



State of New York  
**STATE BOARD OF ELECTIONS**

Neil W. Kelleher  
Chair  
Douglas A. Keller  
Chair  
Helena Moses Donohue  
Commissioner  
Evelyn J. Aquila  
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Todd D. Valentine  
Executive Director  
Stanley L. Zalen  
Executive Director  
Allison M. Carr  
Special Counsel  
Paul M. Collins  
Deputy Counsel

February 6, 2008

Hon. Kimberley A O'Connor  
Supreme Court Chambers  
112 State Street, Room 1360  
Albany, New York 12207

Re: Premier Elections Solutions, LLC v. New York State Board of Elections, et al.

Dear Judge O'Connor,

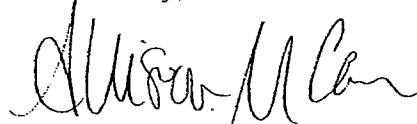
I represent the New York State Board of Elections in the above referenced matter. Douglas A. Kellner, Neil W. Kelleher and Helena Moses Donohue are Commissioners of the State Board with offices located at 40 Steuben Street, Albany New York. The State Board is responsible for the administration and enforcement of all laws relating to elections in the State of New York. Pursuant to the Election Law §7-202 and the State Board's regulations found in Title 9 NYCRR §6209.4, the State Board is required to determine whether a voting system shall be considered for certification and the applicant shall be notified of such determination.

On January 24, 2008, the only vote taken with regard to the Premier AutoMark was whether or not the machine, with the proposed modification, would satisfy the requirements of § 6209.4. Commissioners Kellner, Kelleher and Donohue voted unanimously to find the Premier Automark only to be in compliance with the requirements if it was modified. The Board delegated the authority to determine if the modifications in the ballot marking device were sufficient to the Co-Executive Directors.

On January 29, 2008, the Co-Executive Directors reviewed the Premier AutoMark portion of their voting system, as modified, to determine if it complied with the ballot display provisions. The Co-Executive Directors reviewed the modifications as offered by Premier and were "constrained to find them to be non-compliant by a split determination, Stanley Zalen voting that the modification is compliant and Todd Valentine voting that the modification is not compliant." See Ex B. Joint Letter of Co-Executive Directors Stanley Zalen and Todd Valentine.

Due to the differences in the Commissioners' position on this matter, with Commissioners Kelleher and Donohue's decision to only accept the Petitioner's system on the condition that it was modified to meet the full face ballot requirement and Commissioner Kellner's position that the modification was unnecessary, combined with the Co-Executive Directors' split of the vote on the modification issue, no unified position may be taken by the New York State Board of Elections, rather, all four individual Commissioners who comprise the State Board of Elections are fully represented by Board Counsel, namely myself and Paul Collins.

Sincerely,

A handwritten signature in black ink, appearing to read "Allison M. Carr". The signature is fluid and cursive, with the first name being the most prominent.

Allison M. Carr  
Special Counsel

AMC/mer