

## MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: July 26, 2017

RE: **DECISION OF THE COMPLIANCE REVIEW COMMISSION (CRC)  
RELATING TO A CHALLENGE TO THE CDP OFFICER ELECTION FOR  
CHAIR POSITION AT MAY 19-21, 2017 STATE CONVENTION**

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### **INTRODUCTION:**

The annual California Democratic Party State Convention took place over the weekend of May 19-21, 2017. At the Convention statewide officer elections were held for the positions of Chair, Male Vice Chair, Female Vice Chair, Secretary and Controller. In the Chair contest the final results as reported by the CDP at the Convention were: Eric Bauman (Bauman) 1,493, Kimberly Ellis (Ellis or Challenger) 1,431, and Lenore Albert (Albert) 7. Challenger filed a formal challenge to the results on May 27, 2017.

### **DOCUMENTS INITIALLY RECEIVED AND REVIEWED:**

Documents received and reviewed by the CRC prior to issuing its interim order include the following:

1. Letter by challenger requesting review of materials (undated, but believed to be from May 21, 2017).
2. Challenge letter by Challenger dated May 27, 2017.
3. Preservation letter by Tidrick Law Firm dated May 30, 2017.
4. Email from Chris Myers dated June 1, 2017.
5. Request for extension by Challenger dated June 5, 2017.
6. Email from CRC dated June 6, 2017.
7. Formal challenge by Challenger dated June 8, 2017.
8. Response by Albert dated June 23, 2017.
9. Response by Bauman dated June 23, 2017.

### **TIMELINESS AND JURISDICTION:**

According to CDP Bylaws, Article XII, Section 4:

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

(All By-Law references are to the California Democratic Party Bylaws, as amended through May 18, 2017, unless otherwise indicated.)

The original complaint challenging the results of the May 19-21, 2017 Convention was filed on May 27, 2017; thus, the CRC finds this challenge timely.

Article XII, Section 2a states:

“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 XII (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.”

The by-laws provide that The Chair is an automatic member of both This Committee and its Executive Board and the CRC has jurisdiction arising under Article II (Membership) and Article VI (Executive Board). In this case, while the Challenger was a member of the DSCC at the time she sought election, that membership expired at the close of the Convention, and thus her continuing membership is contingent on whether she won the election. The CRC also has jurisdiction under Article XIII, Section 9(a)(2) which prohibits secret ballots and creates a right to know how any official Democratic Party representative cast his or her ballot, including an implicit right to know that vote was cast in a valid manner. The CRC by practice has historically exercised jurisdiction over, and resolved, matters related to the conduct of elections. Therefore, the CRC finds it has jurisdiction.

**STANDING:**

According to Article XII, Section 3:

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

The Challenger was a candidate in the Chair election, and would therefore be adversely affected if the election was not properly conducted or if a candidate was named the winner who failed to receive a majority of the votes in the contest. Therefore, the CRC finds the Challenger has standing.

**INTERIM ORDER:**

In her updated challenge dated June 8, 2017, the Challenger stated:

“Campaign is unable to provide a list of specific ballots due to our inability to finish the review process, as halted by the CDP. Without the requested documents outlined in the June 5 letter, the campaign is unable to comply with the CRC’s

request. As it stands now, the campaign would need to question a minimum of 300 ballots, with varying degrees of concern for each ballot.”

Despite the Challenger failing to meet the standards required by past precedent by not citing any specific ballots she was challenging or questioning, on June 25, 2017 the CRC issued an interim order directing a review of election materials to generate information helpful to the CRC in its future deliberations. If past practice had been followed, Challenger’s failure to cite specific voters and/or ballots alleged to be invalid would have been fatal to this challenge. CRC deviated from its past practice and precedent to ensure that Challenger’s concerns with existing election procedures were adequately reviewed and in an attempt to avoid the potentially divisive effect that could result if the matter was dismissed without further investigation.

#### **DOCUMENTS RECEIVED AND REVIEWED DURING REVIEW PROCESS:**

In addition to the documents previously described, documents received and reviewed during the CRC review included the following:

1. Ballots including uncast, voided and replacement ballots.
2. Registration sign-ins.
3. Election sign-ins.
4. Proxy forms including original proxy forms and duplicates of proxy forms that had been submitted to the CDP prior to the close of registration on May 20, 2017 when originals were not available.
5. Voter registration records for proxy holders.
6. Records of county committee membership including county rosters among Credentials Committee materials, county rosters otherwise in the possession of CDP officials prior to the close of registration on May 20, 2017, and Certifications of Membership signed by county committee officers.
7. Unused credentials
8. List of delegates who had paid and/or had waived their dues and/or convention fees by the close of registration on May 20, 2017, as certified by the CDP Compliance & Accounting Director based on best available records. List additionally included information on payments that had been rejected for lack of funds.
9. Records relating to the appointment/election of members to the DSCC who did not appear on the registration sign-ins printed before the beginning of the convention.
10. CDP Registration and Credentialing Overview (2017) provided to volunteers.
11. Other relevant election materials as necessary to establish the eligibility and validity of ballots cast.
12. Memorandum from CRC Counsel Olson, Hagel, Fishburn LLP to the CRC dated June 23, 2017.
13. Approximately 110 additional timely and late submissions received during the first testimony period which ended on June 23, 2017.
14. Approximately 300 timely and late submissions received during the second testimony period which ended on July 10, 2017, including submissions by Ellis, Bauman, and Albert.

15. Approximately 190 timely and late submissions received during the third testimony period which ended on July 17, 2017, including a submission by Bauman.

## **CONDUCT AND PRELIMINARY FINDINGS OF REVIEW**

The CRC-ordered review of election materials was conducted in several phases. Throughout the process observers from all three Chair campaigns were present. The process emphasized making information available to the public for review as quickly as possible. This was done for the following reasons:

1. To promote transparency,
2. To encourage testimony that could be submitted to the CRC; and,
3. To increase the information available for the CRC's consideration; and
4. To ensure that the results of the election were accurate.

For the first phase of the review, the CRC made use of Ballot Review Forms (BRFs). The purpose of the BRFs was to identify votes that may be potentially invalid or required additional review by the CRC, not to create a comprehensive record of the entire election, tally the vote, or represent final determinations of the CRC, as from the start the process the CRC contemplated several rounds of testimony to update and refine the public record.

Election materials were reviewed and BRFs were completed for every eligible voter and ballot: 3,330 eligible voters and 1 voter determined to be ineligible prior to the election on May 20, 2017 but for whom a printed and voided ballot existed. In total nearly 500 proxies were reviewed.

The BRFs captured multiple pieces of information including:

- Whether the ballot had been cast, and if not whether a copy of the blank uncast ballot could be located.
- Whether the ballot was an original ballot, a replacement ballot, or if the voter had cast their vote on the wrong ballot.
- If the ballot was cast, for whom the voter cast their ballot. The primary purpose of capturing this data was to allow for the future adjustment of the tally should any votes be determined as invalid. The secondary purpose was to check for any evidence of systematic bias in the elections process. The purpose was not to confirm the official tally. Information on who an individual supported under no circumstances was used in determining other information on the BRF's, including but not limited to, determining a vote to be, valid, potentially invalid or requiring additionally commission review. Whether the voter signed their ballot, the registration sign-in, and the election sign-in.
- Whether the signature on the ballot and on the registration sign-in were determined to match or require additional review.
- Whether there was a record of timely payment/waiver of dues/fees.

In addition, for ballots cast by proxy the BRFs captured information on:

- The proxy holder's name.

- Whether the proxy form was on the official CDP form and signed under penalty of perjury.
- Whether the proxy form was stamped as approved by the Credentials Committee.
- Whether the proxy holder was a registered Democrat in California
- Whether the proxy holder was already on the DSCC.
- For delegates elected by County Committees, whether the proxy was a member of the same County Committee.
- For delegates elected by Assembly District Election Meetings, whether the proxy receiver was registered in the same Assembly District as the proxy giver.

All information on the BRFs was completed by a member of the CRC. Based on this captured information, along with any relevant notes, preliminary determinations were made by CRC members as to whether the proxy (if applicable) and vote required additional review or was potentially invalid.

The first phase was conducted under the following timeline and under the observation of representatives of all campaigns for Chair:

- **June 28:** Ballots were organized into alphabetical order. Proxies were organized into alphabetical order. Registration checks were completed on proxy receivers.
- **June 29-30:** Proxies were reviewed to determine whether they were valid, required additional review, or were potentially invalid. For delegates elected by County Committees, when the proxy receiver's status as a member of the County Committee could not be verified based on available records, a secondary check was performed to see if such records could be found elsewhere, so long as those records could be verified as being in possession of the CDP prior to the close of registration on May 20, 2017.
- **July 1:** Registration forms were checked to identify any potential proxies for which original proxy forms could not be located. When proxies could not be found, a secondary check was performed to see if such records could be found elsewhere, so long as those records could be verified as being in possession of the CDP prior to the close of registration on May 20, 2017. Election materials were reviewed to determine if a vote had been cast in the Chair Contest and what form was used, whether any signatures were missing, whether the signature on the registration sign-in and ballot matched or required additional review, and if dues/fees had been paid/waived. BRFs were scanned as completed and prepared for future posting online.
- **July 2:** Continued review to determine if a vote had been cast in the Chair Contest and what form was used, whether any signatures were missing, whether the signature on the registration sign-in and ballot matched or required additional review, and if dues/fees had been paid/waived. BRFs were scanned as completed and prepared for future posting online.
- **July 3:** Completion of review to determine if a vote had been cast in the Chair Contest and what form was used, whether any signatures were missing, whether the signature on the registration sign-in and ballot matched or required additional review, and if dues/fees had been paid/waived. BRFs were scanned as completed

and prepared for future posting online. Quality control was conducted to verify that any votes where dues/fees had not been paid/waived were properly identified. Additional quality control was conducted to identify BRFs where the preliminary determination section was not properly filled out. BRFs were organized and barcoded to identify voters who needed to be contacted to provide testimony as to any identified issues relating to their ballots.

On July 5, 2017, all BRFs were posted online. In addition, voters who were identified as requiring additional review or whose votes might be potentially invalid were notified about the issues with their ballots, were requested to submit testimony by July 10, 2017, and given information on the type of testimony that would help to clarify the status of their vote. Interested parties, including all candidates, were also notified of their opportunity to submit testimony by the same deadline.

The CRC notes that during the aforementioned quality control on July 3 some forms were identified as being incomplete or having other issues. However, as observers from some of the campaigns had already left, the determination was made not to update the forms, and rather to post them as is, while notifying the voters of the issues with their ballots regardless of the BRFs.

The CRC notes this decision did lead to some confusion, particularly among interested parties who were not present for the review. The CRC further notes that of the voters who should have been notified as to issues with their vote as the result of the first phase of the review, all were notified and/or submitted testimony by the July 10 deadline with the exception of one voter. This voter was later notified of the oversight and allowed the same five days to submit testimony offered to other voters.

The first phase of the review found:

- **No evidence of ballot dumping-** A ballot, cast or uncast, was found for every single potential voter.
- **Only one case of duplicate voting-** This vote was the result of a delegate casting his own vote and that of a proxy and the latter was determined to be invalid.
- **No evidence of a systematic bias in the election or review process-** Of votes preliminarily flagged for additional review or being potentially invalid, slightly less than 55% were cast for Bauman with the remainder cast for Ellis.

The first phase of the review also revealed the types of issues the CRC would need to examine before making final determinations as to the validity of votes. Approximately 60% of identified votes involved signature verification issues, 20% involved proxy validity issues, 10% involved timely payment of dues and fees issues, and 10% involved other or multiple issues.

After the end of the July 10, 2017 testimony period, submissions were posted online (on July 12, 2017). Individual voter records were tagged with a summary of any testimony relating to that specific vote so such testimony could be considered by the CRC at a future date. Any voter whose vote was questioned or challenged by submitted testimony from whom the CRC had not already solicited and/or received testimony on the topic of

the challenge was notified and allowed until July 17, 2017 to submit responsive testimony.

The public testimony period found:

- **No evidence of ballot tampering-** Only one piece of testimony was submitted saying the BRF reflected a vote contrary to the voter's intent in the Chair contest. This was later confirmed to be an error on the BRF, not a case of the ballot being modified against the voter's intent.
- **No evidence of ballot stuffing-** No testimony was submitted by a voter saying that they were not present yet had a vote recorded in their name.

BRFs were identified where, based on the objective criteria described in counsel's advice memorandum of June 23, 2017, it could be reasonably expected that the conclusion might be updated based on the submitted testimony. The CRC determined these votes should be subject to a secondary review.

The CRC determined testimony relating to signature comparison would not be included in this secondary review as those issues should be considered by the full CRC. The CRC also determined that testimony with information about an issue related to a voter's ballot that did not directly rebut the issue should be considered by the full commission (for example, "this is why my signature might be missing.") Finally, the CRC determined that arguments for or against counting a vote without specific evidence or first-hand testimony should be considered by the full commission (for example, "if they have not paid their dues, you should not count their vote").

On July 14, 2017, the CRC conducted the secondary review of election materials under the observation of representatives of all campaigns for Chair. Approximately 60% of the testimony reviewed involved first-hand testimony relating to prior determinations (for example, "here is my proxy holder's updated registration address"). Approximately 30% involved third-party testimony that BRFs may be inaccurate or incomplete (for example, "it appears you failed to check this box"). Approximately 10% involved other issues, including checking the total vote count for Albert (see Order and Conduct of Recount).

A total of 135 votes were reviewed, with Testimony Review Forms (TRFs) produced for 104 where at least one determination on the prior BRF was updated. All information on the TRFs was completed by a member of the CRC. Information on who an individual supported under no circumstances was used in determining other information on the TRF's, including but not limited to, determining a vote to be, valid, potentially invalid or requiring additionally commission review. TRFs were made available online on July 16, 2017 and all voters whose review forms were updated were notified.

The CRC notes this decision did lead to some confusion, with some voters concerned their testimony was not being considered due to the lack of a TRF. The CRC notes that all testimony was available for its consideration before making final determinations and the existence of a TRF does not speak to the weight given any particular piece of testimony.

On July 17, 2017, the testimony period for voters whose ballots had been questioned or challenged by previously submitted testimony ended, with all such testimony posted online on July 19, 2017. As before, individual voter records were tagged with a summary of any testimony relating to that specific vote so such testimony could be considered by the CRC at a future date.

#### **ORDER AND CONDUCT OF RECOUNT**

The CRC's interim order of June 25, 2017 stated in part:

“The Challenger does not allege any ballots were improperly counted for the wrong candidate but rather that certain ballots should not be counted at all.”

As a result, the interim order did not direct a recount of all ballots cast.

The results as reported by the CDP on May 20, 2017 of the Chair contest showed 7 voted for Albert. Testimony received by the CRC during the second testimony period which ended on July 10, 2017 noted that the BRFs showed 8 votes for Albert. On July 14, 2017 as part of the secondary review of election materials, the CRC verified there were a total of 8 ballots cast for Albert.

As a result the CRC ordered a recount of all ballots cast which was conducted on July 18, 2017 under the observation of representatives of the Bauman and Ellis campaigns for Chair. The recount confirmed one additional vote for Albert, along with one additional vote for Ellis and one fewer vote for Bauman. The resulting updated count of all ballots casts was: Bauman 1,492, Ellis 1,432, and Albert 8.

The results of the recount did not consider any determinations as to voter eligibility from the review of election materials.

#### **FINAL DETERMINATIONS RELATING TO THE REVIEW:**

On July 22, 2017 five members of the CRC met at the Sacramento office of the California Democratic Party, with a sixth member, Lois Jean Hill, participating remotely by phone.

The CRC determined that it would accept late testimony submitted after established deadlines in order to maximize the information available for its consideration.

The CRC modified determinations as to issues reflected in the BRFs and TRFs for the following voters:

- Adam Gray (D321000)- Was changed from a signature match issue to a staff pick-up issue based on late testimony.
- Sergio Jimenez (D443033)- Was changed from a signature match issue to a staff pick-up issue based on a review of election materials by the CRC during the course of the hearing.

- Jonathon Klein (D751007)- Was changed from valid to commission review based on late testimony that the voter was assisted when casting their ballot.
- John Perez (D500002)- Was changed from a signature match issue to a staff pick-up issue based on an earlier determination by the CRC not reflected on the BRF.
- Evola Salvatore (D207005)- Determined that the signature match issue was instead a signature missing on the registration sign-in issue based on a review of election materials by the CRC during the course of the hearing.
- Rafael Trujillo (D717013)- Was changed from voting for Bauman to voting for Ellis with the note changed from casting his vote on the wrong ballot to signing in on the wrong line at registration based on late testimony.
- Rafael Trujillo (D747013)- Was changed from voting for Ellis to voting for Bauman with the note changed from casting his vote on the wrong ballot to signing in on the wrong line at registration based on late testimony.

The CRC determined that 2,976 votes had no substantial issues and the preliminary determination that a vote was valid or that the voter did not vote in the Chair contest could be confirmed by consent. These votes fell into five categories.

- 1) **Voters identified preliminarily by the CRC as valid or not voting where no testimony had been submitted.** (2873 voters)
- 2) **Remaining voters where no vote was cast in the Chair's contest,** either because the voter did not vote in the Statewide Officer election or voted in the election but made no select in the Chair contest. (17 voters)
- 3) **Remaining voters identified preliminarily by the CRC as being valid where no testimony was received after the CRC ordered its review of election materials.** The CRC noted that testimony received primarily consisted of either voters defending their vote in case it might be challenged or candidates saying certain votes should be reviewed by the CRC (which they ultimately were). (24 voters)
- 4) **Remaining voters identified preliminarily by the CRC as being valid where testimony was received after the CRC ordered its review of election materials but no timely testimony challenged the validity of such votes.** The CRC notes that such testimony primarily consisted of questions about the accuracy or completeness of the BRFs and that such testimony was considered during the secondary review of election materials conducted on July 14, 2017. (47 voters)
- 5) **Remaining voters identified by the CRC as requiring additional review during the first phase of the review process from June 28-July 3, 2017 but where any outstanding issues were resolved during the secondary review conducted on July 14, 2017.** The CRC noted that six of these voters had been challenged by testimony but that the issues reflected in those challenges had subsequently been resolved. (15 voters)

This left 355 voters requiring additional determinations. Of these, 197 involved only signature comparison issues. The CRC noted that other signature issues, such as when signatures would not be expected to match (for example, when a signature was missing from the registration sheet and therefore could not be compared) were not included in this count. 140 involved only issues not related to signature comparison. These included

issues like duplicate voting, proxy validity, and the payment of dues/fees. 18 involved both signature comparison and other issues.

Before making additional determinations the CRC received a briefing from counsel and subsequently adopted the following principles:

- 1) A vote should not be counted as valid if it was cast in violation of the Bylaws as adopted by the Executive Board, even if the voter was not primarily at fault for the violation, or even relied on specific staff or volunteer advice.
- 2) In all other circumstances, the CRC should utilize a standard that favored counting a vote whenever possible and that the Commission should lean in the direction of counting as opposed to rejecting a vote. The CRC noted that such a standard was consistent with California election law.
- 3) A deviation from CDP practices or procedure, including volunteer guidelines, would not on its own constitute grounds to invalidate a vote, as long as that deviation did not violate the Bylaws or adopted Convention Rules.
- 4) Substantial weight should be given to first-hand testimony from the voter as to the circumstances surrounding their participation at the Convention and that substantially less weight should be given to testimony not based on first-hand knowledge.

The CRC adopted a procedure wherein the copies of election materials that would be used for signature comparison deliberately hid information on who the voter supported for Chair. The CRC further adopted a procedure wherein the sheets available to commissioners to track their decisions during their deliberations also did not include the CRC's preliminary determinations as to whom each voter cast their vote in the Chair contest. Counsel noted and the CRC agreed that where information on who an individual supported appeared in testimony or in election materials reviewed by the CRC, the CRC should base its decision about the validity of a vote based on other factors and under no circumstance should the information be used in determining the validity or invalidity of a vote.

Before making determinations on signature comparison issues, counsel reminded commissioners on the standards for such review as laid out in counsel's memo of June 23, 2017. Counsel additionally noted that California's Uniform Vote Count Standard allow for the consideration of printed information to determine if forms were completed by the same individual. The CRC noted that counsel's recommendations were based on California election law and a review of signature comparison information from local election officials in the county the election was conducted (Sacramento) and the home counties of all three Chair candidates (Contra Costa, Los Angeles, and Orange).

The CRC also adopted a procedure wherein the primary signatures being compared were the signature on the registration sign-in and the signature on the ballot. The signature on the election sign-in was available when necessary to look for common points of comparison to inform the comparison between the two primary signatures.

For purposes of making signature match determinations, ballots were divided into categories based on three criteria:

- 1) Whether the CRC had determined that the signatures matched or required additional review.
- 2) Whether the signatures had been challenged during the testimony period that ended on July 10, 2017.
- 3) Whether the Commission had received responsive testimony during any of the three testimony periods ending on June 23, July 10 or July 17, 2017. Responsive testimony was determined to be testimony from the voter saying that they had signed in both at registration and on the ballot, or that they had signed all election materials. All testimony, including testimony that did not meet this standard, was available to the CRC during its review.

Based on these criteria, ballots involving signature matches were divided into the following categories, with counsel making recommendations and the CRC making determinations as described:

- 1) **Signatures where the CRC had preliminarily determined the signatures required additional review but where responsive testimony had been received from the voter (63 votes)**- Counsel recommended and the CRC determined that these signatures should be found to match based on responsive testimony from the voter indicating that the signatures were theirs.
- 2) **Signatures where the CRC had preliminarily determined the signatures required additional review and responsive testimony had not been received from the voter (17 votes)**- Counsel recommended and the CRC determined that these ballots should be reviewed individually by the full commission. All of these signatures were determined to match after this review.
- 3) **Signatures where the CRC had preliminarily determined the signatures matched, subsequent testimony challenged whether the signatures matched, but where responsive testimony had been received from the voter (103 votes)**- Counsel recommended and the CRC determine that these signatures should be found as matching based on the responsive testimony from the voter indicating that the signatures were theirs with the following exceptions:
  - a. Coby King (D419140) who abstained from making a determination as relates to his own signature. His signature was found to match by the remaining five commissioners.
  - b. Toni Atkins (D239000) and Phil Ting (D319000), where testimony stated that the delegate had signed in at registration and then relinquished their credential to their proxy, who subsequently registered, including submitted their proxy form, and then cast the ballot. The full CRC compared the signatures to verify the signatures of the proxy at registration matched the signature on the ballot. These signatures were found to match in both cases.
- 4) **Signatures where the CRC had preliminarily determined the signatures matched, subsequent testimony challenged whether the signatures matched, and where responsive testimony had not been received from the voter (32 votes)**- Counsel recommended and the CRC determined that these ballots should be reviewed individually by the full commission. All of these signatures were determined to match after this review.

The CRC noted that the use of a stricter signature match standard that would not be permitted under California law could have found more signatures as not matching, but such a standard would favor disenfranchising voters.

The CRC further noted that these determinations did not mean that there were not any signature match issues. Rather it noted those issues resulted from circumstances where signatures were missing or where first-hand testimony showed signatures should not be expected to match for various reasons such as the voter being assisted when casting their ballot, or staff picking-up the credential for an elected official.

The CRC then considered other issues not relating to signature comparison. The CRC began with voters having only one such issue, leaving any voters with multiple issues for later. The CRC began with duplicate voting issues, with counsel making recommendations and the CRC making determinations as described:

- **Voters who were assisted in marking their ballot due to religious restrictions (3 voters)**- Counsel recommended and the CRC determined these votes should be validated. The CRC noted this practice has been allowed in the past and is consistent with Article XIII of the Bylaws which prohibit against discrimination based on religion.
- **Proxy receivers who were already on the DSCC (2 voters)**- Counsel recommended and the CRC determined these votes should be invalidated. Counsel noted that Article IV, Section 6(a) states in part, “A member may give his/her proxy to a registered member of the California Democratic Party, of the same sex whenever possible, who is not already a member of This Committee...” The CRC noted that only one of these proxy holders also cast their own ballot, constituting the only case of duplicate voting found in the review.

The CRC then considered issues relating to proxies, with counsel making recommendations and the CRC making determinations as described:

- **Proxies where the receiver could not be confirmed as a registered Democrat (4 voters)**- Counsel recommended and the CRC determined these votes should be invalidated. Counsel noted that Article IV, Section 6(a) states in part, “A member may give his/her proxy to a registered member of the California Democratic Party...” The CRC notes that it is possible some of these holders could be registered Democrats but there was not enough information available to determine their status and all such voters had been notified and given the opportunity to submit such information.
- **Proxies where the receiver was found not to be a registered Democrat (3 voters)**- Counsel recommended and the CRC determined these votes should be invalidated. Counsel noted that Article IV, Section 6(a) states in part, “A member may give his/her proxy to a registered member of the California Democratic Party...”
- **Proxies from members elected at the Assembly District Election Meeting where the proxy receiver was found not to live in the same Assembly District as the proxy giver (1 voter)**- Counsel recommended and the CRC determined these votes should be invalidated. The CRC noted that Article IV, Section 6(a)(2) states in part, “A member elected by an Assembly District Election Meeting may

only give his/her proxy to a registered Democrat resident in the same Assembly District.”

- **Proxies from members elected by County Central Committees where the proxy receiver could not be verified as a member of that county committee based on materials maintained by the Credentials Committee but where evidence of membership was found by the CRC among other materials submitted to the CDP prior to the close of registration on May 20, 2017 (4 voters)**- Counsel recommended and the CRC determined these votes should be validated. Counsel noted that Article IV, Section 6(a)(3) requires, “A member elected by a County Central Committee may only give his/her proxy to a member, as defined by its by-laws, of the same County Central Committee,” but does not specify what materials may be considered to reach that determination.
- **Proxies from members elected by County Central Committees where the proxy receiver could not be verified as a member of that county committee based on materials maintained by the Credentials Committee but where evidence of membership was submitted by an officer of the county committee during one of the testimony periods (5 voters)**- Counsel recommended and the CRC determined these votes should be validated. Counsel noted that Article IV, Section 6(a)(3) requires, “A member elected by a County Central Committee may only give his/her proxy to a member, as defined by its by-laws, of the same County Central Committee,” but does not specify what materials may be considered to reach that determination. The CRC noted that in four of the five cases, the testimony stated and/or included evidence that the evidence of membership was submitted prior to the close of registration on May 20, 2017.
- **Proxies not on the official CDP proxy form (4 voters)**- Counsel recommended and the CRC determined these votes should be invalidated. Counsel noted that Article IV, Section 6(a)(3) requires, “Proxies shall be signed by the member under penalty of perjury and shall be in the form prescribed by the Secretary of This Committee,” and that none of these proxy forms included the perjury statement. The CRC noted that past Secretaries have allowed forms other than the official proxy form as long as they had substantially the same information as the official form. The CRC also noted that the lack of the perjury statement was not the fault of the voter, but that regardless of fault, a valid proxy under the By-laws required that proxy information be submitted under penalty of perjury.
- **Proxies was not stamped as approved by the Credentials Committee (2 voters)**- Counsel recommended and the CRC determined these votes should be validated. Counsel noted that Article IV, Section 6(c) states, “No proxy shall be recognized unless filed with This Committee prior to the close of registration for a meeting of This Committee,” but that a stamp is not specifically required. The CRC noted that both of these proxies would have been stamped as approved and that in one case the voter stated the volunteer at registration collected an unstamped copy of their proxy while allowing the voter to keep the stamped copy.
- **Proxies where the original approved proxy form was not found but a copy of an approved proxy form was found among materials in possession of the Credentials Committee (2 voters)**- Voters are allowed to submit their proxies in advance of the convention and these are approved before the beginning of the meeting. In some cases voters will bring a copy of their proxy, have it approved

as well, without collecting the pre-approved copy. In these cases the pre-approved proxy was available, even when the copy used by the voter could not be located. Counsel recommended and the CRC determined these votes should be validated. Counsel noted that Article IV, Section 6(c) states, “No proxy shall be recognized unless filed with This Committee prior to the close of registration for a meeting of This Committee,” and clearly a proxy had been filed in these circumstances.

- **Proxies where the original approved proxy form was not found but testimony was submitted by the voter that either the form had been submitted to the volunteer (and presumably lost) or the volunteer had failed to collect the form (8 voters)-** Counsel recommended and the CRC determined these votes should be validated. Counsel noted that Article IV, Section 6(c) states, “No proxy shall be recognized unless filed with This Committee prior to the close of registration for a meeting of This Committee,” but that the CRC should give substantial weight to the voter’s statements that this process had been completed and approved, particularly given the lack of contravening testimony. The CRC noted that both of the scenarios described are known administrative errors that have occurred in the past.
- **Penalty of perjury statement not signed but the voter’s name was handwritten somewhere on the proxy form (4 voters)-** Counsel recommended the CRC use its discretion noting Article IV, Section 6(a)(3) requires, “Proxies shall be signed by the member under penalty of perjury,” while California’s Uniform Vote Counting Standards allow signatures appearing in the wrong place on the same form to be used to meet the penalty of perjury statement on vote-by-mail ballots. The CRC determined to invalidate three of the votes as it could not determine if the voter’s intent was to sign the penalty of perjury statement while it validated one vote (Rabia Keeble [D718009]) where the voter submitted testimony that they intended to sign the penalty of perjury statement and where the copy of the proxy had cutoff that section of the form and therefore the CRC could not determine whether or not the statement had been signed.
- **Penalty of perjury statement not signed and no voter signature appeared anywhere on the form (1 voters)-** Counsel recommended and the CRC determined this vote should be invalidated. Counsel noted that Article IV, Section 6(a)(3) requires, “Proxies shall be signed by the member under penalty of perjury...”

During its review of proxies the CRC noted that the challenge makes reference to proxy holders being “retroactively” added to county rosters. The CRC noted this appeared to be a reference to the use of Certificates of Membership, which can be signed by county committee officers when submitted rosters are found to be incomplete or inaccurate. The CRC noted these forms have been used for more than 20 years and that the Bylaw deadline of February 7<sup>th</sup> applied only to establishing membership on the state central committee and not to establishing membership on a county committee for purposes of eligibility to hold a proxy.

The CRC then considered signature issues that did not require a comparison of signatures between the signature on the registration sign-in and the ballot, with counsel making recommendations and the CRC making determinations as described:

- **Voters whose signatures do not appear on the registration sign-in (22 voters)-** Counsel recommended and the CRC determined these votes should be validated. Counsel noted that while the registration sign-in is part of the process described in the guidelines given to volunteers, Article IV, Section 7(b)(2) simply requires to have one's vote counted a member must have, "registered for the meeting, if registration was required," without any specific signature requirement. The CRC noted that more than half of the missing signatures (12) came from the Rob-Rou letter break despite the break representing only 2% of the total membership, strongly suggesting volunteer error. The CRC further noted that in nine of the cases the CRC had received responsive testimony or other evidence existed that the voter was not asked to sign in or believed they had signed in (perhaps confusing signing their credential with signing the registration sign-in sheet). Finally the CRC noted that in the one remaining case (John Perez [D419191]) the voter's credential was not among the unissued credentials and there was a second delegate with the same name (John Perez [D500002]) who did sign-in, providing a plausible explanation for why the volunteer may have failed to collect the signature.
- **Voters whose signatures do not appear on the election sign-in (1 voter)-** Counsel recommended and the CRC determined these votes should be validated. Counsel noted that while signing in is part of the process setup by staff for balloting, Article IV, Section 7(b)(4) simply requires to have one's vote counted a member must have, "completed and returned to the proper authority any ballot that may be issued," and signing an election sign-in sheet is not a requirement.
- **Elected officials whose signatures do not appear on the registration sign-in because their credentials were picked-up by a member of their staff (34 voters)-** Counsel recommended and the CRC determined these votes should be validated. Counsel noted that the guidelines given to volunteers specifically allow elected officials' credentials to be picked-up by a member of their staff and that Article IV, Section 7(b)(2) simply requires to have one's vote counted a member must have, "registered for the meeting, if registration was required," without any specific signature requirement. The CRC noted that in 31 cases the voter had submitted testimony confirming their ballot had been picked up by a member of their staff but the voter had cast their own ballot. The CRC noted that in the remaining 3 cases the CRC had found the signatures at registration did not match the signature on the ballot, constituting evidence that the staff who picked-up the credential were not the ones who cast the ballot.
- **Non-elected officials whose signatures do not appear on the registration sign-in as their credentials were picked-up by a staffer, with responsive testimony from the voter confirming this circumstance (7 voters)-** Counsel recommended and the CRC determined these votes should be validated. Counsel noted that while the guidelines given to volunteers refer only to elected officials' credentials being picked-up by staff, Article IV, Section 7(b)(2) simply requires to have one's vote counted that a member must have, "registered for the meeting, if registration was required," without any specific signature requirement. The CRC noted that

while under the instructions these voters should not have been allowed to have staff obtain their credentials, the error was by the volunteer. The CRC also noted that in six of the cases the voter was either a former elected official or the spouse of a current elected official.

The CRC then considered issues relating to the payment or waiver of dues and convention fees, with counsel making recommendations and the CRC making determinations as described:

- **Both dues and fees were showed as having not been paid and/or waived (11 voters)-** Counsel recommended and the CRC determined these votes should be invalidated. Counsel noted that Article IV, Section 6(b)(1) requires, to have one's vote counted, a member must have, "paid their dues to This Committee, or had them waived." The CRC noted that according to testimony many of these voters thought their dues had been paid and would have made payment if asked but the bylaw requirement provided no flexibility to the Commission. The CRC also noted that in several circumstances waivers of dues were requested by proxy holders but that such waivers can only be requested by the member.
- **Dues were paid or waived but fees were not (7 voters)-** Counsel recommended and the CRC determined these votes should be validated. Counsel noted that while dues are specifically required by the Bylaws, fees are part of the registration process. Further while the guidelines given to volunteers refer to the collection of fees, Article IV, Section 7(b)(2) simply requires to have one's vote counted a member must have, "registered for the meeting, if registration was required," without any specific fee requirement. The CRC noted that according to testimony many of these voters thought their approved dues waiver also covered their fees. The CRC also noted that all the voters who did not submit responsive testimony had received such dues waivers, constituting evidence they may have been similarly confused.
- **Payments were rejected for non-sufficient funds (6 voters)-** Counsel recommended the CRC use its discretion noting that the CRC would need to determine whether the attempt to make payment would meet the Bylaw requirements. The CRC determined these votes should be invalidated, noting that the attempt to pay constituted evidence the voter was aware of the requirements. The CRC noted such voters were at least as responsible for the lack of payment as voters who were not aware that their dues had not been paid.

The CRC then considered issues relating to various miscellaneous issues that had been identified by the Commission, with counsel making recommendations and the CRC making determinations as described:

- **The voter was given another voters ballot (1 voter)-** Counsel recommended and the CRC determined this vote should be validated. The CRC notes that Article IV, Section 7(b)(4) requires to have one's vote counted that a member must have, "completed and returned to the proper authority any ballot that may be issued," and in this circumstance the voter cast the ballot that was issued to them. The CRC noted that this was not the only case of a voter being given the wrong ballot and the other cases were preliminarily determined to be valid. This case

was cited for additional review because of testimony that required additional review to verify the circumstances surrounding the casting of the ballot.

- **The voter's mark in the Chair contest was unclear (1 voter)-** Counsel recommended and the CRC determined this vote should be validated and counted consistent with the voter's intent. While the guidelines on the ballot ask the voter to mark the box with either a checkmark or an X, Article IV, Section 7(b)(4) simply requires to have one's vote counted that a member must have, "completed and returned to the proper authority any ballot that may be issued," and in this circumstance the CRC preliminarily determined the voter appeared to have marked the box next to Bauman and this intent was later confirmed by the voter's testimony.
- **Remaining voters where the person who picked up the credential was not the person who cast the ballot and where no proxy form was filed (5 voters)-** The CRC determined to examine these cases on an individual basis finding:
  - **Benjamin Allen (D226000)-** The CRC found the credential was picked up by a staffer and then cast by someone other than the delegate. The CRC determined to invalidate the vote, noting that Article IV, Section 7(b)(4) requires to have one's vote counted that a member must have, "completed and returned to the proper authority any ballot that may be issued," and that the individual who cast the ballot was neither the delegate nor an approved proxy.
  - **Alexander De Ocampo (D241014)-** The CRC found the credential was picked up by the delegate and then cast by someone other than the delegate without submitting a proxy form. The CRC determined to invalidate the vote, noting that Article IV, Section 7(b)(4) requires to have one's vote counted that a member must have, "completed and returned to the proper authority any ballot that may be issued," and that the individual who cast the ballot was neither the delegate or an approved proxy.
  - **Judith Klapper (D746009)-** The CRC found that the delegate submitted the proxy form and picked up the credential on behalf of the proxy, and the proxy then cast the ballot. The CRC notes that while the guidelines given to volunteers require the proxy to pick-up the credential themselves, Article IV, Section 7(b)(2) simply requires to have one's vote counted that a member must have, "registered for the meeting, if registration was required." Therefore the CRC determined the vote should be validated.
  - **Evola Salvatore (D207005)-** The CRC found that the delegate registered originally, and then surrendered their credential to the proxy, who then re-registered including submitting an approved proxy form, but the volunteer failed to get a signature from the proxy on the registration sign-in. Consistent with its prior determination relating to missing registration signatures, the CRC determined to validate the vote.
  - **Carey Wheaton (D710013)-** The CRC found that the credential was picked up on behalf of the delegate by their spouse and the delegate cast the ballot in the election. The CRC notes that while the guidelines given to volunteers require the delegate to pick-up the credential themselves, Article IV, Section 7(b)(2) simply requires to have one's vote counted that

a member must have, “registered for the meeting, if registration was required.” Therefore the CRC determined the vote should be validated.

The CRC then considered issues first raised in testimony submitted to the Commission, with counsel making recommendations and the CRC making determinations as described:

- **Delegates not appearing on the roster prior to the convention (4 voters):** Counsel recommended and the CRC determined these votes should be validated. While the Challenger raised objections to three such voters, the CRC identified a total of seven such voters, including four where this was the only issue with their vote. Counsel noted that while Article IV, Section 1 states in part, “The roll of eligible voters at this meeting of This Committee shall consist of those members who have qualified as of February 7,” it does not require that those names appear on the roster by any prescribed deadline. The CRC noted that in all cases records show that the proper documentation was submitted to the CDP by the February 7 deadline. The CRC further explicitly rejected arguments submitted during testimony that counting such ballots would be unfair to the campaigns, noting that the rights of the voter trump the needs of any campaign.
- **Proxy where the delegate reports the delegate voted against the delegate’s wishes (1 voter)-** The delegate requested their vote be changed or invalidated. The CRC noted that while Article IV, Section 6(a) states in part, “Members of This Committee may be represented at any meeting of This Committee by proxy,” it does not allow for delegates to bind or direct their proxy’s vote. The CRC determined the vote should be validated as originally cast by the proxy.
- **Proxy where the proxy receiver’s address on the proxy form did not match the address on the voter file (2 voters)-** Counsel recommended and the CRC determined these votes should be validated. The interested party submitting testimony raised objection to two such voters, though the CRC noted this circumstance existed for additional voters. Counsel noted that Article IV, Section 6(a) states in part, “A member may give his/her proxy to a registered member of the California Democratic Party,” but does not require the address on the proxy form to match their registration address. The CRC noted that in one case the address on the form was off by one digit and on the other form both addresses were within the same county, suggesting the voter recently moved.

The CRC then considered 13 voters with multiple issues, making individual determinations consistent with prior determinations:

- **Ian Arnold (D448015)-** The CRC determined this vote was valid, finding that the records of non-payment of due/fees were incomplete and evidence suggested the voter had paid and that the voter not appearing on the roster prior to the convention was not sufficient grounds to invalidate the vote.
- **Robert Carabas (D305000), Matthew Dababneh (D345000), Robert Garcia (D147004), Alejandro Padilla (D003000)-** The CRC determined these votes were invalid due to the lack of payment/waiver of dues, rendering all other issues with the votes moot. The CRC notes some review materials incorrectly listed information for Alejandro Padilla under Alex Padilla (D354004). The final determination of the CRC is that Alejandro Padilla (D003000) cast an invalid ballot while Alex Padilla (D354004) did not vote.

- **Martel Fraser (D456001)**- The CRC determined this vote was invalid due to the proxy receiver not being confirmed as a member of the county central committee, rendering all other issues with the vote moot.
- **Domenico Hueso (D240005), Phyllis McGrath (D437049), Nancy Pyle (D118001)**- The CRC determined these votes was invalid due to the proxy receiver not being confirmed as a registered Democrat in California, rendering all other issues with the votes moot.
- **Cynthia Lashbrook (D424006)**- The CRC determined this vote was valid, finding that the proxy receiver's membership on the county committee had been confirmed and the lack of a signature on the registration sign-in was not grounds to invalidate the vote.
- **Michael McGuire (D202000)**- The CRC determined this vote was valid, finding that neither the staff pick-up of the credential or a missing signature on the election sign-in was grounds to invalidate the vote.
- **Paulina Miranda (D208000)**- The CRC determined this vote was invalid due to payment being rejected due to insufficient funds, rendering all other issues with the vote moot.
- **Deborah Quintero (D748010)**- The CRC determined this vote was invalid due to the lack of payment/waiver of dues and the proxy receiver not living in the same Assembly District as the proxy giver.

Finally, the CRC affirmed its findings that 47 votes should be invalidated and all other votes considered during its deliberations should be considered valid.

All final determinations during the meeting were unanimous with the following exceptions:

- Kathy Bowler voted no on invalidating the vote of Monica Curca (D772004)
- Coby King abstained from voting on the signature review of his own ballot (D419140).
- Coby King voted no on validating the vote of Charles Plopper (D432004)
- Coby King voted no on validating the vote of Reena Rao (D725013)
- Coby King voted no on validating the vote of Arturo Rodriguez (D454008)
- Michael Wagaman abstained on validating the vote of Ian Arnold (D448015)

#### **FINDINGS AND ORDER:**

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

- 1) The CRC finds as the result of the recount the vote count before making any determinations as to the validity of votes cast is 1,492 votes for Bauman, 1,432 votes for Ellis, and 8 votes for Albert.
- 2) The CRC finds as a result of the review the following 47 votes are invalidated as based on best available information they were cast in violation of the CDP Bylaws:

- a. Proxy holder was already on the DSCC and thus not in compliance with Article IV, Section 6(a): Joseph W. Duffle (D356005); Brenda Resendis Luna (D129005).
  - b. Proxy holder could not be confirmed as being a registered Democrat and thus is not in compliance with Article IV, Section 6(a): Dionne Faulk (D362003); Domenico Hueso (D240005); Carolyn Imperial (D734004); Phyllis McGrath (D437049); Nancy Pyle (D118001); Jose Rodriguez (D780012); Donald Singer (D740011).
  - c. Proxy holder does not appear to be a registered Democrat and thus is not in compliance with Article IV, Section 6(a): Maureen De Nieva (D710003); Drew Glover (D729004); Joan Lubamersky (D310002).
  - d. Proxy holder could not be confirmed as a member of the same county central committee as the proxy giver who was elected by a County Central Committee and thus is not in compliance with Article IV, Section 6(a)(1): Martel Fraser (D456001).
  - e. Proxy holder is not registered in the same Assembly District as the proxy giver who was elected in an Assembly District Election Meeting and thus is not in compliance with Article IV, Section 6(a)(2): Melissa Cairo (D722003).
  - f. Proxy holder is not registered in the same Assembly District as the proxy giver who was elected in an Assembly District Election Meeting and thus is not in compliance with Article IV, Section 6(a)(2). Additionally, proxy was not signed under penalty of perjury and thus is not in compliance with Article IV, Section 6(b): Deborah Quintero (D748010).
  - g. Proxy was not signed under penalty of perjury and thus is not in compliance with Article IV, Section 6(b): Angela Alioto (D438012); Brandon Baranco (D113001); Edesa Bitbadel (D118005); Gilbert Brown (D779003); Josephine Hazelton (D712009); Ashley Johnson (D434031); Raul Peralez (D119001); Kerry Randall (D423001).
  - h. Delegate registered while another person voted without completing the proxy process and thus is not in compliance with Article IV, Section 6: Benjamin Allen (D226000); Alexander De Ocampo (D241014).
  - i. Delegate dues were not paid and thus is not in compliance with Article IV, Section 7(b)(1): Valerie Amezcua (D146003); Ryan Asao (D225002); Jennifer Barker (D708001); Robert Carabas (D305000); Monica Curca (D772004); Matthew Dababneh (D345000); Virginia Enz (D135005); Mark Farrell (D438014); Lilia Galindo (D736007); Robert Garcia (D147004); Doris Matsui (D106000); Jorge Nunez (D221003); Alejandro Padilla (D003000); Chris Rogers (D202004); William Sanders (D419081).
  - j. Payment was rejected as having insufficient funds and thus is not in compliance with Article IV, Section 7(b): Allan Acevedo (D900004); Rafael Chagoya (D753001); Dorsay Dujon (D753005); Hans Johnson (D419130); Chuck Kiel (D455001); Paulina Miranda (D208000); Nancy Pearlman (D419190).
- 3) The CRC finds no evidence that voters who cast invalidated ballots acted intentionally to violate the State Party's Bylaws, rules, or requirements, and in many cases administrative error was the primary contributing factor.

- 4) The CRC finds that voters whose ballots were invalidated could potentially be validated as compliant with the Bylaws by the submission and review of additional testimony or evidence but finds that under no scenario would such validation change the outcome of the election.
- 5) The CRC finds that after subtracting the invalidated votes the final official tally shall be 1,467 votes for Bauman, 1,410 votes for Ellis and 8 votes for Albert.
- 6) The CRC finds the Challenger has failed to demonstrate that the conduct and/or actions complained of made a difference in the outcome of the election.
- 7) Therefore, the CRC rejects the request to overturn the election result, as the challenger failed to achieve the standard one would need to invalidate the results.
- 8) The CRC finds that as Bauman received 50.85% of the valid votes cast in the Chair contest. Challenger's request that procedures for a run-off be defined is moot.
- 9) The CRC finds that issues relating to the validity of votes impacted both of the top two candidates for Chair.
- 10) The CRC finds that the election was conducted freely and fairly and there was no indication of bias against the Challenger by CDP staff or others involved in the administration of the election.
- 11) The CRC rejects the request for a third-party review of election materials.
- 12) The CRC finds that disputes about the ending of the Challenger's review of election materials, including but not limited to if/when that review was completed, have been rendered moot as the CRC ordered and completed a complete review of election materials under the observation of representatives of all campaigns for Chair.
- 13) The CRC finds that allowing certain election materials to only be reviewed and not reproduced, particularly when such materials contain confidential voter information such as signatures, is entirely appropriate and consistent with California law and best practices.
- 14) The CRC finds that the Challenger's request to review or reproduce the following materials are rendered moot as they were part of the CRC review during which time the observers from the Challenger were present:
  - a. Ballots, including uncast and voided/discarded ballots. The CRC notes that CDP staff disputes that unused and voided/discarded ballots were not provided during the Challenger review.
  - b. Proxies, including documents indicating the filing times of all proxies. The CRC notes that proxies receive a date but not a time stamp at the time of their approval. The CRC notes that the review of discarded proxies was limited to circumstances when the original approved proxy could not be found.
  - c. Registration sign-in sheets.
  - d. Election sign-in sheets. The CRC notes that CDP staff disputes that these materials were not provided during the Challenger review.
  - e. County Committee rosters. The CRC notes that such rosters are limited to those necessary to validate that a proxy holder is a member of the appropriate county central committee if required.
  - f. Documents relating to the appointment/election of members to the DSCC. The CRC notes that such documents were limited to those necessary to validate the eligibility of those members who did not appear on the pre-printed rosters at

- convention and/or were challenged as “Unlisted Delegates” by the Challenger’s filing dated July 10, 2017. The CRC further notes the Challenger failed to utilize any remedies available prior to and at the time of the meeting to challenge the eligibility of any delegate on rosters available to the campaign prior to the start of the Convention.
- g. Discarded proxies and documents relating to the transmission of proxies. The CRC notes that such documents were limited to when an original approved proxy could not be found.
  - h. Unused credentials. The CRC notes that such documents were limited to providing additional evidence to aid the CRC in making determinations when a registration signature was missing and when there was no responsive testimony from the voter. The CRC notes that CDP staff disputes that these materials were not provided during the Challenger review.
- 15) The CRC finds that records of the payment or waiver of dues and fees are confidential records and shall not be made available for review or reproduction.
  - 16) The CRC finds the report certified by the CDP Compliance & Accounting Director of all delegates who paid/waived their dues/fees as of the close of registration on May 20<sup>th</sup> based on best available records as used by the CRC during the review is sufficient to verify compliance with Article IV, Section 7(b)(1) and that such report has already been provided to the Challenger.
  - 17) The CRC finds the Ballot Review Forms and Testimony Review Forms generated by the CRC review, along with this order, are responsive to the Challenger’s request for information on:
    - a. Party registration of all proxy holders.
    - b. Identifying members represented by proxies.
    - c. The official voting list of delegates.
    - d. The names of individuals who requested or made known their need for religious accommodations
  - 18) The CRC orders that upon request CDP staff shall provide to candidates and interested parties a copy of the CDP Registration and Credentialing Overview provided to volunteers.
  - 19) This document, while part of the Bylaws, shall be considered responsive to requests for documents relating to the registration of attendees, registration requirements and credential issuance and retrieval.
  - 20) The CRC orders that upon request CDP staff shall provide to candidates and interest parties copies of:
    - a. Documents relating to the issuance and collection of ballots.
    - b. Notices of intent to run.
    - c. The ballot tally sheets and/or a document summarizing the information contained within from the CRC ordered recount.
  - 21) The CRC finds that responsive documents do not exist for the following requests and therefore are not available for review or reproduction:
    - a. The final report issued by the Credentials Committee. The CRC finds this report was given verbally during general session.
    - b. Documents relating to nominations for Chair. The CRC finds candidates are deemed self-nominated.

- c. Documents relating to acceptances of nominations for Chair. The CRC finds candidates are deemed self-nominated.
  - d. Documents relating to ballot counting. The CRC finds such instructions were given verbally.
  - e. Documents related to revocation of proxies. The CRC finds there were none.
  - f. The Credential Committee Final Report. The CRC finds this report was given verbally during general session.
  - g. The agenized Credential Report.
  - h. Names of observers in the ballot counting area. The CRC finds observers were given credentials but not required to sign in.
  - i. CDP's practice for religious accommodations to vote. The CRC finds there is not a written process. The CRC notes staff reports this accommodation was discussed at the candidate orientation on the Friday morning of the Convention.
  - j. List of names of all volunteers and CDP staff who worked at either credentialing or balloting. The CRC finds volunteers and staff were scheduled but not required to sign-in when working specific shifts.
- 22) The CRC finds that on May 30, 2017 legal counsel for the Challenger demanded the CDP preserve evidence relevant to the election, and reiterated this request in her formal challenge of June 8, 2017, with the clear implication the Challenger may file litigation against the CDP at a future date.
- 23) In light of the Challenger's demand to preserve evidence and the possibility of future litigation, the CRC orders that election materials shall remain secured and access limited to party staff employed prior to the date of the Chair election, members of the CRC, Chairs of the Credentials Committee, and counsel to the CRC or Credentials Committee, pending any review and decision by the Credentials Committee on a potential appeal in this matter. Upon resolution of this challenge, the CRC orders requests to review or reproduce materials related to this election shall be handled by CDP staff consistent with past practices, procedures and this Order.
- 24) The CRC finds there was no testimony or evidence of voter impersonation.
- 25) The CRC finds that the Challenger did not request the use of voter identification before or during the registration process and therefore did not exhaust all remedies onsite.
- 26) Therefore, the CRC finds that various claims by the Challenger relating to voter identification, specifically as they relate to the verification of identities of delegates and proxies when obtaining their credential and casting their ballot, are without merit.
- 27) The CRC finds the various claims by the Challenger relating to alleged campaign activities by the Bauman campaign, including providing incentives to vote, threats to vote, conducting an organized operation to fill proxies, and recruiting people to carry proxies, are both unsubstantiated by submitted evidence and contain no evidence that such activities, even if substantiated, would violate the party bylaws or change the result of the election for Chair.
- 28) The CRC finds no evidence that any Ellis observer who requested access to the credentialing area was ever denied such access.

- 29) The CRC finds that staff enforced prohibitions against electronic communications within the vote counting area to the best of its ability and further, and more importantly, that there is no evidence of harm to the Challenger.
- 30) The CRC finds that the Ellis campaign did not take advantage of all the observers it was allowed during the vote counting process and therefore cannot claim it was harmed by the rules restricting the number of observers.
- 31) The CRC finds that the CRC operates as an ongoing body and its current make-up is unchanged from its make-up under Chairman John Burton.
- 32) The CRC finds that participation in the election does not in and of itself disqualify a member of the Commission from participating in its deliberations just as state and local elections officials are not disqualified from performing official functions related to the counting of ballots as a consequence of having voted in state or local elections.
- 33) The CRC finds that participation in the administration of the elections does not in and of itself disqualify a member from participating in the Commission's deliberations. The CRC notes that such a standard would contradict the Bylaws which contemplate challenges being heard by the committees with jurisdiction over the bylaw provisions at issue in the challenges.
- 34) Therefore, the CRC rejects various requests for the CRC to change the make-up of the body.
- 35) The CRC finds that it has retained Olson, Hagel, & Fishburn LLP as its legal counsel as it relates to this challenge.
- 36) Therefore, the CRC rejects various requests by the Challenger relating to the Kaufman Legal Group as they are rendered moot and/or are beyond the scope of the challenge and the CRC's authority.

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 6(a).) Thus, any appeal must be filed on or before August 7, 2017 with the Sacramento office of the California Democratic Party, and shall be an appeal to the next meeting of CDP Credentials Committee.

Please note that per CDP Bylaws, Article XII, Section 7b, 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 August 19, 2017, 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