

Chapter 6

Black Box Voting

Ballot Tampering in the 21st Century

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Following the Money Trail: Who owns these companies?

Elections In America – Assume Crooks Are In Control

By Lynn Landes

“Only a few companies dominate the market for computer voting machines. Alarmingly, under U.S. federal law, no background checks are required on these companies or their employees. Felons and foreigners can, and do, own computer voting machine companies.

Voting machine companies demand that clients sign ‘proprietary’ contracts to protect their trade secrets, which prohibits a thorough inspection of voting machines by outsiders. And, unbelievably, it appears that most election officials don’t require paper ballots to back up or audit electronic election results. So far, lawsuits to allow complete access to inspect voting machines, or to require paper ballots so that recounts are possible...have failed.

As far as we know, some guy from Russia could be controlling the outcome of computerized elections in the United States.”

* * * * *

This is the article that triggered my interest in voting machines. How hard can it be to find out who owns these companies?

It turns out that tracing ownership is very nearly impossible. As soon as you scrape the mud off the window to look at who’s in there programming the voting machines, they pull the shades down. Talk about privatization.

Cast of Companies and Characters

Election Systems & Software (ES&S)

Former names:

American Information Systems (AIS) (Changed name to Election Systems & Software in 1997)

Business Records Corp. (BRC) (Acquired by American Information Systems in 1997)

Data Mark Systems (Changed name to American Information Systems in 1984)

Founders: Bob Urosevich, Todd Urosevich, Jim Lane

Current, former key people:

Directors, President/CEOs: Bob Urosevich, Chuck Hagel, William F. Welsh II, Aldo Tesi.

Vice Presidents: Tom Eschberger, Todd Urosevich, Jim Lane

Chief Financial Officers: S. Michael Rasmussen, Thomas O'Brien, Mike Limas

Diebold Election Systems

Former names:

Global Election Systems (Acquired by Diebold Jan. 2002)

I-Mark Systems (Acquired by Global Election Systems in 1997)

Current, former key people:

President/CEOs: Bob Urosevich, Howard Van Pelt

Vice Presidents: Larry Ensminger

Chief Financial Officers: S. Michael Rasmussen

Sequoia Voting Systems

Former names:

Sequoia Pacific

Business Records Corp. (acquired product line and software in 1997. ES&S was prohibited by antitrust regulations from purchasing BRC in its entirety, so the BRC acquisition was split up between ES&S and Sequoia.)

• Currently a division of: De La Rue (England)

Current, former key people:

President/CEOs: Peter Cosgrove, Tracey Graham

Vice Presidents: Kathryn Ferguson, Mike Frontera

Regional manager: Phil Foster

Advanced Voting Systems

Former names:

Shoup Voting Systems

Current, former key people:

President/CEOs: Ransom Shoup, Howard Van Pelt

Vice President, CFO: Larry Ensminger

VoteHere

Founder: Jim Adler

Directors include:

Robert Gates — Former CIA Director, dean of the Bush School of Government and Public Service at Texas A&M University.

Admiral Bill Owens — Defense Policy Board, SAIC.

Ralph Munro — Former Secretary of State for the state of Washington; his protégé, Sam Reed, is current Secretary of State

Election.com

Former names:

Votation.com

Controlling ownership: Osan Ltd., a holding company owned by a group of Saudi investors based in the Cayman Islands. Recently sold to Accenture.

Hart Intercivic

Chairman/CEO: David Hart

CFO: Ted Simmonds

The Good Guy List:

Avante (Produces paper trail, good accuracy, good disclosure)

CEO, Founder: Kevin Chung

Accupoll (Produces paper trail, needs certification in some states)

CEO, co-founder: Dennis Vadura

President, co-founder: Frank Wiebe

Chuck Hagel

Poster Boy for Voting Machine Vested Interests

He stunned them with his upsets. Nebraska Republican Chuck Hagel came from behind twice during his run for the U.S. Senate in 1996. Hagel, a clean-cut, crinkly-eyed, earnest-looking millionaire, had achieved an upset win in the primary against Republican Attorney General Don Stenberg, despite the fact that he was not well-known in the state. According to CNN's *All Politics*, “Hagel hoped he could make lightning strike twice” — and he did: Hagel then defeated popular Democratic Gov. Ben Nelson, who had led in the polls since the opening gun.

The *Washington Post* called Hagel’s 1996 win “the major Republican upset in the November election.” Hagel swept all three congressional districts, becoming the first Republican to win a U.S. Senate seat in Nebraska in 24 years. “He won counties up and down the politically diverse Platte River Valley and topped it off with victories in Omaha and Lincoln,” reported the *Hastings Tribune*.²

What the media didn’t report is that Hagel’s job, until two weeks before he announced his run for the senate, was running the voting machine company whose machines would count his votes. Chuck Hagel had been chairman of American Information Systems (“AIS,” now called ES&S) since July 1992.³ He also took on the position of CEO when co-founder Bob Urosevich left in November 1993.⁴

Hagel owned stock in AIS Investors Inc., a group of investors in the voting machine company. While Hagel was running AIS, the company was building and programming the machines that would later count his votes. In March, 1995, Hagel stepped down as chairman of AIS; on March 31, he announced his bid for U.S. Senate.

When Hagel won what *Business Week* described as a “landslide upset,” reporters might have written about the strange business of an upstart senator who ran his own voting machine company. They didn’t because they didn’t know about it: On Hagel’s required personal disclosure documents, he omitted. When asked to describe every position he had held, paid or unpaid, he

mentioned his work as a banker, and even listed his volunteer positions with the Mid-America chapter of the American Red Cross. What he never did disclose was that he'd been chairman of his own voting machine company.⁵

Six years later, when asked about his ownership in ES&S by Lincoln's Channel 8 TV News, Hagel said he had sold that stock. If so, the stock he says he sold was never listed as one that he'd owned. Nowhere does he mention owning stock in AIS Investors, Inc. and nowhere does he mention the salary he earned from American Information Systems.

We never learned about conflict of interest with voting machines, because Hagel failed to disclose his positions with the company that counted his votes.

This is not a gray area. This is lying. Hagel's failure to disclose his ties to the company whose machines counted his votes was not brought to the attention of the public, and this was a material omission: Reporters surely would have inquired about it as they researched stories about his amazing upset victories.

It is therefore understandable that we didn't know about conflicts of interest and voting machine ownership back in 1996, and perhaps we would never have chosen to herd every precinct in America toward unauditible voting, had we known. Certainly, we would have queried ES&S about its ties to Hagel before allowing 56 percent of the U.S. to count votes on its machines.

In October 2002, I discovered Hagel's connection with ES&S. I found that not only had he not disclosed his involvement through his required filings, but he *still* had undisclosed ownership of ES&S through its parent company, the McCarthy Group.

The McCarthy Group is run by Hagel's campaign finance director, Michael R. McCarthy, who is also a director of ES&S. Hagel hid his ties to ES&S by calling his investment of up to \$5 million in the ES&S parent company an "excepted investment fund." This is important because senators are required to list the underlying assets for companies they invest in, unless the company is "excepted." To be "excepted," the McCarthy Group must be publicly traded (it is not), and very widely traded (it is not).

Hagel continued to own a stake of up to \$5 million in the ES&S parent company but, for six years, he has characterized it as an “excepted investment” and has never mentioned its ownership of the company that counts his votes.

Charlie Matulka, Hagel’s opponent in 2002 for the U.S. Senate seat, finally got fed up. He called a press conference in the rotunda of the Nebraska Capitol Building on October 23, 2002.

“Why would someone who owns a voting machine company want to run for office?” Matulka asked. “It’s like the fox guarding the henhouse.”

Matulka wrote to Senate Ethics Committee director Victor Baird in October 2002 to request an investigation into Hagel’s ownership in and nondisclosure of ES&S. Baird wrote back, in a letter dated November 18, 2002, “Your complaint lacks merit and no further action is appropriate with respect to the matter, which is hereby dismissed.”

Neither Baird nor Hagel ever answered Matulka’s questions, but when Hagel won by a landslide his Web site did boast that he had beaten Matulka by one of the widest margins ever.

While Hagel’s staff boasted, Matulka dug his heels in and asked for a recount. He figured he’d lost, but asked how much he’d need to pay to audit the machine counts. It was the principle of the thing, he said. Matulka received a reply from the Nebraska Secretary of State telling him that Nebraska has no provision in the law that allows a losing candidate to verify voting machine counts by comparing machine tallies with paper ballot counts.

In January 2003, Hagel’s campaign finance director, Michael McCarthy (also an owner of ES&S), finally admitted that Hagel had ownership ties to the voting machine company. Hagel had lied, ignored, and then tried to kill the story, and when the story was finally told, his staff tried to claim there was no conflict of interest.

“[Hagel’s Chief of Staff Lou Ann] Linehan said there’s nothing irregular about a person who used to run a voting-machine firm running for office. ‘Maybe

“Why is Hagel allowed to even get close to a voting machine other than to cast his own vote? This is an outrageous example of conflicted interest.”

*Email from
news department staff
member, ABC-TV
affiliate, in Louisiana*

if you're not from Nebraska and you're not familiar with the whole situation you would have questions,' she says. 'But does it look questionable if there's a senator who is a farmer and now he votes on ag issues? Everybody comes from somewhere.'”

Two points, Ms. Linehan: A senator who is a farmer, if he follows the law, *discloses* that he is a farmer on his FEC documents. Then, if he votes oddly on a farm bill, people scrutinize his relationship with farming. Second, the farmer's own cows aren't counting his votes. Anyone with an I.Q. bigger than a cornhusk knows the real reason Hagel hid his involvement with American Information Systems on his disclosure statements.

Chuck Hagel and the Senate Ethics Committee

In October 2002, when I discovered Hagel's history with voting machines, I compiled a set of public documents including photocopies of the omissions in his personal disclosure statements, obscure newspaper articles that documented who did what and when, and corporate records for ES&S. I faxed the photocopies to 3,000 editors with a short synopsis of the significance of this story. At the time, Hagel was running for office, and the HAVA act, which mandates purchase of machines like those made by ES&S, was in its final stages of consideration.

No one touched the story.

HAVA was signed by President Bush at the end of October, and Hagel was reelected in November.

In January, I learned that Hagel might be planning a run for the presidency in 2008. An article printed in *The Hotline* quoted a prominent GOPer saying “It means Chuck's running for president in 2008.” The article says Hagel's Chief of Staff, Lou Ann Linehan replied: “It's abundantly clear that many people think that's a possibility for Senator Hagel.”⁶

Enter one Victor Baird, counsel for the Senate Ethics Committee. I found his name in Senator Hagel's disclosure documents, in letters repeatedly requesting clarification on certain unexplained investments.

I began with a nonconfrontational question. “What is meant by “widely traded” in the context of an “excepted investment fund?” Baird said that it generally refers to very diversified mutual funds.

I asked Baird why there were no records of Hagel’s ties to the voting machine company in his disclosure documents. Was he aware of this? Had he requested clarification from Hagel? I knew I had struck a nerve. Baird was silent for a long time, and then said quietly, “If you want to look into this, you’ll need to come in and get hold of the documents.”

Hagel has never been called upon to answer for material omissions about his relationship to the voting machine manufacturer.

Something in his tone of voice made me uncomfortable. I did not get the impression that Baird was defending Hagel.

I rummaged through my media database and chose a respected Washington, D.C., publication called *The Hill*, where I spoke with reporter Alexander Bolton. He was intrigued, and over the next two weeks we spoke several times. I provided source material and he painstakingly investigated the story.

Unfortunately, when Bolton went to the Senate Public Documents Room to retrieve originals of Hagel’s 1995 and 1996 documents, he was told they had been destroyed.

“They said anything over five years old is destroyed by law, and they pulled out the law,” said Bolton.

But the records aren’t quite gone. Hagel’s staff told Bolton they had obtained the documents from Senate Ethics Committee files. I located copies of the documents at Open Secrets — a Web site where they keep a repository for FEC disclosures.

Bolton found out that in 1997, Baird had asked Hagel to clarify the nature of his investment in McCarthy Group. Hagel had written “none” next to “type of investment” for McCarthy Group. In response to Baird’s letter, Hagel filed an amendment characterizing the McCarthy Group as an “Excepted Investment Fund,” a designation for widely held, publicly available mutual funds.

According to Bolton, Baird said that the McCarthy Group did not appear to qualify as an “excepted investment fund.”⁷ Then Baird resigned.

Here’s what happened: Baird met with reporter Alex Bolton, told him that Hagel appeared to have mischaracterized his investment in the voting company

parent firm, and then Hagel's staff met with Baird. This took place on Friday, Jan. 25, 2003. Hagel's staff met with Baird again on Monday, Jan. 27. Bolton came in for one final interview Monday afternoon, just prior to submitting his story to *The Hill* for Tuesday's deadline.

Baird had just resigned, it was explained, and Baird's replacement, Robert Walker, met with Bolton instead, urging a new, looser interpretation of Hagel's disclosures — an interpretation that did not mesh with other expert opinions, nor even with our own common sense.

Where was Victor Baird? Could he be interviewed at home? Not really. Bolton was told that he still worked for the Senate Ethics Committee, just not in a position that could talk to the press.

In a nutshell:

- Hagel omitted mentioning that he received a salary from American Information Systems in his 1995 disclosure document*.
- He omitted mentioning that he held the position of Chairman in his 1995 documents. He also omitted his CEO position; the instructions say to go back two years, that position was in 1994.
- He omitted mentioning that he held stock in AIS Investors Inc. in his 1995 and 1996 documents, which list stocks held and any transfers or sales.
- He apparently transferred his investment into ES&S' parent company, the McCarthy Group, and he disclosed investments of up to \$5 million in that. However, he omitted the required itemization of McCarthy Group's underlying assets. When asked what kind of investment it was, he just wrote "none."
- When asked by Baird to clarify what the McCarthy Group was, he decided to call it an "excepted investment fund," the only category that allows senators to omit listing the underlying assets of what they own.
- When Baird failed to go along with Hagel's odd description of the McCarthy Group as an "excepted" fund, Baird suddenly was replaced by a new Ethics Committee director who did support Hagel's interpretations.

*In July 2003, in response to questions from the *Seattle Times*, Hagel produced a document that he claims showed he disclosed his position. If so, he still did not disclose the salary he received, or the stock that he held in the "interim" statement, a statement which does not appear to be available in any public records.

Hagel has never been called upon to answer for material omissions about ownership in AIS Investors Inc., nor for his omissions about the positions he held with the company.

Could there have been another reason for Baird's resignation?

Perhaps. Baird had announced in December 2002 that he intended to resign at the end of February 2003.⁸ But for some reason he changed his mind and left the position he had held for 16 years a month early and in the middle of the day.

Pressure to kill the story

When I spoke with Bolton the day he broke the Hagel story, he told me that something happened that had never occurred in all his time covering Washington politics: Someone tried to muscle him out of running a story. Jan Baran, perhaps the most powerful Republican lawyer in Washington, D.C., and Lou Ann Linehan, Senator Chuck Hagel's Chief of Staff, walked into *The Hill* and tried to pressure Bolton into killing his story. He refused. "Then soften it," they insisted. He refused.

Bolton is an example of what is still healthy about the consolidated and often conflicted U.S. press. Lincoln's Channel 8 TV News is another example — it was the only news outlet that reported on Matulka's allegations that Hagel had undisclosed ties with the voting machine company scheduled to count their votes.

The 3,000 editors who ignored faxed photocopies of Hagel's voting machine involvement, and especially the Nebraska press who had seen the documents and had every reason to cover the story but chose not to inform anyone about the issue, are an example of what is wrong with the media nowadays. This is not, ultimately, a story about one man named Hagel. It is a story about a rush to un-auditable computerized voting using machines manufactured by people who sometimes have vested interests.

Hagel for president?

Hagel's aspirations to higher office have been known to insiders for some time. He was on the short list, along with Dick Cheney, for the vice president position on the George W. Bush ticket in 2000.

Here's what Dick Cheney had to say when he learned that Hagel was also being considered for the vice presidential slot: "Senator Chuck Hagel represents the quality, character and experience that America is searching for in national leadership."

According to an AP wire report, Sen. Chuck Hagel thinks he's capable of being an effective president and says he isn't afraid of the scrutiny that comes with a White House bid.

"Do I want to be president?" Hagel commented, "That's a question that you have to spend some time with...I'm probably in a position as well as anybody — with my background, where I've been, things that I've gotten accomplished." ⁹

* * * * *

Whether or not Hagel is in a position to run for president, the company he managed is certainly in a position to count most of the votes. According to the ES&S Web site, its machines count 56 percent of the votes in the U.S.

“Our citizens may be deceived for awhile, and have been deceived; but as long as the presses can be protected, we may trust to them for light.”

—Thomas Jefferson to Archibald Stuart. 1799

Chapter 6 footnotes

- 1 – Excerpted from article at *Common Dreams*, 16 Sept. 2002, “Elections in America: Assume Crooks Are in Control” by Lynn Landes
- 2 – *The Washington Post*, 13 January 1997; “Brothers in Arms...” *CNN AllPolitics*, 5 Nov 1996; Hagel scores big upset for Republicans. *Business Week*, 10 July 2000; “Chuck Hagel...landslide upset.” *Hastings Tribune*, 6 November 1996, “Hagel savors upset win” http://www.cnweb.com/tribune/old/nov96/nov6/nov6_hagel.html
- 3 – *The Omaha World-Herald*, 21 April 1992; “Omaha Firm Taps North Platte Native”
- 4 – *The Omaha World-Herald*: 3 June 1994; “Welsh Named Top Executive...” Hagel took over as interim CEO from Bob Urosevich in November 1993. William F. Welsh III took the CEO position from Hagel in June 1994. Hagel remained as Chairman.
- 5 – United States Senate Public Financial Disclosure for New Employee and Candidate Reports: Chuck Hagel, 1995. Hagel resigned his chairmanship of American Information Systems on March 15, 1995 and announced his candidacy for the U.S. Senate on March 31, 1995.
- 6 – *The Hotline*, 3 January 2003; “White House: Hagel cares about the U.S. and yes, all mankind.”
- 7 – *The Hill*, 29 January 2003; “Hagel's ethics issues pose disclosure issue”