

## MEMORANDUM

TO: All Interested Parties

FROM: CDP Staff

DATE: October 28, 2022

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

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### **INTRODUCTION:**

Ms. Cynthia Homen filed a challenge relating to the actions of the Stanislaus County Democratic Central Committee (SCDCC) on August 30, 2022. The challenger appeals the decision of the SCDCC decision to not endorse her in her bid for re-election to the Patterson City Council, even though her opponent was Republican. She claims her endorsement was derailed by her August 22, 2022 endorsement interview statement about a scandal regarding the Mayor of Patterson in October of 2021. She also alleged that she was asked about her arrest in June of 2019 but was unable to discuss the alleged misdemeanor on the advice of her attorney because the matter was under review in the courts and that Co-Chair, Marjorie Sturdy told her that her answer was unacceptable.

Ms. Homen does not feel like she was treated fairly and was not asked the same questions as the other candidates. She is requesting an endorsement from the Stanislaus County Democratic Central Committee.

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

CDP Staff received the following documents associated with the challenge:

Challenge submitted by Ms. Homen on August 30, 2022 with Exhibits

### **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 February 2022, unless otherwise indicated.)

Ms. Homen submitted a challenge August 25, 2022 relating to an incident that took place on August 22, 2022. On August 29, 2022 CDP Staff requested that the Challenger resubmit their challenge within 5 days in proper format as it did not adhere to the challenge submission requirements. On August 30th, CDP Staff received their updated challenge.

The Challenger filed the original challenge within 7 days of the August 22, 2022 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.”

Standing did not have to be reached as there was no jurisdiction found over this challenge.

**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 did not allege any violation of the CDP Bylaws or the Bylaws of the SCDCC, and the facts alleged do not suggest that there is or could be one as the only objections relate to dissatisfaction with the interview process and its result. This is an inherently fatal deficiency and not a mere formal deficiency in the procedural document. As a result, no opportunity to cure is warranted. In these circumstances, the challenger did not provide a basis for jurisdiction in the challenge nor did the CRC discern one.

**FINDINGS AND ORDER:**

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

The CRC finds Ms. Homen's challenge failed to provide any basis for jurisdiction and the CRC could not discern any section of the CDP bylaws to have been violated by the conduct at issue in the challenge.

The CRC denies the challenge and hereby dismisses it due to the lack of jurisdiction.

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 SCDCC 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. For this reason, the CRC notes that the challenge to the CRC should be made on substantive procedural or bylaw violations and not because a certain, desired outcome wasn't achieved

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 November 9, 2022 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 Monday, November 9, 2022, 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  
Nicole Fernandez, Co-Chair, Rules Committee  
Valeria Hernandez, Co-Lead Chair, Rules Committee  
Lara Larramendi, Co-Lead Chair, Credentials Committee  
Paul Seo, Co-Chair, Credentials Committee  
Laurence Zakson, Co-Chair, Rules Committee