MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: February 15, 2018 (Amended March 9, 2018)

RE: DECISION OF THE COMPLIANCE REVIEW COMMISSION (CRC) RELATING TO THE CHALLENGE FILED RELATING TO SENATE DISTRICT 14 PRE-ENDORSING CONFERENCE RESULTS

INTRODUCTION:

On Saturday, January 27, 2018, at 11:30 am, CDP Region 8 Pre-Endorsing Conference was held at the UFW 40 Acres, with CDP Regional Director Humberto Gomez Jr. as the Convener.

Among the races considered was Senate District (SD) 14. No candidate received the 70% threshold to receive the endorsement recommendation per CDP Bylaws Art. VIII, Sec. 3.g.(13), but at least one candidate received more than 50% requiring Endorsing Caucus to be held at Convention, per CDP Bylaws, Art. VIII, Sec. 3.c.(2).

A number of challenges and complaints relating to SD 14 were filed pertaining to, among several things, alleged voter eligibility, voting irregularity, manner by which the conference was conducted, and the conduct of the Regional Director during the Pre-Endorsing Conference.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

Documents received and reviewed by the CRC associated with the challenge included the following:

1. Challenge submitted by Debbie East on February 1, 2018
2. Challenge submitted by Abigail Solis on February 2, 2018
3. Challenge submitted by Constance Wlaschin on February 2, 2018
4. Challenge submitted by Paul Hardiman on February 2, 2018
5. Additional challenge submitted by Paul Hardiman on February 2, 2018
6. Challenge by Ricardo ‘Ricky’ Perez on February 2, 2018
7. Challenge by Cathee Romley et al. on February 2, 2018
8. Challenge by Deidrick Avila on February 3, 2018
9. Challenge submitted by Makenzie Hayes on February 3, 2018
10. Challenge submitted by Holly Blair on February 3, 2018
11. Challenge submitted by Ruth López on February 3, 2018 (Note: Due to clerical error, this challenge was not listed in the original CRC decision issued on February 15, 2018; the CRC decision is amended to add this challenge to this list.)
12. Challenge submitted by Doug Kessler on February 4, 2018
13. Challenge submitted by Ruth McKee on February 10, 2018
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. Upon a showing of good cause, sustained by unanimous vote, the Compliance Review Commission may waive this requirement.

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

The filing of challenges submitted February 1-3, 2018, are within the seven (7) calendar day requirement for timeliness. The filings for challenges submitted on February 4, 2018, and February 10, 2018, respectively, are outside the scope of the requirement for timeliness.

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 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.”

The CRC has jurisdiction under Article VIII (Endorsements).

STANDING:

According to Article XII, Section 3:

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

1. Debbie East is an eligible voter in SD 14 for the Pre-Endorsing Conference (DSCC)
2. Abigail Solis is a candidate for office in SD 14 who requested the endorsement consideration of the CDP (filed and paid fee)
3. Constance Wlaschin is an eligible voter in SD 14 for the Pre-Endorsing Conference (Kings County DCC Regular Member)
4. Paul Hardiman is an eligible voter in SD 14 for the Pre-Endorsing Conference (Club Representative – Jimmy Carter Democratic Club)
5. Ricardo ‘Ricky’ Perez is an eligible voter in SD 14 for the Pre-Endorsing Conference (DSCC)
6. Cathee Romley is Kern County DCC Chair and a member of CDP Region 8 and the challenge was signed by Ricardo Perez
7. Deidrick Avila is an eligible voter in SD 14 for the Pre-Endorsing Conference (DSCC)
8. Makenzie Hayes is an eligible voter in SD 14 for the Pre-Endorsing Conference (DSCC)
9. Holly Blair is Kings County DCC Chair and an eligible voter in SD 14 for the Pre-Endorsing Conference (DSCC)
10. Ruth López is an eligible voter in SD 14 for the Pre-Endorsing Conference (DSCC)
11. Doug Kessler is an eligible voter in SD 14 for the Pre-Endorsing Conference (DSCC)
12. Ruth McKee is Tulare County DCC Chair; SD 14 overlaps Tulare County.

FINDINGS OF FACT:

Regional Director Humberto Gomez Jr. convened the CDP Region 8 Pre-Endorsing Conference on Saturday, January 27, 2018. Among the races considered was Senate District (SD) 14. At the time SD 14 was considered, the Democratic candidates who requested endorsement consideration were Ms. Melissa Hurtado and Ms. Abigail Solis. A third candidate, Mr. Ruben Macareno, did not request our endorsement consideration.

Both candidates were sent eligible voter list update on January 19, 2018, totaling 79 voters. The voters on the eligible voter list matched the Pre-Endorsing Conference tally sheet.

The SD 14 preliminary results, as reported by the Regional Director via phone to staff on the day of the Pre-Endorsing Conference, are as follows:

    Melissa Hurtado – 30 Votes (50.8%)
    Abigail Solis – 0 Votes
    No Endorsement – 29 Vote
    Total Votes Cast – 59

(Note: On February 20, 2018, the Regional Director sent a photo of the SD 14 Pre-Endorsing Conference tally sheet indicating that Ms. Hurtado received 30 votes, Ms. Solis received 29 votes, and No Endorsement received 0 votes, and requested that these results be entered for the record; the CRC decision is amended to add this information.)
According to Article VIII, Section 3.g.(13) on Pre-Endorsing Conference endorsement recommendation threshold:

The name of a non-incumbent or of an incumbent subject to Section 3.g.(12)(a) or Section 3.g.(12)(b) may be placed on the consent calendar of This Committee's endorsing convention upon receiving a seventy percent (70%) vote at a pre-endorsing conference.

The preliminary results above indicated Ms. Hurtado receiving 50.8% of the vote, which falls under the 70% vote required at the pre-endorsing conference to receive endorsement recommendation.

According to Article VIII, Section 3.c.(2) on Endorsing Caucuses:

Each candidate entered in a forthcoming Democratic primary, in which a candidate received over fifty percent (50%) of the vote at the pre-endorsing conference, or the pre-endorsing conference was unable to make a recommendation due to the lack of a quorum, and who is subject to the provisions of this section may request to be considered for the Democratic Party endorsement, and may request to appear before the relevant endorsing caucus, with the proviso that no candidate may seek endorsement for two different offices which would be elected on the same date.

The preliminary results above indicated Ms. Hurtado receiving 50.8% of the vote, which falls within the percentage of the vote that requires Endorsing Caucus to be held. The result requires an Endorsing Caucus to be held at the 2018 CDP State Convention on February 24.

After the Pre-Endorsing Conferences are held, all endorsement materials and documents are sent to the CDP Office, whereby staff reviews the materials and documents returned to the CDP office. From such review, staff determined the results for SD14 as follows:

Melissa Hurtado – 32 Votes (54.2%)
Abigail Solis – 26 Votes
No Endorsement – 1 Vote
Total Votes Cast – 59

From the staff determination above, Ms. Hurtado received 54.2% of the vote. Also, as previously noted, a third candidate, Ruben Macareno, did not seek CDP endorsement consideration. Per CDP practice, any votes cast for any candidate who did not seek endorsement consideration are not valid and are not counted in the total. Thus, any votes for Mr. Macareno were not tallied in the total. With one candidate, Ms. Hurtado, receiving more than 50% of the vote, it requires an Endorsing Caucus to be held at the 2018 CDP State Convention in San Diego on February 24 per Article VIII, Section 3.c.(2), as noted above.

In considering the challenges, the CRC examined whether the challenges to the votes cast actually in question would change the outcome of the Pre-Endorsing Conference, which
is to hold an Endorsing Caucus for SD 14 at the Convention. In short, there are no scenarios where the outcome would change.

In particular, only one vote in question that would have change the vote total, but would not have changed the outcome of the vote. The CRC examined the challenge to voter Arleen Hernandez’s vote, alleging that the voter is ineligible because she allegedly resigned from the Kings County DCC. (Note: The CRC decision is updated to correct the spelling of Ms. Hernandez’s name and the county.) One ballot from Ms. Hernandez is on file, which was cast for Ms. Solis and counted in the staff determined total. Staff had reached out to Kings County DCC to verify whether Ms. Hernandez had resigned, but reply is pending as of this decision. If the resignation had occurred prior to the Pre-Endorsing Conference, the vote would not have been counted because it would have been invalid. Even if this vote were to be removed from the tally, it would cause the result to become:

- Melissa Hurtado – 32 Votes (55.2%)
- Abigail Solis – 25 Votes
- No Endorsement – 1 Vote
- Total Votes Cast – 58

The result of this vote being hypothetically removed, if the resignation had occurred as noted in the challenge, would not have changed the outcome, which still requires the Endorsing Caucus to be held.

The CRC reached no conclusions as to the remainder of the challenges. As noted, the primary issue before the CRC was whether the outcome of the Pre-Endorsing Conference would have changed. No evidence examined would result in a deviation from the original outcome.

**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 orders the Endorsing Caucus for SD 14 to proceed. The CRC notes that no challenges to votes cast would cause any outcome other than to hold the Endorsing Caucus for SD 14.

2) The CRC encourages all members to act in a courteous and respectful manner in accordance with our core democratic values and with respect to the CDP By-Laws.

3) The CRC reaches no decision as to the substance of the remainder of the challenges.

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 February 27, 2018 with the Sacramento office of the California Democratic Party, and shall be an
appeal to the next meeting of CDP Rules Committee upon conclusion of the response period.

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 Rules Committee by 5 PM on March 11, 2018, 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 of an appeal, if any, is heard by the Rules Committee.

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

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