



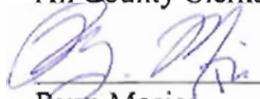
DEBRA BOWEN | SECRETARY OF STATE | STATE OF CALIFORNIA
OFFICE OF VOTING SYSTEMS TECHNOLOGY ASSESSMENT
1500 11th Street | Sacramento, CA 95814 | Tel (916) 653-7244 | www.sos.ca.gov

January 8, 2010

County Clerk/Registrar of Voters (CC/ROV) Memorandum #10012

TO: All County Clerks/Registrars of Voters

FROM:



Ryan Macias
Voting Systems Analyst

RE: Voting Systems: Public Hearing on the Appeal of Iron Mountain Intellectual Property Management, Inc., Cancelled

On January 6, 2010, Iron Mountain Intellectual Property Management, Inc. (Iron Mountain), notified the Secretary of State's office that it would surrender its certification as a source code escrow company and the Secretary of State's approval of its facility located at 5455 Kearny Villa Road, San Diego, CA 92123 as an escrow facility for ballot tally source codes. Iron Mountain's decision to surrender its certification and approval renders moot its prior request for a public hearing to appeal the Secretary of State's findings of noncompliance. Therefore, at Iron Mountain's request, the hearing scheduled for Friday, January 15, 2010, has been cancelled.

Attached is the letter from the attorney for Iron Mountain, explaining the company's decision, as well as a letter from the Secretary of State's office confirming Iron Mountain's request. If you have any questions, please contact the Office of Voting Systems Technology Assessment at (916) 653-7244, or via email at votingsystems@sos.ca.gov.

Attachments: 2



ATTORNEYS AT LAW

915 L Street
Suite 1000
Sacramento, CA 95814
T 916.442.8888
F 916.442.0382

John T. Kennedy
jkennedy@nossaman.com

Refer To File #. 090100-0001

VIA E-MAIL AND U.S. MAIL

January 6, 2010

Lowell Finley
Deputy Secretary of State
Voting Systems Technology and Policy
Office of Voting Systems Technology Assessment
California Secretary of State
1500 - 11th Street
Sacramento, CA 95814

**Re: Surrender of Iron Mountain Intellectual Property Management, Inc.
Certification as an Approved Escrow Company**

Dear Mr. Finley:

Despite best efforts, it has become clear to Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain") that it cannot comply with certain of California's regulations with respect to escrow services for ballot tally software program source codes ("ballot tally source codes"). Accordingly, pursuant to California Code of Regulations, title 2, section 20663, Iron Mountain wishes to surrender its prior approval as an escrow company and the Secretary of State's approval of its facility located at 5455 Kearny Villa Road, San Diego, CA 92123 as an approved escrow facility for ballot tally source codes.

Iron Mountain requests that this surrender be accepted as an alternative to the administrative hearing regarding this matter, currently scheduled for January 15, 2010.

Since June 9, 2008, Iron Mountain has attempted to bring its facility into compliance with California regulations. However, the regulatory climate control requirements exceed industry norms and standards to an extent such that Iron Mountain cannot modify its San Diego facility to conform to the regulation. In addition, Iron Mountain has tried to negotiate amendments to contracts with certain of the vendors for which it is holding ballot tally source codes in order to comply with regulations regarding storage in California and availability for inspection by the Secretary of State. However, Iron Mountain has been unsuccessful in obtaining certain vendors' approval of the sought-after amendments.

In addition to requesting the ability to surrender the California Secretary of State's prior approval of Iron Mountain as an escrow company and its San Diego site as an approved escrow facility for ballot tally source codes, Iron Mountain would like to work with the California Secretary of State and vendors to cooperatively and efficiently effect an orderly transfer of



escrowed ballot tally source codes to other approved escrow agents and facilities within California.

Finally, as you can see below, Iron Mountain is also notifying all impacted vendors of its decision to surrender its prior approval as a escrow company for ballot tally source codes in order that the vendors can communicate with both the California Secretary of State and Iron Mountain regarding the effectuation of an orderly transfer of their ballot tally software program source codes to other California Secretary of State approved escrow agents and facilities.

Please contact David Jones using the following contact information to coordinate the necessary transfers:

David Jones
Client Executive, IPM Service Delivery
Iron Mountain
2100 Norcross Parkway, Suite 150
Norcross, GA 30071
Phone: (770) 225-8113
david.jones@ironmountain.com

Sincerely,

A handwritten signature in blue ink, appearing to read 'John T. Kennedy', written over the typed name and affiliation.

John T. Kennedy
of Nossaman LLP

JK/jgk

cc: Linda Herod, Hart InterCivic, Inc.
Timothy J. Hallet, Election Systems and Software, Inc. and Premier Electronics Systems
Kay Orr, DFM Associates
Peter McManemy, Sequoia Voting Systems, Inc.
Rebecca Martinez, President (By mail only)
California Association of Clerks and Election Officials



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January 8, 2010

By Mail and E-mail to jkennedy@nossaman.com

John T. Kennedy
Nossaman LLP
915 L Street, Suite 1000
Sacramento, CA 95814

Dear Mr. Kennedy:

You are hereby notified that the Secretary of State has accepted the surrender by Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain") of its status as a certified voting system source code escrow company. The Secretary of State hereby revokes Iron Mountain's certification as an escrow company, effective January 28, 2010. The Secretary of State hereby withdraws approval of Iron Mountain's escrow facility, located at 5455 Kearny Villa Road, San Diego, CA 92123, effective January 28, 2010. We appreciate your client's willingness to cooperate with the voting system vendors and the Secretary of State's office in the orderly transfer of ballot tally source code held by Iron Mountain to an escrow facility approved by the Secretary of State. All such transfers must be completed on or before January 29, 2010.

As requested, the administrative hearing scheduled for Friday, January 15, 2010, has been cancelled.

Please contact me at lowell.finley@sos.ca.gov or by telephone at (916) 653-7244 if you have any questions concerning this notice.

Sincerely,

A handwritten signature in blue ink that reads 'Lowell Finley'.

Lowell Finley
Deputy Secretary of State
Voting Systems Technology and Policy

cc: David Jones, Iron Mountain Intellectual Property Management, Inc.
Timothy J. Hallett, Election Systems and Software, Inc. and Premier Election Solutions
Linda Herod, Hart InterCivic, Inc.
Kay Orr, DFM Associates
Peter McManemy, Sequoia Voting Systems, Inc.
Chris Ortiz, Unisyn Voting Solutions, Inc.
Rebecca Martinez, President, California Association of Clerks and Election Officials