

AFFIDAVIT

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF VIRGINIA BEACH, to-wit:

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11/5/09
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THIS DAY personally appeared Philip J. Kellam, who first being duly sworn before the undersigned, a notary public in and for the City and State aforesaid, deposes and states that the following statements are true and correct to the best of his knowledge and belief:

1. I am over the age of eighteen and am competent to testify in a court of law.
2. I am the Commissioner of Revenue for the City of Virginia Beach, Virginia.
3. At 9:07 p.m., I arrived at the Virginia Beach City Registrar's Office and entered through the back door. I walked to the front reception area and spoke with Ollie Bates, VBCC Chair, and inquired about the status of the absentee votes in the 21st District. Ollie had no results.
4. At 9:10 p.m., I called Kristina at 540.250.0181 for clarification of my rights and the documentation that gave me those rights.
5. At 9:25 p.m., Rachel Bates e-mailed Promote and Protect the Vote-Campaign Information.
6. I asked to speak with Pat Harrington, Registrar and she came out about five (5) minutes later.
7. I told Pat that I wanted to witness the absentee ballot review and tally. She first said, "you can't," and then added, "I think it's finished or almost or almost finished". I said that I wanted to see her documentation on any rejected ballots and

wanted photocopies of the envelopes. She said, "I can't give you that." I asked for a copy of her procedures for processing and rejecting absentee ballots. She said it was "whatever the state guidelines are."

8. I pressed and said, "what are your local procedures?" and she responded, "no voter or witness signature renders it rejected" and offered to print me a copy of the SBE guidelines and went back into the internal area of her offices.

9. I called Kristina/Rachael mistakenly about a text message from Mark Henson, but then asked for the cite in the Code of Virginia (§24.2712).

10. On 9:45 p.m., and again at 10:08 p.m., Rachael Bates sent pertinent cites, and around 9:50p Pat dropped of SBE Substantial Compliance as it applies to the Statement of Voter and Roger Schaeffer reviewed it while I was on the phone.

11. I called Becky Grandi for assistance in printing the documents that I received from Kristina/Rachael and bringing copies of them by the Registrar's Office.

12. Roger, Ollie and I discussed our status and Ollie related that a Republican witness to the absentee ballot count had just come down the back steps and said, "Ron won by 16 votes after the absentee votes were counted."

13. I then asked Roger to accompany me upstairs to the absentee ballot counting room and asked Ollie to stay and get the printed documents that Becky was bringing over.

14. Roger, his wife and I entered the absentee ballot counting room and people were curious to our presence there. I said that we were there to see the absentee vote count and inspect any ballots that were rejected.

15. It was apparent this was distressing to the official with glasses as he began to move about the room looking for something. He asked for us to wait there and he would be with us in a few minutes.

16. The workers were very tired and lulling around so I sat down among them and began small talk.

17. A female election official came around and asked a lady in pink if she had the documentation for her rejected ballot. She said, "No" rather emphatically.

18. The man with glasses removed documents from the table in front of me, returned to where the managing officials were huddled and then quickly returned to look through a trash can behind us, retrieving several sheets of paper.

19. During that time, I had received a call from Becky and she proceeded to bring the printed document directly upstairs. She then witnessed the female election official that had questioned the lady in pink earlier begin rustling through the same trash can the man with glasses had just retrieved papers from.

20. Becky took a picture of the official looking through the trash.

21. About 10 minutes later, after reading the docs Becky had provided and noticing the managing officials had yet to reach resolution, I asked Roger to accompany me to get a report from Pat and relate our concerns.

22. I related my concerns about the inconsistency of the absentee vote tabulation process and the accounting for rejected ballots.

23. Pat assured me all the information would be available during the canvass tomorrow.

24. I related that I was extremely disturbed that a Republican witness had come downstairs and told Ollie that after the absentee tally that Ron had won by 16 votes. To which she said, "you should be concerned."

25. I asked if Roger and I were allowed in the canvass tomorrow and she said, "Yes, anyone is allowed."

26. Roger, Roger's wife, Ollie, Brandon and I went back downstairs and I asked that we congregate outside and review.

27. I then participated in the conference call.

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing document are true and correct to the best of my knowledge, information, and belief.

Dated: November 5, 2009

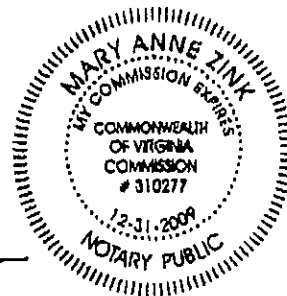
Philip J. Kellam
PHILIP J. KELLAM

Subscribed to and sworn to before me this 5th day of November, 2009.

Mary Anne Zink
Notary Public

My Commission Expires: 12/31/2009
My Registration No. 310277

CERTIFIED TO BE A TRUE COPY
OF RECORD IN MY CUSTODY
TINA E. SINNEN, CLERK
CIRCUIT COURT, VIRGINIA BEACH, VA
BY Tina E. Sinnen
DEPUTY CLERK



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11/5/09
FBL

AFFIDAVIT OF GERARD T. SCHAFER

THIS DAY personally appeared before me, a Notary Public, Gerard T. (Roger) Schafer, who made oath as follows:

1. My name is Gerard T. (Roger) Schafer and I currently reside at 4856 Berrywood Road, Virginia Beach, VA 23464.


2. I arrived at the registrar's office between 9:15 and 9:30 on the night of Tuesday, November 3, 2009 along with my wife, Marie. When we arrived Ollie Bates, the Virginia Beach Democratic Committee Chair, Phil Kellam, Commissioner of the Revenue, and Brandon Pinette, a Democratic election worker were present. Marie and I were speaking with Ollie Bates and I overheard Phil Kellam talking to Pat Harrington asking about whether the absentee ballots were being counted and whether we could witness that. Ms. Harrington stated she was uncertain as to whether the absentee ballots were still being counted or not. I heard Phil Kellam ask Pat Harrington what the procedures were for the absentee ballots and that answer was the they follow that state guidelines. Phil Kellam also asked whether we could watch the absentee ballot review. Shortly thereafter, a young male who was a Republican witness came up and had a short conversation with Ollie that myself, my wife and Brandon Pinette overheard in which he told Mr. Bates that now Villenuava was ahead by 16 votes after counting the absentee ballots. At that point, Phil Kellam, Brandon Pinette, my wife, and myself went upstairs to the room where the absentee ballots were being counted. When we entered the room, there were many election workers sitting around who had finished their work or were waiting for further direction. There were several individuals standing at the far end of the room around a table looking through some papers and documents A male election official with glasses came over to where we were standing in the entrance way of the room and asked what we were doing. Phil Kellam told him

that we were there to witness the absentee counting. He told us to wait there. We asked him what was going on at the current time and he looked very distressed and said words to the effect that there was some kind of issue or problem. He then went back to the far end of the room at the table where the other workers were standing. He then came back to near where we were standing by the doorway looking around and went through some papers. There were some papers strewn about some of the tables in that back and one that looked like some kind of print out or receipt type tally sheet from the polls sitting on a back table. At that point, a young lady came back and was going through the trash can in the back of the room and then the male official also went through the trash can. The male election official appeared very distressed as he was looking through the trash. He did retrieve several pages of paper from the trash. I asked the young lady what they were doing and she said that she was recycling and I asked, "Was he recycling," and she indicated that she did not know what he was doing. The male election official then took the documents to the front of the room. The election workers that were sitting around were asked by one of the election workers if they had documented reasons for rejecting absentee ballots and one lady said no she didn't mark the reasons. Shortly thereafter, I accompanied Phil Kellam to the front of the room. Phil had a conversation with Pat Harrington where he indicated his concerns about the inconsistency in the way the absentee ballot process was being conducted and the confusion that was apparent. Ms. Harrington indicated that they had been searching for a document upon which the reasons for rejection of ballots was to be documented by an election worker. Ms. Harrington said they had discovered that it had not been done. Phil indicated to Pat that the republican worker had made the statement that the republican candidate was now leading and indicated that we were concerned that he had known that information. Ms. Harrington replied, "you should be concerned."

During our wait, several workers made statements to the effect of what are these people doing here and, "[t]hey shouldn't be here."

Although the male election official was told by someone that the absentee ballots had swung the voting to candidate Villanueva's favor by 16 votes, we as representatives of the Democratic Party were never told that was the outcome of the votes.

AND FURTHER the Affiant sayeth naught.



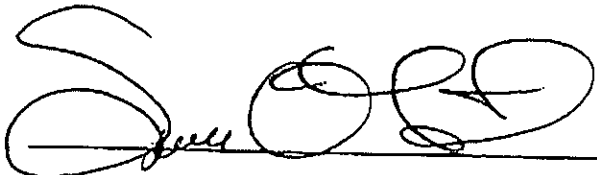
Gerard T. Schafer

COMMONWEALTH OF VIRGINIA,

COUNTY OF Virginia Beach, to-wit:


Subscribed and sworn to before me by Gerard T. Schafer this 5th day of November, 2009, in testimony whereof I have here unto set my hand and seal this the day, month and year aforesaid.





Notary Public, ID # 1084452

My commission expires: 10-31-2011

CERTIFIED TO BE A TRUE COPY
OF RECORD IN MY CUSTODY
TINA E. SINNEN, CLERK
CIRCUIT COURT, VIRGINIA BEACH, VA
BY 

DEPUTY CLERK