was it about. I said, don't you know the Attorney General has a public reprimand in place that you're about to consent to? And his exact words are, "We don't care about the Attorney General. But you need to worry about the \$60,000 judgment you have." We thought he was kidding.

But as it turns out, this attorney Williams, who is about to speak, he somehow goes and gets the ear of Judge Tussan, who now hears Judge Shoob's calendar. But they didn't make a motion. So it says that there was some unsettled business of the Court.

So I was given a hearing on this to the P.O. box I had as a candidate. I wasn't there; I got a default judgment. They asked for \$27,000. She says, no. Why don't we give you \$60,000. So I have a \$60,000 judgment against me -- he wrote the order. If you read the order, nowhere in the order does it say anything about appearing before y'all at the mercy of y'all. He's right down the street at the Superior Court telling the Judge --

SECRETARY KEMP: Mr. Gay, let me just get you back on track here. This board can't do anything about that judgment. Is there anything else you'd like to address on this consent order?

MR. GAY: The final thing is that Mr. Harvey investigated and consented that a non-sworn poll worker, John Ray, acts as the absentee poll manager. But I was told by the Attorney General that that is not going to be in the consent order.

So in closing, I don't mean to be disrespectful, but I want to say that there's nothing you can do, I suppose. But you're setting a precedent so if people complaint this board and they lose the civil portion, they can pay 350 and I can have to pay 60,000; and they can have a sworn affidavit and it doesn't mean anything.

So I would like this board to deny the consent order based on the information before you today.

SECRETARY KEMP: What would you have us do instead of accept the consent order?

MR. GAY: You should publicly reprimand this attorney for telling another jurisdiction that works hand-in-hand with this process.

SECRETARY KEMP: Well, that's a little out of our scope. I'm talking about dealing with what happened in the election. The specific violation was you not being able to view the

counting of the ballots, right? I mean, that's really the only thing we can deal with, right, Mr. Willard?

MR. WILLARD: That is correct.

MR. GAY: Well, if not -- if the candidate not being able to see his ballots being counted, it's out of the chain of custody. It's a criminal code -- it's a violation of the criminal code, which is a misdemeanor. If you can see you tabulations, if they're out of the public view, personally, in other races -- cycling, school boards -- when you cheat, you're disqualified.

SECRETARY KEMP: Any questions for Mr. Gay? Thank you for being here today, by the way.

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MR. WILLIAMS: Good afternoon. My name is Mike Williams. I'm the city attorney for College Park. My address is 8024 (Unintelligible) Court, Jonesboro, Georgia 30236. Just want to thank the Board for the opportunity to speak once again.

I would really just like to reiterate what we said in the February hearing that we acknowledge there was a period of time where candidates were not allowed into the tabulation. Ms. Lakethia Reeves, the former elections superintendent, who is no longer employed with the city, acknowledged that she made a mistake and we corrected it as soon as we could. That's not going to happen again.

The letter we entered into the record indicates the other steps the city has taken and we have had discussion with the Attorney General's office. We are in agreement with the consent order and we would hope you would adopt it.

SECRETARY KEMP: Any questions for Mr. Williams?

(Whereupon, there was no response)

SECRETARY KEMP: I'm sure that the city understands how important it is to be transparent during the counting process. And when people can't get back there to see that, I can see as a candidate where that could cause concern. So we hope not to see you again on that issue.

MR. WILLIAMS: Yes, sir.

SECRETARY KEMP: Any other questions?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Any other discussion with the board or a motion to proceed?

MR. WORLEY: I move we accept the consent order negotiated between the city and Attorney General's office.

SECRETARY KEMP: We've got a motion to accept.

MR. SIMPSON: Second.

SECRETARY KEMP: Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries. We have accepted the consent. Thank you, gentlemen, for both being here today.

Okay, Mr. Willard, Early County, correct? Case number 2011, 103.

MR. WILLARD: Yes, sir. As I mentioned earlier, we are withdrawing and will not be proceeding on our recommendation as to respondents Lingo, Althraus Hutchins, and George Foster. And We'll pick up with Eddie Stapleton.

This case concerns the December, 2011, runoff election in the City of Blakely. Mr. Stapleton unlawfully possessed the ballot of two electors, and we've got a consent order calling for a cease-and-desist, public reprimand, and a \$200 civil fine.

For Mr. Thornton, in this instance, we had evidence supporting the fact that he failed to sign the oath that he assisted his disabled sister in voting her ballot. And we've got a consent order calling for a cease-and-desist, public reprimand, and a \$100 civil fine.

Ms. Alice Hutchins, in this instance we have got that she failed to sign the oath stating the facts in the absentee ballot application of Wilma Lee were true and correct in violation of 21-2-381. We have a consent order calling for a cease-and-desist and a public reprimand in that instance.

And then the final consent order is against Patricia Tolbert. In this instance, she unlawfully possessed the ballot of five electors. For two of those electors, they were not authorized to receive assistance. And then she interfered with the voting of the elector Takeya Griffith. For that one we have a cease-and-desist, public reprimand, and a \$1000 civil fine.

I'll be happy to answer any questions the Board has.

SECRETARY KEMP: So Mr. Willard, on Lingo, Hutchins, and George Foster, where are we on those?

MR. WILLARD: Mr. Harvey had provided the --

SECRETARY KEMP: Those are the ones we didn't have the files for?

MR. WILLARD: Yes, Mr. Chairman. We have that information now and we will be going back to those respondents and see if we can work out a resolution. If not, we will most likely be sending those in for a hearing.

SECRETARY KEMP: Okay. Very good. The Board has heard the recommendation. Anyone else wishing to speak on Early County case?

(Whereupon, there was no response)

SECRETARY KEMP: Any questions for Mr. Willard?

(Whereupon, there was no response)

SECRETARY KEMP: Do we have a motion?

(Whereupon, there was no response)

MR. SIMPSON: I move we accept the Attorney General's recommendation.

MR. McIVER: Second.

SECRETARY KEMP: We have a motion and a second to accept the recommendations for the Early County, 2011-103 case for Stapleton, Frank Thornton, Alice Hutchins, Patricia Tolbert. Any other discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

MR. WILLARD: That concludes the Attorney General's report, Mr. Chairman.

SECRETARY KEMP: Mr. Harvey, we expect Representative Glenn will be here at 3:30?

MR. HARVEY: That's what he said.

SECRETARY KEMP: That's everything except for Hancock County, right? All right. Well, let's take a break until 3:30. Hopefully Representative Glenn will be here to represent Hancock County.

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(Whereupon, the proceedings were in recess)

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SECRETARY KEMP: I believe representation for Hancock County just arrived. So we're glad to have Representative Fleming, no stranger to the Capitol, certainly, with us now. We'll come back from our break.

Mr. Harvey, how do you want to do this? Do you want me to call all these cases, or take them one at a time?

MR. HARVEY: I think it would make more sense to take them one at a time because two of them are similar, but one is a little bit different.

SECRETARY KEMP: All right. So the first one I've got is 2011, number 59.

MR. HARVEY: That's correct.

SECRETARY KEMP: Which is tab 17 in our binders.

MR. HARVEY: I would point out that some of the people listed as respondents in this case have already been bound over to -- Garnishia Bryant and Ms. Brundage, I believe, were bound over at a previous meeting. And the City of Sparta and the city elections superintendent, Virginia Brown, have requested a continuance. So all though we'll talk about them, they won't actually be referenced or request any action taken on them.

SECRETARY KEMP: Who were those two?

MR. HARVEY: The City of Sparta and the city superintendent, Virginia Brown. We'll bring them up, specifically, at a subsequent meeting.

SECRETARY KEMP: Okay.

MR. HARVEY: As board members might recall, this case was first brought, I believe, earlier this year. It had to do with -- it started off with L&A testing and absentee ballot issues. There was some dispute and there was some ambiguity about who was responsible for L&A testing of machines. This is for the 2011 municipal election in Sparta.

Sparta was doing their own election day voting, however, they contracted with Hancock County to do all their absentee and early voting. That, I believe, put the onus for the L&A testing on the city and on Virginia Brown. So I believe that Hancock County is clear of that specific charge.

There were numerous absentee ballot problems and violations that we discovered, and I'm going to go through them fairly quickly.

As far as Hancock County and the Board of Elections and Aretha Hill goes, most of their errors were primarily administrative. Aretha Hill was not able to supply the supervisor cards in order to do the L&A testing that the city was trying to do when it was announced. So I believe Ms. Hill has violated the code section requiring failure to provide supplies which is 21-2-379.6.

There -- a case that they essentially put a registration number the wrong ballot application; they put the same voter on an absentee ballot list; they left a voter off the list of electors; and they allowed a voter to register to vote on a DRE on the same day. All of those are violations of the election code.

The other issues had to do with the absentee ballots, primarily. And there are sort of two classes of people with violations of absentee ballots. The first are going to be three individuals. It's going to be Sylvia Culver, Sheila Culver, and Betty Wheeler. Each of those ladies assisted family members who were entitled to assistance. However, they did not sign as assisting any of their ballots.

For those three individuals, I would recommend a letter of instruction be issued.

In the bind over, I'm just going to go down individually and talk about what they did and make a recommendation. I'm going to recommend all these individuals be bound over to the Attorney General's office.

The first is going to be Maxine Evans, who assisted without signing and assisting while a family member was on the ballot. Susan Pearson possessed absentee ballots and assisted absentee ballots without signing. Gwendolyn Ashley assisted and -- three voters without signing. Wanda Dawson applied for and voted a ballot for her father; I recommend that be bound over. Ruby

Richardson assisted without signing for two voters. Annie Kemp possessed absentee ballots and assisted without signing. Charlie Kendrick possessed two absentee ballots. Vequishia Kitchens signed voters names to absentee ballot applications. Angela and Glen Ingraham voted out of the city with a false address on their voter certificate. Patrick Warren voted out of the city and gave false information. Felicia Evans voted out of the city and gave false information. And Jennifer Pitts voted out of the city and gave false information.

There was actually a contest following this election by Mr. Gilman, who is present today, where some of these things were explored in the court record. Due to the cost of getting the transcript - we do not have the transcript yet. I don't know if it will be necessary, but the cost would be fairly prohibitive. There were many allegations of the absentee ballots being improperly handled. None of those really came back to the Hancock County Board of Elections and Registration office. Like I mentioned, the administrative errors they had, which are, as you heard, sort of a perennial problem with the Hancock County Board of Elections and Registration, in this case, it appeared to be more of a grassroots effort to illegally possess or assist with absentee ballots.

So in this case of 2011-139, I recommend that the board, Hancock County board and Aretha Hill be bound over on the administrative errors; that Sylvia and Sheila Culver and Betty Wheeler be given letters of instruction on the failure to sign as assisting family members; and the rest of the respondents be bound over to the AG's office on the various absentee ballot violations.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED FEMALE: I do.

SECRETARY KEMP: Okay. Come on up.

MS. SUZANNE PEARSON: My name is Suzanne Pearson. I reside at 50 Reese Drive, Sparta, Georgia, ZIP Code 31087. Good afternoon.

First I would like to say that I did not knowingly or intentionally do anything that was wrong. My mother, who is over 75 years of age, asked me to write on the back of her ballot envelope the copy -- there's something to be copied on the back. I don't remember exactly. But she asked me to copy for her. The reason she asked me to copy for her was because I wrote neater than she did and she could not write in that small space. So I did as she asked me.

I did not obtain the ballot; I did not vote the ballot; and I did not sign the ballot. I was not aware that doing what my mother asked me to do -- I provide various types of care for my mother. I was not aware that was illegal.

That is my case I would take any questions.

SECRETARY KEMP: Thank you, Ms. Pearson. What was the violation for Ms. Pearson again, Mr. Harvey?

MR. HARVEY: Illegally assisting and possessing absentee ballot.

MR. WILLARD: Mr. Chairman?

SECRETARY KEMP: Yes, sir.

MR. WILLARD: I have a question for Ms. Pearson, if I could.

SECRETARY KEMP: Sure.

MR. WILLARD: Ms. Pearson, during the interview with the Secretary of State's investigators, you and your mother were both present?

MS. SUZANNE PEARSON: Yes.

MR. WILLARD: Did your mother tell the investigators at that point that she wasn't sure if she would have been able to physically fill out the absentee ballot if you have not filled it out for her?

MS. SUZANNE PEARSON: I did not fill out the absentee ballot, sir. My mother is --

MR. WILLARD: The oath on the back is what I'm talking about.

MS. SUZANNE PEARSON: She told you what I've told you. But she's here today. So you can ask her. When I told you is what she told you.

SECRETARY KEMP: Any other questions for Ms. Pearson?

(Whereupon, there was no response)

SECRETARY KEMP: Does your mother wish to address the board today?

MS. SUZANNE PEARSON: Mama, do you wish to say anything?

MS. BESSIE PEARSON: No. I asked her to fill it out.

SECRETARY KEMP: We need to take her that microphone, if you don't mind and let her -- have her give her name and address for us. She can just sit back there and do just fine.

MS. BESSIE PEARSON: My name is Bessie Pearson, Bessie M. Pearson, Sparta Georgia, 50 Reese Street.

What my daughter told you all, that's what I asked her to do. I write smaller -- I mean, she writes smaller and I write larger. And I didn't figure I can get the information in the space.

SECRETARY KEMP: Okay. Any questions for Ms. Pearson?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you for being here, ma'am.

Mr. Harvey, if they signed as legally assisting, would that be okay, or is there not --

MR. HARVEY: She was obligated to sign as assisting even for that action. The absentee ballot envelope is considered part of the ballot. So that would require a signature. The report indicates that at the time, Ms. Bessie Pearson indicated she was not illiterate or physically disabled and therefore not entitled to assistance. I don't know if that's -- how accurate it is. Of course, that was two years ago. But that is the basis for the allegation. Regardless of whether she is entitled to assistance, Ms. Susan [sic] Pearson had to sign as assisting.

Given those circumstances, I could see moving Susan Pearson up to the letter of instruction when you're talking about a family member. I distinguish the letters of instruction for family members versus people that went out into the community and assisted multiple people without signing. I think that shows more of an electioneering aspect.

SECRETARY KEMP: Right. We don't have any allegations that Ms. Pearson did that, right?

MR. HARVEY: No, sir. So I would revise my recommendation to Susan Pearson be recommended for a letter of instruction.

SECRETARY KEMP: Any other questions for either Ms. Pearsons?

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak? Representative Fleming.

Just so the Board, if they don't know, Representative Fleming is the honorable member of the Georgia House of Representatives, so he is no stranger to the Capitol, as well. Welcome.

REPRESENTATIVE FLEMING: Thank you, Mr. Chairman. I appreciate that. Let me mention to the Chairman and the Board, I am new to my position as the county attorney of Hancock County. I have not done this very long. In fact, I have not done this very long to the extent that I had another engagement case I had already committed myself to that I was supposed to be with my some of my legislative colleagues. Thus, I apologize for being a little bit late. But I appreciate y'all allowing me the time to get from Augusta up here for that today.

As I mentioned, I have only been recently hired as the county attorney for Hancock County, and the Board of Commissioners has asked me in a limited capacity to try to assist the Board of Elections in Hancock County for future going forward in hopes that we don't have come see you as much or as often.

As I'm just settling into this role as the county attorney, and thus assisting Board of Elections members, I can tell you I haven't gotten deep into that project yet. But we hope between now and the next election that we'll be able to do that.

I can tell you the limited interaction I've had with the chairwoman, Jeanette Waddell, of the Board of Elections, who is here to my left, and also Ms. Aretha Hill. They have been very willing so far to work with me. They have also been willing to pick up the phone and ask questions. In my experience in being a city or county attorney for about eight other local governments, that is the beginning of trying to resolve situations and prevent problems from happening in the future if they have someone they can call and ask questions of.

Obviously, as the county attorney, I do not intend to be significantly involved with the Board of Elections except when I need to. But that has been the request of the new chairperson of the

Board of Commissioners of Hancock County. Her name is Cissy Hudson. She was a long-time member of the House of Representatives, was recently elected in Hancock County (unintelligible) because there were several issues. And she was going to try to improve in the County, this being one of them. So that is my role here today.

I do have some knowledge of some of the specificity of things that we're talking about with the 2011 municipal elections in Sparta. Ms. Hill, of course, is here and can answer any more questions that you may have about that.

You have already noted, though, Mr. Harvey has, that the role limited to the Board of Elections for the city elections was simply to handle absentee ballots. And I do think some of the issues that have arisen -- not specifically (unintelligible) -- some of the issues that have arisen had material problems that the city had -- obviously, they had been working on. And that came into the Board of Elections process and they had some limited control over that. But obviously, some mistakes were made.

Along those lines, unless the Board has any additional questions, I'll try not to belabor the issue any further. I look forward to working with the Attorney General's office as many of these will be handed over to them to resolve these issues.

SECRETARY KEMP: Thank you, Representative.

MR. McIVER: You would not object if we bind this matter over?

REPRESENTATIVE FLEMING: Absolutely not.

MR. McIVER: Thank you.

SECRETARY KEMP: Any other questions for Representative Fleming?

(Whereupon, there was no response)

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

MR. YOUMANS: Good afternoon. My name is Jim Youmans, 256 Maiden Lane, Sparta, Georgia 3106. Thank you for this opportunity to speak. I did, indeed, as a pro se litigant contest that municipal election in 2011 in Sparta Georgia.

At our first evidentiary hearing I presented 89 instances where absentee ballots were in violation of either 385 and/or 386.

It seems like the big confusion has to do with not only the absentee ballots proper, and more specifically, pointed toward the envelopes being mishandled, but also that the applications were also extra ordinarily filled out without being marked as being assisted. We're talking hundreds of instances in that particular instance. I would say there are probably collectively gross errors of about three or 400 that have to be yet to be resolved. So I would certainly advocate the transcripts being obtained.

I've also got a rather large case file that has every absentee ballot envelope front and back digitally imaged; every absentee ballot application digitally imaged; and every pertinent voter registration card. These were unsealed by senior Superior Court Judge (Unintelligible). And it was, indeed, Judge Martha Rice who presided over the unsealing.

The problem seems to be that you can fill out an absentee ballot and you don't have to sign as being an assister when a person is ineligible because they aren't -- ineligible because they aren't - I'm sorry. You don't have to fill it out because they are ineligible. That means they can read or write; they are (unintelligible); they are not handicapped. So anybody can fill it out for them, right? And I think that methodology will prevail even in this (unintelligible) election.

I think the same thing applies to absentee ballot envelopes. Our office staff sees -- has no compunction, sees no problem, whatsoever, with accepting absentee ballots just because somebody didn't sign an oath of assistance. You can graphically see an elderly person signed it, and that someone in very clear print filled out the top of the absentee ballot with regards to the address, county, month and date of birth, etc. Scores of issues on that; not just a few that have been uncovered heretofore.

So I do urge the Board to continue investigation. I will avail myself anytime, anyplace to share that digitized information. Of course, they can be unsealed on court order again and copied for establishing a more proper for veracity. But I do submit that they have already been included and introduced an accepted before the Superior Court of Hancock County in case 11-CV-203.

SECRETARY KEMP: Any questions for Mr. Youmans?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Mr. Harvey, I have one question on the applications. What's the -- we don't have an issue with people filling those out, do we?

MR. HARVEY: No Sir. I'm not sure Mr. Youmans has the same understanding the Board does.

On an absentee ballot application, anybody can fill out the top portion as long as the elector signs. You don't have to sign as assisting. So I can fill out an application for everybody in this room and as long as the people sign their own application, it would be acceptable.

The second thing he mentioned is in cases where someone else has clearly filled out the ballot envelope, the top of the ballot envelope, and there is an elderly person scrawled signature, that seems to be a clear indication that someone has assisted. However, that is not a case for rejecting the ballot. That would be a case for identifying somebody for failing to sign as assisting. In many cases, there is no way to know who that person was. In some cases we can't identify who provided assistance.

So I think the hundreds of applications Mr. Youmans is talking about will probably not be fruitful for that very reason. I believe that if the Board's practice is to accept absentee ballot envelopes that appear to have problems with assisting, as long as they meet the criteria where the signature matches, I believe the board is acting properly in accepting the ballots.

SECRETARY KEMP: I'll say this, too, Mr. Youmans, and I appreciate you being here today, you know, absentee ballot fraud is sometimes very difficult to get a handle on because you have to catch people in the act. And that is why we created the stop voter fraud hotline where people have a 1-800 number they can call or they can email us. They can call, and we get complaints all the time about that. So I would just tell you in future elections, if you have any people watching the elections process, or if you know of individuals running so-called absentee ballot rings and illegally handling ballots or filling them out, if there's any way we can get evidence or get our investigator where we can actually see that happening, it helps us a lot more for dealing with those things when it does get to the State Election Board.

MR. HARVEY: I think a lot of those ballots were like Ms. Pearson's case where a family member does it, and, frankly, many, many people are not familiar with the requirements. When I speak at places I try to educate people about the necessity of doing that. I don't doubt that there are a lot of them that appear to be filled out that way. I would suspect that a good number of them are family members and, while it may be legal assistance, it is a failure to sign as assisting. And as we can get those, we get them. But I think Ms. Pearson's case is an illustration of what is going on, especially in more rural areas.

SECRETARY KEMP: Hold on one minute Ms. Pearson. Anyone else wishing to speak on this case?

(Whereupon, there was no response)

I'll allow you all just another minute or two if you'd like to come up and grab the microphone.

MR. YOUNG: Thank you for that correction with regard to assistance in filling out an absentee ballot application. I stand corrected and grateful for the correction.

In the case of the assistance on the absentee ballot envelope, there have been identified -- and that is where we have the testimony in the Superior Court -- where we had the testimony of who did this for you? And you just don't even have to be a graphologist or a handwriting expert to run through the envelopes and even to just the naked plain layman's eye see who these people are; these four primary absentee ballot runners. So just I think there should be some justice with those four major players. Garnishia Bryant has already been identified. But she's only been identified out of just a handful.

SECRETARY KEMP: All right. Ms. Pearson, did you have something you wanted to add?

MS. PEARSON: Yes. I just wanted to say, perhaps these people are just like me. Maybe they don't know; and I didn't know. So maybe -- voting is a right and when voting becomes so stringent, so controlled that it makes a person afraid to help their parent or grandparent, something needs to be done. And perhaps maybe we need to let the people know because I did not know I did anything wrong, and I did not purposely do anything wrong. I am not even an elector in Hancock County so I don't even have a dog in this fight. I thank you.

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

(Whereupon, there was no response)

SECRETARY KEMP: Hearing none, any other discussion from the Board or do we have a motion?

MR. McIVER: Move we bind the case over.

SECRETARY KEMP: Mr. McIver, you want to go through all this, or you want -- you want to bind over everybody and then we've got a couple of recommendations for letters.

MR. McIVER: I'm sorry. Everybody but those with the letters.

SECRETARY KEMP: So, Mr. Harvey, let me make sure. I'm going to go through this and tell me if I'm missing anything.

We're going to bind over the Hancock Board of Registration and Elections; Jeanette Waddell, chair of Hancock Board of Registration and Elections; Aretha Hill and Virginia Brown --

MR. HARVEY: Not Virginia Brown. She's part of the city and she's been continued.

SECRETARY KEMP: Okay. Continued; all right. So not Ms. Brown.

Maxine Evans; Annie Kemp; Gwendolyn Ashley; Ruby Richardson; Charlie Kendrick; Vequishia Kitchens; Wanda Dawson; Alicia Evans; Angela and Glen Ingraham; Patrick Warren; and Jennifer Pitts.

MR. HARVEY: That's correct.

SECRETARY KEMP: Okay. We've got a motion to bind these over. Do we have a second?

MR. SIMPSON: Second.

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

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Now, we had recommendations for letters of instruction for Sheila Culver; Betty Wheeler; Sylvia Culver; and Susan Pearson.

MR. HARVEY: That is correct.

MR. SIMPSON: So moved.

MR. McIVER: Second.

SECRETARY KEMP: Second by Mr. McIver. Any other discussion?

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

SECRETARY KEMP: That motion carries.

Mr. Harvey, I think that's got us for this one, right?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: So we're moving to 24.

MR. HARVEY: Yes, sir.

SECRETARY KEMP: SEB case number 2012, number 37.

MR. HARVEY: This is another Hancock County case. The complainant is Ms. Nancy Stephens, who spoke earlier in the public comments. She made four different allegations.

One is DRE machines were not being properly stored and were being left unattended while awaiting L&A testing.

The second was that poll workers were not checking photo ID for in-person absentee voting.

This third was that white absentee ballot envelopes were visible inside the absentee ballot box indicating they were not in the yellow absentee ballot envelopes.

And, lastly, voters were assigned to the wrong precincts.

We had an investigator go to the area, and we did find there were three DRE machines that were located in the registrar's office that were apparently being used as sort of a bookshelf for papers and other items. They were not stored in the third-floor storage room with the remaining DRE machines. Ms. Hill advised that they were safe. However, they were not secured as required by the code.

We had an investigator randomly check the voting, checking through ID's. And we did find, upon our investigation, ID's were being checked and were being noted properly. Also the investigator examined -- looked into the ballot box as much as we could; did not see any evidence of abnormal ballots in the ballot box.

There were, however, in excess of a thousand voters who were assigned to the wrong voting districts and required extensive work with the Secretary of State's office and the apportionment office to try to get voters in their proper districts.

So having said all that, the Board of Elections and Aretha Hill failed to assign voters to their proper district in accordance with guidelines, and also violated the security of the DRE's by failing to store them in a proper manner.

I will also say that in this case and the next case, as stated by Ms. Stephens, there is a lot of animosity on the board, as I believe the Board knows. I've gotten complaints from many parties on the board alleging things that the State Election Board has no authority over: infighting and procedures and rules, and all that kind of stuff. Ms. Stephens is very vigilant in observing -- scrupulous, almost -- in observing election law and holding the board to that standard. And I think she is the complainant on the next case, too.

But having said all that, I believe the named respondents should be bound over to the Attorney General's office on failure to secure DRE's and failure to assign voters to their proper districts.

SECRETARY KEMP: Anyone wishing to speak? Representative, do you want to speak first?

REPRESENTATIVE FLEMING: She can speak first.

SECRETARY KEMP: Ms. Stephens, you can come on up.

MS. STEPHENS: Nancy Stephens, 389 Roy Smith Road, Sparta, Georgia 31087.

On June 25, 2012, L&A testing was to have been performed on 23 DRE machines in the courtroom at 10 a.m., and was advertised in the local newspaper that it was going to be contacted at that time. When I arrived to view the testing, I found the machines unattended in the courtroom. When I checked the machines, I found only 10 of 23 machines were sealed. I stayed there waiting for them to begin the L&A testing on the machines and left at 1 p.m. And I informed Ms. Hill at that time the machines could not be left unattended. Her response was, why? There's nothing on them.

I asked Ms. Hill how long the machines had been in the courtroom. They have moved them Sunday evening, the night before, and left them unintended in the courtroom and anyone with a key to the courthouse could have come in and tampered with the machines. And after 7 o'clock, around 7 o'clock on that Monday morning, anyone could have gone in and tampered with the machines.

I did take pictures and I took them to Chris Harvey and I still have those available is those are needed. Thank you.

SECRETARY KEMP: Questions for Ms. Stephens?

(Whereupon, there was no response)

SECRETARY KEMP: Did you want to speak?

UNIDENTIFIED MALE: Let Mr. Fleming speak. (Unintelligible). I'll let him speak.

SECRETARY KEMP: It doesn't matter to us. We're going to hear everybody, sir. May save him another trip if you go ahead and speak.

MR. BEVILL: My name is Don Bevill. I live at 104 Magnolia Lane, Sparta, Georgia 31087.

And I have sort of a question about these voter cards that went out. I've heard various numbers of 1000, 1500, 1800. Whatever it was, they were numerous. I have asked at meetings a couple of times and still don't have a clear answer. And I also belong to the property owners association, and back in January we wrote a letter.

The fact that it happened was bad enough. But we are rather concerned about who did it and how do we get to the bottom of it and how does it not happen again. Aretha Hill, our supervisor, has told us that the information just appeared on their computer one morning. And she said that twice, I think.

So we have to wonder if it happened at the State. I believe, Chris, you said you didn't think it happened at the State. I'm not making an accusation here. But where are we at on finding out how this happened and how to keep it from happening again?

MR. HARVEY: The issue is that the -- and it's a fairly complex system. But the street files in the county system are arranged in a -- they're very precise. If you were to do Pine Street and one listing was Pine S-T period and one was Pine Street spelled out, you'd get different addresses. There were -- I believe there were 97, maybe more, errors in the street file.

So after reapportionment came, their street files had to be (unintelligible) and done manually. It was a very painstaking process. Ms. Hill and another person came to Atlanta and met with the elections officials and the reapportionment people at the Capitol for several days, I think. And our staff worked with them almost page by page showing them how they had to clean up their street files.

I can't get into a lot more specific detail than that except to say that -- because I don't know the technical side better -- except to say when the data is essentially neglected for a long period of time and changes take place, everything gets scrambled.

SECRETARY KEMP: The way it works is the information that the cities and counties give us to go in our system, if it's bad information, it's going to be bad in our system. I mean, we rely on the counties and cities, when they do their redistricting, to set their districts. If their information is bad, it's going to be bad in our system. We're like the postmaster, you know? We collect the mail and we send it up. We don't know what's inside the envelope.

MR. BEVILL: Okay. But as a citizen of the county, I'm hearing all this. But is there a solution in sight is what I'm looking for?

SECRETARY KEMP: You're gonna have to go back home to get that solution. This board can't -- we can't hire who's doing the work in the elections. That's something the local government -- you know, the counties and cities run those elections and that's where the rubber meets the road. We have done everything we can to try to work with Hancock County to fix that redistricting problem once we were aware of what happened. But there's really nothing we can do about it. We can't go down there and do that work for 159 counties.

MR. BEVILL: I understand. Thank you.

SECRETARY KEMP: Thank you for being here. Yes, sir.

MR. HILL: Good evening. My name is Johnny Hill. I'm Aretha's husband.

SECRETARY KEMP: What's your address there, Mr. Johnny?

MR. HILL: 377 Hancock Street, Sparta, Georgia 31087.

As you noted, I don't know if there's any animosity between Ms. Stephens and the voters registration. But I don't know what needs to be done, but something needs to be done. You're saying it may have to be handled by the local government. Something has to be done. I don't see how anybody can get anything done in that office with Ms. Stephens. I just don't -- I don't understand how anybody get anything done. If this is her first time here, I'm quite sure it won't be the last. She's put things in the paper; she's did -- if you name it, pretty much she has done it.

I don't know where it goes from here or should be handled on the local level. But I thought since I was here and I'm talking to somebody of some importance, I should say this. Thank you.

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

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anyone else? Representative?

REPRESENTATIVE FLEMING: Mr. Chairman, members of the Board, once again, being new to this process in trying to assist Hancock County, I cannot personally speak to the several matters that were mentioned other than to say it is my intention to try to be available to help remedy going forward. So far, in my -- working with Ms. Hill and Ms. Waddell, they have expressed that same willingness to work with me to try to resolve this.

So we certainly have no objection to these being bound over to the AG's office and look forward to working with them towards a solution.

I can tell you, just as a matter of information, before, as you know, about three or four years ago, the Probate Judge of Hancock County ran the Board of Elections. And there was concern by the State legislature at that time, one of which happened to be (unintelligible), that as many counties were moving to a board of elections it might be better to do that in Hancock County. And so the legislature did create a board of elections of five members: two appointed by the Democratic party; two by the Republican party; and the third, chairperson, appointed by the Chief Superior Court Judge in the judicial circuit.

So although, of course, the county commissioners and the city, to some extent, have to fund the board of elections, the commissioners have agreed in this occasion to provide (unintelligible) and

try to assist. They don't have any direct control over them, with the exception of the two parties the Chief Judge. Once those members have taken office, of course, they cannot be removed from office (unintelligible) member of the board of elections unless the Chief Judge finds due cause, which, as you know, is a very high standard. It's almost intentional wrongdoing, rather than just a (unintelligible). That matter actually will be brought before the Chief Judge of the circuit in the near future. And I am working on that case, as well.

So, once again, my hope is through this process with the AG's office, through the willingness of the members to work with me, and also through the Chief Judge's interaction, we will begin to resolve some of these issues going forward and come see you a whole lot less.

SECRETARY KEMP: All right. Any questions for Representative Fleming?

MR. McIVER: Representative Fleming, would you object if we were to bind this matter over?

REPRESENTATIVE FLEMING: No, sir. I would not.

SECRETARY KEMP: Anyone else wishing to speak?

UNIDENTIFIED MALE: I do.

SECRETARY KEMP: Come on up, sir.

MR. PERKINS: My name is Charles Perkins. I live at 325 Jamesway Drive, Sparta, Georgia 31087.

I wasn't going to say anything. I just wanted to come and observe and learn something. I was one of the original members of the Board of Elections and Registration. And I went to Kennesaw State and learned it was very complicated. The election process is a lot more complicated. But this gentleman just spoke about problems and we need some help outside. We do.

If you do not do something to correct the problems with this Board of Elections and Registration -- I don't know what you can do -- but if you don't, it's never going to get fixed. It's not going to be fixed locally; it's not going to get fixed by a hearing. It's going to take somebody at the State level. I have observed, as a member, unethical behavior; potential, if not illegal, behavior, in the hiring process and in the meetings and the voting process that goes on.

So there's been a lot of stuff -- the least thing I can say about this board when I was on it, it was totally unethical and dysfunctional. The worst is they violated election codes, and probably some labor laws. I'm not a lawyer. I can't tell you that. But just as a layperson who was on the board trying to do a good job, it was so bad that I had to resign because I didn't want to go to jail based on what they were doing. So that's the reason I resigned from this board.

And I plead with you as a citizen, a taxpayer, a Veteran, to do something to fix this Board of Elections or it's going to go away; we're not have going to have it. It is not going to stay like it is right now. It will just continue to fester and fester and if you don't help us, we're just kind of lost. So I'm just pleading as a citizen and taxpayer and a voter. Thank you.

SECRETARY KEMP: Any questions for Mr. Perkins?

(Whereupon, there was no response)

SECRETARY KEMP: Thank you. Anybody else?

(Whereupon, there was no response)

SECRETARY KEMP: Any other discussion on the Board or a motion? We have a recommendation to bind over.

MS. SULLIVAN: So moved.

MR. WORLEY: Second.

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

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

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

Mr. Harvey, we're on the last one, right?

MR. HARVEY: Yes, sir. 2012, 167.

This was a complaint filed by Ms. Nancy Stephens on November 11, 2012. The allegations she made were, again, she found the DRE's left unsecured in the storage room; that the oaths of custodians and deputy custodians of the DRE were not properly completed; that DRE election supplies were unsecured in trucks and vans in the parking lot; that the Hancock County Board of Elections and Registration failed to keep a log of the file -- log on file listing personnel who had access to the room where the DRE's are stored; some voters were placed in the wrong districts; that a voter went to vote and found he had been transferred to another county; and that someone complained that a person was allegedly handing out marked sample ballots in the parking lot telling people how to vote on election day.

Again, as regarding the DRE's being unsecured, that violation was sustained. There were DRE's that were in a storage room and the locks had been cut, allegedly because Ms. Hill had misplaced the key and couldn't find them. So they had to cut the chains or the cord that bound them.

As far as DRE's being unsecured in trucks, I believe they were in the process of being moved and there may have been moments or two when somebody taking one out to a truck had to come back and leave it unattended in a vehicle. I don't know if that's -- the Board wants to get that specific in the unattended portion. But there were some that were unattended in a storage room.

The second allegation, and this is, I think, serious and maybe telling about some of the animosity on the board, the oath of custodians and deputy custodians that Ms. Hill provided had been altered. It appeared that she had simply taken the oaths that had been signed in August and whited out the date, and then put the November date on top of them. And she at first said she couldn't find them. Eventually, she acknowledged to Investigator Archie that she used the altered copy and just changed the date. I think this is an example of something that breeds significant distrust among board members.

Allegation 4 showed they did not keep a log on file listing personnel that had access to the storage room where DRE's and accessories were secured. Again, I think Ms. Stephens, as diligent as she is with DRE security, I think the consistent failure to take care of these little items causes some of these things to be aggravated.

And, again, and this may be what Mr. Bevill was referring to. We did get a letter from Lake St. Clair Property Owners Association regarding this election. And, again, there were -- street files were not fully updated and there were voters that were getting the wrong precinct card. So a voter who had been voting at Precinct 1, which is a mile from the house, were now getting precinct cards that said they'd have to vote in Precinct 20, which was 25 miles away. And, again, it was a result of that street file on that day that had not been currently maintained.

They were having difficulty with auto precincting, which is the process by which they assigned voters to their districts automatically. Again, if the data is not good, street files aren't good, then auto precincting would be about as helpful as putting the balls in a bingo thing and letting them go round and round.

They also -- Hancock also did not have a current map. They've not had a map since 1994 that showed their actual districts. They came and they were able to get maps from the apportionment office.

Given the allegation, and given the nature the allegation, I would point out that this is the second case in a year, maybe two years, where there have been allegations documents have been altered in Hancock County elections.

In Macon, Judge Rice, this was, I think, last year, on the L&A testing, I think had been altered after they'd been given to us to appear it had been signed on time. This is another case where documents appear to have been altered to create a false impression.

And while individual actions might not be that -- on the surface may not seem that egregious, the custodian oath was altered. I think the willingness and the apparent ease with which that is done is -- may be evident of some significant issues that need to be dealt with.

So I recommend this case be bound over to the AG's office on the list of charges.

SECRETARY KEMP: Do we have any idea who altered the oath?

MR. HARVEY: Ms. Hill.

SECRETARY KEMP: And could you just, before we get into discussion on this case, when you look back at all these cases with Hancock that we've had, what different election cycles were these happening on?

MR. HARVEY: I'm sorry?

SECRETARY KEMP: The different election cycles? We've got some of the same allegations that we just heard for different elections.

MR. HARVEY: One was a primary, one was a -- the last two cases involved the primary in 2012 and then general 2012. So they were only five months apart.

SECRETARY KEMP: Haven't we visited these issues before --

MR. HARVEY: Yes, sir.

SECRETARY KEMP: -- in Hancock County, maybe when Judge Rice was --

MR. HARVEY: L&A testing has been a perennial issue. Either it's not advertised or it's not done completely or the documentation is not done completely. There seems to be a pernicious lack of attention to detail. I believe Ms. Stephens used to work for the IRS. And at the risk of putting myself in the IRS' crosshairs, I think she's very much a stickler for detail, and I think that's -- again, we're sort of talking about a perfect storm situation where you have an office seems to fly by the seat of their pants, and you've got somebody watching over them that knows the election code backwards and forward and will catch everything that goes on. It makes the election folks feel like they are being persecuted, and I believe it probably makes Ms. Stephens feel like she's being ignored. And it's where we are today.

I've spoken to Mr. Bevill several times. I went out to Mr. Bevill's house in July; I've spoken to Mr. Perkins before. And Mr. McIver certainly has been here longer than anybody. 2008 had numerous cases of people voting from places that weren't their own in Hancock County. And that was under Judge Rice; that's not the current folks, although some of the current people are still working in elections.

As you said, the Board has limited authority to make changes. But I think people are hoping this is sort of a breakthrough moment for people to come together and decide elections properly.

SECRETARY KEMP: Any questions for Mr. Harvey?

(Whereupon, there was no response)

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

MR. YOUMANS: James, Jim, Youmans, 256 Maiden Lane, Sparta, Georgia 31087.

What I would like to -- I guess ask a question. I've read Senate Bill 173, our founding document, and I'm real familiar with the Georgia election code, 21-2. But I can't find any real description -- we don't even have a good functioning set of bylaws for our board. We do we do have a functioning set that we were trying to work on. But work got suspended on that because we're a five-member board, but we are passing motions and doing actions of the board with only two-member votes. In other words, we establish a quorum and perhaps only three members are there. Senate bill 173 specifically states action shall be by the majority of the members of the board. It does not say majority of members of the quorum.

We have asked Representative Fleming for an opinion on that. We basically didn't get one. And it's before the Attorney General that that was a violation of open meetings, Title 50 kind of stuff. So we can't -- we're pretty helpless right now.

SECRETARY KEMP: Let me just stop you for a minute. I don't want us getting off on a tangent on something the Board has no jurisdiction on. Mr. Willard, we wouldn't have jurisdiction over that issue as far as the board voting in violation of State law. That would be more of the AG's investigation, wouldn't it?

MR. WILLARD: Actually, what he is describing is sort of -- you would have to bring some sort of action to enjoin the board from taking any legal action. That would be a private citizen's cause of action.

The open meetings violations, yes; our office could handle. But in terms of the board acting contrary to what their action was, that would be a private cause of action.

SECRETARY KEMP: In local court?

MR. WILLARD: Yes, sir.

SECRETARY KEMP: So State Election Board would not have any --

It's not that we're not interested in hearing that. But for the sake of time, I'm trying to keep on to the case at hand.

MR. YOUNG: If I do have some knowledge, then, of the election code and our founding document, I just would like some guidance, please. Do we -- is there some kind of a tradition or knowledge that members of boards of election and registration have unfettered access to their office? Can I just go in there and ask for a copy, look at an absentee ballot log? Do I have to pay for copies?

SECRETARY KEMP: Mr. Harvey, do you have an answer for that? I know we've dealt with that.

MR. HARVEY: The Board of Elections is the superintendent for the county. So as a body, you are the elections superintendent. Now, does every individual board member have that same authority? I don't know. That might be a question --

MR. YOUMANS: I'm just looking for unfettered access. So if action by the board is required, then if I can get a majority of members of the board to do some action, then I can feel like it's been done.

If we are not allowed unfettered access as individuals, not as the collection, the board proper, if we can't go in here and dig around -- and I don't care how much animosity it creates; somebody's got to oversee these wrongdoings to get them corrected. Without that physical execution of oversight, we can't really do our jobs. If we're going to be hamstrung by only having a majority, excuse me, quorum, and then all march ourselves down there, that's not going to work.

I'm real concerned with the open records laws where board members are being charged for copies of things. When they would be highly (unintelligible) to possibly getting action by the board, or bringing complaints up to your level.

SECRETARY KEMP: I can speak for the State Election Board. If any of these board members wanted documents on any of our cases, I guarantee they'd get it.

MR. YOUMANS: Would they have to pay?

SECRETARY KEMP: No, sir.

MR. YOUMANS: Now, let me ask this. Under the open meetings open records law, you can be charged 25 cents a copy. After the first hour time it takes to do a copy, you can be charged a labor rate, typically \$8 an hour; somewhere close to minimum wage. However, under -- in 21-2, there is a section that states actual costs should be applied in the neighborhood of 10 cents a copy. So we're being charged 25 cents a copy and labor.

SECRETARY KEMP: If I was on the elections board I wouldn't pay anything to get documents.

MR. YOUMANS: And then have to file an open records request to get it. I definitely hope there is some feedback in having people say that can happen.

SECRETARY KEMP: This board of the Secretary of State's office cannot give you legal advice. We are not your lawyer, and don't take that the wrong way. That's just not something we can do. You're asking us questions I would think Mr. Willard would probably tell us not to answer. Those are things you're going to have to probably talk to an attorney about or take action Mr. Willard described earlier.

Anything else, Mr. Youmans?

MR. YOUMANS: No, sir. Thank you very much.

SECRETARY KEMP: Anyone else wishing to speak? Let me let Ms. Stephens speak real quick, and then we'll come back.

MS. STEPHENS: I've been looking into elections since 2004. Almost every election I've either helped the candidates or myself make copies of all the documents and gone through and found problems. So when I had a chance get on the board, I thought, great. Now we can start having some legal elections.

But when I try to work with our staff and work with other board members, what I'm running into is the majority of board members wanting to keep the elections the way they've always been in the county, and that's been illegal. If that's animosity, then that's just it. I just want legal elections.

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

(Whereupon, there was no response)

SECRETARY KEMP: Anyone else wishing to speak?

MS. HILL: My name is Aretha Hill. I live at 377 Hancock Street, Sparta, Georgia 31087. My position is elections supervisor in Hancock County.

I just want to comment on the oath form that appeared to be altered. Those form was not altered. What I did, I got some form that had been used, copied them -- attempt to clear the form so that I could use the form for my new custodian to sign off on.

In the meantime, I found some original forms and I let them sign off. So it was not an intention to offer those old form from a previous election.

Also, according to -- the DRE machine left unattended, they was not unattended, sir. The DRE machine was not in the courtroom overnight. They were brought downstairs the morning of about 8 o'clock. They was not -- Ms. Stephens said they was unattended. As Ms. Stephens was entering into the courtroom, I was entering out the courtroom to answer the telephone. My techs were there; I had a custodian at the door. So the machines were not unattended. I just wanted to make that clear.

And Mr. Youmans speaking about the 25 cents, we had a citizen come in wanting to purchase an elector list. And I was charging them 25 cents a page. And I did write something to the board asking their approval, which they have not approved.

I'm not trying to change laws or anything. That's all I had to say.

SECRETARY KEMP: Any questions for Ms. Hill?

(Whereupon, there was no response)

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

(Whereupon, there was no response)

SECRETARY KEMP: Any other discussion from the Board? We've got a recommendation to bind over the board; Ms. Waddell, the chair of the board; and Ms. Hill, elections superintendent. Is that correct, Mr. Harvey?

MR. HARVEY: Yes, sir.

SECRETARY KEMP: Do we have a motion?

MR. SIMPSON: So moved.

MR. McIVER: Second.

SECRETARY KEMP: We have a motion by Mr. Simpson, second by Mr. McIver. Any other discussion?

Before we vote, Representative Fleming, I hope that when -- first of all, I appreciate your willingness to not fight on moving things to the AG's office. I'm hopeful that Mr. Willard and his staff can work with you to come up with some resolutions where we can get some of these issues that continue to pop up in every election, which, honestly, are very disturbing for me. I know they are for Mr. McIver and other members of the board, and certainly a lot of members of the community. There are some of these things that are very simple and easy things that every superintendent has to do as far as testing and securing equipment, and things of that nature. Unfortunately, this Board has seen this more than we should have.

And I'm not trying to take this on you because I know you're new to this job. But I do tell you that because I hope this will be an opportunity for you Mr. Willard to work together where something can be done where we are not having to deal with these issues every single election and every single cycle because it's not good. It's not good for public confidence and for having a secure process that, you know, no matter -- you been a candidate just like I have; and you've won some and lost some just like I have. And you're all right with that as long as you know you've had a fair process.

But when process isn't fair and things aren't done right, you know, it just makes you wonder and gives you a bitter taste about that. So I hope something good can come out of today's hearing and work with AG's office and I appreciate your willingness to be able to do that.

With that, we have a motion and a second to bind over. Any other discussion?

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

(Whereupon, the vote was unanimous)

SECRETARY KEMP: All opposed, same sign.

(Whereupon, there was no response)

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

That's all I've got on my agenda, Mr. Harvey. I'm not missing anything?

MR. HARVEY: No, sir.

SECRETARY KEMP: Anybody from the Board have anything? We want to, again, welcome Ms. Sullivan. You can tell by her actions today that she's going to be a very competent and welcomed addition to the Board. We're glad to have you with us.

MR. McIVER: Motion to adjourn.

SECRETARY KEMP: I will now accept Mr. McIver's motion to adjourn.

MR. WORLEY: I second.

SECRETARY KEMP: Mr. Worley seconds. Any discussion?

(Whereupon, there was no response)

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

(Whereupon, the vote was unanimous)

We are adjourned. Everybody have a safe trip home.

- - -

(Whereupon, the proceedings were concluded)

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C E R T I F I C A T E

STATE OF GEORGIA)

COUNTY OF DEKALB)

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

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

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

This the 8th day of October, 2013.

Deborah L. Merideth
Certified Court Reporter 2708
State of Georgia

SEAL