

**STATE OF NEW HAMPSHIRE**  
**BALLOT LAW COMMISSION**

**Petition of Keith Hirschmann**

**BLC 2006-8**

**ORDER**

The Secretary of State received a request for hearing from Keith Hirschmann (the “Petitioner”). Petitioner has challenged the Secretary of State’s interpretation of several ballots and requested that the Ballot Law Commission (the “Commission”) to review the Secretary of State’s interpretation of voter’s intent. In addition, the Petitioner seeks a new election pursuant to RSA 656:16, alleging that the absentee ballots were not printed in uniform type, and Mr. Hirschmann’s name was smaller than the other candidates on the ballot. The Petitioner also sought a determination regarding six absentee ballots that he argued were missing based on the number of absentee ballot envelopes for Wards 10, 11 and 12 in Manchester.

The Ballot Law Commission (“the Commission”) held a hearing on December 5, 2006. At the hearing, the Petitioner was represented by Attorney Joseph Kelly Levasseur. The Democratic Party was represented by Attorney Paul Twomey. The Secretary of State appeared on his own behalf, and was represented by Attorney Anne Edwards.

## REQUEST FOR NEW ELECTION

Petitioner also seeks a new election, on the theory that his name was printed in smaller type than the other candidates on the absentee ballots. RSA 656:16 states:

There shall be no impression or mark to distinguish one general election ballot from another. The names of all candidates shall be printed in uniform type, and the ballots for each town and city shall be such that their width and length when folded shall be uniform.

The Commission voted unanimously that it did not have jurisdiction. Pursuant to RSA 665:8, II, "Nothing contained in this paragraph shall be construed to bar any person from recourse to the superior court on other questions, within the jurisdiction of such court, relating to the legality or regularity of general elections or the results thereof." The Commission voted that the recourse for the Petitioner was the Superior Court.

## SIX BALLOTS

The Petitioner argued that the Commission should make a finding that six absentee ballots were missing from the recount with the Secretary of State. The Petitioner did not allege the ballots were lost after being shipped to the Secretary of State, but instead that they were lost before being shipped to the Secretary of State. The Petitioner's claim was based on the presence of 6 more absentee ballot envelopes from voters in Wards 10, 11 and 12 than the number of absentee ballots for those wards.

After hearing testimony, the Commission voted that, as to the allegation of there being six ballots fewer than the number of envelopes, the Commission has not evidence on which it could affect the count, and therefore has not remedy to apply under RSA 665:8.

## CHALLENGED BALLOTS

The Commission reviewed twelve (17) individual ballots Wards 10, 11 and 12 in Manchester. Each contested ballot for each ward was individually numbered beginning with 1 for each ward.

After hearing testimony regarding the 6 ballots in Ward 10, the Commission voted to uphold the Secretary of State's determination for all 6 ballots.

After hearing testimony regarding the 4 contested ballots in Ward 11, the Commission voted to uphold the Secretary of State's determination for ballots 1, 2 and 4. The Commission voted to reject the Secretary of State's determination for ballot 3. Specifically the Commission could not determine the voter's intent, and did not count any vote for the ballot.

After hearing testimony regarding the 7 contested ballots in Ward 12, the Commission voted to uphold the Secretary of State's determination for all 7 ballots.

## SECRETARY OF STATE'S CERTIFICATION

The Commission voted to uphold the certification of the following candidates: Beaulieu, Forest, Brunelle, Katsiantonis, Messier, Winters, Mesa and Soucy.

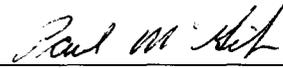
## CONCLUSION

Wherefore, the Ballot Law Commission hereby upholds the Secretary of State's ballot counting in Wards 10 and 12 in the City of Manchester, and upholds the Secretary of State's ballot counting on ballots 1, 2 and 4 in Ward 11, and overrides the Secretary of State's counting of ballot 3 in Ward 11.

The Commission notes their decision does not change the election results.

New Hampshire Ballot Law Commission

Date: December 5, 2006



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Gary Francoeur, Chairman  
Charles Chandler  
Bradford E. Cook  
Stephen Duprey  
Paul McGuirk