

## MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: February 12, 2018

RE: **DECISION OF THE COMPLIANCE REVIEW COMMISSION (CRC)  
RELATING TO THE CHALLENGE FILED BY MR. STEPHEN JAFFE  
REGARDING THE PETITION TO OBJECT TO AN INCUMBENT'S AUTOMATIC  
ENDORSEMENT**

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### **INTRODUCTION:**

On January 23, 2018, Mr. Stephen Jaffe filed a challenge against actions taken by CDP staff to not include Congressional District 12 in the endorsement process.

Mr. Jaffe received a list of 183 voters on January 5, 2018. He based the 20% requirement to object to the inclusion of an incumbent in the endorsement process off that number. When the petitions were verified by CDP staff, they used the most current list of eligible voters, which was 190. The number of verified signatures filed by Mr. Jaffe was less than 20% of the 190 and the petition was found invalid. Mr. Jaffe claims since the CDP failed to proactively send his campaign the updated list, that he should be held to 20% of the list he was provided with.

### **DOCUMENTS INITIALLY RECEIVED AND REVIEWED:**

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

1. Challenge submitted by Mr. Jaffe on January 23, 2018.
2. Additional testimony submitted Mr. Jaffe on January 29 and January 31, 2018.
3. Testimony submitted by Democratic Leader Nancy Pelosi on January 31, 2018.
4. Memo from CDP Staff regarding challenge to petition verification results posted on January 19, 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 by Mr. Jaffe submitted on January 23, 2018 challenging the verification of petition results posted on January 19, 2018 is within the seven (7) calendar day 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.”

Mr. Jaffe is a candidate for office who requested (filed and paid fee) the endorsement of the California Democratic Party and thus has standing to bring this challenge as he was adversely affected.

**FINDINGS OF FACT:**

Mr. Jaffe requested the endorsement from the CDP and as such received a list of 178 eligible voters (delegates, county committee members, and club representatives) on January 3, 2018.

The January 3 email contained the following language:

“The 2018 California Democratic Party (CDP) Pre-Endorsing Conference Eligible Voter List enclosed is as of November 30, 2017, the deadline to make changes to said list, per CDP Rules. No additional changes may be made to this list past that deadline. **This list is considered final unless corrections are necessary to mitigate possible issues (e.g., voter registration discrepancy or changes, voter contact information update) or clerical error.**” (Emphasis added.)

Subsequently, Mr. Jaffe received an updated list of 183 eligible voters on January 5, 2018. The following language accompanied the email:

“You were previously sent an Eligible Voter List for the 2018 California Democratic Party (CDP) Pre-Endorsing Conference for your district. However, some corrections were necessary to mitigate issues (e.g., voter registration discrepancies or changes, voter contact information updates, or clerical error). Please see attached for the updated CDP Pre-Endorsing Conference Eligible Voter List for your district”

There were no further requests made to staff for an updated list and no other lists were sent to Mr. Jaffe prior to the deadline to submit petition signatures on January 17, 2018.

Mr. Jaffe submitted the names of 41 eligible voters. Staff verified the signatures and ruled that three (3) were duplicates, one (1) was not on the list of eligible voters, and one (1) name didn't match the address we had on file. There were two people in California with the same name (one in CD12 and one in CD15) and without confirmation ruled it invalid. This left a total of valid signatures.

From January 5 to January 17, the list of eligible voters increased from 183 to 190. Additional voters were added to the list due to clerical errors, voter registration confirmation, voter contact information changes, etc. In total, eleven (11) new names were added, two (2) were removed and two (2) were replaced for a net total of seven (7) additional voters. All of the additional names were submitted prior to the November 30 deadline. For all the reasons previously mentioned the list grew from 183 to 190.

In verifying the petitions, the CDP staff took the most current list of eligible voters in Congressional District 12, which was 190.

In a memo dated January 19, 2018, CDP Staff stated:  
CD 12 – Nancy Pelosi – Challenge Failed  
(20% = 38. Signature Raw Count = 41)  
Verified Count – 36

In response, Democratic Majority Nancy Pelosi's campaign states:

- Anytime a list changes it affects all candidates equally,
- Some names contained in the petition were not on the January 5 list provided to Mr. Jaffe. [CDP staff confirmed that David Geisen, Jake Reis, Laurel Muniz were added after January 5 and were not on a list provided to Mr. Jaffe, but included as part of his petition].

Staff noted that corrections to the lists applicable to various election districts happen constantly in the days prior to the deadline for submission and the actual pre-endorsing conference. It has been the practice of staff to provide an updated list to candidates upon request. It is not the practice of staff to proactively provide new lists to candidates. Doing so would be extremely impractical.

Given that the final list contained 190 voters, twenty percent of that would be 38 names. Staff verified 36 of these names. Mr. Jaffe objected to the exclusion of a 37<sup>th</sup> name, but

regardless of whether or not the name was included in the total, Mr. Jaffe fell short of the required 38 names.<sup>1</sup>

### **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 denies the challenge as the challenger did not meet the 20% requirement to object to the automatic endorsement of an incumbent officeholder.
- 2) The CRC finds the CDP staff acted appropriately and did not harm the campaign.
- 3) The CRC finds the staff's action with regard to the Jaffe Committee were consistent with how every other candidate committee was treated across the state.
- 4) The CRC did not have to reach a decision on the validity of Mr. Niloy Mukherjee's signature as it did not affect the outcome.
- 5) The CRC requests the Rules Committee examine the process for determining the final number needed to object to the automatic endorsement of an incumbent and create a standard uniform process for determining and publicizing the final number required for objection.

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 24, 2018 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 March 8, 2018, 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.

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<sup>1</sup> It should be noted that while Mr. Jaffe makes much of the fact that he was not given a more up-to-date list, the final petition that he submitted contained three eligible voters who were not any list provided to him by CDP staff. In other words, Mr. Jaffe clearly knew that there were other eligible voters in addition to those on the last list provided to him by CDP staff. In addition, even if, for the sake of argument, CDP staff made its determination based on the last list provided to Mr. Jaffe, his petition would have still failed because three of his submitted signatures did not appear on his list. In other words, if the final list was 183 voters, Mr. Jaffe's list included only 34 names on that list, still short of the 37 required under that scenario. Again, this is only for the sake of argument, as the CRC finds below that any petitions must be judged by the final list, in this case, 190 voters.

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