

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
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PROBABLE CAUSE STATEMENT FOR ARREST WARRANT

I, Investigator Thomas Defosses declare under penalty of perjury:
(Name of officer)

1. I am employed by and my current assignment and experience is:

A certified police officer employed by the Department of Justice, Office of the Attorney General, and have been so employed since 2023. I am currently assigned to the Criminal Justice Bureau as an Investigator. I graduated the 152nd New Hampshire Full-Time Police Academy in 2010. My current duties include criminal investigations. I am a certified Field Training Officer, Certified Firearms Instructor, Certified Rifle Instructor, and a Certified Taser Instructor. I have received training in Interview and Interrogation, Background Investigations, Advanced Roadside Impaired Driving Enforcement, Digital Evidence Investigations, Open Source Intelligence, and Dark Web & Cryptocurrencies. I have completed many arrest warrants and search warrants, and I have participated in the execution of many search warrants.

(Describe position, assignment, office, etc.)

2. I have information, based upon (Describe source, facts indicating reliability and credibility of source and nature of information. If based on personal knowledge, so state).

See Attachment A

See additional page(s) for more information

For these reasons I ask the Court to issue an arrest warrant for
Name Troy Merner DOB: 11/01/1961

For the following crimes:

RSA: 659:34, I(a) Descriptor: Wrongful Voting

RSA: 637:4 Descriptor: Theft by Deception

RSA: 641:7, I Descriptor: Tampering With Public Records or Information

RSA: 641:3, I(b) Descriptor: Unsworn Falsification

RSA: _____ Descriptor: _____

NOVEMBER 21, 2023
Date


Signature of Officer

Investigator Thomas Defosses
Name of Officer

Signed under the penalty of perjury, the penalty for which may include a fine or imprisonment or both.

PROBABLE CAUSE STATEMENT FOR ARREST WARRANT

Additional space for source description, facts indicating reliability and credibility of source and nature of information.

See Attachment A

A series of horizontal lines for text entry, starting below 'See Attachment A' and extending to the bottom of the page.

ATTACHMENT A

I am currently investigating the violation of RSA 659:34, I (a), Wrongful Voting, RSA 641:3 Unsworn Falsification, RSA 641:7 Tampering with Public Records or Information, and RSA 637:4, I, Theft by Deception.

I have identified the target of my investigation as:

Troy Merner, DOB 11/01/1961
144 Grandpa Harry's Lane
Carroll, NH 03598

That, as set forth below, the factual basis for the issuance of this warrant is based upon information obtained from my own personal knowledge, observations and beliefs, collective information provided to me by other law enforcement officers, various eyewitnesses or others with knowledge of relevant facts and circumstances, as well as my own training and experience, and the experience of other law enforcement officers assigned to this investigation who have shared information they personally gathered or observed with me.

In addition, I have personally discussed this investigation with other officers involved in the case who have direct knowledge of the facts and circumstance relayed herein. As a result of my personal participation in this investigation, through my conversations with other officers, and my analysis of reports prepared by other officers, I am familiar with all aspects of this investigation.

I submit this affidavit based upon my personal knowledge derived from my law enforcement training and experience, my participation in this investigation, and upon collective information that I have received from a variety of other sources, including other law enforcement officers and reports generated by other law enforcement agencies. This affidavit does not contain all of the information gathered during this investigation; rather it contains information that I believe is sufficient to support my request.

I have information that the defendant has committed a crime or offense as follows:

1. On November 16, 2022, Inv. Tracy received a call from Herbert Richardson, 2 First St. Lancaster, NH. Richardson reported that State Representative and Lancaster Selectman Troy Merner, no longer lives in Lancaster and is now living in Carroll NH with his new wife. Richardson explained that then-State Rep. Merner's wife of many years passed away earlier that year. Richardson stated that State Rep. Merner sold his home in Lancaster during the summer of 2022, and he now lives in Carroll, NH with his current wife, whom he recently married.
2. Richardson stated that State Rep. Merner claims he currently lives at 80 Elm St, Lancaster. Richardson knew that 80 Elm Street is a 2-family apartment building and knows that the

building owner, Rita Cloutier, lives on the first floor, and that Sam and Annie Gould live on the second floor.

3. Richardson stated that “everyone in Lancaster knows that State Rep. Merner lives in Carroll.”
4. Richardson stated that State Rep. Merner sold his home on North Main St. in Lancaster this past summer (2022) and now lives at 144 Grandpa Harry’s Lane, Carroll, NH (aka Twin Mountain), with his current wife, Janet Ellen Nelson.¹
5. On November 30, 2022, Attorney General Investigator Anna Brewer-Croteau spoke with Rita Cloutier, and Cloutier confirmed that she is the owner of 80 Elm Street, Lancaster, NH 03584, and resides on the first floor.
6. Cloutier confirmed that State Rep. Merner rents the office space located in the rear of 80 Elm Street and that State Rep. Merner does not live there.
7. On December 5, 2022, Inv. Brewer-Croteau went to 144 Grandpa Harry’s Lane to speak with State Rep. Merner. When Inv. Brewer-Croteau arrived she could see a man that matched the description of State Rep. Merner through the window of the home at 144 Grandpa Harry’s Lane. State Rep. Merner answered the door and appeared to still be in his sleepwear that consisted of boxers and a t-shirt. State Rep. Merner invited Inv. Brewer-Croteau in and they sat in the living room where Merner was eating a bowl of cereal.
8. Inv. Brewer-Croteau explained that she was there to speak to State Rep. Merner about a complaint the Attorney General’s Office received about his voting in Lancaster but living in Carroll. State Rep. Merner denied living in Carroll full time and explained that he owned a home at 287 Main Street in Lancaster but sold it this past summer because it was too much for him to maintain that home after losing his wife, and his current wife owned the home that they were currently sitting in at 144 Grandpa Harry’s Lane.
9. State Rep. Merner explained that it would have been too much for his current wife Janet Nelson to move from Carroll because Nelson has a 30-year-old autistic son who lives in the basement of the Carroll, NH home, and it would have been disruptive to Nelson’s son if they moved.
10. State Rep. Merner told Inv. Brewer-Croteau that after he sold his home at 287 Main Street in Lancaster during the Summer of 2022, he continued to live at the 287 Main Street home until after the November 8, 2022, General Election.
11. State Rep. Merner told Inv. Brewer-Croteau that after he moved out of 287 Main Street, Lancaster, in November of 2022, he claimed domicile at an apartment/office at 80 Elm Street in Lancaster and stayed there multiple nights a week. State Rep. Merner explained that the office located at 80 Elm Street has a kitchen and sleeping area.

¹ Inv. Tracy later confirmed that Herb Richardson passed away on March 7, 2023.

12. State Rep. Merner told Inv. Brewer-Croteau that he could not believe that someone actually complained to this Office, stating further that he, (State Rep. Merner) has done so much for the Town of Lancaster. State Rep. Merner told Inv. Brewer-Croteau that his life is there, and he is in transition but looking to purchase a home in Lancaster with his wife.
13. State Rep. Merner told Inv. Brewer-Croteau that he would finish his current terms as a New Hampshire State Representative, and as a Lancaster Selectman, and that he would not run for re-election again in 2024.
14. State Rep. Merner told Inv. Brewer-Croteau that he knows of other people who vote in Lancaster that are not domiciled there. State Rep. Merner declined to identify the people to Inv. Brewer-Croteau who vote in Lancaster but are no longer domiciled in Lancaster.
15. When asked by Inv. Brewer-Croteau, State Rep. Merner stated that his driver's license address remains associated with his former address at 287 Main Street. Inv. Brewer-Croteau explained to State Rep. Merner that he is required to update his address with the New Hampshire Division of Motor Vehicles and that he has a limited amount of time to do that. State Rep. Merner responded that he maintains a P.O. Box in Lancaster.
16. On the same date, Inv. Brewer-Croteau spoke with the Lancaster Town Manager, Benjamin Gaetjens-Oleson. Oleson was aware that Inv. Brewer-Croteau may stop by as he had been told by State Rep. Merner that Inv. Brewer-Croteau contacted his landlord, Rita Cloutier, to inquire about the 80 Elm Street, Lancaster address. Inv. Brewer-Croteau observed that Oleson appeared uncomfortable, and Oleson verbally confirmed that he was uncomfortable, as he had a discussion with State Rep. Merner about marrying and moving in with Nelson. Oleson warned State Rep. Merner that it was "going to cause an upheaval with the locals". Oleson told Inv. Brewer-Croteau that he received complaints from residents. Oleson told Inv. Brewer-Croteau that he felt that there was nothing he could do about it because State Rep. Merner, as a Lancaster selectman, was Oleson's boss. When Inv. Brewer-Croteau asked Oleson what State Rep. Merner should have done when he moved to Carroll, Oleson stated that State Rep. Merner should have resigned.
17. On December 6, 2022, Deputy General Counsel Myles Matteson and Associate Attorney General Anne Edwards had a phone conversation with Terry Pfaff, the Chief Operating Officer of the General Court, regarding the complaint received, and investigation into, State Rep. Merner's domicile. DGC Matteson memorialized this conversation in an e-mail sent from DGC Matteson to Mr. Pfaff on December 6, 2022, including a summary of facts then known regarding Merner's residency in Carroll.
18. On March 22, 2023, approximately 4 months after Inv. Brewer-Croteau spoke with State Rep. Merner at his home in Carroll, NH, Paralegal Jill Tekin of the Election Law Unit took a phone call from Kathy Lavoie of Lancaster. After speaking with Lavoie, Paralegal Tekin entered the following information into the case file and notified Chief Investigator Richard Tracy of the call.

Kathy Lavoie in Lancaster called about concerns regarding Troy Merner voting in Lancaster last week. She states that she worked as a volunteer during the election to 'check out' voters after they voted. She states that she questioned Mr. Merner living in Lancaster, to which he said he lives at 80 Elm Street. Ms. Lavoie states she knows that address and the residents of that address, and that Mr. Merner does not live there. Ms. Lavoie believes that if he has a rental agreement it's shady and that he probably doesn't have a utility bill or anything else that substantiates him living there.

Ms. Lavoie states that she questioned Mr. Merner in November as well, when he voted using the 287 Main Street address. She states she called Mr. Merner on that statement indicating he sold that residence two months prior, and that Mr. Merner told her he had a 'lease back'.

Ms. Lavoie states that Mr. Merner told her that an AAG spoke with him about his domicile claims and that there was no issue.

19. On March 24, 2023, Inv. Tracy traveled to 80 Elm Street, Lancaster, which is a two-story apartment building. Inv. Tracy located 3 mailboxes next to the back entryway on the west side of the building, with the following names on them.
1. Rita Cloutier, Apartment A
 2. Annie & Sam Gould, Apartment B
 3. Troy Merner, Apartment C

Inv. Tracy entered the rear hallway, and immediately to his left, Inv. Tracy observed a door with a glass window in it. Inv. Tracy could see into the room, which appeared to be an office space or den type of room. There was another door on the opposite corner with no window that appeared to lead into the first-floor apartment. Inv. Tracy knocked on the office door and no one answered.

20. On March 24, 2023, Inv. Tracy spoke with Annie Gould, 80 Elm St. Apt B, Lancaster, NH 03584. Gould told Inv. Tracy that she and her husband live in the second-floor apartment and that the owner of the building, Rita Cloutier, lives in the first-floor apartment. Gould stated that she never sees Troy Merner at the apartment building and that he does not live there or stay overnight. Inv. Tracy described the first-floor rear hallway door to Gould, and Gould explained that is an office associated with the first-floor apartment. Gould explained that one can access the first-floor apartment by entering through the office door by the back stairs, then walking to the opposite wall where there is a door that leads into the first-floor apartment.
21. On March 24, 2023, Inv. Tracy drove to 144 Grandpa Harry's Lane, Carroll, NH. As Inv. Tracy arrived, he introduced himself to a man in the driveway who in turn identified himself as "Matt". Inv. Tracy asked Matt if Troy Merner lived there, and Matt told Inv. Tracy that State Rep. Merner does live at 144 Grandpa Harry's Lane. Matt told Inv. Tracy that he is Troy Merner's stepson. Inv. Tracy learned that State Rep. Merner was not home at the time.

22. On May 2, 2023, Inv. Tracy called Rita Cloutier, 80 Elm Street, Lancaster, NH. Cloutier recalled speaking with Inv. Brewer-Croteau previously. Cloutier stated that State Rep. Merner rents the office in the back of her apartment at 80 Elm Street. Inv. Tracy explained that he had been to 80 Elm Street recently. Inv. Tracy asked Cloutier about the door on the opposite wall in the office and if that door leads into her apartment. Cloutier confirmed that door leads into her apartment on the first floor. Cloutier further explained that she does not lock that door, that she knows State Rep. Merner personally, and that she allows him to use the kitchen and bathroom as needed when he is at the office.
23. Cloutier told Inv. Tracy that she believes State Rep. Merner spends about one day a week at the office. Cloutier does not know Merner to sleep there, although he is welcome to if needed. When asked to explain, Cloutier told Inv. Tracy that State Rep. Merner does not live at 80 Elm Street, he rents the office in the back, which he uses about once a week. Cloutier knows State Rep. Merner to have used the microwave in her kitchen to heat up food and to use the bathroom as needed, but she has never known him to stay overnight at 80 Elm Street.
24. On May 4, 2023, Inv. Tracy had a phone conversation with Troy Merner. Inv. Tracy introduced himself to State Rep. Merner, explained the purpose of his call, and reminded State Rep. Merner of the visit that AG Investigator Brewer-Croteau made to his home in Carroll, NH in December of 2022, which State Rep. Merner acknowledged.
25. Inv. Tracy asked State Rep. Merner if anything had changed with his living arrangements since Inv. Brewer-Croteau met with him at his home in Carroll in December 2022. State Rep. Merner told him no, he lives in Carroll, NH with his current wife and stays occasionally at his 80 Elm Street address in Lancaster, NH. Inv. Tracy told State Rep. Merner that he spoke with Mrs. Cloutier and Ms. Gould, and he went to 80 Elm Street. Inv. Tracy told Merner that while he may have an office at 80 Elm Street, he is not living there. State Rep. Merner replied to Inv. Tracy that while he is not staying overnight at 80 Elm Street, he does go to the office frequently, and that he is in Lancaster most days during the work week.
26. State Rep. Merner told Inv. Tracy that he made arrangements to rent the 80 Elm Street office with Mr. Cloutier, with whom he had been longtime friends, that unfortunately Mr. Cloutier passed away in December 2022, and that Mrs. Cloutier does not fully understand the arrangements State Rep. Merner had with Mr. Cloutier.
27. State Rep. Merner told Inv. Tracy that he has spoken with other elected officials and department heads in Lancaster about stepping down and they all reportedly encouraged him to stay on, and that he is the only selectman that does any work.
28. State Rep. Merner told Inv. Tracy that his second wife died at the end of 2021 and that his current wife, whom he met through church, cannot move from Carroll because her adult autistic son lives with them, and it would be too much on her son to move to a new location.

29. State Rep. Merner told Inv. Tracy that he does not feel that he is doing anything wrong and Lancaster department heads want him to stay on the select board. In addition to the office Merner rents in Lancaster, he also has a camp in Milan that he stays at from time to time.
30. State Rep. Merner explained to Inv. Tracy that after marrying his current wife last summer (2022), he kept his home at 287 Main Street in Lancaster, where he often stayed overnight, and continued to stay several nights after he sold the home in August of 2022. Merner told Inv. Tracy that he had an agreement with the new owner, Tammy Dubreuil, who allowed State Rep. Merner to continue using 287 Main Street as needed until she rented the house in November of 2022 for extra income.
31. State Rep. Merner told Inv. Tracy that he has no intentions of running for office again, and that when his term as a Lancaster Selectman and Coos District 1 State Representative both expire in November of 2024, he will not run again.
32. State Rep. Merner told Inv. Tracy that he has been upfront with everyone and that he has not tried to hide anything. Inv. Tracy reminded State Rep. Merner that he told Inv. Brewer-Croteau that he was spending nights at 80 Elm Street and started to tell Inv. Tracy the same until Inv. Tracy told him that he spoke with Mrs. Cloutier and Ms. Gould, and they both told Inv. Tracy that State Rep. Merner does not live at or spend nights at 80 Elm Street.
33. Inv. Tracy told State Rep. Merner that when he ran for State Representative in November 2022, he was married to his current wife who lived, and continues to live in Carroll, NH, and that in his own words to Inv. Brewer-Croteau and Inv. Tracy, that is where he is spending most nights. Inv. Tracy reminded State Rep. Merner that he was elected to represent the people of Lancaster and not Carroll, NH where he is domiciled and living.
34. State Rep. Merner told Inv. Tracy that he currently represents the towns of Lancaster, Dalton, Northumberland, and Stratford. Inv. Tracy pointed out that the Town of Carroll is not one of the towns he currently represents and therefore he should resign his position or move to one of the four towns that he represents.
35. Inv. Tracy asked State Rep. Merner again if he was living in Lancaster and State Rep. Merner responded that he is "not really staying there," that he has an office in Lancaster and that he travels to Lancaster almost daily during the week while spending time at various town offices. State Rep. Merner stated that he thought if he maintained an address in Lancaster and went to town offices regularly that he would be okay.
36. Inv. Tracy asked State Rep. Merner why he voted in the March 2023, Lancaster Town Election after Inv. Brewer-Croteau spoke with him about concerns with his domicile. State Rep. Merner stated that except for the school budget there were no contested races. State Rep. Merner said that he had not heard back from the Attorney General's Office since he spoke with Inv. Brewer-Croteau and he did not think he was doing anything wrong. Inv. Tracy asked if he reached out to the Attorney General's Office to check on the status of its December inquiry and State Rep Merner replied no.

37. Inv. Tracy told State Rep. Merner not to vote in Lancaster unless he establishes domicile in Lancaster, and, that he will likely need to resign his positions as selectman and state representative prior to his terms expiring unless he moves back to Lancaster.
38. On June 14, 2023, Inv. Tracy spoke with Tammy Dubreuil, 456 Kimball Hill Road, Whitefield, NH. Dubreuil told Inv. Tracy that she purchased and closed on the 287 Main St, Lancaster, NH property on August 26, 2022. Dubreuil told Inv. Tracy that the house was loaded with furniture and other household items at the time of the sale. Dubreuil told Inv. Tracy that she knows Troy Merner and that she was friends with his wife who passed away over a year ago. Dubreuil recalled that after the closing on the 287 Main Street home, she gave State Rep. Merner about a week or two to remove all of his furniture and other household items.
39. Inv. Tracy asked Dubreuil if there was an agreement between State Rep. Merner and herself that allowed State Rep. Merner to continue to stay in the house for a period of time after the sale. Dubreuil replied that other than the time she allowed State Rep. Merner to remove his belongings, no. Dubreuil told Inv. Tracy that she purchased the home for her daughter who lived there briefly until her daughter's husband was deployed overseas. Not wanting to live in the home alone, Dubreuil's daughter Katelyn, moved back in with Tammy Dubreuil and they rented the 287 Main Street home to another couple and not State Rep. Merner.
40. Dubreuil told Inv. Tracy that she was told by State Rep. Merner that he rents an apartment on Elm Street in Lancaster, which she has not been to or seen. Dubreuil told Inv. Tracy that she knows State Rep. Merner to be remarried and is living with his current wife in "Twin Mt" [Carroll] but thought everything was okay because State Rep. Merner maintained an apartment in Lancaster.
41. On August 10, 2023, Inv. Tracy met with Paul C. Smith, Clerk of the House, New Hampshire House of Representatives, State House, 107 North Main Street, Concord, NH. Inv. Tracy handed Clerk Smith a copy of the December 6, 2022, email that Senior Assistant Attorney General Myles Matteson sent to Terry Pfaff, which summarized facts relating to Merner's residency in Carroll. After Clerk Smith read the email, Inv. Tracy verbally explained that he received an additional complaint in March 2023 after State Rep. Merner voted in the March 8, 2023, Town of Lancaster election. Inv. Tracy told Clerk Smith that he continued the investigation, which enhanced the belief that State Rep. Merner is not domiciled in Lancaster but rather in Carroll, NH with his current wife, Janet Nelson, at 144 Grandpa Harry's Lane, Carroll, NH.
42. Clerk Smith provided Inv. Tracy with a 2023-2024 Financial Disclosure Form for State Rep. Merner, on which State Rep. Merner listed his address as P.O. Box 421, Lancaster, NH 03584. The form asked for a "street" address not a P.O. Box or mailing address.
43. On August 10, 2023, Inv. Tracy met with Amanda Masse, Member Service & Special Projects Coordinator, Administrative Office, 107 North Main Street, State House, Room 113 & 114, Concord, NH. Masse provided Inv. Tracy with copies of State Rep Merner's

2018 "NEW HAMPSHIRE HOUSE OF REPRESENTATIVE INFORMATION FORM For Mileage, Payroll, and Black Book Use Only." On this form, State Rep. Merner listed his physical address as 88 Portland Street, Lancaster, NH. State Rep. Merner indicated that a round trip to the State House from his address in Lancaster is 205 miles. Masse provided Inv. Tracy with State Rep. Merner's 2020 and 2022 mileage forms. On both, State Rep. Merner noted that there were no changes in his address, which had the effect of keeping his address as 88 Portland Street, Lancaster, NH.²

44. On Tuesday September 13, 2023, Amanda Masse, notified Inv. Tracy via email that State Rep. Merner updated his physical address with their office. Masse attached a copy of the updated mileage card dated September 12, 2023. State Rep. Merner updated his physical address to 80 Elm Street, Lancaster, NH 03584, which is the office space located at the rear of Mrs. Cloutier's apartment that State Rep. Merner rents. State Rep. Merner left the mailing address the same, P.O. Box 421, Lancaster. This document was stamped "Received" by the General Court administrative office on September 12, 2023.
45. On September 18, 2023, Assistant Attorney General Matthew Conley of the Election Law Unit sent a letter to the Speaker of the House informing the Speaker of this Office's conclusion that Rep. Merner was no longer domiciled in Lancaster, NH.
46. On September 19, 2023, Merner resigned from the House of Representatives.
47. On October 10, 2023, Inv. Tracy contacted Maria Buckman, Supervisor 1, Office of the Director of Motor Vehicles, 23 Hazen Drive, Concord, NH. Inv. Tracy asked Buckman if State Rep. Merner driver's license and vehicle registration had to contain a physical address, as both had P.O. Box 421, Lancaster, NH listed. Supervisor Buckman directed Inv. Tracy to RSA 263:5 "Application for License" and Administrative Rule Saf-C 1002.02 Application, Data Required; both forms ask for mailing and legal or residential addresses.
48. Supervisor Buckman provided Inv. Tracy with a DSMV 450 form, Application for Driver's License, dated November 1, 2013, when State Rep. Merner listed his mailing address as P.O. Box 421, Lancaster, and physical address as 88 Portland St, Lancaster.
49. Supervisor Buckman provided Inv. Tracy with a DSMV 30 form, Record Change Request dated May 17, 2023, where State Rep. Merner listed his mailing address as P.O. Box 421 and did not provide a physical address, which is required, and the Town Clerk should have insisted that State Rep. Merner provide a physical address.
50. On October 19, 2023, Inv. Tracy met with Tim Cliché, Clerk, Lancaster Post Office, 120 Main Street, Lancaster, NH. Clerk Cliché provided Inv. Tracy with the "Application for Post Office Box Service" for P.O. Box 421, which is dated 10/25/2016, the physical address listed on the application is 88 Portland Street, Lancaster. The name listed is Troy E. Merner, telephone number (603) 788-3048.

² Based on information and belief, this is the address where Rep. Merner resided prior to 287 Main Street.

51. Clerk Cliché told Inv. Tracy that State Rep. Merner moved at least twice since filling out this application and that State Rep. Merner did not update his physical address either time. Clerk Cliché knew that State Rep. Merner moved from 88 Portland Street to an address on Main Street in Lancaster with his wife Otilia Pierce, who passed away sometime after Troy Merner and Otilia Pierce moved to Main Street. Even though State Rep. Merner did not update his address with the Post Office, Clerk Cliché learned of the move because the Post Office would at times receive mail for State Rep. Merner or Pierce addressed to their home address on Main Street and not the Post Office box.
52. Clerk Cliché told Inv. Tracy that sometime last year, State Rep. Merner moved from Main Street in Lancaster to Carroll, NH with his current wife. Clerk Cliché knew this because State Rep. Merner told him that he moved to Carroll to live with his current wife during a conversation State Rep. Merner had with Clerk Cliché.
53. On October 19, 2023, Inv. Tracy met with Charity Baker, Town Clerk, 25 Main Street, Lancaster, NH. Inv. Tracy provided Clerk Baker with a copy of the May 17, 2023, State of NH DSMV 30 form "Record Change Request". Baker confirmed with Assistant Clerk Roxanne Ball that she assisted Troy Merner with the May 17, 2023, State of NH Record Change Request. Assistant Clerk Ball did not recall any specific details of her exchange with State Rep. Merner that day. Assistant Clerk Ball did not have an explanation or memory of why State Rep. Merner checked off the box indicating his mailing address (P.O. Box 421, Lancaster) was also his physical address, other than to say it was an oversight on her part, or that she assumed Merner was simply updating his mailing address only.
54. October 19, 2023, Inv. Tracy met with Benjamin Gaetjens-Oleson, Town Manager, 25 Main Street, Lancaster, NH. Inv. Tracy reminded Town Manager Oleson that he spoke with Attorney General's Office Inv. Brewer-Croteau in December 2022 about this matter, which Oleson recalled. Inv. Tracy asked Oleson if State Rep. Merner verbally resigned his position as a selectman or if it was done in writing. Oleson said that initially State Rep. Merner verbally announced his resignation the same day State Rep. Merner resigned as a State Representative, which Oleson recalls was Tuesday, September 19, 2023. A couple of days later Oleson requested a written resignation, which State Rep. Merner agreed to and handwrote his letter of resignation, which he backdated to September 19, 2023. Oleson provided Inv. Tracy with a copy, and the resignation letter reads: "To Lancaster Selectboard, effective 9/19/23 I Troy Merner resing [sic] from the board of selectman."
55. On Tuesday, November 7, 2023, Attorney General Investigator Thomas Defosses of the Public Integrity Unit was also assigned this matter to support the investigation.
56. Inv. Defosses reviewed the information gathered thus far and found that Inv. Brewer-Croteau noted that in August 2022, Merner sold his home located at 287 Main Street, Lancaster, NH. On November 14, 2023, Inv. Defosses verified this sale on the Avitar Associates of New England website, which shows a sale date of August 26, 2022, with the grantor being Troy E. Merner for 287 Main Street in Lancaster, NH.

57. Inv. Defosses reviewed the Mileage Cards submitted by Merner. An undated New Hampshire House of Representatives Information Form – previously represented to Inv. Tracy to be from 2018- noted that Merner’s mailing address was PO Box 421, Lancaster, NH, and Merner’s home street address was listed as 88 Portland Street, Lancaster, NH. Merner requested 205 miles reimbursed at the Federal Rate.
58. On November 16, 2020, State Rep. Merner signed a Mileage Card and selected the box indicating “Incumbents check here and sign if there are no changes from information submitted in previous session”. On December 5, 2022, Merner signed a Mileage Card and selected the box indicating “Incumbents check here and sign if there are no changes from information submitted in previous session”. On September 12, 2023, State Rep. Merner signed a Mileage Card identifying his address as PO Box 421, 80 Elm Street, Lancaster, NH. Merner selected the Federal Rate and noted the distance from home to State House round trip is 214 miles.
59. On November 13, 2023, Inv. Defosses spoke on the phone with Paul Bryant, Bill Status / Calendar Clerk at New Hampshire House of Representatives, about an email that was provided to investigators during the Troy Merner Election Law investigation. This email was sent from Paul Bryant on March 29, 2023, and the Subject line was: “Updated Member Addresses.” This email was sent to: “General Court Administrative Office; All GCTS; Debra Childs; Joseph Burke.” The email informed the recipients of a change of phone number for Representative Troy Merner (R) Coos – District 1. Inv. Defosses asked Bryant if he recalls why the email had the subject line of “Updated Member Addresses” and Bryant did not recall adding that subject line, or why it was there. Bryant said that often a subject line is automatically populated by the email software as an email is drafted, which is what Bryant believes happened for this email. Bryant said that there were no emails sent during the timeframe of March 2023 regarding members updating their addresses that this would have been related to. Bryant explained that he sent an email to State Rep. Merner as members of the public and the House were unable to reach Merner using the phone number that was on file at the time.
60. On November 13, 2023, Inv. Defosses received an email from Jennifer Becker, Director, General Court Administrative Office. Becker emailed Inv. Defosses in response to questions Inv. Defosses had asked Amanda Masse, a contact that was used by Inv. Tracy, via email. Becker provided the paper sign-in logs that predated the kiosk system used by legislators to sign in for mileage reimbursement. These paper sign-in logs were used by House members to sign in and claim mileage reimbursement prior to the adoption of a new kiosk-based system in December of 2022. Under the new kiosk system, members check in and claim mileage reimbursement utilizing a unique pin. They are also required to attest to the following statement:
- a. I hereby attest and understand that as a member of the General Court of New Hampshire I will be reimbursed for the miles and at the rate (State or Federal) that I have declared for driving my vehicle (Federal ONLY) from my home to the State House in Concord to conduct authorized activities related to**

legislative business. Confirming below represents my attestation and my request for mileage.


61. Becker also provided Inv. Defosses with calculations for Merner's payments as follows:
- a. State Rep Merner was paid a trip amount of \$128.13 for attendance dates October 2022 through December 2022, which represents a round trip of 205 miles at \$.625 per mile based on the Federal mileage reimbursement rate.
 - b. State Rep Merner was paid a trip amount of \$134.28 for attendance dates January 2023 through August 2023. This represents a round trip of 205 miles at \$.655 per mile based on the Federal mileage reimbursement rate.
 - c. State Rep Merner was paid a trip amount of \$140.17 for attendance date September 12, 2023. This represents a round trip of 214 miles, based on Merner's address update to 80 Elm Street, Lancaster, NH (Completed on September 12, 2023) at \$.655 per mile based on the Federal mileage reimbursement rate.
62. Becker told Inv. Defosses that State Rep. Merner has had all his legislative salary and mileage reimbursements paid into the same direct deposit account at Mascoma Savings Bank since he was elected.
63. On November 14, 2023, Becker confirmed that the New Hampshire House of Representatives Information Form that was believed to be submitted by State Rep. Merner in 2018, was in fact submitted by Merner in 2018. Becker also provided a copy of Merner's W-4 to Inv. Defosses, which Merner signed and dated November 27, 2018, and on which Merner listed 88 Portland Street, Lancaster, NH as his home street address.
64. Becker sent Inv. Defosses a copy of the Legislator Paid Mileage Report for State Rep. Troy Merner that provided the attendance date, paid date, and trip amount paid from December 7, 2022, through September 12, 2023, when the House was using the new Kiosk system. This Mileage Report documented two trips in 2022, and 49 trips in 2023, for a total trip amount paid of \$6,841.87.
65. The roundtrip from 88 Portland Street to the State House is 205 miles. The roundtrip from State Rep Merner's actual home located at 144 Grandpa Harry's Lane, Carroll, NH to the State House is 176 miles. Inv. Defosses reviewed the mileage that State Rep. Merner was paid beginning with the date Merner electronically signed his Mileage Card on December 5, 2022. State Rep. Merner checked the box indicating "...no changes from information submitted in previous session". Merner was paid for 2 roundtrips of 205 miles each from 88 Portland Street, Lancaster, NH to the State House while the Federal mileage rate was \$.625. This resulted in State Rep Merner being paid \$128.13 each for December 7, 2022, and December 15, 2022. The mileage reimbursement State Rep. Merner was entitled to from his actual home at 144 Grandpa Harry's Lane, Carroll, NH was \$110.00, resulting in an overpayment of \$18.13 on each trip, for a total overpayment of \$36.26.

66. Beginning in 2023, the Federal mileage rate changed to \$.655 per mile. Based on this new rate, the mileage paid each trip to State Rep. Merner from 88 Portland Street, Lancaster, NH was \$134.28 in 2023. Mileage payments that State Rep. Merner was entitled to based on his actual home address is \$115.28. This resulted in an overpayment of \$19.00 to State Rep. Merner for each of 48 trips in 2023, for a total overpayment of \$912.00.
67. State Rep. Merner was paid for one round-trip from 80 Elm Street, Lancaster, NH to the State House. The roundtrip from 80 Elm Street, Lancaster, NH is 214 miles. The roundtrip from State Rep. Merner's actual home located at 144 Grandpa Harry's Lane, Carroll, NH to the State House is 176 miles. Based on the Federal mileage rate of \$.655 per mile, State Rep. Merner was paid \$140.17 while entitled to \$115.28, resulting in an overpayment to State Rep. Merner of \$24.89.
68. The total of the mileage overpayments made to State Rep. Merner from December 7, 2022, through September 12, 2023, is \$973.15.
69. In an article authored by Nancy West, *InDepthNH.org*, dated November 13, 2023, Rep. Kat McGhee, D-Hollis, was quoted as saying "(Merner) admitted to me that everyone knew' he had moved out of district."

Based on the aforementioned facts and circumstances, I submit that Probable Cause exists for the issuance of an Arrest Warrant for:

Troy Merner, DOB 11/01/1961
144 Grandpa Harry's Lane
Carroll, NH 03598

For the violation(s) of RSA 659:34, I (a), Wrongful Voting, RSA 641:3 Unsworn Falsification, RSA 641:7 Tampering with Public Records or Information, and RSA 637:4, I, Theft by Deception.

 11/21/2023
Investigator Thomas Defosses
New Hampshire Department of Justice
Office of the Attorney General

Signed under the penalty of perjury, the penalty for which may include a fine or imprisonment or both.

THE STATE OF NEW HAMPSHIRE

JUDICIAL BRANCH

https://www.courts.nh.gov

Court Name: Coos Superior Court



Agency Case Number: 2022159101

ARREST WARRANT

To the sheriff of his deputies of any county in this state, or any police officer state or federal, within the state:

Investigator Thomas Defosses has established under oath that probable cause exists and an arrest warrant shall issue against the defendant,

Troy Merner, D.O.B. 11/01/1961,

In the county of Coos for one count of

See below offenses contrary to the New Hampshire

RSA: 659:34, I(a) Descriptor: Wrongful Voting

RSA: 637:4 Descriptor: Theft by Deception

RSA: 641:7, I Descriptor: Tampering With Public Records or Information

RSA: 641:3, I(b) Descriptor: Unsworn Falsification

RSA: _____ Descriptor: _____

We command you to take him/her, if found to be in your jurisdiction, and bring him/her before the Coos Superior Court Court.

11/22/2023
Date

Signature of Judge / Justice of the Peace
Brendon C. Thurston, Esq.
Name of Judge / Justice of the Peace

RETURN

STATE OF NEW HAMPSHIRE COUNTY OF _____

I have arrested the Defendant and now have him/her before the court as commanded.

Date

Signature of Officer

Name of Officer/Department