

1 STATE OF MINNESOTA

DISTRICT COURT

2 COUNTY OF SCOTT

FIRST JUDICIAL DISTRICT

3
4 Aaron Paul,

COURT TRIAL
VOLUME I

5 Contestant,

6 v.

Court File No. 70-CV-24-17210

7 Brad Tabke,

8 Contestee.

9
10 The above-entitled matter came duly on for Court Trial
11 before the Honorable TRACY L. PERZEL, one of the judges of the
12 above-named Court, on the 16th day of December, 2024, at the Scott
13 County Government Center, City of Shakopee, County of Scott, State
14 of Minnesota.

15
16 A P P E A R A N C E S

17 FOR CONTESTANT AARON PAUL:

18 R. REID LeBEAU II, Attorney at Law
19 CHALMERS, ADAMS, BACKER, and KAUFMAN
20 525 Park Street, Suite 255
St. Paul, MN 55103

21 FOR CONTESTEE BRAD TABKE:

22 DAVID J. ZOLL, Attorney at Law
23 RACHEL A. KITZE COLLINS, Attorney at Law
24 LOCKRIDGE GRINDAL NAUEN PLLP
100 Washington Avenue South, Suite 2200
Minneapolis, MN 55401

25 ALSO PRESENT: JEANNE ANDERSEN, Assistant Scott County Attorney

M A S T E R I N D E X

| | <u>PAGE</u> |
|--|-------------|
| <u>WITNESSES - DECEMBER 16, 2024:</u> | |
| JULIE HANSON | |
| DIRECT EXAMINATION BY MR. LeBEAU | 18 |
| CROSS-EXAMINATION BY MR. ZOLL | 64 |
| REDIRECT EXAMINATION BY MR. LeBEAU | 107 |
| RECROSS-EXAMINATION BY MR. ZOLL | 116 |
| FURTHER REDIRECT EXAMINATION BY MR. LeBEAU | 119 |
| MATT LEHMAN | |
| DIRECT EXAMINATION BY MR. LeBEAU | 121 |
| CROSS-EXAMINATION BY MR. ZOLL | 129 |
| VOTER NUMBER 14 | |
| DIRECT EXAMINATION BY MR. LeBEAU | 132 |
| VOTER NUMBER 15 | |
| DIRECT EXAMINATION BY MR. LeBEAU | 137 |
| CROSS-EXAMINATION BY MR. ZOLL | 141 |
| VOTER NUMBER 17 | |
| DIRECT EXAMINATION BY MR. LeBEAU | 143 |
| DAVID BEER (via Zoom) | |
| DIRECT EXAMINATION BY MR. LeBEAU | 147 |
| CROSS-EXAMINATION BY MR. ZOLL | 150 |
| REDIRECT EXAMINATION BY MR. LeBEAU | 151 |
| VOTER NUMBER 16 | |
| DIRECT EXAMINATION BY MR. LeBEAU | 152 |
| VOTER NUMBER 10 | |
| DIRECT EXAMINATION BY MR. LeBEAU | 155 |

M A S T E R I N D E X (Continued)

| | | |
|----|---------------------------------------|-------------|
| | <u>WITNESSES - DECEMBER 16, 2024:</u> | <u>PAGE</u> |
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | KAY GAMBLE | |
| 5 | DIRECT EXAMINATION BY MR. ZOLL | 158 |
| 6 | CROSS-EXAMINATION BY MR. LeBEAU | 178 |
| 7 | REDIRECT EXAMINATION BY MR. ZOLL | 186 |
| 8 | RECROSS-EXAMINATION BY MR. LeBEAU | 187 |
| 9 | | |
| 10 | CHELSEA PETERSEN | |
| 11 | DIRECT EXAMINATION BY MR. ZOLL | 189 |
| 12 | CROSS-EXAMINATION BY MR. LeBEAU | 195 |
| 13 | REDIRECT EXAMINATION BY MR. ZOLL | 198 |
| 14 | | |
| 15 | VOTER NUMBER 4 | |
| 16 | DIRECT EXAMINATION BY MR. LeBEAU | 199 |
| 17 | | |
| 18 | | |
| 19 | <u>WITNESSES - DECEMBER 17, 2024:</u> | <u>PAGE</u> |
| 20 | | |
| 21 | VOTER NUMBER 9 (via Zoom) | |
| 22 | DIRECT EXAMINATION BY MR. ZOLL | 209 |
| 23 | | |
| 24 | VOTER NUMBER 5 | |
| 25 | DIRECT EXAMINATION BY MR. ZOLL | 214 |
| 26 | | |
| 27 | VOTER NUMBER 11 | |
| 28 | DIRECT EXAMINATION BY MR. ZOLL | 218 |
| 29 | CROSS-EXAMINATION BY MR. LeBEAU | 221 |
| 30 | | |
| 31 | VOTER NUMBER 18 | |
| 32 | DIRECT EXAMINATION BY MR. ZOLL | 222 |
| 33 | | |
| 34 | VOTER NUMBER 20 | |
| 35 | DIRECT EXAMINATION BY MR. ZOLL | 227 |

M A S T E R I N D E X (Continued)

WITNESSES - DECEMBER 17, 2024: PAGE

VOTER NUMBER 12

DIRECT EXAMINATION BY MR. ZOLL 230

ROCKY SWEARENGIN

DIRECT EXAMINATION BY MR. ZOLL 235

CROSS-EXAMINATION BY MR. LeBEAU 247

DR. AARON RENDAHL

DIRECT EXAMINATION BY MR. ZOLL 256

CROSS-EXAMINATION BY MR. LeBEAU 270

DR. THOMAS BRUNELL (via Zoom)

DIRECT EXAMINATION BY MR. LeBEAU 276

CROSS-EXAMINATION BY MR. ZOLL 285

REDIRECT EXAMINATION BY MR. LeBEAU 291

RE-CROSS-EXAMINATION BY MR. ZOLL 292

EXHIBITS:

| <u>NUMBER</u> | <u>OFFERED</u> | <u>RECEIVED</u> |
|---------------|----------------|-----------------|
|---------------|----------------|-----------------|

| | | | |
|----|---------------------------|-------|-------|
| 1- | Affidavit of Julie Hanson | Stip. | Stip. |
|----|---------------------------|-------|-------|

| | | | |
|----|--|-------|-------|
| 2- | 11/27/24 Statement by Ron Hocesvar, Scott County Attorney | Stip. | Stip. |
|----|--|-------|-------|

| | | | |
|----|--------------------------------|-------|-------|
| 3- | Scott County Absentee Handbook | Stip. | Stip. |
|----|--------------------------------|-------|-------|

| | | | |
|----|--|-------|-------|
| 4- | Tables, "Jackson and Louisville TWP," "DB Applications and Machine Counts," "AB Count from 9/20 - 10/17" | Stip. | Stip. |
|----|--|-------|-------|

| | | | |
|----|--|-------|-------|
| 5- | "Abstract of Votes Cast for Federal, State, and Judicial Offices In the County of Scott held 11/5/24 | Stip. | Stip. |
|----|--|-------|-------|

| | | | |
|----|--|-------|-------|
| 6- | Compilation of emails regarding missing votes | Stip. | Stip. |
|----|--|-------|-------|

M A S T E R I N D E X (Continued)

EXHIBITS:

| <u>NUMBER</u> | <u>OFFERED</u> | <u>RECEIVED</u> |
|--|----------------|-----------------|
| 7- Curriculum Vitae of Thomas L. Brunell | 278 | 278 |
| 8- Voter election tape with handwritten notes | Stip. | Stip. |
| 9- "Absentee Ballots By Current Status And Location" (Redacted) | Stip. | Stip. |
| 10- Precinct 10 Election Documents for Voters Number 1 - 20 (Redacted) | Stip. | Stip. |
| 201- Email thread between C. Petersen, B. Reynolds, and L. Hensen | Stip. | Stip. |
| 202- Compilation of emails regarding missing votes | Stip. | Stip. |
| 203- AB machine tape with handwritten notes | Stip. | Stip. |
| 204- Table, Scott County early vote results (Redacted) | --- | --- |
| 205- Table, Shakopee P-10 early votes through October 18 (Redacted) | --- | --- |
| 206- Recount Worksheet | Stip. | Stip. |
| 207- Expert Report of Dr. Aaron Rendahl | 266 | 266 |
| <u>Confidential/Sealed Exhibits</u> | | |
| 304- Voter Number 4 Election Documents | 202 | 202 |
| 305- Voter Number 5 Election Documents | 215 | 216 |
| 309- Voter Number 9 Election Documents | 211 | 211 |
| 310- Voter Number 10 Election Documents | 156 | 157 |

M A S T E R I N D E X (Continued)EXHIBITS:

| <u>NUMBER</u> | <u>OFFERED</u> | <u>RECEIVED</u> |
|---|----------------|-----------------|
| 311- Voter Number 11 Election Documents | 220 | 220 |
| 312- Voter Number 12 Election Documents | 232 | 232 |
| 314- Voter Number 14 Election Documents | 135 | 136 |
| 315- Voter Number 15 Election Documents | 139 | 139 |
| 316- Voter Number 16 Election Documents | 153 | 154 |
| 317- Voter Number 17 Election Documents | 144 | 144 |
| 318- Voter Number 18 Election Documents | 224 | 224 |
| 320- Voter Number 20 Election Documents | 228 | 228 |

1 (Whereupon, the following proceedings were duly had
2 of record:)

3 THE COURT: Good morning. My name is Tracy Perzel.
4 I'm the judge that's going to be presiding over these
5 proceedings.

6 We're here today in the case of Aaron Paul,
7 Contestant, and Brad Tabke, Contestee. It is Scott County
8 District Court File No. 70-CV-24-17210.

9 Counsel, would you please note your appearances.

10 MR. LeBEAU: Thank you, Your Honor. Reid LeBeau
11 for Contestant Aaron Paul.

12 THE COURT: Thank you. Good morning.

13 MR. ZOLL: David Zoll on behalf of Contestee Brad
14 Tabke, who has joined us here today.

15 MS. KITZE COLLINS: And Rachel Kitze Collins on
16 behalf of Contestee Brad Tabke.

17 THE COURT: All right. Thank you, and good
18 morning.

19 We do also have Assistant Scott County Attorney
20 Jeanne Andersen present this morning.

21 Good morning, Ms. Andersen.

22 MS. ANDERSEN: Good morning, Your Honor.

23 THE COURT: We are here today for court trial on
24 the Notice of Election Contest for House District 54A filed
25 on November 29th, 2024, and answered by filing of December 6,

1 2024.

2 Before we begin trial, the house -- the Court,
3 excuse me -- will address some housekeeping matters.

4 Everyone is expected to demonstrate appropriate courtroom
5 behavior and follow the rules of courtroom decorum. If you
6 need to have a conversation with someone, unless you are
7 conferring at one of the three counsel tables and you're an
8 attorney or client in this case, please leave the courtroom
9 to have that conversation.

10 And of course, your staff may have those
11 conversations as well, counsel.

12 Everyone must remain neutral in their body
13 language. You may agree or disagree with something that is
14 said in this courtroom, but please do not show that by your
15 facial expressions, gestures, voice, or other audible action.

16 You must turn off your cell phone completely --
17 this means more than simply silencing it -- and put it in
18 your pocket or bag, where it will remain until you are
19 outside the courtroom. Aside from at counsel table, there
20 will be no use of cell phones in the courtroom.

21 If you cannot follow these rules, please leave the
22 courtroom at this time. As with any other court proceeding,
23 there is a deputy in the courtroom to assist in matters of
24 courtroom decorum, and a violation of these instructions will
25 be considered direct contempt.

1 You should know that when the Court is on the
2 record, as now, the court reporter is taking down everything
3 that is being said in the courtroom. The Court also takes
4 notes, sometimes on paper, but most often by typing on the
5 computer.

6 From time to time, the attorneys for the parties
7 and the Court will need to speak at the bench. This is an
8 occasional occurrence in most trials to address logistical,
9 legal, or other issues. The Court will make a record of
10 those bench conferences as needed.

11 Given the accelerated timeline for trial and the
12 Court's schedule, the Court and the attorneys for the
13 parties -- including Mr. LeBeau, Mr. Zoll, and Ms. Andersen
14 at times -- have had informal discussions in three chambers
15 audio conferences. I should add that Ms. Andersen was only
16 there for two of those. These discussions have been
17 non-substantive and focused primarily on trial presentation,
18 including how to protect the identities of voter witnesses
19 who may be called to testify, how to handle exhibits,
20 requests for media coverage, and ways to streamline this
21 trial.

22 Yesterday the Court received a general roadmap of
23 what the parties anticipate as to the length and nature of
24 the various witnesses' testimony to assist it in preparing
25 for the conducting of this trial. The Court appreciates the

1 attorneys' efforts to make the trial operate more
2 efficiently.

3 Counsel, and starting with Mr. LeBeau, is there
4 anything you want to add about our chambers audio
5 conferences?

6 MR. LeBEAU: No, thank you, Your Honor.

7 THE COURT: All right. Ms. Andersen?

8 MS. ANDERSEN: No, thank you, Your Honor.

9 THE COURT: All right. Mr. Zoll?

10 MR. ZOLL: Nothing additional.

11 THE COURT: All right. You will observe today that
12 each voter whose ballot is alleged to be at issue will be
13 identified only by the word "voter" and a unique number keyed
14 to that particular voter. You will also see that exhibits
15 pertaining to these voters and presented by the parties here
16 in court have been redacted for public view.

17 The selections made by Minnesota voters on their
18 ballots are secret, and the parties and the Court are trying
19 to afford that same protection to the voters whose ballots
20 will be addressed in these proceedings. There is a voter
21 identification key, to which the parties have stipulated, and
22 that is filed under seal. That key correlates the voters'
23 names to the unique number that will be used here in court.
24 That voter number is the only manner by which each voter for
25 the ballots at issue will be publicly identified during the

1 trial.

2 Consistent with this, exhibits containing voter
3 identifying information have been redacted for public display
4 in the courtroom. Again, the Court, counsel, and the parties
5 have unredacted copies. Those unredacted copies of exhibits,
6 when admitted, will be filed under seal.

7 If anyone errs -- and of course, the Court sure
8 hopes that none of us do -- and states the voter name, media
9 and others in the courtroom shall not, and are expressly
10 prohibited from, reporting or disclosing that name, and the
11 Court will immediately seal that portion of the transcript.

12 The Court understands the parties have also reached
13 agreement as to admission of certain exhibits.

14 And I'm going to turn to Mr. LeBeau and Mr. Zoll
15 briefly to make sure that we have the correct exhibit
16 numbers.

17 Mr. LeBeau, would you like to identify those?

18 Or Mr. Zoll?

19 It's up to you.

20 MR. LeBEAU: Thank you, Your Honor. I believe we
21 have -- so far as Contestant's exhibits, we have agreed to
22 Exhibit 1, Exhibit 2 --

23 THE COURT: Let's pause for just a minute. It
24 might be easiest to identify the exhibits not stipulated to.

25 MR. LeBEAU: Oh, I'm sorry.

1 THE COURT: That's all right.

2 MR. LeBEAU: I believe just Contestant's Exhibit 7.

3 THE COURT: That's the only exhibit on your side of
4 the case that's not been stipulated to; is that correct?

5 MR. LeBEAU: I believe so.

6 THE COURT: Mr. Zoll?

7 MR. LeBEAU: Opposing counsel.

8 MR. ZOLL: That is correct.

9 THE COURT: All right. And all other exhibits that
10 have been submitted thus far by Contestant will be received
11 by the Court, and we'll make a record of exactly which those
12 are in a little bit.

13 Thank you, Mr. LeBeau.

14 Mr. Zoll, as far as your exhibits go?

15 MR. ZOLL: With respect to Contestee's exhibits,
16 the parties have stipulated to the admission of all but 204,
17 205, and 207. Though I do note, Your Honor, Confidential
18 Exhibits 301 through 320, the parties have also agreed not to
19 stipulate to the admission of those but rather admit them
20 into evidence only to the extent that they're relied upon in
21 trial.

22 THE COURT: And those are the exhibits that the
23 Court indicated would be filed under seal once received; is
24 that correct?

25 MR. ZOLL: Correct, Your Honor.

1 THE COURT: All right. Thank you.

2 So counsel, is there anything else we need to
3 address before opening statements?

4 Mr. LeBeau?

5 MR. LeBEAU: Nothing from me, Your Honor.

6 THE COURT: Mr. Zoll?

7 MR. ZOLL: Nothing further.

8 THE COURT: All right. The parties have indicated
9 that they have opening statements that are five minutes or
10 less. I'm going to hold them to that.

11 So Mr. LeBeau, why don't you go ahead.

12 MR. LeBEAU: Thank you.

13 Good morning, Your Honor. Certainty and
14 confidence. That is the minimum all American citizens
15 deserve in our elections. Certainty and confidence are not
16 based on percentages or assumptions. The facts will show
17 that all we are certain and have confidence in in this
18 election is that 20 validly cast ballots are missing. More
19 ballots are missing than the vote totals between the two
20 candidates for House District 54A.

21 The facts will show that there was a massive
22 material irregularity in the administration of the election
23 in the City of Shakopee. The facts will show that the
24 results of the election are in doubt. And the facts will
25 show that the error was deliberate, serious, and material.

1 Contestee will claim that the error isn't material based on
2 the theory of projections, statistics, and guesses, but how
3 we gather statistics does not equate to confidence or
4 certainty.

5 In the end, this Court will be left with a clear
6 choice: either we restore certainty and confidence in our
7 elections, in the system, or we don't. Contestee will argue
8 for a dangerous precedent of -- where statistical models
9 takes the place of ballots cast.

10 Simply, if this case is not a clear demonstration
11 of what the statute refers to as a material irregularity,
12 nothing is. Twenty -- possibly 21 -- voters entered the
13 polling location, cast their ballots, and left their ballots
14 in the custody of election officials. Those votes are gone
15 and were never counted. Any result which fails to address
16 this fatal defect is terminal to the certainty and confidence
17 and the basic expectations we all have in our electoral
18 system.

19 At the conclusion of this case, there will be one
20 inescapable fact: more votes were lost and not counted
21 than separates the two candidates for House District 54A.
22 The only way to ensure the will of the voters and to restore
23 certainty and confidence in our elections is to have a new
24 election for that city.

25 Thank you.

1 THE COURT: Thank you, Mr. LeBeau.

2 Mr. Zoll, are you ready to proceed?

3 MR. ZOLL: Yes, Your Honor.

4 THE COURT: All right. Go ahead.

5 MR. ZOLL: Thank you, Your Honor.

6 More than 20,000 individuals voted in the 2024
7 General Election for House District 54A, and Representative
8 Brad Tabke was reelected by a margin of 14 votes over
9 challenger, Aaron Paul. While canvassing the results, the
10 election officials discovered that 20 ballots from Shakopee
11 Precinct 10 were not counted, and a subsequent investigation
12 by Scott County led to the conclusion that those 20 ballots
13 have been irretrievably lost.

14 The parties agree on the basic facts of this case:
15 The election results certified by the Scott County Canvassing
16 Board show that Representative Tabke won the election by 14
17 votes, and 20 ballots from Shakopee Precinct 10 have been
18 irretrievably lost.

19 The parties disagree, however, on what should be
20 done in the face of these facts. Contestant Aaron Paul
21 suggests that we should simply throw up our hands and say,
22 "There is no way to know who won the election, and we should
23 just start over." He says we should disregard the votes cast
24 by more than 20,000 residents of House District 54A and put
25 this contest to a special election, where history shows only

1 a fraction of the voters will cast their ballots and have
2 their voices heard.

3 Representative Tabke, on the other hand, believes
4 that this Court and the parties should do the work to
5 determine whether the failure to count the 20 ballots from
6 Shakopee Precinct 10 actually affected the outcome of the
7 election and avoid the extreme step of putting this to a
8 special election and disenfranchising more than 20,000
9 residents who cast their ballots on November 5th, 2024, in
10 the General Election.

11 The evidence in this contest will show that it is
12 possible to identify the 20 voters whose ballots were not
13 counted, and this is consistent with the preliminary results
14 of Scott County's investigation in this matter. The Court
15 will hear testimony providing a step-by-step analysis that
16 leads to the conclusion that the parties and this Court can
17 determine, to the exclusion of any other possibility, the
18 identity of the voters who cast the uncounted ballots.

19 The Court will also hear from some of the voters
20 who cast those ballots, and those voters will confirm not
21 only the circumstances of their voting, but also for whom
22 they cast their ballots in the election for House District
23 54A.

24 In sum, the evidence will demonstrate that had
25 those ballots, those 20 ballots, been counted, the outcome of

1 the election would have been the same; that is to say,
2 Representative Brad Tabke would have been reelected to the
3 Office of State Representative for House District 54A.

4 Thank you.

5 THE COURT: Thank you, Mr. Zoll.

6 Before we get started, Ms. Andersen, I know you may
7 have other work to do today, so if you'd rather sit in the
8 back, that's fine. You're also welcome to remain at that
9 table as well. All right?

10 MS. ANDERSEN: Thank you, Your Honor.

11 THE COURT: Thank you.

12 Mr. LeBeau, are you ready for your first witness?

13 MR. LeBEAU: (Nodding.)

14 THE COURT: And is this a voter witness or is this
15 a witness who is not a voter witness?

16 MR. LeBEAU: Not a voter witness.

17 THE COURT: All right. Thank you. And are they
18 appearing in person or by Zoom?

19 MR. LeBEAU: In person.

20 THE COURT: All right. I'll try not to ask those
21 questions again, and maybe if you let me know when you bring
22 up your other witnesses. Go ahead and tell me who that is.

23 MR. LeBEAU: Thank you. I'd like to call Julie
24 Hanson to the stand.

25 THE COURT: All right. Ms. Hanson, would you

1 please step forward. The witness seat is over here, and if
2 you can maybe stop just in front of the Court in the well,
3 I'll go ahead and get you sworn in. All right?

4 Could you please raise your right hand?

5 (The oath was administered.)

6 THE WITNESS: I do, Your Honor.

7 THE COURT: Thank you. Go ahead and have a seat.

8 And once you get situated, if you could please
9 state and spell your full name.

10 THE WITNESS: Good morning. My name is Julie
11 Hanson. It's J-U-L-I-E, H-A-N-S-O-N. I am the Scott County
12 Property & Customer Service Manager and Elections
13 Administrator.

14 THE COURT: Thank you.

15 And Mr. LeBeau, if it assists you to tilt that
16 podium, that's just fine.

17 MR. LeBEAU: Thank you very much.

18 THE COURT: You're welcome. Go ahead.

19 MR. LeBEAU: And if it's all right, I have somebody
20 grabbing me water.

21 THE COURT: Of course.

22 MR. LeBEAU: Thank you.

23 JULIE HANSON,

24 having been first duly sworn, was examined and testified on her
25 oath as follows:

1 DIRECT EXAMINATION

2 BY MR. LeBEAU:

3 Q. Good morning.

4 A. Good morning.

5 Q. Could you please just restate your name for the record?

6 A. Absolutely. My name is Julie Hanson.

7 Q. And what -- what is your occupation?

8 A. I am the Property & Customer Service Manager for Scott
9 County, and under that umbrella, I am the Elections
10 Administrator.

11 Q. And how long have you been in this position?

12 A. I have been in this position for about six and a half years.

13 Q. And how many elections have you been involved in in that time
14 period?

15 A. I have been involved in approximately ten elections.

16 Q. And as elections director, what does that make you
17 responsible for?18 A. Sure. I'm responsible for the goings-on, everything that is
19 affiliated with elections here in Scott County. We do have a
20 decentralized model in which Scott County handles both
21 in-person and mail-in absentee votes, and the cities have
22 agreed to do in-person absentee voting. So, we have things
23 spread out a little differently than maybe some other
24 counties do.

25 Q. And what is the nature of that relationship between Scott

1 County and the City of Shakopee?

2 A. The nature of the relationship is such that we provide the
3 guidance, the training, the framework for the City to be able
4 to administer the election. They provide election-day voting
5 as well across the City of Shakopee.

6 Q. And ultimately, are you still responsible for the overall
7 conduct of the election in Scott County?

8 A. I am.

9 Q. As elections director, are you in charge of investigating
10 errors and discrepancies in elections in Scott County?

11 A. Yes, I am.

12 Q. What does that entail?

13 A. That would entail using my elections team to run detailed
14 reports through the Statewide Voter Registration System; to
15 interview election judges, City staff, County staff, whoever
16 might be involved; and use all of our -- the tools within our
17 disposal to try and get to the bottom of the issue.

18 Q. What are some -- in your six years of experience, that's
19 roughly -- would that be twelve elections? What are some of
20 the typical errors that you would see in a typical election
21 season?

22 A. Sure. In a typical election season, especially when doing
23 our validation and audit post-election, the things that we
24 generally see is we may have a voter or two in a precinct who
25 may have checked in and then elected not to vote.

1 Other errors may include just general voter
2 situations, especially on election day. We are here to
3 provide that support. We get a lot of phone calls for just
4 different situations that may occur on election day or during
5 the absentee process. But generally -- and I don't even know
6 that I would call those errors. Those are sort of expected
7 differences.

8 We do have things like folks issue wrong ballots.
9 As perfect as we would all like to be, we have 79 ballot
10 styles in Scott County, so with our 100,000-plus voters,
11 things do happen. And that is normal throughout the course
12 of the election. We do have corrections, duplications,
13 processes for things like that.

14 Q. And did you encounter -- excuse me. Did you encounter any
15 errors or discrepancies in this election?

16 A. We didn't encounter any unexpected errors until after
17 election day when auditing our results. Yes, I did. I was
18 examining the Statewide Voter Registration absentee reports
19 against the expected absentee results. In Shakopee Precinct
20 12-A, we were off one, meaning that we received votes for one
21 ballot less than the system says was cast. That was not
22 alarming to us. But in Shakopee Precinct 10, there was a
23 difference of 20, and that is very unusual. So we began the
24 process of really digging into what that could have been.

25 Q. While we're talking about it, why would that one missing vote

1 in P-12 not be unusual?

2 A. It does happen. I know in fact on election day -- different
3 situation -- but it did happen that folks came in, they
4 checked in, and they elected not to vote. It's not super
5 common, but it does happen every election cycle. I know on
6 election day, for example, a voter received an emergency
7 phone call from her child and ended up needing to leave.

8 So it certainly wasn't surprising to me that that
9 could happen, that someone would have waited at the City of
10 Shakopee to vote and then maybe not cast their ballot.

11 Q. Is it fair to say that that's more typical on election day
12 than in absentee voting?

13 A. It is, yes.

14 Q. And the one missing vote in P-12 or the 20 missing votes in
15 P-10 were from the absentee voting time period; is that
16 correct?

17 A. That is correct, the absentee voting period at the City of
18 Shakopee.

19 Q. And can you remind me, when did you notice that the error
20 occurred?

21 A. We noticed that the error occurred during our audit process.
22 That would have been on Thursday, November 7th.

23 Q. And once you learned of it, that's when you began your
24 investigation.

25 A. Correct.

1 Q. I'd like to talk about the City of Shakopee just for a few
2 moments to understand how this works. What type of voting
3 was being conducted in the City of Shakopee prior to
4 October 18th?

5 A. We would call that our "envelope absentee voting process."
6 So a voter would fill out an absentee ballot application.
7 They would bring it to an election judge and check in. The
8 election judge would check them in through the Statewide
9 Voter Registration System and then would give them not only
10 their ballot but a secrecy envelope and a signature envelope
11 to go with it. Once it has voted, then the voter would seal
12 their ballot in the secrecy envelope, which would then go in
13 what we call the "signature envelope" and be placed into a
14 ballot box for later processing.

15 Q. So, just so I'm clear, a voter that's going in to do that
16 prior to October 18th, they're -- everything that you just
17 described, they're doing that in the actual polling location?

18 A. Yes, they are.

19 Q. So they're going in, they're getting the envelopes, filling
20 them out, and then at the end, they're turning both of those
21 back in to the election judge in that particular location; is
22 that right?

23 A. They would be putting them in a locked ballot box when they
24 were complete. But yes, it would go into a box in that same
25 room.

1 Q. So -- I just want to be clear on the process here. Were
2 there to be a missing ballot at that point in time, a
3 potential voter would have had to come in, get the envelopes,
4 turn it back in, but keep the secrecy envelope and the ballot
5 for themselves?

6 A. Correct. In this scenario, yes, that would be correct.

7 Q. And have you ever seen that before?

8 A. I have not.

9 Q. What -- you mentioned what you called "envelope voting" prior
10 to October 18th. What are the other types, just so we're
11 clear?

12 A. Sure, absolutely. After envelope voting concludes on
13 October 17th -- and just to be very specific, direct
14 balloting is not required through statute, but it is
15 something that we've elected to do here in Scott County. So
16 starting on, in this case, October 18th -- so it's 18 days
17 before election day -- rather than the voter receiving the
18 ballot and the envelopes to put it in, they receive the
19 ballot and a secrecy sleeve so that they can, when they're
20 done with their voting, just put their ballot right into the
21 tabulator. So starting the morning of October 18th, we would
22 call that "direct balloting."

23 Q. And that lasts until when?

24 A. Until the day before election day, so in this case,
25 November 4th.

- 1 Q. And then after that, just regular in-person voting.
- 2 A. Regular in-person election-day voting, and then we do accept
3 absentee ballots until 8:00 p.m. here at the County, per
4 statute, on election day.
- 5 Q. What -- what specific type of -- was the City of Shakopee
6 taking mail-in ballots prior to October 18th?
- 7 A. They were not. Scott County handles all of the mail-in
8 ballots. The cities just conduct the in-person voting.
- 9 Q. So a voter going in to the City of Shakopee prior to
10 October 18th had to physically be present.
- 11 A. Correct.
- 12 Q. So none of the ballots in question that we're talking
13 about -- we have the different universes of ballots -- none
14 of this involves a mail-in absentee ballot. Is that correct?
- 15 A. Correct; it does not.
- 16 Q. Let's go back to the investigation that we talked about a
17 moment ago. After you discovered the error on -- what day
18 was it again?
- 19 A. Thursday, November 7th.
- 20 Q. Who did you first contact after you noticed the error had
21 occurred?
- 22 A. I called Lori Hensen, the Shakopee City Clerk.
- 23 Q. And what was the nature of your conversation?
- 24 A. I called to ask if she could tell me why we would have
25 received results for 309 ballots, but according to the state

1 system, there were 329 issued.

2 Q. And what was the impression that you received based on the
3 conversation you had with her?

4 A. She seemed surprised; that she wasn't aware of any issues.
5 We did sit down the day before with the assistant city clerk
6 and one of their staff members and went through their
7 absentee results as well as all of their precinct results,
8 but Thursday is when we actually found the error. She told
9 me she was not aware of anything that had occurred.

10 Q. And who did you speak with on -- you said the day before, on
11 November 6th?

12 A. November 6th we had Heidi Emerson and Terri Valian here from
13 the City of Shakopee.

14 Q. And I don't think we put this on the record, but what was
15 Lori Hensen's role with the City of Shakopee?

16 A. She was the city clerk.

17 Q. And so was she in charge of the City of Shakopee portion of
18 the elections that were delegated then from --

19 A. Yes, she was.

20 Q. So once you -- after the conversation with her, what was your
21 next step?

22 A. We asked the City of Shakopee to tear everything that they
23 could think of apart. To look in all of their tabulators.
24 Our tabulators have a write-in bin in the bottom, so if you
25 cast a write-in vote, it does -- it does send it to a

1 separate slot. And that has happened, that someone has
2 forgotten to check the write-in bin and bring those in. We
3 asked them to look through every possible location. Look
4 in cars, if they didn't make their way here. Anything that
5 they could possibly think of.

6 We then, my team and I, went through every scenario
7 we could possibly think of. The first thing that came to
8 mind was Health Care Facility voting. The City of Shakopee
9 does go onsite to health care facilities to assist voters
10 that qualify for that. So we -- we dug through everything.
11 We ran all the reports we could think of. We discovered that
12 of the 329 voters, 87 of those would have voted through the
13 envelope process, which is common. It's usually more direct
14 balloting. Voters want to come in and fill out their ballot
15 and put it right in the tabulator. We really concentrated on
16 those, dug into that, discovered that all 87 envelopes were
17 present, all 87 applications that matched those envelopes
18 were present.

19 We also did receive an Excel spreadsheet log from
20 the City of Shakopee that showed that they were recording
21 their totals each day, both through envelope voting and
22 direct balloting. And in the process of our investigation
23 those first few days -- actually, it was the assistant city
24 clerk -- I'm sorry, the assistant city administrator, Chelsea
25 Petersen, that realized in that report that the City of

1 Shakopee actually did not balance from October 17th to
2 October 18th; that they were, in fact, off 21 ballots. That
3 enabled us to focus our investigation a little more on that.
4 The Health Care Facility voting didn't occur until the last
5 week of October, beginning of November.

6 MR. LeBEAU: Your Honor, if I may, Ms. Hanson's
7 referred to what we have as Contestant's Exhibit 4. We've
8 stipulated to that already.

9 THE COURT: Any exhibit that's been stipulated has
10 been received, so four is received. Go ahead.

11 MR. LeBEAU: Oh. Would you like me to try to
12 publish it for the first time?

13 THE COURT: You're welcome to try to do that.

14 MR. LeBEAU: I will. If I can have a moment, I'll
15 give it my best.

16 THE COURT: You may. Thank you.

17 MR. LeBEAU: I have it up on my computer.

18 THE CLERK: Ready?

19 MR. LeBEAU: Yep.

20 BY MR. LeBEAU:

21 Q. Can you see that?

22 A. Yes, I can.

23 Q. Okay, perfect.

24 A. I have one here, so thank you.

25 Q. And do I have that on the right page?

1 A. Actually, if you could go to the -- there's one more page --

2 Q. Further down?

3 A. Yes, I believe it would be further down. We could start on
4 that one.

5 Q. (Scrolling.)

6 A. Yes, this one. Thank you.

7 Q. Can you please explain what this is.

8 A. Sure. So this that's titled "AB Count from 9/20 - 10/17" was
9 the City of Shakopee's log of the amount of envelope voters
10 that they had through each day. September 20th was the first
11 day of absentee voting for this election, and October 17th
12 was the last day of envelope voting. So according to this,
13 this just shows each day, and then the total of 1124 through
14 the envelope voting process.

15 Could I ask you -- do you have a question?

16 Q. Just a few questions.

17 A. Yep.

18 Q. We're going to get sort of jumbled in numbers here.

19 A. Yes, we are.

20 Q. So I want to make sure our numbers are keeping straight.

21 Earlier you referred to 87 envelope votes. What does that 87
22 number specifically refer to?

23 A. The number of voters in Shakopee Precinct 10 only.

24 Q. For the entirety of the early absentee voting process.

25 A. For the entirety of the envelope voting process.

1 Q. Which would be what days?

2 A. September 20th through October 17th.

3 Q. Thank you. So 87 is September 20 through October 17. And
4 back to the -- the list, what is this number that we're
5 looking at?

6 A. This number is the total number of voters each day. This was
7 not broken down by precinct or ballot split level, as
8 actually we had asked for it to be. So the Statewide Voter
9 Registration System does produce reports -- not always
10 easy-to-read reports, but reports -- that show the ballot
11 split. So, for example, some of the precincts in Shakopee
12 have school district splits. As much as we would like our
13 school district lines to run around the legislative
14 boundaries, those kinds of things, they don't. So there are
15 some shared precincts in Shakopee that may have two different
16 school district numbers, that type of thing. But this report
17 shows the total number of voters from each day through that
18 initial approximately three-week time period.

19 Q. In aggregate for all precincts within the City of Shakopee.

20 A. Correct.

21 Q. And what day was this document provided to you?

22 A. This was provided on Thursday, November 7th. I will be
23 honest and say that I first looked at this and said, "I don't
24 know what this is." So I had it; I didn't really dig into it
25 until the following Tuesday.

1 Q. And is this -- you are the head of elections for Scott
2 County, as we've already established.

3 A. Yes.

4 Q. The City of Shakopee is essentially working under you. Is
5 this a document that you provided them to fill out?

6 A. No, it is not.

7 Q. Is this document part of the training that you provided them
8 on how to handle absentee ballots?

9 A. No, it is not.

10 Q. So let's go back to where the numbers start going up. There
11 was some -- there was a different document I think you wanted
12 me to show?

13 A. Yes, could you go back to the second page, the page above? I
14 would like to note that the total on this page says 1124.

15 Q. (Scrolling.) This one?

16 A. This one. Perfect. Thank you.

17 And then if we look at October 18th -- "DB" means
18 direct balloting -- the record shows that there were 276
19 direct balloting applications and that the machine showed
20 1379. If you take 1124 from the previous page and you add
21 276, you do not get 1379; you get 1400. So that is where we
22 focused our investigation on.

23 We later learned that the machine count was not
24 actually written down; that the person who was doing the
25 balancing actually just took the 276 from the total that they

1 had and extrapolated from there that they should have 1379.

2 Q. We're going to talk a little bit more about that in a minute,
3 but --

4 A. Sure.

5 Q. -- the balancing that is done, what frequency is that done
6 in?

7 A. Every day.

8 Q. That's part of the training.

9 A. Correct.

10 Q. It's part of the training that you give to the City.

11 A. It is.

12 Q. And did that occur here?

13 A. It did not.

14 Q. So Exhibit 4 represents the -- just so we're clear, this is
15 where you found the math to find the error that ballots were
16 missing.

17 A. Correct.

18 MR. LeBEAU: Your Honor, I don't have any more
19 questions about this exhibit. Would you like me to keep it
20 up or take it down?

21 THE COURT: Why don't you go ahead and take it
22 down. Thank you.

23 BY MR. LeBEAU:

24 Q. Let's talk about the training between Scott County and
25 Shakopee for just a minute. I'd like to show you what is

1 marked as Exhibit 3. It's a rather long document, so I'm
2 just going to show you the lead page, if that's all right.

3 A. Sure.

4 Q. And can you describe what Exhibit 3 is.

5 A. Sure. This is the absentee handbook that my team actually
6 put together to provide to all of the cities during our
7 training process.

8 Q. And what's the purpose of this document?

9 A. The purpose of this really is to help the cities better
10 understand what the absentee process should be, everything
11 from assisting the voter in person to running reports out of
12 the Statewide Voter Registration System, absentee ballot
13 board, ballot opening, all of the details. We also provide
14 the Secretary of State's absentee guide, so the two documents
15 together would provide really good foundational documents for
16 folks to be able to refer back to.

17 Q. So is it fair to say that this is sort of a -- both what is
18 legally required and what is the best practice?

19 A. Correct.

20 Q. And you use it for training purposes.

21 A. We do.

22 Q. So if I'm a brand-new election judge that's going to be
23 handling absentee ballots, I better know what's in this
24 document?

25 A. Yes.

- 1 Q. And you mentioned that your office created it; is that right?
- 2 A. That's correct.
- 3 Q. Who in your office created it?
- 4 A. Amanda Geis.
- 5 Q. And how did you determine what to put in it?
- 6 A. We did absentee -- starting in the year 2000 -- I'm sorry,
- 7 2020, not the year 2000 -- is when the cities began issuing
- 8 in-person absentee ballots. I came into this role in the
- 9 spring of 2018. At that time, the County did all of the
- 10 in-person voting. We started to have conversations with the
- 11 cities about providing more convenient locations for our
- 12 voters. Absentee voting, of course, was expanded and it was
- 13 growing, and -- but we did not have this document in 2020 or
- 14 in 2022, and in our conversations, the feedback that we
- 15 received from our cities, they were looking for more
- 16 documentation to be able to support their operations, so this
- 17 document was created in early 2024.
- 18 Q. And did you provide this document to the City of Shakopee
- 19 elections officials?
- 20 A. Yes, we did.
- 21 Q. And when did you provide it to them?
- 22 A. That would have been in January of 2024, prior to the
- 23 presidential nomination primary.
- 24 Q. And were City of Shakopee personnel trained on it, to the
- 25 best of your knowledge?

1 A. Yes.

2 Q. Does this document discuss the handling of secrecy envelopes?

3 A. It does.

4 Q. And can you just remind us, what is the secrecy envelope?

5 A. Sure. The secrecy envelope is the manila envelope that
6 during the envelope voting process or the mail voting process
7 a voter is provided with to ensure the secrecy of their
8 ballot. So they would fold up their ballot, put it inside
9 that secrecy envelope.

10 MR. LeBEAU: I'd like to show the witness what's
11 been marked as AP0016.

12 THE COURT: All right. Does that correspond to an
13 exhibit number of yours, Mr. Zoll?

14 MR. ZOLL: I understand that to be a Bates number
15 that Counsel is referring to.

16 THE COURT: All right. Go ahead.

17 MR. LeBEAU: May I give it to the witness?

18 THE COURT: You may approach.

19 MR. LeBEAU: Thank you.

20 BY MR. LeBEAU:

21 Q. (Handing.) Can you identify what your handbook details with
22 regard to the handling of secrecy envelopes?

23 A. Absolutely. The last bullet in the section that talks about
24 separating the ballot from the ballot secrecy envelope tells
25 them to store the ballot secrecy envelope.

1 Q. And that is on AP00116. Is that the stamped number at the
2 bottom?

3 A. That's correct.

4 MR. LeBEAU: If I could have a minute, I'll put
5 that up.

6 THE COURT: You may.

7 BY MR. LeBEAU:

8 Q. That's definitely hard to read from a distance. Just for the
9 sake of those watching, can you read that line again, please?

10 A. Absolutely. The last bullet says to store ballot secrecy
11 envelope.

12 Q. And what's the purpose of storing the secrecy envelope?

13 A. Really, statute dictates that all election materials need to
14 be retained. There is some argument whether this ends up
15 actually being election material, but we want them to store
16 those ballot secrecy envelopes and return them to us. I've
17 actually even asked myself in the past why would we keep
18 empty envelopes. This is exactly why we would keep empty
19 envelopes. We should have had these envelopes. That was one
20 of our questions at the City of Shakopee during our
21 investigation is where -- where are those envelopes; we can't
22 find them. And if those 20 ballots or 21 ballots would have
23 been left in those secrecy envelopes and returned to us, we
24 would have imagined that we would have been able to find
25 them.

1 Q. And just so we're clear, the secrecy envelope, it's not just
2 a plain manila envelope; there's printed writing on it,
3 correct?

4 A. Correct. It does say, I believe, "Secrecy Envelope" right on
5 the outside of it, yes.

6 Q. And that's something that's provided to you, to the -- to the
7 County as part of the elections process.

8 A. Correct. We purchase those from a vendor, and then we kind
9 of farm those out to all of the cities for their use, yes.

10 Q. And this is something that comes along with the regular
11 ballot and other election material that you get from a
12 specific vendor for that purpose; correct?

13 A. Yes. We do have different vendors for the ballots versus the
14 printed envelopes and materials, but yes, it is provided by a
15 vendor.

16 Q. I can't go pick up -- a bundle of these up at Kinko's or
17 something like that.

18 A. No.

19 Q. During the course of your investigation, did the City
20 officials indicate to you what their practice was for
21 retaining secrecy envelopes?

22 A. They did. When I spoke with Lori Hensen and I asked where
23 the secrecy envelopes were, she indicated to me that they
24 were thrown away.

25 Q. And did you get the impression that that was a one-time deal,

1 or was that something that had happened before?

2 A. It sounds like it was something that had happened before and
3 we didn't realize.

4 Q. And "something" when you say "happened before," it happened
5 before in this election or previous elections?

6 A. Previous elections.

7 Q. And just because this can be kind of confusing for those that
8 don't do elections all the time --

9 A. Yes.

10 Q. -- that secrecy envelope, that is what actually contains the
11 ballot that is inside the what we might call the "signature
12 envelope."

13 A. Correct.

14 Q. And so during the absentee ballot process, would those --
15 when the secrecy envelope is removed from the written
16 envelope, what happens at that point in the process?

17 A. When they are separated, the signature envelope is opened;
18 the secrecy envelope is taken out; and we teach people to do
19 that as a group. We don't want a signature envelope opened
20 and then a secrecy envelope opened because I should never
21 know what your vote is on that ballot. So if you have 20
22 that you're opening, the -- all of the signature envelopes
23 should be opened, those secrecies removed and set to the
24 side. Those signature envelopes then get bundled and set to
25 the side, and those secrecy envelopes are then opened,

1 ballots removed.

2 And then the ballots are examined to make sure that
3 nothing is damaged; that it's the right precinct. Again, as
4 I talked about, that is something that unfortunately does
5 happen. It is a human process. People aren't perfect. So
6 there is a chance if you're opening, let's say, for Shakopee
7 Precinct 1, that someone could have accidentally issued a
8 Shakopee Precinct 10 ballot, that type of thing. So they are
9 instructed to count the signature envelopes, to count the
10 ballots, and then we count the secrecy envelopes as well when
11 we do our process to make sure that everything exactly
12 matches.

13 Q. So the number of secrecy envelopes should match the number of
14 signature envelopes.

15 A. Unless you have an anomaly, like someone sent in a ballot
16 without the secrecy envelope. It's very possible. And it's
17 also very possible that someone would return their envelope
18 without the ballot in it. It does happen. So that's just
19 generally something as you're opening that you're making a
20 note of, that if I have 20 signature envelopes and someone
21 returned it without a ballot, that I know that I need 19.

22 Q. And if something like that would have happened, would there
23 be a written document that would memorialize that "I'm a
24 member of the Absentee Ballot Board, and this came in and
25 there was nothing in it?" Would there be some written

1 document just to log that?

2 A. I honestly don't know if someone would write that on their
3 incident log. I would think that they would, that that would
4 be certainly the way to track things back for us to be able
5 to say no, a ballot wasn't missing; in fact, it wasn't
6 returned by the voter. Yes.

7 Q. On what day did you request the secrecy ballots -- or the
8 secrecy envelopes from the City of Shakopee?

9 A. We requested those Thursday, November 7th.

10 Q. In your opinion, concerning the secrecy envelopes, did the
11 City of Shakopee election officials follow the procedures
12 that were laid out in your handbook?

13 A. They did not.

14 Q. I'd like to talk about -- you mentioned this just a second
15 ago -- what is an incident log?

16 A. An incident log is a document that we're provided with by the
17 Secretary of State's Office, or at least the format is
18 something that's provided. We print those ourselves here.
19 And we give those out to both the absentee locations and the
20 election-day locations. The purpose is really to just record
21 any anomalies, something that happens that maybe is outside
22 what you perceive to be the regular elections process, really
23 any incidents, just as the name indicates.

24 Q. Would that be something that would be contrary to what's in
25 the handbook?

- 1 A. No, that is -- that is part of the precinct process. An
2 absentee room is stood up as a precinct and has to follow all
3 of the regular election-day rules and guidelines as
4 practicable as well.
- 5 Q. So they're not exempt from filling out an incident log if
6 something --
- 7 A. No --
- 8 Q. -- were to occur.
- 9 A. -- they are not.
- 10 Q. Are election judges in Scott County and Shakopee trained on
11 reporting in the incident log?
- 12 A. They are.
- 13 Q. And what is that training?
- 14 A. We provide the training to the City staff in regards to
15 absentee, and then there are train-the-trainer activities
16 that occur. We do also train the election judges for
17 election day. The larger cities do their own training as
18 well, so we may train the clerk and the clerk staff, and then
19 they would go out and train their hundreds of judges that
20 they employ.
- 21 Q. Can you remind me, what was the day that you discovered that
22 the numbers that the City of Shakopee was recording when they
23 went off?
- 24 A. I believe it was Tuesday, November 12th. Monday was Veterans
25 Day, so we were not here that day. But it would have been

1 Tuesday, November 12th. I ended up having a phone
2 conversation with not only Lori Hensen but the assistant city
3 administrator, Chelsea Petersen, and a couple of other folks
4 were present on that call. And she's actually the one that
5 pointed out that she had found the discrepancy on that log.

6 Q. And that -- the date on the log traced back to what day?

7 A. Traced back to between the 17th and 18th of October.

8 Q. And did you receive an incident log for October 17th
9 detailing the discrepancy in the totals?

10 A. We did not. We got one incident log, which is not uncommon
11 for the entire absentee process; that is normal. But there
12 was not anything indicated on that log that there was a
13 discrepancy or, for example, that 20 people had checked in
14 and not voted or something like that.

15 Q. You received one incident log in total from the absentee
16 ballot location in Shakopee; is that right?

17 A. Correct. It was multiple pages, but yes, one log.

18 Q. And anywhere did it discuss -- whether it was the 17th, the
19 18th, the 15th, the 16th -- anything dealing with missing
20 ballots?

21 A. No.

22 Q. Do you have an incident log for the missing ballot in P-12?

23 A. I do not.

24 Q. So can you remind me the day that you first became aware of a
25 discrepancy in the number of people that checked in and

- 1 ballots? Was it the 7th or the 12th?
- 2 A. It was the 7th that we initially discovered that there was an
3 issue.
- 4 Q. And the issue would have occurred, to the best you can tell,
5 on October 17th.
- 6 A. Correct.
- 7 Q. So in the intervening 20 days, there was no indication made
8 to you that there was an error.
- 9 A. No. I did have a conversation at one point. I did some site
10 visits to the larger cities the Wednesday before election day
11 just to check in with everybody, see how everybody was doing,
12 to talk about tabulators. We had set up a second tabulator
13 for each location. The volume was much higher, honestly,
14 than I think any of us had anticipated. They indicated that
15 they thought they were off one ballot; that they thought the
16 machine wasn't counting appropriately. And I did indicate
17 that they would need to re-zero and re-run their ballots.
18 That would be the standard practice if a precinct was off.
- 19 Q. So you don't find out about anything for 20 days, and there's
20 no record kept of anything that went wrong. Is that your
21 testimony?
- 22 A. Correct.
- 23 Q. In your opinion, is that proper procedure?
- 24 A. No, it is not.
- 25 Q. Can we go back to the handbook for a moment? And I'd like to

1 take you to AP00117. (Handing.)

2 A. Thank you.

3 Q. We've talked a little bit about balancing. Can you explain
4 what "balancing totals" means.

5 A. Sure. What we train on and what we teach folks to do is to
6 run the Statewide Voter Registration System reports at the
7 close of each day; that is what we do in our absentee room as
8 well. And depending on the election and if you have
9 different ballot styles for every location, your report can
10 be different. But what we teach them to do is at the end of
11 each day, to run those reports. The machine has the ability
12 to run what we call an "interrupt tape," so you can actually
13 shut down the machine, reboot it, and you can get the number
14 of ballots for each ballot style. You do not get any
15 results, the polls are not closed, but you can get that
16 counted out for you by the machine.

17 The other option that we give folks -- and
18 sometimes this does work better, of course depending on their
19 size -- is they can count their applications and count those
20 against the ballots. The ballots do need to be removed from
21 the tabulator each day and put into a sealed transfer case,
22 so we do give people the ability to use whichever works best
23 for them, but the SVRS reports are definitely the most
24 accurate way to know that you have, in fact, balanced to the
25 ballot style level each day.

1 Q. And what does the handbook say with regard to balancing?

2 A. The handbook says, "During direct balloting, once direct
3 balloting starts, it should be balanced if you have followed
4 the above directions. If not, you should sit down and figure
5 out where you can balance and solve the issue right away."
6 It also gives some step-by-step instructions on how to run
7 the reports, what you should be looking at, and it does say
8 up at the top, "Do not wait until election day to balance."

9 Q. And "election day" being actual in-person election day --
10 November 5th in this case this year -- not one of the other
11 earlier checkpoints for when --

12 A. Correct.

13 Q. -- balloting changes. Did you discover during the course of
14 your investigation whether the City of Shakopee balanced
15 their ballot totals before in-person voting began on
16 October 18th?

17 A. We discovered that they thought they balanced, but they did
18 not follow the reports as directed, no.

19 Q. What did they do?

20 A. They kept track on that log, the spreadsheet that you showed
21 earlier, and they tracked the amount of people that they had
22 each day, but they did not balance to the precinct or ballot
23 split level.

24 Q. And the way they were balancing was not part of the training
25 that you provided.

- 1 A. Correct.
- 2 Q. So once again, they were operating contrary to the handbook
3 and the training that you provided.
- 4 A. They were.
- 5 Q. Can you refer me -- maybe from memory, or I'd be happy to
6 give you the entire exhibit. I think you have the extra
7 page. I think you've got 16 and 17 there.
- 8 A. Okay.
- 9 Q. Can you show me in the -- or just direct me to where in the
10 handbook it discusses estimating.
- 11 A. There would be nothing in the absentee handbook about
12 estimating.
- 13 Q. Do you know if there's a Secretary of State rule that
14 discusses the process for estimating ballot totals?
- 15 A. Not that I'm aware of.
- 16 Q. Are you aware of any law, rule, or policy for estimating
17 ballot totals in a precinct?
- 18 A. No.
- 19 Q. To the best of your knowledge and experience, are you aware
20 of whether estimating ballot totals is permissible?
- 21 A. To the best of my knowledge, I would say it is not
22 permissible. We direct them to balance every day, and you
23 balance -- elections is not a game of estimations; you
24 balance to the numbers.
- 25 Q. It's a game of certainty, I suppose.

1 A. I would --

2 MR. ZOLL: Objection. Counsel's testifying.

3 THE COURT: Sustained.

4 BY MR. LeBEAU:

5 Q. Why would estimating not be allowed?

6 A. We need to know that the exact number of ballots that are
7 reported are the exact number that were issued and that it is
8 for the correct ballot precinct and school-district split for
9 everyone who voted.

10 Q. Do you have any incident log in your possession regarding --
11 or indicating that there was an estimation of ballot totals
12 on the 17th or 18th?

13 A. I do not.

14 Q. Let's -- I'm done with that document.

15 A. Okay. (Handing.)

16 Q. Let's talk about Precinct 10. How many people voted by
17 envelope absentee in all of Shakopee between September 20th
18 and October 18th?

19 A. According to the report and the numbers that we've been able
20 to find, it looks like 1124 people voted, envelope voting.

21 Q. And how many specifically in just Precinct 10?

22 A. 87.

23 Q. That's where that 87 --

24 A. Yes.

25 Q. And in Precinct 10, again, these were the individuals -- were

1 they able to mail their ballot in to Shakopee?

2 A. No.

3 Q. They had to return them in person?

4 A. They would either be in person in the absentee room or done
5 through Health Care Facility voting.

6 Q. And it's within that number, that 87, that you found the
7 discrepancy; is that correct?

8 A. Correct.

9 Q. Let's turn back to the 12th, November 12th that you
10 mentioned. What did you do on the -- after confirming the
11 ballot totals on November -- the error ballot totals on
12 November 12th?

13 A. We continued to look into where those 20 ballots could have
14 been. If in fact there were voters represented by that
15 ballot, if it makes sense to try and figure out if, in fact,
16 folks had checked in and just not voted. We dug down into
17 every material that we had. We counted applications; we
18 counted envelopes; we counted ballots. It is not part of our
19 normal process that we would open absentee ballot boxes or
20 any ballot boxes that we received from the City, but we did
21 do so to verify, in fact, that we had 309 ballots from
22 Precinct 10 and not the 329 that were checked in. So we
23 spent a lot of time recounting ballots as a team, and I would
24 say we recounted the Precinct 10 absentee ballots at least
25 four times.

1 Q. Why do you say it's not part of the normal process to open
2 those absentee boxes?

3 A. Because they would normally balance, or balance possibly
4 within one. But in order to really try and pinpoint where
5 that error occurred to ensure that it wasn't here at Scott
6 County through the mail balloting, all of that, we ran
7 reports that showed what we took in, what the City took in,
8 and what they took in against the actual amount of ballots
9 that they had. So we were able to definitively determine
10 that it was the City absentee room for Precinct 10 that did
11 not balance.

12 Q. And how long did this process take?

13 A. We spent most of Thursday, the 7th; Friday, the 8th; and then
14 we took a break. After a couple of 80-hour work weeks,
15 everyone was pretty exhausted, so we took the weekend and
16 Veterans Day off and came back to attack it fresh on the 12th
17 and continued to just dig into everything that we had and
18 every report that we could run, where we then determined that
19 we believed we had identified the 20 voters.

20 Q. And are you still investigating the matter?

21 A. We have completed our questioning of City staff, of the
22 election judges, of the folks involved in the process. We
23 just haven't been able to put together a summary report. But
24 yes, our investigation I believe is at its final stages.

25 Q. Have you made final conclusions in the investigation?

1 A. We have.

2 Q. I would like to go to Exhibit 1. (Handing.)

3 A. Thank you.

4 Q. Can you identify this document?

5 A. Yes. It is an affidavit that I completed per your request.

6 Q. And what does it -- can you read what it says?

7 A. Sure. Do you want me to read the whole thing? I'm happy to
8 if that's --

9 THE COURT: Well, hold on. I don't know that I
10 need it read. I can read it, so --

11 MR. LeBEAU: Yeah.

12 BY MR. LeBEAU:

13 Q. No, not entirely.

14 A. Okay.

15 Q. What did you conclude in your affidavit concerning the
16 missing ballots?

17 A. We concluded that we were in possession of the 20 absentee
18 ballot envelopes in question. That we conducted multiple
19 search attempts; we exhausted all attempts to locate the
20 ballots. And we determined that they were validly cast by
21 valid voters through that precinct, and that we had never
22 received the ballots here, and that they had never been run
23 through a tabulator.

24 Q. How did you conclude that they were validly cast?

25 A. We were able to go back to those 87 people and kind of break

1 down the numbers from there. Thirty-seven of those were
2 Health Care Facility voting, so that left us with 50. And we
3 were able to go look at those records, match up the
4 applications to the envelopes. And according to everything
5 that we could see, those numbers all came out exactly right.

6 Q. And so everything in the affidavit that you signed, is it
7 still true and accurate now that you've concluded your
8 investigation?

9 A. It is.

10 Q. Thank you. I'd like to go to Exhibit 2. (Handing.) I'll
11 trade you.

12 A. Thank you.

13 Q. And can you identify what Exhibit 2 is, please.

14 A. Yes. This was a statement released by Ron Hocevar, the Scott
15 County Attorney, on November 27th.

16 Q. And is it -- what is it in reference to?

17 A. It is in reference to our initial preliminary investigation
18 of the missing 20 ballots from City Hall.

19 Q. And are the conclusions that are referred to in that letter
20 still accurate today?

21 A. They are.

22 Q. There's a line on the letter that concerns the final fate of
23 the 20 ballots. Can you read that portion?

24 A. I believe that you would be referring to -- there's a line
25 that says, "the County was advised they had been thrown into

1 the garbage" and "the County has been unable to verify that
2 the missing ballots were ever removed from their secrecy
3 envelopes."

4 Q. What is that conclusion based upon?

5 A. That is based upon our ability to see when voters came in,
6 not only by what was entered into the Statewide Voter
7 Registration System but also their completed application.
8 Those were dated, of course, when the voter were to come in.

9 They're also -- based on the timing in the
10 Statewide Voter Registration System, we were able to
11 determine that the opening of the initial envelope-voting
12 ballots occurred before the last bunch, if you will, of
13 ballots were opened and processed.

14 Q. In the letter, it references that the ballots were thrown
15 away. How did you conclude that?

16 A. Based on the fact that we did not receive any secrecy
17 envelopes back from the City, and the information that we
18 received from the staff, from the election judges; that they
19 did confirm that once those were opened -- and of course they
20 thought the ballots removed -- that those envelopes were
21 swept into a garbage can.

22 Q. So to be clear, it's your best guess that they were thrown
23 away, but you don't have any evidence to confirm that;
24 correct?

25 A. Correct, that is our best -- best guess.

1 Q. Is there any way for you to be certain as to what actually
2 happened to those ballots?

3 A. There is not. We've been able to obtain video footage from
4 the City of Shakopee. There is still 27 terabytes of data
5 that we are going to attempt to go through to make a
6 hopefully final conclusion. But the conversations, the
7 interviews that we had with the election judges, they opened
8 the initial batch of envelope-voting ballots; they were never
9 given another batch, if you will, of ballots. So if we take
10 the 17 people who voted between the 15th, 16th, and 17th of
11 October, the initial Ballot Board approved those envelopes.
12 Then there were three more that voted on the afternoon of
13 October 17th. That gives us our 20 missing ballots.

14 Q. So you mentioned that there are -- you mentioned the video
15 and that there are still -- a significant amount of time to
16 watch.

17 A. Uh-huh.

18 Q. So your investigation is not done. You haven't finished
19 watching the video from --

20 A. We don't know if the video actually exists, so we are
21 waiting. We don't -- the information that we received from
22 the City of Shakopee is that they had video from their City
23 Council chambers where the Absentee Ballot Board and ballot
24 opening was conducted back to October 23rd. We have had a
25 digital forensic specialist obtain all of the stored footage

1 that they have. We don't even know that that footage exists.
2 But we're going to take a look into that and see if there's
3 any additional footage that we can obtain.

4 From the information that we were given, it was not
5 the election judges who would have done the final opening,
6 the final Ballot Board and the final opening of those
7 ballots; it appears as though that was City staff. And that
8 was not done in a room that we can find that was on camera.

9 Q. So depending on whether or not you can find additional
10 footage, your conclusions as to what happened may change.

11 A. It's possible.

12 Q. But it's possible. You just mentioned -- so the final -- the
13 final opening of those ballots was done by -- or opening or
14 process --

15 A. From --

16 Q. -- was done by City staff. Explain that for me. Sorry.

17 A. No, that's okay. From what we've been able to determine, the
18 Absentee Ballot Board -- so the hired party-affiliated
19 election judges -- conducted their last Ballot Board on
20 Thursday, October 17th, at approximately 10:00 a.m. Those
21 ballots were then marked "accepted" into SVRS about noon.
22 They had already started to open the absentee ballots that
23 had been received earlier through the envelope process.
24 Those last 20 were not included, and they were never given
25 another batch. No one ever walked into the room -- like

1 here's your initial (indicating); they balanced the envelopes
2 to the ballots. No one walked into the room at a later time
3 that afternoon and said "Here's more" for any of the
4 precincts.

5 Q. Do you know why City staff would have processed those and not
6 the Absentee Ballot Board?

7 A. It is allowable, per statute, for two people to do that
8 together. Not everyone does their absentee ballot board with
9 party-affiliated election judges. They're required to do
10 signature verifications; they're not necessarily required to
11 do the entire process. But according to the time cards that
12 we've been able to receive, there were not election judges
13 present at the time that that process would have occurred on
14 Friday morning, the 18th.

15 Q. And is this the point in time that the signature envelope and
16 the secrecy envelope would have been separated?

17 A. Correct.

18 Q. And it's because of the information that you received from
19 the City of Shakopee that all of the other secrecy envelopes
20 were thrown away, you concluded that these must have been
21 thrown away as well. Is that right?

22 A. We did.

23 Q. You also -- the letter also states something with regard to
24 whether the ballots were removed from the secrecy envelope.
25 Can you read that portion, please?

1 A. (Pause.) Could you help me?

2 Q. Sure.

3 A. Thank you.

4 Q. (Indicating.)

5 A. Got it. Thank you.

6 Yes, in the conclusions on the last page, it
7 states: "That the ballots were most likely never removed
8 from their secrecy envelopes," "...when the secrecy envelopes
9 were thrown away."

10 Q. But you cannot be certain whether they were removed from the
11 secrecy envelope or not, can you?

12 A. I cannot.

13 Q. And you don't have any additional proof today of whether or
14 not they were removed from the secrecy envelope and reviewed.

15 A. I do not.

16 Q. Who was responsible for ballot security at Shakopee during
17 the period of October 15th through the 18th?

18 A. It would have been Lori Hensen, the Shakopee city clerk.

19 Q. I think this has been stated, but I just want to make sure
20 that we're clear on the record: The ballots in question --
21 the 20, 21 -- were never included in the final vote totals;
22 is that correct?

23 A. That's correct.

24 Q. And that would be reflected in the -- or wouldn't be
25 reflected in the second abstract for Scott County; is that

1 correct?

2 A. Correct. They were not included in the second abstract.

3 MR. LeBEAU: And just for the record, Your Honor,
4 that's Exhibit 5.

5 BY MR. LeBEAU:

6 Q. And Exhibit 5 reflects what? That's the second ballot
7 abstract. Can you describe what that is?

8 A. Sure. That is a report that shows an aggregate of vote
9 totals for each candidate as well as a breakdown of voter
10 totals by precinct. It does not break out absentee versus
11 election day in the abstract. It gives you one total, other
12 than stating how many absentee voters there were total.

13 Q. On the Scott County letter, it also mentions Precinct 12;
14 correct? I believe it's a paragraph --

15 A. It does.

16 Q. -- at the bottom of the first page.

17 A. Yes.

18 Q. Could you read that, please?

19 A. Sure. "While conducting normal auditing activities on
20 Thursday, November 7, County staff found that there was a
21 problem --

22 THE COURT: You have to slow -- I'm sorry to
23 interrupt you.

24 THE WITNESS: Yes.

25 THE COURT: You have to slow down.

1 THE WITNESS: I'm sorry. Thank you.

2 THE COURT: So why don't you --

3 THE WITNESS: I will do that.

4 THE COURT: -- start again if you don't mind.

5 Thank you.

6 THE WITNESS: Okay.

7 A. "While conducting normal auditing activities on Thursday,
8 November 7, County staff found that there was a problem with
9 Shakopee returns in that there was a 21-ballot discrepancy
10 between two precincts (with more absentee voters recorded
11 than ballots received). The issues were noted to be 20
12 ballot records for Precinct 10 and one for Precinct 12A.
13 Based on experience, staff noted it is not uncommon for one
14 voter to check in and not vote, so the discrepancy in
15 Precinct 12A was not pursued; the focus was on P10."

16 BY MR. LeBEAU:

17 Q. And to this date, there's been no investigation into P-12;
18 correct?

19 A. There has not.

20 Q. So you can't conclude whether this falls into the same
21 category as these other 20 or not, can you?

22 A. I cannot.

23 Q. And earlier you gave sort of an example of what a person
24 would have to go through and to vote absentee in person and
25 not have a ballot. Is this the same type of scenario?

- 1 A. This would be the same type of scenario, yes.
- 2 Q. And in your experience, have you ever seen that occur?
- 3 A. Not that I'm aware of.
- 4 Q. So is it possible that there is one more ballot that's still
5 out there that can't be accounted for?
- 6 A. It's possible.
- 7 Q. In your opinion, how would you characterize -- based on the
8 facts that you know of this polling location and these 20, 21
9 missing ballots, how would you characterize that in the
10 administration of an election?
- 11 A. How would I characterize it. I would say it is
12 inappropriate, something that should not have happened.
- 13 Q. And is it contrary to the training that you provided?
- 14 A. It is.
- 15 Q. I want to talk about the dates in question during this time.
16 Early voting, envelope voting as you described it, began on
17 September -- ?
- 18 A. 20th.
- 19 Q. And concluded on what day?
- 20 A. October 17th.
- 21 Q. And the 18th is the day -- what happens with all those
22 ballots once the 18th hits?
- 23 A. Starting late on the 17th, those ballots that have already
24 been voted can be opened and run through the tabulator. So
25 normal process would be on the 18th, that not only would you

1 have people, voters in-person voting putting their ballot in
2 the tabulator, you would also have staff, election judges
3 both together running those ballots that had been cast
4 through the envelope process into that same tabulator.

5 Q. And so they're physically, again, separating the secrecy
6 envelope from the signature envelope and putting the ballot
7 in the machine.

8 A. Correct.

9 Q. And this is all predicated upon the fact that they would have
10 balanced out the totals with those absentee ballots
11 previously.

12 A. Correct.

13 Q. We touched on this earlier, but there was a reference to the
14 fact that there was an estimation made for the 17th. Do you
15 recollect that conversation?

16 A. I do.

17 Q. And what was this estimation that was made?

18 A. It appears as though the number from the tabulator was never
19 actually written down on October 18th, so the staff took the
20 number of voters that they had that day and subtracted from
21 the number that was totally run. They did do math. I can't
22 call it an estimation, but there wasn't verification through
23 SVRS reports of what those totals should be. They should
24 have been able to run reports showing exactly how many voters
25 they had plus the voters they would have had on the 18th

1 through the direct balloting process.

2 Q. Whatever math they did was not the proper procedure for
3 handling the ballots; is that correct?

4 A. Correct.

5 Q. And once the secrecy envelope is detached from the signature
6 envelope, there's no way to trace it back; is that correct?

7 A. Correct.

8 Q. That's sort of the whole point; right?

9 A. Correct.

10 Q. So can you say with absolute certainty that the 20 voters who
11 have been identified as having missing ballots are the actual
12 ballots that were lost?

13 A. I can't say with absolute certainty, no.

14 Q. And why is that?

15 A. As much as we don't want to estimate and play games with
16 probability, this is the most likely scenario based on all of
17 our investigations. But I was not there. I did not assist
18 those voters, I did not do the balancing for them, so I
19 cannot say that -- at a hundred percent certainty that this
20 is -- that those are the 20 people. It is what makes the
21 most sense given all of the scenarios and the investigation
22 that we've done, but no.

23 Q. And that -- I'm just trying to figure out how to phrase this,
24 but -- and as you stated earlier, that investigation may not
25 be done. There may yet be more evidence for you to dig in.

1 A. It is possible.

2 Q. Based on your experience with the conduct that the City of
3 Shakopee had in this election, do you have certainty that
4 they followed all procedures for tabulating and counting the
5 ballots?

6 A. I do not.

7 Q. So the information that we have may not be reliable even from
8 what they provided.

9 A. We've been able to verify through multiple interviews. We
10 not only interviewed City staff but the party-affiliated
11 election judges as well. And is it possible it's not
12 reliable? Of course, yes, it is possible. But we believe
13 we've been able to put many pieces of the puzzle together and
14 verify against our questioning.

15 Q. And I certainly don't think anybody's doubting your efforts.

16 Prior to November 7th, did the City ever inform you
17 of a discrepancy in either P-10 or P-12?

18 A. No.

19 Q. So how many days lapsed between you now knowing when an error
20 occurred and with them informing you about it?

21 A. We actually informed them of the error, so -- but from the
22 time that they were able to inform us on where the error
23 occurred, that would have been from Thursday to Tuesday, so
24 about five days.

25 Q. But from when the error actually occurred --

1 A. Oh, from the error actually occurred to when -- well, they
2 never informed us of an error. But from the time the error
3 occurred until we discovered, whatever the time frame would
4 be from October 17th to November 7th, a good three weeks.

5 Q. And it was that same three weeks, 20 days, that lapsed before
6 an investigation began; is that right?

7 A. Correct.

8 Q. You are certain the ballots are missing.

9 A. I am.

10 Q. And you can't say with certainty where they came from.

11 A. I can, yes. I mean -- where they came from at the precinct
12 level --

13 Q. Yes.

14 A. -- sorry. My elections brain. Can I say with absolute
15 certainty what happened? No.

16 MR. LeBEAU: Your Honor, thank you. I tried to
17 keep it right at time.

18 THE COURT: Thank you for that.

19 It's about time for our morning recess. We're
20 going to take that at this time. We generally take 15
21 minutes, and then we'll come back and restart with Mr. Zoll's
22 cross-examination.

23 (A recess was taken.)

24 THE COURT: We'll go back on the record.

25 Mr. Zoll -- we do not have our witness.

1 Why don't you come back to the witness stand,
2 please. Thank you.

3 Go ahead, Counsel.

4 MR. ZOLL: One moment. I just want to make sure my
5 colleague is able to share exhibits for me.

6 CROSS-EXAMINATION

7 BY MR. ZOLL:

8 Q. Thank you, Ms. Hanson. Unfortunately, some of my questions
9 are going to be repetitive of topics that you discussed
10 earlier in your testimony, but I do want to make sure that we
11 have a clear record and a full understanding of the issues.

12 Did you describe yourself as the Elections
13 Administrator for Scott County?

14 A. Yes, I did.

15 Q. Okay. And you've been in that position for about six and a
16 half years?

17 A. Correct.

18 Q. And in that role, do you rely on both City and County staff
19 to carry out the functions of administering the elections?

20 A. I do.

21 Q. I have a few questions regarding some documents that I want
22 to go through before asking you questions regarding your
23 investigation, and I'd like to start with Exhibit 206.

24 THE COURT: And 206 is already -- is that one of
25 the objected-to exhibits, Counsel?

1 MR. ZOLL: I don't believe so.

2 THE COURT: All right.

3 BY MR. ZOLL:

4 Q. Do you recognize this document?

5 A. I do.

6 Q. What is it?

7 A. This is the recount worksheet that we are provided from the
8 State's election system to use during a recount process, so
9 it gives us what the November 5th tallies are for each
10 candidate, which would include absentee totals, and then it
11 gives us space to be able to provide our recount totals as
12 well.

13 Q. And is this Exhibit 206 the document that was used in the
14 recount of the election for House District 54A?

15 A. Yes, it was.

16 Q. Did you fill out the information on this form?

17 A. I did. This is my handwriting; the only portion of this that
18 is not is where it says "Recount Team Initials." That was --
19 each of the election judges that participated for each
20 precinct, they initialed that themselves.

21 Q. Okay. I want to focus on Shakopee Precinct 10. And can you
22 just confirm for me, what was the total number of ballots
23 that were counted for Aaron Paul in Precinct 10?

24 A. Yes. That would have been 534.

25 Q. How about for Representative Brad Tabke?

1 A. 731.

2 Q. And what is the total for "Other"?

3 A. The "Other" would be undervotes, so if folks chose -- because
4 of course you can vote or not vote any race on a ballot.
5 "Other" would be undervotes. Mostly that's, you know, people
6 who did not vote that category. It could also be an overvote
7 if people voted equally for both candidates. Or it could
8 have been a write-in or a vote for someone else.

9 Q. And what's the total number of "Other" votes for Shakopee
10 Precinct 10?

11 A. 94.

12 Q. Okay. And if we were to add those numbers together, the 731
13 for Tabke and the 534 for Paul and the 94 for "Other" -- and
14 I'm not going to ask you to do that math in your head -- but
15 would that be the total number of ballots that were counted
16 for Shakopee Precinct 10 in this election for House District
17 54A?

18 A. Yes, it would.

19 Q. Okay. Now I want to turn to Exhibit 5, and I believe you
20 were asked questions about Exhibit 5 previously. And we'll
21 just start with the title page here. Do you recognize this
22 document?

23 A. I do.

24 Q. What is it?

25 A. It is the Abstract of Votes Cast, so this is the report that

1 is generated from the official returns through the State's
2 election registration system that is provided to the
3 Canvassing Board for their signatures.

4 Q. From this page, are you able to tell whether this is the
5 abstract that was signed before or after the recount?

6 A. I am not, not from this page.

7 Q. Okay.

8 MR. ZOLL: Can we just move to the final page of
9 Exhibit 5?

10 BY MR. ZOLL:

11 Q. Does this page allow you to answer that question?

12 A. It does. This is the second version of the abstract
13 completed after the recount.

14 Q. What information allows you to say that?

15 A. Just even the date. The second Canvassing Board was held on
16 the 25th of November.

17 Q. Okay.

18 MR. ZOLL: Finally, I want to focus on page 18 of
19 73, so page 18 of Exhibit 5.

20 BY MR. ZOLL:

21 Q. Can you tell me what's reflected on this page?

22 A. This is U.S. Representative District 2 race. I don't think
23 this is the page you want.

24 MR. ZOLL: Yeah --

25 MS. KITZE COLLINS: Oh.

1 MR. ZOLL: Sorry. One more.

2 MS. KITZE COLLINS: (Scrolling.)

3 MR. ZOLL: Here we go. So this is page 18. It's
4 page 20 of the PDF but page 18 of the report.

5 THE WITNESS: Yes.

6 MR. ZOLL: That's my fault.

7 BY MR. ZOLL:

8 Q. So can you tell me what's reflected on this page?

9 A. Yes. This gives us the precinct-by-precinct breakdown of the
10 votes for State Representative 54A for both Mr. Paul,
11 Representative Tabke, and then any write-ins. As I said,
12 precinct by precinct as well as the totals.

13 Q. Okay. And how many total votes across all precincts were
14 cast for Aaron Paul?

15 A. It appears as though it was 10,965.

16 Q. How about for Representative Brad Tabke?

17 A. 10,979.

18 Q. And "Write-in"?

19 A. 36.

20 Q. These results don't show undervotes or overvotes that you
21 described that were in the "Other" category of the recount
22 tally sheets; is that correct?

23 A. Correct.

24 Q. What's the margin in terms of the number of votes between
25 Representative Tabke and Mr. Paul?

1 A. 14.

2 MR. ZOLL: You can take that exhibit down.

3 BY MR. ZOLL:

4 Q. I'd like to ask you some questions about the process of
5 reporting election results. Does your office prepare totals
6 from the absentee ballots that are received within Scott
7 County?

8 A. We do.

9 Q. And do you separately prepare totals from the ballots that
10 are cast on election day?

11 A. We do.

12 Q. Are those then combined?

13 A. They are. They are combined and reported to the Secretary of
14 State.

15 Q. Okay. Is that combination, is that an automated process or
16 is that something that you and your staff do by hand?

17 A. It is an automated process.

18 Q. Okay. Is there a software that does that work for you?

19 A. There is.

20 Q. Okay. From your experience as the Elections Administrator,
21 do you have a view as to whether absentee voting or election
22 votes cast on election day tend to favor one party or the
23 other?

24 A. Not at this time. I would say in the past, prior to 2020 and
25 COVID, I think we would see more Democrat votes through the

1 absentee process. But I don't believe that that holds true
2 currently, either here or from what I've seen across the
3 state or nationally.

4 Q. Okay. Thank you. I want to ask you a few questions about
5 the process of casting an absentee ballot in person, and I
6 understand you addressed this with questions from Mr. LeBeau.
7 But are voters required to complete an absentee ballot
8 application when voting by absentee in person?

9 A. They are.

10 MR. ZOLL: Can we pull up Exhibit 10?

11 THE COURT: And Exhibit 10 has already been
12 received, as was Exhibit 206.

13 MR. ZOLL: Thank you.

14 And can we move to the second page of Exhibit 10?

15 BY MR. ZOLL:

16 Q. Is this an example of an absentee ballot application?

17 A. It is.

18 Q. Using this form, are you able to determine the date an
19 individual voted? Well, let me back up one step.

20 If an individual voted in-absentee, they would
21 complete this form when they showed up at the polling
22 location?

23 A. Correct, either at the polling location or there is a
24 possibility they would already have one that they would bring
25 with them, yes.

1 Q. Using this form, is it possible to determine the date that
2 they arrived or appeared at the polling location?

3 A. There is. There's two examples. What you see at the top
4 where the word "APP" says, meaning application, there's two
5 dates. October 16th is listed as one of those dates, so that
6 initial date would have been the date that they applied. And
7 if you can scroll down a little bit as well, down to the
8 signature, there's a date dated there by the voter and a
9 "received date" down towards the bottom. For the General, it
10 says this was a registered voter, the date that this
11 application was received, and the date the ballot was issued.
12 All of those dates indicate -- in this example, it was
13 October 16.

14 Q. Okay. Thank you. And the voters, you had described that
15 they, when voting, place their ballots inside a secrecy
16 envelope.

17 A. Correct.

18 Q. And then that is placed inside a signature envelope.

19 A. Correct.

20 Q. Going back to the first page of Exhibit 10, is this an
21 example of a signature envelope?

22 A. It is.

23 Q. And are you able to tell whether this ballot was accepted?

24 A. If we scroll down a little bit towards the bottom of the
25 envelope, it is marked "Accepted" in the bottom left corner.

1 Q. Does this tell you the date it was accepted?

2 A. This envelope does not. We do train the staff and our
3 Absentee Ballot Board to date these envelopes. We did find
4 through this process that that was not done. Looking in the
5 Statewide Voter Registration System at the ballot history, we
6 are able to see what date it was accepted.

7 Q. Okay. And to be clear, there's not a -- on Exhibit 10, a
8 spot to include the date. There's not a "Date Accepted"
9 blank for them to fill in.

10 A. There is not.

11 Q. But it was your testimony that using other sources of
12 information, it is possible to determine the date upon which
13 a particular ballot was accepted?

14 A. Correct.

15 Q. And can you just explain again what that other source of
16 information is?

17 A. Yes. It is the Statewide Voter Registration System. It is
18 the software that we use provided by the Secretary of State's
19 Office to administer the election.

20 THE COURT: Counsel, would you approach for a
21 minute, please?

22 (Off-the-record bench discussion.)

23 THE COURT: Go ahead.

24 BY MR. ZOLL:

25 Q. On Exhibit 10, there was a -- on the signature page, there is

1 a signature that was visible. Do you see that?

2 A. I do.

3 Q. Would that be -- who would have signed that?

4 A. That would have been a City staff or election judge, whoever
5 assisted the voter that day.

6 Q. So that's not the voter's signature there.

7 A. It is not.

8 Q. Okay.

9 MR. ZOLL: We can take the exhibits down.

10 BY MR. ZOLL:

11 Q. As part of your work as the Elections Administrator for Scott
12 County, did you take steps to confirm the accuracy of the
13 results of the election?

14 A. We did.

15 Q. In the process of doing so this year, as you testified
16 previously, you determined that 20 ballots from Shakopee
17 Precinct 10 were not included in the total number of ballots
18 counted in the 2024 General Election; is that correct?

19 A. Correct.

20 Q. And you conducted an investigation into the circumstances
21 regarding why those ballots were not counted?

22 A. Yes, we did.

23 Q. Is that investigation that you performed something you did in
24 your role as the Scott County Elections Administrator?

25 A. It is.

1 Q. As part of your role to confirm the accuracy of the election
2 results?

3 A. Yes.

4 Q. And to confirm that the election was conducted consistent
5 with Minnesota law?

6 A. Correct.

7 Q. Put differently, was the investigation that you conducted
8 performed as part of your job as the Scott County Elections
9 Administrator?

10 A. Yes.

11 Q. Okay. You had testified earlier that errors or discrepancies
12 in the conduct of an election are not unusual and provided an
13 example of providing the voter the wrong ballot. Do you
14 recall that testimony?

15 A. I do.

16 Q. Why is it that errors or discrepancies like that are not
17 unusual?

18 A. Just because as hard as we try, it's still a human process,
19 and humans make mistakes.

20 Q. We try, but we don't always succeed; correct?

21 A. Correct.

22 Q. You were also asked questions regarding the absentee voting
23 guide that you and your staff prepared. Do you recall those
24 questions?

25 A. I do.

1 Q. And you were asked about the provision that says that the
2 secrecy envelopes should be stored or maintained. Do you
3 recall that?

4 A. I do.

5 Q. Do you know whether that is a requirement of Minnesota
6 Election Law?

7 A. I don't know that it is. I have actually been told that
8 secrecy envelopes are technically not included in the
9 retaining of election materials. We have always tried to err
10 on the side of caution, and everything that is involved in
11 the process we would prefer to keep for the 22-month
12 retention period.

13 Q. Okay. I'm going to give my colleague, Ms. Kitze Collins, a
14 heads-up that Exhibit 2 will be the next exhibit that I'll
15 have a question for you on.

16 But by late November -- or -- yeah, by late
17 November 2024, had you reached a preliminary conclusion
18 through your investigation regarding the 20 uncounted ballots
19 from Precinct 10?

20 A. We had.

21 Q. I'm showing you what has been admitted as Exhibit 2. Do you
22 recognize this document?

23 A. I do.

24 Q. Is this a memo that summarizes the preliminary conclusions?

25 A. Yes.

- 1 Q. Did you assist in the preparation of this document?
- 2 A. I did.
- 3 Q. Did you review it before it was finalized?
- 4 A. I did.
- 5 Q. At the time, did you believe it to be accurate?
- 6 A. Yes, I did.
- 7 Q. And do you continue to believe that it is accurate today?
- 8 A. I do.
- 9 Q. I'm going to call your attention to the second-to-the-last
10 page of Exhibit 2 where the final paragraph begins with the
11 sentence, "Although the investigation is not complete and
12 remains ongoing..."? Do you see that?
- 13 A. I do.
- 14 Q. And that's followed by a series of bullet-pointed
15 conclusions. And I'll just ask you: Do you continue to
16 agree with the conclusions that are stated there?
- 17 A. I do.
- 18 Q. Has your investigation continued after the date of this
19 November 27th memo?
- 20 A. It has.
- 21 Q. Has that continuing investigation caused you to change any of
22 your conclusions?
- 23 A. It has not.
- 24 Q. Has your continuing investigation caused you to increase or
25 decrease your confidence in the conclusions you reached?

1 A. The investigation would have increased my confidence in the
2 preliminary decision that we believe we had made.

3 Q. And more specifically, has the continuing investigation
4 caused you to increase or decrease your confidence in the
5 identity of the 20 individuals who cast the uncounted
6 ballots?

7 A. I would say it was -- increased my confidence.

8 Q. Okay. I'd like to work through the process of your
9 investigation step by step to make sure we have a clear
10 understanding of how you reached your conclusions. So let me
11 start here -- and I'm sorry it's repetitive, but I want to
12 make sure that we can walk through this in a logical,
13 stepwise approach.

14 How did you first determine that 21 ballots cast in
15 the 2024 General Election had not been counted?

16 A. In our normal audit that we began the morning of
17 November 7th, we as standard practice go through and verify
18 all of the vote totals off of all the tapes, everything that
19 is received. Part of that process is to run reports out of
20 the Statewide Voter Registration System to look at totals of
21 ballots accepted at each location. And that is what led us
22 to discover that there were 20 or possibly 21 ballots missing
23 from the two precincts in Shakopee.

24 Q. And were you able to determine whether those ballots were
25 cast on election day or whether they were cast as absentee

1 ballots?

2 A. We were. They were cast as absentee ballots.

3 Q. How did you reach that conclusion?

4 A. The Statewide Voter Registration System that we're using to
5 balance is only balancing absentee ballots. It is not
6 looking at election-day balloting at all.

7 Q. So am I understanding that you would have had a total number
8 of absentee ballots that had been cast -- or strike that.
9 Maybe I'm -- I want to be precise.

10 When you look at the Statewide Voter Registration
11 System, are you looking at ballots that had been requested,
12 that had been sent, or that had been accepted for purposes of
13 this balancing?

14 A. We are looking at the amount of ballots that have been
15 accepted.

16 Q. Okay. So to determine that these uncounted ballots were cast
17 as absentee ballots, would you first identify the total
18 number of accepted absentee ballots?

19 A. We would.

20 Q. And then what would you compare that to?

21 A. We would compare that to the amount of applications that we
22 received from the City of Shakopee. All of their materials
23 were returned to us the day after the election, so we would
24 go back to those applications, physically count those
25 applications. We would count the envelopes. Of course the

1 envelopes would only give us the total that were voted during
2 the envelope process, right, not through direct balloting.
3 And in this case, we actually went back to the physical
4 ballots and counted the physical ballots.

5 Q. Would you have checked anything prior to getting to that
6 step? And I guess what I'm asking is when you first
7 discovered this imbalance, were you looking at all those
8 materials you described, or were you looking at the vote
9 totals compiled by you and your staff?

10 A. We were looking at the vote totals. We were looking at the
11 breakdown between election day and absentee. Our system
12 gives us the ability to run reports both for election day and
13 absentee. We had our party balance of election judges
14 working alongside with staff to verify the election-day vote
15 totals. We were concentrating on the absentee side.

16 Q. Okay. So to determine that 21 ballots that were cast as
17 absentee ballots had not been counted -- and I'll use a
18 hypothetical number here -- if you looked in the SVRS and saw
19 that 50,000 absentee ballots had been accepted in Scott
20 County, when you looked at the totals for absentee ballots
21 that had been counted, it would have been 49,979.

22 A. Correct.

23 Q. Okay. And that's how you discovered that there was that
24 discrepancy.

25 A. Yes.

1 Q. Were you able to determine whether the at that point 21
2 uncounted ballots came from a specific precinct?

3 A. We were. We were able to determine that there was one from
4 Shakopee 12A and 20 from Shakopee Precinct 10.

5 Q. How did you do that?

6 A. The vote totals -- apologies, not the vote totals. The total
7 ballots accepted issued by the Statewide Voter Registration
8 System shown by those reports, and the number of cards cast
9 is what our system would call it, so the number of ballots
10 that we received results for was off that 21.

11 Q. So to identify the specific precincts from which those
12 ballots were cast, is it fair to say you just did more
13 granular analysis, as what led you to conclude that there
14 were 21 uncounted ballots?

15 A. Correct. We balance on a precinct-by-precinct level.

16 Q. Okay. Voters can mail in their absentee ballots or cast
17 absentee ballots in person; is that correct?

18 A. Yes.

19 Q. Were you able to determine whether the 20 uncounted ballots
20 from Shakopee Precinct 10 were mailed in or cast in person?

21 A. We were. The City of Shakopee does not do mail-in absentee
22 balloting; we do all of that at the county level. So it
23 would have been in-person votes.

24 Q. Okay. And how specifically were you able to make that
25 determination that these would have been ballots cast in

1 person through the City of Shakopee?

2 A. The ballots are kept separate from what is done here at the
3 county level, whether it be at our Public Works facility
4 where in-person voting is done, mail balloting, those types
5 of things. They are combined at the end, but we were able to
6 determine simply by looking at the reporting that there was a
7 discrepancy in the numbers just for the City of Shakopee. We
8 can break down those reports both in SVRS and our system, our
9 election tabulation system, by location.

10 Q. Okay, and I think I may have a question for you with an
11 exhibit on that --

12 A. Sure.

13 Q. -- a little bit later. That's very helpful. How many
14 accepted absentee ballots were there from the City of
15 Shakopee for Precinct 10?

16 A. 329.

17 Q. And that's based on information that you obtained from where?

18 A. The Statewide Voter Registration System.

19 Q. And did you testify that you counted the physical ballots
20 that were returned to the County by the City of Shakopee?

21 A. We did that as well, yes.

22 Q. And how many ballots did you count in that physical count?

23 A. 309.

24 Q. And that's for Precinct 10?

25 A. For Precinct 10, correct.

1 Q. Ballots that came from the City of Shakopee.

2 A. Yes.

3 Q. Are you able to determine, just looking at a physical ballot,
4 what precinct it was cast for?

5 A. Yes. The ballots are marked at the top corner as well as the
6 bottom as to which precinct it is for.

7 Q. Okay. So, at this point in your analysis that we're
8 discussing here, we've narrowed the source of the 20
9 uncounted ballots from Shakopee Precinct 10 to a universe of
10 329 ballots cast by voters at the Shakopee early voting
11 location; is that correct?

12 A. Correct.

13 Q. Do the records maintained by either Scott County or the
14 Minnesota Secretary of State allow you to identify by name
15 the voters who cast those 329 ballots?

16 A. Yes.

17 Q. Were you able to further narrow the source of the 20
18 uncounted ballots from Shakopee Precinct 10 to a specific
19 date range?

20 A. We were.

21 MR. ZOLL: If we could pull up Exhibit 2 again?
22 And I'll want to look at the first paragraph of the second
23 page.

24 BY MR. ZOLL:

25 Q. I think about midway through this paragraph there's a

1 reference to a spreadsheet provided by City staff tracking
2 absentee ballots submitted in Shakopee. Do you see that?

3 A. I do.

4 Q. Was that spreadsheet useful for your investigation?

5 A. Yes. At the beginning, I could not really make heads nor
6 tails of the report, but yes, once we really dug into that
7 and their totals, it was.

8 MR. ZOLL: Can we pull up Exhibit 202, which has
9 been stipulated to its admission?

10 THE COURT: And 202 has been received.

11 BY MR. ZOLL:

12 Q. Do you recognize this?

13 A. I do.

14 Q. Is this an email from Lori Hensen to you?

15 A. It is.

16 Q. And remind me, who's Lori Hensen?

17 A. She's the former Shakopee city clerk.

18 Q. Okay. And in this email -- by the way, what's the date of
19 this email?

20 A. Thursday, November 7th.

21 Q. Okay. In this email, Ms. Hensen says, "This is an excel
22 spreadsheet that Kay our election judge in the AB room made
23 to keep (pause) track" -- I had a typo in my notes. Sorry,
24 that's the reason I paused there -- "to keep track of the
25 ballot votes made." Do you see that?

1 A. I do.

2 Q. And is this the spreadsheet that's referenced in the County
3 Attorney's memo that we looked at that's Exhibit No. 2?

4 A. It is.

5 Q. And if we can turn to the next page of Exhibit 202, is this a
6 copy of that spreadsheet?

7 A. It is.

8 Q. In the course of your investigation, did you talk to the
9 individual who prepared this spreadsheet?

10 A. I did.

11 Q. Who was that?

12 A. Her name was Kay Gamble.

13 Q. Did Ms. Gamble explain to you how the spreadsheet was
14 prepared?

15 A. She did.

16 Q. Can you explain for the Court once again how you were able to
17 use this spreadsheet or how this spreadsheet was helpful to
18 narrow down the date range when the uncounted absentee
19 ballots were cast?

20 A. I can. Not on this page, but on the third page, so -- yes,
21 this one. This gives us the absentee ballot count from the
22 first day of absentee through the last day of envelope
23 voting, which they have totaled up to be 1124.

24 Q. Okay, and I'll stop you there. Did you ask Ms. Gamble about
25 the process she used to create the information on this page

1 of the spreadsheet?

2 A. I did.

3 Q. What did she describe to you in terms of the process she
4 used?

5 A. She described to me, especially during this part, that they
6 were balancing their applications that they took in and
7 counting applications against the Statewide Voter
8 Registration System and then logging the total number of
9 voters that came in each day.

10 Q. So they were doing the balancing for -- across all the
11 precincts that were voting at that location?

12 A. Correct.

13 Q. But not on a precinct-by-precinct basis.

14 A. Correct.

15 Q. Okay. But they were performing some balancing.

16 A. They were.

17 Q. Okay, and then where would you take me next on this
18 spreadsheet to explain to the Court how this helped you focus
19 in on a particular date range when the 20 uncounted ballots
20 were cast?

21 A. Sure. So the total of this page indicates that all of those
22 numbers added together are 1124. And if we can go back up
23 one page and look at that first date. We were able to look
24 at this, take the 1124 from the previous sheet, add the 276
25 direct balloting applications, and not arrive at 1379. The

1 total of that should be 1400. So that is exactly 21 off on
2 that date.

3 Q. And that's the number of the discrepancy that you initially
4 discovered when comparing accepted absentee ballots in the
5 SVRS system against -- I believe the term you used for what
6 your machines would say -- the "cards read" for absentee
7 ballots.

8 A. Correct.

9 Q. And is that how you were able to determine that the 21-ballot
10 discrepancy began on or before October 18th, 2024?

11 A. It is.

12 Q. You were asked questions about the 1379 number that reflects
13 the machine count. Do you recall those questions?

14 A. I do.

15 Q. And I don't want to misstate anything you said, so please
16 correct this: You were asked how that estimate was prepared,
17 and you clarified that math was performed to arrive at that
18 number. Can you explain -- well, let me back up one step.

19 Do you have an understanding of the math that was
20 performed to determine that the number was 1379?

21 A. From what I was told by Ms. Gamble, the actual machine total
22 was not recorded at the end of October 18th, so she took the
23 machine total and subtracted the amount of direct balloting
24 applications to arrive at the 1379.

25 Q. Do you understand from your discussions or interviews with

1 Ms. Gamble whether the machine total was recorded on a date
2 subsequent to October 18?

3 A. Yes, I understand that it was.

4 Q. And what's your understanding around the -- that recording,
5 that writing-down of the number?

6 A. That each night at the end of the day, they would -- the
7 staff in the room would hand-record a number on a piece of
8 paper. She would then take it and put it into her
9 spreadsheet. Most days she worked early morning, not closing
10 shifts, so someone else at the end of the day wrote down or
11 had written those numbers down, and she would move them into
12 the spreadsheet.

13 Q. And is it your understanding that that would have occurred
14 beginning October 21st and continuing forward?

15 A. That is my understanding, yes.

16 Q. Okay. So the math that was performed was simply to get from
17 the number recorded from the machine at the end of the day on
18 October 21st to what it would have been at the end of the day
19 on October 18th.

20 A. Correct.

21 Q. Next up will be Exhibit 9, and as that's being pulled up --
22 and this is again another exhibit that's been stipulated to
23 by the parties. Do you know how many absentee ballots were
24 cast at the Shakopee early voting location prior to
25 October 18th, 2024?

- 1 A. I do just doing the subtraction. So there were 329 total.
2 We know that there were 87 cast prior to October 18th. That
3 does match up with our amount of envelopes that we have, and
4 applications as well.
- 5 Q. How many absentee ballots -- well, maybe I can ask a question
6 that will help this be more clear. Prior to October 18 -- so
7 through October 17 -- voters who arrived at Shakopee to cast
8 an absentee ballot were doing what you described as "envelope
9 balloting"; is that correct?
- 10 A. Correct.
- 11 Q. And then what about beginning on October 18 going forward?
- 12 A. They would have done the direct-balloting method right into
13 the tabulator.
- 14 Q. Okay. And how many envelope voting -- or how many voters for
15 Precinct 10 voted using the envelope method at Shakopee?
- 16 A. Prior to October 18th, there would have been 50.
- 17 Q. Okay.
- 18 A. We know that there were an additional 37 that voted through
19 Health Care Facility voting, which is also the envelope
20 process, but that was done later in the month.
- 21 Q. Let me ask you about Exhibit 9. Do you recognize this
22 document?
- 23 A. I do.
- 24 Q. What is this?
- 25 A. This is a -- could you scroll down just a little -- or I'm

1 sorry -- up. Apologies.

2 This is the report that we are able to obtain out
3 of the Statewide Voter Registration System -- which we
4 abbreviate to "SVRS" -- of the "Absentee Ballots By" -- it
5 says "Status And Location." So we can use all of these
6 methods that are listed in the description to bring them
7 down. If I were to run absentee ballots by current status
8 and location and not put any of the limiters on it or the
9 filters, I would get every location, including Scott County
10 absentee. But in this case, this would be only -- the
11 "Shakopee-M" would be Shakopee-Main, and in this case, that
12 would be Shakopee City Hall.

13 Q. And is this limited to the envelope voting method?

14 A. In this case, we have -- yes. We do not have the direct
15 balloting listed as the application delivery method, so those
16 would have been taken out.

17 Q. And if we wanted to know the precise number of individuals
18 who voted using the envelope method at Shakopee for
19 Precinct 10, would we -- could we determine that by going
20 through this exhibit? I'm not going to ask you to do it now,
21 but --

22 A. Yes, we could.

23 Q. How would one do that?

24 A. We could certainly add these up. I believe at the end of
25 this report as well -- it's multiple pages, but I believe at

1 the end of the report, it may give us a total. (Pause.) It
2 does not. So we would have to add these up and get that
3 total.

4 Q. And on each line of this, there's "Accepted" and then a date.
5 Do you see that?

6 A. I do.

7 Q. What does that reflect?

8 A. That reflects the date that it was actually accepted by the
9 Absentee Ballot Board into the Statewide Voter Registration
10 System.

11 Q. Okay. And you had testified previously about Health Care
12 Facility voting. Can you describe what Health Care Facility
13 voting is?

14 A. Sure. So there's a provision in law that allows for
15 facilities that meet certain qualifications -- and generally
16 it's those folks that aren't mobile, right, that aren't able
17 to come to an in-person or election-day location. So to
18 staff the two-party balanced election judges, or it could be
19 a mixture, go and create the election day sort of experience
20 for the voters at the health care facility. They do request
21 from the health care facility that those voters fill out
22 absentee applications in advance so that the clerk or the
23 staff can enter those into the system, prepare that
24 paperwork, including the ballot, and then bring it to the
25 health care facility for someone to vote.

1 Q. And is there a way, looking at this report, for you to
2 determine whether a ballot was cast through Health Care
3 Facility voting versus in-person envelope voting?

4 A. I can determine that, yes, because I can see that by the
5 date. So for example, on this page that we're looking at,
6 the first three say 10/7, 10/7, 10/17. That was during the
7 normal envelope voting process. The fourth one says
8 October 30th, and we know based on conversations and also the
9 spreadsheet that was provided by the City of Shakopee what
10 days they did Health Care Facility voting, and October 30th
11 was one of those days.

12 Q. Okay. And if we wanted to know how many individuals cast
13 ballots at Shakopee in person using the envelope voting
14 method, could we determine that using this report?

15 A. Only for Precinct 10, yes.

16 Q. Sorry. I meant to limit that to Precinct 10. Thank you for
17 that correction.

18 And we would do that by adding up the number of
19 entries that have dates on October 18th or earlier for when
20 their ballots were accepted?

21 A. We would, and also, during our investigation, we took the
22 envelopes that we received back and the applications and
23 matched them up with this report.

24 Q. Okay. I'll represent to you that I had counted the number of
25 entries with dates on October 18 and earlier, and I came up

1 with 47. Does that seem correct?

2 A. That seems right, yes.

3 Q. Okay. So -- but if we want to know for sure, anyone could
4 just go through and count the number of entries on the sheet.

5 A. Absolutely.

6 Q. Okay.

7 MR. ZOLL: We can take that exhibit down.

8 BY MR. ZOLL:

9 Q. So, if we assume my counting is correct -- which is not an
10 assumption that anyone should make -- but if we do, at this
11 point, we've narrowed down the source of the uncounted
12 ballots from Precinct 10 down to the 47 individuals who voted
13 in-person absentee ballots during envelope voting at the
14 Shakopee early voting location; correct?

15 A. Correct.

16 Q. Through your investigation, you ultimately narrowed this set
17 of 47 voters down to 20 individuals who cast the uncounted
18 ballots from Shakopee Precinct 10; is that correct?

19 A. We did.

20 Q. I'd like to explore how you were able to narrow from 47 down
21 to the 20 specific individuals who cast those ballots.

22 Let me start here: At some point in time, did the
23 City of Shakopee begin opening absentee ballot envelopes in
24 preparing them to be counted?

25 A. They did.

1 Q. Do you know when that occurred?

2 A. I do. They started at approximately 11:00 on October 17th.

3 Q. How do you know that?

4 A. We know that based on interviews through the election judges
5 and the staff, as well as using their time cards that we were
6 provided by the City of Shakopee.

7 Q. Can you describe generally how that process works for the
8 opening of the absentee ballots?

9 A. Sure. The Absentee Ballot Board or the opening team is
10 provided with the envelopes that need to be opened on a
11 precinct-by-precinct basis. You would not intermingle
12 Precinct 1 and Precinct 2, for example. One would open all
13 of Precinct 1, complete that, and then move on to Precinct 2.

14 We know based on our interviews that Ms. Gamble
15 provided the total of the envelopes that the Absentee Ballot
16 Board should have the morning of the opening process. And
17 also, based on our interviews of the election judges, we were
18 able to determine that they counted the envelopes that they
19 were provided in like an expandable folder that had been
20 locked in the absentee room. They were provided the folder
21 and the number. They counted the amount of envelopes to the
22 list that they were provided.

23 And then your opening process would be opening all
24 of the signature envelopes; pulling all of the secrecy
25 envelopes out, setting those to the side; and then opening

1 all of the secrecy envelopes, removing the ballots. And then
2 you have a total of signature envelopes, total of secrecy
3 envelopes, and a total of ballots.

4 And then the ballots are also examined, and they
5 get initialed by the Absentee Ballot Board to confirm that it
6 was the accurate precinct as well as that it wasn't something
7 that could not be run through the machine; for example, it
8 was torn or damaged in some way.

9 Q. Did Ms. Gamble describe to you the source of the number that
10 she provided to the Absentee Ballot Board for the number of
11 ballots and envelopes that they should be counting?

12 A. She did not, actually. We were told by one of the other
13 election judges step-by-step how everything was processed,
14 and he indicated to us that he was given that by Ms. Gamble.

15 Q. Did this individual indicate whether the numbers of envelopes
16 and ballots that were counted during the opening process
17 reconciled with the numbers provided by Ms. Gamble?

18 A. He did. He could only tell us for sure for the precincts
19 that he opened himself. He could not recall which precincts
20 he had opened from that long ago, but he did indicate that
21 all three of them that were opening at the time were having
22 conversations. As we talked about, there's human error,
23 right? You might misfile a Shakopee 10 envelope in with
24 Shakopee 1. So they were having conversations about
25 balancing throughout the day until their opening was

1 complete.

2 Q. Through the course of your investigation, do you have any
3 evidence to suggest that the numbers did not balance when
4 they completed that opening process on October 17th?

5 A. I do not.

6 Q. And based on your investigation, is it your understanding
7 that the Absentee Ballot Board counted the ballots
8 themselves?

9 A. Yes.

10 Q. Who is the individual that then you spoke with regarding the
11 process of opening those ballots?

12 A. A gentleman named Rocky -- and I apologize, I'm not sure --
13 Swaeringin is the last name I believe? I'm not sure how to
14 pronounce that, but he was the gentleman that we spoke with.

15 Q. Okay. And he was an election judge with Shakopee?

16 A. Correct.

17 Q. Did the Shakopee Absentee Ballot Board accept any absentee
18 ballots on October 17th?

19 A. They did.

20 Q. Do you know how many?

21 A. I know -- I know how many from Precinct 10.

22 Q. Sorry --

23 A. Thank you.

24 Q. -- let me ask the question differently.

25 A. Sure.

1 Q. Do you know how many absentee ballots from Precinct 10 the
2 Shakopee Absentee Ballot Board accepted on October 17th?

3 A. I do. Seventeen.

4 Q. Were these included in the set of ballots that were opened
5 and prepared for counting by the City on October 17th?

6 A. Not from what we've been able to gather, no.

7 Q. And what's the basis for that conclusion?

8 A. We know, as I stated, based on the time frames for what
9 activities were done when. The Ballot Board convened about
10 10:00 a.m. At that time, there was just two members of the
11 Ballot Board, which is fine. One of the judges that was
12 participating in opening was coming in late that day. So
13 both Rocky and Latisha Porter did the Absentee Ballot Board
14 together first.

15 Those envelopes, once they were accepted by them,
16 were then brought back to the absentee ballot room and stored
17 in a locked box or a filing cabinet. And they began opening
18 about 11:00 with the three of them -- so the third Absentee
19 Ballot Board judge did come in about 11:00 -- those absentee
20 ballots, the 17. And then there were a subsequent three
21 people that also voted on the 17th that were not accepted
22 until the 18th. Those were not accepted in SVRS by the clerk
23 until approximately noon, and their opening process had
24 already begun about 11:00. We did ask specifically if they
25 had started any precincts and then anyone had come and

1 brought additional ballots later and said, "Oh, here's" --
2 "here's another batch," and we were told no. They only
3 opened what was already available to them as of about 11:00
4 on Thursday, the 17th.

5 Q. Okay.

6 MR. ZOLL: Can we take a look at Exhibit 3? And
7 once you're able to pull that up, we'll want to look
8 specifically at page 12.

9 BY MR. ZOLL:

10 Q. This is the absentee voting manual or the document that was
11 prepared by your staff. Are these the procedures for opening
12 the absentee ballots from the envelopes?

13 A. It is.

14 Q. Okay. And the first item, does that simply describe when
15 that process can start?

16 A. Yes.

17 Q. Let me look at item number two, which says, "Check recorded
18 absentee ballot return envelopes and verify the number with
19 SVRS accepted absentee ballot audit report."

20 Is it your understanding that that was done as part
21 of the opening process?

22 A. It is.

23 Q. And would that have been, to your understanding, performed by
24 Ms. Gamble?

25 A. Yes.

1 Q. That's where those numbers came from?

2 A. Yes.

3 Q. And item number three refers to separating the absentee
4 ballot return envelope and the secrecy envelope. Was that
5 performed do you know?

6 A. It was.

7 Q. How about item four of placing empty absentee ballot return
8 envelopes in a box? Is it your understanding that that was
9 performed?

10 A. Yes.

11 Q. And then item five is a number of sub-bullet points. I'd ask
12 you just to look through those, and my question is going to
13 be this: But for the final bullet point of "Store ballot
14 secrecy envelope," is it your understanding that each of
15 those bullet points in item number five were performed by the
16 team at Shakopee that was opening the absentee ballot
17 envelopes on October 17th?

18 A. It is, with the exception of the second bullet, "Board
19 members must initial ballots." From our investigation, it
20 sounds like the Ballot Board members were not the ones
21 initialing the ballots. It was a combination of Ballot Board
22 members and staff before they were run through a tabulator.

23 Q. Okay. Do you know whether the failure to initial a ballot by
24 an election official invalidates that vote in any way?

25 A. To my understanding, it does not. During the recount

1 process, we are specifically told if a ballot is not
2 initialed, that that is not a basis for challenge.

3 Q. And is it your understanding that the ballots that had been
4 opened and removed from the secrecy envelopes were securely
5 stored, as indicated in point number six?

6 A. Yes.

7 MR. ZOLL: We can take down Exhibit 3.

8 BY MR. ZOLL:

9 Q. You indicated that the 17 absentee ballots that were accepted
10 by the Shakopee Absentee Ballot Board at the beginning of the
11 day on October 17th were stored in a locked box and cabinet.
12 Am I correct in my recollection?

13 A. Yes.

14 Q. How do you know that?

15 A. Just based on the interviews that we performed. The Ballot
16 Board members that were part of the opening process indicated
17 that they did go to the cabinet, the filing cabinet, bring
18 the ballots to the City chambers, where they were opened, and
19 then returned them, as well as any time they did Ballot
20 Board, they took those envelopes and brought them to the
21 storage container themselves.

22 Q. Let me just ask you this: Do you have any reason to doubt
23 the trustworthiness of the individuals that you interviewed
24 as part of your investigation?

25 A. I do not.

1 Q. Do you question the reliability of the information that they
2 conveyed to you?

3 A. I do not.

4 Q. So after that ballot opening process was completed on
5 October 17, how many absentee ballots remained sealed in
6 their envelopes at the Shakopee early voting location?

7 A. To my recollection, I believe there were 99 in total. That
8 is what we've been able to determine based on the dates that
9 things were accepted and then opened on Friday, the 18th.

10 Q. All right. And then let me ask a narrower question: After
11 the ballot opening process or the envelope opening process on
12 October 17, how many absentee ballots for Precinct 10
13 remained sealed in their envelopes at the Shakopee early
14 voting location?

15 A. 20.

16 Q. What did -- I'll just ask it this way: What happened with
17 those 20 ballots, based on your investigation? Did they --
18 you had testified that the Absentee Ballot Board members
19 informed you that they had placed them in a locked cabinet
20 after they had accepted them. Can you walk us through the
21 life of those envelopes as you were able to reconstruct
22 through your investigation from that point forward?

23 A. Absolutely. It appears as though the morning of -- well,
24 let's back up. As you stated, those envelopes were placed
25 into the locked filing cabinet. They were stored overnight

1 until the morning of the 18th. The final accepting of the
2 absentee envelopes was done Friday morning, the 18th, at
3 approximately 9:30. And then those envelopes would have been
4 opened.

5 We have not been able to determine that any of the
6 Absentee Ballot Board was actually involved in that process.
7 It looks like the final accepting and opening was done by the
8 city clerk.

9 Q. And when you refer to the "final accepting" on October 18th
10 at approximately 9:30, do you know how many ballots were
11 accepted in that process?

12 A. I know for --

13 Q. For Precinct 10.

14 A. Precinct 10?

15 Q. Thank you.

16 A. There were three.

17 Q. Okay. One of these times I'm going to remember to add
18 "Precinct 10" to my question.

19 When -- I'm sorry if you said this: When the
20 remaining 20 envelopes were opened, do you know who performed
21 that action of opening those envelopes?

22 A. It appears as though that was done by Lori Hensen.

23 Q. What's the basis for that conclusion?

24 A. Some of that was based on she was the one to accept those
25 envelopes into SVRS, which, from what we were able to

1 determine, was the normal practice. The Absentee Ballot
2 Board would accept the envelope and she would mark them in
3 the Statewide Voter Registration System. But we also were
4 not able to determine based on our interviews that there was
5 anyone else involved in opening other than the three people
6 who opened on Thursday.

7 Q. Did you interview Lori Hensen as part of your investigation?

8 A. We did.

9 Q. Did she inform you as to whether or not she had opened those
10 envelopes?

11 A. She stated she had not; that she was doing another activity
12 at that time.

13 Q. Did you find that statement to be credible?

14 A. I did not.

15 Q. Why not?

16 A. In speaking with anyone involved in the elections process at
17 all, no one else had been involved in the opening of
18 envelopes except the three people, as I indicated, and
19 Ms. Hensen herself, and two of those three people did not
20 even work on Friday. So Friday afternoon is when
21 Mr. Swearengin came in at about noon, and those envelopes,
22 according to the timestamps in SVRS, were accepted much
23 earlier than that.

24 We also interviewed the rest of the City employees
25 that were involved in elections towards the beginning of our

1 process. They indicated they were not involved in accepting
2 or opening envelopes at any time during the process.

3 Q. Okay. Thank you.

4 You were asked a question as to whether it's your
5 best guess that the envelopes were thrown away. Do you
6 recall that question?

7 A. I do.

8 Q. Do you have any other explanation for what happened to the
9 secrecy envelopes?

10 A. I do not.

11 Q. You were also asked questions about the fact that there's no
12 incident log reflecting the 21-ballot discrepancy for
13 Shakopee. Is it surprising to you that you don't have an
14 incident log reflecting that?

15 A. I would say yes and no. We were -- we were the ones that
16 reported the error to Shakopee, and that is not the normal
17 part of the absentee -- or the absentee room or the election
18 day process at all. So I didn't record that on an incident
19 log.

20 I have seen an interrupt tape from our machines at
21 one point with what I've been told is Lori Hensen's
22 handwriting on it that does indicate that there were 309
23 ballots for Shakopee 10, not the 329, but there was no
24 indication on the tape of a minus-20 or anything like that.
25 There was an indication for a minus-1 for Shakopee 12A.

1 Q. Okay. And are you able to tell the date that that interrupt
2 tape was run?

3 A. I am not. Based on our interviews and the questioning that
4 we've done of folks, I believe it was actually run on
5 election day. That is when we determined that Lori was
6 actually balancing the absentee, was on election day.

7 MR. ZOLL: Can we just take a look at Exhibit 203?

8 THE COURT: And 203 has already been received.

9 MR. ZOLL: Thank you.

10 BY MR. ZOLL:

11 Q. Do you recognize this document?

12 A. I do.

13 Q. What is this?

14 A. This would be the interrupt tape that I was describing. I
15 did ask -- I was able to obtain this tape as well. I did ask
16 the city administrator if there was anything else attached,
17 and there was not. But this gives us -- every ballot is
18 assigned a ballot ID number. We started the County with
19 Belle Plaine Township at 4001 and go all the way through
20 4079. So -- and by the handwriting on this, you can see
21 Jackson 1, Jackson 2, Louisville, Louisville. The City of
22 Shakopee also performed absentee voting for those two
23 township voters. And then we would get into the Shakopee
24 precincts.

25 As we've talked about, some of these have a split,

1 so ballot ID number 4060, according to the tape, is Shakopee
2 Precinct 4, School District 181. 4061 is School District 720
3 but for the same precinct, and so on and so forth. And if
4 you get down to ballot ID number 4069, that would be -- I
5 apologize -- 4068, that would be Shakopee Precinct 10. I
6 would have anticipated that this should have said 329, but it
7 does, in fact, indicate 309.

8 Q. Okay. Thank you. Just a few more questions.

9 A. Sure.

10 Q. Is it your conclusion that the 20 uncounted ballots from
11 Precinct 10 were lost during the process of opening and
12 preparing for counting the absentee ballots that were
13 accepted on October 17 and 18?

14 A. It is.

15 Q. In the course of your investigation, have you identified any
16 other plausible explanation for when or how the 20 uncounted
17 ballots were lost?

18 A. I have not.

19 Q. Are you able to identify the 20 individuals who cast the
20 absentee ballots for Precinct 10 in Shakopee that were
21 accepted by the City of Shakopee on October 17 and 18?

22 A. I believe that we have, yes.

23 MR. ZOLL: Can we just pull up one more time
24 Exhibit 9?
25

JULIE HANSON - CROSS-EXAMINATION

108

1 BY MR. ZOLL:

2 Q. Are the individuals who cast the 20 absentee ballots for
3 Precinct 10 that were accepted by the City of Shakopee on
4 October 17 and 18 identified in this Exhibit 9 as "VOTER #1,"
5 "VOTER #2," and so on?

6 A. They would be, yes.

7 Q. Okay. And just to confirm, is it your conclusion that the
8 individuals identified as VOTER #1 through VOTER #20 on
9 Exhibit 9 are the individuals who cast the 20 uncounted
10 ballots from Shakopee Precinct 10?

11 A. Yes.

12 Q. Are you confident in that conclusion?

13 A. I am confident.

14 Q. Have you identified any other plausible explanation for the
15 source of the 20 uncounted ballots?

16 A. No.

17 Q. You were asked whether you're absolutely certain that the 20
18 voters identified by the County marked or cast those ballots.
19 Do you recall that question?

20 A. I do.

21 Q. Okay. Do you currently have any doubt that the 20 voters
22 identified by the County cast the uncounted ballots?

23 A. I don't have any doubt.

24 Q. Do you have -- and I'm sorry, it's going to be a repetitive
25 question: But do you have any doubt in that conclusion

1 that's based on reason or common sense?

2 A. No.

3 Q. Do you have any doubt in that conclusion that is not fanciful
4 or not capricious?

5 A. No.

6 Q. Is it fair to say that when you testified that you can't be
7 absolutely certain, that you were just acknowledging the mere
8 possibility of doubt?

9 A. Yes.

10 MR. ZOLL: I have no further questions, Your Honor.

11 THE COURT: All right. Thank you.

12 Mr. LeBeau?

13 Just to inform on timing, it would be my intent to
14 keep going until you are concluded.

15 MR. LeBEAU: Okay. Thank you.

16 REDIRECT EXAMINATION

17 BY MR. LeBEAU:

18 Q. Ms. Hanson, your conclusions that are reflected in your
19 affidavit and the letter from the County are informed by
20 information that you received from Ms. Hensen at Shakopee,
21 the City of Shakopee; correct?

22 A. Yes.

23 Q. And you earlier stated that you found her not to be credible;
24 is that correct?

25 A. It is.

1 Q. So the conclusions that you are making are based on
2 information received by somebody that you don't trust or you
3 don't find credible and potentially skewed by bad
4 information. Isn't that true?

5 MR. ZOLL: Objection, leading.

6 THE COURT: Sustained.

7 BY MR. LeBEAU:

8 Q. Is there reason to believe that the information that you
9 received is not credible?

10 A. It's possible the information we received from Ms. Hensen is
11 not credible, but she was not our sole source of information
12 as well.

13 Q. But she was the sole source of information concerning the
14 activities that she took when she was acting alone; correct?

15 A. Correct.

16 Q. And when she was acting alone, was that the time period where
17 the majority of the ballots in question were processed?

18 A. To my knowledge, yes.

19 Q. And I believe you stated earlier that Ms. Hensen --
20 Ms. Hensen is -- I forget the way you phrased it. But she
21 has not claimed responsibility for the missing ballots; is
22 that correct?

23 A. Correct.

24 Q. (Pause.)

25 MR. LeBEAU: Sorry, Your Honor. I'm just going

1 through some notes here.

2 THE COURT: That's fine. Take your time.

3 BY MR. LeBEAU:

4 Q. Earlier you were asked -- and we don't need to pull it back
5 up, but with regard to the handbook, that the only part of
6 it -- referring to number five -- that wasn't performed was
7 keeping the envelope and initialing the ballot. Do you
8 recall that conversation?

9 A. Yes.

10 Q. I can pull it up if you'd like.

11 A. No, that's okay. Thank you.

12 Q. But isn't it also true that part of what wasn't performed in
13 number five was actually separating the ballot from the
14 secrecy envelope?

15 A. That -- you're right; that would be correct.

16 Q. Kind of a big deal, right?

17 A. Yes.

18 Q. So your understanding of where this error occurred and how it
19 occurred is contingent upon the veracity -- partially
20 contingent upon the veracity of what Ms. Hensen told you;
21 correct?

22 MR. ZOLL: Objection, leading.

23 THE COURT: Sustained.

24 BY MR. LeBEAU:

25 Q. Did Ms. Hensen give you any indication of where the error in

1 the ballots came from?

2 A. No.

3 Q. What did she say with regard to -- or what did she indicate
4 with regard to her role in missing ballots?

5 A. She indicated that she did not participate in opening; that
6 it must have been the other city staff.

7 Q. And your conclusion was that she did?

8 A. I'm sorry?

9 Q. Was your conclusion that she did have a role in that?

10 A. Yes.

11 Q. Who was responsible -- you answered this earlier, so I just
12 want to get on to this other questioning, but who was
13 responsible for processing the -- in your investigation, the
14 ballots in question?

15 A. It appears --

16 MR. ZOLL: Objection, vague.

17 THE COURT: Sustained. Why don't you rephrase it.

18 MR. LeBEAU: Sure.

19 BY MR. LeBEAU:

20 Q. Who was responsible for processing the 20 ballots that appear
21 to have gone missing?

22 A. From the course of our investigation, it looks like it was
23 Ms. Hensen.

24 Q. And I think, based on your earlier testimony, you indicated
25 that -- was she acting with somebody else or was she alone?

- 1 A. We have not been able to determine that she was acting with
2 anyone else. We believe she was acting alone.
- 3 Q. And would that have included also -- the processing piece,
4 not just removing it from the secrecy ballot, but would that
5 have also involved uploading it into the SVRS system?
- 6 A. Yes.
- 7 Q. And so the information that we see in Exhibit -- (pause) -- I
8 believe the last exhibit that we looked at was 201? The
9 spreadsheet?
- 10 A. Uh-huh.
- 11 Q. The information contained on there indicating what day a
12 ballot was accepted, based on your investigation, who would
13 that have been entered by?
- 14 A. Ms. Hensen.
- 15 Q. In your experience, have you ever had ballot -- a ballot's
16 precinct mismarked?
- 17 A. Can you clarify what you mean by "mismarked"?
- 18 Q. You had indicated that on the ballot the precinct is marked
19 for what -- the precinct the ballot corresponds with?
- 20 A. Sure.
- 21 Q. Has that ever been mismarked?
- 22 A. No.
- 23 Q. Is that part of the printing that's done before you get it?
- 24 A. It is. It's part of the programming with our election
25 software, and then the printing itself.

1 Q. Is it true that an absentee ballot can be cured or changed
2 after it's cast, as long as it's done by election day?

3 A. If you mean like can it be retrieved by the voter, if they're
4 able to change their mind, yes, as long as it's done before
5 those envelopes are opened and cast through a tabulator. So
6 normal process would be -- we call that "clawing back a
7 ballot." Someone would be able to claw back their ballot
8 generally through the end of business on October 17th. After
9 that time, they are run into the tabulator, intermingled, so
10 at that point, someone would not be able to claw back their
11 ballot and revote.

12 Q. Are the number of ballots that are missing in this case
13 different -- or greater than the difference between the
14 candidates for House Race 54A?

15 A. Yes.

16 Q. In your time and experience as the Elections Director for
17 Scott County, have you ever experienced an error like this
18 before?

19 A. I have not.

20 Q. How would you characterize the scope of the error that is
21 currently being dealt with?

22 A. Very large. This is a -- it's a big deal.

23 Q. Do you believe that Ms. Hensen followed the procedures that
24 are laid out in your absentee ballot handbook?

25 A. I do not.

1 Q. What remaining steps do you have in the course of your
2 investigation?

3 A. We are waiting to retrieve any camera-footage data. We had a
4 digital forensic specialist from our sheriff's office obtain
5 the camera footage from the City of Shakopee. What they were
6 able to deliver for us was after the Absentee Ballot Board
7 opening them and the Ballot Boards concluded, so we were not
8 able to see any footage in the Council chambers of what had
9 occurred. But according to the specialist, there's a
10 possibility that there could be additional data stored that
11 the City wouldn't normally know how to get to.

12 There's a BCA program that can be utilized to be
13 able to extract some of that. We are going to go through
14 with that and continue with that investigation, but it is a
15 lot of data; like I said, I believe 27 terabytes of data.
16 And we will only be able to utilize -- and "we," I mean the
17 sheriff's office -- able to utilize the BCA program for just
18 a period of time. So not only will it have to extract all of
19 that data and store all of that data, but then of course
20 we'll have to look through it as well. To my understanding,
21 that likely won't be until sometime in January.

22 Q. I just want to go back to just the facts of the day in
23 question. You had indicated that you had spoken with the
24 other three election judges; correct? Absent from
25 Ms. Hensen.

1 A. We were able to speak to two out of the three Absentee Ballot
2 Board judges. One did not respond to our inquiry.

3 Q. So is it fair to say that those would be the -- the three
4 people that you spoke with are the three people that would
5 have the most knowledge about the missing ballots?

6 A. Yes.

7 Q. And how did you characterize the versions of the stories that
8 you've gotten from them?

9 A. I would say that they've lined up very well. They were able
10 to provide a lot of context that being sort of sitting
11 outside of the process that we didn't have between the two in
12 particular. We did also speak with folks that worked in the
13 absentee room that really weren't involved in opening. We
14 spoke with the additional city staff, the assistant city
15 administrator. Everybody was able to provide a little piece
16 of the puzzle. But yes, the Absentee Ballot Board, the two
17 in particular that we spoke with, provided the most context
18 for us.

19 Q. And did their -- did their version of what occurred line up
20 with what you learned from Ms. Hensen?

21 A. Not entirely. We honestly went into this thinking that these
22 envelopes probably disappeared from the afternoon of the 17th
23 when all of the opening occurred. But based on all the
24 interviews and the timelines, the time stamps of everything,
25 we don't believe that to be true. We believe that to be the

1 morning of the 18th. And no one was able to -- no one else
2 was involved in that process that we've been able to speak
3 with, so no one was able to confirm or deny what had happened
4 on the morning of the 18th.

5 Q. So there's others that may have information that would be
6 pertinent to this?

7 A. I don't know that there's anyone else we could speak with,
8 no. If Ms. Hensen is the one doing the activity and she was
9 alone, there's no one else that we could talk to that could
10 provide any framework around it.

11 Q. And you've concluded that whatever Ms. Hensen told you was
12 not credible; is that right?

13 A. There could be portions of what she told us that were not
14 credible. She told us the morning of the 18th that she was
15 preparing Health Care Facility ballots. Based on the time
16 stamps involved in the SVRS system, that doesn't appear to be
17 true. That was not done until much later. She was, however,
18 accepting the final ballots that were envelope-voted on the
19 17th.

20 Q. So is it possible that some of the information that she has
21 uploaded into the SVRS system or other processing that she
22 has done was not done in accordance with the absentee ballot
23 handbook?

24 A. It is possible.

25 Q. Is it possible that that information that you are relying on

1 in your investigation is clouded by what Ms. Hensen has told
2 you?

3 A. I don't know that I fully understand your question. I'm
4 sorry. Can you clarify for me?

5 Q. Sure. Are you -- does your investigation rely on information
6 that you've obtained from Ms. Hensen?

7 A. Honestly, no. I would say our information that we obtained
8 from everyone else involved in the process is how we've come
9 to our conclusion, not the information that she gave us.

10 Q. But is she the only one that would have firsthand knowledge
11 of what happened with the ballots in question?

12 A. Yes.

13 MR. LeBEAU: I think that's all I have, Your Honor.
14 Thank you.

15 THE COURT: All right.

16 Mr. Zoll, do you have any questions?

17 MR. ZOLL: Yes, but I -- as every lawyer says in
18 this circumstance, I think I can be brief.

19 THE COURT: All right.

20 RECROSS-EXAMINATION

21 BY MR. ZOLL:

22 Q. You were asked just now about information that Lori Hensen
23 would have input into the SVRS indicating the date that the
24 20 absentee ballots were accepted. Do you recall those
25 questions?

1 A. Yes.

2 Q. Looking at the absentee ballot applications associated with
3 those ballots, are you able to determine when those voters
4 would have cast those ballots?

5 A. Yes.

6 Q. And based upon your interviews, do you have an understanding
7 as to whether the Absentee Ballot Board would have accepted
8 those 20 ballots on October 17th?

9 A. To my understanding, there were 17 of the 20 that were
10 accepted on the 17th by the Absentee Ballot Board.

11 Q. Are you able to see in the SVRS system who updates the
12 information regarding the status of a ballot?

13 A. Yes.

14 Q. It's linked back to a user?

15 A. It is.

16 Q. Do you know who marked those 17 ballots as being accepted?

17 A. I do. It was Ms. Hensen.

18 Q. Okay. Okay. But looking at the absentee ballot applications
19 for those voters, you can determine the date that they voted;
20 correct?

21 A. Yes.

22 Q. And looking at the signature envelopes, you can see that they
23 were accepted; correct?

24 A. Correct.

25 Q. The only information Ms. Hensen would have put into the

1 system would be the date on which that acceptance occurred;
2 correct?

3 MR. LeBEAU: I'll object.

4 THE COURT: On what ground?

5 MR. LeBEAU: Leading.

6 THE COURT: It's recross, so overruled.

7 Go ahead.

8 A. Yes.

9 BY MR. ZOLL:

10 Q. Okay. You testified that -- strike that. I think I want to
11 ask the question a little bit differently.

12 You spoke with two out of the three members of the
13 Absentee Ballot Board for the City of Shakopee in the course
14 of your investigation; is that correct?

15 A. Yes.

16 Q. And specifically with respect to October 18th, were you able
17 to ascertain whether the two individuals you spoke with were
18 part of the process of opening the absentee ballots?

19 A. We were.

20 Q. And can you remind me how you were able to ascertain that?

21 A. Sure. Both through conversations with the two folks that we
22 had as well as their time cards that were provided by the
23 City of Shakopee and the time stamps in SVRS, we were able to
24 determine that they did, in fact, participate in the opening
25 process the afternoon of the 17th, but they did not on the

1 morning of the 18th.

2 Q. And with respect to the member of the Absentee Ballot Board
3 with whom you did not speak, were you able to ascertain
4 whether that individual was involved in the opening of
5 ballots on the morning of October 18th?

6 A. We were, and she did not work on the morning of the 18th.

7 Q. And how did you determine that that individual did not work
8 on the morning of October 18?

9 A. Based on the time cards provided by the City of Shakopee.

10 Q. Okay.

11 MR. ZOLL: No further questions.

12 THE COURT: All right.

13 Mr. LeBeau?

14 MR. LeBEAU: Thank you. Just very quickly.

15 FURTHER REDIRECT EXAMINATION

16 BY MR. LeBEAU:

17 Q. Thank you for your time this morning.

18 A. You're welcome.

19 Q. How many ballots are missing?

20 MR. ZOLL: Objection; this is beyond the scope of
21 recross.

22 THE COURT: Sustained.

23 BY MR. LeBEAU:

24 Q. Who processed the ballots that are missing?

25 A. It appears as though Lori Hensen did.

1 Q. And did she follow the procedures laid out in your handbook
2 for processing these ballots?

3 MR. ZOLL: Objection; once again, beyond the scope
4 of recross.

5 THE COURT: Sustained.

6 Well counsel, why don't you approach.

7 (Off-the-record bench discussion.)

8 BY MR. LeBEAU:

9 Q. Earlier -- sorry.

10 MR. LeBEAU: I'm good, Your Honor. Thank you.

11 THE COURT: All right. Thank you.

12 (The witness was excused.)

13 THE COURT: So, we are going to be in recess until
14 1:30. We'll reconvene at that time.

15 (Lunch recess.)

16 THE COURT: We'll go on the record.

17 The Court and the parties -- counsel -- have had
18 some discussions. I understand that the parties were able to
19 reach an agreement and a stipulation that eliminates the need
20 for some witness testimony. I've written the stipulation
21 down and read it in the presence of the parties for their
22 agreement to it, and I'll read it here then in open court.

23 And counsel, I will just ask if that's, in fact,
24 the stipulation. All right?

25 First, this type of election contest is a matter of

1 first impression.

2 Second, preservation of secrecy envelopes is the
3 best practice.

4 Third, there are more voters in a regular election
5 than in a special election.

6 Mr. LeBeau, is that the stipulation?

7 MR. LeBEAU: Yes, Your Honor.

8 THE COURT: Mr. Zoll?

9 MR. ZOLL: Yes, Your Honor.

10 THE COURT: All right. Thank you.

11 Mr. LeBeau, why don't you go ahead and call your
12 next witness.

13 MR. LeBEAU: Thank you, Your Honor. I would call
14 the Mayor of Shakopee, Matt Lehman.

15 THE COURT: All right.

16 Mr. Lehman, you can come up here to the witness
17 stand. Before you ascend the ramp, why don't you stop in the
18 well and I'll get you sworn in. You can come forward. Thank
19 you.

20 Sir, could you please raise your right hand?

21 (The oath was administered.)

22 THE WITNESS: Yes, I do.

23 THE COURT: Thank you. You may go ahead and have a
24 seat on the witness stand.

25 Let's go off the record for a second.

MATT LEHMAN - DIRECT EXAMINATION

1 (Off-the-record discussion.)

2 THE COURT: You may proceed.

3 MR. LeBEAU: Thank you.

4 MATT LEHMAN,
5 having been first duly sworn, was examined and testified on his
6 oath as follows:

7 DIRECT EXAMINATION

8 BY MR. LeBEAU:

9 Q. Good afternoon, sir. Can you please identify yourself for
10 the record?

11 A. My name is Matt Lehman. I'm the Mayor of Shakopee.

12 Q. And where do you live?

13 A. In Shakopee. Do you want my address?

14 Q. Yes, please.

15 A. 815 East Eighth Avenue, Shakopee.

16 Q. And what's your occupation?

17 A. Currently I'm semi-retired. I did 40 years in the automotive
18 industry.

19 Q. And as we mentioned earlier, you are an elected official, and
20 what's your position?

21 A. I've been an elected City Council member since November of
22 2001, and I was elected Mayor in November of '22. '22. So
23 I've been a mayor two years now.

24 Q. And are you a member of the Scott County Canvassing Board?

25 A. I am.

1 Q. And how did you obtain that position?

2 A. Well, I didn't know that I was a part of it until I received
3 an email saying "You're a part of this," and I come to learn
4 that it's part of state statute who was to sit on the County
5 Canvassing Board. And it includes the mayor of the largest
6 city of the County -- that's my understanding -- a couple of
7 county commissioners, and the court administrator, I think it
8 is, and I'm not sure about the last one.

9 Q. And did you serve on the Scott County Canvassing Board during
10 this last election?

11 A. I did.

12 Q. And did the Canvassing Board certify the results of this
13 election?

14 A. They did.

15 Q. And how did you vote on that --

16 A. Well, it wasn't a vote; it was a signature on a document of
17 what was the results of the ballots that they had in hand.

18 Q. And would those results be reflected in what we have as
19 Exhibit 5, the second abstract of the election? I can show
20 it to you. It's the --

21 A. Yeah, I don't have that, so I don't know. I'm going to
22 assume if it's the same thing that came from Scott County
23 election administration, that that would be the correct
24 document.

25 MR. LeBEAU: Your Honor, Exhibit 5 is already taken

1 into --

2 THE COURT: It has been received.

3 BY MR. LeBEAU:

4 Q. Mr. Mayor, were you aware of the potential for missing
5 ballots while you were on the Canvassing Board?

6 A. Well, we met twice. We were aware at the first Canvassing
7 Board meeting that there was 329 sign-in voters and only 309
8 ballots, so we were aware of that.

9 Q. And who informed you of that discrepancy?

10 A. What is her name? Julie -- Hanson? Is that the election
11 administrator for Scott County?

12 Q. And so did you vote to approve -- I think you may have
13 mentioned this. I'm sorry. Did you vote to approve the
14 canvass results?

15 A. I did, and it wasn't a vote by hands; it was a signing of a
16 document. We were told that we were only to look at the
17 ballots that they had in hand, even though I raised the
18 question, "What about these other missing ballots?"

19 Q. And when you raised that question, what were you told?

20 A. We were to look at only the ballots that they had in hand,
21 physical ballots that they had in their possession.

22 Q. And were you informed as to whether the missing 20 ballots
23 were part of the results of the -- of the canvass -- the
24 final canvass results?

25 A. You know, I think we asked those questions, and I'm not

1 really clear on that. But I assume that if we're showing
2 precinct by precinct, that it would show Precinct 10, how
3 many people signed in to vote and how many ballots were
4 there. So I would assume that's in there, that we were
5 certifying that we knew that these were missing at that time.

6 Q. So do you believe the numbers in the canvass report to be
7 correct?

8 A. You know, I haven't looked deep enough to see if it shows the
9 missing ballots, but I think the ballots on hand are correct.

10 Q. And does the canvass report -- and I can show it to you. Are
11 you aware of whether that includes the missing 20 ballots?

12 A. I don't -- I'm not sure if it does or not.

13 Q. Let me --

14 A. I'm actually not sure on the policy, the election law on how
15 that's handled because, you know, there was disagreement
16 amongst legal people of if you're only going to count ballots
17 in hand, well, technically, they're not in hand because
18 they're missing. I don't have an answer for you on that one.

19 Q. And so what were you advised with regard to voting on the --
20 or approving the canvass results with regard to the question
21 that you raised about the missing 20 ballots?

22 A. Well --

23 MR. ZOLL: Objection, hearsay.

24 THE COURT: Sustained.

25 MR. LeBEAU: Oh, I'm sorry.

1 BY MR. LeBEAU:

2 Q. What was the impression that you received regarding the
3 missing 20 ballots and approving the canvass results?

4 A. We were only -- our role is only the ballots that they have
5 in hand.

6 Q. And let me pull up the canvass -- the -- Exhibit 5 and grab
7 that.

8 MR. LeBEAU: Your Honor, may I approach?

9 THE COURT: You may, and you don't need to ask
10 again. That's fine.

11 MR. LeBEAU: Thank you.

12 BY MR. LeBEAU:

13 Q. (Handing.) Mr. Mayor, showing you what is -- or can you
14 describe the document that I've shown you?

15 A. It looks like total number of votes per candidates and
16 write-ins for one precinct in Jackson Township, Precinct 1,
17 and Shakopee's 1 through 14 precincts, with a total for each
18 candidate, number of write-ins.

19 Q. And it was -- were you here for the earlier testimony today?

20 A. I was not.

21 Q. (Pause.) I'm trying to find what line exactly to direct you
22 to. Can you tell us what the results for Precinct 10 were in
23 the document in front of you?

24 A. Mr. Paul had -- I wish I had a slide scale here -- 534, I
25 believe, and Mr. Tabke had 731, with one write-in ballot.

1 Can I fold this document to make sure I'm accurate?

2 Q. Yeah, go right ahead.

3 A. (Pause.) That appears to be accurate.

4 Q. And is it your understanding that the 20 missing ballots are
5 not reflected?

6 A. My understanding is they're not, as we were only tasked with
7 the ballots that were in hand.

8 Q. Okay. And without that -- without those results in there,
9 what is your opinion as to the veracity of the canvass
10 report?

11 MR. ZOLL: Objection. Calls for an opinion from a
12 non-expert witness.

13 THE COURT: Sustained.

14 BY MR. LeBEAU:

15 Q. Mr. Mayor, with the acknowledgment that the 20 missing
16 ballots are not in the report, do you believe that it
17 accurately reflects the results of the election?

18 MR. ZOLL: Same objection.

19 THE WITNESS: No.

20 THE COURT: I'll overrule it.

21 You can answer the question, sir.

22 A. Can you repeat that again? Do I think that this is an
23 accurate reflection? I think there's 20 ballots that haven't
24 been counted. And at the second Canvassing Board meeting, I
25 asked the question again, and the election administrator,

MATT LEHMAN - DIRECT EXAMINATION

1 Julie Hanson, said that -- that 329 and 309 shows up in a
2 separate system called -- the state system? I'm not sure
3 what she called it. It was an acronym.

4 BY MR. LeBEAU:

5 Q. SVRS, I believe.

6 A. That sounds about right.

7 MR. ZOLL: Your Honor, there was no question
8 pending that elicited this testimony, and I would ask that it
9 be stricken.

10 THE COURT: All right. That's granted.

11 Sir, if you could just listen to the questions
12 Counsel is asking and just respond to those, I would
13 appreciate that. Thank you.

14 THE WITNESS: Okay. All right. So I have a
15 question.

16 THE COURT: Well, hold on. Just -- let's -- the
17 questions sort of come from counsel and not from you, so
18 we'll let Mr. LeBeau, if he's got another question, and then
19 if he does, that's fine. And then if Mr. Zoll's got
20 questions, he'll turn to you. Okay?

21 THE WITNESS: Yes, ma'am.

22 MR. LeBEAU: I have no further questions, Your
23 Honor.

24 THE COURT: All right. Thank you. Go ahead and
25 have a seat.

1 Mr. Zoll, do you have questions?

2 MR. ZOLL: I do. Thank you.

3 CROSS-EXAMINATION

4 BY MR. ZOLL:

5 Q. Mayor Lehman, you did not yourself investigate the
6 circumstances surrounding the 20 ballots that were not
7 counted from Shakopee Precinct 10, did you?

8 A. I did not.

9 Q. You were not involved in the process of accepting or counting
10 absentee ballots from Shakopee during the early voting
11 process, were you?

12 A. Counting absentee ballots. I was not.

13 Q. As you sit here today, do you have any reason to doubt the
14 conclusions that have been drawn through Scott County's
15 investigation regarding the 20 uncounted ballots?

16 A. My understanding is the investigation is still ongoing, and
17 I'm not sure it's final. If it is, I'm not aware that it's
18 finalized yet.

19 Q. So let me ask the question again with the understanding
20 that -- well, are you familiar with the preliminary findings
21 that were issued by Scott County regarding the investigation?

22 A. Yes, I read that on the County's website.

23 Q. And as you sit here today, do you have any reason to doubt
24 the conclusions that were drawn in that document?

25 A. I don't think that conclusion is -- has a finding in it. It

1 says a lot about what they suspect happened, but there's
2 really no factual that I found. It's kinda best guess.

3 Q. Do you have any firsthand knowledge regarding the handling of
4 the 20 ballots that were not counted from Shakopee
5 Precinct 10?

6 A. I have no firsthand knowledge.

7 MR. ZOLL: Okay. I have no further questions.

8 THE COURT: All right. Thank you.

9 Mr. LeBeau?

10 MR. LeBEAU: I don't have any further questions,
11 Your Honor.

12 THE COURT: All right. Thank you.

13 Thank you, sir. You may step down.

14 THE WITNESS: Thank you, Your Honor. Do you want
15 this back?

16 THE COURT: Why don't you just leave it right on
17 the counter there. Thank you very much.

18 Mr. LeBeau, you can go ahead and call your next
19 witness.

20 MR. LeBEAU: Your Honor, I'm going to call our
21 first voter witness.

22 THE COURT: All right.

23 MR. LeBEAU: So I just want to take a minute to
24 make sure I'm following the proper procedure.

25 THE COURT: That's fine. Could you tell us which

1 voter number that is?

2 MR. LeBEAU: Yes. (Pause.) Your Honor, it's going
3 to be Voter Number 14.

4 THE COURT: All right. Why don't we have Voter
5 Number 14 come forward.

6 And Mr. LeBeau, you verified that Voter Number 14
7 is, in fact, the voter identified on the sealed spreadsheet
8 corresponding with that individual's name; is that correct?

9 MR. LeBEAU: Correct, Your Honor.

10 THE COURT: All right. Thank you.

11 Voter 14, could you please stop right there?

12 THE WITNESS: Sure.

13 THE COURT: Just raise your right hand.

14 (The oath was administered.)

15 THE WITNESS: I do.

16 THE COURT: Thank you. You may go to the witness
17 stand and have a seat.

18 We are not asking our voter witnesses to identify
19 themselves here in court; that's consistent with the order
20 that I issued yesterday. Voters will only be identified by
21 voter number.

22 Mr. LeBeau, you may proceed.

23 And for the media, we noted in the order that voter
24 witnesses are not to be on camera. They may be
25 audio-recorded; they may not be by camera.

1 MR. LeBEAU: Just one moment, Your Honor. I want
2 to make sure I have the right paperwork.

3 VOTER NUMBER 14,
4 having been first duly sworn, was examined and testified under
5 oath as follows:

6 DIRECT EXAMINATION

7 BY MR. LeBEAU:

8 Q. Voter 14, I'm going to share two documents with you, and I'd
9 ask that you please identify them. (Handing.) Do you need
10 your glasses?

11 A. Yeah.

12 MR. LeBEAU: Forgot his glasses.

13 (Woman approached with reading glasses.)

14 THE COURT: Thank you.

15 BY MR. LeBEAU:

16 Q. Voter 14, are these a copy of your absentee ballot envelope
17 and your absentee ballot application?

18 A. Yes, they are.

19 Q. And did you vote in the 2024 election?

20 A. Yes, I did.

21 Q. And do you recall what day you voted?

22 A. It was either the 16th or the 17th. I think it's the 17th.

23 Q. And I believe it would be indicated on the -- on the ballot.
24 I'm sorry, on the envelope.

25 A. (Pause.) I'm not sure -- okay, I see it now. The 15th.

- 1 Q. (Indicating.)
- 2 A. It was on the 15th.
- 3 Q. Okay. Thank you. And where did you vote?
- 4 A. City Hall. In Shakopee.
- 5 Q. Thank you. And why exactly did you vote on that particular
- 6 day?
- 7 A. I wanted to get my early voting in on that week, so I went in
- 8 that day.
- 9 Q. And did you cast a vote in the House District 54A race?
- 10 A. Correct.
- 11 Q. And for whom did you vote?
- 12 A. I voted for Aaron Paul.
- 13 Q. And sir, are you familiar with the facts of this case and why
- 14 we're here today?
- 15 A. Yes, I do.
- 16 Q. And how did you hear about it?
- 17 A. I had a phone call from Reid that I was amongst voters who
- 18 their ballots were not handled properly.
- 19 Q. Voter 14, I want to -- I want to ask: How do you feel about
- 20 knowing that your ballot may have gone missing?
- 21 A. I found it very unacceptable if that was what dealt my
- 22 ballot, that it never made it through.
- 23 Q. How long have you lived in Shakopee?
- 24 A. 27 years.
- 25 Q. And have you always resided in Precinct 10?

1 A. I believe it's always been that precinct.

2 Q. Is it that you've stayed in the same spot but the lines have
3 moved?

4 A. Correct.

5 Q. How has the area changed in the time that you've lived there?

6 MR. ZOLL: Objection. Relevance.

7 THE COURT: I'll sustain the objection.

8 BY MR. LeBEAU:

9 Q. Voter 14, can you describe to the Court your feelings with
10 having to testify as to how you voted?

11 A. I wish my voice would be heard about this incident, that it's
12 something that should not have happened. And I wish my
13 ballot would have made it through when I submitted it
14 properly.

15 MR. LeBEAU: I have no further questions, Your
16 Honor.

17 THE COURT: All right. Mr. LeBeau, just so the
18 record's clear, as far as the absentee envelope and ballot
19 application you were showing, what exhibit number was that?

20 MR. LeBEAU: I'm sorry. From the redacted --

21 THE COURT: Well, whatever you were showing, I just
22 want the record to reflect that.

23 MR. LeBEAU: Oh, sure. Confidential Exhibit 314.

24 THE COURT: All right.

25 I understand the confidential exhibits haven't yet

1 been offered or received into evidence; that they aren't
2 stipulated to.

3 MR. LeBEAU: I'm sorry, Your Honor.

4 BY MR. LeBEAU:

5 Q. (Handing.) Voter 14, can you re-identify what those
6 documents are?

7 A. One is the envelope signature that you submit, and the other
8 is the absentee ballot with my name and address and what
9 precinct.

10 Q. And are these true and accurate representations of the
11 documents that you filled out and submitted to the City for
12 the purposes of voting?

13 A. Yes, they are.

14 Q. Thank you.

15 MR. LeBEAU: I would move the admission of
16 Confidential Exhibit 314.

17 THE COURT: Any objection?

18 MR. ZOLL: Your Honor, it's not clear to me that
19 the witness was shown a version of the document that is
20 marked with the exhibit number. So I would like to have that
21 clarification, and I'm happy to provide a copy that's marked,
22 just so we can confirm the exhibit number.

23 THE COURT: That's fine.

24 Go ahead. Thank you.

25

1 BY MR. LeBEAU:

2 Q. (Handing.)

3 A. Okay, this is -- this is what I submitted.

4 Q. Okay. Thank you.

5 THE COURT: All right. Then as far as 314, is
6 that -- do you have any objection to that?

7 MR. ZOLL: No objection.

8 THE COURT: All right, 314 will be received, that
9 being the Sealed Exhibit 314.

10 MR. LeBEAU: No further questions.

11 THE COURT: All right.

12 Mr. Zoll, any questions?

13 MR. ZOLL: I have no questions for the witness,
14 Your Honor.

15 THE COURT: All right.

16 Sir, thank you for coming here today.

17 THE WITNESS: You're welcome.

18 (The witness was excused.)

19 THE COURT: Go ahead and call your next witness,
20 Mr. LeBeau.

21 MR. LeBEAU: Thank you, Your Honor. (Pause.)

22 Sorry for the delay. I'm just trying to get the
23 steps correct.

24 I would call Voter 15 to the stand.

25 THE COURT: All right, Voter 15?

1 Just pause for one moment, ma'am, in the well, if
2 you don't mind. You can come forward, but just -- if you
3 just pause there, I have something I want to briefly address.

4 Counsel, in general, I do sequester witnesses, and
5 I don't know if there are any other witnesses in the
6 courtroom. So it would be my preference that those
7 individuals are seated outside the courtroom. I had made a
8 wrong assumption about that, and I just wanted to clarify.
9 Thank you.

10 Okay. Could you raise your right hand?

11 (The oath was administered.)

12 THE WITNESS: Yes, I do.

13 THE COURT: Thank you. You may have a seat on the
14 witness stand.

15 MR. ZOLL: Your Honor, can we have a brief recess
16 to confer with you for a moment?

17 THE COURT: Sure.

18 (Off-the-record bench discussion.)

19 THE COURT: If there's anyone in the gallery who is
20 going to be called as a witness today, I understand counsel
21 may have only spoken with you by phone, and therefore, they
22 may not recognize you here in court. Please, at this time,
23 if you could seat yourself outside of the courtroom, the
24 Court would appreciate that.

25 And Mr. LeBeau, as far as the witness we now have

VOTER NUMBER 15 - DIRECT EXAMINATION

1 on the witness stand, Voter 15, you have confirmed that
2 Voter 15 is, in fact, the person identified as Voter 15 on
3 the sealed voter identification key?

4 MR. LeBEAU: Yes.

5 THE COURT: All right. Thank you.

6 You may proceed.

7 MR. LeBEAU: Thank you, Your Honor.

8 VOTER NUMBER 15,

9 having been first duly sworn, was examined and testified under
10 oath as follows:

11 DIRECT EXAMINATION

12 BY MR. LeBEAU:

13 Q. Voter 15, I'm showing you two documents. (Handing.) Could
14 you please identify them?

15 A. Yeah, this is a Minnesota absentee ballot.

16 Q. And what's the other document?

17 A. It's an envelope.

18 Q. And the first one you referenced is the ballot application;
19 is that correct?

20 A. Uh-huh.

21 Q. And is --

22 THE COURT: Hold on one second.

23 You need to answer "yes" or "no," ma'am.

24 THE WITNESS: Yes.

25

1 BY MR. LeBEAU:

2 Q. And this is an exhibit marked 315; is that correct?

3 A. Yes.

4 Q. Can you identify what these documents are? Or I'm sorry.
5 Are these a true and accurate representation of the documents
6 that you filled out as your absentee ballot application and
7 your absentee ballot signature envelope?

8 A. Yes.

9 MR. LeBEAU: Your Honor, I would move Confidential
10 Exhibit 315 into the record.

11 THE COURT: Any objection?

12 MR. ZOLL: No objection.

13 THE COURT: Sealed Exhibit 315 will be received.

14 MR. LeBEAU: Thank you.

15 THE COURT: Thank you.

16 BY MR. LeBEAU:

17 Q. Voter 15, did you vote in the 2024 election?

18 A. Yes, I did.

19 Q. And on what day did you vote?

20 A. I think it was the 17th.

21 Q. And where did you vote?

22 A. Right here in the -- I voted right here at the -- I can't
23 think of the name of it.

24 Q. The building we're in?

25 A. Yes, yes, yes. I'm sorry.

1 Q. No, that's just fine. And why did you vote on that
2 particular day?

3 A. There was really no particular reason. It was -- we wanted
4 to vote early, and we just decided -- just decided to go that
5 day.

6 Q. Did you vote in the House District 54 race?

7 A. Uh-huh.

8 Q. And --

9 THE COURT: I'll --

10 THE WITNESS: Yes.

11 THE COURT: Thank you.

12 BY MR. LeBEAU:

13 Q. And for whom did you vote?

14 A. Aaron Paul.

15 Q. And are you familiar with the facts of this case?

16 A. Yes.

17 Q. And how did you hear about it?

18 A. I heard about it through the news and -- and then you had
19 called us.

20 Q. And how does it make you feel to know your ballot may have
21 gone missing?

22 A. It upsets me a lot because it was a major election, and not
23 to have my voice heard as to who I want really upset me.

24 Q. And when you were voting at the City of Shakopee location,
25 can you describe the process that you went through to cast a

1 ballot?

2 A. We had to -- we had to sign an absentee form, and then we
3 were given an envelope to put that in and another envelope to
4 put both of those in. When we -- when we received those
5 forms, we walked to a voting booth, voted. We put our
6 vote -- our voting form in an envelope, we put that in
7 another envelope, and then we gave it to somebody or put it
8 in a box.

9 MR. LeBEAU: Thank you. That's all the questions I
10 have.

11 THE COURT: All right.

12 Mr. Zoll?

13 MR. ZOLL: Just one clarifying question.

14 THE COURT: Go ahead.

15 CROSS-EXAMINATION

16 BY MR. ZOLL:

17 Q. You were asked whether you voted in the election for House
18 District 54A. Just for clarification, when you responded to
19 that question, you were responding that you voted in the
20 election for House District 54A?

21 A. Uh-huh.

22 Q. Okay, not House District 54B?

23 A. Well, I guess I'm not really -- I'm not really sure.

24 Q. You would have voted for the House District in which Brad
25 Tabke and Aaron Paul were the candidates; is that correct?

1 A. Yes.

2 Q. Okay. I just wanted to make sure that was clear for the
3 record.

4 A. Yes.

5 MR. ZOLL: No further questions.

6 THE COURT: All right. Thank you.

7 You may step down. Thank you.

8 (The witness was excused.)

9 THE COURT: Mr. LeBeau, are the witness's exhibits,
10 though, still on the witness stand?

11 MR. LeBEAU: Oh.

12 THE COURT: Thank you.

13 You can go ahead and call your next witness.

14 MR. LeBEAU: Thank you, Your Honor.

15 Call Voter 17.

16 THE COURT: All right. Voter 17. And I assume
17 that person may be seated outside the courtroom?

18 MR. LeBEAU: Correct. May I go get them?

19 THE COURT: You may.

20 MR. LeBEAU: Thanks.

21 (Witness entered the courtroom.)

22 THE COURT: Voter 17, if you could come forward to
23 this area right almost by the ramp, then I can get you sworn
24 in. Thank you.

25 Could you please raise your right hand?

1 (The oath was administered.)

2 THE WITNESS: I do.

3 THE COURT: Thank you. You may lower your hand and
4 have a seat.

5 Mr. LeBeau, as far as Voter 17's identity, have you
6 confirmed that in fact Voter 17 is the person identified on
7 the sealed voter identification key?

8 MR. LeBEAU: Yes, Your Honor.

9 THE COURT: Thank you.

10 MR. LeBEAU: And I have a different copy. I have a
11 larger copy than what they have marked. Do you just want to
12 confirm they're the same?

13 MR. ZOLL: I prefer that he just identify it.

14 MR. LeBEAU: Okay.

15 VOTER NUMBER 17,
16 having been first duly sworn, was examined and testified under
17 oath as follows:

18 DIRECT EXAMINATION

19 BY MR. LeBEAU:

20 Q. (Handing.) Voter 17, can you identify the exhibits that I've
21 shown you?

22 A. The top one is the envelope, security envelope I believe, and
23 then the second one is the absentee ballot application, 2024.

24 THE COURT: Could you tell me what exhibit you're
25 looking at?

1 THE WITNESS: Oh, I'm sorry. Exhibit 317.

2 THE COURT: Thank you.

3 THE WITNESS: Yep.

4 BY MR. LeBEAU:

5 Q. Voter 17, are these a true and accurate copy of your absentee
6 ballot application and your absentee ballot envelope?

7 A. They appear to be those documents, yep.

8 MR. LeBEAU: Your Honor, I would move Confidential
9 Exhibit 317 into the record.

10 THE COURT: Any objection?

11 MR. ZOLL: No objection.

12 THE COURT: All right. 317 will be received.

13 BY MR. LeBEAU:

14 Q. Voter 17, did you vote in the 2024 election?

15 A. I did.

16 Q. On what day did you vote?

17 A. The 15th of October.

18 Q. And where did you vote?

19 A. Shakopee City Hall.

20 Q. And did you -- did you go by yourself or did you go in a
21 group?

22 A. No, my wife and I went.

23 Q. And why did you vote on that particular day?

24 A. We were going to be out of the country on election day.

25 Q. Are you familiar -- oh, did you vote in the House District

1 54A race?

2 A. Yes.

3 Q. And for whom did you vote?

4 A. Aaron Paul.

5 Q. Are you familiar with the facts of this case?

6 A. Briefly. Since we were out of the country, we weren't
7 following it that closely. I understand that there were a
8 number of ballots that were not counted, and mine happened to
9 be one of those ballots.

10 Q. How does it make you feel knowing that your ballot may not
11 have been counted?

12 A. Frankly, I feel like I've been robbed. It makes me question
13 the integrity of our voting system actually.

14 Q. How does it make you feel to have to testify today about how
15 you voted?

16 A. I mean, quite frankly, it shouldn't have to happen. With the
17 technology this country has, we should be able to get this
18 down ironclad, so --

19 Q. Do you have an opinion of what you think is a fair result of
20 your vote not being counted?

21 A. A fair result of my vote not being counted?

22 THE COURT: Counsel --

23 MR. ZOLL: Objection.

24 THE COURT: -- approach, please.

25 (Off-the-record bench discussion.)

1 MR. LeBEAU: I have no further questions, Your
2 Honor.

3 THE COURT: All right. Thank you, Mr. LeBeau.
4 Mr. Zoll?

5 MR. ZOLL: No questions.

6 THE COURT: All right. Thank you. You may step
7 down.

8 (The witness was excused.)

9 THE COURT: I'll just make a brief record of the
10 sidebar conference. I indicated that it was not relevant
11 what the voter felt was the appropriate remedy. That's a
12 question of law for the Court's determination in this case.

13 Do you have another witness, Mr. LeBeau?

14 MR. LeBEAU: I do, Your Honor, and actually, one of
15 the county commissioners is now available to appear by Zoom.

16 THE COURT: All right. We'll get that set up. It
17 might take us a moment, so we'll go off the record.

18 (Off-the-record discussion.)

19 THE COURT: We'll go back on the record.

20 Mr. LeBeau, could you just indicate again your
21 witness's name?

22 MR. LeBEAU: It's Commissioner Dave Beer.

23 THE COURT: All right.

24 Commissioner Beer, you've been called as a witness
25 in the case. Are you able to hear us?

DAVID BEER - DIRECT EXAMINATION

14

7

1/13/2025 7:49 PM

1 THE WITNESS: I can hear you, yes.

2 THE COURT: All right. You're testifying here
3 remotely via Zoom. I'll have you raise your right hand. All
4 right. Thank you.

5 (The oath was administered.)

6 THE WITNESS: Yes, I do.

7 THE COURT: Thank you. You may lower your hand.
8 Can you please state and spell your full name?

9 THE WITNESS: David Beer. D-A-V-I-D, B-E-E-R.

10 THE COURT: All right. Thank you.

11 You may proceed, Mr. LeBeau.

12 MR. LeBEAU: Thank you, Your Honor.

13 DAVID BEER,

14 having been first duly sworn, was examined and testified on his
15 oath remotely, via Zoom, as follows:

16 DIRECT EXAMINATION

17 BY MR. LeBEAU:

18 Q. Mr. Beer, can you tell us where you live?

19 A. 4439 Coachman Lane, Prior Lake, Minnesota.

20 Q. And what's your occupation?

21 A. Landscape owner and also a county commissioner for the County
22 of Scott, District 4.

23 Q. And how long have you been a county commissioner?

24 A. I believe it's been eight years.

25 Q. And are you also a member of the Scott County Canvassing

1 Board?

2 A. I was this past election, yes.

3 Q. And did you vote to certify the results in the 2024 election?

4 A. I did sign off on the abstract, yes.

5 Q. And were you aware of potential discrepancies regarding the

6 number of ballots on that abstract?

7 A. On the abstract? I guess the clarification would be the

8 numbers on the actual abstract?

9 Q. Yes.

10 A. I was aware that the number on the abstract was the number of

11 votes tallied through the machines.

12 Q. Are you aware of the issue of missing ballots in the --

13 A. Well aware.

14 Q. And what is your -- what is your awareness of the missing

15 ballots?

16 A. That there is 20 or 20-plus-one ballots that did not make it

17 through the tabulator.

18 Q. And who informed you of that?

19 A. I believe initially it may have been our county administrator

20 or our elections official, one of those two, or both.

21 Q. So did you --

22 A. Well, it also could have been our county attorney. I mean,

23 any of those three parties.

24 Q. So did you vote to approve the canvass results?

25 A. I voted to approve the canvass results on the abstract that

1 had gone through the tabulation machine, yes.

2 Q. So not with the 20 ballots noted on the report?

3 A. Correct.

4 Q. And why was that?

5 A. Well, we were told through our county attorney that we were
6 simply acknowledging the number on the abstract of votes that
7 had been tallied, and if there was to be a contest, that
8 would be the point at which it would be triggered.

9 Q. So do you believe the canvass report without the missing
10 results to be accurate?

11 MR. ZOLL: Objection. Calls for an opinion.

12 THE COURT: Overruled.

13 You may answer the question, sir.

14 THE WITNESS: State the question again, please?

15 BY MR. LeBEAU:

16 Q. Sure. Do you believe that the canvass report with the
17 missing -- with the 20 missing ballots not included on the
18 report is an accurate -- is an accurate report?

19 A. I do not.

20 Q. Thank you.

21 MR. LeBEAU: That's all the questions I have.

22 THE COURT: All right.

23 Mr. Zoll?

24 MR. ZOLL: Yeah, a few questions.

25

1 CROSS-EXAMINATION

2 BY MR. ZOLL:

3 Q. Thank you, Commissioner Beer. In your testimony, you
4 indicated that the Canvassing Board had approved the vote
5 totals based on what had been run through the tabulation
6 machine? Did I hear that correctly?

7 A. You did. Yes, that's correct.

8 Q. Did the Canvassing Board meet a second time and certify the
9 results of the hand recount of the ballots for House District
10 54A?11 A. We did meet a second time to canvass the same -- well, I
12 guess it would be the second abstract of the votes that had
13 been hand-recounted for that race.

14 Q. And did you sign that second abstract?

15 A. I did sign that second abstract.

16 Q. Did you conduct any independent investigation of the
17 circumstances surrounding the 20 ballots that were not
18 counted from Shakopee Precinct 10?

19 A. Myself, independently?

20 Q. Correct.

21 A. No, I did not.

22 MR. ZOLL: No further questions.

23 THE COURT: All right. Mr. LeBeau?

24 MR. LeBEAU: Thank you.
25

1 REDIRECT EXAMINATION

2 BY MR. LeBEAU:

3 Q. Commissioner Beer, did you -- was there discussion of the
4 missing 20 ballots at the second canvass meeting?

5 A. Yes, there was.

6 Q. And what was your impression of that discussion?

7 A. Well, I think somebody had -- I don't remember who had
8 mentioned it -- "Let's talk about the elephant in the room,"
9 to which I had mentioned, "It's the elephant *and* the room."
10 It was a fairly well-known fact at that point. And so it was
11 a point of discussion, yes.12 Q. And do you believe the second canvass approval to be accurate
13 with the missing 20 ballots?14 A. It does not include the missing 20 ballots, so it's only
15 accurate for what was hand-recounted.

16 Q. Thank you.

17 MR. LeBEAU: No further questions, Your Honor.

18 THE COURT: All right. Anything else, Mr. Zoll?

19 MR. ZOLL: No, Your Honor.

20 THE COURT: All right.

21 Thank you, sir. You may depart the Zoom meeting.

22 THE WITNESS: Thank you for your patience in
23 connecting. Thank you.

24 (The witness was excused.)

25 THE COURT: Mr. LeBeau, do you have another

1 witness?

2 MR. LeBEAU: Your Honor, may I have five minutes to
3 check on who I have out there?

4 THE COURT: Sure, that's fine.

5 MR. LeBEAU: And there was one other -- sorry --
6 Commissioner Wolf I don't believe will be available for some
7 time. I'd like to confer with Mr. Zoll, as I know he had a
8 witness that was coming as well.

9 THE COURT: All right. Sure. That's fine. We'll
10 just wait for five minutes. Thank you.

11 (A short recess was taken.)

12 THE COURT: Mr. LeBeau, did you have another
13 witness?

14 MR. LeBEAU: Thank you, Your Honor. Yes, I'd call
15 Voter 16.

16 THE COURT: All right. Voter 16, if you could come
17 forward near this ramp here and just stop, then I'll get you
18 sworn in. Okay?

19 Would you please raise your right hand?

20 (The oath was administered.)

21 THE WITNESS: I do.

22 THE COURT: Thank you.

23 And Mr. LeBeau, have you confirmed that Voter 16
24 is, in fact, the individual identified on the voter
25 identification key that's filed under seal?

VOTER NUMBER 16 - DIRECT EXAMINATION

1 MR. LeBEAU: I have.

2 THE COURT: Thank you. You may proceed.

3 MR. LeBEAU: Thank you. I'm going to confer with
4 opposing counsel.

5 (Off-the-record discussion.)

6 VOTER NUMBER 16,
7 having been first duly sworn, was examined and testified under
8 oath as follows:

9 DIRECT EXAMINATION

10 BY MR. LeBEAU:

11 Q. (Handing.) Voter 16, can you identify the documents that I
12 placed before you?

13 A. It's the voter envelope and the absentee ballot.

14 Q. And what is this exhibit marked?

15 A. 316.

16 Q. Thank you. And is this -- are these documents true and
17 accurate representations of the absentee ballot application
18 and absentee signature envelope that were yours and filled
19 out by you?

20 A. Yes.

21 MR. LeBEAU: Your Honor, I would move Exhibit --
22 Confidential Exhibit 316 into the record.

23 THE COURT: Mr. Zoll, any objection?

24 MR. ZOLL: No objection.

25 THE COURT: All right. Confidential or Sealed

1 Exhibit 316 will be received.

2 MR. LeBEAU: Thank you.

3 BY MR. LeBEAU:

4 Q. Voter 16, did you vote in the 2024 election?

5 A. Yes.

6 Q. And on what day did you vote?

7 A. October 15.

8 Q. And where did you vote?

9 A. At the Shakopee City hall.

10 THE COURT: Ma'am, could I -- could I ask you to
11 just come forward and just speak --

12 THE WITNESS: Sure. At the Shakopee City Hall.

13 THE COURT: Thank you.

14 BY MR. LeBEAU:

15 Q. And why did you vote on that particular day?

16 A. We were going to be out of town.

17 Q. And did you vote -- did you cast a vote in the House District
18 54A race?

19 A. Yes.

20 Q. And for whom did you vote?

21 A. Rand -- Aaron Paul. Sorry. Aaron Paul.

22 Q. Thank you.

23 MR. LeBEAU: No further questions.

24 THE COURT: Mr. Zoll?

25 MR. ZOLL: No questions.

1 THE COURT: All right. Thank you. You may step
2 down.

3 (The witness was excused.)

4 THE DEPUTY: Do you want her to keep that thing?

5 THE COURT: Oh, ma'am, why don't you --

6 THE WITNESS: Oh, I'm sorry.

7 THE COURT: Mr. LeBeau would take that exhibit.

8 Thank you. I appreciate that. Thank you.

9 MR. LeBEAU: Your Honor, for my final vote witness,
10 I would call Voter 10.

11 THE COURT: All right.

12 (Witness entered the courtroom.)

13 THE COURT: Voter 10, could you please come forward
14 just to this area by the ramp?

15 Thank you. And once you get there, if you could
16 just raise your right hand.

17 (The oath was administered.)

18 THE WITNESS: I do.

19 THE COURT: Thank you. You can have a seat.

20 And Mr. LeBeau, as to Voter 10, have you confirmed
21 that Voter 10 is, in fact, the individual identified as
22 Voter 10 on the voter identification key that's sealed?

23 MR. LeBEAU: Yes, Your Honor.

24 THE COURT: All right. Thank you.

25

1 VOTER NUMBER 10,
2 having been first duly sworn, was examined and testified under
3 oath as follows:

4 DIRECT EXAMINATION

5 BY MR. LeBEAU:

6 Q. Voter 10, I'm showing you a document that's been marked as
7 310. Can you please identify what those documents are?

8 A. Say that again?

9 Q. Can you please identify what those documents are?

10 A. It's your application that you fill out before you get the
11 ballot.

12 Q. And what's the other document?

13 A. It's the exterior of the envelope that you put your ballot
14 into.

15 Q. And are these true and correct representations of the
16 envelope and application that you filled out for this
17 election?

18 A. Yeah.

19 MR. LeBEAU: Your Honor, I would --

20 THE WITNESS: Yes.

21 MR. LeBEAU: Oh, thank you.

22 I would move Exhibit 310 into the record.

23 THE COURT: Any objection?

24 MR. ZOLL: No, Your Honor.

25 THE COURT: All right. So Sealed Exhibit 310 is

1 received.

2 And sir, if you could just speak up a little bit?

3 It's a little bit hard to hear you.

4 THE WITNESS: Okay.

5 THE COURT: Thank you.

6 BY MR. LeBEAU:

7 Q. Voter 10, did you vote in the 2024 election?

8 A. I did.

9 Q. And on what day did you vote?

10 A. The 16th -- 17 -- 16th.

11 Q. And where did you vote?

12 A. At the Shakopee City Hall.

13 Q. And why did you vote on that particular day?

14 A. I was going to be out of town on election day.

15 Q. And did you vote -- did you cast a vote in the House District
16 54A race?

17 A. I did.

18 Q. And for whom did you vote?

19 A. Aaron Paul.

20 MR. LeBEAU: No further questions, Your Honor.

21 THE COURT: All right.

22 Mr. Zoll?

23 MR. ZOLL: No questions.

24 THE COURT: All right. Thank you.

25 Thank you, sir. You may step down.

1 (The witness was excused.)

2 MR. LeBEAU: Your Honor, I'm waiting on
3 Commissioner Tom Wolf, who I believe is presently in the air.
4 So I know Mr. Zoll has a witness that had some time
5 constraints, so --

6 THE COURT: All right.

7 Mr. Zoll, is it all right with you if a witness is
8 called out of order?

9 MR. ZOLL: I'm happy to do that, Your Honor.

10 THE COURT: All right.

11 MR. ZOLL: May I go to the hall and grab the
12 witness?

13 THE COURT: You may.

14 MR. ZOLL: And we'll be calling Kay Gamble.

15 THE COURT: All right. Thank you.

16 (Witness entered the courtroom.)

17 THE COURT: Ms. Gamble, if you could just come
18 forward and pause here on the ramp, I'll get you sworn in.
19 Thank you.

20 Would you raise your right hand?

21 (The oath was administered.)

22 THE WITNESS: I do.

23 THE COURT: Thank you. You can have a seat on the
24 witness stand.

25 And once you're situated, if you could please state

1 and spell your full name.

2 THE WITNESS: Kay Gamble. K-A-Y, G-A-M-B-L-E.

3 THE COURT: All right. Thank you.

4 You may proceed.

5 MR. ZOLL: Thank you, Your Honor.

6 KAY GAMBLE,

7 having been first duly sworn, was examined and testified on her
8 oath as follows:

9 DIRECT EXAMINATION

10 BY MR. ZOLL:

11 Q. Thank you, Ms. Gamble. Did you receive a subpoena to testify
12 here today?

13 A. Yes, I did.

14 Q. Did you serve as an election judge in connection with the
15 2024 General Election?

16 A. Yes.

17 Q. Was that with the City of Shakopee?

18 A. Yes.

19 Q. Did you serve as an election judge for election day or for
20 early voting?

21 A. Just early voting.

22 Q. Okay. When you began working as an election judge with the
23 City of Shakopee, did you take an oath to carry out your
24 duties impartially and not in a manner that would benefit a
25 particular party or candidate?

1 A. Yes.

2 Q. Does that same commitment of impartiality apply to the
3 testimony you're providing here today?

4 A. Yes.

5 Q. Did you perform your duties as an election judge at a
6 particular location?

7 A. City Hall.

8 Q. The Shakopee City Hall?

9 A. City. (Nodding.)

10 Q. Can you describe generally as an election judge at Shakopee
11 City Hall what you did?

12 A. I assisted voters in the early person voting by getting them
13 their ballots, answering any questions.

14 Q. Did you serve on the City of Shakopee's Absentee Ballot
15 Board?

16 A. No.

17 Q. Were you one of the individuals who would accept absentee
18 ballots?

19 A. No.

20 Q. Were you one of the individuals who opened ballot envelopes?

21 A. No.

22 MR. ZOLL: I'll ask my colleague to pull up what
23 has been marked as Exhibit 202.

24 And Your Honor, if I may, I have a binder with
25 exhibits that might be helpful for the witness to have?

1 THE COURT: That's fine.

2 BY MR. ZOLL:

3 Q. I'm going to hand you -- there's tabs in here, and I'll just
4 ask you to turn to tab 202. (Handing.)

5 A. Okay.

6 Q. Do you have Exhibit 202 in front of you?

7 A. Yes.

8 Q. And do you recognize this document?

9 A. Yes.

10 Q. What is it?

11 A. It's an Excel spreadsheet for the townships for the direct
12 ballot applications, the machine counts, and then the
13 absentee -- what would be the envelopes, the AB envelope
14 count.

15 Q. Let me go back one step to the first page of Exhibit 202 --

16 A. Uh-huh.

17 Q. -- which might be one page further back than what you're
18 looking at right now.

19 A. Okay.

20 Q. What's on this first page of the exhibit?

21 A. An email that it looks like I sent to Lori. I sent her all
22 those on the last day with the spreadsheets I made for these.

23 Q. And is the email that you sent, is that towards the bottom
24 of --

25 A. Uh-huh.

1 Q. -- that page?

2 THE COURT: Could you answer "yes" or "no"?

3 THE WITNESS: Oh, yes.

4 BY MR. ZOLL:

5 Q. And I'll do my best to try not to interrupt your responses
6 and just ask if you could, for the benefit of the court
7 reporter, make sure I stop. You'll probably know what I want
8 to ask -- you can usually guess that -- but it's easier for
9 the court reporter if we do our best not to talk over each
10 other. I'm as guilty of that as anybody.

11 So, you mentioned this is an email you sent to
12 Lori. Who is Lori?

13 A. Lori is the city clerk of the City of Shakopee.

14 Q. And what's her last name?

15 A. Hanson.

16 Q. And did you send this --

17 A. Or Hensen. Sorry.

18 Q. Hensen?

19 A. Hensen.

20 Q. With two E's?

21 A. Yeah.

22 Q. Okay.

23 A. Yes.

24 Q. Did you send this email in connection with your work as an
25 election judge for the City of Shakopee?

1 A. Yes.

2 Q. And in the body of that email, it says that you're "attaching
3 the Excel spreadsheets I made for the daily counts of TWPs,
4 the DB machine counts, and the AB counts." Do you see that?

5 A. Yes.

6 Q. I'm going to ask you what each of those terms mean. What are
7 the daily counts of TWPs?

8 A. That's the townships.

9 Q. And why are townships relevant?

10 A. They were included in the AB -- in the early person voting
11 and people could vote -- well, if they were in those
12 townships, they could vote at City Hall.

13 Q. Okay. Okay. And what about the DB machine counts? What's
14 that?

15 A. That's direct balloting. That's when they -- people could
16 vote and put it in the machine.

17 Q. Okay. And it says "machine counts." What does that mean?

18 A. That would be -- the machine count was the number at the end
19 of the day that the machine had --

20 Q. Okay.

21 A. -- on it.

22 Q. And then you also referenced AB counts. What does that refer
23 to?

24 A. Those were the envelopes, the count each day of when
25 people -- when we did the envelopes before direct balloting.

- 1 Q. Were there two different forms of absentee voting that
2 occurred at the City of Shakopee?
- 3 A. Forms?
- 4 Q. Manners of casting their ballots. And maybe I'll just ask it
5 this way --
- 6 A. Oh.
- 7 Q. -- was there a period of time where voters were required to
8 place their ballots into envelopes?
- 9 A. Yes.
- 10 Q. And then was there a period of time where they would place
11 the ballots directly into machines?
- 12 A. Yes.
- 13 Q. Okay. Do you recall when that -- did those happen
14 sequentially? Like was it all envelopes and then all
15 directly into the machines?
- 16 A. Yeah, the 17th was the last day of envelopes, and then --
17 October 17th. October 18th was the start of direct
18 balloting.
- 19 Q. Okay. So now turning to the second page of Exhibit 202,
20 which would be the first page of the spreadsheet, is this a
21 document that you attached to your email?
- 22 A. Yes.
- 23 Q. And what is the -- focusing on the first page, what's
24 reflected there and what's the source of that information?
- 25 A. It's the count, the -- from 9/20 to 10/17 for the envelopes.

1 And then from 10/18 to 11/4 in yellow were the direct
2 balloting. And those were counts from the applications.

3 Q. Okay. And is that for everything that was occurring in
4 Shakopee City Hall, or was that for the townships?

5 A. That -- this particular one was just the townships.

6 Q. Okay. And this may be obvious, but sometimes I have to ask
7 obvious questions: How do you know that? Is that indicated
8 on the page somewhere?

9 A. Yes, at the top.

10 Q. Okay. What's reflected in the row at the bottom of this that
11 is "DB Totals"?

12 A. That was just for direct balloting. Those are the numbers
13 that were in yellow.

14 Q. And for overall totals?

15 A. The whole entire election.

16 Q. And did you add those up or is that something the spreadsheet
17 did?

18 A. Excel did, the spreadsheet did.

19 Q. Okay. Let's turn to the next page of the spreadsheet, and
20 can you tell me what's reflected here?

21 A. That's the Direct Balloting Applications and Machine Counts.

22 Q. Okay. And I think we can understand what the "Date" column
23 means.

24 A. Uh-huh.

25 Q. What is included in the "DB Apps" column?

1 A. That was the number of applications that we had that day.
2 They would count -- we would count the applications at the
3 end of the day.

4 Q. Do you know who counted those applications?

5 A. The election judges that were there at the end of the day.

6 Q. Okay. And was that information conveyed to you?

7 A. They were supposed to write it -- yeah, they were supposed to
8 write it down on a sheet of paper.

9 Q. And then would you take the information that they wrote down
10 and put it into the spreadsheet?

11 A. Uh-huh. Yes.

12 Q. Is that the source of the information?

13 A. Yes.

14 Q. Okay. And the next column that says "Machine," can you tell
15 me what's reflected in that column?

16 A. That was the number on the machine where people inserted
17 their ballots at the end of the day.

18 Q. Okay. And then there's a -- an "Agent" column. Do you know
19 what that reflects?

20 A. Those were agent deliveries. Agent is where somebody can
21 come in -- if somebody's at home and they're not capable of
22 coming in, they can be their agent. So they come in and they
23 get the forms; they bring them home. They fill them out;
24 they come in; and then we give them a ballot. They take the
25 ballot home; they fill it out and then they bring it back.

- 1 Q. Okay.
- 2 A. And that's the number that we have each of those days.
- 3 Q. And then how about the "HCF" column?
- 4 A. That's Health Care Facilities. And that would be the health
5 care facilities -- they sent applications out to the health
6 care facilities and they came back; we got their envelopes,
7 everything ready, and then they went over there and people
8 voted.
- 9 Q. Okay. Thanks.
- 10 A. Uh-huh.
- 11 Q. In the row for October 18 at the top of this, it says "276 DB
12 Apps."
- 13 A. Uh-huh.
- 14 Q. Do you see that?
- 15 A. Yes.
- 16 Q. And 1379 in the "Machine" column. Do --
- 17 A. Yes.
- 18 Q. -- you see that?
- 19 A. Yes.
- 20 Q. Why are there so many more ballots in the "Machine" column
21 than the "DB Apps"?
- 22 A. Because the "Machine" also reflects the absentee ballots --
- 23 Q. Okay.
- 24 A. -- envelopes.
- 25 Q. That makes sense. And do you know when approximately the

1 absentee envelope ballots would have been run through the
2 machine?

3 A. On the 18th.

4 Q. Okay. The information here for the machine count on
5 October 18, was that a number taken directly from the machine
6 total?

7 A. Unfortunately, they did not write the number down that night,
8 and so we -- so on Monday, I kind of did back-math to get
9 that.

10 Q. Can you describe the back-math that you did?

11 A. Well, the number on the 21st for the machine count, I minused
12 the DB apps from that, and then I minused the DB apps from
13 the 18th.

14 Q. Okay. So is it your understanding that the 1587 --

15 A. Uh-huh.

16 Q. -- for October 21st was a number that was taken from the
17 tabulator machine?

18 A. It was -- it was on that day because I was there at the end
19 of the day, and I wrote it down.

20 Q. Okay. So you know for sure that that's --

21 A. I know that number was correct, yes.

22 Q. And then there's 208 DB apps. Does that reflect the people
23 who voted that day?

24 A. Yes.

25 Q. And just to make sure I'm understanding, these would have

1 been voters who went to the tabulator machine and fed their
2 ballots directly into it?

3 A. Yes.

4 Q. So to figure out what the machine total would have been at
5 the end of October 18, did you just subtract 208 from 1587?

6 A. Yes.

7 Q. And then going forward from October 22nd through
8 November 4th, do you have an understanding as to whether the
9 numbers reflected in the "Machine" column were numbers that
10 were taken directly from the machine?

11 A. Yes.

12 Q. You have that understanding, and is that, in fact, what you
13 believe happened?

14 A. Yes.

15 Q. Okay.

16 A. They -- yes.

17 Q. Did you update the information in the spreadsheet on an
18 ongoing basis, or did you create it after the fact?

19 A. The spreadsheets were created on the 26th.

20 Q. Okay.

21 A. They were on a sheet of paper. They were created on the
22 26th.

23 Q. And did you create that spreadsheet on the 26th?

24 A. Uh-huh.

25 Q. And --

1 THE COURT: Could you answer --

2 THE WITNESS: Yes.

3 THE COURT: Thank you.

4 BY MR. ZOLL:

5 Q. Did the information that you took from the written sheets,
6 was that accurately transcribed into the spreadsheet?

7 A. Yes.

8 Q. Okay. Let's take a look at the third page of the
9 spreadsheet. And can you just describe for the Court what's
10 reflected here?

11 A. This is the count each day of the envelopes, the absentee
12 ballot envelopes.

13 Q. And when you say the "absentee envelopes," would these be
14 envelopes that had been completed by voters who showed up to
15 vote at the Shakopee early voting location?

16 A. Yes, at the end of every day, we count the applications. We
17 remove the envelopes from the box, count those. They have to
18 match, and they did.

19 Q. Okay. And those are the numbers that are reflected here?

20 A. Yep. Yes.

21 Q. And do those numbers reflect all the ballots that were
22 received in envelopes at the Shakopee early voting location
23 on each of those days?

24 A. Yes.

25 Q. Did you do that on a precinct-by-precinct basis, or did you

- 1 do it as an overall total amount for ballots for the day?
- 2 A. Overall for the day.
- 3 Q. Okay. And did you say that the number of applications and
- 4 envelopes matched each day?
- 5 A. Yes.
- 6 Q. And they reflect the numbers that are on that chart?
- 7 A. Yes.
- 8 Q. The total number at the bottom of the third page, what is
- 9 that number?
- 10 A. 1124.
- 11 Q. And what does that reflect?
- 12 A. That reflects the total of AB envelopes that we had.
- 13 Q. And do you recall that there were 276 direct balloting
- 14 applications on October 18th?
- 15 A. Yes. I counted them.
- 16 Q. If we were to add together the 1124 reflected here with the
- 17 276 ballots from the 18th, what number would that give us?
- 18 A. It should have been 1400.
- 19 Q. And if all of the ballots had been run through the tabulator
- 20 machine, is that the number that you would have expected --
- 21 MR. ZOLL: And if we could just go back one page.
- 22 BY MR. ZOLL:
- 23 Q. Is that the number that you would have expected to see in the
- 24 "Machine" column for October 18th?
- 25 A. Yes.

1 Q. The number that is there is 1379?

2 A. Correct.

3 Q. And that's 21 ballots fewer; correct?

4 A. Correct.

5 Q. Okay. Did you notice that discrepancy at the time?

6 A. On Monday -- excuse me -- on Monday I did.

7 Q. Okay. What, if anything, did you do after noticing that?

8 A. I let them know that we were off on the numbers.

9 Q. When you say "them," to whom are you referring?

10 A. To Lori and Terri.

11 Q. Okay. Who's Terri?

12 A. Terri is -- I don't know her title. She works for Lori.

13 Q. Okay. Another City of Shakopee employee?

14 A. City of Shakopee employee.

15 Q. Okay. And did you say that direct balloting process began on

16 October 18th?

17 A. Yes.

18 Q. Do you recall whether the Shakopee Absentee Ballot Board met

19 on October 17th to accept absentee ballots?

20 A. Yes, they did.

21 Q. But you weren't a member of the Absentee Ballot Board?

22 A. No.

23 Q. Do you know whether the Absentee Ballot Board on October 17th

24 began the process of opening the absentee ballot envelopes?

25 A. Yes, they did.

- 1 Q. How do you know that?
- 2 A. I was told that they were.
- 3 Q. Do you know whether they took any steps to confirm that the
4 number of envelopes they were opening matched the number of
5 ballots that had been accepted by the City of Shakopee?
- 6 A. Yes. There was a sheet of paper. I gave them the numbers
7 off of the report from the Shakopee Voter Registration
8 System, SVRS, and those numbers, when they counted the
9 envelopes, should have matched those.
- 10 Q. Okay. And the numbers that you pulled from the SVRS system,
11 is it your understanding -- well, do you know if those
12 reflected ballots that had been designated as having been
13 accepted?
- 14 A. Just accepted.
- 15 Q. Okay.
- 16 A. Yeah.
- 17 Q. So you ran a report in the SVRS for absentee ballots that had
18 been accepted at the Shakopee early voting location. And do
19 you know through what date or time that report ran?
- 20 A. It would have -- the envelopes that they opened would have
21 been through the previous week; I think the 11th. Because
22 the 14th was a Monday, right? Fifteenth -- yeah, 14 -- 14,
23 15, 16, and 17 wouldn't have been on that report.
- 24 Q. When did you -- I think my questions might have been a little
25 unclear.

1 A. Okay.

2 Q. When did you run the report that you used to provide those
3 numbers?

4 A. The report was run I believe the morning -- it was either the
5 end of the day the 16th or the morning of the 17th. I can't
6 remember if Rocky had run the report Wednesday night. If
7 not, I always ran the report in the morning.

8 Q. Okay, so if any ballots were accepted after the point in time
9 where you ran that report, they wouldn't have been captured
10 by that; correct?

11 A. No, they would not have.

12 Q. Okay. How did you provide those numbers to the members of
13 the Absentee Ballot Board that were going through the process
14 of opening the envelopes?

15 A. On a bright yellow sheet of paper.

16 Q. Okay. Were your numbers -- did you get any feedback on the
17 accuracy of your numbers?

18 A. Well, when they counted Precinct 1, they told me that it was
19 off, and I was like -- I wasn't sure. I looked back, and the
20 number that was on the sheet was actually the ones that
21 included spoiled ballots, so I corrected that. And then they
22 came back and said that Precinct 1 was still off, and it was
23 because Jackson P-1s were filed in with the Shakopee P-1
24 envelopes. So I asked them to please check to make sure
25 there was no Jackson P-1s in there, and there was. Once they

1 pulled those, it matched.

2 Q. Okay. And from that point forward, did you receive any
3 indication that the numbers of ballots or envelopes that they
4 were counting were not consistent with the numbers that you
5 provided to them?

6 A. I got nothing after that.

7 Q. Okay. And when you provided that set of numbers -- again,
8 did you say that -- were those handwritten?

9 A. They were handwritten.

10 Q. Okay. And I think you mentioned Rocky. Who's Rocky?

11 A. He was another election judge.

12 Q. Do you happen to remember his last name?

13 A. No.

14 Q. Okay. The numbers that you provided, were those broken out
15 by individual precincts?

16 A. Yes.

17 Q. Do you have an understanding as to whether there were
18 absentee ballots that were accepted by the City of Shakopee
19 after -- well, after you ran your report on the morning of
20 the 17th?

21 A. Yeah, they -- they had a ballot board on the 17th that did
22 the 14, 15th, and 16th. They compared those and accepted
23 them, and then they were put into the system on the 17th as
24 being accepted.

25 Q. Did you input data into the SVRS system at all?

1 A. No.

2 Q. Okay. Do you know whether those ballots that were accepted
3 by the Absentee Ballot Board on the 17th or after that were
4 opened, the envelopes were opened and processed for counting?

5 A. I -- I don't recall that. I think they just opened up the
6 ones that were in the file cabinet.

7 Q. Okay. Let me ask you this: Did you work as an election
8 judge on October 18th?

9 A. Yes, I did.

10 Q. And what was your role on October 18th?

11 A. Just assisting voters in getting their ballot.

12 Q. And I understand it was happening at Shakopee City Hall.

13 A. Uh-huh.

14 Q. But was there a specific room where that was occurring?

15 A. Yes. There was a conference room when you walked in
16 (indicating) off to the right all the way down at the end.

17 Q. Okay. Did you notice anything else that was occurring in
18 that room when you arrived on October 18th?

19 A. Yes. Lori was in there accepting -- or going through the
20 ballots from the 17th, comparing -- you know, like a ballot
21 board would do, comparing the signatures and the envelope,
22 and then accepting them into the system.

23 Q. Was there anyone assisting her in that process?

24 A. No, there was not.

25 Q. Do you know whether Ms. Hensen was also opening the envelopes

KAY GAMBLE - DIRECT EXAMINATION

177

1 in that process?

2 A. Yes, she was.

3 Q. How do you know that?

4 A. I did see her opening envelopes. I just -- that's all --

5 Q. You saw it with your own eyes.

6 A. Yeah.

7 Q. Okay. Sometimes my questions are obvious.

8 Did you say anything to Ms. Hensen when you
9 observed her activities on the morning of October 18th?

10 A. Well, I did ask her if she needs somebody else to be watching
11 because that's -- a ballot board, you need two people to do
12 that, usually one from each party. And she said she was fine
13 as long as she was in the room and there were the other two
14 of us in there.

15 Q. The "other two of us" would be yourself and whom?

16 A. And Mary.

17 Q. Is Mary another election judge?

18 A. Yes.

19 Q. Were you and Mary there to help voters cast ballots?

20 A. Yes.

21 Q. Did you or Mary assist Ms. Hensen in any way with her
22 handling of absentee ballots on October 18th?

23 A. No.

24 MR. ZOLL: I have no further questions, Your Honor.

25 THE COURT: All right. Thank you.

1 Mr. LeBeau?

2 MR. LeBEAU: (Pause.) If it's okay, Your Honor, I
3 just have notes in multiple places.

4 THE COURT: That's fine.

5 CROSS-EXAMINATION

6 BY MR. LeBEAU:

7 Q. Ms. Gamble, are you a politically designated election judge?

8 A. No, I am not.

9 Q. I want to talk about the back-math that you mentioned
10 earlier. The spreadsheets that you created, were these
11 documents that were given to you by Scott County?

12 A. No, I created these as an internal report just so that we
13 could see that we were keeping balanced and accountable. It
14 was just meant for us in there.

15 Q. And you had said that there was an underlying document that
16 informed the exhibit that was just on the screen. What was
17 that?

18 A. Oh, you mean the yellow sheet of paper?

19 Q. Yeah.

20 A. That was -- that was the yellow sheet of paper that I had
21 written down the precincts from the SVRS report that was run,
22 so when they counted the envelopes when they opened them,
23 they matched.

24 Q. In looking at the -- well, let's talk about the balancing
25 procedure. Did you follow the balancing procedure that's

1 outlined in the absentee handbook?

2 A. What do you mean by "balancing"?

3 MR. LeBEAU: If I might, Your Honor, I'd like to
4 pull up Exhibit 3.

5 BY MR. LeBEAU:

6 Q. Are you familiar with this document?

7 A. Yes.

8 Q. And the -- if I could direct you to the second tab. What
9 does the second tab outline?

10 A. A balancing?

11 Q. Is that the procedure that you followed in creating the
12 spreadsheet?

13 A. (Pause.) No, the spreadsheet was just made for our use to
14 match the numbers to the report, to make sure we were fine.

15 Q. But it wasn't balancing --

16 A. It balanced up until the transition between AB envelopes and
17 direct balloting.

18 Q. But not by using that procedure; is that correct?

19 A. Well, can I read it?

20 Q. Please.

21 A. (Pause.) I was not on the ballot board. This is completed
22 by the ballot board. I never did ballot-boarding.

23 Q. Okay. But that's not my question. That's not the procedure
24 that you followed in giving out those balance totals; is that
25 correct?

- 1 A. (Pause.) Again, I wasn't on the ballot board. This was a
2 report that we ran -- this was a report that we -- if this is
3 the same report, it's a report that we run -- we ran every
4 night.
- 5 Q. Okay.
- 6 A. And it was sent to Lori.
- 7 Q. So that was not the procedure that you would --
- 8 A. Well, no, the number that's written on my -- on my
9 spreadsheet is just the counting of the AB envelopes.
- 10 Q. So can you walk me through just the timeline again of how
11 this all occurred. So on the 17th is when you noticed that
12 the numbers don't match up; is that correct?
- 13 A. No. It was that Monday, the 21st.
- 14 Q. Okay. That you first noticed it on the 21st.
- 15 A. Well, I noticed it -- yeah, I noticed that the math wasn't
16 adding up, and when you ran the report to the report
17 showed -- it didn't match the number on the machine.
- 18 Q. So when was the last time you had a number that didn't match
19 up according to your chart?
- 20 A. The AB envelopes.
- 21 Q. And what day would that have been?
- 22 A. That would have been probably after running the report after
23 the 17 -- after -- it would have been running the report
24 Monday -- well, I don't even know if they ran a report. I
25 wasn't there at the end of every day, so I couldn't -- but it

1 would have been probably me coming in Friday morning and
2 counting the -- counting the absentee applications and then
3 running the report to see if we were at that number.

4 Q. So you weren't on the -- you were not on the Absentee Ballot
5 Board.

6 A. I was not on the Absentee Ballot Board.

7 Q. So what was your particular role with dealing with absentee
8 ballots?

9 A. My -- with absentee ballots, I -- a voter would come in and I
10 would find them on the system, get their envelopes and
11 everything ready, and explain how to vote and how to put it
12 in there. That's what my job was.

13 Q. So would it be very, like, front-of-the-house as opposed to
14 back-of-the-house actually moving the ballots around?

15 A. I was not moving ballots around.

16 Q. Okay. Just trying to understand --

17 A. Yeah.

18 Q. -- the different roles. There's a lot of different roles.

19 A. Okay.

20 Q. You said that you -- that the spreadsheet was created on the
21 26th.

22 A. That was after my -- because I was using just a Post-it note
23 for them to write numbers down just because it was just an
24 internal report; it had nothing to do with anything else.
25 And somebody criticize -- one of the other judges criticized

1 my Post-it note. So I thought okay, I already have a
2 Louisville one up there; I'll just put this in here so it
3 looks nice, you know.

4 Q. So this spreadsheet is a reflection of the Post-it notes
5 that --

6 A. Yeah.

7 Q. -- you had previously had.

8 A. Yeah.

9 Q. And do you have all the Post-it notes still?

10 A. No. Once I had it in there and I verified the numbers of the
11 report, I threw the Post-it notes away. There was no reason
12 to keep them.

13 Q. When you couldn't verify the numbers on the 17th, what did
14 you do with those?

15 MR. ZOLL: Objection; misstates the witness's
16 testimony.

17 THE COURT: Sustained.

18 BY MR. LeBEAU:

19 Q. Was there a time when you couldn't verify the -- you had
20 mentioned that there was a time that the numbers were off.
21 What day was that?

22 A. That would have been the 21st. That was -- because nobody
23 wrote the number down on the machine, and so we kind of
24 have -- I kind of have to back it, and that's -- and I didn't
25 do it 'til the end of the day because we had already had

1 voters and we were really busy. So I really couldn't take
2 the time.

3 And the machine, also they -- at the end of every
4 day, they were supposed to run the full tape on the machine.
5 When I went over there to confirm, it was zero. The tape
6 never -- never showed an amount.

7 Q. So the tape had never been run either?

8 A. No, the tape was run. The tape just never showed any numbers
9 the whole entire time --

10 Q. And why would that be?

11 A. I don't know. I asked and -- (shrugging).

12 Q. So just so I'm clear, the spreadsheet -- the spreadsheet that
13 was the exhibit, that was created on the 26th; right?

14 A. Right. Right.

15 Q. And that had numbers going all the way back to what day?

16 A. The -- numbers going all the way back to -- you want the AB
17 numbers? It went all the way back -- but the AB numbers had
18 started on the 20th. That's the first day of in-person
19 voting. So the -- what you're seeing, the AB count there,
20 that was -- that was the numbers.

21 Q. And so you noticed the error on the 21st.

22 A. I noticed the error on the 21st.

23 Q. And what was the corresponding day that the error occurred?

24 A. I'm assuming with the transition between envelopes and direct
25 balloting, which would have been the 18th when they started

1 putting them in the machine.

2 Q. And what's that assumption based on?

3 A. That we were balanced with AB envelopes before that time.

4 The 1124 balanced with the SVRS report.

5 Q. Let's talk about the 17th. You said that the Ballot Board

6 met to accept those ballots; correct?

7 A. To accept the ballots from the 14th, 15th, and 16th.

8 Q. And what goes into that process when they meet to accept

9 ballots?

10 A. They -- they were doing it in a chamber because it has to be

11 open to the public. And they were -- they would take the AB

12 application and the envelope, and they would (indicating)

13 compare the information, signature, name, making sure

14 everything matched. If it did, they accepted it, and then I

15 imagine it just, you know, went into a pile. And then Lori

16 would take those and accept them into the machine.

17 Q. And did you watch them go through that process on the 17th?

18 A. No, I did not; I was in the AB room. I just know the

19 process --

20 Q. So you --

21 A. -- with what they're supposed to do.

22 Q. Right. You assume that's what they did --

23 A. Well, I'm assuming, yeah.

24 Q. You had mentioned earlier that -- when asked about the

25 numbers that you provided, that after the 17th, you said, "I

1 got nothing after that" about the handwritten notes.

2 A. Well, when they -- when they were saying how Precinct 1 was
3 off, if it was off because they had spoiled -- the number had
4 spoiled ballots in it that had to be removed. And then the
5 Jackson P-1 was filed in with the Shakopee P-1s, the
6 envelopes, and I'm assuming they just saw "P-1" and put it in
7 the P-1 file. Once they did that. But after that, I did not
8 hear whether or not the numbers matched or didn't match. I
9 assume I would have been told if they didn't.

10 Q. On October 18th, you mentioned that you had personally
11 witnessed Lori was processing the absentee ballots?

12 A. She was doing what the ballot board would do, probably the
13 ones from the 17th.

14 Q. And what did you actually see her do?

15 A. Well, she was comparing the -- comparing the information, and
16 then she was accepting those into the machine.

17 Q. How do you know she was accepting them into the machine?

18 A. She was sitting down at the end, the very end, and
19 (indicating) -- that's what she was doing.

20 Q. And --

21 A. And she had a pile of them here (indicating) and she was
22 going through and then doing whatever she does on the
23 machine, and she was going through like that (indicating).

24 Q. But you didn't actually see the screen.

25 A. I didn't actually see the screen, no. But they would have

1 had to have been accepted for the report to come out.

2 Q. I think you mentioned this earlier, but I just want to be
3 clear: The -- you don't dispute that there's 21 -- the
4 numbers are off by 21; is that correct?

5 A. I don't dispute that, no.

6 Q. But your role in this was never in handling or separating the
7 ballot and secrecy envelope from the signature envelope --

8 A. Correct.

9 Q. -- correct? And who was that -- what group would have been
10 in charge of that process?

11 A. It was Rocky, Latisha, and Lori.

12 Q. And when -- who would have been in charge of that process on
13 the 17th and the 18th?

14 A. Lori.

15 Q. Exclusively?

16 A. Uh-huh.

17 THE COURT: You need to answer "yes" or "no."

18 THE WITNESS: Yes.

19 THE COURT: Thank you.

20 MR. LeBEAU: I don't have any further questions.

21 THE COURT: All right. Thank you.

22 Mr. Zoll?

23 REDIRECT EXAMINATION

24 BY MR. ZOLL:

25 Q. Just a couple clarifying questions for you, Ms. Gamble. Did

KAY GAMBLE - RECROSS-EXAMINATION

1 you compare the numbers that you included in the spreadsheet
2 you prepared against reports from the SVRS?

3 A. Yes.

4 Q. And did those numbers line up?

5 A. Yes.

6 Q. And I believe you mentioned the Absentee Ballot Board met on
7 the 17th to accept ballots from the 14th, 15th, 16th, and
8 17th. Do you know whether it included the 14th to the 17th?
9 Might it have been the 15th through the 17th?

10 A. It was only the 14th through the 16th because on the 17th we
11 were still -- voters were still coming in with envelopes.

12 Q. All right. Fair enough.

13 MR. ZOLL: No further questions.

14 THE COURT: All right. Thank you.

15 Mr. LeBeau?

16 RECROSS-EXAMINATION

17 BY MR. LeBEAU:

18 Q. So just on that last point: So the operative ballots that
19 were processed on the 17th and the 18th were from the 14th,
20 15th, and 16th?

21 A. So being accepted on the 17th. The Ballot Board met to do
22 the 14th, 15th, and 16th because they had met on the 14th and
23 done the week before. So they had the 14th, 15th, and 16th
24 to do. And then they -- I'm not sure if they filed them
25 away -- filed them and that's when they started opening

1 envelopes. On the 18th, the 17th would have had to have been
2 verified and accepted into the system.

3 MR. LeBEAU: Okay. Thank you very much.

4 THE COURT: Any other questions, Mr. Zoll?

5 MR. ZOLL: Can I have just one moment?

6 THE COURT: Sure.

7 MR. ZOLL: (Pause.) I don't have any further
8 questions.

9 THE COURT: All right. Thank you.

10 You may step down, ma'am.

11 THE WITNESS: Do I leave these here?

12 MR. ZOLL: Yes.

13 THE COURT: You can leave them on the witness
14 stand. That's fine.

15 (The witness was excused.)

16 MR. LeBEAU: May I recover those?

17 THE COURT: That's fine. Mr. LeBeau, do you have
18 another witness? Or is your witness who was in the air now
19 available?

20 MR. LeBEAU: Let me check.

21 MR. ZOLL: And Your Honor, if not, we do have one
22 additional witness available.

23 THE COURT: All right.

24 MR. LeBEAU: I would defer because he's still not
25 ready.

1 THE COURT: All right. That's fine.

2 Who is that, Mr. Zoll?

3 MR. ZOLL: Chelsea Petersen.

4 THE COURT: All right.

5 MR. ZOLL: And if I may go retrieve the witness?

6 THE COURT: That's fine. Thank you.

7 In general, we would take a mid-afternoon recess,
8 but we've had a number of breaks today and started a little
9 late, so my intent is just to continue going.

10 (Witness entered the courtroom.)

11 THE COURT: Ms. Petersen, if you could just come
12 forward to this ramp area, we'll get you sworn in. Thank
13 you.

14 Would you raise your right hand?

15 (The oath was administered.)

16 THE WITNESS: Yes.

17 THE COURT: Thank you. You can have a seat on the
18 witness stand.

19 And once you get there or situated, could you
20 please state and spell your full name.

21 THE WITNESS: Chelsea Petersen. C-H-E-L-S-E-A,
22 P-E-T-E-R-S-E-N.

23 THE COURT: All right. Thank you.

24 Mr. Zoll, when you're ready, you can proceed.

25 MR. ZOLL: Thank you, Your Honor.

CHELSEA PETERSEN - DIRECT EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHELSEA PETERSEN,

having been first duly sworn, was examined and testified on her oath as follows:

DIRECT EXAMINATION

BY MR. ZOLL:

Q. Thank you, Ms. Petersen. Where do you work?

A. The City of Shakopee.

Q. And what is your title?

A. Assistant City Administrator.

Q. In your role as Assistant City Administrator, did you become aware of the fact that 20 ballots from Shakopee Precinct 10 had not been counted in the 2024 General Election?

A. Yes.

Q. How did you learn that fact?

A. Lori called me on -- it would have been Friday after the election. I forget the date. She called me right around 1:00 to tell me that.

Q. Okay. And when you refer to "Lori," who are you referring to?

A. Lori Hensen, the city clerk.

Q. Were you involved in any of the efforts to determine what happened with the 20 ballots?

A. That afternoon I went back to City Hall and looked around in that regard. Prior to that, no, I had no knowledge of it. But yes, Friday afternoon we went back and we looked through

1 every area where any of our elections equipment had been.

2 Q. I'm going to call your attention to Exhibit 201, and I'll
3 bring you a binder that has a physical copy of it.

4 (Handing.) And you can just open that to tab 201.

5 And I'll just -- the first question will be are you
6 familiar with this document?

7 A. Yes.

8 Q. Is this an email that you sent to Lori Hensen and Bill
9 Reynolds on November 12th?

10 A. Yes.

11 Q. And the top email on November 12th, is that the most recent
12 email in a thread of emails?

13 A. Yes.

14 Q. And you testified as to who Lori Hensen is. Who's Bill
15 Reynolds?

16 A. He's the City Administrator.

17 Q. Okay, for the City of Shakopee?

18 A. Yes, correct.

19 Q. I'm going to call your attention to the last -- or excuse
20 me -- the second-to-the-last page of Exhibit 201. And in the
21 middle, you'll see an email from Bill Reynolds to you and
22 Lori Hensen sent at 2:42 p.m. on November 8th. Do you see
23 that?

24 A. A lot of pages in here. (Pause.) Yes.

25 Q. And is that forwarding another email that Mr. Reynolds had

1 sent to -- it looks like "Council Members"?

2 A. Yep, that was informing our City Council.

3 Q. So the Council Members, that would include the Shakopee City
4 Council?

5 A. Yeah.

6 Q. Okay. In the body of the email that goes on to the final
7 page of Exhibit 201, Mr. Reynolds says near the end: "It is
8 very important to note that every night after closure of
9 absentee balloting, our staff conducted a count of ballots
10 vs. registrations and those checked out every night."

11 Do you see that?

12 A. Uh-huh.

13 THE COURT: You need to answer "yes" or "no."

14 THE WITNESS: Yes. I'm sorry.

15 THE COURT: That's all right. Thank you.

16 BY MR. ZOLL:

17 Q. Did you discuss the subject matter of this email with
18 Mr. Reynolds before it was sent?

19 A. Yes. So, after Lori had called me to tell me that there
20 was a -- 20 missed ballots were missing, I was with Bill, and
21 so I informed him he needs -- he needed to inform Council.

22 Q. Do you know what the basis was for his statement that staff
23 conducted a count of ballots versus registrations every
24 night?

25 A. So while I was with Lori and searching through City Hall, I

1 was asking her a number of questions on how -- how they did
2 their daily procedures and what documents and/or counts might
3 exist. And I was told throughout the course of that that
4 yes, they did count the ballots every night and they tied
5 them out. That's my words, not necessarily hers. But they
6 did count them out, ballots versus registration, every night,
7 so that was the information I had, and that was the
8 information I provided to Bill.

9 Q. Okay. Turning back to the previous page of Exhibit 201, Lori
10 Hensen emails that she's attaching "the spreadsheet that my
11 election judge kept throughout the elections 46 days."

12 Do you see that?

13 A. Yep.

14 Q. Do you recall receiving that email and seeing the exhibit
15 that was -- or the attachment that was described there?

16 A. Yes.

17 Q. On the second page of Exhibit 201, there's an email from you
18 at 9:21 on November 12th. Do you see that?

19 A. Yes.

20 Q. What are you conveying in this email?

21 A. So I had gone through the spreadsheet and done math, so they
22 had one spreadsheet of the absentee ballots day by day, and
23 then they flipped it to a new sheet in the same spreadsheet
24 for the direct-balloting ballots. And so I totaled them up,
25 and I guess I referenced which sheets I was talking about in

1 here, and added them together and -- so there were 1124 from
2 the absentee ballots, and 276 is what was shown from the
3 first day of direct balloting when people actually came and
4 put their ballots to the tabulator. It should have been
5 1400, but the machine reading was 1379, which is 21 off of
6 where we should have been. There was a discrepancy of 21, I
7 guess.

8 Q. I'll have you turn to Exhibit 202 in the binder, and that
9 begins with an email. If I could just have you turn to the
10 second page of that exhibit. And my question for you: Is
11 this the spreadsheet that you were just describing?

12 A. Yes.

13 Q. Okay. And can you just point to where the numbers were that
14 you were just describing? So the -- the 276 and the 1379,
15 where is that seen?

16 A. So this is Lori's original spreadsheet, so I saved math on
17 mine, I guess. Okay. So the third page says "AB Count from
18 9/20 - 10/17." That's where the 1124 is, the total.

19 Q. Okay.

20 A. And then if you back up one page to "DB Applications and
21 Machine Counts," so there was 276 DB applications on that
22 10/18; that was the first day of direct balloting. So then I
23 took the 1124 from page 3 of the spreadsheet, added it to
24 276, and got 1400. But the machine was reading 1379
25 according to page 2 of the spreadsheet.

1 Q. Okay. Since you first became aware of the discrepancy of 21
2 ballots, have you learned of any information that causes you
3 to believe that ballots were intentionally destroyed?

4 A. Not that I learned, no.

5 MR. LeBEAU: Objection.

6 THE COURT: What's the objection?

7 MR. LeBEAU: Calls for speculation.

8 THE COURT: Overruled.

9 MR. ZOLL: I have no further questions.

10 THE COURT: All right. Mr. LeBeau?

11 CROSS-EXAMINATION

12 BY MR. LeBEAU:

13 Q. Ms. Petersen, can you refresh my collection -- my
14 recollection on what day you first became aware of the 21
15 missing ballots?

16 A. I would have to -- actually, it was the Friday after the
17 election. The date is escaping me, but these emails -- on
18 Friday, November 8th.

19 Q. So prior to that, you had no knowledge of any -- of any
20 concerns within your election staff?

21 A. No.

22 Q. And as the Deputy City Administrator -- do I have that title
23 right?

24 A. Assistant City Administrator, yeah.

25 Q. Are you in charge of City elections?

1 A. I am in charge of Lori Hensen, the city clerk. Elections
2 fall under her in a joint effort with the County.

3 Q. Are you familiar with the County's absentee ballot training?

4 A. I am aware that they offer it. I'm not aware of when -- I've
5 never sat through the training, no.

6 Q. You wouldn't be required to.

7 A. Right. Yeah.

8 Q. Do you know -- based on your knowledge, are you aware if Lori
9 Hensen or any of her staff would have engaged in training?

10 A. I believe Lori attended, and I believe we talked through that
11 with County election staff. Beyond that, I don't know. I
12 would think some of her staff may have, but I know we trained
13 our election judges in-house, which is why Lori attended
14 their training.

15 Q. Based on what you now know, do you believe that the training
16 procedures in the absentee ballot manual were followed?

17 A. I've not read the manual itself, but I believe that there
18 were procedures that were missed, yes. Whether they were
19 County or State, I'm not sure.

20 Q. I want to just talk about the email at the top of what is --
21 the exhibit you just looked at, which I think for us is
22 Exhibit 3, but it's the same thing in both instances. Where
23 it's referred to an estimate.

24 A. Uh-huh.

25 Q. Do you know what they mean when they refer to an estimate?

1 A. I -- I don't, frankly. I think it was -- so there's the SVRS
2 system where they log all the official reports and things
3 like that. I think it was called an estimate because we kept
4 an in-house spreadsheet, notes. That wasn't the official
5 documentation, so I think that's why they called it an
6 estimate.

7 Q. Did you personally witness or see how the absentee ballots
8 were being processed?

9 A. I was there for a short period of time. I had an intern with
10 me and we just kind of sat and watched for 15 or 20 minutes
11 maybe. And we did watch the election judges, you know, doing
12 their checks and balances, making sure the names and
13 signatures matched and things like that. But we left before
14 any envelopes were opened. It was just for informational
15 purposes.

16 Q. Did you -- did you observe that on October 17th?

17 A. I believe so. I have to look at the calendar to make sure,
18 but I believe so. The first day that they started processing
19 them, and that would have been the 17th, yeah.

20 Q. Did you observe it on October 18th?

21 A. No.

22 Q. And is Ms. Hensen currently employed by the City?

23 A. She is not.

24 MR. LeBEAU: I have no further questions.

25 THE COURT: All right. Thank you, Mr. LeBeau.

1 Mr. Zoll?

2 REDIRECT EXAMINATION

3 BY MR. ZOLL:

4 Q. You were just asked about a question that you posed in
5 Exhibit 201 to Ms. Hensen of can you please define and/or
6 better explain the "estimate" that Kay made. Do you recall
7 that question?

8 A. Uh-huh.

9 THE COURT: Can you answer "yes" or "no"?

10 THE WITNESS: Yes.

11 THE COURT: Thank you.

12 THE WITNESS: I'm sorry.

13 THE COURT: That's all right.

14 BY MR. ZOLL:

15 Q. To your recollection, did Ms. Hensen ever respond to that
16 email?

17 A. She did not in writing. After that, I had checked in with
18 her a couple of times, said "How can I help?" You know, I
19 was attempting to assist in the process. And no, she didn't
20 respond in writing, and to the best of my recollection, it
21 was just that they were unofficial records because the State
22 keeps all the official records.

23 Q. If Kay had made an estimate, would Kay be the best person to
24 explain that?

25 A. Yes.

1 MR. ZOLL: No further questions.

2 THE COURT: All right.

3 No other questions, Mr. LeBeau?

4 MR. LeBEAU: (Shaking head.)

5 THE COURT: All right. Thank you. You may step
6 down.

7 (The witness was excused.)

8 THE COURT: Mr. LeBeau?

9 MR. LeBEAU: Your Honor, I apologize. I have left
10 one final voter anxiously waiting in the hallway. So I would
11 like to call that individual at this time.

12 THE COURT: Seems like a --

13 MR. LeBEAU: And that will conclude all the voter
14 testimony.

15 THE COURT: All right. Thank you. And which voter
16 is that, what voter number?

17 MR. LeBEAU: One second. (Pause.) It would be
18 Voter Number 4.

19 THE COURT: Thank you.

20 (Witness entered the courtroom.)

21 THE COURT: Voter Number 4, why don't you come
22 forward to the area of the ramp, and once you get there, if
23 you could please raise your right hand and I'll get you
24 sworn. Thank you, sir.

25 (The oath was administered.)

1 THE WITNESS: Yes.

2 THE COURT: Thank you. You can have a seat on the
3 witness stand.

4 And then Mr. LeBeau, as to this voter, could you
5 please repeat the voter number?

6 MR. LeBEAU: Number 4.

7 THE COURT: As to Voter Number 4, have you verified
8 that Voter Number 4 is, in fact, the person who is identified
9 on the witness identification key that is filed under seal?

10 MR. LeBEAU: One second. I think I have the wrong
11 sheet of paper. (Pause.) Your Honor, if I could -- I just
12 want to confirm one more time because I know we're sensitive
13 about this and --

14 THE COURT: Sure, that's fine.

15 MR. LeBEAU: I believe I'm about 99.9 percent
16 correct.

17 THE COURT: We're off the record.

18 (Off-the-record discussion.)

19 THE COURT: And we will go back on the record.

20 MR. LeBEAU: Sorry. I apologize. I just wanted to
21 be absolutely certain.

22 THE COURT: All right. And so have you, in fact,
23 verified that Voter Number 4 is, in fact, the person who's
24 identified on the witness identification key as Voter
25 Number 4?

VOTER NUMBER 4 - DIRECT EXAMINATION

1 MR. LeBEAU: Yes, Your Honor.

2 THE COURT: All right. Thank you. Go ahead.

3 MR. LeBEAU: Thank you.

4 VOTER NUMBER 4,
5 having been first duly sworn, was examined and testified under
6 oath as follows:

7 DIRECT EXAMINATION

8 BY MR. LeBEAU:

9 Q. (Handing.) Sir, I'm showing you a document that's marked at
10 the top. It's I believe 304; is that correct?

11 A. Yes.

12 Q. Can you please identify that document?

13 THE COURT: Could you please slide closer to the
14 microphone, sir? I'm having a hard time hearing you. Thank
15 you.

16 A. This is the form to fill out when you come to register.

17 BY MR. LeBEAU:

18 Q. Is the first one titled "Signature Envelope"?

19 A. What's that?

20 Q. Is the first document titled "Signature Envelope"?

21 A. Yes.

22 Q. And is the second one titled "Minnesota Absentee Ballot"?

23 A. Yes.

24 Q. And are these signed by you?

25 A. Yes.

1 Q. Are these true and accurate representations of the signature
2 envelope and absentee ballot application that you filled out
3 for the 2024 election?

4 A. Yes.

5 MR. LeBEAU: Your Honor, I'd move that they be
6 admitted.

7 THE COURT: What exhibit is that?

8 MR. LeBEAU: Exhibit 304.

9 THE COURT: Any objection?

10 MR. ZOLL: No, Your Honor.

11 THE COURT: All right. Sealed Exhibit 304 is
12 received.

13 MR. LeBEAU: Thank you.

14 BY MR. LeBEAU:

15 Q. Sir, did you vote in the 2024 election?

16 A. Yes.

17 Q. And what day did you vote?

18 A. It was a Wednesday. Was it the 15th or 16th? (Pause.)
19 16th.

20 Q. And where did you vote?

21 A. City Hall.

22 Q. And why did you vote on that day?

23 A. I was going to be out of town on election day.

24 Q. And did you vote in the House District 54A race?

25 A. Yes.

1 Q. And for whom did you vote?

2 A. Mr. Paul.

3 MR. LeBEAU: Your Honor, I have no further
4 questions.

5 THE COURT: All right. Mr. Zoll?

6 MR. ZOLL: No questions.

7 THE COURT: All right. Thank you, sir. You may
8 step down.

9 (The witness was excused.)

10 THE COURT: Mr. LeBeau, do you have any other
11 witnesses?

12 MR. LeBEAU: No, Your Honor. My final witness is I
13 believe at this moment still in the air. And with opposing
14 counsel's indulgence as we moved some things around today,
15 I'll plan to call him tomorrow.

16 THE COURT: All right. Mr. Zoll, do you have any
17 other witnesses today?

18 MR. ZOLL: None that are presently available. We
19 do have witnesses available beginning tomorrow morning.

20 THE COURT: All right. That's fine. Then we'll
21 reconvene this matter at 9:00 tomorrow morning.

22 Counsel, I would just like to chat in chambers
23 about the plan for tomorrow and what witnesses you expect to
24 call. All right? Thank you.

25 (Proceedings concluded.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, MONICA R. MORIARTY, do hereby certify that I am an official court reporter for the First Judicial District, State of Minnesota; that as such reporter, I stenographically reported the proceedings held in the hearing of the afore-mentioned action; that I thereafter transcribed the proceedings by means of computer-aided transcription; and that the above and foregoing transcript, consisting of the preceding 203 pages, constitutes a full, true, and complete transcript of my stenographic notes of the hearing to the best of my ability.

Dated: December 23, 2024

/s/ Monica R. Moriarty

MONICA R. MORIARTY, RDR, CRR
Dakota County Judicial Center
1560 West Highway 55
Hastings, MN 55033
(651) 377-7960