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1 Sandra June Vitolo
2 6512 Moon Roses Ct
3 Las Vegas, NV 89128
4 (702) 877-6042
5 Contestant

6
7 SECRETARY OF STATE
8 FOR
9 THE STATE OF NEVADA

10 SANDRA JUNE VITOLO,

11 Contestant,

12 v.

13 MARCUS CONKLIN,

14 Defendant.

FILED

NOV 19 2002

SECRETARY OF STATE

15
16 STATEMENT OF CONTEST

17 Contestant SANDRA JUNE VITOLO, a registered voter in Assembly District 37,
18 hereby contests the 2002 Nevada General Election results for the Office of
19 Assemblyman, District 37. The two candidates running for the Office of Assemblyman,
20 District 37 were Defendant Marcus Conklin (Democrat) and Francis Allen (Republican).
21 Defendant Marcus Conklin was elected to the Office of Nevada State Assemblyman,
22 District 37. Contestant hereby alleges that "illegal votes were cast and counted for the
23 defendant, which if taken from him, will reduce the number of his legal votes below the
24 number necessary to elect him." Nev. Rev. Stat. 293.410 (c).

25 This contest is made and based upon Nev. Rev. Stat. 293.407, 293.410(c),
26 293.413, 293.425, the following Points and Authorities, and the Exhibits attached hereto.

27 DATED this 19 day of November, 2002.

28 *Sandra June Vitolo*
Sandra June Vitolo

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ASSEMBLY SELECT COMMITTEE ON CREDENTIAL
DATE: 2-4-03 ROOM: 4100 EXHIBIT F
SUBMITTED BY: Kathleen England

1 **POINTS AND AUTHORITIES**

2 **I.**

3 **FACTS**

4 On November 5, 2002, the results of the 2002 Nevada election were declared.
5 On November 12, 2002, the Clark County Commission canvassed the returns of the
6 results of the 2002 election. Defendant Marcus Conklin was elected to the Nevada
7 State Assembly, District 37. Francis Allen lost to Defendant Marcus Conklin by 134
8 votes in the general election.

9 On November 10, 2002, John L. Smith, a columnist for the Las Vegas Review
10 Journal, wrote a column regarding the Clubhouse Tavern as a source of absentee
11 ballots. (See Exhibit 1). The Clubhouse Tavern is owned by Gary Horrocks. Mr.
12 Horrocks was an unsuccessful Republican primary candidate in the Assembly District 37
13 race. In John Smith's article, Mr. Horrocks is quoted as saying that "I honestly believe I
14 took it from Francis Allen." The article goes on to describe voters whose physical
15 addresses were found to be vacant for a number of months, but their ballots were
16 mailed from the Clubhouse Tavern or the Nevada Association of Concerned
17 Motorcyclists post office box. Subsequent articles have been written regarding the
18 alleged voter fraud. (See Exhibit 2). In an article published in the November 14, 2002
19 Las Vegas Review Journal, District Attorney Stewart Bell stated the District Attorney's
20 Office was investigating compiled evidence of voter fraud.

21 **II.**

22 **ARGUMENT**

23 Pursuant to Nev. Rev. Stat. 293.407, "a registered voter of the appropriate
24 political subdivision, may contest the election of any candidate." If the contest involves
25 the general election for an assemblyman, "all depositions, ballots and other documents
26 relating to the contest must be filed with the secretary of state." Nev. Rev. Stat.
27 293.425. The statement of contest "shall be filed" no later than "14 days after the
28 election." Nev. Rev. Stat. 293.413(1). Additionally, "a statement of contest shall not be

1 dismissed by any court for want of form if the grounds of contest are alleged with
2 sufficient certainty to inform the defendant of the charges he is required to meet." Nev.
3 Rev. Stat. 293.410(1).

4 Contestant is filing this contest within the proscribed 14 day statute of limitations.
5 Contestant is a registered voter in Assembly District 37. The grounds for Contestant's
6 contest, pursuant to Nev. Rev. Stat. 293.410(c), is that illegal votes were cast and
7 counted for the Defendant and that, if the votes were taken from him, he would not have
8 been elected. Contestant alleges that some of the illegal votes were obtained with the
9 assistance of Gary Horrocks. A number of people registered to vote with a false
10 residence addresses, but mailed their ballots from either a post office box leased by the
11 Nevada Association of Concerned Motorcyclists (a group for which Gary Horrocks is a
12 lobbyist), or from the Clubhouse Tavern. Several of these residence addresses were
13 checked, and many were found vacant or had people other than the voters living at
14 them. The number of illegal votes exceeds the 134 vote difference between the
15 candidates in the General Election.

16 Nev. Rev. Stat. 293.485 states in part that

17 1. Every citizen of the United States, 18 years of age or over, who has
18 continuously resided in this state and in the county 30 days and in the
19 precinct 10 days next preceding the day of the next succeeding . . .
20 (c) General election; . . .
And who has registered in the manner provided in this chapter, is
entitled to vote at the election.

21 Emphasis added. Additionally, pursuant to Nev. Rev. Stat. 293.730(d) a person "shall
22 not apply for or receive a ballot at any election precinct or district other than the one at
23 which he is entitled to vote." Emphasis added. Attached as Exhibit 3 is a list of 160
24 names and addresses of ineligible voters, ineligible by virtue that they did not live in
25 District 37 "10 days" prior to the General Election and/or they received a ballot at a
26 district other than which they were entitled to vote. The 160 names and addresses were
27 verified to be fraudulent by David Groover of Groover and Associates.

28 ///

1 In addition to the above evidence, Gary Horrocks confessed to Fran Deane,
2 newly elected Clark County Recorder, that he had obtained over 100 absentee ballots
3 for her. (See Exhibit 4).

4 III.

5 CONCLUSION

6 Based upon the foregoing, Contestant hereby contests the results of the 2002
7 Nevada General Election, Office of Assemblyman, District 37. Contestant hereby
8 requests that the Secretary of State further investigates the facts and allegations set
9 forth to determine the extent of the voter fraud. Contestant requests to reserve the right
10 to supplement this document and evidence as the investigation continues.

11 DATED this 19 day of November, 2002.

12
13 Sandra June Vitolo
14 Sandra June Vitolo

15 VERIFICATION

16 County of Clark }
17 State of Nevada } ss.

18 Under penalties of perjury, the undersigned declares that she is the Contestant
19 named in the foregoing STATEMENT OF CONTEST and knows the contents thereof;
20 that the pleading (document) is true of her own knowledge, except as to those matters
21 stated on information and belief, and that as to such matters she believes it to be true.

22
23 Sandra June Vitolo
24 Sandra June Vitolo

25 SIGNED AND SWORN TO before me
26 on this 19th day of November, 2002.

27 Mary F. Hickman
28 Notary Public

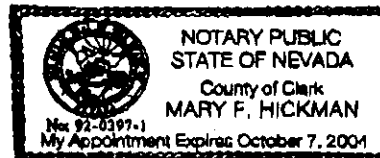
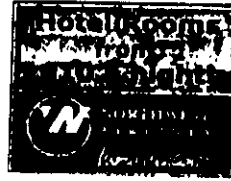


EXHIBIT 1

**reviewjournal.com****PRINT THIS**

Sunday, November 10, 2002
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COLUMN: John L. Smith**Biker bar hotbed of political activism, source of absentee ballots**

At the Clubhouse Tavern, they pour generous shots of whiskey and like ZZ Top cranked up high.

The tavern's theme is authentic Harley-Davidson. The regulars obviously appreciate that theme and like to talk about their machines, bike runs and wild women.

A little Budweiser, a game of eight ball, the "Easy Rider" video on TV, plenty of trade union pride, a sign that reads, "My child was inmate of the month at the county jail," and a smile from the handsome barmaid, Kimberly. In all, not a bad oasis for a lonely rider.

But with due respect, upon first glance the Clubhouse Tavern at 4001 Las Vegas Blvd. North does not appear to be a hotbed of political action. That fact made me wonder why so many absentee ballots were mailed from there.

The tavern's owner, Gary Horrocks, says looks are deceiving. Horrocks, a lobbyist for the Nevada Association of Concerned Motorcyclists, is proud to say his 800-member group was an active player in the 2002 election. The group's post office box is also listed as the address of numerous mail-in ballots.

Horrocks, 49, was himself a competitive but unsuccessful Republican primary candidate in the Assembly District 37 race, placing behind Earlene Forsythe and September winner Francis Allen. In the general election, Allen lost by 134 votes to Democrat Marcus Conklin in one of the evening's closest races.

Horrocks isn't shy about his role in the election.

"I honestly believe I took it from Francis Allen," he says. He believes it was his effort on behalf of his organization's members that helped put Conklin over the top. "I would take credit for that because these are people who voted for a person who represented their interests."

The fact so many used his mailing addresses doesn't faze Horrocks.

Although I have found at least a dozen absentee ballots were mailed to the Clubhouse and several more to the organization's post office box, Horrocks says he intended to have at least 300 members vote absentee had he prevailed in the primary. As it happened, he still appears to have helped facilitate casting of dozens of absentee votes.

For the record, Horrocks says Conklin was more responsive than Allen to issues that matter to the motorcycle organization, thus all the help.

"We are the fastest growing group of politically active people in the country," he says of America's motorcycle enthusiasts.

They are active locally -- and quite mobile.

By law, voters must declare their physical address before seeking to have a ballot mailed elsewhere. Checks of several Clubhouse-linked voter residences this week revealed a recurring theme: abandoned houses.

For example, Jackie Lee Kunkes voted in the primary from the Clubhouse but listed 2220 Conchita St. as an address.

Trouble is, the Conchita address is empty. A July telephone directory sits by an open door. Inside, the house is gutted. A neighbor who moved next door four months ago says, "There's been absolutely no activity. It looks like someone took the doors off both ends of the house."

Brad Hendricks and James Hiltunen were registered at 7205 Hopland Circle, but mailed their ballots from Horrocks' post office box. A five-year resident of Hopland Circle says no one has lived in that house in "at least six months." A July 15 edition of the Beehive newspaper sits near the front door.

At 6201 Carmen Blvd., where Myron Hoge registered before seeking a Clubhouse mail-in ballot, the current resident says he has lived there for six months and knows no Hoge.

"A lot of the people have moved just like I've moved," says Horrocks, a 25-year resident.

That makes sense, but it doesn't diminish the potential for violations of federal laws and postal regulations. It's a federal offense, for example, "to knowingly and willfully give false information as to name, address, or period of residence to a voter registrar for the purpose of establishing one's eligibility to vote."

But Horrocks says he has only the best interests of his constituent motorcycle owners in mind, and they're a tight-knit group of like-minded voters.

They don't call it the Clubhouse for nothing, brother.

John L. Smith's column appears Tuesday, Wednesday, Friday and Sunday. E-mail him at Smith@reviewjournal.com or call 383-0295.

Find this article at:

http://www.reviewjournal.com/vn_home/2002/Nov-10-Sun-2002/news/20030478.html

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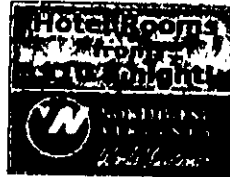


EXHIBIT 2



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Wednesday, November 13, 2002
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COLUMN: John L. Smith

GOP Assembly candidate beleaguered by election irregularities

The 2002 election was officially canvassed Tuesday afternoon, but unsuccessful Assembly District 37 candidate Francis Allen isn't finished fighting.

Far from it.

Allen, a Republican who lost to Democrat Marcus Conklin by 134 votes in the general election, is preparing to contest the outcome of the race based on an increasing suspicion of absentee ballot tampering. Officially, the challenge will be carried forth by Republican Assemblyman Bob Beers, a legislative veteran and Allen ally who has served on the elections procedures committee.

"I think we're all concerned that voter fraud took place in this election, and we just want to make sure, essentially, that the people's voice is heard," Allen says.

Adds Beers, "It appears that some irregularities took place. I'm relatively convinced, having walked through the evidence the last couple days."

Many of the absentee ballots in question were mailed to the Clubhouse Tavern at 4001 Las Vegas Blvd. North and to a post office box leased by the Nevada Association of Concerned Motorcyclists. The bar is owned by Gary Horrocks, a legislative lobbyist and GOP activist who lost to Allen in the Republican primary in September.

In an interview last week, Horrocks denied wrongdoing, but gladly took credit for helping to knock off Allen with his targeted mail-in ballots and allies in the motorcycle association. Horrocks said he believed Conklin was more attentive than Allen to the group's legislative agenda. Horrocks said he was upset by what he considered inaccurate cheap shots taken by Allen in a mailer and was disappointed in her lack of personal response to questions related to his motorcycle organization's lobbying efforts.

It is legal for a voter to have his ballot forwarded to an address different from his physical address. It is not legal, however, to claim a false physical address, and then have the ballot forwarded, for the purposes of cherry picking a targeted political race.

This past week, I checked out several addresses linked to the Horrocks mail ballots. In each case, the houses were either abandoned or the current occupant had no knowledge of the registered voter in question.

Beers says he has done his own legwork. He has found a number of empty houses and what he believes are misleading registrations.

While acknowledging that one of his motivations is to see another fellow Republican in the Legislature, Beers quickly adds that the incidents of empty residences associated with mail-in ballots are far too numerous to be merely coincidental. The overriding concern is with the veracity of the voter registrations themselves, he says.

"Certainly, if everything that I have seen done is legal, then we need some statutory changes," Beers says.

Allen and her supporters met Tuesday morning with Clark County Registrar of Voters Larry Lomax, who explained the process and approaching deadlines. Lomax on Tuesday afternoon officially completed the canvass of the election. Allen's advocates have until next Tuesday to officially contest the race.

"We'll pursue this, and if there's something there we'll forward it to the district attorney to follow up on," Lomax says.

Even if the district attorney or the local office of the FBI decide to investigate, Beers' challenge on Allen's behalf remains a long shot.

If sufficient evidence is gathered that points substantially to election impropriety, Allen's advocate must plead her case at the upcoming legislative session on the floor of the Assembly, where the Democrats hold a narrow majority.

Ironically, the one name that has not been associated with these suspected ballot improprieties belongs to District 37 winner Marcus Conklin.

Conklin, the branch manager of Volt Services employment agency, says he knew nothing of the controversy until reading about it in Sunday's Review-Journal.

"I wouldn't condone that kind of activity," Conklin says flatly. In his spare time, he prepares for his freshman legislative session.

Meanwhile, back in District 37, his opponent continues to knock on the doors of empty houses.

John L. Smith's column appears Tuesday, Wednesday, Friday and Sunday. E-mail him at Smith@lvj.com or call him at 383-0295.

Find this article at:

http://www.reviewjournal.com/lvrj_home/2002/Nov-13-Wed-2002/news/20049528.html

☐ Check the box to include the list of links referenced in the article.

<http://reviewjournal.printthis.clickability.com/pt/cpt?action=cpt&expire=&urlID=459804...> 11/18/2002



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Thursday, November 14, 2002
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FALSE ADDRESSES: Probe looks into alleged voter fraud

County checks assertions by assemblyman

By FRANK GEARY
REVIEW-JOURNAL

An investigation into possible voter fraud launched Wednesday targets voters who might have violated state law when they listed either vacant buildings or the homes of others as residential addresses on voter-registration forms.

District Attorney Stewart Bell said his office was investigating evidence compiled by state Assemblyman Bob Beers, R-Las Vegas, after Republican Assembly candidate Francis Allen lost a close race in the Nov. 5 election.

"We are investigating a situation to determine if there has been voter fraud," Bell said. "We have to see what we can develop, and we have to see if we can pin it on somebody."

Bell said the investigation could take a few days or a couple of weeks depending on the circumstances. At a minimum, he said, the probe might help eliminate ineligible voters from the registration rolls.

Bell said it didn't appear that any federal laws were violated, so there was no apparent need to call in the FBI or postal inspectors.

Beers said evidence he's gathered suggests 21 voters listed incorrect addresses on voter-registration forms, but he added that the discrepancies weren't instrumental in Democratic nominee Marcus Conklin's 134-vote margin of victory over Allen.

In visiting the addresses the past week, Beers either found empty residences or homes occupied by people other than the registered voters.

"We have come across people where we knock on the door and the person says, 'We moved in two months ago, and it was vacant for six months before that,'" Beers said. "The point of this isn't turning this election over, but whether the law makes it too easy for fraudulent voting to take place."

In Beers' material, beside the names of the 21 voters in question, Beers and a colleague made notes about each residence they inspected. The notations contain such observances as "neighbors say long

gone," "home been for sale for six to eight months," or "voter in final stages of dementia."

Some of the voters have been registered since the early 1990s but made a change to their registration in 2002 before the elections, according to voter records provided by Beers. Five of them registered this year for the first time.

Sixteen are Republicans and the rest are Democrats. They range in age from 20 to 77, according to records provided by Beers. In past elections, some voted by mail while others voted on Election Day or during early voting.

All 21 voters mentioned in the complaint list as their mailing address either a post office box or an address other than their residential address.

Three of the voters listed as their mailing address The Clubhouse Tavern, a bar on Las Vegas Boulevard near Nellis Boulevard. The tavern is owned by Gary Horrocks, a politically active motorcycle enthusiast and a Republican Assembly candidate who finished behind Allen and candidate Earlene Forsythe in the September primary.

Some of his customers used the address of the bar or the post office box for the 800-member Nevada Association of Concerned Motorcyclists as their mailing address on voter-registration forms.

Horrocks said some of his customers and association members registered to vote with his help, adding that he has a pile of blank voter-registration forms and voter guides available at his bar. He said the association's registration efforts were legal and helped Conklin defeat Allen.

Horrocks insisted he never told anyone to list a bogus address. He said he refused to take voter-registration forms, for example, from customers and association members who said they planned to list their mother's home as their residential address.

"Yeah, my guys are transient," Horrocks said of the association members. "What we do is meet, and we talk about the candidates that would be best for the people concerned ... just like a union."

County Registrar of Voters Larry Lomax said that, based on his research Wednesday, seven absentee ballots were sent to The Clubhouse for both the primary and general elections. Five were filled out and returned for the primary, and three were returned for the general election, he said.

"There was nothing out of the ordinary that we found," Lomax said referring to the absentee ballots his office mailed to The Clubhouse. "Three people at an address is not unusual at all."

Find this article at:

http://www.reviewjournal.com/lvrj_home/2002/Nov-14-Thu-2002/news/20061915.html

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DISTRICT ATTORNEY

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Some of the voters have been registered since the early 1990s but made a change to their registration in 2002 before the elections, according

have asked the same questions and advocated fairness in both cases whether he worked on campus or not.

Howard was by far the regent mentioned most often for requesting individual personal information about student grades, employment processes and student disciplinary cases.

Exactly what Howard did

2.75 high school GPA. So Howard requested the actual names and grade-point averages, Nichols said.

The chancellor said university officials were unsuccessful in their attempts to persuade Howard to accept the GPAs and other data without student names being attached. In their memos, Harter and Lilley said they were relying

its upcoming December meeting in Las Vegas adopts proposed policy changes. Nichols said, regents in the future would not have unfettered access to student names and GPAs. Among the proposals would be one requiring regents to state their purpose for requesting individual student and personnel data; notifying affected students and

cluding department chairmen and secretaries, because of the advent of databases and networked computers.

"It seems that only when someone uncovers an alleged misdeed that the system reacts," Peck said. "It's time now for the system to be proactive in looking at these issues more broadly."

► FRAUD: Three voters listed tavern as their mailing address

CONTINUED FROM PAGE 18

to voter records provided by Beers. Five of them registered this year for the first time.

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EXHIBIT 3

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Assembly 37 - List of Voters who do not live where they said they did

1

ANDERSON, RETIJA HAZEL F Rep 48 CA :002 Gen'l Vote: Absentee Vote Date: 10/23/2002 Reg # 0089897
DOB 19540308 Phone: PRECINCT: 6305 Reg: 19940706 Trx: 2002080 Affidavit # XC25241
Claimed residence: 6633 FREDONIA DR
LAS VEGAS NV 89108

Registration mail to: 4151 CALIMESA ST
LAS VEGAS NV 89115

Vacant house, neighbors never heard of them

Abs Ballot Mail to: 4151 CALIMESA ST
LAS VEGAS NV 89115

Voter Status: Active

vacant, per neighbors 6 months

ANDERSON, WALTER DARREL M Rep 59 IN :002 Gen'l Vote: Absentee Vote Date: 10/18/2002 Reg # 0728985
DOB 19430610 Phone: PRECINCT: 6305 Reg: 20000312 Trx: 2002080 Affidavit # XC25242
Claimed residence: 6633 FREDONIA DR
LAS VEGAS NV 89108

Registration mail to: 4151 CALIMESA ST
LAS VEGAS NV 89115

Vacant house, neighbors never heard of them

Abs Ballot Mail to: 4151 CALIMESA ST
LAS VEGAS NV 89115

Voter Status: Active

vacant, per neighbors 6 months

EXHIBIT 4

STATE OF NEVADA)
) SS.
COUNTY OF CLARK)

AFFIDAVIT OF FRANCES DEANE

FRANCES DEANE, being duly sworn says:

That at all times herein affiant was over eighteen years of age, not a party to or interested in the proceedings in which this affidavit is made.

That on November 5th, 2002 affiant was elected to the office of Clark County Recorder.

On the evening of November 5th, 2002 affiant was present at Caesar's Palace Hotel and Casino for an election night party for Republican candidates and supporters. During the course of the evening affiant was contacted by Gary Horrocks who was an unsuccessful candidate for Assembly District 37. Gary Horrocks is also a lobbyist for the Nevada Association of Concerned Motorcyclists.

Mr. Horrocks related to me that he had obtained over one-hundred votes in the General Election for me. When he initially told me this I could only express my gratitude. I later asked him how he had obtained the votes and he related that he had absentee ballots mailed to his wife and him and he filled out the ballots. Therefore, he knew how the votes were designated and how many of the votes he was responsible for. Mr. Horrocks also related that he was late to the event on election night because he had just delivered three votes.

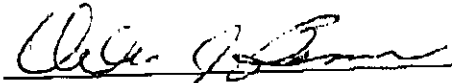
After reading several articles in the Las Vegas Review Journal about voter fraud, I felt it important to bring this information forward.

Further affiant sayeth naught.

Dated this 18th day of NOV., 2002.

SUBSCRIBED AND SWORN
to before me this 18th day of
November, 2002


FRANCES DEANE, AFFIANT


NOTARY PUBLIC

