

STATE OF COLORADO

Department of State

1700 Broadway
Suite 250
Denver, CO 80290



Mike Coffman

Secretary of State

J. Wayne Munster

Acting Director, Elections Division

November 1, 2008

The Honorable Karen Long
Adams County Clerk and Recorder
1865 W. 121st Avenue, Suite 600
Westminster, CO 80234

Re: Reported Equipment Issue

Dear Clerk Long:

On October 24, 2008 you reported a problem with a Premier Election Solutions ("Premier") AccuVote TSx electronic voting machine ("Machine") pursuant to Secretary of State Election Rule 36.1. The report was based on a claim you received that the Machine had "vote-flipped" on a State House race during Early Voting at the Aurora Motor Vehicle location.

At the time of the report, you ordered that the machine be sealed, quarantined and returned to your office for inspection by this office. Adams County representatives and this office teleconferenced with Premier to determine the nature of the problem. The Premier representative, Jeff Hintz, recommended verifying the setting of the touch field to determine if it was set as a default or had been changed to a smaller size to accommodate the length of the Adams County ballot. It was confirmed by your staff that the settings had been changed to accommodate the long ballot.

I, as a representative of Secretary of State Mike Coffman, met with you, Adams County Assistant County Attorney Jennifer Stanley and members of your staff to inspect the Machine. The Machine was unsealed in my presence and all seals were verified to ensure that no tampering had occurred. The memory card was removed and labeled to ensure the integrity of the votes cast on the Machine during Early Voting.

A new memory card was created for use to test the Machine and determine whether or not a potential problem existed. After approximately an hour and a half of attempting to recreate the reported problem, I determined that the issue was the size of the touch area that had been altered to accommodate the ballot. In testing the machine, a narrow finger, a thick finger and a pencil eraser were used. While it sometimes looked as though a selection was being made for one candidate the other candidate was selected based on the pressure point of the finger on the screen. If the pressure point fell too low, the candidate on the bottom of the race was selected. The candidate was deselected and another attempt was made to reselect the proper candidate.

In testing the Machine, there appeared to only be an issue when the box next to the candidates name was being touched. If the candidate's name or party affiliation were touched, the selection was made for the candidate intended with no difficulty.

It is the opinion of this office that no "vote-flipping" actually occurred, but rather the pressure applied to the screen was out of the scope defined for the top candidate resulting in a vote for the bottom candidate. This office recommends that election judges be made aware of this possibility in order to inform voters that are concerned with "vote-flipping" or complain that the machine selected a candidate other than the one chosen by the voter.

Despite the finding of this office that no problem exists with the Machine, we have noted your decision to keep the Machine out of use for the remainder of voting for the 2008 November General Election.

If you have additional questions please do not hesitate to contact me at 303.860.6937.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Cegielski". The signature is written in a cursive, flowing style.

Stephanie Cegielski

Legal Specialist

Colorado Department of State