

EXHIBIT N

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Re: Recently Discovered Errors

Dear Members of the King County Canvassing Board:

We understand that King County discovered this week purported errors regarding the handling of more than 560 previously canvassed and rejected ballots. The recent discovery raises serious questions regarding the processing of ballots in King County and the integrity of the election process. The Washington State Republican Party has several concerns about this discovery, and we write both to inform you of those concerns and to make some specific requests regarding the handling of these ballots.

First, until the disposition of these ballots has been fully investigated to resolve all questions of impropriety, these ballots should not be counted. As we understand the facts, these ballots have already been considered and rejected by designees of the canvassing board. As the Supreme

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Court made clear yesterday, the manual recount is a retabulation of ballots that come from the sealed containers which contain ballots that have been previously counted or tallied. As we understand it, these ballots were not in sealed containers and were not previously counted or tallied. In fact, we understand that they were affirmatively considered and rejected previously. The Court yesterday rejected the assertion that canvassing boards should revisit decisions with respect to previously rejected ballots. Such second guessing is not a part of the manual recount process rather, at this stage of the process, is more properly reserved for an election contest proceeding. In accordance with the Supreme Court's Order, the validity of these ballots cannot be reviewed a second time as part of the recount.

Second, if the canvassing board interprets the Supreme Court's Order differently and believes that it has the authority and discretion to revisit decisions regarding previously rejected ballots, the circumstances of these new ballots must be investigated prior to making any decisions as to whether they should be counted. Because the seemingly continual discovery of errors and additional ballots in King County threatens public confidence in the integrity of the election process, the canvassing board should fully investigate and create a detailed written report for the public of the circumstances surrounding this incident. We believe that such an investigation and report should address at least the following issues:

1. A Clear Explanation of the Situation: How did this happen? Who reviewed these ballots during the first count? What record is there regarding the decisions made during that count? Why was the purported problem with this set of ballots not identified during the first count? And again, why was it overlooked during the second count? Why did the County discover that this category of ballots existed only in the middle of the third count?
2. A Detailed Description of Security Measures: How and where have these ballots been stored since Election Day? What security measures were used to protect the integrity of these ballots? Were they placed in sealed containers or boxes? Are there logs of the ballot numbers? Who had custody of and access to these ballots? Were these ballots kept as a set or were they mixed in with other ballots? If they were separated, when were they separated and by whom? What records are there of the security measures actually taken by those responsible for these ballots? What individuals have knowledge of these issues?
3. A Detailed Description of the Categories of Ballots at Issue: What categories of ballots are at issue and how many ballots are in each category? How many are provisional ballots and how many are absentee ballots? How many ballots are from persons who did not sign their registration cards and who, therefore, are not properly registered voters? How many ballots are from individuals who were apparently registered but for whom the County could not locate a digital signature for comparison purposes? How many ballots are from persons for whom the County could not find any signature at all (either digital or paper) for comparison purposes? How many of the persons submitting these ballots were contacted by the County in an effort to secure a signature for comparison purposes? What records exist with respect to those contacts and

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any responses received by the County? Are there other registration issues linked to these ballots? Are records available from other sources regarding these ballots?

Because the hand recount in King County is likely to take at least another week to complete, judgments regarding these ballots should not be made in haste. The canvassing board should take the time to fully investigate the issues and create a written report of its investigation and findings.

Because the election is so close, it is conceivable that these ballots could become part of election contest proceedings. If King County ultimately decides to count all of the ballots, it would be irresponsible to cast them irretrievably into the sea of ballots already tabulated. Instead, in case it is later determined that a particular class or subclass of the ballots should not have been counted, the County should preserve the ability to retrieve these ballots by class. For example, if the ballots are counted, they should be placed in their own sealed container and labeled separately from other tabulated ballots. Furthermore, if there are clear distinctions between and among these ballots, they should be organized according to those distinctions. For example, ballots from voters who received letters from the County asking them to correct signature deficiencies should be kept separate from those who did not receive such letters. Because there are likely several ballots in each category, segregating the ballots will not undermine the secrecy of each ballot. Organizing the ballots by class will help reduce the risk that the entire election is declared void if a contest proceeding later determines that certain classes of the ballots should not have been counted but cannot be retrieved.

It is sensible to minimize that risk by taking reasonable steps now to investigate and protect these ballots. The canvassing board should have a complete written explanation – available to the public – from the appropriate elections officials and staff before taking any action. There is good reason to develop a complete factual record before acting. Public confidence in the election process requires it.

In addition to those more than 560 ballots, we now understand that King County has what has been described to us as 22 “absentee ballots” that were “recently found” in the pockets of voting machines that were already put into storage. This recent discovery raises further very troubling issues. First, how were they found, by whom, and why were they not found sooner? Second, the questions regarding their chain of custody and their security are plain to anyone and must be investigated. Furthermore, before the canvassing board can even consider these “items” (we can not be assured at this time that they are ballots), the board must contact each alleged individual absentee voter in person to directly determine issues of authentication. Only on receipt of a written report based on in-person interviews will the board be in a position to address even some of the issues posed by this “discovery.”

The names of these individuals identified as “absentee voters” should be made public immediately. While there may be legitimate explanations regarding these ballots, public trust can only begin to be restored if detailed information regarding these events is publicly disclosed prior to any action by the board. Judicial action and the formal discovery process are not the

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preferred method for ensuring public disclosure. It would certainly be better to investigate these issues now in a thorough and complete manner rather while the opportunity is available to do so.

Very truly yours,

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