

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 BASIL KIMBREW AND RON COHEN**

INTRODUCTION:

Basil Kimbrew and Ron Cohen filed a challenge relating to the actions of the California Democratic Party Veterans Caucus. The challenge alleges that the Veterans Caucus retaliated against Mr. Cohen and Mr. Kimbrew by nullifying the results of an election, where Mr. Kimbrew was nominated and elected as First Vice Chair of the Veterans Caucus on August 4th at the September 9, 2020 meeting. The challengers allege that the Chair contested the status of Mr. Cohen's membership, finding it not to be in good standing, and thus voiding his nomination of Mr. Kimbrew. Furthermore, the challengers believe that the Veterans' Caucus bylaws Article II, Section 3B were violated, due to the fact that Mr. Cohen's status at the time of the election was not challenged.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

CDP Staff received the following documents associated with the challenge:

1. Challenge submitted by Mr. Cohen on September 10, 2020.
2. Joint Response opposing the challenge was submitted by Jillynn Molina-Williams and Dr. Crystal Jackson.
3. Responses supporting the challenge were submitted by Basil Kimbrew, Denise Cohen, Ron Cohen. and Diana Love.

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 July 2020, unless otherwise indicated.)

The challengers filed their challenge within 7 days of the September 9, 2020 incident, and thus, the challenge was timely.

STANDING:

According to Article XII, Section 3:

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

Mr. Cohen was a voting member and was under the impression that he was in good standing at the time of Mr. Basil’s nomination and election on August 4th, because he submitted a waiver request on June 23rd. He was later notified during the September 9th meeting that his nomination was not counted due to his member status not being in good standing. Mr. Kimbrew is also a member in good standing, thus the CRC finds that both challengers have standing as they were 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 CRC finds jurisdiction as the challenge alleges violations by a CDP Caucus of its own Bylaws.

FINDINGS:

The CRC finds that the evidence is clear that at the time of the election on August 4, 2020, there were no objections raised as to either Mr. Kimbrew’s eligibility to serve as Vice Chair or to Mr. Cohen’s caucus membership standing and his eligibility to nominate and vote for Mr. Kimbrew. The evidence further shows that the objection to Mr. Cohen’s eligibility was made at a subsequent meeting of the caucus on September 9th. Given that objecting at that later date was not proper and that it appears that Mr. Cohen was in fact a member in good standing, with the supporting evidence showing his timely hardship waiver request. The CRC finds the action of the Veteran’s Caucus to invalidate Mr. Kimbrew’s election was improper.

ORDERS AND COMMENTS:

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

The CRC upholds the challenge, thereby invalidating the September 9th caucus action that set aside Mr. Kimbrew's election as Vice Chair. Thus, Mr. Kimbrew's election as Vice Chair is reinstated.

The Party will further communicate with each caucus as to the need to address fee waivers in a timely manner and clarify the general position of the California Democratic Party to accept without question any request for a fee waiver.

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.

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,

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