



M. W. Cockrell, III (SC)
Jason B. Turnblad (SC)
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*of counsel
+Board Certified: Oil, Gas & Mineral Law
Texas Board of Legal Specialization

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2012 NOV 19 AM 9:40
SOUTH CAROLINA
ELECTION COMMISSION

November 19, 2012

VIA HAND DELIVERY
Ms. Marci Andino
Executive Director
State Election Commission
2221 Devine Street, Suite 105
Columbia, South Carolina 29205

RE: Yow v. Vick and Powell, SC House District 53

Dear Ms. Andino:

I hope this letter finds you well and in good spirits. Enclosed please find the original and three copies of an Election Protest on behalf of candidate Richard Yow with regard to the 2012 General Election of S.C. House of Representatives District 53. Please file the original matter and return a file stamped copy to me via our courier.

By copy of this letter, we are hereby serving a copy of the Election Protest on the Respondents.

Thank you,

Very truly yours,

M. W. Cockrell, III
MWC/sc

Enclosures

cc: Ted Vick
Phil Powell
Lois Burr, Executive Director, Chesterfield County Board of Elections

STATE OF SOUTH CAROLINA
BEFORE THE STATE ELECTION COMMISSION

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SOUTH CAROLINA
ELECTION COMMISSION

RICHARD YOW, Candidate for)
SOUTH CAROLINA)
HOUSE of REPRESENTATIVES)
District 53,)

Protestant,)

vs.)

ELECTION PROTEST

Chesterfield County Election)
Commission and Voter Registration)
(aka Chesterfield County Board of)
Canvassers), Phil Powell, Petition)
Candidate for South Carolina House of)
Representatives District 53, and)
Ted Vick, Democratic Party Candidate)
for South Carolina House of)
Representative District 53,)

Respondents,)

In Re: South Carolina House of)
Representatives District 53 Election)
Held this November 6, 2012)
_____)

TAKE NOTICE that pursuant to S.C. Code §§ 7-17-30 and S.C. Code §§
7-17-260, Protestant Richard Yow (hereinafter "Yow"), the Republican candidate for the
South Carolina House of Representatives District 53 election, by and through his
undersigned counsel, hereby files this Election Protest of the election results for District
53 in the General Election held on November 6, 2012. Yow protests the 2012 General
Election results for the State House District 53 on the following grounds:

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1. Yow is the Republican candidate offering for election in the 2012 General Election for South Carolina House of Representatives District 53, which is located in Chesterfield and Lancaster Counties.
2. The opposing candidates in South Carolina House of Representatives District 53 election are Respondents Phil Powell and Ted Vick.
3. According to the certified results for the 2012 General Election for South Carolina House of Representatives District 53 from the Chesterfield County Board of Elections and Voter Registration, Yow received 4,559 votes; Vick received 5282 votes and Powell received 1,500 votes, the Lancaster County returned results with Yow receiving 620 votes; Vick receiving 345 votes and Powell with 43 votes; leaving a difference of 448 between candidate Vick and candidate Yow.
4. The South Carolina State Election Commission convened and certified the results of this 2012 South Carolina House of Representatives District 53 election.
5. Upon information and belief, numerous material irregularities, errors and problems affected the results of this election. Moreover, these irregularities, errors and problems rendered doubtful the result of the 2012 General Election for South Carolina House of Representatives District 53.
6. Upon information and belief, in excess of 2,000 illegal/improper votes were cast in the South Carolina House of Representatives District 53 election by a combination of (a) voters who were no longer domiciled within District 53 as of November 6, 2012 and were thus ineligible to vote in this election; (b) voters who moved to a different precinct within the District prior to November 6, 2012, thus making them

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eligible to vote only a fail-safe ballot pursuant to S.C. Code § 7-5-440, which by definition means such voters were ineligible to vote in the House District 53 election; (c) absentee ballots that were cast illegally and in violation of the statutory procedures required by law; (d) S.C. Code § 7-13-680 requires the use of one voting machine per 250 registered voters, the County Election Commission did not maintain the correct number of machines and rather than comply with the statutory requirements; the Commission made voting machines available and allowed voting at improper and illegal times (e) § 7-13-1750 was not complied with and the voting machines were not purged the absentee votes and as a result numerous absentee votes were counted twice; and (f) the existence of more votes case in the House District 53 election than registered voters who presented themselves and signed the voter's oath on the General Election Poll list in at least one precinct of House District 53, thus resulting in a ballot discrepancy that renders the outcome of this election doubtful.

7. South Carolina Code § 7-13-1750 requires that the County Election Commission notify the Chair for the respective party to schedule a review of the voting machines to confirm proper operation and that the machines are clear, in good working order and not subject to misappropriation of votes.
8. Jack Parker is the Chairman for the Republican party and the person to be notified of the same; to date he has received no invitation from the County Election Commission to review the voting machines.
9. The absentee ballots returned show October 22, 2012, Reported 504; October 26, 2012, Reported 738; October 29, 2012, Reported 869; October 31, 2012,

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Reported 1112; November 2, 2012 at 1130am, Reported 1170 ;November 2, 2012 at 445pm, Reported 1197; November 5, 2012 at 1115am, Reported 2282; November 5, 2012 at 215pm, Reported 2381; November 5, 2012 at 445pm, Reported 2460. It should be noted that on November 3, 2012 with only 2 voting machines operating, over 1000 people voted absentee. The Republican party chair was not told the polls would be open and as such did not have a poll watcher. These absentee votes (over 600 of which were illegally cast) together with the votes from Monday, November 5, 2012, that were never purged/closed out and thus counted twice (in excess of 200 [excess of 400 after the double count]) creates over 800 votes and these irregularities, errors and problems in the conduct of the election for House District 53 are sufficient to render the results of this election doubtful.

10. Reviewing the voting numbers of the South Carolina Summary report it shows a total of 30,425 registered voters in Chesterfield County, with:
 - A. 7,431 registered voters in Chesterfield County District 54
 - B. 3,520 registered voters in Chesterfield County district 65.
 - C. 19,474 registered voters in Chesterfield County District 53
 - D. ***This is 5,419 more than the total of 25,006 that Chesterfield County has reported to the state.***
 - E. Ballots cast in these districts are as follows:
 - F. District 53, 13,237.
 - G. District 54, 6,638.
 - H. District 65, 4836.
 - I. This is a combined total of 24,711 ballots cast.
 - J. The county reported that 16,734 ballots cast county wide.
 - K. ***Therefore these numbers reflect that 7,977 more ballots were cast in the combined house races county wide than there were ballots counted in the county.***
 - L. ***Taken further...THE TALLY OF ALL THREE CANDIDATES on the State Summary Report for District 53 is (11,358 +281 under votes)=11,639 total ballots cast. The "TOTAL" BALLOTS CAST in the District 53 House Race as reported on the SC Official Summary Report is 13,237.***

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M. This totals 1,598 votes missing for District 53!

11. Upon information and belief, a high number of vote were cast by voters who moved their primary residences to addresses outside of House District 53 prior to November 6, 2012, which means that such votes were not eligible to vote in this election.
12. Upon information and belief, a high number of votes were cast by voters who moved to a different precinct within the District prior to November 6, 2012, thus making them eligible to vote only a fail-safe ballot pursuant to S.C. Code § 7-5-440 and not the regular ballot that they in fact cast. As a result, such voters were improperly allowed to vote in the House District 53 election, because under the requirements of S.C. Code § 7-5-440 such voters should have been allowed to vote only in fail-safe ballots containing only, federal, statewide, countywide, and municipal offices and questions.
13. As a result, more than 2000 illegal and/or missing votes were cast in the House District 53 election. Because the number of illegal votes exceeds the difference between the total votes received by each candidate respectively, these irregularities, errors and problems in the conduct of the election for House District 53 are sufficient to render the results of this election doubtful. The actions and significant in-action of the County Election Commission has ill-legitimatized the District 53 election, the same being marred with irregularities stemming from the illegal conduct of the poll managers and respective agents of the Election Commission.

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14. Moreover, the bulk of the evidence in support of this Protest is precisely the type of after-discovered evidence contemplated by S.C. Code § 7-13-810, which provides in pertinent part that “(a) candidate may protest an election in which he is a candidate pursuant to 7-17-30 when the protest is based in whole or in part on evidence discovered after the election. This evidence may include, but is not limited to, after discovered evidence of voters who have voted in a precinct or for a district office other than the one in which they are entitled by law to vote.”
15. The Protestant Yow reserves the right to supplement or amend this Protest, or otherwise, so as to expand upon any allegation contained herein or to provide any further additional allegations.
16. The South Carolina State Election Commission is authorized under the laws of South Carolina to decide protests and contests with respect to elections involving State House of Representatives, as well as to invalidate the results of this protested election.

WHEREFORE, Protestant Yow respectfully, by and through his undersigned counsel, hereby contests and protests the results and/or vote totals in the election for State House of Representatives District 53 for the above stated reasons and hereby requests that the State Election Commission invalidate the results for the November 6, 2012 General Election for State House of Representative District 53.

WHEREFORE, Protestant Yow respectfully, by and through his undersigned counsel, hereby requests that the State Election Commission order and authorize a new and special election for State House of Representatives District 53.

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WHEREFORE, Protestant Yow respectfully, by and through his undersigned counsel, hereby requests that the State Election Commission take the necessary measures to prevent similar irregularities, problems, or errors from occurring in the subsequent special general election for State House of Representative District 53.

COCKRELL LAW FIRM, PC



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Attorneys for Protestant Richard Yow

This 19 day of Nov. 2012
Chesterfield, South Carolina

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