

Lenore L. Albert, Esq. SBN 210876
LAW OFFICES OF LENORE ALBERT
7755 Center Avenue, Suite #1100
Huntington Beach, CA 92647
Telephone (714) 372-2264
Facsimile (419) 831-3376
Email: lenorealbert@msn.com, LenAlbert@Interactivecounsel.com

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Respondent
LENORE ALBERT-SHERIDAN

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**CALIFORNIA DEMOCRATIC PARTY
COMPLIANCE REVIEW COMMITTEE**

In re KIMBERLY ELLIS, candidate for CDP
Chair 2017,

Challenger,

vs.

ERIC BAUMAN, candidate for CDP Chair
2017; and LENORE ALBERT-SHERIDAN,
candidate for CDP Chair 2017

Respondents.

**RESPONDENT LENORE ALBERT-
SHERIDAN'S BRIEF TO THE APPEAL
BY CANDIDATE KIMBERLY ELLIS**

Date of Response: August 18, 2017

Respondent Lenore Albert-Sheridan submits this Response to Kimberly Ellises' Appeal as follows:

I. FACT

During the May 19, 2017 Convention held in Sacramento, California an inner party Chair race was held with three contestants:

Lenore Albert-Sheridan

Eric Bauman

Kimberly Ellis

Seven days after the race, Kimberly Ellis filed a Challenge pursuant to CDP Bylaws.

CDP allowed all candidates to review the election materials including but not limited to the registration forms, ballots, election registration forms, count sheets et al which contained approximately 8 large boxes.

Kimberly Ellis went in with a team and reviewed the materials. Ms. Albert flew up for one day and reviewed about 1/3 to 1/2 of the materials. Both a representative for Kimberly Ellis and Eric Bauman were present during the entirety of Ms. Albert's review of the materials.

The Chairs of the CRC then did a complete review with team Bauman, team Ellis and Lenore Albert present. Hillary Crosby took middle position on one side the table so she could watch both CRC team members as they worked that side of the table. Gabrielle Dolphin took middle position on the other side of the table so she could watch both CRC team members as they worked her side of the table. Team Ellis also had additional people there including Karen Bernal's husband. Kimberly Ellis did not bother to appear and observe or to send her attorney to observe. Team Bauman had four people observing also.

The middle position taken by Crosby and Dolphin were the best possible positions at the table and they could see everything in minute detail. There was nothing to obstruct either of them.

After the review, Delegates were allowed to respond and the CRC met and determined that the review did not unseat Bauman as Chair.

The central part of the Ellises' challenge was the demand for a "forensic independent audit." For the first time on appeal, Ellis has switched from wanting an audit to "binding arbitration."

The appeal should be denied.

II. STANDARDS AND ARGUMENT

Kimberly Ellis has failed to file a proper appeal. It is deficient in many respects. Ellis asks for "binding arbitration." However, the Credentials committee cannot grant that request on the grounds she never asked the CRC for that in the first instance. Any ground not brought up below with the CRC is waived and cannot be brought up for the first time on appeal.

Second, Ellis has failed to appeal on the issue of whether or not she should have been granted an "independent forensic audit." She abandoned that request. Since she did not appeal the CRC's denial of that request, this panel cannot consider it.

The same is true for her other requests. She abandoned them all. To the extent she has not abandoned them, she has failed to support her appeal with any evidence in the record pointing to reversible error by the CRC. It is not the duty of the Credentials Committee to scour the record for any possible justification to reverse the CRC's ruling. It was incumbent upon the Appellant, Ellis, to specifically point to the record (e.g. Identify which Ballot Form No, name of Delegate, what decision on that form was wrongly decided and why). Ellis made zero attempt to point to any error by the CRC although a voluminous record was created for her benefit and uploaded online so she had 24/7 unlimited access to it. She did not even attempt to augment the record with declarations by her observers who were in the room. Without this ground work laid out for the Credentials panel there is no other choice but to dismiss the appeal and affirm the decision of the CRC.

Ellis has maintained that the CRC is biased against her. However, no substantial evidence has been presented by Ellis to support her allegation that the CRC was biased. In order to find bias by the CRC, substantial evidence must be presented. There is not even a declaration

by Hillary Crosby and Gabrielle Dolphin to support this assertion. Consequently, it remains baseless and unsubstantiated.

As a final note, this is like Kerry v Bush. There is no such thing as an independent forensic audit of a hand counted paper ballot election which cast approximately 3,000 votes like the Chair election held in May 2017.

Due to Respondent's heavy pre-trial schedule at her day job, Respondent will defer and provide further oral argument with citation to the appropriate rules on Sunday.

III. CONCLUSION

Wherefore Respondent Lenore Albert respectfully requests that the Credentials Committee affirm the ruling the CRC.

Respectfully submitted,

s/ Lenore Albert

Lenore L. Albert-Sheridan, Delegate AD 72

Candidate for CDP Chair race 2017