Fredrikson & BYRON, P.A.

December 12, 2008

VIA EMAIL TO krupski.mark@co.olmsted.mn.us
Olmsted County Canvassing Board
c/o Mr. Mark Krupski
Property Records and Licensing
Olmsted County Government Center
141 Fourth Street S.E.
Rochester, MN 55904

VIA EMAIL TO fuller.pamela@co.olmsted.mn.us
Olmsted County Canvassing Board
c/o Ms. Pamela Fuller
Elections Director
Olmsted County Government Center
141 Fourth Street S.E.
Rochester, MN 55904

Re: **2008 General Election – Request to Reconvene Olmsted County Canvassing Board**

Dear Members of the Olmsted County Canvassing Board:

Pursuant to the recommendation today made by the State Canvassing Board, we request that the Olmsted County Canvassing Board reconvene to review all rejected absentee ballots, identify those that were erroneously rejected, open and count those ballots, and amend the previous canvass returns.

We now have definitive information that Olmsted County has absentee ballots that were erroneously rejected and also ballots that were just never counted. By letter dated December 11, 2008, to Olmsted County elections officials, I identified 27 absentee ballots that were accepted and uncounted:

1. Adams, Jeffrey
2. Anderson, Heather
3. Black, Andrew
4. Dzamalija, Kenan
5. Gabel, Marian
6. Gao, Tinger

7. Haji, Dini
8. Henderson, Dana
9. Kinsella, Ellen
10. Knapp, Alexia
11. Larson, Scott
12. Lloyd, Margaret
13. Meng, Peter
14. Mix, Donald
15. Mursal, Abdalla
16. Neumann, Reid
17. Nelson, Marilyn
18. Rae, Jennifer
19. Richardson, Darlene
20. Samatar, Shukri
21. Sharbrough, Carolyn
22. Shedd, Marjorie
23. Swain, Donna
24. Timm, Edna
25. Toomey, John
26. Tottingham, Jeffrey
27. Valfer, Jerry

Now that the State Canvassing Board has recommended that county canvassing boards reconvene, it is fully appropriate that these 27 ballots be opened and counted.

Further, we have specific examples of people whose ballots were erroneously rejected. Attached hereto are two affidavits relating to an Olmsted County voter whose ballot should be counted.

We look forward to hearing from you.

Sincerely,

David L. Lillehaug
Attorney
Direct Dial: 612.492.7321
Email: dlillehaug@fredlaw.com

DLL:rz

c: ACA Brent Walz
Campaign Manager Stephanie Schriock
Marc Elias, Esq.
Kevin Hamilton, Esq.
William Pentelovitch, Esq.

4477959_1.DOC

OLMSTEAD COUNTY

FIFTH PILE: IMPROPERLY EXCLUDED ABSENTEE BALLOTS

Voter Name	Voter City	Reason Given For Excluding Ballot
Suk, Goldie	Rochester	"Not voter's signature."

4477943_1.DOC

AFFIDAVIT/DECLARATION OF GOLDIE SUK

1. My name is Goldie Suk. On November 4, 2008, I was eighteen years of age or older, a citizen of the United States, and had maintained residence in Minnesota for at least thirty days immediately preceding the general election held November 4, 2008. I am providing this affidavit because I believe that my November 2008 absentee ballot for that election was improperly rejected because someone determined that my signature on my absentee ballot was insufficient to accept my ballot, and I am hopeful that, by providing this affidavit, my ballot can be verified and counted.

2. As of November 4, 2008, I was fully entitled to vote. I was not under court-ordered guardianship in which the court order revoked my right to vote; had not been found by a court to be legally incompetent to vote; and had not been convicted of treason or any other felony that might disqualify me from voting.

3. I was registered to vote for the November 2008 general election. At the time I registered to vote for that election, my permanent residence was 1303 15th St, NE, Rochester, MN in Olmstead County. I was a resident at that address when I requested, received and voted an absentee ballot in the November 2008 general election.

4. Prior to the November 2008 general election, I submitted an application for an absentee ballot. I applied under my correct name and address and used what was at the time my genuine signature.

5. I received an absentee ballot and had the ballot marked in the manner prescribed by the directions sent to me with the ballot. In the U.S. Senate race, I voted for Al Franken. In addition to marking the ballot, with the assistance of my daughter I completed the eligibility certificate printed on the back of the envelope and had a registered Minnesota voter (my daughter) sign the envelope as a witness, all as explained in directions I received with the absentee ballot. The eligibility certificate reflected my correct name and address.

6. Because I have tremors, a medical condition, I have difficulty signing my name to documents. When I completed my absentee ballot, I was unable to legibly sign my ballot. Therefore, on my absentee ballot I directed my daughter to sign my name. I consider both my signature unaided and my daughter's signature at my direction to be my genuine signature.

7. This ballot is the only ballot I submitted in the November 2008 general election. I did not vote in person on November 4, 2008 or submit any other absentee ballot. I want my vote to count, and do no believe I should be disenfranchised because of my medical condition.

8. If notarized below, this is my Affidavit. If not notarized, it is my declaration under 28 U.S.C. § 1746. I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 10, 2008.
Sworn and subscribed to before me on this ___ day of December, 2008.

Signature: _____
Goldie Suk

_____
Notary Public

SECRETARY OF STATE RECORDS AUTHENTICATION DECLARATION

I, Amber Schmugge, declare as follows:

I am over 18 years of age, competent to testify, and make this Declaration based upon personal knowledge of the facts set forth below.

The document attached to this declaration is a true copy of a Minnesota Secretary of State Voter Lookup form regarding Goldie C Suk that I obtained from the official Minnesota Secretary of State Voter File FTP Server on December 11, 2008.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 11th day of December 2008, at St. Paul, Minnesota.

Amber D. Schmugge
Amber Schmugge

Minnesota SOS Voter Lookup

SOS Voter ID	1995713	*RegistrationDate:*	10/5/1989
FirstName	GOLDIE	*MiddleName*	C
LastName	SUK		
HouseNumber	1303	*Address2*	
StreetName	15TH ST NE	*City*	ROCHESTER
UnitType		*State*	MN
UnitNumber		*ZipCode*	55906

SOS Voter Election History

VoterId	*ElectionDate*	*ElectionDescription*	*VotingMethod*
1995713	11/2/2004	11/02/2004 - STATE GENERAL	A
1995713	11/7/2000	STATE GENERAL	A
1995713	11/5/1996	STATE GENERAL	A
1995713	11/7/2006	11/07/2006 - STATE GENERAL	A

INSERT BALLOT SECRECY ENVELOPE AND SEAL

TO BE COMPLETED BY VOTER

VOTER'S NAME (PLEASE PRINT)
Goldie Suk

VOTER'S MINNESOTA ADDRESS (PLEASE PRINT)
1303 15th St. N.E. Roch MN

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

VOTER'S SIGNATURE
Goldie Suk

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)
Holly Suk

ADDRESS OF NON-NOTARY WITNESS IN MINNESOTA (PLEASE PRINT)
[redacted] Roch MN

SIGNATURE OF WITNESS
Holly Suk

DATE
10/30/08

TITLE OF WITNESS (IF AN OFFICIAL)

FOR OFFICE USE ONLY

☐ ACCEPTED

☒ REJECTED Not Voter's Signature
Reason

REGISTERED REVISED 20008 SYNERGY GRAPHICS PRE88

376095 STG ML PCT R 10/27 10/27 377766
55 0190 0535 ROCHESTER W5 P3
GOLDIE C SUK
1303 15TH ST NE
APP

Office of the Minnesota Secretary of State

...s must be returned by Election Day to be counted.

I hereby apply for an absentee ballot for: (check one)	I will need an absentee ballot for the following reason: (check one)
☐ Both primary and general elections	☐ Absence from the precinct
☐ Primary only	☒ Illness or disability
☒ General election only	☐ Religious discipline or observance of religious holiday
☐ Special election (date) ____	☐ Service as election judge in another precinct
☐ Special general (date) ____	☐ Eligible emergency declared by the governor or quarantine declared by federal or state government
☐ Other (date) ____	

Name (please print)
GOLDIE C SUK

Date of birth	Phone number
[redacted]	[redacted]

My legal residence address is:

Street Address	Apt. No.	City	State	Zip Code
			MN	55906

Mail my absentee ballot to me at the following address:

Street Address	Apt. No.	Rural/Box No.	City/Township	State	Zip Code
1303 - 15 ST NE			ROCHESTER	MINN	55906

Date	Signature
10-24-06	X [signature]

RECEIVED
OCT 27 2008
___ IN OFFICE ✓ BY MAIL
Olmsted ... Elections

Office Use Only					
REG ☐	Received Date	Ballots Issued Date	Type M C HCF	School District #	Precinct
NON REG ☐	Initials	Ballots Issued Date			

AB Application combined with application to automatically receive absentee ballot applications
Office of the Minnesota Secretary of State 180 State Office Building, 100 Rev. Dr. Martin Luther King Blvd.St. Paul, MN 55155

AFFIDAVIT/DECLARATION OF HOLLY SUK

1. My name is Holly Suk. On November 4, 2008, I was eighteen years of age or older, a citizen of the United States, and had maintained residence in Minnesota for at least thirty days immediately preceding the general election held November 4, 2008. I am providing this affidavit because I believe that the November 2008 absentee ballot of my mother, Goldie Suk, which I witnessed, was improperly rejected because someone determined that her signature on her absentee ballot did not match. I am hopeful that, by providing this affidavit, her ballot can be verified and counted.

2. I helped my mother complete her absentee ballot for the November general election. At the time she requested an absentee ballot and voted her permanent residence was 1303 15th St NE, Rochester, MN. She signed using her genuine signature.

3. My mother received an absentee ballot and I helped her mark the ballot in the manner prescribed by the directions sent along with the ballot. I helped my mother complete the eligibility certificate printed on the back of the envelope and I signed the envelope as the witness, all as explained in directions my mother received with the absentee ballot.

4. My mother has tremors, which makes her unable to legibly sign her name to documents at times. To accommodate her condition, my mother directs me to sign her name on her behalf. My mother directed me to sign her ballot envelope on her behalf. My mother considers both her unaided signature and her signature performed by me at her direction to be her genuine signature.

5. I believe that my mother's vote should be counted, and that she should not be disenfranchised because of her medical condition.

6. If notarized below, this is my Affidavit. If not notarized, it is my declaration under 28 U.S.C. § 1746. I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 16, 2008.
Sworn and subscribed to before me
on this ___ day of December, 2008.

Signature: Holly Suk
Holly Suk

Notary Public

SECRETARY OF STATE RECORDS AUTHENTICATION DECLARATION

I, Amber Schmugge, declare as follows:

I am over 18 years of age, competent to testify, and make this Declaration based upon personal knowledge of the facts set forth below.

The document attached to this declaration is a true copy of a Minnesota Secretary of State Voter Lookup form regarding Holly Ellen Suk that I obtained from the official Minnesota Secretary of State Voter File FTP Server on December 11, 2008.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 11th day of December 2008, at St. Paul, Minnesota.

Amber D. Schmugge

Amber Schmugge

Minnesota SOS Voter Lookup

SOS Voter ID	1949051	*RegistrationDate:*	10/7/2004
FirstName	HOLLY	*MiddleName*	ELLEN
LastName	SUK		
HouseNumber	5775	*Address2*	
StreetName	MELENA CT NW	*City*	ROCHESTER
UnitType		*State*	MN
UnitNumber		*ZipCode*	55901

SOS Voter Election History

VoterId	*ElectionDate*	*ElectionDescription*	*VotingMethod*
1949051	11/2/2004	11/02/2004 - STATE GENERAL	P
1949051	11/7/2000	STATE GENERAL	P
1949051	9/15/1998	STATE PRIMARY ELECTION	P
1949051	11/3/1998	STATE GENERAL	P
1949051	12/31/1998	SPECIAL ELECTION	P
1949051	11/5/1996	STATE GENERAL	P
1949051	11/5/1996	SCHOOL BOARD ELECTION	P
1949051	11/7/1995	MUNICIPAL GENERAL	P
1949051	9/13/1994	STATE PRIMARY ELECTION	P
1949051	11/8/1994	STATE GENERAL	P
1949051	11/2/1993	MUNICIPAL GENERAL	P
1949051	11/5/2002	11-05-2002 STATE GENERAL ELECTION	P
1949051	9/10/2002	9-10-2002 STATE PRIMARY	P
1949051	9/12/2006	09/12/2006 - STATE PRIMARY	P
1949051	11/7/2006	11/07/2006 - STATE GENERAL	P
1949051	11/4/2008	11/04/2008 - STATE GENERAL	P