

No. _____

IN THE SUPREME COURT OF TEXAS

IN RE:

**DEB SHAFTO, HERB GONZALES, JR., EDWARD LINDSAY,
ART BROWNING, CHRISTINE MORSHEDI, AND
THE GREEN PARTY OF TEXAS, Relators**

Original Proceeding in the Supreme Court of Texas

PETITION FOR WRIT OF MANDAMUS

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STATEMENT OF THE CASE

This is a ballot access case.

Upon application by the Texas Democratic Party,¹ its chairman, and a candidate for Dallas County Clerk (collectively, “DP”), the District Court (Honorable John Dietz, 250th District Court of Travis County, sitting for the 353rd District Court) issued² a temporary injunction against the Green Party of Texas (“GP”) which enjoins the GP from “certifying its slate of candidates and forwarding same to the Secretary of State” for placement on the 2010 general election ballot. If the GP does not so certify and forward the list of statewide candidates that its convention delegates duly nominated, none of the GP’s statewide candidates will be on the 2010 general election ballot. The District Court based the temporary injunction upon allegations that various third parties violated state law, and not upon any unlawful or inappropriate action by the GP.

No party has filed any proceeding regarding this case in the Third Court of Appeals.

¹ Filed June 10, 2010, included with DP’s original petition. A Temporary Restraining Order preventing the GP from certifying its candidates was also issued the same day, based upon a Rule 11 Agreement signed by an officer acting without authorization from the Green Party of Texas, who acted without advice of counsel or legal representation of any kind. The Green Party of Texas was also not represented by counsel on that date.

² June 24, 2010.

STATEMENT OF JURISDICTION

The Court has jurisdiction over this mandamus proceeding pursuant to sections 22.001 and 22.002 of the Texas Government Code and section 273.061 of the Texas Election Code.

ISSUES PRESENTED

1. Is mandamus by this Court an appropriate remedy?
2. Is the permanent injunctive relief sought by the DP moot because the issues to be determined cannot be finally adjudged before July 2, 2010 (or even November 2, 2010)?
3. Did the plaintiffs in the District Court have standing to bring the case?
4. Does the plain language of the Texas Election Code authorize minor political parties to receive corporate contributions to fund ballot access petitions, which supplement precinct convention delegate lists and are a necessary prerequisite to placing the minor party on the general election ballot?
5. Did the District Court fail to properly balance the equities and consider the constitutional rights of all in granting the temporary injunction?
6. Did the District Court abuse its discretion in failing to extend the GP's deadline for certification of its statewide nominees?

STATEMENT OF FACTS

The 2010 Green Party of Texas statewide nominees are Deb Shafto (governor), Herb Gonzales, Jr. (lieutenant governor), Ed Lindsay (comptroller), and Art Browning (railroad commissioner). In the District Court, these four individuals were sued as “Defendants the 2010 Unknown Nominees of the Texas Green Party.” They are relators in this Court.

In the District Court, no parties have been served with process. In fact, no citations have been issued (or even requested) for relators Shafto, Gonzales, Lindsay, and Browning. Relators Green Party of Texas and Christine Morshedi voluntarily appeared in the District Court. No other defendants appeared below.

As specifically authorized by the Texas Election Code, the GP qualified for the 2010 general election ballot by filing a petition with the Texas Secretary of State. The GP nominated its 2010 statewide nominees at its state convention on June 12, 2010. The DP sued the GP in the 353rd District Court of Travis County, and the DP sought and received a temporary injunction which prevents the GP from certifying its statewide candidates and forwarding same to the Secretary of State. By law, that certification is a necessary step to allow the GP to have the candidates it has nominated for statewide office appear on the general election ballot. The GP has until July 2, 2010 to make that certification or it loses its chance to have voters consider its statewide nominees. TEX. ELEC. CODE §181.068.

The DP's claim is that, unknown by the GP, some third parties used corporate funds to pay another entity to collect signatures to assist the GP in qualifying for placement of its candidates on the general election ballot. The District Court determined that the actions by the third parties constituted an illegal corporate contribution, and that the DP suffered harm, and that the only way to remedy that harm was to keep the GP's 2010 statewide candidates off the ballot.

ARGUMENT

1. Mandamus is an available and required remedy because there is no adequate remedy by appeal

The GP's usual remedy to respond to the temporary injunction would have been to proceed to the permanent injunction hearing, obtain a final order, and if it were adverse to its position, to appeal. Alternatively, if time did not permit, the GP could file an interlocutory appeal of the temporary injunction order. In this case, though, the limited time does not permit even an interlocutory appeal. Finally, the party could have filed this mandamus action with the Third Court of Appeals. Again, however, due to the short fuse facing the GP and its candidates, the Relators filed for relief in this Court.

The election process moves according to a schedule set by statute and by practicality to orderly manage that process. Should this matter not be addressed almost immediately, the GP's opportunity to have its statewide candidates' names on the ballot, the GP statewide candidate's opportunity to appear on the ballot

themselves, and the voters' opportunity to have additional choices in statewide races will disappear. The Green Party of Texas has until Friday, July 2, 2010 to certify and submit its list of candidates to the Secretary of State. TEX. ELEC. CODE §181.068. If it fails to do so, the GP loses its opportunity to list its statewide candidates on the ballot.

Because of the statutory deadlines and the practical nature of the election process, appeal is not an adequate remedy. If this Court does not act and act quickly to order the District Court to vacate its temporary injunction order, the GP's opportunity to have its candidates appear on the general election ballot, and the candidates' individual rights to appear on the ballot will be irreparably lost. There simply is no time to proceed through the appellate process. *Republican Party of Texas v. Dietz*, 940 S.W.2d 86, 94 (Tex. 1997) (short time frame justified filing mandamus rather than appeal); *see Perry v. Del Rio*, 66 S.W.3d 239, 257 (Tex. 2001) (rapidly approaching deadlines relating to redistricting made mandamus an appropriate remedy); *In re Francis*, 186 S.W.3d 534, 543 (Tex. 2006) (mandamus is appropriate when a deadline is missed due to actions by another, rather than the candidate).

Relators respectfully suggest that this case is similar to the case, *In re: Newton*, in which this Court not only accepted jurisdiction in the relators' request for mandamus in a election law case with a short fuse amidst allegations of

campaign finance irregularities, but in which the Court also entered a mandamus order to vacate a district court temporary restraining order without construing the disputed election code provisions at issue in the case. 146 S.W.3d 648, 652-653 (Tex. 2004). This Court further noted that there were fact issues in that case, and, as Relators aver they are in the instant case, those facts remain sparse and relatively unknown. *Id.* There was no direct evidence entered during the temporary injunction hearing to prove that alleged illegal contributions or actions by third parties contributed to the GP's ability to complete its supplemental primary petition to place its statewide candidates on the ballot.

In this circumstance, the GP has no option other than to invoke the extraordinary remedy of mandamus if it is to have any possibility of effective and adequate relief. Relators also aver that this Court need not look at the law or issues underlying this case and may simply order the District Court to vacate the temporary injunction, although they brief those issues in the following sections.

2. The DP's request for permanent injunctive relief is moot because the issues to be determined cannot be finally adjudged before July 2, 2010 (or even November 2, 2010)

The DP's request for a permanent injunction cannot be granted before July 2, 2010, the date on which the GP must, by statute, certify and deliver to the Texas Secretary of State the names of the GP's statewide nominees. Therefore, the request for permanent injunctive relief is moot.

The District Court set the trial on the merits for January 17, 2011, long after the July 2, 2010 deadline, and after the November 2, 2010 general election.

To date, the GP's 2010 statewide nominees have not been specifically named in the underlying lawsuit (even though the GP nominated those candidates on June 12, 2010 and the identity of the candidates has been known since that date). The nominees are entitled to full and complete due process under the United States and Texas constitutions. However, they have not been given any process to date: they have not been specifically named in the lawsuit nor served with process.

During the temporary injunction hearing, GP co-chair and convention chair Christine Morshedi testified that the GP nominees received a majority of the votes at the GP state convention, that those votes were counted and canvassed, and that Shafto, Gonzales, Lindsay, and Browning were declared the GP's nominees. At that time, the right of the nominees to appear on the general election ballot vested *instantur*, and that right cannot be stripped without full due process, which of course includes a trial on the merits.

The Texas precedent is well settled on this matter, and this Court has recognized those rights on several occasions—most notably dating back to a 1932 case involving Governor Miriam (“Ma”) Ferguson. In that case, the Court held that a lawsuit that cannot be completed before the nominee's name is placed on the ballot requires that lawsuit be dismissed as moot:

The trial court trying an election contest is impotent to grant substantial relief once the time passes for the name of the contestant or certificate holder to be certified to the local election officers and to be placed on the official ballot. To preserve the status quo the court would be compelled to enjoin the holding of the election until the case was disposed of. This a court cannot do. A general election must be held on the statutory date, and neither that nor any duty with reference thereto prescribed by a valid law to bring about the election can be enjoined. So, in the very nature of things, an injunction, the effect of which is to prevent the certification of Mrs. Ferguson's name after the time arrives when it must be certified, in order to be posted and placed on the ballot as provided by law, not only does not preserve the subject-matter, but destroys the right of the certified nominee and grants no right of value to the contestant. Such an injunction no court has power to issue, except after final trial on the merits.

Sterling v. Ferguson, 53 S.W.2d 753, 763 (Tex. 1932) (orig. proceeding) (per curiam).

A few years later, in a case in which the challenged nominee had not been served with process, the Court reached the same conclusion:

According to the record before us, Iles, on the face of the election returns, received a majority of the votes cast for the nomination here involved. This fact entitles him, as a matter of law, to such nomination, together with all its attendant statutory rights, unless it can and shall be finally adjudged otherwise by some tribunal authorized so to do. Also, this right is a vested property right. If there is a contest of such right in a tribunal of competent jurisdiction, each contest must be completed before the time comes for posting the names of certified nominees by the county clerk. *Thomason v. Seale*, 122 Texas 160, 53 S.W.(2d) 764; *Sterling v. Ferguson*, 122 Texas 122, 53 S.W.(2d) 753; *Benavides v. Atkins*, this day decided by this Court (This volume, page 1.). Also it is the settled law of this State that whenever the time comes that it is evident that the contest of a nomination cannot be completed in a

tribunal of last resort, as provided by law in such cases, in time for the name to be posted as provided by law, the entire contest proceedings become moot and should be dismissed, and matters left in the same condition that would have existed had no contest been instituted. *Thomason v. Seale, supra; Sterling v. Ferguson, supra.*

In the case at bar, as already shown, the contest proceedings in the District Court of Sabine County stand untried. Under the undisputed record, no final judgment can now be entered in such proceedings which can become effective to adjudge the nomination to either contestant or contestee in time to be of any value to either of them. It follows that such proceedings are now moot. *Thomason v. Seale, supra; Sterling v. Ferguson, supra.* Since such is the case there is nothing left for the District Judge to do except to dismiss the contest proceedings, and Iles, who received a majority of the votes on the face of the returns, is entitled to be recognized as the lawful nominee for the office here involved.

Iles v. Walker, 120 S.W.2d 418, 422 (Tex. 1938) (original proceeding); *see also Taylor v. Nealon*, 120 S.W.2d 586, 587 (Tex. 1938) (person receiving majority of votes in primary election obtains a property right in maintaining that person's name on the general election ballot, unless a final judgment can be obtained prior to posting the names of certified candidates with the county clerk); *Polk v. Davidson*, 196 S.W.2d 632, 634 (Tex. 1946) (final adjudication in election nominee challenges includes full appellate review of lower court judgments, and in this case the Court determined "the conclusion is inescapable that it would be utterly impossible finally to dispose of [this] case on its merits" in time for the case not to be moot); *Brimer v. Maxwell*, 265 S.W.3d 926, 928 (Tex.App.—Dallas 2008, no pet.) (citations omitted) ("The law is clear that a challenge to the

candidacy of an individual becomes moot ‘when any right which might be determined by the judicial tribunal could not be effectuated in the manner provided by law.’ If a challenge to a candidate’s eligibility ‘cannot be tried and a final decree entered in time for compliance with pre-election statutes by officials charged with the duty of preparing for the holding of the election,’ we must dismiss the challenge as moot.”).

As noted above, the temporary injunction order that the District Court entered sets the trial on the merits for January 17, 2011, after both the July 2, 2010 certification deadline and the November 2, 2010 general election date. Even if that time schedule could be accelerated—which is unlikely at best since to date none of the defendants have been served, and several defendants remain “unnamed” by the plaintiffs—it is “inescapable that it is utterly impossible finally to dispose of” this case, with all attendant appellate review, prior to November 2, 2010.

As further evidence of mootness, the Green Party of Texas will be on the ballot regardless of this proceeding, as the GP’s non-statewide candidates have already been certified for the general election ballot, and it is uncontroverted that the Secretary of State received, accepted, and approved the petition entitling the GP to place its candidates on the 2010 general election ballot. The District Court specifically denied the DP’s request for relief to pull-back or “reject” the petitions.

The bottom line is that, under long-standing and unchallenged Texas Supreme Court precedent, the GP's 2010 statewide nominees are entitled to full due process.³ They have received none.

Therefore, the GP respectfully requests that this Court recognize, as it did in *Iles*, that since no final judgment can be entered to challenge the GP's nominations of its statewide candidates "in time to be of any value," this Court should order the District Court to vacate its temporary injunction and dismiss that portion of the plaintiffs' case requesting injunctive relief, while leaving the remainder of the case intact for further proceedings below.⁴

3. The plaintiffs in the District Court action lacked standing to sue

The general rule pertaining to challenges to party nominations is that voters do not have standing to bring such cases. *Allen v. Fisher*, 9 S.W.2d 731, 732 (Tex. 1928). Basically, such challenges must show that a plaintiff has a legal right,

³ At a bare minimum, parties whose substantive rights are affected by a temporary injunction must be joined before such an injunction can be issued. TEX. R. CIV. PRO. 39. See *Lander v. Reliance Corp.*, 293 S.W.2d 758, 764-65 (Tex. 1956); *Scott v. Graham*, 292 S.W.2d 324, 327 (Tex. 1956).

⁴ The dismissal will not jeopardize DP's ability to seek recourse for its allegations against the unknown third parties. The allegations by the DP against "unnamed co-conspirators" in the underlying suit can proceed in the due course of law, and the DP can seek the remedies of civil and criminal liability specifically provided for by the Texas Election Code. As set forth in *Texas Foundries, Inc. v. International Moulders & Foundry Workers Union*, 248 S.W.2d 460, 461 (Tex. 1952), "When the appeal is from an order granting a temporary injunction, and that phase of the case becomes moot on appeal ... the ... proper order is to set aside all orders pertaining to the temporary injunction and dismiss that portion of the case, leaving the main case still pending. *International Assn. of Machinists Local Union No. 1488 v. Federated Assn. of Accessory Workers*, 133 Texas 624, 130 S.W. 2d 282; *Service Finance Corp. v. Grote*, 133 Texas 606, 131 S.W. 2d 93; *West v. Culpepper*, 135 Texas 156, 140 S.W. 2d 166."

distinct from the general public before the plaintiff can have a justiciable interest. *Id.* In *Allen*, the Court noted that although questions of a candidate's eligibility exist, "the certification of his name as the democratic nominee, and the placing of his name on the ballot at the general election, are matters of public concern exclusively. Such being the case, any suit in respect of those matters must be prosecuted by the state." *Id.* The only exception to the general rule is that candidates have standing to challenge other candidates for the same office. *Bounds v. McCallen*, 52 S.W.2d 1047, 1049 (Tex. 1932). In the instant case, the only 2010 general election candidate who is a plaintiff below is John Warren, the Democratic Party's nominee for Dallas County Clerk. Non-statewide races are not the subject of this lawsuit, and those names have already been certified for the November 2nd ballot, therefore Mr. Warren's participation is purely superfluous.

None of the DP's 2010 statewide candidates brought an action challenging the GP or its nominees. In Texas, the standing doctrine has been interpreted to prohibit a political party from challenging the candidates of a different party. *Colvin v. Ellis Co. Republican Executive Comm.*, 719 S.W.2d 265, 267 (Tex.App—Waco 1986, no writ) ("the only plaintiffs who could bring this case would be the Democratic candidates for the offices involved, or the State in *quo warranto*"). Therefore, the entire case should be dismissed, since none of the

candidates opposing the GP's 2010 nominees for statewide office are plaintiffs in the underlying case.

4. There is no probable right of recovery by the DP because the plain language of the Texas Election Code authorizes minor political parties to receive corporate contributions to fund ballot access petitions. There is, therefore, no legally cognizable harm to enjoin.

The plaintiffs below assert that the expenses incurred by the defendants to obtain ballot access for the Green Party of Texas were made “in connection with a campaign for an elective office.” However, expenses incurred by a minor political party to obtain ballot access in Texas are a “normal operating cost” of the party required by statute in order for minor parties to have ballot access. Therefore, under the plain language of the Texas Election Code, a corporation may contribute a ballot access petition to a minor political party and the party may accept such a contribution. *See* Sections 253.104(a)⁵ and 257.002(a)⁶, Texas Election Code.

Further, as a minor party that had insufficient precinct convention participants as indicated on the lists filed under Section 181.005 of the Texas Election Code, the GP was required to obtain its ballot access by petition under Section 181.006(a), Texas Election Code. Compliance with statutory requirements

5 Sec. 253.104. CONTRIBUTION TO POLITICAL PARTY. (a) A corporation or labor organization may make a contribution from its own property to a political party to be used as provided by Chapter 257.

6 Sec. 257.002. REQUIREMENTS RELATING TO CORPORATE OR LABOR UNION CONTRIBUTIONS. (a) A political party that accepts a contribution authorized by Section 253.104 may use the contribution only to: (1) defray normal overhead and administrative or operating costs incurred by the party; or (2) administer a primary election or convention held by the party.

is, by definition, “normal.” By law, signatures on the petitions could not be gathered prior to the primary election date (Section 181.006(j)), Texas Election Code), and had to be delivered to the Secretary of State before the start of the GP’s state convention. Section 181.006(b)(3) and 181.005(a) (petitions to be delivered within 75 days after the precinct convention date) and 181.061(a) (state convention candidate nominations to be held on second Saturday in June). Thus, the petitions and their circulations are not only part of the GP’s normal operating cost, they integrally linked to, even part of, the party’s primary and convention costs. The expenses involved with the petitions are not in connection with a candidate’s individual campaign for an elective office any more than a party convention is so connected. The ballot access expenses are necessary normal party operating expenses required in order allow the Green Party members and members of the public at large to vote for Green Party nominees at the general election.

Without the petitions, the Green Party members would be disenfranchised from voting for the candidates that their convention nominated after the petitions are required by statute to have been submitted to the state. Without the normal expenditure of funds for ballot access, the Green Party is not a normally functioning political party. Without ballot access, the Green Party is reduced to little more than a discussion group—more like a dinner party than a normal political party.

5. The District Court Failed to Balance the Equities and Consider the Constitutional Rights of All in Granting the Temporary Injunction

Even if the DP's allegations and interpretation of Section 257.002(a) were taken as true, and a violation of the law pertaining to the funding of the collection of signatures for the petition were deemed to have occurred, the temporary injunction relief that the District Court granted constitutes a death penalty for the Green Party of Texas and the chances of its 2010 general election statewide candidates to appear on the general election ballot. The Texas Election Code sets out the appropriate penalty for violating Chapters 254 and 257, and other Title 15 campaign finance violations. Those potential penalties are criminal and civil, and the statutes do not authorize a party to seek to prevent an entire slate of candidates nominated by that party (or even an individual candidate) from appearing on the ballot.

The relief granted by the District Court, even assuming the GP violated some provisions of Texas campaign finance law (which Relators strenuously deny), is so severe that a court cannot grant such relief as it cannot balance the equities in granting that relief. *Storey v. Central Hide & Rendering*, 226 S.W.2d 615, 618-19 (Tex. 1950). The "temporary" relief that the District Court granted, would permanently disenfranchise all GP voters, deny them the opportunity to vote for their party nominees, as well as deny the nominees themselves from the ability

to stand for election at the 2010 general election, and deny the opportunity for all Texas voters to have additional choices at the ballot box.

The federal constitutional rights involved in a political party's selection of nominees for an elective office include the fundamental rights of freedom of association and the right to cast an effective vote. *Brady v. Fourteenth Court of Appeals*, 795 S.W.2d 712, 715 (Tex. 1990). Even though it is the candidate for office who feels the initial and direct impact of a statute that regulates the requirements for candidacy, the voters are also affected: “[T]he rights of voters and the rights of candidates do not lend themselves to neat separation; laws that affect candidates always have at least some theoretical, correlative effect on voters.” *Bullock v. Carter*, 405 U.S. 134, 143, 92 S.Ct. 849, 856 (1972). The right to vote for a candidate of one’s choice has been described as “the essence of a democratic society.” *Triantaphyllis v. Gamble*, 93 S.W.3d 398, 405 (Tex. App.—Houston [14th Dist.] 2002, pet. denied) (quoting *Reynolds v. Sims*, 377 U.S. 533, 555, 84 S.Ct. 1362 (1964)). If the GP’s statewide nominees are not included on the November 2 general election ballot, Texas voters will have fewer choices. The District Court should have considered the effect upon voters. The harm, testified to for the Democratic Party interests by State Representative Lon Burnam, included additional costs of “educating” voters if an additional minor party’s candidates shared the ballot with the major parties.

The potential harm, if any, to the DP if the injunctive relief is vacated, is slight, while the potential harm to the GP is extreme, and the District Court failed to balance the equities when it issued its temporary injunction order.

6. The district court abused its discretion in failing to afford post-deadline relief

In the event that it granted the requested temporary injunction, the GP asked the District Court to extend the statutory certification deadline to allow the GP to file its list of statewide candidate nominees with the Texas Secretary of State (181.068, Election Code). The District Court specifically denied that request.

As previously noted, there have been no allegations of wrongdoing by the GP, its officials, or its candidates. The allegations are against third parties that may have given the GP an in-kind contribution. Thus, in the granting of the temporary injunction, the effect is to punish the GP and its statewide candidates for other persons' alleged, unproven actions. The GP and its statewide candidates are victims here, not perpetrators. This Court has extended such deadlines in previous election cases, especially when the candidate was not at fault. *In re Francis*, 186 S.W.3d 534, 543 (Tex. 2006); *In re Gamble*, 71 S.W.3d 313 (Tex. 2002).

PRAYER

Based on the foregoing, Deb Shafto, Herb Gonzales, Jr., Edward Lindsay, Art Browning, Christine Morshedi, and the Green Party of Texas, Relators, request that the Court direct respondent, the Honorable John K. Dietz, to vacate *instantur*

his temporary injunction order dated June 24, 2010 and allow the Green Party of Texas and its officials to forward to the Texas Secretary of State the Green Party's slate of nominees for statewide office as provided by the Texas Election Code.

Relators seek such other and further relief to which they may be entitled.

Time is of the essence. The District Court's order must be vacated before Friday afternoon. Therefore, Relators request that this petition for writ of mandamus be considered and resolved on an expedited basis.

Respectfully submitted,

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ANDY TAYLOR & ASSOCIATES, P. C.

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(representing only Christine Morshedi in
her individual capacity)

VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned notary public, on this day personally appeared Christine Morshedi, who after being duly sworn, upon her oath stated: she is competent to make this affidavit, she is the duly elected co-chair of the Green Party of Texas and the 2010 state convention chair of the Green Party of Texas, Relator in the above captioned cause; that she has read the foregoing document; and that every factual statement contained therein is true and correct and within her personal knowledge.

SUBSCRIBED AND SWORN TO BEFORE ME on the 28th day of June, 2010 to certify which witness my hand and official seal.

Notary Public, State of Texas
My Commission expires: _____

CERTIFICATE OF SERVICE

This certifies that the undersigned served this Petition for Writ of Mandamus on the Honorable John K. Dietz, Respondent by hand-delivering it to him at his office at the below listed address, and served it on Texas Democratic Party and other aligned Real Parties in Interest by sending it to Lead Counsel for the Real Parties in Interest at the below listed address by fax prior to 4 p.m. Additionally, by prior arrangement with counsel for Real Parties in Interest, the undersigned served the attorneys for the Real Parties in Interest with an electronic copy of the Petition and Appendix and did so this 28th day of June, 2010.

The Honorable John K. Dietz
250th Judicial District Civil Court
Travis County, Texas
1000 Guadalupe, Suite 314
Austin, Texas 78704

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General Counsel, Texas Democratic Party
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/s/

David Rogers
SBN #24014089

APPENDIX

**APPENDIX:
RELEVANT STATUTORY AND OTHER SOURCES**

1. Section 181.006(a), Texas Election Code provides:

If the number of precinct convention participants indicated on the lists filed under Section 181.005 is fewer than the number required for the political party to qualify to have the names of its nominees placed on the ballot, the party may qualify by filing a petition as provided by this section.

2. Section 181.068, Texas Election Code provides:

(a) The presiding officer of each convention held under this chapter shall certify in writing for placement on the general election ballot the name and address of each candidate nominated by the convention.

(b) Not later than the 20th day after the date of the convention making the nomination, the presiding officer shall deliver the certification to: (1) the authority responsible for having the official general election ballot prepared in the county, for certification of a county or precinct office; or (2) the secretary of state, for certification of a statewide or district office.

(c) A presiding officer may not certify a candidate's name if, before delivering the certification, the presiding officer learns that the name is to be omitted from the ballot under Section 145.035.

3. Election Law Opinion DAD-53 (1982) states:

A nomination by a minor party must be certified to the proper authority within the statutory time period established by V.A.T.S. Election Code, art. 13.48, in order for the nominee's name to be placed on the ballot for the general election.

4. Section 251.001(2), Texas Election Code provides:

“Contribution” means a direct or indirect transfer of money, goods, services, or any other thing of value

5. Section 251.001(3), Texas Election Code provides:

“Campaign contribution” means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution.

6. Section 251.001(5), Texas Election Code provides:

“Political contribution” means a campaign contribution or an officeholder contribution.

7. Section 251.001(6), Texas Election Code provides:

“Expenditure” means a payment of money or any other thing of value

8. Section 251.001(7), Texas Election Code provides:

“Campaign expenditure” means an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before, during, or after an election does not affect its status as a campaign expenditure.

9. Section 251.001(10), Texas Election Code provides:

“Political expenditure” means a campaign expenditure or an officeholder expenditure.

8. Section 251.001(12), Texas Election Code provides:

“Political committee” means a group of persons that has as a principal purpose accepting political contributions or making political expenditures.

8. Section 253.104(a), Texas Election Code provides:

A corporation or labor organization may make a contribution from its own property to a political party to be used as provided by Chapter 257.

9. Section 257.002, Texas Election Code provides:

(a) A political party that accepts a contribution authorized by Section 253.104 may use the contribution only to: (1) defray normal overhead and administrative or operating costs incurred by the party; or (2) administer a primary election or convention held by the party.

(b) A political party that accepts contributions authorized by Section 253.104 shall maintain the contributions in a separate account.

10. Section 257.003, Texas Election Code provides:

(a) A political party that accepts contributions authorized by Section 253.104 shall report all contributions and expenditures made to and from the account required by Section 257.002.

(b) The report must be filed with the commission and must include the information required under Section 254.031 as if the contributions or expenditures were political contributions or political expenditures.

(c) Sections 254.001 and 254.032-254.037 apply to a report required by this section as if the party chair were a campaign treasurer of a political committee and as if the contributions or expenditures were political contributions or political expenditures.

(d) The commission shall prescribe by rule reporting schedules for each primary election held by the political party and for the general election for state and county officers.

11. Section 257.006, Texas Election Code provides:

(a) Except as provided by Section 257.004, a person who knowingly uses a contribution in violation of Section 257.002 or who knowingly fails to otherwise comply with this chapter commits an offense.

(b) An offense under this section is a Class A misdemeanor.

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12. Certified Docket Sheet

13. June 14, 2010 letter from counsel for Real Parties in Interest to District Clerk requesting issuance of citations for only five defendants.

14. DP's First Amended Petition

15. DP's bench brief in hearing on Temporary Injunction

16. Relators's Response to Application for Temporary Injunction

17. Certified Copy of June 14, 2010 Temporary Injunction order.

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