



PO BOX 9576 Washington, DC 20016

www.VelvetRevolution.us

October 5, 2009

Office of Thomas W. Swidarski, President and CEO  
Diebold Corporation  
Fax: 330-490-4555

Dear Mr. Swidarski:

We are writing to you on behalf of the interests of the people of California.  
A people who cherish our democracy.

As you undoubtedly are aware, California Secretary of State Debra Bowen issued a report last March to the Election Assistance Commission, "Concerning Errors and Deficiencies in Diebold/Premier GEMS Version 1.18.19."

([http://www.sos.ca.gov/elections/voting\\_systems/sos-humboldt-report-to-eac-03-02-09.pdf](http://www.sos.ca.gov/elections/voting_systems/sos-humboldt-report-to-eac-03-02-09.pdf)) In this report it was revealed that the GEMS tabulation software versions 1.18.19 would, under common circumstances, delete all ballots from the first deck scanned into the system, that your company had been aware of this flaw, and that it had not taken fully appropriate measures to notify state and federal officials nor even sufficient measures to ensure proper corrective procedures at the county level.

In the public hearing conducted upon the release of the above report, your spokesperson, Justin Bales, admitted that even *current* versions of GEMS fail to record wholesale deletion of ballots. In some versions, the audit log -- which is legally required to be permanent -- can easily be deleted. It is now clear that even audit logs in the current versions of GEMS do not record all systems events as required by federal voting system standards, and as required by law in California.

Your company knew about some of these flaws when it applied for federal certification, certification these systems never should have received.

The result of your fraudulent behavior in California is that the people of the 20 counties using voting systems made by Diebold cannot know that the results of future or past elections are accurate. Statewide results are also called into question. This is entirely unacceptable, and we hold you accountable.

**As your product has failed to perform as minimally expected, and failed to meet federal voting system standards as required by state law, we are**

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**demanding that Diebold Corporation refund to California within 90 days all of the money that the state and any of its jurisdictions have spent on your elections systems, including but not limited to hardware, software, licensing and maintenance fees.**

We have asked that the California Secretary of State and Attorney General take action to hold your company accountable for the fraud it has perpetrated on the people of California and upon our democracy. Sale of your elections division does not absolve you of the responsibility for your company's past, repeated, and knowing malfeasance.

**Your immediate action is required. We look forward to your swift response this call for accountability on behalf of California and United States taxpayers.**

Sincerely,

Emily Levy  
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