MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: April 27, 2015

RE: DECISION OF THE COMPLIANCE REVIEW COMMISSION RELATING TO THE 2015 ADEM MEETING FOR THE 43RD ASSEMBLY DISTRICT

Introduction:

The Compliance Review Commission (“CRC”) of the California Democratic Party (“CDP”) has received a supplemental appeal to the Assembly District Election Meeting (“ADEM”) for the 43rd Assembly District.

A supplemental appeal was filed by Ryan Basham an ADEM Candidate, Christina Ellixson and Charlene Tabet, registered voters in Assembly District 43. These were the same individuals who filed the original challenge filed on January 15, 2015. The CRC met on February 2, 2016 and issued a decision to the original challenge on February 5, 2015, which was appealed to the Credentials Committee.

The ADEM meeting was held on Saturday, January 10, 2015. The original challenge was received on January 15, 2015 and supplemental appeal was received on March 10, 2015.

Pursuant to Roberts' Rules of Order, a member of the CRC who was on the prevailing side in the prior decision, Kathy Bowler, moved, and, Garry Shay, who was also on the prevailing side in the prior decision, seconded a motion to reconsider the decision in the original challenge filed on January 15, 2015. King noted that he had conducted an extensive review of Roberts’ Rules to determine the appropriateness of such a motion and concluded that it was appropriate and that a majority vote is required for the adoption of the motion for reconsideration. The motion passed on a 4-2 vote with King and Larramendi dissenting.

It was moved by Garry Shay and seconded by Lois Jean Hill, to set aside the prior decision to consider new evidence submitted after the original decision and
consider all materials submitted regarding the ADEM AD43 meeting as part of the record. Motion passed unanimously.

**Timeliness and Jurisdiction:**

CDP Bylaws, Article XII, Section 4 CHALLENGES provides that:

“All challenges must be commenced by the filing of a written challenge with the Secretary of This Committee, with copies served on the Chair of This Committee, as well as the appointing person, and the chair of the relevant organization, where applicable no later than seven (7) calendar days after the alleged violation occurred. Upon a showing of good cause, sustained by unanimous vote, the Compliance Review Commission may waive this requirement.”

CDP Bylaws, Article XII, Section 2a provide that:

“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) 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 Bylaw references are to the California Democratic Party Bylaws, unless otherwise indicated.)

In this case, the challenges did in fact commence a challenge within seven (7) days of the alleged violation. The request to reconsider, including the facts and documents file in support of it relate back to that original timely commenced, proceeding. Additionally, the next meeting of the State Central Committee or its Executive Board is no earlier than May 15, 2015. As the original challenge was filed with the Secretary of the CDP in excess of 42 days prior January 15, 2015, the challenge is deemed timely.

The CRC has jurisdiction, as the challenge was timely and involved disputes under Article II and Article VI.

Interested persons were informed of the challenge and have been given an opportunity to respond. In the case of the supplemental appeal, responses were
Standing:

CDP Bylaws, Article XII, Section 4 provide that:

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

As the challenges were either candidates and/or participants in the 43rd Assembly District, they are impacted by the conduct of the 43rd ADEM and its resulting candidates.

Issues Presented:

In their original challenge the challengers made allegations regarding the eligibility of voters to cast ballots with no specific information. In subsequent filings, they have submitted specific names of individual voters who were alleged to be ineligible to vote. In order to verify the challengers’ claims, the CDP staff checked and verified all participants and concluded that 117 ineligible voters participated while 107 could not be verified as eligible or ineligible.

The respondents claimed that there were ineligible voters supporting both parties that participated in the election and that the “Procedures for Assembly District Election Meetings” called for challenges to be onsite at the meeting itself, not after the election in a challenge to the CRC.

Findings of Fact:

The CRC notes that CDP Bylaws, Article XII, Section 5 states:

Section 5. POWERS

“The Compliance Review Commission shall have the power and authority to take such actions as are necessary to provide a fair and just remedy including, but not limited to, the holding of new elections.”
Based thereon, the CRC determines it has the power and authority to consider the invalid ballots referred to herein in rendering it’s decision.

According to Party Staff, there were a total of 117 voters who were ineligible to vote at the ADEMS AD43 meeting in January. There were an additional 107 voters whose eligibility could not be confirmed as eligible or ineligible.

The CRC finds in the ADEMs AD43 election the top 2 male candidates Berdj Karapetian and Shant Sahakian would have been elected regardless of the ballots from the 117 ineligible voters.

The CRC finds that the ballots cast by the 117 ineligible voters could be enough to effect the other 12 winners (7 female/5 male) and the executive board winner (Berdj Karapetian). The difference between the first place female and fourteenth place female was 81 votes. The difference between the third place male and fourteenth place male was 111 votes. The difference between the eboard winner and runner-up was 109 votes.

By a unanimous vote, the CRC finds that while the presence of sufficient invalid ballots alone would not necessarily invalidate the election of the 12 aforementioned individuals and Eboard winner, consideration of the entirety of the record, including the dispute as to whether the convener had agreed to spot check registrations, was sufficient to cast enough doubt upon the validity of the proceedings and its results such that the election of those 12 individuals and the Eboard representative must be set aside and a new election conducted.

**Order:**

Based upon all of the above facts, Roberts’ Rules of Order, the precedents of the CRC, the Bylaws of the CDP and the Procedures for the Assembly District Election Meetings, the CRC unanimously in part sustains and in part denies the challenge and orders that:

- The two male candidates who received more than 365 votes, those being Berdj Karapetian and Shant Sahakian, are certified as having been elected.

- A new Assembly District Election Meeting shall be held for the 43rd Assembly District, with the CDP Staff or their designee being requested to conduct such a meeting;
• At such meeting, seven female and five male delegates shall be elected;

• At such meeting, an executive board member shall be elected;

• Delegate candidates shall be those who were candidates at the January 10, 2015 meeting, with the exception of the two males who are certified above;

• State Party staff is requested to notice all participants who attended at the January 10, 2015 meeting, as well as any other persons registered in the 43rd AD who received the original meeting notice, and such meeting should be scheduled to be held as soon as reasonably possible after any appeal has been exhausted, while still allowing for proper notice and organizing time;

• Any Democrat who resides in and was registered to vote in Assembly District 43 by the October 20, 2014 deadline, as well as any person who turned 18 or was naturalized between October 20, 2014 and January 10, 2015 and is registered or registers onsite as a Democrat, is eligible to participate. The registration fee will be waived for all;

• Each potential voter’s eligibility will be verified prior to issuance of a ballot; and

• It is requested that the CDP Rules Committee review and revise the “Procedures for Assembly District Election Meetings.”

• It is requested that the CDP refund the 12 individuals whose election was invalidated for any dues or registration previously paid for and allow those individuals floor access for the State Convention.

 Appeal:

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 XII, section 7(a).) Thus, any appeal must be filed on or before May 9, 2015 with the Sacramento office of the California Democratic Party, and shall be an appeal to the CDP Credentials Committee at the CDP meeting in Convention in Sacramento, to be heard at their May 15, 2015 meeting, or as soon
thereafter as is practical. Please note though that the filing of an appeal shall not stay any decision of the CRC.

It should be noted that CDP bylaws allow 12 days for a response. Additionally, staff needs sufficient time to process documents for both the appeal, response, and for the Credentials Committee itself. Accordingly, for this matter to be guaranteed to be able to be heard at the CDP Convention, appellants must file their appeal by May 1 2015. Filings after that date, but within the 12-day time period, may or may not be able to be heard at the Convention, but may instead be heard at the next meeting of the Credentials Committee.

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

Kathy Bowler, Member, 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, Co-Lead Chair, Credentials Committee