

## MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: March 14, 2023

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

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### **INTRODUCTION:**

On February 18, 2023, Irvine City Councilmember Larry Agran filed a challenge relating to the action of the Los Angeles County Democratic Party (LACDP), claiming that the LACDP funded a PAC with the sole purpose of defeating Mr. Agran in his City Council re-election campaign. The Challenger alleges that the LACDP funded the Working Families United PAC with \$150,000. Mr Agran contends that the Working Families United PAC later sent funds to the Citizens for Ethical New Leadership Opposing Larry Agran for Irvine City Council 2022 PAC. Mr. Agran claims that the LACDP's intention was to fund the anti-Agran PAC in hopes of defeating him in the November 8, 2022 election. Allegations include details that the PAC funded approximately ten attack mailers with assertedly personal comments about Mr. Agran and his record.

The challenge claims that the Challenger notified the LACDP Executive Board (which Mr. Agran called the Executive Committee in the notice) and Rusty Hicks, CDP Chair, but that they ignored the information. Additionally, Mark Gonzalez, in his capacity as Chair of LACDP, was contacted by Mr. Agran directly, but Mr. Gonzalez assertedly refused to help.

Mr. Agran claims that the LACDP violated CDP Bylaws Article VIII, Section 4.b by financially supporting attacks against another Central Committee's officially endorsed candidate.

Although the Challenger did win his re-election, he believes that he was adversely affected by the mailers that were sent by the Working Families United PAC.

The LACDP responded that it provided funds to the Working Families United PAC because that PAC was doing independent expenditures in support of LACDP endorsed candidates in areas in Los Angeles County, particularly Long Beach. LACDP noted that, as a rule, once a contribution is made to a PAC, the PAC can expend the funds as it wishes. The LACDP also indicated that it understood Mr. Agran's concerns and would consider those concerns when contemplating making future contributions to political action committees rather than by making direct expenditures.

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

Documents received and reviewed by the CRC associated with the challenge included the following: Challenge submitted by Councilmember Larry Agran on February 18, 2023 and three supporting documents

- a. Exhibit A – Attack Mailer #1 Example (false allegations of misogyny)
  - b. Exhibit B - Attack Mailer #2 Example (false allegations of support for OCPA)
  - c. Exhibit C - Letter to LACDP from the Democrats of Greater Irvine (including financial filings)
2. Testimony submitted by the LACDP in opposition
  3. There were no responses supporting this challenge submitted

## **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 2022, unless otherwise indicated.)

Mr. Larry Agran submitted a challenge on February 18, 2023 for an incident that took place during the 2022 General Election campaign season. The submission was not within the seven (7) calendar day requirement for timeliness and the CRC was not provided with “good cause” to waive the requirement; as a result, the challenge is untimely and should be dismissed.

## **STANDING:**

According to Article XII, Section 3:

“Any party to a challenge must be adversely affected to bring the challenge.”  
Mr. Agran was an endorsed candidate by the Democratic Party of Orange County and was named and called out in an unfavorable way in mailers in question.

Without passing on the merits of any mailer, the CRC finds the challenge sufficiently states allegations supporting a finding of standing as Mr. Agran adequately asserts that he was adversely affected. In such circumstances, although it is not necessary to make a finding as to standing, there likely would have been standing had there been a timely challenge over which the CRC had jurisdiction.

## **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.”

In addition to being untimely, Mr. Agran’s challenge was fatally deficient in that Mr. Agran did not elucidate a sufficient basis for jurisdiction to hear the challenge. In that regard, although Mr. Agran contended that he was damaged by mailers sent by a third party that received funds from LACDP, he failed to establish that the LACDP itself took actions that are prohibited by the California Democratic Party bylaws or otherwise gave rise to CRC jurisdiction.

## **FINDINGS:**

As noted above, the challenge submitted by Mr. Agran was both untimely and failed to demonstrate a basis for jurisdiction; and the CRC could not discern a basis for jurisdiction.

As the CRC has explained in many previous decisions, the CRC does not have plenary jurisdiction over actions of County Central Committees, which under state and federal law are independent and separate legal entities from the CDP. Moreover, as a general rule, it is not the business of the CDP or the CRC to police the activities and expenditures of a County Central Committee.

While not necessary to this decision, the CRC notes that, here, the actions of the LACDP in making a sizable contribution to a PAC that, in turn, funded unfavorable mailers about an endorsed candidate of another County Central Committee demonstrate the dangers inherent in making such contributions rather than engaging in Party activity directly. The LACDP has informed the CRC that it recognizes that fact and will consider that possibility in its future expenditure decisions.

**ORDER:**

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

The CRC denies the challenge and has voted to dismiss due to failure to submit in a timely matter and lack of jurisdiction.

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 April 26, 2023 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 Wednesday, April 26, 2023, 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, Member, Rules Committee