MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: January 4, 2018

RE: DECISION OF THE COMPLIANCE REVIEW COMMISSION (CRC) RELATING TO THE SAN BERNARDINO COUNTY DEMOCRATIC CENTRAL COMMITTEE

INTRODUCTION:

On December 14, 2017, Carol Robb submitted a challenge regarding a meeting held by Ron Cohen on December 7, 2017. This is the fourth challenge filed with the CRC this year regarding San Bernardino County Democratic Central Committee (SBCDCC).

In the challenge filed by Ms. Robb, she alleges the December 7th meeting of the SBCDCC held by 2nd Vice Chair Ron Cohen was invalid because the monthly December meeting was canceled by the Executive Committee as provided for in the SBCDCC Bylaws.

Mr. Cohen in his notice (listing 40 SBCDCC members/alternates) dated December 1 (sent on December 2), states… “consistent with California Election Code 7243: ‘If the chairperson of a committee refuses to call a meeting, a meeting may be called upon five days’ notice by a majority of the members of the committee,”’ thus a meeting was called for December 7, 2017.

At the meeting on December 7, 2017, various actions were taken and a subsequent meeting was held on December 28, 2017.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

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

1. Challenge submitted by Carol Robb on December 14, 2017
4. Late testimony was filed by Carol Robb on January 3, 2018, but was not reviewed.
5. Current San Bernardino County Democratic Central Committee Bylaws.
6. SBCDCC Roster

The challenge included additional signatories that were not identified in the list above.
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 challenge by Ms. Robb submitted on December 14, 2017 regarding a meeting occurring on December 7 is within the seven (7) calendar day requirement for timeliness. The CRC decision relating to timeliness is based on the meeting date which is consistent with prior decisions (including prior decisions to dismiss late challenges from Mr. Cohen).

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 II (Membership), Article VII (Executive Board), and Article XIII (General Policies). Both Article II and Article VII apply because the Chair of the SBCDCC is automatically a member of both and subsequent actions (December 28 meeting) affected other members of the Executive Board.

STANDING:

According to Article XII, Section 3:

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

Ms. Robb and the additional signatories are members of the SBCDCC prior to the meeting on December 7 and thus have standing to bring this challenge as they have been adversely affected by the actions of Mr. Cohen.
ALLEGATIONS:

In the challenge filed by Ms. Robb, she alleges the December 7th meeting of the SBCDCC held by 2nd Vice Chair Ron Cohen was invalid because the monthly December meeting was canceled by the Executive Committee as provided for in the SBCDCC Bylaws.

Ms. Robb contends the SBCDCC Bylaws supersedes California Elections Code Section 7243. In this specific case, the Chair with approval of the Executive Committee did cancel the December monthly meeting as provided for in the SBCDCC Bylaws. If that is the case, then the December 7 meeting would be considered a special meeting, which can only be called by the Chair. Ms. Robb also states, that even if Section 7243 applied, Mr. Cohen did not comply with its terms as the “chairperson” never refused to call a meeting as it was not a unilateral decision, but the decision of the Executive Committee.

Mr. Cohen contends that Chair Chris Robles’ alleged cancelation of both the November/December meeting was invalid since it was not listed on the agenda for the November 8, 2017 SBCDCC Executive Committee (SBCDCC EC) meeting. The November 8th SBCDCC EC meeting was canceled earlier on the day it was scheduled to occur and rescheduled for Friday, November 10, 2017 at 5pm which was Veterans Day. At the November 10th meeting, according to Ms. Robb, the December 7th meeting was canceled.

Mr. Cohen asserts that the preamble of the SBCDCC Bylaws gives Section 7243 of the CA Elections Code precedence over the SBCDCC Bylaws. Mr. Cohen asserts that a majority of members of the SBCDCC called for a meeting then the meeting should be valid and all actions taken at such meeting and any subsequent meeting should be upheld.

In the challenge filed by Ms. Robb, the challenge requests the meeting held by Ron Cohen on December 7 and any actions taken at that meeting or any subsequent meeting be ruled invalid as the meeting was canceled in accordance with the SBCDCC Bylaws and even if Section 7243 applied, Mr. Cohen did not comply with its terms. Additionally, Ms. Robb requests the CRC to sanction Mr. Cohen for his conduct.

FINDINGS AND ORDER:

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

1) CRC held that the cancellation of the SBCDCC December 2017 meeting by the SBCDCC Executive Committee on November 10, 2017, was valid, thereby invalidating the subsequent actions taken under the color of the SBCDCC, including but not limited to the meetings held and actions taken on December 7, 2017, and December 28, 2017. Despite the preamble, the holding in *Eu v. San Francisco Democratic Central Committee*, 489 U.S. 214 (1989), the SBCDCC Bylaws supersede Elections Code 7243. Further, the CRC finds no conflict exists
with the Elections Code as the actions to cancel the meeting would be valid under Elections Code 7241 which states...

A committee may make rules and regulations providing:
(b) How meetings may be called, and any provisions so made shall supersede anything in this chapter to the contrary.

2) Therefore, the CRC finds the meeting of December 7, 2017 was not an official meeting of the County Committee and therefore any purported actions taken at that meeting, along with any subsequent actions, including but not limited to those taken at the meeting held on December 28, 2017, are null and void and have no legal effect.

3) Consistent with its decision of August 23rd, 2017, the CRC notes the purpose of the CRC is not to referee internal political disputes, which should be dealt with using processes outlined by the SBCDCC Bylaws. The CRC encourages the existing leadership to do a better job of keeping membership informed and to make sure members are noticed in a timely manner about decisions being made.

4) Consistent with its decision of August 23rd, 2017, the CRC notes challenges to the CRC should be made on substantive procedural or bylaw violations and not because a certain, desired outcome wasn’t achieved. The CRC notes and continues to recognize the duly elected leadership of the SBCDCC including Chris Robles as Chair and the SBCDCC Bylaws provide for a regular, normal election process following the certification of the state primary election in Presidential Election years for those seeking changes to leadership.

5) Consistent with its decision of August 23rd, 2017, the CRC finds disturbing the allegations of inappropriate behavior by the body and encourages all members to act in a courteous and respectful manner in accordance with our core democratic values and hopes and expects people conduct themselves appropriately at all Democratic Party meetings. The CRC notes that the actions of Mr. Cohen, including repeated attempts to circumvent the democratically and duly elected leadership, do not meet the aforementioned standards.

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 January 16, 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 January 28, 2017, 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