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VIA E-MAIL

Suzanne Staiert
Deputy Secretary of State
Colorado Department of State
1700 Broadway
Denver, Co 80290
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RE: SOS-HAVA-07-12-0001 complaint

Dear Ms. Staiert

After testifying at the hearing held December 26, 2012 in the Colorado Secretary of State's office, I have obtained new evidence that I believe is very germane to the referenced complaint. The new evidence is contained in two files I received from Boulder County in response to an open records request. The files from Boulder County are titled "B&H Proposal" and "B&H Contract". A copy of each of these documents is attached to this same e-mail and I request that this letter and all attached documents be included in the official record relating to the referenced complaint.

Before my obtaining these two files from Boulder County I don't think very many, if any, Boulder County electors had access to a definitive description of the "Bell & Howell mail verification system used to process and sort returned mail ballot envelopes". Hereafter referred to as "B&H".

In the document titled "2012 General Election Process" by "Boulder County Elections Division – September 2012" I find only three references to B&H. The first is under "Acronym Guide and Definitions:" on the second page and the second and third references are on the fourth page in paragraphs 3) and 5) under the heading of "Mail/Mail-in Voted Ballot Processing". This is a very vague description for a very significant part of the "Voting System" as defined in Rule 11.1.14

The description given in the "B&H Proposal" and "B&H Contract" files are much more than I can address totally in this letter. It would be best if all interested parties read and attempt to understand both of these documents in detail. Following are some very major points that are applicable to the reference complaint.

1. The Automatic Signature Verification (ASV) is a significant capability of the B&H as it is mentioned throughout the B&H Proposal document and the B&H Statement of Work (SOW). The SOW is contained in the B&H Contract file. The ASV was also included on the PO (which is also in the B&H Contract file) and in the total purchase price. So it is my understanding that ASV was in fact purchased and installed as part of the delivered B&H system.
2. I do not know for an absolute fact that the ASV function was tested or actually used in the 2012 General Election in Boulder County. I asked several key people in the Ballot Processing Center in the Boulder County Clerk's office and could never get an answer. Since Boulder County purchased the ASV capability, I am assuming it must have been used in the Election.
3. If the ASV was used to any extent, it should have been tested by B&H as part of the delivery acceptance tests. I asked the County for any test results of the B&H acceptance tests and was told several major points:
 - a. That I would need to provide a deposit of \$7,500 before they would start searching for any test results, which may not be available until the end of the first quarter of 2013 if they even exist.
 - b. In the B&H SOW, as Exhibit B, is a document titled "Acceptance Certificate". I asked for a copy of that form that was completed and signed off. I was told that no such document exists. In paragraph 10.2 in the B&H SOW it references this exhibit as the "Acceptance Criteria".
 - c. So based on the fact that I find no evidence of any successful consolidated test results and in the absence of the referenced completed "Acceptance Certificate", I am led to believe there has not been a complete successful test performed on the B&H system. And Election Rule 29.12.1 states **"A county clerk and recorder who chooses to use a signature verification device to process mail-in or mail ballots in according with sections 1-7.5-107.3 or 1-8-114.5 C.R.S., shall conduct acceptance testing on the device prior to its use in an election"**.
4. The third bullet under paragraph 3.1.3 of the B&H SOW states the VBM (Vote By Mail) Data Review Client Software will "Display up to four pairs of signature images (each pair consisting of the "wet" signature image captured from the ballot envelope and the corresponding image of the official signature record on file) along with the result from the Automated Signature Verification process".
5. The fourth bullet under paragraph 3.1.3 of the B&H SOW states in part, "Enable authorized users to modify the automatic verification result, since envelopes that are below the set threshold will need a user input to authorize acceptance".

- a. Both numbered paragraphs 4 & 5 above state that the manual part of the signature Verification Process is supplied with data generated by the Automated Signature process. This connection between the automatic and manual process agrees with the observed operation by many of the Watchers that observed the signature verification process and can be confirmed by reading the numerous watcher reports. Watchers, including myself noted that what appear to be the **default** option presented to the operators performing the manual verification was not always the same. Therefore the ASV system was making some level of determination before presenting options to manual operators.
- b. Now that it is established that the ASV process was not only installed but was making determinations at some unknown level I have several questions:
 - i. Were any signatures accepted automatically that should have been rejected in violation of Rule 29.12.2?
 - ii. We don't know the accuracy of the ASV process since we have no indication that successful testing was performed on the B&H system.
 - iii. Were any signatures rejected automatically that should have been accepted?
 - iv. How do we know the subsequent processes related to any Mail-In-Ballot Envelope were correct when there was not proper testing for this condition?

In summary

1. The B&H system supplied to Boulder County had Automatic Signature Verification installed and appears to have been actively operating on all Mail Ballot Envelopes.
2. Notes in watchers reports confirmed the ASV was active.
3. The accuracy of the ASV process and all other processes performed by the B&H system is unknown because there is no proof that testing was successfully performed.
4. If the SOS had required testing / certification on all parts of the "Voting System" as requested in the complaint before the election then maybe Boulder County would not have violated the law and created so many questions about the integrity of all Mail-in-Ballots cast in Boulder County.

5. Boulder County got what they asked for with such a late installation and cut off of problem resolution just 2 weeks before the Election. The cutoff was stated in the B&H SOW. And I witnessed problems still occurring the day before the election.
6. There are many other problems I noted in the two files however I don't have the time to address them in this forum right now.
7. **The SOS must require testing and certification of ALL automated equipment involved in any way in the mail-in-ballot processing path. This requirement was presented and identified in HAVA complaint SOS-HAVA-07-12-0001.**

I am strongly hurt by the fact that the integrity of my ballot, along with about 180,000 others, were not protected in Boulder County. I have no way to know the net value of my vote. Was it inflated or deflated by improper processing of both legitimate as well as illegitimate ballots? Did a single illegitimate voter totally nullify my vote? I know we can't be perfect but the Boulder County Election was far from perfect. So all we can do is cure the identified problems before damage occurs then move onto the next.

Let's prevent problems from reoccurring. The lack of certification of the Mail Ballot Component has been exposed and there is no excuse in letting it happen again!

Sincerely

James August

Attached: B&H Proposal
B&H Contract

Cc : Al Kolwicz