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August 30, 2022
Sent Via Email Only

Dear Jack Brown and Lucian Blansett:

As Oregon's chief elections officer, the Secretary of State is responsible for obtaining and maintaining uniformity in the application, operation and interpretation of state election laws. ORS 246.110. Among the Secretary's responsibilities are the duties to register certificates of nomination and to receive a list of political party officers. ORS 249.810 and ORS 248.009(2). In addition, ORS 248.009(1) requires a minor political party to file with the Secretary "a copy of its organizational documents establishing its process for nominating candidates for public office."

Though the Secretary and the Elections Division ("Division") generally do not get involved in internal party disputes, the need has arisen for the Division to make a decision about which group to recognize as the Constitution Party of Oregon's ("Party") leadership, and identify which group is able to nominate candidates to the 2022 general election.

As explained in this letter, the Division hereby determines that Jack Brown is the recognized chair of the Party. Accordingly, the Elections Division will only accept Candidate Filing – Minor Political Party forms (SEL 110) certified by party officers that Roger Shipman notified the Division of on August 8, 2022, which are:

- Jack Alan Brown, Jr., Chair
- Robert (Bob) Eckstrom, Vice Chair
- Roger Shipman, Secretary
- Angi Vandenbos, Treasurer

Party Leadership Pre-Dispute

The Party has been a recognized statewide minor political party in Oregon for over 20 years. Bob Eckstrom and Mary Brown, were the Chairman and Secretary of the Party's founding convention, respectively.

On December 4, 2006, Mary Brown, Secretary of the Party at that time, informed the Elections Division that Jack Alan Brown Jr. had been elected as the State Party Chairman at a party meeting held on November 24, 2006. According to the Elections Division's records, Jack Brown has held that position since then.

June 2022 Complaint and Division's Determination

In June 2022 the Division received a written complaint against three members of the Party's leadership including Jack Brown. The complaint alleged that the Party violated Oregon election law by not providing proper notice regarding nominating conventions and committee meetings. The Division opened an investigation into the allegations. On August 4, 2022, the Division issued its determination that the Party violated Oregon election law by failing to provide sufficient and timely notice of a nominating convention. Accordingly, the Division advised the Party to update its bylaws to comply with ORS 248.009(1) and to schedule another nominating convention or delegate selecting convention to appropriately nominate candidates to the 2022 general election.

On August 8, 2022, Roger Shipman filed an updated list of Party officers with the Division as required by ORS 248.009(2). On August 12, 2022 Jack Brown filed updated Party bylaws with the Division as required by ORS 248.009(1).

August 2022 Party Leadership Dispute

After the Division issued a decision in the investigation discussed above, a group of Party members attempted to become the recognized Party leadership ("Blansett's group"). Blansett's group purported to hold a nominating convention to nominate candidates and update the Party's bylaws. On August 22, 2022 Lucian Blansett filed bylaws reportedly adopted by party members the previous day. Blansett also filed three SEL 110 forms indicating that the group nominated Michael Stettler to the office of US Senator, Paul Romero to the office of Governor, and Caleb Abel to the office of State Representative, District 1. On August 29, 2022, the Division received an SEL 110 indicating that Blansett's group nominated Thomas Zoll to the office of US Representative, 4th District.

Secretary's Authority

ORS 248.011 prohibits the Secretary from enforcing party rules "except as required by law." In *Reeves v. Wagner*, 295 Or App 295 (2018), the Oregon Court of Appeals held that the Secretary's statutory obligation to receive lists of party officers and certificates of nomination signed by a party officer implicitly includes the authority to determine whether the persons listed are, in fact, officers, and whether the person signing is, in fact, an officer.

Party Recognition

Both groups filed what they purport to be the Party's most recent bylaws. To aid in determining which bylaws to accept and which group to recognize as party leadership, the Division looked to the Party's bylaws filed prior to the dispute. The most recent bylaws prior to the complaint were filed on May 24, 2021. Section B, Article IV of those bylaws state that:

[A]doption of [the] bylaws shall be effected by a simple majority vote of the State Central Committee at or subsequent to its biennial organization meeting, and they shall continue in force unless and until replacements are adopted by majority vote of the subsequent newly organized State Central Committee of the next biennial election.

The undisputed version of the Party's bylaws govern the process for any updates that may be made to them. Documentation the Division received from various party members indicates that

Jack Brown followed these procedures. The Division has no reason to question the legitimacy of the bylaws filed by Jack Brown on August 12, 2022. The Division declines to accept the bylaws filed by Lucian Blansett on August 22, 2022 because he was not listed as a party officer on the list received by the Division on August 8, 2022.

August 6, 2022 Committee Meeting Notice

Certain Party members have raised concerns that the Steering Committee held on August 6, 2022 didn't provide proper notice to committee members as required by ORS 248.012. The statute requires the committee to notify the entire committee membership of the meeting not later than the sixth day before the date of the meeting. The statute also states that failure to give timely notice of the time, date and place meeting shall invalidate the business of the meeting.

The Division received an email showing that Roger Shipman, Secretary of the Party, sent notice to *steering@constitutionpartyoregon.net* on July 31, 2022 at 10:55 p.m. Shipman confirmed that the email address serves as an email forwarder to members of the Steering Committee. The notice informed the Steering Committee of the agenda, including the intent to change the Party's bylaws. Further, the notice included the time, date and place of the meeting.

The Division determines that the Party provided timely and sufficient notice of the committee meeting; for a meeting held on August 6, 2022, the deadline to provide notice was July 31, 2022. We reached this determination by applying the same calculation we have consistently used to calculate deadlines. For example, the same interpretation was used when calculating the August 30, 2022 filing deadline for the 2022 general election. ORS 249.722.

Because timely notice was provided, we decline to conclude that ORS 248.012 renders the business of the meeting invalid. In other words, we understand all of the business conducted at the August 6, 2022 meeting of the Party's Steering Committee to be valid, including the appointment of new officers and the adoption of updated bylaws.

Other Disputes

Finally, the Blansett group of party members claim that they became the Party's new leadership under the powers granted to political parties by ORS 248.004(1) and ORS 65.077. In interpreting statutes, we read them together and in a way that will give effect to each statutory provision, whenever possible. ORS 174.010. ORS 65.077 gives political parties authority to "make and amend bylaws not inconsistent with its articles of incorporation or with the laws of this state..." However, the provisions of ORS 248.072 through ORS 248.085 specifically provide that the state central committee of a political party has the authority and responsibility of adopting, amending or repealing party bylaws. We find nothing in the general text of ORS 65.077 that alters the specific provisions found in ORS Chapter 248.

In sum, the Division declines to accept the bylaws filed by Lucian Blansett on August 22, 2022 because he was not a party officer on that date. Further, the Division declines to accept SEL 110 forms from party officers other than those listed by Roger Shipman on August 8, 2022.

Appeal Process

ORS 246.910 states that a person affected by any act of the Secretary of State, or by any order, rule, directive, or instruction made by the Secretary of State, may file an appeal to the appropriate circuit court.

Sincerely,

A handwritten signature in black ink, appearing to read "Alma Whalen". The signature is fluid and cursive, with the first name "Alma" being more prominent than the last name "Whalen".

Alma Whalen
Elections Program Manager