

(Whereupon, the meeting started at 10:00 a.m.)

Chairperson Handel – “All right, I’m going to go ahead and call us to order for today’s State Election Board Meeting. If we can stand and have the Pledge of Allegiance and invocation. Can we do the invocation first followed by the Pledge.

(Whereupon, Mr. Worley gave the invocation, immediately followed by the Pledge of Allegiance.)

Chairperson Handel - “And call the roll -- Randy Evans.”

Mr. Evans - “Present.”

Chairperson Handel - “David Worley.”

Mr. Worley – “Present.”

Chairperson Handel - “And I’m Karen Handel. Tex McIver did call us a little bit ago. He is hung up with an appointment. He should be here by 10:45 and I did hear from Jeff Israel two weeks ago that he was not now going to be able to make today’s meeting but we still do have a quorum. With that, I’ll start with public comment, if you will. I’ll call everyone’s name. We will ask that you keep your remarks to two minutes during the public comment time period. Rhonda, back here, is our time keeper, so you’ll be able to see her waive a card when your time is up. Our first speaker is Minnie – is it Ruf-fin or Roof-in?”

Ms. Ruffin – “Ruff-in.”

Chairperson Handel - “Ruffin, come on up and followed by Ms. Minnie will be Margaret Rice.”

Ms. Rece – “Rece.”

Chairperson Handel – “Rece, sorry.”

Ms. Ruffin: “Can I request that Garland go first, please?”

Chairperson Handel - “Okay, I guess that’s fine. All right we’re going to have Garland followed by Minnie, followed by Margaret– and if we can go ahead and get you to come on and work your way up so that we can move through everyone. ”

Mr. Favorito – “I just want to briefly mention to the board that yesterday there was a - -”

Chairperson Handel - “If you could state your name? Thank you.”

Mr. Favorito – “Garland Favorito, 220 (inaudible) Drive in Roswell, state of GA. I just wanted to mention to the board yesterday there was a brief filed in the Georgia Supreme Court involving unverifiable form of electronic voting. The key federal issue in this case is whether or not voting

is considered to be a fundamental right in the state of Georgia protected explicitly and implicitly by the United States Constitution. The Supreme Court, we believe, has already said that it is and the right to have our vote counted is as equally open to the protection as the right to put the ballot in the ballot box. The fundamental rights are subject to strict scrutiny which our current machines and procedures cannot meet for the reasons that I think I've already explained to you and to the Board. The State's witnesses have admitted under oath that these machines do not have an independent audit trail as they were required by law when they were implemented. The voting machines can swap votes without detection according to state's witnesses and the tabulation service can be altered without detection at the state and county levels, therefore they cannot prevent fraudulently manipulated votes which is a requirement of federal guidelines under which is a requirement of which they were certified. Furthermore the election system's commission ruled that no detestable form of state's requirements can be implemented to ensure the software in these machines are correct. So to conclude, we always are to do the right thing, the right thing, I think, is to replace these machines and procedures prior to the 2010 election before we get into the issues of conflict of interest. The cost of an issue can offset an entire issue and optical scanner can be (inaudible) and that would include a ballot marker for the visually impaired in every precinct. So as a result it will save us millions of dollars in additional cost. ”

Chairperson Handel – “Thank you.”

Mr. Favorito – “Thank you very much.”

Chairperson Handel – “Ms. Ruffin.”

Ms. Ruffin – “Good morning.”

Chairperson Handel – “Good morning.”

Ms. Ruffin – “I am up here to speak about unverifiable –”

Chairperson Handel – “Ms. Ruffin, would you please state your name and address for the record, please.”

Ms. Ruffin – “My name is Minnie Ruffin, I live at 157 Lyon Road, S.W., Atlanta 30331 and I came to talk about unverifiable voting and this past election, I witnessed voting flipping. I had taken two senior ladies – I'm a community organizer, so I work with the voting and I had taken two senior ladies to vote. One could not walk well so they allowed me to walk her to her voting box and I stood and watched her and I saw her vote for one candidate and when she got to push the button for the vote to go through, it had flipped to the other candidate. So these voter machines are unverifiable and they are not accurate and so I'm concerned that our voting process is one that does not ensure the accuracy that we need. And without a paper trail, there's no possible way to conduct a thorough and accurate recount of any election results. Georgia is now the only state in the Union that still expects to conduct statewide elections in 2010 on unverifiable voting equipment. The only other state that attempted to do so was Maryland and their legislators voted overwhelmingly to replace their nearly identical T-Boles, Accuboles, TS Voting Machines with optical scanners for the upcoming elections. The Attorney General of

Maryland has also filed an 8.5 million-dollar lawsuit against Diebold, which now goes by the name Premier Elections Systems.”

Chairperson Handel – “All right, thank you. Margaret Rece and then followed by Margaret will be Gloria Tatum and Aaron Rusetta and is it Bob Toxen or Tuxen?”

Mr. Toxen – “Toxen.”

Chairperson Handel – “Toxen. All right, Ms. Rece.”

Ms. Rece – “My name is Margaret Rece. I live at 461 Sherman Way in Decatur, and I’m here to talk about the voting machines as well. I’ve voted ever since I was eligible and have always felt security in the equipment that was used. It was different in those days but I was secure in it. After seeing the irregularities in the voting that have occurred in this state, and knowing that there’s no way to actually guarantee proper functioning of these machines, I think it’s unconscionable that we are still using them in this state. I’m not very proud of this state for doing this and I think we as the people need to speak up about it. We are the only state using these and they were considered obsolete when they were bought with taxpayer’s money of 54 million, which we never had a chance to actually vote on. So we had bipartisan legislation in 2006 and 2008, three in the House and one in the Senate bills delivered and none have ever made it to the voter. So I think this is something that the people have to stand up and say, we don’t want voting on these machines, they do not count our votes and register us the way we don’t vote and it’s time to do that. Thank you.”

Chairperson Handel - “Thank you, very much. Ms. Tatum.”

Ms. Tatum – “Thank you for the opportunity to speak on unverifiable electronic voting. My name is Gloria Tatum and I’m a member of the Georgia Peace and Justice Coalition. I live at 1103 Willowbie Drive in Decatur, Georgia. I do not have confidence in the voting system that cannot be verified. The current voting system can flip votes between candidates in a race without detection. This has happened to a lot of people. Our county’s databases can be fraudulently manipulated in any race without detection and in a 2006 published report, our Secretary of State, Karen Handel, stated in that report, “That electronic voting machines used in Georgia elections are obsolete and cannot be record fitted with a voter verifiable paper audit trail. We must put procedures in place to have audits of elections to verify that the electronic vote totals are accurate. The paper audit trail should be the determining factor in discrepancies in the vote and should be the ballot of record. I don’t understand why this hasn’t happened since you yourself, Secretary Handel, these are in your report, and you’re running for governor and if this is not – and we still have unverifiable electronic voting at that time, you know, how can we trust that you really won or didn’t win - - either way, it can go either way. It is not us that cast the votes but those that count the votes that controls who is elected. Who is counting our votes? D-boles, is discredited in every state in the Union, a potentially fraudulent system is counting our votes. Thank you.”

Chairperson Handel – Thank you so much. Mr. Rusetta.

Mr. Rusetta – My name is Aaron Rusetta. I've been a citizen of Georgia for 26 years. I currently reside in Decatur in DeKalb County. My professional career in Georgia has been heavily invested in computer technologies, especially those surrounding the media and internet industries where I work as a computer graphics artist and animator, a computer programmer, a systems administrator and a web developer. I've also been heavily involved in technology education including six years as an advent instructor in the computer arts and electronics program at the Atlantic College of Art. I've also have 20 years of volunteer leadership roles with computer education support communities, the Atlanta and the Atlanta enthusiast, the membership of which I am representing today. In my current roles as first contact event coordinator and webmaster for the Atlanta enthusiast, I helped lead a group of several hundred computer professionals, system engineers and industry leading IT securities specialist. Almost to a person, these members agree with my opinion that Georgia's use of zero-evidence election systems constitutes election fraud. This is a statement that can be made with impunity because any competent computer technology professional knows that the voting systems in Georgia provide no physical evidence by which that statement could be refuted. It doesn't take much professional examination of Georgia's zero-evidence and DRE and tabulation systems to conclude that during the requirements of a legitimate transparent voting process, their entirely incompetent applications of computer technology. It is immediately clear that these systems were not designed with concern for conducting verifiable elections but with the focus of removing all accountability, all responsibility and all fair-market competition from the voting systems in order to minimize risk to the vendors and maximize their tax dollar profits some of these expensive systems and establishing the expensive monopoly maintenance contracts required to sustain them. The good news is the taxpayer's investment in these systems can be easily salvaged and if you care to consult with any of our people we can do that pro bono.

Chairperson Handel - Thank you.

Mr. Rusetta – I'll be happy to talk to you about that. I have a written statement from the Confederate --

Chairperson Handel – The record will show that Mr. Rusetta gave us a copy of the written statement and our next speaker is Bob Toxen.

Mr. Toxen - Good morning, Bob Toxen, Gwinnett County, Georgia. I am a Georgia based securities computer consultant (inaudible) considered one of the top computer experts in the world. I have published and written these two (inaudible) books on computer security. I've advised President George W. Bush in 2001 on the NSA CIA Defense Intelligence Agency as a part of his National Security Presidential (inaudible) to repair breaches in computer services as well as State Election Officials got there information on voter security. My 30 - plus years of computer experience, I found that no computer is immune to bugs, computer breaches or tampering. The Diebold voting machines in Georgia has been proven to miscounting votes. In California the Secretary of State hired computer security experts in an attempt to breach security of these Diebold machines virtually identical to Georgia. These machines easy voting totals very different than the votes actually cast proving that vote tampering was easy. I've seen numerous ways that while voting with the Georgia machines I could have committed voting fraud. It's easy. The Diebold voting machines are so buggie that Diebold saw the need to do a software

repair two days before an election. Has massive voting fraud already been committed with Diebold voting machines in Georgia? We'll never know because there's no way to have a paper trail – if there's no paper trail, there's no way to audit results to see if they represent what was actually voted. This is unacceptable under Democracy. Has any other states using the Diebold voting machines has either replace this or audit them with verifiable paper ballots. Two states also filed multimillion dollar lawsuits against Diebold. The Diebold violate the U.S. Constitution's guarantee for the citizen's right to vote and have that vote counted. They also violated the Georgia Constitution requirement that voting be by secret ballot available for audit and recount. Merriam Webster's Dictionary defines the ballot as a sheet of paper used to cast a secret vote. Thank you very much.

Chairperson Handel - "All right, thank you so much. We have three more. All right, ladies and gentlemen, we have three more. This is the last call for public speakers. We're now a good sixteen minutes into the meeting and public comment is at the beginning of our meeting so if you want to speak for public comment, I need for you to speak up at the time when I call for them early on. Our next speaker is going to be Sven Lungren?"

Mr. Lungren – "Sven."

Chairperson Handel - "Thank you. Sven, thank you."

Mr. Lungren – "Thank you. Thank you for letting us speak today - -"

Chairperson Handel – "Absolutely."

Mr. Lungren – "I hope at some point it will be some response from the Board to all the comments that are being made. It's nice to have a little feedback from our officials as to how they feel and stand on these issues. I'll be very brief because you've pretty well heard the arguments at this point. I think they're pretty strong and straight forward. There's an article in the paper just today already talking about some of the discrepancies in our voting system as regards registration. But let me just simply say that we need a paper ballot or some verifiable trail other than what we've got here in Georgia that meets the ballot that's the official vote should be something that we can go back to and say, well, did this machine count it correctly or not? Regardless of what kind of machine it is, whether it's Diebold or pull lever or whatever, we've got to have some back up system so people trust the voting system and that's the basis for our whole Democracy. Thank you."

Chairperson Handel – "Thank you so much. Next, we have Lynn is it Vorbach? I'm sorry, Rene Vorbach? And then after Rene our last speaker is Gunther Ruckl."

Ms. Vorbach – "Good morning."

Chairperson Handel - "Good morning."

Ms. Vorbach – "I spoke before this Election Board quite a few years ago when Cathy Cox was our Secretary of State at the time and in my hand I had a letter from Cathy Cox to Bob U. who

was president of Diebold at that time and they were considering congratulating the fact that the state of Georgia and Diebold had a partnership in the voting machines. Then she went on to say, however, there were 26 problems with these machines and at that time I had those papers in my hand and when I was finished speaking, the attorney who was representing the Election Board asked if he could have a copy of those minutes and I did turn them over to your office. And my question now is, what was ever done with all of those problems which included votes jumping basically from Democrats to Republican. The card coming back sliced, the card that had filled up that did not have enough room on it to vote on the machine and other serious problems and never was the public told at that time – never once was the public told at that time that we had any problems at all and in the meantime all those years we were never told that those problems were fixed and that is my question that I would like the Election Board to look back at and try to fix those 26 problems that we had at the beginning and find out how many of them are fixed and as far as we are concerned with the Vote Georgia Group, we want to see a verifiable vote and we do not want to see a Diebold machine in this state at all in 159 counties and be the only state in the Union and the United States having unverifiable voting. Thank you so much.”

Chairperson Handel – “Dr. Rukle.”

Dr. Rukle – “Good morning members of the Board. Good morning. My name is Gunther Rukle. I want to apologize for my attire because right after this I have to go out working and I can’t do it in a suit. This is the second time that I spoke before this Board on this issue and it seems to me that the resistance to change a principle element in our election system does not get the hearing that I wish it to get. I remember a couple of years ago a small group of us met with Cathy Cox and I pleaded for the simplest of all systems, a piece of paper, a pencil and circles around the names and you make choices, you fold it up, and you drop it into a voting box and that’s it. At the end of the day, in front of all people you open these boxes and you count one after the other. The old-fashioned European way many countries are still doing it. Well, her answer was, in the past there have been so many fraudulent actions when we did it, when we tried doing it this way that we ruled out using that tactic. The alternative of the electronic approach, I cannot follow the path of a ballot from the author of the ballot to the counter of the ballot. This is required by law and again I would plead with you to save this bedrock of Democracy. Well, I have often heard that well, we are not living in a Democracy, we live in a Republic. I never understood that argument too much. I’m an immigrant and I have to be honest with you, there are two things in this county that prevented me from becoming a citizen. I do not assign on to the fact by the U.S. Supreme Court that money is free speech. Money can never be free speech. Never.

Chairperson Handel – “Thank you so much today.” All righty. Colleagues, I’m going to ask that we move up the Attorney General’s report because it’s pretty short while we are waiting for Mr. McIver to arrive so I will jump forward to Ms. Almond. It’s going to be Tab 22 – 23, I believe with the first one being City of Greenville.

Ms. Almond– “ This was heard by the Board at it’s last meeting – ”

Chairperson Handel – “You might want to wait for one second while we clear, until everybody stops talking so we can all hear, thank you. And if any of you all standing want to go ahead and come up and fill in the seats, please, go ahead and do so. Very good, all right.”

Ms. Almond – “This matter was heard at the last meeting and it involved numerous violations in the absentee balloting procedure at the City of Greenville , November 6th, 2007 General Election. Johnnie Owens who is the former Elections Superintendent admitted to all the violations. Ann Moreland who is still the Poll Manager involved, also admitted to one violation. At the last meeting the City agreed to pay a \$500 fine for all the violations as well as to pay for the training of Respondent Moreland in addition to a reprimand as well as a cease and desist order. The Board, after considering that countered that the City should pay instead of \$500 total, \$500 per violation and then pay the Attorney for the City of Greenville, said that he would have to consult with the Board and so he stated that he would update the Board. The other respondents, I believe - - are also here --”

Chairperson Handel – “ Step up. Do you have any other questions for the Board?
Mr. Meeker , How are you today?”

Mr. Meeker – “Good how are you.”

Chairperson Handel – “Thank you for coming back down.”

Mr. Meeker – “Sure. I understand from the last meeting there was a discussion about increasing the fine. I’ve spoken with my client and have the authority to sign the consent order at the \$500 per violation and fine for what my understanding along with the police record would be a total fine amount of a thousand dollars. Before we go over it, I would like to ask the Board for some consideration in that fine amount. I – clearly, whatever the fine is, it’s in this Board’s discretion and I recognize that and I also believe what Mr. McIver said at the last meeting in terms of uniformity in terms of your penalties and your fine amounts. I also believe there are some circumstances and occasions when some deviations from those standard fines can be inquired by the Board or at least considered. As I’ve told the Board, this is my third appearance. I can’t help what happened prior to my becoming involved in this case. I know the Board was inundated. This case was drug on for too long – along with being inundated with the people from Greenville who decided they could use this Board for whatever political purposes they were trying to make and it’s obviously the wrong place and the wrong time. Since my involvement, and I believe Ms. Almond would agree with me on this too, we’ve worked to get this matter to a conclusion, not delay it any further. When the investigative report contains admitted violations, it’s not a whole lot to debate. I understand like any other governmental entity right now that the City of Greenville is not exactly rolling in cash for a city of it’s size. A \$5000 dollar fine, is a considerable amount. I would tell the Board that any fine that is paid is obviously it’s sent a message to the City. We’re considering tonight an agreement with Meriwether County and their Board of Elections to conduct their elections this fall and hopefully after we get the plan to move it forward. These are obviously the things that could have been avoided, should have been avoided but unfortunately, were not. But I’d just ask the Board’s consideration in the final analysis stand here willing to sign a consent order as it’s been presented to the Board.”

Chairperson Handel – “All right, any comments?”

Mr. Evans – “Do you have drafted an order?”

Ms. Almond – “No it’s not in the binder you have.”

Mr. Meeker – “Mr. Evans, I have a copy – May I approach?”

Mr. Evans – “Yes, absolutely.”

Mr. Meeker - I’ve also prepared an identical one with the fine amounts left blank hoping again it gets totaled . I believe the last time I had the signed consent order Bobby Moreland and Ann Moreland voted on it and I think it was left –

Mr. Evans – “Yes, I think that’s Robert Moreland’s copy right there.”

Mr. Meeker - I should have had Ann Moreland adopted consent order - get that to you.”

Mr. Evans – “ I move that we adopt the consent order that’ s been consented?”

Chairperson Handel – “Second? “Any questions or comments?”

The Board – No response.

Chairperson Handel – “All in favor?”

The Board – “Aye.”

Chairperson Handel – “Mr. Worley, abstained.

Mr. Worley – “ I abstained.”

Chairperson Handel – “I just want to make sure since we had the three of us with the one extension, we qualify as a quorum on this –”

Ms. Almond – “Yes. ”

Chairperson Handel – “Yes, perfect.“ And please know that we very much appreciate how willing and how diligent you’ve been to work with us. Because you really have since you’ve been on Board shown a great desire to take corrective action and we stand still through our State Election’s Division we are there to help partner with you to help move things forward.”

Mr. Meeker – “And I appreciate the Board’s consideration.”

Chairperson Handel – “Yes. You’ve been great. Thank you so much. Is that your only case, Calandra?”

Ms. Almond – “Yes.”

Chairperson Handel – “All right. I do have in my binder another one, City of Jackson, but I believe that one, we are not taking up today; is that correct?”

Ms. LaGrua – “That’s correct.”

Chairperson Handel – “Is that the one we wanted to do broader notices on?”

Ms. LaGrua – “Right.”

Chairperson Handel – “Okay, for those of you in the audience, we are not taking up City of Jackson. All right. Our next case is 2006 Number 50 – Chattooga County.”

Ms. LaGrua – “Good morning Madam Chair, Members of the Board. The Chattooga County case goes back to the 2006 General Election. It involved a number of individuals but in particular the election under this Board’s attention and brought before the Secretary of State’s office was the race between State Court Judge of Chattooga County. Shortly after the election we received a complaint from an individual that had -- apparently that’s done some research in the Registrar’s Office and had come across and not – and I apologize for a misnomer in the report – the report says 19 sequential ballots, it’s actually 18 meter ballots. And these ballots were all from the same postage meter in sequential order. There was some concern about that. An investigation was launched, and in fact, we were able to verify that, in fact, there were 18 sequential ballots metered from a postage meter. We tracked back the tracking from the postage meter belonged to a Mr. Albert Palmour, an attorney, in Chattooga County. In his office was also another attorney, Carlton Vines, who is one of the subjects or Respondents in this case. I should let the Board know before I get too far, I did receive correspondence from Mr. Palmour. He asked me to let this Board know that he would not be here this morning. He’s in court and that he testified in front of the grand jury and wanted y’all to know if I could send this down. As the investigation progressed, what we found were a number of different violations in regards to this election. After reviewing all of the evidence and determining that verily likely -- the allegations involved absentee ballot fraud essentially and the using of the absentee ballot process to try and change the outcome of the election, which, in fact, it did and if I could, there are a number of different Respondents, so I’m going to break this up a little bit and address the more minor Respondents in this case before I get into the lengthy investigation. There were a number of Respondents at the Registrar’s Office and Janet Palmour in particular, that allowed the voter registration cards to be copied initially. When Mr. Wright went to look at these ballots, which would also potentially be allegations, there are also some peripheral folks, which were it not referred to in this case as runners. What we essentially found out was that Carlton Vines had a number of individuals in Chattooga County that at his bequest and on his behalf were going out and picking up absentee ballots for individuals and getting them sent to the Registrar’s Office themselves or taking them back to Carlton Vines office at which point either Carlton Vines himself who was the sitting state court judge, or was running for state court judge, or his secretary Dorothy Gilreath, would attach postage to the absentee ballot envelopes and mail them to the Registrar’s Office. There were four runners in particular that worked with Carlton Vines. There was Anthony Sparks, Sidney Johnson, Steve Chappelle and Lois Reed. And all four were interviewed during the course of our investigation and subsequently during the GBI

investigation and admitted, in fact, to at the bequest of Carlton Vines, picking up absentee ballots from individuals and either mailing them, delivering them or bringing them to his office for the affixing of -- for them to be processed. We also spoke with Dorothy Gilreath, who is the secretary of Carlton Vines who initially declined to cooperate, but ultimately did cooperate with the GBI investigation and had actually kept a list of the absentee ballots that were processed either through registration, application or ballot through Carlton Vines' office. This case was then -- when we realized the breadth of the case we asked for the Attorney General's office to be involved. Ultimately the Attorney General's Office appointed Joe Burford who is with the Prosecuting Attorney's Counsel and he is here this morning to address some of the issues that were investigated and found out after it was turned over to him. He was appointed by the Attorney General's Office to be the prosecutor in this case Prosecuting Attorney's Counsel. At that juncture it's my understanding, Mr. Burford and Prosecuting Attorney's Counsel requested the assistance of the Georgia Bureau of Investigation into this case to assist them. Their investigation goes beyond the summary you have. The summary you have was the initial summary of our investigation here in the Secretary of State's Office. We continue to cooperate with the GBI and at the direction of the Prosecuting Attorney's Counsel to assist in their investigation. The long and the short of the investigation is -- and again I'll answer any specific questions but what we found was there were the 18 sequential ballots that was run through the postage meter and Albert Palmour was actually asked by Carlton Vines to be allowed to use the postage meter in his office to affix postage to these ballots. They were on Dorothy Gilreath's list that she had there were approximately 49 names. Of those names they were either persons that, that office had participated in registering to vote in assisting them with getting their applications or absentee ballots or individuals who actually brought the ballot into the office. What Mr. Burford was able to assess after the investigation with the GBI was as follows: That Steve Chappelle had six ballots that he picked up that were on Dorothy Gilreath's list, that actually made it to the Registrar's Office. Anthony Sparks picked up, I believe, 14 ballots. Six of those ballots were part of the 18 sequential number of ballots, eight were not. All of his 14 ballots were all on the Dorothy Gilreath's list, which means there were potentially eight more ballots that were processed through that office. We can't tell you for sure whether or not they did. Lois Reed picked up 13 ballots. None of the ballots that she picked up and were ultimately counted were on Dorothy Gilreath's list. One of the ballots she picked up, and the reason we know that this happened is we talked to Ms. Helen White who said that Lois Reed picked up her ballot, and Ms. Reed admitted to picking up her ballot. That ballot was never received in the Registrar's Office and was never counted. Ms. Reed said she took some of the ballots to Carlton Vines, some were mailed and some were to a party office. So there were -- all 13 were on Dorothy Gilreath's list that Ms. Reed picked up and had processed. Sidney Johnson picked up eight ballots. None were on Dorothy's list, but eight -- all eight were of the 18 sequentially numbered. What all that means when you get down to it is that we know for certain that 22 absentee ballots went -- that were ultimately counted went through Carlton Vines' office. We also have had testimony during the trial of this case that Carlton Vines was actually delivered a number of these ballots personally. So of the 22 ballots that we know definitively went through Carlton Vines' office, we know he personally handled a number of them. We know specifically that 22 went through his office and made it to the Registrar's office and were counted. We know that one ballot that was picked up by a runner for Carlton Vines never made it and was never counted as a ballot in this race. Now, between the list of -- on Dorothy Gilreath's list 38 of the list that she kept -- the Secretary in Carlton Vines' office, kept 38 people on that list did vote by absentee ballot. So

what we know definitively as it relates to Carlton Vines' office 22 absentee ballots went through his office. There are 16 on his secretary's list that were ultimately counted and we cannot tell you definitively whether they went through his office or whether these runners delivered them directly to the Registrar's Office or mailed them themselves. As Mr. Burford and Dan Simms with the GBI got involved in this case, they approached Mr. Chappellear, Mr. Sparks, Ms. Reed and Mr. Johnson for their information as it related to Carlton Vines in this investigation. Those four individuals all cooperated with the prosecution of this case and were given criminal immunity by the prosecution for their cooperation and testimony in this case. The Registrar's Office who was also cited in this report for having allowed voter registration applications to be copied as well as for not comparing signatures appropriately with the ballots that actually came into the office and we know that because in Mr. Burford and GBI's investigation there were numerous signatures that clearly did not match. However, during the investigation and up to trial which was tried in Chattooga County in April of this year, the Registrar's Office was cooperative. In terms of the copying the voter registration application, Janet Palmour was the only one at the Registrar's Office that was present during that time. Ralph Wright was in the office, got the copies. Ms. Palmour said that she did not allow them to be copied. Mr. Wright said that he was provided with the copies which are the basis of those allegations. The case was taken to trial on charges of false swearing oath of office, possession of unlawful absentee ballots as of April. As to unlawful possession of absentee ballot, the jury hung ten to two to convict in this case in Chattooga County. It was the decision of the prosecution at that time because of a consent agreement with the Judicial Qualifications Committee not to retry the case and in exchange Carlton Vines agreed with the Judicial Qualifications Committee that he would never run for, seek or accept judicial office ever again and that's where the case has ended. In terms of Candice McCutchins, who's named a Respondent in this case, she signed a number of individual names to the absentee ballots which is the basis of those charges. Tommie Eskew signed for her sons who were out of town on their absentee ballots, not applications – signed their names at the request of – I believe it was Steve Chappellear for Carlton Vines in the case which is the basis of those allegations in the case. Dorothy Gilreath also cooperated fully in the trial of the case and was granted criminal trial immunity because of her cooperation. Albert Palmour did testify – and I'll leave questions about the level of his cooperation with Mr. Burford – but his cooperation in this case was not what you would have thought, especially for a member of the Bar that was a witness to illegal activity in this case. Before I answer any questions, I would like to just thank the GBI and the Prosecuting Attorney's Counsel for their level of work that they put into this case. There were many man hours. This was very complicated case but for their efforts, we would probably not have Carlton Vines not being a judge at any time in the future. So I'll be happy – I know I tried to make that succinct and short investigation. I'll answer and I think Mr. Burford would at like to least briefly address – I believe he's asking this body to take into consideration the cooperation of the witnesses and whatever sanctions this Board would like to --“

Chairperson Handel – “Let's hear from him directly. Mr. Burford.”

Mr. Burford – “Madam Chairman –”

Chairperson Handel – “ Good morning.”

Mr. Burford – “Board. My name is Joe Burford. I am a prosecutor for the state of Georgia. I am a Member of the Prosecuting Attorney’s Council. The Council was appointed as District Attorney Pro Tem in this case. My boss, Richard A. Malone, is actually the District Attorney (inaudible) who prosecuted him and he appointed myself and Gary Bergman, another member of the Council that did prosecute this case. We took it over and in January of 2007, I believe it was, the investigation started from the GBI’s standpoint. We asked for GBI help because of the level of secrecy that was initially expected by the county and the operation that was going on up here. GBI did the investigation a year and a half later we took this to trial. I’m pro se, I will answer any questions that the Board or Madam Chairman might have as to the criminal prosecution.

Chairperson Handel – “ Colleagues? Mr. Worley.”

Mr. Evans – “ I have a few questions had the grant of civil trial immunity does that extend to any issues that we may have?”

Mr. Burford - “ No, sir. A grant of immunity is strictly on criminal prosecution. I will say – I would like to get into that – I can do it now, or we can take the questions and go at it again – you want me to proceed now?

Mr. Evans – “Yes.”

Mr. Burford – “ We had four runners -- You have to understand the case in general. This was a conspiracy and the major problem with a conspiracy is that everybody that is involved that knows what’s going on is part of the criminal action. Therefore you don’t get a whole lot of cooperation generally. Something has to give in order to get a witness to come in and talk about the conspiracy. The conspiracy as near as we could tell was that Carlton Vines was running for the office of state court judge. He made the statement directly to Steve Chappellear that absentee ballots would be the deciding factor in this election. The absentee ballots were the deciding factor in the election. I don’t have the figures right in front of me but when the optical scanned votes and the machine votes were counted, the incumbent who was Sam Finster, won the election by approximately 150 votes. After the absentee ballots were counted Carlton Vines won the election by approximately 200 votes. Judge Payne is here, he’s the Probate Judge of Chattooga county and I’m sure he can give you the exact numbers. But that was the general situation that we walked into up there. The runners: Steve Chappellear, Anthony Sparks, Lois Reed and Sidney Johnson all cooperated fully from the very first. They never – their stories, they came in and told us what was going on. They told us exactly what they had done and what they had done with ballots and their stories never changed. They always cooperated with us 100 percent. As a result we gave them immunity from criminal prosecution for their actions in this case. What were their actions? Carlton Vines, after he had decided that absentee ballots would be the deciding factor, had the people working for him, go out and talk to anybody that was friend, neighbor, relative, anybody they knew, ask them if they were going to vote, no problem, you do that. If they said yes, they were going to vote, the runners would say, please vote for Carlton Vines. No problem, there’s no difficulty with that. If they made any kind of waiver, it became, well, have you thought about voting absentee ballot? As I understand it, there’s no problem with that. We can get you the applications for absentee ballot. They would go get applications, take them back to the people. The people, in most instances, fill them out

themselves, sign them, hand them back to the runners, the runners would either mail them or drop them off to the Registrar's Office. Then absentee ballots would be mailed out. Then the problem began. After the absentee ballots were mailed, the runners would then contact the individuals again and say, you have voted. If they had, have you mailed it. If they hadn't, we will come by and pick them up or you can drop them off at my house, we can get you stamps. They would then pick those ballots up. Some of them had stamps on them. They would take them down and mail them. That is against the Code because they are not helping somebody that is either disabled or illiterate. But the problem became when they took them back to the office of Carlton Vines. Steve Chappellear said that he actually handed ballots to Carlton Vines. The other runners said that they took them into the office. Carlton Vines' secretary, Dorothy Gilreath. Dorothy Gilreath is here today. The four runners are not. They all called and told me that they just -- you have to understand that these people are -- one's elderly, they don't have the ability or the money to get down here nor do they have the ability or the money to hire lawyers to be here for them. As a result, I told them that I would be here and I would tell the Board exactly what they had done and these runners all took ballots to Carlton Vines' office. Dorothy Gilreath, as Ms. LaGrua already told you, had a list that had names on it of people that either sent out applications, they picked up ballots, it's unclear exactly about what each one of the people did but there were 49 names on that list. Sidney Johnson could name eight people that he remembered that he picked up their ballots. He said that he picked up many more ballots than that. He couldn't remember whether he took them by Carlton Vines' office or whether he mailed them but he did one or the other. But he knew of eight. Those eight that he named were on Dorothy Gilreath's list. Tony Sparks said that he picked up 14 ballots. Of the 14 ballots that he picked up all 14 were on Dorothy Gilreath's list, the names. Steve Chappellear picked up six, all six were on Dorothy Gilreath's list; and Lois Reed picked up 13, of the 13 all 13 were on Dorothy Gilreath's list. I made a mistake -- and I apologize -- none of Sidney Johnson's people that he named were on Dorothy Gilreath's list, but all eight were part of the 18 ballots that run through the postage meter. That's where we stood. Without the testimony of the runners or without the testimony of Ms. Gilreath, prosecution probably could not have gone forward because what we had was hearsay of something's wrong with the ballots. If the complainant in this case, Mr. Wright, had not been able to look at the 18 envelopes that are stamped, we would never have known what the problem was. So this is a very strange situation and it being conspiracy, that's the only way that there is to do it is to get inside the conspiracy and then ask for witnesses. I believe that anybody that's a trial lawyer would not realize what was going on. That's the way we did it. I would ask the Board for leniency on the four runners: Mr. Johnson, Mr. Chappellear, Mr. Reed and Mr. Sparks. I would also ask leniency for Ms. Gilreath without her testimony and without her notes that she kept this would have been a very difficult case to even take to trial. As for the Board of Registrars, Ms. Palmour, Ms. Owens and Ms. Moses, they cooperated fully. They gave us whatever we needed. They explained whatever needed to be explained. I'll tell you right now, I know more about election law than I ever possibly wanted to know at this point in time that is because the people up there was trying to explain it and they were trying their best to correct a situation that was bad. That's where we are, okay, I'll ask the Board for leniency for those people. Okay, I can answer any other questions that you have, Mr. Evans -- I kind of got worse with the whole explanation but may I answer --"

Mr. Evans -- "What particularly I was zeroed in on, if I understand it, is the confirmation of immunity which is in the March 18, 2009 correspondence, it says the following: "For the truthful

testimony of information is outlined above. When reported by the State, the State agrees that you will be immune from the use by the State from your statements and testimony and from anything derived from your statements and testimony against you.” That does not appear to be limited – a limited immunity to criminal trial but instead is a use immunity where the state would be precluded from using any of your testimony or statements in any proceeding of that would appear to include us and I just was curious as to whether I’m reading it properly or correctly or not.

Mr. Burford – “ We do – the State of Georgia has only one type of immunity and that is for the testimony that you cannot use anything that is said against a person on the stand, from the stand against that individual at criminal a prosecution. That’s why I’m here asking the Board to extend this to those individuals that was not possible for us to do. We can’t fine the Board on anything.”

Mr. Evans – “Just so that I understand, your position is that the immunity that was granted in the March 18th correspondence is limited to the criminal proceedings?”

Mr. Burford – “Are you reading the Ms. Claus – excuse me – Ms. Reed’s?”

Mr. Evans – “ I’m reading the Chappellear –”

Mr. Burford – “ Oh, okay –”

Mr. Evans – “But I think it’s the same paragraph in every single letter -- and it appeared to me when I read these materials that that immunity was a general use immunity and I was concerned if that immunity would preclude the Attorney General’s Office from using any of those statements in a proceeding by this Board against the individuals? You’re saying that is not the case?”

Mr. Burford – “That is not the case. If they were to attempt to criminally prosecute under any of the criminal statutes in the Election Code then that would preclude it but as far as a civil proceedings which is what this Board is involved, they cannot. That does not extend to civil.”

Mr. Evans – “In the plea bargain or deal that was struck with Judge Vines, is there any preclusive effect that extends to us?”

Mr. Burford – “No, sir. ”

Mr. Evans - “As to whatever boundaries are?”

Mr. Burford - “No, sir.”

Mr. Evans – “ Is that documented in any way other than just simply his resolution of the Judicial Qualification’s Commission Docket Number A-15?”

Mr. Burford – “Yes, that’s right.”

Mr. Evans – “But is there a documentation -- I mean is there any record of an agreement between the District Attorney or between you and Mr. Vines that would indicate that it operates as resolution of the other --”

Mr. Burford – “Yes, sir. I thought that, that was part of the packet that you all got.

Mr. Evans – “ Maybe I just --”

Mr. Burford – “Can I have just a moment, please -- ”

Mr. Evans – “ Sure.”

Mr. Burford – “ Yes, I think I understand your question. Now the documentation was through the motion to the Noelle pros and is filed with the County Clerk in Chattooga County and all that states is that we would Noelle pros the indictment if one defendant entered into a consent order with the Judicial Qualifications Commission resolving all issues with that Commission and that issue being filed as Enri -- inquiry concerning Carlton S. Vines, Docket Number 08-15. Defendant Carlton Vines will resign his position as State Court Judge effective May 1, 2009. He did that. Defendant will provide acknowledgement that the governor has accepted defendant’s resignation. That has been done. You have a copy of that? The defendant will publicly announce his resignation from the position of State Court Judge. And that was done through his attorneys about three days following the Noelle pros and that’s all that was involved with the Noelle pros.”

Mr. Evans – “So does the Noelle pros have a double jeopardy preclusive effect as to any proceedings by us? ”

Mr. Burford – “No, sir, it does not. Your proceedings are civil and Noelle pros is strictly criminal.”

Mr. Evans – “What concerns me about that – I guess we’ll take that up in discussion is that in the event that a penalty is impose other civil remedies that are available to us. We have had occasions where defendants have said that you are precluded from any criminal penalties or punishments that are authorized under the statutes and I’m trying to make sure because I know that Mr. Vines is heavily lawyered in this case and you’re a lawyer and I think you’re very good -- making sure we have a record here on the minutes that reflect the exact boundaries that you as the prosecuting attorney agree. Madam Chair, we would need to get a copy of the Noelle Pros in the minutes here. So I don’t know if we have a copy or we can get those. I was confused a little bit because I know in our Board meetings -- ”

Chairperson Handle – “It’s in the packet.”

Mr. Evans – “Just point me to it.”

Mr. Burford – “ I’m told you can get it. I’ll have a copy.”

Ms. LaGrua – “I apologize, I’ll find it.”

Chairperson Handel – “When you get it, will you let me have it.”

Ms. LaGrua - “Yes.”

Mr. Burford – “I have a copy, I’ll make copies of it.”

Chairperson Handel – “ We’ll get some made before you straight away. That’ll be great. We’ll have it all ready to go. “

Mr. Burford – “I’m sorry, Mr. Evans, go ahead.”

Mr. Evans – “Not a problem. All I’m trying to do is that we eliminate as much wiggle room as we can -- I was confused about one thing I heard you refer to and I know was referred to in the Board Minutes as we’ve taken up this case on a couple of occasions and that is the idea of a level of secrecy and I didn’t quite understand what was so confidential about the facts and circumstances surrounding these events?”

Mr. Burford – “ Well, what you have is an attorney, board certified attorney, judge, he has been judge of the State Court up there for – either four or five terms. I don’t remember exactly which and then he resigns his position in order to take a position as Solicitor. That didn’t work. So he was running again for State Court judge as the challenger. That’s what happened in 2006. You have a State Court judge, a past State Court judge and an attorney telling laypeople to go out and do this, no problems. That’s fine. So they go do it. When the information started to leak out, I cannot prove it – I will never say who gave me the information, but it came back that there was – wait a minute, circle the wagons, and that’s typically what happens in a conspiracy. If Ms. LaGrua and I decide that we’re going to defraud this Board, neither one of us is going to come in here and say, Oh, by the way, we defrauded the Board. Well, the runners didn’t do that, nor did Ms. Gilreath. They said, huh-huh, wait a minute, we did something illegal. We’re not going to complicate it by lying about it and they cooperated.”

Mr. Evans – “I hear you. But what I’m confused about is that we would afford a greater level of protection and secrecy to someone simply because they’re a lawyer? I don’t --”

Mr. Burford – “ I didn’t say that we would. I think that was all done on past association, past work that they had done for him. The Democratic Party is extremely strong in Chattooga County. All of the runners are registered Democrats. They have all done work for the Democratic Party up there, as well as, the individual candidates. Those candidates being Carlton Vines. Carlton Vines is a life-long resident of Chattooga County – probably knows everybody in the county to begin with and these people were doing it because it was one, they wanted to see him elected and two, that they worked for him before. His secretary had been a secretary for quite a number of years and—if you walk out -- if somebody walks into you who is a judge and says, look, I need you to do this and I’m sure nobody is going to look up and say, is that legal? I mean, he’s supposed to know the law.”

Mr. Evans – “I mean, I hear you and we’ll talk about it in the discussion. It is what makes me not very acquiescent in excepting that we should in any way you know treat this other than a case in which a judge and a lawyer had at least 18 ballots that were sequentially numbered and stamped through his postage meter pursuant to conspiracy violating election laws.

Mr. Burford – “I’m not asking you to --”

Mr. Evans – “No, I’m not. What I don’t understand is that I noticed that I could only notice throughout handling of the case, that there is a very hands off, gingerly secrecy, we need to be very protective of this. This particular defendant was treated in a way far differently than any other member of this audience had been caught with 18 ballots, they’d been – if any person in this audience had been caught with 18 ballots had been run through their private postage meter in violation of the election laws, everybody in this room would have been run up and yet consistently throughout the handling of this case, it has been, oh, we can’t talk about it, we have to be very secretive. I heard the word secrecy in the minutes or reflect the word level of secrecy and what I don’t understand is why? This is a particularly -- this is a particularly troublesome case in terms of the implications for the variety the voracity of elections. I don’t understand why that is?”

Mr. Burford – “I apologize, Mr. Evans, but maybe I’m confused. The secrecy was in the initial use of the runners to go out and gather ballots. Once, the investigation started there was no secrecy. I do not believe that the prosecution in this case has ever said that there was secrecy once the case began or once -- other than we were to go out and tell what we were finding. What we were finding in our investigation until we actually charged and went into court, and once in court there was no secrecy. What I believe that probably I didn’t explain it well. The secrecy that I was talking about is when you have conspiracy, everybody is in it is doing the illegal act. Therefore, you’ve got to get somebody inside that illegal act to come forward and say the illegal act is being done. That’s exactly what all the runners did once this hit -- as we say hit the fan.”

Mr. Evans – “Uh-huh. ”

Mr. Burford – “The runners went, wait a minute, we’re not going to complicate this. We’re going to tell what we did. Ms. Gilreath did the exact same thing. ”

Mr. Evans – “So whose law office was this?”

Mr. Burford – “Albert Palmour has a law office that was down the street and across the street from the post office. It was Albert Palmour’s law office. The testimony that Mr. Palmour gave was that Carlton Vines walked into his office and said, I have got a bunch of ballots here that somebody left in my office. I want to put postage on it. Can you give me some stamps at which point, yes I’ll give you some stamps, we can use a postage meter, you’re welcome to use the postage meter. Had one of his girls run it through the postage meter and Carlton Vines took them and left.”

Mr. Evans – “Did Mr. Vines pay Mr. Palmour for the amount of the postage?”

Mr. Burford – “Do not know. It was never brought up and it was never stated one way or the other.”

Mr. Evans – “Do any other attorneys share that office? ”

Mr. Burford – “Yes. I think it’s Tim --”

Ms. LaGrua – “Perry.”

Mr. Burford – “ – Perry ? Tim Perry, who is currently the Solicitor for Chattooga County? That is - - it is shared space, only. They are not a law firm.”

Mr. Evans – “Do they share the postage meter?”

Mr. Burford – “Do not know. – I do not believe so because the testimony for Pitney Boles was the meter was that of Albert Palmour.”

Mr. Evans – “ Just make sure I understand, the criminal trial immunity that was extended to the individual runners in your opinion and as to one of the parties to agreement does not extend to a protection against any violations that we may find?

Mr. Burford – “No, sir --”

Mr. Evans – “Right? ”

Mr. Burford – “—I do not believe that we can fine this Board, that’s why I’m here.”

Mr. Evans – “ The Noelle Pros agreement with Vines does not operate in any way to preclude any actions by the Board for violations? ”

Mr. Burford – “The only thing that Noelle pros agreement was that we would, Noelle pros the criminal prosecution if he were to perform the four acts to which I referred.”

Mr. Evans – “That’s all the questions I have at this time. ”

Chairperson Handel – “All right, Mr. Worley”

Mr. Worley – “ I just got a few questions. There are a number of people who are named in the -- in Ms. LaGrua’s and Mr. McBrayer’s report and I just want to go through some of these people, Candice McCutchins, did you have any immunity agreement with her?”

Mr. Burford – “No sir, -- excuse me, my notes, but no, we do not.”

Mr. Worley – “Tommie Cheryl Eschew, did you have any agreement immunity agreement with him.”

Mr. Burford – “No, sir, we did not. I will say that she cooperated fully when we went in to talk to her. Alfredo with the GBI told us what exactly what had happened up there.”

Mr. Worley – “And I wanted to follow up on what Mr. Evans had asked about Mr. Palmour, our report, the Inspector General’s report says, ““the facts indicate that Albert Palmour may have violated O.C.G.A. 21-2-574 by having in his possession outside the polling place 19 additional absentee voting ballots for the purposes of affixing postage with the postage meter registered in his name and the outer absentee ballot for mailing. Mr. Palmour sent us a letter citing a provision of the State Code or the Administrative Code – the Regulation Board, Rules and Regulations that the Board operates under that it is not a violation to provide postage, from your investigation, from your knowledge, what evidence is there that Mr. Palmour took possession of ballots?”

Mr. Burford – “ I’m going to have to explain that, if I may?”

Mr. Worley – “ Sure.”

Mr. Burford – “When the first investigation started it was through the Secretary of State’s Office, and Steve McBrayer was the investigator. When Steve went up to talk to Albert Palmour , Albert Palmour stonewalled, I guess is the best way to put it, and said, I won’t talk to anybody until there is some kind of charge. Therefore we knew that the – I shouldn’t say we – I wasn’t in it at that point – at that point in time the only thing that the investigator knew was that the 18 ballots had gone through Albert Palmour’s postage meter which he had confirmed though the post office and that they had come though Carlton Vines’ office. So there was no information as to whether Albert Palmour took physical possession of them or what had happened in that office. We served Albert Palmour with a subpoena for grand jury and Albert Palmour responded to that subpoena. He did cite 18 –19-1-3 -- I’m sorry 183-1-19-01 as that all he did was provide postage. His story remained the same. He was served a subpoena and he testified at the trial and his testimony was that Carlton Vines brought them in. He said I would like to get some stamps, as I told you before – and all he did was say, you know, Susie – one of the young ladies that worked for him, please run these through the postage meter. And so, there was nothing that said that there was any actual possession of those ballots by Albert Palmour.”

Mr. Worley – “Was that confirmed by the secretary or by Mr. Vines?”

Mr. Burford – “ Nobody else in that office would talk to us and the only side of that story comes from Albert Palmour.”

Mr. Worley – “ So you’re not aware of any evidence that would indicate -- ”

Mr. Burford – “No evidence that says that he was physically in possession of those ballots.”

Chairperson Handel – “Any questions, Mr. McIver? ”

Mr. McIver – “ No, not at this time.”

Chairperson Handel – “ Rebuttal?”

Mr. Evans – “ Madam Chairman, follow up.”

Chairperson Handel – “All right.”

Mr. Evans – “ I just want to make sure I understand here, so if the indictment charges Mr. Vines with violation of 21-2-574 and that has been Noelle Pros and we charged him with 21-2-574, it’s your position that there’s no preclusive effect?”

Mr. Burford – “Well, it’s my understanding that the only thing that the Board can do is fine or sanction. Am I incorrect in that? Neither of which would be considered a criminal penalty. ”

Mr. Evans – “ Well I – Madam Chair – maybe we should direct that to the AG’s Office. Because I think that’s -- What worries me is the parallel which is that we will assert that there has been a violation of 21-2-574; 21-2-603; 21-2-132 – those are the exact statutes which were mentioned in the indictment and we’ll basically be issuing a notice of violation that parallels language in that indictment that has been Noelle Pros. And if that is going to create a defacto infirmity, because I don’t want –I don’t want this guy to get off the hook with having led a conspiracy to commit election fraud and laugh at me. I want to make sure we get this right and the last thing I want to do is basically move into the lawyer’s will house and say that’s exactly the thing to say. ”

Chairperson Handel – “Do you have an opinion there?”

Ms. LaGrua – “ I don’t have the immunity agreement but as long as the immunity is limited to criminal violation -- this affects the Board civilly -- there should be two separate proceedings and I’m aware of no difficulty with that.

Chairperson Handel – “ I just want to make sure because we got several cases that we have referred over for criminal prosecution that then eventually be coming back and certainly as we do that we want to make sure certainly for this one -- State Election’s Board Member, I’m not willing to abdicate our role in levying fines and sanctions. So it’s always been my understand that’s a dual path.”

Ms. LaGrua – “Yes. There’s no difficulty with that part. That should be no problem with that going forward so that we do our part so that there’s no – difficulty with that part. There should be no problem with that.

Chairperson Handel – “ Perhaps we could, Mr. Evans consider referring this over with some guidelines around it pending them taking a specific look at that issue. ”

Mr. Evans – “I think at a minimum my inclination is to make sure that in the -- in the notice that it’s issued with regards to Carlton Vines that the list of violations extend beyond those that are listed in the indictment. ”

Chairperson Handel – “ Oh, absolutely.”

Mr. Evans – “But we don’t have the proposed document here that we have references 21-2-385 but does not reference 21-2-574 ; or -- 603; or – 132 and so what -- the only reason I’m very sensitive to all this is because you know so far as you would expect by someone who is well-versed in the law and well-represented. There’s been a very careful navigation to avoid the consequences of deliberate conduct. And so we have to be equally deliberate and equally cautious in preparing ours in anticipation of effective lawyering to basically allow someone to escape the consequences of their conduct. So I want us to -- I would recommend, Madam Chair, that we, that we , in fact, have the Inspector General or the Attorney General’s Office we’re both working together prepare for us a draft notice – a notice of violations which we can then make sure that we have contemplated and considered the legal maneuvering that we know will come and we have crafted this in a way which permits the least amount of maneuvering so that in my opinion we’re in a position that in the event if a determination of guilt is found, we can impose \$5000 for every single ballot. ”

Chairperson Handel – “Okay, is that your motion for all of that or do you want to take each of the individuals separately?”

Mr. Evans – “I would like to -- ”

Chairperson Handel – “I would like to see it for all of them, personally, and then we can make a determination.”

Mr. Evans – “I completely agree with you because I am very sensitive to this – I think that we will need their cooperation – we will continue to need their cooperation in the context of our prosecution on behalf of this and as a result, it may be that if we need to contemplate similar use immunities that is associated with our agreement to help, with this we can’t, we can’t fiddle around with this. ”

Chairperson Handel – “So, do you want to make a motion?”

Mr. Evans – “ We can move to table, well one procedural item is I would move that we accept -- Do you have the letter? ”

Chairperson Handel - “The letter -- ”

Mr. Evans – “ Yeah. ”

Chairperson Handel - “We can get that as well, we’ve got a letter – who’s got the letter – I need a motion to enter in on Mr. Palmour’s letter as well as the motion, as well as the Exhibit A. ”

Mr. Evans – “ I would move that they all be accepted. ”

Mr. Worley – “ Second.”

Chairperson Handel - “ Motion second. All in favor?”

The Board – “Aye.”

Chairperson Handel - “ Any opposed. ”

The Board – [No response.]

Mr. Evans – “ And the reason I want to make this point, just for the purposes of the minutes, if the Palmour letter acknowledges notice of the meeting without requesting a continuance and I wanted to foreclose that procedural maneuvering that I expect that will come down the path. As to the ballots, I would move that we ask that the Attorney General’s office and the Inspector General’s office prepare for us a draft notice of violation of, you know, as to all of the various Respondents and all of the violations may be implicated by conduct that is contained. I would also ask that, that the Inspector General obtain and permit us to put in the minutes the testimony -- was the testimony transcribed?”

Mr. Burford – “Yes, it was – well it was recorded, it has not been transcribed.”

Mr. Evans – “Well I would like for us to have the minutes all available, every piece of evidence that we can have just so that we can reduce if not eliminate, you know, the legal maneuverings that we can anticipate. ”

Chairperson Handel - “And that’s in line with what we do. ”

Mr. Evans – “I completely agree. So that’s actually two motions, so the first motion is that we request the IG and the AG working together to present us with a notice of violations as to each of the Respondents.”

Chairperson Handel - “Second? ”

Mr. Worley - “ Could I -- ”

Chairperson Handel - “ Yes -- ”

Mr. Worley – “ – the Executive Code just clarify that this is not – as you’ve stated it binding it over to the AG’s office at that point we’re going to have to come back and vote on that a second time ?”

Mr. Evans – “That is correct, yes.”

Mr. Worley – “I think it would be a mistake to bind it over now – we would end up with forever litigation fencing, so. ”

Chairperson Handel - “ Do I hear a motion to second? All in favor? ”

The Board – “Aye.”

Chairperson Handel - “ Any opposed? ”

The Board – [No response.]

Mr. Evans – “And the second motion is I move that we request and obtain a copy of all of the evidence that is in your possession that can be made available may not be a part of our minutes, so if you can supply that to --”

Mr. Burford – “You know that there is a cost for transcribing that two-day trial – it was a two and a half day trial. I’m guessing a dollar a page.”

Chairperson Handel - “We’ll do this.

Mr. Burford – “Five- thousand, six- thousand dollars.

Chairperson Handel - I’ll check in if a cost estimate comes back totally exorbitant than, I’ll come back to y’all but -- this is too important to not find a way to do what we need to do. ”

Mr. Evans – “I agree because we’re looking at basically a hundred thousand dollar fine.”

Mr. Burford – “I just didn’t want the Board unaware of it.”

Chairperson Handel - “Sounds light to me compared to (inaudible) given the breadth of this one. ”

Mr. Evans – “Maybe even more, I don’t know, I can’t prejudge the case.”

Chairperson Handel - “We’ll see what the document’s say . ”

Mr. Evans – “So I so motion. ”

Chairperson Handel - “I’ve got a motion and a second, all in favor?”

The Board – “Aye.”

Chairperson Handel - “Any opposed? ”

The Board – “No response.”

Chairperson Handel - “All right, you guys clear on what we need? ”

Ms. LaGrua – “Yes, ma’am. We’ll attempt to move on that today, transcripts.”

Chairperson Handel - “Yeah, we need to try to get that done straight away.”

Mr. Burford – “ Mr. Evans, one thing I have that I have never have actually said, do you realize there’s been no adjudication of guilt?”

Mr. Evans – “I understand that and that’s why I said that I was very careful to say that presupposing the outcome obviously until we have a determination by us that there is a reason to believe that a violation has occurred, obviously a grand jury’s determination on that point will be persuasive but not to (inaudible) determination; and then second, we bind it over then a determination by administrative law judge and our determination ultimately of the facts. The only thing that I can assure you isn’t going to happen is this Board’s just not just going to go away. I don’t think the Secretary is, it’s never been her position on matters and I certainly don’t think it’s the Board’s position. ”

Mr. Burford – “ I will state to the Board to the Prosecuting Attorney Counsel will cooperate in any way necessary and we are at your disposal.”

Chairperson Handel - “Well I want to thank you for your help and assistance. We wouldn’t have been able to get this far without your involvement and support in this process.”

Mr. Burford – “ Thank you, ma’am.”

Chairperson Handel - “And I apologize for the temperature in the room. We’ve asked three times to have the GBA to turn it down but, I have a feeling that – oh yea – I have a feeling budget cuts are hitting us. My next case is 2008-Number 30. Maybe if they think they’ll sweat us out of here. We’ll have a quick meeting.”

Ms. LaGrua – “Thank you, Madam Chair, 2008-30 came out of Richmond County – Amber Ashley Ryan came out of Richmond County. There was not a particular election involved in this. Lynn Bailey actually the director of the Richmond County Board of Election Registration was the complainant. The allegations were that Amber Ryan obtained a voter identification card by using a false date of birth, falsely swore that she did not have a voter identification card and, in fact, on April 17th of ’06, Ms. Ashley -- Ms. Ryan, applied for and obtained a voter identification card using a date of birth of June 15th, of ’87. The Department of Driver Services provided paper work showing Georgia Identification Card issued by them on March 4th of ’05 to Ms. Ryan indicating a date of birth of 6-15-87. They also provided paperwork showing another Georgia Identification Card issued some four months later using the same date of birth. Finally they provided an applicant declaration form, driver’s license affidavit and Georgia driver’s license photo dated 3-27-07 with a date of birth of 6-15-07. On February 21 of 08’ she was issued a Voter’s Identification Card using a date of birth of 6-15-86. She does and the investigator’s actually here on this but we were able to verify all this. She does have prior history with the Richmond County Solicitor’s Office with criminal history and we would recommend actually that this case be forwarded to the Richmond County District Attorney’s office or Richmond County’s Solicitor’s office for prosecution.”

Chairperson Handel - “Questions or comments? ”

Mr. Evans – “I vote we bind it over. ”

Chairperson Handel - "Second?"

Mr. Worley – "Are we voting to bind it over to Richmond County or Attorney General?"

Mr. Evans – "Attorney General."

Mr. Worley – "That wasn't what --"

Chairperson Handel - "I know, so I'm going to withdraw my second. Can I just ask a question because it goes to whether or not I want to second this, did we not have another similar case sort of along these exact same lines and didn't the Board refer this to --"

Mr. Evans – " Interruption -- "

Chairperson Handel - " -- and we referred that one to Richmond DA. Do we have any status there? "

Ms. LaGrua – " Investigator Garner, were you able to investigate – Investigator Garner's the one that worked on that as well as this --"

Investigator Garner – "They didn't come in altogether – trying to track down these people and the documents and stuff has been a little difficult for myself. I e-mailed the Richmond County District Attorney last week. I have not had a response Ms. Christian Donnell is the Assistant DA of Richmond handles County Intake. I've been working with her. I have not had a response from her to report today, sorry."

Ms. LaGrua – "We've been trying to get some of the documents if you may recall, Madam Chair, the first case involved a check cashing scheme."

Chairperson Handel - "Right, right. "

Ms. LaGrua – " And that initially went to the Secret Service. We have been working to get the documents back from the Secret Service but Richmond County has indicated an interest , they've been – the Sheriff Department was working with us initially and indicated they're interested in pursuing the charges. "

Chairperson Handel – "Do we think this is related?"

Ms. LaGrua – [No response.]

Chairperson Handel – " Just separate but similar?"

Ms. LaGrua – "Probably similar though. Her prior criminal history does involve shoplifting charges which potentially involve identification in terms of refund and that kind of thing. "

Mr. Worley – “Well, I would -- do we have a pending motion?”

Chairperson Handel – “Yes, we have a motion to refer to the AG’s office. But I withdraw my second.”

Mr. Worley – “Okay, then I would make a motion then that we refer it to the Richmond County.”

Chairperson Handel – “Second.”

Mr. Evans – “I’ll be honest, I think we need to, I think we need to be very diligent and aggressively moving forward with where we know there are violations and so far in my service on the Board, the act of deferring to the criminal prosecuting authority has done little other than create enormous delay and I have come around to the idea, which I rejected when I first joined the Board, of which I now conceive the wisdom of why it in fact makes sense from the folks who had first served the Board when I joined the Board which is simultaneous, which is, you know, that’s great to coordinate, we will try to make sure we don’t step on anybody’s toes one way or the other or jeopardize our respective jurisdictions. But we need to reassure voters that we’re moving promptly.

Ms. LaGrua – “Most of the counties, I’ve spoken with, Mr. Evans, regarding criminal prosecution, unless it’s a case of the magnitude of Chattooga County, do not have any problem with this Board proceeding concurrently with criminal prosecution. I try to make it a point if the Board wants it to go criminal with the Prosecutor whether they have any problem – if whether this Board moving forward would impact negatively on their criminal proceedings. I don’t see any problem moving it forward concurrently as long as we make sure that we’re not impacting criminal prosecution.”

Mr. Evans – “Well, all I’ve gotten is I’ve heard District Attorney’s tell me that their budgets are being cut by 25 percent, they’re screaming that we can’t expect the Board for them to be pursuing basically election law violations when they have murderers and rapist and robbers and others. As a result it drops down the priority list. And what I don’t want to happen is the result of kind of just, this is one waiting on the other but nothing.”

Chairperson Handel – “What I’d like to see is certainly we don’t want something to just sit with a county DA’s office for an indefinite period, however, I think that first of all we should be consistent we have had the previous case referred to the Richmond County DA and this is of a similar nature and it’s my preference that for this one Board Member that we try to have some consistency. Secondly, if after a certain time period we can say, you know, they’ll let us know -- Do they not, if they’re not going to prosecute them -- we do keep in touch with them -- ”

Ms. LaGrua – “Yes, ma’am.”

Chairperson Handel – “So we don’t see anything moving forward then certainly we always have the option to then move forward. Mr. Worley.”

Mr. Worley – “And Ms. LaGrua, the Richmond DA is interested in moving forward with this case?”

Ms. LaGrua – “That’s correct.”

Mr. McIver – “Madam Chairman.”

Chairperson Handel – “Mr. McIver.”

Mr. McIver – “What is the complication -- I guess I can address this to my colleagues, but what is the complication of proceeding in an coordinated way with the motion on the table now seconded, it is that it be sent only to the Richmond County officials and not to the DA?”

Mr. Worley – “Well that’s the motion and my view would be that we are in a budget crisis. State employees have a lot of work to do, you know, let’s not waste time and money – send it either to the Attorney General or well, I think this case the DA because it’s a criminal matter really and I think you’re going to get an appropriate penalty – a more appropriate penalty if you refer it to the DA. ”

Mr. McIver– “Would you yield if I were to offer an amendment that it be referred both to the AG’s office and the Richmond County officials?”

Mr. Worley – “Well, it seems there are at least two votes on the Board that would want to do that, so yes.”

Mr. McIver – “Madam Chair, I would offer an amendment to the motion that a jointly referred to the Richmond County officials as identified by General LaGrua and the Attorney General’s office.”

Mr. Evans– “Second.”

Chairperson Handel – “All in favor?”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [No response.]

Chairperson Handel – “All right, our next case is 2008-76 Habersham County. ”

Ms. LaGrua – “Yes, ma’am, there are two Respondents in these cases -- ”

Chairperson Handel – “Who were the -- I’m sorry, I didn’t ask, is there anyone here to speak on the Richmond County case before we move on – I’m sorry, I didn’t ask and if I can ask yall’s

help, if there is someone here to speak on the case just kind of stand up so I'll see you. Thank you, got it, why don't you come on up? Go ahead, Shawn."

Ms. LaGrua – "There are two Respondents in this case, Madam Chair – I'm sorry Sue Bottoms was the candidate for probate judge and Ann Jarrell was the former probate judge. We have Andrea Runyon is the attorney for Ms. Bottoms and initially, she is here and would like to proceed on behalf of Ms. Bottoms. Late yesterday we got a request for a continuance from Douglas McDonald on behalf of Ms. Jarrell. I attempted to get back to Mr. McDonald let him know that I could not answer that question before I met before this Board this morning, but I was unable to get through to him yesterday. As I say we got that motion late yesterday on continuance. It's my understanding Ms. Runyon is here prepared to go forward on Ms. Bottoms but the attorney for Mr. McDonald, and I have a copy of the letter – Judge Jarrell is here, her attorney is not. I have a copy of the continuance request to this Board. So I need a little direction from the Board on how you would like to proceed."

Mr. McIver – "Have there been any previous requests for motion for extension?"

Ms. LaGrua – "Not on this particular case, Mr. McIver."

Mr. McIver – "Then I would ask the question of either Mr. Worley or Mr. Evans, do we have a relatively standing policy on how we address the first request for extension?"

Mr. Worley – "We pretty much grant them."

Mr. McIver – "That is my recall."

Chairperson Handel – "We have two Respondents on this one, we have Sue Bottoms and then Judge Jarrell; is that right? "

Ms. LaGrua – That's correct.

Chairperson Handel – " So we have Sue Bottoms is ready to go but Judge Jarrell, no?"

Ms. LaGrua – "That's correct. But I would like to let the Board know they're separate and distinct allegations, so they're not necessarily directly tied to each other."

Mr. Worley – "So they're only together because they're both from Habersham County?"

Ms. LaGrua – "Well, the complaint came in from the same individual on these two individuals though their alleged conduct is not concurrent."

Mr. Worley – "So we don't need evidence of one -- "

Ms. LaGrua – "That's correct."

Mr. Worley – " – To make the decision on the other?"

Ms. LaGrua – “Correct.”

Mr. Worley – “I would make a motion that we continue Ms. Jarrell’s matter and proceed with this one.”

Chairperson Handel – “Is there a second?”

Mr. Evans – “ I second. ”

Chairperson Handel – “Motion is seconded. All in favor.”

The Board – “Aye.”

Chairperson Handel – “All right, that’s approved, thank you.”

Ms. LaGrua – “As it relates to Sue Bottoms, the complaint came in from Beth Cantrell who is a candidate for probate judge at the time. She was complaining that Sue Bottoms who was at the time a probate court clerk was campaigning on duty for her office after she had qualified and had a vehicle in the parking lot with 150 feet marked with her campaign signs on it. Essentially what we were able to determine through our investigation is that prior to qualifying Sue Bottoms may have done some campaigning within the confines of the Office of Clerk which is there in the courthouse. We do not confirm, there was one witness that indicated they had overheard Ms. Bottoms campaigning sometime close to the election but she couldn’t be sure of the date whether it was before qualifying or after qualifying and was a supporter of Beth Cantrell the complainant in this case. However, she did have her car parked in the parking lot outside within the hundred and fifty foot rule. According to Judge Jarrell and Ms. Bottoms she removed it once she was told by the probate judge to move her car but she was still be arguably in violation of the 100-foot rule -- and I’ll leave that.”

Chairperson Handel – “But she did move it immediately?”

Ms. LaGrua – “That’s my understanding, Madam Chair.”

Chairperson Handel – “And didn’t park there?”

Ms. LaGrua – “That’s my understanding.”

Chairperson Handel – “All right, would you like to add anything?”

Ms. Runyon – “Good morning, I’m Andrea Runyon, Habersham County Attorney here on behalf of Sue Bottoms and we’re here basically to answer any questions that you all have regarding this. Sue – if you have any questions for her, she basically throws herself out to the mercy of you all as far as the car situation is concerned. She and her husband and son share vehicles and one vehicle does have magnetic signs on it and she can explain the situation about how somebody having to haul something somewhere and she didn’t realize that the magnetic

signs were on the back of the vehicle. She does not – the incident that she recalls, she doesn't recall whether it was during – when it occurred and it may have occurred before qualification and not during the absentee ballots or anything along those lines and however she did have somebody go out from the county and have them measure where the car was parked, if that, in fact was the same day the alleged violation and it was 90 feet from the building, although in the Habersham County Courthouse, you cannot enter from that location for voting purposes. You would have to go around to the front of the building which far exceeds the 150 feet. And as Ms. LaGrua said, as soon as she realized, maybe I didn't take that sign off of there, she did get up and go remove the car and I can assure this Board there was a lot of tension in the probate office during election time with the old probate judge going out and two members of the staff actually running for probate judge. So Ms. Bottoms went beyond and above trying to be very careful about handling any matters as to her election. Again you can ask her questions about that. I would like to have you all keep in mind, this is a real small town community. I just guess with Ms. Bottoms trying to recall any situations that may have even been perceived as improper campaigning during this time, in fact, she explained to me -- and she's more than agreeable to answer any questions, being a small town you walk in the door of the probate office and her office is – there's no walls between them. Everybody comes, people come in and shake her hand and say, you know, congratulations, I'm going to vote for you and all her response to me, you know, all she could do is say, thank you. I mean, she could not actually be rude in that sort of thing. So that may have been perceived of actual campaigning though, if you look at the statute, it did not say solicit. So that's where the information might provide you if you have any questions --

Chairperson Handel – “ Any questions, colleagues?”

The Board – [No response]

Chairperson Handel – “All right do you have a motion?”

Mr. Evans – “ Is the matter before us 22-2-414(a) is one of those strict liability cases which it really doesn't matter. It's kind of like running the red light or you run the stop sign, what happens? So in that regard, if the vehicle has a sign on it and it went under 150 feet of the edge of the building, we really don't have discretion on it. Where we have discretion is, what is the appropriate penalty. So I would suggest and maybe counsel could speak with her client that we find a violation with an issue of Letter of Instruction making clear that without regard as to the entrance of that building that a vehicle parked within 150 feet of any edge of the building is, in fact a violation of the statute.”

Chairperson Handel – “ So you're motion is to refer for Letter of Instruction?”

Mr. Evans – “Well, I was hoping that we could actually save the Attorney General some time and resolve it all today. Maybe they could take a break, talk to her client and see if that's agreeable with us and then we can save Cassandra from having to actually take the referral, open the file, go down the path, but I'm open to either way. It does strike me we really don't have any discretion on it. ”

Chairperson Handel – “You understand that -- ”

Ms. Runyon - “Right.”

Chairperson Handel – “-- there would be a letter from the Board?”

Ms. Runyon – “And the letter and itself would be a cease and desist and no penalty.”

Mr. Evans – “ Well the penalty would be --”

Ms. Runyon – “A cease and desist?”

Mr. Evans – “ That violation, right.”

Ms. Runyon – “And I believe we have already discussed that and that would be acceptable to Ms. Bottoms. ”

Mr. Evans – “ All right, that would be the my motion.”

Chairperson Handel – “All right motion and second.”

Mr. Worley – “ Second.”

Chairperson Handel – “Motion and second, Mr. Worley. Any questions or comments?”

The Board – [No response.]

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Ms. Runyon – “ May I ask direction from the Board? On the other matter that was continued today, I know that you can’t speak to the matter in itself but since we were named as Respondents in that when will we be removed from this action?

Ms. LaGrua – “It won’t be noticed on the next one, but we won’t remove the name from the report. It’s already a public document.”

Chairperson Handel – “But the action today will be reflected in the updated report?”

Ms. Runyon – “But we would request because it still involves Habersham County, and the reason why Judge Jarrell has separate counsel is because of a conflict of interest --

Chairperson Handel – “All right.”

Ms. Runyon – “Since she’s the prior judge of the county is still facing the bill for that.”

Chairperson Handel – “So will you like to be noticed? ”

Ms. Runyon – “ Yes.”

Chairperson Handel – “ All right. ”

Ms. Runyon – “ It does involve the county which I would like to be noticed –”

Chairperson Handel – “We can do that. Make a note of that. All right. ”

Ms. Runyon – “Thank you.”

Chairperson Handel – “The next matter is 2008 Number 78, Bibb County.”

Ms. LaGrua – “Yes, ma’am. This case involves. The November 8, 2008 General Election. The Plaintiff is Scotty Shepard a candidate for sheriff. The Respondents are: Walter Mitchum, Sidney Hinson and Raymon Wilkes allegedly working for the candidate, Mr. Modena who was also running. The allegations were a number of deputies were intimidating persons that had Scotty Shepard signs on their property. We got the names of the businesses and the witnesses which were supposed to be privy to this. They were interviewed at three different businesses that had Scotty Shepard signs, all said they had been approached by individuals requesting that they be allowed to put up signs for the other candidate, Mr. Modena, up and were allowed to do so but also they were not threatened or intimidated, in fact, one refused to give us any kind of statement at all. The others said they weren’t intimidated or threatened when they were approached by the individuals about putting up a sign for the other person. So based on the inability to substantiate any of these allegations we recommend that the case be closed.”

Chairperson Handel – “Questions?”

Ms. LaGrua – “The investigators are here.”

Chairperson Handel – “Anyone else want to speak on this matter? Is there anyone else here on this? Is Scotty Shepard here? Okay, going, going, gone. If anyone wants to speak on this. All right, questions, colleagues? No questions? Do we have a recommendation to close the case?”

Mr. McIver – “I so move.”

Chairperson Handel – “Second.” – “Anything on either of your minds?”

The Board – [No response.]

Chairperson Handel – “Any questions, comments, anyone? All right, all in favor?”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [No response.]

Chairperson Handel – “All right, thank you. The next case is 2008 Number 120, Bibb County.”

Ms. LaGrua – “This is also Bibb County November 8, 2008 General Election case. The Plaintiff in the case is Linda Evans. The Respondent is an unknown poll worker. Received allegations that a poll watcher reported that a poll worker was giving out personal information about a voter to an unidentified person leaving the polling place. The poll watcher was interviewed, could not give any details about what information was being given out. He said that a citizen approached him, the poll watcher and told him that the poll worker was giving out personal information. He couldn't give us specifics, who he told and what the information was about. We interviewed all of the poll workers as well as the Elections Supervisor and we could not substantiate the allegations. So at this time it is recommended that this case be closed.

Chairperson Handel – “ All right, questions colleagues? Do you have anyone on this case. Anyone here on this case?”

The Audience – [No response]

Chairperson Handel – “All right, I have a recommendation to close, is there a motion?”

Mr. Evans – “I so move.”

Mr. Worley – “ I second, that motion.”

Chairperson Handel – “Motion and a second. Any other questions?”

The Board – [No response.]

Chairperson Handel – “ All in favor, say aye?”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – No response.]

Chairperson Handel – “Can I ask, is this your Linda Evans?”

Mr. Evans - “Yes. She was doing the hotline that day, I think.”

Chairperson Handel – “I guess I wondered because she's just the Complainant, I mean that one was closed but I just want to make sure, if we don't have a -- I don't know what the nature of the next one's are going to be, if we have one that we need to refer we need to have a recusal on it.”

Mr. Evans – “Yeah, I know, we’re very careful. She mans the hotline and whatever is involved she’s the transmitter of the information she gets – anybody that calls in. But if you recall, we adopted last year prior to the election, I submitted a letter to the Board specifically outlining how I would separate myself from the process. The Board accepted the letter.”

Chairperson Handel – “Okay, I’m – I don’t want to make a huge issue here but it’s different if the complainant is one’s spouse. Certainly if my husband was complainant before I would recuse and I guess I won’t even get a – I’ll have the AG’s office look at it. So let’s see if we have an issue going forward but I don’t have any other ones have that but I’d like to get some kind of clarity on that because if we have a real serious case I know you would want to make sure that we could do whatever we needed to do for it.”

Mr. Evans – “Well actually there’s an open ADA opinion and their are report opinions that specifically address the spouse issue.”

Chairperson Handel – “Okay, well -- that wasn’t what I received from the AG’s office previously. So I will ask the question again and ask if I can have clarity on that matter.”

Mr. Evans – “You just Google me, you’ll see the opinions.”

The Audience – [Erupts in laughter.]

Chairperson Handel – “ All right, let’s do one more case I think he needs – 2008-Number 79 -- Please make sure the record reflects my concern on the matter – Number 2008 – Number 79, Rabun County.”

Ms. LaGrua – “This was not involving a particular election. The Complainant was Karen Lovell. The Respondents are the City of Tiger Thomas Ramey, the Mayor, and Susan Rickman, the Councilperson. The allegations are that they didn’t conduct elections in 2007 when they were required to do so. Essentially they had five elected officials, the mayor and four councilmen that served four-year terms. Their terms expired in December 2007 and they had no election until sometime in 2008.”

Chairperson Handel – “ So wait, did anyone hear from the City? What happened. We would all like to know, I hope you didn’t take any serious actions concerning that time?”

Mr. Ramey- “ We did. My name is Tom Ramey. I’m the Mayor of Tiger. I’ve been the Mayor now for 14 years and it was a very embarrassing situation. But in January 2008, we received a notice from the Elections Division that we needed to send in the qualifying fee or notice to hold an election – and let me just go back. I first got elected in 1995 and since that time, the Probate Judge of Rabun County, Judge Larry Cannon, was also the County Election Superintendent and Judge Cannon always handled any election business for Tiger, of course Rabun County and a number of other cities in the county and he always notified us and told us when to publish notices qualifying and that sort of thing. Of course, we went through three terms, or I myself did, and in 2005 Judge Cannon retired and his secretary, who is now probate judge, her name is

Lillian Garrett she got elected as the probate judge there and when we received this notice from the Election's Division to publish the qualifying notice in February, I went to the probate judge and asked her what we needed to put in the paper and she informed me that they didn't handle city elections anymore. So, during the time that Judge Cannon got retired, the county put in a new Election Board and hired an Election's Superintendent. But they also didn't do anything for any of the cities in our town. The fact that we relied on the previous Elections Superintendent for Rabun County to take care of those things, time had slipped away --"

Chairperson Handel – "Was there an agreement between the city and the county in writing – did y'all not pay them for that - -"

Mr. Ramey – "I did not know this but no, at the time there'd never been an agreement. This judge, I've been to since then – and he always told me that he took that on himself. He felt like that was a service that he could offer to the citizens of Rabun County and he did that out of his faith and he acted as the Election's Superintendent. And I have notices from the past 14 years where his name is put in as our Elections Superintendent. I always assumed that he was the man, and like I say, when he retired we didn't receive those notices because that office quit handling cities and when we found out, well, they – When I found out that they weren't handling it and I called the State Elections Division to find out what we needed to do to start getting ready for an election. This was in January of 2008. I talked to Ms. Ann Hicks and Ms. Hicks gave me the information. We – I don't know if y'all have this report that was done – from the investigator? "

Chairperson Handel – "Yeah."

Mr. Ramey – "We published the notice that was supposed to be done at that time and some, some short time after that I realized we had gone over in our election and our election was supposed to have actually been in 2007. I contacted Ann Hicks again and Ms. Hicks really didn't know what to tell me other than – I told them we needed to prepare for an election. We continued on publishing the notices throughout the year and was preparing for an election. In August when our qualification fees are to be published because we are handling this ourselves, I didn't know how to publish that in the papers. So again I called Ms. Hicks and reminded her who I was and that we were the town that forgot to have an election and she said, you know, I might ought to check on some things and called me back and told me we need to get an attorney."

Chairperson Handel – "So you had some elections in '08?"

Mr. Ramey – "So we got an attorney. We were told that we'd have to file a petition for a special election. We went through that process petitioned for a special election and that election was held in November of 2008. And of course we have been, I guess we violated several codes by missing our elections and there's no excuse other than it was confusion on the fact that our old Election's Superintendent retired and we missed it."

Chairperson Handel – "Who's running your elections now?"

Mr. Ramey – "Since then we have hired, trained, and we have an Election's Superintendent --"

Chairperson Handel – “Is that person gone through the certification?”

Ms. Ramey – “She has. That was done in August, I think Ms. Hicks did a class down here August of 2008.”

Chairperson Handel – “We’ll need to confirm that because I think we have been given different information but that’s very important. Any other questions, colleagues. I don’t think there is anyone else for this case. Is there anyone else for this case? Questions, Mr. Worley.”

Mr. Worley – “Were the 2008 elections contested. Did you have any opposing candidates?”

Mr. Ramey – “We did have opposition for the council and myself.”

Mr. Worley – “Oh, well that’s what I meant.”

Mr. Ramey – “Yes.”

Mr. Worley – “So there was an actual election?”

Mr. Ramey – “First time in over 20 years we’ve had contested elections. We’re very small, Tiger’s population is about 300 people. We’re on a very limited budget. I would just like the Board to consider if there are any monetary fines, they would just keep that into consideration. Any questions?”

Chairperson Handel – “The last one: You’re not going to let this happen again, are you?”

Mr. Ramey – [No response.]

Chairperson Handel – “I couldn’t hear you. You’re not going to let this happen again, are you?”

Mr. Ramey – “No.”

Chairperson Handel – “Okay.”

Mr. Ramey – “I’m very sorry. I apologize to the state, the county, the Board, the citizens. It was a very embarrassing situation, and you know, I’ve been there for those many years and time just fly’s by and before we knew it, it was passed.

Chairperson Handel – “Maybe I need to be a mayor, it doesn’t fly that much. I think you know how very, very serious this is. It’s very egregious, so.

Mr. Ramey – “I do have one recommendation also. I have learned a lot about the election stuff since this has happened and one thing is the notice that’s sent to us in January 2008 from the Elections Division was a notice informing us to be sure and post our qualifying fees and, of course, there’s a state law now that was passed in 1993 that all municipal cities have to hold

their elections in the odd - numbered years. If we were aware of that, we would have known that something should have been done in 2007.

Chairperson Handel – “Well, with all due respect as the mayor of the city, it is your job to know that. I think it would be better that if you didn’t try to push it off on the state to fine –”

Mr. Ramey – “But I’m not – I’m just saying -- ”

Chairperson Handel – “Our job is to certify the elections and collect the data. It is your job to actually run them. So --”

Mr. Ramey – “ That’s right.”

Chairperson Handel – “I do want to make an encouragement that for our small cities in particular that – and I don’t know if anybody from Rabun County is here but, we do encourage the counties and the cities to partner for elections. We do understand though, especially for the smaller cities, it’s a big job and the counties tend to be better equipped to do it so I would urge you to consider reaching back out to the county and having a formal agreement and see if you can partner up, because that will save expenses on elections as well.”

Mr. Ramey – “We tried to do that this year and they - - they didn’t seem to want to work with us and the expense, we just couldn’t bear the expense.”

Chairperson Handel – “All right, colleagues, do we have a motion on it?”

Mr. Evans – “I move we bind it over.”

Chairperson Handel – “Second. Any other questions, comments?”

The Board – [No response.]

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Chairperson Handel – “All right, it is five after twelve. I just want – Do we have anything for Executive Session today?”

Ms. LaGrua – “Yes.”

Chairperson Handel – “We do. Okay, then I need a motion to go to into Executive Session for litigation purposes.”

Mr. Evans – “So move.”

Chairperson Handel – “Second.”

Mr. Worley – “Second.”

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Chairperson Handel – “All right, let’s see, we will – -

[Interruption]

Chairperson Handel – “Then we are going to have litigation update. I have a duly made and approved motion. It’s five after twelve. Let’s call it back at 12:45 so we could be a little bit late, but that way if we’re all back we’ll be able to get started, all right. Thank you.”

[Whereupon, 12:05 p.m. motion to enter Executive Session taken.
A recess ensued off the record.]

[Whereupon, the record resumes at 12:48 p.m., motion made to return to General Session, the record resumes.]

Chairperson Handel – “I need a motion to come out of Executive Session.”

Mr. Evans – “So moved.”

Mr. Worley – “I’ll second.”

Chairperson Handel – “Motion second. All in favor.”

The Board – “Aye.”

Chairperson Handel – “And for the record, there was no action taken. Executive session. Our next case is 2008 Number 83, Dougherty County.”

Ms. LaGrua – “Yes, ma’am this is involving November 2008 Dougherty County was the location. The complainant was Nancy Justice sister and guardian of Jack Justice. Respondents Henry Robinson and Laura Newberry, Primus Industries Company that supervises training and mentally challenged individuals and also special conduct within their training, sort of like an adult daycare for those that had mental challenges -- cannot be alone the whole time. Allegations was that several clients and that’s what they call these individuals, the mentally challenged individuals Primus Industries has several clients were taken voting. Their voting was influenced by Mr. Robinson and Ms. Newberry who are counselors and or teachers, custodians at Primus Industries. This was a very difficult case to investigate because of the nature of the -- for lack of a better word alleged victims. The case, the votes was alleged influenced. Henry

Robinson and Ms. Laura Newberry took a number of these clients to vote. They did not receive permission from the families of these clients to do this. It had not been done in the past and with that, they allege they sent memos home to the families indicating they were going to assist these clients in voting. They could never produce memos that was allegedly sent to the caregivers. Mr. Robinson actually marked on ballots as assisting clients but said they were physically disable which they may have had some difficulties but they were able to go to the polls. Ms. Newberry took one client voting and took the client to the library first showed client a photograph of two individuals that were running for president, did signs as assisting and said client could not speak when she assisted.. Second, the presidential selection it was by identifying the presidential candidate. It appears that the Presidential Election was the only election involved in what we can tell. Obviously we do not know that for certain. We spoke to the clients in this case, they talked about the Presidential Election that was the only election they talked about. The Department of the Human Resources also conducted investigation and we have been unable to share information with them. There has been conflicting views regarding statements gotten from these clients at least two of the client said Mr. Robinson told them which candidates to vote for. Our (inaudible) want to introduce the Georgia Department of Human Resources. There was an official claim that alleges Mr. Robinson gave money, candy, food to these people for their votes. What he said was that after they went to vote went by a convenience store and got Coke and went to a park. It's clear in my mind, Members of the Board, that something here isn't Kosher. The problem is that we have people with mental challenges that cannot give a consistent statement as to specifically what happened. There's no question that at least two individuals indicated that Mr. Robinson told them how to vote and that in regards with Ms. Newberry, that she was the one that actually pushed – marked the ballot for the individual because he couldn't read or write English. There's never been an organized effort that we could find on behalf of Primus Industries in an effort to get these clients to vote or assist them. They could not produce the memo to the caregivers. Unfortunately, as I say, the statements are not completely consistent in what happened. It appears in some respects that these individuals may have been taken advantage of because of their challenges. I have spoken briefly with the District Attorney's office. The initial inclination was that they were concerned about the conflicting testimony though I would be happy to revisit this if the Board would like me to do that based on the totality of their investigation. Arguably, there is an inclination potentially that 567 intimidations just through the nature of the relationship between caregivers and the clients here, we also may have a 568, which is going into and improperly entering the closed space. I'll try and answer questions as I can. Mr. Harvey's here as well and has dealt directly with the Department of Human Resources, so -- ”

Chairperson Handel – “Is there anyone here from – okay.

Mr. Stiller – [Approaches]

Chairperson Handel – “You're with --”

Mr. Stiller – “ I'm Howard Stiller, I'm an attorney in private practice, I represent the agency.

Chairperson Handel – “Okay, great, gentlemen ?”

Mr. Robinson – My name is Henry Robinson, I’m one of the persons that took the people.

Chairperson Handel – “Okay, let’s hear – you can discuss with us the DHR investigation.”

Mr. Stiller – “No, I actually represent the agency that was investigated but I just --”

Chairperson Handel – “Got it, I’m sorry. Is anyone here from DHR?”

Ms. LaGrua – “No.,”

Chairperson Handel – “Do we have their report?”

Ms. LaGrua – “Yes, we do.”

Chairperson Handel – “That would be good to make sure we get those things ahead. While they’re doing pulling those, if either of you would like a few minutes to comment and then we’ll open for questions.”

Mr. Stiller – “ Well, I’m closer, so I guess so I’ll get here first. Again for the record, I’m Howard Stiller. I practice law in Albany, Georgia. I represent Albany Area Community Service Board. If this is repetitive or redundant, I apologize. But the Community Service Board is a creation of the Georgia Legislature providing the state – State of Georgia with community service Board of Regions (inaudible) where it provides mental health services for disable people. By way of history dealing with disable people was institutionalize both with the advent of medications and different techniques a lot of people around the -- in the community today can function and try and live as normal a live as can be done. Here’s a plug for Publics, most of you have been to a Publics and you might have noticed a disabled person or a disabled-appearing person bagging groceries or carrying your groceries to the car. Albany Community Service Board facilitates those arrangements as an example, Proctor and Gamble paper plant. They package paper towels and pampers and things of that nature . They participated as well in Albany. We will go out and contract and the agency will contract people to earn wages by packing diapers on occasion or doing other repetitive kinds of things for which they can earn money and feel like a productive member of society. The key goal of the Community Service Board because since we moved away from the institutional model is to make life as normal as possible. So for example with work activities are a lot going on, field trips, to the movies, to the Albany River Aquarium because we have our own aquarium in Albany and it’s a pretty magnificent structure and the reason I’m bringing this up is this -- ”

Chairperson Handel – “Get to the case.”

Mr. Stiller – “Albany Community Service Board does not have a rule somewhere for every activity to follow. We have no rules making sure the constituents – another thing we didn’t have a rule for was taking people to vote. It’s my understanding that it’s not been done before, we had no policy. So the Board -- it did not even come to my attention until complaints were filed. Legal guidance was not sought and how do you take someone to vote ? It’s my understanding that even if it had been – and I consulted the Department of Human Resources because we follow all the policies, there’s probably not a policy mechanically on what do you do. How do

your employees take disabled persons to vote? That information that you give them – should you push the button or lever or mark the ballots. What do you do and it's in that guise that people were taken to vote. I've probably spoken too much already. If there are any questions about what the Agency did or did not do, I'll be happy to address those. I do not represent two employees whose names – heard one was present, so my remarks are limited to my representation of the Agency.”

Chairperson Handel – “I do have just one question for you, you commented that the clients are taken to aquariums and on outings, etc. Are the guardians notified about those outings?”

Mr. Stiller - “No, it's my understanding that being in the program we have like standing permission to take people to work, take people on outings and activities. Perhaps Mr. Robinson can address that little bit better because he's one of the people that does it. But a written permission slip unlike school and school-aged children are not required.”

Chairperson Handel – “Thank you.”

Mr. Stiller - “Any other questions?”

Chairperson Handel – “Is it Mr. Robinson?”

Mr. Robinson – “Yes, ma'am.”

Chairperson Handel – “Come on up, sir.”

Mr. Stiller – “One of the things for the record I do want to clear up, I do not represent Mr. Robinson. I've never spoke to him. I've never met him, never seen him until now.”

Mr. Robinson – “First of all, he makes it sound like I'm a bad man – not true.” And the statement – in respect to the statement, the state came and investigated us at Primus, according to this right here, I got in the mail Jackie Justice did go on voting – even though I read off everything to him, I asked him a couple times who they wanted to vote for, who they chose to vote for that was their choice. I did not punch it. I did not tell them who to vote for. The statement I made is nothing like the young lady just read. As far as the outings, I did not buy them nothing. They always had their own money and that's part of when we take them out on an outing, I don't even try to do all that – pay them for what they did. Once a month, twice a month we have to take all of them out into the community. So that's part of training. As far as trying to tell them who to vote for or what to vote for, I had no part to do with that. And I don't know who changed – I'm not saying somebody changed my statement. My statement -- as a part of the investigation is nothing like she read off the paper. I don't know who gave that statement but it seems like somebody is trying to fault me. I did not do nothing wrong. That's just a part of my job. And a letter was sent out because some of the people did send I.D. cards so we can register – so if they didn't get a letter, how could we get the Identification Cards in order to get them there? All I did was take them to vote. I read the names of the candidates. Now who told them to vote and how to vote, I don't know. I told them what they should or what they wanted to do and so punch the button. Whoever they voted for, that's who they punched. Any

wrongdoing, I had no intentions. I don't see where I did anything that was wrong. If you read my statement, other than -- I was questioned twice. My statement was the same. I don't know who the people that was who changed it but it was nothing like that.

Mr. Worley – “Can we get whatever letter he has.”

Ms. LaGrua – “What he gave me, Mr. Worley was just a page out of your summary Page 4.”

Mr. Worley – “Oh, okay.”

Ms. LaGrua – “If you'll notice there is summary of his statement to investigators as well as what Mr. Justice told us in a recap of what Mr. Justice and the others told the Georgia Department of Human Resources.”

Mr. Worley – “Right. Do we actually have the DHR report as well?”

Mr. Harvey – “Yes, sir.”

Ms. LaGrua – “Mr. Worley, I would respectfully ask the Board at this point if I can answer questions if we make that part of the record. It would be inconsistent with our other records policy in terms of open investigation, which is why we summarized in the report at this point what the findings of the DHR are. I do have that report here.”

Chairperson Handel – “Well, would you tell us again what the DHR summary was?”

Ms. LaGrua – “Yes, ma'am and --”

Chairperson Handel – “—or the report – summarize the DHR report.”

Ms. LaGrua – “Yes, ma'am. When DHR went out they, they spoke to the individuals as well. In regards to the Jack Justice, the original subject of the original subject of this, he initially told us he was told to vote for Mr. Obama. He told the Department of Human Resources that he wanted to vote for Mr. Obama but that Henry did tell him to vote for Mr. Obama. In relation to Jason Thomas, when we interviewed him, he said that Mr. Robinson told him who to vote for but that he didn't know who he voted for. According to the Department of Human Resources, Mr. Thomas claimed he voted for both candidates for President. In relation to Mr. King, another one of the clients, when we spoke to him, he told our investigator he intended to vote for Mr. Obama and was able to articulate that Mr. Obama had a white mom and black dad like he had. He also said the other candidate was mean. And he also said that Mr. Henry, referring to Mr. Robinson, showed him which button to push and that he only voted for president. According to the DHR interview, Mr. King said that Mr. Henry told him to vote for Obama and then went on to say that King told Patton, who was the investigator for DHR that he did want to vote for Obama. And in relation to Brenda Wiley who apparently was not interviewed by DHR, she said that she didn't usually vote, that she went with several other people to vote and she was told by Mr. Robinson that she needed to be quite in the voting area. She could go to jail. She was later taken by Ms. Newberry. In relation to Mr. Newberry Ryan Stubbs told our investigator that he usually

voted in an election. Election records showed this was his first time. He said that Ms. Newberry told him to vote for Obama and he did not vote for anyone else on the ballot. According to the Department of Human Resources Stubbs did not remember voting until he was prompted but then said he voted for Obama and he pushed the buttons himself. There is also, the Department of Human Resources and the Office of Inspector General indicated in their findings that it would appear that the Primus staff violated their regulations because DHR Policy #1202 states that DHR employees may not participate in any form of political activities while on duty or under color of office or position. So they have a parallel of confidential investigation at this time as well but they did know that they would be referred a summary of these findings.”

Chairperson Handel – “So their investigation is still ongoing?”

Ms. LaGrua – “That’s my understanding.”

Chairperson Handel – “Can I just ask – Mr. Robinson, how long have you worked there?”

Mr. Robinson – “First four years, I worked part time. And six years I went full time. So it’s been about ten years now.”

Chairperson Handel – “Ten years? Have you had the clients taken to vote previously by you?”

Mr. Robinson – “No, it was my first time.”

Chairperson Handel – “So, in the ten years that you worked there never did clients get taken to vote until this time?”

Mr. Robinson – “I can’t say that. I actually don’t know. ”

Chairperson Handel – “Is Ms. Newberry here? Colleagues, I for one find this to be extraordinarily troubling. Perhaps as DHR moves forward with its investigation some of their conclusions might be helpful benefit trying to see what they come up with themselves. I certainly think they will have a greater access in terms of talking with employees than we would around all this --”

Ms. LaGrua – “Apparently, they have completed the investigation as it relates to this. The Department of Justice has been in touch with us as well about how they will proceed and I don’t know the answer to that – yet. They were waiting for the outcome of today’s proceeding and wanted to know what we were wanting. ”

Chairperson Handel – “Okay. I find this extremely troubling just because there was more than one client who had challenges and Ms. Newberry in her report, as a report of Ms. Newberry’s interview indicated that there was a letter sent to the families of the clients, yet the letter could not be produced and now to find that this had never happened before and I’m not saying it is not a good thing, but if any of these individuals have guardians I don’t know how they just get taken to vote so --”

Mr. Worley – “ They’re adults, I don’t know if you need permission of a family member or guardian to go vote.”

Chairperson Handel – “ Again, I just don’t know. Given that, the one individual parents waited on this as well as the individual. There’s just a great deal of conflicting information and it all – it troubles me very much.”

Mr. Robinson – “I like to say something else, in the meantime somebody had to escort them up to the office. I don’t know if they were encouraged to say what. I’m not no lawyer or nothing, I wasn’t with them and the person that came to take them up front to be investigated, I don’t know what was said during that length of time. ”

Chairperson Handel – “Any other questions?”

Mr. McIver – “I move we bind it over.”

Chairperson Handel – “Second. Mr. Worley, questions?”

Mr. Worley – “I don’t have any questions. I mean, I’m going to vote to bind this over because there is a dispute about the testimony and so I don’t think we have any choice but to bind it over. I can certainly understand how it’s going to be very difficult to get any definitive testimony on this. ”

Chairperson Handel – “ All right, I have a motion and second to send this over to the Attorney General’s office, all in favor?”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [No response.]

Chairperson Handel – “All right, the next case is 2008-Number 86.”

Ms. LaGrua – “Ma’am, this case involves a woman by the name of Anita Vines”
General election in Whitfield County complainant was Thomas Vines, Respondent Anita Vines. I should let the Board know at the outset that the relationship between Mr. Thomas Vines and Ms. Anita Vines was very contentious and Mr. Vines reported that his wife was a convicted felon and had voted as a convicted felon. What our investigation found was that Ms. Vines was serving a first offender sentence and therefore not consider a convicted felon and was eligible to vote. There was also some questions you may have noted in the summary about whether or not she had registered, she had changed her address and voted improperly and changed registration. Since this summary was provided we have received additional information from Whitfield County. In fact, she’s not in violation 562. She had moved, but was within that time frame of 218. We just got that information. So she validly let the registrar know of her appropriate address and did what she was instructed. It does not appear that she’s in any violation so at this point. We would recommend that this case be closed.”

Mr. McIver - “ Let the record reflect that the Chair has temporarily left the meeting. I’ll take over as the Vice Chair. Anyone else be heard other than the Inspector General on this matter? ”

[Whereupon, the Chair has left the meeting, Mr. McIver takes over as Vice Chair.]

The Board – No response.

Mr. McIver – “Any discussion?”

Mr. Worley – “All right, I’ll second, Mr. Evan’s motion to close the case.”

Mr. McIver – “The motion to close has been seconded. Any discussion?”

The Board – No response.

Mr. McIver – “If not, all those in favor signify by saying, aye.”

The Board – “Aye.”

Mr. McIver – “Opposed?”

The Board – No response.

Mr. McIver – “Motion to carry, matter closed. We will move to 2008, Case Number 89, Walton County, are you ready General LaGrua?”

Ms. LaGrua – “Yes, thank you. This involves a gentleman by the name of Marcus Herren. This is similar to our Primus Industries case even though a little bit more serious. Marcus – we got a call from Myrtle Ivey – well the Respondent is Myrtle Ivey who is the caregiver and for Marcus Herren and employee of the Department of Human Resources. The allegation was that Ms. Ivey improperly assisted Marcus in registering to vote. We got a call actually from his mother who was very upset that her son who is legally declared incompetent had been registered to vote and apparently Myrtle Ivey, who is the caregiver talked to him about voting, was going to register him to vote, actually talked to his father. His father told Ms. Ivey that she needed to be in touch with his sister or his mother who are the legal guardians. She did not. They never gave permission for him to be registered to vote – and they could not have given permission and could not have registered him because he had been declared legally incompetent. Thankfully, this was picked up. He was registered but he was taken off the registration list. He did not vote but at this point I ask that this be bound over forwarding to the Attorney General’s Office for appropriate sanctions.”

Mr. McIver – “Anybody here to be heard on this matter?”

Mr. Honore – “Yes, sir.”

Mr. McIver – “Please approach the microphone. Can you begin by stating your name?”

Mr. Honore- “Good afternoon. My name is Alcead Honore I’m here representing Myrtle Ivey. Her mother – I’m sorry the petitioner’s mother, Ms. Herren is here as well. Just real briefly, I’d like to state that some of the investigation indicates Ms. Ivey is charged with voter registration

fraud. In order to be guilty of this charge, there must be a willful violation of the law. The statute 21-2-561 is rather clear, it requires a knowing violation, a mere accident or mistake is not sufficient for a violation under this code section. The summary of investigation record already indicates that Ms. Ivey made no attempt whatsoever to hide or conceal the fact that she was assisting Marcus with the ability to register to vote. She contacted his parents while she was at the Voter Registration Office in order to obtain his social security number. All of in here – I hope every single person in here is a registered voter, you know that once you fill out that Voter Registration Form in order for that registration to be valid you must include a social security number. She contacted her [sic] parents at their home phone number for that reason. At that particular time Ms. Herren was not home, Mr. Herren was the only person there. It was mentioned by the IG that, you know, that there was a referral by the father with whom Ms. Ivey spoke that you should wait until, you know Ms. Herren makes it home so that you may speak with her, so on and so forth. However, the nature of that conversation was actually limited to a discussion about the social security number because a very important fact be taken into consideration here was that, Ms. Ivey took Marcus Herren to register to vote on October 8th, as you all know, that was the last day to be eligible to register to vote in the November 8th, 2008 General Election. And so what she was simply trying to do was save the time of having to go all the way back home to obtain the social security number. Ultimately, you know, Mr. Herren did not have that number in his possession, they went back home, got the number, came back to the Registrar’s Office having basically just a few minutes left in order to enter the registration. Ms. Ivey did not have months, weeks or days to investigate and research the propriety of these actions. She had no knowledge whatsoever of Marcus’s judgment of October of 2005 of being legally incompetent, nor did she know, the status of being declared legally incompetent disqualifies an individual from being able to vote. So, you know, Ms. Ivey has served as Marcus’s caregiver for some time. She continues to serve in that capacity. Ms. Herren, Mr. Herren’s mother is here as well. She is the person that has indicated by the IG who sort of initiated this whole process on Marcus’s behalf. She does not wish to see this go any further, you know, considering the fact that the family and Ms. Ivey continue to have a good working relationship, I would ask respectfully that this Board dismiss the petition and allow these good folks to go on with their lives. Thank you.”

Mr. McIver – “Do either of you ladies wish to be heard?”

Ms. Herren – “I’d like to be heard.”

Mr. McIver- “Please give us your name.”

Ms. Herren – “My name is Shirley Herren. I am Marcus Herren’s mother and his guardian. I don’t believe that Myrtle did this with any malice or vindictiveness or out of any anger with anybody or trying to do anything she shouldn’t have done. I was not aware myself that it was fraud and punishable as a fraud case with the state. I’ve been a registered voter for many, many, many years and I don’t even remember reading why you couldn’t register and I don’t think that Myrtle even realized when she read it, it had meant Marcus because he does need help. He can read, if you have on a baseball hat or a football helmet, he knows something about your team. But he doesn’t read news, he doesn’t know anything about politics. So I don’t really think he understood. But he had been carried by the center where he goes under the Department of

Human Resources to a meeting called People are People Too, or Putting People First. They're the ones that were telling these people that they had a right to vote. And that's why he had told Myrtle he wanted to vote. So it wasn't anything that Myrtle thought up, he told her he wanted to and that he had been told this by this group of people that run this meeting and that was a meeting that he was encouraged to go to by the Unlimited Services where he goes. I'd like for you to drop the case against Myrtle. I don't think that she should be punished any further. I think she's paid dearly for having done what she did. So I really would appreciate it. My family would appreciate it if you don't prosecute Myrtle. Thank you. Anyone else like to be heard? "

The Board – [No response.]

Mr. McIver – “Let the record reflect that the Chair has returned to the meeting.”

Chairperson Handle – “You finish the case.”

Mr. McIver – “I'll finish the case. Anybody else like to be heard?”

[Whereupon, it is duly noted Madam Chairman is now in attendance.]

The Board – [No response.]

Mr. McIver – “Members of the Board any questions of the two individuals that spoke in this situation?”

The Board – [No response.]

Mr. McIver – “Any discussion whatsoever. All right, I'll entertain a motion.”

Mr. Worley – “Well, it appears to me that the Statute requires a knowing violation of the act and there doesn't appear – it doesn't appear to me that we have any evidence that there was a knowing violation of the act and so I would move to close the case.”

Mr. McIver – “Second. I want to rule a motion that dies for a second. Do I have another motion. Anybody interested in tabling this matter? ”

Mr. Evans – “What is the section – the specific section --”

Mr. Honore – “21-2-5 --”

Mr. Evans – “No, no, no. I know the section that's been cited, the section that deals with that you cannot register to vote if you have been adjudicated as incompetent? ”

Mr. Honore – “21-2-216.”

Mr. McIver – “Mr. Tailor, please.”

Mr. Tailor – “21-2-216 subsection (b).”

Mr. Evans – “Clearly to me, we have to draw lines that we can’t permit people to register who are not eligible to register. I agree with Mr. Worley, however I do not believe that there’s sufficient evidence to the knowing element required under 21-2-561. So I would recommend that we resolve the case subject to the agreement of the respondent with the Letter of Instruction noting the requirement of 21-2-216 and noting that subsection (b) prohibits the registration of someone that has been initially determined as being mentally incompetent with a corresponding cease and desist so that we have established a precedent on this issue. So that would be my motion.”

Mr. Worley – “I’ll second that motion.”

Mr. McIver – “Motion seconded. Any further discussion?”

The Board – [No response.]

Mr. McIver – “Those in favor of the motion, please indicate by saying, aye.”

The Board – “Aye.”

Mr. McIver – “Opposed?”

The Board – [No response.]

Mr. McIver – “Motion passes. Madam Chair, I’ll turn it back over to you for case concerning 2008-91.”

[Whereupon, the Chair resumes order.]

Chairperson Handel – “Thank you. Case Number 2008-Number 91, DeKalb County.”

Ms. LaGrua – “Yes, ma’am. This involved the November 2008 General Election. The complainant was Laurel Morris. The respondent would be an unknown employee of DeKalb County Library, Chamblee Branch. The allegation were by Ms. Morris that when she went into the library and requested a sample ballot at the November 4th General Election, she was told they didn’t have one and then they found one, a sample ballot and gave it to her and it didn’t have any Republicans on the ballot. The best we were able to determine in this case was – we got a description from Ms. Morris of the employee that provided the sample ballot. We interviewed everybody at the library that came close to matching the description as well as the branch manager. Nobody knew anything about it. The branch manager suspected that what happened was because they post ballots for the elections through the Superintendent of DeKalb County, that somebody had stuck the primary voting sample ballot in a drawer and Ms. Morris was inadvertently given July’s Primary sample ballot, instead of being directed to the one that was posted on the bulletin board for November 4. Obviously, this brings up a little bit of a training issue that maybe the Superintendent should give more specific communication to

wherever publicly they are going to post the sample ballots. In terms of a specific out charge in this case, we couldn't substantiate one, and in fact, we don't have anybody as a Respondent as to substantiate the allegations so we would recommend that it be closed.

Chairperson Handel – “Is there anyone here to speak on that?”
Yes, come on up. Tell everybody who you are.

Ms. Hart– “My name is Twyla Hart and I work for the DeKalb County and Elections Supervisor and I want to make it quite clear, our office does due diligence. We send sample ballots to each election and each library, our Election Staff does. So it's not really have a training issue because we do that. It's just the point that a library person may have not been aware of where the ballot samples were. But we do it for each Election. As soon as we get copies of the ballots we send them to each library in the county.”

Chairperson Handel – “I think the training referral was for the library versus for y'all. That was the reference.”

Ms. Hart– “Yes, I just wanted to clear that fact up.”

Chairperson Handel – “Mr. Worley?”

Mr. Worley – “No, I just wanted to be clear that this was a library employee and not an Election's Board employee?”

Ms. LaGrua – “That's correct, Mr. Worley.”

Chairperson Handel – “Any other questions?”

The Board – [No response.]

Chairperson Handel – “Is there a motion? Is there a recommendation to close?”

Mr. Evans – “So moved.”

Mr. Worley – “Second.”

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed.”

The Board – [No response.]

Chairperson Handel – “All right, the next case is 2008- Number 92, Butts County.”

Ms. LaGrua – “Yes, Ma’am, I should note at the outset there are four Respondents in this case: Mr. Henderson, Mr. Johnson, Ms. Varner and Avery Smith should be a Respondent as well and I believe that is in the summary. We did receive a letter from Angelia Cash who is the guardian and has power of attorney for Mr. Henderson who is the Respondent requesting a continuance and I brought it to Madam Chair’s attention and you did grant the first - time continuance in this case as it relates to Mr. Henderson. I think we are prepared to go forward if the Board desires on the rest of the Respondents in the case.

Chairperson Handel – “All right. Are Ms. Johnson and Ms. Varner here?”

[Whereupon, an roll call was made for Respondents in attendance.]

Chairperson Handel – “ She received notification?”

Ms. LaGrua – “They were all notified.”

Chairperson Handel – “ Okay.”

Ms. LaGrua – “Yes, ma’am. Okay the allegation in the case and it actually came in from Ms. Smith that the Butts County Election’s Superintendent where the three respondents voted twice. And actually it turns out that only two actually voted twice. And I’m going to leave Mr. Henderson out because he got a continuance. But as to Ms. Johnson and Ms. Varner, apparently – they did, in fact, vote twice. When we interviewed them, we found out that they were elderly, extremely elderly and apparently neither one remembers voting twice. The investigator that actually interviewed them is here and if you have any questions for Ms. Williams and need for her to elaborate on that, but it was the feeling of our investigator after the interviews and after talking to the witnesses and reviewing the documents that they truly were at an age where that they didn’t remember voting twice. That raises the issue with the Election’s Superintendent of how they were allowed to vote twice here which would be -- I hesitate on my recommendation, as would relates to the two elections, clearly they’re in violation, how knowing a violation is, I can’t tell you. I can tell you what our investigator senses in speaking with them, and obviously the Election’s Superintendent for allowing it to happen.”

Ms. Smith – “I’m Avery Smith, Election’s Superintendent for Butts County. I’ve been doing elections for close to 33 years and I’ve never here for this reason -- I just want to say, you know, we were really overwhelmed, which y’all know, which I love, probably both. ‘Not complaining at all, but we were overwhelmed with the number of people that came to our office, thousands and we’re not used to that. So of course we had to bring in help to -- may be poll workers but had not actually done office work. But this girl that was working the desk at that time, is very, very competent. She’s a lawyer’s secretary. But he had died and so she had come in to help us some. And she assured me, and I trained them very well to check, Screen 16 to make sure that person had not voted. She assured me on both of those people, it did not show they had voted and I know she checked them off. And, you know, I’m not saying – she’s very fast and I told her, maybe you went through it too fast, you know, and it didn’t have time to load the screen or whatever. But I did go back and check to make sure that we had put them back in and we had put them in on the first day that they had voted. So, you know, I’m not – I don’t

know if that was a glitch in the system at that time or what – I’m not accusing the State. I know we did have some computer issues during that time, but other than that, I can’t tell you what happened. Except I did call and ask them, do you know that you voted twice and they had no clue. One of them told me that they thought -- actually both of them told me that they thought they would end up doing a runoff -- they didn’t know because it was 45 days and it was a pretty good span between the two they times they came. They were just like she said, they’re very elderly and I think – I will tell you that we had a lot of people, elderly people who came back to vote a second time, but we’d check Screen 16 and catch them there. ”

Chairperson Handel – “Sounds like though, it was an absentee the first time somehow it wasn’t entered in?”

Ms. Smith – “Right.

Chairperson Handel – “It wasn’t entered in.”

Ms. Smith – “ It was on our report the first day they came in. It was on our report. I can’t explain that.”

Mr. Worley – “ Well, I think that this is the only case that I’ve had in my time on the Board where the Complainants and Respondents are the same people. I complement you for being honest”

[Audience outburst laughter .]

Ms. Smith – “ I mean, I wasn’t really complaining. If I had know it would have gone this far to be honest I don’t know if I would have told you. My report that day and my machines did not balance. I’m very thorough, 33 years has taught me a lot. My people are very well trained. The state investigator who comes around during elections told me I have one of the best trained personnel they’ve ever seen and I’m proud of that.

Chairperson Handel – “You should be.”

Ms. Smith – “But you know, I mean, I wanted you to know why my papers didn’t balance – So I sent for another. I want to be honest at whatever costs.”

Chairperson Handel – “We’re glad that you did. From my perspective I’d like for Wes you get with Avery to double check just a little bit more that it was just human error. Because it does sound like it was just human error somewhere along the way and we just want to make sure. All right. Thank you.”

Ms. Smith – “All right.”

Chairperson Handel – “Colleagues?”

Mr. Evans – “I don’t know that we have any discretion on the voting twice in the General Election violation 21-2-572. That pretty much if you vote more than once you violate the Statute. So I would vote to that particular piece we bind it over.”

Chairperson Handel – “ Second with a motion on the second for discussion any comments?”

Mr. McIver – “ What do we expect the HE to do with these poor folks who don’t remember the second time. I’m wondering is it a more expeditious way of handling?

Chairperson Handel – “ I mean for me speaking as one, they would get a letter saying, you need to be more diligent, I mean, and I think it goes to other people in the household , clearly.

Mr. McIver – “I can more than likely like to resolve it today than burden the AG with what’s really going to be a cumbersome matter trying to interview people and all their voracity.”

Mr. Evans – “We don’t on Varner or Johnson case, unlike the other case, we can get to the agreement of resolution. We don’t have that option on the.”

Ms. Smith – “ I’m not sure either of them were capable of coming.”

Chairperson Handel – “ I rule the HG’s Office can have a conversations with them then we’ll know make sure we’ve have done – for me we will have done our due diligence to make sure that there wasn’t something else going on here.”

Mr. McIver – “That’s the only question I have.”

Chairperson Handel – “ Motion and a second? Is there any other questions or comments? All in favor.”

The Board – “Aye.”

Chairperson Handel – “Questions or comments.”

The Board – [No response.]

Chairperson Handel – “Any opposed.”

The Board – [No response.]

Chairperson Handel – “ All right, the next case is 2008 Number 95, Thomas County, Golden Living Nursing Home.”

Mr. Harvey – “ Chair, Board, the complainant in this case was Mr. Fred Heivilin was the GOP Interim Chair of Thomas County. The allegation was residents of the Golden Living Center had voted by absentee ballots and the absentee ballots had been intercepted and then were shredded.

Our investigator met with the complainant who wouldn't disclose the name of the supposed victim in this case. So the investigator then went out, got a list of all the absentee ballots that was sent there, did an audit, found out of all the – I believe the 26 ballots that were sent to the Golden Living Center all but three of them came back. He identified the three who didn't return them and all three had reasons why they didn't return them. There were no allegations that any ballots were shredded and the allegations appeared to be unsubstantiated and there doesn't appear to be any violations. I recommend that this case be closed. It's unknown why the allegation was made in the first place."

Chairperson Handel – "Is there anyone here to speak on this matter?"

The Audience - [No response.]

Chairperson Handel – "Is Mr. Heivilin here?"

[No response.]

Chairperson Handel – "Anyone else. All righty, there being no others. Questions or comments colleagues?"

The Board – [No response.]

Chairperson Handel – "I'll entertain a motion, a recommendation to close."

Mr. McIver – "I so move."

Mr. Worley – "I'll second that."

Chairperson Handel – "Motion and a second, any other questions?"

The Board – [No response.]

Chairperson Handel – "All in favor please say, aye."

The Board – "Aye."

Chairperson Handel – "Any opposed?"

The Board – [No response.]

Chairperson Handel – "The next case is 2007 Number 97."

Mr. Harvey – "This is Cook County. The complainant in this case is Probation Officer Coleman J. Lynn reported to her office six felony probationers that Officer Lynn supervised and registered to vote and one or two had, in fact, completed voting. If you look at the summary, I think on the third page there's a chart it's got the listing of the six convicted felons and notice the

first is on the first offenders status. He registered and was eligible to vote and he did, in fact, vote in the election. You'll notice that (inaudible) the distinction between the Henry registration and the registration between D.D.S that's significant, but if you'll look down to the Joshua Everette Guthrie, he was registered through D.D.S., however, the D.D. S. paperwork indicated that he did not request to be registered. He was apparently inadvertently registered and he did not vote. The other three individuals indicated that they did want to be registered voters and or hand completed a voter registration application. Only one of them Jerome Jennings voted provisionally but his vote was not counted after the election. It's recommended that Jerome Jennings, Clifton Inman and James David Luke and Kendrick Shamon McCormick be bound over on the violation of 21-2-561 and that they registered to vote after a convicted felony and Jerome Jennings, is also in violation of 21-2-571 that he attempted to vote via provisional ballot in a runoff election while he was serving a felony sentence."

Chairperson Handel – "And you're recommending Wooten be closed."

Mr. Harvey – "Yes, ma'am and also recommended that he be considered for referral to the District Attorney's Office for criminal prosecution as well."

Chairperson Handel – "The other cases not Wooten?"

Mr. Harvey – "Correct."

Chairperson Handel – "All right. Get one off the table recommend or make a motion to close case on Reginald Wooten, since there is no violation there?"

Mr. Harvey – "Correction -- yes, that's correct."

Mr. McIver – "So moved."

Mr. Evans – "Second."

Chairperson Handel – "Got second, all in favor."

The Board – "Aye."

Chairperson Handel – "That's one's closed. That leaves us Jerome Jennings, Inman, McCormick and Luke.

Mr. Worley – "Well can we move to dismiss Guthrie as well?"

Chairperson Handel – "Yeah. Hang on, you just read my mind, Guthrie we can –"

Mr. Harvey – "Correct."

Chairperson Handel – "You've got a motion, Mr. Worley?"

Mr. Worley – “Yes. I move to dismiss that because the evidence indicates that he did not request to register to vote.”

Chairperson Handel – “Second?”

Mr. McIver – “Second.”

Chairperson Handel – “Got a second, all in favor.”

The Board – “Aye.”

Chairperson Handel – “So now that leaves us Jennings, McCormick and Luke?”

Mr. Worley – “Make a motion that these cases be bound over to the Attorney General’s Office.”

Chairperson Handel – “All right.”

Mr. Evans – “Second.”

Chairperson Handel – “Motion and a second.”

Mr. McIver – “I have a question.”

Chairperson Handel – “Yes, sir, Mr. McIver?”

Mr. McIver- “Worley you specifically –“

Mr. Worley – “-- And the bind over also to the appropriate District Attorney.”

Mr. McIver – “I’ll withdraw my question.”

Mr. Worley – “Thank you, sir.”

Chairperson Handel – “Does the seconder accept that change? Randy?”

Mr. Evans – “Yes.”

Chairperson Handel – “Mr. Evans?”

Mr. Evans – “Yes.”

Chairperson Handel – “Motion and second to bind over to the AG’s Office and to the Cook County DA, all in favor, please say aye?”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [No response.]

Chairperson Handel – “All right, the next case is 2008, Number 93 Pulaski County?”

Mr. McIver – “98”

Chairperson Handel – “What did I say.”

Mr. McIver – ‘93.”

Chairperson Handel – “Oh, 2008 Number 93 Pulaski.

Ms. LaGrua – I’ve got ‘98, that’s a typo on yours.

Chairperson Handel – “ Okay ‘93, sorry. “

Mr. Harvey – “The complainant in this case is the Secretary of State’s Office, the Office of Inspector General. We received a notice on October 23rd, that Pulaski County Chief Registrar, Carolyn Nesmith was allowing voters to register and vote on the same day which would not have allowed for verifying citizenship, possibly a violation of 21-2-226.” Our investigators went to Pulaski County and found out that the original allegation was for 50 or 60 people that possibly registered and voted. They actually identified 12 who were registered and voted on the same day. Some of the original ones were determined to have transferred registration in or had some other issue. So all in all, twelve people were allowed to register and vote on the same day possible violation of 21-2-226 (a). The only additional information is as it turned out that the voters did pass the citizenship verification process.

Chairperson Handel – “Okay, questions?”

The Board – [No response.]

Chairperson Handel – “Anybody here to speak on that?”

Ms. LaGrua – “Ms. Nesmith just called me, Madam Chair, and because of the funding involved -
_”

Chairperson Handel – “Yes?”

Ms. LaGrua – “ – she was afraid she would not be reimbursed but wanted the Board to know this was her first election. (inaudible)”

Chairperson Handel – “The point is we don’t have the same day voter registration in Georgia, the law doesn’t provide for that.

Mr. Worley – “Can I follow up with Mr. Harvey and if he could just explain.”

Chairperson Handel- “ That’s probably a Wes question.”

Mr. Worley – “Or Wes.”

Mr. Harvey – “Why we don’t have same-day registration?”

Mr. Taylor – In fact, since 1994 there have been statutes that talk about the duties of the registrars to determine the eligibility of each individual that applies to register to vote. One of the processes at the time was to verify the information provided on the application. Until that was done it was taken that the person wasn’t registered in time. Now, I don’t – So that’s the reason everybody. ”

Mr. Worley-“ I know there was some discussion before the election.”

Mr. Taylor – “By virtue of the election provided people with the opportunity to register prior or to vote within the same period as they could register, it’s legally possible for someone to register to vote and then vote on the same day an absentee.”

Mr. Worley – “What the authority of requiring for the state – the Secretary of States Office requiring these verification checks to be done with a day’s delay, basically?”

Mr. Taylor – “It’s the actual just process of the system. Under HAVA, there’s the verification process and the way that works is the information is entered into the system that is then transmitted by a batch process each night to the Department of Driver Services and the Social Security Administration that information is then reported back the next morning so the Registrars physically wouldn’t have that information and so until the next morning.”

Mr. Evans –“What if someone walks in to register to vote and presents their birth certificate when they’re registering to vote why shouldn’t that person be – why wouldn’t that person be allowed to vote that day?”

Mr. Taylor – “Well if the Registrar has done all that they can to determine eligibility of the individual to vote, I guess there’s the verification process that was mandated by HAVA in place, then you would have to go through that process and so even if you had the birth certificate at the time, I don’t know if you would have actually complied with federal and state law.”

Mr. Evans – So is there any relationship between the citizenship verification that is the subject of the DOD, DOJ decision?

Mr. Taylor – “Yes, sir, I believe that there is. In fact, the DOJ’s decision, I believe would necessitate the Board probably to dismiss this it would implement the process – or implement the system.”

Mr. Evans – “ I move to close Case Number 2008-098.”

Mr. Worley - “And I second that.”

Chairperson Handel – “ Can I ask just a legal question? – Why would we not table this since obviously the path to -- what ultimately happens to the process that the State is using is by no means concluded?”

Mr. Worley – “Well, I think that the issue here is the State might be able to challenge the Justice Department’s determination and use this process in the future by – as of today and from today back until the date the process was implemented there was no legal basis for it”

Chairperson Handel – “ Well that’s actually not true Mr. Worley. I’m under direct order from the Federal Courts to do it. And I’ve not gotten any order yet from the court so I’m kind of in limbo and I mean – again for this one SEB Member, I’m not going to vote to dismiss it. I’ll be absolutely amenable to tabling it until we sort through it. In fact I know that we don’t know the ultimate outcome of this today. Because I can assure you that for – without the verification process then early voting would not be something that would make any sense and the two – I mean, you can’t really do one without the other. So I would be amenable to table, but I’m not going to – this is one person that is not going to vote to dismiss this at this point.

Mr. McIver – “ Madam Chair?”

Chairperson Handel – “Yes?”

Mr. McIver – “To what extent – and I cast this question to the Members of the Board – does the current Supreme Court case of which Georgia has filed an brief stating it’s position. Anybody want to venture an opinion – ”

Mr. Evans – “I can highlight – Until that decision is handed down, I actually think if we don’t dismiss it we would be in violation of the Voting Rights Act. I think if we took any step forward further it’s a verification process that we are put on notice by the Department of Justice that it is unenforceable. We would ourselves be in the violation of the Voter’s Rights Acts.”

Mr. McIver – “I don’t see the harm in tabling myself. Letting the law develop and give us guidance so we can move forward. But anyway, that’s – I’m just one person’s opinion here.”

Chairperson Handel – “We have a motion and a second to dismiss. All in favor.”

The Board – “Aye.”

Chairperson Handel – “Opposed?”

Mr. Evans – “No.”

Chairperson Handel – “All right. I guess we’ll have no action on unless there’s a second motion. We can try and table that motion to hold this impending outcome of the various litigation and DOJ actions.

Mr. McIver – “I’ll make that motion, I agree its much like the argument of – how many angels can dance on the head of a pin – but this from a standpoint of lawyer, I’d be more comfortable if we officially table it but I guess if this motion doesn’t pass – it’s not going to at any rate – so, I assume that we’ll table this matter until another meeting when we have much better guidance from the prosecutor. ”

Chairperson Handel – “All right, second. All in favor.”

The Board – “Aye”

Chairperson Handel – “Opposed?”

The Board – “No.”

Chairperson Handel – “All right.”

Mr. Evans – “I think that actually has the effect of dismissal because I think it’s presented to us and we did not bind it over having been other occasions and motions and had it gotten – we’ll leave that up to the Complainants or the Respondents– ”

Mr. Evans – “Or Respondents, yes.”

Chairperson Handel – “ Next case is 2008 Number 122, Paulding County.

Mr. Harvey – “The complainant in this case is Ms. Linda Evans. The allegation is that a Mr. Detscher went to vote in the November 4th, 2008 General Election and he was told that he already voted by absentee ballot. He, however, was allowed to cast a provisional ballot. What was ultimately determined was his son, who had the same name although he was Mr. Detscher, II had voted early. He just would come up wrong in the system, allowed to cast a provisional vote and his provisional vote was counted and it is recommended that this case be closed. ”

Mr. Evans – “So move.”

Mr. Worley – “Second. ”

Chairperson Handel – “Second. All in favor.”

The Board – “Aye.”

Chairperson Handel – “All right, the next item is 2008, Number 127, City of Arlington.

Mr. Harvey – “The claimant in this case was the voter, Gay Williams. It’s almost a carbon copy of the previous case. Again, Gay Williams went to vote and was told they had already voted absentee. She said she had not. She was allowed to vote provisional ballot. It was accepted and she received credit. So, it’s recommended this case be closed also.”

Chairperson Handel – “All right, a motion on this one.”

Mr. Worley- “All right, before we deal with this one, Mr. Harvey, can you explain why the City of Arlington is the Respondent and this is the November General Election?”

Mr. Harvey – “It was – No, sir, I can’t. I think that one was the title it was given. The Respondent was the poll manager.”

Mr. Worley – Okay. All right.

Chairperson Handel – “It was an Arlington precinct too that’s how they gave it that case title.

Mr. Worley – “I make a motion to close the case.”

Mr. McIver - “Second.”

Chairperson Handel – “Motion and a second, any questions?”

The Board – [No response.]

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed.”

The Board – [No response.]

Chairperson Handel – “The next case is Number 2008-133 Lowndes County.”

Mr. Harvey- “The complainant was Jeff Cox the Elections Superintendent. The allegation were that an employee with the Department of Elections had not done mandatory L&A testing of the DRE’s and also that same employee had possibly purged a file from a touch screen computer. What happened is when Laura Gallegos, Respondent, was doing the L&A testing, she did L&A as she had been instructed which was not necessarily the step-by-step form which was mandated and she didn’t complete all the steps. Touch Screen Unit Number 17 was found to have a printing defect. It’s card was removed and the machine was sent back to Premier for corrections, repairs, it was never used in the Elections. The card for that machine had 947 votes on it, test votes. It had not been deleted. When the memory cards were gathered together for the election, Card Number 17 ended up with the memory card that bore the result from the election that there 947 more votes cast than should have been. They immediately called KSU. They got a

technician down there who diagnosed the problem. In speaking with Ms. Gallegos and going with her through steps, she completed a process at his direction and did purge a file and however there was no – there didn't appear to be any intent for her to try destroy any kind of evidence. The facts are it appears that she violated 21-2-379 for failing to thoroughly test each 32 DRE units on the absentee ballots precinct and that she violated State Board Rule for – and again failing to follow the mandated State procedures and that was 183-112.02.3(b)1ii and then the last one is the following code 183-112.023(b)1iii but failing to make certification stating which DRE unit system counter DRA unit and elections counter and each vote register set at zero. The other possible violation is that on the form that she used to show custodian certification form for the touch screen units – she put somebody else's initials – Gena Lofton, as having done it with her. Ms. Lofton did not, in fact, initial that page and therefore, Ms. Gallegos possibly provided false information in violation of that code section. And again, there was no evidence according to KSU there was any type of intentional purging of any records. Ms. Gallegos is no longer working for Lowndes County and it is recommended this case --that she be bound over to the Attorney General's Office for appropriate sanctions.

Mr. Evans – “So moved.”

Mr. Worley – “Second.”

Chairperson Handel – “I have a motion seconded. Now, I saw Deb. Did you want to add anything? Anyone else here to speak on this , if so you need to come on up.

Ms. Cox – “I'm here only to answer questions as instructed by my Board. The one Board Member that did attend, just got appointed yesterday, so?”

Chairperson Handel – “Welcome.”

Ms. Cox – “She's in shock right now. So I'll answer questions.”

[Audience erupts in laughter.]

Chairperson Handel – “ Don't run, we need good people, don't run away, it's all good. Yes, ma'am.”

Ms. Gallegos – “Hi, my name is Laura Gallegos, 2435 Rock (inaudible) Road Valdosta, Georgia. In testing the machine as I was told and taught. I found that the printer had been malfunctioned [sic], I did it twice, I ran it by my supervisor, I did as I was told. I was told to put that card in the (inaudible) with a note and that Susan Malham, the Assistant Supervisor will run it through Kennesaw on election night. Election night I was not in the office when those cards were transmitted into the computer. I was nowhere near the office. I was actually held up at a precinct but yet when all this came through, all of a sudden all the fault got put on me. In testing, testings are done by Gena and myself and that election path also. And actually what had happened was the paperwork had not been filled out the day the investigators came, nor was the absentee paperwork when the state investigators came, which none of this was mentioned. When testing the machine, I was not in the office when those cards was put in the machines and eight

years I had been with the office. We had never had a problem. That card should have been recognized that there were results on it because it had been left with the test results in the memory but yet the one who was put in charge was Susan Malham that – when she came to our office, she couldn't even turn on a computer. So on election night, I was not in the office, number one, but all – everything was put on me when the results was coming up 947 votes off – over, -- which was not even caught by our office when after T-Certification was done, it was sent by the state. So I mean in eight years, I've been in the office, I have witnessed a lot of things in our office where things were very hostile between Deb and myself, which I told her to her face. I did not agree with things she did in that office – which will later come out in court but –

Chairperson Handel – “That's not for this venue. So we're not going to be interested in your personnel disputes.”

Ms. Gallegos – “Well, the paperwork that was in question, nothing was filled out when the state investigated, the absentee paperwork nor that paperwork. I mean there was more into it than just that, yet I'm the one being violated, yet I followed the chain of command but I'm the one being charged.

Chairperson Handel – “Okay, any questions.”

Mr. Evans – “So what will happen is you'll actually get a chance to make all those points and then it will come back to us. So if you're right, this is the opportunity to do that.”

Chairperson Handel – “Do you want to add anything?”

Ms. Cox – “Yes, please. What I have left here at the desk for all the Board Members, is a list of remedial actions we took in Lowndes County (inaudible) and a list with documentation provided why the situation occurred. We probably don't want to go into that in public.”

Mr. Worley – “Why not?”

Ms. Cox – “It's already been threatened as a court case.

Mr. Worley – “All right never mind.”

Ms. Cox – “Investigator McBrayer did a very thorough job. He's more than competent and he has all the documentation, to back up the report that he filed. If you have any questions of me, I'll be more than happy to answer them.”

Chairperson Handel – “What's this stacked up. This big stack?”

Ms. Cox – “That the background information on why the situation was allowed to occur.”

Chairperson Handel – “Okay, all right. Is there anyone else?”

The Audience:[No response.]

Chairperson Handel – “ All right. Thank you.”

[Whereupon, a report was submitted to the Board.”

Mr. McIver – “Madam Chair,?”

Chairperson Handel – “Mr. McIver?”

Mr. McIver – “It appears to be a classic case for bind over and the process is well-designed to resolve issues such as this and for that reason, I intend to vote for the motion.”

Chairperson Handel – “Is that your motion?”

Mr. McIver – “Motion seconded.”

Chairperson Handel – “Oh we did it. I’m sorry, I missed that. Motion seconded, any other questions?”

The Board – [No response.]

Chairperson Handel – “All right, all in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [No response.]

Chairperson Handel – “All right, very good. Next is 2009, Number 11, City of Columbus.”

Ms. LaGrua – “Yes, ma’am. I believe Nancy Boren’s here as well her county attorney’s here from Muscogee County. This involves the November 8, 2008 General Election. Complainant was Tommy Frye and the Respondent is Lynn Pollock, the Operations Manager, of the Muscogee County Board of Elections and Registration. The allegations were Michael Frye requested an absentee ballot and never received one. Essentially what happened was on October 7th, 2008 Tommy Frye , Michael Frye’s father voted early and turned in his son’s absentee ballot application. His son was in school in Athens. A few weeks later having not received the ballot, the son, the father called back and was told the application was still being processed and it should be received in the next few days. The night before the election, they still had not received the absentee ballot. Mr. Frye, Sr., the father of Michael, called again and was told by Ms. Pollock he should have received the application, they had been busy and only assumed it got lost in the shuffle. I’ve spoken to Nancy Boren, who’s the Director there and apparently – it was very hectic there potentially on the same day, last day of registration – I’ll let – I don’t want to speak for them since they’re here and they can speak. It appears that this should be forwarded to

the Attorney General's Office for fine and reprimand or other words what's appropriate." And as I understand it from speaking to Ms. Boren, they have reviewed the situation and already instituted procedures to help ensure that it doesn't happen in the future.

Chairperson Handel – "Come on up."

Ms. DeLoach - "Hi, I'm Jamie DeLoach. I'm the Assistant City Attorney for Columbus, Georgia. Ms. Boren is ready to answer your questions. The November election had an exceedingly large absentee turnout. We got a notice from the State's office that we needed to prepare for this large turn out and Ms. Boren took the proper steps and brought in additional employees. On the first day of absentee balloting we, in fact, experienced an even greater absentee turn out than was expected. Ms. Boren immediately took assessment and brought in additional employees. She also took steps -- we have a 311 Citizens Service Call Number – I think you call it 311 and this center participated in answering the phones because the phones at our Elections Office was overwhelmed with phone calls. The evidence in the investigation that we received indicated that the father voted by absentee ballot on October 7th, at which time he alleged submission of an absentee ballot application on behalf of his son and that he made a call to the 311 enter and was told that the applications were still being processed and the balance would be sent out in three days. At this point, the voter did have notice of an unusual situation and was given a timetable by the government in which time he could check to make sure the application had been received and appropriately handled. However, Mr. Tommy Frye waited until Elections Day to check. Mr. Frye was unable to identify anybody at our Elections Office as the Registrar or clerk that waited upon him. Ms. Boren undertook an exhausting search for the ballot's application. She interviewed both the temporary and permanent employees. She did e-mail searches, an office search reviewing all the documents that they had obviously reviewed the voters registration database as well as all absentee ballot applications and she was unable to determine if there was any record of all of this absentee ballot application. There is testimony in that investigators report, [reading] Lynn Pollock had application by Mr. Frye. I have an affidavit from her in which she states, she is essentially a customer service person and she would never contradict the word of a citizen or a voter because her job is to deliver quality service but she acknowledges that she has no information or access to any records that in fact the office ever actually received the application. The statute with which Ms. Boren is charged with violated speaks in terms of a clerk or Registrar receiving a ballot and they have to act accordingly with that. There is absolutely no evidence in this case this particular Registrar, Ms. Boren or Ms. Pollock received the actual ballot application and when you look at the statute, it does not appear to be creating supervisory liability. Ms. Boren is a supervisor but she is not a Chief Registrar. She is just a Registrar. Now, if our county were charged with multiple violations, y'all could easily believe there was a systemic problem and the supervisory liability would be appropriate under the circumstances. But we have an unusual situation and only a single allegation and although every vote is absolutely vital in this situation, it does not indicate a systemic problem where we should impose liability on an individual where there's absolutely no evidence that this individual did anything wrong. Finally, Ms. Boren stands ready to and indicate to you the investigation that she undertook as well as the additional procedures she has identified that will further improve the absentee balloting process in Muscogee County.

Ms. Boren – “Good afternoon. Would you like to hear it or?”

Chairperson Handel – “Do y’all have a login system?”

Mr. Evans – “What is the protocol, how are applications is treated?”

Ms. Boren – How an application is treated when a person walks in with their absentee ballot application, is that what you’re saying? First we ensure that they’re the proper person to make an application for that absentee ballot. In this case it was the father of a son, or he alleges he made application for an absentee ballot for his son who was away at the University of Georgia. The day that he was in our office was October the 7th. While he had no specific memory of the date that he submitted that application we have to assume that it is the day of October 7th which is the day he cast his absentee ballot in person. So we’re going with the October 7th date. So when he walked in – It also coincided with the voter registration deadline for the November General Election. So obviously we’re handling a number of pieces of paper. We have established boxes, one for absentee ballot applications and one for voter registration applications and when the person would come in with their form, we would put it in the appropriate box. And once we received those applications then they were sent to our Registrars for processing and verified that they should receive the ballot.

Mr. McIver – “Was it logged in anyway? How do you track this?”

Ms. Boren – “We don’t log each individual application. The applications are logged once they’re entered into the State Voter Registration System.” Our process is we received an application – until you verify that that person is a voter in your county and is eligible to receive an absentee ballot, it’s just an application at that point. So once we made the verification that that person was indeed a registered voter, and they have made an application for an absentee ballot. Then we complete that application and yes they are a voter, yes they can receive an absentee ballot and here’s the precinct in which they’re registered and here’s the district combination for the ballot they should receive and then Registrar who approves that, initials it. That form is then entered into Screen 16 which is our (inaudible) sub system which says that we’ve received an application. That information is then forwarded to the Secretary of State’s Website on the Poll Locator where that person can actually track how their application is proceeding through the process. When a person makes application and wants to check to make sure that we have received the application, they can go to Poll Locator to review it. But then once that application is approved, and the information is put into the system then we segregate each application by precinct. We have boxes in which we put the applications in for each precinct. And then once they’re segregated, by precinct they’re issued a ballot and then that ballot number is then added to the absentee sub system again and the ballot is processed to be mailed out.

Mr. McIver – “Now, is that consistent with the training you have received?”

Ms. Boren – “They’re not specific with how we should handle the process. The only thing we do we have to the process the application within a certain amount of time and then once they are processed, we have to mail the ballots out within a certain period of time. There are no specific

guidelines as to how to best handle these procedures in each individual office. We do have practice procedures that we just do share with one another. But as far as specific guideline, there aren't."

Mr. Worley – "I have a question, do you have an absentee ballot clerk?"

Ms. Boren – "I have several absentee ballot clerks."

Mr. Worley – "And were they the person you would argue should be responsible for this? Your lawyer's response is you're really not responsible."

Ms. Boren – "I'm the Director of the department. My chief Registrar is a collective five-member Board of Elections and Registration. We have a combined Board of Elections and Registration. The Chief Registrar would be that collected five-member board. In essence it would be that five-member board who ultimately would face, I guess, the fine or the charges or whatever. I don't think it would be individually each Registrar or absentee ballot clerk, Because ultimately the Board does handle those issues."

Chairperson Handel – "We have, colleagues, the affidavit from Lynn Pollock , I'm passing down and we should probably go ahead admit that into the record if I can get a motion on that?"

Mr. McIver – "I move to admit."

Mr. Worley – "Second."

Chairperson Handel – "All in favor."

The Board – "Aye."

Chairperson Handel – "All right, any opposed?"

The Board – [No response.]

Chairperson Handel – "And is there anyone else here to speak, is Mr. Frye or his family here?"

[No response.]

Ms. LaGrua – "May I make a comment?"

Chairperson Handel – "Yes, sure."

Ms. Boren – "Our 311System was answering our telephone calls during the absentee voting period. As such they made a record of the voters who called in with issues of not receiving a ballot, or can you tell me when my ballot will be mailed out. We did an extensive search of those 311 Call Center Records and while there was no knowledge of the fact that they did not put every call in the system, we do have one call from Mr. Frye and it was on Election morning at

7:39 a.m. And at time he was advised that the only way his son would be able to cast a ballot on that day was if someone was to drive from Athens to vote in his precinct, ” We have no other record of Mr. Frye contacting our 311 Center but I certainly acknowledge the fact of perhaps that he could have. In looking at the seriousness of this and hoping we can improve our process with this, we have looked at ways that we can probably tighten down the process a bit. One of those ways is to certainly advertise the Secretary of State’s Website, The Poll Locator, where the voter can actually track twenty-four seven their application, when their ballot was mailed and when their ballot was received in our office. That is not something that we did in November and December and had we done that Mr. Frye, Michael and Tommy both could have tracked those absentee ballots and would have known prior to election eve that Mr. Frye’s application had not been processed. So as part of our ongoing PR service to our county, we are going to advertise that and say if you want to know what the status of your ballot is, please look at this website. Secondly, a long-term goal for us for the next presidential election, we will be in a larger site. We do have a different building it’s going to be a Citizens Service Center that will better accommodate voters and our process. As you know sometimes we’re kind of small other times we beef up to each process and we have not had the space, the physical space to accommodate this for quite some time. So for the next presidential, we will have that space. And then the third thing will be all applications that are processed in our office, and again this is Registrar’s discretion or our director’s discretion, everything will be color-coded. So absentee ballot applications that come into our office by fax, by delivery or the ones that we mail out will be a color and we’re looking at yellow. So that even a trained temporary who’s only been there a week will know if a person comes in with a voter registration form, if it is a deadline. If they come in with a voter registration form and it’s white and they come in with a yellow form, even that temporary employee will be able to say, this goes in the yellow box, this goes in the white box. And again, we did go through all 3,000 of our absentee ballot applications to determine whether or not Mr. Frye’s application had been attached to another one of our absentee ballots by mistake and painstakingly went through all 30,000 of those ballots because we wanted to identify what had happened so that we can fix it and we were not able to find that application.”

Chairperson Handel – “If I can ask from Shawn, so we don’t know, there’s nothing in your office and nothing from the investigation to even say, I’m not disputing that it was sent in, but we don’t know even know if it was or it wasn’t?”

Ms. LaGrua – “We cannot confirm or deny based on from our investigation.”

Chairperson Handel – “I am, however, particularly impressed that also with the volume that you received that – and now this hasn’t always happened with us but sometimes with individuals before the SEB but here you had one incident and you immediately went into action to do remedial work and to improve the process even more and – ladies and gentlemen, this is why I don’t necessarily always speak out about certain election structures, but this is why Ms. Nancy Boren is one of our best. So I appreciate your quick action and addressing this because you are right that we don’t ever want to see even one vote or one individual feel that their vote was not able to be cast.”

Ms. Boren – “Is that it?”

Chairperson Handel – “Anything else? Colleagues any questions?”

Ms. Boren – “So the outcome -- did we hear?”

[Audience erupts in laughter.]

Chairperson Handel – “I don’t know if we have anything one way or the other to specifically refer –”

Mr. Worley - “Well,-- ”

Chairperson Handel – “ I think I’ll hear from my colleagues.”

Mr. Worley – “Okay. I think when we have a dispute here. We have evidence, testimony to the investigator for Mr. Frye it was turned in. So there appears to be a potential violation . It doesn’t appear that the Respondent is the correct Respondent, however, the Board of Elections and Registration should have been Respondent. So -- I don’t know that we should refer it with the wrong Respondent. We can ask the County Attorney on behalf of the Board of Elections to agree to waive notice of or to basically agree with if they had gotten proper notice with this so that we then could refer it on.”

Ms. DeLoach – “I’m so sorry but I haven’t spoken with the Board, I’ve only spoken with Ms. Malone, so I can’t waive anything without speaking to my client. ”

Mr. Worley – “ All right.”

Ms. DeLoach – “ I think the statute still speaks in terms of the duty of a person –”

Mr. Worley – “I don’t buy that argument at all, frankly, I will tell you what my view of the case is. The office is responsible, the Board is responsible for what happened and we have plenty of cases brought before us everyday where the Board is responsible even though it wasn’t the actually Members of the Board that actually did something. So this supervisory liability issue that your raise, I don’t agree with that at all. With that being said, my view is this is a one-time thing. It certainly appears to be a violation it ought to be sent to the Attorney General’s Office where we ought to do no more than send a letter pointing out that it was a violation and knowing that you won’t do this again. So my view would be that if you would agree to waive that, that we can get this resolved pretty quickly if not – ”

Ms. DeLoach – “Yes, sir – I will waive.”

Mr. Worley – “You can come back for another meeting -- ”

Ms. DeLoach – “No, sir, I will waive. ”

Chairperson Handel – “Until we can send the letter?”

Mr. Worley – “Right.

Mr. McIver – “Then I move we panel this matter by means of the Letter of Instruction consistent with my earlier motion today.”

Chairperson Handel – “Second. And I would hope that we would also in the letter acknowledge also the steps that have been taken and the things to be done--”

Mr. Worley – “And certainly we would acknowledge in the letter that you’ve really gone above and beyond to try to rectify this in the future.”

Chairperson Handel – “Motion and a second. All in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed.”

Ms. DeLoach – “Thank you.”

Chairperson Handel – “Okay. Our next 2009, Number 19, White County.”

Ms. LaGrua – “Ma’am this involved the 2008 General Election, the complainant was Matthew Wooten, the Respondents would be Garrison Baker White County Probate Court, Lisa Manning the White County Chief Deputy Registrar. The allegation was from Mr. Wooten was who lives Argentina, temporarily was in Argentina. The absentee ballot that he received had been tampered with, that he received an absentee ballot that had the office of the president, one U.S Senate seat, and one PSC Candidate had already been voted when he received it. When the Probate Court Judge, Judge Baker got this allegation, he initially launched his own investigation. He went through the process made sure everything was done correctly, interviewed all of his personnel within the Registrar’s Office, found that everything had been handled appropriately. We went in behind and did our own investigation, did the interviews individually and we found that all the procedures had been properly handled. This office is in the courthouse and there’s a number of other offices with it. The ballots were taped when they were sent out. There was a piece of tape placed across the back of the envelope that did not appear to be tampered with but easily could have – something could have happened between when it was sent out and when it came back. I’m in no way disputing Mr. Wooten’s representation that when he received the ballot, there were a number of candidates that had been marked. Through our investigation, however, we cannot substantiate that anyone in the White County Registrar’s Office, Probate Court had anything to do with any of the problems. He was offered a new ballot and never responded to Judge Baker when he was offered a new ballot. Based on all of that, we would recommend that this case be closed. ”

Chairperson Handel – “Anyone here to speak on this, come on up?”

Judge Baker – “I’m Judge Baker --”

Chairperson Handel – “Hey there.”

Judge Baker – “—and Lisa our Chief Registrar. We didn’t come with a prepared statement. We came to make ourselves available to the Board if you have any questions in terms of the investigation we conducted. We certainly, it’s an unfortunate situation --”

Chairperson Handel – “—Anything that you want to add to what Ms. LaGrua presented?”

Judge Baker – “We stand – We stand by the investigation --”

Chairperson Handel – “Okay. All right. Mr. Worley.”

Mr. Worley – “I have a question. The investigator reports that Mr. Wooten was offered a substitute ballot but he never responded to the offer. This was five days before the election that he contacted you all? How was – What was proposed as to how to get him a ballot in Argentina?”

Judge Baker – “We were in communication with Mr. Wooten. When the complaint come in by e-mail so we were e-mailing almost immediately back and forth and contacting the County Attorney. We offered through the Federal Elections assistance with a ballot to be sent to Mr. Wooten and we explained that process procedure to him and we didn’t get very far.”

Chairperson Handel – “Any questions?”

Mr. Worley – “Okay. Did we talk to Mr. Wooten?”

Ms. LaGrua – “Yes.”

Judge Baker – “Yes, sir.”

Mr. Worley – “So what is he saying?”

Mr. Harvey – “I spoke with Mr. Wooten about the same time and he said that he had gotten his envelope and it had the presidential, senator and PSC Candidate filled out in blue ink. He said that his ballot didn’t appear to be tampered with when he received it. There wasn’t any indication that it had been opened or anything like that and he didn’t have any – He was obviously not happy about it -- ”

Mr. Evans-“Do we have that ballot?”

Mr. Harvey – “Yes, sir.”

Mr. Worley – “Was it marked?”

Mr. Harvey – “It was.”

Mr. Worley – “So how could that have happened?”

Mr. Harvey –[No response --]

Mr. Evans – No, I’m just saying, logically, there’s a point where you have a ballot and it’s in somebody’s hand and it then it leaves. So part of what we always want our investigators to do is to track where that happened because premarked ballots are serious business -- and you know, I can’t state for anybody else but that’s not the kind of thing I can just let go. And if it means we turn over every rock and playground to make sure that we know where it didn’t happen that’s something but premarked ballots are -- we just – you know, we either have to have eventually conclude that Mr. Wooten, who sounds like a generally reliable person and not a reason to indicate otherwise who is producing a ballot that has been marked is telling us the truth and then we know that we have a culprit somewhere and we have to figure out who it is. You can’t just say, gee the bank is missing money but we don’t know who took it.”

Mr. Harvey – “We identified the actual clerk who handled it, she remembered handling it and sending it to Argentina. She denied marking it herself and denied seeing that it was marked. And then he reported that it was marked when he received it.”

Ms. Manning – “I was the clerk – I mean I was the person that handled the ballot and I assure you, I did not mark it. And at the time – my office is inside the Tax Commissioner’s Office – My office is right inside the Tax Commissioner Office. My desk is right there in the middle of the office. You know, I have tag clerks around me, people coming into the counter, I have my temporary help there and if I was marking a ballot I think somebody would have seen it. And I assure you, I did not mark a ballot. I remember -- he got his – we got his application late and I remember I said, I need to get this done and to the Post Office before a certain time so that we can get it to him. I prepared it and then one of my temporary workers she took it to the mailbox. And she was interviewed and I was interviewed with a couple of other ladies in my office, interviewed. So we did tape it. It was not stuck. It wasn’t sealed, so you know if anything happened between the time that it left my office and the time he got it, I don’t know. ”

Mr. Evans – “Well, do we think he’s telling the truth?”

Mr. Harvey – “I don’t have any reason to believe he’s not telling the truth, it’s interesting he was a fullback scholar from the University of Georgia he was doing studies in election corruption.”

Mr. Evans – “The University of Georgia? Well, that takes care of that?”

[Audience erupts into laughter.]

Mr. Harvey – “I believe it’s the University of Georgia, I’d have to go back and check but that he was a fullback (inaudible)”scholar and he pointed out to me that he was down in Central South America – actually, studying election corruption and his next e-mail replies back to me were going to be sent to the AJC and the New York Times. So, I can’t question his integrity but that’s another part of the puzzle.”

Mr. Evans – “So when the ballot left you, it was unmarked and it was in a taped envelope, you gave it to an assistant, who took it to the post office.”

The Clerk – “Yes, with another ballot I wanted to get in the mail that day because when you’re a college student, we make sure it’s got in the mail so it can get there in time and get back.”

Ms. LaGrua – “And according to Mr. Wooten when he received it in the mail, it did not appear to be tampered with or anything happened to the tape. I just don’t know if there’s any answer unfortunately here. I don’t know where else to go and investigate.”

Mr. Evans – “Well these are the kinds of things that Tex and Dave and I deal with regularly which are twofold. Somebody’s probably not telling the truth and the question is, how do you resolve it. And we don’t have them both in front of us. We can’t tell.”

Mr. Worley – “Well, we don’t know who the other person is other than Mr. Wooten to be fair. I don’t expect that Judge Baker or --”

Mr. Evans – “No, I agree.”

Judge Baker – “Believe it or not, I coached the young man in little league baseball for 12 years before he went off to school and graduated with one of my sons. So as far as it goes, he was an upstanding young man. I don’t have any reason to doubt his statement and I’m not sure when his ballot arrived. It arrived in a room or dorm where he was at and someone could have gotten a hold of it trying to play a joke with him. I’m not sure. I just know from our end of conducting the investigation we followed all the procedures and everything that we uncovered in our investigation showed we followed the proper procedures throughout the absentee process and that’s as far as I can tell you.”

Mr. Worley – “Did you receive any other complaints from other voters during the election they had problems with their ballots --”

Judge Baker – “No, sir”

Chairperson Handel – “Did it appear -- You have the actual ballot, did it appear it was untaped and retaped?”

Judge Baker – “I don’t believe so.”

Mr. Harvey - “I do believe he said it was delivered to a friend’s house or where he was staying, apparently he was in and out he was in different locations. It was harder to keep contact with him. I don’t know that he was always in one place or that it would have come directly to him. He didn’t make any allegation that anybody else would have handled it but in the conversations both by phone and e-mail he would talk about -- he’d go out for three or four days and then come back and the mail was sent to a friend’s house.”

Chairperson Handel – “ And he was doing a study, you said? On?”

Mr. Harvey – “On some kind of --He pointed out to me how ironic it was that he was down in Central or South America studying corruption and election fraud. And this happened to him.”

Chairperson Handel – “And then what was the thing about the New York Times?”

Mr. Harvey – “He said he was going to send a copy of his complaint to the New York Times and the AJC. And I also got with the Elections Division and tried to e-mail him all the -- and this was – I believe on the Friday before the election, tried to e-mail him information on writing ballots and tried to get him as much information as possible to allow him to send the ballot in.”

Chairperson Handel – “Do you think there’s anything further that you could investigate?”

Mr. Harvey – “Probably not without going to Argentina.”

[Audience erupts in laughter.]

Ms. LaGrua – “I’d be happy to take him.”

Chairperson Handel – “I’m sure. All the investigators stood up on that one. Calandra , anything that the AG’s Office would have more access to than investigators?”

Ms. Almond– “No, we probably have less.”

Chairperson Handel – “So if we referred it to you, you wouldn’t be able to do anything anyway?”

Ms. Almond – “No.”

Chairperson Handel – “All right, y’all want to try a motion?”

Mr. Worley – “Well, I’ll make a motion that we close the case, while there may have been a violation, there’s no indication whatsoever of who the violator may have been.”

Chairperson Handel – “Motioned seconded, questions or comments?”

The Board – [No response.]

Chairperson Handel – “ All in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

Randy Evans – “ No.”

Chairperson Handel – “The next case is --”

Mr. McIver – “May I interrupt? “

Chairperson Handel – “Yes, absolutely.”

Mr. McIver – “I’d like the record to reflect, I’ll like to abstain from that case – most of it.”

Chairperson Handel – “Case Number – 080002.”

Ms. LaGrua – “This is a Memo Case. Henry County. Madam Chair, it’s Henry County. The complainants were Richard and Michele Law. The Respondent is Ms. Frances Jackson, the Elections Coordinator. The allegations were they were issued two different ballot styles, even though they live at the same address. What we found out was Mrs. Law voted in advanced voting and said there were four Board Members on her ballot and when Mr. Law voted on election day, he did not have that option. The only thing that we were able to determine that potentially happened though we cannot prove this is that during early voting the voter access card that was created by one of the poll workers and if they put the wrong combo in, there could have been the wrong combination which would have shown the School Board on the advanced voting that Mr. Law would not have seen on Election Day. Unfortunately, there was no way for us to simply show whether or not that happened – as I understand it. My recommendations generally aren’t this being a Letter of Instruction issued directing some training around the need for accuracy during the looking up of these folks during the advanced voting period.”

Chairperson Handel – “Is there anyone here to speak on this?”

The Audience – [No response.]

Chairperson Handel – “Anyone here from Henry County?”

The Audience – [No response.]

Ms. LaGrua – “ I’m sorry, that doesn’t --”

Chairperson Handel – “Okay, so is there anyone here from Henry?”

The Audience – [No response.]

Chairperson Handel – “Did they get notice that this was coming?”

Ms. LaGrua – “They did. Apparently, I’m sorry. Mr. Brown is saying that” Ms. Shellnutt -- the director -- Go ahead Mr. Brown, if you could.”

Mr. Brown – “ Ms. Janet Shellnutt knew about the meeting and wanted to come but she was sick. She wanted to come this morning. She called me and this morning.”

Chairperson Handel – “Well, if that’s the case, if she wanted to be here to comment on it, probably want to go ahead and give it the obligatory continuance.”

Mr. Evans – “I so move.”

Mr. McIver – “Second.”

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [No response.]

Chairperson Handel – “This is another Memo Case Number 0806.”

Ms. LaGrua – “This was the November 2008 General Election and in Pierce County. Early on, we got a complaint from Sandra Boatwright Pierce County Registrar against a Bridgett Jacobs that she had been paid to vote for a particular presidential candidate. We had a good deal of trouble initially to locating her. We finally did. What happened was – When Ms. Jacobs came into vote, initially her identity her residence and all could not be verified. She became upset when the Registrar could not allow her to vote at that time and now and upset and said she wasn’t going to get her 25 dollars for voting. Subsequently, DFACS, I believe it was sent over verification of her address the Identification Card was issued, she was registered to vote. We tracked her down. She denied completely making that statement. She did not vote in that election and in fact has never voted in Georgia. Candidly, there’s no doubt in my mind -- I shouldn’t say no doubt – There’s no reason for Ms. Boatwright to have called us and told us about this. It was the only allegation of the kind made that we have this election. However, based on the fact that she didn’t vote, there’s no way to show that she was offered any payment for voting and she denied making the statement. So it is recommended that this be closed at this time.”

Mr. Evans – “So moved.”

Mr. McIver – “Second.”

Chairperson Handel – “Are there any questions?”

The Board – [‘No response.]

Chairperson Handel – “ All in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed.”

The Board – [‘No response.]

Chairperson Handel – “AG’s Report, update from Mr. Taylor.”

Mr. Taylor – “ Good afternoon to the Board. Before you I gave you earlier in meeting the list of the Special Elections that we had of the Elections Division that you are aware for the upcoming June 16, 2009 about the Special Elections. So I wanted to let everybody know what is coming up. Also at the last meeting I gave each of the Board Members and e-mailed a copy to Board Members who were not present at the last meeting. The several rules for your consideration, the process would be if you would like to consider those and proposed those as rules. The process would be essentially that the Board would vote on each one and decide whether you would want to post those for 30 days at which point, we make sure we get the notice out and those posted for comments and then the next scheduled Board Meeting you would consider those comments and decide whether to adopt those rules. If you have any questions about them individually, I can certainly go through them or very briefly or I can answer any questions you may have about them.”

Chairperson Handel – “If I might, what would be helpful would be if everyone would take a look at them and get Wes to comment on them so that we can go ahead because I think, Mr. Evans, as you pointed out, at our last meeting it is a rather lengthy process. We want to make sure that we have ample time for public input, so. Like it maybe is another two weeks sufficient for everybody to get Wes any additional comments? ”

Mr. Evans – “That’s fine with me.”

Chairperson Handel – “ That would be great. And if there’s anything in particular then he can coordinate with each of you try to get some action and be ready to go by our next meeting.”

Mr. McIver – “Madam Chair, a question for Mr. Taylor?”

Chairperson Handel – “Yes.”

Mr. McIver – “Have these rules been properly admitted to the various folks at the SEC before they come to us?”

Mr. Taylor – “Well actually that would be the first step in the process would be number one these -- Number one these have gone to the Attorney General’s Office. I have sent them over to Stephen and he sent them back already.”

Mr. McIver – “And he’s sent them back?”

Mr. Taylor – “He’s looked at these.”

Mr. McIver – “And he hasn’t had an issue with these?”

Mr. Taylor – “ The aspect of the first step in the process is the floor to vote whether they want to post them for public comment –“

Chairperson Handel – “But Wes, you did also get input from the county as well?”

Mr. Taylor- “ Oh, yes, ma’am these are all the issues, I’m sorry. ”

Mr. McIver –“The guys from DEOA?”

Mr. Taylor – I had talked with a number of election officials, yes sir, about all of these. A number of them you’ll see– are similar to what was in the Cleanup Bill. They’re are also appropriate of the rules to be considered by this Board. So yes, these all are issues that all the counties that I’ve heard from have been fined, yes, sir.

Chairperson Handel – “All right, any other items for me?”

Mr. Evans – “Sir, are you going to walk us through the Department of Justice Letter?”

Mr. Taylor – “I’m unsure what it is you’re asking, Mr. Evans.”

Mr. Evans – “Well you’ve had a pretty significant development. I would tend to thing making the Board on what the letter said what it’s basis is.”

Mr. Taylor – “Yes, sir. I’d be happy to. The Secretary of States Office received – well the Attorney General received at 7:30 Friday evening a letter from the Department of Justice denying preclearance for the Voter Verification Process that was established under HAVA –I’m sorry – that was established under HAVA to verify certain information on the Voter Registration Application. That information included first name, last name, date of birth, social security number – well the last four digits, driver’s license number, and whether the individual was a citizen on the Department of Driver Services database. And the Department of Justice denied preclearance of that process.”

Mr. Evans – “ I’m confused. So is it –Confused – So one troubling statement that’s in the letter – I just wanted to get – Did you participate in preparing our information to the Department of Justice?”

Mr. Taylor – “Yes.”

Mr. Evans – “So you could be the best person to help here. Is this idea that there’s a statistical significant discriminatory effect and if you have approximately -- although African Americans and white voters represent approximately equal shares of voter registrants, more than 60 percent more African Americans voters who registered during this period were flagged. So, is that right?”

Mr. Taylor – “Well, there’s two issues here. One is – I’m happy to go into whatever questions you have on this. We do have litigation that is still pending and is still in the discovery phase, so I’ve been informed by the Attorney General’s Office – I probably get into too much of the details, but I’m happy to talk about it with you. ”

Mr. Evans – “I’m going to interrupt you because this is -- in all fairness, I raised this in Executive Session and I was told it was more appropriate to talk about it in Open Meeting and now we’re in an Open Meeting I’m being told, it’s more appropriate to talk about it in the context of litigation. I’ll I want to know is --”

Mr. Taylor – “Yes, sir, it’s not the SEC’s litigation, it’s the litigation of the Secretary of State. So therefore it wouldn’t matter if it was in Executive Session or here.”

Mr. Evans – “Oh, it would.”

Mr. Taylor – “It’s pending litigation involving SEC.”

Mr. Evans – “The bottom line is, is this a true statement or not – That African American are disproportionately impacted by the – by the Voter Verification Program?”

Mr. Taylor – “ The was the Voter Verification Process was implemented, Mr. Evans, is that we take the information that’s provided on the Voter Registration Application and match it to the Department of Driver Services database that’s it. That’s the some total of it. Now, we provided all of the individuals who actually came back and said their information didn’t match exactly between those two databases. What the specific percentages and numbers are and all that, I don’t know but I can tell you that, that portion of the Department of Driver Services Letter is referencing the overall –“

Chairperson Handel –“DOJJ letter.”

Mr. Taylor – “Yes, ma’am.”

Chairperson Handel –“You said Driver Services.”

Mr. Taylor – “I’m sorry, DOJ letter -- is that portion of the process that deals with the first name, last name, date of birth, social security number and driver’s license number. And that is the same process that almost all states in the Union are having to do currently under HAVA.”

Mr. Evans – “The confusing part for me on this is this, if this is merely the result of errors of transposition, numbers get inverted, data gets inputted, there shouldn’t be a statistical variation based on race. It should spread evenly amongst whoever the registrants or applicants are and yet, what we’re told here that is, in fact, it does vary by race, that in fact African Americans are disproportionately impacted. And the question I have for you is, is that true? Because if it is true it is an indefensible program –”

Mr. Simms – “Mr. Evans, if I may, Rob Simms Deputy Secretary of State. In response to your questions we can’t really comment as to what the DOJ says the statistics analysis shows because they did not share with us the statistical analysis.”

Mr. Worley – “Well, do we know? ”

Mr. Simms – “Have you done your own statistics? Excuse me for interrupting you.”

Mr. Evans – “No, you asked the question that I was going to ask. We bear the burden of proof, right? ”

Mr. Simms– “I mean we submitted it for preclearance, sure.”

Mr. Evans – “Okay. And did we prepare it for statistical analysis in order to fulfill our burden of proof?”

Mr. Simms – “Did we fulfill a third-party statistical analysis or other evaluation of the data, no. We just simply provided the data.”

Mr. Evans – “Then how could we sustain our burden of proof – to show that we --”

Mr. Simms – “I can’t speak to that Mr. Evans, that’s a legal question that frankly might be best left to the Attorney General’s Office since the Attorney General’s Office is ultimately responsible for the preclearance submission.”

Mr. Evans – “It’s not a legal question.”

Mr. Simms – “Well, we just disagree on that. I can’t answer that.”

Mr. Evans – “We don’t just disagree on that.”

Mr. Simms – “I still can’t answer the question.”

Mr. Evans – “So for the minutes of this Board, today, your staff can’t even provide to the Board a defense that this is a statistically neutral application of a verification process?”

Chairperson Handel –“ Mr. Evans, if I might, the process is completely neutral in that it matches data to data. That is it, data to data. We have no idea how it’s going to come out. We simply take names, address, the last four digits of a social or the driver’s license number and match it. If they do not match, then it comes back as a non-match. And I think any reasonable person would say, Gosh we have a name that does not match a driver’s license, that needs to be followed up on and in fact it is more than what a reasonable person would call for, it is what the federal Help America Vote Act requires us to do which was how we got to this place in the first place, if I can remind everyone, with a letter that was sent to the state some three months after I came into office informing the state that it was not in compliance with HAVA and we had better get into compliance with HAVA and so we did. And this process has been in place for well over eight or nine months and before then we went to court – in Federal District Court and Mr. Dunn, if

you could help us from the Attorney General's Office, because I realize I've got litigation going on and I need to do what my attorney tells me. We went into court – and I want to remind this body that the process that was developed, it was laid out in the court before the three-judge panel. DOJ was in the room and in fact went into a private room with the plaintiffs in the case to review in detail the process and came back out and we left that day with a directive from the three-judge panel to indeed continue doing the process because of the state's inherent and deep interest in ensuring that individuals' registering to vote or A) who they say they are, and B) citizens of this country.”

Mr. Evans – “ So I take it from that, that we did not do a statistical analysis in support of our application to determine whether or not the Voter Verification Program did or did not have a disproportionate impact?”

Mr. Simms – “Mr. Evans, if I may, the questions you are raising are a part of something that was not originally submitted in preclearance. We were asked to submit for preclearance the citizenship verification not the R-1 Report.”

Mr. Evans – “ But listen, I've been on this Board a long time. I know that disparate impact is a critical part of sustaining your burden. And I know that statistically that in order for us to pass Section 5 preclearance we have to show that -- if ten people go through a door, five are white and five are black but the system inevitably African Americans are stopped, it is a defective program. We know that. We've dealt with this before and as a result, statistically we do those in order to sustain our burden. And what I hear you saying is, that wasn't done here. That's troubling -- and what's also troubling is that this may be true. You can't tell me that what the Department of Justice is saying isn't true, that would be troubling in and of itself. And those are the parts that we as the State Election Board – and I'll be candid, this is really no different then when we had a Democratic Secretary of State who ran a program which was artificially rigid and resulted in 600, 000 mismatches which I then – Mr. Worley will remember, challenged saying, you can't do that. And I'm not going to be any different just because we have a different party as the Secretary of State. We have to abide by the law. And so what I'm worried about is we now heard the statement by the Department of Justice that we have a disparate impact on African Americans and we don't have any statistical data to rebut that statement. Is that true?”

Mr. Simms – “Is what true?”

Mr. Evans – “ Notice --”

Mr. Dunn – “I just simply say this to keep from going round and round --”

Mr. Evans – “No, I – Do we have an statistical data?”

Mr. Simms – “Let me just simply say this, we completely disagree with the Department of Justice's statement that this has some disparity and impact on minority voters and I will say again that the statements that which you are referring --”

Mr. Evans – “How can you say that if you don't have statistical --”

Chairperson Handel – “Please don’t interrupt.”

Mr. Simms – “You are correct in a sense that we don’t have statistical data analysis for the R-1 Report, because frankly we were not asked for it. We did not submit that part of the citizenship or the Registration Verification Program for preclearance. That was not what the litigation involved last fall. That was not what any of the communication involved with the Department of Justice. That was not what our preclearance submission involved.”

Mr. Evans – “And I take it – you didn’t anticipate or it didn’t occur to you that a disparate impact on --”

Mr. Simms – “If I may, Mr. Evans --”

Mr. Evans – “Please don’t interrupt me.”

Mr. Simms– “ Absolutely, Mr. Evans – I will appreciate the same consideration.”

Mr. Evans – “I will. This is – This is serious business.”

Mr. Simms– “No question.”

Mr. Evans – “And the impact for us as a state is serious business – and so did we not anticipate the disparate impact would be a factor that would be considered by the Department of Justice in the evaluation of this program?”

Mr. Simms– “We did not anticipate that this part of the verification process which is mandated by HAVA, which as you are well aware federal legislation is not required to go through preclearance as it was passed by Congress. That this part of the process which is going – and I believe you’re referring to page 4 in the section that refers to an R-1 Report is which is directly mandated by Congress. We did not submit that for preclearance. How the Department of Justice came to the conclusions they came to regarding data for that part of the program, we cannot speak to.”

Mr. Evans – “Well, let me make a couple of suggestions for future, just in the interest of the State of Election Board, the interesting thing about this – of course we went through this with a different Secretary of State, is that if you exclude the Board then you own the results. This was not a Board project, this was not a Board policy even though we are charged with the responsibility for elections. Hold on –now you own it. Now as the owner of it, if you look back you will find the disparate impact has always been a factor and that if you have two systems, R-1 and R-2 that are interrelated in any way, if one is raised, the other is raised. So if you submit R-2 for preclearance and it is in any way interconnected with R-1, R-1 is at play as well. Now this isn’t just about – this isn’t just you. I don’t want you to think it is just about you, the Attorney General’s Office should have known. This Attorney General has submitted a number of preclearances and he is fully aware that the statistical comparison showing the absence or impact is a necessary prerequisite to sustaining the Burden of Proof. Now, all of that about who didn’t

do what and when is irrelevant to me. What is very relevant is, we need to find out if this statement is true because I will tell you if it is true this has a disparate impact on African American voters, I will make a motion that this Board reject and disapprove of the use by the Secretary of States Office of this program because we cannot sustain – we cannot sustain a disparately impacted program that affects African Americans unfairly in Georgia.”

Mr. Simms – “I’ll say this Mr. Evans and I want to make it clear on the record that obviously the Secretary of State and office and staff would never in any way engage in any activity that would have – I guess, a known disproportionate impact on any group of voters and to suggest, imply, or even allege otherwise is extraordinarily troubling. Now we can continue to debate between the R-1 and the R-2 and continue to go in these circles. I’ve provided the explanation as best we can again on an issue which again is not what the litigation involved last fall, or frankly, what our submission to what preclearance was and if these are the questions that need to be asked, then I suggest that maybe we need to address them to the Department of Justice as well because we can’t speak on their behalf, but again to be clear and the Attorney General’s Office made this clear in every court filing and appearance in federal court and single district court and before Judge Camp and before the three-judge panel, that the state of Georgia, the Secretary of State and the Attorney General’s Office was acting in good faith and not having submitted this for preclearance previously under the argument and the impression and understanding that as the requirements for HAVA dictate the match in those five areas, this was not subject to preclearance. We immediately submitted the verification program for citizenship for preclearance and were ordered by two courts, two federal courts to continue with this verification process. Now, after the fact, some eight or nine months later, the Justice Department is not only raising issue with the citizenship match but now the data that was contained in the R-1 report that frankly we can’t address at this time. But again to be clear, the Secretary of States Office is in no way intending to do anything that would have a negative impact on any group of voters.”

Mr. Evans – “Do you believe that the application of the program is neutral but the impact is disparate but it’s acceptable?”

Mr. Simms – “I think I just covered that, Mr. Evans.”

Chairperson Handel – “I think we’re gonna – do you have any other questions –look Mr. Evans, I’m not gonna, I realize that you can certainly have your say but you’re not going to interrogate a Member of my team. So I would appreciate it, if you would like to ask some further questions, that’s fine, I’ll be more than happy to address them but this is not a place where you get to interrogate my team.”

Mr. Evans – “I think that this is part of the problem. I think that we have a situation where this process as it was with Secretary Cox has become so insolent, it has become so narrow that it is without checks and balances --”

Chairperson Handel – “Well, we can agree to disagree, Mr. Evans, but as we stated earlier, this is a process that is being done in every other state that was not grandfathered into be able match socials. So if you would like to pursue this further, I would be more than happy to talk with you

but we're not going to debate the whole thing as we just told you we have live litigation on it and I'm not going to get into it further and you know –"

Mr. Evans – "If you're cutting off debate then –"

Chairperson Handel – "I said you can go forward and say anything you'd like. But you're not going to browbeat and interrogate my team."

Mr. Evans – "All I want to know is that which the basis for our submission?"
And I don't know where else to get that information. We weren't provided that information at a Board Meeting. We were not provided a copy of the submission. We were not brought in or to adopt or accept the policies and procedures that were being accepted. So other than asking staff, whose job it is to provide the data, and honestly, these are questions are no different that were asked to Secretary Cox when she was the Secretary of State. These are no different that the questions that were asked to the staff now. Now if the answer is, we don't want to talk about it, that kind of speaks volumes."

Chairperson Handel – "I don't think that was the answer. I think that staff gave you the response that they were going to give and you didn't like the answer and you wanted to continue browbeating and that is not what I'm going to subject my team to."

Mr. Evans – "If I'm browbeating, I apologize. I think the browbeating here is where is the data? Do we have data?"

Mr. Simms – "I'm sorry?"

Mr. Evans – "Do we have any data on the impact?"

Mr. Simms – "Yeah, we have the data that – yeah, we have the election."

Mr. Evans – "Can we get the data? Can you give us the State Elections Board, the people who are charged in supervising this, can you let us see the data?"

Mr. Simms – "I'm sure we can provide you with that information, sure."

Mr. Evans – "That would be great so if we can get the data reflecting the net impact of the application of this program by race as outlined, that would be great."

Mr. Simms – "Okay."

Chairperson Handel – "Mr. Worley."

Mr. Worley – "Yes, I had some questions on this general topic and I'm not sure whether this is appropriately directed at Mr. Taylor or Mr. Sims or the Secretary, I appreciate the Secretary position that she was required to do this matching by HAVA but I had a question and in part of the Department of Justice's letter it says that, "" As of March 13th, 2009 a total of 199,606

individuals are flagged as a non-match based on end criteria on the R-1 Report.”” What happens to those people when they’re non-matched on the R-1 report .”

Mr. Taylor – “Yes, sir, I’ll be happy to address that. Yes, actually I believe that I had sent out an e-mail about this to the county’s election officials prior to the election but basically it is to take that information and treat it the same as they would any other information that they have about an individual’s eligibility to register and vote under preexisting statutes and laws which have been in place since 1994, since the Voter’s Registration Act was enacted and all those statutes have been precleared for years. So that’s what the Registrars are supposed to do. You’re supposed to take that and look at that and think in the first instance, of course, and think this is what brought this all on, is the first instance is to say, hey, is there a data entry issue? From the very beginning it allows the Registrars the opportunity to determine have I entered the information incorrectly. And if they figure out, no that I haven’t, they put in a nine and it should have been an eight, they’re able to determine that from this verification process and clear that up right there and it’s you’re done. Otherwise they would have to follow up with the individual to determine is the information that they have correct. ”

Mr. Worley – “So it’s entirely up to the local Registrar to decide whether or not to do anything with that information?”

Mr. Taylor – “When you say, entirely, yes and no, I believe is the right answer? What they’re supposed to do is what they have done with issues that they’ve seen on Registration Forms in the past and they’re supposed to follow the same process that they have been following --”

Chairperson Handel – “Required to follow – it’s not discretionary.”

Mr. Taylor – “It’s a requirement to do something with it but what they have done, they need to make sure they are doing what they have been doing since 1994.”

Mr. Worley – “Okay. Do you have any idea of how many of those nearly 200,000 individuals were flagged, you know, how those issues are resolved by the local Registrar?”

Mr. Taylor – “No, sir, I do not.”

Mr. Worley – “There are two reports, the letter says that of the 7,007 individuals who have been flagged on the R-2 Report as potential non-citizens more than half were in fact citizens. Could you describe for us what efforts are – those people that were flagged as non-citizens, have been required to undergo, to prove that they were citizens?”

Mr. Taylor – “Well, I can’t speak to each and every one of them, but what they’ve been, what the county Registrar’s request, in fact, on a number of them, the 4700 to which the Secretary of State herself sent a letter, it was to ask for information to prove that they are citizens of the United States because they have told the Department of Driver Services that they are not. So then the Registrar then follows up with the individual to say, hey are you a citizen of the United States and would you provide me with some information to show that.”

Mr. Worley – “Does the Secretary of States’ Office considered any other methods of checking on citizenship other than this R-2 Report since more than half of it’s findings are inaccurate?”

Mr. Taylor – “Well, when you say they’re inaccurate, I know that, that is the term that has been used. But it is accurate information as to what is in the Department of Driver Service’s database and that’s all that this process has been to compare those two databases that HAVA has said – that’s what you’re supposed to do, compare information in one database to the data information in another database and that’s all that’s what’s happening.”

Mr. Simms – “If I may, Mr. Worley, I think part that goes with your question is this, in some of these circumstances we had an individual that was illegally a non-resident alien maybe had some similar nonpermanent status that was here by every definition of the word, illegally in this state. But they had become naturalized over a period of time since they had received a driver’s license from DDS. At that point, the state is not, the Federal Government does not trigger for the state that they have become naturalized, nor is there any requirement or avenue, if you will, to let the Secretary of State or the local Registrar to know that they have become naturalized. But if you’ll recall from the litigation in the fall, we had a process for everyone to follow which was the one codified in both court orders in federal court in which these individual were able to provide the information to their local Registrar’s Office to say, yes, in fact, I have been naturalized. Mr. Moralis, the lead plaintiff in the litigation in the fall, is a perfect example of this and I think it should be also a worth noting that Mr. Moralis voted in the fall. The process afforded him the ability to reconcile his information and vote in the fall. That’s what our process put in place was to make sure that everyone who came up with this criteria had the ability to go and rectify and questions that may be there.”

Mr. Worley – “Well, I appreciate that but I think that you can also appreciate that there are some people, including myself, who’ll wonder why someone should be put to that burden, when a system that identifies them is going to be wrong more than half the time?”

Mr. Simms – “Well, I don’t know that the system was wrong more than half the time. I think the issue is --”

Mr. Worley – “I’m sorry --”

Mr. Simms – “Wait, if I may --”

Mr. Worley – “More than half were -- ”

Mr. Simms – “You asked the question. I don’t think the system was wrong and I don’t even think the data was wrong. What we had was an issue in which some of these individuals were contacted and said, the information provided by the Department of Driver services indicates that you may not be a citizen of the United States. Therefore, can you provide further information. That’s what the system – I don’t know --”

Mr. Worley – “ Well the system identified them as non-citizens --”

Mr. Simms – “Because they had identified themselves as non-citizens somewhere in the process.”

Mr. Worley – “And for whatever reason the system to check --”

Mr. Simms – “I can tell you what the reason was, they have identified themselves as a non-citizen. It is not for whatever reason – It is because they went to DDS – for a driver’s license.”

Mr. Worley – “I understand that --”

Mr. Simms – “Received a driver’s license –

Mr. Worley – “So but you’ve got to admit that this process of relying on the DDS database is inherently flawed when more than half the people it flagged were U.S. citizens.”

Mr. Simms – “Mr. Worley, I don’t think the process is inherently flawed when by your own estimation and more than half of the individuals were able to come forward and say that they are in fact citizens after they had contacted – after they had been involved with DDS, received identification and they were able to vote.”

Mr. Worley – “Mr. Simms, so you’re essentially saying, if we have system that charges a hundred people with a crime, five of them are able to come forward and prove that their innocent – that this system works.”

Mr. Simms – “Mr. Worley.”

Mr. Worley – “That this system that charges them with a crime, works.”

Mr. Simms – “I don’t.”

Mr. Worley – “The system of identifying them, isn’t working --”

Mr. Simms – “Well, Mr. Worley, I would hazard against comparing the charging somebody with a crime to the notion at some point they received a driver’s license when they were not a citizen, tried to register to vote and were asked to provide documentation to reconcile their status. I think those are grossly disproportionate comparisons to between the two. I’ll just point this out also, not a single person as of right now to this very day has come forward to the Secretary of State, to the local office, to the Justice Department or before any court and said they were not able to vote under this program. Not one.”

Mr. Worley – “That is not the issue Mr. Simms.

Mr. Simms - “I believe that is the issue.”

Mr. Worley – “The issue is what burden you’re going to place on voters. That’s the issue. People have a right to vote and it shouldn’t be burdened -- ”

Mr. Simms— “I agree. I agree.”

Mr. Worley – “—Burdened by a system that that’s inherently flawed and that is the issue here.”

Mr. Simms— “Mr. Worley, no one’s right to vote was burdened by the system as evidenced by the fact of what I just said. Not a single person has come forward to say they were not able to exercise that right to vote.”

Mr. Evans – “but quite a few didn’t come back, right.”

Chairperson Handel –“We’re going can agree to disagree and it is --”

Mr. Worley – “If I could just follow up with one more questions?”

Chairperson Handel –“Okay.”

Mr. Worley – “There’s a section in the Department of Justice’s letter that says, ““ Although the State has not provided data on the racial and language minority characteristics of all registrants whose applications went through the verification process.”” I take it that is the information that you could produce. You know the 199,000 people who showed up on the R-1 report, could you provide the characteristics of those registrants?”

Mr. Tailor – “ I think I can provide the answer to that, the answer is no. We did provide the racial makeup of all those 199,000 that they’re referring to. What the Department of Justice is referring to is the fact that the verification process has been in place since April 2007, it is a and has always been a continuing process, so as those verifications or those individuals were dealt with between say April, I think, of 2007—and I can’t remember exactly how far back we went, I think it was May of 2008, we couldn’t provide all of that information because the system didn’t have it, didn’t store it, it didn’t contain all that information.”

Mr. Worley – “Are you saying that 199,000 people that were flagged as a non-matched, we don’t have records of who those people are?”

Mr. Tailor – “No, we do have records of those. We don’t have any that might be additional to that. Well, let me go back --”

Mr. Worley – “That’s fine.”

Mr. Tailor – “No we could provide those -- any that are additional. We did provide all that. It was in our submission.”

Chairperson Handel –“Okay, Mr. Worley.”

Mr. Worley – “Thank you, that’s all I have.”

Chairperson Handel – “Anything else.”

Mr. McIver – “I have a question, I think that’s Mr. Dunn in the room, hiding behind –”

Mr. Dunn – “I’ve never seen you before in my life.”

[Audience erupts into laughter.]

Mr. Evans – “Was the period of time taken for preclearance taken by DOJ normal or abnormal?”

Mr. Dunn – “The federal law provides that when you do a submission administratively, the Justice Department has 60 days from when they received it to act on it or ask for more information. In this instance they asked for more information at the end of the 60-day period. We provided everything they asked for and then they have by law a second 60-day period in which to make a decision. Most of our submissions never get to the second 60-day period because most of our submissions are here’s the old statute, here’s the new statute, here’s the change. So, in the sense that this was an unusual submission because that of the nature of this submission, that was – that’s different. The fact that they took the second 60 days on a big submission is not necessarily unusual. I mean they’ve done that, for example preapportionate submissions, too. And part of it is just – you just have to sort of understand the Justice Department, of course is getting Section 5 Submissions from all the coveragature. They have this 60-day window in which to do things and sometimes they just can’t get things done in that 60 days. Now across the board across the nation, we have no idea how many times they ask for additional information but they have done it past, when we initially switched from Motor-Voter or implemented Motor-Voter that was something they did. When we get the reapportionment submissions, that’s something that they’ve done.”

Mr. Tailor – “If I may, Mr. McIver, briefly, the original submissions, I believe on October 16, it was requested that we expedite the review and we received the letter for the Department of Justice May 29th.”

Mr. McIver-“If I could in fairness here, the request was on October 16th within 60 days on December 15th, they requested additional information is what statutorily provided. It then took us a hundred five days to provide them the additional requested information, far more than the 60-days that they took. And then we provided an additional supplemented information on April 2nd, and then within that 60-day period, they provided their final answer –”

Mr. Worley – “And I was going to follow up with Mr. Dunn, is it some reason why it took a hundred and five days to respond to their request?”

Mr. Dunn – “Well, you’d have to see their request for additional information. A lot of it was statistical information that the Secretary of States Office gathered. And the second thing, when you mentioned April 2nd, addition or whatever, I think that was the revised Voter Registration Application, which really the only change in the Voter Registration Application was the addition of the blocks on the Voter Registration Application to add a driver’s license number which was not there on the previous precleared version form. So that’s what they considered sort of

interrelated because it had to do with Voter Registration. So that was an additional substantive on the citizenship verification. That was on the form itself, I believe.

Mr. Evans – “So, if I do the math, I think they took a total of about looks about a hundred and seventeen days we took about a hundred and seven days. So before we get too far down the beaten path of who’s responsible for what amount of delay, I think we have to be sensitive to what the actual calendar shows. ”

Mr. Simms – “Mr. Evans, I think part of the issue is also, you’ll recall that we had a General Election in November and we had a run-off election for the United States Senate as well as some Liberal seats in December, all of which were moving pieces for our data, which obviously had to be resolved in an election certified and set forth before you. We can provide some of that information.”

Mr. Evans – “I’m not suggesting delay on the other parties side was inordinate before we get too far down the path of saying, they delayed, we have to be very careful at throwing a rock when you live in a glass house. On Page 5 of their letter, they talk about the alternatives, and it just struck me that at the end of the day that this will come down to whether or not primary purpose is to make sure that only citizens vote or whether the purpose is to impose a burden on people who, you know, in terms of voting. Now, if we draw that distinction are there, are there alternatives available that are automated that would permit us to verify citizenship without imposing a burden on individual voters?”

Mr. Simms – “Mr. Evans, just to state again obviously the State’s intention of this was never to impose a “burden” on anyone and their ability to vote. With reference to the belief there’re alternatives available, I’ll just simply say this: speaking on behalf of myself, and I think for the Secretary of State, the Department of Justice never discussed any alternative approach to any of this with this office during the run-off, preclearance, the official submission of preclearance or until the day that we received this letter. I can’t speak to the Attorney General’s Office for them, but I can say that the Attorney General’s Office never suggested that they had a conversation to say, we will if you just went and did it this way. As far as some automated alternatives, first, this is an automated process, the one in which we use currently today. It’s an automated process between our office and the Department of Driver Services – ”

Mr. Evans – “I may be just confused – I thought the process was automated to flag a voter but not automated that the voter has to show up and prove their citizenship. There’s no automation to that and the question that I have is every employer in Georgia can verify the citizenship of an employee. Is there an automated system?”

Mr. Simms – “You’re referring to the same program in E-Verify both of which we utilized the same program in our licensing division. The E-Verify program is used for private employers both of which are very strictly governed by Federal Statute and there is no provision anywhere to allow for in the way of election administration to utilize those databases for any of those types of purposes. ”

Mr. Evans – “So is one effective answer is to go back to the Department of Justice and say, there’s a real easy answer here, all you have to do is to give us permission to uses E-Verify?”

Mr. Simms – “The federal statute does not allow for E-Verify to be used for purposes other than employment.”

Mr. Evans – “You and I disagree on that but if it doesn’t a real easy answer is to say, President Obama with control of a Democratic Congress all you need do is let us use E-Verify.”

Mr. Simms – “Sure, I guess we can request the Congress change the governing statutes for the implementation and utilization of E-Verify, it’s safe right now.”

Mr. Evans – “Or we could say we want an automated program, right?”

Mr. Simms – “We can ask for a lot of things, I’m sure.”

Chairperson Handel – “But if I might, that still doesn’t change that HAVA says specifically that in running the match, you are to use – and I think I’m understanding this properly, you are to use DDS and Social Security. The federal laws specifically directs where the matching occurs. There is no discretion on that at this point in time. ”

Mr. Evans – “Well it’s kind of that they either have to provide their driver’s license or they have to provide the last four digits of their social security number or they provide designated numbers and the number provides as cross match. That’s how the system works. It’s largely automated. Where the problem has happened is that somehow in the application or the implementation of our program, unlike other states that use a similar program -- ”

Chairperson Handel – “But, but Mr. Evans, I completely disagree with that. The other states, the vast majority of them have not had to go through preclearance and all of the others were indeed precleared without having to provide such data. So that is not a correct statement. We don’t know what anyone else’s verification program shows.”

Mr. Evans – “Now, we know disparate impact, it’s just that, for whatever reason, we don’t have, nobody in this room, nobody on this Board has the data other than the Justice Department and the Justice Department concluded that the data overwhelmingly penalizes and flags African American voters. That’s unacceptable. ”

Chairperson Handel – “All right, a conclusion that we flatly disagree with and again we can go around and around with this all day, Mr. Evans. We are going to agree to disagree. It is inherently appropriate to ensure that when we receive new voter registration that we ensure that the individual submitting that information is indeed who they say they are and that they are citizens. And if we get back the report that shows they’re potential non-citizens – non-citizenship or if the information for the individual doesn’t marry up with the person on the piece of paper, then I have a responsibility to follow up and the counties have a responsibility to follow up with that and the program as worked through the court before the three-judge panel with DOJ in the room sets up a very strong safety net to ensure that for any individual that they

have ample opportunity to provide any additional information to answer any questions and clarify the information and no voter has been turned away from voting because of the process and further, no voter has come forward to say to us, no a single individual has come forward to say that he or she was denied the ability to vote. So we're just simple going to have to agree to disagree. ”

Mr. Evans – “And all I’m asking as a Member of this Board is that you give me the data --”

Chairperson Handel – “And I think that Mr. Simms has already concurred to do that and you continue with your browbeating and I’m simply not going to take it. So if there are any other questions that people would like to ask in a civil manner, then as Chair, I would be delighted to entertain them.”

Mr. Evans – “And as to whether anybody has been turned away, there’s a number here that’s reflected in our own submission of people who didn’t come back. And I’m sorry, but the idea is, the idea that somehow because they didn’t come back then you infer that they’re automatically non-citizens is an improper inference.”

Mr. Simms – “Mr. Evans, I’m a little bit perplexed. The State has argued a case that is before the Supreme Court for a review on photo I.D. that a citizen’s not returning to the Registrar’s Office is not indicating --”

Mr. Evans – “That’s because on Page 5 the Department of Justice noted, and I’m hoping to make sure that this is in our Supreme Court materials, “That the decision of both Crawford and (inaudible) resulted in a record totally devoid of evidence of a discriminatory effect. The absence of disparate racial effect permitted Georgia to require voters to present appropriate photographic identification as a prerequisite to voting. Those predicates don’t exist here.”

Mr. Simms – “I would disagree the state has argued that there is no evidence of a disparate impact with this program.”

Mr. Evans – “Would you then agree that if the evidence is then of a disparate impact you will then --”

Chairperson Handel – “Mr. Evans, he is not your witness and you will stop interrogating him, for heaven sakes. All right, we’ll be happy to entertain more comment but we’re just asking the same exact questions over and over again and I don’t think you’re going to get a different answer.”

Mr. Evans – “No, this is -- well, first of all, I don’t agree with you and I don’t think-- ”

Chairperson Handel – “I know you don’t --”

Mr. Evans – “And if you would be please stop interrupting me. I’ve tried very hard not to interrupt you. This is an extremely important issue. This isn’t one that we can just skim over

and pretend like it doesn't exist. And my question is, if the data in fact confirms a disparate impact, will the Secretary of State agree to abandon the program? ”

Chairperson Handel – “Mr. Evans, we will go through the process and see where things end up. I can assure everyone that I'm going to do, as I have always done from day one in this office what is in the best interest of the integrity of the process and the best interest of the individual voters.

Mr. Evans – “Well, I will say this, if the data in fact confirms disparate impact I will move the Board to overrule you.”

Chairperson Handel – “Okay, anything else, colleagues?”

The Board – [No response.]

Chairperson Handel – “I will entertain a motion to adjourn.”

Mr. Worley – “Second.”

Chairperson Handel – “All in favor.”

The Board – “ Aye.”

Chairperson Handel – “Any opposed.”

The Board – No.

Chairperson Handel – “The meeting is adjourned.”

Whereupon the motion to adjourn concluded the SEB meeting at approximately 3:25 p.m.