MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: November 2, 2017

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

INTRODUCTION:

Since August 2017, three separate challenges have been filed with regards to the San Bernardino County Democratic Central Committee and SBCDCC Chair Chris Robles.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

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

1. Challenge from Leticia Garcia received on August 30, 2017.
2. Challenge received from Ron Cohen on October 6, 2017.
3. Testimony supporting the October 6 challenge by Ron Cohen was received from Sam Clauder, Leticia Garcia, and Tim Prince, et. al.
4. Testimony opposing the October 6 challenge by Ron Cohen to the challenge was received from Chris Robles, Mario Alfaro, et al.
5. Challenge from Ron Cohen and Bobbi Jo Chavarria received on October 28, 2017.
6. Current version of the San Bernardino County Bylaws.

Two documents included testimony with 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 May 18, 2017, unless otherwise indicated.)

The August 30 challenge by Leticia Garcia for a meeting occurring on August 24 is considered timely. The October 6 challenge by Ron Cohen for a meeting occurring on September 28 was not within the seven (7) calendar day requirement for timeliness and the CRC was not provided with “good cause” to waive the requirement thus it is not considered timely. The October 28 challenge by Ron Cohen regarding the election of EBoard members in January was not within the seven (7) calendar day requirement for timeliness and the CRC was not provided with “good cause” to waive the requirement thus it is not considered 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 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 finds that it has jurisdiction regarding the August 30 challenge under Article XIII (General Policies). The question of jurisdiction did not have to be reached in the other two challenges because they were not deemed timely.

STANDING:

According to Article XII, Section 3:

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

Leticia Garcia is a member of the SBCDCC, therefore the CRC finds the challenger of the August 30 challenge has standing. The question of standing did not have to be reached in the other two challenges because they were not deemed timely.

FINDINGS OF FACT:

August 30 Challenge:

The August 30 challenge by Ms. Garcia makes many allegations including a notification be given to add to the agenda the Executive Committee’s decision to dismiss the removal petition. This specific item was placed on the agenda and acted upon at a subsequent special meeting on September 28, 2017, which makes this challenge moot. There was only one reference to complainant appealing any ruling of the chair, and that was the same one which was rendered moot by subsequent action. There were no other references to appealing the ruling of the chair on any other matters; accordingly, there is no indication that complainant exhausted her administrative remedies prior to filing this
challenge. Failure to exhaust administrative remedies acts as a further bar to this claim. Additionally, the remedy sought by the challenger to “remove Chris Robles as chair from the San Bernardino County Democratic Central Committee” is beyond the authority of the CRC.

October 6 Challenge:
The challengers disputed actions taken at both the special meeting and the regular meeting of the SBCDCC on September 28, 2017. During the special meeting, the body voted on the Executive Committee’s decision to dismiss the removal petition and it passed 30 – 18. As mentioned previously, the challenge was not submitted within the seven (7) calendar day requirement for timeliness and the CRC was not provided with “good cause” to waive the requirement thus it is not considered timely.

October 28 Challenge:
Challengers assert the election of Executive Board members was not in compliance with both the CDP Bylaws and SBCDCC Bylaws. As mentioned previously, the challenge was not submitted within the seven (7) calendar day requirement for timeliness and the CRC was not provided with “good cause” to waive the requirement thus it is not considered timely.

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) The CRC finds the August 30 challenge by Ms. Garcia to be moot as the issue was dealt with at a subsequent meeting of the SBCDCC and the remedy requested is beyond the authority of the CRC.

2) The CRC finds that both the October 6 and October 28 challenges are not timely nor was the CRC given “good cause” to waive the requirement.

3) The CRC finds the actions of the SBCDCC at their meeting on September 28, 2017 did comply with the August 23, 2017 decision of the CRC.

4) The CRC notes that the purpose of the CRC is not to referee internal political disputes, which should be dealt with using processes outlined by the SBCDCC Bylaws.

5) The CRC notes that challenges to the CRC should be made on substantive procedural or bylaw violations and not because a certain, desired outcome wasn’t achieved.

6) 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.

7) The CRC directs that the question of determining the interpretation of the bylaws in regards to DCC’s selecting Executive Board representatives be referred to the Rules Committee for further clarification.

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 November 14, 2017 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 November 26, 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