



**OFFICE OF THE
SECRETARY OF STATE**

August 12, 2016

Via U.S. Mail and Email

Mace Yampolsky, Esq.
625 S. 6th Street
Las Vegas, NV 89101
mace@macelaw.com

Re: Nevada Green Party Appeal of Signature Verification by the Clark County Registrar of Voters

Dear Mr. Yampolsky,

The Office of the Nevada Secretary of State has received and reviewed the Appeal by the Nevada Green Party Contesting Clark County's Verification of Signatures in Support of the Green Party's Ballot Access Petition (Appeal), which was filed on June 29, 2016. Pursuant to the Secretary of State's authority under Title 24 of the *Nevada Revised Statutes*, and after careful consideration of all the issues raised in the Appeal, having read and considered the arguments in the Appeal, and after careful review of all applicable legal authority, this office offers the following findings and conclusions with respect to the Appeal.

Claim No. 1 – Clark County's Signature Verification Process is Unfair, Unreliable, and Arbitrary

The process of signature verification is inherently labor intensive and relies heavily on work performed by people (as opposed to computers). Accordingly, the Clark County Registrar of Voters has implemented a number of procedures that reduce the likelihood that the results of any signature verification process are tainted by human error. These procedures include checks across multiple data fields in order to determine if a petition signer is a registered voter, the creation of a review board to examine rejections due to the signer being flagged as not registered to vote, checks against past signatures on file for the voter, and secondary review of signatures determined to not be matches. In all these procedures, the Clark County Registrar of Voters works to enfranchise voters as much as possible.

The Appeal claims that data entry errors during the lookup process to determine if a petition signer is a registered voter could have caused actual registered voters to be disqualified from the final count. However, the likelihood of an actual registered voter being disqualified due to human error is minimal. When checking a person's voter registration status, information is verified across multiple fields, including first and last name, address, and date of birth. A typo in any of these fields would not cause the name to be immediately rejected as long as the other fields matched. Additionally, non-matches are sent to a review board in certain instances for further examination. It's unlikely that many petition signers, if any, were rejected due to data entry errors.

The Appeal also alleges human error may have caused valid signatures to be rejected. As with the voter registration verification process, procedures are in place so that all rejected signatures are reviewed by more than one person and signatures are verified against all signatures on file for the voter. It is understood that a person's signature is never exactly the same, so small differences between the signature on file and the signature on the petition are not used as a basis for rejection. In addition, contrary to the claim in the Appeal, petition signatures are checked against all signatures on file for the voter, not just the most recent signature on file. Additionally, all signatures are verified against another signature. No signatures are rejected purely because it appears to the reviewer that the handwriting matches another signature on the petition, as claimed in the Appeal.

The processes implemented by the Clark County Registrar of Voters are sufficient to provide satisfaction to this office that if any human errors were made during the signature verification process, they were minimal and negligible.

Claim No. 2 – Valid Signatures Were Rejected Due to Errors Made During the Verification Process

The Appeal alleges errors were made during the signature review process that caused valid signatures to be rejected. Specifically, the Appeal claims that some signatures that were determined to be valid were accidentally flagged as rejected on a verification card and placed in a pile for rejected signatures. This claim is based on observations made by representatives of the Nevada Green Party who were present at the Clark County Registrar of Voter's office during the signature verification process.

The verification cards identified in the Appeal are used by the Clark County Registrar of Voters to assist with the signature verification process, but they are not the final determination when it comes to signature verification. As mentioned in the previous section, signatures are verified against all the signatures on file for the voter, and the determination to reject a signature is not made by only one person. Each signature that is rejected is reviewed by at least one additional staff member before the final determination is made to reject the signature. If a valid signature somehow ended up in the rejected signature pile due to a sorting error, this signature would be checked again by a different employee who would find the signature valid if it appeared to be valid.

If errors were made during the signature review process that caused a valid signature to be counted as invalid, the number of errors that would have been necessary for the outcome to have been affected is exceedingly large. The Nevada Green Party's ballot access petition was 647 valid signatures short of the required 5,431 signatures. During the signature verification process performed by the Clark County Registrar of Voters, 681 signatures were rejected after being reviewed. This means that approximately 95 percent of the rejected signatures would have to have been rejected in error for the alleged signature validation mistakes to have had an impact on the final determination by the Secretary of State. This is an unreasonable assumption.

Claim No. 3 – A Reasonable Opportunity was Not Provided to Observe the Verification Process

As referenced in the Appeal, NRS 293.1277(8) requires a Registrar of Voters or County Clerk to allow a person who submits a petition to witness the signature verification process. However, the Appeal does not claim that representatives from the Nevada Green Party were denied the ability to witness the signature verification process. On the contrary, the Appeal notes that the Nevada Green Party was notified by the Clark County Registrar of Voters each day before signature verification occurred. The claim instead is that the opportunity provided to the Nevada Green Party to witness the signature verification process was not reasonable because, in a rush to complete the process, signature reviewers began work as early as 6:30 a.m., worked on weekends, and worked some holidays. Notably, no

indication is made in the Appeal that the early start times or weekend work caused the Nevada Green Party to miss any of the signature verification process. Mere inconvenience to the observers does not invalidate the process.

Pursuant to NRS 293.1279(3), the Clark County Registrar of Voters had only five working days to conduct the verification of over 8,000 signatures. Given this statutory deadline, and the fact that the five working days occurred shortly after the 2016 primary election when county staff time is generally devoted to required post-election reporting and processing, this office finds that the extended work hours and days were both reasonable and necessary in order to complete the signature verification process within the timeframe prescribe by law.

Claim No. 4 – The Process of Declaring Voters as “Not Registered” is Inconsistent between Counties

Federal law¹ requires all states to perform ongoing and routine maintenance of their voter registration list. Federal law² and state law³ also clearly define the circumstances under which a registered voter may be removed from a state’s voter registration list. These circumstances include:

- Written confirmation from the voter that he or she has moved jurisdictions or wishes to be removed from the voter list;
- The state receives reliable information that the voter is deceased;
- The voter is convicted of a felony; and
- The state receives reliable second-hand information that the voter has moved and the voter doesn’t respond to a confirmation mailing and the voter fails to vote or appear to vote between the time the confirmation mailing is sent and the second federal general election.

The Secretary of State’s office works closely with the Registrar of Voters or County Clerk in each of the 17 counties in Nevada to ensure the federal and state list maintenance laws are followed. Contrary to the claim in the Appeal, the process of “purging” or “unregistering voters” is consistent across all counties. No creditable evidence has been presented to this office indicating that voters in Clark County have been removed from the official voter registration list in a manner inconsistent with federal and state law, or using a different process than other counties in Nevada.

Claim No. 5 – The Designation of Nevada Green Party Voters in Clark County is Inconsistent with Other Counties

According to the Appeal, the Clark County Registrar of Voters removed the Nevada Green Party designation from voters who had previously selected the Nevada Green Party as their political party affiliation. This is not true. All voters statewide, including voters in Clark County, who have registered with the Nevada Green Party are counted as registered members of the Nevada Green Party. For reporting purposes, the total number of voters registered with the Nevada Green Party may often be combined with registered voters from other minor political parties in an “Other” category; however, party affiliation selected by the voter is never changed unless the voter requests it.

The fact that a complete breakout of Nevada Green Party members is sometimes not provided on public reporting had no impact on the determination that the Nevada Green Party did not meet the one percent threshold on January 1, 2016, for ballot access pursuant to NRS 293.1715(2)(b). At any given

¹ Help America Vote Act, Public Law 107-252.

² National Voter Registration Act, Public Law 103-31.

³ NRS 293.530.

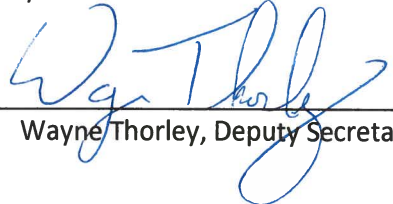
time, the Secretary of State's office can provide the total number of registered voters in Nevada affiliated with the Nevada Green Party. The Clark County Registrar of Voters can do the same thing for registered voters in Clark County. Alternatively, any person can request a copy of the Statewide Voter Registration List from the Secretary of State's office, which contains the party affiliation of all voters in Nevada.

Conclusion

The Secretary of State hereby affirms the Certificate of Results of Signature Examination for the Nevada Green Party ballot access petition submitted by the Clark County Registrar of Voters on June 21, 2016. It is the finding of this office that the Nevada Green Party ballot access petition was properly verified by the Clark County Registrar of Voters in accordance with all applicable laws, regulations, and procedures. Accordingly, the Appeal by the Nevada Green Party Contesting Clark County's Verification of Signatures in Support of the Green Party's Ballot Access Petition is denied. Pursuant to NRS 293.12795(1)(b), the Clark County Registrar of Voters will be notified that the petition at issue remains insufficient. This decision is final for purposes of judicial review, pursuant to NRS 293.12795(3).

Respectfully,

BARBARA K. CEGAVSKE
Secretary of State

By: 
Wayne Thorley, Deputy Secretary for Elections

Cc: Joe Gloria, Clark County Registrar of Voters
Lori Story, Senior Deputy Attorney General
Kim Borghese, Co-Chair, Nevada Green Party
Julia Hammett, Co-Chair, Nevada Green Party