

November 2, 2020

Via Email Only

Bradley Seaman
Missoula County Elections Administrator
140 North Russell Street
Missoula, MT 59801
bseaman@missoulacounty.us

**RE: VOTE COUNTING AND BALLOT RESOLUTION INFORMATION
REQUEST**

Greetings:

We represent Brad Tschida. Mr. Tschida is seeking public information pursuant to Mont. Code Ann. § 2-6-1006. The statute provides that “a person¹ may request public information from a public agency.” On this authority, Mr. Tschida requests the following:

Vote Counting Machine Malfunction Records

Over past elections there has been a particular phenomenon repeated and noted in Missoula County with the ballot-counting process. It is this: Ballot totals begin to be reported soon after the polls officially close. More numbers continue to be added to the reported totals. Then, about 10:30 or 11:00 p.m., it is reported that there is a problem with the counting computers, that the computers are down, and that election officials are working to remedy the problem. Subsequently, it is reported that the computers are fixed and running again. In many races, however, the candidates who were once ahead before are now losing and by almost exactly the same percent as they were previously ahead.

The concern is that during the computer fix by election officials the vote totals were somehow switched. Many have wondered how this could have been done. It may be about programming the computers. As Mr. Tschida understands it, the scanners and

¹ See Mont. Code Ann. § 1-1-201 defines a person as “a corporation or other entity as well as a natural person.”

attached computers don't actually count votes. They count marks at certain physical positions or locations on the ballot page. Montana law requires that the position for candidates must be rotated for each precinct, so the same candidate is not first on the ballot in every precinct. So, the counting computer must be programmed to know what precinct the ballot is from and which candidate is printed at the first position, which at the second, etc. This is controlled by the bar code on each ballot, which the scanner/computer reads to credit a mark on a ballot to a particular candidate for a certain location.

Therefore, whomever controls the programming that instructs the computer about which candidate to credit for a mark at a certain position on each ballot, in concert with the bar code for that ballot, can control the election. Thus, there needs to be a way to verify that the original programming of the computer is initially valid, and that this programming doesn't change when the computer gets "fixed" during the breakdown.

With this in mind, Mr. Tschida requests access to your records generated during any mid-counting malfunctions of vote counting machines for the November 2020 general election. If such malfunctions occur, he requests access to all information technology service request and service tickets; all ballots included in any machine malfunctions; all machine coding as it was drawn before the malfunction and all coding as it was written afterward; all emails between election office staff regarding any vote counting machine malfunctions; emails between election office staff and third-parties regarding any vote counting machine malfunctions; and any other documents generated in the process of detecting and resolving vote counting machine malfunction issues.

Resolution Committee Records

Mr. Tschida understands that any ballots of questioned voter intent are resolved by Resolution Committees in a locked room that is not open to public observation. As he understands it, there are seven, three-person committees who serve in this capacity. Each committee is supposed to be comprised of one Democrat, one Republican, and one person unaligned. Mr. Tschida requests access to records from the Resolution Committees for the November 2020 general election, including, without limitation, (1) all records including written, email, audio, or text that identify the committee members by name and party affiliation; and (2) email messages between Resolution Committee members and election office officials, with one another and with third parties, regarding their service, process, or findings on the Resolution Committees. Mr. Tschida also requests access to, for inspection and photo capture, all questioned ballots resolved by the Resolution Committees.

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This letter is being sent via email from qmr@montanalawyer.com and is being copied on local and other news outlets as well as the Missoula County Attorney and the Montana Attorney General.

We thank you in advance for your anticipated cooperation.

Sincerely yours,
RHOADES SIEFERT & ERICKSON PLLC



Quentin M. Rhoades

cc: Client
As stated