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April 27, 2022

VIA U.S.P.S. First Class Mail, to:

The Guilford County Board of Elections
P.O. Box 3427
Greensboro, NC 27402

The Honorable Horace (Jim) Kimel, Jr.
Chairman, Guilford County Board of Elections

Ms. Kathryn S. Lindley
Member, Guilford County Board of Elections

Mr. T. Anthony Spearman
Member, Guilford County Board of Elections

Ms. Carolyn Bunker
Member, Guilford County Board of Elections

Mr. Eugene Lester
Secretary, Guilford County Board of Elections

Re: *Request for Investigation of Irregularities with Regard to Referenda on
the May 17, 2022 Ballot*

Dear Chairman Kimel, Secretary Lester and Members of the Guilford County Board of Elections;

I represent Jerry Alan Branson who is a registered voter and taxpayer in Guilford County. It has come to his attention that, with respect to a school bond referendum and a referendum for a sales tax increase that appear on the May 17 2022 ballot, Guilford County is expending taxpayer funds and other government resources to promote a viewpoint favoring the passage of both referenda.

As one example of the County's electioneering, please refer to the County's main website, www.guilfordcountync.gov. On its blazing banner, the County directs you to "information" about the upcoming school bond. This link presents the viewer with an entirely unbalanced discussion of the bond, accentuating the needs and downplaying the costs of the bond. There is no discussion of the hundreds of millions of dollars that the

County will be obligated to pay in interest and other costs associated with the issuance of the bonds.

This same website proclaims, “Guilford County Commissioners intend to Lower Property Tax Rate if Proposed Sales and Use Tax Pass in Primary Election.” It fails to mention that, because of re-valuation of all property in Guilford County this year, the tax rate is going to be reduced regardless of the result of the referendum. This omission further demonstrates the unbalanced presentation being made by Guilford County.

In addition, a mailing, apparently paid for by Guilford County, touting the benefits of passing the bond referenda, has been mailed to many Guilford County households. A copy of one of these mailings is attached hereto as Exhibit A. Please note that the mailing has no disclaimer identifying who paid for these electioneering materials.

In addition, I am informed that school principals have been instructed to hold *mandatory* meetings with school teachers and staff, the main purpose of which is to encourage or direct them to work for the passage of these two referenda, regardless of their personal opinion on the merits of the bonds.

The above activities by Guilford County clearly violate N.C.G.S. 153A-456, which flatly prohibits Guilford County from using county funds or assets to endorse a referendum. More generally, N.C.G.S. 153A-99 prohibits the use of public funds for political purposes. Furthermore, our Court of Appeals ruled in *Dollar v. Town of Cary*, 153 N.C. App. 309 (2002) that governmental advertising that is designed to promote a viewpoint on an issue in order to influence an election is impermissible. Because Guilford County is promoting a viewpoint that the bonds and sales tax increase should be approved, this constitutes an illegal contribution or expenditure in violation of our election laws.

Please accept this letter as a request that the Guilford County Board of Elections, pursuant to N.C.G.S. 163-33(3), investigate this irregularity.

By copy of this letter to the executive director of the N.C. State Board of Elections, I also wish to notify that Board of our request that the illegal behavior complained of be penalized or enjoined, pursuant to the State Board’s general authority to oversee the conduct of elections in North Carolina. We also request that the State Board of Elections investigate these apparent violations, and, if warranted, refer the matters for further action, pursuant to N.C.G.S. 163-278.27.

Finally, because the irregularities described may affect the legitimacy of the bond referendum, my client is concerned that bonds issued pursuant to any resulting bond order would be subject to collateral attack. Therefore, by copy of this letter to the Guilford County Attorney, I request that he inform the County’s Bond Counsel of our concerns and ask them to opine about the effect of the conduct described in this letter on the enforceability of the bonds that may be issued. For related reasons, we are also notifying the N.C. State Treasurer, the State Auditor, and the Local Government

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Commission of our concerns about the County's actions and their effect on the legitimacy of the referenda and enforceability of bonds that might later be issued.

Because early voting on these referenda begins tomorrow, I would request an expedited consideration of the issues that we have raised.

Sincerely yours,

Charles H. Winfree

Cc: Mr. Matthew Mason, Interim Guilford County Attorney
Ms. Karen Brinson Bell, Executive Director, NC State Board of Elections
Mr. Charles Callicut, Director, Guilford County Board of Elections
The Honorable Dale Follwell, CPA, Treasurer of the State of North Carolina
The Honorable Beth Wood, CPA, State Auditor of the State of North Carolina