TO: All Interested Parties
FROM: Compliance Review Commission (CRC)
DATE: August 11, 2016
RE: DECISION OF THE COMPLIANCE REVIEW COMMISSION RELATING TO THE CHALLENGE OF VOTERS AFFECTING THE OUTCOME IN ASSEMBLY DISTRICT 43 AND SENATE DISTRICT 09.

INTRODUCTION:

On the weekend of August 6-7, 2016, six Post-Primary Endorsing Caucuses were held throughout the state.

The six districts in which a post-primary endorsing caucus was held were: Assembly District 24, Assembly District 27, Assembly District 43, Senate District 03, Senate District 09 and Congressional District 46.

On Thursday, August 4, 2016, an initial written challenge was filed by Shanna Ingalsbee regarding the adding of individuals, by California Democratic Party (CDP) staff, to the eligible voter list.

Once the challenge was received, the CDP staff sent an email to all campaigns participating in the post-primary endorsing caucuses that the CRC received a challenge which could affect the outcome of their specific post-primary endorsing caucus and if they wish to submit testimony on the matter that they may do so. At the direction of the Credentials Chair Michael Wagaman, we also informed the campaigns and instructed the regional directors to treat those individuals who were added to the eligible voter list and not replacing a delegate that was previously on the list as a challenged voter. Additionally, the CDP staff also asked each regional director to conduct two counts, one with and one without the challenged voters to see if the outcome would be affected.

**Vote Totals**

**AD43:**
- Eligible voters - NO ENDORSEMENT
- Total votes - 53
- Kassakhian – 31 (58.4%)
- Friedman - 20
- No Endorsement - 2

With challenged voters (16 additional votes) - ENDORSE KASSAKHIAN

During the CRC meeting, the Commission considered 15 challenged ballots in AD43 and, as discussed below, found that all 15 ballots were dated prior to the date on their respective “Delegate Change Form,” and should not be counted and should be considered invalid. After the conclusion of the meeting and...
Total votes - 69
Kassakhian – 47 (68.1%)
Friedman - 20
No Endorsement - 2

SD09:
Eligible voters - NO ENDORSEMENT
Total votes - 83
Skinner - 47 (58.4%)
Swanson - 33
No Endorsement - 3

With challenged voters (8 additional votes) - ENDORSE SKINNER
Total votes - 91
Skinner - 55 (60.4%)
Swanson- 33
No Endorsement - 3

SD03:
Eligible Voters - ENDORSE DODD
Total votes - 103
Dodd - 65 (63.1%)
Yamada - 32
No Endorsement - 6

With challenged voters - ENDORSE DODD
Total votes - 113
Dodd - 72 (63.7%)
Yamada - 34
No Endorsement - 7

DOCUMENTS RECEIVED AND REVIEWED:

Documents received and reviewed by the CRC were the following:

2. Additional testimony in support of the challengers submitted by: Parke Skelton, Patricia Coulter, Sandre Swanson campaign, Mike Young, Daniel Sharp, Joanne McBirney, Carolyn Ramsay, Steven Warheit, Michael Sheehan, Kevin Harrop, Dan Cabrera, and Sarojini Lall.
3. Testimony in response to the challenge was submitted by: Larry Levine, Hilary Crosby, Nancy Skinner, and Steve Kaufman on behalf of Ardy Kassakhian.

upon further inspection by CDP staff, it was discovered that there were in fact 16 (not 15) challenged ballots, all of which were dated prior to the date on their respective “Delegate Change Form.” By unanimous consent, the CRC directs staff to update the decision to update the number “15” to “16,” as appropriate.
TIMELINESS AND JURISDICTION:

According to CDP Bylaws, Article XII, Section 2a:

“The Compliance Review Commission shall have initial jurisdiction over all challenges and/or appeals arising under Article II (Membership); Article VI (Assembly Districts and Assembly District Election Meetings); Article VII (Executive Board), Article VIII (Endorsements, etc.), Article X (Charters), Article XI (Special Group Caucuses) and Article XIII (General Policies). The Compliance Review Commission shall have jurisdiction to hear and decide any challenge that is initiated before the 42nd day prior to any meeting of This Committee or its Executive Board.”

(All By-Law references are to the California Democratic Party Bylaws, unless otherwise indicated.)

“All other challenges initiated after the 42nd day prior to any meeting of This Committee or its Executive Board may either be heard and decided by the Compliance Review Commission or referred to either the Standing Committee on Credentials or the Standing Committee on Rules in the discretion of the Compliance Review Commission.”

The initial complaint was filed on August 4, 2016; one day after CDP staff added two potential delegations to the eligible voter list in Assembly District 43. The challenge is deemed timely.

The CRC has jurisdiction as this matter arises under Article II (Membership), Article VIII (Endorsement of Candidates for Partisan Office) and Article XIII (General Policies).

STANDING:

According to Article XII, Section 3:

“Any party to a challenge must be adversely affected to bring the challenge.”

Any Democratic State Central Committee member or candidate participating in the endorsement process has standing as an affected party. There are no adverse affects in any post-primary caucuses other than AD43 and SD09.

FINDINGS OF FACT:

The three facts the challengers allege and which the CRC considered are: 1) The timing of the ballots; 2) the timing of the dues paid; and 3) whether the challenged voters were eligible to participate.

Timing of Ballots:
The CRC requested a count of total challenged ballots in which all paperwork was received.

In AD43, there were 16 challenged ballots that were considered as possible votes to be added to the total votes. Of those 16 challenged ballots, all 16 ballots were dated prior to the date on the “Delegate Change Form.”

In SD09, there were 8 challenged ballots that were considered as possible votes to be added to the total votes. Of those 8 challenged ballots, 4 ballots were dated prior to the date on the “Delegate Change Form.”

An individual does not become a delegate until the “Delegate Change Form” is effectuated and the 20 individuals in this case dated their ballot prior to that date making their ballots invalid.

**Timing of the dues paid:**
It has been past practice to allow a voter’s dues to be paid up until the roll call vote. There is no evidence that a voter’s dues weren’t paid prior to the roll call vote.

**Were the challenged voters eligible to participate under Article VIII, Section 3.h(1)(b):**
The CRC did not reach a conclusion on whether the challenged voters were eligible to participate; this should not be interpreted as reaching any conclusion as to the status of the challenged voters. The CRC strongly encourages the Rules Committee to clarify the Bylaws as it relates to this issue.

**ORDER:**

Based upon the above facts and the Bylaws of the CDP, the CRC makes the following Orders:

1) The CRC finds 20 ballots (16 in AD43, 4 in SD09) which were dated prior to the “Delegate Change Form” should not be counted and considered invalid.

2) The CRC finds with the addition of the 4 challenged ballots in SD09, the results in both AD43 and SD09 would be “No Endorsement” which is the same outcome if you do not consider any of the challenged ballots valid.

3) The CRC finds that the official recommendation of the CDP shall be “No Endorsement” in AD43 and SD09.

4) The CRC strongly encourages the Rules Committee, as it does after every election cycle, to review the Bylaws as well as Rules and Procedures to improve and clarify any issues that arise during the course of the endorsement process.
5) Appeal of this order, if any, must be filed with the CDP Secretary, with copies to the Chair of the CDP State Central Committee, within twelve days of the date of this decision. (Article XI, section 6(a).) Thus, any appeal must be filed on or before August 23, 2016 with the Sacramento office of the California Democratic Party, and shall be an appeal to the CDP Credentials Committee at their meeting in San Diego during the weekend of November 18-20, 2016.

Please note that per CDP Bylaws, Article XI, Section 6b, the filing of an appeal shall not stay any decision of the CRC. Parties may additionally respond in person, if so desired, provided there has been a timely filing of an appeal and notice of intent to testify is provided in writing to the Lead Chair of the Credentials Committee by 5 PM on September 4, 2016, at the Sacramento office of the California Democratic Party. The Credentials Committee may accept such additional testimony, written or oral, considering the nature and import thereof, as well as the time available for its proper consideration, as it deems appropriate, in its discretion.

Accordingly, this decision is so ordered, and is in effect, unless, and until, a successful appeal is made, decided, and contrary orders made whether by the CRC, or by the Credentials Committee. CRC shall retain jurisdiction up until the time an appeal, if any, is heard by the Credentials Committee.

Respectfully submitted by a 6-0 vote of the members of the CRC:

Kathy Bowler, Co-Chair, Rules Committee  
Lois Hill, Co-Chair, Credentials Committee  
Coby King, Co-Chair, Rules Committee  
Lara Larramendi, Co-Lead Chair, Credentials Committee  
Garry S. Shay, Lead Chair, Rules Committee  
Michael Wagaman, Lead Chair, Credentials Committee