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STATE OF MINNESOTA

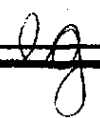
FILED  
Court Administrator

DISTRICT COURT

COUNTY OF RAMSEY

JAN 06 2009 SECOND JUDICIAL DISTRICT

#25 S/C

By  Deputy

In the Matter of the Contest of  
General Election held on November 4, 2008  
for the purpose of electing a United States  
Senator from the State of Minnesota,

62-CV-09-

Cullen Sheehan and Norm Coleman,

Contestants,

vs.

**SUMMONS**

Al Franken,

Contestee.

THE STATE OF MINNESOTA TO THE ABOVE-NAMED CONTESTEE, AL FRANKEN, at  
573 South Tenth Street, Minneapolis, MN 55404-1013.

YOU ARE HEREBY SUMMONED and required to serve upon Contestants' attorney  
any answer to the Notice of Contest which is herewith served upon you, within seven (7) days  
after service of this Summons and Notice of Contest upon you, exclusive of the day of service.

Dated: January 6, 2009



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STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

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In the Matter of the Contest of  
General Election held on November 4, 2008  
for the purpose of electing a United States  
Senator from the State of Minnesota,

Cullen Sheehan and Norm Coleman,

Contestants,

vs.

**NOTICE OF CONTEST**

Al Franken,

Contestee.

---

TO: The Honorable Judges of the above-named Court, Al Franken, Contestee; Tim Pawlenty, Governor of State of Minnesota, and Mark Ritchie, Secretary of State of Minnesota.

PLEASE TAKE NOTICE, that, pursuant to Minn. Stat. § 209.021, Cullen Sheehan and Norm Coleman, the above-named Contestants do hereby contest the election (herein, "General Election") for the office of United States Senator from the State of Minnesota held on November 4, 2008 ("Election Day") and do hereby appeal from the decision of the Minnesota State Canvassing Board in declaring Al Franken, the Contestee herein, to have been elected to that office and entitled to a Certificate of Election.

Cullen Sheehan and Norm Coleman, Contestants herein, state and allege upon knowledge, information and belief as follows:

1. Contestant Cullen Sheehan ("Sheehan") is a Minnesota resident qualified as an eligible voter under Minnesota election law. Sheehan voted by absentee ballot in the General Election. Sheehan objects to the declaration by the Minnesota State Canvassing Board that Al Franken received more votes than Norm Coleman in the General Election.

2. Contestant Norm Coleman ("Coleman") is a Minnesota resident qualified as an eligible voter under Minnesota election law and United States Senator from the State of Minnesota. Coleman is a registered Minnesota voter who voted in the election. Coleman objects to the declaration by the Minnesota State Canvassing Board that Al Franken received more votes than Norm Coleman in the General Election. Coleman is a person whose name appeared on the official ballot and was a candidate for election as United States Senator from the State of Minnesota in the General Election in all counties within the State of Minnesota.

3. Contestee Al Franken is a person whose name appeared on the official ballot and was a candidate for election as United States Senator from the State of Minnesota in all counties within the State of Minnesota in the General Election.

4. There were several other candidates for the office of United States Senator from the State of Minnesota in the General Election.

5. As used herein, "Ballots" means, without limitation, paper ballots, optical scan ballots, hand-counted ballots, absentee ballots, UOCAVA ballots (including without limitation military ballots), and duplicate ballots made as substitutes for defective original ballots under Minn. Stat. § 206.86, subd. 5 (collectively, "Ballots").

6. As used herein, "Election Materials" means Ballots and other materials relating to the General Election including, without limitation, tally sheets, tabulating cards, summary statements, poll lists, voter certificates, voter registers (including same-day voter registers), accepted absentee ballot envelopes, rejected absentee ballot envelopes, voter registration applications, absentee ballot applications, election-day incident reports and/or other correspondence from election judges and/or election officials pertaining to the General Election, voting machine tape results and reports (including without limitation voting machine reports from the September 9, 2008 primary, pre-primary and pre-election testing reports relative to voting machines, voting machine reports from the General Election, voting system memory cards and computer log files), and reports of the results of the post-election review audit process in each county/precinct conducting the same.

7. On November 4, 2008, the State of Minnesota conducted the General Election, including an election for the office of United States Senator from the State of Minnesota. On November 18, 2008, the Minnesota State Canvassing Board ("Board") met and directed the Minnesota Secretary of State to oversee an administrative manual recount (the "Recount") of all votes cast in for the office of United States Senator from Minnesota under Minn. Stat. § 204C.35.

8. On January 5, 2009, the Board, upon conclusion of the Recount, did erroneously declare and return that Contestee Al Franken had received the highest number of votes for the office of United States Senator from the State of Minnesota by only 225 votes (1,212,431 votes for Al Franken and 1,212,206 votes for Norm Coleman). The Board has signed a Certificate attesting to these results. The vote totals reported and certified by the Board as posted on the Minnesota Secretary of State's website are attached hereto as Exhibit A and incorporated herein by reference, along with a Certificate dated January 5, 2009 and signed by the Board accepting the recount vote totals submitted to the Board by the Minnesota Secretary of State's Office at the Board's January 5, 2009 meeting.

9. On account of:

(a) irregularities, matters and things set forth herein and to be established at trial regarding the conduct of said General Election relative to the office of United States Senator from the State of Minnesota;

(b) numerous and material errors, mistakes and other irregularities in the counting, tallying, recording, adding, returning and canvassing of Ballots in said General Election;

(c) numerous and material errors, mistakes and other irregularities in the recanvass of Ballots in said General Election in the two (2) weeks following the General Election; and

(d) numerous and material errors, mistakes and other irregularities in the counting, tallying, recording and adding of Ballots in said General Election during the Recount, including without limitation, rules and recount procedures adopted by the Board and/or promulgated by the Minnesota Secretary of State and/or representatives of the Minnesota Secretary of State,

Contestant Norm Coleman received the largest number of votes legally cast for the office of United States Senator from the State of Minnesota, Contestant Norm Coleman is entitled to the Certificate of Election and Contestee Al Franken is not entitled to the Certificate of Election for the office of United States Senator from the State of Minnesota.

10. By way of example only, wrongfully and erroneously *excluded* from the vote totals certified by the Board were Ballots from absentee ballot envelopes which were initially rejected by local election officials and then were again improperly rejected by local election officials and/or representatives of the Al Franken for Senate campaign during the Recount. Pursuant to the Orders of the Minnesota Supreme Court dated December 18, 2008 and December 24, 2008, the Coleman for Senate campaign had requested that local election officials review approximately six hundred fifty (650) additional absentee ballot envelopes (the "Additional Absentee Ballots") which were initially rejected by local election officials to determine whether such envelopes were improperly rejected by local election officials. However, representatives of the Al Franken for Senate campaign objected to such review, opening and/or counting. Hence, the Additional Absentee Ballots were *not* within the set of improperly-rejected absentee ballot envelopes opened and counted by the Minnesota Secretary of State on Saturday, January 3, 2009. Although the Coleman for Senate campaign sought emergency relief from the Minnesota Supreme Court to review, open and count the Additional Absentee Ballots, the Minnesota Supreme Court, by Order dated January 5, 2009, held that the proper venue for resolution of this issue was an election contest. A true and correct copy of the Order of the Minnesota Supreme Court dated January 5, 2009 relating to rejected absentee ballot envelopes is attached hereto as Exhibit B.

11. On information and belief, a material and significant number of absentee ballot envelopes (including without limitation envelopes identified by representatives of the Coleman for Senate campaign) were improperly rejected by local election officials and were not counted on Election Day *or* during the Recount. True and correct copies of representative examples of erroneously rejected absentee ballot envelopes identified by the Coleman for Senate campaign for opening but which were *not* opened and counted by the Minnesota Secretary of State on January 5, 2009 are attached hereto as Exhibit B-1. True and correct copies of representative examples of rejected absentee ballot envelopes which *were* opened and counted by the Minnesota Secretary of State on January 5, 2009 are attached hereto as Exhibit B-2.

12. By way of example only, erroneously and wrongfully included in the vote totals certified by the Board were a significant and material number of:

(a) Ballots which were counted twice during the Recount due to such Ballots being not marked as "DUPLICATES" and matched with its "Original" Ballot in contravention of Minnesota Statutes § 206.86, subd. 5. On information and belief, double-counting has occurred in numerous precincts throughout the State of Minnesota including, without limitation, the precincts described within Exhibit C attached hereto. The Coleman for Senate campaign filed a Petition with the Minnesota Supreme Court seeking to avoid this double-counting, but the Minnesota Supreme Court, pursuant to Order dated December 24, 2008, held that the proper venue for resolution of this issue was an election contest. A true and correct copy of the Minnesota Supreme Court Order dated December 24, 2008 relative to double-counting of original and unmarked duplicate Ballots is attached hereto as Exhibit D;

(b) Ballots which were not counted on election night but were "found" and counted during the Recount (despite lack of any chain of custody or other assurance or evidence of the reliability or integrity of such Ballots), which Ballots exceed the number of persons who voted in such precincts on Election Day. This occurred in numerous precincts throughout the State of Minnesota including, without limitation, the precincts described within Exhibit E attached hereto and incorporated herein by reference. True and correct copies of documents relating to these precincts are attached as Exhibit F hereto and incorporated herein by reference;

(c) Alleged Ballots which were not located or viewed during the Recount but which were "counted" during the Recount and included within Recount totals because they were deemed "missing" by the Board, despite any evidence that such alleged Ballots were actually missing and contrary to Minnesota case law. This occurred in the City of Minneapolis Ward 3 Precinct 1. Accordingly, the Board erroneously and inconsistently certified election-night numbers from this precinct, despite the fact that the Board did not certify election-night numbers from any other precincts during the Recount, including, without limitation, the precincts identified within Exhibit C and Exhibit E attached hereto. True and correct copies of documents relating to the City of Minneapolis Ward 3 Precinct 1 are attached as Exhibit G hereto and incorporated herein by reference;

(d) Ballots from rejected absentee ballot envelopes which were erroneously opened and counted by the Minnesota Secretary of State's Office on Saturday, January 3, 2009 pursuant to the Orders of the Minnesota Supreme Court dated December 18, 2008 and December 24, 2008 due to such envelopes having been improperly rejected by local election officials. These absentee ballot envelopes should not have been opened and counted on Saturday, January 3, 2009 because: (i) the opening of such Ballots was not agreed to by representatives of the Coleman for Senate campaign; (ii) the person(s) who cast such Ballot(s) was/were not properly registered to vote in the State of Minnesota; and/or (iii) person(s) who cast such Ballot(s) voted in person or by absentee on Election Day. Prior to January 3, 2009, the counties of Hennepin and Ramsey, upon reviewing election-day polling registers, determined that five (5) persons whose rejected absentee ballot envelopes had been identified as improperly rejected had voted in person on Election Day. On information and belief, not all counties engaged in such due diligence prior to January 3, 2009; accordingly, on information and belief, some of the rejected absentee ballot envelopes which were opened and counted on Saturday, January 3, 2009 should not have been opened and counted because the persons who submitted such envelopes voted in person on Election Day;

(e) Ballots from absentee ballot envelopes which were improperly and wrongfully accepted by local election officials on Election Day. These absentee ballot envelopes should *not* have been opened and counted on Election Day because: (i) the envelopes did not comply with the requirements of Minnesota Statutes §§ 203B.13 and/or 203B.24; (ii) the person(s) who cast such Ballot(s) was/were not properly registered to vote in the State of Minnesota; and/or (iii) person(s) who cast such Ballot(s) voted in person or by other absentee ballot on Election Day.

(f) Ballots which were challenged by representatives of the Coleman for Senate campaign during the Recount, which challenges were erroneously and inconsistently rejected by the Board and therefore erroneously ruled by the Board as votes for Contestee Al Franken.

(g) Ballots which were challenged by representatives of the Franken for Senate campaign, which challenges were erroneously and inconsistently upheld by the Board and therefore erroneously not ruled by the Board as votes for Contestant Norm Coleman.

13. A material number of Ballots which were mutilated, defaced, obliterated and otherwise being in such condition that the intent of the voter could not be ascertained were wrongfully and erroneously counted, recorded, tallied and returned during the Recount and certified by the Board in favor of Contestee Al Franken.

14. A material number of Ballots were counted, recorded, tallied and returned during the Recount and certified by the Board in favor of Contestee Al Franken in which the voters did not comply with all of the requirements of the Minnesota Election Law.

15. A material number of unqualified and ineligible persons voted for Contestee Al Franken in violation of the Minnesota Election Law and said votes were wrongfully and erroneously counted, recorded, tallied and returned during the Recount and certified by the Board in favor of Contestee Al Franken.

16. A material number of persons voted more than once in violation of the Minnesota election law and said votes were wrongfully and erroneously counted, recorded, tallied and returned during the Recount and certified by the Board.

17. A material number of Ballots legally and validly cast for Contestant Norm Coleman were wrongfully and erroneously rejected by the Board as being defective, having distinguishing marks or as being mutilated, defaced, obliterated and otherwise being in such condition that the intent of the voter could not be ascertained, and were therefore wrongfully and erroneously *not* counted, recorded, tallied and returned during the Recount and certified by the Board.

18. On Election Day, election judges in several precincts failed to initial the backs of Ballots under their control as required by Minnesota law and failed to prevent the deposit of Ballots without such endorsement in the Ballot boxes and voting machines.

19. The Board failed to detect and correct obvious errors conducted during the Recount and the Board's canvass of the Recount including without limitation the matters described within ¶11 through ¶17 hereinabove.

20. Local canvassing boards failed to detect and correct obvious errors conducted during the initial canvass of votes cast in the General Election, which errors were not detected and/or corrected during the Recount.

21. Based on the foregoing, the number of votes validly cast for Contestant Norm Coleman during the General Election was materially greater than the number of Ballots certified for Contestant Norm Coleman by the Board, and a material number of Ballots were wrongfully and erroneously certified by the Board in favor of Contestee Al Franken. But for the existence of the above-described irregularities, mistakes and violations of law during the General Election and/or Recount, Contestant Norm Coleman would have been certified by the Board as having received the highest number of validly-cast votes for said office in the General Election and declared by the Board entitled to receive the Certificate of Election.

#### **REQUEST FOR INSPECTION AND REVIEW OF BALLOTS AND ELECTION MATERIALS**

22. Contestants believe and state that they cannot properly prepare their case for trial without an inspection of Ballots and Election Materials relating to the office of United States Senate in the General Election, including, without limitation, all Ballots and Election Materials in the precincts described hereinabove.

23. Contestants therefore request this Court to order such inspection pursuant to Minnesota Statutes § 209.06 and to implement procedures for appointment of inspectors on behalf of Contestants and Contestee pursuant to Minnesota Statutes § 209.06.

24. Contestants further believe and state that they cannot properly prepare their case for trial without a recount of the Ballots in certain precincts pursuant to Minnesota Statutes § 209.06 and therefore request this Court to order such recount relative to those precincts identified by Contestants.

WHEREFORE, Contestants Cullen Sheehan and Norm Coleman pray for an Order and judgment of the above-named Court as follows:

1. To immediately stay issuance of any Certificate of Election relative to the office of United States Senator from the State of Minnesota pursuant to Minnesota Statutes § 204C.40, subd. 2.
2. To promptly select a three (3) judge panel to hear this Notice of Contest pursuant to Minnesota Statutes § 209.045.
3. To promptly establish procedures for the appointment of inspectors ("Inspectors") on behalf of Contestants and Contestee pursuant to Minnesota Statutes § 209.06.

4. To require and permit inspection by the Inspectors of all Ballots and Election Materials desired to be inspected by Contestants and Contestee pursuant to Minnesota Statutes § 209.06.

5. To order the recounting and retallying of the Ballots in precincts identified by Contestants pursuant to Minnesota Statutes § 209.06 and, during such inspection and recounting:

a. to consider only such Ballots and votes as were lawfully cast on Election Day; and

b. to reject those Ballots and votes that were not lawfully cast on Election Day and/or that were wrongfully and erroneously cast, counted, tallied, returned, reported and certified by the Board during the Recount, and to declare such Ballots and votes invalid; and

c. To enter an Order amending the vote totals certified by the Board to reflect the true and correct number of Ballots lawfully cast for Contestant Norm Coleman and Contestee Al Franken during the General Election.

6. To declare that Contestant Norm Coleman is entitled to the Certificate of Election as United States Senator from the State of Minnesota.

7. To award to Contestants reasonable attorney fees and costs as appropriate pursuant to Minnesota Statutes Chapter 209.07, subd. 3.

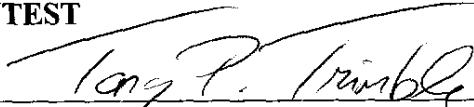
8. For such other and further relief as permitted by Minnesota Statutes Chapter 209 and/or applicable law.

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**SIGNATURE PAGE TO  
NOTICE OF CONTEST**

Dated: January 6, 2009

  
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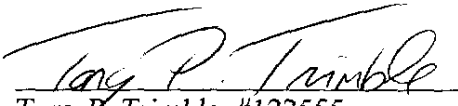
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*Attorneys for Contestants*

**ACKNOWLEDGEMENT**

Contestants through the undersigned counsel acknowledge that sanctions may be imposed under Minn. Stat. § 549.211.

  
Tony P. Trimble, #122555





**EXHIBIT A**

**CERTIFICATE OF MINNESOTA STATE CANVASSING BOARD  
AND RECOUNT RESULTS BY COUNTY AS POSTED ON  
MINNESOTA SECRETARY OF STATE WEBSITE**

# State of Minnesota

## SECRETARY OF STATE

### CERTIFICATE

We, the undersigned legally constituted State Canvassing Board, as required by law, canvassed the report compiled by the State Recount Official of the summary statements submitted by the Designated Recount Officials of the recount of the votes cast for candidates for United States Senator at the State General Election held Tuesday, November 4, 2008, and the dispositions made by this Board of the ballots challenged during the recount. We have specified in the following report the names of candidates receiving votes and the number received by each.



Mark Ritchie  
Secretary of State

Eric Magnuson  
Chief Justice, Minnesota Supreme Court

G. Barry Anderson  
Associate Justice, Minnesota Supreme Court

Kathleen R. Gearin  
Chief Judge, Second Judicial District Court

Edward J. Cleary  
Assistant Chief Judge, Second Judicial District Court





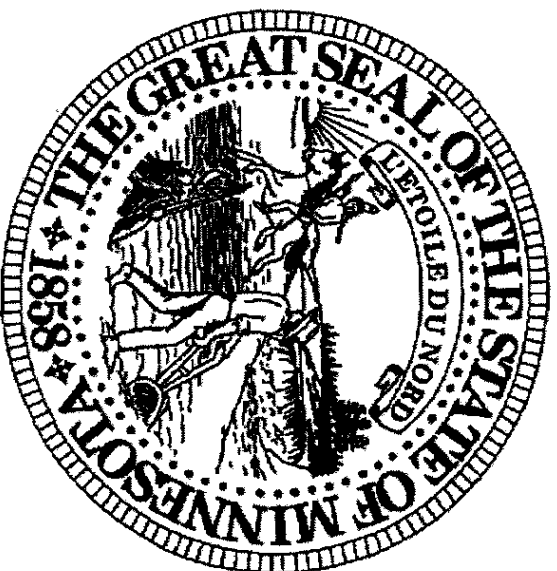
74 - STEELE	8644	8552	8645	6544	4592	2	10	2	8	2	3	0	8647	6552
75 - STEVENS	2623	2248	2520	2246	800	6	5	6	4	1	3	2	2526	2250
76 - SWIFT	1878	2291	1679	2293	1104	1	0	0	1	0	1	3	1878	2294
77 - TODD	5530	4172	5503	4135	2598	33	44	33	42	2	6	5	5536	4177
78 - TRAVERSE	836	791	837	794	425	1	0	0	0	1	2	3	837	794
79 - WAASHA	4858	4482	4950	4451	2533	10	18	9	15	3	1	4	4858	4485
80 - WADEWA	3681	3292	3675	2287	1251	10	10	9	7	5	2	2	3683	2294
81 - WASECA	4228	3283	4228	3261	2459	2	0	1	0	1	1	-2	4229	3281
82 - WASHINGTON	63811	50571	63766	50504	22898	52	59	48	58	5	-7	-9	63804	50562
83 - WATONWAN	2103	2017	2100	2009	1172	4	10	4	10	0	1	2	2104	2019
84 - WILKIN	1814	1074	1807	1064	544	7	11	7	10	1	0	0	1814	1074
85 - WINONA	11317	12765	11902	12737	3956	23	22	18	24	5	1	6	11318	12761
86 - WRIGHT	32989	18893	32773	18528	14085	244	143	226	136	25	10	1	32999	18664
87 - YELLOW MEDICINE	2311	2171	2311	2167	1114	2	7	2	7	0	2	3	2313	2174
89 - STATE OF MINNESOTA (AB)	0	0	305	481	147	0	0	0	0	0	305	481	305	481
<b>Office Totals:</b>	<b>1211590</b>	<b>1211375</b>	<b>1209240</b>	<b>1209228</b>	<b>496067</b>	<b>3281</b>	<b>3373</b>	<b>2966</b>	<b>3203</b>	<b>507</b>	<b>616</b>	<b>1056</b>	<b>1212206</b>	<b>1212431</b>



**Recount Canvassing Report**

**2008 Minnesota State General Election**

**Tuesday, November 4, 2008**



**Recount of the Votes Cast for United States Senator**

*Recount of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

**Minnesota Voter Statistics**

<u>County</u>	<u>Registered as of</u>		<u>Registered on</u>		<u>Absentee Ballots</u>		<u>Absentee Ballots</u>		<u>Total</u>
	<u>7AM</u>	<u>7AM</u>	<u>Election Day</u>	<u>Election Day</u>	<u>Regular</u>	<u>Federal</u>	<u>President</u>	<u>Voting</u>	
AITKIN	10482	1234	1119	4	129	2	9455		
ANOKA	189349	33223	12926	129	22	182559			
BECKER	19307	2926	1762	12	0	17038			
BELTRAMI	25237	4762	1888	24	6	22313			
BENTON	21538	4115	1106	0	0	19429			
BIG STONE	3614	240	280	4	0	3023			
BLUE EARTH	38855	9351	2455	12	1	35183			
BROWN	15549	2218	1051	3	2	13680			
CARLTON	19942	3508	1474	0	0	18530			
CARVER	53059	8495	4666	33	8	49806			
CASS	18582	2307	2028	1	8	16388			
CHIPPEWA	7335	1036	532	5	1	6393			
CHISAGO	31228	5955	2172	1	0	29411			
CLAY	31750	8066	2479	22	0	29334			
CLEARWATER	5136	652	333	2	0	4333			
COOK	3561	356	543	5	1	3362			
COTTONWOOD	6838	720	551	0	1	6084			
CROW WING	38334	5800	4221	49	2	35299			
DAKOTA	241276	41783	26225	230	38	225933			

*Recount of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

DODGE	11136	1934	580	8	8	10253
DOUGLAS	23894	2999	2415	10	3	21012
FARIBAULT	9386	1149	651	5	0	8201
FILLMORE	13532	1417	716	0	0	11287
FREEBORN	19376	2631	1868	12	2	17369
GOODHUE	28712	3993	2249	9	0	25902
GRANT	4244	454	371	0	0	3629
HENNEPIN	722777	133219	84041	1591	147	665485
HOUSTON	12364	1575	807	8	0	10953
HUBBARD	13009	1761	1363	8	0	11706
ISANTI	21331	3946	1304	4	2	20122
ITASCA	26967	3222	1813	5	3	24510
JACKSON	6442	641	519	0	0	5694
KANABEC	9122	1574	591	4	0	8536
KANDIYOHI	24736	3465	1999	14	2	21985
KITTSON	2949	166	203	5	0	2602
KOOCHICHING	7671	931	750	13	0	6834
LAC QUI PARLE	4802	476	383	0	0	4224
LAKE	7701	954	577	0	0	6991
LAKE OF THE WOODS	2806	188	185	3	0	2328
LE SUEUR	16388	2431	924	16	0	15088
LINCOLN	3818	288	269	1	1	3159
LYON	14850	2327	1092	8	0	12773
MCLEOD	21007	3646	1328	2	0	19124

*Report of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

MAHNONEN	3046	298	170	1	1	2360
MARSHALL	5445	465	302	44	0	4781
MARTIN	13136	1345	965	3	2	10798
MEEKER	14159	1690	960	4	0	12610
MILLE LACS	14651	2658	1023	8	0	13612
MORRISON	18979	2442	1301	0	0	16850
MOWER	21901	3017	1922	15	0	19302
MURRAY	5439	503	431	3	0	4868
NICOLLET	20114	3805	1270	3	0	18286
NOBLES	10258	1359	769	8	1	8886
NORMAN	3990	456	279	2	0	3478
OLMSTED	85368	13027	8513	33	2	76636
OTTER TAIL	35722	5245	3776	36	3	32845
PENNINGTON	7415	1496	535	3	2	6856
PINE	16521	3055	957	8	1	14485
PIPESTONE	5544	632	467	3	0	4843
POLK	17039	2785	1190	0	0	15406
POPE	7365	952	644	4	0	6577
RAMSEY	317028	55847	30133	520	144	278169
RED LAKE	2500	351	160	0	1	2218
REDWOOD	9302	1075	637	8	2	7851
RENVILLE	9425	1138	635	9	0	8185
RICE	36641	5843	2380	59	6	31913
ROCK	5721	744	470	0	0	5011
ROSEAU	8758	1320	655	13	1	7756

*Report of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

SAINTE LOUIS	134550	20142	7950	22	4	119435
SCOTT	71722	11921	5887	29	10	67321
SHERBURNE	47397	9203	3554	3	1	45121
SIBLEY	8710	1088	452	0	0	7765
STEARNS	87249	19283	5106	76	7	79028
STEELE	21397	3104	1734	6	0	19760
STEVENS	6647	1131	384	0	0	5659
SWIFT	5810	744	359	0	0	5274
TODD	13963	1786	934	4	0	12313
TRAVERSE	2378	180	197	1	2	2056
WABASHA	13390	1742	818	13	2	11963
WADENA	7840	1141	714	1	2	7232
WASECA	10760	1716	654	12	11	9933
WASHINGTON	147437	22290	16594	127	14	137323
WATONWAN	6042	614	431	5	0	5295
WILKIN	4038	481	290	4	0	3446
WINONA	30932	7497	1952	26	5	28038
WRIGHT	67959	13310	4792	106	10	65749
YELLOW MEDICINE	6301	821	411	1	1	5601
STATE OF MINNESOTA (AB)	0	264	902	31	0	933
	<u>3199981</u>	<u>542140</u>	<u>289468</u>	<u>3516</u>	<u>495</u>	<u>2921147</u>

*Recount of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

Votes Cast for United States Senator

County	IP <u>DEAN BARKLEY</u>	R <u>NORM COLEMAN</u>	DFL <u>AL FRANKEN</u>	LIB <u>CHARLES ALDRICH</u>	CP <u>JAMES NIEMACKL</u>	WI <u>WRITE- IN**</u>
AITKIN	1770	3617	3893	40	32	7
ANOKA	30504	82308	66800	771	536	146
BECKER	2226	8437	6016	100	70	14
BELTRAMI	2267	9454	10033	139	94	15
BENTON	4071	8473	6485	84	79	15
BIG STONE	476	1211	1274	12	8	0
BLUE EARTH	6182	13660	14483	219	121	39
BROWN	2684	6329	4435	64	40	2
CARLTON	2555	6099	9521	83	72	8
CARVER	7875	26968	14102	208	130	43
CASS	2504	7685	5888	68	60	12
CHIPPEWA	1283	2419	2559	29	27	5
CHISAGO	5317	13768	9833	133	78	19
CLAY	3431	13032	12067	187	89	25
CLEARWATER	460	2109	1596	29	15	0
COOK	458	1207	1620	19	20	3
COTTONWOOD	1051	2770	2131	32	29	4
CROW WING	5474	16107	13025	149	129	21
DAKOTA	34066	102701	85298	981	657	173

*Recount of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

DODGE	1853	4771	3384	56	53	8
DOUGLAS	3723	10077	6856	75	56	13
FARIBAULT	1509	3599	2911	53	27	6
FILLMORE	1604	4772	4630	60	59	6
FREEBORN	2920	6566	7432	122	66	13
GOODHUE	5047	11176	9242	110	89	11
GRANT	630	1483	1469	6	7	2
HENNEPIN	84912	237712	329616	3019	1649	614
HOUSTON	942	5027	4597	74	30	4
HUBBARD	1692	5751	4024	57	38	10
ISANTI	3648	9564	6557	96	60	17
ITASCA	3183	9263	11544	112	126	14
JACKSON	930	2478	2145	44	23	1
KANABEC	1631	3745	2980	44	50	4
KANDIYOHI	3378	10246	8007	84	59	10
KITTSON	278	1077	1168	18	10	2
KOOCHICING	721	2847	3090	31	32	4
LAC QUI PARLE	779	1611	1746	19	12	3
LAKE	863	2432	3549	31	16	8
LAKE OF THE WOODS	258	1204	770	14	19	1
LE SUEUR	3268	6321	5270	72	45	8
LINCOLN	341	1464	1272	16	16	0
LYON	1994	6089	4410	65	52	8
MCLEOD	4147	9093	5496	94	119	18

*Report of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

MAHNOMEN	299	858	1142	16	8	2
MARSHALL	598	2322	1752	24	13	4
MARTIN	1869	5108	3589	64	40	0
MEEKER	2797	5697	3870	60	69	10
MILLE LACS	2654	5852	4801	72	69	14
MORRISON	3274	7826	5424	89	61	6
MOWER	2859	6844	9093	142	74	14
MURRAY	560	2334	1866	20	16	0
NICOLLET	3312	7237	7384	92	46	10
NOBLES	903	4192	3534	45	45	5
NORMAN	460	1334	1576	26	12	2
OLMSTED	10666	35334	28589	496	230	61
OTTER TAIL	4263	17199	10740	167	101	20
PENNINGTON	822	3239	2595	49	24	7
PINE	2489	5683	6016	71	71	15
PIPESTONE	369	2637	1681	23	25	4
POLK	1715	7353	5926	89	50	7
POPE	1171	2749	2559	23	20	2
RAMSEY	36708	92952	142251	1342	796	315
RED LAKE	311	984	834	15	14	0
REDWOOD	1569	3642	2454	35	53	4
RENVILLE	1854	3275	2909	46	25	4
RICE	5428	12061	13680	135	93	27
ROCK	426	2656	1750	41	19	3
ROSEAU	743	4394	2421	48	32	2



*Recount of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

SAINT LOUIS	14283	38320	64531	521	349	121
SCOTT	11615	33839	20693	291	184	55
SHERBURNE	8066	22887	13405	170	150	39
SIBLEY	1976	3499	2158	42	29	6
STEARNNS	15003	36224	26161	395	239	56
STELLE	4173	8647	6552	107	63	10
STEVENS	784	2526	2250	28	20	5
SWIFT	1007	1879	2294	28	18	3
TODD	2346	5536	4177	58	52	6
TRAVERSE	381	837	794	12	3	0
WABASHA	2305	4959	4466	64	25	10
WADENA	1107	3683	2294	37	27	4
WASECA	2285	4229	3261	58	24	4
WASHINGTON	20711	63804	50562	556	332	70
WATONWAN	1065	2104	2019	30	16	5
WILKIN	453	1814	1074	23	10	2
WINONA	2782	11318	12761	259	102	21
WRIGHT	13010	32999	18664	267	233	46
YELLOW MEDICINE	1028	2313	2174	21	24	3
STATE OF MINNESOTA (AB)	101	305	481	7	2	0
	<u>437505</u>	<u>1212206</u>	<u>1212431</u>	<u>13923</u>	<u>8907</u>	<u>2340</u>

*Report of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

	WI <u>MICHAEL CAVLAN**</u>	WI <u>JOHN H. EVAN**</u>	WI <u>ANTHONY KEITH PRICE**</u>	WI <u>JACK SHEPARD**</u>
AITKIN	0	0	0	0
ANOKA	0	0	2	0
BECKER	0	0	0	0
BELTRAMI	0	0	0	0
BENTON	0	0	0	0
BIG STONE	0	0	0	0
BLUE EARTH	0	0	0	0
BROWN	0	0	0	0
CARLTON	0	0	0	0
CARVER	0	0	0	0
CASS	0	0	0	0
CHIPPEWA	0	0	0	0
CHISAGO	0	0	0	0
CLAY	0	0	0	0
CLEARWATER	0	0	0	0
COOK	0	0	0	0
COTTONWOOD	0	0	0	0
CROW WING	0	0	0	0
DAKOTA	0	0	9	0
DODGE	0	0	0	0
DOUGLAS	1	0	0	0
FARIBAULT	0	0	0	0

*Report of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

FILLMORE	0	0	0	0
FREEBORN	0	0	0	0
GOODHUE	0	0	0	0
GRANT	0	0	0	0
HENNEPIN	12	0	0	0
HOUSTON	0	0	0	0
HUBBARD	0	0	0	0
ISANTI	0	0	0	0
ITASCA	0	0	0	0
JACKSON	0	0	0	0
KANABEC	0	0	0	0
KANDIYOHI	0	0	0	0
KITTSON	0	0	0	0
KOOCHICHING	0	0	0	0
LAC QUI PARLE	0	0	0	0
LAKE	0	0	0	0
LAKE OF THE WOODS	0	0	0	0
LE SUEUR	0	0	0	0
LINCOLN	0	0	0	0
LYON	0	0	0	0
MCLEOD	0	0	0	0
MAHONOMEN	0	0	0	0
MARSHALL	0	0	0	0
MARTIN	0	0	0	0
MEEKER	0	0	0	0

*Report of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

MILLE LACS	0	0	0	0
MORRISON	0	0	0	0
MOWER	0	0	0	0
MURRAY	0	0	0	0
NICOLLET	0	0	0	0
NOBLES	0	0	0	0
NORMAN	0	0	0	0
OLMSTED	0	0	0	0
OTTER TAIL	0	0	0	0
PENNINGTON	0	0	0	0
PINE	0	0	0	0
PIPESTONE	0	0	0	0
POLK	0	0	0	0
POPE	0	0	0	0
RAMSEY	0	0	0	0
RED LAKE	0	0	0	0
REDWOOD	0	0	0	0
RENVILLE	0	0	0	0
RICE	0	0	0	0
ROCK	0	0	0	0
ROSEAU	0	0	0	0
SAINTE LOUIS	0	0	0	0
SCOTT	0	0	0	0
SHERBURNE	0	0	0	0
SIBLEY	0	0	0	0

*Report of the Office of U.S. Senator  
Minnesota State Canvassing Report  
January 5, 2009*

STEARNS	0	0	0	0
STEELE	0	0	0	0
STEVENS	0	0	0	0
SWIFT	0	0	0	0
TODD	0	0	0	0
TRAVERSE	0	0	0	0
WABASHA	0	0	1	0
WADENA	0	0	0	0
WASECA	0	0	0	0
WASHINGTON	0	0	0	0
WATONWAN	0	0	0	0
WILKIN	0	0	0	0
WINONA	0	0	0	0
WRIGHT	0	0	0	0
YELLOW MEDICINE	0	0	0	0
STATE OF MINNESOTA (AB)	0	0	0	0
	<u>13</u>	<u>0</u>	<u>12</u>	<u>0</u>



**EXHIBIT B**

ORDER OF MINNESOTA SUPREME COURT  
DATED JANUARY 5, 2009  
REGARDING REJECTED ABSENTEE BALLOTS

STATE OF MINNESOTA

IN SUPREME COURT

A08-2169

OFFICE OF  
APPELLATE COURTS

JAN - 5 2009

**FILED**

Norm Coleman, et al.,

Petitioners,

vs.

Mark Ritchie, Minnesota Secretary of State,  
The Minnesota State Canvassing Board,  
Isanti County Canvassing Board, et al.,

Respondents,

Al Franken for Senate and Al Franken,

Intervenor-Respondents.

ORDER

On December 15, 2008, petitioners Norm Coleman, et al., filed a petition and amended petition under Minn. Stat. § 204B.44 (2006) concerning the election for United States Senator from Minnesota held on November 4, 2008. Petitioners asked the court to order, among other things, that no rejected absentee ballots be counted in the pending administrative recount and that all issues related to such ballots are to be raised, if any party so chooses, in an election contest under Minn. Stat. ch. 209 (2006).

By order filed on December 18, 2008, we granted in part and denied in part the petition. In particular, we ordered candidates Norm Coleman and Al Franken and their campaign representatives, the Secretary of State, and all county auditors and canvassing



boards to establish and implement a process, as expeditiously as practicable, for the purpose of identifying all absentee ballot envelopes that the local election officials and the candidates agree were rejected in error. We further ordered local election officials to identify for the candidates' review those previously rejected absentee ballot envelopes that were not rejected on any of the four bases stated in Minn. Stat. § 203B.12 (2006), or in Minn. Stat. § 203B.24 (2006) for overseas absentee ballots. By order filed on December 24, 2008, on the joint motion of the candidates, the Secretary of State, and local election officials, we modified our December 18 order to provide that any absentee ballot return envelopes that local election officials and the candidates agree were rejected in error be delivered to the Secretary of State, no later than January 2, 2009, to be opened and counted, such count to be completed by January 4, 2009.

Late in the day on December 31, 2008, petitioners filed a motion for an emergency order: (a) directing local election officials to segregate and convey to the Secretary of State's office all rejected absentee ballot envelopes, together with the related applications and any other relevant documentation, that have been identified either by petitioners, by intervenor-respondents Al Franken and the Al Franken for Senate campaign, or by local election officials as having been improperly rejected; and (b) directing the Secretary of State, together with representatives of the Coleman and Franken campaigns, to review the ballot envelopes and other relevant documentation to determine whether they agree that such ballots were in fact wrongly rejected.

On January 2, 2009, we issued an order for accelerated briefing by the Franken campaign and the Secretary of State. We further ordered the counties of Hennepin,

Ramsey, Stearns, Pipestone, Anoka, Sherburne, and St. Louis to inform the court by 9:00 a.m. on Saturday, January 3, as to: (1) whether local election officials, pursuant to our orders, considered the additional rejected absentee ballot envelopes identified by either the Coleman or Franken campaign committees; and (2) if local election officials did not consider such ballot envelopes, the reason or reasons why they did not do so. The court received a response from each of the identified counties, as well as from Rice and Norman counties, from the Franken campaign, and from the Secretary of State. On January 3, petitioners served and filed a motion for leave to file a reply brief and supporting affidavit; the Franken campaign served and filed a motion for leave to file a surreply brief and supporting documentation if petitioners' reply brief was allowed.

The Minnesota legislature has established a two-step statutory procedure for resolving elections, such as this one, in which the difference in the number of votes cast for the candidates is less than one-half of one percent. First, the ballots cast in the election are subject to an automatic recount under Minn. Stat. § 204C.35, subd. 1 (2006). The purpose of the recount is to manually count the undisputed ballots lawfully cast in the election. Second, following the completion of the recount, either party may file an election contest under Minn. Stat. ch. 209 (2006). The purpose of an election contest is to resolve in a judicial forum disputes over, among other things, who received the largest number of votes legally cast in the election. Minn. Stat. § 209.02, subd. 1 (2006).

As with the petition for emergency relief that was the subject of our December 18 order, the threshold question before us in this motion is whether disputes over rejected absentee ballots can be resolved in this automatic recount proceeding, or whether they

must await an election contest proceeding. In our December 18 order, we concluded that because county canvassing boards had already reported the results of their canvasses, county boards could not amend their results except for “obvious errors in the counting or recording of the votes.” Minn. Stat. § 204C.38, .39 (2006). We further concluded, based on the plain meaning of the statutory language, that the improper rejection of absentee ballots is not within the scope of “obvious errors in the counting or recording of votes” under section 204C.38 or .39. The underlying reason for this conclusion is that the statute limits “obvious errors” to counting and recording errors, and not disputes over the validity of particular ballots. We therefore declined to reach the merits of the campaigns’ respective positions on whether absentee ballots had been properly or improperly rejected.

Separately, we observed that, where election officials and the parties agree that an absentee ballot was improperly rejected, correction of that error should not have to await an election contest. We therefore ordered that any absentee ballot envelope that local election officials and the candidates agree was rejected in error should be opened and its ballot counted, subject to challenge by either candidate. In doing so, we implicitly recognized that any agreement among the parties was voluntary and, absent such an agreement, resolution of those disputed ballots would need to await an election contest proceeding.

The record before us with respect to petitioners’ motion demonstrates that local election officials have acted diligently and in accordance with our orders, and together with the candidates have agreed upon more than 900 rejected absentee ballots, which

have now been opened and counted by the Secretary of State's office. The Coleman campaign contends that there are 654 ballots, in addition to those identified by local election officials, that should be examined, but the Franken campaign disagrees. The Franken campaign has itself identified additional ballots that it contends may have been rejected in error, but the Coleman campaign disagrees. We take no position on the merits of either campaign's contentions. Because the parties and the respective counties have not agreed as to any of these additional ballots, the merits of this dispute (and any other disputes with respect to absentee ballots) are the proper subjects of an election contest under Minn. Stat. ch. 209.

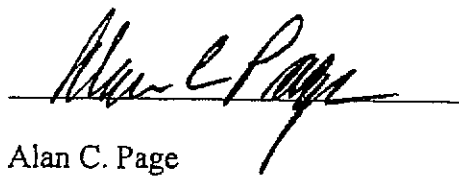
Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Petitioners' motion be, and the same is, denied.
2. Petitioners' motion to accept their reply brief be, and the same is, denied as moot.
3. The motion of intervenor-respondents to strike the affidavit of James Langdon and to accept their surreply brief be, and the same is, denied as moot.

Dated: January 5, 2009

BY THE COURT:



Alan C. Page  
Associate Justice

MAGNUSON, C.J., and ANDERSON, G. BARRY, J., took no part in the consideration or decision of this matter.



**EXHIBIT B-1**

REPRESENTATIVE EXAMPLES OF REJECTED ABSENTEE BALLOT ENVELOPES  
PROPOSED FOR OPENING AND COUNTING BY THE  
COLEMAN FOR SENATE CAMPAIGN BUT WHICH WERE NOT  
OPENED OR COUNTED BY THE MINNESOTA SECRETARY OF STATE  
DURING THE RECOUNT



GROUP A

ENVELOPES MARKED "ACCEPTED"





PLACE WITHIN LARGE RETURN MAILING ENVELOPE #3

TO BE COMPLETED BY VOTER	
VOTER'S NAME (PLEASE PRINT) LORAYNE C Wernicke	
VOTER'S ADDRESS (PLEASE PRINT) 1455 W 4th Apt #319	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE Lorayne Wernicke	DATE 10-22-08
TO BE COMPLETED BY WITNESS	
I certify that the voter <ul style="list-style-type: none"> <li>showed me the blank ballots before voting;</li> <li>marked the ballots in secrecy or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;</li> <li>enclosed and sealed the ballots in the secrecy envelope;</li> <li>registered to vote by filling out and enclosing a voter registration card in the ballot envelope; and</li> <li>provided proof of residence as indicated below.</li> </ul>	
NAME OF WITNESS (PLEASE PRINT) Bonnie Myers	
ADDRESS OF WITNESS (PLEASE PRINT) 162 Hilbert St Winona MN	
SIGNATURE OF WITNESS B. Myers	DATE 10-22-08
TITLE OF WITNESS (IF AN OFFICIAL)	
PROOF OF RESIDENCE USED BY VOTER	
<input type="checkbox"/> MN Driver's License/Perm/ID Card/Tribal ID or receipt with current address. Number _____ <input type="checkbox"/> Utility bill plus a MN Driver's license/ID Card/Tribal ID, U.S. Passport, U.S. Military ID card with picture, or student ID Card with picture. Number _____ <input type="checkbox"/> Previous registration in the same precinct. <input type="checkbox"/> Student ID Number: _____ <input type="checkbox"/> Notice of Late Registration from county auditor or municipal clerk <input checked="" type="checkbox"/> Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the next three lines.)	
VOUCHER'S NAME (PLEASE PRINT) Arlene R. Compton	
VOUCHER'S ADDRESS (PLEASE PRINT) 1031 W Wabasha Winona MN 55987	
VOUCHER'S SIGNATURE	
FOR OFFICE USE ONLY	
<input checked="" type="checkbox"/> ACCEPTED Registered	<input type="checkbox"/> REJECTED Reason _____

ENVELOPE B PRECINCT #1 20

FOR OFFICE USE ONLY
ACCEPTED [X] REJECTED [ ] Reason

TO BE COMPLETED BY VOTER
VOTER'S NAME (PLEASE PRINT) William Turgeon
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT) 3508 Glenview Rd. MN 55112

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE [Signature] DATE 10/31/08

TO BE COMPLETED BY WITNESS

- I certify that the voter
• showed me the blank ballots before voting;
• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
• enclosed and sealed the ballots in the secrecy envelope;
• registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and
• provided proof of residence as indicated below.

NAME OF WITNESS (PLEASE PRINT) Ron Brezinka
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) 3508 Glenview Rd. MN 55112
SIGNATURE OF WITNESS [Signature] DATE 10-31-08
TITLE OF WITNESS (IF AN OFFICIAL)


PROOF OF RESIDENCE USED BY VOTER

- Witness - please check one:
[ ] MN Driver's License/Permit/ID Card or receipt with current address. Number:
[ ] Tribal ID card with name, address, signature, and current address.
[ ] Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. passport, U.S. military ID card with picture, or student ID card with picture. Number:
[X] Previous registration in the same precinct.
[ ] Notice of Late Registration from county auditor or municipal clerk.
[ ] Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)
[ ] Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)

VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT) Ron Brezinka
VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT) 3508 Glenview Rd Arden Hills. mn 55112
VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT) 651-330-5975
VOUCHER'S SIGNATURE [Signature]

**IMPORTANT!**

Insert Ballot Secrecy Envelope, and then seal this flap.

TO BE COMPLETED BY VOTER	
VOTER'S	
	267278 STG 11/04/2008 ML PCT R B377986
VOTER'S	19 4450 006 SOUTH ST PAUL P-5 W-3
	KENNETH ALAN HIPPLER
	222 MACARTHUR ST E ENV#2 MN
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE	DATE
<i>Kenneth A. Hippler</i>	<i>10-6-2008</i>
TO BE COMPLETED BY WITNESS	
I certify that the voter	
<ul style="list-style-type: none"><li>• showed me the blank ballots before voting;</li><li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and</li><li>• enclosed and sealed the ballots in the secrecy envelope.</li></ul>	
NAME OF WITNESS (PLEASE PRINT)	
<i>Colleen A. Hippler</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)	
<i>2025 Duffley Rd EAGAN MN</i>	
SIGNATURE OF WITNESS	DATE
<i>Colleen A. Hippler</i>	<i>10/7/08</i>
TITLE OF WITNESS (IF AN OFFICIAL)	

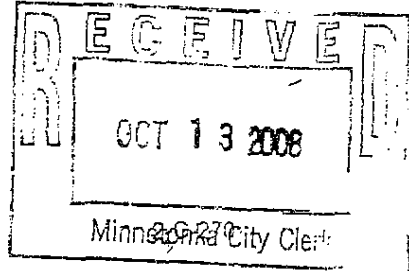
FOR OFFICE USE ONLY	
<input checked="" type="checkbox"/> ACCEPTED	<i>cu</i>
<input type="checkbox"/> REJECTED	<i>eb</i>

At Ballot Secrecy Envelope and Voter Application, Then Seal this flap first.

<b>TO BE COMPLETED BY VOTER</b>	
VOTER'S NAME	
VOTER'S MINN	414170 STG 11/04/2008 IP PCT NR B526446 19 4410 008 SOUTH ST PAUL P-1 W-1 CAROLINE MONIC NIND 1551 WILLIS AVE APT 1C ENV#2
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE	DATE 11-3-08 MN
<b>TO BE COMPLETED BY WITNESS</b>	
I certify that the voter • showed me the blank ballots before voting; • marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; • enclosed and sealed the ballots in the secrecy envelope; • registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and • provided proof of residence as indicated below.	
NAME OF WITNESS (PLEASE PRINT)	Carol Hellmink MN
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)	Dakota County
SIGNATURE OF WITNESS	DATE 11-3-08
TITLE OF WITNESS (IF AN OFFICIAL)	deputy
<b>PROOF OF RESIDENCE USED BY VOTER</b>	
Witness—please check one:	
<input checked="" type="checkbox"/> MN Driver's License/Permit/ID Card <small>with current address</small>	
<input type="checkbox"/> Tribal ID card with name, current address, signature, and picture	
<input type="checkbox"/> Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture.	
<input type="checkbox"/> Previous registration in the same precinct.	
<input type="checkbox"/> Notice of late registration from county auditor or municipal clerk.	
<input type="checkbox"/> Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)	
<input type="checkbox"/> Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)	
VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S SIGNATURE	
<b>FOR OFFICE USE ONLY</b>	
<input checked="" type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	
Reason	

BK  
1/08

# INSERT BALLOT SECRET ENVELOPE AND SEAL



OKE O MARTINSON  
11201 FAIRFIELD RD #107  
MINNETONKA, MN 55305  
(R)



I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE DATE  
*Oke O Martinson* 10/14/08

\*

↓ TO BE COMPLETED BY WITNESS ↓

I certify that the voter

- showed me the blank ballots before voting;
- marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and
- enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT)  
*Briice Matheson*

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)  
*6100 Ridgeway Rd,  
Edina, MN 55436* MN

SIGNATURE OF WITNESS DATE  
*Briice Matheson* 10/14/08

TITLE OF WITNESS (IF AN OFFICIAL)

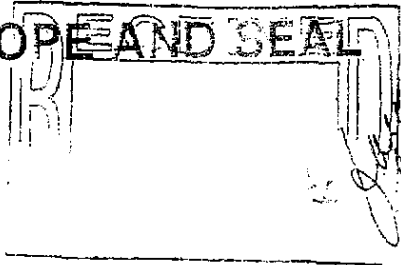
↓ FOR OFFICE USE ONLY ↓

ACCEPTED

REJECTED *MS* *MS*

Reason

INSERT BALLOT SECRECY  
ENVELOPE AND SEAL



*Handwritten notes:*  
I should be  
advised to  
affix  
appt

CATHERINE L WELLS PARDIECK  
270  
11201 FAIRFIELD RD #418  
MINNETONKA, MN 55305  
(NR)

2-C-



I certify that on election day I will meet all the legal requirements to  
vote by absentee ballot.

VOTER'S SIGNATURE

DATE

*Catherine L. Wells Pardieck*

*11/23/08*

TO BE COMPLETED BY WITNESS

I certify that the voter  
showed me the blank ballots before voting;  
marked the ballots in private or, if physically unable to mark the  
ballots, the ballots were marked as directed by the voter; and  
enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT)

*Dana R. Florine*

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA  
(PLEASE PRINT)

*4795 Ferncroft dr.  
LYLESDALE, MN 55800* MN

SIGNATURE OF WITNESS

DATE

*Dana R. Florine*

*11/23/2008*

TITLE OF WITNESS (IF AN OFFICIAL)

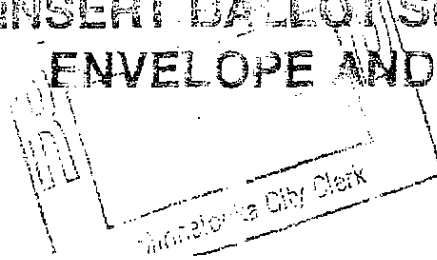
\_\_\_\_\_

FOR OFFICE USE ONLY

ACCEPTED

REJECTED \_\_\_\_\_ Reason *MM*

# INSERT BALLOT SECRECY ENVELOPE AND SEAL



MARILYN R. SHAVER  
5703 SEVEN OAKS CT  
MINNETONKA, MN 55345  
(NR)

1-A-270



I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE <i>Marilyn R. Shaver</i>	DATE 10-22-08
<b>TO BE COMPLETED BY WITNESS</b>	
I certify that the voter	
<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> showed me the blank ballots before voting; <span style="float: right;"><i>yes</i></span></li> <li><input checked="" type="checkbox"/> marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; <span style="float: right;"><i>yes</i></span></li> <li><input checked="" type="checkbox"/> enclosed and sealed the ballots in the secrecy envelope; <span style="float: right;"><i>yes</i></span></li> <li><input checked="" type="checkbox"/> registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and <span style="float: right;"><i>yes</i></span></li> <li><input checked="" type="checkbox"/> provided proof of residence as indicated below. <span style="float: right;"><i>yes</i></span></li> </ul>	
NAME OF WITNESS (PLEASE PRINT) <i>J. Clinton Shaver</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) <i>5703 Seven Oaks Ct. MN</i>	
SIGNATURE OF WITNESS <i>Jesse Clinton Shaver</i>	DATE
TITLE OF WITNESS (IF AN OFFICIAL)	
<b>PROOF OF RESIDENCE USED BY VOTER</b>	
Witness—please check one:	
<input type="checkbox"/> MN Driver's License/Perm ID Card or receipt with current address Number <span style="background-color: black; color: black;">XXXXXXXXXX</span>	
<input type="checkbox"/> Tribal ID card with name, current address, signature, and picture	
<input type="checkbox"/> Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture. Number _____	
<input type="checkbox"/> Previous registration in the same precinct.	
<input type="checkbox"/> Notice of late registration from county auditor or municipal clerk.	
<input type="checkbox"/> Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)	
<input type="checkbox"/> Employee of a residential facility in the precinct who vouched for absentee voter's residence of the facility. (Please complete the three voucher lines below.)	
VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT) <i>Jesse Clinton Shaver</i>	
VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT) <i>5703 Seven Oaks Ct. MN 55345</i>	
VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT) <i>952929529410442</i>	
VOUCHER'S SIGNATURE <i>J. Clinton Shaver</i>	
<b>FOR OFFICE USE ONLY</b>	
<input checked="" type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED Reason <i>11-11-08</i>	



# INSERT BALLOT SECRECY ENVELOPE AND SEAL

NOV - 4 2008  
COUNTY AUDITOR TERRY  
MCWEE

**TO BE COMPLETED BY VOTER**

VOTER'S NAME (PLEASE PRINT)  
*Victor Fred Schlinger*

VOTER'S MINNESOTA ADDRESS (PLEASE PRINT)  
*1401 4th St SW Austin MN*

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.  
VOTER'S SIGNATURE *Victor Fred Schlinger* DATE *11/1/2008*

- TO BE COMPLETED BY WITNESS**
- I certify that the voter
- showed me the blank ballots before voting;
  - marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
  - enclosed and sealed the ballots in the secrecy envelope;
  - registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and
  - provided proof of residence as indicated below.

NAME OF WITNESS (PLEASE PRINT)  
*Bernice A Schlinger*

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)  
*1401 4th St SW Austin MN*

SIGNATURE OF WITNESS *Bernice A Schlinger* DATE *11/1/2008*

TITLE OF WITNESS (IF AN OFFICIAL)

**PROOF OF RESIDENCE USED BY WITNESS**

- Witness—please check one:
- MN Driver's License/Permit/ID Card or receipt with current address Number \_\_\_\_\_
  - Tribal ID card with name, current address, signature, and picture
  - Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture. Number \_\_\_\_\_
  - Previous registration in the same precinct.
  - Notice of late registration from county auditor or municipal clerk.
  - Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)
  - Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)

VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)  
*Bernice Schlinger*

VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)  
*1401 4th St SW Austin MN 55912*

VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)  
*507-437-2080*

VOUCHER'S SIGNATURE *Bernice Schlinger*

**FOR OFFICE USE ONLY**

ACCEPTED \_\_\_\_\_ REJECTED \_\_\_\_\_

# INSERT BALLOT SECRECY ENVELOPE AND SEAL

NOV - 4 2008  
ADVISORY - COUNTY CLERK

<b>FOR OFFICE USE ONLY</b>	
VOTER'S NAME (PLEASE PRINT)	
GRACE M HILLIER	
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT)	
1401 4 <sup>th</sup> ST. S.W. APR. 304 MN	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE	DATE
Grace M. Hillier	10-21-08
<b>TO BE COMPLETED BY WITNESS</b>	
I certify that the voter	
<ul style="list-style-type: none"> <li>• showed me the blank ballots before voting;</li> <li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;</li> <li>• enclosed and sealed the ballots in the secrecy envelope;</li> <li>• registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and</li> <li>• provided proof of residence as indicated below.</li> </ul>	
NAME OF WITNESS (PLEASE PRINT)	
David Hillier	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)	
1613 31 <sup>st</sup> St SW Austin MN	
SIGNATURE OF WITNESS	DATE
David Hillier	10-21-08
TITLE OF WITNESS (IF AN OFFICIAL)	
<b>PROOF OF RESIDENCE USED BY VOTER</b>	
Witness—please check one:	
<input checked="" type="checkbox"/> MN Driver's License/Ident ID Card or receipt with current address Number <span style="background-color: black; color: black;">XXXXXXXXXX</span>	
<input type="checkbox"/> Tribal ID card with name, current address, signature, and picture	
<input type="checkbox"/> Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture. Number _____	
<input type="checkbox"/> Previous registration in the same precinct.	
<input type="checkbox"/> Notice of late registration from county auditor or municipal clerk.	
<input type="checkbox"/> Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)	
<input type="checkbox"/> Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)	
VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S SIGNATURE	
<b>FOR OFFICE USE ONLY</b>	
ACCEPTED <input type="checkbox"/> REJECTED <input type="checkbox"/>	

Certificate of Eligibility

TO BE COMPLETED BY VOTER

VOTER'S NAME (PLEASE PRINT)

Ashley Zartner

VOTER'S PRESENT HOME ADDRESS IN MINNESOTA (PLEASE PRINT)

37 College Ave. S, 1964  
St. Joseph, MN 56374

CITY OR TOWN (PLEASE PRINT)

St. Joseph

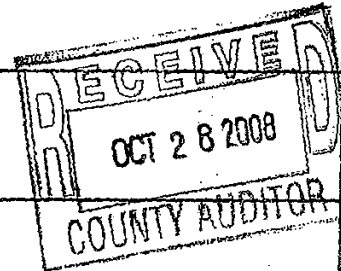
COUNTY (PLEASE PRINT)

Stearns

TELEPHONE NUMBER (OPTIONAL)

CURRENT EMAIL ADDRESS (OPTIONAL)

amzartner@csbsju.edu



I swear or affirm, under penalty of perjury, that I am:

- a member of the uniformed services or merchant marine on active duty or an eligible spouse or dependent of such a member;
- a United States citizen (temporarily residing outside the United States);
- other United States citizen residing outside the United States

and I am a United States citizen at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; I have never been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States except the jurisdiction cited in this voting form.

In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under state or federal law. I have not been influenced.

My signature and date below indicate when I completed this document. The information on this form is true, accurate and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction of perjury.

I.D. NUMBER (Passport number, Driver's License or State Identification Card number, or the last four digits of the voter's Social Security Number as provided on the absentee ballot application): 9587

VOTER'S SIGNATURE

*Ashley Zartner*

DATE

10/21/2008

FOR OFFICE USE ONLY

ACCEPTED

APPROVED

Reason

*CH*

*Rejected P-1*

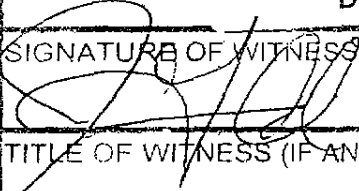
# INSERT BALLOT SECRECY ENVELOPE AND SEAL

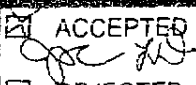
TO BE COMPLETED BY VOTER	
VOTER'S NAME (PLEASE PRINT) Timothy A. Duerr	
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT) 6851 10th St NE MN	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE <i>Timothy A. Duerr</i>	DATE 10/30/08
TO BE COMPLETED BY WITNESS	
I certify that the voter • showed me the blank ballots before voting; • marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and • enclosed and sealed the ballots in the secrecy envelope.	
NAME OF WITNESS (PLEASE PRINT) Carla J. Blasing	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) City Hall MN	
SIGNATURE OF WITNESS <i>Carla J. Blasing</i>	DATE 10-30-08
TITLE OF WITNESS (IF AN OFFICIAL)	

FOR OFFICE USE ONLY	
<input checked="" type="checkbox"/> ACCEPTED <i>CB</i>	
<input type="checkbox"/> REJECTED _____	Reason

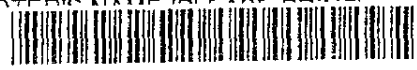
**IMPORTANT!**  
Insert Ballot Secrecy Envelope, and then Seal this flap.

Woodbury P3 834

TO BE COMPLETED BY VOTER	
VOTER'S NAME (PLEASE PRINT) Trina Finches	
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT) 11084 Cresthaven Trl MN	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE Trina Finches	DATE 11-3-08
TO BE COMPLETED BY WITNESS	
I certify that the voter • showed me the blank ballots before voting; • marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and • enclosed and sealed the ballots in the secrecy envelope.	
NAME OF WITNESS (PLEASE PRINT)	
ADDRESS OF (PLEASE PRINT) JOSHUA A GILLEN WASHINGTON COUNTY DEPUTY	OTA Date: ___/___/2008 MN
SIGNATURE OF WITNESS 	DATE 11/3/08
TITLE OF WITNESS (IF AN OFFICIAL)	

FOR OFFICE USE ONLY	
<input checked="" type="checkbox"/> ACCEPTED 	
<input type="checkbox"/> REJECTED	Reason _____

**▼ TO BE COMPLETED BY VOTER ▼**

VOTER'S NAME (PLEASE PRINT)  
  
230809 STG 11/04/2008 ML PCT R 8322669  
82 0425 0833 WOODBURY P-13  
KARLA SUE CLARK  
5850 TOWER DR ENV#2

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE <i>Karla S. Clark</i>	DATE 10-28-08
--------------------------------------------	------------------

**▼ TO BE COMPLETED BY WITNESS ▼**

I certify that the voter:

- showed me the blank ballots before voting;
- marked the ballots in secrecy or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and
- enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT)  
STEPHEN CLARK

ADDRESS OF WITNESS (PLEASE PRINT)  
5850 TOWER DR. WOODBURY MN, 55129

SIGNATURE OF WITNESS <i>Stephen Clark</i>	DATE 10-28-08
----------------------------------------------	------------------

TITLE OF WITNESS (IF AN OFFICIAL)

**▼ FOR OFFICE USE ONLY ▼**

ACCEPTED  REJECTED \_\_\_\_\_  
Registered *[Signature]* Reason

**IMPORTANT!**  
Insert Ballot Secrecy Envelope, and then seal this flap.

TO BE COMPLETED BY VOTER	
VOTER'S N°	337904 STG 11/04/2008 ML PCT R B449058 82 0175 0834 LAKE ELMO P-1
VOTER'S NAME	JESSICA ANN JECHORT 11035 33RD ST N
ENV#2	MN
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE	DATE
<i>Jessica Ann Jechort</i>	10-20-08
TO BE COMPLETED BY WITNESS	
I certify that the voter	
<ul style="list-style-type: none"><li>• showed me the blank ballots before voting;</li><li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and</li><li>• enclosed and sealed the ballots in the secrecy envelope.</li></ul>	
NAME OF WITNESS (PLEASE PRINT)	
<i>Kelsey Ranfranz-Fisher</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)	
<i>2182 Granite Circle NW Rochester, MN 55901</i>	
MN	
SIGNATURE OF WITNESS	DATE
<i>Kelsey Ranfranz-Fisher</i>	10-19-08
TITLE OF WITNESS (IF AN OFFICIAL)	

3029

FOR OFFICE USE ONLY	
<input checked="" type="checkbox"/> ACCEPTED	
<input type="checkbox"/> REJECTED	Reason _____

A

?

NO LATE BALLOTS  
OCT - 7 2008

Stillwater

**TO BE COMPLETED BY VOTER**

VOTER'S NAME (PLEASE PRINT)



VOT 236421 STG 11/04/2008 ML PCT R B338299  
92 0310 0834 STILLWATER W-2 P-5  
NANCY CAROL CARMICHAEL  
620 MAIN ST APT 216

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE

DATE

*Nancy Carmichael*

*10/05/08*

**TO BE COMPLETED BY WITNESS**

I certify that the voter:

- showed me the blank ballots before voting;
- marked the ballots in secrecy or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and
- enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT)

*DALE CAR MICHAEL*

ADDRESS (IF WITNESS (PLEASE PRINT)

*620 N MAIN ST #16  
STILLWATER, MA 55082*

SIGNATURE OF WITNESS

DATE

*Dale Carmichael*

*10/5/08*

TITLE OF WITNESS (IF AN OFFICIAL)

CLASO

**FOR OFFICE USE ONLY**

ACCEPTED

REJECTED

Reason

Registered

*BWJ  
SM*



CITY OF STILLWATER

CITY of Stillwater  
16 North 4th  
Stillwater, MN 55082

**TO BE COMPLETED BY VOTER**

VOTER'S NAME (PLEASE PRINT)  
Carmen Mancino

VOTER'S ADDRESS (PLEASE PRINT)  
610 W. 3<sup>rd</sup> Street Stillwater, MN 55082

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE DATE  
*Carmen Mancino* 10/27/08

**TO BE COMPLETED BY WITNESS**

I certify that the voter  
• showed me the blank ballots before voting;  
• marked the ballots in secrecy or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;  
• enclosed and sealed the ballots in the secrecy envelope;  
• registered to vote by filling out and enclosing a voter registration card in the ballot envelope; and  
• provided proof of residence as indicated below.

NAME OF WITNESS (PLEASE PRINT)  
Nicholas Lande

ADDRESS OF WITNESS (PLEASE PRINT)  
1238 Thorene Place Stillwater MN

SIGNATURE OF WITNESS DATE  
*Nicholas Lande* 10/27/08

TITLE OF WITNESS (IF AN OFFICIAL)

**PROOF OF RESIDENCE USED BY VOTER**

Witness - please check one:  
 MN Driver's License/Permit/ID Card/Tribal ID or receipt with current address. Number: XXXXXXXXXX  
 Utility bill plus a MN Driver's License/ID card/Tribal ID, U.S. Passport, U.S. Military ID card with picture, or student ID card with picture. Number: \_\_\_\_\_  
 Previous registration in the same precinct.  
 Student ID. Number: \_\_\_\_\_  
 Notice of Late Registration from county auditor or municipal clerk.  
 Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the next three lines.)

VOUCHER'S NAME (PLEASE PRINT)

VOUCHER'S ADDRESS (PLEASE PRINT)

VOUCHER'S SIGNATURE

**FOR OFFICE USE ONLY**

ACCEPTED  REJECTED  
Non-Resident *RA* Reason

**IMPORTANT!**

Insert Ballot Secrecy Envelope, and then seal this flap.

↓ TO BE COMPLETED BY VOTER ↓	
VOTER'S NAME (PLEASE PRINT) <i>Matthew Stebbins</i>	
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT) <i>19101 Cobler Ave, Rosemount, MN</i>	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE <i>Matthew Stebbins</i>	DATE <i>10/26</i>
↓ TO BE COMPLETED BY WITNESS ↓	
I certify that the voter • showed me the blank ballots before voting; • marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and • enclosed and sealed the ballots in the secrecy envelope.	
NAME OF WITNESS (PLEASE PRINT) <i>Kara Ekholm</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) <i>11345 Albana Path, Inver Grove Heights MN</i>	
SIGNATURE OF WITNESS <i>Kara Ekholm</i>	DATE <i>10/26</i>
TITLE OF WITNESS (IF AN OFFICIAL)	

25

↓ FOR OFFICE USE ONLY ↓	
ACCEPTED <i>AWC</i>	<i>CAW</i>
REJECTED	

**IMPORTANT!**


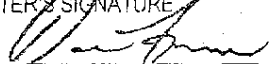


Insert Ballot Secrecy Envelope, and then seal this flap.

TO BE COMPLETED BY VOTER	
VOTER'S NAME (PLEASE PRINT)	
Jessica Theisen	
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT)	
13166 Danube Ln Rosemount MN	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE	DATE
	11-3-08
TO BE COMPLETED BY WITNESS	
I certify that the voter	
<ul style="list-style-type: none"><li>• showed me the blank ballots before voting;</li><li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and</li><li>• enclosed and sealed the ballots in the secrecy envelope.</li></ul>	
NAME OF WITNESS (PLEASE PRINT)	
Cheryl Coughlin	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)	
2685-125 <sup>th</sup> S.W. Rosemount MN	
SIGNATURE OF WITNESS	DATE
	11/03/08
TITLE OF WITNESS (IF AN OFFICIAL)	

FOR OFFICE USE ONLY	
<input checked="" type="checkbox"/> ACCEPTED	
<input type="checkbox"/> REJECTED	

IMPORTANT! Insert Ballot Secret  
Registration Application. Then

12/28

TO BE COMPLETED BY VOTER	
VOTER'S NAME	
	
322662 STG 11/04/2008 ML PCT NR 2433641	
VOTER'S MINNI 19 2800 199 INVER GROVE HTS P-10	
DANIEL JAMES FRANSON	
4697 BLAINE AVE E ENV#2 MN	
I certify that on election day, I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE	DATE
	10-28-08
TO BE COMPLETED BY WITNESS	
I certify that the voter	
<ul style="list-style-type: none"><li>• showed me the blank ballots before voting;</li><li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;</li><li>• enclosed and sealed the ballots in the secrecy envelope;</li><li>• registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and</li><li>• provided proof of residence as indicated below.</li></ul>	
NAME OF WITNESS (PLEASE PRINT)	
Shannon Franson	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)	
4697 Blaine Ave, Inver Grove Heights MN	
SIGNATURE OF WITNESS	DATE
	10/28/08
TITLE OF WITNESS (IF AN OFFICIAL)	
PROOF OF RESIDENCE USED BY VOTER	
Witness—please check one:	
<input checked="" type="checkbox"/> MN Driver's License/Permit/ID Card or receipt with current address Number _____	
<input type="checkbox"/> Tribal ID card with name, current address, signature, and picture	
<input type="checkbox"/> Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture. Number _____	
<input type="checkbox"/> Previous registration in the same precinct.	
<input type="checkbox"/> Notice of late registration from county auditor or municipal clerk.	
<input type="checkbox"/> Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)	
<input type="checkbox"/> Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)	
VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
Shannon Franson	
VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
4697 Blaine Ave Inver Grove Heights, MN 55076	
VOUCHER'S TELEPHONE NUMBER, OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
651-331-1262	
VOUCHER'S SIGNATURE	
	
FOR OFFICE USE ONLY	
ACCEPTED/REJECTED <i>11/2</i> <i>4/11</i>	

**IMPORTANT!**

Put Ballot Secrecy Envelope, and then seal this flap.

**TO BE COMPLETED BY VOTER**

VOTER'S NAME



384653 STG 11/04/2008 ML PCT R B496715

VOTER'S MAIL

19 2220 192 FARMINGTON P-2  
MATTHEW JAMES NEWBERGER

374 TAMARACK TRL

ENV#2

MN

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE

*Matthew Newberger*

DATE

*11/2/08*

**TO BE COMPLETED BY WITNESS**

I certify that the voter  
showed me the blank ballots before voting;  
marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT)

*Philip Ures*

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)

*374 Tamarack Trail, Farmington*

MN

SIGNATURE OF WITNESS

*[Signature]*

DATE

*11/2/08*

TITLE OF WITNESS (IF AN OFFICIAL)

**FOR OFFICE USE ONLY**

ACCEPTED

*[Signature]*

REJECTED

Reason

**IMPORTANT!**

Not Secrecy Envelope, and then seal this flap.

*Helen Truitt*

**TO BE COMPLETED BY VOTER**

VOTER'S NAME (PLEASE PRINT) *TRUITT*



VOTER ID: 29576 STG 11/04/2008 ML PCT NR 8440586  
19 4410 006 SOUTH ST PAUL P-1 W-1  
HELEN HELSETH TRUITT  
744 19TH AVE N APT 208 ENV#2

PRINTED ADDRESS: 744-19 AVE N  
S ST PAUL MN

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

**TO BE COMPLETED BY WITNESS**

I certify that the voter  
• showed me the blank ballots before voting;  
• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and  
• enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT) *Delores E. Johnson*

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)  
*7948 CHARLESWAY FB H. MN*

SIGNATURE OF WITNESS *Delores E. Johnson* DATE *10-19-08*

TITLE OF WITNESS (IF AN OFFICIAL)

**FOR OFFICE USE ONLY**

ACCEPTED *SO W*  
 REJECTED

**INSERT BALLOT SECRECY ENVELOPE AND SEAL**



*address matches with is of Justice R. Harris*

DARLENE J HARRIS  
11201 FAIRFIELD RD #217  
MINNETONKA, MN 55305  
(R)

2-C-270



I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE *Darlene J. Harris* DATE *10/14/08*

**TO BE COMPLETED BY WITNESS**

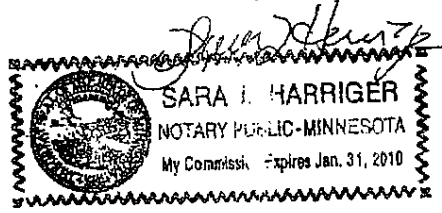
I certify that the voter  
 showed me the blank ballots before voting;  
 marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT)  
*Sara L. Harriger*

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)  
  
MN

SIGNATURE OF WITNESS *Sara L. Harriger* DATE *10/14/08*

TITLE OF WITNESS (IF AN OFFICIAL)  
*Notary Public*



**FOR OFFICE USE ONLY**

ACCEPTED  
 REJECTED *MS*  
 Reason

# INSERT BALLOT SECRECY ENVELOPE AND SEAL

*reject  
no  
signature*

KATHLEEN A SCHMIDT  
5136 WILLOW LN  
MINNETONKA, MN 55345  
(NR)

2008

4-C-276



I certify that on election day I will meet all the legal requirements to vote by absentee ballot.  
VOTER'S SIGNATURE DATE

*Kathleen A. Schmidt* 10-30-08

### TO BE COMPLETED BY WITNESS

- I certify that the voter:
- showed me the blank ballots before voting;
  - marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
  - enclosed and sealed the ballots in the secrecy envelope;
  - registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and
  - provided proof of residence as indicated below.

NAME OF WITNESS (PLEASE PRINT)

*Richard George Schmidt*

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)

*5136 Willow Lane, Minnetonka* MN

SIGNATURE OF WITNESS DATE

*[Signature]* 10-30-08

TITLE OF WITNESS (IF AN OFFICIAL)

### PROOF OF RESIDENCE USED BY VOTER

- Witness—please check one:
- MN Driver's License/Perm/ID Card or receipt with current address Number *[redacted]*
  - Tribal ID card with name, current address, signature, and picture
  - Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture. Number \_\_\_\_\_
  - Previous registration in the same precinct.
  - Notice of late registration from county auditor or municipal clerk.
  - Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)
  - Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)

VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

*Kathleen Ann Schmidt*

VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

*5136 Willow Lane, Minnetonka, MN 55345*

VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

*(952) 474-7391*

VOUCHER'S SIGNATURE

*Kathleen A. Schmidt*

FOR OFFICE USE ONLY  
 ACCEPTED  REJECTED Reason *[Signature]*






**GROUP B**

**ENVELOPES NOT MARKED "ACCEPTED" OR "REJECTED" BUT  
WHICH SHOULD HAVE BEEN ACCEPTED**

**IMPORTANT!**

Insert Ballot Secrecy Envelope, and then seal this flap.

SUSAN J DALIN 19146 INNDALE DR LAKEVILLE, MN 55044 (R)			
VO1			MN
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.			
VOTER'S SIGNATURE		DATE	
<i>Susan J Dalin</i>		<i>10-31-08</i>	
<b>TO BE COMPLETED BY WITNESS</b>			
I certify that the voter			
<ul style="list-style-type: none"><li>• showed me the blank ballots before voting;</li><li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and</li><li>• enclosed and sealed the ballots in the secrecy envelope.</li></ul>			
NAME OF WITNESS (PLEASE PRINT)			
<i>Colleen Mutzabaugh</i>			
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)			
<i>5500 35th Ave. So. Mpls</i>			
		MN	
SIGNATURE OF WITNESS		DATE	
<i>Colleen Mutzabaugh</i>		<i>10/31/08</i>	
TITLE OF WITNESS (IF AN OFFICIAL)			

<b>FOR OFFICE USE ONLY</b>	
<input type="checkbox"/>	ACCEPTED
<input type="checkbox"/>	REJECTED

Absentee Ballot Application

329327 STG HL PCT R 10/14 10/14 330914

Return this application as soon as possible.  
 I hereby apply for an absentee ballot for: (check one)

<input type="checkbox"/> Both primary and general elections	<input type="checkbox"/> Absence from the precinct
<input type="checkbox"/> Primary only	<input type="checkbox"/> Illness or disability
<input checked="" type="checkbox"/> General election only	<input type="checkbox"/> Religious discipline or observance of religious holiday
<input type="checkbox"/> Special election (date) _____	<input type="checkbox"/> Service as election judge in another precinct
<input type="checkbox"/> Other (date) _____	<input type="checkbox"/> Eligible emergency declared by the governor or quarantine declared by federal or state government.

Name (please print)  
**JASON Allen KADERLIK**

My legal residence address is:  
 Street Address: **15392 Shieldsville Blvd** Apt. No. \_\_\_\_\_ City: **FARIBAULT** State: **MN** Zip Code: **55021**

Mail my absentee ballot to me at the following address:  
 Street Address: **15392 Shieldsville Blvd** Apt. No. \_\_\_\_\_ City/Township: **FARIBAULT** State: **MN** Zip Code: **55021**

Date: **9/25/08** Signature X **X** *[Signature]*

Office Use Only

REG	NOV REG	NOV REG	NOV REG	NOV REG	NOV REG	NOV REG	NOV REG	NOV REG	NOV REG
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Instructions for Completing the Absentee Ballot Application

- To vote by absentee ballot, you must be an eligible voter and you must reside at the legal residence address you give on this application on Election Day. It is a felony to make a false statement in an application for an absentee ballot, to apply for an absentee ballot more than once in an election with the intent to cast an illegal ballot, to show a ballot marked by a person to another person, or to violate an absentee ballot provision for the purpose of casting an illegal vote or to help anyone to cast an illegal vote.
- Be sure to check the appropriate box indicating why you cannot go to your polling place on Election Day; these are the only reasons that entitle you to vote by absentee ballot.
- Be sure to give your correct legal residence address as completely as possible, since this is used to verify your precinct number.
- Be sure to sign the application. If you cannot sign your name, you may make a mark.
- Return the completed application as soon as possible to the election official from whom you received this form.

Remember:

- You must indicate whether you are requesting ballots for the primary or general election, or both.
- Do not submit more than one application for each election.
- Your absentee ballots will be mailed or delivered to you as soon as they are available.

Please go to the following link for more information on the Minnesota absentee ballot:  
<http://www.sos.state.mn.us/home/index.asp?page=211#generalabsenteeinfo>

INSERT BALLOT SECRETLY  
 ENVELOPE AND SEAL

TO BE COMPLETED BY VOTER

VCT: 329327 STG 11:0472006 HL PCT R 8440337

VCT: 55 0145 838 WELLS TWP.  
 JASON A KADERLIK  
 15392 SHIELDSVILLE BLVD EN92 MN

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE: **JASON KADERLIK** (MK) DATE: **10/27/08**

TO BE COMPLETED BY WITNESS

I certify that the voter showed me the blank ballots before voting; marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT): **MARK KADERLIK**

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT): **15392 Shieldsville Blvd Faribault MN**

SIGNATURE OF WITNESS: *[Signature]* DATE: **10/27/08**

TITLE OF WITNESS (IF AN OFFICIAL):

FOR OFFICE USE ONLY

ACCEPTED

REJECTED

Reason: \_\_\_\_\_

# INSERT BALLOT SECRECY ENVELOPE AND SEAL

↓ TO BE COMPLETED BY VOTER ↓

VOTER'S NAME (PLEASE PRINT)  
**BARBARA W VOSS**

VOTER'S MINNESOTA ADDRESS (PLEASE PRINT)  
**3790 LAWNDALE LANE N MN**

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.  
VOTER'S SIGNATURE **Barbara W Voss** DATE **10/27/08**

↓ TO BE COMPLETED BY WITNESS ↓

I certify that the voter

- showed me the blank ballots before voting;
- marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
- enclosed and sealed the ballots in the secrecy envelope;
- registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and
- provided proof of residence as indicated below.

NAME OF WITNESS (PLEASE PRINT)  
**ROBERT VOSS**

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)  
**3790 LAWNDALE LN N #209 MN  
PLYMOUTH 55446**

SIGNATURE OF WITNESS **Robert Voss** DATE

TITLE OF WITNESS (IF AN OFFICIAL)

↓ PROOF OF RESIDENCE USED BY VOTER ↓

Witness—please check one:

- MN Driver's License/Permit/ID Card or receipt with current address Number \_\_\_\_\_
- Tribal ID card with name, current address, signature, and picture
- Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture. Number \_\_\_\_\_
- Previous registration in the same precinct.
- Notice of late registration from county auditor or municipal clerk.
- Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)
- Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)

OCT 30 2008  
PROCESSED

VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

VOUCHER'S SIGNATURE

↓ FOR OFFICE USE ONLY ↓

ACCEPTED  REJECTED Reason \_\_\_\_\_

ABSENTEE BALLOT RETURN ENVELOPE

ENVELOPE **B** Ward \_\_\_\_\_ Precinct 2  
Election Day \_\_\_\_\_ 20\_\_

FOR OFFICE USE ONLY

ACCEPTED  REJECTED NAKED REGISTR. CARD  
Reason \_\_\_\_\_

TO BE COMPLETED BY VOTER

VOTER'S NAME (PLEASE PRINT)  
Susan E Belland

VOTER'S MINNESOTA ADDRESS (PLEASE PRINT)  
5455 Eagle St W B MN

I certify that on election day I will meet all the legal requirements to vote by absentee ballot. I also certify that: \_\_\_\_\_  
(name of agent)  
delivered the absentee ballots to me and that the ballots were unmarked and the envelope sealed when they were delivered to me.

VOTER'S SIGNATURE Susan E Belland DATE 10/19/08

TO BE COMPLETED BY WITNESS

I certify that the voter  
• showed me the blank ballots before voting;  
• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;  
• enclosed and sealed the ballots in the secrecy envelope;  
• registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and  
• provided proof of residence as indicated below.

NAME OF WITNESS (PLEASE PRINT)  
TAMARA Belland

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)  
5425 Eagle St W B MN 5510

SIGNATURE OF WITNESS Tamara Belland DATE 10-19-08

TITLE OF WITNESS (IF AN OFFICIAL)

PROOF OF RESIDENCE USED BY VOTER

- Witness - please check one:
- MN Driver's License/Permit/ID Card or receipt with current address.  
Number: \_\_\_\_\_
  - Tribal ID card with name, address, signature, and current address.
  - Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. passport, U.S. military ID card with picture, or student ID card with picture.  
Number: \_\_\_\_\_
  - Previous registration in the same precinct.
  - Notice of Late Registration from county auditor or municipal clerk.
  - Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)
  - Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)

VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

VOUCHER'S SIGNATURE



GROUP C

OBVIOUS ELECTION JUDGE ERROR EVIDENCE FROM FACE OF BALLOT



# INSERT BALLOT SECRECY ENVELOPE AND SEAL



291917 STG 11/04/2008 ML PCT NR 3402692  
 60 0090 593 CROOKSTON W-6  
 HOWARD HARTMANN  
 1116 WALSH ST ENV#2

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.  
 VOTER'S SIGNATURE H.A.H. DATE 10-27-08

**TO BE COMPLETED BY VOTER**

- I certify that the voter
- showed me the blank ballots before voting;
  - marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
  - enclosed and sealed the ballots in the secrecy envelope;
  - registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and
  - provided proof of residence as indicated below.

NAME OF WITNESS (PLEASE PRINT)  
Minnie Thompson

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) MN  
1116 Walsh St. Crookston

SIGNATURE OF WITNESS Minnie Thompson DATE 10-27-08

TITLE OF WITNESS (IF AN OFFICIAL)

**PROVIDE RESIDENCE USED BY VOTER**

- Witness—please check one:
- MN Driver's License/Perm/ID Card or receipt with current address  
 Number 0222222222
  - Tribal ID card with name, current address, signature, and picture
  - Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture.  
 Number \_\_\_\_\_
  - Previous registration in the same precinct.
  - Notice of late registration from county auditor or municipal clerk.
  - Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)
  - Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)

VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

VOUCHER'S SIGNATURE

**FOR OFFICIAL USE ONLY**

ACCEPTED  REJECTED 10 Signature

# INSERT BALLOT SECRECY ENVELOPE AND SEAL



ELECTION NO. P402602

## Absentee Ballot Application



Office of the Minnesota  
Secretary Of State

Return this application as soon as possible, ballots must be returned by Election Day to be counted.

<p><b>I hereby apply for an absentee ballot for: (check one)</b></p> <p><input type="checkbox"/> Both primary and general elections</p> <p><input type="checkbox"/> Primary only</p> <p><input checked="" type="checkbox"/> General election only</p> <p><input type="checkbox"/> Special election (date) _____</p> <p><input type="checkbox"/> Other (date) <u>OCT 02 2008</u></p> <p style="text-align: center;">Gerald J. Amiot</p>	<p><b>I will need an absentee ballot for the following reasons: (check one)</b></p> <p><input type="checkbox"/> Absence from the precinct</p> <p><input checked="" type="checkbox"/> Illness or disability</p> <p><input type="checkbox"/> Religious discipline or observance of religious holiday</p> <p><input type="checkbox"/> Service as election judge in another precinct</p> <p><input type="checkbox"/> Eligible emergency declared by the governor or quarantine declared by federal or state government.</p>
<p><b>Name (please print)</b> <u>Howard Hartmann</u></p>	
<p><b>Date of birth</b> _____</p>	<p><b>Phone number</b> <u>218-281-6770</u></p>
<p><b>My legal residence address is:</b></p> <p>Street Address      Apt. No.      City      State      Zip Code</p> <p><u>1116 Walsh St</u>           <u>Crookston</u>      <u>MN</u>      <u>56716</u></p>	
<p><b>Mail my absentee ballot to me at the following address:</b></p> <p>Street Address      Apt. No.      Rural/Box No      City/Township      State      Zip Code</p> <p><u>1116 Walsh St</u>                <u>Crookston</u>      <u>MN</u>      <u>56716</u></p>	
<p><b>Date</b> <u>9-30-08</u>      Signature X <u>Howard Hartmann</u></p>	
<p><b>Office Use Only</b></p>	
<p>REG. <input type="checkbox"/>      Mailed Date _____</p>	<p>UNREG. <input type="checkbox"/>      Mailed Date _____</p>
<p>REG. <input type="checkbox"/>      Mailed Date _____</p>	<p>UNREG. <input type="checkbox"/>      Mailed Date _____</p>

### Instructions for Completing the Absentee Ballot Application

1. To vote by absentee ballot, you must be an eligible voter, and you must reside at the legal residence address you give on this application on Election Day. It is a felony to make a false statement in an application for an absentee ballot, to apply for an absentee ballot more than once in an election with the intent to cast an illegal ballot, to show a ballot marked by a person to another person, or to violate an absentee ballot provision for the purpose of casting an illegal vote or to help anyone to cast an illegal vote.
2. Be sure to check the appropriate box indicating why you cannot go to your polling place on Election Day; these are the only reasons that entitle you to vote by absentee ballot.
3. Be sure to give your correct legal residence address as completely as possible, since this is used to verify your precinct number.
4. Be sure to sign the application. If you cannot sign your name, you may make a mark.
5. Return the completed application as soon as possible to the election official from whom you received this form.

### Remember:

1. You must indicate whether you are requesting ballots for the primary or general election, or both.
2. Do not submit more than one application for each election.
3. Your absentee ballots will be mailed or delivered to you as soon as they are available.

Please go to the following link for more information on the Minnesota absentee ballot:  
<http://www.sos.state.mn.us/home/index.asp?page=211#gener>

W-6

# INSERT BALLOT SECRECY ENVELOPE AND SEAL

## TO BE COMPLETED BY VOTER

VOTER'S NAME (PLEASE PRINT)  
*HAROLD V. MATA*

VOTER'S MINNESOTA ADDRESS (PLEASE PRINT)  
*1420 Minnesota Ave #3* MN

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE *Harold V. Mata* DATE *10-30-08*

## TO BE COMPLETED BY WITNESS

I certify that the voter showed me the blank ballots before voting; marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT)  
*Mildred P. Mata*

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)  
*1420 Minnesota Ave #3* MN

SIGNATURE OF WITNESS *Mildred P. Mata* DATE *10/30/08*

TITLE OF WITNESS (IF AN OFFICIAL)

## FOR OFFICE USE ONLY

ACCEPTED \_\_\_\_\_  
REJECTED *No signature*  
*gg MB* Reason

*M*



INSERT BALLOT SET INTO  
ENVELOPE AND SEAL

TO BE COMPLETED BY VOTER	
VOTER'S NAME (PLEASE PRINT)	
Veronica Cifuentes	
VOT	3413 - 36th Avenue NE St. Anthony, MN 55418
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE	DATE
<i>Veronica Cifuentes</i>	10/1/08
TO BE COMPLETED BY WITNESS	
I certify that the voter	
<ul style="list-style-type: none"><li>showed me the blank ballots before voting;</li><li>marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and</li><li>enclosed and sealed the ballots in the secrecy envelope.</li></ul>	
NAME OF WITNESS (PLEASE PRINT)	
Isabel Cifuentes	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)	
3413 36th Ave Ne Minneapolis, MN 55418	
MN	
SIGNATURE OF WITNESS	DATE
<i>Isabel Cifuentes</i>	10-29-08
TITLE OF WITNESS (IF AN OFFICIAL)	

FOR OFFICE USE ONLY	
<input type="checkbox"/> ACCEPTED	
<input checked="" type="checkbox"/> REJECTED	<i>KJC 08</i>
<i>SIGNATURES didn't match</i>	



# Office of the Minnesota Secretary of State

**Absentee Ballot Application**  
 See instructions on back before completing.

Turn this application as soon as possible, ballots must be returned by Election Day to be counted.

I hereby apply for an absentee ballot for: (check one)  <input type="checkbox"/> Both primary and general elections <input type="checkbox"/> Primary only <input type="checkbox"/> General election only <input type="checkbox"/> Special election (date) <u>  /  /  </u> <input type="checkbox"/> Special general (date) <u>  /  /  </u> <input type="checkbox"/> Other (date) <u>  /  /  </u>	I will need an absentee ballot for the following reason: (check one)  <input checked="" type="checkbox"/> Absence from the precinct <input type="checkbox"/> Illness or disability <input type="checkbox"/> Religious discipline or observance of religious holiday <input type="checkbox"/> Service as election judge in another precinct <input type="checkbox"/> Eligible emergency declared by the governor or quarantine declared by federal or state government
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Name (please print)  
**Monica Paz Cifuentes**

Date of birth: **04/1981** Phone number: **612-788-7266**

Legal residence address is:  
 Street Address: **336<sup>th</sup> Avenue Ne** Apt. No.:      City: **St. Anthony** State: **MN** Zip Code: **55418**  
Minneapolis

Deliver my absentee ballot to me at the following address:  
 Street Address: **336<sup>th</sup> Avenue Ne** Apt. No.:      Rural/Box No.:      City/Township: **Minneapolis** State: **MN** Zip Code: **55418**

Date: **10/14/2008** Signature: *X Monica Paz Cifuentes*

Received by Hennepin County  
 Elections Division  
 OCT 27 2008


Office Use Only						
<input type="checkbox"/>	Received Date	10/28	Ballots Issued Date	Type	School District #	Precinct
<input type="checkbox"/>	Initials		Ballots Issued Date	M C HCF	282	H2

OCT 27 2008

# 4209710

**IMPORTANT!**

Insert Ballot Secrecy Envelope, and then seal this flap.

TO BE COMPLETED BY VOTER	
VOTER'S	
	253562 STG 11/04/2008 ML PCT R B364193
VOTER'S	19 4990 197 WEST ST PAUL W-3 P-3
	DONALD EDWARD LOMBARD
	255 WESTVIEW DR APT 111 ENV#2 MN
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE	DATE
<i>Donald E Lombard</i>	<i>10/11/08</i>
TO BE COMPLETED BY WITNESS	
I certify that the voter	
<ul style="list-style-type: none"><li>• showed me the blank ballots before voting;</li><li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and</li><li>• enclosed and sealed the ballots in the secrecy envelope.</li></ul>	
NAME OF WITNESS (PLEASE PRINT)	
<i>JANET F. LOMBARD</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)	
<i>255 Westview Dr. # 111</i>	
<i>West ST. PAUL MN. 55118</i> MN	
SIGNATURE OF WITNESS	DATE
<i>Janet F. Lombard</i>	<i>10/11/08</i>
TITLE OF WITNESS (IF AN OFFICIAL)	

FOR OFFICE USE ONLY
<input type="checkbox"/> ACCEPTED

INSERT BALLOT SECRECY  
ENVELOPE AND SEAL  
RECEIVED

NOV 01 2008

WAYZATA

#30

TO BE COMPLETED BY VOTER	
VOTER'S NAME (PLEASE PRINT) <i>Katherine A Daly</i>	
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT) <i>507 Holly Circle Wayzata MN 55391 MN</i>	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE <i>Katherine A Daly</i>	DATE <i>10-31-08</i>
TO BE COMPLETED BY WITNESS	
I certify that the voter - showed me the blank ballots before voting; - marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and - enclosed and sealed the ballots in the secrecy envelope.	
NAME OF WITNESS (PLEASE PRINT) <i>Robert Daly</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) <i>4500 Weston Lane Plymouth MN 55442 MN</i>	
SIGNATURE OF WITNESS <i>Robert Daly</i>	DATE <i>Oct 31, 2008</i>
TITLE OF WITNESS (IF AN OFFICIAL)	

FOR OFFICE USE ONLY	
<input type="checkbox"/> ACCEPTED	
<input checked="" type="checkbox"/> REJECTED	<i>Signature does not match</i>
<i>ncs</i>	<i>mb</i>

*See Attached  
Ballot Application*



RECEIVED

AUG 25 2008

CITY OF WAYZATA

# ABSENTEE BALLOT APPLICATION

READ INSTRUCTIONS ON BACK BEFORE COMPLETING  
RETURN THE APPLICATION DIRECTLY TO YOUR CITY AS SOON AS POSSIBLE  
BALLOTS RECEIVED AFTER ELECTION DAY CANNOT BE COUNTED

NAME (PLEASE PRINT) *KATHERINE A DALY*

MY LEGAL RESIDENCE ADDRESS IN HENNEPIN COUNTY IS: MAIL MY ABSENTEE BALLOT TO THE FOLLOWING ADDRESS:

Street Address <i>507 Holly Circle</i>	Apt. No.	Rural/Box No.
City/Township <i>WAYZATA</i>	State <i>MN</i>	Zip Code <i>55391</i>
DATE OF BIRTH (OPTIONAL) <i>11-15-1968</i>	TELEPHONE NUMBER (OPTIONAL) <i>(H) 952 475-9575 (W) 952 546 0714</i>	

I HEREBY APPLY FOR AN ABSENTEE BALLOT FOR:

- BOTH PRIMARY AND GENERAL ELECTIONS
- PRIMARY ONLY
- GENERAL ELECTION ONLY

I WILL NEED AN ABSENTEE BALLOT FOR THE FOLLOWING REASON:

- ABSENCE FROM PRECINCT
- ILLNESS OR DISABILITY
- RELIGIOUS DISCIPLINE OR OBSERVANCE OF RELIGIOUS HOLIDAY
- SERVICE AS AN ELECTION JUDGE IN ANOTHER PRECINCT


DATE

*08-25-08*

LEGAL SIGNATURE

*Katherine A. Daly*

**IMPORTANT!**  
Insert Ballot Secrecy Envelope, and then seal this flap.

TO BE COMPLETED BY VOTER	
VOTER'S	
	
411856 STG 11/04/2008 IP PCT C-NR B524126	
19 4990 197 WEST ST PAUL W-3 P-3	
PHYLLIS ANN COOPER	
255 WESTVIEW DR UNIT 106	ENV#2
	MN
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE	DATE
<i>Phyllis A Cooper</i>	11/3/08
TO BE COMPLETED BY WITNESS	
I certify that the voter	
<ul style="list-style-type: none"><li>• showed me the blank ballots before voting;</li><li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and</li><li>• enclosed and sealed the ballots in the secrecy envelope.</li></ul>	
NAME OF WITNESS (PLEASE PRINT)	
DAVID JULIA	
ADDRESS C	ESOTA
(PLEASE PRINT) 1 MENDOTA ROAD WEST 130	
DAKOTA COUNTY	
WEST ST PAUL MN 55118	MN
SIGNATURE OF WITNESS	DATE
<i>David Julia</i>	11/03/08
TITLE OF WITNESS (IF AN OFFICIAL)	
DEP REG	

FOR OFFICE USE ONLY	
<input type="checkbox"/> ACCEPTED	

# INSERT BALLOT SECRECY ENVELOPE AND SEAL

↓ TO BE COMPLETED BY VOTER ↓	
VOTER'S NAME (PLEASE PRINT) <i>Elizabeth Schmidt</i>	
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT) <i>1131 Trenton Circle No Plymouth MN</i>	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE <i>Unable to sign</i>	DATE <i>Oct 30, 08</i>
↓ TO BE COMPLETED BY WITNESS ↓	
I certify that the voter · showed me the blank ballots before voting; · marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and · enclosed and sealed the ballots in the secrecy envelope.	
NAME OF WITNESS (PLEASE PRINT) <i>Rodney A Schmidt</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) <i>1131 Trenton Circle No Plymouth MN</i>	
SIGNATURE OF WITNESS <i>Rodney A. Schmidt</i>	DATE <i>Oct 30, 08</i>
TITLE OF WITNESS (IF AN OFFICIAL)	

↓ FOR OFFICE USE ONLY ↓	
<input type="checkbox"/> ACCEPTED	
<input checked="" type="checkbox"/> REJECTED <i>No signature</i>	Reason <i>DM ES</i>

# INSERT BALLOT SECRECY ENVELOPE AND SEAL

## RECEIVED

OCT 28 2008.

TO BE COMPLETED BY VOTER	
VOTER'S NAME (PLEASE PRINT) <i>Arthur F. Klemm</i>	
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT) <i>3155 Vicksburg Lane #124 MN</i>	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE <i>Arthur F. Klemm</i>	DATE <i>10-27-08</i>
TO BE COMPLETED BY WITNESS	
I certify that the voter showed me the blank ballots before voting; marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and enclosed and sealed the ballots in the secrecy envelope.	
NAME OF WITNESS (PLEASE PRINT) <i>Loris Klemm</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) <i>Plymouth #124</i> <i>3155 Vicksburg Lane No. MN</i>	
SIGNATURE OF WITNESS <i>Loris Klemm</i>	DATE <i>10-27-08</i>
TITLE OF WITNESS (IF AN OFFICIAL)	

FOR OFFICE USE ONLY	
<input checked="" type="checkbox"/> ACCEPTED	<input type="checkbox"/> REJECTED
Reason: <i>NO VOTER SIGN.</i>	

# INSERT BALLOT SECRECY ENVELOPE AND SEAL

<b>PROVE IDENTIFICATION BY VOTER</b>	
VOTER'S NAME (PLEASE PRINT) <i>Late Umhoefer</i>	
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT) <span style="float: right;">MN</span> <i>1701 22nd Ave S W</i>	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot. VOTER'S SIGNATURE <span style="float: right;">DATE</span> <i>Kate M. Umhoefer</i> <span style="float: right;"><i>11/13/08</i></span>	
<b>PROVE RESIDENCE TO WITNESS</b>	
I certify that the voter <ul style="list-style-type: none"> <li>• showed me the blank ballots before voting;</li> <li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;</li> <li>• enclosed and sealed the ballots in the secrecy envelope;</li> <li>• registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and</li> <li>• provided proof of residence as indicated below.</li> </ul>	
NAME OF WITNESS (PLEASE PRINT) <i>Laura Pyburn</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) <span style="float: right;">MN</span> <i>1701 22nd Ave S W</i>	
SIGNATURE OF WITNESS <span style="float: right;">DATE</span> <i>Laura Pyburn</i>	
TITLE OF WITNESS (IF AN OFFICIAL) <i>Manager</i>	
<b>PROVE RESIDENCE TO SPONSOR VOTER</b>	
Witness - please check one: <input checked="" type="checkbox"/> MN Driver's License/Permit/ID Card or receipt with current address Number _____ <input type="checkbox"/> Tribal ID card with name, current address, signature, and picture <input type="checkbox"/> Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture. Number _____ <input type="checkbox"/> Previous registration in the same precinct. <input type="checkbox"/> Notice of late registration from county auditor or municipal clerk. <input type="checkbox"/> Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.) <input type="checkbox"/> Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)	
VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S SIGNATURE	
<b>FOR OFFICIALS ONLY</b>	
ACCEPTED <input checked="" type="checkbox"/> REJECTED <input type="checkbox"/> <span style="float: right;"><i>11/13/08</i></span>	

VOTER'S DECLARATION/AFFIRMATION - FEDERAL WRITE-IN ABSENTEE BALLOT (FWAB)

(Mark only one)

MEMBER OF THE UNIFORMED SERVICES OR MERCHANT MARINE ON ACTIVE DUTY OR AN ELIGIBLE SPOUSE OR DEPENDENT

A U.S. CITIZEN RESIDING OUTSIDE THE U.S. TEMPORARILY

A U.S. CITIZEN RESIDING OUTSIDE THE U.S. INDEFINITELY

ALSO REQUEST VOTER REGISTRATION (where permitted by state law)

PERSONAL INFORMATION (Required)

REG OR PRINTED NAME (Last, First, Middle) SUFFIX (Jr., Sr., III, etc.) PREVIOUS NAME (if applicable)

SS ALLEN GEORGE

RACE DATE OF BIRTH SOCIAL SECURITY NUMBER STATE DRIVER'S LICENSE OR I.D. NUMBER

M W 03261961473-78-1882R-200-051-2M5-148

TELEPHONE NUMBER (No DSN number; include all international prefixes) FAX NUMBER (No DSN number; include all international prefixes)

MAIL ADDRESS

ALLEN G. RYKSDA Q. HNF-WTRAR. USMC. H&L

MY VOTING RESIDENCE ADDRESS (Required) (Military, use legal residence. Overseas citizens, use last legal residence in U.S.)

NUMBER AND STREET (Cannot be a P.O. Box)

016 6th ST NE

CITY, TOWN OR VILLAGE COUNTY STATE ZIP CODE

JUSTIN MAWLER MN 55912

WHERE TO SEND MY VOTING MATERIALS

PRESENT ADDRESS (Where I live now) (Required) MY FORWARDING ADDRESS (NOTE: Complete 4b only if you do not want your ballot mailed to the address in Block 4a.)

BN 12TH MAR HQ BTRY

CBH KANAWHA BAY HI

6863

MY POLITICAL PARTY PREFERENCE (Optional, but may be required by states to register to vote in primary elections)

REPUBLICAN

ADDITIONAL INFORMATION (Designate the period for which you want to receive future ballots. See instructions. Consult your state pages of the Voting Assistance Guide for additional information requested.)

AFFIRMATION: (Required)

swear or affirm, under penalty of perjury, that:

- 1. I am a member of the Uniformed Services or merchant marine on active duty or an eligible spouse or dependent of such a member, or a U.S. citizen temporarily residing outside the U.S., or other U.S. citizen residing outside the U.S., and
2. I am a U.S. citizen, at least 18 years of age (or will be by the day of the election), eligible to vote in the requested jurisdiction, and
3. I have not been convicted of a felony or other disqualifying offense or been adjudicated mentally incompetent, or if so, my voting rights have been reinstated, and
4. I am not registering, requesting a ballot, or voting in any other jurisdiction in the U.S., and
5. My application for a regular absentee ballot was mailed in time to be received by the local election official 30 days prior to this election, or the state deadline, whichever is later, and
6. I have not received the requested ballot, and
7. I understand that if my regular absentee ballot is received by the local election official in time to be counted, that ballot will be counted and this write-in ballot will be voided, and
8. I have voted and sealed this ballot in private and have not allowed any person to observe the marking of this ballot, except for those authorized to assist voters under state or Federal law and I have not been influenced, and
9. I am a Uniformed Services member, or dependent, who is absent from my voting jurisdiction, or I am an overseas citizen and have submitted this ballot from outside the U.S., or my state has made special provisions to allow me to mail this ballot inside the U.S., and
10. My signature and date below indicate when I completed this document, and
11. The information on this form is true and complete to the best of my knowledge.

I understand that a material misstatement of fact in completion of this document may constitute grounds for conviction of perjury.

Signed: Allen G Ryksda

Date: 10/21/2008

Signed: [Signature]

Date: 10/21/2008

Handwritten initials and date: 10/21

not  
A Request because there was not an application  
to market the signatures

Received in the Office of the  
Minnesota Secretary of State on  
11/03/2008. This piece of mail  
was opened because we were not  
able to determine what County to

and it to Ballot em<sup>1</sup> used.

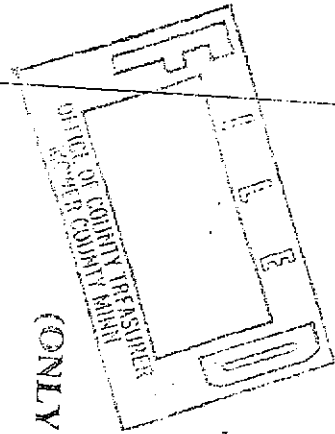
282  
#

1A  
4

OFFICIAL FEDERAL WRITE-IN ABSENTEE BALLOT

*Handwritten initials and a hash symbol*

1A



**SECURITY ENVELOPE**

(ONLY PUT VOTED BALLOT INSIDE THIS ENVELOPE)

Standard Form 186 (Rev. 10-2005)

*Vote cast by absentee procedure*

*At 10:01 AM*



INSERT BALLOT SECRET  
ENVELOPE AND SEAL

TO BE COMPLETED BY VOTER	
VOTER'S NAME (PLEASE PRINT) <i>Domenec Martini</i>	
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT) <i>1115 4th Ave. No Sault Rapids MN 56379 MN</i>	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE <i>[Signature]</i>	DATE <i>10-23-08</i>
TO BE COMPLETED BY WITNESS	
I certify that the voter showed me the blank ballots before voting; marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and enclosed and sealed the ballots in the secrecy envelope.	
NAME OF WITNESS (PLEASE PRINT) <i>Irene Wolf</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) <i>45-6th Ave. So Sault Rapids MN 56379 MN</i>	
SIGNATURE OF WITNESS <i>Irene Wolf</i>	DATE <i>10/23/08</i>
TITLE OF WITNESS (IF AN OFFICIAL) <i>Election Judge</i>	

FOR OFFICE USE ONLY	
<input type="checkbox"/> ACCEPTED	<i>M</i>
<input checked="" type="checkbox"/> REJECTED	<i>Signature ?</i> Reason

# INSERT BALLOT SECRECY ENVELOPE AND SEAL



339110 STG 11/04/2008 ML PCT NR B450280  
 01 0180 004 SPALDING TWP  
 ROXANNE P MARTZ  
 34889 200TH AVE ENV#2 MN

MN

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.  
 VOTER'S SIGNATURE *[Signature]* DATE 10/28/08

PROOF OF RESIDENCE COMPLETED BY WITNESS

- I certify that the voter
- showed me the blank ballots before voting;
  - marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
  - enclosed and sealed the ballots in the secrecy envelope;
  - registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and
  - provided proof of residence as indicated below.

NAME OF WITNESS (PLEASE PRINT)

*Beth Leaf*

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)

*McGregor, MN 55760* MN

SIGNATURE OF WITNESS

*[Signature]*

DATE

*10/28/08*

TITLE OF WITNESS (IF AN OFFICIAL)

*None*

PROOF OF RESIDENCE USED BY VOTER

Witness—please check one:

- MN Driver's License/Permit ID Card or rec Number \_\_\_\_\_
- Tribal ID card with name, current address,
- Utility bill or student fee statement plus a I
- Passport, U.S. military ID card with picture Number \_\_\_\_\_
- Previous registration in the same precinct
- Notice of late registration from county and
- Registered voter in the precinct who you precinct. (Please complete the lines you)
- Employee of a residential facility in the residence at the facility. (Please complete

*she is currently registered in City of McGregor.*

VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

*[Signature] N/A*

VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

*N/A*

VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

*N/A*

VOUCHER'S SIGNATURE


*N/A*

FOR OFFICE USE ONLY

ACCEPTED  REJECTED NO prev. reg. in Spalding Twp

**IMPORTANT! Insert Ballot Secrecy Envelope and Voter Registration Application. Then Seal this flap first.**

*12*

TO BE COMPLETED BY VOTER	
VOTER'S NAME (PLEASE PRINT) -----	
	
VOTER	351323 STG 11/04/2008 ML PCT NR B462677 19 4110 200 RAVENNA TWP JOSEPH MICHAEL SLAPNICHER 19890 RED WING BLVD ENV#2 MN
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE <i>J. Slapnic</i>	DATE <i>10/21/08</i>
TO BE COMPLETED BY WITNESS	
I certify that the voter	
<ul style="list-style-type: none"> <li>showed me the blank ballots before voting;</li> <li>marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;</li> <li>enclosed and sealed the ballots in the secrecy envelope;</li> <li>registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and</li> <li>provided proof of residence as indicated below.</li> </ul>	
NAME OF WITNESS (PLEASE PRINT) <i>Annette Clark</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) <i>DAK 60</i> MN	
SIGNATURE OF WITNESS <i>Annette Clark</i>	DATE <i>10-21-08</i>
TITLE OF WITNESS (IF AN OFFICIAL) <i>PSA</i>	
PROOF OF RESIDENCE USED BY VOTER	
Witness—please check one:	
<input checked="" type="checkbox"/> MN Driver's License/Permit/ID Card or receipt with current address Number _____	
<input type="checkbox"/> Tribal ID card with name, current address, signature, and picture	
<input type="checkbox"/> Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture. Number _____	
<input type="checkbox"/> Previous registration in the same precinct.	
<input type="checkbox"/> Notice of late registration from county auditor or municipal clerk.	
<input type="checkbox"/> Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)	
<input type="checkbox"/> Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)	
VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S SIGNATURE	

Ward \_\_\_\_\_ Precinct \_\_\_\_\_  
Election Day 11/4 2008

FOR OFFICIAL USE ONLY  
 ACCEPTED  REJECTED NO REASON  
Reason

TO BE COMPLETED BY VOTER

VOTER'S NAME (PLEASE PRINT)  
FRANK M. WEBB MM

VOTER'S MINNESOTA ADDRESS (PLEASE PRINT)  
2 LAKE CAROL Cir. Moorhead View MN 55112

I certify that on election day I will meet all the legal requirements to vote by absentee  
I also certify that: \_\_\_\_\_  
(name of agent)

I received the absentee ballots to me and that the ballots were unmarked and the envelope sealed when they were delivered to me.

VOTER'S SIGNATURE Frank Webb DATE 10-29-08

TO BE COMPLETED BY WITNESS

I certify that the voter:  
received me the blank ballots before voting;  
marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;  
closed and sealed the ballots in the secrecy envelope;  
registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and  
provided proof of residence as indicated below.

NAME OF WITNESS (PLEASE PRINT)  
Jeanne Webb

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)  
2663 Lake Carol Moorhead View MN 55112

NAME OF WITNESS Jeanne Webb DATE 10-29-08

NAME OF WITNESS (IF AN OFFICIAL)

PHOTO IDENTIFICATION USED BY VOTER

Proof of residence - please check one:

MN Driver's License/Permit/ID Card or receipt with current address.  
Number: 4428019625114

Tribal ID card with name, address, signature, and current address.

Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. passport, U.S. military ID card with picture, or student ID card with picture.

Number: \_\_\_\_\_

Previous registration in the same precinct.

Notice of Late Registration from county auditor or municipal clerk.

Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)

Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)

OTHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

OTHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

OTHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)

OTHER'S SIGNATURE



Secretary of State

This application as soon as possible, ballots must be returned by Election Day to be counted.

I will apply for an absentee ballot for: (check one) <input type="checkbox"/> Primary and general elections <input type="checkbox"/> Primary only <input type="checkbox"/> General election only Election date: _____ Return date: _____	I will need an absentee ballot for the following reasons: (check one) <input type="checkbox"/> Absence from the precinct <input checked="" type="checkbox"/> Illness or disability <input type="checkbox"/> Religious discipline or observance of religious holiday <input type="checkbox"/> Service as election judge in another precinct <input type="checkbox"/> Eligible emergency declared by the governor or quarantine declared by federal or state government.
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

(please print)

**James Michael Webb**

Birth: [REDACTED] Phone number: **763-717-7273**

Legal residence address is:

Address: **63 Lake Ct Cir** Apt. No. \_\_\_\_\_ City: **Mounds View** State: **MN** Zip Code: **55112**

Send my absentee ballot to me at the following address:

Address: **63 Lake Ct Cir** Apt. No. \_\_\_\_\_ Rural/Box No. \_\_\_\_\_ City/Township: **Mounds View** State: **MN** Zip Code: **55112**

Signature X *James M Webb*

Office Use Only				
<input checked="" type="checkbox"/> Received Date: <b>7/8/08</b>	Ballots Issued Date: <b>7/8/08</b>	Type: <b>M</b>	School District #: <b>621</b>	Precinct: <b>3</b>
Initials: <b>MAS</b>	Ballots Issued Data: _____	<b>C</b>	<b>HCF</b>	

**Instructions for Completing the Absentee Ballot Application**

To vote by absentee ballot, you must be an eligible voter, and you must reside at the legal residence address you give on this application on Election Day. It is a felony to make a false statement in an application for an absentee ballot, to apply for an absentee ballot more than once in an election with the intent to cast an illegal ballot, to show a ballot marked by a person to another person, or to violate an absentee ballot provision for the purpose of causing an illegal vote or to help another person to cast an illegal vote.

Check the appropriate box indicating why you cannot go to your polling place on Election Day. These are the only reasons that entitle you to vote by absentee ballot.

Give your correct legal residence address as completely as possible, since this is used to determine your precinct number.

Sign the application. If you cannot sign your name, you may make a mark.

Submit the completed application as soon as possible to the election official from whom you received this form.

**Important Information:**

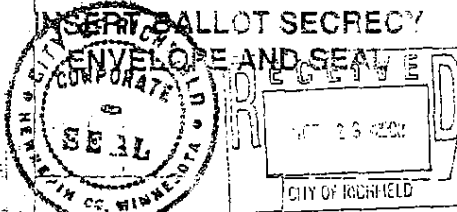
Indicate whether you are requesting ballots for the primary or general election, or both.

Do not submit more than one application for each election.

Absentee ballots will be mailed or delivered to you as soon as they are available.

Please go to the following link for more information on the Minnesota absentee ballot:  
<http://www.sos.state.mn.us/home/index.asp?page=211#generalabsenteeinfo>

*12/21*



**TO BE COMPLETED BY VOTER**

VOTER'S NAME (PLEASE PRINT)  
David Swatosh

VOTER'S MINNESOTA ADDRESS (PLEASE PRINT)  
2015 SO. LAKE SHORE DRIVE  
RICHFIELD MN 55403

I certify that on election day I will meet all the legal requirements to  
by absentee ballot.

VOTER'S SIGNATURE  
*David Swatosh*

DATE  
10/24/08

**TO BE COMPLETED BY WITNESS**

I certify that the voter  
- showed me the blank ballots before voting;  
- marked the ballots in private or, if physically unable to mark the  
ballots, the ballots were marked as directed by the voter, and  
enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT)  
JANE SWATOSH

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA  
(PLEASE PRINT)  
715 W. 40th ST.  
MPLS. 55409 MN

SIGNATURE OF WITNESS  
*Jane Swatosh*

DATE  
10/24/08

TITLE OF WITNESS (IF AN OFFICIAL)

**FOR OFFICE USE ONLY**

ACCEPTED

REJECTED

REASON FOR REJECTION





GROUP D

ENVELOPE DELIVERED TO WRONG PRECINCT



**IMPORTANT!**

Put Ballot Secrecy Envelope, and then seal this flap.

**TO BE COMPLETED BY VOTER**

VOTER'S NAME (PLEASE PRINT)

Marianne Hebdon

VOTER'S MINNESOTA ADDRESS (PLEASE PRINT)

36 Hewitt Ave

St. Paul, MN 55104

MN

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE

DATE

*Marianne Hebdon* 10-23-08

**TO BE COMPLETED BY WITNESS**

I certify that the voter

- showed me the blank ballots before voting;
- marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and
- enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT)

Valerie Pappalardo

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA

(PLEASE PRINT)

36 Hewitt Ave

St. Paul MN 55104

MN

SIGNATURE OF WITNESS

DATE

*Valerie Pappalardo* 10-22-08

TITLE OF WITNESS (IF AN OFFICIAL)



NOV 04 2008

DAKOTA COUNTY, MINNESOTA

**FOR OFFICE USE ONLY**

ACCEPTED

REJECTED / *Marianne Hebdon*

*Rejected*

**▼ I IER ▼**

VOTER'S NAME



283876 STG 11/04/2008 ML PCT R B394650

VOTER'S ADDRESS: 47 0105 465 LITCHFIELD W-1  
REBECCA LEE MAGNUSON

T)

ENV#2

MN

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE

DATE

*Rebecca L Magnuson*

*11/2/08*

**▼ TO BE COMPLETED BY WITNESS ▼**

I certify that the voter:

- showed me the blank ballots before voting;
- marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and
- enclosed and sealed the ballots in the secrecy envelope.

NAME OF WITNESS (PLEASE PRINT)

[REDACTED]

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)

[REDACTED]

MN

SIGNATURE OF WITNESS

DATE

[REDACTED]

TITLE OF WITNESS (IF AN OFFICIAL)

**▼ FOR OFFICE USE ONLY ▼**


ACCEPTED  REJECTED *u*

*Brought to wrong place*

Reason

*RP*  
Registered

MAILING ENVELOPE #3

VOTER: 

370161 STG 11/04/2008 ML PCT R B481842

VOTER: 47 0045 465 DARWIN TWP.  
AMY ROSE BALLARD

ENV#2 MN

I certify that on election day I will meet all the legal requirements to vote by absentee ballot.

VOTER'S SIGNATURE: *Amy Rose Ballard* DATE: *11/02/08*

**TO BE COMPLETED BY WITNESS**

I certify that the voter:

- showed me the blank ballots before voting;
- marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
- enclosed and sealed the ballots in the secrecy envelope;
- registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and
- provided proof of residence as indicated below.

NAME OF WITNESS (PLEASE PRINT)

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)

SIGNATURE OF WITNESS: *[Redacted]* DATE: *11-2-08*

TITLE OF WITNESS (IF AN OFFICIAL)

**PROOF OF RESIDENCE USED BY VOTER**

Witness - please check one:

- MN Driver's License/Permit/ID Card or receipt with current address. Number
- Tribal ID card with name, current address, signature, and picture.
- Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with a picture, US passport, US Military ID card with picture, or student ID card with picture. Number
- Previous registration in the same precinct.
- Notice of Late Registration from county auditor or municipal clerk.
- Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below).
- Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below).

VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE. (PLEASE PRINT)

VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE. (PLEASE PRINT)

VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE. (PLEASE PRINT)

VOUCHER'S SIGNATURE

**FOR OFFICE USE ONLY**

ACCEPTED  REJECTED *Should have been*  
Reason: *Non-Registered delivered to Court House*

**IMPORTANT!**

Insert ballot secrecy envelope, and then seal this flap

23

↓ TO BE COMPLETED BY VOTER ↓	
VOTER'S NAME (PLEASE PRINT)	
Caroline Pashibin	
VOTER'S MINNESOTA ADDRESS (PLEASE PRINT)	
1014 E. ST. GERMAIN ST. ST. CLOUD MN 56304	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE	DATE
Caroline P.	10-21-08
↓ TO BE COMPLETED BY WITNESS ↓	
I certify that the voter	
<ul style="list-style-type: none"><li>• showed me the blank ballots before voting;</li><li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and</li><li>• enclosed and sealed the ballots in the secrecy envelope.</li></ul>	
NAME OF WITNESS (PLEASE PRINT)	
Derek Peterson	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)	
1014 E ST GERMAIN 56304 MN	
SIGNATURE OF WITNESS	DATE
Derek Peterson	10/21/2008
TITLE OF WITNESS (IF AN OFFICIAL)	

↓ FOR OFFICE USE ONLY ↓	
<input checked="" type="checkbox"/> ACCEPTED	
TEP	WRM County - PRECINCT



**EXHIBIT B-2**

REPRESENTATIVE EXAMPLES OF REJECTED ABSENTEE BALLOT ENVELOPES  
WHICH WERE OPENED AND COUNTED BY  
THE MINNESOTA SECRETARY OF STATE DURING THE RECOUNT

74

# INSERT BALLOT SECRECY ENVELOPE AND SEAL

W.D.M. #  
207. #

2-5

↓ TO BE COMPLETED BY VOTER ↓	
BEHM TIMOTHY G 115 Bedford St SE # 10 MINNEAPOLIS, MN 55414	2-5 _____ (PRINT)
<span style="float: right; font-weight: bold; font-size: 1.2em;">MN</span>	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE 	DATE 10/29/08
↓ TO BE COMPLETED BY WITNESS ↓	
I certify that the voter <ul style="list-style-type: none"> <li>• showed me the blank ballots before voting;</li> <li>• marked the ballots in private; or, if physically unable to mark the ballots, the ballots were marked and directed by the voter; and</li> <li>• enclosed and sealed the ballots in the secrecy envelope.</li> </ul>	
NAME OF WITNESS (PLEASE PRINT) G. Thomas Cable	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) 8236 Queen Ave S. Bloomington	
<span style="font-weight: bold; font-size: 1.2em;">MN</span>	
SIGNATURE OF WITNESS 	DATE 10/29/2008
TITLE OF WITNESS (IF AN OFFICIAL)	

↓ FOR OFFICE USE ONLY ↓	
<input checked="" type="checkbox"/> ACCEPTED <div style="float: right; font-size: 1.5em; font-family: cursive;">DES</div>	<div style="font-size: 2em; font-family: cursive; text-align: center;">449</div>
<input type="checkbox"/> REJECTED <div style="float: right; font-size: 1.5em; font-family: cursive;">msa</div>	
Reason _____	

24 E

# INSERT BALLOT SECRECY ENVELOPE AND SEAL


↓ TO BE COMPLETED BY VOTER ↓	
VO	LOWRY ANN 144 Melbourne Ave SE
	2-5
VO	MINNEAPOLIS, MN 55414
	(T)
	MN
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE	DATE
<i>Ann Lowry</i>	10/03/08
↓ TO BE COMPLETED BY WITNESS ↓	
I certify that the voter	
· showed me the blank ballots before voting;	
· marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter; and	
· enclosed and sealed the ballots in the secrecy envelope.	
NAME OF WITNESS (PLEASE PRINT)	
<i>Karen Poortvliet</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)	
<i>144 Melbourne Ave SE Minneapolis MN</i>	
SIGNATURE OF WITNESS	DATE
<i>[Signature]</i>	11/3/08
TITLE OF WITNESS (IF AN OFFICIAL)	

↓ FOR OFFICE USE ONLY ↓	
<input type="checkbox"/>	ACCEPTED
<input type="checkbox"/>	REJECTED



24 E

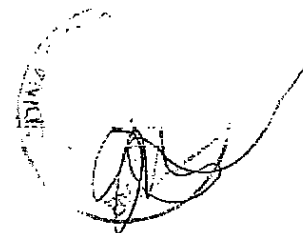
# INSERT BALLOT SECRECY ENVELOPE AND SEAL

V GOODSELL BREANNE LOWRY 2-5 144 Melbourne Ave SE	
V MINNEAPOLIS, MN 55414	
 <span style="float: right;">MN</span>	
I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE <i>B. Goodsell</i>	DATE 10/31/08
TO BE COMPLETED BY WITNESS	
I certify that the voter <ul style="list-style-type: none"> <li>• showed me the blank ballots before voting;</li> <li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;</li> <li>• enclosed and sealed the ballots in the secrecy envelope;</li> <li>• registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and</li> <li>• provided proof of residence as indicated below.</li> </ul>	
NAME OF WITNESS (PLEASE PRINT) <i>Ann Lowry</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) <i>144 Melbourne Ave SE</i> <span style="float: right;">MN</span>	
SIGNATURE OF WITNESS <i>Minneapolis Ann Lowry</i>	DATE 10-31-08
TITLE OF WITNESS (IF AN OFFICIAL)	
PROOF OF RESIDENCE USED BY VOTER	
Witness—please check one:	
<input checked="" type="checkbox"/> MN Driver's License/Permit/ID Card or receipt with current address Number <u>V202209454304</u>	
<input type="checkbox"/> Tribal ID card with name, current address, signature, and picture	
<input type="checkbox"/> Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture. Number _____	
<input type="checkbox"/> Previous registration in the same precinct.	
<input type="checkbox"/> Notice of late registration from county auditor or municipal clerk.	
<input type="checkbox"/> Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)	
<input type="checkbox"/> Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)	
VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S SIGNATURE	
FLUSE ONLY	

1179

# INSERT BALLOT SECRECY ENVELOPE AND SEAL

ALLISON E KASMISKE (10)  
6808 SALLY LN  
EDINA, MINNESOTA 55439



I certify that on election day I will meet all the legal requirements to vote by absentee ballot.	
VOTER'S SIGNATURE <i>Allison E Kasmiskie</i>	DATE 10-21-2008
<b>TO BE COMPLETED BY WITNESS</b>	
I certify that the voter	
<ul style="list-style-type: none"> <li>• showed me the blank ballots before voting;</li> <li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;</li> <li>• enclosed and sealed the ballots in the secrecy envelope;</li> <li>• registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and</li> <li>• provided proof of residence as indicated below.</li> </ul>	
NAME OF WITNESS (PLEASE PRINT) <i>Kevin Kasmiski</i>	
ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT) <i>6808 SALLY LANE EDINA MN</i>	
SIGNATURE OF WITNESS <i>Kevin Kasmiski</i>	DATE 10-21-2008
TITLE OF WITNESS (IF AN OFFICIAL)	
<b>PROOF OF RESIDENCE USED BY VOTER</b>	
Witness—please check one:	
<input checked="" type="checkbox"/> MN Driver's License/Perm/ID Card or receipt with current address Number _____	
<input type="checkbox"/> Tribal ID card with name, current address, signature, and picture	
<input type="checkbox"/> Utility bill or student fee statement plus a MN Driver's License/ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture. Number _____	
<input type="checkbox"/> Previous registration in the same precinct.	
<input type="checkbox"/> Notice of late registration from county auditor or municipal clerk.	
<input type="checkbox"/> Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.)	
<input type="checkbox"/> Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)	
VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)	
VOUCHER'S SIGNATURE	
<b>FOR OFFICE USE ONLY</b>	
<input type="checkbox"/> ACCEPTED <input checked="" type="checkbox"/> REJECTED <i>Signature</i> Reason _____	

# INSERT BALLOT SECRECY ENVELOPE AND SEAL

5-4


BUCKHALTON KEVIN 913 VINCENT AV N	5-4 **	↓
MINNEAPOLIS, MN 55411 		MN
I certify that on election day I will meet all the legal requirements to vote by absentee ballot. <b>VOTER'S SIGNATURE</b> <span style="float: right;"><b>DATE</b></span> <span style="float: right;">10-27-08</span>		
TO BE COMPLETED BY WITNESS		
I certify that the voter <ul style="list-style-type: none"> <li>• showed me the blank ballots before voting;</li> <li>• marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;</li> <li>• enclosed and sealed the ballots in the secrecy envelope;</li> <li>• registered to vote by filling out and enclosing a voter registration application in the ballot envelope; and</li> <li>• provided proof of residence as indicated below.</li> </ul>		
<b>NAME OF WITNESS (PLEASE PRINT)</b> Victor LAWSON		
<b>ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)</b> 1112 Weston Rd		
<b>SIGNATURE OF WITNESS</b> <span style="float: right;"><b>DATE</b></span> <span style="float: right;">10/24/08</span>		
<b>TITLE OF WITNESS (IF AN OFFICIAL)</b> _____		
PROOF OF RESIDENCE USED BY VOTER		
Witness: please check one. <input checked="" type="checkbox"/> MN Driver's License (Form ID) Card or receipt with current address Number <u>4205292684212</u> <input type="checkbox"/> Tribal ID card with name, current address, signature, and picture <input type="checkbox"/> Utility bill or student fee statement plus a MN Driver's License ID Card, Tribal ID card with picture, U.S. Passport, U.S. military ID card with picture, or student ID card with picture, Number _____ <input type="checkbox"/> Previous registration in the same precinct. <input type="checkbox"/> Notice of late registration from county auditor or municipal clerk. <input type="checkbox"/> Registered voter in the precinct who vouched for absentee voter's residence in the precinct. (Please complete the three voucher lines below.) <input type="checkbox"/> Employee of a residential facility in the precinct who vouched for absentee voter's residence at the facility. (Please complete the three voucher lines below.)		
<b>VOUCHER'S NAME AND NAME OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)</b> _____		
<b>VOUCHER'S ADDRESS OR ADDRESS OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)</b> _____		
<b>VOUCHER'S TELEPHONE NUMBER OR TELEPHONE NUMBER OF RESIDENTIAL FACILITY, IF APPLICABLE (PLEASE PRINT)</b> _____		
<b>VOUCHER'S SIGNATURE</b> _____		
FOR OFFICE USE ONLY		
RECORDED _____		



**EXHIBIT C**

**PRECINCTS IN WHICH DOUBLE VOTES WERE  
CERTIFIED BY MINNESOTA STATE CANVASSING BOARD**

Dakota / Eagan P-3
Hennepin / Minneapolis W2 – P5
Hennepin / Minneapolis W3 – P5
Hennepin / Minneapolis W5 – P6
Hennepin / Minneapolis W7 – P6
Hennepin / Minneapolis W7 – P7
Hennepin / Minneapolis W8 – P7
Hennepin / Minneapolis W 8 – P10
Hennepin / Minneapolis W9 -P2
Hennepin / Minneapolis W10 – P2
Hennepin / Minneapolis W10 – P4
Hennepin / Minneapolis W10 – P7
Hennepin / Minneapolis W10 – P10
Hennepin / Minneapolis W11 – P7
Hennepin / Minneapolis W11 – P8
Hennepin / Minneapolis W12 – P8
Hennepin / Minneapolis W13 – P1
Hennepin / Minneapolis W13 – P3
Hennepin / Saint Louis Park W3 – P12
Saint Louis / Cedar Valley
Saint Louis / Duluth P4
Saint Louis / Duluth (Gnesen)

 Printed on Recycled Paper  
20% Post Consumer Waste

**EXHIBIT D**

ORDER OF MINNESOTA SUPREME COURT  
DATED DECEMBER 24, 2008  
REGARDING UNMARKED DUPLICATE BALLOTS

STATE OF MINNESOTA

IN SUPREME COURT

A08-2206

OFFICE OF  
APPELLATE COURTS

DEC 24 2008

FILED

Norm Coleman,

Petitioner,

vs.

Minnesota State Canvassing Board,  
Michelle DesJardin, Hennepin County  
Elections Manager, Cynthia Reichert,  
Minneapolis Elections Director, Hennepin  
County Canvassing Board, individually and  
on behalf of all County and Local Election  
Officers and County Canvassing Boards,

Respondents.

Al Franken for Senate and Al Franken,

Intervenor-Respondents.

#### ORDER

Petitioner Norm Coleman has filed a petition under Minn. Stat. § 204B.44 (2006) concerning the election for United States Senator from Minnesota held on November 4, 2008, in which petitioner asks this court to (1) restrain the Minnesota State Canvassing Board from certifying or finalizing the results of its recount until the “duplicate/original” issue is resolved by the county canvassing officials; (2) order each campaign to list every precinct in which it believes duplicate ballots have not been correctly reconciled with the



original ballots; (3) order the local canvassing boards to ensure that vote totals are reconciled to correct any errors relating to the “duplicate/original” issue so that no double-counting of votes occurs, and to do so as part of this court’s previously ordered process for finding wrongly rejected absentee ballots; (4) order the counties to amend their returns by the December 31, 2008 deadline so that accurate results are included in the Board’s final certification results; and, (5) in the counties with precincts where all original ballots cannot be reconciled with duplicate ballots, order those county canvassing boards to amend their returns to the Board and in so doing, count and certify only original ballots for which there are corresponding marked duplicates. In addition, petitioners separately filed a motion for a temporary restraining order.

This action concerns ballots that are damaged or defective so that they could not be counted by the electronic voting machines on election day. Minnesota Statutes § 206.86, subd. 5 (2006), provides a process for dealing with such ballots. The statute requires the election judges to make a duplicate copy for each damaged ballot card that the machine cannot count. The duplicate must (a) be clearly labeled “duplicate,” (b) indicate the precinct in which the damaged ballot was cast, and (c) bear a serial number that must also be recorded on the damaged ballot. The duplicate is then counted in lieu of the damaged ballot. The damaged ballots for which duplicates are made (“original damaged ballots”) are to be placed in an envelope marked “ballots for which duplicates were or are to be made.” Minn. R. 8230.3850, subp. E (2007).

In the course of the manual recount in the race for United States Senator, it was discovered that in some precincts there were some original damaged ballots for which no

duplicate ballots were identified. The instructions from the Secretary of State to local recount officials directed that in precincts where there were significant discrepancies between the numbers of original damaged ballots and duplicate ballots, the candidates' representatives should attempt to agree on whether to sort the originals or duplicates for counting, and if there was no agreement, the original damaged ballots should be sorted. Based on these instructions, in a number of precincts unmatched original damaged ballots were counted in the manual recount.

Petitioner Coleman challenged unmatched original damaged ballots counted in the recount and asked the State Canvassing Board to disallow the counting of those ballots. Petitioner argued to the Board, and here, that although no matching duplicate ballots were found for the unmatched originals, it is likely that duplicate ballots were created and counted as required by statute, but not marked as duplicates as required by statute. Petitioner argued that if an unmarked duplicate ballot was among the ballots counted in the recount and the unmatched original was also counted, there would be impermissible double-counting of that voter's ballot. Petitioner contended that this double-counting was illustrated by the fact that in some precincts the total ballots counted in the recount exceeded the number of ballots recorded by the machines on election day, often by the number of unmatched original damaged ballots counted in the recount.

The Franken campaign argued, as it does here, that it cannot be assumed that for all unmatched original damaged ballots duplicate ballots were made and counted, but not labeled. Rather, the Franken campaign suggested, there are alternate scenarios that could

account for both unmatched original damaged ballots and discrepancies in the number of ballots counted.

On December 19, 2008, the State Canvassing Board adopted a resolution rejecting all challenges “based upon duplicates or originals that are not based on voter intent or identifying marks.” It is that decision of the Board that petitioner alleges is in error and should be corrected in this proceeding.

There can be no dispute that unmatched original damaged ballots are valid ballots and the votes marked on those ballots should be counted in the election. There also can be no dispute that the same vote should not be counted twice. The dispute is whether counting the votes on the unmatched original damaged ballots in the recount will result in double-counting because those votes have already been counted based on an unmarked duplicate ballot. We do not and cannot decide that question based on the record presented in this abbreviated proceeding.

Because the resolution of petitioner’s claim that double-counting of votes will result from including unmatched original damaged ballots in the recount is better suited to an evidentiary hearing and fact-finding, the decision of the State Canvassing Board to reject challenges to unmatched original damaged ballots counted in the recount was not in error and the relief requested by petitioner is denied.

Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED THAT:

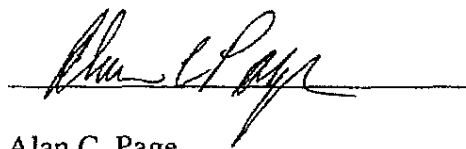
1. The petition of Norm Coleman for relief from the December 19, 2008 decision of the State Canvassing Board rejecting challenges to unmatched original

damaged ballots be, and the same is, denied. But our denial of the relief requested does not constitute a binding determination in a subsequent election contest proceeding.

2. Petitioner's motion for a temporary restraining order be, and the same is, denied as moot.

Dated: December 24, 2008

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Alan C. Page", is written over a horizontal line.

Alan C. Page  
Associate Justice

MAGNUSON, C.J., and ANDERSON, G. Barry, J., took no part in the consideration or decision of this matter.



Printed on Recycled Paper  
20% Post Consumer Waste

## EXHIBIT E

### DESCRIPTION OF PRECINCTS IN WHICH MORE BALLOTS WERE COUNTED DURING THE RECOUNT THAN PERSONS VOTED ON ELECTION NIGHT

#### Maplewood Precinct 6

The election night totals indicated 1,396 votes cast (inclusive of accepted absentee ballots). However, the Recount tallied 1,564 votes cast although only 1,533 voters cast ballots according to the precinct's record of pre-registered voters, election day registrants and accepted absentee ballots. Hence, an excess of thirty-one (31) more votes than voters were certified by the Board relative to this precinct in the Recount.

#### St. Paul Ward 3, Precinct 9

The election night totals indicated 1,747 votes cast (inclusive of accepted absentee ballots). However, the Recount tallied 1,764 votes cast. Hence, an excess of seventeen (17) more votes than voters were certified by the Board relative to this precinct in the Recount.



**EXHIBIT F**

DOCUMENTS AND CORRESPONDENCE RELATING TO BALLOTS "FOUND"  
DURING THE RECOUNT BUT WHICH LACK ANY CHAIN OF CUSTODY OR  
VERIFICATION AS TO RELIABILITY



# TRIMBLE & ASSOCIATES, LTD.

*Attorneys at Law*

10201 Wayzata Boulevard  
Suite 130  
Minneapolis, Minnesota 55305

Telephone: 952-797-7477  
Facsimile: 952-797-5858  
Email: trimblelegals@earthlink.net

December 3, 2008

Mr. Joseph Mansky  
Ramsey County Elections Director  
P.O. Box 64098  
St. Paul, MN 55164-0098

Re: Maplewood Precinct 6

Dear Mr. Mansky:

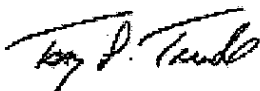
It is our understanding that you have not yet located any voter registration applications relative to the 171 additional ballots allegedly "found" in a voting machine in Maplewood Precinct 6, despite your assertions to the *Star Tribune* (in an article posted online yesterday afternoon) that these applications had already been found.

We understand that you intend to conduct a search for these applications (and perhaps other materials relating to these additional ballots), either at the voting location for this precinct (Hazelwood Fire Station) and/or in Maplewood city offices. **Please notify us and Mr. Lillehaug of the date and time on which this search will occur so representatives of each campaign can be present.** Any such search must be transparent and open to the public as the facts surrounding these ballots are too troubling already.

Moreover, if you do not find these applications, we request that you re-open this precinct for the purposes of permitting the Coleman campaign to challenge these additional ballots. Otherwise, the number of ballots will substantially exceed the number of persons registered on election day in this precinct (by your office's own count and disclosure following yesterday's recount), thereby raising further serious and material concerns as to the integrity of the results of this precinct, whether on election night or during the recount.

Finally, your office has not yet provided copies of the voter registration information, election night incident reports *or* the proposed draft recount incident reports, despite your representations yesterday that this information would be available this morning (Wednesday, December 3). **Please advise me immediately when this information is available; we trust it will be available shortly.** Thank you.

Sincerely,



Tony P. Trimble  
/mh

Mr. Joseph Mansky

Page 2

December 3, 2008

cc: Mr. David L. Lillehaug  
Mr. Fritz Knaak  
Mr. Mark Ritchie



**Tony Trimble**

---

**From:** Mansky, Joseph [Joseph.Mansky@CO.RAMSEY.MN.US]  
**Sent:** Thursday, December 04, 2008 4:05 PM  
**To:** Tony P. Trimble  
**Cc:** mark.ritchie@state.mn.us; Lillehaug, David  
**Subject:** RE: Maplewood Precinct 6  
**Attachments:** letter to secretary of state on Maplewood P6.pdf

Here is the letter on Maplewood P6.

December 4, 2008

Mark Ritchie  
Secretary of State  
180 State Office Building  
100 Martin L King Blvd.  
St Paul, MN 55155

Dear Secretary Ritchie,

You have asked for information concerning the number of ballots cast in Maplewood P6 at the 2008 state general election. The following is a description of facts as we know them, based on conversations with the Maplewood city clerk, who has been in communication with the election judges from that precinct. I am also including some additional information on the ballots counted in St Paul W3 P9.

At approximately 6:00 pm on election day, an election judge inserted the absentee ballot header card (the card used with the Accuvote voting system to indicate that absentee ballots are being entered into the system) in preparation for processing the absentee ballots. After the header card was inserted, the number of voters coming into the polling place increased rapidly. This caused the election judges to stop entering the absentee ballots. But the judges did not immediately place the ballot counter back on normal voting mode. As a result, the ballots subsequently inserted by the voters until the poll count card was inserted into the ballot counter by the judges appeared to the ballot counter to be absentee ballots.

As a result of the volume of voter traffic for the balance of the day, the absentee ballots remained unprocessed until the closing of the polls. After the last voter had voted, the election judges immediately inserted the end of voting header card and begin printing the election results summary tapes. Once this header card was entered, it was not possible to enter additional ballots into the ballot counter. As a result, none of the remaining absentee ballots that had not previously been entered into the ballot counter could be processed and added to the summary statement tape. Since the election judges did not inform the city clerk that this had happened, there was no way for the judges on their own to get

the remaining absentee ballots counted. Neither the City of Maplewood nor our office knew about this situation, since it was not called in nor was it reported by the election judges on the incident report. We also understand that a Maplewood staff person did visit the polling place during the day in response to a problem with the operation of the ballot counter. Although we cannot rule it out, it does not appear at this time that this problem was related to the ability of the election judges to properly process the absentee ballots.

After the result tapes were printed at the end of the day, all the ballots, including the ballots that had not been recorded on the memory card, were sealed by the election judges into transfer cases and transported to the Maplewood city hall. The Maplewood city clerk then transported the sealed transfer cases to our office on Thursday, November 6. The transfer cases remained sealed and unopened until that precinct's ballots were recounted on Tuesday, December 2.

According to the statistical information provided by the election judges to the Maplewood city clerk, a total of 1,396 persons voted on Election Day. That was also the number of votes reported as cast by the summary statement tapes from the ballot counter. Since the total voting reported by the election judges agreed with the total number of ballots cast on the summary statement tape from the ballot counter, there was no reason at the time to believe that there was any problem with either of these data.

At the conclusion of the recount for that precinct, it became clear that the summary statement tape did not accurately reflect the number of persons and how they had voted. After reviewing the pre-registered polling place roster, the voter registration cards of election day registrants, and the accepted absentee ballot return envelopes, we have determined that the voter statistics submitted by the election judges were also in error.

We have determined from the recount that a total of 1,564 ballots were cast at that precinct. From an examination of the voter registration and absentee voting materials, we can confirm that 1,560 persons voted. It is possible that the other four voters were issued a ballot without signing the polling place roster, but at this point we do not know this for a fact. We will continue to examine the materials in our possession and will inform you if we are able to resolve this matter.

In St Paul W3 P9, the election judges reported to us that they were having a problem with some of the absentee ballots getting jammed in the ballot counter late in the day as they were being entered. The judges proceeded to remove these jammed ballots from the ballot counter and dropped them into the ballot box. Given the judges' description of the situation to us, we do not believe that these ballots would have been counted and the votes on them reflected on the summary statement tape produced by the ballot counter at the close of voting. The judges in that precinct have indicated to us that at least 15-20 absentee ballots were affected by this situation.

The election judges also made an error in calculating the total number of persons voting in the precinct on election day. That number should be 1,765.

If you have any further questions concerning this matter, please feel free to contact me.

Sincerely,

Joseph Mansky  
Ramsey County Elections Manager





**EXHIBIT G**

DOCUMENTS AND CORRESPONDENCE RELATING TO  
CITY OF MINNEAPOLIS WARD 3 PRECINCT 1

December 3, 2008

**VIA EMAIL**

The Hon. Mark Ritchie  
Secretary of State  
State Office Building  
St. Paul, Mn

**Re: U.S. Senate Recount – Missing Ballots – Minneapolis Precinct 3-1**

Dear Secretary of State Ritchie:

On November 24, we wrote to you regarding what we called “the alarming possibility of missing ballots in numerous precincts throughout the state.” We drew your attention to precincts where there were discrepancies of 5, 3, and 13 ballots. We requested that your Office commence an immediate investigation to determine whether ballots are missing and to conduct a thorough search to locate them. We also requested that you order local elections officials to make available documents so that the campaigns could be of assistance. By letter dated November 25, you responded that you had asked local officials to search, but you otherwise declined our request for an investigation and an order from your Office.

Today the “alarming possibility” became a five-alarm fire. Today, in Minneapolis Precinct 3-1, in which 2,028 people voted on Election Day, only 1,896 ballots were produced for counting.

While only 1,896 ballots were produced, the figures furnished to the campaigns by Minneapolis elections official Cindy Reichert show that at least 2,028 people voted on Election Day. The machine tape for Precinct 3-1 shows that 2,028 voters cast ballots. Further, according to Ms. Reichert: 1,047 people signed the roster; 932 people were new registrants; and 50 absentee ballots were accepted. The total of these is 2,029. Further, Minneapolis reported that 1,965 people cast votes in the U.S. Senate race.

In other words, there are 133 missing ballots.

As we have previously advised your staff, Minneapolis Elections Director Cindy Reichert has not vigorously searched for missing ballots. Further, when confronted with the

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December 3, 2008

Page 2

evidence of missing ballots, her initial public explanation (a supposed double-count of write-in votes) made no sense, according to the voter numbers she herself furnished to the campaigns.

This recount is being conducted by your Office. We submit that it is time for your Office to act, and to act immediately.

The Franken campaign demands that the recount be kept open in Minneapolis until the 133 missing ballots are found. It also demands that your Office commence an immediate investigation -- and take charge of the search -- to find the missing ballots and to determine how they were lost.

There are 133 potentially disenfranchised voters in Minneapolis who are waiting for action. The U.S. Senate race may hang in the balance. This matter is urgent.

Very truly yours,



David L. Lillehaug

*Attorney*

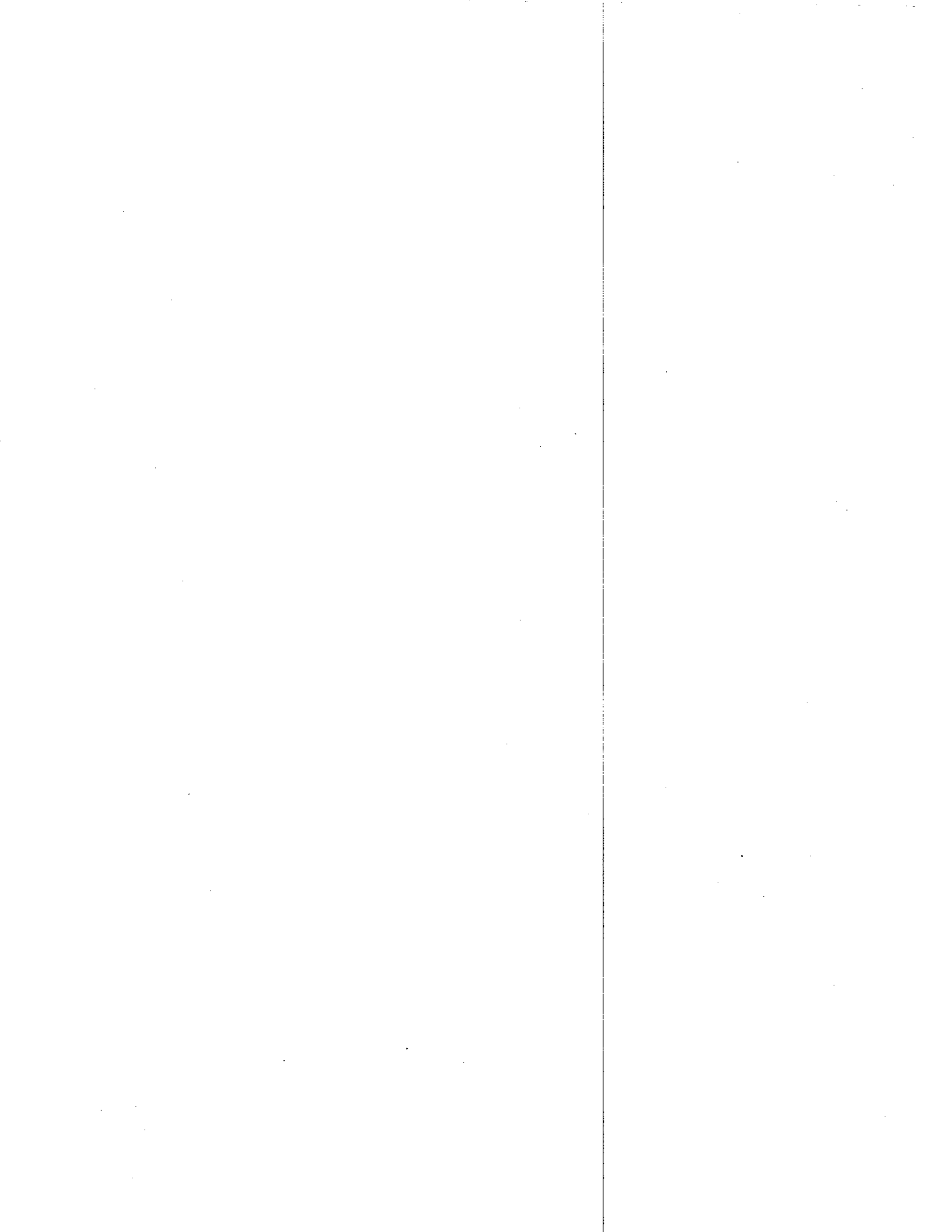
**Direct Dial:** 612.492.7321

**Email:** dlillehaug@fredlaw.com

DLL:rz

c: Deputy SoS Jim Gelbmann  
AAG Christie Eller  
City Attorney Susan Segal  
Fritz Knaak, Esq.  
Tony Trimble, Esq.  
Marc Elias, Esq.  
Kevin Hamilton, Esq.

4472350\_1.DOC



## Tony P. Trimble

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**From:** Tony P. Trimble [trimblelegals@earthlink.net]  
**Sent:** Wednesday, December 03, 2008 6:22 PM  
**To:** 'Mark Ritchie'  
**Cc:** 'Lillehaug, David'; 'Jim Gelbrmann'; 'Christie.Eller@state.mn.us'; 'susan.segal@ci.minneapolis.mn.us'; 'fknaak@klaw.us'; 'Elias, Marc (Perkins Coie)'; 'Hamilton, Kevin J. (Perkins Coie)'  
**Subject:** RE: Letter to Secretary of State Regarding Missing Ballots in Minneapolis

Dear Mr. Ritchie:

We are in receipt of correspondence from David Lillehaug to your office relative to ballots alleged to be missing from Minneapolis Ward 3, Precinct 1.

We wish to note for the record that the Coleman representatives present at this location today dispute the assertion within Mr. Lillehaug's correspondence that Minneapolis Election Director Cindy Reichert "has not vigorously searched for missing ballots". Coleman and Franken representatives were present in the Minneapolis ballot storage warehouse for a search that lasted for approximately two (2) hours, during which time period Ms. Reichert's staff, in the presence of these representatives, searched through each and every stack of ballots in the warehouse (including spoiled/rejected ballots), opened the ballot box for this precinct and moved furniture and other office equipment stored at the site.

The Coleman representatives reported to us that Ms. Reichert searched each location suggested by the Franken representatives and she directed searches of other locations (including within voting machines located in the warehouse). At no time did representatives of the Coleman campaign hear any Franken representatives suggest that the search was anything less than complete *or* that additional locations needed to be searched.

Additionally, we believe that criticism of Ms. Reichert's potential explanation of this incident is premature at this time, since Ms. Reichert has yet to prepare and issue her incident report (a draft of which report Ms. Reichert has stated she will share with representatives of each of the Coleman and Franken campaign).

Please keep our office informed of any further action the Minnesota Secretary of State intends to take in this matter and provide us and Mr. Knaak with copies of all correspondence between your office and any third parties (including Minneapolis election officials and/or Franken campaign representatives) on this issue.

Thanks,

Tony Trimble

---

Trimble & Associates, Ltd.  
10201 Wayzata Blvd., Suite 130  
Minneapolis, Minnesota 55305  
Tel: (952) 797-7477  
Fax: (952) 797-5858

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*Of Counsel*  
Donald W. Kohler  
Joseph B. Marshall  
Thomas M. Dailey, P.A.  
Theodore M. "Ted" Thompson

December 4, 2008

Minnesota Secretary of State Mark Ritchie  
180 State Office Building  
100 Rev. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155

Dear Secretary Ritchie,

Today the Franken campaign has issued a public statement which proposed a procedure that invites a potentially abusive search at the University Lutheran Church of Hope in Minneapolis concerning the vote totals from Ward 3 Precinct 1.

In a press conference and press release today, we understand the Franken campaign has called for your office to do among the following:

- Interview every person who worked at the precinct on Election Day, every person who had a role in setting up or cleaning up at the church that served as a polling place, and every person who touched or transported the ballots either on Election Day or at any point between then and now.
- Conduct a systematic forensic search of the church that served as a polling place, any vehicle used to transport ballots or other elections materials, the warehouse where the ballots were stored.
- In addition, the Franken campaign called for the following information to be released to the campaigns and the public immediately:
  - Contact information (name, address, phone number) for: everyone who worked at the precinct on Election Day, the administrator responsible for the church that served as the polling place, and every county employee who at any time for any purpose touched these ballots or ballot envelopes.

We respect the Franken campaign's rights to defend whatever position they believe they have as it pertains to the recount.

However, we reject the notion that government or taxpayers should be required to conduct forensic searches of places of worship – including demanding access to Church employees and leaders – in order for the Franken campaign to score political points.

It's been unfortunate enough that in the past 24 hours the Franken campaign has reached a new level of belligerency in their efforts to "unearth" votes they believe they "lost" in Minneapolis.

But, at some point we would hope that your good office would call for a halt to the kind of intrusive tactics being called for by the Franken campaign.

So many churches across this state have been good enough to provide space for Minnesota voters to cast their votes and participate in the democratic process. Those churches, their employees and their leadership should never have to expect they may be victims of a government "raid" of their premises because of a political campaign attempting to find ballots that election officials in Minneapolis believe do not exist.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in cursive script, reading "Frederic W. Knaak". The signature is written in dark ink and is positioned above the typed name.

Frederic W. Knaak, Esq.







December 4, 2008

**Office of the City Attorney**

Susan L. Segal  
City Attorney

333 South 7th Street ~ Suite 300  
Minneapolis MN 55402-2453

Office 612 673-2010  
Civil Division Fax 612 673-3362  
Criminal Division Fax 612 673-2189  
CPED Fax 612 673-5112  
TTY 612 673-2157

Mark Ritchie  
Secretary of State  
Retirement Systems of Minnesota Building  
60 Empire Drive, Suite 100  
St Paul, MN 55103

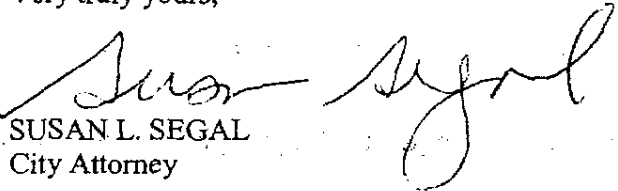
Dear Secretary of State Ritchie:

This is in response to the November 24, 2008 letter from David Lillehaug, submitted on behalf of the Franken campaign.

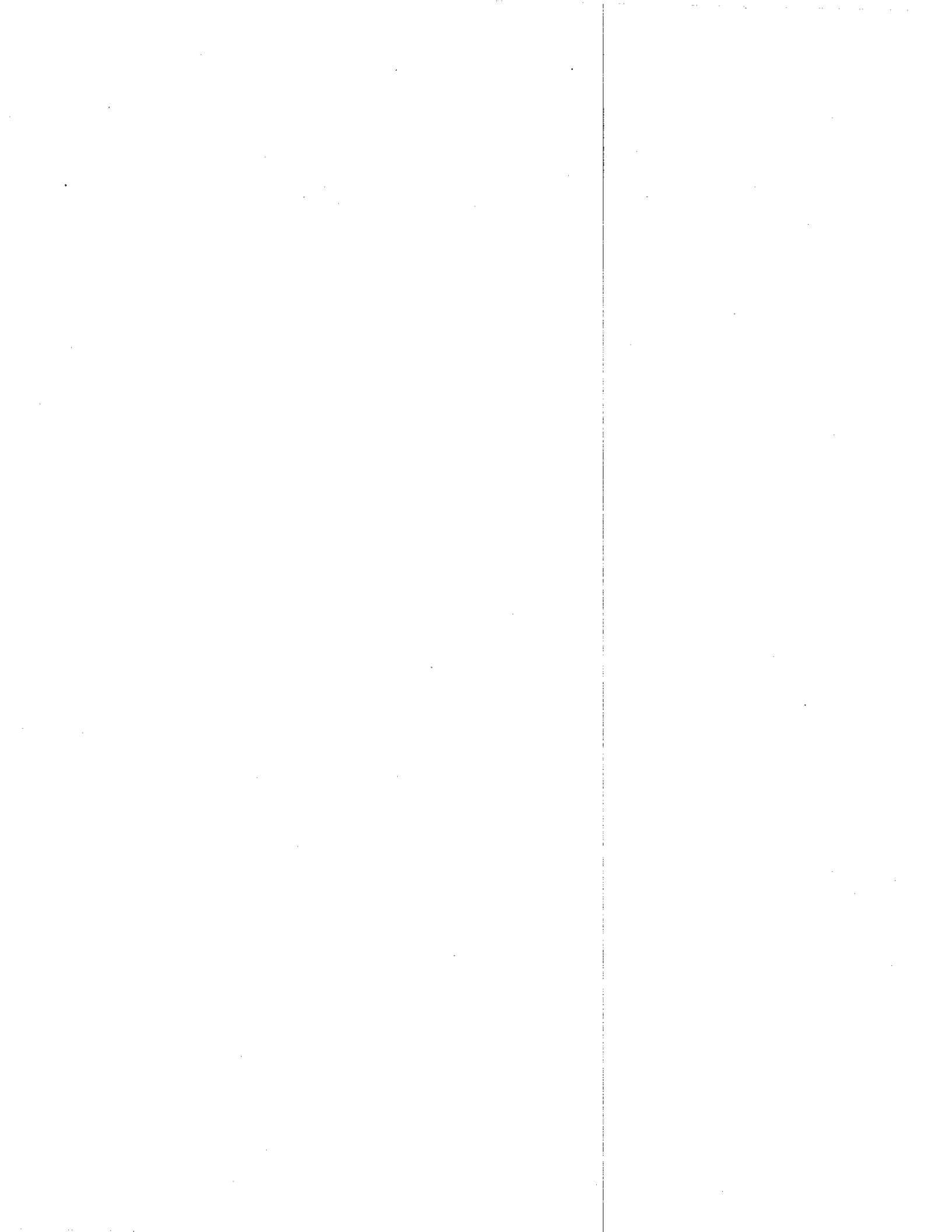
First, as you are no doubt aware, Cindy Reichert, the City's Elections Director, and her staff have been in close and frequent communication with your Office about the Ward 3, Precinct 1 ballot issue. The City is obtaining direction from your staff on how to proceed with this matter and the assistance and full participation of your Office in the investigation is welcomed and invited.

Second, to respond to the claim in Mr. Lillehaug's letter that Ms. Reichert "has not vigorously searched for missing ballots," a substantial search was conducted yesterday of the warehouse, witnessed by representatives from both campaigns. The investigation into this matter is continuing with the participation of and guidance from your Office. The City is and remains fully committed to insuring a full and fair recount, with all valid ballots being counted.

Very truly yours,

  
SUSAN L. SEGAL  
City Attorney

 Fritz Knaak  
Tony Trimble  
David Lillehaug



-----Original Message-----

From: Reichert, Cindy D. [mailto:Cindy.Reichert@ci.minneapolis.mn.us]  
Sent: Thursday, December 04, 2008 6:35 PM  
To: Mark Halvorson  
Cc: melias@perkinscoie.com; Tom Erickson  
Subject: RE: Unaccounted Ballots

I've checked all the statistics - voter receipts, rosters, absentee envelopes, etc., and it appears our ballot numbers for 3-1 are still short. We've spoken with the Chair, the custodian at the church, the check-in staff at the warehouse on election night and looked through all precinct materials housed at city hall.

Jim Gelbman (Deputy Secretary of State) and I are meeting at the warehouse tomorrow morning at 9:00 a.m. and we will be physically moving all the ballot boxes, voting booths, pallets and everything else to make sure it didn't slip under something that night. I also want Ginny and Emily to go through the envelopes against the wall one more time.

We'd like representatives from both campaigns and CEIMN there to observe as we continue our search. I've already communicated this to Pat Shortridge and he is contacting the Coleman campaign to line up a volunteer.

Thanks very much, and I hope to see reps from all interested parties there tomorrow.

Cindy

---

From: Mark Halvorson [mailto:mshalvorson@comcast.net]  
Sent: Thu 12/4/2008 4:47 PM  
To: Reichert, Cindy D.  
Cc: melias@perkinscoie.com; terickson@colemanforsenate.com  
Subject: Unaccounted Ballots

Dear Cindy,

I am aware that you and your staff are looking into the issue of the 133 unaccounted ballots. To ensure that the process has greater transparency I would like to propose that a representative from each campaign and a non-partisan CEIMN observer be present for as much of this investigation as possible without interfering in the process.

I hope that representatives from the campaign and myself will hear a positive response to this request as soon as possible. Thank you for your consideration.

Sincerely,  
Mark Halvorson  
Director, Citizens for Election Integrity  
612-724-1736 work  
612-720-3644 cell



**KNAAK & KANTRUD, P.A.**

Attorneys at Law

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*Of Counsel*  
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Theodore M. "Ted" Thompson

December 10, 2008

Ms. Cynthia Reichert  
Minneapolis Elections Division  
Minneapolis City Hall  
350 South Fifth Street, Room B-1  
Minneapolis, MN 55402

Dear Ms. Reichert:

This letter is written regarding your recent public comments that your office intends to submit two (2) sets of data to the Minnesota State Canvassing Board relative to Minneapolis Ward 3 Precinct 1. We respectfully submit that the only legally-recognizable number to be submitted is the recounted number and *not* the election night total. Hence, for the reasons discussed below, we request that your office submit only the recount numbers to the Minnesota State Canvassing Board.

Argument

First and foremost, the purpose of an administrative recount under Minnesota law is to simply count the ballots located and presented to the local election officials. Minn. Stat. § 204.31, subd. 3 provides, "The duties of each canvassing board are **limited to** those duties specified in sections 204C.32 to 204C.39 (emphasis added)." Minnesota Statutes § 204C.35, Subd. 3 states:

Only the ballots cast in the election and the summary statements certified by the election judges may be considered in the recount process.

Minnesota Rule 8235.1100 similarly specifically circumscribes the universe of matters that the State Canvassing Board may consider (emphasis added):

**8235.1100 CANVASSING BOARD.**

The recount official shall present the summary statement of the recount and any challenged ballots to the canvassing board. The candidate or candidate representative who made the challenge may present the basis for

the challenge to the canvassing board. The canvassing board shall rule on the challenged ballots and incorporate the results into the summary statement. The canvassing board shall certify the results of the recount. Challenged ballots must be returned to the election official who has custody of the ballots.

This rule clearly gives *no* discretion to local election officials *or* to the Minnesota State Canvassing Board to engage in any evaluative process or second-guessing as to how so-called “missing ballots” *might* have been counted had they been considered in the recount. *See, e.g., O’Ferrall v. Colby*, 2 Minn. 180, 2 Gil. 148 (1858); *Taylor v. Taylor*, 10 Minn. 107, 10 Gil. 81 (1865).

Moreover, the Minnesota State Canvassing Board’s discretionary authority is limited solely and exclusively to “challenged ballots”, which universe of ballots does *not* include any ballots thought to be missing. The Minnesota Secretary of State’s 2008 Recount Guide confirms a common sense reading and application of this statute:

- (i) This is an **administrative** recount held pursuant to M.S. 204C.35 and M.R. 8235. It is **not** to determine who was eligible to vote. It is **not** to determine if campaign laws were violated. It is **not** to determine if absentee ballots were properly accepted. It is **not** – except for recounting the ballots – to determine if judges did things right. It is simply to physically recount the ballots **for this race!**
- (ii) In other words, the Board’s job is not to second-guess local election officials, or to count ballots that may or may not have ever existed and were not presented for the recount.

In addition to the foregoing statutory and regulatory authority, there is recent clear and direct precedent under Minnesota law on this matter: the results of a hand (manual) recount are to be utilized over the results of a machine recount, even if an assertion exists that certain ballots are missing that were thought to have been counted on election night. This exact matter was explicitly addressed by a Minnesota state canvassing board and Minnesota district court in 2002 in *In the Matter of the Contest of General Election held on November 5, 2002 for election of State Senator from District 27, Thomas Purcell, Contestant v. Dan Sparks, Contestee*, Mower County District Court File No. C5-02-1938.

For convenience of reference, we have attached as *Exhibit A* the Findings of Fact, Conclusions of Law and Determination issued by the Mower County District Court on January 6, 2003 (the “Order”) in this case, which involved (in part) a situation in which, at some time between the evening of the election (November 5, 2002) and the next morning (November 6, 2002), “an election judge removed 17 ballots from the Austin City Hall, which were ultimately burned and are unrecoverable.” (*See* Order, Findings of Fact, ¶ 6.) Following the election, an automatic administrative recount was triggered and

conducted by the Minnesota Secretary of State. (Id., ¶ 7.) Findings of Fact ¶ 12 explains the Minnesota State Canvassing Board's disposition of the 17 missing ballots<sup>1</sup>:

12. In addressing the issue of the 17 missing ballots, the State Canvassing Board added 8 votes to those of Dan Sparks, which represented the number of votes he had received *under the first, machine count of the ballots in the...precinct from which they had been originally counted...*

The Court found that no dispute of fact existed as to whether or not the ballots existed and were destroyed, clearly finding that the ballots were "intentionally destroyed" by an election judge "by burning them in her fireplace". (Id., ¶¶ 17-24.)

In overturning the decision of the Minnesota State Canvassing Board to revert to election night totals, the Mower County District Court, in its Conclusions of Law, applying long-standing Minnesota precedent, *Newton v. Newell*, 26 Minn. 529, 6 N.W. 346 (1880), concluded:

2. The intent of these 17 voters could only be ascertained with probability, not with any certainty.
3. Probability is not enough to ascribe these votes to one candidate or the other.
5. In the case of a count done by a machine, a subsequent hand count is more reliable.
6. In a contested election contest, the hand count is more reliable than a machine count, and the hand count becomes the official count in an election contest.
7. Where ballots have not been carefully preserved so as to place their identity beyond a reasonable doubt, they can not be relied upon in a subsequent recount. Newton v. Newell, 26 Minn. 529, 6 N.W. 346, (1880).
8. ...This Court reads Newton v. Newell supra as excluding only the 17 destroyed ballots as unreliable, and affirming the hand recount of the precinct with the remaining ballots....

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<sup>1</sup>The Minnesota State Canvassing Board at the time was comprised of Secretary of State Mary Kiffmeyer, Minnesota Supreme Court Associate Justices Helen M. Meyer and Sam Hanson, Second District Court Judge Salvador M. Rosas and Fourth District Court Judge Heidi S. Schellhas. This Board inexplicably voted 4-1 to revert to the election night machine tape numbers for one candidate and to use the numbers generated during the recount for another candidate.

12. Where there is an official hand count of ballots, and ballots have been destroyed a citizen's choice in an election contest cannot be imputed, based on a probability or an evidentiary penalty. None of the 17 intentionally destroyed ballots may be counted for either party.

The presumption that a hand count is more accurate than a machine count was codified within Minnesota election law in the 2008 amendments to Minn. Stat. § 204C.35 which added the word "manual" (i.e., hand-count) to the administrative recount statute.

Prior to this amendment, administrative recounts consisted merely of feeding ballots back through the machines that counted them in the first place. The Minnesota Legislature clearly made a public policy choice that hand counts are presumably more accurate or it would *not* have amended the administrative recount statute to require a hand recount. The presumption of the superiority of hand count results is further codified by the Minnesota election law requirement that a "post-election review" be conducted of all voting machines in Minnesota under Minn. Stat. § 206.89 during the post-election canvassing process.

Clearly, the public policy promoted by Minnesota election law (including the recount statute) favors hand recount results over machine count results. The rationale for trusting the hand count results is sound: without the actual ballots themselves, there can simply be no presumption as to how the persons casting such so-called ballots intended to vote.

*Importantly, this public policy that holds that presumptions may not be made as to how a person might have voted does not trump the admittedly strong public policy of "counting every vote".* Thus, any risk that the persons voting the 17 burned ballots in *Purcell v. Sparks* would be disenfranchised nevertheless did *not* trump the stronger public policy against presuming to know how those ballots were voted without examination of the ballots themselves, as the Court's second and third conclusions of law clearly held (emphasis added):

2. The intent of these 17 voters could **only be ascertained with probability, not with any certainty.**

3. **Probability is not enough to ascribe these votes to one candidate or the other.**

This public policy has seamlessly been the law in Minnesota since the *Newell* decision, followed in *Purcell v. Sparks*<sup>2</sup>, and there is no reason to diverge from this policy here. In

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<sup>2</sup>In fact, this policy was recognized and affirmed by the Minnesota Supreme Court in 2003 in *Erlandson v. Kiffmeyer*, 659 N.W.2d 724 (Minn. 2003). In *Erlandson*, the Minnesota Supreme Court rejected an assertion that no absentee ballots cast for United States Senate prior to Senator Paul Wellstone's tragic death be counted, even in the face of the reality that the decision would disenfranchise some voters. The Court



fact, there is even *less* urgency to “default” to the less reliable election-night machine results in this instance than there was in *Purcell*, since in *Purcell* there was absolutely no question that ballots were indeed missing.

The current situation is distinguishable from cases in which *all* ballots from a particular precinct were missing, as was the case in *Moon v. Harris*, 122 Minn. 138, 142 N.W. 12 (1913)(all ballots missing from two (2) precincts) or the more recent Illinois case *Graham v. Reid*, 334 Ill. App. 3d 1017, 1024, 779 N.E.2d 391, 396-97 (2002). In cases where all of the ballots from a precinct are missing, the courts will default to election night numbers as *prima facie* evidence of numbers. However, where only some ballots are alleged to be missing, there should be no “defaulting” to election night numbers, because the ballots themselves are the best evidence of the voter’s intent (presumptions cannot be made as to how a supposedly missing ballot might have been cast).

#### Factual Dispute as to Missing Ballots

As an additional matter, in this situation, you personally have made conflicting and confusing public pronouncements that raise a question as to whether any ballots are in fact missing from this precinct, including the following (see attached as *Exhibit B*--emphasis added):

- “The city of Minneapolis is subtracting 133 votes from its total reported on election day after determining during the Senate recount that the ballots were counted twice. **City elections director Cindy Reichert says the ballots contained write-in votes and she believes they somehow ended up being fed through a voting machine twice on election day.**” (Patrick Condon, “Minneapolis subtracts 133 votes in recount,” Associated Press, December 3, 2008).
- “The 133 missing ballots from Ward 3, Precinct 1, Reichert explained, **likely were a result of ballots with write-in candidates being run through a counting machine twice... ‘We believe that we have all the ballot envelopes here,’ Reichert said. ‘There are human errors that are made on election day.’**” (Rachel E. Stassen-Berger and Jason Hoppin, “Glut of ballot challenges chokes recount,” Pioneer Press, December 3, 2008).
- “There was confusion in Minneapolis as the state’s largest city wrapped up its recount, after officials discovered what they said was a pile of about 130 ballots

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acknowledges “that absentee voters who voted for Senator Wellstone on a regular absentee ballot before his death may not have sufficient time to recast their ballot. But we must recognize that in the unfortunate circumstances presented, a perfect solution that enables all absentee voters an opportunity to cast a replacement ballot may not be possible....” 659 N.W. 2d at 731. Hence, the Minnesota Supreme Court recognized, as did the Court in *Purcell*, that, in certain admittedly rare and unique situations, the harm of voter disenfranchisement is outweighed by public policy positions with a greater priority.

that was counted twice on Election Day. **City elections director Cindy Reichert said the ballots contained write-in votes and she believes they somehow were fed through a counting machine twice.**” (Patrick Condon, “Franken says will drop 633 challenges in recount,” Associated Press, December 4, 2008).

- “Late Wednesday, Reichert said she had decided to keep the results in the precinct open until all of the discrepancies could be resolved, by reviewing all of the precinct’s election materials at City Hall today. **‘Several mistakes were made in the precinct and we need to verify all of the numbers we looked at [Wednesday],’** she said.” (Bob Von Sternberg, Mark Brunswick and Mike Kaszuba, “Franken’s campaign protests 133 mystery ballots from Minneapolis,” Star Tribune, December 4, 2008).

Although we understand that your office has now asserted that these ballots are missing and this initial explanation was incorrect, you have refused requests under the Minnesota Data Practices Act to permit the Coleman campaign to independently inspect and verify the voter registration rolls and election-day sign-in sheets from this precinct. In your own words from an email to our office on December 8, 2008 at 12:51 p.m. (see attached as *Exhibit C* – emphasis in original):

As we discussed at the Warehouse last Friday, the [voting] rosters cannot be released per M.S. 204B.40.

#### 204B.40 BALLOTS; ELECTION RECORDS AND OTHER MATERIALS; DISPOSITION; INSPECTION OF BALLOTS.

The county auditors, municipal clerks, and school district clerks shall retain all election materials returned to them after any election for at least 22 months from the date of that election. All election materials involved in a contested election must be retained for 22 months or until the contest has been finally determined, whichever is later. Abstracts filed by canvassing boards shall be retained permanently by any officer with whom those abstracts are filed. Election materials no longer required to be retained pursuant to this section shall be disposed of in accordance with sections 138.163 to 138.21. Sealed envelopes containing voted ballots must be retained unopened, except as provided in this section, in a secure location. The county auditor, municipal clerk, or school district clerk shall not permit any voted ballots to be tampered with or defaced.

After the time for filing a notice of contest for an election has passed, the secretary of state may, for the purpose of monitoring and evaluating election procedures: (1) open the sealed ballot envelopes and inspect the ballots for that election maintained by the county auditors, municipal clerks, or school district clerks; (2) inspect the polling place rosters and completed voter registration applications; or (3) examine other forms required in the Minnesota election laws for use in the polling place. No

inspected ballot or document may be marked or identified in any manner. After inspection, all ballots must be returned to the ballot envelope and the ballot envelope must be securely resealed. Any other election materials inspected or examined must be secured or resealed. No polling place roster may be inspected until the voting history for that precinct has been posted. No voter registration application may be inspected until the information on it has been entered into the statewide registration system.

Because you have refused to provide information essential to enable us to evaluate your evolving explanations as to these allegedly missing ballots, we must only take you at your word that any ballots are missing, without any objective or independent verification. Such hearsay and conjecture can hardly constitute sufficient evidence upon which to request the Minnesota State Canvassing Board to disregard Minnesota's long-standing public policy that refuses to make any presumptions as to how missing ballots might be voted, if the ballots themselves are not available in an administrative recount (or an election contest, for that matter).

Without reconciling these names with the number of ballots, there simply is no basis upon which to conclude with any certainty that the machine did not malfunction. Without such a conclusion, there is further no basis upon which to "default" to election night numbers or for your office to otherwise report conflicting numbers to the Minnesota State Canvassing Board, one of which must necessarily be incorrect and based merely on speculation and conjecture alone.

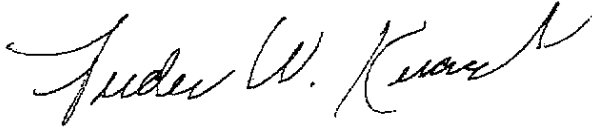
We understand that your office has conducted a thorough and diligent search for these ballots, to no avail. Conducting a search is evidence only of a belief that such ballots exist, *not* any evidence that the ballots do in fact exist. A complete, fair and transparent investigation regarding these ballots, and the circumstances surrounding your initial explanation and subsequent explanations (including references to "several mistakes" and "human errors" made in this precinct on election day), should only be conducted under the rules of civil procedure and rules of evidence applicable in an election contest.

As described in *Taylor v. Taylor*, 10 Minn. 107, 10 Gil. 81 (1865), the function of a canvassing board is ministerial; questions such as these should be *only* "by a court that could call in witnesses, hear evidence, and decide questions of law and fact." (*See also Hunt v. Hoffman*, 125 Minn. 249, 255, 146 N.W. 733, 735 (1914) (contest court has full authority to rectify canvassing board error, which is to be accorded no res judicata effect)). A proper investigation as to these Such an investigation cannot be properly or fairly conducted during the limited scope of this administrative recount.

Based on the foregoing, the City of Minneapolis should report to the Minnesota Secretary of State *only* the summary statements produced during the administrative (manual) recount. Any other report would exceed the limited scope of the administrative recount process under Minn. Stat. § 204C.35 and Minnesota Rule 8235.1100. If your office follows through on its stated intention to send conflicting results for this precinct to the Minnesota State Canvassing Board, we will request the Minnesota State Canvassing Board to follow the clear directives under Minnesota law and certify only the administrative recount results from this precinct.

We are providing a copy of this correspondence, along with all attachments, to the Minneapolis City Attorney, as well as the Minnesota Secretary of State and the other members of the Minnesota State Canvassing Board. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Frederic W. Knaak". The signature is written in black ink and is positioned above the printed name.

Frederic W. Knaak, Esq.

cc: Susan L. Segal, Minneapolis City Attorney  
David L. Lillehaug, Esq.  
Tony P. Trimble, Trimble & Associates, Ltd.  
Members of Minnesota State Canvassing Board

EXHIBIT A

Frederic W. Knaak  
Attorney at Law  
3500 Willow Lake Blvd.  
Suite 800  
Vadnais Heights, MN 55110

STATE OF MINNESOTA

COUNTY OF MOWER

NOTICE OF:

Brian F. Rice  
Attorney at Law  
601 2<sup>nd</sup> Ave. So.  
Suite 4000  
Minneapolis, MN 55402-4431

Filing of Order

Entry of Judgment

Docketing of Judgment

File: C5-02-1938

In Re: In the Matter of the Contest of General Election held on November 5, 2002 for election of State Senator from District 27, Thomas Purcell vs. Dan Spark

YOU ARE HEREBY NOTIFIED THAT ON January 6, 2003, AN ORDER WAS DULY FILED IN THE ABOVE ENTITLED MATTER.

YOU ARE HEREBY NOTIFIED THAT ON , A JUDGMENT WAS DULY ENTERED IN THE ABOVE ENTITLED MATTER.

YOU ARE HEREBY NOTIFIED THAT ON , A JUDGMENT WAS DULY DOCKETED IN THE ABOVE ENTITLED MATTER IN THE AMOUNT OF \$.

A true and correct copy of this Notice has been served by mail upon the parties above named herein and at the last known address of each, pursuant to Minnesota Rules of Civil Procedure, Rule 77.04.

Dated: January 6, 2003

PATRICIA A. BALL  
Court Administrator

By: Patricia A. Ball

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF MOWER

THIRD JUDICIAL DISTRICT

CASE TYPE: ELECTION CONTEST

In the Matter of the Contest of  
General Election held on November 5,  
2002 for election of State Senator  
from District 27.

Thomas Purcell,  
Contestant,

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND DETERMINATION

v.

Court File No. C5-02-1938

Dan Sparks,  
Contestee.

This matter came before the Honorable Joseph Quinn, Judge of District Court, Tenth Judicial District pursuant to an appointment to serve in the Third Judicial District to hear an election contest under Minn. Stat. §209.10. The hearings occurred on January 2, 2003 and January 3, 2003 at the Mower County Courthouse. The Contestant was present, and was represented by counsel, Fredrick Knaak. The Contestee was also present, and was represented by counsel, Brian Rice.

The Minnesota Constitution in Art. IV Sec. 6 provides that the Minnesota Senate will have the final decision to "judge the election returns and the eligibility of its own members." This court sits with jurisdiction under Minn. Stat. §209.10, for the purpose of establishing a record and determining the issue of which candidate received the greatest number of legal votes cast in the November 5, 2002, Senate District 27 race. This Court was chosen pursuant to Minn. Stat. §209.10 Subd. 2, whereby both parties, representing the Republican and Democratic Farmer Labor parties, were given the names of all available district court judges in the state. The parties chose this Court to hear the matter. This court will review de novo, the decision of the canvassing board.

Now, therefore, based on the record and proceedings herein, the Court makes the following:

**FINDINGS OF FACT**

**STIPULATION OF FACTS**

1. Thomas Purcell is a registered voter residing in the City of Austin, Minnesota, and is legally qualified and entitled to bring this action pursuant to Minn.Stat. §209.

2. Grace Schwab, the Republican-endorsed candidate, Dan Sparks, the DFL-endorsed candidate, and Terry Kelly, the Independence Party-endorsed candidate, were all candidates for State Senator in Minnesota State Senate District 27 in the year 2002.
3. On November 5, 2002, the general election was held in the State of Minnesota, which included the election for the office of State Senator in District 27.
4. On the evening of the election, the votes for the office of State Senator were tallied with the result of 15,020 for Dan Sparks and 14,987, for Grace Schwab, a difference of 33 votes.
5. Some time during the evening of November 5, 2002, and early morning of November 6, 2002, an election judge removed 17 ballots from the Austin City Hall, which were ultimately burned and are unrecoverable.
6. Pursuant to Minn. Stat. §204C.35, Subdivision 1, an automatic recount was conducted by the office of the Minnesota Secretary of State that occurred on November 20, 21, and 23, 2003.
7. Both parties were represented during the recount and it is agreed that, except as may be hereinafter qualified, the recount was full and complete and accurate. Both parties fully agree that the reported results with respect to all ballots except the 32 contested ballots hereinafter noted, as well as excepting the question of the noted 17 missing ballots, are accurate and correct and that there is no further need to recount or review those ballots.
8. The recount resulted in a total of 15,076, votes cast for Dan Sparks and 15,073, for Grace Schwab, or a difference of three votes, with 32 ballots contested by the parties, and 17 ballots missing from the Austin count as the result of their destruction by the election official.
9. The report of the Recount Official, Bert Black, correctly summarizes, in brief form, both the results of the recount, as well as the dispute concerning the 32 contested ballots and the missing 17 ballots. A copy of that report is attached and incorporated into this Stipulation as Joint Exhibit 1.
10. On December 10, 2002, the State Canvassing Board met pursuant to Minn. Stat. §204C.33 for the purpose of canvassing the results of the recount of the election for State Senator in District 27, as well as determining the challenges to the ballots, and declaring a winner.
11. The State Canvassing Board determined that Dan Sparks had received 15,096, and Grace Schwab had received 15,085, a difference of 11 votes.



12. In addressing the issue of the 17 missing ballots, the State Canvassing Board added 8 votes to those of Dan Sparks, which represented the number of votes he had received under the first, machine count of the ballots in the Austin precinct from which they had been originally counted. Grace Schwab received the additional 13 votes that had been counted during the subsequent manual recount.
13. The record of the determination of the State Canvassing Board on this matter, as well as the remaining contested ballots, was transcribed by a court reporter and is, in addition, reflected in the minutes of that body, a copies of which, unadopted as of this date, is attached and incorporated herein by reference as Joint Exhibits 2 and 3.
14. This action was then brought by Petitioner within seven days of the determination of the State Canvassing Board.
15. The parties expressly agree, with respect to the challenged 32 ballots, to waive objections as to foundation upon pretrial verification of their authenticity by comparison to copies of those same originals. The parties agree to submit the ballots jointed as exhibits.
16. That the allegations of unfair campaign practices concerning one Mel Prinzing, initially brought as part of these proceeding, shall not be deemed a part hereof and will be dismissed upon written affirmation by Mr. Sparks that Mr. Prinzing played no role in the Sparks Election campaign effort to the best of Mr. Sparks knowledge and belief, or those of the members of his Campaign committee, and that whatever actions that were undertaken by Mr. Prinzing were without the knowledge of any active member of that committee.

#### **Austin Ward 2 Precinct 1 -- 17 Ballots Missing**

17. On the evening of the election, the number of ballots and the tally of voters signed-in at the polls plus absentee voters in Austin Ward 2, Precinct 1, did not reconcile, according to the testimony of the Mower County Auditor.
18. The Mower County Auditor then returned the ballots and tally to the election judges for them to reconcile.
19. A DFL and a Republican election judge with the assistance from the city clerk and the assistant city clerk then separated the ballots into various piles in an attempt to reconcile the tally.
20. They tried to reconcile the tally and were left with what appeared to be 17 too many ballots than voters.
21. The DFL election judge chose 17 ballots from the total ballots present, removed them, obtained a brown plastic bag, and drove them to her home.

22. When they left that night, the DFL election judge told the Republican election judge that she was going to burn the 17 ballots.
23. The Republican election judge, accompanied the DFL election judge on her ride home knew that the DFL election judge was going to burn the ballots, and said or did nothing.
24. The DFL election judge intentionally destroyed the ballots by burning them in her fireplace.
25. Each auditor that testified said that the hand recount is more accurate and reliable than the machine count.
26. The remaining ballots in Mower County, Austin, Ward 2, Precinct 1 have been carefully preserved by the Mower County Auditor.
27. The official recount of all ballots allows a certainty of voter choice, testified by auditors as more accurate than a machine count. These choices by voters were factual. The contents of the burned ballots are speculative even when probabilities can be affirmed. In this recount the clear intent of the voter is a necessity.
28. Because of the adversarial nature of political parties, the Republicans believe that the DFL election judge may have chosen ballots which showed Republican votes for destruction.

### 32 Contested Votes

#### Too Many Ballots -- 17 Votes at issue

29. Exhibit 10, an absentee ballot from Mower County, Austin Ward 2, Precinct 1 was challenged by the Contestee because it was found in a separate envelope and was not included in the original machine count. The ballot was not marked spoiled by the election judge, the intent of the voter is to clearly cast a vote for Schwab, and the election judge signed the ballot.
30. Exhibit 11, an absentee ballot from Mower County, Austin Ward 2, Precinct 1 was challenged by the Contestee because it was found in a separate envelope and was not included in the original machine count. The ballot was not marked spoiled by the election judge, the intent of the voter is to clearly cast a vote for Schwab, and the election judge signed the ballot.
31. Exhibit 12, a ballot from Freeborn County, Albert Lea Ward 3, Precinct 1 was found in the spoiled ballot envelope. The Contestant argues that the Court should disregard the decision of the election judge to mark the ballot spoiled, and count the vote anyway. The election judge retained, affirmed and presented this ballot as a spoiled ballot.

32. Exhibit 13, a ballot from Freeborn County, Albert Lea Ward 3, Precinct 1 was found in the spoiled ballot envelope. The Contestant argues that the Court should disregard the decision of the election judge to mark the ballot spoiled, and count the vote anyway. The election judge retained, affirmed and presented this ballot as a spoiled ballot.
33. Exhibit 14, a ballot from Freeborn County, Albert Lea Ward 3, Precinct 1 was found in the spoiled ballot envelope. The Contestant argues that the Court should disregard the decision of the election judge to mark the ballot spoiled, and count the vote anyway. The election judge retained, affirmed and presented this ballot as a spoiled ballot.
34. Exhibits 15 to 26 were ballots from Freeborn County, Albert Lea Township, Precinct 2. This was a relatively small precinct that had a disparity between the voters signed-in at the polling place, which was 10, and the number of ballots in fact, which was 12. The Freeborn County Auditor testified that Albert Lea Township precincts 1 and 2 were located in the same building at 1204 Broadway in Albert Lea. The election judges were taught to combine the ballots for both precincts into one box, which were delivered to the Freeborn County Auditor in the single precinct 1 box with the precinct 2 box delivered empty. This procedure is not consistent with the instructions from the secretary of state or with state statutes. When the tallies and the incident logs, are combined for both precincts, there is a reasonable reconciliation.
35. This information from both precincts in Albert Lea Township was not brought to the attention of the recount official or the canvassing board.
36. Exhibit 15, a ballot from Freeborn County, Albert Lea Township, Precinct 2 is an uncontested vote for Schwab.
37. Exhibit 16, a ballot from Freeborn County, Albert Lea Township, Precinct 2 is an uncontested vote for Schwab.
38. Exhibit 17, a ballot from Freeborn County, Albert Lea Township, Precinct 2 is an uncontested vote for Schwab.
39. Exhibit 18, a ballot from Freeborn County, Albert Lea Township, Precinct 2 is an uncontested vote for Schwab.
40. Exhibit 19, a ballot from Freeborn County, Albert Lea Township, Precinct 2 is an uncontested vote for Schwab.
41. Exhibit 20, a ballot from Freeborn County, Albert Lea Township, Precinct 2 is an uncontested vote for Sparks.

42. Exhibit 21, a ballot from Freeborn County, Albert Lea Township, Precinct 2 is an uncontested vote for Sparks.
43. Exhibit 22, a ballot from Freeborn County, Albert Lea Township, Precinct 2 is an uncontested vote for Sparks.
44. Exhibit 23, a ballot from Freeborn County, Albert Lea Township, Precinct 2 is an uncontested vote for Sparks.
45. Exhibit 24, an un-initialed absentee ballot from Freeborn County, Albert Lea Township, Precinct 2 was an undisputed vote for Schwab. The ballot was contested because the canvassing board disallowed the vote because of the precinct's 10 voter/12 ballot discrepancy and the Johnson v. Trnka 277 Minn. 468, 154 N.W.2d 185 (1967) rule.
46. Exhibit 25, an un-initialed absentee ballot from Freeborn County, Albert Lea Township, Precinct 2 was an undisputed vote for Sparks. The ballot was contested because the canvassing board disallowed the vote because of the precinct's 10 voter/12 ballot discrepancy and the Johnson v. Trnka supra, rule.
47. Exhibit 26, an un-initialed absentee ballot from Freeborn County, Albert Lea Township, Precinct 2 was an undisputed vote for Sparks. The ballot was contested because the canvassing board disallowed the vote because of the precinct's 10 voter/12 ballot discrepancy and the Johnson v. Trnka supra, rule.

#### Multiple Marks – 4 Votes at issue

48. Exhibit 27, is a ballot from Mower County, Adams Township where the voter consistently placed an "X" in each box except for one in all the races. This voter left blank the space for Sparks. The voter's choice is clear and their intent is discernable with certainty.
49. Exhibit 28, is a ballot from Mower County, Austin Township where the voter consistently placed an "X" in each box except for one in all the races. This voter left blank the space for Sparks. The voter's choice is clear and their intent is discernable with certainty.
50. Exhibit 29, is a ballot from Mower County, Brownsdale City where the voter consistently placed an "X" in each box except for one and the write-in, in all the races. This voter left blank the space for Schwab. The voter's choice is clear and their intent is discernable with certainty.
51. Exhibit 30, is a ballot from Mower County, Racine City where the voter consistently placed an "X" in each box except for one in all the races. This voter left blank the space for Sparks. The voter's choice is clear and their intent is discernable with certainty.

**Ballot Styles – 3 Votes at Issue**

52. Exhibit 31, is an absentee ballot from Freeborn County, Albert Lea, Ward 4, Precinct 1 which the machine would not accept. This ballot was not duplicated nor was it marked in a spoiled ballot envelope. Contestee argues that this ballot should be ruled consistent with ballots in Exhibits 12, 13 and 14, but those earlier three were marked in a spoiled ballot envelope and this was not. The voter intent is discernable as a vote for Sparks.
53. Exhibit 32, is an absentee ballot from Freeborn County, Albert Lea, Ward 6, Precinct 1 which the machine would not accept. This ballot was not duplicated nor was it marked in a spoiled ballot envelope. Contestee argues that this ballot should be ruled consistent with ballots in Exhibits 12, 13 and 14, but those earlier three were marked in a spoiled ballot envelope and this was not. The voter intent is discernable as a vote for Schwab.
54. Exhibit 33, is an absentee ballot from Freeborn County, Albert Lea, Ward 6, Precinct 1 which the machine would not accept. This ballot was not duplicated nor was it marked in a spoiled ballot envelope. Contestee argues that this ballot should be ruled consistent with ballots in Exhibits 12, 13 and 14, but those earlier three were marked in a spoiled ballot envelope and this was not. The voter intent is discernable as a vote for Schwab.

**Erasures and Obliterations – 4 Votes at Issue**

55. Exhibit 34, is a ballot from Mower County, Austin Ward 1, Precinct 1 where the voter has marks for both Terry Kelley and Dan Sparks, with a vertical line through the horizontal voting line in an attempt to obliterate the vote for Terry Kelley. This was a successful attempt to obliterate the Kelley vote, leaving a vote for Sparks.
56. Exhibit 35, is a ballot from Mower County, Austin Township, where the voter has placed a large "X" over a small "x" in the space for Sparks. Contestor argues that this was an attempt to obliterate, thus undervoting the race for Senate District 27 as there are no other marks in the race. The voter's intent is clearly to accentuate his vote for Sparks.
57. Exhibit 36, is a ballot from Mower County, Lyle Township, where the voter has crossed off, with lines and some possible letters, their Schwab vote and placed a clear "X" for Sparks. There was a successful attempt to obliterate the Schwab vote, and a clear intent to vote for Sparks.
58. Exhibit 37, is a ballot from Mower County, LeRoy Township, where the voter has attempted to cross-out/scribble-out/erase the Schwab vote and place a clear "X" for Sparks. Contestor argues application of the multiple vote rule to nullify the race on

the ballot. There was a successful attempt to obliterate the Schwab vote, and a clear intent to vote for Sparks.

#### **Voter Intent – 4 Votes at issue**

59. Exhibit 38, is a ballot from Mower County, Austin Ward 1, Precinct 2, where the voter has made a single clear mark over the tip of the arrow, in 34 contests. The voter intent is clear as a vote for Sparks.
60. Exhibit 39, is a ballot from Mower County, Austin Ward 2, Precinct 1, where the only mark in the Senate District 27 race is a single drawn arrow directed at Grace Schwab. The intent of the voter is to vote for Schwab.
61. Exhibit 40, is a ballot from Mower County, Austin Ward 2, Precinct 2, where the only mark on the ballot for Senate District 27 is next to Grace Schwab's name. The voter clearly intends to vote for Schwab.
62. Exhibits 41 and 42, is an original and duplicate ballot from Fillmore County, Sumner Township. The election judge's interpretation notwithstanding, the intent of the voter can not be affirmed in any way with certainty from the original ballot. This ballot is defective and can not be counted with respect to the Senate District 27 race.

#### **CONCLUSIONS OF LAW**

1. Thomas Purcell is legally entitled to bring this action pursuant to Minn. Stat. §209.02.

#### **Austin Ward 2 Precinct 1 – 17 Ballots Destroyed**

2. The intent of these 17 voters could only be ascertained with probability, not with any certainty.
3. Probability is not enough to ascribe these votes to one candidate or the other.
4. These voters have been denied their constitutional right to vote by this intentional act.
5. In the case of a count done by a machine, a subsequent hand recount is more reliable.
6. In a contested election contest, the hand count is more reliable than a machine count, and the hand count becomes the official count in an election contest.
7. Where ballots have not been carefully preserved so as to place their identity beyond a reasonable doubt, they can not be relied upon in a subsequent recount. Newton v. Newell, 26 Minn. 529, 6 N.W. 346, (1880)

8. Contestee relies on Newton v. Newell supra, arguing that the destruction of the 17 ballots somehow calls into question the remaining ballots in the precinct. Contestee believes that he should be entitled to the 8 votes he lost in the hand recount of the precinct. This Court reads Newton v. Newell supra, as excluding only the 17 destroyed ballots as unreliable, and affirming the hand recount of the precinct with the remaining ballots.
9. To count these votes under the circumstances, would create a cynicism in this generally laudable exercise in the democratic process. In this race not including the 17 ballots intentionally destroyed, where over 30,000 votes were cast, only 32 ballots are in question before this Court. Of those 32, only 12 were challenged because of something done by the voter.
10. In every other contest, the hand recounts have ballots that can be seen, evaluated, and interpreted to a finding of certainty.
11. That the DFL election judge chose ballots with votes for Republican or DFL candidates is only speculation.
12. Where there is an official hand count of ballots, and ballots have been destroyed—a citizen's choice in an election contest cannot be imputed, based on a probability, or an evidentiary penalty. None of the 17 intentionally destroyed ballots may be counted for either party.

### 32 Votes Still Contested

#### Too Many Ballots -- 17 Votes at issue

13. When the number of ballots exceeds the number of voters, Johnson v. Tmka 277 Minn. 468, 154 N.W.2d 185 (1967) requires that the election official shall first remove any ballots that are un-initialed by an election judge.
14. However, if an election official determines that ballots were simply placed in the wrong box, those ballots shall be counted under Minn. Stat. §204C.20 Subd. 3. The canvassing board did not know that this statute might apply to Exhibits 24, 25 and 26.
15. The ballots in Exhibits 10 and 11 are to be counted as votes for Schwab.
16. The ballots in Exhibits 12, 13 and 14 are spoiled ballots and should not be counted.
17. The ballots in Exhibits 15, 16, 17, 18, and 19 are to be counted as votes for Schwab.
18. The ballots in Exhibits 20, 21, 22, and 23 are to be counted as votes for Sparks.
19. The ballot in Exhibit 24 is to be counted as a vote for Schwab.
20. The ballots in Exhibits 25 and 26 are to be counted as votes for Sparks.

**Multiple Marks – 4 Votes at issue**

21. The parties argue, as they so benefit, that Minn. Stat. §204C.22, Subd. 3 (rendering a ballot defective for that office if there is a mark for more than one candidate) invalidates the ballot.
22. The voting entitlement under the Minnesota Constitution Art. VII section 1 supersedes a technically applied election law which shall be strictly construed where the voter's intent can be clearly determined.
23. The discernable intent of the voter prevails, Minn. Stat. §204C.22 Subd. 1.
24. The intent of the voter shall be ascertained from the face of the ballot only. Minn. Stat. §204C.22 Subd. 2.
25. The ballots in Exhibits 27 and 28 are to be counted as votes for Sparks.
26. The ballot in Exhibit 29 is to be counted as a vote for Schwab.
27. The ballot in Exhibit 30 is to be counted as a vote for Sparks.

**Ballot Styles – 3 Votes at issue**

28. A technical error shall not invalidate a ballot where the voter's intent is discernable. Minn. Stat. §204C.22 Subd. 1.
29. The ballot in Exhibit 31 is to be counted as a vote for Sparks.
30. The ballots in Exhibits 32 and 33 are to be counted as votes for Schwab.

**Erasures and Obliterations – 4 Votes at issue**

31. Where the voter has marked two names, and an attempt was made to erase or obliterate one of the marks, the vote shall be counted for the remaining marked candidate. Minn. Stat. §204C.22 Subd. 11.
32. The intent of the voter shall be ascertained from the face of the ballot only. Minn. Stat. §204C.22 Subd. 2.
33. The ballots in Exhibits 34, 35, 36 and 37 are to be counted as votes for Sparks.



**Voter Intent - 4 Votes at issue**


- 34. The discernable intent of the voter prevails, Minn. Stat. §204C.22 Subd. 1
- 35. The intent of the voter shall be ascertained from the face of the ballot only. Minn. Stat. §204C.22 Subd. 2.
- 36. The ballot in Exhibit 38 is to be counted as a vote for Sparks.
- 37. The ballot in Exhibit 39 is to be counted as a vote for Schwab.
- 38. The ballot in Exhibit 40 is to be counted as a vote for Schwab.
- 39. The ballot in Exhibit 41, and the duplicate ballot in Exhibit 42, is defective, since the intent of the voter can not be affirmed in any way. This ballot should not be counted for either candidate.

**DETERMINATION**

- 1. Dan Sparks received 15 of the contested votes, making his election total 15,091.
- 2. Grace Schwab received 13 of the contested votes, making her election total 15,086.
- 3. Candidate, Dan Sparks received the highest number of legal votes cast in the November 5, 2002 election for State Senate District 27.
- 4. The Secretary of State's issuance of a Certificate of Election for Dan Sparks is proper and should be recognized.

\*\*\*

Dated:

*January 6, 2003* by: 

Joseph Quinn  
 Judge of District Court  
 Third Judicial District by appointment

FILED  
 IN THE OFFICE OF THE COURT  
 ADMINISTRATOR MOWER COUNTY DIST

JAN 6 2003

EXHIBIT B

The Associated Press State & Local Wire

December 3, 2008 Wednesday 10:04 PM GMT

## Minneapolis subtracts 133 votes in recount

**BYLINE:** By PATRICK CONDON, Associated Press Writer

**SECTION:** POLITICAL NEWS

**LENGTH:** 123 words

**DATELINE:** ST. PAUL Minn.

The city of Minneapolis is subtracting 133 votes from its total reported on election day after determining during the Senate recount that the ballots were counted twice.

City elections director Cindy **Reichert** says the ballots contained write-in votes and she believes they somehow ended up being fed through a voting machine twice on election day.

It wasn't immediately known how many votes would be lost by Senate candidates Al Franken and Norm Coleman, but Democrat Franken generally did much better in the city of Minneapolis meaning he could suffer a bigger loss of votes.

Just a day earlier Franken gained 37 votes from a precinct in Maplewood after election officials discovered a pile of ballots that weren't counted the first time around.

St. Paul Pioneer Press (Minnesota)

December 3, 2008 Wednesday

## Minnesota U.S. Senate Race / Glut of ballot challenges chokes recount

**BYLINE:** By Rachel E. Stassen-Berger and Jason Hoppin Pioneer Press

**SECTION:** POLITICS; Minnesota-Twin Cities; News

**LENGTH:** 992 words

Unless Minnesota's U.S. Senate campaigns aggressively withdraw some of the ballots they've challenged during the 3-week-old recount, it could take more than a month for a state board to judge them.

As of Wednesday, 6,326 ballots were taken off the piles of recounted votes after observers for Democrat Al Franken ▾

[Enhanced Coverage Linking](#)



or Republican Sen. Norm Coleman ▾

[Enhanced Coverage Linking](#)



questioned the voters' intent or the validity of the votes. A State Canvassing Board, made up of two county and two Supreme Court judges and the secretary of state, will determine how those ballots should be counted later this month.

The Franken campaign Wednesday made a move to reduce the size of that challenged stack. It told the secretary of state's office that the campaign wanted to withdraw 633 of its more than 3,000 ballot challenges.

All counties are expected to finish sifting through ballots by Friday.

As of Wednesday night, when about 98 percent of ballots were counted, Coleman led Franken by 316 votes, when comparing the Election Day totals to the recounted totals.

That vote lead doesn't include any of the challenged ballots.

After "painstaking" examination of some of the challenged ballots, folks at Franken headquarters decided voter intent was clear, and the 633 ballots were valid.

The campaign likely will remove more ballots from those the canvassing board will have to plow through.

"This is as far as we have gotten in this process," said Franken recount attorney Marc Elias.

Both campaigns have claimed since the recount started Nov. 19 that their opponents were challenging ballots in order to inflate the vote counts. Elias claimed Wednesday that if the challenges were counted as they eventually will be, Franken would actually be leading by 22 votes in the race.

Last week, Coleman recount attorney Fritz Knaak asked the Franken campaign for a détente in the "game of ballot challenge one-upmanship" but hasn't yet withdrawn any challenges levied by the Coleman campaign.

Knaak said he doesn't want to start withdrawing challenges until the recount is complete but said the campaign would do so then. He called the Franken campaign's challenge withdrawal a "fine gesture."

The withdrawal has some practical impact.

On Dec. 16, the canvassing board will meet to judge the disposition of the challenged ballots. The larger the stack of challenges, the longer the process will take.

If the number of challenges remains about 6,300 ballots and each ballot takes about three minutes to judge, it could take 315 hours, or about 40 days worth of eight-hour days, to deal with all of them.

If that timeline holds, it would take the canvassing board past Jan. 6, the date the new senator is supposed to be sworn in.

The secretary of state's office has asked the campaigns to whittle down that time.

"Some have estimated the percentage of frivolous challenges ranges from 50 to 80 percent. The State Canvassing Board wants to focus its time and attention on those challenges where there is a clear dispute," said John Aiken, communications director for the secretary of state's office.

The canvassing board has set aside four days -- Dec. 16-19 -- to deal with challenged ballots. If each ballot takes three minutes to decide -- some will take more and some will take less -- the board can deal with about 640 ballots in that time.

But first, the counties must finish the hand recount. That part of the process largely will occur today, with some lingering counting likely continuing Friday in Scott and Wright counties, elections observers say.

And for some election officials and campaign folks dealing with situations like that Wednesday in Minneapolis, the count's end means more cause for apprehension.

The problem: A Minneapolis precinct came up 133 ballots short of Election Day totals.

Upon learning of the discovery, Franken campaign officials asked city officials to open voting machines from other precincts. Coleman representatives objected, and one dismissed the idea as a "fishing expedition."

Minneapolis' election director Cindy **Reichert** spent part of the afternoon surrounded by a clutch of more than a dozen lawyers and campaign observers, trying to resolve a rolling debate about whether to open some specific number of elections machines -- whether it was five, 10 or all 131 in the city -- to search for stray ballots.

"Give me your list," **Reichert** finally barked to a Franken representative. "Let's get this over with."

**Reichert** eventually opened 10 machines.

"Didn't find a thing," **Reichert** said. "Just the Election Day debris we expected."

The 133 missing ballots from Ward 3, Precinct 1, **Reichert** explained, likely were a result of ballots with write-in candidates being run through a counting machine twice. The new precinct totals resulted in a net gain for Coleman of 36 votes.

Coleman's gain wipes away what had been a good day for Franken on Tuesday, when Ramsey County officials in a Maplewood precinct discovered 171 uncounted ballots. That resulted in a net gain for Franken of 37 votes.

In a letter to Secretary of State Mark Ritchie's office, Franken's campaign attorney, David Lillehaug, called the Minneapolis development a "five-alarm fire."

The number of ballots recounted doesn't add up to the number of people who signed the register on Election Day, the number of new registrants who signed up to vote and the number of absentee ballots.

"We submit that it is time for your office to act and to act immediately," Lillehaug's letter said.

A statement from the secretary of state's office late Wednesday said state officials have talked to Minneapolis election officials, who will report to the state about the situation.

"Minneapolis officials have committed to provide the Office of the Secretary of State with a written report explaining what transpired and detailing the steps that they have taken to resolve this situation," said the statement.

Coleman spokesman Mark Drake said the reaction from the Franken campaign was an "imaginary outrage about an imaginary problem."

# TwinCities.com

## Minneapolis discovery costs Franken 36 votes

By Jason Hoppin  
jhoppin@pioneerpress.com

Updated: 12/04/2008 08:07:12 PM CST



A recount worker searches for the ten correct ballot boxes on her list, which were then opened up and looked into for uncounted ballots at the Minneapolis recount site on Wednesday, Dec. 3, 2008. (Pioneer Press: Scott Takushi)

What Maplewood giveth, Minneapolis taketh away.

Elections officials in Minnesota's largest city today discovered that one precinct came up 133 ballots short of election day totals, resulting in a net loss for Democratic challenger Al Franken of 36 votes.

The development wipes away what had been a boon for Franken in his bid to overtake Republican U.S. Sen. Norm Coleman, after Ramsey County officials found an additional 37 votes for Franken from a

Maplewood precinct on Tuesday.

Minneapolis elections director Cindy Reichert said she believes the error occurred when election judges at the precinct on election night mistakenly ran ballots with write-in candidates through a counting machine twice. There were 129 such ballots.

Reichert said although the numbers do not match exactly, she is confident that that's what happened and will report those numbers to the Secretary of State's Office. She also detailed a search for any potential missing envelopes that contain ballots, including opening the counting machine, talking to election judges and calling the church where the polling place was located.

"We believe that we have all the ballot envelopes here," Reichert said. "There are human errors that are made on election day."



Cindy Reichert, Election Director for Minneapolis, oversaw the opening of ten ballot boxes. (Pioneer Press: Scott Takushi)

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The Associated Press State & Local Wire

December 4, 2008 Thursday 2:18 AM GMT

## Franken says will drop 633 challenges in recount

**BYLINE:** By PATRICK CONDON, Associated Press Writer

**SECTION:** POLITICAL NEWS

**LENGTH:** 665 words

**DATELINE:** ST. PAUL Minn.

Democrat Al Franken on Wednesday moved to withdraw 633 challenges to ballots in Minnesota's U.S. Senate race in what could be a first step toward a quicker conclusion to the recount.

Franken's attorney, Marc Elias, said many more withdrawals are likely. An attorney for Republican Norm Coleman said he may follow suit soon. Any reduction in the pile of challenged ballots more than 6,000 so far will reduce the work that faces the canvassing board that meets starting Dec. 16.

Meanwhile, Franken appeared on track to lose 36 votes in Minneapolis due to an apparent Election Night counting error, just a day after he gained 37 uncounted votes in Ramsey County. A Franken spokesman said the incident demanded a better explanation.

On the challenge issue, the Franken campaign mailed a letter to Secretary of State Mark Ritchie Wednesday with a list of specific challenges to discard. "If there are challenges that are without merit, it doesn't do either side any good to have them considered," Elias said.

Coleman's attorney, Fritz Knaak, said the Republican's campaign has also been reviewing its challenges with an eye toward withdrawing some but said they wouldn't do so until after Friday, the deadline for the recount to end.

"We don't want to send the wrong message to our volunteers still working at the recount sites," Knaak said.

Franken's decision was the first step back from a high number of ballot challenges on both sides. Challenges range from ballots with votes for more than one candidate to many that simply had a pen scribble somewhere on the ballot. The number of challenges far exceeds the margin between the candidates, making it difficult to pin down whether the recount has been swinging the advantage toward one or the other.

After Election Day, Coleman led Franken by 215 votes.

By the end of the day Wednesday, he led by 316 votes according to recount totals posted by the secretary of state. The gap comes from a comparison of precinct totals from Nov. 4 and the recount.



But that apparent lead was far overshadowed by the more than 6,300 ballot challenges filed by the two campaigns. Coleman's challenges exceeded Franken's by 156 in the state total.

It wasn't immediately clear if Franken's withdrawn challenges were reflected in the latest count. His challenge number had risen from the report the night before. And he added 147 challenges in the four counties that started their recounts Wednesday.

While each candidate has challenged a considerable number of votes, the types of challenges matter as well. Both candidates are attacking votes that would otherwise go to their competitor, but they're also challenging ballots where they feel they are entitled to a vote for themselves.

So it's conceivable that Franken could pull back hundreds of challenges and not dramatically affect the vote gap between himself and Coleman.

There was confusion in Minneapolis as the state's largest city wrapped up its recount, after officials discovered what they said was a pile of about 130 ballots that was counted twice on Election Day. City elections director Cindy **Reichert** said the ballots contained write-in votes and she believes they somehow were fed through a counting machine twice.

Franken spokesman Andy Barr said the city's numbers didn't add up, and demanded that conflicting information be reconciled before the city's recount be declared finished.

The disputed ballots were in a single precinct. Overall, both men lost in the Minneapolis recount, but Franken lost 126 votes more than Coleman. But 432 ballots have been challenged.

Coleman's campaign spokesman Mark Drake chided the Franken team for its uproar over the ballots.

"The Minneapolis officials appeared to be quite thorough in their search today, and it is disappointing that the Franken campaign, once again, is attacking local election officials and blaming them for simply doing their jobs," Drake said.

Associated Press writer Steve Karnowski in Minneapolis and Brian Bakst in St. Paul contributed to this report.

## Franken's campaign protests 133 mystery ballots from Minneapolis

By Franken's count, he leads by 22 votes. By another count, Coleman leads by 316.

By **BOB VON STERNBERG, MARK BRUNSWICK** and **MIKE KASZUBA**, Star Tribune

Last update: December 3, 2008 - 11:20 PM

An uproar Wednesday over 133 mystery ballots that may or may not have disappeared in Minneapolis became the newest controversy to roil the U.S. Senate recount.

At issue was a discrepancy between Election Day and recount totals in one of the city's precincts.

DFLer Al Franken's campaign lodged a protest over 133 votes that it said could not be accounted for during the recount, at a possible cost to him of as many as 46 net votes in his race against Republican Sen. Norm Coleman.

Franken officials sent a letter to the secretary of state's office and Minneapolis elections director Cindy Reichert demanding that the votes from the northeast Minneapolis precinct not be officially reported until a search is conducted for the ballots.

Late Wednesday, Reichert said she had decided to keep the results in the precinct open until all of the discrepancies could be resolved, by reviewing all of the precinct's election materials at City Hall today.

"Several mistakes were made in the precinct and we need to verify all of the numbers we looked at [Wednesday]," she said.

The twist came a day after Franken made a net gain of 37 votes in Ramsey County, when the recount there found that 171 votes from a Maplewood precinct hadn't been tallied on Election Day.

Wednesday evening, a Star Tribune tally showed Coleman with a 316-vote lead, with 98 percent of the vote recounted. At the start of the recount, Coleman had a 215-vote lead.

Earlier in the day, the Franken campaign announced that it was withdrawing 633 of the roughly 3,000 ballot challenges it had made during the recount. The campaign also said that its internal calculations showed it was now ahead of Coleman by 22 votes.

Franken campaign attorney Marc Elias said withdrawing the challenges will not affect the ultimate outcome of the count.

"The only practical impact of what we are doing today is to save the state Canvassing Board the trouble of looking through these challenged ballots and saving the taxpayers of Minnesota the cost of copying and scanning these challenged ballots," Elias said.

Officials for the Coleman campaign, which has made more than 3,200 ballot challenges, said they would hold off on withdrawing any of them until recounting is completed, likely by the end of the week.

A spokesman for Minnesota Secretary of State Mark Ritchie called Franken's move a "positive start" but urged both campaigns to be more aggressive in withdrawing frivolous challenges before the Canvassing Board meets on Dec. 16. The board is to make the final call on challenged ballots.

#### Minneapolis mix-up

The controversy in the first precinct of Minneapolis' Third Ward began when the recount showed 133 votes fewer than the Election Day count.

Reichert said the disparity sent officials searching for the possibility of a missing ballot envelope. When none could be found, she said, she originally thought that write-in ballots at the precinct, which were diverted on the side of the ballot box on Election Day, may have been fed through the ballot counter twice on Nov. 4.

The city initially decided to pare the precinct vote totals by 133, with Franken's number dropping by 80 and Coleman's by 34, a 46-vote swing in the senator's favor.

"That was the theory [about the discrepancy] we developed in the afternoon, but the theory we came up with doesn't jibe with the numbers we have," Reichert said. "We don't know what happened. ... It looks like that wasn't valid speculation."

Among other things, elections workers will examine voter rosters, signatures and voter registration rolls, she said.

The Franken campaign said numbers from the precinct had shown that 2,029 people voted on Election Day and that the recount recorded only 1,896 ballots.

Franken attorney David Lillihaug asked that the recount in Minneapolis be kept open until the ballots are found. Citing 133 "disenfranchised voters in Minneapolis who are waiting for action," he wrote, "the U.S. Senate race may hang in the balance."

In a statement, Coleman campaign spokesman Mark Drake said, "The Minneapolis officials appeared to be quite thorough in their search today, and it is disappointing that the Franken campaign, once again, is attacking local election officials and blaming them for simply doing their jobs."

The challenges

Fritz Knaak, Coleman's lead recount attorney, while acknowledging the Franken campaign's challenge withdrawals, suggested the announcement may have been an attempt to "create news" and keep momentum to help with political fundraising. Knaak said the announcement also may have been timed to deflect the effect of the reelection Tuesday of U.S. Sen. Saxby Chambliss, a Georgia Republican, a result that prevents Democrats from gaining a 60-vote, filibuster-proof Senate majority.

Chambliss' victory, said Knaak, had dealt "a serious blow" to Franken's attempt to show his race is critical to Democrats nationally. Franken's people said Chambliss' reelection will have no effect on strategy for the Minnesota race.

"It's nonsensical. There was a Senate election in Georgia. The results were what they were," said Franken attorney Elias. "We're trying to figure out who won the election in Minnesota. From my standpoint, there's no obvious connection between the two."

About the gap

Regarding the gap between the candidates, Franken officials said Wednesday afternoon that, by their internal calculations, their campaign had gained 237 votes in the recount with 94.3 percent of the votes counted and claimed to be ahead by 22 votes.

Elias said the calculation is based on the working theory that none of either campaign's challenges will be upheld and that Coleman has challenged more ballots than Franken.

Knaak dismissed the assertion Franken had pulled ahead.

In joking with reporters --and taking a jab at the Franken campaign's counting methodology -- Knaak said he thought Coleman was ahead by 2,200 votes. "I have no evidence of this," he said, smiling, " ... but I like the sound of it, so there it is."

He said, however, that the Coleman campaign was confident. "We believe we're well ahead in this recount," he said.

Meanwhile, election officials Wednesday also began grappling with a request by Ritchie's office to examine and categorize rejected absentee ballots.

John Aiken, a secretary of state spokesman, said counties were notifying the office Wednesday that they intended to follow the instructions.

Staff writer Curt Brown contributed to this report.

These numbers do not yet reflect the Franken campaign's announcement that it is withdrawing 633 ballot challenges.

EXHIBIT C

**Amy Walstien**

---

**From:** Tony P. Trimble [trimblelegals@earthlink.net]  
**Sent:** Tuesday, December 09, 2008 3:00 PM  
**To:** 'Amy Walstien'  
**Subject:** FW: Expedited Data Practices Act Request

---

**From:** Reichert, Cindy D. [mailto:Cindy.Reichert@ci.minneapolis.mn.us]  
**Sent:** Monday, December 08, 2008 12:51 PM  
**To:** Tony P. Trimble  
**Subject:** RE: Expedited Data Practices Act Request

As we discussed at the Warehouse last Friday, the rosters cannot be released per M.S. 204B.40

**4B.40 BALLOTS; ELECTION RECORDS AND OTHER MATERIALS; DISPOSITION;  
INSPECTION OF BALLOTS.**

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The county auditors, municipal clerks, and school district clerks shall retain all election materials returned to them after any election for at least 22 months from the date of that election. All election materials involved in a contested election must be retained for 22 months or until the contest has been finally determined, whichever is later. Abstracts filed by canvassing boards shall be retained permanently by any officer with whom those abstracts are filed. Election materials no longer required to be retained pursuant to this section shall be disposed of in accordance with sections 138.163 to 138.21. Sealed envelopes containing voted ballots must be retained unopened, except as provided in this section, in a secure location. The county auditor, municipal clerk, or school district clerk shall not permit any voted ballots to be tampered with or defaced.

After the time for filing a notice of contest for an election has passed, the secretary of state may, for the purpose of monitoring and evaluating election procedures: (1) open the sealed ballot envelopes and inspect the ballots for that election maintained by the county auditors, municipal clerks, or school district clerks; (2) inspect the polling place rosters and completed voter registration applications; or (3) examine other forms required in the Minnesota election laws for use in the polling place. No inspected ballot or document may be marked or identified in any manner. After inspection, all ballots must be returned to the ballot envelope and the ballot envelope must be securely resealed. Any other election materials inspected or examined must be secured or resealed. No polling place roster may be inspected until the voting history for that precinct has been posted. No voter registration application may be inspected until the information on it has been entered into the statewide registration system.

Cynthia Reichert  
City of Mpls Elections Director  
(612) 673-2073  
[cindy.reichert@ci.minneapolis.mn.us](mailto:cindy.reichert@ci.minneapolis.mn.us)

---

**From:** Tony P. Trimble [mailto:trimblelegals@earthlink.net]  
**Sent:** Monday, December 08, 2008 12:45 PM  
**To:** Reichert, Cindy D.

12/9/2008

**Subject:** RE: Expedited Data Practices Act Request

The voter registration sign-ins and the same-day registration sign-ins.

---

**From:** Reichert, Cindy D. [mailto:Cindy.Reichert@ci.minneapolis.mn.us]  
**Sent:** Monday, December 08, 2008 12:43 PM  
**To:** Tony P. Trimble  
**Subject:** RE: Expedited Data Practices Act Request

The information I am providing today is:

Relative to W3 P 1:  
Accepted absentee ballot envelopes (with private info redacted)  
Election-day incident reports  
Written communication re: the missing ballots

Did I miss a request for something else? I've gone back into my email to look for other requests from you and did not find anything additional you are looking for. Would requests have come from anyone else in your office?

Cynthia Reichert  
City of Mpls Elections Director  
(612) 673-2073  
[cindy.reichert@ci.minneapolis.mn.us](mailto:cindy.reichert@ci.minneapolis.mn.us)

---

**From:** Tony P. Trimble [mailto:trimblelegals@earthlink.net]  
**Sent:** Monday, December 08, 2008 12:35 PM  
**To:** Reichert, Cindy D.  
**Subject:** RE: Expedited Data Practices Act Request

Thanks – we also await the data relative to the “missing ballots” precinct in Minneapolis (request submitted Friday).

Tony/Matt

---

**From:** Reichert, Cindy D. [mailto:Cindy.Reichert@ci.minneapolis.mn.us]  
**Sent:** Monday, December 08, 2008 12:33 PM  
**To:** Tony P. Trimble  
**Subject:** RE: Expedited Data Practices Act Request

Those are the copies I was talking about. I have a call in to the Secretary of State to verify private information that needs to be redacted. Waiting to hear from them...

Cynthia Reichert  
City of Mpls Elections Director  
(612) 673-2073  
[cindy.reichert@ci.minneapolis.mn.us](mailto:cindy.reichert@ci.minneapolis.mn.us)

---

**From:** Tony P. Trimble [mailto:trimblelegals@earthlink.net]  
**Sent:** Monday, December 08, 2008 11:44 AM  
**To:** Reichert, Cindy D.  
**Subject:** RE: Expedited Data Practices Act Request

Thanks, Cindy. Matt Haapoja will come to the office to pick up the copies – please advise when they are ready for pick-up.

12/9/2008





**KNAAK & KANTRUD, P.A.**

Attorneys at Law

Frederic W. Knaak\*  
H. Alan Kantrud\*\*  
Greg T. Kryzer\*\*

*\*Also Licensed in  
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Thomas M. Dailey, P.A.  
Theodore M. "Ted" Thompson

December 11, 2008

Minnesota Secretary of State  
180 State Office Building  
100 Rev. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155

Minnesota Judicial Center  
Associate Justice G. Barry Anderson  
25 Rev. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155

Ramsey County Courthouse  
Assistant Chief Judge Edward J. Cleary  
15 W Kellogg Blvd. Room 1550  
Saint Paul, MN 55102

Minnesota Judicial Center  
Chief Justice Eric J. Magnuson  
25 Rev. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155

Ramsey County Courthouse  
Chief Judge Kathleen R. Gearin  
15 W Kellogg Blvd. Room 1210  
Saint Paul, MN 55102

Dear Members of Minnesota State Canvassing Board: ("Board"):

This letter is written in response to the Franken Memorandum Regarding Missing Ballots dated December 10, 2008 (herein, "Franken Memorandum") and Supplemental Memorandum Regarding Noncounted Absentees dated December 11, 2008 (herein, "Supplemental Memorandum") of the Al Franken for Senate Committee and Al Franken, as well as the Summary Affidavit of David L. Lillehaug dated December 11, 2008 delivered to you by counsel for the Franken for Senate campaign.

**MINNEAPOLIS WARD 3, PRECINCT 1**

With respect to apparent discrepancies between the recount numbers and election-night numbers in Minneapolis Ward 3, Precinct 1, the Franken Memorandum has taken a very simple issue and attempted to obscure it with inaccurate descriptions of Minnesota precedent, irrelevant case law from a variety of other states and platitudes about the preciousness of voting rights in America. Because nothing in the Franken Memorandum contradicts the clear statements of law set forth in our original letter to Minneapolis Elections Director Cynthia Reichert dated December 10, 2008 (a courtesy copy of which was previously provided to the Board – herein, the "Reichert Letter"),

the recount numbers (and not the election-night numbers) in this precinct should be certified by the Board.

As explained in the Reichert Letter, the purpose of an administrative recount under Minnesota law is to simply *count the ballots located and presented to local election officials*. As statute provides, “[t]he duties of each canvassing board are limited to those duties specified in sections 204C to 204C.39.” Minn. Stat. § 204C.31, subd. 3. Furthermore, “[o]nly the ballots cast in the election and the summary statements certified by the election judges may be considered in the recount process.” *Id.*

Minnesota Rule 8235.1100 similarly circumscribes the universe of matters that the Board may consider:

**8235.1100 CANVASSING BOARD.**

The recount official shall present the summary statement of the recount and any challenged ballots to the canvassing board. The candidate or candidate representative who made the challenge may present the basis for the challenge to the canvassing board. The canvassing board shall rule on the challenged ballots and incorporate the results into the summary statement. The canvassing board shall certify the results of the recount. Challenged ballots must be returned to the election official who has custody of the ballots.

As discussed in our original letter to Ms. Reichert, this rule provides no jurisdiction for the Board to engage in any evaluative process as to so-called “missing ballots” or to substitute election-night numbers for the recount totals; the ministerial duties of the Board are clearly limited only to certifying the summary statements of the recount. *See, e.g., O’Ferrall v. Colby*, 2 Minn. 180, 2 Gil. 148 (1858); *Taylor v. Taylor*, 10 Minn. 107, 10 Gil. 81 (1865). The Board’s discretionary authority is limited only to “challenged ballots,” which by definition does *not* include ballots thought to be missing and not presented to the Board (or recounted during the hand recount process).

The Minnesota Secretary of State’s 2008 Recount Guide clearly states:

- a) This is an administrative recount held pursuant to M.S. 204C.35 and M.R. 8235. It is not to determine who was eligible to vote. It is not to determine if campaign laws were violated. It is not to determine if absentee ballots were properly accepted. It is not – except for recounting the ballots – to determine if judges did things right. It is simply to physically recount the ballots for this race!
- b) In other words, the Board’s job is not to second-guess local election officials, or to count ballots that may or may not have ever existed and were not presented for the recount.

Nothing in the Franken Memorandum provides any basis for overturning these clear statutory and rule-based instructions - including the opinion of Mayor Rybak (who, not surprisingly, shares the Franken campaign’s interpretation of the facts and the law).

## Minnesota Cases Cited by Franken Memorandum

We hereby incorporate by reference the arguments in the Reichert Letter relative to the accuracy of hand counts versus machine counts, as well as our prior arguments that no conclusive evidence even exists that these ballots are missing, which arguments are not substantially or persuasively addressed or refuted in the Franken Memorandum. Additionally, the Franken Memorandum's reading of Minnesota case law is nothing short of inaccurate and misleading and involves several cases which are simply inapplicable, as described below.

*Purcell v. Sparks*, C5-02-1938 (Minn. Tenth Judicial District 2002), the most important case and the only Minnesota case directly on-point on this issue, is also the case most incorrectly interpreted by the Franken Memorandum. *Purcell* is the *only Minnesota case* known to the undersigned that involves identical questions of law (and strikingly similar factual situations) as those presented here. *Purcell* provides a road map for the Board relative to Minneapolis Ward 3, Precinct 1: the Board must certify the recount total.

Inexplicably, the Franken Memorandum attempts to utilize *Purcell* to advance the argument that the Board should use the election-night numbers for Minneapolis Ward 3, Precinct 1 while utilizing the recount numbers for all other precincts. However, the holding of *Purcell* contradicts what the Franken campaign seeks. The court ruled that the decision of the State Canvassing Board in that case to revert to election night machine tape number for one candidate and the recount number for another candidate was wholly and completely improper, because the hand-counted recount number was presumptively more accurate than the election-night machine count number, and because it is wholly inappropriate to make assumptions or prediction as to how a "missing ballot" might have been voted.

The clear conclusions of law in *Purcell* are instructive here:

2. The intent of these 17 voters could only be ascertained with probability, not with any certainty.
3. Probability is not enough to ascribe these votes to one candidate or the other.
5. In the case of a count done by a machine, a subsequent hand count is more reliable.
6. In a contested election contest, the hand count is more reliable than a machine count, and the hand count becomes the official count in an election contest.
7. Where ballots have not been carefully preserved so as to place their identity beyond a reasonable doubt, they can not be relied upon in a subsequent recount. Newton v. Newell, 26 Minn. 529, 6 N.W. 346, (1880).

8. ...This Court reads Newton v. Newell supra as excluding only the 17 destroyed ballots as unreliable, and affirming the hand recount of the precinct with the remaining ballots....

12. Where there is an official hand count of ballots, and ballots have been destroyed a citizen's choice in an election contest cannot be imputed, based on a probability or an evidentiary penalty. None of the 17 intentionally destroyed ballots may be counted for either party.

The same result must occur here with respect to Minneapolis Ward 3, Precinct 1.

With respect to the other Minnesota cases cited or discussed in the Franken Memorandum, in *Moon v. Harris*, 142 NW 12 (Minn. 1913), all of the ballots in two particular precincts were missing, leaving the court with no option but to consider election day totals. The Franken Memorandum ignores this important distinction, failing to recognize its importance: where all ballots are missing, election officials have no choice but to revert to Election Day totals. Furthermore, as with most of the cases cited in the Franken Memorandum, *Moon* did not involve the same ballot counting machinery at issue here, a further important distinction in this case (*see* discussion regarding *Purcell* and footnote 3, *infra*).

The Franken Memorandum's response to this distinction is to posit an extreme hypothetical example of a precinct with 2,000 ballots counted on election night and only 1 counted in a recount. Fortunately, we are faced with no such situation here. In Minneapolis Ward 3, Precinct 1, the recount did not result in only one (1) vote being counted; rather, one thousand eight hundred ninety-six (1,896) votes were counted in this precinct in the recount<sup>1</sup>. Thus, this example proves nothing and is merely a rhetorical red herring that attempts to distract attention away from Minnesota case law directly applicable to the situation faced here (namely, *Purcell*).

One of the few Minnesota cases cited in the Franken Memorandum, *Stemper v. Higgins*, 37 N.W. 95 (Minn. 1888) is wholly inapposite and completely inapplicable. *Stemper* exclusively involved an election contest filed as a result of the manner in which the election was conducted. As the court explained, "no other defect is suggested concerning this election other than that it was held in the village apart from the election in the township, and was presided over by the village officers, who were the proper officers of election in all *village* elections." *Id.* at 226. *Stemper* involved no allegations of missing ballots, no allegations of ballots that were not "safeguarded," and no allegations that election night totals were inaccurate. *Stemper*, therefore, is completely without precedential or persuasive value here.

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<sup>1</sup>It is worth noting by way of comparison that the number of ballots asserted to be missing in Minneapolis Ward 3, Precinct 1 (133) is a much smaller number as a percentage of the number of ballots cast in the U.S. Senate race (0.0046%, or 133 out of 2,885,555<sup>1</sup>) than the number of ballots known to have been burned in *Purcell* (17 out of 33,140<sup>1</sup> or 0.05%). Accordingly, as a percentage of total votes cast, more than ten (10) times the number of ballots were known to be missing in *Purcell* than the number alleged (but never established to any degree of certainty) to be missing in Minneapolis. Hence, the *Purcell* case is closer in number to the "all but 1" hypothetical posited in the Franken Memorandum; all the more reason to follow *Purcell*, which resulted in judicial rejection of (machine counted) election-night totals numbers in favor of the presumptively more accurate (hand-counted) recount numbers.

Two other Minnesota cases cited by the Franken Memorandum, *Newton v. Newell*, 620 N.E.2d 385 (Minn. 1880) and *Sullivan v. Ebner*, 262 N.W. 574 (Minn. 1935) actually contradict the position within the Franken Memorandum. In these cases, the court examined issues of ballot preservation and trustworthiness (raising issues of ballot tampering), not allegedly “missing” ballots. With respect to the Minneapolis ballots asserted to be “missing”, no questions have been raised as to the trustworthiness or integrity of the 1,896 ballots counted in the recount. Again, the Minnesota presumption is that the most trustworthy number is the recount number; that is the purpose of the recount. If the election-night numbers were somehow presumptively superior, the state would not have decided to conduct hand recounts.

### Non-Minnesota Cases Cited by Franken Memorandum

The Franken Memorandum’s long litany of cases from jurisdictions other than Minnesota have no precedential or persuasive value here. Nearly all of these cases were based entirely on a statutory scheme specific to the state in question. Some cases (like *Moon*) involved situations in which *all* ballots in a particular geographic area were definitively missing - unlike the situation here.<sup>2</sup> Other cases (like *Stemper*, *Newell* and *Sullivan* discussed above) involved clear acts of impropriety or assertions of impropriety such facts as stolen ballots or improperly secured ballots - also unlike the situation here.<sup>3</sup> Many of the cases cited in the Franken Memorandum are between sixty (60) and one hundred and twenty years (120) old, involving elections which were hand-counted on election night, a factual scenario incomparable to the machine counting used in Minnesota today (and an important factor in the *Purcell* presumption as to the superiority of hand-count results over machine count results).<sup>4</sup> Finally, it is worth nothing that *every single* case cited from another jurisdiction is based upon statutory and other rules specific to that jurisdiction—some of which are not even still in effect in those states today.

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<sup>2</sup>For example, in *McDunn v. Williams*, 620 N.E.2d 385 (Ill. 1993), like in *Moon*, *all* ballots from eight precincts were completely missing, such that election officials had little choice other than to revert to Election Day totals.

<sup>3</sup>See, e.g., *Henderson v. Maley*, 806 P.2d 626 (Okla. 1991), *Thoms v. Andersen*, 235 N.W.2d 898 (S.D. 1975), *Frazier v. Wright*, 228 S.W.2d 424 (Ky. 1950), *Jarrett v. Board of Canvassers*, 128 S.E. 821 (W. Va. 1924), *Brown v. Crosson*, 88 N.W. 366 (Iowa 1901), *Jenkins v. Martin*, 154 S.W.2d 242 (Ky. 1941), *Conley v. Rice*, 67 S.W.2d 478 (Ky. App. 1934), *Talbott v. Thompson*, 182 N.E. 784 (Ill. 1932), *Phillips v. Kincaid*, 240 S.W. 737 (Ky. App. 1922), *Burd v. Meadows*, 124 S.W. 2d 85 (Ky. App. 1917), *Rich v. Young*, 197 S.W. 442 (Ky. App. 1917), *Ottley v. Herriford*, 170 S.W. 205 (Ky. App. 1914), *Browning v. Lovett*, 94 S.W. 661 (Ky. App. 1906), *Bailey v. Hurst*, 68 S.W. 867 (Ky. App. 1902), *Behrensmeyer v. Kreitz*, 26 N.E. 704 (Ill. 1981).

<sup>4</sup> This is a highly relevant distinction. Where hand counts determine Election Day totals, such results are more correct and reliable than machine-based counts, considering the propensity of machines to double count, jam, or destroy ballots. Where machines are not used, thus, it is far more reliable to simply return to Election Day counts, unlike here. Accordingly, the multiple dated cases cited by the Franken Memorandum are irrelevant. See *Smith v. Kincaid*, 235 S.W.2d 62 (Ky. 1951), *Frazier v. Wright*, 228 S.W.2d 424 (Ky. 1950), *Swift v. Registrars of Voters of Milton*, 183 N.E. 727 (Mass. 1932), *Madrid v. Sandoval*, 13 P.2d 877 (N.M. 1932), *Jarrett v. Board of Canvassers*, 128 S.E. 821 (W. Va. 1924), *Brown v. Crosson*, 88 N.W. 366 (Iowa 1901), *Jenkins v. Martin*, 154 S.W.2d 242 (Ky. 1941), *Conley v. Rice*, 67 S.W.2d 478 (Ky. App. 1934), *Talbott v. Thompson*, 182 N.E. 784 (Ill. 1932), *Phillips v. Kincaid*, 240 S.W. 737 (Ky. App. 1922), *Burd v. Meadows*, 124 S.W. 2d 85 (Ky. App. 1917), *Rich v. Young*, 197 S.W. 442 (Ky. App. 1917), *Ottley v. Herriford*, 170 S.W. 205 (Ky. App. 1914), *Browning v. Lovett*, 94 S.W. 661 (Ky. App. 1906), *Bailey v. Hurst*, 68 S.W. 867 (Ky. App. 1902), *Behrensmeyer v. Kreitz*, 26 N.E. 704 (Ill. 1981), *Howser v. Pepper*, 79 N.W. 1018 (N.D. 1899).

### Risk of Application of Different Standards

As a final note, if the Board uses the approach recommended by the Franken Memorandum to certify the election night results in Minneapolis W-3, P-1, it would result in disparate treatment of similarly-situated ballots throughout this recount. As the recount incident reports prepared by recount officials and submitted to the Secretary of State's Office (and this Canvassing Board) indicate, in numerous precincts, ballots are asserted, presumed or believed to be missing when the recount totals are compared to election night totals and, in numerous other precincts, "extra" ballots are asserted, presumed or believed to exist.

However, the Board's jurisdiction and scope of authority with respect to all of these precincts is the same as it is with respect to Minneapolis: the Board must certify the recount results from these precincts, exercising discretion only over challenged ballots. The Board's authority in an administrative recount is as ministerial as its duty in meeting to canvass the initial election results. Moreover, if the Board adopts the approach recommended by the Franken Memorandum in just one Minneapolis jurisdiction, it raises significant concerns of fairness, uniformity and equal treatment in the state as a whole.

### REJECTED ABSENTEE BALLOT ENVELOPES / "FIFTH PILE"

The Supplemental Memorandum constitutes simply the latest in the Franken campaign's continued attempts to have so-called "improperly rejected absentee ballots" opened and counted by the Board. As you are aware from our prior (two) items of correspondence to Secretary of State Mark Ritchie, significant issues exist in the guidance forwarded by the Secretary of State's Office to local election officials, which guidance went well beyond a simple "sorting" process to a full-blown attempt to conduct the discovery phase of an election contest at taxpayer expense.

As the Board is likely also aware, at least ten (10) counties have *declined* (on the advice of county attorneys) to participate in this process, including Ramsey County, St. Louis County and Washington County (three rather large counties, comprising approximately 20% of the state's population). Accordingly, setting aside for the moment whether or not the sorting process is within the jurisdiction of the Board under its canvassing or recount duties under Minnesota law, the process itself can in no way be deemed comprehensive or complete; accordingly, it would be wholly inequitable for the Board to "open and count" ballots from some, but not all, Minnesota counties.

More importantly, however, we reiterate that the Board has no authority or discretion to consider these rejected absentee ballots in this recount, as they do not comprise "ballots cast in the election" *and* are not part of the "summary statements". The Franken campaign's request that the Canvassing Board order each county to count absentee ballots in a loosely defined "fifth pile" should therefore be denied. Every ballot in the fifth pile was originally rejected by county election officials (by either an absentee ballot board or at least two (2) election judges, often of different political parties); that these ballots should now be deemed "improperly rejected" after an *ad hoc* and extra-statutorial "sorting process" is not clear or undisputed.

The Board has no statutory authority to evaluate whether county election officials (on election night) properly or improperly rejected absentee ballots. Although Minnesota law provides for a process for the correction of obvious errors at the county level (which process does not involve the Board)<sup>5</sup>, serious equal protection concerns exist if the Board were to grant the Franken campaign's request and open and count the absentee ballot envelopes now being placed in the so-called "fifth pile" pursuant to the Secretary of State's expansive "detailed instructions" (our prior correspondence strenuously objecting to these instructions is incorporated herein by reference).

The Franken campaign's argument relies on an incorrect factual presumption: that all ballots in the "fifth pile" were improperly rejected. There can be no presumption that county election officials improperly rejected absentee ballots. The Franken campaign relies on its own anecdotal "evidence" from its self-serving and clearly one-sided review of selected absentee ballots that state reasons such as "no reason given" and "other", as well as on affidavits from many persons who now wish their vote to count. None of this evidence, however, is grounds for this Board to make any determination to count these ballots, especially when Minn. Stat. 203B.12, Subd. 2<sup>6</sup> does not even require election officials to give any written justification for rejecting non-UOCAVA absentee ballots.

Discussion of what written justification election judges gave for rejecting specific absentee ballots illustrates why this inquiry is not suited for the Board's ministerial duties and is better suited for an election contest, if necessary. The question of whether absentee ballots were improperly rejected requires a court to take evidence and witnesses to be examined and cross-examined, all while following the rules of evidence. For reasons explained repeatedly in prior correspondence, this is not a task the Board is equipped to undertake, nor is it given statutory authority to do so.

Additionally, the assertion within the Supplemental Memorandum that absentee voters and voters who appear personally at the polls should be treated the same under the Equal Protection Clause is wrong under both Minnesota Supreme Court and United States Supreme Court precedent. Both courts have concluded that absentee voting, unlike voting, is a privilege, not a right. *Bell v. Gannaway*, 227 N.W.2d 797, 802 (Minn. 1975) (concluding that the opportunity to vote by absentee "has the characteristics of a privilege rather than of a right"); *accord McDonald v. Bd. of Election Comm'rs of Chicago*, 394 U.S. 802, 807-808 (1969) ("It is thus not the right to vote that is at stake here but a claimed right to receive absentee ballots."). Thus, just because

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<sup>5</sup>Both the Franken campaign and Secretary of State Ritchie Mark have referred to the so-called "fifth pile" absentee ballots as "obvious errors" that "must" be corrected. If an "obvious error" has occurred in any county, Minnesota Statutes § 204C.39 provides clear instruction in for the procedure required to correct the error; namely, the filing of a lawsuit "without unreasonable delay" to correct the error. This procedure requires no direct action by the State Board. Tellingly, neither the Franken campaign nor any Minnesota election officials have availed themselves to this statutory process for correction of "obvious errors."

<sup>6</sup>"If all or a majority of the election judges examining return envelopes find that an absent voter has failed to meet one of the requirements prescribed in clauses (1) to (4), they shall mark the return envelope 'Rejected,' initial or sign it below the word 'Rejected,' and return it to the county auditor".

Minnesota law grants the Board the authority to review ballots cast, such grant does not mean that the Board can also review reasons for rejecting absentee ballots<sup>7</sup>.

Contrary to the Franken campaign's invocations of the Equal Protection Clause in its bid to count these rejected ballots, a serious equal protection issue might arise if the Board or local election officials were to grant this request. While the Secretary of State has asked the counties to sort the rejected absentee ballots into five piles, the Secretary of State and the Board do not have the authority to require counties to sort a fifth pile and (as indicated above) some are not. Other counties may be sorting absentee ballots in different ways and/or using personnel (such as government employees instead of election judges) who are not necessarily equipped and/or have not received proper training in evaluating these envelopes.

In any event, allowing some counties to decide to count previously rejected absentee ballots during the recount (or having this Board count absentee ballots deemed improperly rejected during the "sorting process") would violate the Equal Protection Clause because there is no uniform procedure governing the acceptance or rejection of absentee ballots during the recount. *See Bush v. Gore*, 531 U.S. 98, 105-106 (2000) (concluding that the recount mechanisms implemented in Florida "do not satisfy the minimum requirement for nonarbitrary treatment of voters necessary to secure the fundamental right" because the command to consider the "intent of the voter" provided no "specific standards to ensure its equal application").

Put another way, Minnesota's absentee voter laws provide clear standards by which an election judge may accept or reject an absentee ballot. Trained election judges and absentee ballot boards followed these procedures on election night. If counties or the Board now begin counting absentee ballots that were properly rejected, the votes of absentee voters who met the statutory requirements and the voters who voted at the polls on election day would be diluted in contravention of the Equal Protection Clause. *See Bush*, 531 U.S. at 105 ("The right of suffrage can be denied by a debasement or the dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise.").

## CONCLUSION

Based on the foregoing, we request that the Board: (i) certify the recount numbers in Minneapolis Ward 3, Precinct 1; and (ii) take no further action relative to any so-called "improperly rejected" absentee ballot envelopes (including, without limitation, review, opening and/or counting of any ballots enclosed in the same). We appreciate your careful consideration of the foregoing matters. While we understand that your intention is that no oral arguments or

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<sup>7</sup>As we have noted previously, the Minnesota Supreme Court has repeatedly held that, to preserve the integrity and purity of elections, the absentee voter statutes, "so far as the acts and duties of the voter are concerned, must be held to be *mandatory* in *all* their substantial requirements. These laws are not designed to insure a vote, but to permit a vote in a manner not provided by common law. As a result, voters who seek to vote under these provisions *must be held to a strict compliance therewith.*" *Id.* (emphasis added); accord *Wichelmann v. City of Glencoe*, 273 N.W.2d 638 (Minn. 1937) ("The provisions of election laws requiring acts to be done and imposing obligations upon the elector which are personal to him are *mandatory*. *He is personally at fault if he violates them.* If his vote is rejected for such violations, it is because of his own fault, not that of election officials. Such provisions prescribe mandatory conditions precedent to the right of voting.") (emphasis added). Accordingly, treating absentee voters differently from voters appearing personally at the polls does not violate the Equal Protection Clause.



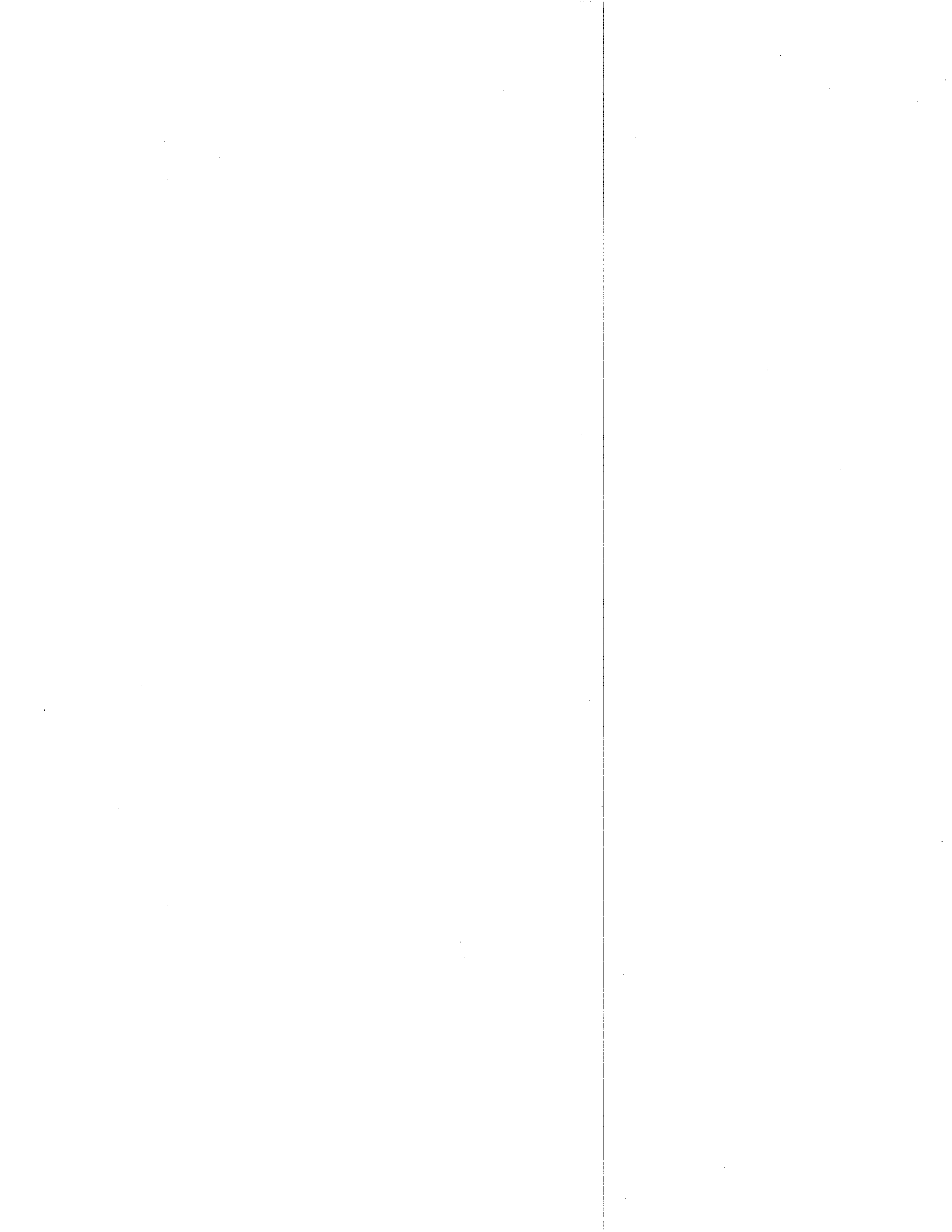
testimony will be permitted, in the event the Board permits the Franken committee or any other parties who may support the Franken position on these issues to present any oral arguments or testimony on these issues at tomorrow's meeting, we request an equal opportunity to respond. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Frederic W. Knaak". The signature is written in black ink and is positioned above the typed name.

Frederic W. Knaak, Esq.

cc: David L. Lillehaug, Esq. (w/encl.)  
Tony P. Trimble, Trimble & Associates, Ltd. (w/encl.)



Minutes

**STATE CANVASSING BOARD**

December 12, 2008, 9:30 a.m.

**Minnesota State Capitol, Room 15**  
75 Rev. Dr. Martin Luther King, Jr. Blvd  
Saint Paul, MN 55155

**1. Call to order**

Secretary Ritchie called the meeting to order at 9:34 a.m. Members present included Minnesota Supreme Court Chief Justice Eric Magnuson, Minnesota Supreme Court Justice G. Barry Anderson, Second Judicial District Court Chief Judge Kathleen Gearin, Second Judicial District Court Assistant Chief Judge Edward J. Cleary. Minnesota Attorney General Lori Swanson, Deputy Attorney General Christie Eller, Assistant Attorney General Kenneth Raschke, Deputy Secretary of State Jim Gelbmann, Director of Elections Gary Poser, Executive Assistant Kate Mohn, Business and Legal Analyst Bert Black, and other staff from the Office of the Secretary of State were also present, along with representatives of the parties and members of the public.

Secretary Ritchie began by noting that because of fire code concerns, members of the audience would not be allowed to stand in the room and instead should head to the overflow seating provided in the capitol cafeteria. He asked the members of the public and campaign representatives approach the proceedings respectfully.

**2. Adoption of agenda, approval of minutes from the November 26, 2008 State Canvassing Board Meeting, and waiving of attorney-client privilege in regard to the December 10, 2008 Attorney General opinion provided to the State Canvassing Board.**

Secretary Ritchie asked the board for a motion to approve the agenda for the meeting. Judge Cleary offered the motion and was seconded by Justice Anderson. The motion passed without opposition.

Judge Cleary made a motion to adopt the minutes of the November 26, 2008 State Canvassing Board meeting, noting that he had offered one correction to the minutes prior to the meeting and the correction had already been made. Justice Anderson seconded the motion. The motion passed without opposition.

Secretary Ritchie asked the board for a motion to waive attorney-client privilege in regard to the December 10, 2008 letter from the Office of the Attorney General to the State Canvassing Board regarding absentee ballots rejected in error. Judge Gearin made the motion. Justice Anderson seconded the motion. The motion passed without opposition. Copies of the opinion were distributed to members of the audience.

### 3. Update on Challenged Ballots

Secretary Ritchie recognized Mr. Gary Poser, Director of Elections for the Office of the Secretary of State.

Mr. Poser reported that when the board had last convened there were 3,594 challenged ballots that had been reported. Upon completion of the recount, that number increased to a total of 6,655 challenged ballots. The candidates have submitted over 2,000 withdrawals of challenges, but this leaves 4,472 remaining challenged ballots for the board to review. Mr. Poser noted that the Office of the Secretary of State continues to be hopeful that the campaigns will withdraw more challenges prior to when the board meets to review challenged ballots.

Judge Gearin asked to hear the number of remaining challenges again and offered a comment related to respecting the voters of the state. She remarked that she hopes that the challenges offered are serious. She has heard comments in the press from representatives of both campaigns accusing the other side of frivolous challenges. The canvassing process is about each individual Minnesotan's right to vote and right to have their ballot treated with respect. She remarked that she has not looked at the ballots online but that one would have to be intellectually challenged to have not heard the public wondering if in fact all the challenges brought by the campaigns are serious. Again, she urged the campaigns to be serious in raising challenges.

Justice Magnuson echoed Judge Gearin's remarks. He stated that he wants to count every legitimate vote, and needs all the help he can get in order to do so efficiently and fairly while spending the time needed considering the real questions. To the extent that the board is asked to look at issues that are not really issues, it detracts from the board's ability to give fair consideration to the real issues.

Secretary Ritchie then addressed the procedure of how to physically withdraw challenged ballots that that have had their challenges waived from the rest of the challenged ballots prior to the boards reconvening next Tuesday. Secretary Ritchie proposed the following language outlining the appropriate process:

To facilitate the review of challenged ballots, the State Recount Official is directed to open the challenged ballot envelopes to remove those challenged ballots which have been withdrawn by each of the two candidates or their representatives. The State Recount Official shall report to the Board the allocation of votes resulting from the withdrawal of these challenges.

The withdrawn challenged ballots shall be sealed into separately labeled envelopes for return to the jurisdiction from whence they were received.

The State Recount Official will arrange for this process to occur in an appropriate room and at an appropriate time and shall inform the candidates and the public of the time and location so that they may observe if they so desire. The State Recount Official may designate any member of the staff of the Office of the Secretary of State to assist in this task.

The remaining challenged ballots shall be sealed into separately labeled envelopes by jurisdiction from whence they were received and be kept secure for review by the Board.

Secretary Ritchie then made a motion to approve the proposal for withdrawing challenged ballots that have had their challenges waived. Chief Justice Magnuson seconded the motion and commended the Office of the Secretary of State for preserving the election materials as evidence if needed for an election contest.

Justice Anderson asked if the Office of the Secretary of State had been in conversation with the Coleman and Franken campaigns about the process of withdrawing waived challenged ballots.

Secretary Ritchie replied that the office has not. The office is proposing the language to facilitate the process while allowing the public and campaigns to attend.

Justice Anderson stated that it was not his opinion that the campaigns needed to be consulted in this regard. He stated that he would be willing to adopt the process and that any concerns regarding the process should be directed to the Office of the Secretary of State, and the board will consider input from others.

There being no further discussion, the motion passed without opposition.

Secretary Ritchie stated that the procedures for the review by the board of challenged ballots will be discussed further. He also stated a reduction in challenged ballots will result in a smooth process for reviewing the challenges.

### **Ballots from Minneapolis Ward 3, Precinct 1**

Secretary Ritchie began by describing the way he intended this portion of the meeting to proceed. He stated that he will first call on Ms. Cindy Reichert, the Elections Director for the City of Minneapolis, to testify to the board. He will then ask for the Attorney General to offer comments on the guidance offered by the office, and then to hear from the members of the board with questions for Ms. Reichert or the Attorney General, followed by discussion of the matter.

Secretary Ritchie then recognized Ms. Reichert.

Ms. Reichert began by thanking the board for offering her the opportunity to testify. Ms. Reichert has been a city clerk or chief elections official for 12 years and has worked on 13 elections. She then gave the board an overview of the events surrounding the 133 missing ballots from Minneapolis Ward 3, Precinct 1.

Sometime prior to December 2, during the course of conducting the hand recount of ballots, Minneapolis elections staff noticed that the envelopes from the precinct had unusual numbering. There was one golden envelope containing ballots with write-in candidates and numbered 1/1. There were also four tyvek envelopes numbered 2/5, 3/5, 4/5 and 5/5, but not one labeled 1/5. Initially the staff thought that perhaps the envelope was stacked in a different ward's pile at the election warehouse, as there were many ballots stacked on pallets. As elections staff proceeded, the thought they would identify whether the ballots had been misplaced and would locate the envelope. On Tuesday, December 2, the staff had finished counting all the ballots at the warehouse and confirmed that the envelope in question was not there.

One initial theory was that because election judges are instructed to place 500 ballots in each tyvek envelope and that the precinct in question had just over 2,000 voters that the envelopes from the precinct had been mis-numbered. Elections staff contacted the chair election judge from the precinct and asked about the numbering of the envelopes. The chair election judge stated that he had been doing other duties at the time and was not the person who numbered the envelopes. The chair election judge referred the staff to another poll worker from the precinct, who was also contacted. This poll worker did confirm that there were five tyvek envelopes in addition to the gold envelope.

On Wednesday, December 3<sup>rd</sup>, the envelopes for the precinct in question were opened for counting. After table officials noted that one envelope appeared to be missing, election staff accompanied by representatives from the campaigns, searched through the stacks of all envelopes at the warehouse, including spoiled ballot envelopes, envelopes containing voter receipts, and other materials.

Election officials next reviewed precinct statistics and found that the tape from the optical scan machine from Election Night contained some arithmetic errors. At that time, the elections staff speculated that perhaps the discrepancy in 133 votes was either due to a mathematical error or that poll workers ran a set of ballots through the optical scan machine twice. A count of the number of write-in ballots was conducted, with staff operating on the theory that those ballots had been removed from the compartment in the optical scan machine and run through a second time. Although the numbers were close, they did not match.

At this point, Ms. Reichert returned to her office and began counting the materials that the voting statistics are based upon, such as the roster and Election Day voter registration cards. The results of this review were forwarded to the Secretary of State's office.

On Thursday, December 4, elections staff conducted another search of the warehouse for the missing ballots. Ms. Reichert returned to city hall and with the aid of her staff counted all the signatures from the voter roster used on Election Day. After comparing the number of signatures to the number of ballots contained in the four tyvek envelopes and one golden envelope, elections staff determined definitively that 133 ballots were missing. Shortly after noon on this day, Ms. Reichert was joined by Deputy Secretary of State Jim Gelbmann. Together they contacted the precinct chair judge, who recalled that all ballots from the precinct were delivered to the warehouse shortly after midnight on Wednesday, November 5. The ballots were delivered via car by the chair judge and another poll worker, as is standard procedure. The chair judge subsequently searched his car, but was unable to locate the missing envelope of ballots.

Mr. Gelbmann and Ms. Reichert then contacted the pastor of University Lutheran Church, which was the building that housed the polling place for Ward 3, Precinct 1. Mr. Gelbmann and Ms. Reichert discussed the situation with the pastor as well as the custodian of the church. Neither of these people had any knowledge of materials being left behind after Election Day. Nonetheless, they conducted a search of the church. The ballots were not found.

Mr. Gelbmann and Ms. Reichert continued by contacting the staff person who checked in the materials at the election warehouse following the close of the polls on Election Night. The staff member in question stated that she normally checks ballot envelope numbering but could not definitively remember doing so for the precinct in question. Again, the check-in for Ward 3 Precinct 1 occurred after midnight and the elections staff had worked a very long day.

A search was then conducted of all elections materials housed at Minneapolis city hall, as well as the van that is used by the city for transporting election materials. The ballots were not found. A press conference was called that afternoon by the city, at which time both Ms. Reichert and Mr. Gelbmann stated that they believed the ballots were missing, but that the envelope in question was probably checked into the warehouse following the close of polls on Election Night.

On Friday, December 5 elections staff again searched the warehouse.

Elections staff also talked with another poll worker who had been present at Ward 3, Precinct 1 and had taken in part in packing the ballots at the end of the night. She confirmed that there were indeed six envelopes from the precinct. Ms. Reichert believed that the first five envelopes would have been filled with 500 envelopes, but that missing envelope in question could have contained far fewer ballots.

Ms. Reichert then directed the attention of the board to some of the comparisons made in the administrative review presented to the board. The results tape summary, printed from the optical scan machine at the precinct, shows a total of 2,028 ballots cast. While there were some mathematical errors for the number reported on Election Night, the number of voters registering on Election Day, plus the number of pre-registered voters, plus the number of absentee ballots should indicate the number of people voting at the precinct.

The mathematical errors on Election Night and the result that the numbers stated above did not match lead the elections staff to their initial supposition that a group of ballots had been run through the optical scan machine twice. However, after reviewing the number of signatures on the voter roster, the staff definitively determined that this was not the case and that the ballots were in fact missing.

Therefore, Ms. Reichert requested that for the purposes of the recount the canvassing board move to use the results reported from the optical scan machine tape instead of the hand count of the ballots from Ward 3, Precinct 1.

Secretary Ritchie then turned to Attorney General Swanson and asked for her guidance on the matter.

Attorney General Swanson noted that a similar issue arose in Senate District 27 in 2002, where 17 ballots were missing and therefore unavailable for a hand recount. At that time, the Attorney General's office issued an opinion to the State Canvassing Board that it was permissible to use election night returns from the precinct in question for the purpose of tabulating election results for a recount, based on the Minnesota Supreme Court decision in *Moon v. Harris*, 122 Minn. 138, 142 N.W. 12. The State Canvassing Board thereafter voted 4-1 to do so.

An election contest was filed thereafter in Mower County District Court, where Judge Joseph Quinn, presiding by assignment, overruled the decision of the State Canvassing Board and decided the ballots should not be counted. Attorney General Swanson said that she believed the relevant case law and authorities have been brought to the board's attention by the campaigns. Ultimately, there is a fact issue for the State Canvassing Board's consideration and determination—does the board believe that the ballots were cast and counted on Election Night, such that the returns from

Election Night are the best evidence available to the board? If the board does believe that to be the case, then it has the authority to include the election night machine tape numbers in the returns for the recount.

Secretary Ritchie then asked the members of the board if they had any questions for either Ms. Reichert or Attorney General Swanson.

Judge Gearin asked Attorney General Swanson if the district court decision overturning the actions of the State Canvassing Board in 2002 was ever appealed. Attorney General Swanson replied that it was not.

Chief Justice Magnuson noted to Attorney General Swanson that whatever actions the board takes today will be subject to an election contest. He noted that all the cases cited by the parties related to this issue were election contest cases. There were no special writs directed at the State Canvassing Board.

Chief Justice Magnuson then asked Ms. Reichert to clarify that 1,978 pre-registered voters, as reported in the materials she provided the board, was indeed the correct number of pre-registered voters from Ward 3, Precinct 1.

Ms. Reichert noted that this was the number of votes cast reported on Election Night, and as stated before that there were some mathematical errors in the numbers reported by poll workers following the close of the polls. This number is 900 too high. The administrative review checked the materials themselves instead of the numbers reported election night.

Chief Justice Magnuson then clarified that Ms. Reichert's request to the board was to include the vote totals from that night that reported a total of 2,028 votes cast in the precinct. Ms. Reichert replied that this was correct.

Justice Anderson then asked that Ms. Reichert to clarify that the number she was asking the board to certify would be the number that includes the 133 ballots that are missing. Ms. Reichert replied that this was correct.

Judge Cleary asked if Ms. Reichert gives any credence to the idea that the ballots are not missing but instead that some ballots were fed into the optical scan machine twice. Ms. Reichert replied that she does not. The idea that some ballots were fed in twice was a theory from the first day before the elections staff had reviewed all the materials and spoken to the poll workers. After doing so, she is convinced that the totals reported election night are the correct totals.

Secretary Ritchie then asked Ms. Reichert to clarify some of the numbers, asking how many voters signed in at the precinct and how many ballots were cast, as reported by the optical scan machine.

Ms. Reichert reported that the number of absentee ballots plus the number of people signing the roster is 2,030, and the number of ballots scanned is 2,028. She noted that it is not unusual for the roster count to be slightly off from the number of ballots because of people signing in to vote but then leaving due to time constraints.



Secretary Ritchie then stated that the number of people voting in the precinct was the same as the number of ballots cast that night. Ms. Reichert again stated that there were 2,030 entries on the roster and 2,028 ballots cast.

Secretary Ritchie then asked the board if they think there are missing ballots and if so what should be done. He asked the board to discuss.

Chief Justice Magnuson noted that as he read the opinion provided by the Attorney General as well as the cases cited, it seems to him the returns reported on election night are *prima facie* evidence of what occurred at the precinct that evening. If someone seeks to challenge that, they are free to do so, but they must have some evidence. He believes that Minnesota has a good system for keeping track of ballots and that the officials have acted in the best interest of the public. He also has no doubt that whatever the board decides will be subject to the proceedings of an election contest, which is the right of the parties. He believes the board has neither authority nor reason to direct to the City of Minneapolis to report anything other than the returns from Election Night. He then made a motion for the board to accept the returns presented by the City of Minneapolis.

Justice Anderson seconded the motion. He stated that he was in general agreement with what Chief Justice Magnuson outlined. He also noted that he was not sure as to when this question will get ultimately resolved—the lawyers can argue about that as there is the possibility of an election contest. It is his view that the board has a ministerial capacity, not a adjudicative capacity and as they have *prima facie* evidence and on that basis he is prepared to accept the returns with the understanding that a judge in an election contest might disagree.

At this point, Secretary Ritchie was asked by counsel for a clarification on the language of the motion on the table.

Secretary Ritchie then stated that the motion was that the State Canvassing Board accept the machine totals as reported by the City of Minneapolis for the purposes of the canvass of the 2008 election.

There being no further questions or discussion the motion passed without opposition.

Secretary Ritchie thanked both Ms. Reichert and the Attorney General's office for their work on the matter.

Ms. Reichert thanked the board on behalf of herself and her election judges.

### **Improperly Rejected Absentee Ballots**

Secretary Ritchie outlined a similar procedure as the one used in the section above for the presentation, questions and discussion related to improperly rejected absentee ballots. He then recognized Jim Gelbmann, Deputy Secretary of State.

Mr. Gelbmann gave an update on the progress of counties and cities sorting rejected absentee ballots, as requested by the board during its November 26, 2008 meeting. The purpose of the request was to determine how many ballots were improperly rejected in the state in this election.

Mr. Gelbmann noted that he has seen very good cooperation from the counties and cities, although many officials are concerned about the numbers of Data Practices Act requests they are receiving from the campaigns. He noted that the sorting process is now underway and will continue through the end of next week. 49 counties and municipalities have completed their sorting and reported their results to the Secretary of State. Another three have finished their sorting but have not provided their results. 24 additional counties and municipalities will be sorting within the next week. There have been 4,823 total rejected absentee ballots sorted by the 49 counties and municipalities. Of these, it has been determined that 638 of those ballots were wrongfully rejected.

Chief Justice Magnuson asked who was making these determinations. Mr. Gelbmann replied that the decision makers were local election officials, as well as the trained poll workers hired to assist them in this sorting process.

Mr. Gelbmann continued, stating that it appears that roughly thirteen percent of all absentee ballots have been wrongfully rejected. If this trend holds, it is estimated that 1,587 wrongfully rejected absentee ballots exist in Minnesota.

In particular, Mr. Gelbmann cited numbers provided by the city of Duluth. Although neither Duluth nor St. Louis County has agreed to sort rejected absentee ballots, the St. Louis County Auditor's office did provide the Office of the Secretary of State with a spreadsheet listing the reasons why absentee ballots were rejected in Duluth. Out of the 319 ballots rejected in Duluth, 99 were rejected because the witness did not date his or her signature. 21 were rejected because the voter did not date his or her signature, and 7 were rejected because neither the voter nor the witness dated their signature. This means that in Duluth roughly 40 percent of the rejected absentee ballots were rejected improperly, as the Office of the Secretary of State could find nothing in statute or rules that allows the rejection of absentee ballots based on the lack of a dated signature.

Secretary Ritchie thanked Mr. Gelbmann and then asked the Attorney General to provide the board with guidance on the matter.

Attorney General Swanson gave an overview of the opinion provided to the State Canvassing Board regarding the issue of improperly rejected absentee ballots. She stated that the opinion was based on the premise that every lawful vote should count in a democracy. This is a right not just of the voters, but of the entire electorate. The opinion outlines four statutory procedures to allow correction of errors. The case law cited in the opinion has two reoccurring themes—one, that every lawful vote should be counted, and two, that canvassing boards have wide latitude given by the courts. So long as canvassing boards are acting in good faith, their decisions are sustained by the courts.

Based upon the review of statutes and case law, Attorney General Swanson believes that the State Canvassing Board can request that the county canvassing boards reconvene for the purposes of tabulating improperly rejected absentee ballots and provide amended reports, which can be accepted by the State Canvassing Board.

Justice Anderson asked Attorney General Swanson if there is any precedent for a State Canvassing Board issuing an order for county canvassing boards reviewing and considering wrongly rejected absentee ballots. Attorney General Swanson replied that pursuant to the decision in *Application of Andersen v. Rolvaag*, 119 N.W. 2d 1, there is nothing to prohibit or prevent the board from doing so.

Judge Gearin then stated that it was her understanding that the Attorney General was saying that the State Canvassing Board has the authority to take two actions: First, to recommend to local canvassing boards that they review and count rejected absentee ballots that were rejected for nonstatutory reasons. Second, to accept the amended reports from the county canvassing boards that would be issued as a result of the reviewing the rejected ballots. Judge Gearin stated that since some counties have already done the sorting process, that the board will have to make a decision on the accepting of amended returns.

Attorney General Swanson replied that she believes that Judge Gearin understands correctly. She believes that the board can make requests and can accept amended returns.

Judge Gearin stated if the State Canvassing Board does not recommend that wrongfully rejected absentee ballots be counted that this process will be part of an election contest. Likewise, if they do order the counting that too will probably be part of an election contest. Nevertheless, Judge Gearin stated that she believes she has a hard time understanding why the board would not make the request to the counties for the review and counting of wrongly rejected absentee ballots.

Chief Justice Magnuson asked if any counties have submitted amended returns.

Mr. Gelbmann replied that Itasca County has submitted an amended return. Mr. Poser stated that he was not sure if totals were amended during the recount process, but nothing has been submitted through a county canvassing board report.

Chief Justice Magnuson asked for a confirmation that until the State Canvassing Board certifies the results of an election is can receive amended returns from the county canvassing boards and asked if St. Louis County was the only county so far to decline to do the sorting of rejected absentee ballots.

Mr. Gelbmann replied that there are many counties that have not yet done the sorting. Some counties have not been responsive, other counties have declined. Many that have declined have stated that they wanted to wait and see what the canvassing board does today to see if the exercise will be a useful one.

Chief Justice Magnuson then stated that parties are allowed to petition the district court if counties are refusing to correct errors and asked Attorney General Swanson if there were any statutory guidelines on how to proceed on the matter.

Attorney General Swanson replied that in addition to district court, *Minnesota Statutes* 204C.39 applies.

Chief Justice Magnuson noted that 204B.44 applies as well, and asked if there was a similar provision that grants the State Canvassing Board the authority to be able to make the county canvassing boards do anything.

Attorney General Swanson replied that there was not such a provision in statutes.

There being no further questions, Secretary Ritchie moved the matter to discussion.

Judge Cleary began by reminding the board that the last time they met they unanimously decided they would not review absentee ballots that have been properly rejected. However, the decision made at the previous meeting did not include what to do with improperly rejected absentee ballots, since they are not rejected ballots but rather uncounted ones. He stated that some counties have already voluntarily done the sorting and that there is no reason why absentee ballots that were rejected improperly should not be submitted to the board, subject to challenges by either candidate on the basis of intent. The board should not consider the first four piles of absentee ballots because doing so would require making findings of fact and conclusions of law, but the fifth pile should come before the state canvassing board, should be opened, and should be counted. He believes it is unjust to the voters to not count those votes.

Judge Cleary stated that he understands and agrees with Chief Justice Magnuson's and Justice Anderson's concerns that the State Canvassing Board cannot force the counties to do anything, but believes the board should recommend that the counties separate the ballots into five piles, count the ballots in the fifth pile, and submit amended reports to the State Canvassing Board.

Chief Justice Magnuson stated that he agrees with Judge Cleary. Chief Justice Magnuson wants to count ballots that are properly cast and would be surprised if the counties refused to submit amended returns. He noted that he does not believe the board has the authority to force the counties to submit amended returns, but that there are statutory remedies available to the parties if they believe there is an obvious error. They can petition the district court under 204C.39 and the district court can issue compulsory process, call an evidentiary hearing, compel witnesses, and issue orders. Until the board receives amended returns, he does not believe the board can take any action.

Judge Gearin concurred and reiterated that the board does not have the authority to issue orders to the county. She initially stated that she does not understand why counties would not do it. However, upon further reflection she stated that she understands that the counties have had a lot of burdens already and absentee ballots are more complicated than other ballots and require more scrutiny.

Justice Anderson remarked that he was inclined to go along with Judge Cleary's motion but was concerned that pile five actually consists of four of five subdivisions. He guessed that there will be obvious examples in the fifth pile of ballots that should be reconsidered. He is not troubled by the board recommending that the counties look into the issue, but there are also statutory requirements and discussions of whether people were properly registered. Those are not facts. Those are allegations. The board needs to be careful on this. It is not a function of every ballot counting; it is one of every lawful ballot being counted. With that caveat, he supports Judge Cleary's motion.

Secretary Ritchie states that he believes they are discussing things that would be obvious errors.

Secretary Ritchie then moved that the State Canvassing Board recommends that county canvassing boards review rejected absentee ballots for the purpose of identifying obvious errors, correcting them, and reporting their new totals to the State Canvassing Board for review.

Judge Cleary asked to make a friendly amendment to change the motion to read that the State Canvassing Board recommends that County Canvassing Boards that have not already done so reconvene and separate rejected absentee ballots into five categories, the first four categories being the statutory grounds found in 203B.12, Subd. 2 for proper rejection of absentee ballots. The fifth

pile would be those where there is no grounds or reason for the rejection of absentee ballots because it does not meet one of the four statutory reasons.

Mr. Black suggested that the motion be further amended to include the statutory requirements set for military and overseas voters and the proper rejection of their absentee ballots, as stipulated under 203B.24. Judge Cleary accepted this as a friendly amendment.

Secretary Ritchie asked if there was a second to the motion, the motion being part one of two parts.

Judge Gearin seconded the motion.

Secretary Ritchie asked if there was any further discussion.

Chief Justice Magnuson stated that he supports the spirit of the motion but he is uncomfortable with issuing recommendations as the county canvassing boards are independent and he does not want the State Canvassing Board to direct the county boards to undertake any actions. He would, however, hope that the county boards do what the State Canvassing Board is suggesting. He intends to vote for the motion, but again states that the board does not have the authority to compel the counties to undertake its recommendations and that 204C.39 is the statutory remedy for the correction of obvious errors, which can be pursued through the courts.

Secretary Ritchie stated that he shares the board's sentiments, but supports the motion because it is a recommendation and not intended to be prescriptive. The board will be respectful of the counties and how they decide to move forward.

Justice Anderson noted that he shares the reservations being expressed, but will vote for the motion. He asked that the motion be restated.

As Ms. Mohn and Mr. Black consulted on confirming the language of the motion as amended for restatement, Judge Gearin asked to clarify that when she was talking about respect for the voters earlier in the meeting she used an old-fashioned term that may have been insensitive. What she meant to express was that a person would have to be totally isolated to not know that the citizens of this state are frustrated with how long this process is taking, even though it is preceding in an orderly and respectful manner. She again encouraged both sides to make sure that they are respecting every individual that went to the effort to vote and to do away with nonserious challenges, and she apologizes if she said anything insensitive.

Chief Justice Magnuson then suggested that the language of the motion be changed to refer to allegedly improperly rejected absentee ballots.

Judge Cleary's motion was then restated as follows: The state canvassing board recommends that county canvassing boards that have not already done so reconvene and separate allegedly wrongfully rejected absentee ballots into five categories, the first four categories being the reasons for rejection set forth in *Minnesota Statutes* 203B.12 and 203B.24, the fifth category being those that are not included in any of the four categories for rejection.

When asked by Chief Justice Magnuson, Mr. Black confirmed that the revised language includes the statutory cite needed to cover overseas and military voters.

There being no further discussion, the motion passed unanimously.

The board then turned to the second part of the motion, which is the incorporation of obvious errors into county canvassing reports to be submitted for the State Canvassing Board to review.

Chief Justice Magnuson raised the concern that it may be premature for the State Canvassing Board to take any action on this matter as it is unclear if the counties will provide amended returns. He believes action should not be taken until the reports are submitted.

Judge Cleary disagreed, stating that he would prefer to keep this process moving and set the framework for acceptance as it is already nearly January.

Secretary Ritchie stated that he believes already that under the statute counties are allowed to identify and correct obvious errors and submit amended reports to the board. He asked the Attorney General if he was correct about this. She replied that he was correct.

Chief Justice Magnuson stated that from a process standpoint since the board has not yet accepted any reports, it seems premature to accept amended returns when the initial reports have not been accepted.

Judge Cleary asked if the Attorney General believed if it was premature legally for the board to outline a procedure for accepting amended returns. Attorney General Swanson replied that the board could do it either way as long as a clear request is made to the counties regarding what the State Canvassing Board is asking the counties to do.

Judge Cleary suggested that if the counties are asked to undertake this effort they should know that the amended reports will be accepted.

Secretary Ritchie stated that the county officials he has been hearing from have been wanting to hear the board's recommendation that the sorting process be undertaken and that he believes the board has made its wishes clear throughout this meeting. The board wants this sort done because it wants to count the votes of people who had their ballots rejected in error and they want this process done soon because they are trying to conclude this process by the 19<sup>th</sup>.

Justice Anderson stated he does not like making decisions he doesn't have to make. He is inclined to say that the board has made its recommendation and should see what transpires as the board is currently in uncharted territory.

Judge Cleary raised the question of what happens now that the board has made the recommendation to the counties to do the sorting of the ballots but has not stated it will accept the amended returns.

Chief Justice Magnuson stated that in the abstract he is inclined to accept amended returns, but until he actually sees an amended report and reviews it, he cannot commit to accepting it. He wants amended reports presented to the board so that the board members can accept them in the ordinary course of operations.

Judge Cleary then asked the Chief Justice if he was understanding him correctly that he wants the amended reports physically present before deciding to accept them.

Chief Justice Magnuson replied that he believes the process is clear and the board needs to wait to receive the reports before making any decisions on accepting them.

Judge Gearin agreed that initially she wanted to make a motion regarding the acceptance of amended reports from county canvassing boards, but now she does not think that is the correct way to proceed. She cannot think of a reason why the board would not accept an amended report regarding the wrongfully rejected absentee ballots, but the matter is not currently before the board.

Secretary Ritchie reiterated that the message of the State Canvassing Board was that they recommend that the county canvassing boards be reopened for the examination of obvious errors of allegedly wrongfully rejected absentee ballots and that if obvious errors are identified the reports be amended and sent to the State Canvassing Board. He suggested that perhaps the previous motion be amended to say that canvassing reports are open, amended, and sent to the State Canvassing Board. It does not commit the State Canvassing Board to accept the reports, but reassures the counties that the reports will be reviewed.

Chief Justice Magnuson again stated that the State Canvassing Board cannot tell local officials what to do, and that they understand that if they do not provide the State Canvassing Board with amended returns by the time that the review of challenged ballots is complete then there is a problem. Again, he stated that the parties have recourse through the courts under 204C.39 and does not want to micromanage the counties.

Mr. Poser gave a clarification that the board has not accepted any reports from the counties regarding the recount because recount reports go directly to the State Canvassing Board and bypass the county canvassing boards. Changes made by the counties as a result of the sorting process would have to be incorporated into the initial canvassing reports provided to the board in November.

Chief Justice Magnuson again pointed out that this speaks to his reasons for concern and his reluctance to make a motion on the acceptance of amended returns.

Secretary Ritchie replied he was comfortable with this. Clearly the board wants errors corrected but will not dictate how the counties do this. He noted that the review of challenged ballots will be conducted from December 16 to 19 and that he is displeased that the campaigns seem to have been concentrating their efforts on drafting competing legal briefs instead of focusing on withdrawing frivolous challenges.

Judge Cleary asked for a clarification on what was just decided on the amended reports. The review of challenged ballots begins next week. Amended reports may or may not be submitted. Is it necessary for the board to approve each amended report as it comes in?

Secretary Ritchie replied that the procedure for next week has not yet been set.

Judge Anderson stated that he believed it was possible to adopt all reports with a single motion, but it is also possible that the matter will require further review.

Secretary Ritchie stated that he has confidence in the board's ability to address these concerns. He asked for input from the board regarding concerns about the procedures of the board.

Judge Cleary stated that his concern is that as these amended canvassing reports come in the board is going to be engaged in a recount and must they stop and debate about canvassing reports? How should this be managed logistically?

Secretary Ritchie replied that he is not able to currently answer that question.

Judge Gearin asked if Secretary Ritchie believed the board can be done on the 19<sup>th</sup>.

Secretary Ritchie replied that he believes it is possible with the cooperation of the campaigns in reducing the number of challenged ballots.

Judge Cleary then asked to comment on the number of challenged ballots. He stated that the danger is that meritorious challenges will be swamped in a sea of frivolous ones. He urged the campaigns to reduce the number of challenges.

Secretary Ritchie then made a motion that the board go into recess at the call of the chair.

Chief Justice Magnuson seconded the motion.

There being no further discussion, the motion passed without opposition and the meeting adjourned at 10:58 a.m.





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December 10, 2008

To the Members of the State Canvassing Board:

Please accept the following report outlining events and activities related to Minneapolis Ward 3 Precinct 1 ballots. Also attached are statistics and vote totals reported by the Precinct Election Judges on Election Day as well as statistics and vote totals determined through administrative review of the precinct materials and a hand count conducted during the recount process.

**Prior to December 2, 2008**

3-1 came up on the list of precincts to pull for counting on a day prior to December 3<sup>rd</sup>. Staff noted unusual numbering on ballot envelopes; one gold envelope containing write-in ballots labeled 1 of 1, and four white Tyvek envelopes labeled 2 of 5, 3 of 5, 4 of 5 and 5 of 5.

The precinct envelopes were set aside to determine if one of the envelopes had been inadvertently placed with another precinct's ballot envelopes.

**Tuesday, December 2, 2008**

On the 2<sup>nd</sup> we had finished counting all other wards and confirmed the envelope was not there. Because the ballot envelopes contain approximately 500 ballots each, and we knew the precinct has just over 2000 voters, we believed the envelopes may have been mis-numbered by the Precinct Election Judges.

A staff member contacted the Chair Judge who stated he had been working on other duties in the precinct when the envelopes were labeled. Another Election Judge who had been present when the envelopes were numbered was contacted and he recalled there being five white envelopes in addition to the gold write-in ballot envelope, but was uncertain in his recollection.

**Wednesday, December 3, 2008**

Precinct 3-1 was opened for counting. After the Table Officials noted that ballots appeared to be missing, Election Department staff, accompanied by campaign representatives, searched through the stacks of all ballot envelopes, including spoiled ballot envelopes and envelopes containing voter receipts.

At that time the precinct statistics were reviewed, and because statistics reported by the Precinct Judges on the tape did not "add up," we speculated that the judges may have made an error and run a group of ballots through the ballot counter a second time. A count of ballots with write-in votes was conducted and we again speculated that this could account for the difference in number of ballots counted by the ballot counter. I informed all present that I would review precinct statistics and verify numbers reported the following day. Results of the hand recount count were forwarded to the Secretary of State's Office.

**Thursday, December 4<sup>th</sup>**

Another search for the missing envelope was conducted at the Warehouse by Election Department staff on Thursday. I returned to the Elections Department Office at City Hall where precinct materials and statistics were verified. At this point we determined definitively that the ballots were missing.

Shortly after noon, I was joined by Jim Gelbmann, Deputy Secretary of State. Together we contacted the Precinct Chair Judge. He recalled that he had delivered all ballots to the Warehouse shortly after midnight following the close of polls in his car accompanied by another Election Judge. He subsequently searched his car, but did not locate the ballot envelope.

We then contacted the Pastor of University Lutheran Church and discussed the situation with he and the Church Custodian. They had no knowledge of any envelope left behind and assured us it was not in the church.

We contacted the person who had checked in the precinct materials at the Warehouse, and she stated that she normally checks ballot envelopes for correct numbering, but could not definitively state that she had done so for this precinct.

A search was conducted at City Hall through all precinct materials located there, the van that had been used to transport various materials from the Warehouse to City Hall the morning following the election, as well as various store rooms used by the Elections Department.

A press conference was called by the Mayor's Office, during which we stated that we believed there was a ballot envelope missing, that it had been checked in to the warehouse on election night and committed to another search of the warehouse.

**Friday, December 5, 2008**

An extensive search of the warehouse was conducted.

**Tuesday, December 9, 2008**

Another Judge from the Precinct contacted our Office and stated that she had also been present when the ballots were packed into envelopes and that there had been a sixth envelope that was smaller than the other envelopes.

**Respectfully Submitted**

Cynthia D. Reichert  
Elections Director

**Comparison of Ward 3 Precinct 1 Statistics and Vote Totals**

	<b>Vote Totals</b>	<b>Vote Totals</b>
	<b>Recount Results</b>	<b>Precinct Results</b>
Coleman	561	595
Franken	1010	1090
All Other	323	343
Coleman and Other Challenged by Franken	1	
Franken and Other Challenged by Coleman	1	
<b>Total Votes</b>	<b>1896</b>	<b>2028</b>

**Administrative Review**

**Reported Election Night**

Election Day Registrations (In Person Voters)	934	Election Day Registrations (In Person Voters)	901
Signatures on Roster (Pre-Registered Voters)	1047	Signatures on Roster (Pre-Registered Voters)	1978
Regular Absentee Ballots	34	Regular Absentee Ballots	40
UOCAVA Precinct Ballots	7	UOCAVA Precinct Ballots	0
UOCAVA Federal Ballots	8	UOCAVA Federal Ballots	9
In Person + Absentee Voters	2030	In Person + Absentee Voters	2027
Total Ballots Counted (Hand Count)	1896	Total Ballots Cast (Machine Count)	2028

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

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In the Matter of the Contest of  
General Election held on November 4, 2008  
for the purpose of electing a United States  
Senator from the State of Minnesota,

Cullen Sheehan and Norm Coleman,

Contestants,

vs.


**ACKNOWLEDGEMENT OF SERVICE  
OF NOTICE OF CONTEST**

Al Franken,

Contestee.

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I, the undersigned counsel, on behalf of the above-named Contestee Al Franken, do hereby declare that I have received a copy of the Summons, Notice of Contest, Motion for Contest Rules and Procedures, and Proposed Order in the above-captioned matter, that I hereby accept and acknowledge service of process of the same for purposes of commencing an election contest pursuant to Minnesota Statutes § 209.021 and hereby waive any defense of lack of jurisdiction for failure to complete service of process relative to this election contest.

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Printed Name

  
\_\_\_\_\_  
Date