

1 BEFORE THE OHIO BOARD OF ELECTIONS
2 OF FRANKLIN COUNTY

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4 IN RE: :
5 Board Meeting : October 20, 2006
6 : Agenda

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8 Proceedings before Chairman William A.
9 Anthony, Jr. and Board Members Michael F.
10 Colley, Carolyn C. Petree, and Kimberly E.
11 Marinello, taken at the Franklin County
12 Board of Elections, 280 East Broad Street,
13 Columbus, Ohio, on Friday, October 20, 2006,
14 at 4:09 o'clock p.m.

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P R O C E E D I N G S

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CHAIRMAN ANTHONY: I'd like to

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call the Franklin County Board of Elections

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meeting to order.

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MR. DAMSCHRODER: Calling for a

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vote for attendance. Mr. Colley?

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MR. COLLEY: Here.

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MR. DAMSCHRODER: Ms. Marinello?

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MS. MARINELLO: Here.

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MR. DAMSCHRODER: Ms. Petree?

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MS. PETREE: Here.

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MR. DAMSCHRODER: Chairman

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Anthony.

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CHAIRMAN ANTHONY: Here.

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MR. DAMSCHRODER: All four members

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are present, Mr. Chairman. The first item

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on the agenda is to address an allegation

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that was filed with the Franklin County

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Board of Elections by Doug Preisse, a

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residence of Franklin County, against the

23

past voting practices of Robert

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N. Shamansky, also of Franklin County.

1 Mr. Preisse alleges that, in the
2 past, Mr. Shamansky has voted in the
3 precincts in which he was not a qualified
4 elector and has made a false statement on
5 his application to vote absentee in the 2005
6 Primary Election.

7 The complaint filed by Mr. Preisse
8 has been mailed to each of the Board members
9 earlier this week. And Mr. Preisse is
10 represented by Don Brey, who is here today.
11 And Mr. Shamansky is represented by
12 Mr. Donald McTigue, who is also here today.

13 CHAIRMAN ANTHONY: Okay. Should
14 we give an opportunity to say a few words to
15 us? Mr., is it, Brey?

16 MR. BREY: It's Brey. Thank you,
17 sir.

18 CHAIRMAN ANTHONY: Yes, sir.

19 MR. BREY: I don't know whether I
20 need this, but I figured it was here for a
21 reason. My name is Donald Brey, and I'm
22 counsel for Doug Preisse, who filed the
23 amended charge of election law violations by
24 Robert N. Shamansky.

1 The filing is brought before this
2 Board pursuant to Revised Code 3501.11(J).
3 3501.11 describes the general duties of this
4 and for every Board of Elections. And they
5 state, among other things, that each Board
6 of Elections shall do all of the followings.

7 And one of the things that all of
8 the followings includes, in Subsection J, is
9 that each Board of Elections shall
10 investigate irregularities, nonperformance
11 of duties or violations of Title 35 of the
12 Revised Code by election officers and other
13 persons, issue subpoenas, summon witnesses,
14 and compel the production of books, papers,
15 records, and other evidence in connection
16 with any such investigation and report the
17 facts to the prosecuting attorney.

18 We have filed the request that the
19 investigation take place because the
20 documents that we have that are records of
21 this Board of Elections, as well as official
22 records of the Franklin County Auditor that
23 deals with the property transactions, show
24 apparent violations of 3599.12, which is

1 voting other than where you live, where your
2 home is, other than where you're registered
3 or elected, as your home is defined in
4 3503.02, and also making the false
5 statement, which is a violation of 3599.11
6 on a registration or change of registration
7 card or on an application or a return of an
8 absentee voting ballot.

9 The facts are these:
10 Mr. Shamansky, according to the records of
11 this Board, has voted at an address at 678
12 Mohawk -- I believe that's in German Village
13 area -- until and through all of 2005.

14 In 2004, according to -- and, of
15 course, he could only do that if that was
16 his home, if that was his principle
17 residence, if that was the habitation to
18 which he was always going to go back, as
19 that's defined in the Ohio Revised Code.
20 And you can only have one of them.

21 In 2004, Mr. Shamansky purchased a
22 high-rise luxury apartment in the Miranova
23 complex. And as part of the purchase,
24 agreed that, as of January 1, 2005, that

1 would be his principle home.

2 In other words, that would be
3 where he would live, his principle place of
4 residence, of which you can only have one of
5 those.

6 The reason why that was important
7 is: Under Ohio tax law, and that we've
8 referred to, Revised Code 323.151 and
9 323.152, everyone can receive a
10 two-and-a-half percent -- it amounts to two-
11 and-a-half percent of an automatic reduction
12 of your property taxes at the one residence
13 that is your home, that is your principle
14 place of residence, that is the habitation
15 to which you're going to return.

16 So you can receive a
17 two-and-a-half percent tax break if that's,
18 in fact, your home. And Mr. Shamansky took
19 that two-and-a-half tax break. He
20 represented that that was his home.

21 And, in fact, we see that
22 two-and-a-half tax break on his Miranova
23 property and only on his Miranova property.
24 He owns a lot of other properties, but

1 that's the only one he claimed and the only
2 one he took that two-and-a-half percent
3 reduction on it.

4 And he took it for all of 2005.
5 And, yet, for the primary, Mr. Shamansky
6 filled out an application and filled out a
7 return of an absentee voter, voting records
8 for the primary in 2005, saying he didn't
9 live in Miranova complex, but that he wanted
10 to vote and did vote in Mohawk address,
11 which was a different precinct and a
12 different ward.

13 And in November of 2005, the
14 records of this Board show that he voted,
15 again, not at Miranova where he was claiming
16 for real estate purposes and of his tax
17 purposes was his home, but he voted again at
18 another address in a different ward, in a
19 different precinct. Again, the address at
20 Mohawk.

21 Now, in January of 2006, this
22 year, Mr. Shamansky filed on January 18 a
23 change of address. Because neither the
24 Mohawk address nor the Miranova address was

1 in the congressional district that he wanted
2 to run for.

3 You don't have to live in the
4 congressional district that you're running
5 for under Ohio law, but it might look kind
6 of funny. There might be claims that you're
7 a carpetbagger if, in fact, you don't even
8 live in the district where you're trying to
9 represent people.

10 But whatever his reasons were, he
11 filed it in -- a change of address form in
12 January 18 of 2006, this year, claiming that
13 he did, in fact, move from Miranova.

14 And it said he moved from
15 Miranova. It didn't say he moved from
16 Mohawk. It said he moved for voting
17 purposes from Miranova, even though he had
18 never voted at Miranova.

19 In that January 18, 2006 document,
20 it admitted that, for voting purposes, his
21 home was Miranova. But he stated, at least
22 in January 18, 2006, that he has changed his
23 residence, and he moved to Bexley, Ohio.

24 And he voted in Bexley, Ohio in

1 the May 2, 2006 primary this year. Two and
2 a half weeks later, on May 19, 2006, even
3 though he had just voted in Bexley two weeks
4 earlier saying he no longer lived in
5 Miranova, two and a half weeks later, on May
6 19, 2006, Mr. Shamansky personally signed a
7 real estate document saying that his home
8 was Miranova. Not Bexley, not Mohawk, but
9 Miranova Apartments.

10 This, we think, is sufficient
11 information to make it appropriate and
12 necessary for this Board to do its duty, to
13 conduct an investigation, to issue whatever
14 subpoenas and so forth are necessary to
15 interview witnesses and to determine, you
16 know, what it can determine about the
17 apparent violations of Title 35.

18 Or, in the alternative, maybe it
19 would turn out that he voted at the right
20 place, but he was cheating on his taxes.

21 But whatever this Board determines
22 in terms of its investigation, we would ask
23 that it conduct an investigation in an
24 appropriate time and appropriate fashion and

1 do what it is -- this Board's duty under the
2 Revised Code Section 3501.11(J) and report
3 the facts to the prosecuting attorney that
4 this Board is able to discern.

5 Thank you.

6 CHAIRMAN ANTHONY: Thank you. Are
7 there any questions for Mr. Brey?

8 (No response)

9 CHAIRMAN ANTHONY: Thank you, sir.

10 MR. BREY: Thank you, sir.

11 MR. DAMSCHRODER: Mr. McTigue.

12 MR. MCTIGUE: Thank you. I am
13 Donald McTigue, and I represent Mr. Bob
14 Shamansky. Mr. Shamansky has lived his
15 entire life in this community, except for
16 the years that he spent fighting for our
17 country.

18 This complaint before you today is
19 nothing but political bunk, and you are
20 being abused for political purposes.

21 This complaint was filed by the
22 chairman of the Republican Party, and it was
23 filed to replace an original challenge that
24 he filed challenging the right of

1 Mr. Shamansky to vote at this election.

2 When they realized that they
3 could not prevail on that as a safe -- or
4 face-saving step, they withdrew that,
5 because they knew they were going to lose if
6 a hearing was held before the election.

7 So they withdrew that to save
8 face, and they filed this instead, asking
9 for investigation. Well, there is no reason
10 for you to let yourself be misused in this
11 fashion.

12 I would request, on behalf of
13 Mr. Shamansky, that you not take any action
14 on this request. And, specifically,
15 that -- first, I'd ask that you dismiss it
16 on its face.

17 Second, if you don't dismiss it
18 today, I would ask that you do not take
19 action on it before the election. Because
20 it was filed at this time, right before the
21 election, hoping to be able to get out of
22 you some action that we're going to conduct
23 an investigation so it can be turned into a
24 campaign commercial.

1 You are the Board of Elections.

2 You have to be strictly non-partisan. Do
3 not let yourself be used here to serve one
4 political party's candidate.

5 And you can avoid the appearance
6 that that is what is happening by your
7 dismissing it today or by tabling it until
8 after the election.

9 This relates to things that
10 allegedly -- voting, allegedly, in 2005. It
11 has no -- as far as you're concerned, it has
12 no effect, nothing to do with the upcoming
13 election.

14 This does not require your
15 attention before this election. And so that
16 it's not misused by the person who filed it
17 for political purposes, I would, again, ask
18 that you dismiss it.

19 And if you don't dismiss it, that
20 you postpone consideration of it until after
21 the election. Thank you.

22 CHAIRMAN ANTHONY: Thank you very
23 much. Any questions for Mr. McTigue?

24 (No response)

1 CHAIRMAN ANTHONY: No questions.

2 Thank you.

3 MR. COLLEY: Mr. Chairman, I move
4 that the Board of Elections direct its
5 Director and Deputy Director to proceed
6 immediately with an investigation into the
7 charges presented by Mr. Preisse against
8 Mr. Shamansky alleging that Mr. Shamansky
9 has previously voted at elections in
10 precincts in which he was not a qualified
11 elector and that Mr. Shamansky made a false
12 statement on his application to vote by
13 absentee ballot at the 2005 Primary
14 Election.

15 CHAIRMAN ANTHONY: Is there a
16 second?

17 MS. PETREE: I'll second that.

18 MS. MARINELLO: Mr. Chairman --

19 CHAIRMAN ANTHONY: Yes.

20 MS. MARINELLO: -- pursuant to
21 Roberts Rules of Order, I move to table the
22 question for the time being.

23 CHAIRMAN ANTHONY: I'll second
24 that motion. I inquisitively move to

1 inquire. My motion is, basically, to
2 lay -- the motion to lay the question on the
3 table has been properly made and seconded by
4 Ms. Marinello and myself.

5 It is an undebatable motion and
6 takes precedence over the preceding motion
7 made by Mr. Colley and seconded by
8 Ms. Petree.

9 Therefore, the question is, shall
10 the motion made by Mr. Colley be seconded by
11 Ms. Petree be laid upon the table? And I
12 will now call a vote for that.

13 MR. DAMSCHRODER: Mr. Colley.

14 MR. COLLEY: No.

15 MR. DAMSCHRODER: Ms. Marinello.

16 MS. MARINELLO: Yes.

17 MR. DAMSCHRODER: Ms. Petree.

18 MS. PETREE: No.

19 MR. DAMSCHRODER: Chairman

20 Anthony.

21 CHAIRMAN ANTHONY: Yes.

22 MR. DAMSCHRODER: And the motion
23 is a tie.

24 CHAIRMAN ANTHONY: Yeah. It

1 resulted in a tie. And as a result of that,
2 it should be submitted to the Secretary of
3 State, pursuant to Section 3501.11,
4 paragraph X, of the Ohio Revised Code.

5 The Chairman asks that both sides
6 of the issue submit their rationale for
7 voting against or for this amendment -- this
8 motion to lay the question on the table to
9 the Director no later than noon on Friday,
10 October the 27th, so that the Director may
11 submit the matter in controversy to the Ohio
12 Secretary of State's Office by October the
13 30th, 2006. Is there any other --

14 MR. DAMSCHRODER: That's all we
15 have on that agenda item, Mr. Chairman.

16 CHAIRMAN ANTHONY: Thank you.

17 MR. DAMSCHRODER: The next item on
18 the agenda, Mr. Chairman, has to do with
19 registration forms that were filed by
20 individuals who were receiving compensation
21 from the organization Acorn for the -- the
22 compensation was being provided for the
23 purposes of conducting voter registration
24 drives.

1 The Board staff, as you'll recall
2 from previous meetings, found a number of
3 those registrations to be suspect, in that
4 information provided on the forms did not
5 match records already on file with the
6 Board.

7 Registrations purporting to be
8 from addresses that, upon investigation of
9 the Board, were determined to not exist and
10 other irregularities.

11 At a previous meeting, the Board
12 granted the Deputy Director and myself the
13 power to subpoena individuals who were
14 suspected of voting -- of voter
15 irregularities.

16 We issued a number of those
17 subpoenas earlier this week, interviewed
18 four individuals who provided testimony,
19 provided statements, sworn statements,
20 before the Director -- the Deputy Director
21 and myself.

22 The transcript of those
23 proceedings are in your packet this
24 afternoon. After discussing the matter with

1 the Deputy Director, we are prepared to
2 recommend that the Board refer three
3 individuals to the prosecuting attorney.

4 The two individuals -- two of the
5 four individuals who appeared earlier this
6 week, we recommend for referral. And a
7 third individual who was subpoenaed who was
8 served with his subpoena but failed to
9 appear, we would recommend that he be
10 referred as well to the prosecuting attorney
11 for further investigation and possible
12 criminal indictment.

13 MR. WHITE: Matt, I just want to
14 state one thing on the record. You were
15 talking about voter registrations. You
16 used -- what numbers are used or counts are
17 used as far as how many. But we questioned
18 about half a dozen to a dozen voting
19 registrations, total.

20 MR. DAMSCHRODER: And I think the
21 question as to the number of counts is up to
22 the prosecuting attorney. I might be able
23 to get them from the prosecuting attorney.
24 I think --

1 MR. WHITE: But the ones we looked
2 at --

3 MR. DAMSCHRODER: Basically, the
4 ones we looked at was a small --

5 MR. WHITE: -- it was half a dozen
6 to a dozen --

7 MR. DAMSCHRODER: Yeah. A small
8 number of cards per individual. I think,
9 basically, what we determined was: Based on
10 a handwriting sample and just a layman's
11 review of handwriting samples or statements
12 provided by the individuals at that time, at
13 least I believed that there was -- that
14 there was sufficient evidence based on just
15 a number of -- a handful of cards to
16 encourage the Board to refer those to the
17 prosecuting attorney.

18 There may be additional cards that
19 are from those individual people who are
20 given to the prosecuting attorney. So it
21 may be a number of counts beyond just the
22 ones that were specifically -- that are
23 specifically mentioned in the transcript
24 before you.

1 MR. WHITE: Let me -- I just don't
2 want people to think there's thousands of
3 problems --

4 MR. DAMSCHRODER: Right.

5 MR. WHITE: -- with voter
6 registrations and half of those are fraud.
7 The ones we looked at, there was half a
8 dozen to a dozen that we could identify that
9 we thought were questionable.

10 MR. DAMSCHRODER: Correct.

11 CHAIRMAN ANTHONY: Were these
12 first-time offenses? I mean, this is the
13 first time we've done this, obviously.

14 MR. DAMSCHRODER: Yeah. This is
15 certainly the first time we've done this
16 kind of thing since in, you know, my three-
17 and-a-half years here with the Board. And I
18 don't know if the Board has a prior history
19 of doing this.

20 And based on my conversations with
21 staff, we've never seen the kind of -- the
22 numbers of questionable registration cards
23 in the past as we saw in 2004 and again this
24 year; thus, causing the Board to take this

1 unusual step to conduct investigation.

2 CHAIRMAN ANTHONY: Interesting.

3 What's -- I guess one of the things that I'm

4 struggling with is that this is somebody's

5 first time doing something like this, and

6 we're getting ready to refer them to the

7 prosecutor.

8 You know, what type of impact

9 would that have on them? I mean, are we

10 giving them any chance to --

11 MR. PICCININNI: Don't do this.

12 CHAIRMAN ANTHONY: Yeah, don't do

13 this kind of stuff?

14 MR. PICCININNI: Don't -- this is

15 not appropriate. I mean --

16 CHAIRMAN ANTHONY: Yeah.

17 MR. PICCININNI: -- the stuff

18 that's being referred is egregious.

19 MR. WHITE: Mr. Chairman, when

20 somebody --

21 CHAIRMAN ANTHONY: Because I

22 haven't seen --

23 MR. WHITE: -- when somebody

24 registers somebody that has passed away --

1 CHAIRMAN ANTHONY: Well, see, I
2 didn't know that --

3 MR. WHITE: -- and one of those
4 individuals actually registered someone
5 that's not living anymore. I mean, that's
6 some serious stuff.

7 CHAIRMAN ANTHONY: So it was some
8 really unusual things?

9 MR. WHITE: And that's the
10 matter -- like I said, there were six to,
11 maybe, 12 that we thought were pretty
12 serious things that need to be looked at. I
13 mean, and, you know --

14 CHAIRMAN ANTHONY: Okay. I just
15 wanted to make sure. I haven't -- didn't
16 get a chance to take a look at all of them,
17 so --

18 MR. DAMSCHRODER: Yeah. And I
19 think your question is --

20 MR. WHITE: And they
21 were -- identified it down to three
22 individuals out of hundreds of thousands of
23 people that did voter registration in Ohio.

24 MR. DAMSCHRODER: And I think the

1 intent behind your question is well taken.
2 I think it's the Board's responsibility to
3 have an initial finding of fact, and then
4 it's the prosecuting attorney's
5 responsibility to determine whether or not
6 there should be indictments.

7 And once there is indictments, you
8 know, what penalty to seek at all.
9 Obviously, the highest penalty is the fifth
10 felony. You know, and the prosecuting
11 attorney, based upon the individual, if
12 indicted, their level of cooperation or
13 other things. You know, that's up to the
14 prosecuting attorney to determine what kind
15 of penalty is appropriate in the situation.
16 So --

17 MR. WHITE: And the kind of things
18 we identified in the hearing were
19 individuals signing someone else's name as
20 the application, which, you know, you just
21 can't do that --

22 CHAIRMAN ANTHONY: Right.

23 MR. WHITE: -- when we're talking
24 about voting. Now, I'd say in registering

1 people who didn't exist -- but, like I say,
2 it's been identified down to three
3 individuals out of thousands of people that
4 did voter registration.

5 MS. MARINELLO: This one
6 individual, he's registered voters for a
7 couple of years, hasn't he? This wasn't his
8 first time out registering people.

9 MR. WHITE: I'm not sure of that.

10 MR. DAMSCHRODER: It's hard to say
11 because in 2000 -- before House Bill 3 back
12 in 2004, an individual was being paid to
13 register another's vote didn't have to
14 provide on that form any identification as
15 to who was registering them.

16 So while we believe there were a
17 number of individuals in 2004 who may have
18 engaged in what we suspect to be voter
19 registration fraud, there's no way to,
20 basically, take those problems in 2004 and
21 apply them in 2006.

22 MR. WHITE: And I think by the
23 Board sending these over to the prosecutor's
24 office, you send a strong message out to

1 people who want to do voter registration, to
2 encourage that, you know, there's a right
3 way and a wrong way to do it.

4 Registering an individual that
5 passed away is not the right type of voter
6 registration we want to see done here. And
7 that's sad when you have one individual that
8 has kind of tainted a bad impression on --

9 CHAIRMAN ANTHONY: On the whole
10 organization.

11 MR. WHITE: -- all the good people
12 that went out and did great work in both
13 political organizations and not political
14 organizations from voter registration. So I
15 think that one individual needs to be
16 referred to the prosecutor.

17 MR. DAMSCHRODER: Okay.
18 Mr. Chairman, I think it would be worth
19 noting that Mr. McTigue is here, who is the
20 counsel for Acorn. I don't know if there's
21 anything --

22 CHAIRMAN ANTHONY: Mr. McTigue,
23 would you like to --

24 MR. DAMSCHRODER: -- you have

1 to -- you would add for the record at this
2 time?

3 MR. McTIGUE: Well, just briefly.
4 Again, I'm Donald McTigue; I'm counsel for
5 Acorn. Acorn is, of course, a national
6 organization that does voter registration
7 within economically and socially
8 disadvantaged communities in our cities and
9 rural areas.

10 They've done it for many years.
11 They've registered hundreds of hundreds of
12 thousands of people, trying to empower
13 people who normally lack political power
14 within our country.

15 As part of that, they hire
16 individuals, many individuals, to assist in
17 registration. They conduct training. They
18 turn in every registration card, even the
19 ones that may have problems.

20 They have a quality control
21 program where they check cards before
22 they're turned in. They even, in this
23 particular county, in addition to checking
24 the face of the cards to see if there's