

Click on the index topic below to skip to that page in the hearing testimony.

Democrat Party Executive Committee Hearing held June 17, 2004 in Columbia, SC

**Regarding the following: Kent Williams Protest
 Kent Williams Withdrawal
 Tim Norwood Protest**

Index

Hearing Officer McFadden – Are all Candidates Represented?	2
Opening Statement by Mr. Hamm (Williams)	3
Opening Statement by Mr. Stuckey (Norwood)	9
Opening Statement by Mr. Gray (Glover)	12
General Discussion and legal arguments	12
The Motion to Hear the Norwood protest	27
Discussion of the Motion	27
The Motion passes	29
Tim Norwood Direct Testimony	31
Tim Norwood is Cross Examined	33
Art Murray Direct Testimony / Voting Irregularities	37
Art Murray is Cross Examined	56
Art Murray Examined by the Executive Members	62
Benjamin Ingram Direct Testimony	67
Benjamin Ingram is Cross Examined / Motion to Accept The Affidavits	73
Affidavits from Taffilia McGill, Talib Abdu Majid, Hessie Grainger	78
Affidavits from Ocea Gilchrist, Frank Huggins, James Clark	79
Affidavits from Lela Anthony	80
Kent Williams Direct Testimony	81
Kent Williams Examined by the Executive Members	83
Kent Williams ReDirect Testimony	84
Kent Williams Examined by the Executive Members (again)	85
Kent Williams ReDirect Testimony	86
Art Murray ReDirect Testimony	87
Art Murray is Cross Examined (again)	94
Art Murray is Cross Examined by Glen Gray	98
Closing Argument – Mr. Stuckey for Norwood	105
Closing Argument – Mr. Hamm for Williams	106
Closing Argument – Mr. Gray for Glover	106
Discussion and Argument of the Executive Committee	107
Motion to Accept the Norwood Protest	107
Committee Discussion of the Motion to Accept	108
Motion to Accept Vote	115
Motion to Involve SLED	115

PROCEEDING:

HEARING OFFICE MCFADDEN: Now, I'm going to give you a brief overview of where you are and then give an opportunity to the attorneys to assert their position. As a preliminary matter, you will have to decide whether or not there is anything legally still left in front of you. Okay? As a matter of fact, this is a protest arising from Senate Seat 30, which is Florence, Darlington --- Florence, Marion, Marlboro, and a little bit of Dillon, I believe. **There were three candidates in the primary; and incumbent Senator Glover is represented by Glen Gray; Tim Norwood is represented by Jim Stuckey; and Mr. Williams is represented by Steve Hamm.** Okay? As all of you know, and this is straight by the statute, the primary occurs on Tuesday, the results are certified on Thursday; and statute says you've got to be through with the certification by Saturday; and then the statute says you have to protest by Monday. Okay, so now, this is, I believe, the 8th --- the 10th ---

COMMITTEEMAN: The 12th.

HEARING OFFICER MCFADDEN: --- the 12th, this is the 14th and --- now, Senator Glover came in number one. Initially the reports were that Mr. Norwood was two and Williams was number three. After a result of what occurred on Thursday and Saturday, this became the positions. Okay? Mr. Williams had protested ---

MR. STUCKEY: Madam Hearing Officer, I'm not sure that's ---

HEARING OFFICER MCFADDEN: You can dispute these facts, okay?

MR. STUCKEY: Okay.

HEARING OFFICER MCFADDEN: But the statute requires disposition to have been made by Saturday, whether or not as a matter of fact you knew it on Saturday, you get to say.

MR. STUCKEY: Is this being transcribed for the record?

HEARING OFFICER MCFADDEN: I don't think so.

MR. STUCKEY: I would request the Hearing Officer to have the court reporter transcribe your remarks so it will be preserved for the record.

HEARING OFFICER MCFADDEN: Okay. But the statute requires the counting to be completed by Saturday, whether or not it was is a question, in fact. And then the statute says you've got to protest by noon on Monday. Mr. Williams protested by noon on Monday. Today, Mr. Williams withdrew that protest. Either yesterday or today, the Party became aware of Mr. Norwood's protest. So, the decision for you, based on what the parties are going to argue to you, is whether or not Mr. Williams can withdraw his protest today; and if he can, is there anything --- can you accept Mr. Norwood's protest? Okay? Now, we'll let the proponent of withdrawal speak first; and then the proponent that it can't be withdrawn speak second. And Mr. Gray, do you want to be heard on this issue?

MR. GRAY: I'm observing --- until later on, I'll speak to it.

HEARING OFFICER MCFADDEN: Okay. So, Mr. Gray, after the discussion of them, regarding your client. And so Mr. Hamm, if you could make your presentation, given the lateness of the hour.

MR. HAMM: I hereby declare a message about gravity. Good evening. My name is Steve Hamm. I, along with Jo Anne Wessinger Hill, represent Mr. Williams in this matter. The Chairman, I think, has generally accurately described the factual determination; but, I think I might have some slight disagreement. But those disagreements are not directly tied to the issue before you. She correctly indicates that on the initial election date, Tuesday, the 8th, my client received the third of three clients -- of three votes, three candidates, he was number three in the acquisition of votes. As you are aware, the statutes talk about canvassing; and at the end of the canvassing and the certification --- and, in fact, because of the one percent rule, which you all discussed in the prior proceeding, there in fact, was a recount. And the recount last Monday

morning began at ten o'clock Monday morning; and as a result of that recount, the position of my client and Mr. Norwood changed; and in fact, my client was then number two candidates in terms of number of votes, and thus is authorized by statute to proceed in the run-off scheduled for next Tuesday. The Chairman has accurately reflected that my client filed a protest. And I want to make sure you understand why that happened and why, in fact, my client can withdraw that protest. You are all familiar with the statute --- this statute that comes up during the course of the previous conversation. But as you all are aware, 7-17-560 is the statute that specifically establishes the standard by which you proceed, over the standard established by the General Assembly, signed by the Governor, and constitutes the applicable law that applies to this protest. And indeed, in the protest filed by Mr. Norwood, they specifically referenced that they were doing it under the terms of 17-17-560. So, did my client have the ability to withdraw protest? Yes. Why did we file a protest? We filed a protest on Monday because we didn't know what might happen in the recount. We knew on Saturday there was a less than one percent difference between my client and Mr. Norwood, and I filed to make sure that I could accurately advance the interest of my client by timely filing a protest before Monday at noon. And that was done. I personally went to SLED and filed it at 11:45 and SLED had the SLED officer write it, because I didn't even want to entrust it with one of the law clerks in my office. Later that day, having met the requirements of 7-17-560, later that date, as a result, the recount mandated by statute because the difference in votes was less than one percent, the votes turned out to the benefit of my client; and my client then became the number two vote getter for purposes of proceeding in the run-off that takes place by statute next Tuesday. Having at that point secured the position that I needed for my client, we put it on the table for purposes --- once you do this, you're trying to make sure you get your client into the run-off and they can be heard by the voters. Having secured what I needed and having looked at the circumstances, I

concluded this morning that I needed to go ahead, after consultation with my client, and after --- because he was concerned about various matters, and contacting his supporters and members of various Election Commissions, he concluded there was no need for him to have a hearing and I --- because he was in the run-off. So there is no question in my mind that a candidate can withdraw a protest; just like as a lawyer, I can withdraw pleadings that are filed in the case. And we did that, and we served that on the State Executive Party's Headquarters this morning. The Chairman, the Hearing Officer, has accurately reflected that I then this afternoon filed a Motion to Dismiss Mr. Norwood's protest. This is not a question of an attack on Mr. Norwood. He is a fine and honorable man. There are honorable candidates in this race and the voters will make those determinations. So, the presentation I make now is in no way an adverse comment about the caliber or quality of Mr. Norwood as an individual or as a candidate. But I stand here on behalf of my client, making --- and I filed a request for dismissal --- or, a Motion for Dismissal for these specific following reasons. South Carolina Law specifically requires under 7-17-560, that any protest or contest must, and I emphasize the word "must", be filed in writing with the Chairman of the Committee, along with a copy for each candidate in the race, not later than Noon on Monday following the canvassing of the vote. And if you'll look at the Board and the notations made by our Hearing Officer, we know that Monday following --- referencing that statute in this case is Monday, the 14th. On behalf of Mr. Williams, I filed a protest prior to Noon in accordance with this statute. There is no question in terms of the document that is filed in the State Democratic Party Headquarters; there is no question that the canvassing took place. There may be a question --- And I will state for the record, I have great respect for the lawyer representing Mr. Norwood and I'm not going to try to anticipate all of his arguments, because I'm sure that I won't. But the only way Mr. Norwood can proceed with his protest, we are all going to have to conclude that 7-17-560 doesn't say what it

says. And the South Carolina Supreme Court of Appeals said that there are statutes of, where are now unambiguous, neither the Courts nor this august body of the Executive Committee of the Democratic Party, you have no ability to disregard the clear unambiguous language contained in the statute. The record is on file. And again, I cannot use the comments made by our Hearing Officer. She can't offer evidence and I can't offer evidence; but I believe, and let me clarify it with the Hearing Officer, I think the filings that have been made, the protest of the parties, the withdrawal, all of those are eventually part of this record.

HEARING OFFICER MCFADDEN: And there are sufficient copies for everybody to have one.

MR. HAMM: So, they are part of the record. So I'm arguing, not attempting to put evidence in the record. It is already there in front of you right now. Since the statute requires that a party file by Noon on Monday and the record is unambiguous, without question, the protest filed by Mr. Norwood was at least as early as yesterday afternoon; the stamp on the document signed by the SLED folks was actually crossed out. In the handwriting it says 4:35 p.m. yesterday; today is the 17th, yesterday was the 16th, as a mathematical fact; and factual certainty, those dates are after Monday, the 14th. And therefore, they are absolutely not in compliance with the requirements of the statute. Having said that, can there be some sort of argument --- well, wait a minute. They have a recount on Monday; so therefore, can there be an argument under 7-17-510 --- well, wait a minute. That constitutes a canvassing, and therefore, we get until the next Monday. Well, unfortunately for Mr. Norwood, the answer can only be, "No." There is only one statute that references the canvassing for purposes of this hearing, that is 7-17-510; and the canvassing is the Thursday next, following the primary. The primary again, as noted, and I'm quoting from a statute, the canvassing takes place on the Thursday following the primary. The primary was on the 8th, there can only be one Thursday

following the primary that was the 10th, there was a canvassing. Can there be a second canvassing by which Mr. Norwood or any other honorable person can come before you and say, "Wait a minute, I want another shot at this thing"? And again, I say respectfully to Mr. Norwood and his counsel, and as respectfully to this body, the answer is an unequivocal, "No." There is only one canvas that is taking place. Mr. Norwood, to the extent that he raises any issues, he knew about what those issues were going to be on Tuesday, the 8th, on the day of the primary; or, to the extent that he wanted to raise issues on Thursday, the 10th, he could raise them. It was a close race among these two gentlemen, between two very fine gentlemen. It was clear that it was going to be less than one percent. It was clear there was going to be a recount based on the activities that took place on Saturday, the 12th. Could Mr. Norwood have filed a protest just like I filed on behalf of my client by Noon on Monday to protect his position? The answer to that is "Yes." And it is my position, on behalf of my client, Mr. Williams, that essentially the following has happened. The statute requires that a protest be filed by Noon on Monday. My client filed such a protest. Mr. Norwood did not. As a matter of law, in my opinion, what does that mean? It means basically that Mr. Norwood made the decision. Well, he knows there is going to be a recount and he essentially decided that he was going to accept the results of the recount. Now, I can tell you, my client did not know what was going to happen on the recount. I will certainly concede to you that the bulk difference between these two fine gentlemen is small; but 7-17-560 is what I would refer to as a gateway statute. You don't go around challenging election until you follow the standard required by the statute. My client did; and, for whatever reason, Mr. Norwood did not. The record is unequivocal that the protest filed by Mr. Norwood was filed with SLED yesterday afternoon. You know from the record that those documents were received both by me and my client this morning, today is the 17th. So for purposes of my Motion to Dismiss, it is my position that you all have no discretion. I am required as I

stand here, and I'm going to be very clear, there is case law in South Carolina that says if you don't raise the issue of timely filing, the party proceeds, then you've waived. Well, I stand here making sure that I am not waiving this issue of timely filing on behalf of my client. So again, with an examination of the statute, knowing that the canvassing by statute is the Thursday next following the primary, there is only one canvassing under the statute that happens; and under 560 complaint --- the protest must be filed on Noon the following Thursday. As far as our calendar is, that's June the 14th. And I have already advised you, but for the record, I will reflect the fact that the mandatory recount took place in accordance with 7-17-280, because there was, in fact, a vote difference of less than one percent. These are not contested issues; these are facts on the record. The South Carolina Supreme Court, and there was a reference to this earlier, places the very harsh burden in many respects on the process of voting. It is one of the great treasures that we enjoy in this country; but for it to be valuable, for it to be meaningful, those standards must be complied with. Because essentially this matter has to come to an end. And under the construction that somehow or other you can file a protest after the Monday following the initial primary, which was on the 8th, places in total disarray the statutory construction created by the General Assembly. Because ultimately what this is designed to do --- Who is supposed to decide these things? You all are supposed to make your decisions and get the matter to the voters. And in this circumstance, again, my client, as a result of the recount, was declared to be the vote-getter, came in second place; which qualified my client for the purposes of the run-off that takes place next Tuesday. I raise all of this because it is my position, you do not need to, nor should you, nor can you, nor are you authorized to hear the first word of evidence from Mr. Norwood involving a protest. For that to happen, my --- for that to happen, you might say, "Well, Mr. Hamm, we're not going to worry --- we're not going to worry about that statute, we just want to hear what he's got to say." And my position is, if you want to hear what he

has to say, have a conversation at the conclusion of this meeting so you can get all the details. But this proceeding is not the device by which you could do that. I believe that adequately describes the position on behalf of my client. And I await from counsel.

MR. MOORE: It wasn't brief.

MR. HAMM: For me, that was brief. Thank you.

HEARING OFFICER MCFADDEN: Mr. Stuckey?

MR. STUCKEY: Mr. Chairmen and Madam Hearing Officer, they say that brevity is the soul of wit. So in that regard, I hope I am very witty. Mr. Hamm basically argued to you tonight, after we've all been here for more than --- going on five hours, that on Tuesday, June 8th, when the primary occurred and the election results were tabulated and reported to the Election Commission and Mr. Norwood was declared to be in second place by seven votes. That is, Ms. Glover was in first place, Mr. Norwood was in second place and Mr. Kent Williams was in third place, by seven votes. By statute, the county -- - respective County Boards of Canvassers met, certified the results and certified that Mr. Norwood was in second place. So there was a slight error earlier in the description. The primary occurred on Tuesday. Forty-eight hours passed. The County Boards in Dillon, Marlboro, Florence and Marion met, certified Mr. Norwood as the second place person in a run-off to be held with Senator Glover. Then on Saturday --- that happened on Thursday. On Saturday, the following Saturday, the County Boards of Canvassers met, made a statement to the State Board of Canvassers at the State Election Commission, certified, this time for the third time that Mr. Norwood was in second place behind Senator Glover and that Mr. Williams was in third place. The State Board of Canvassers on Saturday, either those Section 7-17-280 of the South Carolina Code of Laws states that when a candidate is a primary, and I'm paraphrasing, but the Hearing Officer can read it to you. When a candidate is separated from another candidate in a primary by less than one percent of the vote, the Board shall order a recount "*forthwith*." Now, the

Code of Laws does not have a statutory definition of forthwith; but every legal book I've ever looked at "forthwith" means right now. It means immediately. The State Board of Canvassers did not do that. They delayed the recount until Monday. Now, what happened on Monday? I get a call from Mr. Norwood telling me that he's received a protest filed by Mr. Hamm on Monday morning. At this time when Mr. Norwood received Mr. Kent Williams' protest, in which Mr. Hamm and another attorney, Mr. Whittington, signed pursuant to their responsibilities as attorneys of record for a client, that the election was such a sham and a fraud that an entirely new election should be held. And if I could just quote from them --- from this document for a second, the protestant which was Mr. Williams, "Believed that numerous irregularities, errors, problems and illegalities did affect the election results." So he filed this on Monday. And, as Mr. Hamm said, he waited until 11:45 on Monday to file this protest. Fifteen minutes before the deadline. And I know we're not here to give evidence; but as I'm here, contacted in Columbia by Mr. Norwood, I jump in my car and drive down I-20 to meet Mr. Norwood at approximately 3:00 in the afternoon on Monday. And Mr. Norwood said, "I have just received notification that the recount has resulted in Kent Williams being the second place finisher by six votes." So, if you accept that Mr. Hamm's argument, it would require -- and I understand this is a precedent, so you may have to deal with this -- once you decide that this is the case and this is the law, you're going to have to deal with this in the future, that every candidate who is ahead in an election has to file a protest. And the reason they have to file a protest is they don't know whether anybody else will protest; and if there is less than a 1% separating a candidate in an election, they have to field a protest because a recount could change the results. Now, two arguments with respect -- actually, three arguments with respect to Mr. Hamm's presentation. Number one, the statute does not permit Mr. Williams to affirm under oath that the election was a sham; that there were numerous irregularities; ballots were procured illegally; and then turn

around three days later, when he things that he's ahead, and say, "Oh, never mind, didn't mean it." Second, when we filed our protest on yesterday with the Chief of SLED, the statute said that service is perfected on the Chairman, that is, on Mr. Erwin, at the time that it is received by the Chief of SLED. Contacted Chief Stewart, told him we ere going to get it to him; we did. So, between Monday afternoon when Mr. Norwood notified me that he was now going to be in third place, apparently --- and Wednesday afternoon, we filed our protest. So, Mr. Williams had from Tuesday the 8th until Monday to file his protest. By his definition, we had fifteen minutes. Now, the last thing is, the recount occurred past the time provided by statute. What does that mean? That means when the County Boards of Canvassers certified the results on Thursday, made a statement to the Election Commission again on Saturday, and the State Election Commission certified the results on Saturday, the recount could not occur on Monday. It had to occur immediately. In addition, the recount was not done until after Noon on Monday. So if you deny Mr. Norwood his right to be heard, not only is he by law the second place finisher and thereby entitled to be in the run-off with Senator Glover, but he's also been totally prejudiced by the abuse of this process. The statute --- and I said brevity was the soul of wit, so I'm going to try to stick to that. The statute says that any protest or contest must be filed in writing with the Chairman of the Committee, together with a copy of each candidate in the race, not later than Noon on Monday following the canvassing of the votes for these officers by the Committee. Now, that's an interesting term because the Committee refers --- at least if you read it literally, as Mr. Hamm suggested to the State Executive Committee --- But in any event, on Monday, Mr. Norwood contacted the State Election Commission and confirmed --- Gary Baum confirmed that the statute says Noon on Monday following the canvassing. Mr. Norwood's canvassing and the recount occurred after Noon on Monday; therefore, it's the next following Monday. That's my presentation on that issue.

HEARING OFFICER MCFADDEN: Mr. Gray, do you wish to be heard on that?

MR. GRAY: Well, it seems to me --- Thank you, Madam Hearing Officer. It seems to me that while, as I said earlier, because we don't really have a target for that particular time. The statute is clear and unambiguous. You're required --- a party is required to file a protest by Noon on Monday; and, having failed to do so, at their own peril. Like you said before, Madam Hearing Officer, there are no perfect elections on this side of heaven. And you also said that --- I can only assume that you would be aware of the election laws and follow steps to obtain the rest. And so from the standpoint of simply whether or not the statute was adhered to, I would join Mr. Hamm's argument that it was not.

HEARING OFFICER MCFADDEN: Now, we have copies of what has been filed. I held them back so you would actually listen. Now, if you'll pass them out. Everybody -- - there should be enough of these for everybody ---

MR. MOORE: I have --- Madam Chairman, I have a motion before you even get to all that.

HEARING OFFICER MCFADDEN: You have ---

COMMITTEEMAN: I have a question for you.

HEARING OFFICER MCFADDEN: Okay.

COMMITTEEMAN: Okay. I'm asking for, not a ruling of law, but an interpretation with as many times as you've read these statutes, what did you contemplate was the term "canvassing"?

HEARING OFFICER MCFADDEN: Let me tell you how I think. As a lawyer you have to look at this, and certainly these folks will be permitted to argue against this. I think there are two or three theories of what's going on. The theory that Mr. Stuckey is propounding to those of you who are lawyers and who have spent time in court, is that essentially until you have an injury, you don't know you need to do something. So until

he knew his position was changed, he didn't know to file. Okay? Second part of what Mr. Stuckey's, his argument is, another notion from Common Pleas Court; that once you get yourself in court and other people have enjoined in the action, in Circuit Court they are joined by filing their Answers. You can always get out of court with the Judge's permission. All right? So then there's --- that's the question of permission to get out. Okay? So there are two issues underlying Mr. Stuckey's argument. Both sides are arguing about the same statute, but this is the theoretical notion that he's going with. Okay? And what Mr. Hamm is arguing to --- Is it one or two M's, Steve?

MR. HAMM: It's two --- it's like the beer.

HEARING OFFICER MCFADDEN: That ought to help me to remember. That helps tremendously. What Mr. Hamm is arguing is another principle of our law. And it's --- you can see the Supreme Court went through it time and time again. Election laws are statutory rights strictly construed in terms of the statute. If the statute doesn't give you the right, no common law right to protest an election. Aside from what the statutes tell you about your right to protest, you don't have it. So, reading this statute that says the Monday after the canvassing, to be strictly construed that if a drop dead date, you miss it, you're out of luck. Okay? Now, in a recount situation, and in this situation, the results of accepting Mr. Stuckey's argument is that you could wait to protest until the day before the run-off. Okay? That's why the General Assembly gives you this very tight, less than a week schedule; because if you take it here, you're deciding the day before who is going to be on the run off ballot. So, the essence of Mr. Hamm ---

MR. STUCKEY: Madam Hearing Officer, I ---

HEARING OFFICER MCFADDEN: You can --- I --- they have to vote and you can argue against it. I'm perfectly willing to have you ---

MR. STUCKEY: I just want to make one comment on what you just said. I reserve that.

HEARING OFFICER MCFADDEN: You're welcome to argue against it. But the essence of this argument is here are the type of prescribed schedule and the results of accepting the argument about time that Mr. Stuckey is making, puts this --- even filing the protest, the day before the election. Okay. There are lots of things in our life that we do on a preventative basis. The second part of Mr. Hamm's argument. We all go have the charming medical tests on a preventative basis, even though we don't have the disease they are looking for yet. There are lots of things that we do on a preventative basis. Okay. And he's saying that's what he was doing for his client, because he didn't know. The contrast is, is it appropriate to be filing something when you don't know you've got the injury? Okay? So, those are the two theories I would offer you in response to Mr. Howell's question.

MR. HOWELL: Without answering my question.

HEARING OFFICER MCFADDEN: Okay.

MR. HOWELL: What do you contemplate by the term "canvassing"? In other words, to me logic says that an interpretation of canvassing could be recount.

HEARING OFFICER MCFADDEN: It could be recount. That statute that speaks to canvassing is 510.

MR. STUCKEY: 510?

MR. HOWELL: Does it like a first section with definitions and all that?

HEARING OFFICER MCFADDEN: No. This is the text of 510. "The Commissioners of Elections for the County shall meet in a convenient place in the county seat on the Thursday next following the primary, before one o'clock on that day; and shall organize the County Board of Canvassers for primaries. They may appoint a competent person as secretary. The Chairman shall administer the constitutional oath to each member of the Board and to the secretary. The secretary shall administer to the Chairman the same oath. Each County Board of Canvassers for Primaries shall

canvass the votes of the County and declare the results. The County Board of Canvassers for Primaries shall make statements of the votes of the Precincts of its County as to the nature of the primary requires not later than twelve o'clock noon on Saturday next following the primary; and at that time transmit and certify to the Board of State Canvassers the results of it's findings. The procedure must be repeated following every primary run-off. The Board State Canvassers shall meet at the office of the State Election Commission and shall canvass the votes and declare the results of the primaries and the run-offs no later than twelve o'clock noon on Saturday next following the primary in the State. The State offices, and Federal offices, and offices involving more than one county, so the canvassing involves more than one county is a two tiered operation." Okay. There were four counties in this race, but none of them could declare the race. Each of them must declare their votes. And the canvass that declared this race is the one that's heard in Columbia where they are all combined.

MR. HOWELL: Saturday?

HEARING OFFICER MCFADDEN: On Saturday at Noon. That's when you learn that there is a one percent difference. The one percent difference, even if it had occurred in a county, wouldn't have mattered. So ---

MR. HOWELL: Right, had to go district wide.

HEARING OFFICER MCFADDEN: Yeah, it had to be district wide. It occurred here when the results are accumulated in Columbia.

MR. HOWELL: Now, hindsight being twenty/twenty, it is a damn shame that the recount did not occur later on Saturday.

HEARING OFFICER MCFADDEN: Right

MR. HOWELL: With the Election Commissions in those four respective counties realizing that interested candidates might have to meet a Monday Noon deadline.

HEARING OFFICER MCFADDEN: But that's where the real error occurs and they don't get together again until sometime on Monday. But just as a practical matter, they have probably left the building before their results were accumulated in Columbia, because they left ----

MR. STUCKEY: Madam Hearing Officer, I respect your opinion, and you certainly have more experience in this than I do, but I think that's beyond the bounds. We don't know what happened.

HEARING OFFICER MCFADDEN: We don't know ---

MR STUCKEY: All we know is they met on Saturday; it was one percent, and they didn't order a recount until Monday.

COMMITTEEMAN: We know she doesn't know. We know she doesn't know.

HEARING OFFICER MCFADDEN: Yeah, they know. Okay

MR MOORE: All right, if the canvas took place for the primary on Saturday and the statute says that they shall certify the results on Saturday, under what authority did they then on Monday order a recount? If the results were certified by the State Board of Canvassers prior to their ordering a recount, under what authority did they then on Monday have to order a recount? That's the first part of my question. The second part is, when do you canvas the results of the recount?

HEARING OFFICER MCFADDEN: Okay. As a practical matter, what happened here is, these votes are not in dispute about the timing of the recount. It occurred on this Monday.

MR. MOORE: When was it ordered?

HEARING OFFICER MCFADDEN: You have ---

MR. HOWELL: Saturday.

HEARING OFFICER MCFADDEN: You have to assume it was ordered on Saturday.

MR. HOWELL: Less than one percent.

MR. MOORE: Well, we don't know that.

HEARING OFFICER MCFADDEN: When these people learned that they were within one percent, it was Tuesday, number two.

COMMITTEE LADY: Did they set a date and time when they were to come back?

MR. MOORE: But when --- Okay, when do they canvass the results of the recount? Because it seems impractical that you would canvass the first one and not the second one.

HEARING OFFICER MCFADDEN: Well, the ---

MR. MOORE: And then it also seems impractical that you would not then allow someone an opportunity to proceed to a protest, because you may have something to protest in the recount itself; and the fact that the primary takes place the following Tuesday is immaterial because of the numerous cases when elections have been postponed in a particular district or precinct are re-held or in fact, in 1994 --- '92, the whole State's primaries were postponed from June to August. All the primaries were postponed to August 25th that year. So the deadline of that next Tuesday for this particular race really is immaterial, because had they ordered a recount and there had been a protest, that could have been extended by the ---

HEARING OFFICER MCFADDEN: Section 7(a) is the basis, 7(b), 7(a), is the basis for ordering the recount. Okay. What it says --- Now, I'll just read the whole thing, though only the last two sentences are, I think, relevant to the question. "Whenever ---"

MR. HAMM: What's the Statute section again? Have you cited that correctly? I thought you said 780 --- I'm sorry.

HEARING OFFICER MCFADDEN: 280 --- 7-17-280. "Whenever the difference between the number of votes received by a candidate to have been declared and

nominated for an office in a primary election, or to have been declared elected to an office in the General Election, and the number of votes received by any other candidate, or candidate not declared or so nominated were elected, or whenever the difference between the number of votes received by a candidate who received the least number of votes qualifying a run-off election, and a candidate or candidates who did not so qualify, shall be not more than one percent of the total votes, which were cast for such office, the Committee or Board charged by law with canvassing such votes shall order a recount of such votes to be made forthwith, unless such other candidate or candidates shall waive the recount in writing. Whenever the difference ---“ And the final sentence has to do with constitutional amendments. It’s only in the final sentence where there is another reference to the Board of State Canvassers, where it says in this one, “The Committee or Board charged by law with canvassing such votes shall order a recount of such votes to be made forthwith, unless there is a waiver.”

MR. MOORE: But then, after the recount, who certifies the recount?

HEARING OFFICER MCFADDEN: It’s essentially the same process.

MR. MOORE: So they have to start over.

HEARING OFFICER MCFADDEN: Yes, they have to re-aggregate them. They had to do it on a county level ---

MR. MOORE: But when they had the recount, they still had to re-certify the recount and still then send it to the State Board of Canvassers; which means, at that point the canvassing took place again, which extended the time for filing the protest.

COMMITTEEMAN: Absolutely

HEARING OFFICER MCFADDEN: And that ---

MR. STUCKEY: I couldn’t have said it better myself.

HEARING OFFICER MCFADDEN: That’s the argument.

COMMITTEEMAN: We seem to have defeat ---

MR. NORWOOD: Can I make a comment now?

HEARING OFFICER MCFADDEN: Your counsel is going to have to decide whether or not ---

MR. STUCKEY: I'd like my client to be heard.

MR. NORWOOD: Just for a point of clarification. You know, obviously I'm up by seven votes on election night. We certify on Thursday. I'm up by six votes. We go into the weekend and certify on Saturday, and know that it's going to be a recount at some point. And we go into the election then with a six vote lead. Not understanding what was going on, you know that there was going to be a change, a drastic change of finding twenty-five votes. So, after that afternoon, Monday afternoon after the --- it looks like I'm going to be down by seven votes, I thought, "I'm done." And so I was going to get Jim; and he comes down, and we call the South Carolina Election Commission, because I thought, "I don't have a protest." And we talked to Gary Baum and I said, "What can we do?" And we were reading the law to him; and he said, "It looks like it's going to be next Monday," which is this coming Monday at twelve o'clock. Otherwise, if he had told me, "You're done," I'd have been done. But he gave me an official conversation that we have until the following Monday to file.

COMMITTEEMAN: Yeah, because you can --- you got --- you can protest the law on ---

HEARING OFFICER MCFADDEN: Yes, Mr. Hamm, you will be heard on it.

MR. HAMM: With all due respect, having had a similar --- Gary Baum has offered no official interpretation of this statute. The Election Commission has no official interpretation of this statute. So the fact that the various members of the Commission may have had a conversation, I have had similar conversations which, in fact, he arrived at a different conclusion. So, I don't --- with all due respect to Mr. Norwood, and I'm not contesting anything he said, I'm just saying that I reject to this group reaching any

determination and any formal determinations that are made by the Election Commission on this matter, because they have not. And I certainly acknowledge that we're in an interesting circumstance and I arise only on that issue at this point. I know that Mr. Stuckey may have something to say and I certainly have a couple of remarks, whenever I'm allowed to briefly address you.

MR. STUCKEY: And Mr. Baum certainly didn't qualify his statement Monday by saying it was unofficial. He said that was what the deadline was, but Mr. Baum has not, you're correct, he's not made any formal pronouncement in this proceeding as to what the law is and the law is, at least for the purposes of this proceeding, what you say the law is. And the law is that the recount had to occur forthwith, unless the candidate had waived his right to a recount. Now I wanted to interject earlier, because we talked about what the General Assembly intended. Well, the General Assembly intended, if it happened just as Ms. McFadden said, with the exception that the recount occur forthwith. And that's the difference here. The recount did not occur forthwith. I contend that Mr. Norwood is still in second place, because that was an illegal recount. Number two, I contend that Mr. Williams, by filing a sworn document with the Committee, saying that the election was a fraud and a sham he could prove it. He could prove it. And that that waives his right to a recount and that --- the statute works with perfect symmetry, if you view it that way. Otherwise, you're going to have people filing protests that they don't really need.

MR. MOORE: I have a motion to make that we grant Mr. Williams' motion to withdraw his protest, that we move to hear Mr. Norwood's protest and dispense with further arguments.

HEARING OFFICER MCFADDEN: Second?

COMMITTEE LADY: Second

HEARING OFFICER MCFADDEN: Now, the effect of that is, all parties are still here.

MR. MOORE: That's fine. Well, we just won't hear but one of them.

HEARING OFFICER MCFADDEN: No, no. By ---

MR. MOORE: We can dismiss his.

HEARING OFFICER MCFADDEN: You can --- Yes, but what I'm saying is by statute everybody has a full --- term.

MR. MOORE: Sure, he can still be here, but we won't hear his grounds for dismissing the election. We just ---

HEARING OFFICER MCFADDEN: Oh.

MR. MOORE: You know, let him withdraw his protest, and hear his, and move on.

HEARING OFFICER MCFADDEN: Is there a second to that motion?

COMMITTEEMEN: I second.

HEARING OFFICER MCFADDEN: He seconded it. Now, is there ---

COMMITTEE LADY: Okay.

MR. HAMM: Madam Chairman ---

HEARING OFFICER MCFADDEN: Let's Let them discuss. You may or may not like what they discuss.

COMMITTEEMAN: Before I vote, I need to ask some questions. How many (Inaudible) again?

HEARING OFFICER MCFADDEN: Yes, sir.

COMMITTEEMAN: I don't really know who to get for the question. But one, I would make a note, what would the results be at this present time if we just dismiss all of it?

HEARING OFFICER MCFADDEN: If you dismissed it all?

COMMITTEEMAN: Everything.

HEARING OFFICER MCFADDEN: If you dismissed, accept the dismissal of Mr. Williams' protest.

COMMITTEEMAN: Right.

HEARING OFFICER MCFADDEN: And do not accept Mr. Norwood's protest?

COMMITTEEMAN: Right

HEARING OFFICER MCFADDEN: As it --- Assuming you find it to be untimely, then there will be a run-off on Tuesday between Senator Glover and Mr. Williams.

COMMITTEEMAN: Then what happens to Norwood, if he's in second place already?

HEARING OFFICER MCFADDEN: He was in second place the first time they counted.

COMMITTEEMAN: The first time.

HEARING OFFICER MCFADDEN: Was the first time.

COMMITTEEMAN: The second time.

MR. STUCKEY: If I can ask for clarification, are you suggesting to the Committee that they could not declare that the recount occurred too late to have a legal protest?

MR MOORE: That was your protest. We would hear that.

HEARING OFFICER MCFADDEN: That's your protest.

MR. STUCKEY: And that's a pure legal argument ---

MR. MOORE: We'll hear that.

MR. STUCKEY: And I think it should be ---

MR. MOORE: Adjudicated.

MR. STUCKEY: Yeah, that's what I said.

MR. MOORE: Yeah, you'll ---

MR. STUCKEY: Because obviously, again, we're not going to protest his second place.

HEARING OFFICER MCFADDEN: This question was ---

MR. STUCKEY: --- second place ---

HEARING OFFICER MCFADDEN: This question was, we dismiss both of them. And I'm answering his question, that's where you're going to be.

COMMITTEEMAN: What would be the logistics in this thing, if we're going to dismiss? You know what I'm saying? Now, I can understand what you're saying now. If he's on this --- then he's become number three.

MR. STUCKEY: No. No.

COMMITTEEMAN: Because when you say that.

MR. STUCKEY: NO.

COMMITTEEMAN: Whereas, that would be number two now, how he's going to become number three is going through this hearing.

HEARING OFFICER MCFADDEN: No, sir, this is what I'm saying. If you permit Mr. Williams to withdraw his protest and rule that you're not going to accept Mr. Norwood's protest as being untimely --- Okay, the question I thought you asked ---

COMMITTEEMAN: Well, that is it.

HEARING OFFICER MCFADDEN: Okay. Then you're going to in essence be affirming the present results, which is a run-off between Senator Glover and Mr. Williams.

COMMITTEEMAN: So, we'll just be kicking him out.

HEARING OFFICER MCFADDEN: Yes, sir.

COMMITTEEMAN: So to speak. May I ---

MR. LANDO: Can I ask a question?

HEARING OFFICER MCFADDEN: Okay.

MR. LANDO: It has to do with the Commission. I'm not quite clear when the --- See, when you all decided to withdraw your protest.

MR. HAMM: Yes, sir.

MR. LANDO: What day was that?

MR. HAMM: We decided to do it Wednesday – What day is today, I'm confused --- say Thursday --- Wednesday afternoon --- I filled Thursday morning.

MR. LANDO: Filed it with this Commission Thursday morning?

MR. HAMM: This morning.

HEARING OFFICER MCFADDEN: Today.

MR. LANDO: Today.

MR. HAMM: Filed it --- decided yesterday afternoon, put it together, and filed it this morning.

MR. LANDO: In anticipation of your --- I believe you said anticipation, when you're running third, you file a protest.

MR. HAMM: Yes.

MR. LANDO: Now, you immediately, that very same day, you filed a protest. What delayed you in filing your request for your permission to withdraw?

MR. HAMM: Ongoing conversations both with my client and other counsel about that. I was more interested --- I was actually doing the researching with regard to the failure. I was, quite candidly, very surprised that since we all knew on Saturday there was going to be a recount given to how close it was, and given the allegations contained in Mr. Norwood's protest which go all the way back to the election, we all knew that --- to waive our problems, they were now --- I was candidly very shocked that they didn't file a protest. So I just made the determination that --- you know, I made the determination that given the fact that the recount came out the way that it did, I didn't need to stand in front of you for purposes of meeting the burden of proof, which is a very high one; that

the recount was done and decided that we would withdraw. I mean, that's very candidly what happened. There was no secret to it. And, I'd say it is a very tough burden of proof. And at that point I didn't need to meet that burden, because the recount mandated by statute because of the less than one percent, changed the result. That's not a surprise. We thought that was a possibility when they called for the recount. So, I mean, we were --- Mr. Norwood and my client ran exactly the same position up until Noon on Monday. We didn't know what was going to happen. I had filed petitions prior to noon in other cases and it's a good thing that I did, in order to protect my client; and I followed that same course of action here. I don't think there is anything that should be surprising about that.

MR. LANDO: I think the surprising thing is the way, in withdrawal.

MR. HAMM: Well, I take responsibility about that.

MR. LANDO: To me, if I was Mr. Norwood, I would anticipate coming into this meeting today with a protest on hand. And the fact is that you withdrew it this morning

MR. HAMM: Yes, I did.

MR. LANDO: Doesn't give very much leeway for the other party?

MR. HAMM: Mr. Lando, remember, he had the ability to file a protest on Monday, as regulated by the statute; so I can't --- my response ---

MR. LANDO: At any rate ---

MR. HAMM: My responsibility is to ---

MR. LANDO: --- at the same time, since your protest was invalid, according to your words.

MR. HAMM: My protest wasn't invalid. I just withdrew it.

MR. LANDO: Not waiting, not waiting until the morning of this meeting.

MR. MOORE: Call for the question.

HEARING OFFICER MCFADDEN: You've got two more questions. Yes, sir?

MR. BURGESS: Okay, I'm Kevin Burgess from Greenville. What happens if we say that Mr. Norwood's protest was filed too late and we disallow that, but we don't allow Mr. Williams to withdraw his protest? Do we, in effect, give Mr. Norwood an opportunity for his protest to be heard?

COMMITTEE LADY: No, we give it to Maggie.

HEARING OFFICER MCFADDEN: If that's what you decide to do, and that's not the pending Motion. Okay?

MR. BURGESS: Right. Right.

HEARING OFFICER MCFADDEN: If that's what you were to decide to do, ---

COMMITTEEMAN: Ask these what-ifs all night long.

HEARING OFFICER MCFADDEN: --- then Mr. Norwood has a full complete right to participate in the Hearing on Mr. William's protest; but he is in the very peculiar position that he doesn't --- he does want some of the same relief, but he doesn't want identically the same relief that Mr. Williams requested.

COMMITTEE LADY: What happens if he --- the last protest, and we find Norwood is fine, do all three of them end up on the ballot again?

COMMITTEEMAN: There would --- If Norwood wins his protest, then they can have a new election. Or whatever, I don't know what his --- he may not have grounds, I just want to hear --- we don't know what he's got to say yet.

MR. BURGESS: So why can't Mr. Williams be left to drop his protest.

HEARING OFFICER MCFADDEN: That's for you to decide.

MR. BURGESS: That's just the exact same relief, he ought to be out there. With the ---

COMMITTEEMAN: Mr. Moore ---

HEARING OFFICER MCFADDEN: Yes, sir?

COMMITTEEMAN: Would Mr. Moore, please, restate the motion, and I'd like to call ---

HEARING OFFICER MCFADDEN: I'll re-state Mr. Moore's motion. And if he needs to correct me, he can. Okay? Mr. Moore's motion was a motion to permit Mr. Williams to withdraw his motion, and to affirm that Mr. Norwood's protest was filed on time, and then to hear it.

COMMITTEE LADY: Is that what she said?

COMMITTEEMAN: Another question. If we are --- it appears as though if we accept Mr. Norwood's motion ---

MR. STUCKEY: It's not --- excuse me, it's not a motion.

MR. MUTTON: I know, it's not a motion to the Committee. It appears as though if we accept Mr. Norwood's protest, then that could be precedent setting. If we deny Mr. Williams' ability to withdraw his protest, is that in any way precedent setting?

HEARING OFFICER MCFADDEN: Well, it's pretty unusual not to let somebody bow out. But aside from that ---

COMMITTEEMAN: Madam Chairman, we're using all these high stated situations now, you know, and means the same thing. The law clearly states --- that if we're going to go by the law, we need to stay by the law, let's don't read anything into the situation. The law states that, as I see it. That Mr. Williams and Maggie Glover is in the run-off. Disallowed Norwood --- your protest be allowed, and to the evidence --- let's allow the evidence and go on with the situation and stick to the law. The way I see it is, here's the run-off, I think it would be Glover and Williams. All these high stated situations, we can stay here all night and argue about it and argue about it. The facts are on the Board. We need to lay the line.

COMMITTEEMAN: But they're not on the Board because the --- No, they're not. That's wrong.

HEARING OFFICER MCFADDEN: Yeah, but hey didn't canvass.

COMMITTEEMAN: But hey can't canvass --- what if they wanted to protest ---

HEARING OFFICER MCFADDEN: This gentleman next to ---

MR. MCINTOSH: This is Bill McIntosh from Dorchester. I wanted to address Mr. Mutton's question, or his comments that if we accept and hear Mr. Norwood's request for a hearing, his petition for a hearing, that it would we be setting precedent. I would submit that whatever we do with Mr. Norwood's petition, we will be setting precedent. I take exception to some of Mr. Hamm's arguments when he said that we can't hear it. The law can't be clearer, because I think Mr. Hamm, and Mr. Stuckey, and other counsels, this is what's known as a case of first impression. It's never been heard. The law is what Judges say it is, not what's written in the statute. Mr. Hamm talks about it being clear and ambiguous; but clearly from all these discussions, it's not clear and ambiguous when canvassing is, and that's one thing. Whatever we do tonight, if we accept --- in this hearing or not, it is going --- I guarantee you, it's going to be appealed and it will be heard by a Circuit Court Judge as a case of first impression. My point is, if we don't hear Mr. Norwood's petition, if we decide not to hear it, we're essentially pumping. We're giving up an opportunity to hear this case of first impression and we're going to let a Judge hear it instead. So I join Mr. Moore in his motion.

COMMITTEEMAN: Question.

HEARING OFFICER MCFADDEN: Is somebody calling for the question?

COMMITTEEMAN: I'm calling for the question.

HEARING OFFICER MCFADDEN: Okay. Now, that's means that it's carried by two parts. All those in favor of closing debate on the pending motion, which is the motion to permit Mr. Williams to withdraw and to hear the protest filed by Mr. Norwood. Okay. All those in favor of calling the question, please say "aye."

COMMITTEEMEN: Aye.

HEARING OFFICER MCFADDEN: The ayes --- this is calling the question, quitting debate.

COMMITTEEMAN: Okay.

HEARING OFFICER MCFADDEN: You still want to say "no"? Because listen to my voice, okay. Now, I'm going to ask you to vote on the motion, which is a two parter. You're going to permit Mr. Williams to withdraw his motion and you are going to permit Mr. Norwood to go forward on his. All those in favor of that motion, please, raise your hand.

COMMITTEEMAN: I got twenty (20).

HEARING OFFICER MCFADDEN: I get twenty-one (21).

CHAIRMAN ERWIN: All right, raise your hands again, please. Twenty-one (21).

HEARING OFFICER MCFADDEN: Yeah, I got twenty-one (21) to (1) one, you have agreed to permit Mr. Williams to withdraw his protest and you have agreed to go forward in a timely file on the protest of Mr. Norwood. Now, that puts Mr. Norwood with the burden of proof, and we'll hear that.

COMMITTEEMAN: You ready to go?

MR. HAMM: For the record, could I just note a reference. I just want to note an objection for the record; and I'll preserve all motions as we go through. But just for the record, I want to note my objection. It's a protest, not a motion. The constant reference to Mr. Norwood's matter being a motion. It's a protest.

HEARING OFFICER MCFADDEN: I thought I was called to hear the protest; but this -- a motion. And I apologize if I'm speaking myself. Okay Mr. Stuckey?

MR. STUCKEY: Yes?

HEARING OFFICER MCFADDEN: Is there anything we need to pass or step out to, so folks can see what the text of your protest is.

MR. STUCKEY: Yes. A protest.

HEARING OFFICER MCFADDEN : And you spoke briefly about restricting it to possibly the matter of the recount. Do you wish to make any restrictions under that at this point?

MR. STUCKEY: No.

HEARING OFFICER MCFADDEN: I was asking him if he had spoken, in passing, about perhaps restricting the scope of his protest; and he's saying, "No," he's not going to do that.

MR STUCKEY: Right, let me clarify. When I argued in response to what I understood to be his argument that the appeal could not be heard, what I suggested is that there were three arguments. One, that he couldn't withdraw it. Number two, that ours had to be heard. And number three, that the recount occurred too late by statute, and therefore was void. So, that's the only reason I referred to the recount, to make that argument. I don't believe there's been a ruling on that point; but notwithstanding that, we are prepared to move forward, presenting evidence on the protest.

MR. HAMM: Madam Chairman, I would note for the record that the protest filed by Mr. Norwood does not raise an allegation about the recount being late, so he cannot on the statute. The statute is very clear, you may have - - - must be concise. It does not say that the recount was too late. And he cannot be heard, at least in my view of the statute. I recognize that's subject to the ruling with the - -

MR. STUCKEY: Amend to conform to the evidence.

MR. HAMM: - - - but they have to be specifically enumerated in the Complaint. And the language that I see does not report - - - there is reference to the recount; but there is no reference to the fact that is was believe that he can be heard on that point.

MR.STUCKEY: Actually, two points. Number one, the statute means what it says. So therefore, we don't have to protest as far as that; because if something is void

ab initio, there is nothing that can be done to resurrect it anyway. So, the recount was void because it occurred too late. Number two, paragraph Number 5 referred to the recount and that Mr. Williams was declared as having more votes than Mr. Norwood, despite the fact that Mr. Williams had already filed a formal request that the election be invalidated, which was an argument that he had waived any right to a recount. We are ready to go forward. **At this time I'd call to the stand Tim Norwood.**

(TIMOTHY DALE NORWOOD, having been duly sworn, testified as follows:)

DIRECT EXAMINATION BY MR. STUCKEY:

Q Please state your name for the record.

A Timothy Dale Norwood.

Q And Mr. Norwood, you were a candidate for and you are a candidate for Senate District 30, is that correct?

A That's correct.

Q You filed a protest in this proceeding?

A I did.

Q Okay, Mr. Norwood, as the record will show, we are now at approximately 11: 06 p.m. and so I'm going to ask you some questions designed to facilitate this process, expedite this process, but get in the information that you and I want this body to hear. Would you please describe for me what happened between Tuesday, June 8th, and Monday, June 14th in reference to the primary election for the Senate District 30?

A On Tuesday evening late, 1:30 in the morning, I learned that I was in the run off by a seven vote margin; and then Thursday following the County certification, all four counties simultaneously met. And as we went through that certification of challenged ballots back and forth, I got down to a two vote lead; and then eventually as the other counties came in, I got back up to a six vote lead; and then Saturday, it was certified by the State that I had a six vote lead and with a mandatory recount forthwith,

which we all know didn't take place. And so I went into the recount Monday with a six vote lead. And as the counties came in, Dillon County, I didn't pick up any ballots; and Marlboro County, I think all of us picked up four ballots; and then - - - and Florence County, I picked up three, for a total of seven new ballots; gave me a thirteen vote lead. Then in Marion County, which they started at 10:00 o'clock; and for whatever reason they totaled the ballots for five hours until about 3:30; and miraculously, they found twenty-five ballots they had not found, had not counted before; and I had - - - I found six for me, seventeen for Mr. Williams, and two for Ms. Glover. So, you add the seventeen to the seven down, that's twenty-four - - - twenty votes less thirteen; and now I'm down seven votes. And so therefore, after that, that's when we talked and started the process of protesting.

Q So the recount occurred on Monday.

A Right.

Q When were you notified of the results of the recount.

A I learned the final results, from all the counties, around 3:30 on Monday afternoon.

Q Who notified you of that result?

A I had a conversation with Dr. James Blake and Ms. Rena Jackson from the Marion County Board of Elections about - - - at 3:30. That's when they told me that I had - - - that I was now down those votes.

Q Did they explain to you how the results changed so dramatically in the recount?

A They said it was a tabulation error, that they had --- fail safe ballots had actually been counted on Tuesday night; but for the human error, they had not been counted, they had not been tabulated Tuesday night not Thursday morning; and they

happened to find them, the extra seven - - - twenty-five ballots which we've got on - - - Monday morning - - - afternoon actually.

Q So is it fair to say that they discovered these ballots on Monday?

A Well, I'm not sure they said they discovered them. They did say they found the tabulation column they had been leaving out.

Q They discovered that those ballots weren't counted.

A And then at that point I was behind by seven votes.

Q All right. No further questions for this witness.

HEARING OFFICER MCFADDEN: Mr. Hamm?

CROSS EXAMINATION BY MR. HAMM:

Q **Mr. Norwood, in terms of the election protest that you filed, what irregularities that you included in your protest, do you know about personally.**

A Personally?

Q Yes, sir.

A Well, about everybody learns it through the process. I'll be glad to tell you. We have personally identified felons who have voted in this election. I think we identified felons who have voted in this election. I think we identified six that have voted in the election, and we all know felons are not eligible to vote.

Q Okay. Let me go over that and then I'll let you continue as far as the rest of them.

A Okay.

Q To the extent were those - - - were those ballots challenged at the time they were filed?

A Well, nobody knows that they were felons and we didn't have a chance to look at these ballots and challenge them. They were cast either absentee or they were cast in the polling place.

Q Are you familiar with the process for challenging absentee ballots?

A We are, and we have no --- we were --- they open the ballots at 2:00 o'clock. We didn't know that --- we didn't know people were felons until after we had a chance to look at them.

Q Okay. Let's --- did you get a secure copy of the voter list at each one of the counties so you could go through and do determination of whether or not individuals were authorized to vote? Did you have that opportunity?

A I did not.

Q Okay. So you did not do so, or ---

A I did not have the opportunity to do that, to get a certified copy. You know, at that point we let the election run and not trying to stop it.

Q Okay.

A So we didn't --- we weren't looking for problems.

Q Okay. But you weren't refused the ability to do it. You didn't.

A Did not take the opportunity to do it.

Q Prior to the --- is there any question that you had the ability to get the voter registration list prior to the election list prior to the election itself? That's not an issue?

A No, we have that and it's computerized on several laptops.

Q Okay. So for purposes of this record, you did not challenge at the time the votes were cast, the irregularity that you referenced at the other time?

A We had no idea there were felons voting. And I would think that nobody involved in the County Election Commission knew felons were voting. Probably in the State of South Carolina anticipated felons voting, because it's against the law.

Q But are you asserting that you knew how those individuals voted?

A No, not at all.

Q So you don't know. You're not asserting that affected the outcome then?

A No, I'm asserting that we're going to show you tonight that we can find more than seven votes to change the outcome of this election, so I should be in the run-off.

Q Now, did you raise those during the course of – Let's go back to last Thursday. In the course of those proceedings, did you or any of your representatives raise any of these issues? It's now Thursday, its two days after the election, raise any of these issue during the canvassing?

A We raised issues during the canvassing on what we thought were ballots that we needed to challenge. We did not raise these issues. As I said, we all have to take for granted that felons aren't voting, because it's the responsibility of the State Election Commission, the County Election Board, to make sure there are not felons on the ballot.

Q Right.

A I mean, on the books. Is that right?

Q I understand that. So for purposes --- just help me all to understand for the record what it is that you --- issues that you raised on Thursday.

A We raised issues about challenged ballots, absentee ballots without proper signatures.

Q All right.

A We raised issues regarding the fail safe ballots that were --- the ones that needed to be county wide and not included --- just needed to vote county wide and not just district and county. So we've had --- we've actually --- Nine of those got put out because they were not the proper, or they were not --- had not been voted properly.

Q Now, what about --- what else did you raise? I'm just trying to be clear for the record.

A Absentee ballots, challenged ballots. That's all I can remember right now, Steve.

Q Okay.

A And fail safe. Fail safe, and challenged, and the absentees, is what we objected to.

Q Okay.

A And the absentee ballots that weren't signed or witnessed properly?

Q Okay. And what is your understanding about an absentee ballot that's not witnessed properly?

A My understanding is that if it's not witnessed properly, then it's not a ballot.

Q Okay.

MR. STUCKEY: You can just mark it for me, we'll get to that.

MR. HAMM: How many witnesses do you --- Stuckey, how many witnesses you got?

MR. STUCKEY: Two or three.

CROSS EXAMINATION CONTINUES BY MR. HAMM:

Q For purposes of making it again for the record, you knew on Thursday that the difference in the vote between you and Mr. Williams was less than one percent, yes?

A On Thursday, I knew I had a six vote lead.

Q And so you understood that the statutes required a mandatory recount.

A I did.

Q All right. And the mandatory recount resulted in what results?

A That they found twenty-five votes in Marion County, and I ended up with getting in third place by seven votes.

Q So the mandatory recount resulted in you losing the race by the votes you just enumerated?

A Which was the recount taken on Monday versus on Saturday, when it should have been taken place.

Q Well, on that ---

A We'll place that in the record.

Q We're not going to argue the --- We'll let someone else decide what forthwith means. One final thing, we're talking about the recount. To be fair, in fact you picked up some votes, it wasn't --- I mean, there was some shifting of votes. In fact, you gained some votes in certain areas, and the net result out of the mandatory, statutory required recount was in fact six votes. Yes? Which you lost, correct?

A Absolutely, and miraculously appeared somehow after five hours of counting.

Q Okay. That's fine. I don't have anything else to say. Thank you, Mr. Norwood.

A You're welcome.

MR. STUCKEY: No further questions for this witness.

(The witness was excused)

MR. STUCKEY: Madam Hearing Officer, I call Robert Arthur Murray to the stand.

(ROBERT ARTHUR MURRAY, having been duly sworn, testified as follows:)

DIRECT EXAMINATION BY MR. STUCKEY:

Q Please state your name for the record, sir.

A My full name is Robert Arthur Murray.

Q Where do you live?

A I live in Hamilton, Ontario, a town outside of Toronto.

Q And what type of business are you in?

A The business that I'm in is a business that consults and advises candidates, and candidate committees, in terms of the computerization of the campaign atmosphere, including detailed analysis of the voter registration lists voter history, and demographics.

Q How long have you been in that business?

A Five years.

Q Did you perform any kind of analysis for the Norwood campaign?

A Mr. Norwood approached me two years ago and asked me to do an analysis of his chances of success in District 30; if he should decide to run for the Senate position that he expected to be available there in 2004.

Q Were you also expected to assist Mr. Norwood with the run-off, when he was in second place?

A When Mr. Norwood found that he was in second place, he did contact me and asked me to give him an opinion in terms of how I could assist him to develop and promote his get out the vote drive, with all of the data I had accumulated over my relationship with him.

Q At the --- after the time that Mr. Norwood was notified of the recount that occurred on Monday afternoon, did your responsibilities change with respect to the Norwood campaign?

A Yes. In fact, I joined Mr. Norwood on Sunday, at which time he was leading by the slim margin of six votes, and immediately began focusing the campaign on the get out the vote drive for the upcoming run-off.

Q Now, is your business affiliated in any way with Mr. Farillo, who Mr. Norwood consulted?

A No. In no way are we related with Mr. Farillo.

Q Okay. Now describe for this committee what you did to investigate the balloting process and the canvassing process after Mr. Norwood notified you that he was, as a result of the recount, being placed in third place.

A Late Monday afternoon, while we were in the throws of working and putting together the complete plan for the get out the vote drive, Mr. Norwood informed me that the mandatory recount had in fact placed him in third position by the seven vote margin. He asked me if there was a way to assist him now, not with the get out the vote effort but to use our knowledge and understanding of the computerized atmosphere that we manage, as well as all the data that we had accumulated in terms of the voting District 30, and to turn our efforts to an investigation based on the allegations that he reviewed with us, those which were made by Mr. Williams' original protest.

Q Okay. And Mr. Murray, as we are both cognizant, as I am sure the Committee is, that is 11:21 p.m., I'm going to ask you as a result of your examination of the poll list and the records of balloting, did you discover any problems that affected the outcome of the vote in relation to Mr. Williams and Mr. Norwood?

A In a brief answer, absolutely. We found many instances of ---

Q Now, for this Committee, I want you to describe the types of problems you found, the types of irregularities you found, with respect to that voting.

A Well, first of all, in brief, we used our understanding of the voter, registered votes list, and the Board of Elections Procedures, to do what we call a layered review of the voter list results that were tabulated in the primary election on that June 8th, the Democratic Primary Election.

Q And what problems did you find?

A The problems that we found --- Could I refer to a list?

Q Yes.

MR. STUCKEY: In fact, Madam --- You want to see the list?

MR. HAMM: I have that.

MR. STUCKEY: Okay.

MR. HAMM: I have to show this to opposing counsel, which I'll do. Let the record reflect that I am showing this to opposing counsel. And we do not intend to introduce this as evidence, but we intend to let the witness refer to it for the purpose of the facilitating his testimony.

HEARING OFFICER MCFADDEN: Mr. Gray, do you want to be in this loop?

MR. GRAY: Yes, Your Honor. Your Honor, I'm sorry.

MR NORWOOD: Do you want ---

DIRECT EXAMINATION CONTIUES BY MR. STUCKEY:

Q Mr. Murray, I asked you what problems did you find with the election? Could you summarize those problems for this Committee?

A We reviewed the entire voter list that was used to --- as the voter list on Tuesday evening. And in light of that entire review, we found that there were numerous instances where the poll managers, who were managing the different precincts in all counties, were failing in over five hundred (500) documented cases to initial the entry of the voter's signature and the voter information as they passed thorough the different polling stations. We found numerous instances where the poll managers completely failed to enter the information, as required, to indicate whether the voter who entered the polling premises, the choice was to vote in the Democrat; as was also taking place that day, the Republican Primary. We found many and numerous instances where the polling managers not only failed to initial the proceedings, they also failed to note which direction or which primary the voter who had registered to vote decided to exercise their franchise. We found numerous and many instances ---

Q And let me stop you there. So we understand clearly. They did not indicate whether the voter voted in the Republican Primary or the Democratic Primary?

A Yes, when a voter enters the polling premises, he should be asked is your choice --- “What choice are you making in terms of the primary that you wish to vote in?” Our contention would be if the polling managers didn’t mark which primary the individual voted in, it is very unlikely that they asked the proper question. More than likely they are asking the question, “Are you a Republican or are you a Democrat?”

Q And what other problems did you find?

A We found numerous occasions where the voter has passed through the registration process and identification process; but for whatever reason failed to sign the registry, although the vote itself was processed. The vote --- the signature is associated with the oath, and the oath is associated with validating the entire process, that the voter that enters the premises is in fact understanding of their responsibility in that case. And we found numerous instances where there was no signature to indicate that the poll managers had taken the time to compare the signature of the record with the signature that is to be on the identification that is presented to them to verify the right if the voter to vote in the first place. We found many differences in each county in terms of how this particular District handled the very, very strict guidelines that are to monitor curbside voting.

Q Give me a specific example of what you are referring to.

A Specifically, in Marlboro County there were thirteen (13) recorded curbside votes. A curbside vote is monitored strictly in two ways. One, the voter records are never to leave the sanctity of the polling area; which means that the manager of the polling area; which means that the manager of the polling area is to leave the premises, investigate the need for an individual to make a curbside vote, then return with identification and verify their right to vote; and then if they agree that the individual has the right to vote, they are returning to the curbside with what is called a curbside voter list; and on that list, the individual is to sign so that we have signature that indicates the

entire process has been followed correctly. In effect, the signature that validates the oath.

Q Now, in that county.

A In that particular county, there is no record of any signatures associated with any curbside vote.

Q There is no curbside voter list?

A There is no curbside voter list.

Q Now, how do you know that curbside votes were cast? And how do you know that there were approximately thirteen (13) curbside votes cast, even though there was no curbside vote list?

A The issue there is that in the State's record, there are lists --- as it is listed as specifically separate entity, thirteen (13) curbside votes which are a part of the total for that county. So in terms of the voter list, I believe there are only four indications of a curbside vote within the list itself. That is noted by when the manager returns with the curbside polling list, signed by the curbside voter, he is to indicate that that process took place by putting either the initials "CS" or the word "Curbside" in the spot where the individual had not signed, because they sign the curbside polling list. We only found four instances of curbside procedure. The other --- no signatures were in effect, but there were indications in one way or another that four curbside votes had taken place; but the tabulation of the curbside voting equaled in the official count thirteen (13) for that county.

Q And before, without having to go through all of the --- And let me hand you this, and know we haven't gone through all of the examples. But let me ask you before we try to introduce that, what is that I just handed you?

A This --- these sheets of --- I had meant to tell you, but we went through a layered investigation ---

Q Without referring to any of the contents, just tell me what it is before I show it to opposing counsel.

A What these are, are copies of the pages of the actual voting list, which have been removed from the original records; and a highlighted example of the actual --- a highlight of the breach of the voting commission structure in terms of proper voting procedure.

Q Okay. If I could take that back from you at this time, and we'll get to that later. But suffice it to say, you have with you today examples of what you're talking about. Is that right?

A I have examples of some eight hundred (800) cases of voting violations where the procedure was ignored by the poll managers; and the effectiveness of the election itself is completely, in my opinion, unreliable.

Q Okay. Talk about the absentee ballots.

A Absentee ballots, as you've listened to for some time this evening, are a very difficult issue in our system. Any time you allow a process that is supposed to be governed by a very pure atmosphere go outside of that atmosphere, it opens the entire process up to abuse.

Q And I know I asked you an open ended question.

A Yes.

COMMITTEEMAN: We know about absentee ballots.

Q In fact, because these folks have been patient enough to listen to you, and to us, for now approximately thirty minutes, I want you to tell them what problems you found with the absentee voting that we have specific examples of here today.

A I would like to respond to that, but every lawyer said they would be brief.

Q I think we can say --- I think we can take judicial notice of that.

A In terms of absentee ballots, our investigation did not look at what you usually look at in terms of an absentee ballot complaint. We looked at whether the absentee ballot was handled appropriately. For example, we have samples of absentee voter registration procedure where the State's notes, or tags, on those voter records that an absentee ballot has been processed for the individual on that sheet; and the poll manager is supposed to note the fact that there is an absentee ballot already processed. And if that individual comes in to vote, they are to be turned away; and turned away on the basis that that sheet tells the poll manager that person has voted already.

Q Now, how many of those did you find?

A You're going to ask me a question.

Q Okay. How many examples ---

A Thirteen examples where an absentee ballot was voted a second time; and the signature indicates on these records that the poll manager did not note that an absentee ballot had already been processed. In terms of the balance of our investigation, what we look at in terms of the absentee ballots is the numbers, do the numbers correspond with what we are used to in that district? Or, in elections in general? And what we noticed in some cases, there seems to be a very heavy level of absentee balloting in this particular district. So, we did take a very heavy look at that process; and have extracted cases in which a single individual in our opinion, we would use the ---

Q Now, I'm not asking for your opinions, just tell these folks what you found.

A We found one individual who processed sixty (60) --- I think fifty-seven (57) absentee ballots. We also found that ---

Q And who is that individual?

A That individual, whose name was Virginia Thompson, led us to be curious as to why that one individual would be involved in so many absentee ballots; which led

us to her husband's name, who was Leroy Thompson. And upon further investigation, wondering why Mr. Leroy Thompson would be interested in so many absentee ballots, we found Mr. Leroy Thompson's name on Mr. Williams' campaign financial filing form. That's how he receives money for services rendered.

Q Okay. Did you find anything else?

A In terms of absentee balloting, or other issues?

Q I think we've gone through summaries. But I want to make sure we've captured all of the main categories of problems that you found.

A In terms of absentee balloting, one of the issues that often occurred in absentee balloting is the solicitation of those who are a known felon; because it is an outside process, it is outside the bounds of the enclosure we know as the polling place. And we took a very hard look at certain individuals within the region who would hopefully be knowledgeable about individuals who may be felons. And that led us to the investigation which has turned up a number of individuals who have clearly voted as felons, or have clearly voted while on probation. And unfortunately, we have many instances where we believe they are felons; but have not had the time to fully document that issue since we've only had a couple of days to go through this evidence.

Q Now, Mr. ---

A And finally ---

Q I'm sorry, go ahead. You said finally.

A We have un-turned a number of what we call specialty instances. By specialty instances, I mean the signature recorded on the voter list does not in any way match the individual who is registered on that list. We have found many instances where the signature is simply a straight line. We have found instances where it is an "X". Now, an "X" can be a signature, although there is a very specific way in which that "X" is

to be recorded; and then it's a very specific way that it's to be witnessed. And there is no such witnessing going along with these "X"s.

Q Okay.

MR STUCKEY: Now, let the record reflect that I'm going to hand copies of voter registration lists. Unfortunately, I did not have time to make a copy of probably approximately two hundred (200), three hundred (300) pages of these voter registration lists for everybody here. But I'm going to show it to opposing counsels. We are going to introduce these documents through this witness; but we're not going to try to go through every single page. I'm going to have the witness talk about examples. So, with that I'm going to hand this to Mr. Hamm, and to Mr. Gray.

MR. HAMM: Objection.

MR. STUCKEY: Madam Chair --- I haven't asked him anything yet.

HEARING OFFICER MCFADDEN: May we have some quiet because the court reporter needs to get the basis of his objection, and then I'm going to have to rule on it.

MR. STUCKEY: I've haven't tried to lay a foundation for it yet, I don't know what the ---

MR. HAMM: Part of my objection, there isn't a foundation, number one.

HEARING OFFICER MCFADDEN: Okay.

MR. HAMM: Number two, the Business Records Act requirement's that there's no foundation; and we don't have the custodian of the official records. We have copies of documents. And again, the law requires that you have, that you at least provide certified copies, or bring the custodian of the documents present for hearing, or some sort of certification. I understand what counsel is saying, but the fact remains that what I have is a series of copies of documents, some of which are not complete. Some of them are. So, on that basis I would object to these being placed into evidence.

MR. GRAY: I join in that objection.

MR STUCKEY: If I could be heard on that.

HEARING OFFICER MCFADDEN: Yes, sir.

MR. STUCKEY: Number one, the foundation objection is improper because I've not had a chance to lay a foundation. Number two, the statute provides that, for the purposes of this proceeding, the Chairman is to conduct these proceedings as near as possible with regards to the South Carolina Rules of Evidence; and by Rule 902 of the South Carolina Rules of Evidence, these documents are self-authenticated as documents, domestic public documents not under seal. In addition, the sole purpose of this here is to prevent us having to introduce the entire voter registration list, poll list, for Marion, Marlboro, Dillon and Florence Counties. We are just trying to expedite the matter. We want this Committee to hear why Mr. Norwood believes this election was a fraud, and why Mr. Williams said it was a fraud this past Monday, is all we're trying to do.

MR. HAMM: How does this list do that?

HEARING OFFICER MCFADDEN: Okay, wait ---

MR. STUCKEY: I'm going to show you.

COMMITTEEMAN: He's going to show --- he'll demonstrate that.

HEARING OFFICER MCFADDEN: I'm going to rule that it should be permitted to come in on the grounds that the statute makes the original of those records evidence in this proceeding under any set of circumstances. Obviously, it would be better if we had the originals, but you would have needed a hand truck, for the four counties.

COMMITTEEMAN: They wouldn't have given them to you. They wouldn't have given them to you.

COMMITTEEMAN: Well, they could have subpoenaed them and brought the clerks with them.

MR. MURRAY: Madam Chairman, may I speak on that?

MR. STUCKEY: You can't.

HEARING OFFICER MCFADDEN: You don't --- it's not your part of this. I'm going to let them in on that basis, and I do think that this gentleman has testified sufficiently that this group of informed listeners understands what those lists are.

MR. HAMM: For the purposes of record, I'd just like to note my --- respectfully note my objection.

MR. GRAY: I join in that, as well.

DIRECT EXAMINATION CONTINUES BY MR. STUCKEY:

Mr. Murray, let me hand you this document ---

MR. STUCKEY: And let me ask that this be marked as Mr. Norwood's Exhibit #1 for identification purposes.

MR. HAMM: Let's see that. For purposes of procedure, will you allow me to --

MR. STUCKEY: Sure.

MR. HAMM: I want to see what -- I want to see the document, since you don't have copies. I'm not objecting, I'd like to --

HEARING OFFICER MCFADDEN: He's made an objection and it's noted. But if you have a specific objection to each one, Mr. Hamm, you need to elaborate your objection.

MR. HAMM: Well, I'm not -- it will depend, I guess, upon the questions that counsel may proffer. But if you don't mind, I may -- with the permission of counsel and the Hearing Officer, I may like to observe the document until I see the questions. Since I don't have the witness until I'm able to monitor the questions. Is that acceptable, Madam Chairman?

NORWOOD EXHIBIT #1 (1 PAGE) MARKED FOR PURPOSES OF IDENTIFICATION.

MR. STUCKEY: I just ask that you not stand in front of the witness.

MR. HAMM: I won't block the witness.

MR. STUCKEY: Okay. Thank you.

DIRECT EXAMINATION CONTINUES BY MR. STUCKEY:

Q Mr. Murray, could you take a look at what has been marked as Mr. Norwood's Exhibit # 1. Do you recognize that document?

A Yes.

Q What is that?

A This document is a copy of the voter --- of one of the pages from Dillon, in particular West Dillon, voter registration list that was used on the night of June the --- or the day of June the 8th, in the Democrat Primary and Republican Primary race.

Q Okay. Is this true and accurate copy of the original?

A This copy --- the original is in the hands of the County Election Commission. Those documents will not be released in terms of the originals because there are races that are continuing in terms of those documents. So this is a true copy that they have released to our care of the original, because the original is in their care.

Q In the course of your review of the document, did you highlight one particular name?

A One record on this list is highlighted, one Julia Brown.

Q Why did you highlight that particular name? First, let's say --- let me ask you, how many names are on the document, approximately?

A Twenty-five (25) names are listed on the document.

Q Why did you highlight that particular name?

A That particular name is highlighted because in West Dillon, this is listed, actually properly, as a curbside vote, but there is no signature to back up this particular document with a curbside voting list.

Q All right.

A So, we do not have anywhere that we can find Julia Brown's signature on a curbside list, saying that she did in fact sign the oath that is required when voting from the curbside.

Q And is this an example of the problem you referred to earlier, with regard to improper handling of curbside voters and the registration of lists in connection with curbside voting?

A This is one of many examples, yes.

Q Okay. Would it be fair to say that there were more than seven examples?

A Yes.

MR. STUCKEY: At this time I move for the introduction of Exhibit #1.

MR. HAMM: Let me ask the question, who obtained the copy? I just want to make sure whether the ---

Can this witness authenticate that that's the copy?

MR. STUCKEY: The document itself authenticates ---

MR. HAMM: Can this witness authenticate that was the copy?

MR. MOORE: It's an improper question. It's not cross examination. It is already in evidence. It's already ---

MR. HAMM: That's what he's trying to do.

HEARING OFFICER MCFADDEN: That particular one ---

MR. STUCKEY: Mr. Hamm, it is 11:48. Do you have any reason to believe that this is not true and accurate copy of that Exhibit?

MR. HAMM: I'm just asking for the record, so that I can protect myself on the record.

MR. MOORE: You already admitted the whole stack.

MR. HAMM: You asked me a question, I'm defending ---

HEARING OFFICER MCFADDEN: --- going to, but he hasn't moved the whole stack in.

MR. MOORE: Well, move the whole stack in.

MR. STUCKEY: Well, that would facilitate matters. The witness has already identified what this is.

Q Mr. Murray, just so we can make claim, this Exhibit # 1 ---

HEARING OFFICER MCFADDEN: Mr. Stuckey, let Mr. Hamm form his objection. Okay?

MR. STUCKEY: He asked me a question. Okay?

HEARING OFFICER MCFADDEN: I know, but you know that I'm already going to rule against his objection; so at this point, he's protecting his record and his client, so let's let him do that.

MR. HAMM: And I object for the submission of the document or documents in the record, because there is no foundation that in fact this witness has authenticated this as a document that came --- I object to the characterization that a copy of a document of the original which is not in evidence or present can be simply authenticated by simply the statement of a witness under oath. So, since it is not certified, it is not marked. I can recognize what it appears to be, but I think I have the right to object, based on the matter which it is attempted to go in the record. Recognizing that you've already told me what you're going to do.

MR. GRAY: I join with that objection.

MR. HAMM: Okay. He's not the --- he's not the custodian of the documents.

MR. STUCKEY: I'm sort of put in the position of Mr. Norwood, where the Chair has already told me how the ruling is going to be. I certainly don't want to protest that.

HEARING OFFICER MCFADDEN: Yeah, and you know, for the purposes of what we're doing this evening. I'm going to let them all in and you don't need to renew, Mr. Hamm, that objection any further. That continues.

MR. HAMM: Okay.

HEARING OFFICER MCFADDEN: And to the extent you want to add to it at some point, just make that clear.

MR. HAMM: That's perfectly acceptable. Thank you very much.

MR. GRAY: Continuing on our part, as well.

EXHIBIT #1 ENTERED INTO EVIDENCE.

MR. STUCKEY: And in that regard, I will hand up to the court reporter, the stack of the voter registration lists that we have and that we would --- we want the Committee to consider, but because of the interest of time, we understand you can't go through each one of them, so I'm asking the witness, and I've asked him to describe the kinds of problems that are reflected on these lists.

NORWOODS'S EXHIBIT #2 (375 PGS) MARKED AND ENTERED INTO EVIDENCE.

DIRECT EXAMINATION CONTINUES BY MR. STUCKEY:

Q Now, Mr. Murray, because of time, we are not going to be able to go into each and every page that we have in the record. But I'm asking you, with regards to the examples that you testified to earlier, do these pages which ---

MR. STUCKEY: For the record, let's mark this entire stack as Norwood Exhibit # 2, which is already in evidence.

Q But does this Exhibit # 2 reflect the problems that you testified to earlier with regards to balloting, procurement of absentee ballots by campaign staff workers, and the spouse of a campaign staff worker, etcetera? I'm not going to try to repeat your entire testimony; but is this the evidence that you gathered in support of the assertions you made earlier today?

A This is the evidence that would verify many of the assertions that I made. It is not the complete evidence that would verify all of the assertions that I made.

Q Would it be fair to say that the stack of pages that is marked as Defendant's Exhibit # 2, reflects that the result of the election would have been different if the law had been followed with regard to the conduct of the election?

MR. HAMM: I'm sorry. I have to object to that. He can't --- that's surmise or conjecture, and he can't --- There's no foundation for this witness to assert any change in results that we don't --- we don't know and this witness is certainly not the basis to do that. And I object to both the question and the witness attempting to answer on this record.

MR. STUCKEY: I'll rephrase the question.

HEARING OFFICER MCFADDEN: So you're going to withdraw that question and have ---

MR. STUCKEY: I'll withdraw that question.

HEARING OFFICER MCFADDEN: And go back to the --- Okay.

Q Mr. Murray, approximately how many voter irregularities are reflected in Defendant's --- in Mr. Norwood's Exhibit #2? I normally represent Defendants so, normally I'm saying Defendants, I'm sorry. Mr. Norwood's Exhibit #2, how many voters irregularities are reflected in that, approximately?

A Six hundred and seventy-seven (677). In this group.

Q Mr. Murray, I'm going to show this to opposing counsel before I ask you what ---

HEARING OFFICER MCFADDEN: Okay, can we get quiet enough for Mr. Stuckey to be heard.

CHAIRMAN ERWIN: We're just taking advantage of the lawyer's down time.

Q Okay, for the purpose of getting us out of here as early as we can, I'm going to continue, even as the bottles are collected. Mr. Murray, first let me have this stack marked as Norwood's Exhibit # 3.

NORWOOD'S EXHIBIT # 3 MARKED AND ADMITTED INTO EVIDENCE.

Q Mr. Murray, can you look at what has been marked as Norwood's Exhibit # 3 and, I believe, there are approximately fifty-six (56), fifty-seven (57) of those. Can you tell me, do you recognize those?

A I do recognize this Exhibit.

Q And what are they?

A These are copies made for presentation to his panel of the voter's oath, to the envelopes that have actually transported the absentee ballot to the voter office, signed by --- all are signed by Ella Virginia Thompson.

Q Who is Ella Virginia Thompson?

A My investigation turned out that Ella Virginia Thompson is the wife of one Leroy Thompson, of 102 Nelson Road, Mullins, South Carolina.

Q And Leroy Thompson, did you ---

MR. HOWELL: He gave money to Williams.

MR. STUCKEY: Well, no. Williams gave money to him.

MR. HOWELL: Oh, okay.

MR. STUCKEY: And for that purpose I'll --- number one, I'm going to call for the introduction of this into evidence and hand this to opposing counsel.

HEARING OFFICER MCFADDEN: Mr. Hamm and Mr. Gray, as to number three?

MR. GRAY: Same objection, please.

MR. HAMM: Same, same objection.

HEARING OFFICER MCFADDEN: Okay.

MR. STUCKEY: Please, don't retry the same grounds.

HEARING OFFICER MCFADDEN: Let me make this real clear. I think Mr. Stuckey was moving for the introduction under Rule 902. I think they are introducible one, two and three under 901, which is what I thought.

MR. STUCKEY: Okay.

HEARING OFFICER MCFADDEN: And I may be --- he may be right, 902 is better, but I think 901.

MR. STUCKEY: Let's go to --- Let me ask --- That's good enough for me. Let's go to --- Let me ask --- ask Mr. Murray, after this has been marked as Mr. Norwood's Exhibit ---

HEARING OFFICER MCFADDEN: Three.

MR. STUCKEY: Four.

HEARING OFFICER MCFADDEN: Oh. You're marking another one.

MR. HAMM: Wait a minute, I want to make sure ---

MR. STUCKEY: I move for this to be admitted into evidence --- and the same objection.

MR. HAMM: I apologize, but that's not clear. That's exhibit ---

MR. STUCKEY: Exhibit # 4 ---

HEARING OFFICER MCFADDEN: # 3 is the absentee ballot ---

MR. STUCKEY: Voter's votes. And this is Mr. Williams' campaign disclosure, filed with the State Ethics Commission.

DIRECT EXAMINATION CONTINUES BY MR. STUCKEY:

Q Well, I said what it is, but for the record, Mr. Murray, what is that document?

A This document is a copy of Mr. Kent Williams' financial filing report as filed with the South Carolina Ethics Commission.

Q Okay.

MR. STUCKEY: And let that be marked as # 4. Is there any objection to Mr. Williams' campaign disclosure statement?

MR. HAMM: No objection.

MR. HOWELL: Which is the description given for the expenditure made? Give us a little meaning here?

MR. STUCKEY: That will be the next question.

MR. HOWELL: Okay.

MR. STUCKEY: That's not --- If there are no objections to the introduction on the evidence.

NORWOOD'S EXHIBIT # 4 MARKED AND ADMITTED INTO EVIDENCE.

Q Mr. Murray, what does that campaign disclosure statement reflect about Leroy Thompson?

A On the final page of the itemized expenditure summary, Mr. Leroy Thompson of Mullins, South Carolina, on April the 21st, was given One Hundred Dollars (\$100). The expenditure distinction is distribution of campaign literature.

Q Okay.

MR. STUCKEY: No further questions for this witness. No further questions for this witness.

HEARING OFFICER MCFADDEN: Okay. Mr. Hamm?

CROSS EXAMINATION BY MR. HAMM:

Q I am very cognizant of the time. I have just a couple of questions. For purposes of --- I want to talk about when you could have made these determinations. Had you begun working on these matters on the Thursday following the election, or whatever? Could you have made and advised your client about these problems prior to noon on Monday, the 14th?

A I'm not sure I fully understand the question.

Q All right. You have asserted that poll managers failed to initial the entry of the voter signature, I believe. My understanding is you're saying, "Well, therefore, that vote is no good." Is that correct?

A That's correct .

Q All right. Is that something you could have discovered, or did you discover, prior to Noon on Monday, June the 14th? Could you have discovered it prior to that?

A Absolutely. There is no change the records that we are introducing here today; what was discovered on Monday, Tuesday and Wednesday was certainly part of factual evidence prior to Thursday and Friday.

Q Okay. So for purposes of --- you made reference they failed to enter whether they were Demo --- where they voted in the Democratic or the Republican Primary. You could have determined that and advised your client prior to Noon on June the 14th? Correct?

A No, I didn't say that we could determine which ones voted in the Democratic or the Republican Primary. I said that certain records did not indicate which primary they had voted in.

Q And could you have --- you could have made that determination in the records were not clear prior to June the 14th at Noon, yes?

A If I had started this investigation earlier, it would have turned up the equal records of information.

Q Right. And I'm not questioning it, I just want for the record, the items that you have noted could have been done prior to Noon on Monday, June the 14th. Is that a fair ---

A If the signature ---

MR. STUCKEY: I'm going to object on the grounds that he's asking him to speculate. What has been well established that through his testimony that he wasn't asked to do anything until the recount on Monday afternoon.

HEARING OFFICER MCFADDEN: Maybe that is the question you should ask, Mr. Hamm.

MR. HAMM: Well, that is my next question I need to first establish that we could have done it; and I think, for purposes of the record, that was established.

Q When was it that you were asked to engage in the --- as I understood the testimony of Mr. Norwood, you were asked to do this beginning on Monday afternoon of June the 14th. Is that correct?

A That's correct.

Q All right. And you were first retained by Mr. Norwood when?

A Mr. Norwood spoke to me on Friday, I believe, and more on Saturday, about coming and joining him on site in terms of his get out the vote drive.

Q Okay.

A Because at that point he was in the winning position ---

Q All right.

A --- to be a part of the run-off.

Q Okay, for purposes of the ---

A And I arrived in South Carolina late Sunday.

Q Okay. So for purposes of the record, you were having conversations on Friday, June the 11th, Saturday, June the 12th, Sunday, June the 13th. Is that a correct assertion or is that ---

A Yes.

MR. NORWOOD: He answered that question previously.

A Long distance conversations, yes. I had had no opportunity to investigate any issues that we're speaking of here today.

Q Okay.

MR. NORWOOD: Talking about substance, too.

A And had no reason to be. And if Mr. Williams appeared to be investigating those issues, I had no interest in it.

Q For purposes of the record, do you know how many of these eight hundred (800) votes that you're discussing, how many voted for Mr. Williams or how many voted for Mr. Norwood?

A This entire process is under a secret ballot. No, I do not know who voted for which candidate.

Q So we don't know, you do not have the ability to testify as to the outcome of the election regarding those eight hundred (800) votes that you make reference to.

A No, I do not.

Q Okay. What are you being paid? There is a reference to Mr. Williams' ethics report. What have you been paid to provide services to Mr. Norwood?

A I have been under contract with Mr. Norwood's campaign in terms of analyzing and focusing his campaign through our company, our company's ability to analyze the --- As I have said earlier, the registered voter records, and the registered voter history, and the demographics of the area. And quite honestly, I, personally, am not being paid anything; although the company that I work for is under contract. And I don't know what the actual details are.

Q So you were not present in South Carolina on June the 8th, on the date of the primary elections? So you can't personally testify as to what did or did not happen.

A In terms of in any given polling, no, I was not in any given polling station or precinct in general.

Q Have you had an opportunity to engage in this kind of investigation in other elections in other jurisdictions?

A Similar. Certainly, I have done many, many analyses of voter records and voter histories. I have certainly done analysis of the results, the immediate results of a primary election in order to focus the candidate's direction in terms of a run-off. I have some experience in terms of guidance about the situation that we have here. But I'm not going to --- I'm going to say my expertise is in analyzing the data, not particularly analyzing the data to seek out these issues, or to verify the existence of these issues.

Q One final area, you raised in the course of your testimony, that you made reference to the ethics of filing of Mr. Williams. Has Mr. Norwood employed people to assist in getting out the vote in the course of his campaign, or do you know?

A I have no knowledge of those issues.

Q Are you suggesting that it's improper for individuals to be paid for assisting in getting out the votes on elections?

A I'm not suggesting that it's improper to do anything, other than I am aware of the --- it is improper to pay someone to produce absentee ballots.

Q But the record doesn't reflect --- the person that was paid is not the person whose signature is on the documents we just talked about. Correct?

A That's correct.

Q So the record doesn't show that.

A They are related parties and it does not show that the person that was paid was the person that collected the absentee ballots. Their only relationship that I could find was by marriage.

Q Right. So then, you don't have any evidence, any personal evidence, that anything improper took place by the payment of one individual with regard to a signature of another individual on that document. Is that correct?

A No , that's incorrect. Our investigation ---

Q You can't conclude that?

A Our investigation, based on this evidence, went further; and we have collected affidavits which would clearly indicate that these ballots which were carried because of actions taken by Leroy Thompson.

Q But again, the signatures on those documents are not Mr. Leroy Thompson. I just want to make --- for purposes --- you're making an insinuation, that's not the documents.

MR. STUCKEY: That's referring to a characterization about an insinuation. The documents are what they are. Anybody can look at them and see what they are.

MR. HOWELL: Well, also he's talking about affidavits. Where are the affidavits?

MR. STUCKEY: And we have another witness. As soon as Mr. Hamm finishes, I'll be glad to call him to the stand.

MR. HOWELL: All right.

CHARIMAN ERWIN: And I will ask all counsels involved to try and keep moving it along, please. These people have to drive to the outer portions of the State. It's been a long day. I know you're doing your best, but help us out here on time.

HEARING OFFICEER MCFADDEN: Yes, please.

MR. HAMM: I don't have any further questions.

HEARING OFFICER MCFADDEN: Okay.

MR. STUCKEY: And no further questions for this witness.

HEARING OFFICER MCFADDEN: Well, Mr. Gray hasn't been included.

MR. STUCKEY: I'm sorry. You got any questions?

HEARING OFFICER MCFADDEN: None?

MR.GRAY: No questions.

HEARING OFFICER MCFADDEN: Thank you.

MR. STUCKEY: At this time I ask that this witness be relieved and call Ben Ingram to the stand.

HEARING OFFICER MCFADDEN: Let's find out if any members of the committee have any questions. None? Okay.

EXAMINATION BY MS. KERR:

Q Do you have any evidence that any of these irregularities are people voting that shouldn't vote, rather than just errors in administration? I mean, errors seem to have been made by poll workers.

A Yes.

Q Error ---

A Yes.

Q --- that show people voting who shouldn't have?

A Yes, we have evidence that people have voted that should not have in terms of what was mentioned earlier, know felons have escaped the system because this last regard for a secure area.

MR. HOWELL: Where is the evidence?

MR. STUCKEY: I'm trying to move this along.

HEARING OFFICER MCFADDEN: That's the next witness, I think. Okay.

REDIRECT EXAMINATION BY MR. STUCKEY:

Q All right, and subject to that question, I'd like to question the witness on that point.

HEARING OFFICER MCFADDEN: He's not the --- okay, so you know of ---

A These records indicate that individuals have signed an incorrect name beside the registration, which would be invalid, where Mr. Smith cannot sign on Julia Brown's registration. There are numerous evidence that votes should have been thrown out of this election, if investigated properly.

EXAMINATION BY HEARING OFFICER MCFADDEN:

Q Do you know who those votes for?

A No. The balloting is secret. There is no way knowing who the vote was for.

Q You don't know which votes should be thrown out?

A We know of ---

Q You know which voters ---

A We know which voters should not have been allowed to vote. We do not know what their vote was.

HEARING OFFICER MCFADDEN: Okay. Tim had his hand up first.

EXAMINATION BY MR. MOORE:

Q You mentioned earlier that there were some people who had been given an absentee ballot and who also signed the voter registration list as having voted on the day of the election. Am I correct in that?

A That's correct.

Q How many of those individuals had an absentee ballot and also voted on the day of the election?

A I think there were four clear, crisp, no questions asked, examples of that. There are other examples where the signature on that line may not be legible enough to decide who actually signed it.

Q So there are four people that you know for sure that had an absentee ballot and also voted on the day of the election.

A There are four people that I know for sure that State said they had an absentee ballot, and they should have been turned away from the polls and not allowed to vote.

Q And is that documented in the evidence that you presented?

A That's correct.

Q So four votes clearly were cast improperly there.

A That's correct.

Q Under your view. Okay. On that issue.

A Quite honestly, I believe it may be worse than that. Four votes were probably doubled. They voted once as absentee voter, and they came back and voted a second time at the precinct voting station. Its eight votes.

Q It's eight votes, so they had eight votes that are in question.

MS. KERR: But they were entitled to four.

COMMITTEEMAN: They were entitled to one.

MR. MOORE: So ---

COMMITTEEMAN: Per person.

EXAMINATION CONTINUES BY MR. MOORE:

Q The four votes that were in --- that you have physical evidence of, that were improperly cast, on that issue only. Absentee. Are there other specific examples that you have, specific examples of individual voters who --- not the felons, because I don't, you know, but either voted twice or somebody voted with the wrong name. Can you --- do you have physical evidence of more than four?

A Well, there are five hundred (500) examples of failure to comply with the ---

Q That's not what I'm asking. I'm asking about specific voters. You have specific, more than four, specific voters?

MR. HAMM: I'm sorry more than ---

Q And your contacts that have voted absentee and then voted on day of election.

A That's four examples. Now, are there other types of voters who did something else wrong? And you know, Madam Chairman, the evidence is in here, in the Complaint about --- I know you haven't got to it yet, about absentee, about being given the right to challenge, that sort of thing, but---

MR. STUCKEY: And the Chair has stressed that we're to move it along. I did not want to go through every page.

HEARING OFFICER MCFADDEN: Well, I'm trying---

MR. MOORE: I'm trying to get to a number.

HEARING OFFICER MCFADDEN: He's trying to get to a number, and just let the witness answer.

A There are numerous examples, I was going to say, of voters who have --- whose signature on the line does not match the name on the voter registration list.

Q Okay, we'll need to see those specific examples. I mean, maybe, you can pull those out.

MR. MOORE: You can recall him, maybe, because I'd like to see those specific examples.

COMMITTEE LADY: I'd like to see one of those, too.

COMMITTEEMAN: This example has ---

COMMITTEE LADY: It's signed on the wrong line.

COMMITTEE LADY: It says John Doe and its Mary Smith

A (Mr. Murray) I don't know how to answer you.

MR. MOORE: I'd like to see those specific examples of where the names are different.

MR. HOWELL: I would, too.

A (Mr. Murray) There are also numerous examples where no voter signed. But if you want me to go through, I can.

MR. MOORE: Well, you may want to call your other witness. But, let him go through the list to find those ---

MR. STUCKEY: Rather than taking the time to go through the list, I'm going to try to get at this another way. And maybe expedite some.

MR. HOWELL: It would have been nice that as each alleged voting irregularity was testified about, but maybe a one piece of paper example be provided to us, the Judge and jury, so that we don't simply have to take the word of the expert witness from Canada. Now, the other thing is, the other question ---

MR. MOORE: Or from Charleston.

MR. HOWELL: Yeah, or anywhere. For example, you hear about people voting twice. It's nice to hear it, but I need the proof.

MR. STUCKEY: If we pull it out.

MR. HOWELL: Okay. And another question I have is, this might be to the candidate or to the attorney, or to the witness. You know, we're hearing a lot of things today, were any of these votes challenged on the immediate Thursday afterwards?

A (Mr. Murray) No. No.

COMMITTEE LADY: Doesn't sound like it.

MR. HOWELL: Depending a lot on this Thursday, did they hear it on last Thursday?

MR. NORWOOD: Well, we were six votes ahead last Thursday. We weren't interested in any of this.

HEARING OFFICER MCFADDEN: But if something is wrong, you challenge it, you don't ---

MR. HOWELL: But this stuff is --- it gets on the street quick.

HEARING OFFICER MCFADDEN: You can find something in every election.

MR. STUCKEY: Madam Hearing Officer, if I may be permitted to ---

HEARING OFFICER MCFADDEN: See if you can respond to specificity.

MR. STUCKEY: I'll try to respond to that without ---

MR. HOWELL: Can we bring him back or something?

MR. STUCKEY: I'm going to ask you ---

MR. HOWELL: If he had a piece of paper of proof for every allegation, that would help.

MR. STUCKEY: --- quickly but essentially.

HEARING OFFICER MCFADDEN: Why do you not let him leave the witness chair, put you other witness up?

MR. STUCKEY: I can do that.

MR. HOWELL: Send him to the library.

MR. STUCKEY: Subject to that, I ask this witness to stand down. And I call ----

HEARING OFFICER MCFADDEN: Did you have any objection to that?

MR. HAMM: No, I don't have any objection, moving forward, I'll be glad --
- yes, ma'am. Yes, ma'am.

HEARING OFFICER MCFADDEN: Are you the next one? Okay.

(BENJAMIN KIMBELL INGRAM, having been duly sworn, testified as follows:)

DIRECT EXAMINATION

BY MR. STUCKEY:

Q Please state your name for the record.

A My name is Benjamin Kimbell Ingram.

Q Where do you live, sir?

A I live in Richland County.

Q Where are you employed?

A I am employed with Nelson, Mullins, Riley and Scarborough.

Q Is that the law firm that I'm affiliated with?

A Yes, sir.

Q What is your position with Nelson Mullins?

A I work in the Operations Department, I'm the legal runner. I conduct various transmissions of legal documents to various places.

Q But you're not an attorney, are you?

A No, sir.

Q Nor are you a paralegal?

A No, sir.

Q Nor are you a law clerk?

A No, sir.

Q Mr. Ingram, did you have occasion to perform any interviews of potential witnesses in this proceeding yesterday?

A Yes, sir.

Q Okay. Tell me what you did yesterday.

A Well, another employee of the firm and I drove to Florence, and me up with Mr. Norwood; and we went out and conducted some interviews with some voters in the community.

Q And as a result of --- where did you go to interview people?

A We went to three separate places, all of which were retirement communities, homes of older, retired folks.

Q Let me ask you ---

MR. STUCKEY: Well, first, let me ask that this be marked as an Exhibit.

And I do believe I have copies for --- No, that's the one I handed ---

Q Mr. Ingram, are you a notary?

A Yes, sir.

Q You're a notary under South Carolina law?

A Yes, sir.

Q Okay. Did you have the opportunity to gather affidavits in the course of your interviews yesterday?

A Yes, sir, I did.

Q Did you talk with an individual named Taffilia McGill?

A Yes, sir.

Q Who is Taffilia McGill?

A Taffilia McGill ---

MR. HAMM: Can I interrupt enough to object, that we have an affidavit. I don't have the opportunity to cross examine the witness. I think it's entirely inappropriate in the fact, we're violating my client's due process rights for the purposes of assertions on a document, when I don't have the ability to ask the individual a question. They can't put these affidavits in through a third party, it's essentially hearsay.

MR. STUCKEY: If I can be heard on that?

HEARING OFFICER MCFADDEN: You can be heard.

MR. STUCKEY: This witness is unavailable because we do not have subpoena powers; and talked with the Chairman this afternoon and he was unsure whether he had subpoena powers. This witness is unavailable under the Rules of Evidence. There are exceptions to the hearsay rule for unavailable witnesses. The contents of this document show that this is a statement against interest, and if counsel will permit me to ask Mr. Ingram what Ms. McGill ---

HEARING OFFICER MCFADDEN: I'm listening.

MR. STUCKEY: --- said in her affidavit, it will be plain to see that she admitted that she signed ballots for people with Alzheimer and Dementia, who did not understand what was on those ballots.

HEARING OFFICER MCFADDEN: Yeah.

MR. HOWELL: Did that affidavit include the reason for the lack of availability?

HEARING OFFICER MCFADDEN: It does not, nor does it include the assertion under Title 19, as it ought to, that the person against whom it might be used has received and retained a copy, and that person against whom it might be used is not here as a party. She's just out there in the wind, so I would sustain Mr. Hamm's objection, in the introduction of the affidavits.

MR. STUCKEY: And just for the record, the statute does not --- we as attorneys draw our authority from the court and from the statute in terms of handling these precedents. The statutes as far as the Rules of Civil Procedures, and Rule 45, grant attorneys as officers of the court the power to issue subpoenas on behalf of the court. As of this afternoon, it was not given communicated to us whether we would be heard today. The statutes, as Mr. Pride said, approximately six hours ago, the statutes requires you to be ---

MR. HAMM: I have to object ---

MR. STUCKEY: I've not finished my argument.

MR. HAMM: I'm trying to ---

MR. STUCKEY: They're going to object to my argument?

HEARING OFFICER MCFADDEN: Well, I've ruled on the evidentiary issue, and now you're making the same ad hominem from the prior argument that Mr. Pride was making earlier, and ---

MR. STUCKEY: Only in ---

MR. MOORE: I would move that he be allowed to proffer his evidence.

HEARING OFFICER MCFADDEN: It's in evidence for purposes of determining the ruling it's marked and it will be there. But it's not evidence for the purpose of consideration or continue into caucus.

MR. STUCKEY: And there was reference to the fact that the witness, there's been no showing that the witness was unavailable ---

MR. HAMM: I would further dispute ---

MR. STUCKEY: And I was making an argument to the Hearing Officer as to why that witness was unavailable. I don't have subpoena power.

MR. MOORE: I question the authority of the Hearing officer to make determinations of the law in the facts of this case, because we are the judge and the jury and you're merely the presiding officer.

HEARING OFFICER MCFADDEN: I just rule on the evidence.

MR. STUCKEY: And in order ---

MR. MOORE: Then I ask that the question be put to a vote.

HEARING OFFICER MCFADDEN: Okay. Be glad --- the question to vote is accepting it or not accepting it in evidence for the reasons that you heard articulated. If you vote ---

MR. STUCKEY: Madam Chairman, I'm not going to argue any more. All I'm going to ask you is, so we don't have to go through this six or seven times, that you consider --- that you have that motion and ruling on all of these affidavits that I would have asked Mr. Ingram about.

HEARING OFFICER MCFADDEN: And we'll make it on all # 4.

MR. STUCKEY: Okay.

HEARING OFFICER MCFADDEN: Now, if you vote yes, you're voting to take these affidavits in as evidence and consider them fully. If you vote no, you're not taking them in, you're not considering them. They will stay in the records for purposes of anybody else review us in or decision, but you won't consider them if you vote no. Yes sir?

MR. HOWELL: I just want to, as an addendum for the rest of the body here, point out that --- I would urge you to accept the affidavits in as evidence because then Mr. Hamm is going to have an opportunity, on cross examination of Mr. Ingram, to go way into the circumstances surrounding his meetings with the individual witnesses and the fact that he – if he is truly in fact a notary or not – and everything having to do with taking the statements, and the genuineness of his meeting with the witnesses, and the account that was given to him by those witnesses.

COMMITTEE LADY: Maybe we don't want to know that much.

MR. STUCKEY: That's exactly what we want to happen.

HEARING OFFICER MCFADDEN: You have a question?

Mr. KERR: I just wanted to --- this is not a question. I just want to point out that as probably the one that's been on the Committee the longest time, we have a long history of accepting affidavits in this kind of hearing.

HEARING OFFICER MCFADDEN: So, the question is, the motion to either sustain my ruling or not, and I put them out. Okay. If you vote yes, you're going with me putting them out. If you vote no, you are going with the position articulated by MR. Howell, and this --- Okay, all those ---

MR. GRAY: Madam Chairperson, can you rearticulate the reason for excluding?

HEARING OFFICER MCFADDEN: I think they understand.

COMMITTEEMAN: Madam Chairperson, I believe the motion was to accept them.

HEARING OFFICER MCFADDEN: Well, it's accepting of my ---

MR. MOORE: To accept the affidavits.

CHAIRMAN ERWIN: That's what I thought, too.

HEARING OFFICER MCFADDEN: Okay, I'm sorry.

MR. MOORE: Thanks.

HEARING OFFICER MCFADDEN: If you accept them (The Affidavits), vote yes to accept them; vote no to reject them. Okay. All those in favor of acceptance, please raise your hand. Okay, all those opposed, raise your hand. They're in.

NORWOOD EXHIBIT # 5 MARKED AND ADMITTED INTO EVIDENCE.

MR. STUCKEY: Mr. Ingram, actually, I have no further questions for this witness, since these affidavits have been admitted into evidence.

MR. HAMM: Well, at the moment I have one affidavit identified. What else is in here that I haven't seen?

HEARING OFFICER MCFADDEN: There are seven of them, it looks like.

MR. STUCKEY: I have copies.

HEARING OFFICER MCFADDEN: They all say that --- and have Alzheimer and requested absentee ballots. Okay, are you ready, Mr. Hamm?

MR. HAMM: Yes, ma'am.

HEARING OFFICER MCFADDEN: Okay, if we can give Mr. Hamm our attention to move this on.

CROSS EXAMINATION BY MR. HAMM:

Q Mr. Ingram, who wrote these affidavits?

CHAIRMAN ERWIN: Quiet, please.

A An associate of Nelson Mullins that went with me, that accompanied me down.

Q So the individual who wrote the affidavits, is that person present today?

A Yes, sir.

Q Well, who is that person?

A She is in the back. Her name is Ms. Williams.

Q All right. Let me hand you this ---

MR. STUCKEY: She's a law clerk, she's not an attorney.

Q Hand me, let's take a look at this one. Identify the name of that individual.

A Ocea Gilchrist.

Q All right. Did Ocea Gilchrist dictate the contents of that affidavit?

A The way this affidavit came about is that we discuss --- we discussed the contents of this affidavit ---

Q We?

A Yes.

Q Who are we?

A Ms. Williams and myself and Ms. Gilchrist.

Q All right.

A And after having discussed the contents of it, Ms. Williams wrote this information down. We read it back to Ms. Gilchrist, and once she approved it, then I signed the Notary here at the bottom.

Q All right. And you're aware that the individual we're talking about in this affidavit is a man, not a woman?

A Okay.

Q Okay. I'm ---

MR. STUCKEY: Are you testifying?

Q I'm asking. Are you aware whether this is a man or a woman?

A I talked to roughly fifteen or twenty people yesterday, I cannot remember specifically the sex of this person.

Q All right. Now, do you know whether this particular individual has the ability to read and write?

A Not to the extent of doing this. I know that they signed their name, so that's the basis of what we can do.

Q So to this --- to the extent of the affidavit with an individual's signature, you cannot testify as to whether or not the individual can read and write for purposes of understanding the affidavit. Is that correct?

A Well, yes, sir, some could. Some could not. The ones that could not, we just read it back to them.

Q All right. Well, let's identify it. Who could not read and write and understand their affidavit?

A It's not --- it's not here.

Q It's not on here, so how do we know? For the record, you've acknowledged that some couldn't read and write, and some could. For the record, we've got a number of affidavits, let's go through them. You don't know the answer to this one correct? All right, I'm not having a hard time --- maybe you could read for the record what that name is.

A Talib Abdu Najid.

Q All right. And do you know whether, of your own personal record, as the person on the stand, whether that person could read and write and understand the affidavit?

A I do not remember specifically this person.

Q All right. Go to this individual. Name the individual.

A Taffilia McGill.

Q All right. Do you know whether that person could read and write and understand the affidavit?

A I do not.

COMMITTEE LADY: You don't have to be able to read and write to vote.

Q How many of these individuals wrote their own affidavit? Any of them?

A I wouldn't want to be exact, because I don't want to lie, but I would say roughly two.

Q All right. Well, let's identify the two. As I look at these, the writing on all of these appears to be the same individual, so which two of these individuals wrote their own? Can you tell by looking at the affidavit?

A No, sir.

Q In front of you ---

A No, sir.

Q You can not?

A No, sir.

MR. HAMM: Recognizing the vote of the body, I still, then I renew --- I renew my objection, that they be stricken from the record because this witness does not authenticate whether or not the individuals knew, in fact, that they were --- what they signing. It is impossible for me to cross examine these individuals. And on that basis they ought to be stricken.

MR. STUCKEY: That's not what he testified to. He testified they read it back to them if they couldn't read or write. I have a few follow-up questions for this witness.

HEARING OFFICER MCFADDEN: You're skipping Mr. Gray.

MR. STUCKEY: I'm sorry, Mr. Gray.

MR. GRAY: Thank you. I would join in the objection. Join with Mr. Hamm.

MR. STUCKEY: I have a few additional questions for this witness. I solely ---

HEARING OFFICER STUCKEY: Mr. Gray, you have no questions?

MR. GRAY: I have no questions for this witness.

HEARING OFFICER MCFADDEN: Okay.

MR. STUCKEY: All I want this witness to do is publish the information in the affidavits so you all will know what's in the affidavit without us having to circulate it. If I could have the Exhibit back.

MR. HAMM: Your Honor, I have to object. This witness could not even testify whether these individuals knew they were saying: so the fact that there are words on a document, I don't have any sworn testimony that they knew what they were doing. And I would object to publishing what the witness themselves has admitted, they don't know whether they have been inducted.

MR. STUCKEY: You have voted on that twice.

COMMITTEEMAN: It's been voted on.

HEARING OFFICER MCFADDEN: The Executive Committee has accepted them. And I think the only real serious question here is whether it is more efficient to read them or to pass them out and let them read themselves. So ---

COMMITTEEMAN: Read them.

HEARING OFFICER MCFADDEN: You want to read them?

COMMITTEE LADY: We can hear it --- just like they can.

HEARING OFFICER MCFADDEN: Okay, so let's ---

MR. MOORE: I believe the testimony when he read it back to me, once he understood, then he would notarize it. Is what his testimony was?

HEARING OFFICER MCFADDEN: And I believe that those people who signed the affidavits can hear. We can, too.

COMMITTEE LADY: And we have voters who can't read and write, too.

MR. MOORE: That's right. Like I said.

HEARING OFFICER MCFADDEN: A whole lot of them.

COMMITTEE LADY: So, I don't know if you all know that.

MR. MOORE: We know that.

COMMITTEE LADY: Not all Republicans know that.

MR. MOORE: Yeah, we do. I got class.

REDIRECT EXAMINATION BY MR. STUCKEY:

Q Mr. --- let's take Taffilia McGill first. In order to expedite this, Mr. Ingram, I'm going to read it and you tell me if I'm reading it correctly. "Contact voter registration - --", this is Taffilia McGill. "Contact voter registration for absentee ballots. I send a list of names for voting. She checks them to see if they are registered to vote. If not, we do an application. Then close the election time we receive our ballots by mail. The ballots are filled out and signed by each individual. If I have to someone to take them back to the voter registration, I have them to fill out the yellow form. If not, I will put them in the mail. I have some clients that have dementia or Alzheimer disease. They do not understand, so when they nod their heads, then we mark the ballots. I have 6 clients with dementia and two who comprehend." Did I read that correctly?

A Yes, sir.

Q Okay. Let's take Talib Abdu Majid. I'm going to read this and you tell me if I'm reading it correctly. "I was interviewed by Leroy Thompson about voting. I then received an application for absentee ballot in the mail. My housekeeper filled out the application and I signed it. To my knowledge, I never received an actual absentee ballot." Did I read that correctly?

A Yes, sir.

Q Let's take Hessie Grainger. And let me ask you. Ms. McGill, was she the director of that nursing home or the manager of the nursing home?

A Yes, sir, she was.

Q Okay. Now, Hessie Grainger. "I received an application for absentee ballot in the mail. I filled out the application at my house with Mr. Thompson present. He told me what I needed to fill out on the form. Mr. Thompson comes out to our

community frequently during election time. I never received an actual absentee ballot to my knowledge.” Did I read that correct?

A Yes, sir.

Q Ocea Gilchrist, do you have that one?

A Yes, sir.

Q “I received an application for absentee ballot when Russell Thompson came by and gave me the form. I filled out the form and signed it myself. Russell then picked up the application. I had previously met Russell when helped me register to vote. He always come through the community when it’s time to vote. He left a voter registration card at my house and said didn’t need to go to the office to register. I never received an actual absentee ballot.” Did I read that correctly?

A Yes, sir.

Q Turn you attention to Frank Huggins. “An employee of the nursing facility brought the application for absentee ballot into my room. She filled out the application for me, but I signed it. I do not remember receiving the actual absentee ballot.” Did I read that correctly?

A Yes, sir.

Q Is Mr. Huggins, it says Franky Huggins, I’m not sure if it’s a man or a woman, but is that person a resident of the same nursing facility --- nursing home facility as the others?

A Yes, sir.

Q Turn your attention to James Clark. “I received the application for absentee ballot in the mail. Mr. Leroy Thompson came to my house and picked up the ballot to fill out. He then brought the completed application back to my house for me to sign and sent the application off through the mail. Mr. Thompson would ask me which

candidate I was going to vote for when he visited my house. After Mr. Thompson sent the paperwork off, I had no other contact with him.” Did I read that correctly?

A Yes, sir.

Q I believe we’re down --- I’m sorry, you have two affidavits left in your hand?

A One’s Taffilia McGill and the other one ---

Q Okay.

A And I believe I already read Taffilia McGill. Did I read that one correctly?

A Yes, sir.

Q Okay. Lela Anthony. Do you have that one?

A Yes, sir.

Q “I received an application for absentee ballot in the mail. Mr. Thompson came by my house and filled out the application and signed it for me. I signed the application envelope. Later I received an absentee ballot in the mail. Mr. Thompson called and asked if I had received something in the mail. I told him yes, and he stopped by my house the next day. We sat at the table and he called out candidate names to me. I told him I didn’t recognize any of the names, so he showed me Kent Williams and Mr. Battles’ names and other people’s names. I signed the ballot and Mr. Thompson took the paperwork with him.” Did I read that correctly?

A Yes, sir.

Q Now, those are affidavits. If I could have the first page of Norwood Exhibit # 3, first page of Norwood Exhibit # 3, which is the voter oath signed by Lela Anthony. I’m going to ask you, Lela Anthony, --- you have an affidavit here that I just read from Lela Anthony, is that right?

A Yes, sir.

Q Okay. Ms. Anthony said in her affidavit that Mr. Thompson came by her house, is that right?

A Yes, sir.

Q Who signed her oath? That's reflected in Norwood Exhibit # 3?

A Lela Anthony is up here.

Q Right. And who witnessed it?

A Signature of witness, Ella Virginia Thompson.

Q Okay.

MR. STUCKEY: No further questions for this witness.

MR. HAMM: I don't have --- I mean, my objection is on the record. I don't have any other questions.

HEARING OFFICER MCFADDEN: Okay. Mr. Gray?

MR. GRAY: No questions.

HEARING OFFICER MCFADDEN: Okay. Any Members of the Committee?

MR. STUCKEY: And I have one final witness.

HEARING OFFICER MCFADDEN: The Members of the Committee, let's move to hear the final witness.

MR. STUCKEY: This witness can be released. (The witness was releases)

MR. STUCKEY: And at this time I call Kent Williams to the stand.

(KENT WILLIAMS, having been duly sworn, testified as follows:)

DIRECT EXAMINATION BY MR. STUCKEY:

Q Mr. Williams, you are a candidate for the State Senate District # 30, are you not?

A That's correct.

Q Okay. And you are one and the same individual who filed the protest on Monday and then withdrew it today. Is that right?

A That's correct.

Q Mr. Williams, when you filed your protest, did you look at it before it was filed on your behalf?

A Absolutely.

Q Okay. So when you read this on Monday and you said that there were numerous irregularities, errors, problems or illegalities regarding the absentee ballot process for voters in Dillon, Florence, Marlboro and Marion, that was true, wasn't it?

A Yes.

Q Okay. And you, when you said that the Marion Board of Canvassers failed to --- you said at least eight voters casting their vote in this election and race appeared at the Marion Board --- County Board of Canvassers meeting and were not allowed to present evidence or rebut their challenge to vote. You said that right?

A I said that.

Q And that was true. And you said that, as well, in relation to Marlboro County, right?

A Right.

Q Okay. Now, Mr. Williams --- and it is 12:42 a.m. and I'm going to ask you some questions, and then I'll wrap up very quickly. Mr. Williams, are you familiar with Leroy Thompson?

A I am.

Q Who is Leroy Thompson?

A He's a native of Mullins, South Carolina.

Q Okay. Did you direct Mr. Thompson to go out and procure absentee ballots, as been attested to through these affidavits?

A Absolutely not.

Q Okay. And is this the same Leroy Thompson that is indicated on your Campaign Disclosure Form as you paying him for distribution of campaign literature?

A The get out the vote, yes.

Q Okay. And is Mr. Thompson married?

A As far as I know, he is.

Q Do you know his wife's name?

A I do not.

Q Okay. But you do know that he is married?

A As far as I know, he is.

Q Okay.

MR. STUCKEY: No further questions for this witness.

HEARING OFFICER MCFADDEN: Okay, Mr. Gray?

MR. GRAY: I have no questions for this witness.

HEARING OFFICER MCFADDEN: Any Members of the Committee?

MR. HOWELL: Yes.

HEARING OFFICER MCFADDEN: Okay.

EXAMINATION BY MR. HOWELL (to Mr. Williams):

Q What was your understanding about any role that Leroy Thompson has in the context of absentee voting, whatsoever?

A It's known, Leroy Thompson, he's a native of that community and he always assists people in doing absentee ballots. He was not working for me, gathering absentee ballots.

Q Did you ever have any discussions with him at all regarding --- on behalf of your campaign, of having people vote absentee?

A Absolutely not.

Q And would he say the same thing?

A Yes, he would.

Q Thank you.

REDIRECT EXAMINATION BY MR. STUCKEY (to Mr. Williams):

Q Mr. Williams, what type of campaign literature did you have Mr. Thompson distribute for you?

A Just brochures, palm cards, flyers, etcetera.

Q And you paid him for that, right?

A I think I paid him a Hundred Dollars (\$100).

Q And you disclosed that on your Ethics Form?

A As a one time thing.

Q Mr. Williams, if Leroy Thompson and his wife procured fifty-six (56) absentee ballots on your behalf, do you believe those votes should be counted?

A I was not the only candidate running in this election. There were several.

Q Did Mr. Thompson work for Mr. Norwood or Ms. Glover?

A I have no idea.

Q Okay. Are you familiar with the statute that provides that only an authorized representative can request an absentee ballot, and that the statute states under no circumstances shall a candidate or a member of a candidate's paid campaign staff or volunteers be reimbursed for the time they have spent on campaign activity, be considered an authorized representative of an elective desiring to vote by absentee ballot? Were you familiar with that?

A I'm familiar with that.

Q Okay.

MR. STUCKEY: No further questions.

HEARING OFFICER MCFADDEN: Okay. Anybody else?

MR. HAMM: Nothing.

EXAMINATION BY MS. KERR (to Mr. Williams):

Q Which --- in your protest that you filed when you mentioned that you knew of illegalities or irregularities in the absentee voting, should you tell us what some of those were?

A Sure. Well, it's just like in any election, there's not such thing as a perfect election. And I've been involved in many elections. And you know, some of the things that were called to my attention by some of my supporters were when people would enter the polling place and the poll manager, instead of asking the question, "What primary would you like to participate in," they maybe would ask them, "What party do you belong to?" Then if they said, "Republican, then they got --- steered them in that direction. And then, we have electronic voting machines; and when they would go in to vote, and the poll manager would activate the machine; and then when it would display -- it would have all of the U. S. Senate Republican candidates, they realized, " This is not the primary that I want to ---"

Q What about absentee voting? You said you knew of some irregularities there.

A The problem we had with the absentee ballots were that they were not witnessed or signed, or both. And we questioned the voter registration office, "Why wasn't these voters notified or given reasonable notice that their ballots were not witnessed," because the law says as long as the intent of the voter is to vote -- and we were very confident that that was their intent -- was to vote.

Q So were those votes counted?

A Absolutely not. They were not counted.

Q Okay, so you don't know of any votes that were counted that were handled illegally?

A Absolutely not. None.

Q In the way that was signed here.

A They had sixty-two ballots --- absentee ballots on the table that have not been counted for that reason I just mentioned; you know, not being signed, or witnessed, or ---

Q So they weren't counted?

A They were never counted.

Q And you protested them anyway, even though they were counted?

A Yes, I did.

Q Okay. All right.

HEARING OFFICER MCFADDEN: Any other questions? Okay.

REDIRECT EXAMINATION BY MR. STUCKEY (to Mr. Williams):

Q **Mr. Williams**, you testified in response to Ms. Kerr's question that you did not contest any ballots that were actually counted. That was that what you told her?

A We protested the absentee ballots.

Q But her question was, "Did you only contest those ballots that were not counted?"

A That was ---

Q And I believe you told her, if I heard you correctly, that you only contested those ballots that were not counted, not those that there counted.

A Well, we can --- no, we did not.

Q Okay. I'm going to read this to you and I want you to ask me --- I want you to tell me if this sounds familiar. "The protestant alleges that at least seven fail safe votes in Florence County were improperly and illegally counted." Does that sound familiar?

A That was rectified when they did the recount.

Q They --- in the recount they determined that they should not count those votes?

A They did count those votes in the recount, except for one, I think. I'm not sure.

Q Okay. What I'm trying to establish, sir, is that you said that seven fail safe votes were counted in your protest; and Ms. Kerr asked you whether you had contested any votes that were counted ---

A Oh, there were seventeen ---

Q --- and you did.

A There were seventeen fail safe ballots, but they were ballots that had been overlooked in the first count.

Q Well, you said in your pleading here, that they were counted.

A That's in Florence County.

Q Right. Isn't Florence County in your District, right? Or in the District you're running for? Okay?

MR. STUCKEY: At this time, because we agreed to take a recess as far as Mr. Murray was concerned, I recall him to the stand and we'll wrap up.

HEARING OFFICER MCFADDEN: Okay.

MR. STUCKEY: No further questions for this witness.

(The witness was excused)

HEARING OFFICER MCFADDEN: Mr. Murray, you're still under oath.

(ROBERT ARTHUR MURRAY, still under oath, continued to testify as follows:)

REDIRECT EXAMINATION BY MR. STUCKEY:

Q You're still under oath, Mr. Murray. Mr. Murray, so as to expedite these proceedings, there was a question asked as to whether you could identify examples of

the irregularities based on the documents that are in evidence. And so, would you do that for us, please?

A How would you like me to do that?

MR. HOWELL: Cite the irregularity and then offer the proof.

Q Right.

A The first example is a voter --- voter sheets from South Bennettsville. The voter in this particular case has --- there is a status line. The status line clearly is printed that that is an ABS. That is a code for an absentee ballot; which would indicate to the poll manager that that person has voted absentee and they should not be allowed to vote, although the registered voter has come in, signed and voted a second time.

COMMITTEE LADY: Can you please pass it?

MR. STUCKEY: Madam Hearing Officer, I'd ask you to circulate this to this Commissioners.

HEARING OFFICER MCFADDEN: Yeah, you just keep them ---

MR. STUCKEY: Just trying to observe protocol?

HEARING OFFICER MCFADDEN: Are you going to keep on, I'm calling for a ---

A This voter next is a copy of Northwest Mullins sheet. The voter lists indicates that the voter has come in, been approved by the poll manager, voted in the Democrat Primary, but there is no signature to accompany the voter's processing.

Q And for the purposes of the record, because this --- all of these are stamped as one Exhibit, can you tell us the name of the individual that you're referring to?

A The name of the individual was Misty L. Lewis, 903 North Smith Street, Mullins. The purpose of the signature, as I think I said earlier, is also to verify that signature against the identification that is shown at the time of voting. If there is no

signature to verify, then there could hardly have been a proper verification of the identification of the individual.

COMMITTEEMAN: Pass along, sir.

MR. STUCKEY: Okay.

Q What I'd like you to do with each one, start off with the name of the person, so that the record will be clear.

A The name of this individual from Britton's Neck –

MR. HOWELL: Excuse me.

MR. STUCKEY: Absolutely.

MR. HOWELL: I think that --- seems to me that on that last one, Misty Lewis signed it, but just a line away from it.

HEARING OFFICER MCFADDEN: They make mistakes.

MR. HOWELL: You see, you got a Misty Lewis here, right? And that looks like Misty Lewis to me. Because you've got other members, presumably of the Lewis family, so Mr. Expert ---

COMMITTEEMAN: They make mistakes.

A We have numerous examples where the poll manager has allowed an individual to sign on the wrong line; and when the correct individual came in for that line, they were turned away and not allowed to vote because there was a signature on their line.

COMMITTEE LADY: No, we don't do that.

COMMITTEEMAN: Just move them along.

Q Give us the next example.

A The next example, as I said, was from Britton's Neck. It's a Deborah Haselden. Deborah Haselden came in, she began signing one name and changed the name, struck that out, and signed her Haselden name.

COMMITTEEMAN: She might have just got married.

Q What's the next example?

A There's another example where an individual has come in, signed on the line. The manager of elections in West Dillon has allowed this individual to sign on Patricia S. Manning registration line. The name that is signed is Yen J. Wattoo (phonetic). This is a case where Patricia has signed on the wrong line on the sheet; and a second voter, who is not related to anything that we can find, has voted on her absent line.

Q All right, what's the next example?

A This sheet is sheet from Florence, # 9. It demonstrates two voters that came into the precinct, Elizabeth Mockington and Jean Mockington. Both voters came in. Neither one has marked --- or, for neither voter was there a marking as to whether they voted in the Republican or the Democrat Primary; and neither signature is witnessed by the poll manager.

Q What's the next example?

A This example from Spaulding is two examples of individuals who have come in, and voted, and been approved, and not initialed by the poll manager.

Q What's the next example?

A This example is Nancy Benton from Florence # 2. She appeared to be witnessed. Her signature is, in our opinion, suspect.

Q Why do you say it's suspect?

COMMITTEEMAN: Yes, explain that.

A It's merely a squiggly line.

Q It's a straight line, isn't it?

A A straight line, actually.

Q Okay, go ahead. What's the next example?

A This example from Marion South, a voter has come in, registered apparently appropriately, signs with an X inappropriately.

Q Why do you say she signed with an X inappropriately?

HEARING OFFICER MCFADDEN: You can sign with X's.

A There is a specific instruction in the poll manager's handbook that requires them to formally acknowledge that X in a specific manner; and it is not acknowledge in that way.

Q All right. What's the next example?

A This final example is an example of what we call a write in, where the voter come in; apparently they couldn't find the voter's name, and the voter with improper identification has been added to the list in writing; and there appears to be no way to follow that voter up as being authentic.

Q Why can't you follow it up to determine it's authentic?

A There isn't enough information on that particular piece of paper to identify that voter as an actual registered voter.

MR. NEWTON: I think it's time for a motion.

COMMITTEEMAN: What are you going to move?

MS. NEWTON: Do we have to hear closing remarks, or can we make a motion?

Can we make a motion?

MR. STUCKEY: If I could have this marked as --- I believe this would be the --- exhibit or ----

COMMITTEEMAN: What is it that we're having marked? What is that, Mr. Stuckey?

MR. STUCKEY: Just a felon notice, just as an example.

COMMITTEEMAN: Has he sat and talked about that yet?

MR. NEWTON: Madam Chairperson, can I make a motion that we accept Mr. Norwood's Petition ---

COMMITTEEMAN: Have a new election?

MR. NEWTON: Yes, and have another election, by the proof that they've shown us through their testimony and evidence tonight.

MR. STUCKEY: This is our last exhibit, and I just ask ---

COMMITTEE LADY: What is it that you want? Let us know.

REDIRECT EXAMINATION BY MR. STUCKEY:

Q Mr. Murray, you've talked about felons.

COMMITTEEMAN: I was just looking to see --

Q Is this an example of what you meant when you said that you ---

COMMITTEE LADY: People do this at the polls?

Q --- through your investigation you determined that felons voted.

A This example through our investigation and identification of individuals who are on the registered voter list indicates a number of things. Number one, for some reason, this identifiable felon has not been marked on the voters' registration list as ineligible to vote; and therefore has come into the precinct known as South West Mullins, and had their registration approved, signed, and voted when they were ineligible.

Q When did you learn that this person was a felon?

A At this --- I learned that this particular person was a felon --- this particular person, as late as yesterday morning.

Q Okay.

NORWOOD EXHIBIT # 6 MARKED AND ENTERED INTO EVIDENCE.

MR. STUCKEY: No further questions.

MR MOORE: I have one question that I need to ask somebody.

MR. STUCKEY: Circulate this to the ---

HEARING OFFICER MCFADDEN: I think Mr. Hamm gets him next.

COMMITTEE LADY: I wonder how --- my motion.

MR. HAMM: I need to quickly look at the documents that are floating around, if I could.

MR. MOORE: While he's doing that, could I ask a question? In paragraph 9 (C) of the protest, Mr. Stuckey, there is an allegation that forty-six (46) voters having challenged the absentee ballots were not informed of their right to appear on June 10th. Do we have any evidence of that?

MR. STUCKEY: I can address that. The sole purpose of that was to join Mr. Williams' protest.

MR. MOORE: Was that something in his protest?

MR. STUCKEY: It was.

MR. MOORE: Maybe we ought to ask him about that, then.

MR. STUCKEY: I'm trying to observe the Chair's ---

MR. MOORE: That's an important allegation, that really hasn't been addressed.

MR. STUCKEY: I think ---

HEARING OFFICER MCFADDEN: I have a motion without a second; and then, let's have Mr. Hamm have his opportunity to cross examine before we take ---

MR. NEWTON: Audrey seconded it.

AUDREY: I seconded it.

CHAIRMAN ERWIN: All right, the motion and second.

HEARING OFFICER MCFADDEN: But as soon as Mr. --- we don't want to impose on Mr. Hamm.

CROSS EXAMINATION BY MR. HAMM (to Mr. Murray):

Q For purposes of this record, is it your testimony that were an individual was --- on the signature area, where the poll manager has failed to initial, that vote should be invalidated? Is that your testimony?

A My testimony is that where the poll manager has failed to validate the registration with their initials, is a breach of the Election Commission's format for proper poll manager activity.

Q All right, where ---

A Well, you affect --- it leaves the vote suspect to proper identification and approval from the poll manager.

Q Were you a poll watcher?

A No, I was not.

Q Do you know if any poll watchers challenged these votes at the time that these individuals came in?

A Could you repeat that?

Q Yes, sir. Do you know whether any poll watcher for your client challenged these votes at the time the individual was signing in? Was there a challenge, do you know?

A I was not involved in any activity at any poll. My function has been entirely a review of the activities that took place; and that review has all taken place after the result of the election in question.

Q All right. Let me --- for example, let me go back to --- you have objection to the vote of a Deborah Haselden. Correct?

A I have objection to the signature on that registration.

Q All right. But in that particular signature, the poll manager in fact signed it; so, the poll manager was satisfied that. In fact, that was her signature. Right?

A That is correct.

Q So, there is no reason for there to be any suspicion about that, because it's met all the requirements you testified about. They signed it and it was initialed. Right?

A They have signed it with two names.

Q One crossed out.

A And I would suggest that in my opinion, based on the training that is put into poll watcher, that should be a provisional ballot, and should have been suspect, and sent for review after the election.

Q Hold on to it. But the poll manager was right there and initialed it. Right?

A There is an initial there, so I will assume that that's correct. If all of the proceedings were followed correctly, which I could hardly testify to.

Q Well, but to the extent that you've complained about a poll manager's lack of an initial, here in fact the poll manager apparently accepted the signature that you object to. Right?

MR. STUCKEY: I'm going to object because that was not the purpose. That was an example of another point that he raised, not the one you're asking him about. That's a mischaracterization of his testimony.

MR. HAMM: The record will speak for itself. I'm not going to delay. I'm just --- so your --

HEARING OFFICER MCFADDEN: I'm not sustaining that. I'm overruling that.

Q So, for purposes of --- going back to some of the questions, is this a vote that counts or doesn't count?

A I'm not making a ruling on whether --- on whether a vote counts or doesn't count. I'm making an investigation on whether the procedures in regard to this particular election, on this particular day, were followed correctly, so that the results could ever be considered fair and reasonable.

Q For purposes of this record, that's not a vote that you --- say can be counted, right?

A As I have testified earlier, that is one example of eight hundred (800) or six hundred and seventy-seven (677). You may take exception to that, that particular example; but our investigation has included it as questionable.

Q And again, following up on a question with regard to Misty Lewis, in fact Misty Lewis signed on the wrong line. Correct?

A That's like saying that's half pregnant. She has not signed on the proper line; therefore, the poll manager has not managed the process appropriately.

Q So the election gets thrown out because they sign on the wrong line?

A I did not say that. That would be the opinion of some people ---

MR. STUCKEY: It's 1:00 A.M. I mean, I think these people understand his testimony is.

MR. NORWOOD: Let's go ---

MR. HAMM: I'm sort of put in an impossible position. I think they're saying the witness has presented inconsistently testimony, and now there is an objection because of the hour, I'm supposed to not ask the question?

COMMITTEEMAN: Let's call for the question.

CHARIMAN ERWIN: I'm going to jump in here. Helen, excuse me. It is late. But we're not going to cheat the process. We're just asking respectfully, Steve, and everybody, it generally relates to, just do your job as best of your ability; but let's keep it moving. We're not going to cheat you on time. We're here to listen to the process.

MR. HAMM: Thank you.

CROSS EXAMINATION CONTINUES BY MR. HAMM:

Q Again, as another example, you objected to the --- an individual placing an X on the signature line. Yes?

A I objected to the format that this registration and identification was approved by the poll manager.

Q All right. But in that case again, the poll manager initialed and witnessed that X. Correct?

A That is correct.

Q All right.

COMMITTEEMAN: Well, we won't be in the headlines in the newspaper, we're past the deadline. We won't be on the 11:00 o'clock news.

COMMITTEEMAN: How do we know this cat was ever a felon?

MR. STUCKEY: Well, that one doesn't ---

Q Your objection here is, although it was signed, it is simply that there was no poll manager initial. Correct?

A There is both no poll manager initial on both ballots, and there is both no direction in terms of whether they voted in the primary --- or the Republican primary. The Democrat or the Republican primary.

Q Again for the record, the purposes of this, you agree, it's been initialed by the poll manager.

A Correct. There is a mark where the poll manager should be initialing.

Q All right.

A There is some question as to whether it is an initial or not.

Q All right. Do you have --- for the purpose of moving us on, do you have any independent evidence that that's not the poll manager's ---

A No I don't.

Q Okay. And do you have any independent evidence that this signature that is --- it's look like a doctor's signature. It's not someone's signature.

A As I indicated earlier, our investigation has identified that as a very suspect signature.

MR. HAMM: I have no further questions.

MR. STUCKEY: No further questions. Oh, I'm sorry, Mr. Gray, I apologize.

CROSS EXAMINATION BY MR. GRAY:

Q Mr. Murray, of the felons that were supposedly, or allegedly permitted to vote, what evidence did you make to determine whether those particular individuals had been rehabilitated, so that they were legally able to vote?

A If they had been legally able to vote, then they would have had to be either sent to to the registration office, if they had the documentation that would enable them to vote. But in this case, they could not have the documentation enabling them because, as confirmed by the legal entity that ran the search on these individuals, they are either felons or still on probation as of June the 8th. The information was received from the Marion County Courthouse.

Q Okay, but my question was, what efforts did you make to determine whether or not those individuals, while they appeared to be felons, what efforts did you make to determine if they were in fact still felons, or felons who were not able to vote in the June 8th primary?

A I have based my determination on the copy if the felons report that was secured at the court; and I have verified that they are on the voters registration list as a registered voter, who should, in fact, be tagged with the status "IC" for convicted felon.

COMMITTEEMAN: "IC" means incarcerated.

Q Okay. Who are the folks that were turned away? You mentioned that there were several folks who were turned away from --- were not permitted to vote. What are the names of those individuals?

A I'd have to look in my notes to get the names. We were trying to secure affidavits from those individuals; but unfortunately, with the shortness of time, we were unable to get an actual affidavit. Although, we do certainly have a number of cases at this point outstanding in terms of offering that affidavit to this group to prove that that, in fact, did happen on more than on occasion. If you allow me to get through that box, I can certainly present that, a case to you. That certainly will prove out to be both documented further and affidavits accordingly.

Q Do you know ---

A One of the names actually just popped into my head. It was a Mr. Marvin Bailey. Mr. Marvin Bailey came in. He was approved to vote. I cannot remember the precinct.

MR. NORWOOD: It was Marlboro # 1 ---

MR. GRAY: Excuse me?

MR. NORWOOD: Sorry.

A It was the name of Marvin Bailey. He voted properly. His voter registration was approved by the poll manager. Later in the day and shortly before 7:00, a Marvin Bailey, Jr. Came in. Marvin Bailey, Jr. Also proved his identification. Unfortunately, there was a signature on his line, and the poll manager would not allow him to vote because of the discrepancy between the previous voter. As it turns out, after the fact, Marvin Bailey, Sr. is not a registered voter; and he was allowed to vote on Marvin Bailey, Jr. was turned away because the other person had signed on his appropriate line.

Q Do you know if Marvin Bailey, Jr. requested a provisional ballot?

A That, in my opinion, would have been --- further fact of it would have --- would have come out in the affidavit, which we have not had time to ---

Q Yes or no? Do you know if he requested at that time a provisional ballot?

A I do not know what the conversation was in terms of his complaint with the poll manager at that time.

Q Do you if any of the other persons who were allegedly turned away, for whatever reason, who requested provisional ballots?

A We have not had time to get affidavits from all of the examples that I could present here. So, the answer would be no. At this moment, I do not have evidence of the conversation that took place in the particular polling station that these examples took place in.

Q Do you know who any of these individuals would have voted for?

A No, I do not.

MR. GRAY: Nothing further.

MR. STUCKEY: One additional affidavit I found in my file, that I intended to include with the others.

MR. GRAY: Out here?

MR. STUCKEY: Sure, I'll ask that it be marked the next exhibit.

COMMITTEEMAN: See the smoking gun.

MR. STUCKEY: Not trying to be --- This is in the same category as the other affidavits.

HEARING OFFICER MCFADDEN: Are there any objections?

MR. GRAY: That thing is not notarized to begin with. I don't know if ---

MR. STUCKEY: It's witnessed.

MR. HAMM: The fact it may have been witnessed, it's not an affidavit for purposes of (inaudible) that I'm familiar with.

MR. GRAY: Clearly.

HEARING OFFICER MCFADDEN: I will sustain that objection.

REDIRECT EXAMINATION BY MR. STUCKEY:

Q Mr. Murray did you have occasion to interview a Patricia B. McLaren.

A Yes, I did.

Q Was she from the Latta Precinct in Dillon County?

A Yes, she was.

Q What did she tell you with regards to whether she was permitted to at the poll to vote?

MR. GRAY: Objection.

HEARING OFFICER MCFADDEN: On what grounds?

MR. STUCKEY: He asked about ---

MR. GRAY: I have a hearsay problem.

MR. STUCKEY: Well, he asked the question. He's opened the door to that.

HEARING OFFICER MCFADDEN: He hasn't had an opportunity to ask any questions about this, Mr. Stuckey.

MR. STUCKEY: No, he asked the witness whether he knew on anyone who had been turned away and not permitted to cast a provisional ballot.

HEARING OFFICER MCFADDEN: Well, he didn't ask that question about this document.

MR. GRAY: Thank you.

MR. STUCKEY: No, he didn't.

MR. HAMM: How big is your door?

MR. STUCKEY: Well, I thought the door he laid was pretty wide open.

MR. HAMM: Okay.

MR. STUCKEY: At this time I have no further questions of this witness.

HEARING OFFICER MCFADDEN: Okay. No further questions. Any questions for this witness? Is that the case?

MR. STUCKEY: We rest our case.

HEARING OFFICER MCFADDEN: Mr. Hamm has the opportunity to put up a case. Mr. Murray, you can leave.

MR. STUCKEY: Yeah, he's free to step down. Thank you Mr. Murray.

MR. MURRAY: Are you going to need that?

MR. STUCKEY: Both are in evidence.

(The witness was excused)

HEARING OFFICER MCFADDEN: Please, this is Mr. Hamm's case.

COMMITTEEMAN: I'm sorry. Go ahead.

MR. HAMM: I want to call on witness. It will be very quick. I call Eddie Wittington to the stand.

MR. MOORE: Is he a counsel in this case?

MR. HAMM: He is.

MR. MOORE: I thought he was. Is it improper to call him?

MR. HAMM: You all have approved the withdrawals, so there is no protest. So he's just counsel.

MR. MOORE: But if he's presenting case, he's still counsel.

MR. STUCKEY: And the statute says that the candidate can be represented in the proceedings. He's represented in the proceedings.

MR. WITTINGTON: My co-counsel wouldn't let me take part though, because I was going to testify.

MR. STUCKEY: Well, let me say, if he testifies, I'm going to ask him about every conversation he ever had with his client.

MR. MOORE: He won't get it. A lawyer can't be a counsel lawyer and a witness in the same case.

HEARING OFFICER MCFADDEN: I think Mr. Hamm's position is that he's been the lawyer. That the protest that Mr. Wittington was assigned, was dismissed' and that, on that basis, that's his basis for calling as a witness.

MR. HAMM: That's correct.

MR. HOWELL: Mr. Wittington can't invoke attorney/client privilege. If he's going to invoke attorney/client privilege about any discussions that Mr. Stuckey may ask him, then he can't be a witness at all.

HEARING OFFICER MCFADDEN: That privilege belongs to the client.

MR. HOWELL: It has to be submitted to us in writing, his formal withdrawal as an attorney for that client.

MR. HAMM: He doesn't need to, you all have already witnessed his –

MR. HOWELL: But he's here on the same case.

MR. STUCKEY: This is highly improper.

MR. HOWELL: He's on thin ice ethically, too. He's on thin ice.

HEARING OFFICER MCFADDEN: Well, it's his ice. It's his ice.

MR. HOWELL: That's right, it's his ice.

MR. STUCKEY: I object to this individual being permitted to act as lawyer and witness in this proceeding.

HEARING OFFICER MCFADDEN: And I'm overruling the objection. You wanted to put him up as a witness.

MR. HAMM: I did.

MR. WITTINGTON: Let me state before I testify I'm not going to reveal any conversations I had with my client. Now, you all decide if I testify.

MR. MOORE: Then can't testify.

MR. STUCKEY: How can I cross examine him when he won't tell me ---

MR. WITTINGTON: My testimony ---

MR STUCKEY: When he won't answer my questions.

MR. WITTINGTON: My testimony was going to be directed at what happened at the certification hearing, that took place two days after the election. I was going to testify that Mr. Norwood didn't voice any objection to anything. Mr. Williams was the one voicing the objections.

MR. STUCKEY: Well, why don't you call Mr. Norwood and have him say that --- he's getting upset --- rather than subject this man to disciplinary sanction for acting in the ---

HEARING OFFICER MCFADDEN: Will that be all?

MR. HAMM: That's fine. I disagree that there is any question about disciplinary sanctions. I think I could put him up, but I am ---

MR. STUCKEY: And I wasn't being flippant, but it is 1:19 a.m. I didn't mean to impugn his integrity, I just think it's improper.

MR. HAMM: For purposes of moving this matter forward, he's basically proffered --- he's already made a point in --- well versed in election law. Let's move on. I'm not going to put him up.

HEARING OFFICER MCFADDEN: So, do you have any witnesses?

MR. HAMM: No.

HEARING OFFICER MCFADDEN: Okay. Mr. Gray, do you have any witnesses you would like to present?

MR. GRAY: None, Your Honor.

HEARING OFFICER MCFADDEN: Okay. So, Mr. Stuckey has asked for closing arguments.

MR. STUCKEY: Will you please tell them the condition I imposed on it.

HEARING OFFICER MCFADDEN: He even submitted two minutes or less. Do either of the other attorneys here have closing arguments at this point? Do you join in that request? In other words, before it ---

MR.HAMM: Given the time, I would certainly agree to two minute limitations. These people have had enough. So, yes, to the extent that Mr. Stuckey makes one, I'll go two minutes to make mine, as well.

HEARING OFFICER MCFADDEN: Okay. Does the Committee care to hear any closing arguments? All those in favor of hearing closing arguments, please raise your hand. All those opposed. Okay. **The closing arguments, each of you have two minutes.**

MR. STUCKEY: Finally, Mr. Williams testified under oath that this election was fraudulent. He withdrew his protest. So, we called him in our case. He testified under oath that this election was filled with irregularities and fraud. You have to accept that evidence, because it was uncontradicted. No one contradicted it. Maybe contradicted through argument, but certainly not through evidence. He admitted it under oath and that's why I called him. Number two, we have --- all we have to show is that --- I'm not sure if it was six or seven votes, but the testimony is --- I believe that it was seven votes, that seven votes are in dispute. And that those --- and when I say dispute, those votes were illegal, illegally cast. They would have affected the election. That's all we have to show. Mr. Hamm referred to a higher standard of proof. The statute does not say anything except that a majority of this Body can determine that the election was invalid and that a new election needs to be held. The recount, I have not forgotten that issue. The recount was too late by statute, it was void. You are required to follow the law. And if you allow that recount to occur, you will have that problem over and over again. That recount was void because it occurred too late. It did not occur within the time provided by statute. That's my two minutes.

HEARING OFFICER MCFADDEN: Yes, it is. Okay.

MR. HAMM: Is that possible ---This was not a perfect election. I think the testimony of all the witnesses show that. The standard is whether or not it affects the outcome. The testimony of the individual, who Mr. Norwood put up, expressed concerns about lack of initials and other issues, they do not rise to the standard of voiding the contest. There is no legal standard with regard to the recount. I do not believe that it would be appropriate for you all to say because they had the recount on Monday morning rather than Saturday afternoon, that voids the recount. I know you all have ruled that he filed it timely. It's still my position that he did not. Elections, like you say, there were certainly problems with this election. Does the record from our purpose require a new election? We do not believe that it does. We recognize that's a decision that you all make; and we respectfully request that you uphold the recount and allow the run-off election to take place next Tuesday.

HEARING OFFICER MCFADDEN: Okay. Mr. Gray.

MR. GRAY: Thank you. I will be extremely brief, as well. I take exception to stuff that was said, that the so-called irregularities would affect the outcome of this election. Senator Glover was by far the leading vote getter here. The issue is between the second and third place. The people, and excuse me. The citizens of Senate District 30 have spoken, And I simply ask that you don't disenfranchise them by voiding this election. They have spoken. And again, this is prejudice not only to those citizens, but to Senator Glover, as well. I do join in Mr. Hamm's observation that the evidence submitted today, a lot of it, as administrative, problems in training poll watchers, and what their responsibilities and duties are; and that certainly does not rise to the standard that would require that the election be voided or that the run-off on Tuesday coming be delayed. It doesn't matter to Senator Glover who she runs against. So, to that effect,

we don't really have an opinion one way or the other. And I'll leave it at that. I think my two minutes are up.

HEARING OFFICER MCFADDEN: Okay. Now, we had earlier had a motion on the floor, had a motion; and I made a note that it was seconded; was to overturn the election. There wasn't a statement as to the relief, whether you're simply going to order another count for the determination of who number two is, or a whole new election involving all candidates.

MR. MOORE: If you overturn an election, you overturn the election. The whole thing has got to go.

COMMITTEEMAN: Do the whole election.

MR. MOORE: If you overturn the whole ---

COMMITTEE LADY: I stated that we would go with his protest and it states the whole, a new election.

HEARING OFFICER MCFADDEN: There are some issues though, about just announcing. You want a new election. Okay. So there was a second earlier?

COMMITTEE LADY NEWTON: My motion was to accept Mr. Norwood's protest; and it said that he requested the Committee to order and authorize a new and special Democratic primary election for State Senator District # 30.

COMMITTEEMAN: You made the motion?

COMMITTEE LADY NEWTON: Yes, sir.

COMMITTEE LADY AUDREY: I second it.

HEARING OFFICER MCFADDEN: Okay, now who would like a turn? Yes, ma'am.

COMMITTEEMAN: Does that mean that Senator Glover's going to have to go through it all again?

COMMITTEE LADY: Unfortunately.

HEARING OFFICER MCFADDEN: If this is approved, what does it mean?

COMMITTEE LADY: It means that there is a new election, probably on Tuesday.

HEARING OFFICER MCFADDEN: With all or the two candidates?

COMMITTEE LADY: All three.

HEARING OFFICER MCFADDEN: If the motion is not approved, what happens?

COMMITTEE LADY: I'm sorry?

COMMITTEE LADY: If the motion is not approved, what happens?

HEARING OFFICER MCFADDEN: If the motion is not approved, you folks need another motion to take some action.

MR. HOWELL: Well, do we have three candidates or seven?

MR. STUCKEY: Three. Three candidates.

MR. HOWELL: Okay.

HEARING OFFICER MCFADDEN: Yes, sir?

MR. GRAY: Up to seven votes does not affect Senator Glover. It's between second and third place. She was well --- she was almost three percent --- ten percent of the vote ahead of the second and third place candidates.

MR. STUCKEY: Glover didn't have fifty percent though ---

MR. GRAY: She did not have, but she still ---

MR. STUCKEY: The seven wouldn't have put her over fifty percent.

MR. GRAY: No, but the seven --- That is correct, but she was like, if it's been more than two percent, or ten percent.

HEARING OFFICER MCFADDEN: I understand your argument ---

MR. HOWELL: This is has to do with the process and not the candidates.

COMMITTEE LADY: Yes. We have to do the whole thing.

MR. HOWELL: But that disenfranchise --- my point is, that disenfranchises ---

COMMITTEE LADY: I know that.

MR. HOWELL: --- through a court order ---

MR. MOORE: We don't need to hear any more arguments from the lawyers.

HEARING OFFICER MCFADDEN: Mr. Stuckey, let's see what Mr. Stephenson has to say.

MR. STEPHENSON: I've participated in the electoral process for a long time. And I've served as an elected official for twenty-seven years. I was elected to the Marion County Council. I'm the Coroner for eight years. One of the things the Chairman of the --- I mean individuals with some of the precincts, can tell you the big advantage is and one of the things we in Marion County have always prided ourselves of having the good clean election. This Senatorial District comprises four counties, but I do know we close look at 'em on some, one of the counties are so close in the election; and I know, I saw a few of the same things some of you saw. The signing on the wrong lines, those are human errors. There's not too much you can do about that. The fact is, you might have --- there were three or four people who may have voted through an absentee ballot. It's legal to have one vote, it wasn't enough to change any election. This is to say, when you first --- ballots are first counted and they announce they are close to start off, the County is the subject of those, you know. Now, number two, it was in local government. But when they follow the mandates of the law, they found at that time on three cases, then all of a sudden there were three allowed to be on the election. One purpose of the election when we refer to it is a whole --- instead of letting you have anywhere from a thousand to thirty up on the counties, and it's just not fair to the people to go through that again, to have another election. It's just not fair.

HEARING OFFICER MCFADDEN: Okay, you ---

MR. STEPHENSON: Well, if this was the thing --- I mean, I don't know whether we could pull out something in normal procedure. But when the thousandth count, if I was in second place, then you going to let me count them again, and I'm in third place.

Then I was going to leave these premises I would definitely want a recall or a re-counting to say why I'm being put in one place or the other. And I still hold my voting that this thing be done again and settled.

COMMITTEE LADY: I don't think you'd ask for a recount. I don't think you can demand a recount. The only thing we can give him is a new primary.

MS. KERR: That's what he's saying. On previous occasions when we have ordered a new election, which has not been very common over the years, but from time and time this Committee has ordered a new election, we have restricted participation in that election to the people who participated in the first election for a lot of reasons. And I wonder if the maker of the motion would accept a friendly amendment to say we would restrict participation to the people who voted the first time.

MR. MOORE: The only thing we have about that, if we have a question about some votes, with who voted, but there were irregularities with their particular vote, and we don't know whether they actually voted or not because they, you know ---

MR. KERR: Well, if their names are on the books as having voted the first time -

COMMITTEEMAN: What about like the dementia people?

MR. STEPHENSON: That's their Constitutional right to vote. Are you going to hold the election just to people who can vote? You're taking their Constitutional right.

COMMITTEE LADY: No, they had a right to come the first time.

MR. MOORE: There's a precedent for what Carol says, because I was involved in an election where we had to re-do one precinct because of irregularities; and they only let the people who voted the first time vote the second time.

COMMITTEEMAN: But as Democrats, you don't want to start that stuff this time.

COMMITTEE LADY: No, that's not fair.

COMMITTEEMAN: That's what happened to me.

MR. KERR: I think that's already started. I think that's the way ---

CHAIRMAN ERWIN: Hey folks, you're doing a great job, and I'm sorry for jumping in on you all, but let's try to have one conversation at a time, please.

HEARING OFFICER MCFADDEN: Mr. Howell?

MR. HOWELL: Well I'm just going to let you know that I intend to vote in favor of overturning that election and calling for a new one. And let me tell you what impressed me and what did not impress me. There are a lot of things about these so-called irregularities on the voting books and such, about somebody having put an X, somebody having drawn a line, somebody who signed on a line --- That is a hypo-technical and is innocuous as it gets. And it's almost laughable to hear about that constitutes some kind of technicality to the point where it's irregular and some votes might not count. I mean, I had a difficult time listening to some of that so-called expert testimony about how things weren't conducted properly. Now, that didn't impress me. What did impress was, what I put together circumstantially as sort of an operation when it came to the absentee for voting there, when you have somebody paid by one candidate, whose wife is involved, witnessing forty (40) plus absentee ballots where it --- and the affidavits confirmed they didn't --- those people testified through their affidavit, that's sworn testimony, that they didn't even get an absentee ballot. Somebody --- Mr. Thompson sat down with them and said, "Vote for Battle," "Vote for Williams." It's to me, circumstantially, it adds up pretty clear that there was a very grand design and plan that was excuted to get certain votes in a bundle fashion for one particular candidate; and to seek votes from those who have dementia in a nursing home, is despicable. So, you know how I'm going to vote.

MR. GRAY: Well, Mr. Howell ---

MR. STUCKEY: I object.

HEARING OFFICER MCFADDEN: We're at the point where they are making their discussion, they are speaking to each other.

COMMITTEEMAN: I think that --- I think at this point I don't need any more counseling.

COMMITTEEMAN: I move we go ahead ---

HEARING OFFICER MCFADDEN: The second for calling the question.

COMMITTEEMAN: Call the question.

HEARING OFFICER MCFADDEN: All those in favor, two thirds vote, call the question.

COMMITTEE VOTES: Aye.

HEARING OFFICER MCFADDEN: Oppsed, no.

COMMITTEEMAN: No.

HEARING OFFICER MCFADDEN: well, one person wants to keep on talking. Okay. That was carried by two thirds. So now you're at the motion where the motion is to grant the protest by Mr. Norwood and grant his prayerful relief, which is a new election. Yes?

COMMITTEEMAN: It is the caveat as to restricting the vote included in this motion?

COMMITTEEMEN: No.

HEARING OFFICER MCFADDEN: I did not hear any consent to that. Now, if you want to put it as a addendeum.

COMMITTEEMAN: No, I just wanted clarification.

COMMITTEE PERSONS: No.

MR. LANDO: Madam Chairman, the question has been called.

HEARING OFFICER MCFADDEN: The question has been called, but it was unclear as ---

COMMITTEEMAN: I was just asking for a clarification to affect my vote. I'm not moving and I think the questions are ready to vote.

HEARING OFFICER MCFADDEN: Okay.

MR. MOORE: It did not get a second and it's never --- and the question ---

HEARING OFFICER MCFADDEN: It didn't get a second, that's correct.

MR. LANDO: Let me ask the question.

HEARING OFFICER MCFADDEN: Some do, yes, sir.

MR. LANDO: And I know there's been a rule one way or the other. But this election is opened up to every voter in Florence, the five counties, you're going to invite the Republicans in and they're going to have a mighty sudden ---

MR. MOORE: If they voted in the Republican Primary, they're not eligible to vote in this one.

MR. LANDO: Well, that's not what they said.

HEARING OFFICER MCFADDEN: Yes, sir, that would imposed on them, what -

--

MR. LANDON: Well then, then that makes it moot then as to who can ---

HEARING OFFICER MCFADDEN: Just by way of clarification, the rule that restricts the vote to people who have already voted arises out of the statute that gives you and automatic re-vote if there are more people voting that signed in. And there are a series of AG's opinion restricting that vote because it tends to be in single precinct, restricting that vote to people who actually participated the first time; and that's been in Broadhurst about two years ago. That was construed as not applying to the General Elections. It only applies to when you're re-running in a single precinct or two precincts. A machine --- in that one, the machine went down and they still ran the whole election.

MR. HAMM: You're correct. That was involved in Mr. Moore's.

HEARING OFFICER MCFADDEN: Yes.

MR. MOORE: We had the same thing. It was a restricted ballot, but it was just one precinct.

HEARING OFFICER MCFADDEN: So, I mean, this has to be a whole new election.

COMMITTEEMAN: I'm confused. If we vote to overturn the election and have a new election without adding Carol's amendment to that motion, how is it --- who is eligible to vote in that election?

HEARING OFFICER MCFADDEN: Persons who did not vote Republican last time will not be allowed to vote Democrat --- No, a person who voted Republican in the last election will be prohibited, because this is the same election, from voting now on the Democratic side. And anyone who goes into the Republican run-off, will likewise have that prohibition. It's the same election.

COMMITTEEMAN: But as far as on the Democratic side, it's open to anyone who did not vote in the Republican primary.

COMMITTEEMAN: Yes.

HEARING OFFICE MCFADDEN: It would be.

COMMITTEEMAN: And you wouldn't have had to vote in the previous election.

CHAIRMAN ERWIN: Unless we make a change.

COMMITTEE LADY: We're not going to make a change.

HEARING OFFICE MCFADDEN: Now, are you ready to vote? Okay. A yes vote is a vote for a new election. Okay? A no vote ---

CHAIRMAN ERWIN: And call this vote, in case this person ---

COMMITTEEMAN: I'm going to sit on this side of the fence, because I've been up here and rode all the way some hours to get here. Let me ask a question. When will the election be held? Why I'm saying that, I know there are already cast their votes.

HEARING OFFICER MCFADDEN: It will have to be set up in such a fashion that these votes who have already --- that you can get all about that one.

COMMITTEEMAN: I can.

COMMITTEEMAN: But those people who cast a vote in that --- is not going to get to vote.

COMMITTEEMAN: --- make a vote.

COMMITTEEMAN: I'll vote again.

HEARING OFFICER MCFADDEN: Okay. All those in favor of the pending motion, which is to grant a new election, raise your hand. All right, nineteen (19).

COMMITTEEMAN: And I got eighteen.

HEARING OFFICER MCFADDEN: All right, I got nineteen (19), he got eighteen (18). Let's count one more time.

COMMITTEEMAN: It's voted in.

HEARING OFFICER MCFADDEN: Those oppose the motion? Three? Eighteen for, three against. Motion carried. Now are you ready to try to set a date? Or are you going to let the Executive Committee do that for you?

COMMITTEE LADY: No, we'd better do it.

MS KHAARE: I think we should set a date now. I think there be some statutory rules about how much time we have to allow before --- I was actually going to make another motion. I would like to move that this Committee ask out Chair to --- together with our party attorney, to approach the State Law Enforcement Division with some of this information about these criminal use of absentee ballots that we've heard in these affidavits.

HEARING OFFICER MCFADDEN: All right, is there a second to that motion?

COMMITTEEMAN: I second.

HEARING OFFICER MCFADDEN: Do you need any discussion? Hearing no need for discussion, all those in favor of the motion, which is to authorize the Chair to share this evidence with SLED, please say aye.

COMMITTEE PEOPLE: Aye.

HEARING OFFICER MCFADDEN: Opposed no.

COMMITTEEMAN: No.

HEARING OFFICER MCFADDEN: The ayes have it.

CHAIRMAN ERWIN: Carol, I think we do need to set a date.

MS. KHARE: I do --- I think's, too. I just meant we need to think before we just pick a date. We need to think about how long --- how many notice you have to give in order to have absentee ballots ready and all that stuff.

COMMITTEEMAN: There's a statute that addresses that.

CHAIRMAN ERWIN: Yeah, there's --- Are we going to try for a approval today?

COMMITTEEMAN: Why don't we just give the Chair the authorization to set the election at the first available opportunity.

COMMITTEE LADY: Second.

COMMITTEEMAN: Second.

CHAIRMAN ERWIN: Checking the appropriate statute?

COMMITTEEMAN: Right.

CHAIRMAN ERWIN: I would accept that responsibility ---

HEARING OFFICER MCFADDEN: All those in favor of that motion, say aye.

COMMITTEE PEOPLE: Aye.

HEARING OFFICER MCFADDEN: Opposed, no. Ayes have that. Yes sir?

CHAIRMAN ERWIN: All right, we'll make the contacts, Michael --- Ladies and Gentlemen, please give Helen a round of applause for all she's done. I would like to thank all the attorneys present. We appreciate all of you being here tonight. I appreciate you being patient with me, and us, when I tried to rush you along. And I hope you understand that. And I thank, most of all, you all for once again proving how thoughtful and considerate you are. Have a good night. Please be careful going home.

HEARING ADJOURNED