

FRANKLIN COUNTY BOARD OF ELECTIONS
280 EAST BROAD STREET
COLUMBUS, OHIO 43215
(614) 462-3100

MINUTES OF THE MEETING ON

1-5-09

APPROVED ON

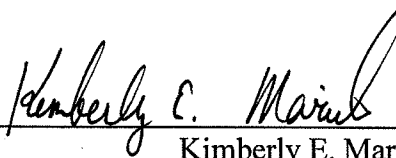
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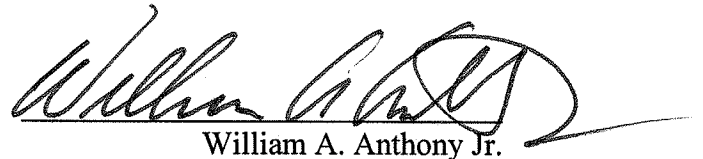


Douglas J. Preisse, Chairman

Michael F. Colley, Esq.



Kimberly E. Marinello



William A. Anthony Jr.

ATTEST:



Michael Stinziano, Director

1 ORIGINAL

2 HEARING IN RE: Board of Elections Regular
Meeting

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4 DATE OF DELIVERY:

5 Suzanne Brown
Board of Elections
6 280 East Broad Street
Columbus, Ohio 43215

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SUZANNE BROWN

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1 BEFORE THE FRANKLIN COUNTY BOARD OF ELECTIONS

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3 IN RE: :

4 Board Meeting :

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6 Proceedings before Chairman Douglas J.
7 Preisse, Board Member William A. Anthony, Jr,
8 Board Member Michael F. Colley and Board Member
9 Kimberly E. Marinello, taken at Franklin County
10 Board of Elections, 280 East Broad Street, Room
11 100, Columbus, Ohio on Monday, January 5, 2009, at
12 3:17 o'clock p.m.

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1 APPEARANCES:

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Mr. Michael Stinziano, Director

3 Mr. Matthew M. Damschroder, Deputy Director

Ms. Suzanne Brown, Secretary

4 Mr. Eric Nichols, Manager of Elections
Operations

5 Mr. Ben Piscitelli, Public Information
Officer

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P R O C E E D I N G S
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MR. STINZIANO: This is the Franklin County Board of Elections regular meeting for Monday, January 5th, 2009. Roll call.

Mr. Colley?

MR. COLLEY: Here.

MR. STINZIANO: Chairman Preisse?

MR. PREISSE: Here.

MR. STINZIANO: Mr. Anthony?

MR. ANTHONY: I'm here.

MR. STINZIANO: Ms. Marinello?

MS. MARINELLO: Here.

MR. STINZIANO: The first item is we have approval of a few minutes, November 23rd, December 1st, and December 8th.

MS. MARINELLO: Mr. Chairman, I move that the minutes of the meetings of the Board held on November 23rd, 2008; December 1st, 2008; and December 8th, 2008 be approved as submitted.

MR. COLLEY: Second.

MR. STINZIANO: All in favor?

(Board votes unanimously.)

1 MR. STINZIANO: The next item is our
2 statutorily obligated challenge of right to vote
3 and correction of registration lists.

4 We received a challenge from Karen
5 Ormachea, O-r-m-a-c-h-e-a, challenging the
6 registration of Gummer Ormachea. Karen stated
7 that Mr. Ormachea is using her address to vote,
8 and he lives at a different address since
9 September 2006.

10 We have sent Mr. Ormachea an updated
11 registration form to update his address, and it's
12 the staff recommendation that we cancel his
13 registration.

14 MS. MARINELLO: I move the Board grant
15 the challenge of right to vote and correction of
16 registration list filed by Karen Ormachea of 519
17 East Torrence Road, Columbus, Ohio against Gummer
18 Ormachea of 110 East North Broadway, Columbus,
19 Ohio, and order that Gummer Ormachea's
20 registration at 519 East Torrence Road address be
21 immediately canceled in Franklin County and his
22 name stricken even from the registration list from
23 that address.

24 MR. COLLEY: I second that motion.

1 MR. STINZIANO: All in favor?

2 (Board votes unanimously.)

3 MR. STINZIANO: That is all we have on
4 our agenda for today.

5 MR. PREISSE: Okay. And we're aware
6 that an interested party has requested an
7 opportunity to address the Board, which is well
8 within the keeping of our tradition, I am told by
9 people who have been around longer than I have.
10 And I think our guest has done this before. And
11 what do we ask for for the record? Name and
12 organization.

13 MS. SHAFFER: My name is Paddy Shaffer
14 spelled P-a-d-d-y, Shaffer is S-h-a-f-f-e-R. I'm
15 the director of the Ohio Election Justice
16 Campaign, and thank you for allowing me to speak.

17 I had a couple of things that I wanted
18 to ask, some questions and concerns of mine. One
19 of those is record requests and usage of the
20 prosecutor's office. Sometimes when I've done
21 record requests I receive them quickly, and Matt's
22 processed many fast, Michael since he's been here
23 has processed a few.

24 Some of those I get quickly and in an

1 appropriate way that's similar to how other Board
2 of Elections across the state process records.
3 Then there's other times when the prosecutor ends
4 up being involved in it, and this would be Patrick
5 Piccininni.

6 And one of the examples would be when I
7 was requesting to look at 2004 records at the
8 warehouse, and it took a little while to be able
9 to get permission to see them. I was allowed to
10 see them, I was allowed to see the records, but I
11 was not allowed to photograph them.

12 I addressed with Matt and Michael, out
13 of the yellow book, the Ohio public records laws
14 that it states that I would be able to photograph
15 them. And I was told no, I couldn't. We
16 discussed this in several different settings over
17 and over.

18 They called the prosecutor's office. I
19 was told again and again that I could not see
20 those records -- not photograph the records.
21 Finally Michael, at a Board meeting here, came up
22 and told me that I would be allowed to photograph
23 records.

24 The next time I requested to, then I was

1 told I was now no longer -- per the advice of
2 legal counsel, I was no longer allowed to see the
3 records. So first I could see the records and not
4 photograph them, then I could photograph them, but
5 then I was not allowed to see the records to
6 photograph them. Eventually I was allowed to do
7 both.

8 The point of this, I did end up
9 resolving it. It took a little while, but the
10 usage of the prosecutor -- and one of the days we
11 were at the Board of Elections' warehouse, and I
12 had read them from the yellow book the law on it.
13 Matt had contacted Patrick Piccininni on the
14 phone, and I was again told, no, I couldn't see
15 it. I asked to speak with Patrick myself, and was
16 denied that.

17 But when Matt got off the phone, one of
18 the things he told me -- I don't remember his
19 exact words, and I may have it in notes if we ever
20 need it, I could look and see, and I probably did
21 take notes on it -- but was the idea that I had
22 the prosecutor very angry at me that I kept asking
23 this.

24 And I told them both, I said, I'm going

1 to keep asking this until I'm allowed. I'm
2 allowed in other counties, I'm allowed to look at
3 2004 records at the Secretary of State's office,
4 why could I not do it here. So with the
5 prosecutor being used in that case, I didn't
6 appreciate it.

7 You know, I'm not an attorney, I'm an
8 art teacher, okay? So the whole thing of that
9 it's the art teacher versus the prosecutor doesn't
10 quite, I don't know, it doesn't seem fair. And
11 I'm just asking to see records that, as I
12 understand, belong to the citizens of Franklin
13 County and the citizens of the State of Ohio.

14 So moving forward now to the issue of
15 the prosecutor again is I made a record request, a
16 very simple one on December 15th, and it read as
17 such: "Dear Michael and Matt, as per ORC149.43, I
18 request all correspondence between the Franklin
19 County Board of Elections, Aaron Ockerman, and any
20 and all other Ohio Board of Election office and
21 their staff from September 25th, 2008 through
22 December 15th."

23 Now, that one, I was told, was overly
24 broad, and so I made it smaller, wrote them back

1 and took out the part of the other Boards of
2 Elections and made it just between Franklin County
3 and Aaron Ockerman from September 15th through
4 December 15th -- or September 25th through
5 December 15th, 2008.

6 Now, I pared the record request down
7 several times making it smaller and smaller,
8 hoping to get to see it. The request so far has
9 still not been filled. Aaron Ockerman is a
10 lobbyist who is involved with election officials
11 all over the state, and I've seen his emails from
12 other counties, and I was curious to know what was
13 happening here with this.

14 Now, one question, as this being so
15 overly broad where I greatly simplified it in the
16 final request, and I took it down to just this one
17 thing, "I request all correspondence between Aaron
18 Ockerman and any and all employees of the Franklin
19 County Board of Elections from October 10th
20 through November 10th, 2008."

21 I'm again told it's overly broad, and
22 the law is cited. The case law on that, when I
23 went in and reviewed it, didn't seem to apply to
24 this. Again, having case law cited, I've seen

1 attorneys in the past that threw words up to
2 people that are non-attorneys to just try and stop
3 them, like "You've got to know what's going on
4 with the TRO," and this and that.

5 And it hadn't occurred to me here, but
6 that started to, when I read this and the case
7 didn't apply to what I'm asking for, because that
8 final request was so very specific.

9 And then I got to wondering if it
10 actually is more broad, because how many people is
11 Aaron Ockerman talking to? I assumed it would be
12 the Board, so the six of you.

13 I assume mostly it would probably be
14 Matt, but Matt and Michael -- but is he able to
15 speak with the other department heads? Does he
16 talk to Howard at the warehouse? Does he talk to
17 Renee Chloe? And if he talked to a lot of other
18 people here, then that does get brooder, which I
19 didn't think about that in my request.

20 Could you tell me, who does Aaron
21 Ockerman have access to?

22 MR. STINZIANO: Aaron Ockerman has
23 access to anyone he wants to speak to. My
24 understanding is he only communicates with Matt

1 and I, but there's no procedure or rules against
2 them, for any employee to talk to him.

3 MS. SHAFFER: So when you say it's
4 overly broad, it's too hard to search to see what
5 you and Matt have received from him? That's
6 overly broad? Because when I entertain the whole
7 Board of Elections and all the employees, then
8 that did get broad. But why is just the two of
9 you broad?

10 MR. STINZIANO: Not being an attorney
11 and not having counsel here to speak to the merits
12 of it, I think our understanding is when you say
13 the Board of Elections, that's overly broad. That
14 doesn't clearly define the records you're seeking.
15 If it's Matt and I's records, that would clearly
16 define it, and that wouldn't be difficult at all.

17 I did send, and unfortunately it wasn't
18 until right before the meeting, in the spirit of
19 the public records law, records of Matt and I from
20 September 1st to December 31st for you, with Aaron
21 Ockerman.

22 MS. SHAFFER: Thank you. So --

23 MR. STINZIANO: I don't mean to steal
24 the Board's thunder on this. I think the requests

1 were deemed overly broad, again, without counsel
2 here, because you aren't identifying who
3 specifically from the Board of Elections -- you're
4 saying Board of Elections broadly. If you want
5 senior managers, I mean, identifying them helps.

6 Again, we don't have our own counsel, we
7 have to use the prosecutor's office, as I
8 explained in the email. And it isn't meant to
9 obstruct, it's just that there's liability on the
10 Board, and so that's the proper channels, going
11 through the prosecutor's office.

12 MS. SHAFFER: You don't feel it's
13 obstructive over even the picture issue?

14 MR. STINZIANO: The picture issue,
15 again, we had our advice from counsel. I think
16 what our interpretations of it are and what the
17 prosecutor's interpretations are, we have to
18 default to our legal attorney's interpretation,
19 and I think that was the situation there.

20 I don't remember any records being -- I
21 don't remember any time that you couldn't see
22 records. I think we had to figure out the proper
23 location if you were going to videotape or record.
24 That wasn't in a secure location prior to the

1 election, being in the warehouse.

2 MS. SHAFFER: So within the Board, do
3 you feel on a simple record request like
4 photographing records that, by law, can be
5 photographed, do you feel the prosecutor needs to
6 be brought in? And on other things that seem, on
7 the face of it, to me, to be fairly simple, in my
8 view, it seems like it's using up a lot of his
9 time, that I would prefer he was hunting
10 criminals.

11 MR. PREISSE: Well, as another
12 non-attorney, I would very cautiously observe your
13 words, something that seems simple to you, as a
14 fellow non-attorney, and seems simple to me, in my
15 experience, can often unravel into very
16 complicated matters, particularly when we are
17 dealing with public records requests.

18 I don't know if some of this material
19 you were after was under the lock-and-key out
20 there of the legal problems previous, so I can
21 apologize on behalf of the Board if there was some
22 delay; although, I'm heartened to hear you say
23 that you finally were able to access the materials
24 in the way that you wanted to. Maybe we can learn

1 some things through that delay.

2 However, I would again mildly caution
3 you and myself, again, here on the record, that I
4 like to err on the side of having our counsel
5 around. Because in my short tenure here, I have
6 already made a mistake by not having him around.
7 As it so happens, it's the county prosecutor, but
8 they are designated our legal counsel,
9 irrespective of their prosecutorial
10 responsibilities. So that's a decision not made
11 by us, but for us by higher powers.

12 So we can take a look at the procedural
13 matters that may have surrounded these specific
14 examples, but I would likely remain unpersuaded
15 that we shouldn't err on the side, not having our
16 counsel around and then trying to fix problems
17 later, as opposed to having them around and
18 avoiding problems on the way.

19 MS. SHAFFER: It is very unusual in the
20 state. It doesn't happen -- there's one other
21 county where sometimes they show up, and other
22 than that, it's rare, it's real rare. And so but
23 it's different here between rural areas and city
24 areas. So just that you're seeing my perspective,

1 because I'm communicating with lots of places,
2 this is different.

3 May I ask the four of you, as far as
4 communication with Aaron Ockerman, you know, on
5 this request I asked it of the BOE, so do you
6 receive communications from Aaron Ockerman?

7 MR. ANTHONY: Mr. Chair?

8 MR. PREISSE: Mm-hmm.

9 MR. ANTHONY: I have no idea who that
10 person is.

11 MS. MARINELLO: I don't either.

12 MR. ANTHONY: Matter of fact, how do you
13 spell his name?

14 MS. SHAFFER: Aaron, A-a-r-o-n;
15 Ockerman, O-c-k-e-r-m-a-n.

16 MR. ANTHONY: But, Mr. Chair, may I
17 indulge for a minute?

18 Paddy, in my everyday job that I make
19 the bulk of my -- what I have to do, I represent
20 folks for a labor or union, and I have at times
21 done subpoenas and record requests from my
22 employer, the State of Ohio, and many times I've
23 been told, "You have to make those records
24 requests specific and not general." So I have had

1 some experience in requesting documentation that
2 was too broad.

3 And even an arbitrator said my request
4 was too broad, "Narrow it down and be specific.
5 That's irrelevant information. You need to go for
6 whatever it is you're looking for, and not to go
7 on a witch hunt, so to speak."

8 So I would encourage you -- it sounds
9 like to me you got everything you've asked for.
10 It sounds like you made mention that everything
11 they said you couldn't have, you finally got.

12 MS. SHAFFER: No, some things we
13 resolved, not everything's done.

14 MR. ANTHONY: All right. So I would
15 encourage you to be real specific with your
16 records request, and that could solve a lot of
17 problems.

18 And if you have a problem with the
19 prosecutor's office -- because we do use them here
20 in Franklin County. I'm not sure why other
21 counties don't, but we have -- it's been a
22 practice of ours since before I came on the Board,
23 and I've been with the Board for, what, nine
24 years.

1 And so at least for the last nine years,
2 we have always used the prosecutor's office to run
3 everything through, whether I agree with them or
4 not, and there's been some times when I haven't
5 agreed with them. But we still, as a matter of
6 recourse on this Board, have always deferred to
7 the prosecutor's office. So, I mean, I don't know
8 if there's a whole lot that we could do, because
9 I'm not willing to change that process now.

10 MS. SHAFFER: I'm going to have Marion
11 speak to you, and then I have a few more things to
12 address.

13 MR. ANTHONY: Thank you.

14 MS. LUPO: Hello, everybody. It's
15 Marion, M-a-r-i-a-n, Lupo, L-u-p-o. I think most
16 of you know me. I'm a resident of Franklin County
17 and a member of the OHEC.

18 We have several public records requests
19 that have gone unfilled, including one that dates
20 back to November 2007 when we requested
21 information from Mr. Damschroder regarding the
22 Ohio Association of Election Officials, of which
23 he is past chair.

24 Regarding the second request, on January

1 the 10th, the 2008, which is almost a year ago
2 now, he replied that the requests were vague,
3 overly broad and/or they didn't have the records
4 to satisfy them.

5 Most recently, and Paddy referred to
6 this just now, in response for our email
7 correspondence between that organization's
8 lobbyist, Aaron Ockerman, and Mr. Damschroder, she
9 was again told it was overly broad; although, it
10 was specific to the activities of the office,
11 number one, the officials involved -- she named
12 Aaron Ockerman -- and the date and the time. It
13 was a three-month period of time. She made that
14 request, again, on December 15th, 2008.

15 MR. STINZIANO: And asked for all Board
16 of Election -- you're saying individuals. When
17 you say individuals, you're identifying Aaron
18 Ockerman, but you're not identifying who on the
19 other end; is that correct?

20 MS. LUPO: Right. But can I -- and I
21 understand you filled that now, and I appreciate
22 that, but it's been since December 15th.

23 MR. STINZIANO: Still, it's to the best
24 of our interpretation of the request. I don't

1 think -- I don't know exactly, but, sorry.

2 MS. LUPPO: Which is all any board is
3 asked to do, and that's what other Board of
4 Elections do.

5 So in response to her sixth request,
6 which she made on the last day of last year, it
7 came to our attention, via Mr. Stinziano, that all
8 record requests go through the prosecutor's
9 office. Apparently it is the policy of the
10 Franklin County Board of Elections to submit all
11 records requests to the Franklin County
12 Prosecutor's Office. And I think you've just told
13 me that that is in fact your policy.

14 MR. ANTHONY: I said it was the
15 practice, I'm not sure if it's a policy.

16 MR. PREISSE: I was going to say it's
17 our practice. I don't know if we have a written
18 policy on that, but that's our practice.

19 MS. LUPPO: All right. If it's a
20 practice and it's not done for every individual
21 who requests it, then you've got an equal
22 protection problem here. There's an equal
23 protection problem if it's only Paddy Shaffer and
24 our organization that goes to the prosecutor

1 and is copied on the prosecutor.

2 If you have a written policy that
3 requires all public records requests, no matter
4 how innocuous or mundane, to go through the
5 prosecutor's office, then you have a whole other
6 issue, but that needs to be a written policy if
7 that's the case.

8 And I would ask the Board to consider
9 that and consider what your policy is going to be
10 regarding that, because there are consequences one
11 way or the other, and that a public records
12 request from other agencies do not go to the
13 prosecutor's office.

14 Now, I understand under Ohio law you're
15 required to use the prosecutor; but at the same
16 time, you have to realize the prosecutor is a
17 formidable body of the Government, and therefore
18 any old citizen that comes along and wants
19 something, to be referred to the prosecutor could
20 have a chilling affect on their right to request
21 records under the public records law.

22 So this places this Board, it places the
23 State of Ohio, and it places Franklin County
24 itself at risk for damages in a mandamus action.

1 And the Board should also be aware of
2 the fact that Black Box Voting, following the
3 failure to fulfill the public records request,
4 made its own public records request by email, fax,
5 and letter. And they would not be as reluctant as
6 we are to go for a mandamus.

7 Because we know there is no money right
8 now in the coffers here for the State of Ohio,
9 Franklin County, or for the Board; but Black Box
10 Voting doesn't care.

11 Finally, in response to Paddy's request,
12 well, if this is not overly broad, please tell me
13 what is overly broad. Again, this has happened
14 with Mr. Damschroder, and it happened with
15 Mr. Stinziano. They sent her case law, and, in
16 fact, they asked her to review the case law.
17 Again, she is not a lawyer, she is an art teacher,
18 It's a public records request. The Board are
19 servants of the public.

20 So, for example, in one of the emails,
21 he asked her to review State ex rel Glasgow v.
22 Jones and State ex rel Morgan v. New Lexington, to
23 study this case law. So I looked it up. I'm a
24 retired attorney. I don't practice, but the case

1 law is hardly difficult to read.

2 So the one case, State ex rel Glasgow --
3 which is apparently the reason why her public
4 requests isn't being filled -- the Supreme Court
5 said, well, you can't ask for all the
6 correspondence of a state representative who's in
7 office for four years. And she never asked for
8 all the correspondence of anybody on the Board or
9 Mr. Stinziano or Mr. Damschroder or Mr. Ockerman;
10 three months worth of correspondence. That case
11 didn't even apply.

12 The other case that Paddy was supposed
13 to study, State ex rel Morgan v. New Lexington,
14 didn't even hold any request was overly broad.
15 That case said, yes, give them the records. In
16 fact, did the case not only say, yes, give them
17 the records, but the Supreme Court says we do not
18 require perfection in public records requests.

19 So I hardly know what to think when
20 someone who is not an attorney is given advice via
21 the prosecutor's office to study cases that don't
22 even apply to the request for public records. And
23 it hardly instills confidence in me in the
24 prosecutor's office. In fact, I can't even figure

1 out why we would want the prosecutor advising on
2 these issues if the prosecutor is going to give
3 you bad case law.

4 And given that the prosecutor and this
5 Board and Mr. Stinziano and Mr. Damschroder,
6 everybody gives them the benefit of a doubt, and
7 have for years. So if you give them all the
8 benefit of a doubt and you give the prosecutor the
9 benefit of a doubt and the prosecutor is denying
10 legitimate public records requests and giving you
11 bad case law, what is the logical conclusion from
12 that? What are people going to think? What do
13 taxpayers think? What do voters think about that?

14 If I went and told them, oh, the
15 prosecutor's giving this Board of Elections bad
16 case law and that's why they're not fulfilling the
17 public records requests, what are they going to
18 think? That he's incompetent.

19 And I'm sorry that he's not here today,
20 but clearly he's not reading the case law, or why
21 would he be giving you the case law that doesn't
22 apply.

23 Now, if he's not as competent as he
24 should be, then the Franklin County Commissioners

1 would be well within their rights to appoint a
2 special independent prosecutor for the Franklin
3 County Board of Elections for the purpose of
4 giving you good advice on public records request
5 so it didn't place you or the State of Ohio or the
6 Franklin County itself at risk.

7 Thank you. And I hope everyone has a
8 happy new year

9 MS. MARINELLO: Thank you.

10 MR. PREISSE: Thank you.

11 MR. ANTHONY: Mr. Chair?

12 MR. PREISSE: Yes?

13 MR. ANTHONY: I move -- you got
14 something else to say?

15 MR. PREISSE: Paddy said she wanted --

16 MR. ANTHONY: Oh. Well, I'm going to
17 have to leave, I'm sorry. I got a 4 o'clock, and
18 I thought this was going to be a short meeting.

19 MR. PREISSE: All right.

20 MS. SHAFFER: This is about 60 seconds,
21 Bill.

22 MR. ANTHONY: Hurry up, because I'm
23 heading out the door.

24 MS. SHAFFER: Another issue as yet

1 unaddressed, I have been looking at 2004 records
2 now for four years. I have access to what the
3 Secretary of State has. I'm fully able to
4 photograph and study and look at them at will.
5 I've now been given access to some of Franklin
6 County's 2004 records to be able to look at and
7 photograph at will.

8 There is one section of Franklin
9 County's records I still have not been able to
10 look at, that is the unvoted 2004 ballots. Your
11 inventory states they were not sent to the
12 Secretary of State. Matt has told me they were
13 sent there, and it's been sent to me in writing
14 and I've been told verbally.

15 This happened before Michael was here,
16 but Michael's got to watch as Matt and I have
17 discussed it, so he's aware that there seems to be
18 a problem here.

19 At the Secretary of State's storage
20 facility where the records are, I had her
21 attorney, number two attorney, Brian Green, search
22 for them. And Doug Miller, the head of security,
23 also searched for those records. No one can find
24 them. I've looked through the boxes myself. I've

1 been unable to find them.

2 Where are the 2004 unvoted extra
3 ballots? Because I want to look at them. You
4 know, are they still in the warehouse someplace?
5 Have they been discarded? Can we just -- you
6 know, if they still exist, I want to see them. If
7 they don't exist, could I just be told that they
8 don't exist? So it's a fairly simple question.
9 And how do I make arrangements to see them?

10 MR. DAMSCHRODER: As I've stated to
11 Paddy before, really what we had from 2004 was
12 sent to the Secretary of State's office at their
13 request, from the director, whoever it was.

14 MR. ANTHONY: I ain't got them.

15 MR. PREISSE: Well, I don't know, I
16 don't have them either. If we can't find them
17 here --

18 MR. DAMSCHRODER: Everything from 2004
19 has been provided to the Secretary of State's
20 office.

21 MS. SHAFFER: They're not there, and
22 they're not on your inventory. Your inventory
23 does not show unvoted ballots. And I'd be happy
24 to send the rest of you copies of your inventory.

1 They could probably provide it.

2 But the inventory sheet had multiple
3 lines where it would ask questions -- voted
4 ballots, unvoted ballots, provisional ballots --
5 and you would fill those in on the line. Matt
6 didn't do that. He wrote something like "See next
7 page" and just crossed out each line.

8 On the next page, rather than filling
9 them in in their slots, he did it in paragraph
10 style, listed the things. Unvoted ballots is not
11 on it.

12 So I printed out a blank form to help
13 myself be easier to see it. I did not bring that
14 with me today, but I put all your information in
15 on the blank forms so I could see it in the
16 correct lines. Unvoted ballots is not there. And
17 I simply would like, with my research, I'd like to
18 look at them.

19 MR. DAMSCHRODER: I stand by my comment
20 from earlier.

21 MS. SHAFFER: And even how many would
22 there be, a number. You know, is there 20,000?
23 50,000? They're punch cards.

24 MR. PREISSE: Do you have an opinion? I

1 can't address that, having not discussed it with
2 Matt and Michael and the other Board members at
3 all up to this point, so what I know about it is
4 what you just said and the staff said, so let
5 me --

6 MS. MARINELLO: Does the Secretary of
7 State have a checklist where they received it from
8 you or anything like that?

9 MS. SHAFFER: You want to see her
10 checklist?

11 MS. MARINELLO: I guess.

12 MS. SHAFFER: This is her checklist.
13 Okay. Now, as far as missing things, it says
14 after, "What's missing, unvoted soiled." That
15 would be Hancock, and Franklin County is not
16 listed here as missing anything.

17 And there's 16 counties that say they're
18 not missing things or that they are missing
19 things, but did not submit a letter saying what
20 they're missing. But I've listed you guys on
21 here, because I can't find your uncounted ballots,
22 and there's no letter saying where they are.

23 MS. MARINELLO: So this shows that we're
24 not missing anything. So everything the Secretary

1 of State is supposed to have, she has it and they
2 have lost it or something.

3 MS. SHAFFER: No. I know her records
4 better than she knows them, because I actually am
5 going through them, so there's a lot of things
6 that they're supposed to have that they don't.
7 And as I've actually gone through the records,
8 there's lots of things we have found that are
9 missing.

10 MR. PREISSE: I think Kim's question was
11 is there some -- this is a reproduction here, what
12 you have?

13 MS. SHAFFER: This actually came with
14 Brunner's files. I have all the letters from all
15 the county's that submitted a letter. The main
16 form is the "Dog ate my homework letters."
17 They're letters that the county wrote saying why
18 they don't have things.

19 MR. PREISSE: Okay. I think, if I've
20 interpreted your question, Kim, and I'm not sure I
21 heard an answer that I understood, you've come
22 across records with the Secretary of State that
23 indicate that this material was received by the
24 Secretary of State?

1 MS. SHAFFER: No. She doesn't have it
2 in her initial inventory, though it doesn't show
3 you guys missing it, because Matt didn't mention
4 anything missing.

5 If the counties were missing something,
6 they were supposed to write her and tell her they
7 were missing it. So she took the counties by if
8 they sent the letter, they didn't send the letter,
9 or their forms showed something was missing on
10 that.

11 But he didn't fill out the form the way
12 the other counties did, he put all that
13 information in paragraph style, which made it much
14 harder to know what is missing, versus filling it
15 in, you know, where it says, unvoted ballots. If
16 he put a zero there, it would be pretty obvious
17 he's missing them; but with a whole lot of data
18 crammed into a paragraph, you have to know that
19 you're looking for that, and I was specifically
20 look can for it, that's when I found it.

21 MS. MARINELLO: But surely when the
22 Secretary of State receives it, they know what
23 they have to have back.

24 MS. SHAFFER: There's over 2,200 boxes

1 in three rooms. I'm one of the few people that
2 has ever looked at them.

3 MS. MARINELLO: But when they received
4 them in, you would think that, okay, blah, blah,
5 blah.

6 MS. SHAFFER: They did not inventory
7 them, no. It's zillions of boxes. You guys have
8 a good sized stack, and you have metal drawers in
9 there and boxes, and you have things in mail tubs,
10 these kind of clear white bins that you guys use
11 at the election time. So you have things in three
12 kinds of containers.

13 But, again, according to Judge
14 Maribeli's court order on saving the documents, if
15 you don't have them, it's a fourth degree felony
16 and they can hold you in contempt of court. My
17 concern is my county, Franklin County, doesn't
18 need that.

19 Are they in the warehouse or something?
20 Can somebody just look? Are they somehow there
21 stuck somewhere else, or are they gone and can the
22 employees at the warehouse be asked did somebody
23 throw them away? You know, they have either got
24 to exist or they have been thrown away.

1 MS. MARINELLO: Matt said that he sent
2 them to the Secretary of State, so --

3 MS. SHAFFER: Kim, I would be happy to
4 go through your records with you, and you can look
5 at the boxes and see that they're not there. I
6 have access to them. I can set up an appointment.
7 They're not there, so where are they?

8 I mean, I had Brunner's number two
9 attorney search, I had the head of security for
10 the Secretary of State search, they're not there.

11 MR. DAMSCHRODER: I will, again, state
12 that everything Denny and I had from the 2004
13 election was turned over to the Secretary of
14 State.

15 MS. SHAFFER: So then if they were
16 discarded, who discarded and when and where?

17 MS. MARINELLO: But if you say there's
18 millions and millions of boxes, how did you go
19 through them all?

20 MS. SHAFFER: How did I?

21 MS. MARINELLO: Yeah, how long did that
22 take? I mean, you went through every box there?

23 MS. SHAFFER: I've been down there for
24 months. I've been in those rooms for months.

1 I've been looking at counties all over the state.

2 MS. MARINELLO: Maybe you missed them.

3 MS. SHAFFER: I have an investigation
4 coming into Coshocton County for some of my
5 research. The Attorney General is looking at
6 election fraud. A write-in candidate, over 6,800
7 votes write-in votes in the same handwriting. So
8 I'm very serious about this, you know, and I just
9 want things to be right.

10 And I've been looking at records for
11 years. I'm pretty good at it now, for an art
12 teacher learning to be investigator, whatever the
13 heck that is. And because I like pretty things,
14 make it a pretty hat as you're imagining it, but
15 it's just I want to look at those. And so
16 therefore the issue's not put at rest for me
17 because I want to see them.

18 So I'm hoping that bringing this up that
19 you guys can look into it and that I'll hear
20 something back, that you called out to the
21 warehouse and you asked, "Does anybody know what
22 happened to them?"

23 If they're not there, someone did
24 something with them, and know that we have excuses

1 around the state as goofy as in Holmes County they
2 spilled coffee on them so they immediately threw
3 them away. That was six to ten big heavy boxes of
4 records.

5 And I called to find out how big the
6 coffee pot was. 10 cups. Okay, if you dip them
7 like cookies, you couldn't have even got them all
8 wet. Why didn't they dry them?

9 I have other counties that say the
10 county's recycler guys came in and just took them
11 away. You know, that's the security level of
12 records. We have all kinds of excuses.

13 MS. MARINELLO: Well, what's the
14 Secretary of State's Office telling you?

15 MS. SHAFFER: That right now it's up to
16 Judge Maribeli, and so if Judge Maribeli ends up
17 doing something about this and this is still in
18 the court, you guys could end up hearing back from
19 the court on it. If he doesn't do something, he
20 doesn't. But if he does, you'll probably hear
21 more on this.

22 In the meantime, it would be great if we
23 resolved it, that they either exist or they don't,
24 so I can just finish my research and check that

1 one off that that's done. Because I simply want
2 to look at them.

3 MR. PREISSE: Well, I think we have
4 clearly heard your request that we look further
5 into it, and we'll do that. I have no reason to
6 believe that anything happened other than the
7 staff says did happen, but I don't see the harm in
8 going back and asking the questions of the staff
9 and other staff who were involved.

10 MS. SHAFFER: Thank you, Doug. That was
11 all I ever wanted. Yeah, we can ask. And if no
12 one knows, then that's part of the answer, but
13 somebody -- either they're there.

14 I mean, for all the counties, they're
15 big heavy boxes. You don't -- some counties say
16 they accidentally threw them away, and it would be
17 like 80 boxes. I mean, you guys have moved from
18 house to house and stuff. Who accidentally lifts,
19 you know, 80 boxes into a dumpster?

20 MS. MARINELLO: Eric, do you have any
21 thoughts on that?

22 MR. NICHOLAS: She has dealt with the
23 attorneys from our office, and we have had the
24 chance to look at the -- we have given access to

1 our warehouse where we do have records, that if we
2 do have -- if we come upon more inventory, I'll be
3 sure to also ask if there's anything else that's
4 become made available since then.

5 MS. SHAFFER: That would be wonderful.
6 I would assume that would show up there and, you
7 know -- Brian's gone now, but him and Doug both
8 now I wanted this.

9 MR. NICHOLAS: Right, right. Yes. And
10 I'll find out who is responsible for taking over
11 Brian Green's --

12 MS. SHAFFER: Brandy Seskis.

13 MR. NICHOLAS: Okay. Thank you.

14 MS. SHAFFER: We have already been in
15 communication.

16 MR. NICHOLAS: Okay. All right. So
17 you've spoken with her about this also, and she is
18 aware of it?

19 MS. SHAFFER: This particular one, no,
20 but some other things.

21 MR. NICHOLAS: Okay. Thank you.

22 MS. SHAFFER: All right. Well, thank
23 you all for your time today.

24 MR. PREISSE: Okay. If that's all the

1 business we have, why don't we move to adjourn.

2 MS. MARINELLO: Mr. Chairman, I move we
3 adjourn.

4 MR. PREISSE: All in favor?

5 (Board votes unanimously.)

6 - - - - -

7 Thereupon, the proceedings were.

8 concluded at 3:53 o'clock p.m.

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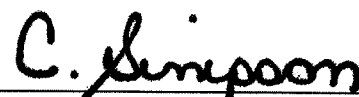
CERTIFICATE

The undersigned do hereby certify that the foregoing proceedings were digitally recorded, electronically transmitted, and transcribed via audible playback, and that the foregoing transcript of such proceedings is a full, true and correct transcript of the proceedings as so recorded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio, on this 9th day of January 2009.



MICHELLE K. SALINAS
Certified Digital Reporter
Notary Public - State of Ohio.
My commission expires July 17, 2013



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