

THE STATE OF NEW HAMPSHIRE

BALLOT LAW COMMISSION

BLC No. 99-2

Complaint of Joseph S. Haas, Jr.

**MOTION OF THE SECRETARY OF STATE TO DISMISS CLAIM UNDER  
RSA CHAPTER 91-A AND TO STRIKE "NOTICE OF CLAIM FOR ADMISSIONS"**

NOW COMES the New Hampshire Secretary of State, through counsel, and moves the Commission to dismiss the petition to the extent it purports to rely on RSA ch. 91-A (the "Right-to-Know" law), because the Commission lacks jurisdiction to hear a claim under that statute and to strike the Notice of Claim for Admissions directed to the Secretary of State by the petitioner.

1. As indicated in the papers submitted by the petitioner, he requested from the Secretary of State copies of all of the checks used to pay the filing fees of the individuals who wished to appear on the ballot in the presidential primary election to be held in February 2000. In his "Claim for Hearing," the petitioner alleges that the Secretary of State had not responded to the request under RSA ch. 91-A. That allegation was false when it was made as the Secretary of State responded to the request by letter dated November 17, 1999. A copy of the response is attached hereto.

2. In any event, the Commission does not have jurisdiction to hear the claim. RSA 91-A:7 vests jurisdiction over such complaints exclusively in the Superior Courts. Nothing in the Commission's statute purports to include claims under RSA ch. 91-A and the claim must be dismissed.

3. The petitioner has also served on the Secretary of State a document entitled "Notice of Claim for Admissions." The meaning of the statements contained in that

document is not clear. They appear to have something to do with the petitioner's deeply held belief that the Secretary of State may not accept checks from candidates to pay their filing fees.<sup>1</sup> In any event, the Secretary of State should not be a party to this proceeding and the Commission has not authorized the taking of discovery from any person. It certainly has not authorized requests for admissions directed to the Secretary of State. Accordingly, the "Notice of Claim for Admissions" should be struck from the record.

WHEREFORE, the Secretary of State respectfully requests that the Commission (a) dismiss the Petition in this matter to the extent that it purports to be brought against the Secretary of State, (b) strike the Notice of Claim for Admissions that was served on the Secretary of State, and (c) grant such other relief as is just and proper.

Respectfully submitted,

WILLIAM GARDNER, SECRETARY OF  
STATE OF THE STATE OF NEW  
HAMPSHIRE,

By his attorneys,

PHILIP T. McLAUGHLIN  
ATTORNEY GENERAL

December 16, 1998



---

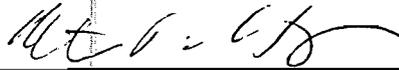
Martin P. Honigberg  
Senior Assistant Attorney General  
Civil Bureau  
33 Capitol Street  
Concord, New Hampshire 03301-6397  
(603) 271-3658

<sup>1</sup> The Secretary of State notes that checks are accepted routinely by State agencies and offices as methods of payment. Indeed, RSA 6:11-a concerning the State Treasurer assumes such authority. Cf. RSA 93-A:1, II ("instruments of payment" include checks, drafts, and orders).

**Certification**

December 16, 1998

I certify that a copy of the foregoing was sent by first-class mail, postage prepaid, to the individuals on the attached service list. Additional copies of the foregoing will be brought to the hearing in this matter.



---

Martin P. Honigberg

132948