MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: February 12, 2016

RE: DECISION OF THE COMPLIANCE REVIEW COMMISSION RELATING TO THE CHALLENGE OF PRE-ENDORSEMENT CONFERENCE RESULTS FOR SD 21

INTRODUCTION:

On the weekend of January 30-31, 2016 regional pre-endorsement conferences were held throughout the state. On Saturday, January 30, at 12:30pm, Region 9’s conference began. The conference was held at the International Association of Machinists in Palmdale with Regional Director Diana Love as the Convenor.

Among the many races to be voted on was Senate District 21. At the time of the vote, the only candidates that requested our endorsement (turned in form and filing fee) was Mr. Jonathon Ervin and Ms. Star Moffatt. A third candidate Steve Hill did not request our endorsement.

The final results for SD 21 were 39 votes for Ervin, 6 votes for Moffatt, and 0 for No Endorsement. Ervin received 86.7% of the vote which places his name on the consent calendar.

A challenge was filed by candidate Star Moffatt on January 30, 2016.

DOCUMENTS RECEIVED AND REVIEWED

Documents received and reviewed by the CRC were the following:

1. Original complaint by Star Moffatt,
2. Additional testimony (3 follow-up items) by Star Moffatt,
3. Testimony from candidate Steve Hill,
4. Testimony form candidate Jonathon Ervin,
5. Testimony form Regional Director Diana Love, and,
6. Memo from CDP Executive Director Chris Myers.

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 January 30, 2016 and is considered timely. As this is less than 42
days prior to the State Convention, the CRC has exercised its discretion to hear the matter.

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

Additionally, as a candidate who requested The Party’s endorsement, Candidate Moffatt signed the
Candidate Registration Form, which states, “…I agree to abide by the CDP’s Bylaws and I will seek
to resolve any and all problems in accordance with the CDP Bylaws.”

The CRC would like to note that there is no right of response to documents filed by those being
challenged (respondents). Further, any alleged burden created by the expedited timeline to respond
fell on respondents alone, and as can be seen by this decision, caused no detriment to them.

STANDING:

According to Article XII, Section 3:

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

Any candidate participating in the endorsement process has standing as an affected party.

FINDINGS OF FACT:

Ms. Moffat’s original complaint submitted on January 30 alleged four items:
1. Ballots were tampered with,
2. VBM ballots did not have a postal stamp,
3. VBM ballots shouldn’t be used by voters who reside in the region, and,
4. The ballot wasn’t approved by The Party.

The second complaint alleges two items:
1. A break in the chain of ballot security, and,
2. A vote wasn’t counted.
The third complaint alleged that announcing the pre-endorsement conferences were over on Sunday evening disenfranchised Candidate Moffatt.

Finally, in the last testimony submitted, Ms. Moffatt claims she wasn’t afforded a fair opportunity because she was provided with less than 10 days adequate notice to submit testimony in this challenge.

**RETURN OF BALLOT/BALLOT TAMPERING**

Ballots may be returned a variety of ways. Ballots may be mailed, faxed, scanned and emailed, brought to the conference by the voter themselves or family, friend, campaign worker or voted onsite by the actual voter. We only require that each VBM ballot be signed and that the vote be considered valid.

Article VIII. Section 3, g (2) states: “...The ballot shall consist of a written, signed statement from the eligible voter and shall be recorded as part of the roll call vote if received by the designated Regional Director prior to the beginning of the roll call vote in the designated district.”

Article VIII. Section 3, g. (9) states: “...Once the names of candidates for a given office have been thus offered, a single roll call vote, via signed written ballot, in the same form as the vote-by-mail ballot, shall be taken as to the preferences of the eligible voting participants...”

There is no prohibition in the Bylaws regarding a campaign bringing in ballots of supporters and in fact it’s been common practice over the last two decades. Notably, ballots are not secret and no voter has claimed their counted ballot was tallied inconsistent with their intent. Further no voter has claimed they submitted their ballot (either directly or through a third party) and failed to have it considered at the conference.

**VOTERS RESIDING IN A DISTRICT BUT VOTING-BY-MAIL (VBM)**

Article VIII. Section 3, g (2) states: “Absentee ballot voting shall be allowed for each office to be voted upon at the pre-endorsing conference provided that the participation of at least five of the eligible members of This Committee as delegates to the pre-endorsing conference, either in person, or by vote-by-mail ballot, shall constitute a quorum.”

VBM ballots are necessary at the pre-endorsement conference level since the offices a voter is eligible to cast a ballot may be split among multiple regions. While The Party may encourage the participation of eligible voters at the pre-endorsement conference it is not required. In fact, no specific person was named by the complainant and even so there is no violation for any individual to use a vote-by-mail ballot.
VOTE-BY-MAIL (VBM) BALLOT FORM APPROVED

There is no requirement outlined in the Bylaws that requires the form of the ballot be approved by The Party. The ballot form is largely unchanged from past years and there has been no testimony provided that indicates that the form of the ballot was an issue that could of harmed any candidates.

PROXY VOTING

As outlined in our bylaws, proxy voting is when an individual (proxy) exercises the vote for a delegate. The proxy process is not allowed at the pre-endorsement conference because CDP Bylaws provide for Vote-by-Mail balloting, which was the case with this pre-endorsement conference. A third party collecting and returning a ballot completed by the voter themselves does not constitute proxy voting.

Various other issues were raised including the expedited timing for testimony, but due to the closeness of State Convention various timelines had to be adopted to ensure a fair process. Appellant filed her challenge within the time frame provided in the bylaws, seven (7) days from the date of the alleged violation. All respondents were afforded the same amount of time to submit testimony.

BALLOT BOX

The Bylaws doesn’t have any specific requirement regarding the shape, size and form of the ballot box and the CRC finds that the box used complied with normal standard practices in past pre-endorsement conference meetings.

A VOTE WASN’T COUNTED.

According to the complaint filed by Candidate Moffatt, a vote wasn’t counted. According to Regional Director Diana Love’s testimony, two votes were invalidated because RD Love received the ballots from the two individuals previously.

*Article VIII, Section 3, g. (9) states: Once received by the designated Regional Director, a ballot may not be retracted, rescinded, or otherwise changed and shall be counted in the totals.*

RD Love discharged her duties in compliance with the Bylaws and the CRC finds no violation occurred.

ANNOUNCING THE CONCLUSION OF THE PRE-ENDORSEMENT CONFERENCES
The third complaint alleged that announcing the pre-endorsement conferences were over on Sunday evening disenfranchised Candidate Moffatt. The Party sent out an email Sunday evening stating, “Now that Pre-Endorsement Conferences are over, the action moves to California Democrats Convention.” The intent of the email was to spur delegates to register for convention. The CRC finds there was no Bylaw violation and no harm done by sending out the email.

ORDER:

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

1) The CRC finds the election was conducted fairly, the final election results shall stand, and Jonathon Ervin’s name shall be placed on the consent calendar.

2) The CRC would like to note that Candidate Moffatt has not yet exhausted all of her options as there is process to pull the pre-endorsement conference recommendation off the consent calendar 10 days prior to the State Convention.

3) The CRC would like to encourage all candidates to review Article VIII of The Party’s Bylaws at http://www.cadem.org/our-party/body/BYLAWS.pdf for the rules regarding the endorsement process.

4) 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 five days of the date of this decision. (Article XI, section 7(a).) Thus, any appeal must be filed on or before February 17, 2016 with the Sacramento office of the California Democratic Party, and shall be an appeal to the CDP Rules Committee at their meeting in San Jose during the weekend of February 26-28, 2016.

Please note that per CDP Bylaws, Article XI, 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 Rules Committee by 5 PM on February 22, 2016, at the Sacramento office of the California Democratic Party. The Rules 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 Rules Committee. CRC shall retain jurisdiction up until the time an appeal, if any, is heard by the Rules Committee.

Respectfully submitted by a 5-0 vote of the members of CRC with member Hill concurring in the outcome, but not participating in the decision:

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