

9 March 2008

To: The Green-Rainbow Party
From: Nat Fortune, Merelice, Co-chairs

Over the past few months the committees and officers of our party have spent a large fraction of their time dealing with various proposals and schemes whose consistent theme has been to keep one candidate (Ralph Nader) off the presidential primary election ballot or to disenfranchise Nader voters by denying them representation at the national presidential convention, despite clear statements in both state law and our own delegate selection plan that only the candidate can release delegates earned by that candidate in the presidential primary.

The latest proposals of this sort consist of (1) a "Minority Opinion" and (2) the filing of a formal legal complaint with the Secretary of the Commonwealth by Kat Swift, one of the presidential primary candidates, using the arguments made in the Minority Opinion as a basis for the complaint and demanding that the Secretary of the Commonwealth intervene in our Party's delegate selection process.

What saddens us about the Minority Opinion is that it is being signed by several well-meaning people who think they are seeking a principled response but have been misled by a prejudicial misrepresentation of the facts without benefit of an accurate context. Misunderstandings may be arising because the majority of the signatories were neither at the state convention (when the decision to open our presidential primary ballot to independents as well as Green party members passed by a vote of 75% in favor to 25% opposed) nor involved since then in the issues under discussion at the State Committee meetings that followed .

This statement is intended to describe the situation as understood by the co-chairs. We believe that the information provided here is fully consistent with the decisions and views expressed at the State Convention, the State Committee, and the CDLC (Candidate Development and Legal Committee).

(1) The strict and exclusionary ballot-list criteria which form the basis of the complaints in the Minority Opinion are the creation of the complainants and do not represent official procedures of the Green-Rainbow Party. The criteria cited for ballot-list inclusion appear in no officially approved minutes of the Party.

(2) The co-chairs and Elie Yarden—who served (with the approval of AdCom) in lieu of CDLC at the request of former CDLC chairs Mike Heichmann and Jamie O'Keefe—expended many hours in attempting to faithfully execute the ballot-list process of the Party. We neither excluded from the ballot list any candidate whose campaign responded to our inquiries regarding placement on the ballot nor included any candidate whose campaign failed to indicate (a) that the candidate was willing to be placed on the ballot, (b) that the candidate knew she or he was being placed on the ballot, (c) that the candidate was aware of the Commonwealth's 24-hour (usually one-week) deadline for withdrawing from the ballot, and (d) that the candidate knew that being on the GRP ballot meant their

names would be placed in nomination for president on the Green Party ticket.

(3) We disagree with the Minority Opinion's assertion that the Secretary of the Commonwealth's Elections Division should have acted to keep Ralph Nader off the ballot because he had not yet formally declared his campaign for president (as opposed to draft or exploratory campaign status). State law explicitly instructs the Secretary of the Commonwealth to cause to be placed on the ballot both candidates and potential candidates. We also note that by this criterion, the opinion authors should also be objecting to the placement of Elaine Brown and Cynthia McKinney on the ballot list, since neither had officially declared by the December 5th deadline for placing candidates on the ballot list, in accordance with the schedule established by the Secretary of the Commonwealth. In all three cases, however, such objections would be and are without merit and would run counter to the Green-Rainbow Party's longstanding support for more open ballot access.

(4) The Minority Opinion also asserts that WRITTEN statements of intent were required prior to placement on the ballot list --- on the basis that there is no "separability clause" and that we should therefore ignore the word 'only' in the phrase "The only requirements for a candidate to be placed on the presidential primary ballot are." This interpretation would have required us to wrongly exclude all candidates on our ballot list except two: Kat Swift and Kent Mesplay. The Minority Opinion authors single out only one of the six candidates on the ballot list, thus violating the principle of treating all candidates as fairly as possible.

(5) We do not believe candidates were improperly excluded from the ballot list. The one candidate cited in this regard, Jesse Johnson, did not appear on our ballot list due to our inability to obtain a response from the candidate or his campaign before the deadline for submission of our list to the Secretary of the Commonwealth. We note that at the time we submitted our list, his name still was not listed on the website of the Green Party USA as a candidate; nevertheless, we did attempt to contact and include him. We regret that the imperfections of the communication process did not allow us to clarify his status prior to the submission deadline. We reject the implications that this failure was in any way intentional or that it represents lack of due diligence on the part of the volunteers involved in ballot-list formation.

(6) We note with some relief that the Minority Opinion authors did not insist on excluding all candidates who failed to provide the requested acknowledgment of their desire to be placed on the ballot list two weeks prior to the filing deadline, since none of the six had been heard from by that time. Still, if all of the instructions to CDLC were to be read as requirements for ballot access, then we should not have placed anyone on the ballot list.

(7) More important than any of this, however, is that regardless of how a candidate's name got onto the ballot (by placement by the co- chairs, by signatures on a petition, by inclusion by the Secretary of the Commonwealth, or by write-in on the ballot), every vote they received is valid and must be honored. Any candidate who received at least 1/32 of the vote (because there are 32 delegates total) must receive delegates. Arguments about

ballot formation do not relieve us of this obligation.

(8) By state law and our own delegate selection plan --- approved by State Committee by consensus in a special online session ending 28 September 2007, with 18 of the seated 24 members voting, and submitted to the Secretary of the Commonwealth's office on October 1st --- the only person who can release a candidate's delegates is the candidate herself/himself. We are not, for example, allowed to not allocate delegates by redefining candidate to mean something other than those who appeared on our ballot (including no preference and those who are written in and are not members of other parties), nor are we permitted to hold a second private election of those who voted previously. In fact, such a process would disenfranchise the unenrolled voters who voted in our primary. The remedies suggested in the Minority Opinion would violate state laws rightly designed to protect the integrity of the electoral process from corruption by party insiders. We feel that the great majority of our party members will oppose the violations of democratic principles that are inherent in the Minority Opinion.

(9) Our primary election plan promised candidates that 32 delegates would be awarded according to the vote on February 5. Candidates, and their supporting campaign volunteers, expended time and money in competing for these delegates. It would be a breach of faith, not to mention illegal, to change the rules and award delegates according to rules created post-facto by party committees.

(10) We feel that all the remedies suggested so far by the complainants are grossly out of keeping with our party's commitment to democracy and lifting every voice. Discarding the votes of 39% of our supporters who cast votes in our primary for Ralph Nader not only would expose us to legal challenge, but also would represent a major insult to our long-accepted principle that grassroots democracy (i.e. the individual voter) should not be subverted by party insiders. The proper mechanism for releasing delegates of candidates who have since decided not to pursue the Green Party nomination for president is to appeal directly to the candidates who earned those delegates in the primary. They, and they alone, are the ones in whom the ability to release their delegates resides.

In conclusion, we recommend that the Party stand by its approved delegate selection plan, reject attempts to circumvent election laws, resist attempts to attack particular candidates through manipulation of Party committees, and deplore the instigation of legal attacks upon the Party, its committees, and its officers.

Signed,

Nat Fortune, M.K. Merelice

Co-Chairs, Green-Rainbow Party