MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: April 5, 2019

RE: DECISION OF THE COMPLIANCE REVIEW COMMISSION (CRC) RELATING TO A CHALLENGE FILED BY MS. CYNTHIA HOMEN

INTRODUCTION:

On January 23, 2019, the Stanislaus County Democratic Central Committee (SCDCC) held an election meeting. On January 24, 2019, Ms. Cynthia Homen, an alternate member of the SCDCC, officially filed a challenge with the CRC.

In the Challenge, Ms. Homen alleges:
1. The SCDCC did not use a roll-call method of voting during officer, Democratic State Central Committee (DSCC) and CDP Executive Board elections at the January Reorganization meeting, and, in any event, the DSCC and CDP Executive Board election procedures were deficient.
2. The tallies for officer elections were questionable.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

Documents received and reviewed by the CRC associated with the challenge included the following:
2. Testimony in opposition submitted by Jessica Self and Elizabeth “Lise” Talbott.
3. SCDCC Bylaws
4. CDP Bylaws

TIMELINESS:

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 2018, unless otherwise indicated.)
The challenge filed by Ms. Homen was submitted on January 24, 2019, which is within seven (7) days of the meeting held on January 23, 2019, thus the challenge is timely.

STANDING:

According to Article XII, Section 3:

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

Ms. Homen has standing as she is an alternate member of the SCDCC.

JURISDICTION

Article XII, Section 2a states:

“The Compliance Review Commission shall have initial jurisdiction over all challenges and/or appeals arising under these Bylaws.”

The CRC has jurisdiction under Article XIII (General Policies) unless otherwise noted below.

FINDINGS:

First Allegation: A roll-call method of voting, agreed upon during the September 2018 SCDCC meeting, was not implemented during the January SCDCC Reorganization meeting.

Instead of a roll call with each voter calling out his or her vote, the voting took place via the presiding officer calling out each voter's name and each voter marking a written ballot. Ms. Self and Ms. Talbott both state that there was no quorum at the September meeting. Ms. Self and Ms. Talbott also state that the process used was explained to the body and no one objected. Ms. Self also says that the process was agreed upon by both candidates. No one supplied minutes from the September 2018 meeting.

The preponderance of the evidence does not support a finding that a roll-call vote process was adopted in September 2018 and, thus, there is insufficient evidence to find that the failure to conduct a roll call vote was in violation of the SCDCC bylaws. Further, according to testimony submitted to the CRC by Ms. Self, the ballot method used for the election of officers adheres to the spirit of the roll-call voting method as it still possible to view how each voting member voted. In any event, no objection was raised and, thus, there was a failure to exhaust local administrative remedies.

To the extent that the challenge to the election of members of the DSCC and the CDP Executive Board is based on an allegation that there was a requirement determined at the September 2018 meeting that there be a roll-call vote, as discussed, the challenger has failed to present sufficient evidence to prove this. To the extent this objection is based on the fact that the entire slate was elected at one time with one motion, this occurred because Ms. Self nominated a slate of delegates, including herself, and also nominated herself as executive board representative and with no further nominations, these nominations were voted on as a
group. Ms. Self and Ms. Talbott both say that there was no objection to this process. Ms. Self also asserts that she twice called for further nominations and none were made. In these circumstances, even had there been a problem with the procedure used, there was a failure to exhaust local administrative remedies.

**Second Allegation: The tallies for the officer elections were questionable.**

The challenger provided no evidence in support of this allegation, and there is no evidence that if there were any obstacles to access to the tallies, the issue was raised and the challenger attempted to have them addressed at the local level. Accordingly, local administrative remedies were not exhausted.

**ORDER:**

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

1. The CRC denies the challenge by Ms. Homen, based on the agreement of the body, to the methods of voting at the SCDCC Reorganization Meeting, and Ms. Homen’s failure to exhaust local administrative remedies.

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 April 17, 2019 with the Sacramento office of the California Democratic Party, and shall be an appeal to the next meeting of CDP Credentials 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 Credentials Committee by 5 PM on April 29, 2019, 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 of an appeal, if any, is heard by the Credentials Committee.

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

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
Laurence Zakson, Co-Chair, Rules Committee