

REPUBLICAN NATIONAL LAWYERS ASSOCIATION



January 26, 2009

The Honorable Harry S. Reid
Majority Leader
U.S. Senate
Washington, DC 20510

David Norcross
Chair

Cleta Mitchell
Co-Chair

Charles H. Bell, Jr.
President

The Honorable Mitch McConnell
Senate Republican Leader
U.S. Senate
Washington, DC 20510

Dear Senator Reid and Senator McConnell

It has come to our attention that Senator Reid has stated that "We're going to try to seat Al Franken," and "there's not a question in anyone's mind, an assertion by anyone, that there's been any fraud or wrongdoing in this election."

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Executive Director

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We write to respectfully suggest that it would be inappropriate, if not illegal, to seat Al Franken in the U.S. Senate at this time.

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Since Senator Reid seems not to have so heard, we want to bring to your attention the fact that there is belief, a question in the minds of *many*, an assertion by many, that there has been wrongdoing in this election. (We will concede that whether or not it was intentional is still open for question, but the fact that it has occurred is not, in our opinion.)

For example, the Minneapolis Star Tribune has reported that the courts determined that the "claim of double-counted ballots is better resolved in a court hearing where evidence can be presented. . . . The order allowed those disputed ballots to remain in the vote totals, at least for now." [*Minneapolis Star Tribune* 12/24/2009]

Canvassing Board Member and Minnesota Supreme Court Justice G. Barry Anderson has been quoted as saying "I do think it's a real issue, and I think it's a very good likelihood that there is double counting here." [Originally in the *Star Tribune* pulled from later editions, now at http://www.twincities.com/politics/ci_11258040]

Former Associate Dean, and current professor, at the University of Minnesota, Michael Stokes Paulsen, has made clear his doubts about wrongdoing in an opinion published in the Wall Street Journal on January 15, 2009. "Minnesota's muck of a process violates the Equal

Protection Clause of the U.S. Constitution.” [Wall Street Journal 1/15/09.]

Professor John Lott, of the University of Maryland, has stated that “the Canvassing Board’s choices will leave long lasting questions about the legitimacy of any win.” [See, <http://johnrlott.tripod.com/oped/FoxNewsMNCanvassBoard122208.html>]

Under Minnesota law there is no winner, yet. Even the Democrat Secretary of State Mark Ritchie, refused earlier this month to issue a certificate of election to Mr. Franken. “Neither the governor nor I may sign a certificate of election in the U.S. Senate race until all election contests have reached a final determination.” [http://www.startribune.com/politics/national/congress/37447194.html?elr=KArks8c7PaP3E77K_3c::D3aDhUxWoW_oD:EaDUiacyKUU]

We respectfully suggest that it would be inappropriate to seat Al Franken in the U.S. Senate when it is not clear that he has, in fact, been elected as Senator by the people of Minnesota. While we recognize the independent authority of the U.S. Senate to determine the qualifications and elections of its members, we encourage you to wait to determine and seat whomever is the Senator from Minnesota until after the people of Minnesota, through their lawfully adopted process of determining a winner in a close election, have made a final determination, and those courts that have legal authority to review such determinations have completed their reviews. This deference would best reflect the appropriate balance between the states’ authority to select their representatives and the US Senate’s authority under the U.S. Constitution for seating a member in our federal system.

Sincerely,



David Norcorss
Chair



Charles Bell
President