

STATE OF MINNESOTA
IN SUPREME COURT

Court File No. _____

Cullen Sheehan, Norm Coleman, Cara
Beth Lindell, and John Doe,

Petitioners,

vs.

Mark Ritchie, Minnesota Secretary of
State, the Minnesota State Canvassing
Board, Isanti County Canvassing Board
and Terry Treichel, Isanti County
Auditor-Treasurer, individually and on
behalf of all County and Local Election
Officers and County Canvassing
Boards,

Respondents.

**AMENDED PETITION FOR
AN ORDER TO SHOW
CAUSE PURSUANT TO
MINN. STAT. §204B.44**

Petitioners state and allege as follows:

JURISDICTION

1. This action is necessary to redress errors and omissions made by the Respondents, and additional errors and omissions about to be made by the Respondents, related to the handling of rejected absentee ballots during the administrative recount in the election of the United States Senator. The Respondents are all persons charged with duties concerning the election. This Court's intervention is necessary to ensure that

consistent standards will be consistently applied and equal protection is afforded to all voters.

2. This Court has jurisdiction over the matters alleged herein under Minn. Stat. § 204B.44.

PARTIES

3. Norm Coleman is a Minnesota resident and United States Senator from the State of Minnesota. Senator Coleman is a registered Minnesota voter who voted in the election and is one of the candidates in the election for office of U.S. Senator.

4. Petitioner Cullen Sheehan (“Sheehan”) is a Minnesota resident qualified as an eligible voter under Minnesota election law. Sheehan submitted an absentee ballot application with the Isanti County Auditor’s office, which application was rejected due to lack of a witness signature. Mr. Sheehan subsequently returned this application with a witness signature.

5. Petitioner Cara Beth Lindell (“Lindell”) is a Minnesota resident qualified as an eligible voter under Minnesota election law.

6. Petitioner John Doe represents all Minnesota residents who will be harmed by Respondents’ errors and omissions.

7. Mark Ritchie is the Minnesota Secretary of State. Mr. Ritchie is the chief election official in Minnesota and is responsible for administration of Minnesota election law. In this capacity, he operates the statewide voter registration system and prepares the official roster of votes for every election conducted in Minnesota, including the general election for United States Senator held on November 4, 2008. His responsibilities

include certifying voting systems, conducting administrative recounts, and training local election officials.

8. The State Canvassing Board is comprised of Minnesota Secretary of State Mark Ritchie, the Honorable Eric J. Magnuson, Chief Justice of the Minnesota Supreme Court, the Honorable G. Barry Anderson, Associate Justice of the Minnesota Supreme Court, the Honorable Kathleen R. Gearin, Chief Judge of the Second Judicial District, and the Honorable Edward J. Cleary, Assistant Chief Judge of the Second Judicial District. The Board is charged with overseeing the statewide administrative recount in the election for the office of United States Senator.

9. The Isanti County Canvassing Board and Terry Treichel, Isanti County Auditor-Treasurer, are nominal respondents and represent all county and local election officials, including county canvassing boards, in each of Minnesota's 87 counties.

RESPONDENTS' ERRORS AND OMISSIONS

10. On December 12, the Minnesota State Canvassing Board ("Board") formally requested that Minnesota county canvassing boards re-canvass for the purpose of evaluating whether or not any absentee ballot envelopes in a county relating to the 2008 general election were improperly rejected by election judges and/or absentee ballot boards.

11. The Board failed to provide uniform guidance to the counties on how to determine whether or not any absentee ballot envelopes in a county relating to the 2008 general election were improperly rejected by election judges and/or absentee ballot boards.

12. The Minnesota Secretary of State's office provided guidance to counties last week on the "sorting" process that was internally inconsistent, contrary to applicable law and confusing. For example, the "detailed instructions" that the counties are now recommended to follow are incomplete and incorrect. See Ex. A. For instance, the "detailed instructions" direct the counties to now consider a rejected absentee ballot as improperly rejected if the signatures do not match or even if there is no signature, but the "transaction was actually handled at your in-person counter and was witnessed by a county or city official." The "detailed instructions" also do not acknowledge that absentee ballots should be rejected if the instructions, which require in part that the absentee voter have a witness who is registered to vote in Minnesota, are not followed.

13. This conflicting and unclear guidance will result in 87 different counties applying 87 different standards as to these ballots. Although Minnesota law is clear on the grounds upon which absentee ballots may be rejected, a strong likelihood exists that these standards will be interpreted differently, indeed on an *ad hoc* basis, by each county that engages in this process (including counties that do not engage in the process at all).

14. Already, counties have adopted differing standards and some counties have refused to engage in the process at all. For example, Isanti County has placed no absentee ballots in "Pile 5", even though some were rejected for lack of only the city in the witness address line. In contrast, Dakota County placed numerous envelopes in "Pile 5", which envelopes were rejected for lack of only the city in the witness address line. Similarly, with respect to the Duluth example proffered by Jim Gelbmann, from the Secretary of State's office, at today's meeting of the Board told of a ballot being rejected

in St. Louis County because it was undated; however there is no evidence that any other county treating a similar absentee ballot in that same manner.

15. At least ten 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).

16. Just as mistakes may have been made in rejecting absentee ballot envelopes on election night, mistakes will inevitably be made in second-guessing these initial rejections.

17. It would be wholly inequitable for the Board to “open and count” ballots from some, but not all, Minnesota counties.

18. The lack of procedures for reviewing such ballots—and for preserving the evidence for a likely contest—is precisely the reason these matters should be determined in an election contest and not on an *ad hoc* county-by-county basis.

19. 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”).

20. The votes of absentee voters who met the statutory requirements and the voters who voted at the polls on election day, including those of Petitioners, 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.”).

21. The Equal Protection Clause requires that the question of whether absentee ballots were improperly rejected is one for a court to take evidence and witnesses to be examined and cross-examined, all while following the rules of evidence. This is not a task the Board is equipped to undertake; nor is it given statutory authority to do so. Instead, it should await a contest, where one three-judge panel can rule on all allegedly improperly rejected absentee ballots.

22. In any event, 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.”

23. Unless this Court grants the relief requested below, Respondents will take the unlawful and improper steps outlined above.

CLAIM FOR RELIEF

WHEREFORE, Petitioners respectfully pray for an Order of the Court:

A. Given the errors and omissions that have already occurred and the irreparable harm that may result from them, the Court should order that the county election officials, and county canvassing boards, take no additional actions related to the rejected absentee ballots until further order from the Court. Such an order will maintain the status quo, ensuring that all voters' rights are protected on an equal basis and that no evidence is lost or destroyed.

B. Directing all counties, county canvassing boards, the Secretary of State and the State Canvassing Board that no rejected absentee ballots be counted in the administrative recount and all issues regarding such ballots are to be raised, if any party so chooses, in a contest pursuant to Minn. Stat. Ch. 209.

C. All rejected absentee ballot envelopes, and the corresponding ballots therein, shall be preserved and kept segregated in a manner permitting the ballot to be linked to the envelopes in the future as these materials will all likely constitute evidence in an election contest.

D. In the alternative, to the extent this Court ultimately directs any county canvassing board to open and count any previously-rejected absentee ballots, to preserve the rights of each United States Senate candidate relative to the recount currently underway, as well as to preserve evidence likely to be of extreme importance in an election contest, representatives of each campaign shall be permitted to participate in the counting process as follows:

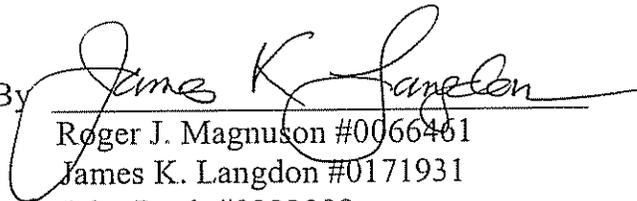
- i. Representatives of each campaign shall be permitted to challenge a decision to open an absentee ballot envelope, thereby preserving this

issue before an envelope is opened and the ballot commingled with other opened ballots.

- ii. Representatives of each campaign shall be permitted to challenge the declaration of how a previously-rejected absentee ballot that is opened is to be counted, using challenge standards utilized during the prior recount process in the counties.
- iii. Representatives of each campaign shall be given photocopies of the front and back of each and every envelope which is challenged and/or opened, as well as photocopies of the front and back of each and every ballot that is challenged pursuant to the process at (ii) above.
- iv. Representatives of each campaign shall be given photocopies of any amended results proposed to be submitted to the Board for approval (whether in the form of amended summary statements, amended canvassing board reports or other format).
- v. All rejected absentee ballot envelopes, and the ballots that correspond to each such envelope (if opened), shall be kept segregated from all ballots previously counted in this recount and preserved for a potential election contest. This segregation includes a mechanism for tying a particular ballot to an envelope which was previously opened (to enable a potential future challenge to such a vote cast in the event a court determines that the absentee ballot envelope was properly rejected in the first place).

Dated: December 12, 2008

Dorsey & Whitney LLP

By  James K. Langdon

Roger J. Magnuson #0066461

James K. Langdon #0171931

John Rock #0323299

Suite 1500, 50 South Sixth Street

Minneapolis, MN 55402-1498

Telephone: (612) 340-2600

Counsel for Petitioners

TRIMBLE & ASSOCIATES, LTD.

Tony P. Trimble, #122555

Matthew W. Haapoja, #268033

10201 Wayzata Blvd, Suite 130

Minnetonka, MN 55305

(952) 797-7477

ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions may be imposed under
Minn. Stat. § 549.211.

DORSEY & WHITNEY LLP

A handwritten signature in cursive script, appearing to read "James K. Fay", is written over a horizontal line. The signature is fluid and stylized, with large loops and a long horizontal stroke at the end.

EXHIBIT A

Amy Walstien

From: Jim Gelbmann [Jim.Gelbmann@state.mn.us]
Sent: Tuesday, December 02, 2008 9:41 AM
To: 'Lillehaug, David'; Jim Gelbmann
Cc: Stephanie Schriock; Marc Elias; Hamilton, Kevin J. (Perkins Coie); Bill Pentelovitch; 'Tony Trimble'; fknaak@klaw.us
Subject: RE: Data Practices Request
Follow Up Flag: Follow up
Flag Status: Red

Dear Mr. Lillehaug:

The communication that was sent to all county and city election officials is copied below:

Dear County Auditors and County and City Election Officials:

Once again I would like to thank you for helping the Secretary of State's Office conduct a hand recount of the ballots cast in the U.S. Senate contest. I know this task has required much more work than anyone originally anticipated, and we are very grateful for your assistance. I have attached a transcript of comments made by Canvassing Board Member Chief Judge Kathleen Gearin (Second Judicial District) last week relative to the professional assistance you have provided for the state. Subsequent to those comments, the Board unanimously approved a motion thanking you. I've said it before, and I'll say it again, without your assistance, the professionalism under which this recount has been conducted would never have been possible.

At last week's meeting of the State Canvassing Board, the Board members expressed an interest in knowing the number of Absentee Ballots that may have been mistakenly rejected. In other words, the Board has heard anecdotal evidence of absentee ballots being rejected, even though the facts surrounding the ballot did not meet one of the four reasons stated in statute upon which an absentee ballot may be rejected. For example, if an absentee ballot was sent to the wrong precinct on election night and rejected by the election judges at that precinct, it could be argued that ballot does not meet one of the four statutory reasons.

The purpose of this e-mail is to once again ask for your assistance. We need your help in reviewing all previously-rejected absentee ballots and determining the number of ballots that were rejected for each of the following four statutory reasons:

The ballot was rejected because the voter's name and address on the return envelope are not the same as the information provided on the absentee ballot application.

2. The voter's signature on the return envelope is not the genuine signature of the individual who made the application for the ballot and the signature is required under applicable Minnesota law, or the certificate has not been completed as prescribed in the directions for casting an absentee ballot.

3. The voter was not registered and eligible to vote in the precinct or has not included a properly completed voter registration application. Elections personnel shall use available voter rosters to determine whether the voter was registered.

4. The voter had already voted at the election, either in person or by absentee ballot. Elections personnel shall use available voter rosters to determine whether the voter had already voted.

12/7/2008

In addition, please create a fifth category of rejected absentee ballots as described below:

5 If the rejected absentee ballot does not meet one of these four reasons, or if the reason used to reject the absentee ballot is not based on factual information (e.g. the voter was initially determined not to be registered to vote at the address given, but a subsequent review determines the voter was registered at that address), that ballot should be counted as part of a fifth category of previously-rejected absentee ballots - absentee ballots that were mistakenly rejected on or before election day

If the election judges do not agree into which of the first four categories the ballot should be placed (e.g. because it was appropriately rejected for more than one reason), simply assign the ballot to one of the appropriate categories at random. If the election judges disagree as to whether the ballot was appropriately or inappropriately rejected, please assign the ballot to the fifth category. Please note the disagreement on a sticky note and attach it onto white space on the envelope.

The State Canvassing Board is primarily interested in determining how many ballots throughout the state would be included in this fifth category of rejected absentee ballots. **At this time we are not asking you to open or count the votes contained in any of the five categories of rejected absentee ballots, nor are we asking you to compile a list of names and addresses of the absentee voters who have their ballots placed in any of these five categories.** We simply are looking for the number of rejected absentee ballots that were legitimately rejected for one of the four statutory reasons and the number of rejected absentee ballots that were mistakenly rejected by a County Absentee Ballot Board and/or election judges at the individual precincts.

We understand that this will require a significant amount of work on your part. This review should be done with the assistance of two election judges of different parties and you or a member of your staff. It must be done in a public setting where the public and representatives of the two campaigns would be allowed to observe, but not participate in the review nor question the election judges' decision into which category each previously-rejected absentee ballot is placed. In other words, candidates are not to be given the opportunity to challenge the decisions relative to the category into which each previously-rejected absentee ballot is placed

Throughout the process, you should keep the previously-rejected absentee ballots with their precinct supply box. At the end of the process, you may keep the five categories of previously-rejected absentee ballots segregated using rubber bands or paper clips, but must store them securely in the appropriate precinct supply box.

If you are willing to assist us in this process, the State will reimburse you for the cost of hiring two election judges (or additional election judges if you intend to operate more than one table) plus an amount 0.25 for each rejected absentee ballot reviewed. Since many counties had a minimal number of rejected absentee ballots, every county that participates will receive a minimum of \$25.00 for their effort. We would ask that this task be completed no later than close of business on Thursday, December 18. Additional details about the specific process to be used will be forthcoming. **However, I would appreciate it if you would complete the following survey and return it to me as soon as possible.**

_____ Yes we would be willing to assist with this process

_____ No we are not willing to assist with this process, but would make our rejected absentee ballots available to representatives of the Secretary of State's Office or other County or City election officials

from neighboring jurisdictions so the task can be completed.

If you are willing to participate in this process, please identify a date, time and location when you would begin sorting the rejected absentee ballots. Please forward this email to any municipal clerks in your county if they maintain possession of the rejected absentee ballots.

Please do not begin any earlier than Monday, December 8 and plan to complete the review and submit the

numbers of rejected absentee ballots for each of the five categories forwarded to the Secretary of State's Office by 5:00 p.m., Thursday, December 18.

Date When We Will Begin Sorting Rejected Absentee Ballots: _____

Time When We Will Begin Sorting Rejected Absentee Ballots: _____

Location Where We Will Begin Sorting Rejected Absentee Ballots:

My best regards!!!

Sincerely,

Jim

Jim Gelbmann

Deputy Secretary of State

180 State Office Building

Saint Paul, Minnesota 55155

(651) 201-1344 (office)

(651) 334-4077 (cell)

Jim Gelbmann

Deputy Secretary of State

180 State Office Building

Saint Paul, Minnesota 55155

(651) 201-1344 (office)

(651) 334-4077 (cell)

From: Lillehaug, David [mailto:dlillehaug@fredlaw.com]

Sent: Tuesday, December 02, 2008 7:51 AM

To: Jim Gelbmann

Cc: Stephanie Schriock; Marc Elias; Hamilton, Kevin J. (Perkins Coie); Bill Pentelovitch

Subject: Data Practices Request

Dear Mr. Gelbmann -- I understand that, late yesterday, the Secretary of State's office sent a communication to county auditors and other local election officials regarding absentee ballots. Pursuant to the Minnesota Government Data Practices Act, I request a copy of that communication. As the Franken campaign considers this matter time-sensitive, I would appreciate your office's prompt response to this request.

12/7/2008

David Lillehaug
Fredrikson & Byron, P.A.
612-492-7321

NOTICE: E-mail correspondence to and from the Office of the Secretary of State of Minnesota may be public data subject to the Minnesota Data Practices Act and/or may be disclosed to third parties

Amy Walstien

From: Jim Gelbmann [Jim.Gelbmann@state.mn.us]
Sent: Sunday, December 07, 2008 12:29 AM
To: Jim Gelbmann; 'phil thompson'; 'Jim Gelbmann'; 'Dennis Distad'; 'Tony P. Trimble';
 'allen.paulson@co.clearwater.mn.us'; 'anne.granitz@co.roseau.mn.us';
 'barb.loch@co.meekeer.mn.us'; 'becky.murphy@co.beltrami.mn.us'; 'ben.pribyl@co.jackson.mn.us';
 'elections@co.cook.mn.us'; 'election@co.nicollet.mn.us'; 'byron.giese@co.swift.mn.us';
 'carolyn.holmsten@co.goodhue.mn.us'; 'auditor@co.grant.mn.us';
 'char.meiners@co.houston.mn.us'; 'charleen.west@co.wadena.mn.us';
 'cmaclennan@co.winona.mn.us'; 'cindy.schultz@co.mcleod.mn.us'; 'cwcauditor@co.crow-
 wing.mn.us'; 'denise.cooper@co.kanabec.mn.us'; 'djfreed@co.chisago.mn.us';
 'auditor@co.sherburne.mn.us'; 'dicklichd@co.st-louis.mn.us'; 'auditor@co.watonwan.mn.us';
 'donna.quandt@co.pope.mn.us'; 'doug@co.mower.mn.us'; 'rcelections@co.rice.mn.us';
 'frank.thompson@co.mahnomen.mn.us'; 'gerald.amiot@co.polk.mn.us';
 'gloria.rolfs@co.rock.mn.us'; 'hwinter@co.murray.mn.us'; 'jake.sieg@lqpc.com';
 'james.forshee@co.martin.mn.us'; 'jan.h.johnson@co.cottonwood.mn.us';
 'jleisen@co.wabasha.mn.us'; 'joan.manthe@co.waseca.mn.us'; 'jneysen@co.benton.mn.us';
 'elections@CO.DAKOTA.MN.US'; 'john_h@co.lake-of-the-woods.mn.us';
 'john.thompson@co.faribault.mn.us'; 'jclauson@co.chippewa.mn.us'; 'elections@co.ramsey.mn.us';
 'joyce.steinhoff@co.pipetstone.mn.us'; 'karen.busch@co.todd.mn.us'; 'kschreurs@co.lincoln.mn.us';
 'ktolson@co.pennington.mn.us'; 'elections@co.washington.mn.us'; 'kpeysar@co.aitkin.mn.us';
 'kit.johnson@co.traverse.mn.us'; 'larry_b@CO.REDWOOD.MN.US'; 'larry_j@co.renville.mn.us';
 'laura.ihrke@CO.STEELE.MN.US'; 'lengelen@co.carver.mn.us'; 'pfarrl@co.sibley.mn.us';
 'lois.bonde@co.yellow-medicine.mn.us'; 'lori.johnson@co.clay.mn.us';
 'mgustafson@co.kittson.mn.us'; 'marlin.helget@co.brown.mn.us';
 'marsha.goslovich@co.itasca.mn.us'; 'mkcs@co.scott.mn.us'; 'Vote@co.hennepin.mn.us';
 'michelle_k@co.big-stone.mn.us'; 'neilwiese@co.stevens.mn.us';
 'fuller.pamela@co.olmsted.mn.us'; 'pheeren@co.hubbard.mn.us'; 'patty.oconnor@co.blue-
 earth.mn.us'; 'paul.gassert@co.carlton.mn.us'; 'paulavanoverbeke@co.lyon.mn.us';
 'elections@co.anoka.mn.us'; 'elections@co.stearns.mn.us'; 'rick.munter@co.norman.mn.us';
 'bob.hiivala@co.wright.mn.us'; 'bob.peterson@co.koochiching.mn.us'; 'raschmitz@co.red-
 lake.mn.us'; 'cbiaschko@co.le-sueur.mn.us'; 'russn@co.morrison.mn.us';
 'ritange@co.becker.mn.us'; 'sam_m@co.kandiyohi.mn.us'; 'sara.marquardt@co.dodge.mn.us';
 'scott.peters@co.marshall.mn.us'; 'cass.voter@co.cass.mn.us'; 'sbalster@co.nobles.mn.us';
 'sboelter@co.fillmore.mn.us'; 'steve.mcmahon@co.lake.mn.us'; 'terry.treichel@co.isanti.mn.us';
 't.reddick@mail.co.douglas.mn.us'; 'wbezenek@co.wilkin.mn.us'; 'wstein@co.ottertail.mn.us';
 'kay.mack@co.beltrami.mn.us'; 'CCJohnso@co.pine.mn.us'; 'tferber@ci.bloomington.mn.us';
 'kengberg@ci.bloomington.mn.us'; 'tmarshall@ci.robbinsdale.mn.us';
 'tgerhardt@ci.chanhassen.mn.us'; 'doboszanski@ci.rogers.mn.us'; 'sjenkins@townofhassan.com';
 'sknutson@ci.brooklyn-center.mn.us'; 'sengdahl@ci.plymouth.mn.us';
 'sborders@cityofdayton.mn.com'; 'rcolotti@ci.champlin.mn.us'; 'greenwood@visi.com';
 'ngibbs@cityofrichfield.org'; 'nacyc@cityofrockford.org'; 'llarson@ci.osseo.mn.us';
 'kbachmeier@ci.corcoran.mn.us'; 'kporta@edenprairie.org'; 'janet.lewis@ci.crystal.mn.us';
 'devin.montero@brooklynpark.org'; 'daniel-hanover@comcast.net'; 'danay@cityofdeephaven.org';
 'cheri@ci.excelsior.mn.us'; 'johnson@ci.greenfield.mn.us'; 'terryo@hopkinsmn.com';
 'thirsch@ci.independence.mn.us'; 'jmoeller@ci.long-lake.mn.us'; 'cpatnode@ci.loretto.mn.us';
 'skollanderson@ci.maple-grove.mn.us'; 'cityhall@mapleplain.com'; 'chad.adams@ci.medina.mn.us';
 'dmaeda@eminnetonka.com'; 'mregnier@ci.minnetonka-beach.mn.us';
 'thaarstad@ci.minnetrista.mn.us'; 'bonnieritter@cityofmound.com'; 'vleone@ci.new-hope.mn.us';
 'lv@ci.orono.mn.us'; 'stboni@visi.com'; 'jpanchyshyn@ci.shorewood.mn.us'; 'wlewin@mchsi.com';
 'clink@cityofonkabay.net'; 'sandy@wayzata.org'; 'shelley@cityofwoodlandmn.org';
 'Michelle.DesJardin@co.hennepin.mn.us'; 'NSTROTH@stlouispark.org'

Cc: 'fknaak@klaw.us'; 'Lillehaug, David'; 'Tony P. Trimble'; Marc Elias

Subject: Updated Information on Sorting of Rejected Absentee Ballots

Good Morning Everyone:

12/12/2008

After the flurry of e-mails Thursday morning about the sorting of rejected absentee ballots into five categories, I want to extend my most heartfelt thanks to everyone who has agreed to help us with this task. The State Canvassing Board has requested this information, and without your assistance, the Office of the Secretary of State would not be able to provide adequate information to the Board. I do understand how overworked everyone is and I do feel very guilty asking for you to complete yet another task that many felt you have already done. I hope the Detailed Instructions sent out Thursday help explain the reason for, and the parameters of, this task. Houston County had a public sort on Friday, and while they did not have many rejected absentee ballots, they did identify two of fifteen that were mistakenly rejected and placed in category five.

ADDITIONAL CLARIFICATIONS AND INSTRUCTIONS

Web Link For Reporting Results

We have established a Web Link for reporting the results of your sort to our Office. We ask that you complete the Web Survey and also mail or fax us a signed hard copy so we have it for our records. The Web Link for reporting your results also includes an area for comments in case there are specific circumstances that created confusion as to which category a rejected absentee ballot should be placed. The Web Link is as follows:

http://www.sos.state.mn.us/survey/user_survey.asp?nSurvey=156

I have also attached a Word Document that contains a worksheet that may help you complete the survey.

Clarifications To Detailed Instructions

Based on feedback from county and city election officials the following clarifications may assist you in understanding the process

The Heading on Section I of the process currently reads:

- I. Previously-rejected non-UOCAVA absentee ballot envelopes not processed for acceptance or rejection by an absentee ballot board (accepted and rejected in the precinct)**

A more precise heading should read:

- I. Previously-rejected non-UOCAVA absentee ballot envelopes either (1) rejected by an absentee ballot board or (2) not processed by an absentee ballot board and rejected in the precinct**

Another legitimate reason for rejecting a UOCAVA absentee ballot is that the voter did not submit an application (the Federal Post Card Application) -- this is a possibility in cases in which the voter only submits the Federal Write-in Absentee Ballot. Please allocate any appropriately rejected UOCAVA ballots that were rejected for lack of an FPCA to Category 1.

If an absentee ballot was rejected by an election judge or an Absentee Ballot Board due to a signature mismatch and the signatures do look different, place the ballot in category five **if the transaction was actually handled at your in-person counter and was witnessed by a county or city official.**

If an absentee ballot was rejected because there was no voter signature on the application, the ballot should be placed in category 2 **unless the transaction was once again handled at your in-person counter and was witnessed by a county or city official.**

When checking the registration status of an Absentee Ballot that was rejected for lack of an SVRS Card in the envelope, you should check either the roster and/or the SVRS system to make sure the person was definitely not registered before assigning the ballot to category 3. The person may have been accidentally sent a non-registered Absentee Ballot package even though he or she was registered

CONTRACT FOR PAYMENT

I have attached a Joint Powers Contract that you can begin processing so you are able to be reimbursed for a portion of your costs. I have also attached the most up-to-date list of counties and cities that have thus far agreed to assist us with this task. If you are still considering my request, please agree to help us one more time with the Canvass of the U.S. Senate Race.

PLEASE FORWARD THIS TO ANYONE WHO SHOULD BE ON THIS DISTRIBUTION LIST WHO IS NOT CURRENTLY FOUND ON IT!

My best regards

Sincerely,

Jim Gelbmann
Deputy Secretary of State
(651) 201-1344 (office)
(651) 334-4077 (cell)
(651) 739-5575 (home)
(651) 215-0682 (fax)

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12/12/2008