

4. In Paragraph 3 of the Court's Order in this action, A08-2206, *Coleman v. State Canvassing Board et al*, the Court requests, "The Secretary of State or the State Canvassing Board shall provide a record or whatever documentation is available to inform the court of the action taken at the Board's December 19, 2008 meeting with respect to "duplicate /original" ballots."
5. This affidavit is prepared in response to that portion of the Order.
6. Draft minutes for the meeting of December 19, 2008 have not yet been prepared for review or approval by the State Canvassing Board, so there is no documentation at this time other than the video of the meeting and notes of other staff made in preparation for the creation of draft minutes for later consideration of the Canvassing Board.
7. I attended the meetings of the State Canvassing Board held December 18, 2008 and December 19, 2008 in Room 10, State Office Building, Saint Paul and was present throughout those meetings for the purpose of providing information to the Board and otherwise assisting the Board and Secretary Ritchie, the Chair of the State Canvassing Board.
8. I was present during the presentations of counsel for candidates Coleman and Franken to the Board on the subject of ballots that were duplicated from damaged original ballots, where counsel for Coleman filed challenges to exclude from the recount those ballots where an original and a duplicate created on Election Day pursuant to Minnesota Statutes, section 206.86, subd. 5 cannot be matched up.
9. I observed the motion passed by the State Canvassing Board in response to those presentations. The motion was made by Chief Justice and State Canvassing Board member Eric Magnuson, and was seconded by Second Judicial District Assistant Chief Judge and State Canvassing Board member Edward J. Cleary.
10. From my own recollection and from a review of the video record of the meeting of the State Canvassing Board on December 19, 2008, the motion referenced in paragraph 6 above stated:

"I would move that we reject all of the challenges based on duplicates or originals that are not based on voter intent or identifying marks."

The motion passed unanimously.

This motion was the only action taken by the State Canvassing Board on December 19, 2008 with respect to this issue.

11. The electronic video of the State Canvassing Board meeting showing this exact motion is available at:

http://www.house.leg.state.mn.us/htv/archivesem.asp?ls_year=85

at the entry for December 19, 2008 labeled State Canvassing Board – Day 4/part3, at approximately 45:00 of that video

The presentations by counsel for the candidates and discussion by the members of the State Canvassing Board can be found at:

http://www.house.leg.state.mn.us/htv/archivesem.asp?ls_year=85

at the entry for December 18, 2008 labeled State Canvassing Board – Day 3/part 4, commencing at approximately 1:26:00 of that video.

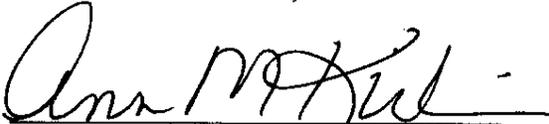
FURTHER YOUR AFFIANT SAYETH NOT.

Dated: December 21, 2008



Bert Black

Subscribed and sworn to before me on this December 21, 2008.


NOTARY PUBLIC

AG: #2360126-v1

