

## **Exhibit 7**

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**From:** Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]  
**Sent:** Thursday, December 04, 2008 11:28 AM  
**To:** 'Tony P. Trimble'  
**Cc:** Lillehaug, David; Mark Ritchie  
**Subject:** RE: Absentee Ballot Envelope Sorting

Hi Tony:

I will be happy to provide you with the detailed instructions for the sorting of rejected absentee ballots when they become available. They are in the final editing process as we speak. As was made clear by the Canvassing Board, this sorting is not part of the recount process. It was requested by the Canvassing Board to give the Board information on the reasons why absentee ballots were rejected and to make an assessment as to whether the ballots were appropriately rejected. This is part of the Canvassing process, not part of the recount process.

This is an administrative process to give the Canvassing Board information that it has requested. The candidates' representatives will have a chance to observe the process - but not participate in the process. The Canvassing Board directed us to implement a process to retrieve this information. Having spoken with Mark, we do not believe the Canvassing Board is interested in micro-managing the details as to how this information will be compiled.

Since the first sorting process takes place tomorrow morning, we do not have time to allow for a dialogue with the candidates on this administrative process, nor do we believe a dialogue is necessary or appropriate. I will be pleased to discuss the process with you, but I have promised local officials that I will have this information to them by noon today, and I very much want to honor that commitment.

Thank you for your input and your concern. I hope you will find the detailed procedures acceptable.

My best regards.

Sincerely,

Jim

Jim Gelbmann  
Deputy Secretary of State  
180 State Office Building  
Saint Paul, Minnesota 55155  
(651) 201-1344 (office)  
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**From:** Tony P. Trimble [mailto:trimblelegals@earthlink.net]

12/15/2008

**Sent:** Thursday, December 04, 2008 9:56 AM  
**To:** 'Jim Gelbmann'  
**Cc:** Mark.Ritchie@state.mn.us; Gary.Poser@state.mn.us; fknaak@klaw.us; 'Lillehaug, David'  
**Subject:** RE: Absentee Ballot Envelope Sorting

Jim:

From our review of the emails from county auditors (see extended email chain below), it appears that this process is expanding beyond a mere "sorting" exercise to encompass activities that are not within the jurisdictional boundaries of a recount. As some county auditors have indicated, these activities have never been undertaken by any county auditors in an administrative recount in Minnesota history. Moreover, it appears that you intend to request election officials to utilize "nonpartisan staff" rather than election judges, to participate in this process, even though election judges have been specifically trained to review these envelopes and such nonpartisan staff may not necessarily have received such training.

Due to the apparently ever-expanding scope of this seemingly simply sorting process, before any further "detailed instructions" are released by the Secretary of State's Office, we request that the instructions be provided to both campaigns for review. Additionally, these instructions should also be reviewed by Mr. Ritchie and the other members of the Minnesota State Canvassing Board, as well as the Minnesota Attorney General. Again, the tasks you are requesting appear well beyond the tasks assigned by the State Canvassing Board at its meeting and seem to constitute initial discovery work for an election contest that a campaign itself should undertake at its own cost and expense (with county work reimbursed pursuant to a bond procured by a candidate requesting an election contest pursuant to Minn. Stat. Section 209.06, subd. 2), not at taxpayer expense.

This matter needs to be addressed immediately so that the role of the State Canvassing Board and Secretary of State is not compromised. Need we also address this correspondence to the members of the State Canvassing Board and all local election officials directly?

Tony Trimble

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**From:** Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]  
**Sent:** Thursday, December 04, 2008 8:53 AM

12/15/2008

**To:** 'Pam Heeren'; phil thompson; Jim Gelbmann; Dennis Distad; Tony P. Trimble; allen.paulson@co.clearwater.mn.us; anne.granitz@co.roseau.mn.us; barb.loch@co.meeker.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; dougg@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; jneyssen@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.pipestone.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; mkes@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; 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; cblaschko@co.le-sueur.mn.us; russn@co.morrison.mn.us; rtlange@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.robbindsdale.mn.us; tgerhardt@ci.chanhassen.mn.us; doboszenski@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@cityoftonkabay.net; sandy@wayzata.org; shelley@cityofwoodlandmn.org

**Cc:** fknaak@klaw.us; Lillehaug, David

**Subject:** RE: Absentee Ballot Envelope Sorting

Pam:

Our initial proposal offered to pay the costs of the election judges. Our revised proposal (which you will receive today) continues to offer to pay the cost of the judges or also allows you to use non-partisan staff as your assistants. This was recommended by two county auditors who contacted me directly with their concerns and I incorporated their recommendations into my final instructions.

Everyone, please wait until you receive the detailed instructions before you make a final decision on whether or not to participate in this process. It is not me or Secretary Ritchie asking for this information, it is the State Canvassing Board that has the statutory responsibility to certify the accuracy of the final numbers.

Jim

12/15/2008

Jim Gelbmann  
 Deputy Secretary of State  
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**From:** Pam Heeren [mailto:pheeren@co.hubbard.mn.us]

**Sent:** Thursday, December 04, 2008 8:33 AM

**To:** phil thompson; Jim Gelbmann; Dennis Distad; Tony P. Trimble; allen.paulson@co.clearwater.mn.us; anne.granitz@co.roseau.mn.us; barb.loch@co.meecker.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; djffreed@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; dougg@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.pipestone.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; mkes@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; 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; cblaschko@co.le-sueur.mn.us; russn@co.morrison.mn.us; rltange@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; CCJohnso@co.pine.mn.us; tferber@ci.bloomington.mn.us; kengberg@ci.bloomington.mn.us; tmarshall@ci.robbinssdale.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@cityoftonkabay.net; sandy@wayzata.org; shelley@cityofwoodlandmn.org

12/15/2008

**Cc:** fknaak@klaw.us; Lillehaug, David  
**Subject:** Re: Absentee Ballot Envelope Sorting

Either that or somebody has to start paying Hubbard County to do all this extra work. If I have to bring election judges in, somebody is going to have to reimb. them for their time and mileage. My feelings, not theirs!

At a time when counties are trying to reduce their costs we end up spending hours upon hours with this recount....much of it duplication. My county attorney has also spent considerable time helping us weed thru all the requests.

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

**From:** phil thompson

**To:** Jim Gelbmann ; Dennis Distad ; Tony P. Trimble ; allen.paulson@co.clearwater.mn.us ;  
 anne.granitz@co.roseau.mn.us ; barb.loch@co.meeker.mn.us ; becky.murphy@co.beltrami.mn.us ;  
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 shelley@cityofwoodlandmn.org

**Cc:** fknaak@klaw.us ; Lillehaug, David

**Sent:** Thursday, December 04, 2008 8:26 AM

**Subject:** RE: Absentee Ballot Envelope Sorting

Jim, I think you are missing the point here. We do not disagree that there may have been a few mistakenly rejected absentee ballots for reasons you listed, we are simply saying that we think we are capable of determining that without scheduling special public meetings, hiring election judges, etc in order to supply this information. The majority of the rural counties could supply this information in minutes if we were trusted enough to do this sorting exercise ourselves. Phil Thompson

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**From:** Jim Gelbmann [mailto:Jim.Gelbmann@state.mn.us]

**Sent:** Thursday, December 04, 2008 8:15 AM

**To:** 'Dennis Distad'; Tony P. Trimble; allen.paulson@co.clearwater.mn.us; anne.granitz@co.roseau.mn.us; barb.loch@co.meecker.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; dougg@co.mower.mn.us; rselections@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.pipestone.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; mkes@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; phil.thompson; 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; cblaschko@co.le-sueur.mn.us; russn@co.morrison.mn.us; rltange@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; 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@cityoftonkabay.net; sandy@wayzata.org; shelley@cityofwoodlandmn.org

**Cc:** fknaak@klaw.us; Jim Gelbmann; Lillehaug, David

**Subject:** RE: Absentee Ballot Envelope Sorting

Dear Dennis:

12/15/2008

I'm sorry to learn you are not willing to participate in a request made by the State Canvassing Board. The request we are making goes beyond simply asking you to repeat the process you used to compile the information already provided to the SOS, DFL and Republican Parties. The Board is aware that many absentee ballots were mistakenly rejected. Voters who were registered were not spotted on the Voter Rosters by election judges and determined to be non-registered or sent the wrong absentee ballot envelopes by election administrators, absentee ballots were sent to the wrong precincts, absentee ballots were rejected because signatures did not match exactly, voter registration cards were inadvertently inserted in the secrecy envelopes and determined not to have been submitted with the ballots, UOCAVA ballots that were approved at the county level were rejected by election judges at the precinct level due to a misunderstanding of the new state law, and many other errors through no fault of the voter were made that have disenfranchised hundreds of voters. To identify these errors is the purpose of this exercise.

The Board has requested an Attorney General's Opinion clarifying whether it has the right to order the mistakenly-rejected absentee ballots to be counted. At a minimum, the Board wants to be able to quantify the number of mistakenly-rejected absentee ballots when it certifies the final numbers for the Senate race.

I would hope you would reconsider your decision not to participate in this request by the State Canvassing Board. It is important that the state election officials recognize that mistakes were made when certain absentee ballots were rejected. The State Canvassing Board wants to quantify the number of mistakes that may have been made prior to certifying the results of the election.

My best regards.

Sincerely,

Jim

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12/15/2008

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[paul.gassert@co.carlton.mn.us](mailto:paul.gassert@co.carlton.mn.us); [paulavanoverbeke@co.lyon.mn.us](mailto:paulavanoverbeke@co.lyon.mn.us); [phil.thompson@co.mille-lacs.mn.us](mailto:phil.thompson@co.mille-lacs.mn.us); [elections@co.anoka.mn.us](mailto:elections@co.anoka.mn.us); [elections@co.stearns.mn.us](mailto:elections@co.stearns.mn.us); [rick.munter@co.norman.mn.us](mailto:rick.munter@co.norman.mn.us); [bob.hiivala@co.wright.mn.us](mailto:bob.hiivala@co.wright.mn.us); [bob.peterson@co.koochiching.mn.us](mailto:bob.peterson@co.koochiching.mn.us); [raschmitz@co.red-lake.mn.us](mailto:raschmitz@co.red-lake.mn.us); [cblaschko@co.le-sueur.mn.us](mailto:cblaschko@co.le-sueur.mn.us); [russn@co.morrison.mn.us](mailto:russn@co.morrison.mn.us); [rltange@co.becker.mn.us](mailto:rltange@co.becker.mn.us); [sam\\_m@co.kandiyohi.mn.us](mailto:sam_m@co.kandiyohi.mn.us); [sara.marquardt@co.dodge.mn.us](mailto:sara.marquardt@co.dodge.mn.us); [scott.peters@co.marshall.mn.us](mailto:scott.peters@co.marshall.mn.us); 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**Cc:** [fknaak@klaw.us](mailto:fknaak@klaw.us); Jim Gelbmann; Lillehaug, David

**Subject:** RE: Absentee Ballot Envelope Sorting

Freeborn County is not going to hold a public review of the rejected absentee ballots. The SOS, DFL and Republican parties have requested the rejected absentee information prior to Mr. Gelbmann's request. We used three staff, including myself, to review them, list the name, address, precinct and reason for rejection. At this point, I feel that it is a waste of time to call a public meeting and redo what we have already done.

Dennis Distad

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**From:** Tony P. Trimble [<mailto:trimblelegals@earthlink.net>]

**Sent:** Wednesday, December 03, 2008 5:23 PM

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 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;  
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 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;  
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 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;  
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 jpanchyshyn@ci.shorewood.mn.us; wlewin@mchsi.com; clink@cityoftonkabay.net; sandy@wayzata.org;  
 shelley@cityofwoodlandmn.org  
**Cc:** fknaak@klaw.us; 'Jim Gelbmann'; 'Lillehaug, David'  
**Subject:** Absentee Ballot Envelope Sorting

Dear Local Election Officials:

We understand that earlier this week you received correspondence from Jim Gelbmann at the Minnesota Secretary of State's Office regarding the sorting of absentee ballot envelopes (see email below).

We would appreciate it if you would please notify our office and Mr. David Lillehaug as to whether your county/municipality intends to engage in the sorting process and, if so, the date(s), time(s) and location(s) of the sorting.

We appreciate your response by the end of this week as the Secretary of State's Office has indicated that this sorting process is to start next Monday.

Thank you.

Tony P. Trimble

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Circular 230 Notice: In accordance with Treasury Regulations which became applicable to all tax practitioners as of June 20, 2005, please note that the advice given herein (including any attachments) is not intended or written to be used, and cannot be used by any taxpayer, for the purpose of avoiding

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**From:** Jim Gelbmann [mailto: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

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.

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

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Saint Paul, Minnesota 55155

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**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.

David Lillehaug

12/15/2008

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

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