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August 29, 2010

Lt. Gov. Craig Campbell
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Gail Fenumiai, Director
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Re: Second Campaign Observer Complaint

Dear Lt. Gov. Campbell and Ms. Fenumiai:

On behalf of the Joe Miller Campaign, I am writing to you in your capacity as the chief administrator over elections. We are asking for an investigation into possible vote tampering by a Murkowski observer, and we are further asking that you dispatch State Troopers to all five Regional offices where the ballots are being counted to enforce and protect the integrity of the electoral process. Below are the facts we have been told that causes us to make this request, which we consider urgent in light of the pending vote count.

There was another incident, this time in the Mat-Su Division of Elections office, involving ballot observers designated by the Murkowski Campaign. (Initially the lead Murkowski representative stated that he was there on behalf of the Alaska Republican Party, then later changed that statement).

On Friday, August 27, 2009, at the Mat-Su Division of Elections Office, the Miller Campaign had four ballot observers assigned to review Districts 15 and 16, consisting of Noel Devries, Richard Hand, Grace Van Diest and Kim Swanson. The first Murkowski observer was Terry (we are deliberately omitting last names of the Murkowski observers as this is a public document, but we can provide these names to you, and Gail has the sign in sheet with the names as well). Terry but was joined 40 minutes later by Mike to assist Ms. Murkowski.

The Division of Elections on site manager, Katrine, gave detailed instructions to the people in the absentee ballot room and the questioned ballot room. There is no question that voter privacy was to be

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maintained. Each observer has to sign a document pledging to adhere to the confidentiality of the voter information. The Division forbids outside bags, backpacks or materials to be brought into the ballot observation room. In spite of the clear instructions, Murkowski observer Mike attempted to bring in a large bag but was stopped by a Division of Election official. The effort to even try to bring a bag into this area was concerning, since that is one way ballots could “appear” or “disappear.”

Then, Murkowski observer Mike insisted that he had the right to access the Division of Elections computer database and “check voter records.” Over the Miller Campaign’s objection, Mike was allowed to use the state computer for 20 minutes before Division Director Gail Fenumiai fortunately ordered him off the state computer. For 20 minutes this Murkowski observer was in the state’s voter records viewing private information and, we are told, accessed the state’s election management system. Katrine explained to those present that allowing observers access to the Division of Election computers compromises voter privacy, since it displays Social Security numbers, dates of birth and drivers license numbers and other information. That is true, and bad enough.

But there is also another aspect of Mike’s use of the state’s election computer. As you know, Alaska uses electronic voting. The Diebold software contains vulnerabilities that may allow someone to install malicious software to miscount votes. In an election security report to the Lt. Governor submitted in 2007, it was noted that someone could “alter[] election results” by installing software. Further, software installed into the election management system could lead, according to the report, to “large scale election fraud.” It was further noted that:

Anyone with access to [the] GEMS server could tamper with ballot definitions or election results

Accordingly, the fact that a Murkowski observer had access to the Division of Elections GEMS server is beyond troubling. The following information from the security report demonstrates how serious this breach may be:

An attacker who has temporary physical access to a memory card—or control of any machine into which a memory card is inserted—can place his own malicious software update files on the card, and this software will be installed on any AV-TSX machine that is booted with that card in place.

Alternately, an attacker with unsupervised physical access to the machine for as little as a minute could replace the installed memory card with one containing a malicious software update prepared earlier, boot the machine to install the update, and then reinsert the original memory card. This attacker would need to bypass the lock on the memory card door, but we were notified by the Red Team that this can be accomplished quickly using only a ball-point pen. . . . The machine does not maintain a log of software updates installed via this mechanism.

This is a close election. Even just a few ballots illegally tampered with could alter the outcome. How can Joe Miller, and the thousands of honest voters in Alaska who voted for him, have confidence in the

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result if a Murkowski observer had 20 minutes of unfettered access to the State's GEMS server? And the state's own report states tampering can be accomplished within a minute. How do we determine if software was not installed? Does this not require a hand count of each ballot at this point or an IT audit to verify that no information was accessed, no software installed and no virus exists in the system? We need to know whether the AV-TSX software update mechanism has an authentication mechanism prior to accepting updates. If not, the system may accept the virus as simply an update to the program.

In any event, after being kicked off the state's server, this same Murkowski observer pulled out his iPhone. The rules, again, are clear, that observers cannot take pictures of ballots or text confidential voter information from inside the ballot room. A member of the Division review board, Lynn, instructed this Murkowski observer to put the phone away and stop texting information. According to eye witness accounts, Mike openly texted while reviewing voter info, in spite of the briefing by the division, and the rules set forth in the observer handbook. Kim Swanson asked a state poll worker to intervene, and that employee again told Mike to put away his iPhone. He refused, and then resorted to holding the iPhone under the table by his lap to hide his texting. After his iPhone battery apparently died, Mike was then observed writing information while reviewing records.

At the end of the process, Kim Swanson was collecting the voter info sheets to give to Katrine to shred. Murkowski observer Mike did not turn in all his voter info sheets from Districts 15 & 16. That was not realized until the District 15 & 16 team was done and offered to take a batch of District 13 & 14 ballots. Kim noticed that there was an additional sheet on Mike's side and requested that he pass that down along with the finished District 13/14 sheet. Kim Swanson was concerned that Murkowski Observer Mike may have written down voter information in his observer handbook, because he was openly referencing his voter information sheet as he wrote in the book.

Kim Swanson then met with Division administrator Katrine about the issue, and Katrine investigated this and went to the questioned ballot room and brought Mike's handbook out. She discovered voter ID information written on the back of it. Katrine tore off the back cover of Mike's book and held on to it.

Based on this information, which you can verify with your Division personnel, Kim Swanson and Richard Hand, we urgently ask for your review and we ask that State Troopers be posted at each regional office until the ballots are secured.

Very truly yours,



Thomas V. Van Flein

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