

## MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: December 8, 2020

RE: **COMPLIANCE REVIEW COMMISSION (CRC) DECISION RELATING TO A CHALLENGE FILED BY DAVID ABBASI**

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### **INTRODUCTION:**

David Abbasi filed a challenge relating to the actions of the Kern County Democratic Central Committee (KCDCC). The challenge alleges that the KCDCC elected a Robin Fernandez, who benefited from a slate mailer that was paid for by the Kennedy Club PAC, in which Ms. Fernandez is apparently an officer. Mr. Abbasi claims that the election held on August 25, 2020 to fill the Central Committee vacancy in District 3 resulted in the violation of the CDP Bylaws, Article II, Section 12(c) regarding conflict of interest on voting. Mr. Abbasi also alleges that he and others were ignored when he made a motion to table the vote and refer to their Bylaws Committee. By doing so, he claims that the CDP bylaws Article 4, Section 7(a), KCDCC bylaws Article III, Section 5 and Roberts Rules of Order were violated. Furthermore, he claims that certain members of the KCDCC acted unethically, citing Government Code section 87100 prohibiting a public official from using their position on a decision resulting in a financial interest regarding the KCDCC.

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

CDP Staff received the following documents associated with the challenge:

1. Challenge submitted by Mr. Abbasi on September 2, 2020.
2. Response opposing the challenge was submitted by the KCDCC Executive Board
3. Response supporting the challenge was submitted in improper format by Ajaib Gill (who is not a member of the KCDCC)

### **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 2019, unless otherwise indicated.)

Mr. Abbasi originally submitted a challenge on August 26, 2020 relating to an incident that took place on August 25, 2020. CDP Staff replied on August 28, 2020 and requested that Mr. Abbasi resubmit his challenge within 5 days in proper format as it did not adhere to the challenge submission requirements. On September 2<sup>nd</sup>, CDP Staff received his updated challenge.

Since Mr. Abbasi filed his challenge within 7 days of the August 25, 2020 incident, the challenge was timely.

**STANDING:**

According to Article XII, Section 3:

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

The challenger is a member of the KCDCC, thus the CRC finds that he has standing as he was adversely affected.

**JURISDICTION:**

Article XII, Section 2 states:

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

Further, the CRC Procedural Rules, Section 2, B. 2. state in pertinent part that a challenge must,

“Explain[] the basis of CRC’s jurisdiction... If the CRC cannot discern the section of the CDP Bylaws alleged to have been violated or which grants jurisdiction to the CRC, it may dismiss the challenge.”

The challenge submitted by Mr. Abbasi failed to provide any basis for jurisdiction under the CDP Bylaws.

As the CRC has explained in many previous decisions, the CRC is not a general appellate body for county committees, which under state and federal law are separate legal entities from the CDP. While there are exceptions to this rule, in general, the CDP (through the CRC) will not intervene in the business of a county committee unless the actions being complained about directly affect the county committee’s representation on the CDP State Central Committee or Executive Board or, in the case of a county committee whose endorsements are deemed to be the CDP’s endorsements, directly affect the endorsement process.

This means that claims of violations of Roberts Rules of Order and/or the county committee's bylaws will not establish jurisdiction except where they impact the representation or endorsement processes as described in the previous paragraph.

The most common exception to the rule in the previous paragraphs is where the actions complained about seriously violate Article XIII of the CDP By-laws, which details procedural rights of all Democrats, especially sections 1 through 7, relating to meetings being public, tests and oaths, and most of all, notice.

A few other points on jurisdiction:

In general, the conflict of interest provisions in Article II of the CDP Bylaws do not apply to county committees and thus do not establish jurisdiction.

Further, the provisions of California Government Code section 87100 et seq. (generally known as the California Political Reform Act) also do not apply to county committees and alleged violations of such cannot be used to establish jurisdiction

In this case, the endorsement complained about was for a vacancy on the county committee itself. Even if the KCDCC's endorsements for local office were accepted by the CDP as its own endorsements under the process outlined in Article VIII, Section 4 of the CDP Bylaws (which is not the case for Kern County), county committee vacancies are not "local offices" within the meaning of the Article VIII, section 4, and thus the process for endorsement for such vacancies are not within the jurisdiction of the CDP.

Thus, there is no jurisdiction established.

#### **FINDING, ORDER AND COMMENTS:**

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

1. Based on the information presented, the CRC finds no jurisdiction under the CDP Bylaws and denies the challenge.

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. Thus, any appeal must be filed on or before December 20, 2020 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 2e, the filing of an appeal shall not stay any decision of the CRC. Parties may additionally respond in person or virtually, depending on how the meeting is being conducted, 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 2, 2021, 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.

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

Tim Allison, Co-Chair, Credentials Committee

Kathy Bowler, Co-Lead Chair, Rules Committee

Nicole Fernandez, Co-Chair, Rules Committee

Coby King, Co-Chair, Rules Committee, and Co-Chair of the CRC

Lara Larramendi, Co-Lead Chair, Credentials Committee, and Co-Chair of the CRC

Keith Umemoto, Co-Chair, Credentials Committee