

THE STATE OF NEW HAMPSHIRE  
BALLOT LAW COMMISSION

BLC-2010-9

Strafford District No. 2 (Rollinsford, Somersworth Wards 1-5)

**ORDER**

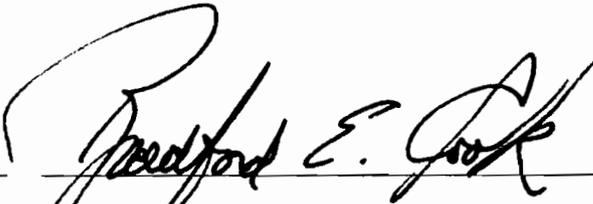
On November 18, 2010, the Ballot Law Commission (“the Commission”) held a public hearing, pursuant to RSA 665:8 to hear and determine appeals from recounts in the election for the office of State Representative in Strafford District No. 2. The recounted resulted in a tie for one of the seats in the New Hampshire House of Representatives.

The Commission considered nine contested ballots and upheld the decision of the Secretary of State as to the first eight ballots. The Commission overturned the Secretary of State’s decision as to the ninth ballot. In Exhibit #1, the voter wrote in the name of Sean Mahoney two times in both the Republican and Other columns, but not in the column designated for write-in candidates. In the Republican column, the voter also voted for all four listed candidates. The Secretary of State counted votes for all four listed candidates and the write-in vote for Mahoney. In Exhibits #2 and #3, each voter filled in many of the ovals in the write-in column, but did not write any names and did not make any other marks on the ballot. The Secretary of State counted these as no-votes based on the inability to discern the voter’s intent. In Exhibit #4, the voter drew a line through the name of candidate Deanna S. Rollo. The Secretary of State did not count that as a vote for Rollo. The representative for the Democratic Party argued that the line could be the result of a voter with a shaky hand and that the mark was really an

underscore rather than a cross out. The representative from the Republican Party argued the mark was clearly a cross out. The Commission voted to uphold the Secretary of State, with the Chair dissenting. In Exhibit #5, the voter's mark next to candidate Philip Munck was almost entirely outside the box. The Secretary of State counted that ballot for Munck. In Exhibit #6, the voter marked the ovals next to all five Democratic candidates, but also filled in the five ovals in the write-in column without writing any names. The Secretary of State counted those five votes for the Democrats. In Exhibit #7, the voter's checkmark next to Rollo's name was outside the box. The Secretary of State counted that mark as a vote for Rollo. In Exhibit #8, the voter marked the ballot for three Republican candidates and three Democratic candidates, with the marks for candidates Roger R. Berube and Rollo lighter than the other four. The Secretary of State did not count the vote for Berube based on evidence of erasure, but did count the vote for Rollo. The Commission examined the marks the voter made next to both candidates and voted to uphold the Secretary of State. In Exhibit #9, the ballot contained a clear mark next to candidate Kirsten L. Larsen but much fainter marks next to candidates Kenneth J. Ward, Berube, Rollo and Dale S. Sprague. The Secretary of State counted all marks as votes for the respective candidates, conceding that these were close calls. The representative for the Republican Party argued that all but the vote for Larsen were erasures. The representative for the Democratic Party argued that the absence of paper abrasion or erasure marks indicated the voter's intent to vote for all those candidates. The Commission voted to overturn the Secretary of State in regards to Ward, Rollo, Berube and Sprague and to not count those as votes. Commissioner Clemons dissented.

As a result of the vote, candidate Larsen was declared elected.

New Hampshire Ballot Law Commission

Date: 11/24/10 

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Sheila Roberge  
Jane Clemons  
Gregory Martin  
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