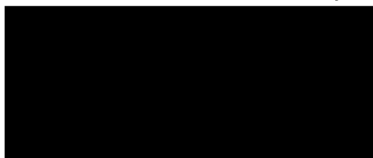




November 29, 2016

Jonathan M. Marks
Commissioner
Bureau of Commissions, Elections and Legislation



Re: Compliance with State Election Laws & Presidential Election Integrity

Dear Mr. Marks:

By way of introduction, the American Center for Law & Justice (ACLJ) is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States (e.g., *McConnell v. FEC*, 540 U.S. 93 (2003)) and other federal and state courts in a number of significant cases involving First Amendment protections in the political process and the integrity of federal elections.

While some citizens and political activists have filed suit in the Commonwealth Court of Pennsylvania alleging election irregularities in the 2016 Presidential Election in Pennsylvania, reports indicate there are also ongoing efforts to petition as many Pennsylvania election districts as possible to initiate a recount based on alleged errors committed leading to a discrepancy in the returns of those election districts.

The purpose of this correspondence is to urge you to ensure that the election processes and results in the Commonwealth of Pennsylvania's election districts maintain integrity, transparency, and compliance with *all* applicable laws and procedures.

As you are well aware, 25 P.S. § 3154(e) governs recounts in Pennsylvania:

Whenever it shall appear that there is a discrepancy in the returns of any election district, or, upon petition of three voters of any district, verified by affidavit, that an error, although not apparent on the face of the returns, has been committed therein, or of its own motion or under subsection (g), the county board shall at any time prior to the completion of the computation of all of the returns for the county, summon the election officers of the district, and said officers, in the presence of said board, shall conduct a recount or recanvass of all ballots cast. Before making such recount or recanvass, the said board shall give notice in writing to the proper custodian of voting machines, and to each candidate, and to



the county chairman of each party or political body, affected by the recount or recanvass; and each such candidate may be present in person, or by attorney, and each of such parties, or bodies, may send two representatives to be present at such recount or recanvass.

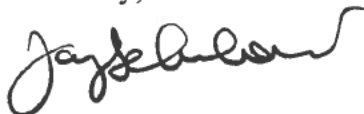
The statute proceeds to detail the various legal requirements for recounts in counties in which an election district uses voting machines; in counties in which an election district uses paper ballots other than those used in conjunction with an electronic voting system; in counties in which an election district uses an electronic voting system utilizing paper ballots; and, in counties in which an election district uses any other type of electronic voting system.

While these requirements vary, all include vitally necessary procedures to ensure the integrity of our election processes, such as who must be present and who is allowed to be present, step-by-step instructions for recounting the votes cast, how the recounts are to be recorded, announced, certified, along with other requirements.

According to the Pennsylvania Department of State, there were 9,163 voting precincts in Pennsylvania during the 2016 election.¹ For voters to initiate a recount in every voting precinct in every county in the state, 27,489 Pennsylvanians would have to follow meticulous procedures to file timely and otherwise legally valid affidavits alleging error has been committed with the returns. Reportedly, the deadline for voter-initiated recounts at the county level was November 21, 2016, and many Pennsylvania counties have already certified returns, foreclosing recounts in those counties.

To avoid a constitutional crisis and maintain the integrity of elections, state election laws must be carefully followed. As a law firm defending the Constitution and advocating for free and fair elections for decades, we urge you to ensure that the law is followed and avoid the tumult and frenzy of political activists striving to undermine the legitimacy of our electoral process and the peaceful transition of power. We will continue monitoring the latest developments in Pennsylvania courts and in each election district to ensure compliance with the law, that the Constitution is protected, and that our elections remain free and fair for the entire world to see.

Sincerely,



Jay Alan Sekulow
Chief Counsel

¹See Angela Coulombis & Rob Torno, *Stein Campaign Files Pennsylvania Recount Suit*, PHILLY.COM (Nov. 28, 2016, 5:02 PM), <http://www.philly.com/philly/blogs/real-time/Despite-successful-fundraising-effort-recount-of-Pennsylvania-remains-difficult.html>.