4.

STATE OF MINNESOTA

COUNTY OF RAMSEY

FILED
Court Administrator
JAN 21 2009
By ____ Deputy

DISTRICT COURT

SECOND JUDICIAL DISTRICT
Case Type: CIVIL OTHER

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,

File No. 62-CV-09-56

Cullen Sheehan and Norm Coleman,

Contestants,

v.

Al Franken,

Contestee.

AFFIDAVIT OF JAMES K. LANGDON

STATE OF MINNESOTA)
)ss.
COUNTY OF HENNEPIN)

James K. Langdon, being first duly sworn, hereby deposes and states as follows:

1. I am admitted to practice before this Court and am counsel to Contestants. I submit this Affidavit in Support of Contestants' Motion for Summary Judgment.

2. Attached as Exhibit 1 is a true and correct copy of the Secretary of State Recount Plan, dated November 18, 2008. This was made publicly available through the Secretary of State's website at http://www.sos.state.mn.us/home/index.asp?page=1405.

3. Attached as Exhibit 2 is a true and correct copy of the Secretary of State 2008 Recount Guide. This was made publicly available through the Secretary of State's website at http://www.sos.state.mn.us/home/index.asp?page=1405.

4. Attached as Exhibit 3 is a true and correct copy of Brian Bakst, After Absentee Loss, Franken Eyes Options, Nov. 27, 2008, *available at* http://apnews.myway.com/article/20081127/D94N91600.html.

5. Attached as Exhibit 4 are true and correct copies of excerpts from the Deposition of Joseph Mansky taken January 15, 2009.

6. Attached as Exhibit 5 is a true and correct copy of Exhibit 19 to the Deposition of Joseph Mansky taken January 15, 2009.

7. Attached as Exhibit 6 is a true and correct copy of Exhibit 41 to the Deposition of Joseph Mansky taken January 15, 2009.

8. Attached as Exhibit 7 is a true and correct copy of an e-mail string, the most recent email of which is dated December 2, 2008, from Deputy Secretary of State Jim Gelbmann to David Lillehaug, counsel for the Franken campaign, and copying my co-counsel, Tony Trimble.

9. Attached as Exhibit 8 is a true and correct copy of a December 4, 2008 email with an attachment entitled "Detailed Instructions for Sorting All Currently-Rejected Absentee Ballots Case In The U.S. Senate Race." Mr. Gelbmann sent this email and attachment to election officials in each county in Minnesota as well as to Mr. Trimble.

10. Attached as Exhibit 9 is a true and correct copy of a December 7, 2008 email (and attachments) with the subject "Updated Information on Sorting of Rejected Absentee Ballots." Mr. Gelbmann sent this email to election officials in each county in Minnesota as well as to Mr. Trimble.

11. Attached as Exhibit 10 is a true and correct copy of the Affidavit of Cullen Sheehan originally submitted to the Minnesota Supreme Court on December 16, 2008, in support of the Amended Petition for an Order to Show Cause Pursuant to Minn. Stat. § 204B.44.

12. Attached as Exhibit 11 are true and correct copies of excerpts from the Deposition of Cynthia Reichert taken January 19, 2009.

13. Attached as Exhibit 12 is a true and correct copy of an email string (with attachment), the most recent email of which is dated December 12, 2008, from Terri Haarstad, Minnetrista City Clerk, to Mr. Gelbmann. Ms. Haarstad copied Mr. Lillehaug and Mr. Trimble on the email.

14. Attached as Exhibit 13 is a true and correct copy of an email string, the most recent email of which is dated December 4, 2008, from Mr. Gelbmann to Mr. Trimble and copying Mssrs. Lillehaug and Ritchie. Earlier emails in the string contain correspondence between various county election officials and Mr. Gelbmann.

15. Attached as Exhibit 14 is a true and correct copy of the Supreme Court's December 18, 2008 Order.

16. Attached as Exhibit 15 is a true and correct copy of the Supreme Court's December 24, 2008 Order.

17. Attached as Exhibit 16 is a true and correct copy of a chart listing information obtained orally at counsel's direction from the Secretary of State's Office on January 20, 2009 regarding the initially rejected absentee ballots which were opened by the Secretary of State on January 3, 2009.

18. Attached as Exhibit 17 is a true and correct copy of the following affidavit from a voter whose rejected absentee ballot, received from Dakota County pursuant to government data practices requests, falls within Category D-1.

A. Kenneth Flom

19. Attached as Exhibit 18 are true and correct copies of the following affidavits of voters whose rejected absentee ballots, received from the respective counties pursuant to government data practices requests, fall within Category C-1.

A. Lawrence G. Anderson

B. Elissa Jackson

C. Ross Jorgensen

D. Darlene Larson

E. Phyllis Norrbohm

F. Joan R. Russell

G. Grover Junior Simms

20. Attached as Exhibit 19 are true and correct copies of the following affidavits of voters whose rejected absentee ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-2.

A. Gerald Anderson

B. Brandon Michael Haugen

C. Kevin Matthew Hendrickson

21. Attached as Exhibit 20 are true and correct copies of the following affidavits of voters whose rejected absentee ballots, received from the respective counties

pursuant to government data practices requests, fall within Category D-3.

A. Karen M. Clark

B. Peter DeMuth

C. Connie L. Engelking

D. Paul Happe

E. Almon G. Hoye

F. Cheryl Johnson

G. Tyler Joyce

H. Anna Koehler

I. James Kukral

J. Patricia McArdell

K. Brian Miller

L. Geraldine Sadowski

M. Mijanon Sampers

N. Jonathan Schultz

O. Anatoli Sokhor

P. Douglas Thompson

22. Attached as Exhibit 21 are true and correct copies of the following affidavits of voters whose rejected absentee ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-4.

A. Christine Bollaert

B. Wesley Briest

C. Stacy Rieder

23. Attached as Exhibit 22 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category A-1.[1]

A. Dorothy C. Crown

B. Bruce Lee

C. Dorraine Elizabeth Nauman

D. Alimina Urban

24. Attached as Exhibit 23 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category A-2.

A. Jessica Jane Fark

B. Richard W. Gjevre

C. Matthew Haug

D. Jeanette Weidemeierbower

25. Attached as Exhibit 24 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category B.

A. Carol Eleanor Hyatt

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[1] Note, some of the copies of absentee ballot envelopes attached to this affidavit may, inadvertently, contain stray marks. Contestants have requested the original absentee ballot envelopes.

B. Amanda Antoinette Nadeau

C. John P. Murray

D. Margaret M. Reeck

E. Tim D. Stocke

26. Attached as Exhibit 25 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category C-1A.

A. Jacqueline Christine Hasek

B. Amada R. Hillman

C. Kathryn Lee Ladig

D. Patrick Francis Olberding

E. Trent T. Palmberg

F. Grover Junior Simms

G. Mary S. Winebarger

27. Attached as Exhibit 26 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category C-1B.

A. Mathias John Enderle III

B. Timothy James Haugo

C. Michele Kelly

D. Nicholas James Nepper

E. Green James Thomas

28. Attached as Exhibit 27 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category C-2.

A. Paul A. Brummer

B. Peter Frank Haerden

C. Lynda D. Jackman

29. Attached as Exhibit 28 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-1.

A. Roxanne R. Goodwin

B. Brianna Maureen Kranz

C. Joan M. Lorentz

D. Margaret Joy Maki

E. Sandra Strom

30. Attached as Exhibit 29 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-2.

A. Phyllis Ann Cooper

B. Nylene L. Holmseth

C. Gabriel J. Kasprowicz

D. Mike Rudolph

E. Carl Chester Wickstrom

F. Barbara K. Wirtz

31. Attached as Exhibit 30 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-3.

A. Melissa Rose Bachman

B. Scott Avery Barnes

C. Charles W. Gardner

D. Gabriel G. Gehrke

E. Inez Josephine Meyer

F. Ryan Stoa

G. Veronica Cifuentes

H. Dorothy Jean Jordahl

I. Darlene G. Samuelson

J. William Henry Snow

32. Attached as Exhibit 31 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-4.

A. Dianne Lynn Corcoran

B. Sandra Jane Kieffer

C. Frederick William Nelson

D. Mary Kathryn Schmid

E. James Russell Schmid

33. Attached as Exhibit 32 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-5.

A. Kayla ByByl

B. Geraldine W. Devine

C. Erik Gregory Peterson

D. Debra Louise Rosbacka

E. Lola Umhoefer

34. Attached as Exhibit 33 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-6.

A. Mark Anthony Gasiorowski

B. Alesha Hill

C. Nicholas Carter McDonald

D. Virginia Faye Reichstadt

E. Lucas Donald Wayne Tofteland

35. Attached as Exhibit 34 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-7.

A. William P. Bloyer

B. Joseph Campanelli

C. Bruce Eisenack

D. Laverne Goehring

E. Rachel Jordan

F. Mary Carol Louise Lechner

G. Kathleen A. Mansur

H. Zachary Williams Melton

I. Patricia Quinn

K. Stephen Michals

36. Attached as Exhibit 35 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-8.

A. Anthony Comeau

B. Gladys Jeanette Keig

C. Deloria A. Slavicek

D. Trisha A. Verhasselt

E. Lyle Allen Wright

37. Attached as Exhibit 36 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-9.

A. Dillon Abbott

B. Dolores E. Balafas

C. Mary Jo Beck

D. Kyle Ray Gustafson

E. Kelly McIver

38. Attached as Exhibit 37 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-10A.

A. Kayla Vogt

B. Kathleen Maureen Welle

C. Ashley Long

D. John Scott Bowie

39. Attached as Exhibit 38 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-10B.

A. Susan Pauline Emard

B. Jamila J. Hakam

C. Emma Harness

D. Frances Tosca

40. Attached as Exhibit 39 are true and correct copies of the absentee ballot envelopes of the following voters whose rejected ballots, received from the respective counties pursuant to government data practices requests, fall within Category D-11.

A. Shurree L. Arett

B. Brett Lee Beaudette

C. Shadrick Leroy Bowe

D. Kevin R. Merry

41. Attached as Exhibit 40 are true and correct copies of Category A-1 absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Linda Thi Miller-Craig

B. Jamie Huber

C. Samuel Philipsek

D. Jesse Allen Faugstad

42. Attached as Exhibit 41 are true and correct copies of Category A-2 absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Audrey Thomas-Googins

B. David Richard Vansteenburg

43. Attached as Exhibit 42 are true and correct copies of Category B absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. June Everson Nelson

B. Jason Malusky

44. Exhibit 43 is intentionally omitted.

45. Exhibit 44 is intentionally omitted.

46. Attached as Exhibit 45 are true and correct copies of Category C-2 absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Thomas Thurman

47. Attached as Exhibit 46 are true and correct copies of Category D-1 absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Marcedise Ann Paterson

B. Barbara B. Bennett

48. Attached as Exhibit 47 are true and correct copies of Category D-2 absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Carl Chester Wickstrom

B. Dawn Francis Jackson

49. Attached as Exhibit 48 are true and correct copies of Category D-3 absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Robert Clarence Baardson

B. Meaghan Smith Frebault

C. Aislinn Rogalla

D. Dorothy Jean Jordahl

50. Attached as Exhibit 49 is a true and correct copy of the absentee ballot of Gary L. Hill.

51. Attached as Exhibit 50 are true and correct copies of Category D-5 absentee ballots received from the respective counties pursuant to government data practices

requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Lucille Theresa Kopisca

B. Kathy Jean Deladi

52. Attached as Exhibit 51 are true and correct copies of Category D-6 absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Virigina Faye Reichstadt

B. Mark Thompson

53. Attached as Exhibit 52 are true and correct copies of Category D-7 absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Elizabeth J. Johnson

B. John Paul Johnson-Yarosevich

54. Attached as Exhibit 53 are true and correct copies of Category D-8 absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Marie D. Glass

B. Glenda H. Nelson

55. Attached as Exhibit 54 are true and correct copies of Category D-9 absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Brooke Adam Nystrom

B. Katherine A. McDaniel

56. Attached as Exhibit 55 are true and correct copies of Category D-10A absentee ballots received from the respective counties pursuant to government data practices requests initially excluded but opened by the Secretary of State on January 3, 2009.

A. Gail McLane

B. Jerry Alan McLane

57. Exhibit 56 is intentionally omitted.

58. Exhibit 57 is intentionally omitted.

59. Attached as Exhibit 58 is a true and correct copies of the absentee ballot envelopes of:

A. Walter V. Just

B. Lyle Allen Wright

C. Dane P. Anderson

D. Mary Helling

60. Attached as Exhibit 59 is a true and correct copy of the absentee ballot envelope of Bryan Mathew Wachter and Voter Registration Verification on Witness Lynn Frances Wachter obtained from the Secretary of State.

61. Attached hereto as Exhibit 60 is a true and correct copy of a report containing names of individuals in the Minnesota Secretary of State's database who, based on the codes given to them by the Secretary of State's office, are designated as registered voters. This report was compiled, at my direction, by accessing the Minnesota

Secretary of State's password-protected FTP site (available at ftp://ftp.sos.state.mn.us). I understand that the information on the Secretary of State's FTP site is current as of January 14, 2009 and includes names of voters whose absentee ballots were rejected for lack of registration. In addition, I understand that not all counties have finished inputting all registration information from the November 2008 election, and as a result, the database is incomplete.[2]

[2] The remainder of this page has been intentionally left blank.

FURTHER AFFIANT SAYETH NOT.

James K. Langdon

Subscribed and sworn to before me
this 21st day of January, 2009.

Notary Public

DIANNA L. BREYMEIER
Notary Public-Minnesota
My Commission Expires Jan 31, 2010