U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Ninth Congress

January 28, 2005

Mr. Chris Swecker
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

Dear Mr. Swecker:

I am in receipt of your letter concerning potential election fraud in Hocking County (enclosed). I very much appreciate your willingness to open an investigation into election irregularities in the Ohio presidential election. However, at this time, I believe it is incumbent upon the Justice Department to not only provide a more complete and thorough response to the concerns I have raised, but to engage in a more comprehensive investigation of these matters. In particular, I am requesting that you investigate the very serious allegations of vote tampering and fraud in Clermont County,[1] and also more fully respond to the numerous concerns regarding Triad, many of which have arisen since you conducted your preliminary inquiry.

Clermont County Vote Tampering

According to a story just released by Raw Story,[2] based on a series of signed affidavits (enclosed), we have also received strong evidence of vote tampering if not outright fraud in Clermont County, Ohio, which, according to the *Cincinnati Enquirer*, was one of three counties that made the difference in President Bush's victory over Senator Kerry in Ohio in 2004.[3]

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[1]Larisa Alexandrovna, *Ohio recount volunteers allege electoral tampering, legal violations and possible fraud*, THE RAW STORY, Jan. 26, 2005, *available at* http://rawstory.com/news/2005/index.php?p=7.

[2]Larisa Alexandrovna, *Ohio recount volunteers allege electoral tampering, legal violations and possible fraud*, THE RAW STORY, Jan. 26, 2005, *available at* http://rawstory.com/news/2005/index.php?p=7.

[3]Carl Weiser, *Presidential vote pattern same as 2000*, THE CINCINNATI ENQUIRER, Jan. 24, 2005, at 2B.

Several volunteers who observed the recount in Clermont County, Ohio, prepared affidavits alleging serious tampering, violations of state and federal law, and possible fraud. They assert that some ballots clearly marked for Kerry/Edwards were counted for Bush/Cheney. Specifically, during the Dec. 14, 2004 hand recount, volunteers noticed stickers covering the Kerry/Edwards oval, whereas the Bush/Cheney oval was "colored in." Beneath the stickers, the Kerry/Edwards oval was selected. These opti-scan ballots were then fed into the machines after the hand recount, and counted for Bush/Cheney.

Stephen Spraley, a Clinton County Democrat observer, saw the stickers on at least ten opti-scan ballots. Mr. Spraley brought this issue to the attention at one of the meetings with the Board of Elections, and "a Republican board member said the stickers were put on election night." However, Clermont's Democratic Party Chief O'Donnell "said she knew nothing about the stickers," according to Mr. Spraley.

Another observer, Bob Drake, corroborates Mr. Spraley's allegations. "One person offered that [the stickers] must have been placed on the ballots by someone at the precinct on Election Day, and that no one could be responsible for that . . . . Everyone, including the Executive Director Danny Bare, denied having ever seen them before or having any knowledge of them," Mr. Drake said. Jeannine Tater, a witness for the elections, corroborates the above events in her affidavit.

During the meeting, according to Mr. Spraley, Mr. Drake, Ms. Tater, and other witnesses, the ballots with stickers were counted for Bush/Cheney, even though the Kerry/Edwards oval was clearly marked underneath. Several Clermont Board of Election employees, who wished to remain anonymous, confirmed that there were stickers placed on both the tabulators and the ballots. The same employees said that the stickers did cover the oval next to Kerry/Edwards.

This evidence of vote tempering supported by attached affidavits would appear to violate numerous provisions of federal law. The Voting Rights Act, 42 U.S.C. §1973, provides for criminal penalties for any person who, in any election for federal office, "knowingly and willfully deprives, defrauds, or attempts to defraud the residents of a State of a fair and impartially conducted election process, by . . . the procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held." Section 1974 requires the retention and preservation of all voting records and papers for a period of 22 months from the date of a federal election and makes it a felony for any person to "willfully steal, destroy, conceal, mutilate, or alter" any such record.[4]

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[4]Ohio law has a mirror provision which requires that all ballots be "carefully preserved" for 22 months.

In this current context, several citizens of Clermont County appear to have been deprived of their voting rights. Ballots clearly marked for Kerry/Edwards appear to have been fraudulently obscured by stickers and counted as votes for Bush/Cheney. Given the seriousness of these allegations, I urge your office to investigate this violation of the Voting Rights Act.

Triad

Subsequent to my initial letter to you, Mr. Barbian, the Ohio Field Representative of Triad GSI, admitted to altering tabulating software in Hocking, Lorain, Muskingum, Clark, Harrison and Guernsey counties as well.[5] Todd Rapp, President of Triad, also has confirmed that these sorts of changes are standard procedure for his company.[6] It is particularly important to note that during an interview, film maker Lynda Byrket asked Barbian, "you were just trying to help them so that they wouldn't have to do a full recount of the county, to try to avoid that?" Mr. Barbian answered, "Right." At the hearing, Barbian noted that he had "provided [other counties] reports so they could review the information on their own."[7]

We have received several additional reports of machine irregularities involving several other counties serviced by Triad,[8] including a report that Triad was able to alter election software by remote access:

- In Union County, the hard drive on the vote tabulation machine, a Triad machine, had failed after the election and had been replaced. The old hard drive was returned to the Union County Board of Elections in response to a subpoena.

- The Directors of the Board of Elections in both Fulton and Henry County stated that the Triad company had reprogrammed the computer by remote dial-up to count only the presidential votes prior to the start of the recount .[9]

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[5]Interview of Michael Barbian by Lynda Byrket, *available at* http://www.truthout.org/docs_04/122404X.shtml.

[6]Preliminary Transcript, Footage of Hocking County Board Meeting, Dec. 20, 2004, on file with the House Judiciary Committee Democratic Staff.

[7]*Id.*

[8]Yost v. National Voting Rights Institute, No. C2-04-1139 (S.D. Ohio) (decl. of Lynne Serpe).

[9]Statement of Green Party County Coordinator, Henry County Recount, *available at* http://www.votecobb.org/recount/ohio_reports/counties/henry.php

- In Monroe County, the 3% hand-count failed to match the machine count twice. Subsequent runs on that machine did not match each other nor the hand count. The Monroe County Board of Elections summoned a repairman from Triad to bring a new machine and the recount was suspended and reconvened for the following day.

- In Harrison County, a representative of the Triad company reprogrammed and retested the tabulator machine and software prior to the start of the recount. The Harrison County tabulating computer is connected to a second computer which is linked to the Secretary of State's Office in Columbus.[10]

It therefore appears that Triad and its employees provided "cheat sheets" to those counting the ballots. The cheat sheets told them how many votes they should find for each candidate, and how many over and under votes they should calculate to match the machine count. In that way, they could avoid doing a full county-wide hand recount mandated by state law. This would frustrate the entire purpose of the recount law – to randomly ascertain if the vote counting apparatus is operating fairly and effectively, and if not, to conduct a full hand recount. Such a course of conduct would appear to violate numerous provisions of federal and state law as detailed in my previous letter to you.

Given the seriousness of these allegations, I believe it is imperative that your office expand their investigation as well as brief me and my Judiciary Committee staff on your findings. I look forward to hearing from you by February 3, 2005, if at all possible. Please reply through Perry Apelbaum or Ted Kalo of my Judiciary Committee staff, 2142 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-6504; fax: 202-225-4423).

Thank you for taking this matter so seriously and I look forward to working with you in the future.

Sincerely,

John Conyers, Jr.
Ranking Member

Enclosures

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[10]The Harrison County Board of Elections kept voted ballots and unused ballots in a room open to direct public access. The Board placed voted ballots in unsealed transfer cases stored in an old wooden cabinet that, at one point, was said to be lockable and, at another point, was said to be unlockable.

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

January 12, 2005

Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Conyers:

This letter is in response to your letter dated December 15, 2004, to the Special Agent in Charge of the Federal Bureau of Investigation's (FBI's) Cincinnati, Ohio Field Office and Attorney Larry E. Beal, Hocking County, Ohio Prosecutor. In your letter, you requested an investigation regarding information you received regarding possible election tampering in Ohio during the recent presidential election. Your letter was subsequently forwarded to the FBI's Criminal Investigative Division for reply.

Upon receipt of your letter, the FBI's Cincinnati Field Office conducted a thorough inquiry of the information you provided in your letter, which included interviews with officials from the Hocking County Board of Elections, including Sherole L. Eaton; other local and state election and law enforcement officials; and, employees of Triad GSI. The results of this inquiry were also reported to and reviewed by the Department of Justice (DOJ), Public Integrity Section, Elections Crime Branch and the United States Attorney's Office (USAO) for the Southern District of Ohio. Based on this inquiry, neither the DOJ, the USAO for the Southern District of Ohio, the FBI, nor their local and state counterparts, found any credible evidence that anyone engaged in any conduct which violated federal election laws.

Honorable John Conyers, Jr.

I understand your concerns regarding this matter, and I appreciate your prompt referral of this information to the SAC of the FBI's Cincinnati Field Office for appropriate action. I hope this response adequately answers all of your concerns. If you have any further information or questions regarding this matter, please contact myself or the Assistant Director, Office of Congressional Affairs, Eleni P. Kalisch.

Sincerely yours,

Chris Swecker
Assistant Director
Criminal Investigative Division

CC: Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

AFFIDAVIT
CLERMONT COUNTY RECOUNT
PRESIDENTIAL ELECTION 2004

1. I, Stephen Spraley, after being duly cautioned and sworn, state that the following is true based on my best recollections and upon my personal knowledge.

2. My name is Stephen M. Spraley. I reside at 1185 Jarva Lane, Springboro, Ohio. I was asked to volunteer for the Ohio Democratic Party as a Recount Coordinator for Clermont County on behalf of the Presidential Election of 2004. I been very involved in the process of Democracy and even now am concerned for the right of every American Citizen of the United States of America to have their vote counted.

3. I arrived at the Board of Elections of Clermont County, Ohio on the 14th of Dec. 2004 just after the BOE meeting. I was greeted by Dan Bare the Dir. of the BOE and he explained the outcome of the meeting. He first said that the Board decided to choose not to randomly select precincts. The BOE decided to pick the smallest thirteen precincts with the remainder made up from one of the larger precincts to round off the 3% that was needed for the hand recount. I commented that is not a random selection and his response was that that was decided on and that is their process. I was also told that if questions were to be asked they were to go through Kathy Jones, the Deputy Dir. I requested the service reports for the tabulating machines before the Nov. 2nd, 2004 election. Dan Bare said that he would get them for me and that he had the tabulating machines serviced before the election and again before the recount. I asked what company performed the servicing and he told me he would get that information for me later, which he never did. I again asked for the reports and to this day I never saw the reports. The tabulating machines were in a back room, four machines, and we had asked to see the start counter and were not given the chance to see it. They just started the count of the hand counted ballots on the tabulating machine. This process started after the hand count.

4. The first task was to watch the hand count with six stations set up. I could only watch one station with a Republican and Democrat counting and a Green Party and myself watching. I noticed that there were ballots with oval stickers over different candidates and I concentrated on the presidential race and saw that there was a ballot with an oval sticker over John Kerry & John Edwards oval spot and it clearly had a darkened tone to it even though there was a white oval sticker over it. Bush & Chaney was also marked with that oval filled in. I asked to have this ballot be reviewed by the BOE meeting and that they also review another ballot that had the John Kerry & John Edwards oval marked and also had their names written in with that oval filled in also. I had asked Kathy Jones where did these stickers come from and who put them on the ballots? She did not respond because she was interrupted by Dan Bare and He told me that the board will have another meeting and there is where questions about ballots will be determined.

5. At that point, the board had its meeting headed by Priscilla O'Donnell. There was another Democrat and one Republican board member at the meeting. I think the second Republican on the board was out ill. At the meeting, Priscilla asked if there were any questions. I asked who put stickers on the ballots, where did they come from and why were they put on? The Republican board member said the stickers were put on election night. Priscilla said she knew nothing about the stickers. At that point there was a hush in the room and nothing more was said. I asked again for a determination by the board by a vote regarding the treatment of the stickered ballot. Without a clear understanding or agreement about how the sticker got on the ballot, two board members voted to count the ballot as a Bush ballot. The second ballot of concern was the ballot where the John Kerry oval was filled in and Kerry's name was written in on the write-in line right below it. The Democrat board member made a motion to accept the ballot as a vote for Kerry, but there was no second so there was no vote. Dan Bare said both in the meeting and before and after the meeting that the ballot should be treated as an overvote so that the hand count would be consistent with the way the machine would count it. After the meeting, I consulted the state statute and showed one of the Republican board members (I believe his name was Tim) the provision (Ohio Revised Code Section 3505.27 Counting and Tabulating the Ballots, Section (D)) that said three board votes were necessary to determine how a ballot is counted. He had told me that poll workers were allowed to make the determination at the polls on Election Day according to the law. Tim responded by saying the board would bring up and discusses my concern about the process and validity of the vote at the next board meeting. He said that the law I had must be a more recent version.

6. Shortly after the hand counted ballots were put through the scanning tabulators 1, 2, 3, and 4, tabulating machine 2 was having problems and continued to have problems, so they shut the machine down. Maureen McCarthy started to work on the machine to get it back online, but it was not used for the rest of the day. Machines numbers 1 and 3 continued to have problems but they used them anyway. The machines were jamming and distorting the ballots from time to time. They continued to process the ballots. They stopped for the day before the feeding process was completed, and I was not present the next day. I mentioned to Dan Bare during the tabulation that he should not pay for the re-servicing of the machines because they broke down and I said that I wanted to see the servicing report for tabulating machine 2 after it was fixed to see what was the cause of the problem. He said he would get that for me, but I never received the report. When I returned the following Monday, he said the servicing report was not available.

7. I returned with Jeanine Lutes on the following Monday and before we went into the building I saw Dan Bare in the parking lot. He came over to my car window and I asked how things were going. He said the BOE employees and Union Party witnesses are in there now looking at the polling books. I asked whether these were the signature books. He said no, that is not what was requested in writing by John McTigue, attorney for the Ohio Democratic Party recount effort. I said I

wanted to see the signature books anyway. Jeanine Tater heard me say that. He said because this was not requested in writing, I could not see it. I asked about the absentee ballots and rejected provisional ballots and he said he wouldn't get that information to us until he had contacted the voters whose ballots were rejected. The person whose job it would be to make follow-up calls was on vacation, so they could not give us the information. He would not go into her files to call the voters because that would be a breach of her trust. I thought there should be a Democrat and a Republican doing the contacting, because he said all along that there was always one Democrat and one Republican on every issue. I have no idea whether the person on vacation was a Democrat or a Republican. We never got to see the information.

8. As I was looking through the polling books that were handwritten by one Democrat and one Republican at the polls on Election Day, I noticed that there were different notations and checkmarks in the back of the books for provisional ballots. Next to the names of the provisional voters there were markings like checkmarks and notations. There were no two books consistent in their notations. I was concerned because Dan Bare had reiterated that they were very consistent in their methodology in dealing with the count. I asked what the checkmarks referred to and he said he had no idea what their methodology was. He didn't know what the notations in the books meant.

Sworn, this 25th day of January, 2005.

Stephen M. Spraley

Sworn before me and subscribed in my presence this 27 day of January, 2005.

NOTARY PUBLIC

My commission expires on:

NOTARIAL SEAL STATE OF OHIO

DONALD K. SCOTT, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date
Section 147.03 O. R. C.

AFFIDAVIT

POTENTIAL FRAUD AND COVER-UP IN UNION TOWNSHIP E, CLERMONT COUNTY, OHIO IN CONNECTION WITH THE OHIO 2004 ELECTION RECOUNT & CERTIFICATION

1. I, Jeannine Tater, after being duly cautioned and sworn, state that the following is true based upon my personal knowledge.
2. My name is Jeannine Cherie Tater. I reside at 17552 Van Buren Street, Huntington Beach, California. I am currently unemployed. I hold an MBA in Marketing, received in 1996, from California State University, at Long Beach. I also hold a CLAD Single Subject Teaching Credential in Business Education issued in 2001, issued by the state of California. I hold a BS in Business Administration received in 1977, from the University of Southern California. California.
3. On December 14 – 20, 2004, I witnessed a vote recount for the county of Clermont, Ohio. Clermont County used a ballot system where voters blackened pre-printed circles next to the name of the candidate they selected.

Union Township Machine Scan of Ballots:

4. The following are the numbers were provided to me by Maureen McCarthy as the total votes cast for three precincts in Clermont County 2004 election :

Union Township E:	1,190 total votes cast
Bethel Village A:	412 total votes cast
Tate Township A:	387 total votes cast

5. During the Green Party 2004 Ohio Recount, I was a witness on behalf of losing candidate Kerry. The Board of Elections machine scanned

100% of the ballots cast for president. During the handling of ballots that were being fed through the tabulating machine to check the totals against the official vote counts, I observed that the stack of ballots for Union Township was about 50% larger than the stack for Bethel Village A. Based upon the "votes cast" numbers above, the Union Township stack should be approximately three times as large as Bethel Village A.

6. Maureen McCarthy, the information systems county employee assisting in the recount, scanned the ballots in the Union Township E ballot box; the number of ballots totaled 678. McCarthy said that the phrase "votes cast" in the official records refers to the actual number of votes cast.
7. Kathy Jones, Assistant Director for the Board of Elections, disagreed: she said that "votes cast" referred to the number of ballots cast and not votes cast. This makes a difference for a two-page ballot, where the number of ballot pages is twice the number of votes. Jones said there was a second ballot box containing a one-page referendum on a zoning issue for the Union Township; she said that the total of the two boxes was 1,190 ballots, with 678 page one ballots and 512 page two ballots. This means that 166 voters did not cast page two ballots.
8. Dan Bare, director of the Clermont County Board of Elections, refused to explain, saying he will not hand count.
9. In a later conversation, McCarthy said that "Total" number on the Nov 2, 2004 Abstract Report equaled the number of ballot pages cast and not number of voters. I was shown a second ballot box by Jones and McCarthy; they told me that the ballot box contained the second page of the ballot.
10. Bare explained that only in Union Township's case did the number of ballot pages exceed number of voters, since only Union Township E out of all 191 precincts had a 2- page ballot. Director Bare explained this anomaly occurred because this precinct, and only this precinct, had a 3 column initiative regarding rezoning, which took almost a whole 1-sided page. This seemed strange to me, because I would have

thought that an initiative would be for a whole township, which would be comprised of multiple precincts.

11. Bare agreed that the total number of ballot pages included the pages from the first ballot box, which included the presidential election and most issues, and the ballots from the second box, for the second page, with the three-paragraph zoning issue. Dan went on to explain since only 678 votes were cast for president, and the other 512 ballots were for the zoning initiative, the sum of these numbers equals the 1,190 "total votes cast" shown on the election night abstract. He insisted that my question was irrelevant and said it was time to go on.

    When I was done with witnessing the recount for the day, I looked at the Election Night Abstract for Union Township E in Clermont County on the Internet. The abstract report can be viewed at http://www.clermontelections.org/pdf/election2004/President-VicePresident.pdf. Created on election night, Abstract for Clermont County indicates Union Township E total votes were 1,190. It indicated 878 votes were cast for Bush and 378 for Kerry.

12. Apparently, Kathy Jones, a Democratic Party Deputy Director, misinformed me as to what the "total voter" figure in the official records represents. I do not know why a Democrat would have told me this. The following morning, December 16, 2004, Kathy Jones was preparing a list of problem precincts. I asked her why Union Township E was not on the list. Kathy stated it was not a problem since it balanced. I responded that I still had questions and was not satisfied with the explanation. Director Dan Bare walked up to me and screamed at me -- about 4 inches from my face, "If you can not conduct yourself properly and stop bothering my staff about that issue, you will not be permitted to stay." I stated, "I am calm, not screaming, and I have questions that are unresolved." Director Bare reiterated that, if I asked any more questions about Township E, I was out. Since I was the only person currently at the recount representing Kerry, I stopped inquiring about the Township and decided to save my

questions for the Board of Directors meeting at 2:00 PM that afternoon.

Presidential Race Ballots included Ralph Nader:

14. Because it seemed that having the name of Ralph Nader on the Clermont County absentee ballots even though he was not a valid candidate would tend to confuse voters and cause some voters to vote for Nader instead of Kerry while under the mistaken impression that a Nader vote would be counted, I inquired as to why Nader's name remained on the ballot after he was no longer a valid candidate for President. Director Bare informed Green Party witnesses Bob Drake, Eric, Tina, and me that he had attempted everything possible to remove Ralph Nader from the ballot. Bare claimed he was told by the printers (Dayton Ballot Printing) that it was too late to remove Nader from the ballot. At first he said that it was too late to print new ballots because the absentee ballot mailing deadline was approaching. I understand that in some, if not many, other counties, this problem was resolved by mailing absentee ballots with Nader's name on the ballot (and appropriate instructions that he was not a candidate) and reprinting Election Day ballots with Nader's name deleted. Bare later said he was concerned that the county "would have no ballots for the election. We thought that leaving Nader's name on the ballot was less of a problem." He continued to describe the slips that were included with each absentee ballot that informed voters that a vote for Nader would not be counted. Similar notices were posted in each voting booth. Further, poll workers were instructed to "let everyone know that a Nader vote would not count." A worker at the Board of Elections told us that Clermont County was "first in line at the printing company, and Dan didn't want to lose that place in line." Any changes to the ballot would result in being moved back in line and would cause a delay in printing; even if the printing had been delayed, voters still would have received their ballots prior to the election.

Stickers:

15. One of the original witnesses to the recount, a Kerry witness named Steve, discovered white oval-shaped stickers on some of the ballots during the 3% hand count. I personally observed these stickers during the machine recount. These stickers were used to alter votes on the op-scan ballot sheets. For example, a Kerry vote was covered with a sticker, and changed to a Bush vote. Several ballots were altered in this manner. When questioned, all of the Board of Elections employees indicated that they did not use stickers on Election Day to "correct" ballots. They "also did not provide erasers to voters." According to Dan Bare, "If a voter made a mistake on a ballot, the ballot was returned to the precinct judge and a new ballot was issued; up to three ballots are permitted per voter. We did not use stickers to correct mismarked ballots.". Eric, a Green Party witness, requested and was refused permission to take pictures of stickers on the ballots. When questioned, all of the employees from the Board of Elections said they had "never seen the stickers" and had no idea where they came from. All confirmed that stickers were not used on Election Day. However, all of the witnesses observed that the same unusually-shaped oval stickers were used to label buttons on all four tabulating machines. The stickers were clearly from the Board of Elections. Despite the alteration of the ballots, all ballots on which stickers were used to change the vote were counted. None were rejected by the tabulating machines as overvotes. If the hand count categorized these ballots as overvotes and they were fed through the scanner as is, there would have been a discrepancy in the hand count between the hand count and the tabulator count, potentially causing a 100% hand recount under the Blackwell election recount guidelines. Obviously, the BOE does not want a 100% hand recount.

16. Bare offered a different explanation of the stickered ballots when questioned by the Board at the Board of Elections meeting on

December 16. There, he said that years ago, they used to use the sticker method of correcting "spoiled" votes, i.e., ballots that were misread by the scanner due to erasures or stray marks that could not be adequately removed with an eraser. He said they then went to the "duplicate ballot" method. In all cases, there was one Democrat and one Republican present. With the duplicate ballot system, election officials clearly label the duplicate card as a duplicate and the original as the original. But we found out later that duplicate cards are used only for damaged ballots. The Green Party requested a citation to the authority for use of stickers to alter votes. The Board (and/or Bare) indicated it believed the authority for use of duplicate ballots covered the use of stickers. The ballots that were found with stickers were not accompanied by any documentation indicating witnessing of a Democrat and a Republican, so, in my opinion, this fact puts the explanation given in doubt.

Randomness of precinct selection:

17. Observers were told by the Clermont County Board of Elections that a random selection of precincts was not used. Rather, the smallest thirteen precincts were chosen, and one of the larger precincts was added to reach the 3% for the hand count. "This will provide fewer errors on the recount," according to one of the Board of Elections members. Requests to use a random method to select the precincts chosen for the 3% hand count were rejected by Dan Bare and subsequently by the Board of Elections when the request was made at the December 16 meeting.

Ballot Boxes and Keys:

18. When we arrived for the recount the ballot boxes were not sealed, nor did the doors to the Board of Elections offices meet the security criteria for ballot boxes. They each had a very small master key lock. The keys were not for a security lock, nor were they printed with the

words, "do not copy." Locks for all ballot boxes were identically keyed. There were at least 2 keys to these boxes. When Dan Bare asked for a ballot box key, Becky said she had a key. I saw the other ballot lock box key left lying on table close to the door in front of the scanning room. I repeat the key to the ballot box was unguarded, lying on a table. Bob Drake, the Green Party witness said it was there all day.

19. One employee offered another employee her lock box key. However, the other employee said that she did not need the key since she had found the other key.

Vote Certification: December 16, 2004

20. During the Board of Elections board meeting to certify the recount, the BOE members were not willing to give us a reasonable chance. I had tried to speak, but it was never my turn. Bob Drake (a Green Party witness) made a long statement. I raised my hand, but was unable to speak. The head board member then said, "anyone want to speak? I move to certify the votes." The moderator did not break between her statements. I was raising my hand as she said "I move to certify the votes." Another board member said "I second." It was over and I did not get a chance to speak on behalf of Kerry.

Recount December 17. 2004:

21. Although we were told by Dan Bare on December 16, 2004 to return the next morning at 8:00 AM and we would have 3 recount groups looking at uncounted absentee ballots, disqualified provisional ballots and precinct/polling books, when we arrived as instructed the next morning, we were told events would not commence until 9:00 AM. At about 10 AM we were told to return at 1:00 PM and 1 team would look at provisional, absentee and precinct books at a time. Bare told us this was because Bare needed a Democrat and Republican for each

team. Teams were to include the 2 BOE employees and 1 representative from each party's political team.

Final Day of Recount: Dec 20, 2004

22. Stephen Spraley and I arrived at about 10:25 and were talking in Steve's car. Danny Bare walked up to Steve's car. Danny told us we were authorized to look at poll books only, not the voter signature books. Bare said the reason we could not review the signature poll books was that the letter from Mr. McTigue did not specifically ask for voter sign-in sheets. Bare also told us only 1 person from each candidate team was permitted to view the poll book. Bare explained further his employee's needed Christmas time and they must gear-up for another election in February.

Dated January 25, 2005, at Vancouver, British Columbia, Canada

Jeannine C. Tate

LORI M. ZIEBART
Dunsdolin & Boskovich
Barristers & Solicitors
300 - 1205 WEST PENDER ST.
VANCOUVER, B.C. V6E 2M8
Phone: 604-669-5500
Fax: 604-986-8491

UNITED STATES HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE

AFFIDAVIT

1. I, Carolyn Betts, after being first duly cautioned and sworn, state that the following is true based upon my own personal knowledge:

2. My name is Carolyn Betts. I reside at 6929 Lynnfield Court, Cincinnati, Ohio. I am a self-employed attorney licensed to practice law in the State of Ohio. I hold an undergraduate degree from Bryn Mawr College, a Master's in Business Administration, with a major in finance, from the University of Cincinnati Graduate College of Business Administration and a Juris Doctor degree from the Salmon P. Chase College of Law, Northern Kentucky University. My professional experience includes eight years as an associate, then principal, of a Washington, DC - based law firm and senior banker at a Washington, DC-based investment bank that served largely government-related clients. I have, among other things, represented several federal government agencies in designing and carrying out sales of billions of dollars of government credit and real estate assets, counsel to the issuers in billions of dollars of corporate finance and securities transactions with government and Wall Street issuers and underwriters, counsel or consultant with respect to government, NYSE-member firm and independent public accounting audits, financial advisor (as an employee of FHA's lead financial advisor) for the Department of Housing and Urban Development and in-house counsel in the management of litigation related to an eight-year-long Federal False Claims Act case and a six-year-long Court of Federal Claims case against the government for breach of contract, both of which cases were decided largely in my client's favor and are currently under appeal. During the course of my career, I have had experience in many contexts with white-collar crime, fraud within government and the private sector and the cover-up of questionable activities by government officials and government contractors. I also have experience in the areas of subpoena and discovery of digital documents, hiring of federal contractors for information technology-related work, conflicts of interest in representation of the government and "scrubbing" of federal databases. Part of my former employer's work with the government involved financial software design and national GIS-mapping of financial assets and money flows on a census-block basis.

3. I was appalled on the second night before the election when I turned on the television and found that not one, but all three network affiliates in Cincinnati were covering a Bush campaign rally being held at the stadium, apparently as a news item, for over an hour. I called the Kerry campaign headquarters to complain, because I questioned whether this is the way the public airwaves should be used and whether the notoriously Republican television stations had been paid

for this coverage as campaign advertising and offered equal time to the Kerry campaign.

4. I am a registered independent. My first involvement in the 2004 Presidential election consisted of pro bono volunteer attorney work with the Election Protection Coalition at inner-city Cincinnati polls. I was a volunteer at four precincts located in a single voting place at a bible college in the Over-the-Rhine neighborhood of Cincinnati, Ohio, in Hamilton County. Based upon my observations, most of the voters in these precincts consisted of white voters who were students, teachers and employees of the bible college and largely African American voters who lived in the neighborhood, some of whom said they were voting for the first time.

5. On Election Day, 2004, I, personally, assisted 5-10 voters with voting problems, all but one African-American. The exception was a young white man I estimate to have been in his early to mid-20s. The problems consisted of:

   (a) General complaints that one of the four precincts had fewer voting machines than the others, resulting in long lines for voting in that precinct and questions among voters whether they could vote at machines set up for precincts other than their own,
   (b) confusion among voters, particularly during rush hour when the lines extended outside the gym in which the voting machines and precinct tables were located, as to which lines corresponded to their proper precincts, some voters having stood in the wrong line and been told they were not registered,
   (c) voters who left without voting because they were told they were not registered, even though they either had been registered at the same address for years or had registered at get-out-the-vote rallies that fall held at the Department of Children and Families or public malls,
   (d) voters who left without voting because they were not listed on the poll list because they had moved since the last election (or, in some cases, since the last day to register to vote before the election) within the same county but to a different precinct and had not notified the Board of Elections of their move, who questioned whether they should vote in the "old" or the "new" precinct, and
   (e) a voter who had requested an absentee ballot be sent to him on a cruise ship in August but who had never received his absentee ballot (which was, reportedly, mailed only a week or less before Election Day) and returned to his home polling place to vote.[1]

[1] In this case, in accordance with poll worker training instructions, this fellow was denied a ballot. We determined, based upon conversations with Election Protection representatives, that a court ruling had been handed down earlier in the day ordering that individuals who had been mailed absentee ballots should be allowed to vote by absentee ballot, which would be counted once the determination was made that they had not voted absentee. When the poll workers called the Hamilton County Board of elections absentee ballot line to confirm that the ruling had occurred, the Board of Elections representative knew nothing of the ruling. Eventually, after several hours and pressure exerted by Election Protection volunteers, a poll

Because the Election Protection volunteers knew of the court ruling to the effect that a provisional ballot voted in an incorrect precinct would not be counted, we related this information as best we could to voters entering the precincts so that they would come tell us if they were offered provisional ballots. In at least one case, a voter who was urged to vote a provisional ballot because the voter was not listed in the poll book had stood in the wrong line and was registered to vote in the same voting place in a different precinct. I can see how, if no Election Protection volunteers had been there to explain the problem, voters could have voted provisional ballots that would not have been counted when they went to the correct polling place but stood in the wrong line. It was not clear to me that poll workers confronted with voters who were not in the poll books were asking whether the voters were in the correct precinct line.

6. Some time after Election Day, in following news reports on the Internet and reading email messages from the Election Protection Coalition members, I became aware that the Green Party had succeeded in raising money for and filing a successful petition for an election recount in Ohio. I was aware on the night of Election Day that exit polls predicted Ohio would go for Kerry and when I woke up the next day, the news reports said that Ohio had gone for Bush. I was skeptical, having taken statistics and calculus (including standard deviation analysis) in business school and understood, generally, statistical sampling techniques and the value of polls, particularly exit polls. I had moved to Cincinnati in early 2003 and registered independent with an address in what I have been told is the zip code that contributed more money to George W. Bush than any in the country other than the Upper East Side of New York. There was a surprising amount of support for Kerry in this neighborhood, and I was never, ever contacted by the Republican Party or any Bush supporter. I was contacted repeatedly by the Kerry campaign, which appeared to me to have spent more money in the area than the Bush campaign.

7. I got an email at some point calling for volunteers for the recounts in several states, including Ohio. I went onto a hot-linked website and signed up to volunteer for the recount in Hamilton County, where I live. Because I was the only attorney volunteer for the Cobb/LaMarche Green Party recount observer contingent in my region and the policy of the Hamilton County Board of Elections was not to allow talking or the taking of telephone calls in the vote recount rooms, I decided to remain in the waiting room of the Hamilton County Board of Elections during the recount so that I would be available for questions from other counties. I was admitted as a recount observer with a "Cobb letter," meaning that I was provided with a letter, signed by David Cobb, stating that I was an authorized representative of David Cobb in the recount. Each losing candidate (i.e., Cobb, LaMarche and Kerry) was permitted one recount observer for each counting station, or Board of Elections recounter. I assume the same

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worker finally called the main Board of Elections number where a representative confirmed that the young man should be given a provisional ballot.

number of observers was permitted for the Republican Party. There was a room for the 3% hand recount and a room for running the same punch card ballots that were subject to the hand recount through the voting tabulator. I believe there were two observer "stations" in that room. In addition to the Green Party observers, there were a few Kerry observers and Bush observers. The county coordinator for the Green Party, Pamela Futere, told me that there were few LaMarche observers in the region due to issues having to do with obtaining originally executed LaMarche letters. I believe the recount started on Tuesday, December 14, 2004. I was at Hamilton County for the full first day of the recount. Very few issues arose, and I am aware of no irregularities encountered during the recount, although I, personally, believed that the randomness of the 3% hand recount established by the guidelines issued by the Ohio Secretary of State was not perfect. It was explained to us by the Director of the Board of Elections that precincts were selected for the random recount by starting with precinct 1 and selecting every thirty-third precinct. A more perfect random selection would be, in my opinion, to choose the first precinct randomly (by drawing numbers from a hat, for example) and then take every thirty third precinct thereafter, thus making it impossible to predict in advance of the recount which precincts would be selected. It was my opinion that, in theory, if the Board of Elections knew at the time of the election that there could be a 3% hand recount and that the first and every thirty-third precinct thereafter method would be used to select precincts, any manipulation of the vote could be concentrated in other precincts. On the other hand, if the first precinct were not known until the recount started, no vote manipulation could have taken place with the assurance that it would not be detected in the hand recount. The only other issue I can recall in Hamilton County was the fact that one Board of Elections recounter was inspecting the punchcard ballots so quickly for hanging and pregnant chads that the observer felt he or she could not meaningfully observe the accuracy of that counter's work. But that was only one of a number of ballot inspection stations, and there were no other observer complaints in this regard.

8. While I attended the Hamilton County recount, I received a series of calls from recount observers in Clermont County. The first question had to do with what constituted a "random" selection for purposes of the 3% hand recount. Green Party observers related to me that the 3% hand recount precincts had been selected in Clermont County by taking the 3% smallest precincts, plus one precinct that would take the total over 3%. The caller explained that the reason given by Board of Elections ("BOE") staff for this selection method is that it would result in "fewer problems." I told the caller that the point of a 3% random selection was to obtain a representative sample of precincts throughout the county and selecting the smallest precincts was certainly not a method calculated to obtain a representative sample, particularly in light of the prediction that the smallest precincts would have "fewer problems." The caller, a math teacher, agreed with my assessment and at some point told me the Green Party observers had asked that additional random precincts be added to or substituted for the originally selected precincts so as to get a more representative sample. The

request was denied by Dan Bare, the Director of the Clermont County Board of Elections ("BOE"). The other, even more alarming, issue raised in a call from Clermont County that day had to do with irregular ballots discovered during the 3% hand recount. My notes of that call and two or more subsequent calls indicate that Bob Drake told me:

(a) During the 3% hand recount, Steve Spraley, observing for the Democrats, saw an optical scan ballot that had the Kerry "bubble" covered up with a white sticker the size of the bubble and the Bush "bubble" blackened. The ballot had been counted as a Bush vote. Once this ballot was discovered, they looked for, and found, more ballots with stickers over the Kerry "bubble." Bob said you could tell when you held the ballot up to the light and looked on the back that the Kerry bubble was black under the sticker.

(b) When asked for an explanation of the stickers, BOE staff had professed ignorance, i.e., they said they knew nothing about the use of stickers. Then recount observers found more stickers on the tabulating machine, indicating, to them (at least to the Green Party observers), that the stickers had been in general use. During the course of discussions about the stickers, the story gradually changed and BOE staff admitted that the stickers had been used to "fix" ballots for Bush that originally had been voted for Kerry and erased. I was skeptical of this explanation because in my readings about Ohio election law I had learned that instructions to voters for optical scan ballots were that if the voter made a mistake, the voter was to turn in the incorrectly-marked ballot and get a new one, and could do that up to a total of three or four ballots. I knew that voters are not given erasers to change their ballots, so if they were to erase a mistaken blackening of a bubble, they would have to have brought an eraser with them, or borrowed one.

(c) There were also discovered ballots where the Kerry "bubble" was blackened as well as the "bubble" for a write-in vote, and the name "Kerry" or "Kerry/Edwards" was written in on the write in line. It was explained to me that this seemed to have happened when Kerry/Edwards appeared immediately above the write-in line. In other words, the voter had tried to vote for Kerry twice, just to make sure, or thought because the write-in line was right below the Kerry/Edwards line that the voter who wished to select Kerry/Edwards should darken the bubble and write in the name. Any ballot so marked, according to Bob, was treated as an "overvote" rather than a vote for Kerry. Bob said he thought that where the same thing happened with Bush ballots (i.e., Bush was blackened AND written in), the ballot was counted as a vote for Bush, but that may have been speculation on his part – I never heard that possibility raised again.

(d) There was a discussion of these issues with members of the BOE, I was told, and one member had proposed that the BOE board vote as to how the aforementioned questionable ballots should be treated for purposes of the hand recount. That member could not get any other member to second his

motion, so the board refused to vote on the issue. It was decided, then (I know not by whom) that the altered (i.e., stickered) ballots would be counted for hand recount tabulation purposes as votes for Bush, which meant that the hand count automatically would match the tabulator count as to these ballots. I told Bob that I thought the ballots at the very least should be treated as overvotes, since both Bush and Kerry had been blackened. If they had been treated as overvotes in the hand recount, the tabulator would still have counted them as Bush votes and the hand count and tabulator count would not have matched, resulting in the necessity for a 100% hand recount.

(e) The members of the BOE were scheduled to vote to certify the recount on December 16 at a board meeting scheduled for 2:00PM, despite the issues the recount observers had raised and despite the fact that the requested uncounted absentee ballots, uncounted provisional ballots and poll signature books had so far been refused to observers.

9. The second day of the recount, Wednesday, I stayed home to take calls and be close to my computer, where I could communicate with various recount participants in different counties, since the Hamilton County recount was proceeding with few apparent problems. Later that day I suggested that I might be more useful in Clermont County on Thursday so that I could talk to participants in person and decide what to do about the upcoming board meeting to certify the recount on Thursday. So I went to the Clermont County BOE to help on December 16. I submitted a "Cobb Letter" and was admitted without incident. As the count progressed, it became apparent that Director "Danny" Bare was determined to certify the recount at the board meeting come Hell or high water. He was very clear in telling us that he intended to send his staff out on Christmas break in the very near future. He emphasized that he would attend to the recount requests but "could not guarantee" that anything would be achieved within a short period of time, given the holiday schedules and other work his staff had to do. He said he would not discuss providing poll books, uncounted absentee ballots and uncounted provisional ballots until the hand recount was complete, although there was no indication that he would not provide these other documents in accordance with the Secretary of State's recount guidelines after the hand count was complete.

10. The Green Party observers told me they wanted to take some action to forestall the premature certification of the recount, so I suggested that they submit a letter of demand to the board at the upcoming board meeting at 2:00 on December 16 before the recount was certified. I said I would draft a letter with their help. They instructed me to include the following demands and protests in the letter, which they intended to present prior to the recount certification vote:

(a) a demand for disclosure from each board member, publicly, what knowledge he or she had about the stickers discovered on ballots in the

3% hand recount, including who affixed the stickers, what was their purpose and what was the legal authority in support of the practice;

(b) a demand for an explanation from each board member why the director had not reprinted the absentee ballots to remove the name of Ralph Nader as a candidate;

(c) a demand for an explanation from each board member of each decision made at the Tuesday, December 14 meeting of the board to count the "overvotes" and potentially altered ballots, specifically, (i) "stickered" ballots; (ii) ballots where voters voted for Kerry/Edwards both by writing in the names and blackening the "Kerry Edwards" bubble and (iii) ballots indicating a vote for both Ralph Nader and another candidate (which ballots were counted as votes for the other candidate indicated, rather than as overvotes);

(d) in the event the board voted to treat the hand recount ballots described in the immediately preceding paragraph in a manner that "forced" a match with the tabulator count of such ballots, a protest by the Green Party of such action on the grounds that it would lead to the false conclusion that no irregularities existed that justified a 100% hand recount in accordance with the Secretary of State's guidelines and a demand for a 100% recount of the votes of Clermont County;

(e) in the absence of a 100% hand recount and a completion of the review of other documents requested as part of the recount (i.e., the poll books, the uncounted absentee ballots and the uncounted provisional ballots), a challenge by the Green Party to the premature certification of the Clermont County 2004 election recount;

(f) in the event of no 100% recount, a demand for a hand recount of a larger sampling of precincts that were more representative of the constituency of the county and an override by the board of the decision by Danny Bare, Director of the BOE, not to accommodate this request;

(g) in the event of no substitution of precincts as requested in (f), a challenge to the randomness of the selected precincts under the guidelines issued by the Secretary of State;

(h) a restatement of the Green Party's request for additional documents and a challenge to the certification of the 2004 vote on the grounds that the recount was not complete because there was no 100% hand recount and the following had not been provided for reasonable review by the Green Party witnesses:

(i) polling books for all precincts

(ii) uncounted (rejected) absentee ballots

(iii) uncounted (rejected) provisional ballots (which should include the name and address of each provisional voter) together with an explanation in each case as to the reason for the rejection;

(i) a request as citizens for names, addresses, telephone numbers and titles or job duties of all employees, contractors, officials, board members and others playing a role in the process of counting, recounting, systems certification and other matters affecting the integrity of the 2004 election in Clermont County and a list of any conflicts of interest that they might have with respect to the role played by them and online minutes and other public information as to the proceedings of the Tuesday, December 14 board meeting and Thursday, December 16 board meeting.[2]

11. I prepared the Ohio 2004 Cobb/Badnarik Recount Presentation at 2:00 PM Board of Elections Meeting as requested, signed by Bob Drake as witness, Tina Herald as Clermont County Recount Coordinator and Cindy Asrir as Green Party Regional Coordinator. Bob Drake was chosen to present it at the board meeting on behalf of the Green Party witnesses before the certification vote by the board, which he did. We provided copies to each board member, the Director and Deputy Director, each Kerry, Bush, and Green Party witnesses who attended the meeting, the Cincinnati Enquirer reporter and the New York Times stringer, Al Salvato, all of whom attended the portion of the board meeting preceding and including the certification of the recount and anyone else who asked for a copy.

12. At the 2:00 board meeting, which started late (I think because they had not completed feeding the recount ballots through the tabulator, but in any case because BOE staff were working in the room containing the tabulating machines), the room was crowded. A board member named Priscilla was chairing the meeting. Priscilla asked each person in the room to introduce himself or herself, which each attendee did. Bob Drake requested the floor, which request was granted, and he read the Green Party demand letter, a copy of which is included with this affidavit. When he had completed reading the entire letter, a Democratic representative who had just driven in from Columbus made a statement generally objecting to the board's certification process. The board listened and then went through the items on our list. Much of the meeting was procedural. The highlights of greatest interest to us were:

(a) The board asked Danny Bare for an explanation of the stickering of ballots. He mostly launched into a detailed account of how they "used to" deal with "spoiled" (i.e., damaged) ballots. He said with a Republican and Democrat both present, they labeled the damaged ballot "original" and created a new ballot with the same markings, labeling it "duplicate" and then had the Republican and Democrat sign each ballot. What I thought he was saying, although he was rambling and not very clear, was that they had substituted the "sticker" method of altering the original ballot for the

[2] This final demand was made because Green Party observers told me that an employee of the county had indicated to Green Party observers that the outside contractors employed to certify the vote tabulating machines were blood relatives of the Republican members of the BOE and it was her suggestion that the observers look into conflicts of interest at the BOE.

duplicate procedure. I don't know what that has to do with the ballots in question, because they were not ballots that were damaged in the tabulator and there were no Republican and Democrat signatures on the stickered ballots discovered during the recount. The board members were conducting the meeting at this point and we were only observing, so there was no opportunity for observers to pin down Danny on this point. I do remember the board expressly asking Danny whether he believed that the use of stickers was a permissible procedure to use and he said yes. his interpretation of Ohio law was that it was OK. Board members seemed to accept his explanation.

(b) Priscilla went around the table and asked each board member to share what he or she knew about the stickering of ballots. All of the board members professed to know nothing about it.

(c) The board said requests for affiliations of board members and employees of the BOE would be provided to the Green Party at a later date. At the board's express request, Danny agreed to provide the requested poll books, rejected absentee ballots and rejected provisional ballots.

(d) There was a discussion of the issue of removal of Nader's name from the ballots, and a discussion ensued during which board members shared their recollections of what had happened in the process of getting absentee ballots printed. I was not much interested in this issue and so did not listen particularly intently, observing only that what the board said was backing up Danny Bare's previous statements to observers that there had been no time to reprint the ballots to remove Nader's name. The question why they did not physically cross the name off the ballots after they were printed was not raised.

(e) I think it was after going through the items on our demand letter list, the board returned to the business as set forth in the meeting agenda, although I may have the order wrong on that. Ultimately, the board voted to certify the recount despite our objections.

We left the meeting shortly after the certification was completed and went out into the lobby, where reporters were interviewing various members of the observer teams. We waited for the meeting to end to talk to Danny Bare about what was on the agenda for the recount the next day (Friday). He came out and emphasized he was going to cooperate but had limited employees available because they had vacations scheduled the next week and there was other pressing BOE business for them to attend to. This seemed ominous to me. The Green Party observers asked when they should come back to resume activities the next day, and he said "8:00 am."

13. I did not return to Clermont County for the remainder of the recount. In later exchanges with Tina Herald, I learned that they had made no progress in getting the poll books, rejected provisional ballots and rejected absentee ballots. The group appeared somewhat dejected, feeling that there appeared to be no remedy

December 16. There, he said that years ago, they used to use the sticker method of correcting "spoiled" votes, i.e., ballots that were misread by the scanner due to erasures or stray marks that could not be adequately removed with an eraser. He said they then went to the "duplicate ballot" method. In all cases, there was one Democrat and one Republican present. With the duplicate ballot system, election officials clearly label the duplicate card as a duplicate and the original as the original. But we found out later that duplicate cards are used only for damaged ballots. The Green Party requested a citation to the authority for use of stickers to alter votes. The Board (and/or Bare) indicated it believed the authority for use of duplicate ballots covered the use of stickers. The ballots that were found with stickers were not accompanied by any documentation indicating witnessing of a Democrat and a Republican, so, in my opinion, this fact puts the explanation given in doubt.

Randomness of precinct selection:

17. Observers were told by the Clermont County Board of Elections that a random selection of precincts was not used. Rather, the smallest thirteen precincts were chosen, and one of the larger precincts was added to reach the 3% for the hand count. "This will provide fewer errors on the recount," according to one of the Board of Elections members. Requests to use a random method to select the precincts chosen for the 3% hand count were rejected by Dan Bare and subsequently by the Board of Elections when the request was made at the December 16 meeting.

Ballot Boxes and Keys:

18. When we arrived for the recount the ballot boxes were not sealed, nor did the doors to the Board of Elections offices meet the security criteria for ballot boxes. They each had a very small master key lock. The keys were not for a security lock, nor were they printed with the

for what we perceived was an incomplete recount with unaddressed problems. We looked out for newspaper stories the next day about the recount but did not hear of any stories reporting irregularities in any of the recounts being conducted in our region.

14. After the Clermont County recount certification, I was in telephone and email contact with Bethe Goldenfield, Green Party recount coordinator for Warren County. Bethe said her team was having trouble getting access to poll books, rejected provisional ballots and rejected absentee ballots. Bethe shared her preliminary reports with me and told me some of the problems, including some similar problems to those encountered in Clermont County. Among other things, I believe it was Bethe who told me that the "random" selection of 3% hand recount counties had been done by taking ballot boxes out of the safe until they had enough ballots to reach the 3% requirement. Bethe said the BOE staff in Warren County had indicated recount observers would be given the poll books and rejected ballots, but later, I think after some discussions had taken place with someone from the Secretary of State's Office, the requests were denied on the grounds that the recount guidelines issued by the Secretary of State were "optional" and not mandatory. Bethe said the issue was to be decided by the Warren County prosecutor, who ultimately ruled that access would be granted, but not until probably the first week in January. Later, Bethe sent an email asking why and how C. Ellen Connally (obscure candidate for Supreme Court Justice) received more votes than Kerry in Warren County--28,470 to 26,044..

Attested this 25th day of January, 2005.

Carolyn A. Betts

Sworn before me and subscribed in my presence this 25 day of January, 2005.

NOTARY PUBLIC

JESSE OBERT
Notary Public, State of Ohio
My Commission Expires Jan. 27, 2008

My commission expires on: