

**IN THE NORTH CAROLINA STATE BOARD OF ELECTIONS**

---

IN THE MATTER OF: Investigation of  
election irregularities affecting counties  
within the 9th Congressional District

---

)  
)  
)  
)  
)  
)  
)

---

**CANDIDATE DAN MCCREADY'S PROPOSED FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

---

Marc Erik Elias\* (DC Bar #442077)  
Jonathan Berkon\* (DC Bar #992519)  
PERKINS COIE LLP  
700 Thirteenth Street N.W., Suite 600  
Washington, D.C. 20005-3960  
Telephone: (202) 654-6200  
Facsimile: (202) 654-6211  
MElias@perkinscoie.com  
JBerkon@perkinscoie.com

John R. Wallace  
WALLACE & NORDAN LLP  
3737 Glenwood Ave., Suite 260  
Post Office Box 12065 (27605)  
Raleigh, North Carolina 27612  
Telephone - (919) 782-9322  
Facsimile - (919) 782-8113  
jrwallace@wallacenordan.com

**ATTORNEYS FOR AFFECTED  
CANDIDATE DAN MCCREADY**

*\*Admitted Pro Hac Vice*

**TABLE OF CONTENTS**

I. INTRODUCTION ..... 1

II. PROCEDURAL HISTORY ..... 1

II. FINDINGS OF FACT ..... 2

    A. In the Months After the Board Declined to Certify the Results in CD-9 and Before the Board’s Hearing, Board Staff Conducted a Thorough Investigation into the Irregularities the Occurred During the 2018 Election in CD-9. .... 2

    B. Unofficial Results of the CD-9 Race Showed a Razor-Thin Margin Between Harris and McCready, which was Far Exceeded by the Number of ABM Ballots Potentially Affected by Dowless’s Operation. .... 3

    C. Board Investigators Found Significant ABM Irregularities in Bladen and Robeson Counties. .... 5

        1. Phase One of Dowless’s Operation Involved Paying Individuals to Collect and Submit ABM Request Forms, Some of Which Were Fraudulent. .... 6

        2. Phase Two of Dowless’s Operation Involved Paying Individuals to Collect ABM Ballots and Deliver Them to Dowless, Some of Which Were Unsealed and Unvoted..... 11

    D. Expert Findings Corroborate Witness Accounts and Other Evidence that Dowless’s Operation Spanned At Least Two Counties and Potentially Affected Thousands of Ballots..... 16

    E. Dowless’s Operation was Extremely Well-Funded, and Dowless was Not Required to Make or Provide Records of His Expenses..... 19

    F. The Harris Campaign and Mark Harris Knew or Should Have Known That Dowless Was Engaging in Illegal Activities..... 25

        1. The Mark Harris for Congress Committee Withheld Records Responsive to the Board’s Subpoena Which Showed that Harris was on Notice of Dowless’s Illegal Conduct..... 25

        2. Improperly Withheld Documents Make Clear that Mark Harris Was on Explicit Notice that Dowless Engaged in Illegal Ballot Harvesting ..... 26

        2. Mark Harris, Believing the Emails Would Not Be Disclosed, Made Repeated False Statements to the Press Claiming Ignorance of any Indication of Dowless’s Illegal Conduct..... 30

3.	The Harris Committee Improperly Withheld Other Responsive Documents Until After John Harris Testified, and Made False Assurances to Board Staff Regarding its Compliance with Board Subpoenas. ....	33
3.	Mark and John Harris Discussed Concerns Over Dowless’s Operation the Day After Mark Harris First Met with Dowless, and Mark Harris Hired Dowless Anyway. ....	36
5.	Mark Harris’s Very First Payments to Dowless Were in Clear Violation of Campaign Finance Law.....	40
6.	John Harris Also Raised His Concerns Regarding Dowless with Andy Yates.....	42
4.	Mark Harris Made False Statements Under Oath, which he Later Recanted When He Personally Called for a New Election .....	42
G.	Dowless Engaged in Efforts to Obstruct the Board’s Investigation and Tamper with Witnesses. ....	46
H.	Early Voting and ABM Totals Out of Bladen County Were Improperly Disclosed. ....	47
I.	Board Investigators Uncovered an Abysmal Lack of Security at the Bladen County Board of Elections Office.....	51
III.	CONCLUSIONS OF LAW.....	52

RETRIEVED FROM DEMOCRACYDOCKET.COM

## I. INTRODUCTION

The record reflects that results of the 2018 General Election in North Carolina's 9th Congressional District were corrupted by fraud and irregularities such that the results of the entire election were tainted, and the election's fairness was cast in doubt. The record further reflects that widespread absentee by mail fraud, engaged in on behalf of and paid for by Republican candidate Mark Harris, likely affected the outcome of the race, as the fraud and irregularities potentially affected far more ballots than the margin between the top two candidates. Accordingly, the North Carolina State Board of Elections properly exercised its authority in unanimously ordering a new election.

## II. PROCEDURAL HISTORY

1. In the November 6, 2018 General Election to represent North Carolina's 9th Congressional District ("CD-9"), the candidates listed on the ballot were Republican candidate Mark Harris, Democratic candidate Dan McCready, and Libertarian candidate Jeff Scott.

2. After the election, Harris led McCready by an apparent margin of 905 votes, which accounted for just over one-quarter of one percent of all ballots cast in that race.

3. The number of returned absentee by mail ("ABM") ballots alone far exceeded the razor-thin margin between Harris and McCready. *See* Ex. 32 at 3 (showing that over 10,500 ABM ballots were cast districtwide).

4. On November 27, the North Carolina Board of Elections (the “Board”) unanimously declined to certify the results of the 2018 General Election in CD-9; when the Board reconvened on November 30, it again refused to certify the results, “in light of claims of numerous irregularities and concerted fraudulent activities related to absentee by-mail ballots and potentially other matters” and decided to hold a public evidentiary hearing. Ex. 75.

5. The Board held a public hearing beginning on February 18, 2019 and concluding on February 21, 2019.

6. At the end of the hearing, the Board voted unanimously to order a new election for North Carolina’s 9th Congressional District and two other local races that had also been impacted by the irregularities at issue in the 2018 General Election in CD-9.

7. At that time, the Board further ordered all affected candidates to submit proposed findings of fact and conclusions of law by February 27, 2019.

## II. FINDINGS OF FACT

### A. **In the Months After the Board Declined to Certify the Results in CD-9 and Before the Board’s Hearing, Board Staff Conducted a Thorough Investigation into the Irregularities the Occurred During the 2018 Election in CD-9.**

8. The Board staff’s two-and-a-half-month-long investigation into election irregularities affecting counties within CD-9 uncovered overwhelming evidence of “a coordinated, unlawful, and substantially resourced absentee ballot scheme operated during the 2018 general election in Bladen and Robeson Counties.” Board’s Preview of Evidence at slide 2.

9. As part of the Board staff's thorough investigation, Board investigators attempted to interview 401 voters, successfully interviewed 142 voters, and also interviewed 30 subjects and other witnesses. *Id.*

10. Board staff also subpoenaed and reviewed voluminous records, which included financial and phone records. *Id.*

11. Board staff found conclusive evidence of three distinct categories of irregularities occurring in Bladen and Robeson Counties during the 2018 General Election in CD-9. Those three categories of irregularities were: (1) ABM irregularities in Bladen and Robeson Counties; (2) disclosure of early voting results in Bladen County; and (3) an abysmal lack of office security in the Bladen County Board of Elections Office. *Id.* at 6.

12. The ABM irregularities that Board staff found were the result of what they characterized as a well-funded and highly organized criminal ABM ballot operation, run by Leslie McCrae Dowless, Jr. and predominately paid for by the Mark Harris Campaign through the consulting firm Red Dome Group. Bladen County Sheriff James McVicker also paid \$5,000 to Dowless for work on his own re-election campaign through Red Dome.

**B. Unofficial Results of the CD-9 Race Showed a Razor-Thin Margin Between Harris and McCready, which was Far Exceeded by the Number of ABM Ballots Potentially Affected by Dowless's Operation.**

13. After the 2018 General Election, districtwide, Mark Harris appeared to have received 139,246 votes, Dan McCready appeared to have received 138,341 votes, and Jeff Scott appeared to have received 5,130 votes. *Id.* at 4. Accordingly,

Harris led by a razor-thin margin of just 905 votes, or only over one quarter of one percent (0.3%) of the total number of votes cast.

14. Districtwide, Mark Harris appeared to have received 4,027 ABM votes, McCready appeared to have received 6,471 ABM votes, and Jeff Scott appeared to have received 153 ABM votes. Ex. 32 at 3.

15. In Bladen County, where Dowless and his workers were found to have been the most active, Harris appeared to have received 420 ABM votes, McCready appeared to have received 258 ABM votes, and Jeff Scott appeared to have received 6 ABM votes. Board's Preview of Evidence at slide 4.

16. In Robeson County, where Dowless and his workers were also highly active, Harris appeared to have received 259 ABM votes, McCready appeared to have received 403 ABM votes, and Jeff Scott appeared to have received 18 ABM votes. *Id.*

17. In the 2018 General Election, 17,169 voters resided within the portion of Bladen County that falls within CD-9. From that population of eligible voters, 1,369 ABM request forms were submitted, which accounted for 7.97% of all eligible voters residing within the portion of Bladen County that falls within CD-9.

18. Bladen County sent ABM ballots to 1,323 voters and did not send ABM ballots to 46 voters who had purportedly submitted request forms.

19. Of the 1,323 ABM ballots sent out in Bladen County, 728 (55.03%) were returned, and 595 (44.97%) were not returned. *Id.* at 5.

20. 77,306 Robeson County voters were eligible to vote in the 2018 CD-9

race. From that population of eligible voters, 2,321 ABM request forms were received, which accounted for 3.0% of all eligible voters. *Id.*

21. Of the 2,321 ABM request forms received in Robeson County, 2,269 (97.76%) ABM ballots were sent and 52 (2.24%) were not sent. *Id.*

22. Of the 2,269 ABM ballots sent out in Robeson County, 776 (34.20%) ballots were returned, and 1,493 (65.80%) were not returned. *Id.*

**C. Board Investigators Found Significant ABM Irregularities in Bladen and Robeson Counties.**

23. “In April 2017 McCrae Dowless was hired to conduct an absentee ballot operation leading up to the 2018 elections.” *Id.* at 9.

24. “In June 2017 the Mark Harris Campaign hired Red Dome Consulting. Thereafter, McCrae Dowless was paid by Red Dome. Red Dome would bill the Mark Harris Campaign for these expenses.” *Id.*

25. “McCrae Dowless was also paid by other candidates, including but not limited to [Bladen County] Sheriff candidate James McVicker.” *Id.*

26. “McCrae Dowless hired workers he paid in cash to collect absentee request forms, to collect absentee ballots, and to falsify absentee ballot witness certifications.” *Id.* at 10.

27. In general, “McCrae Dowless paid \$150.00 per 50 absentee ballot request forms and \$125.00 per 50 absentee ballots collected,” but he also sometimes paid other amounts per ballot or a flat weekly rate. *Id.*

28. There were two phases to Dowless’s absentee ballot operation: (1) the collection of ABM request forms; and (2) the collection of absentee ballots.



**1. Phase One of Dowless's Operation Involved Paying Individuals to Collect and Submit ABM Request Forms, Some of Which Were Fraudulent.**

29. The Board concluded that, “[i]n addition to using blank forms to solicit voters to request to vote absentee by mail, Dowless and his workers prepared request forms utilizing forms from previous elections to pre-fill the absentee request form so that workers could return to those voters and have the voter sign the request form.” *Id.* at 11.

30. “Phase One” of Dowless’s operation had four known steps: First, Dowless’s workers obtained ABM request forms from voters. Second, Dowless’s workers would present those ABM request forms to Dowless for payment. Third, Dowless would photocopy and retain copies of all ABM request forms for later use in subsequent elections. Fourth, Dowless or his workers would deliver ABM request forms to the appropriate Board of Elections Office. *Id.* at 12.

31. Board investigators concluded that “[f]or the general election, at least 788 Absentee Ballot request forms in Bladen County were submitted by McCrae Dowless or his workers.”

32. Board investigators further concluded that “[f]or the general election, at least 231 Absentee Ballot request forms in Robeson County were submitted by McCrae Dowless’s workers, though an email indicates the number may have been at least 449.” *Id.* at 11.

33. Red Dome Group consultant Andy Yates admitted to reporters and in his testimony before the Board that Dowless called him regularly to give him updates on the number of ABM requests he had collected, and that another Red

Dome contractor provided Dowless lists of voters who had been sent ballots. *See* Ex. 91.

34. On September 24, 2018, at 10:10:25 A.M., Andy Yates emailed Beth Harris the following: “Of the absentees that have been sent out in Robeson so far, after reviewing them with McCrere [sic], we believe that 181 of them are from his list. They have more yet to turn into the BofE in Robeson. McCrae’s team has generated a total of 449 requests in Robeson and will be generating more.” Ex. 30.

35. Lisa Britt, who admittedly worked for Dowless during the 2018 General Election, testified that the information that Dowless and his workers used to pre-fill the top portion of ABM request forms “was information . . . that Mr. Dowless had from previous elections.”<sup>1</sup> Dowless had this information because he had a practice of saving photocopies of all ABM request forms that he and his workers collected during past elections, and testimony elicited at trial showed that Dowless was also making copies of ABM request forms collected by others outside his operation.

36. Lisa Britt testified that the photocopies of ABM request forms kept by Dowless contained the voter’s unredacted signature and the voter’s unredacted last four digits of their social security number.<sup>2</sup>

---

<sup>1</sup> Video: *State holds hearing on 9th District election (Day 1, Part 1)*, WRAL News (updated Feb. 21, 2019), <https://www.wral.com/news/state/nccapitol/video/18200033/> at -1:02:59.

<sup>2</sup> Video: *State holds hearing on 9th District election (Day 1, Part 2)*, WRAL News (updated Feb. 21, 2019), <https://www.wral.com/news/state/nccapitol/video/18200646/> at -3:37:11.

37. Because Dowless had copies of voters' ABM request forms from prior years, including voters' signatures and last four digits of social security numbers, Dowless had the capability of submitting forged ABM request forms without voters' knowledge.

38. Lisa Britt testified that she also made a separate set of copies of all ABM request forms that she personally collected, so that she would have a record of those voters she had personally registered, and so she could visit those same voters for a second time to collect their ballots once they arrived.<sup>3</sup>

39. Dowless's workers were deployed in at least three counties. Lisa Britt testified, "I myself worked Bladen and Columbus County because I knew quite a bit of people in Columbus County. I think everyone else just pretty much [worked in] the Bladen County Area,"<sup>4</sup> except for Jennifer Boyd, at least, who Britt testified had worked in Robeson County.<sup>5</sup>

40. Britt testified that Dowless paid her based on the number of voters that she registered to vote ABM. For every 50 request forms, "I think the amount [Dowless paid] was between \$150 and \$175 dollars," plus additional money for gas and food.<sup>6</sup> Britt testified that Dowless would pay her and other workers in cash once they had submitted 50 ABM request forms.<sup>7</sup>

---

<sup>3</sup> Video: *State holds hearing on 9th District election (Day 1, Part 1)*, at -1:32:39.

<sup>4</sup> *Id.* at -1:05:55.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at -1:08:00.

<sup>7</sup> *Id.* at -1:31:24.

41. Mark Harris testified that he was aware that Dowless paid his workers based on the number of ABM request forms each worker collected and returned to Dowless. Harris explained that his Campaign would pay Dowless “around \$4 or \$4.50 per request form.” Harris further testified that he had asked Dowless during their initial meeting, “‘don’t you pay [your workers] hourly?’ [to which Dowless responded], ‘[n]o, if you pay people hourly down here they’ll just sit under a tree.’”

42. Britt alleged that Dowless was also collecting and keeping copies of ABM request forms collected by Lola Wooten,<sup>8</sup> who was allegedly working outside of Dowless’s core operation but had entered into some sort of agreement with Dowless to provide him with copies of the ABM request forms she collected.

43. Andy Yates testified that Dowless “wouldn’t always turn [ABM request forms] in as soon as he got them.” Dowless withheld ABM request forms so that other candidates would be unable to track how many ABM request forms Dowless had submitted, using publicly available data.

44. The record shows that least some of the ABM request forms submitted by Dowless and his workers were forged. For example, Lisa Britt admitted that she had completed the top portion of an ABM request form submitted on behalf of a deceased individual, James Spurgeon Shipman. *See* Ex. 2 (redacted ABM request of J. Shipman); Ex. 3 (unredacted request of J. Shipman). However, Britt denied having forged Shipman’s purported signature at the bottom of the request form,

---

<sup>8</sup> Video: *State holds hearing on 9th District election (Day 1, Part 1)*, at -1:28:51.

which was signed months after Shipman had died, and Britt claimed not to know who had forged Shipman's signature on the bottom of the form. *See* Ex. 3.

45. Britt did admit to having forged, at least, the name of her mother, Sandra Dowless, on the witness certifications of several ABM container envelopes. Britt testified that she began forging her mother's signature as a witness after concerns arose that Britt and another of Dowless's employees had signed as witness on too many ABM container envelopes, which Dowless and his workers feared might raise a "red flag" with elections officials. Britt further testified that Dowless was aware that Britt was forging Sandra Dowless's signature at the time the forgeries occurred.

46. Relatedly, two affiants have also stated that, after declining a Dowless worker's in-person solicitation to complete an ABM request, someone submitted signed request forms on their behalf. In both cases, Dowless's known employee, Jessica Dowless, submitted the request forms to the Bladen County Board of Elections. *See* Ex. 108 (D. Bullard Aff.); Ex. 12 (L. Bullard Aff.); Ex. 110 (L. Young Aff.).

47. When the Board sent informational mailings to all ABM requestors in Bladen County shortly before the election warning that elections officials would never come to a voter's home to collect their ABM ballot, 184 letters were returned

as undeliverable, suggesting that some of the 184 associated ABM requests may have been fraudulent.<sup>9</sup>

**2. Phase Two of Dowless's Operation Involved Paying Individuals to Collect ABM Ballots and Deliver Them to Dowless, Some of Which Were Unsealed and Unvoted**

48. Dowless and his workers saved copies of all ABM request forms they collected to identify which of Dowless's workers had collected each form, and so that the same worker who collected the ABM request could be sent back to the requestor's home to collect his or her ABM ballot once it was received.<sup>10</sup>

49. Dowless and his workers sought information from local board of elections staff to determine when individual voters had been sent ABM ballots in response to their request forms, so that Dowless or his workers could return to voters' homes shortly after ABM ballots were received.

50. A great deal of the ABM ballots that Dowless and his workers unlawfully collected were not properly signed by two witnesses or a notary public in the presence of the voter. Board's Preview of Evidence at slide 13.

51. And at least some of the ABM ballots that Dowless and his workers collected were unsealed and unvoted. *Id.*

---

<sup>9</sup> North Carolina State Board of Elections, *Congressional District 9 Portal*, [https://dl.ncsbe.gov/index.html?prefix=State\\_Board\\_Meeting\\_Docs/Congressional\\_District\\_9\\_Portal/](https://dl.ncsbe.gov/index.html?prefix=State_Board_Meeting_Docs/Congressional_District_9_Portal/) (last visited Feb. 27, 2019) at Ex. 4.2.1.1 (Letter and envelope mailed by the State Board to the residential mailing address for each ABM voter requesting a ballot in Bladen County during the 2018 General Election); Ex. 4.2.1.1.1 (undeliverable mailings sent to absentee voters' mailing addresses in Bladen County); Ex. 4.2.1.1.2 (additional undeliverable mailings).

<sup>10</sup> Video: *State holds hearing on 9th District election (Day 1, Part 1)*, at -1:29:54

52. After Dowless's workers collected ABM ballots from voters, they would deliver the ABM ballots to Dowless in order to collect their payment. *Id.*

53. Dowless instructed his workers to falsely sign ABM ballot container envelopes as witnesses, outside the presence of the voter. *Id.*

54. Dowless and his workers fraudulently voted blank and incomplete ABM ballots at Dowless's home or in his office. *Id.*

55. In some cases, ballots that had been collected unsealed and unvoted were returned to the county board of elections bearing witness signatures and were accepted and counted. *See* Ex. 107; Ex. 84 (statements by affected voters Kirby Wright and Doris Hammonds).

56. Dowless and his workers engaged in various practices to avoid detection of Dowless's ABM operation. Those practices included: (1) delivering small batches of ballots to the post office; (2) ensuring that ballots were mailed from a post office that was geographically close to where the voter lived; (3) ensuring that witnesses signed and dated ABM container envelopes with the same date as the voter; (4) ensuring that witnesses signed in the same color ink as the voter, which included tracing over existing signatures to ensure conformity; (5) ensuring that stamps were not placed in such a way as raise a red flag for local Board of Elections staff; and (6) taking collected ballots back to the voter for hand-delivery to the local Board of Elections. *See Id.* at 14; *see also* Ex. 1 at 2 (showing the tracing over of Ginger Eason's witness signature on the ballot of Sheila Carroll Babson).

57. Lisa Britt testified that Dowless once scolded her for placing stamps on

ABM container envelopes in an idiosyncratic way that might raise red flags for elections officials regarding Dowless's operation. Britt understood Dowless's warning to mean that placing the stamps in a particular way might alert elections officials that someone was handling and mailing ABM ballots on behalf of voters.

58. Britt testified and that, in order to avoid detection of Dowless's operation, she and Dowless's other workers would sign the witness certifications on ABM container envelopes using the same color ink that the voter had used, and using the same date that the voter had signed--even if the witness certification was completed on some other date, in order to "throw off the elections board."

59. Despite admitting that such efforts were undertaken for the express purpose of "throw[ing] off the elections board" and otherwise avoiding detection of Dowless's operation, Britt unbelievably claimed under oath that she was not aware at the time that the actions she was engaging in were illegal.

60. Lisa Britt explained the ballot collection and witnessing process as follows: "If [a voter] didn't have the witnesses for the ballot we would take the ballots back [to Dowless]. We were also paid to collect the ballots, but we weren't paid as much for those [as we were paid for the request forms]. If I go to [a voter's] house and [her] sister and [her] husband are there, [we would tell the voter to] sign it and mail it [with those people as her two witnesses], but then we would [also] mark [that voter] off our list and still get paid for [that ballot]."

61. Britt testified regarding her payment arrangement with Dowless for the collection of ABM ballots: "I think [we] may have been [paid] \$125 for 50 ballots.



. . I worked about two to three weeks picking up the actual ballots [at that rate], and once we realized it was harder [to convince voters to turn over their] ballots [than ABM request forms], we were just paid a flat weekly rate of about \$200 a week.”

62. Ginger Eason and Cheryl Kinlaw similarly admitted in videotaped interviews that they were paid by Dowless to push votes for Harris, and to return harvested ballots to Dowless, who had stacks of ballots on his desk throughout the 2018 General Election. Exs. 103, 104.

63. Britt testified: “We were sent back out to [voters’] homes once their ballots came back in the mail, to explain to [the voters, that] if the ballot wasn’t correctly witnessed by two voters that the Board of Elections would kick it out and the vote wouldn’t count.”<sup>11</sup> Britt further testified that if the voter had two witnesses available when she arrived, the voter “would use [his or her] two witnesses. But in the event that they didn’t [have someone available to witness their signature on the ballot container envelope], we would explain to [the voter] . . . ‘I can witness it for you, or I can have it witnessed for you by two voters and then I can go ahead and place it in the mail for you.’”

64. During the 2018 Republican Primary, Dowless claimed on one occasion to have more than 800 ballots in his possession. *See* Ex. 119 (K. Simmons Aff.). And at the time of the 2018 Republican Primary, the record shows that Dowless’s

---

<sup>11</sup> Video: *State holds hearing on 9th District election (Day 1, Part 1)*, at -1:12:48.

operation was not as well-funded or expansive as it was during the 2018 General Election. *See* Ex. 142 (Harris/Red Dome/Dowless payment demonstrative)

65. Lisa Britt claimed that she did not fill in or vote any of the ABM ballots that she personally collected, but she admitted that she had filled in races on ballots that were collected by Dowless's other workers, testifying: "If some of the [race]s haven't been filled in, we would fill in the ones who had not been filled in."

66. Affected voter Kimberly Robinson's testimony corroborated Lisa Britt's admission that Dowless and his associates had collected unsealed and unvoted ABM ballots. Robinson testified that, after she received an ABM ballot in the mail in the fall of 2018, Lisa Britt and Ginger Eason came to her home in a van and took her unsealed, unvoted ballot. Robinson explained that she signed the ballot container envelope, and that Ginger Eason signed the ballot container envelope as a witness in front of her, but that no one signed as the second witness. Robinson explained that she gave Britt and Eason her blank ABM ballot because "McCrae usually helped me out," by voting her ballot, since she "didn't know who to vote for" or "much about politics."

67. Multiple affiants and other witnesses similarly reported that Dowless and his associates harvested or attempted to harvest ABM ballots, including unsealed and/or unvoted ballots. *See* Ex. 107 (C. Eason Aff.); Ex. 10 (D. Montgomery Aff.); Ex. 8 (E. Shipman Aff.); Ex. 9 (E. Shipman Suppl. Aff.); Ex. 84 (press reports of statements by affected voters Kirby Wright and Doris Hammonds).

68. Other ABM ballots voted in the General Election were otherwise

unlawful. For example, Lisa Britt, who testified that she currently is and was at all relevant times on probation for a felony offense involving the sale of “pills” and was therefore ineligible to vote, voted in the November 2018 General Election.<sup>12</sup> Britt claimed that Dowless told her that, because her probation was not out of Bladen County, that she was still eligible to vote in Bladen County.<sup>13</sup>

**D. Expert Findings Corroborate Witness Accounts and Other Evidence that Dowless’s Operation Spanned At Least Two Counties and Potentially Affected Thousands of Ballots.**

69. Dr. Stephen Ansolabahere and Dr. Michael Herron are tenured professors of Government at Harvard University and Dartmouth University, respectively, with extensive expertise in electoral politics and statistical methods. Affected Candidate Mark Harris stipulated to the admissibility of their reports and to their qualifications as experts on the subjects of their reports. Their reports were admitted without objection and were un rebutted by any other evidence or testimony.

70. Dr. Ansolabehere explained that patterns of ABM voting in the 2018 General Election in Bladen and Robeson Counties, which “differed significantly from the remainder of CD-9 and from elsewhere in the State,” reveal the impact and scope of Dowless’s enterprise. *See* Ex. 73 at 49.

---

<sup>12</sup> Video: *State holds hearing on 9th District election (Day 1, Part 1)*, at -58:18 to -59:15; *id.* at -3:33:58.

<sup>13</sup> *Id.* at -58:18 to -59:15.

71. Dr. Herron's report demonstrated that Harris's "mail-in absentee support [in Bladen County] was more extreme than the mail-in absentee support for any other comparable Congressional candidate" in any general election since 2012 in both North Carolina and three comparable states. *See* Ex. 74 at 26-28, 27 t.8. Dr. Herron performed a similar analysis for primary elections and demonstrated that the ABM results in the 2018 Bladen County Republican primary was the most extreme outlier among 2016 and 2018 primary elections in North Carolina. Ex. 74, at 32, 32 t.10(a).

72. Dr. Ansolabehere concluded that, assuming McCready and Harris won all ABM ballots cast by registered voters of their respective parties, Harris would have had to have won 100% of ABM ballots cast by unaffiliated voters to achieve these results, which would have been particularly strange since McCready won two-thirds of ABM ballots cast by unaffiliated voters elsewhere in CD-9. *See* Ex. 73 at 75, 77; *see also* Ex. 74 at 23-28, 24 t.7, 27 t.8.

73. Dr. Ansolabehere also demonstrated that the rates at which voters who requested absentee mail ballots in Bladen and Robeson counties did not return their absentee ballots are extreme statistical outliers compared to CD9 and the rest of the state. As a general matter, in North Carolina, people who request an absentee ballot are very likely to vote in that election, either by casting that absentee ballot, or by voting in person. Elsewhere in CD9, of voters who requested an absentee ballot, 10% did not vote at all. But in Bladen County, 337 voters requested an absentee ballot but did not vote at all (approximately 26% of people who requested

absentee ballots). In Robeson County, 832 voters requested an absentee ballot but did not vote at all (approximately 36% of people who requested absentee ballots). These were the two highest rates of nonvoting in both CD9 and the state as a whole. Ex. 73, at 63.

74. Both frequent voters and occasional voters in Bladen and Robeson had much higher non-return rates than similar voters elsewhere in the state. Elsewhere in CD 9, 9.7% of frequent voters (i.e. voters who voted in more than four of the last six elections) did not return their absentee ballots or otherwise vote. Elsewhere in CD 9, brand new voters who requested an absentee ballot are a little bit less likely to vote than experienced voters: about 14%. However, in Bladen and Robeson Counties in CD 9, 41.7% of frequent voters did not return their absentee ballots or otherwise vote. A similarly high proportion of new voters (48%) did not return their absentee ballots or otherwise vote. Ex. 73, at 67, 67 t.7.

75. Dr. Ansolabahere concluded: “This pattern squarely contradicts the notion that the results in Bladen and Robeson are the result of a high number of New Voters. Whatever happened in Bladen and Robeson counties affected the ability of New Voters, Occasional Voters, and Frequent Voters to cast absentee ballots by mail alike.” Ex. 73 at 68.

76. Dr. Herron similarly found that CD-9 “is anomalous in its absentee ballot return rates, and this is consistent with conjectures that there were absentee ballot abnormalities in the 9th Congressional District during the 2018 Midterm Election.” Ex. 74, at 37-39.

**E. Dowless's Operation was Extremely Well-Funded, and Dowless was Not Required to Make or Provide Records of His Expenses.**

77. In total, the Harris Campaign paid Red Dome \$525,088.95 between August 1, 2017 and November 26, 2018. *See* Ex. 142.

78. For the 2018 General Election from May 3, 2018 through November 26, 2018, the Harris Campaign paid Red Dome \$289,980.50. *See id.*

79. In total, Red Dome paid Dowless \$131,375.57 from July 3, 2017 through November 7, 2018. *Id.*

80. For the 2018 General Election from June 8, 2018 through November 7, 2018, Red Dome paid Dowless \$83,693.57. *Id.*

81. Yates estimated that about \$15,000 of the \$131,375.57 that was paid to Dowless by Red Dome would have been for other work Dowless was doing not related to the Mark Harris Campaign. Mark Harris claimed that he was surprised that his Campaign paid Dowless, through Red Dome, approximately \$115,000.<sup>14</sup>

82. Harris testified that when he met with Board investigators in December of 2018, he had estimated that his Campaign had paid Dowless “around sixty or seventy” thousand dollars for the full election cycle.<sup>15</sup>

83. Andy Yates testified that the Mark Harris Campaign still had outstanding invoices from Red Dome that were unpaid or partially unpaid, which

---

<sup>14</sup> Video: *State holds hearing on 9th District election (Day 4, Part 1)*, WRAL News (updated Feb. 21, 2019), <https://www.wral.com/news/state/nccapitol/video/18206232/> at -1:30:20.

<sup>15</sup> *Id.*

totaled approximately \$51,515.50. *see* Ex. 28 at 24 (Yates testified that \$11,000 was still owed on this partially paid invoice); *id.* at 27 (\$7,881.50); *id.* at 28 (\$32,634.00).

84. Among the Harris Campaign's other outstanding debts is \$25,000 "Victory Bonus" owed to On Message Inc. or "OMI." The Mark Harris Campaign contracted to pay OMI a "Victory Bonus" of \$25,000 "should Mark Harris be elected to the US House, with the payment made by April 15th, 2019."<sup>16</sup>

85. On Election Day, one affiant overheard someone say that Dowless had also been promised a victory bonus of \$40,000 from the Campaign if Mark Harris was elected. Ex. 116 (D. Sheppard Aff.).

86. John Harris testified that Dowless had offered his father, Mark Harris, the choice between "a gold plan, a bronze plan, and a silver plan," with the different plans being tethered to the amount of people that Dowless would be able to employ or put "on the ground."

87. Andy Yates, founder of Red Dome, testified that he and Red Dome "officially started with the campaign in the beginning of July," but that Dowless had already been hired at that time, and that Harris and Dowless had already agreed upon Dowless's fees.

88. Yates testified: "It was explained to me that all of the money that was going to Dowless was going to his employees. He hired people to put out and take up

---

<sup>16</sup> Ex. 50; *see also* Federal Election Commission, *Mark Harris for Congress, 2018 Year-End Report, Schedule D: Debts and Obligations*, <http://docquery.fec.gov/cgi-bin/forms/C00649236/1312294/sd/10> (last visited Feb. 27, 2019).

yard signs. He paid people to work at events, such as Beast of Bladen Festival, to be in parades. He paid workers to work the polls at early voting and on the primary and during the General Election [in Bladen, Robeson, and Cumberland counties]. We also reimbursed him for expenses such as rent, payments of utilities, internet, office supplies and paper copies. We also reimbursed him for payments for folks that did clerical work in his offices.” Yates explained that all payments made to Dowless were based on Dowless’s “oral representations” of his expenses, but “that the Harris Campaign was comfortable with that, and we took [Dowless’s] representations at face value.”

89. Yates admitted on cross-examination that he was “basically” just “playing paymaster” between Harris and Dowless, and that the financial arrangement between Harris and Dowless had already been prearranged prior to the time that Yates and Red Dome were hired.

90. Mark Harris testified that he was personally involved in setting “the overall budget for the Campaign . . . and in the process of that there was budget items that were set apart [for Dowless]. But . . . I did tell [Andy Yates] that you know, this is what [Dowless and I] talked about, this is what his fee is [per ABM request].”<sup>17</sup>

91. Harris claimed that he wanted Andy to “make sure all the boxes were checked” with regard to Dowless’s operation and that if “Andy [had] come back to

---

<sup>17</sup> Video: *State holds hearing on 9th District election (Day 4, Part 1)*, at -1:39:00.



me and said that . . . ‘[Dowless] is collecting ballots,’ then obviously Andy would have said, ‘we can’t do this,’ and obviously I would have said, ‘you’re absolutely right.’”<sup>18</sup> But Harris admitted that he never told Yates that John Harris had concerns that Dowless “might be” collecting ballots, though Harris did claim that he told Yates that Dowless “is the guy that Todd Johnson used to beat us in 2016, and we’ve just got to make sure that everything is above board.”

92. Harris testified that he did not know that Dowless was being paid based upon his oral representations only.<sup>19</sup> But Harris did admit that he had signed off on Dowless’s salary, in particular, and in establishing “the overall total budget,” including monies set aside specifically to fund Dowless’s operation.

93. Yates further testified that every single member of the Harris Campaign’s staff, except for Mark and Beth Harris, were independent contractors paid by the Harris Campaign through Red Dome. Yates explained that the Harris Campaign’s staff included: Jason Williams, the Campaign Manager; Conrad Pogorzelski, the Political Manager; Kelly Tain, the Financial Director; Jake Johnson, the Field Director; and Logan Mullins, Mark Harris’s body man. Yates added that the Harris Campaign also paid, through Red Dome, “[a] lot of mostly younger people who were contractors that were hired by Conrad [Pogorzelski] that were [working] mostly in Union and one other county.”

94. Yates testified that while Pogorzelski was running his own ABM

---

<sup>18</sup> *Id.* at -1:30:10.

<sup>19</sup> *Id.* at -1:34:05.

operation in the portions of CD-9 not covered by Dowless, that, unlike Dowless's workers, Pogorzelski's workers were paid by Red Dome directly, except for one instance where Red Dome reimbursed Pogorzelski.

95. Yates claimed that Dowless "never gave [him] an overall number of people he had working for him. I got the sense that some people worked for him for weeks or months and that some people only worked for a day or two. He never gave me an overall number of workers."

96. Nevertheless, Yates paid Dowless over \$131,000 throughout the 2018 election cycle, based on nothing more than Dowless's oral representations of his expenses.

97. Both Harris and Yates claimed under oath that they never bothered to do the math on whether Dowless's fees made any sense in light of the number of ABM request forms that Dowless claimed he was producing.

98. Between July 3, 2017 and November 7, 2018, Bladen County Sheriff Jim McVicker also paid Dowless \$5,000 for what is alleged have been get-out-the-vote activity. *See* Board's Preview of Evidence at slide 16.

99. Yates testified that "McVicker wanted Dowless to work for him through [Red Dome]," but that "the McVicker Campaign also contracted with Red Dome" for services related to phone services, robocalls, and ring-less voicemail. In total, McVicker paid Red Dome a total of \$8,000 in the 2018 election cycle.

100. Yates testified that Dowless was paid a flat fee of \$1,625 per month, and that all other monies that Red Dome paid to Dowless were for reimbursements

of Dowless's "oral representation[s]" of his expenses.

101. Yates testified that Harris was "not concerned about the amount we were spending on McCrae [during the 2018 election cycle]. We knew it was a labor-intensive process, and we know that it was going to be costly to engage him."

102. Yates testified, "I told Dallas Woodhouse," the Executive Director of the North Carolina Republican Party, that "we used McCrae [Dowless] in the Primary and [that Woodhouse] said he hoped we continue to use [Dowless] in the General Election and wanted to know if there was anything he could do to make Mr. Dowless's efforts more successful."

103. However, despite Woodhouse's encouragement to Yates that the Campaign continue to "use" Dowless, and his offer to help Dowless however he could, Woodhouse knew or should have known that Dowless had been implicated in absentee ballot fraud and had invoked the Fifth Amendment when asked about his own absentee ballot operation during the Board's hearing on Dowless's 2016 election protest. *See generally* Ex. 35. Indeed, Woodhouse appeared on an episode of This American Life where Dowless's protest was discussed, specifically.<sup>20</sup>

104. Yates claims he did not personally know about Dowless's incriminating statements on the record during the 2016 hearing before the Board, and he further

---

<sup>20</sup> *See* Ex. 36 ("Here's what tumbles of McCrae [Dowless] under the board's questioning. He had some people working for him, getting out the vote--volunteers, McCrae [Dowless] calls them. The volunteers, though, were allegedly getting paid [by Dowless] for each ballot they turned in. That's illegal."); *see also* Ex. 37 (audio excerpts of Woodhouse's statements during the This American Life episode).

claimed that he was “shock[ed]” that Woodhouse and other members of the State Republican Party knew and failed to warn him; Yates testified that Woodhouse and other leadership in the Party had “an obligation” to tell him what they knew. Instead, Yates says that he was encouraged to keep working with Dowless and offered support from Woodhouse personally and the Republican Party. According to Yates, had Woodhouse warned him, he would have confronted Harris and threatened to quit unless Dowless was fired from the Campaign.

**F. The Harris Campaign and Mark Harris Knew or Should Have Known That Dowless Was Engaging in Illegal Activities.**

105. Prior to hiring Dowless to work for his campaign, Mark Harris was aware of anomalous absentee mail ballot voting results in Bladen County in the 2016 Republican primary election.

106. Mark Harris admitted to the press that he hired Dowless *because of*, and not in spite of, Dowless’s anomalous success in the 2016 Republican Primary in Bladen County on behalf of Todd Johnson. *See* Ex. 38; Ex. 89.

107. Explosive evidence that the Mark Harris Committee inexplicably withheld from Board staff, despite being plainly responsive to the Board’s subpoenas of the Committee, only further establish that Mark Harris was explicitly warned by his own son that Dowless had engaged in fraud on behalf of Todd Johnson in 2016 and was, at minimum, unlawfully harvesting ballots.

***1. The Mark Harris for Congress Committee Withheld Records Responsive to the Board’s Subpoena Which Showed that Harris was on Notice of Dowless’s Illegal Conduct***

108. The Mark Harris for Congress Committee was subpoenaed by the

Board, and then re-subpoenaed by the newly appointed Board, to produce documents relating to the Committee's hire of Dowless and information that the Committee had in its possession or control with regard to Dowless's activities.

109. At least three email chains that confirm Mark Harris knew or was on notice that Dowless had likely engaged in illegal activity as part of his "get-out-the-vote" program on behalf of Todd Johnson in 2016 were inexplicably withheld from the Board by the Committee and, moreover, may never have come to light but for the voluntary production of those emails by John Harris, Mark Harris's own son, during John Harris's interviews with Board investigators as part of this investigation.

110. Indeed, on February 20, the Board's General Counsel advised the Board on the record, "We have been aware of those [email] documents that were never produced for quite some time, and it was only when it was confirmed that John Harris would take the stand, both the private attorney [David Freedman] and the Committee attorney [John Branch] tried to proffer them fifteen minutes before."

***2. Improperly Withheld Documents Make Clear that Mark Harris Was on Explicit Notice that Dowless Engaged in Illegal Ballot Harvesting***

111. In an email bearing the subject line "Anomalous Voting in Bladen County" sent to Mark Harris and Beth Harris on June 7, 2016, John Harris explained why the available data from the 2016 Republican Primary indicated that "absentee by mail votes look very strange." Ex. 53. John Harris's email pointed out to Mark Harris and Beth Harris three anomalies in Bladen absentee mail voting. First, Todd Johnson received a significantly disproportionate share of ABM votes in

comparison to Johnson's share of one-stop and election day votes. Second, Bladen County featured an unusually high number of ABM votes overall - approximately 22% of all ABM votes cast in CD-9, compared to only 2% of election day and one-stop votes cast in CD-9. Third, there were disproportionately large share of African American voters among Bladen County ABM voters relative to other counties. This was notable because, as John Harris testified, African Americans typically made up a small share of the vote in Republican primaries in North Carolina.

112. Even though John Harris's June 7, 2016 email to Mark Harris and Beth Harris was plainly responsive to the Board's subpoena to the Harris Committee, and even though the email was in the Committee's possession, the Committee only produced the email to the Board on the evening of February 20, 2019, the night before Harris was set to testify, and only after John Harris had testified about its contents. Indeed, the Harris Committee only informed the Board about the existence of the email 15 minutes before John Harris was scheduled to testify upon learning that the Board had certain documents from John Harris in its possession.

113. Another of the withheld emails establishes that, prior to hiring Dowless to work for his campaign, Mark Harris was aware that Dowless filed a protest before the Board related to alleged fraud and irregularities in Bladen County absentee mail ballots in the 2016 General Election, and that Dowless had been implicated in the same kinds of activities for which he had brought the protest. *See Ex. 54.*

114. In that email, Mark Harris responded to a forwarded email sent by John Harris dated November 15, 2016 bearing the subject line “URGENT: Democrat Voting Fraud Scheme Uncovered.” The forwarded email, sent by the McCrory for Governor campaign, stated that “A massive voting fraud scheme has been uncovered in Bladen County. Hundreds of absentee ballots appear to have been fraudulently cast for Roy Cooper and other Democrats. Initial evidence shows that a North Carolina Democrat Party-funded group may have paid people to cast fraudulent votes to tip this election to Roy Cooper.” The email did not mention Dowless, the person who initiated the protest. Ex. 54.

115. Mark Harris’s email stated that “[i]nterestingly enough, the guy who made the claim, Dowess, [sic] is the same guy that Johnson paid to run the ‘absentee ballot program’ for him! Guess he didn’t like the Dems cutting into his business! Or as Mon [sic] said, you can [sic] shoot bull to a bull shooter!” Ex. 54.

116. Mark Harris’s November 15, 2016 email to John Harris regarding Dowless did not mention that Marion Warren had informed Mark Harris in June of 2016 that “[Dowless] did things right, and that he knew election law as better -- better than just about anybody he knew of.”

117. John Harris testified that he understood Mark Harris’s November 15, 2016 email to be saying that the allegations of “Dems cutting into the business” would be the business of absentee ballot activities, and potentially nefarious ones, and that Dowless knew what was going on with whatever the Democrats were doing because Dowless was doing the same type of thing.

118. Even though Mark Harris's November 15, 2016 email exchange with John Harris was plainly responsive to the Board's subpoena to the Harris Committee, and even though the email was in the Committee's possession, the Committee only produced the email to the Board in the evening of February 20, 2019, the night before Mark Harris was set to testify, and only after John Harris had testified about its contents. The Harris Committee only informed the Board about the existence of the email 15 minutes before John Harris was scheduled to testify upon learning that the Board had certain documents from John Harris in its possession.

119. On April 7, 2017, the day after Mark Harris first met Dowless at Ray Britt's furniture store in Bladen County, John Harris, Mark Harris and Beth Harris exchanged a series of emails following up on the April 7, 2017 phone call between the three regarding Dowless. In those emails, John Harris specifically informed Mark Harris and Beth Harris that he was "fairly certain that they do that is illegal is that they collect the completed absentee ballots and mail them in all at once." John Harris provided the text of and citation to the relevant North Carolina law that makes such practice illegal. Ex. 55. John Harris's "fairly certain" conclusion was based, at least in part, on evidence in public voting data showing that ballots had "pop[ped] up in batches at the [Bladen] board of elections office," leading John Harris to believe that Dowless and his affiliates had been mailing stacks of ballots at a time.

120. In the April 7, 2017 emails to Mark Harris and Beth Harris, John



Harris further stated that had Dowless's absentee ballot program benefitted Robert Pittenger rather than Todd Johnson in the 2016 Republican Primary, he "would have strongly advocated going to the press with the analysis of the numbers (22% of absentee ballots versus 2% of other ballots) as well as investigated some of the voters personally to decide whether to refer the case to the DA. So I think you should be prepared for the same." Ex. 55.

121. Even though the April 7, 2017 email exchange between Mark, Beth, and John Harris was plainly responsive to the Board's subpoena to the Harris Committee, and even though the email was in the Committee's possession, the Committee only produced the email to the Board in the evening of February 20, 2019, the night before Mark Harris was set to testify, and only after John Harris had testified about its contents. The Harris Committee only informed the Board about the existence of the email 15 minutes before John Harris was scheduled to testify upon learning that the Board had certain documents from John Harris in its possession.

122. Mark Harris testified that he personally reviewed the email correspondence between John Harris and Mark Harris set forth in Exhibits 53, 54, and 55 in December 2018, when he discussed those emails with his counsel.

***2. Mark Harris, Believing the Emails Would Not Be Disclosed, Made Repeated False Statements to the Press Claiming Ignorance of any Indication of Dowless's Illegal Conduct***

123. In an interview conducted after the Board had declined to certify the CD-9 election, Mark Harris stated that "Johnson beat me significantly in that

county, and with absentee ballots. And I remember looking at that and going, ‘Wow, that's unusual.’” Ex. 38, Tr. 2:15-18.

124. In an interview conducted after the Board had declined to certify the CD-09 election, Mark Harris stated that “I asked my attorney that was helping us in that process, is there an outlier here? Because it was pretty substantial. I mean, there were 226 absentee ballots, and Todd Johnson had gotten 221.” Ex. 89, at Tr. 11:14-17.

125. In an interview conducted after the Board had declined to certify the CD-9 election, Mark Harris stated that his attorney told him that there was “no sign or any sense that there’s been any wrongdoing here.” Ex. 89, at Tr. 12:3-4. However, John Harris testified that based on his analysis of data in the 2016 Republican Primary Election set forth in his June 7, 2016 email to Mark Harris and Beth Harris, he reached the conclusion that someone working for the Johnson campaign was illegally collecting absentee mail ballots, and informed Mark Harris and Beth Harris of the same.

126. Despite John Harris’s specific and repeated warnings to Mark Harris that Dowless’s absentee ballot program involved illegal activities, Mark Harris falsely and misleadingly stated that he had no indication that Dowless might have been doing something illegal until after the Board declined to certify the CD-9 election. For example, in a December 14, 2018 interview, in response to a reporter’s question “At any time did you have any indication that McCrae Dowless was doing something that might be illegal,” Harris responded “No, absolutely not.” Ex. 145.

Similarly, in a January 8, 2019 interview regarding Dowless's program, Harris stated "if you'll go back to the program, and when I was, as you said, sold on this program, that he was going to do, which, again, had been verified as legal and was following the letter of the law, and it was relationships, nobody else was focusing on that. So why would I expect that success was a bad thing?" Ex. 147.

127. Despite John Harris's specific and repeated warnings to Mark Harris that Dowless's absentee ballot program involved illegal activities, Mark Harris falsely and misleadingly stated that the Board's decision to decline to certify the CD-9 election based on Dowless's conduct was politically motivated. For example, in a December 28, 2018 interview, Mark Harris stated "Did [the Board] decide they would sit on this and they would wait, and they would see and that somehow, if \$11 million and Dan McCready couldn't beat Mark Harris, this would be an insurance policy that they would play to get a do-over? I would hate to think that we had an agency in our state government that would operate with that kind of sinister leadership, but I'm telling you, the facts are the facts." Ex. 89, at Tr. 20:6-9.

128. Similarly, in a January 3, 2019 interview, Mark Harris stated "I will let my reputation stand over the last 30 years and believe that people are wise enough to see through the political weaponization of a state agency that can sometimes happen when it falls into the wrong hands." Ex. 127.

129. Mark Harris made these false and misleading public statements despite knowing that John Harris's specifically and repeatedly warned Mark Harris that Dowless's absentee ballot program involved illegal activities, and despite

reviewing the email correspondence between John Harris and Mark Harris on or around the same time that he made such statements.

**3. *The Harris Committee Improperly Withheld Other Responsive Documents Until After John Harris Testified, and Made False Assurances to Board Staff Regarding its Compliance with Board Subpoenas.***

130. On the morning of February 21, the day that Mark Harris was set to testify, General Counsel for the Board advised that:

Late last night, just before nine, the State Board received a supplemental production from the Committee. This is the Mark Harris for Congress Committee which was subpoenaed in December first and then re-subpoenaed with the exact same scope and parameters under your signature, Mr. Chair, once we had a new Board and panel, just as a clean-up. Back and forth throughout a series of week we had pushed back against a legal theory that outer bound on time for production was in July of 2017, because that's when organizational filings with the FEC quote unquote created the Committee, under one theory. WE pushed back citing certain CFRs and campaign advisories citing that once the exploratory committee had occurred, if it resulted in the formation of a committee, that there would be records that predated the creation of that committee that may be responsive. Secondly, the compulsory requirements of the subpoena attached to whether the committee was in possession of certain records, not whether it legally authored or was some type of custodian of those records --but whether they had possessed them. And so, we had expected production to be complete, and we had received assurances that production was in fact complete. Last night in an email, we understand the Committee to have now supplemented again, indicating that their prior representations that production was complete were based on a mistaken understanding that our letters pushing back on their legal theory somehow constituted a[n] amendment of our original subpoena. So, I think it's relevant to the Board to be able to consider all of the back and forth, which you have not all had, because these have been a back and forth just between lawyers, and I want to make sure that it's part of

your record in this case.<sup>21</sup>

Included in the Harris Committee's untimely production was a plainly responsive March 2017 text message between Mark Harris and Judge Marion Warren. It was not made public what other documents the Mark Harris Committee may have untimely produced to the Board at that time.

131. The untimely production shows that, on March 8, 2017, Mark Harris sent a text message to Judge Warren. The text message asked Mr. Warren to connect Mark Harris to "the 'key people' that can help me carry that part of the county in a future US House NC-9 race[.]" It stated "You know the political and financial connections better than anyone else I would know, including the guy whose absentee ballot project for Johnson could have put me in the US House this term, had I known, and he had been helping us." Ex. 61.

132. Even though Mark Harris's March 8, 2017 text message to Judge Warren was plainly responsive to the Board's subpoena to the Harris Committee, and even though the text message was in in the Committee's possession, the Committee only produced the text message to the Board on the evening of February 20, 2019, the night before Harris was set to testify. Apparently believing that the text message would be helpful to Harris considering John Harris's testimony from the prior day, Mark Harris sought to use his untimely-produced communications with Judge Warren in an attempt to reassert his ignorance of Dowless's scheme.

---

<sup>21</sup> Video: *State holds hearing on 9th District election (Day 4, Part 1)*, at -3:35:35 to -3:33:30; *see also* Ex. 56.

133. Mark Harris was clearly aware of his communications with Judge Warren before the eve of his testimony; indeed, he discussed the communications specifically in interviews with the press.

134. In an interview conducted after the Board had declined to certify the CD-9 election, Mark Harris stated that he learned that Dowless conducted Johnson's absentee mail ballot program in Bladen County about two weeks after the June 6, 2016 Republican primary election from a mutual acquaintance, Judge Warren. Harris stated that according to Judge Warren, "McCrae was a guy from Bladen County. He was a good old boy that knew Bladen County politics, that he, you know, did things right, and that he knew election law as better -- better than just about anybody he knew of." Ex. 38, Tr. 3:7-3:11.

135. Harris testified that Judge Warren told him, "Todd Johnson didn't beat you, he said McCrae Dowless and his get-out-the-vote program did. And he said, if you ever think about running for office again, [for an office] that would include Bladen County, he said that I would encourage you to let me know and I will be personally willing to take you down there and introduce you to some of the key players in Bladen County at that time."<sup>22</sup>

136. Although Mark Harris knew in November 2016 that Dowless "is the same guy that Johnson paid to run the 'absentee ballot program' for him," Ex. 54, Harris's March 8, 2017 text message concerning "the guy whose absentee ballot

---

<sup>22</sup> Video: *State holds hearing on 9th District election (Day 4, Part 1)*, at -2:28:02.

project for Johnson” did not identify Dowless by name. Ex. 61.

**3. *Mark and John Harris Discussed Concerns Over Dowless’s Operation the Day After Mark Harris First Met with Dowless, and Mark Harris Hired Dowless Anyway.***

137. On April 6, 2017, Mark Harris met with Dowless at Ray Britt’s furniture store in Bladen County and discussed Dowless’s absentee ballot program.

138. At the time of the April 6, 2017 meeting between Mark Harris and Dowless, Mark Harris was aware that Dowless had been instrumental in Todd Johnson receiving the most ABM by mail ballots in Bladen County during the 2016 Republican Primary.<sup>23</sup>

139. And Mark Harris admitted that he had considered filing a protest with regard to Dowless’s activity in the 2016 Republican Primary “because of some things that didn’t look quite right with [Johnson’s] numbers,” but Harris testified that he did not recall asking Dowless about those anomalies during the meeting or whether what Dowless was proposing was “the same program [Dowless] had used with Todd Johnson.”<sup>24</sup>

140. On April 7, 2017, Mark Harris and Beth Harris spoke with John Harris over the telephone about Dowless’s absentee ballot program, at which time John Harris reiterated his concerns about Dowless to Mark Harris, including that Dowless had engaged in collecting ballots in 2016 and John Harris’s general sense that Dowless was “kind of a shady character.” John Harris also specifically

---

<sup>23</sup> *Id.* at -2:17:30.

<sup>24</sup> *Id.*

reminded Mark Harris about the analysis that John Harris had set forth in his June 7, 2016 email regarding absentee ballot results for Johnson in Bladen County in 2016, including that ballots had popped up in “batches,” strongly suggesting that Dowless and his affiliates were collecting bundles of ballots and mailing them en masse.

141. John Harris testified that despite what Dowless told Mark Harris about never touching ballots, John Harris did not believe Dowless because the numbers didn’t add up and related the same to Mark Harris during the April 7, 2017 phone call.

142. Mark Harris testified that he disregarded the repeated concerns of his son, who he had conferred with about the legality of Dowless’s program, “based on individuals that I had met with that day [meaning April 6] and the roles that they would play.”<sup>25</sup> Those individuals that Mark Harris had just met at that time were Ray Britt, Pat Melvin, and Walter McDuffie.

143. Prior to hiring Dowless to work for his campaign, Mark Harris was aware that Dowless had a prior criminal conviction for conduct reflecting a lack of truthfulness. Indeed, Walter McDuffie told reporters that he personally warned the Harris Campaign about Dowless’s criminal record involving dishonest acts and false statements. *See Ex. 95* at 3-4. And during the April 7, 2017 phone call, Mark Harris informed John Harris that Dowless had some sort of prior criminal conviction.

---

<sup>25</sup> Video: *State holds hearing on 9th District election (Day 4, Part 1)*, at -2:02:33.



According to John Harris, the conviction was not common and related to Dowless's truthfulness. John Harris testified that Dowless's criminal conviction worried him.

144. Harris testified that part of his decision making process to hire Dowless was to "think it through, to pray about it," and "to just make sure, as I did in talking to John, that that everything was within the structure of the law and that it was something that we would be . . . able to proceed [with]."<sup>26</sup> But Harris did not listen to his son, nor did he take heed of his son's warning that Dowless's operation was almost certainly *not* "within the structure of the law."

145. Mark Harris further testified that he did not do any due diligence in response. Specifically, Harris admitted that he did not discuss his concerns that Dowless was violating the law with the other individuals present at the April 6 meeting, or with Sheriff McVicker who was unable to attend the meeting but called afterwards, or with Todd Johnson who had hired Dowless in the past.<sup>27</sup> Harris claimed, "in the meeting, McCrae had been so clear, I didn't think it necessary to call those same men back and say, 'do you have any knowledge or understanding that he's collecting ballots? So no, . . . I did not [ask any of them about whether Dowless was collecting ballots]."<sup>28</sup>

146. Mark Harris testified that during his April 6, 2017 meeting with Dowless, he and Dowless discussed a payment structure by which Dowless's

---

<sup>26</sup> *Id.* at -2:01:30.

<sup>27</sup> *Id.* at -1:58:00.

<sup>28</sup> *Id.* at -1:58:15.

workers would be paid for each absentee ballot request collected. John Harris testified that during the April 7, 2017 phone call, Mark Harris did not tell John Harris that Dowless would be paid per ballot request. John Harris testified that if he had known about that payment structure, it would have raised further red flags regarding Dowless's activities.

147. John Harris testified that during the April 7, 2017 phone call, Mark Harris and Beth Harris had already made up their minds to hire Dowless, notwithstanding the specific concerns raised by John Harris regarding Dowless's illegal activities.

148. On April 7, 2017, John, Mark and Beth Harris exchanged the series of emails in response to the April 7, 2017 phone call regarding Dowless. In those emails, John Harris specifically informed Mark Harris and Beth Harris that he was "fairly certain that they do that is illegal is that they collect the completed absentee ballots and mail them in all at once." John Harris provided the text of and citation to the relevant North Carolina law that makes such practice illegal. Ex. 55.

149. In the April 7, 2017 emails to Mark Harris and Beth Harris, John Harris stated that had Dowless's absentee ballot program benefitted Robert Pittenger rather than Todd Johnson in the 2016 Republican Primary, he "would have strongly advocated going to the press with the analysis of the numbers (22% of absentee ballots versus 2% of other ballots) as well as investigated some of the voters personally to decide whether to refer the case to the DA. So I think you should be prepared for the same." Ex. 55.

150. Nevertheless, and despite his awareness that Dowless had likely engaged in fraud in 2016 on behalf of Todd Johnson per his own son's explicit warnings and analysis of public voting data, Mark Harris made the decision to hire Dowless.

151. Mark Harris testified, in attempting to explain why he disregarded the repeated warnings from his son, which he and his Committee inexplicably failed to disclose in response to Board subpoenas, that, "My 27-year-old son" is "a little judgmental and has a little taste of arrogance and some other things. And I'm very proud of him and love him with all my heart."

152. Mark Harris made the decision to hire Dowless prior to making the decision to hire Andy Yates.

**5. *Mark Harris's Very First Payments to Dowless Were in Clear Violation of Campaign Finance Law***

153. When Mark Harris engaged Dowless on April 20, 2017, Mark Harris wrote a check for \$450.00 as a deposit on Dowless's service, from his personal checking account, payable to Patriots for Progress PAC. Harris testified that Dowless said, "that is a PAC that we'll use . . . and that's how . . . you know, I will be retained."<sup>29</sup> On May 4, 2017, Mark Harris gave Dowless a second check for \$2,890.00, drawn on Harris's personal checking account, and also made payable to

---

<sup>29</sup> Video: *State holds hearing on 9th District election (Day 4, Part 1)*, at -1:50:15; *id.* at -34:40 (explaining that these were personal checks that were never provided to the Campaign treasurer and that Harris never sought reimbursement of his personal payment from the Campaign); *see also* Ex. 60 (April 20, and May 4, 2017 checks from Harris's personal checking account to Patriots for Progress PAC).

Patriots for Progress PAC. *See* Ex. 60. “That [second] check was to be able to engage him for all three counties, and . . . for the start-up costs . . . if he were to start getting workers lined up. . . really to retain him and get an office lined up and to get those kind of things that he was going to need to get going.”

154. Harris testified that Dowless told him Patriots for Progress “was an independent expenditure PAC and that they had used that for part of their get out the vote efforts there, and that would be who I would make the checks out to.”<sup>30</sup>

155. Board Executive Director, Kim Strach asked Harris on the record whether he was aware that it is illegal for an “independent expenditure PAC” to work directly with a campaign, to which Harris responded, fairly unbelievably as a third-time candidate in a federal election, that he was not.

156. Strach also noted that Patriots for Progress PAC was otherwise a defunct entity that “was out of compliance and really not in a position to be taking checks,” for having failed to file any federally-mandated finance reports in years.<sup>31</sup>

157. Harris further admitted that he never provided copies or other records of his two checks to Patriots for Progress PAC the Campaign’s Treasure, Robert D. Lyerly, Jr., and that the checks were therefore never reported on any campaign finance reports.

158. Harris claimed that he failed to disclose these payments because he paid from his personal checking account and never sought “reimbursement” from

---

<sup>30</sup> Video: *State holds hearing on 9th District election (Day 1, Part 1)*, at -1:48:10.

<sup>31</sup> Video: *State holds hearing on 9th District election (Day 4, Part 1)*, at -1:47:20.

the Campaign. However, federal law requires candidates to disclose payments to vendors from personal funds if those payments are for activities to advocate for the candidate's election, which these payments were.

**6. *John Harris Also Raised His Concerns Regarding Dowless with Andy Yates***

159. John Harris testified that he spoke with Andy Yates about general concerns that John Harris had about Mark Harris's decision to hire Dowless, including that Dowless was a "shady character". John Harris testified that he did not describe his concerns with Dowless to Yates in as stark of terms as he had described his concerns about Dowless to Mark Harris.

160. John Harris testified that the Harris Campaign hired Dowless as an independent contractor through Red Dome in order to have an extra layer of political separation from the campaign as a reaction to the concerns that John Harris expressed to Mark Harris and Yates regarding Dowless's illegal activities.

161. John Harris testified that the results of the 2018 Republican Primary Election in Bladen County were highly suspicious and had the same problems as the 2016 Republican Primary results. John Harris testified that because he had previously expressed his concerns about Dowless's conduct to Mark Harris, Beth Harris, and Yates, that Yates and other Campaign staff were monitoring Dowless during the 2018 Republican Primary and ensuring that Dowless was complying with the law.

**4. *Mark Harris Made False Statements Under Oath, which he Later Recanted When He Personally Called for a New Election***

162. When Mark Harris was questioned by Board staff regarding the withholding of the three emails involving John Harris, Mark Harris testified that he was warned that John Harris would testify the evening before he did, on February 19: “I found out at 11 o’clock the night before when, my younger son, I was just talking to him in the evening, and I mentioned in passing to him . . . ‘In the room that we’re in, I’ve seen your brother walking down the sidewalk each morning, and I guess he’s been coming in somewhere and maybe there’s a lawyers’ room in the state bar that he’s been in. Um, but we haven’t been able to see him or say anything to him. But I have observed him.’ And I did; I observed him twice coming down here.” Mark Harris said that his son then paused for a moment before telling him, “I don’t know if I should tell you, but I don’t want you to be shocked . . . John has been subpoenaed by the state board and will be testifying in this . . . hearing.”<sup>32</sup>

163. Harris claimed that this conversation with his younger son on February 19 “was the first I had ever heard that [John Harris] was going to be here. I didn’t know when, I didn’t know what, but it was the night before [John] testified at eleven o’clock.”<sup>33</sup>

164. When Chairman Cordle asked Mark Harris, “Did you know at that time, whether the emails between you and John had not been produced?” Harris testified, “I did not. It was my understanding . . . we talked about those emails

---

<sup>32</sup> Video: *State holds hearing on 9th District election (Day 1, Part 1)*, at -23:25.

<sup>33</sup> *Id.*

earlier, and uh, myself and Mr. Freedman had spoken of those emails [specifically] back in December, and it was my understanding that the documents were all going to be produced.”<sup>34</sup>

165. Board General Counsel asked Mark Harris, specifically, whether, during his conversation with his younger son, Mark Harris was aware that the emails with his John had not been produced to the Board, which Mark Harris denied. Mark Harris then testified that he believed the emails had been turned over by the Committee, that “they were going to be part of the document delivery” in response to the subpoena. He added later, “again [the emails were] just part of everything and there was no need for it not to be submitted.”<sup>35</sup>

166. General Counsel to the Board then asked, explicitly, whether Mark Harris had “told anyone throughout the past week that you believed that those documents were not part of the evidence in this case?”<sup>36</sup> Mark Harris testified in response, “I don’t recall specifically saying that. Um, I’m not denying saying that I could have said that, but just this week, I don’t recall.”

167. General Counsel concluded: “Again, I just want to give you one more chance, did you tell anyone that the emails would not be involved in this case?” To which Mark Harris responded, “I do not recall, but I am certainly open to having my recollection refreshed.”

---

<sup>34</sup> *Id.* at -22:05.

<sup>35</sup> *Id.* at -15:01.

<sup>36</sup> *Id.* at -14:00.

168. Under cross examination, McCready's counsel asked Mark Harris, following up on the question from the Board's General Counsel, "You understand that you're under oath. When you say you do not specifically remember, do you generally remember?" To which Mark Harris responded, "I do not remember that I made a statement that the emails that John and I communicated with would not be a part of this. I just don't specifically recall."

169. McCready's Counsel asked, "Is this something you would have forgotten?" To which Mark Harris testified, "I had no reason to hide this email, in fact it was my understanding that it was going to be produced."

170. Almost immediately thereafter, Harris's Counsel stood up, interrupted cross examination, and requested a recess.

171. Well over an hour later, when Mark Harris returned to the stand, he made a statement making clear that he had perjured himself when he testified that he had not told anyone that his emails with his son John Harris would not have been produced. Mark Harris admitted that he had in fact told his younger son that it made no sense that John would be there, considering that the specific emails had not been produced and would not be before the Board. Mark Harris claimed that his illness had affected his memory and thereby suggested that his *repeated* misrepresentations were not willfully untrue. Mark Harris then called for a new election. Mark Harris did not state what medications, if any, he was using that could be responsible for memory loss and did not provide a list of medications he was using or any documentation of their side effects.



**G. Dowless Engaged in Efforts to Obstruct the Board’s Investigation and Tamper with Witnesses.**

172. Besides apparent failures by the Harris Campaign to properly respond to the Board’s subpoenas and cooperate with Board investigators, the record reveals that other efforts were made to obstruct the Board’s investigation and the testimony to be provided at the hearing. *See* Board’s Preview of Evidence at slide 17.

173. For example, Lisa Britt testified that Dowless blindsided her with a videotaped interview with WBTV reporter Nick Ochsner, which was first aired on or around December 12, 2018.<sup>37</sup> Britt claimed that when she arrived at Dowless’s house after work one afternoon, Dowless told her that a “friend of his that he had spoke[n] with a few times” was coming to take a videotaped statement from Britt regarding the allegations that Dowless and his workers had been collecting ballots. Britt testified that what she said in that interview with Ochsner was not truthful, and it was revealed during the hearing that Britt had previously provided contradictory statements to Board Investigator, Joan Flemming, by the time the interview was filmed.

174. Lisa Britt further testified that on or around February 14, 2019, just one week before the hearing, Dowless had texted her a picture of a slip of paper

---

<sup>37</sup> *See* Nick Ochsner, *‘I haven’t committed any crimes.’ Woman at center of voter fraud allegations breaks her silence*, WBTV (Dec. 12, 2018), <http://www.wbvtv.com/2018/12/13/i-havent-committed-any-crimes-woman-center-voter-fraud-allegations-breaks-her-silence/> (played by Board staff during the testimony of Lisa Britt); *see also* Video: *State holds hearing on 9th District election (Day 1, Part 1)*, at -1:48:47 (excerpts from the video of Britt’s interview with Ochsner played into the record).

coaching her on how she should testify at the hearing. That text message, which was moved into evidence, reads: “I can tell you that I haven’t done anything wrong in the election and McCrae Dowless has never told me to do anything wrong, and to my knowledge he has never done anything wrong, but I am taking the 5th Amendment because I don’t have an attorney and I feel like you will try to trip me up. I am taking the 5th.” Ex. 7.

175. Britt testified that there was also a meeting at Dowless’s house sometime after reports began circulating that Dowless was involved in the ABM irregularities in CD-9, and after the Board declined to certify the results of the CD-9 race, during which Dowless told a group of his workers, including Britt, that, “as long as we stick together, we will be fine.”

#### **H. Early Voting and ABM Totals Out of Bladen County Were Improperly Disclosed.**

176. It is undisputed that early voting results were improperly and unlawfully tabulated on November 3, 2018, and that early voting personnel had access to those results. *See* Ex. 18 (the “tape”); Ex. 19 (listing elections staff present at the one-stop early voting location on November 3, 2018)

177. Michele Maultsby, the chief election judge working at the early voting location on November 3, 2018, testified that when she arrived at the Bladen County Board of Elections Office on the afternoon of November 3, 2018 to deliver the early voting memory card and “tape” to Cynthia Shaw, Shaw accused Maultsby of having leaked the early voting results from the tape. According to Maultsby, “Shaw wanted to know who told” non-elections officials what the early voting results were,

Maultsby denied that the results had been leaked, telling Shaw, “not on my watch, uh-uh.”

178. Maultsby’s testimony made clear that, not only had early voting results already been leaked by the time Maultsby delivered the tape, but also that Shaw was already aware that the results had been leaked. Accordingly, Maultsby testified that Shaw was not asking her *whether* results had been leaked, but rather, *who* had leaked the early voting results. Maultsby testified that she responded, “Like I said, I don’t know anything about that.”

179. Maultsby explained that Shaw did not indicate which race or races’ results had been leaked, or to whom they had been leaked, and instead that “[Shaw] just fired me up about what we were supposed to do and then she went back in the office.”

180. Maultsby further testified that, when she opened the early voting location for the day on November 3, 2018, two other early voting workers had asked Kristie Lennon and Tojia King “how we were doing?”. *See* Ex. 19 (listing name, race, assigned task, and assigned shift of all election workers alleged to have been present on November 3, 2018).

181. Bladen County Board of Elections records are likely incorrect with regard to who may have had access to or saw the tape. For example, one person on the list of election workers who had reportedly been working on November 3, 2018, Sakeeta Washington, could not be identified by either Maultsby, Willis, or Edwards. *See* Ex. 19. This is particularly unusual, because, as Maultsby testified, everyone

knows one another in Bladen County, where Maultsby noted most people “are related.”

182. Up until around the time that they testified, Edwards, Maultsby, and Willis were unaware that it is unlawful to tabulate early voting results before the close of polls on election day, stating that they had been incorrectly trained to always tabulate results at the end of early voting.

183. Agnes Willis, who has worked as an election official for over a decade, testified that Edwards was typically responsible for running the “tape,” and that she believes that he ran the tape of early voting results on November 3, 2018. Willis further testified that, at some point after the tape had been run, she heard someone exclaim, “Oh my god.” Willis then turned around to see what was going on and saw “Tojje King, [whose] real name is Neal [with the tape]. He was saying ‘oh my god,’ because he was looking at the tape. He was the only one looking at the tape at that present time. [Willis then] walked over and looked at [the tape] too, and [saw that Tojje] had his finger on the Sheriff’s race.” Willis testified that she “was just amazed that he was looking at the Sheriff’s race, and when [she] walked up, [Tojje] said, ‘I thought this Black guy had this,’” in reference to African American sheriff’s candidate Hakeem Brown.

184. Willis explained that “[t]he other people [working that day also] looked at [the tape]. The only person that I can attest for sure that did not look at it was Michele Maultsby, and she didn’t look because she was multitasking to make sure that everything was done.”

185. When Willis was standing beside Tojje, she observed that the tape was extended out about 12 to 18 inches, flat on a table.

186. The Sheriff's race results were smack dab in the middle of the tape.

187. Willis testified that she did not report what she had seen to Cynthia Shaw or any other elections officials, but "I can say that I spoke to my daughter that day, because I felt some kind of way. [My daughter] lives near Chapel Hill. I felt compelled to ask her. I don't feel right because something happened that wasn't right. I told [my daughter] that the tape was pulled, and I don't think that anyone should have been privy to those numbers before election day."

188. The evidence shows that in past elections, ABM vote totals were also leaked and provided by Dowless to the Harris Campaign directly. On May 6, 2018, two days before the 2018 Republican primary, Beth Harris texted her son John Harris: "Cumberland has a 3 way GOP sheriff primary. Pitt has worked hard there and we have not. *We had some GOTV in Cumberland via McCrae but not as successful. He says we have 988 of the votes in Bladen.*" Ex. 71 (emphasis added).

189. The actual number of one-stop absentee or early votes, plus the number of ABM votes that Harris received in the 2018 Republican Primary in Bladen County was 889. Ex. 31. Accordingly, Beth Harris's May 6th text message containing what ended up being a very close estimate of the actual absentee votes cast for Harris strongly suggests that Dowless did have access to inside information about *actual* ABM and early vote numbers in the primary.

190. John Harris did not mention at any point in his testimony that Beth

Harris had texted him ABM and early vote totals two days before the 2018 Republican Primary that she had obtained from Dowless. *See Ex. 71.*

191. In addition, witness Sandra Dowless, who lived with Dowless in the fall of 2018, testified that she overheard a phone call between Mark Harris and McCrae Dowless, during which McCrae Dowless told Harris, “I want you to know you’re way in the lead and things are looking good.”

**I. Board Investigators Uncovered an Abysmal Lack of Security at the Bladen County Board of Elections Office.**

192. The Bladen County Board of Elections shares an office with the Bladen County Veterans Affairs Administration. *Ex. 65.*

193. The floorplan of the Bladen County Board of Elections Office shows that the room where ballots are stored is directly across a common hallway from the Veteran’s Affairs Office, which is within the Board of Elections Office. *See Ex. 65.*

194. A photo taken by Board investigators shows that the key to the ballot room, which is labeled with a keychain marked “Ballot Rm,” is hung on a wall in a publicly accessible area of the Board of Elections Office. *Ex. 63.*

195. Another picture of those same keys, sent to Board investigators via text message on November 6, 2018 by an undisclosed informant, shows the keys still hung on the wall with the message “Same spot they have always been.” *Ex. 64.*

196. Another photograph shows the ballot room left open, with the keys to the room left unattended in the door. *Ex. 66.*

197. The United States Department of Homeland Security conducted a review of the physical security at the Bladen County Board of Elections office in

2018, finding that the Bladen Board of Elections Office is lax with respect to storage of ABM ballots, flagging access to sensitive voting materials by non-elections personnel, an inoperative interior camera system, and the absence of cameras or an alarm system in ballot storage areas. *See* Ex. 67 at 15; *see also* Ex. 118 (J. Lutz Aff.).

198. In response, the Bladen County Board of Elections sought to update security by resolution passed on June 12, 2018, but the Board's request for funding was denied by the Bladen County Commission and no updates were made. *See* Ex. 68.

199. Board investigators found that: (1) a labeled key to the room where ballots were stored was hung in plain sight on a wall in a common space of the Bladen County Board of Elections Office; (2) non-elections personnel had access to the building; and (3) the recommendations from the Department of Homeland Security were not implemented prior to the 2018 General Election. *See* Board's Preview of Evidence at slide 21.

### **III. CONCLUSIONS OF LAW**

200. The Board has the express authority to "take any . . . action necessary to assure that an election is determined without taint of fraud or corruption and without irregularities that may have changed the result of an election." G.S. § 163A-1180.

201. That authority includes the power to order a new election when: (1) ineligible voters sufficient in number to change the outcome of the election were allowed to vote in the election, and it is not possible from examination of the official

ballots to determine how those ineligible voters voted and to correct the totals; (2) eligible voters sufficient in number to change the outcome of the election were improperly prevented from voting; (3) other irregularities affected a sufficient number of votes to change the outcome of the election; *or* (4) irregularities or improprieties occurred to such an extent that they taint the results of the entire election and cast doubt on its fairness. G.S. § 163A-1181(a) (emphasis added).

202. A well-funded ABM ballot fraud scheme, undertaken by Dowless and his workers, on behalf of Mark Harris and Jim McVicker, more than likely affected the outcome of the 2018 election in CD-9 and undeniably tainted the results of the entire election and cast doubt on its fairness.

203. The irregularities and improprieties here were in violation of a multitude of North Carolina's election laws and, in many instances, amounted to felonies or misdemeanors. For example:

- a. Dowless and his workers violated State election law by marking or voting ballots on behalf of voters who were not present. A ballot may only be marked by the voter, or a qualified assistant following the voter's instructions while in the presence of the voter. G.S. § 163A-1310(a)(1).
- b. Dowless and his workers violated State election law by submitting fraudulent ballots and forged ABM request forms. "Any person attempting to aid and abet fraud in connection with any absentee vote cast or to be cast, under the provisions of this Part, shall be guilty of a



misdemeanor. Attempting to vote by fraudulently signing the name of a regularly qualified voter is a Class I felony.” G.S. § 163A-1317(d).

- c. Dowless and his workers violated State election law by falsely signing as witnesses on ABM container envelopes outside the presence of the voter. An absentee ballot container envelope must be signed by the voter and either: (1) two witnesses over the age of 18, who are not disqualified from signing; or (2) a notary public. G.S. § 163A-1310(a). Either the witnesses or the notary public must have observed the voter mark his or her ballot, while “at all times respect[ing] the secrecy of the ballot and the privacy of the absentee voter, unless the voter requests assistance and that person is otherwise authorized by law to give assistance.” *Id.*
- d. Dowless and his workers violated State election law by improperly assisting voters in marking their ballots. It is a Class I felony “[f]or any person except the voter's near relative or the voter's verifiable legal guardian to assist the voter to vote an absentee ballot when the voter is voting an absentee ballot other than under the procedure described in G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304; provided that if there is not a near relative or legal guardian available to assist the voter, the voter may request some other person to give assistance.” G.S. § 163A-1298(a)(1).
- e. Dowless and his workers violated State election law by collecting or

harvesting ABM ballots. It is a Class I felony “[f]or any person to take into that person's possession for delivery to a voter or for return to a county board of elections the absentee ballot of any voter, provided, however, that this prohibition shall not apply to a voter's near relative or the voter's verifiable legal guardian.” G.S. § 163A-1298(a)(5); *see also* G.S. § 163A-1310(b)(1); G.S. § 163A-1308(h) (“Near relative’ means spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild.”).

- f. Dowless and his workers violated State election law by falsely signing witness oaths on countless ABM container envelopes. It is a Class I felony “[f]or any person knowingly to swear falsely with respect to any matter pertaining to any primary or election.” G.S. § 163A-1389(4).
- g. Dowless and his workers violated State election law by submitting forged ABM request forms on behalf of voters, including at least one deceased voter. It is a Class I felony “[f]or any person falsely to make or present any certificate or other paper to qualify any person fraudulently as a voter, or to attempt thereby to secure to any person the privilege of voting, including declarations made under this Subchapter, G.S. 20-37.7(d)(5), 20-37.7(d)(6), 130A-93.1(c), and 161-10(a)(8).” G.S. § 163A-1389(13).
- h. Dowless and his workers violated State election law by falsely

executing witness certificates on ABM container envelopes. It is a Class I felony “[f]or any person falsely to make the certificate provided by G.S. 163A-1307(b)(2),” which governs absentee ballot envelopes. G.S. § 163A-1389(16).

- i. Lisa Britt violated State election law when she voted in the November 2018 General Election despite being on probation for a felony conviction for an offense involving the sale of “pills.” “[T]he following classes of persons shall not be allowed to vote in this State . . . Any person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.” G.S. § 163A-841(a).

204. Because of the pervasive and felonious conduct undertaken by Dowless and his workers on behalf of Mark Harris and the Harris Campaign, it is clear that “[i]rregularities or improprieties occurred to such an extent that they taint the results of the entire election [in CD-9] and cast doubt on its fairness.” G.S. § 163A-1181(a)(4).

205. Furthermore, as Chairman Cordle noted in his motion for a new election, Dowless’s well-funded enterprise likely affected a far greater number of ballots than the extremely narrow apparent margin between Harris and McCready, and therefore likely also affected the outcome of the election further requiring a new

election under G.S. § 163A-1181(a).

RETRIEVED FROM DEMOCRACYDOCKET.COM

Dated: February 27, 2019

Respectfully submitted,

By: 

Marc Erik Elias\* (DC Bar #442077)  
Jonathan Berkon\* (DC Bar #992519)  
PERKINS COIE LLP  
700 Thirteenth Street N.W., Suite 600  
Washington, D.C. 20005-3960  
Telephone: (202) 654-6200  
Facsimile: (202) 654-6211  
MElias@perkinscoie.com  
JBerkon@perkinscoie.com

John R. Wallace  
WALLACE & NORDAN LLP  
3737 Glenwood Ave., Suite 260  
Post Office Box 12065 (27605)  
Raleigh, North Carolina 27612  
Telephone - (919) 782-9322  
Facsimile - (919) 782-8113  
jrwallace@wallacenordan.com

ATTORNEYS FOR AFFECTED  
CANDIDATE DAN MCCREADY

*\*Admitted Pro Hac Vice*

**CERTIFICATE OF SERVICE**

I certify that on February 27, 2019, the foregoing document was served upon the North Carolina State Board of Elections by filing same electronically via email to legal@ncsbe.gov.

  
\_\_\_\_\_  
Jonathan Berkon

RETRIEVED FROM DEMOCRACYDOCKET.COM