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April 8, 2005

**VIA FAX AND U.S. MAIL**

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Dear Counsel,

I write to inform you of the discovery of a 94<sup>th</sup> untabulated absentee ballot. While we do not intend a formal amendment to Mr. Fell's investigative report produced to you on April 5<sup>th</sup>, the details of the discovery and handling of this additional untabulated absentee ballot are as follows:

On the afternoon of Monday, April 4, 2005 temporary employee Samantha Duncan discovered an envelope containing an untabulated ballot in an archive box of outer signature envelopes from the 2004 General Election. The envelope containing an untabulated ballot was discovered while work was being done relating to production of documents for the election contest. The envelope containing an untabulated ballot was banded with the empty envelopes from batch number 1710 in the election management and voter registration system.

The envelope containing an untabulated ballot was then secured in the ballot cage at the Mail Ballot Operations Satellite. The ballot contained in the envelope remains sealed in the security envelope within the outer signature envelope. The envelope was accessed on Thursday, April 07, 2005 to detail what precinct the envelope was from and verify that the voter had been credited with voting. The envelope containing an untabulated absentee ballot is currently secured in the ballot cage at the Mail Ballot Operations Satellite.

The batch slip for batch 1710 showed that there was a discrepancy between what was initially verified and transferred to the opening process (258) and what was ultimately tabulated (235).

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Twenty-two ballots of the overall discrepancy are accounted for on the batch slip as ballots sent for duplication/enhancement or as ballots segregated due to write-in votes for various races.

The batch slip indicates that the ballots opened and transferred to tabulation were hand counted.

Records indicate that the envelopes associated with batch 1710 were returned on 11/3/2004 and that the signature of the envelope containing an untabulated ballot was verified as matching the signature in our election management and voter registration system and the voter was credited. The envelope containing an untabulated ballot has postal indications that it was delivered through the United States Postal Service.

The ballot associated with the envelope containing an untabulated absentee ballot is from the 41<sup>st</sup> legislative district from precinct BEL 41-3140.

Dean Logan, REALS Director, who has been out-of-state this week, was informed by telephone of the discovery of this additional ballot on the evening of April 7.

Sincerely,



Don Porter  
Senior Deputy Prosecuting Attorney