



As the Table Official sorts the ballots, he or she shall remove all ballots that are marked as duplicate ballots and place those duplicate ballots in a fourth pile. At the conclusion of the sorting process, the Table Official shall open the envelope of original ballots for which duplicates were made for that precinct and sort the original ballots in the same manner as they sorted all other ballots. The Table Official shall disregard this step if there is not an envelope of original ballots, in which case the duplicate ballots will be sorted.

See Affidavit of Amy S. Walstein Exhibit 6 – “Secretary of State Recount Plan” (attached to Petitioner’s Petition for an Order to Show Cause).

3. The recount process began on November 18. Early in the recount process, individuals conducting the recount process discovered a discrepancy in the numbers of ballots marked as duplicates and the number of original ballots in the original ballot envelopes in one of the precincts.

4. Upon this discovery, I met with the Lead Representative for each candidate – Pat Shortridge for the Coleman campaign and Matt Grill for the Franken campaign. I informed them both I would seek clarification from the Secretary of State’s office on this matter.

5. I contacted the Secretary of State’s office and discussed the issue via phone with a representative of that office, who indicated I would need to speak with Gary Poser.

6. I then had a subsequent telephone conversation on the same issue with Gary Poser, Elections Director for the Secretary of State. The campaign representatives did not participate in the phone call but were informed immediately afterward of the outcome.

7. Following my telephone conversation with Gary Poser, I received the following instruction via email:

It is the opinion of our Office that Rule 9 is clear about the process to be used when duplicate ballots are found during the sorting process. Those ballots are to be removed from the sorting process and placed in a separate pile. If there is an envelope of original ballots, the original ballots should then be sorted. If there are no duplicate ballots found during the sorting process, the canvass board has not authorized the envelope of original ballots to be opened and the original ballots envelope should remain sealed. If no envelope of original ballots exist, the duplicate ballots should then be sorted. While there is no requirement to compare the number of duplicate ballots to the number of original ballots, if there is an apparent significant discrepancy in the numbers, the candidates' representatives should attempt to agree on whether to sort the original or duplicate ballots. The Deputy recount official shall note on the incident log if the duplicates rather than the original ballots were counted. If the two candidate representatives can not agree, the Deputy Recount Official shall sort and count the original [sic] ballots.

See Affidavit of Amy S. Walstein Exhibit 7 – “Email from Gary Poser to Local Elections Officials Dated November 19, 2008”.

8. Following receipt of the email, I again met with the Lead Campaign Representatives and explained the advice from the Secretary of State. The Lead Campaign Representative and I then agreed that we would proceed as follows: we would first match ballots and identify those sets of ballots which matched. Original ballots which were matched with duplicates were placed back into the count for that precinct without challenge. In the cases where the number of original ballots exceeded the number of duplicates and no match to a duplicate could be made, the original ballot was placed back into the count, but immediately challenged. See Affidavit of Pat Shortridge ¶ 3 (attached to Petitioner's Petition for Order to Show Cause).


9. The Lead Candidate Representatives and I further agreed that the decision of how to rule on challenges relating to Non-Matching Original Ballots was under the purview of the State Canvassing Board and would not be decided on-site at the Minneapolis recount.

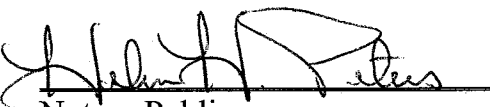
10. Individuals conducting the recount under my supervision proceeded as stated above in Paragraph 8 for each Minneapolis precinct counted.

11. During the recount process, I followed state law, the guidance of the secretary of state, and worked to achieve agreement on the part of both campaigns on this issue.

FURTHER YOUR AFFIANT SAYS NAUGHT.

Subscribed and sworn to  
before me this 20<sup>th</sup> day of  
of December, 2008

  
\_\_\_\_\_  
Cynthia Reichert

  
\_\_\_\_\_  
Notary Public  
My Commission expires: 1-31-2010

