

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 THE STATE OF ALABAMA and)
 NANCY L. WORLEY, Secretary of State,)
 in her official capacity,)
)
 Defendants.)

CASE NO. 2:06-cv-392-WKW

**SPECIAL MASTER'S
FINAL STATUS REPORT**

Comes now Bob Riley, Governor of the State of Alabama, as Court-appointed Special Master, pursuant to the Order of this Court dated August 18, 2008, and files, what he expects to be, his final status report as Special Master. This report deals generally with matters relating to the Alabama HAVA-Compliant Voter Registration System which have occurred since the Special Master's Post-Election Status Report of March 3, 2008.

**I. SPECIAL MASTER'S CERTIFICATION OF CONTINUED
HAVA COMPLIANCE OF THE VOTER REGISTRATION SYSTEM AFTER
THE ALABAMA STATEWIDE PRIMARY ELECTION OF JUNE 3, 2008,
AND THE RELATED STATEWIDE RUNOFF ELECTIONS OF JULY 15, 2008**

The Special Master is extremely pleased to report to the Court that the Alabama statewide primary election of June 3, 2008, and the Alabama runoff election of July 15, 2008, were both held under the newly-implemented, and continually improving,

HAVA-Compliant Voter Registration System without any significant problems or defects being detected in the system itself. Based upon information and belief, all 67 counties successfully printed their voter lists and successfully accomplished their election processes in a timely fashion and without any significant system problems relating to the newly-implemented Voter Registration System. The Special Master is unaware of any problem that occurred during these election processes that was determined to be a fault or deficiency of the Voter Registration System itself. The problems that did occur were minimal. The problems that did occur related primarily to either human error relating to data entry, data updating, or accuracy of street files, and to a much lesser degree related to timing of the printing of voter lists, when considered in light of the last day possible for registration and the ability of registrars to input the registration data of those voters who register on the last or next to last statutorily-permissible date. This last problem will probably have to be addressed by legislative action, but is not a Voter Registration System problem in any respect.

II. STATUS OF HAVA COMPLIANCE FUNDS

Even though it was suggested by some individuals that the voter registration project and all of its related aspects, both hardware, software, and facilities, could not be completed within the original budget of \$12,142,839.17, the Special Master is pleased to inform the Court that the project was completed under budget. There is currently, on hand, in the Special Master's HAVA account, approximately \$2,395,224.98. Of this sum, there are outstanding bills/invoices and known contractual obligations totaling \$378,533.20. Thus, except for and subject to an invoice in transit or possibly one or two small, unknown obligations, the Special Master expects to be in a position to transfer an

approximate, unencumbered, balance of \$2,016,691.78, in the Special Master's HAVA account, over to the Secretary of State, when he is discharged. These funds should be adequate to pay for continued expenses of the project, including hardware maintenance, repair and replacement, after warranty expiration and outside of warranty coverage, software enhancements, site location expenses, and related necessary costs and expenses into future years.

III. HAVA VOTER REGISTRATION SECURITY POLICY

The Special Master's staff, and implementation team, along with the vendor, with the encouragement of the Secretary of State and her staff, have developed and implemented a Security Policy for the operation of the Voter Registration System within the 67 counties. This policy is designed to be Alabama specific, but it uses the concepts and procedures that were deemed best and most effective in other states. The policy requires cooperation among the three primary user groups: Registrars, Probate Judges, and Circuit Clerks (generally the absentee election supervisor in the county). The Security Policy is attached hereto, as Exhibit A. Currently, the vast majority of all Alabama counties are operating under this policy. It is designed to provide and protect restricted access to each of the respective parts of the overall Voter Registration System, and to its absentee ballot functions and election management functions, with no user having inappropriate or unnecessary access to those aspects of the system that are not required and necessary to that respective user. Security is important, and it must be maintained if the system is to operate properly and if voter fraud is to be prevented, to the greatest extent possible.

IV. CONTRACTS AND OBLIGATIONS RELATED TO THE HAVA VOTER REGISTRATION SYSTEM

The Special Master has been required to enter into a number of contracts and memorandums of understanding (MOU) with various parties, both for the implementation and installation of the system, and to facilitate and ensure the continuing efficient operation of the system. The primary contract is the contract with the vendor, Election Systems & Software (ES&S). This contract has been and is the basis of the entire development, design, implementation, and installation of the system. This contract is, at the present time, approximately 90% complete. This contract will continue to be necessary and operable since there are a few relatively minor aspects that are yet to be completed, and since the vendor has continuing obligations to the State of Alabama under the contract. Including the implementation, design, and development of enhancements, and other warranty and operational requirements. The Special Master also entered into contracts with hardware suppliers that have continuing warranty obligations, in favor of the State of Alabama.

In addition, the Special Master entered into four separate agreements/MOUs with the Alabama Information Systems Division (ISD), the Alabama Department of Public Safety (DPS), the Alabama Administrative Office of Courts (AOC), and the Alabama Department of Public Health (DPH). Each of these entities are necessary participants in the Voter Registration System and its processes. Each of these agreements are continuing in nature and provide for the obligations of the respective departments and the State of Alabama to ensure the effective operation of the system into future years.

**V. VOTER REGISTRATION SYSTEM
DESIGN AND OPERATION WITHIN THE COUNTIES**

The Alabama Voter Registration System is HAVA compliant, and is designed to be fully compliant with both Alabama and Federal Law as related to voting, in both state and federal elections. The Special Master is informed and believes that in one county of Alabama, St. Clair, and possibly in one or two other counties, the chief county election official, the probate judge, and/or the county commission, have allowed or are allowing the Voter Registration System and its election management component to be used in an inappropriate and illegal manner, which exposes the process to abuse and voter fraud. In St. Clair County, the Special Master is informed and believes that in at least one and perhaps more precincts or geographical voting districts, which include more than one separate voting box or separate voting location, that voters are listed on the official voters list in two or more boxes, generally in all boxes within that geographical voting precinct, and are capable of and allowed to vote at more than one location of their choosing. This is contrary to state law that requires a voter to be registered in and to vote in his or her "place of residence." The Voter Registration System is designed to comply with the law and to only allow registration and voting in the "place of residence" of the respective voter, but if, as the Special Master is informed in the case, the voter list is produced so as to show only the general precinct, and not the individual voting box location, then a voter can vote in any box within the precinct or voting district. This fact exposes the entire system to fraud and abuse, and should be prohibited, in the judgment of the Special Master.

**VI. CONTINUING CONTRACTUAL PERFORMANCE
FOR COMPLETION, ENHANCEMENTS, AND IMPROVEMENTS**

The Special Master's Implementation Committee established and made significant use of the Software Review Committee. This is a broad-based committee with representatives of all system user groups, the Secretary of State, and vendor. Both the Special Master's representatives and the project manager and representatives of ES&S have been extremely pleased and impressed with the work product and recommendations of this Committee. This Committee has been a vital component in the process of identifying and prioritizing necessary software enhancements and improvements. The Special Master is very appreciative of the efforts of this Committee. The Special Master is also very appreciative of the efforts, input, and cooperation of the Secretary of State and her staff in all aspects of implementation.

Done this 22nd day of August 2008.

Respectfully submitted,

/s/ Kenneth D. Wallis, II
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CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Algert S. Agricola, Jr.

Donald Palmer

James Harold Anderson

Robert D. Popper

Terry G. Davis

Michael W. Robinson

Frank Corley Ellis, Jr.

Winfield J. Sinclair

Misty S. Fairbanks

Edward Still

Margaret L. Fleming

Gary R. Trawick

Shannon Lynn Holliday

Dorman Walker

Christy A. McCormick

George L. Beck

R. Randolph Neeley

Terrie S. Biggs

And I hereby certify that I have mailed by United States Postal Service the foregoing document to the following non-CM/ECF participants:

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