STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Contest of General Election held on November 4, 2008, for the purpose of electing a United States Senator for the State of Minnesota

Cullen Sheehan and Norm Coleman,

Contestants,

vs.

Al Franken,

Contestees,

Dennis Peterson, et. al.,

Petitioners,

vs.

Mark Ritchie, Minnesota Secretary of State, et. al.,

Respondents.

AFFIDAVIT OF CHARLES N. NAUEN IN SUPPORT OF PETITIONERS’ MOTION FOR SUMMARY JUDGMENT

STATE OF MINNESOTA )
COUNTY OF HENNEPIN ) ss.

Charles N. Nauen, being duly sworn, deposes and states:

1. I am a partner with the law firm of Lockridge Grindal Nauen P.L.L.P. I represent Petitioners in the above-captioned matter. I submit this affidavit in support of Petitioners’ Motion for Summary Judgment.
2. Attached hereto as Exhibit 1 is a chart listing the 64 Petitioners, each Petitioner’s county of residence, and stated reason for rejecting each Petitioner’s absentee ballot.

3. Prior to 10:00 a.m. on December 29, 2008 (the deadline for the campaigns to identify absentee ballots which may have been improperly rejected), the Franken Campaign submitted to the Respondent Counties affidavits or declarations signed by 30 Petitioners, demonstrating that their Petitioners’ absentee ballots were properly cast and were improperly rejected. The Petitioners who signed such declarations are identified in the attached Exhibit 1 with the notation “Aff./Decl.” in the column titled “Category.”

4. Prior to 10:00 a.m. on December 29, 2008 (the deadline for the campaigns to identify absentee ballots which may have been improperly rejected), the Franken Campaign also submitted to the Respondent Counties verified copies of Minnesota Secretary of State Voter Lookup forms for an additional 21 Petitioners, demonstrating that the Petitioners were registered to vote at the time of the November 4, 2008 general election and, thus, that their absentee ballots were improperly rejected. The Petitioners for whom copies of the Minnesota Secretary of State Voter Lookup Forms were submitted are identified in the attached Exhibit 1 with the notation “SOS Voter Lookup” in the column titled “Category.”

5. In Ramsey County, for example, a list of 15 improperly rejected absentee ballots, including some ballots cast by Petitioners identified in paragraphs 3 and 4, with information demonstrating that the ballots were properly cast, was submitted to the County on or about December 26, 2008. Attached hereto as Exhibit 2 is a true and correct copy of a December 26, 2008, letter from David L. Lillegaard to the Ramsey County Canvassing Board c/o Elections Official Joe Mansky listing the 15 ballots.
6. On or about December 29, 2008, Ramsey County Elections Manager Joseph Mansky agreed that two of the absentee ballots (Michael Liebig and Sophie Hall) included in the list referenced in paragraph 5 were improperly rejected. Attached hereto as Exhibit 3 is a true and correct copy of an e-mail dated December 29, 2008, from Joe Mansky to David L. Lillehaug.

7. I was present for the review of absentee ballots in Ramsey County on December 31, 2008. Ramsey County did not open and count the ballots of Michael Liebig or Sophie Hall.

8. The Respondent Counties identified the absentee ballots cast by the remaining 13 Petitioners as having been improperly rejected. The ballots cast by these Petitioners were not included in the administrative recount because they were objected to by representatives of Norm Coleman in the process established by the Minnesota Supreme Court’s December 18, 2008 Order and implemented by the Secretary of State. These 13 Petitioners are identified in the attached Exhibit 1 with the notation “County-Identified” in the column titled “Category.”

9. I was present for the review of absentee ballots in Saint Louis County on December 30, 2008. During this review, representatives of the Norm Coleman campaign objected to absentee ballots because of different dates next to the signatures of the voter and the witness on the outer absentee ballot envelopes.

10. Attached hereto as collective Exhibit 4 are true and correct copies of the following documents related to the absentee ballot cast by Brenda Rengo in Carlton County: absentee ballot return envelope (4-A); document provided by Carlton County listing ballots rejected in the November 4, 2008, general election (4-B); and Minnesota Secretary of State Voter Lookup form for Brenda Rengo (4-C).

11. Attached hereto as Exhibit 5 is a true and correct copy of Shirley Vandyck’s absentee ballot return envelope.
12. Attached hereto as collective Exhibit 6 are true and correct copies of the following documents related to the absentee ballot cast by Jeffrey Dustin in Clay County: document provided by Clay County listing ballots rejected in the November 4, 2008, general election (6-A); Declaration of Jeffrey Dustin (6-B); and Minnesota Secretary of State Voter Lookup form for Jeffrey Dustin (6-C).

13. Attached hereto as collective Exhibit 7 are true and correct copies of the following documents related to the absentee ballot cast by Douglas Stange in Crow Wing County: document provided by Crow Wing County listing absentee ballots rejected in the November 4, 2008, general election (7-A); Affidavit of Douglas Stange (7-B); and Minnesota Secretary of State Voter Lookup form for Douglas Stange (7-C).

14. Attached hereto as collective Exhibit 8 are true and correct copies of the following documents related to the absentee ballot cast by Jennifer Bartholomay in Dakota County: absentee ballot return envelope (8-A); Declaration of Jennifer Bartholomay (8-B); absentee ballot application (8-C); and Minnesota Secretary of State Voter Lookup form for Jennifer Bartholomay (8-D).

15. Attached hereto as Exhibit 9 is a true and correct copy of Arvid Blackbird's absentee ballot return envelope.

16. Attached hereto as collective Exhibit 10 are true and correct copies of the following documents related to the absentee ballot cast by Harold Buck in Dakota County: list prepared by Dakota County of absentee ballots rejected in the November 4, 2008, general election (10-A); Minnesota Secretary of State Voter Lookup form for Harold Buck (10-B); and Declaration of Harold Buck (10-C).
17. Attached hereto as collective Exhibit 11 are true and correct copies of the following documents related to the absentee ballot cast by Laurence Engebretson in Dakota County: absentee ballot return envelope (11-A); Declaration of Laurence Engebretson (11-B); absentee ballot application (11-C); and Minnesota Secretary of State Voter Lookup form for Laurence Engebretson (11-D).

18. Attached hereto as collective Exhibit 12 are true and correct copies of the following documents related to the absentee ballot cast by Kim Falde in Dakota County: absentee ballot return envelope (12-A); Declaration of Kim Falde (12-B); and absentee ballot application (12-C).

19. Attached hereto as collective Exhibit 13 are true and correct copies of the following documents related to the absentee ballot cast by Caitlin Heinz in Dakota County: absentee ballot return envelope (13-A); Declaration of Caitlin Heinz (13-B); and Minnesota Secretary of State Voter Lookup form for Caitlin Heinz (13-C).

20. Attached hereto as collective Exhibit 14 are true and correct copies of the following documents related to the absentee ballot cast by Brian Johnson in Dakota County: absentee ballot return envelope (14-A); list prepared by Dakota County of absentee ballots rejected in the November 4, 2008, general election (14-B); absentee ballot application (14-C); and Minnesota Secretary of State Voter Lookup form for Brian Johnson (14-D).

21. Attached hereto as collective Exhibit 15 are true and correct copies of the following documents related to the absentee ballot cast by Katie Kaszynski in Dakota County: absentee ballot return envelope (15-A); Declaration of Katie Kaszynski (15-B); absentee ballot application (15-C); and Minnesota Secretary of State Voter Lookup form for Katie Kaszynski (15-D).
22. Attached hereto as collective Exhibit 16 are true and correct copies of the following documents related to the absentee ballot cast by Mary Koenigsberger in Dakota County: absentee ballot return envelope (16-A); Declaration of Mary Koenigsberger (16-B); absentee ballot application (16-C); and Minnesota Secretary of State Voter Lookup form for Mary Koenigsberger (16-D).

23. Attached hereto as collective Exhibit 17 are true and correct copies of the following documents related to the absentee ballot cast by Leona Quinlan in Dakota County: absentee ballot return enveloper (17-A); Declaration of Leona Quinlan (17-B); absentee ballot return envelope for Thomas Quinlan (17-C); absentee ballot application (17-D); and Minnesota Secretary of State Voter Lookup form for Leona Quinlan (17-E).

24. Attached hereto as collective Exhibit 18 are true and correct copies of the following documents related to the absentee ballot cast by Thomas Quinlan in Dakota County: absentee ballot return enveloper (18-A); Declaration of Thomas Quinlan (18-B); absentee ballot return envelope for Leona Quinlan (18-C); absentee ballot application (18-D); and Minnesota Secretary of State Voter Lookup form for Thomas Quinlan (18-E).

25. Attached hereto as collective Exhibit 19 are true and correct copies of the following documents related to the absentee ballot cast by Charles Quinn in Dakota County: absentee ballot return envelope (19-A); and Declaration of Charles Quinn (19-B).

26. Attached hereto as collective Exhibit 20 are true and correct copies of the following documents related to the absentee ballot cast by Gerald Ratzlaff in Dakota County: absentee ballot return envelope (20-A); Declaration of Gerald Ratzlaff (20-B); and Minnesota Secretary of State Voter Lookup form for Gerald Ratzlaff (20-C).
27. Attached hereto as collective Exhibit 21 are true and correct copies of the following documents related to the absentee ballot cast by Joan Ratzlaff in Dakota County: absentee ballot return envelope (21-A); Declaration of Joan Ratzlaff (22-A); and Minnesota Secretary of State Voter Lookup form for Joan Ratzlaff (21-C).

28. Attached hereto as collective Exhibit 22 are true and correct copies of the following documents related to the absentee ballot cast by Christy Revsbeck in Dakota County: absentee ballot return envelope (22-A); and Minnesota Secretary of State Voter Lookup form for Christy Revsbeck (22-B).

29. Attached hereto as collective Exhibit 23 are true and correct copies of the following documents related to the absentee ballot cast by Roxana Saad in Dakota County: letter dated January 6, 2009 from Bert Black of the Minnesota Secretary of State’s Office to Roxanna Saad (23-A); absentee ballot return envelope (23-B); and Declaration of Roxanna Saad (23-C).

30. Attached hereto as collective Exhibit 24 are true and correct copies of the following documents related to the absentee ballot cast by Donald Applebee in Hennepin County: absentee ballot application return envelope (24-A); Minnesota Secretary of State Voter Lookup form for Donald Applebee (24-B); and printed results from the Polling Place Finder through the Minnesota Secretary of State’s website (24-C).

31. Attached hereto as collective Exhibit 25 are true and correct copies of the following documents related to the absentee ballot cast by Donelda Applebee in Hennepin County: absentee ballot application return envelope (25-A); Minnesota Secretary of State Voter Lookup form for Donelda Applebee (25-B); and printed results from the Polling Place Finder through the Minnesota Secretary of State’s website (25-C).
absentee ballot return envelope (31-A); absentee ballot application (31-B); and Declaration of Gloria Kervina (31-C).

38. Attached hereto as collective Exhibit 32 are true and correct copies of the following documents related to the absentee ballot cast by Craig Lindquist in Hennepin County: absentee ballot return envelope (32-A); absentee ballot application (32-B); and Minnesota Secretary of State Voter Lookup form for Craig Lindquist (32-C).

39. Attached hereto as collective Exhibit 33 are true and correct copies of the following documents related to the absentee ballot cast by Phyllis Mathiowetz in Hennepin County: absentee ballot return envelope (33-A); absentee ballot application (33-B) Declaration of Phyllis Mathiowetz (33-C).

40. Attached hereto as collective Exhibit 34 are true and correct copies of the following documents related to the absentee ballot cast by Greg McCool in Hennepin County: absentee ballot return envelope (34-A); Minnesota Secretary of State Voter Lookup form for Greg McCool (34-B); and Declaration of Greg McCool (34-C).

41. Attached hereto as collective Exhibit 35 are true and correct copies of the following documents related to the absentee ballot cast by Michael Misterek in Hennepin County: document provided by Hennepin listing absentee ballots rejected during the November 4, 2008 general election (35-A); Declaration of Michael Misterek (35-B); absentee ballot application (35-C); absentee ballot return envelope (35-D); Minnesota Secretary of State Voter Lookup form for Michael Misterek (35-E).

42. Attached hereto as collective Exhibit 36 are true and correct copies of the following documents related to the absentee ballot cast by Rebekah Nelson in Hennepin County: absentee ballot return envelope (36-A); Declaration of Rebekah Nelson (36-B); absentee ballot
application (36-C); and Minnesota Secretary of State Voter Lookup form for Rebekah Nelson (36-E).

43. Attached hereto as collective Exhibit 37 are true and correct copies of the following documents related to the absentee ballot cast by Karen Robitz in Hennepin County: absentee ballot return envelope (37-A); Declaration of Karen Robitz (37-B); absentee ballot application (37-C) and Minnesota Secretary of State Voter Lookup form for Karen Robitz (37-D).

44. Attached hereto as collective Exhibit 38 are true and correct copies of the following documents related to the absentee ballot cast by Todd Toner in Hennepin County: list provided by Hennepin County of absentee ballots rejected in the November 4, 2008, general election (38-A); Declaration of Todd Toner (38-B); and Minnesota Secretary of State Voter Lookup form for Todd Toner (38-C).

45. Attached hereto as collective Exhibit 39 are true and correct copies of the following documents related to the absentee ballot cast by Audrey Verlo in Hennepin County: absentee ballot application and absentee ballot return envelope (39-A); Minnesota Secretary of State Voter Lookup form for Audrey Verlo (39-B); and Declaration of Audrey Verlo (39-C).

46. Attached hereto as collective Exhibit 40 are true and correct copies of the following documents related to the absentee ballot cast by Debra Erickson in Kittson County: absentee ballot return envelope (40-A); Declaration of Debra Erickson (40-B); absentee ballot application (40-C); and Minnesota Secretary of State Voter Lookup form for Debra Erickson (40-D).

47. Attached hereto as collective Exhibit 41 are true and correct copies of the following documents related to the absentee ballot cast by Christopher Ludvigson in Lac Qui
Parle County: absentee ballot return envelope (41-A); Declaration of Christopher Ludvigson (41-B); and Minnesota Secretary of State Voter Lookup form for Christopher Ludvigson (41-C).

48. Attached hereto as collective Exhibit 42 are true and correct copies of the following documents related to the absentee ballot cast by Hubert Redepenning in Lac Qui Parle County: absentee ballot return envelope (42-A); Declaration of Hubert Redepenning (42-B); and absentee ballot application (42-C).

49. Attached hereto as collective Exhibit 43 are true and correct copies of the following documents related to the absentee ballot cast by Eila Nelson in Lake County: document provided by Lake County listing absentee ballots rejected in the November 4, 2008, general election (43-A); Declaration of Eila Nelson (43-B); and Minnesota Secretary of State Voter Lookup form for Eila Nelson (43-C).

50. Attached hereto as collective Exhibit 44 are true and correct copies of the following documents related to the absentee ballot cast by Robert Girtz in Morrison County: absentee ballot return envelope (44-A); and Declaration of Robert Girtz (44-B).

51. Attached hereto as collective Exhibit 45 are true and correct copies of the following documents related to the absentee ballot cast by Richard Haefner in Olmsted County: absentee ballot application (45-A); Affidavit of Richard Haefner (45-B); absentee ballot return envelope (45-C); and Minnesota Secretary of State Voter Lookup form for Richard Haefner (45-D).

52. Attached hereto as collective Exhibit 46 are true and correct copies of the following documents related to the absentee ballot cast by Judith Conlow in Pine County: Letter dated November 25, 2008, from Pine County listing absentee ballots rejected in the November 4, 2008, general election (46-A); and Declaration of Judith Conlow (46-B).
53. Attached hereto as collective Exhibit 47 are true and correct copies of the following documents related to the absentee ballot cast by Donna Mortenson in Pope County: absentee ballot return envelope (47-A); Minnesota Secretary of State Voter Lookup form for Donna Mortenson (47-B); Declaration of Donna Mortenson (47-C); and absentee ballot application (47-D).

54. Attached hereto as collective Exhibit 48 are true and correct copies of the following documents related to the absentee ballot cast by Catherine Brigham in Ramsey County: absentee ballot return envelope (48-A); absentee ballot application (48-B); and Minnesota Secretary of State Voter Lookup form for Catherine Brigham (48-C).

55. Attached hereto as Exhibit 49 is a true and correct copy of excerpts from the draft ASCII deposition transcript of Ramsey County Elections Manager Joseph Mansky (January 16, 2009).

56. Attached hereto as collective Exhibit 50 are true and correct copies of the following documents related to the absentee ballot cast by Emma Bruggeman in Ramsey County: absentee ballot return envelope (50-A); absentee ballot application (50-B); and Minnesota Secretary of State Voter Lookup form for Emma Bruggeman (50-C).

57. Attached hereto as collective Exhibit 51 are true and correct copies of the following documents related to the absentee ballot cast by Ursela Cowan in Ramsey County: absentee ballot return envelope (51-A); Declaration of Ursela Cowan (51-B); and absentee ballot application (51-C).

58. Attached hereto as collective Exhibit 52 are true and correct copies of the following documents related to the absentee ballot cast by Josephine Garcia in Ramsey County:
absentee ballot return envelope (52-A); Declaration of Josephine Garcia (52-B); and absentee ballot application (52-C).

59. Attached hereto as collective Exhibit 53 are true and correct copies of the following documents related to the absentee ballot cast by Sophie Hall in Ramsey County: absentee ballot envelope (53-A); absentee ballot application (53-B); and Minnesota Secretary of State Voter Lookup form for Sophie Hall (53-C).

60. Attached hereto as collective Exhibit 54 are true and correct copies of the following documents related to the absentee ballot cast by Alexis Horan in Ramsey County: absentee ballot return envelope (54-A); document provided by Ramsey County listing absentee ballots rejected in the November 4, 2008, general election for Saint Paul Precinct 3-12 (54-B); absentee ballot application (54-C); and Minnesota Secretary of State Voter Lookup form for Alexis Horan (54-D).

61. Attached hereto as collective Exhibit 55 are true and correct copies of the following documents related to the absentee ballot cast by Michael Liebig in Ramsey County: absentee ballot return envelope (55-A); absentee ballot application (55-B); and Minnesota Secretary of State Voter Lookup form for Michael Liebig (55-C).

62. Attached hereto as collective Exhibit 56 are true and correct copies of the following documents related to the absentee ballot cast by Tempest Moore in Ramsey County: absentee ballot return envelope (56-A); absentee ballot application (56-B); and Minnesota Secretary of State Voter Lookup form for Tempest Moore (56-C).

63. Attached hereto as collective Exhibit 57 are true and correct copies of the following documents related to the absentee ballot cast by John Robertus in Ramsey County: absentee ballot return envelope (57-A); Declaration of John Robertus (57-B); absentee ballot
application (57-C); and Minnesota Secretary of State Voter Lookup form for John Robertus (57-D).

64. Attached hereto as collective Exhibit 58 are true and correct copies of the following documents related to the absentee ballot cast by Walter Thompson in Ramsey County: absentee ballot return envelope (58-A); Declaration of Walter Thompson (58-B); Declaration of Loretta Thompson (58-C); and absentee ballot application (58-D).

65. Attached hereto as collective Exhibit 59 are true and correct copies of the following documents related to the absentee ballot cast by Mary Bell in Saint Louis County: absentee ballot return envelope (59-A); and Declaration of Mary Bell (59-B).

66. Attached hereto as collective Exhibit 60 are true and correct copies of the following documents related to the absentee ballot cast by Phyllis Jarvis in Saint Louis County: absentee ballot return envelope (60-A); Minnesota Secretary of State Voter Lookup form for Phyllis Jarvis (60-B); and printed results from the Polling Place Finder through the Minnesota Secretary of State’s website (60-C).

67. Attached hereto as collective Exhibit 61 are true and correct copies of the following documents related to the absentee ballot cast by Dennis Peterson in Saint Louis County: letter dated January 6, 2009 from Bert Black of the Minnesota Secretary of State’s Office to Dennis Peterson (61-A); Affidavit of Dennis Peterson (61-B); absentee ballot return envelope (61-C).

68. Attached hereto as collective Exhibit 62-A is a true and correct copy of June Srok’s absentee ballot return envelope.

69. Attached hereto as collective Exhibit 63 are true and correct copies of the following documents related to the absentee ballot cast by Carole Treloar in Saint Louis County:
absentee ballot return envelope (63-A); Minnesota Secretary of State Voter Lookup form for Carole Treloar (63-B); Polling Place Finder through the Minnesota Secretary of State’s website (63-C);

70. Attached hereto as collective Exhibit 64 is a true and correct copy of the Lora West’s absentee ballot return envelope and the voter log from Ms. West’s polling location in Stearns County.

71. Attached hereto as collective Exhibit 65 are true and correct copies of the following documents related to the absentee ballot cast by Ross Grandlienard in Washington County: absentee ballot return envelope (65-A); Affidavit of Ross Grandlienard. (65-B); and Minnesota Secretary of State Voter Lookup form for Ross Grandlienard (65-C).

72. Attached hereto as collective Exhibit 66 are true and correct copies of the following documents related to the absentee ballot cast by Evelyn Koehnen in Washington County: document provided by Washington County listing the absentee ballots rejected in the November 4, 2008, general election (66-A); absentee ballot return envelope (66-B); Declaration of Evelyn Koehnen (66-C); and Minnesota Secretary of State Voter Lookup form for Evelyn Koehnen (66-D).

73. Attached hereto as collective Exhibit 67 are true and correct copies of the following documents related to the absentee ballot cast by Orin Ottman in Winona County: absentee ballot return envelope (67-A); absentee ballot application (67-B); and Minnesota Secretary of State Voter Lookup form for Orin Ottman (67-C).

74. Attached hereto as collective Exhibit 68 are true and correct copies of the following documents related to the absentee ballot cast by Ryan Stoa in Winona County:
absentee ballot return envelope (68-A); Declaration of Ryan Stoel (68-B); and absentee ballot application (68-C).

FURTHER YOUR AFFIANT SAYETH NOT.

Charles N. Nauen

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

Sherry M. Grosshein
Notary Public

Sherry M. Grosshein
Notary Public--Minnesota
My Commission Expires Jan 31, 2010