

February 27, 2013

Jeff Ashton
State Attorney
Ninth Judicial Circuit
415 North Orange Avenue
Orlando, Florida 32801

The Honorable Mr. Ashton,

This letter is to serve as an official complaint and request for a criminal investigation into the 2012 Orlando municipal election, as well as individuals possibly involved, including but not limited to, Orlando Mayor Buddy Dyer, Orlando Commissioner Sam Ings, Orlando City Clerk Alana Brenner, operative Ezzie Thomas, operative Sandra Lewis, Dyer campaign manager Craig Borkon of Sunstream Strategies LLC, Geraldine Cooper, Paula Carter, other campaign staff and other Orlando city public employees.

As citizens of Orange County and the City of Orlando, we are requesting a criminal investigation to include but not be limited to the following:

- In 2005, Buddy Dyer and Ezzie Thomas were indicted and booked for election fraud involving absentee ballots in minority communities. Voting irregularities with absentee ballots in the 2012 municipal election and actions of Mayor Buddy Dyer, Commissioner Sam Ings and operatives Ezzie Thomas and Sandra Lewis mirror those described from before, where the proven relationship between Dyer and Thomas is evident. **The grand jury presentment from 2005 against Dyer is attached.**
- Thousands of absentee ballot requests were received and accepted for this municipal election that violate the following statutes:
 - o 104.047 Any person who requests' an absentee ballot on behalf of an elector and any person who marks or designates a choice on the ballot of another person
 - o 104.031 False Declaration to secure assistance in preparing a ballot
 - o 104.045 Vote selling
 - o 104.041 Fraud in connection with casting a vote
 - o 104.051 Violations, neglect of duty, corrupt practices
 - o 104.047 Absentee Ballots and Voting violations
 - o 102.021 Inspector's and Clerks to Conduct elections
 - o 101.62 Request for Absentee ballot's
 - o 104.047 Absentee ballots and voting violations
- Orlando City Clerk Alana Brenner and Assistant City Attorney Amy Iennaco cited a 2002 opinion to accept questionable absentee ballot requests and mail out absentee ballots, ignoring 2011 Florida Statutes addressing proper protocol according to FS 101.62(b).
 - o **See attached emails from City Clerk Brenner and a copy of Florida Statute 101.62.**
 - o Absentee ballot requests must only be held for one year, meaning the requests could be destroyed by the city as early as April 4.
- Nearly 1,000 questionable absentee ballots were identified during public records searches including, but not limited to, different color inks used for the signatures and dates, bundles of deliveries from operatives, signatures that do not cover the seal of the envelope, signatures below the seal of the envelope (meaning they were signed before ballot was inserted), matching handwriting on various ballots, harvesting and other irregularities. **A description of questionable absentee ballots is included in an attached Excel spreadsheet.**

- Orlando City Clerk Alana Brenner is a political appointee of Mayor Dyer and serves as the “Supervisor of Elections” in all City of Orlando municipal elections. Brenner ordered city staff, some making between \$30-40 per hour to open, handle, tabulate and prepare the absentee ballots. These city employees handled absentee ballots prior to polls closing on April 3rd and without Supervisor of Election training or supervision. (See below for names and a full description).
- City employees selected by Clerk Brenner collected their city salary and pay during their work opening, handling and preparing absentee ballots at the Supervisor of Elections office. No city employee who participated in handling the ballots prior to polls closing requested time off of their city duties or took leave during that time, and none was paid from a City of Orlando elections budget for their time, leading to a co-mingling of funds between elections and city business.
- The 2012 Vote Processing Equipment Use Agreement and Elections Service Contract for Municipal Elections between the City of Orlando and the Supervisor of Elections is attached as **Document 1**. This document details the agreement for the SOE to administer the Orlando municipal election on April 3, 2012 and it will be referenced from time to time. The contract is also supposed to represent that a clear third party administrator is being used for the municipal elections.
- The City Clerk of Orlando ordered 133,600 ballots for a municipal election with 131,121 registered voters. The City of Orlando paid \$40,748 just for ballots to be used when only 15% would turn out to vote, yet the city purchased enough ballots for 102% turnout. There is also a pattern of deceptive behavior from City Clerk Brenner in responses to public records requests detailed below.
 - o These figures are for both regular (used at polls and early vote) and absentee (used for mail-in) ballots. The City of Orlando ordered these ballots using a hand-written form outlining precinct-by-precinct the number of ballots desired. **This document is attached as “Document 2” below.**
 - o All ballots were printed by Magnolia Press, as selected by the Orange County Supervisor of Elections per the 2012 Elections Agreement for this election.
 - o The City of Orlando, ultimately responsible for ordering the ballots per the Agreement, lists as totals on **Document 2** that ballots needed for “Polls 65%” equaled 85,300 and for “Absentees 35%” equaled 48,300. Totaling 133,600 – as is noted on the document by which ever city employee prepared it. This “2012 ballots” hand-written form shows the City of Orlando rounded all precincts, sometimes upwards, to include numbers that were greater than the actual number of registered voters. The math is also wrong on these calculations, however the totals are written at the bottom by city staff.
 - o In a separate public records request, the Supervisor of Elections office provided spreadsheets showing the total ballots ordered for Election Day/Polls (65% of registered voters) equaling 84,800. This file is listed as “ORL GEN2.xls” in the email “FW: Election Day Ballots” from the SOE and attached as **Document 3**.
 - o In email communications between Feb. 6 and Feb. 9 between the City of Orlando and Magnolia Press, attached as **Document 4**, the city of Orlando ordered ballots on February 6, 2012 by including the hand-written Document 1. Magnolia Press responded pointing out the calculation error, and states a total of 45,700 for absentee ballots. The City of Orlando confirms that City Clerk Alana Brenner agreed to Magnolia’s number: 45,700 for absentees. This was notice to the City of Orlando of errors being committed and should have raised a red flag to keep further notice on this issue.

- On February 13, 2012, the City Clerk’s Office received an invoice from Magnolia Press for ballots, attached as **Document 5**. This invoice clearly shows Quantity Shipped as 133,600 ELECTION BALLOTS and 1,250 TEST BALLOTS. The total invoice is \$40,748 taxpayer dollars. The invoice was due by March 14, 2012. No action was taken on the number of ballots charged as ordered.
- Magnolia Press delivered the Absentee Ballots on February 13, 2012 and the delivery receipt is attached as **Document 6**. The total ballots delivered totals 45,700 absentee ballots and 125 test ballots.
- Magnolia Press delivered the remaining ballots on February 15, 2012 and the delivery receipt is attached as **Document 7**. The total ballots delivered totals 85,300 ballots.
- In an email from Magnolia Press to the Orange County Supervisor of Elections on February 8, 2012, it is noted that the city of Orlando is “demanding full delivery” in just a matter of days after the order and “Is that really necessary?” The email is attached as **Document 8**. It concludes Orlando’s demands would leave the printer’s staffer “out on the ledge...”
- In response to a Cantone records request, on May 4, 2012 the City of Orlando emailed Magnolia Press asking for clarification on the invoice and indicated that the “City Clerk calculated 131,100 ballots.” and not the 133,600 invoiced 3 months ago. Included is an updated Document 1 with new calculations hand-written in equaling the previously agreed to number of 85,300 and 45,700 ballots, totaling 131,000, not 131,100. This communication is attached as **Document 9**.
- However, when prompted by Cantone’s May 9, 2012 follow up public records request to supply the invoice for ballots ordered through Magnolia Press (attached as **Document 10**), the City of Orlando also provided a document dated May 10, 2012 which is labeled a “Credit Memo” for refunded ballots totaling \$793 and is attached as **Document 11**.
 - The “Credit Memo” credits 2,600 ballots and a total of \$793.00 on May 10, 2012. There is no Project Number included, nor any description.
 - The “Credit Memo” does not include the same logo from any official document from Magnolia Press prior, including Documents 5, 6, 7 and all emails from their employees. It also does not contain the same company information or format from the other invoices and official forms.
- In the email from Magnolia with the “Credit Memo” it clearly states that “We have reduced your account balance by the amount shown on the credit memo.” This email is attached as **Document 12**. The email is dated May 10, 2012 and was sent at 9:04am.
- The city of Orlando included in a public records request by Cantone a copy of a check from Magnolia Press, written on May 10, 2012. This check is attached as **Document 13**. However, in a follow up public records request regarding the refund, at first the City Clerk claimed Orlando “internally deposited the check” and therefore had no deposit slip. She included a new copy of the check with an unidentifiable receipt, attached as **Document 14**. Days later, 8 pages were provided from the Bank of America account showing this check deposited in BOA City account, attached as **Document 15**.
- As a recap, this now means there have been several “official ballot counts” from the City of Orlando. These include:
 - According to Supervisor of Elections records request: 84,800 ballots.
 - City Clerk order sheet: 85,300 for polls and 48,300 for absentees.
 - Magnolia/City Clerk email corrections: 45,700 absentee ballots.
 - Magnolia invoice on February 13, 2012: 133,600 total ballots.
 - City follow up email in May: 131,100 total ballots.
 - Refunded/adjusted total from Magnolia on “Credit Memo”: 131,000 total.

- The City of Orlando and City Clerk Brenner refuse to allow the public to view all preserved ballots, unused ballots, absentee ballots and any other materials being stored in the City Vault.
- A new metal “ballot box” for drop-off absentee ballots OUTSIDE of the Supervisor of Elections office was installed in December 2011, in the middle of the Orlando Mayoral election, according to public records requests.
 - o This action could provide an easy way for fraudulent absentee ballots to be deposited without having to drop off the ballots with a SOE staffer inside, seemingly circumventing election laws limiting the number of absentee ballots one person can drop off.
 - o Due to the history of ballot harvesting as documented in the indictment of Mayor Dyer years ago, the new drop box appears to open a new avenue for harvested or collected ballots to be delivered without mailing with postage. Below, note the link in number of “dropped off ballots” and times checked-in on the absentee ballot envelope analysis. It is clear that batches of ballots were deposited at the same times from areas all over the city of Orlando from the predominantly African-American precincts in Districts 5 and 6.
 - o In fact, due to the metal box being outside the office, there is also less protection of the ballots as opposed to having a deposit slip that drops ballots inside the building.
- The City of Orlando contract with the Orange County Supervisor of Elections gives the SOE all responsibility for staffing, training and equipment, however, the City adds a provision in the contract stating: “Section 14: Municipality shall provide adequate staff assistance for the **opening and handling of absentee ballots** during the counting process and shall coordinate a date for the opening and counting of such absentee ballots with the SOE.”
 - o We confirmed with Hillsborough County Supervisor of Elections (similar sized city to Orlando) that a contract like this does NOT exist for running city of Tampa elections and that state law says the County Supervisors administer all elections. Miami-Dade and Jacksonville (Duval) would not have similar situations as they are blended city-county governments.
 - o The response from the Hillsborough Supervisor of Elections is attached as **Document 16** detailing that there is no city influence in municipal elections, nor staffed in any way by city employees. It references being governed by Florida State Statute and the Tampa charter, saying indeed the County Supervisor’s office is responsible.
 - o The Orange County Supervisor of Elections was unable to respond to a public records request asking to prove the chain of command of all absentee ballots for April 3rd. The Supervisor of Elections can NOT confirm chain of command, nor are they able to provide a list of who handled active ballots before poll closing. This means unknown persons handled and opened real ballots cast by voters prior to polls closing while being paid by the city of Orlando for their time. The integrity of the ballot process is lost.
 - o The Supervisor of Elections sent a letter from their law firm Page, Eichenblatt, Bernbaum & Bennett, PA stating they will no longer answer any questions regarding the election and that all questions must go to the City Clerk – a Dyer appointee moving forward. City Clerk Alana Brenner was first appointed by Dyer in 2004. The letter from the law firm is dated May 14, 2012 and is attached as **Document 17**.
- The March 12, 2012 Canvassing Board meeting was made up of Alana Brenner, appointee of the Mayor, Commissioner Robert Stuart, brother of Chamber of Commerce President who made an “unprecedented” endorsement of Mayor Dyer, and Commissioner Daisy Lynum, who later resigned because of a violation of the law regarding her political activity while serving on the canvassing board.

- Daisy Lynum would eventually RESIGN from the canvassing board for **violating the law** and endorsing a candidate in District 1's race (the eventual winner along with the other incumbents) and she resigned with a one-sentence email (attached as **Document 18**). Despite violating the law, Lynum would pass 2 important measures changing procedures for handling and tabulating the vote on April 3rd:
 - This is a recallable offense committed by Commissioner Lynum according to Florida Statute 100.361(d): Grounds for Recall.
- At the March 12 Canvassing Board meeting, a motion was made regarding the opening and handling of absentee ballots for the April 3rd election:
 - **MOTION: Commissioner Daisy W. Lynum moved to authorize staff to begin opening all ballots meeting the adopted criteria after the public inspection period concludes at 9 a.m. on April 3, 2012, but that the ballots would not be tallied until after 7:00 p.m. that evening. The motion was seconded by Commissioner Robert Stuart and vote carried unanimously.**
 - Why were the ballots opened by staff, provided by the City according to the contract, before polls closed on April 3, 2012? Why did they change protocol and the direction of the Florida Statute and insert city paid employees to handle ballots?
 - There is no other precedent for this procedure and no apparent need is given.
 - A second motion was then made regarding this very activity:
 - **MOTION: Commissioner Robert Stuart moved to authorize staff to make an advance review of all coded absentee ballots prior to presentation of the ballots to the Canvassing board. The motion was seconded by Commissioner Daisy Lynum and vote carried unanimously.**
 - This left only two members on the canvassing board, one being a political appointee of Mayor Dyer (Brenner).
 - What is a "coded absentee" ballot? Why did Commissioner Stuart have to make this motion when the prior motion seems to make this authorization already?
 - Audio recordings of the canvassing board meeting were publicly requested and City Clerk Alana Brenner declined the request stating: "There is no audio recording from the March 12, 2012 Canvassing Board meeting so there are no records responsive to your request," and her email is attached as **Document 19**. The April 3rd Canvassing Board meeting recording is in our possession. It is curious why there is no recording for the March 12th meeting and possible violation of Florida's Sunshine Law.
 - Leaks to media between 4pm-7pm, specifically Brighthouse News 13, about returns on absentee ballots further served as a voter suppression tactic to dampen after-work turnout by indicating Mayor Dyer and incumbents would cruise to victory with big leads. Unfortunately, when contacted for a copy of the newscasts, Brighthouse News 13 denied the request and said they do not provide copies of videos to the public.
 - This also served as a vote suppressant. Reports from Greg Fox on WESH News (a personal friend and college classmate of Dyer) at 5pm said "that turnout according to the Supervisor of Elections was at 15% at 4pm" (video of this news report on file).
 - Overall turnout, 3 hours AFTER this report, ended at 15.8% for the city. So in the final "rush" of post-work and post-results being leaked by Brighthouse News and possibly other media outlets, only yielded less than 1 percent of voters going to the polls. It would be very curious to see such little turnout in the final hours before the polls closed after work hours, considering more than a million dollars was spent on behalf of the Mayor's interests and for turnout. It also meant that absentee votes accounted for over 42% of the total vote. Unprecedented.

- Despite the illusion that there is an independent entity running the elections (the Supervisor of Elections), the responsibility to order ballots rests with the City of Orlando according to the contract. With city staff opening and handling absentee ballots prior to polls closing and the City ordering all ballots, there is no break between the incumbents and the ballot box.
 - o Orange County Supervisor of Elections Bill Cowles confirmed to a County Watch meeting in January 2013 that City Clerk Brenner serves as the official “Supervisor of Elections” in municipal races, making her office directly responsible for the integrity of the elections.
 - o City records show that City-paid staff DID NOT request time off to go to the Supervisor’s office on Election Day to open and handle ballots. These staffers came from the Clerk’s office, the legal department, Code Enforcement department and Economic Development departments – and made between \$20-\$40 per hour as their regular pay. The pure conflict of interest of city paid staff opening, counting and handling ballots while being paid by the City, and working for officials who were on the ballot, casts serious doubt on the entire process. It also is a violation of the law for use of municipal funds and staff.
 - o The names of the City Staff (provided thus far by the City Clerk) who worked on Election Day opening and handling ballots include: City Clerk Alana Brenner, Monica Varnado (paralegal, Executive Offices), Tracey Duffield (Legal Secretary, Executive Offices), Ric Garcia (Code Enforcement Officer, Economic Development Dept), Michelle Bach (Code Enforcement Officer, Economic Development Dept), Amanda Green (Assistant City Attorney, Executive Offices), Carolyn Skuta (City Clerk Aide, Executive Offices), Amy Iennaco (Chief Assitant City Attorney, Executive Offices), Rudy Seda (Code Enforcement Officer, Economic Development Dept), Perez Goree (Audit Program Manager, Executive Offices), Melissa Corso (Temporary employee, Executive Offices) and possibly other unknown persons.
 - o Copies of the City of Orlando employee profiles involved in the opening and handling of ballots as provided by the City of Orlando are attached as **Document 20**.
 - o None of the employees who opened and handled ballots requested time off of their regular jobs and departments. This is proven by including a public records request for all leave requests in the month of April for the employees listed above as shown in **Document 21**. This means every one of these employees were being paid upwards of more than \$40/hour to open and handle ballots on behalf of their boss – the incumbent Mayor.

- The County Supervisor of Elections, who was hired and contracted to administer the municipal election, is unable to provide the names of people who handled and opened absentee ballots, as discovered through a public records request. The Supervisor of Elections is also unable to provide information ensuring the chain of command of ballots tabulated for the results on April 3rd as the SOE has admitted by refusing to respond to public records requests on the matter.

- Over 850 absentee ballots submitted from District 5 and 6 (African-American districts in Orlando) match the SAME patterns from the election fraud case 9 years ago against Mayor Dyer and Ezzie Thomas.
 - o **Ezzie Thomas and other paid staffers for Sam Ings in 2012 collecting absentee ballots and requests from African-American voters. However, why would a staffer of a Commissioner in District 6 collect absentee ballots in District 5 (Lynum) when she was not on the ballot. It is obvious that Ezzie Thomas was working for Ings AND Dyer.**
 - o Dyer promised in their pre-trial diversions 9 years ago that they would not participate in these activities again. Ings was one of the people who sued Dyer. **See attached**

“Agreement Concerning Pre trial Diversion” Case Number: 05-CF-3206-O.

Thomas’ deposition remains sealed and we request it now be made public.

- Most ballots do not have a signature that breaks the seal of the envelope ensuring it was not tampered with.
 - Many have dates and/or signatures UNDER the seal, meaning they were signed when the ballot envelope was not sealed, which is a violation of law if another then handles that ballot.
 - Sandra Lewis was part of the 2005 investigation team against these types of practices and served as the notary for all collected statements against Ezzie Thomas. That team included Sam Ings, Timothy Love, Lawanna Gelzer, Ken Mulvaney and others. In 2012, Sandra Lewis now worked for Ezzie Thomas collecting ballots and making money in 2012. Sandra Lewis is listed on the expenses for Ings and is listed on original court documents from the first case against Dyer and Thomas.
 - There are photographs of Thomas, Lewis and operatives in neighborhoods where questionable ballots were flagged.
 - The same characters from the Fraud case against Dyer 9 years ago are all back in action.
 - Samples of these ballot envelopes – as blacked out by the Supervisor of Elections – are attached as **Document 22**. These are samples of the ballot envelopes that were heavily examined, but are also heavily redacted outside of a full investigation should one request copies.
- Hundreds of absentee ballots were not stamped, yet all were delivered to the Supervisor of Elections at the same exact time. These ballots came from all over Districts 5 and 6, yet with no stamps they were delivered and checked in at the same time. This proves that ballot harvesting did occur and in an organized and planned way.
 - Cantone, Gelzer and Mulvaney warned of this directly a month ahead of the election.
 - Due to the new metal drop box outside the SOE office, there is no internal drop off records to see who delivered all these ballots nor any witnesses to what was being delivered or by whom.
 - Dyer’s campaign manager and Sunstream Strategies employee Craig Borkon did not follow proper election law in regards to spending campaign dollars and proper, transparent disclosure. Even after the campaign ended, Borkon and the Dyer campaign listed "Office Depot" and other reimbursements as expenses for supplies. However, during the campaign, all "supplies" and "postage" reimbursements were written out to paid staff, like Craig Borkon, in large amounts, totaling thousands of dollars. This adds to the doubt that the Dyer campaign was blatantly trying to hide what and where they were spending money and who was benefiting.
 - In addition to paying operatives Ezzie Thomas and Sandra Lewis, among others to collect, complete, sign and date and then return absentee ballots, the Dyer campaign paid hundreds of local residents for “campaign services” such as “canvas.” For example, on a review of Dyer campaign disclosure reports, Amaury Diaz was paid \$135 for "canvas" (their campaign did not even spell canvass correctly). A note on Amaury is that he is a well-known Hispanic artist and it is more likely that this was payment for support. Mr. Diaz is 74 years old and very frail and soft-spoken. Dyer was paying his canvassers about \$10/hour, but even if he was paying \$12/hour that means Mr. Diaz canvassed door-to-door for over 11 hours or Dyer is once again misrepresenting how he was spending money. Dyer campaign reports are riddled with payments to various figures in the community.
 - On April 3, 2012, Republican Ken Mulvaney and Democrat Lawanna Gelzer challenged numerous absentee ballots, and their official letters are attached as **Document 23**. They were

in a rushed process to review during the public inspection. As seen in **Document 24**, emails from City Clerk Alana Brenner the day before show enthusiasm to start opening ballots shortly after 9am as the public inspection concludes. This seems to show a pre-determined effort to start the opening and handling of ballots as early as possible.

- In an email from Amy Iennaco on behalf of the City of Orlando, she makes an usual statement in a one-sentence invitation. It states: “If you are available on Tuesday, April 3rd, we have an **unusual task that we need help with. Please see me when you get a chance and I’ll explain further.**”
This email is attached as **Document 25**.
- City of Orlando employees began opening ballots while the canvassing board was in session on April 3 and while active challenges were being made.

We are asking your office to immediately seek an investigation into the numerous voting irregularities and potential absentee ballot fraud committed during the 2012 Orlando municipal elections as well as the larger scope of possible public corruption. Copies of this official complaint are being sent to Governor Rick Scott, Attorney General Pam Bondi, and the Florida Department of Law Enforcement.

Thank you,

Mike Cantone
Citizen and Candidate for Mayor (2012)
City of Orlando
Orange County, Florida

Lawanna Gelzer
Citizen and Candidate for City Commissioner, District 6 (2012)
City of Orlando
Orange County, Florida