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November 14, 2008

Mr. Mark Ritchie  
SECRETARY OF STATE OF MINNESOTA  
180 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155-1299

Dear Secretary Ritchie:

This letter requests a reply from your office concerning statements attributed to you and members of the Secretary of State's Office staff concerning legal issues that are the subject of pending litigation. After our telephone conference today, which included you, members of your staff and representatives of the Franken campaign, we were advised that you and members of your staff conducted a press conference concerning issues related to the statewide recount and related litigation.

We have been made aware that Mr. Poser of your office, whom you have appointed as the Chief Official of this recount, stated to the press that he had advised certain county auditors that the names and addresses of persons whose absentee ballot envelopes were rejected by local election official constituted public data and that these names and addresses should be disclosed to the Franken campaign.

This is contrary, we believe, to your office's earlier statements in the matter, as well as state law. You are aware, certainly, that this very issue is the subject of a lawsuit against Ramsey County by the Franken campaign. In addition, Mr. Poser's position is directly contrary to the stated legal opinions of the Hennepin County Attorney and the Ramsey County Attorney (which has also filed a memorandum of law directly opposing the Franken position in Ramsey County District Court). These county attorney legal opinions and documents are attached for your review and convenience.

In sum, we find it quite troubling that members of your office charged with running the recount are taking legal positions in public as to pending litigation, especially since the revised legal positions are identical to the positions of the Al Franken campaign and at odds with written legal advice from both the Ramsey and Hennepin County Attorneys.

Pursuant to the Minnesota Data Practices Act, please provide us with a list of each county election officials with whom Mr. Poser communicated this opinion regarding the names and addresses of absentee voters whose absentee ballot envelopes were rejected by local election officials. We further request copies of all emails or other correspondence on these issues from Mr. Poser or any others in your office to county election officials, as well as any persons associated with the Al Franken campaign (including counsel). Additionally, please provide us with copies of any opinion(s) from the Minnesota Attorney General as to this matter in your possession relative to these data practices issues and/or the pending Ramsey County litigation.

As you might also be aware, the Franken campaign issued a statement following our telephone conference today which substantially mis-stated the Coleman campaign's position as to the recount. We believe that the Franken campaign statements violated the cooperative spirit of the telephone call that was held this afternoon.

Based on the wording of the Franken press statement, coupled with what the media has stated is your "evolution" on the position of rejected absentee ballots and how they are treated prior to the recount, as well as Mr. Poser's affirmative support for the Franken Campaign's legal challenge to deprive Minnesotans of their right to privacy, we have serious concerns about the statements that have been issued from your office today.

As you are well aware, the Minnesota election laws are unequivocal and clear, and provide for specific procedures for conducting the statewide recount of the valid ballots counted during the 2008 general election and we trust that the recount rules adopted by your office will not expand the statutory scope of the recount to such validly-cast ballots.

Under the circumstances, I am sure you understand the urgency of this correspondence and the need for an immediate reply and provision of the above-requested information under the Minnesota Data Practices Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frederic W. Knaak".

Frederic W. Knaak, Esq.

cc: David L. Lillehaug, Esq. (via email only)  
Tony P. Trimble, Trimble & Associates, Ltd.