THE HAMRICK FIRM LLC

July 4, 2024

VIA ELECTRONIC MAIL

Ms. Karen Brinson-Bell
Executive Director
North Carolina State Board of Elections
430 N. Salisbury St.
Raleigh, NC 27603
karen.bell@ncsbe.gov

State Board Members
Alan Hirsch, Chair
Jeff Carmon, Secretary
Stacy Eggers IV, Board Member
Kevin N. Lewis, Board Member
Siobhan O'Duffy Millen, Board Member
elections.sboe@ncsbe.gov

Re: People Over Party

Dear Ms. Brinson-Bell and State Board Members:

My name is Paul Hamrick, and I am counsel to People Over Party ("POP"). I observed the meeting of the North Carolina State Board of Elections (the "Board") on June 26, 2024 and feel that it is prudent to respond to the statements made regarding my client. I am also aware that, on July 1, 2024, the United States Committee on House Administration and the Committee on the Judiciary sent a correspondence to the Board requesting copies of all documents and communications related to the Board's decision to not certify the petitions of the proposed political parties. In the interest of transparency and to ensure that the United States Congress is aware of the nature and scope of the Board's "investigation" prior to denying certification of three qualified political parties, I am copying Chairman of the Committee on House Administration Bryan Steil and Chairman of the Committee of the Judiciary Jim Jordan on this correspondence.

Listening to the comments of the Board Chairman and other members, I was somewhat taken aback by some of their assertions. Their commentary was clearly an intentional attempt to paint myself and my client as some mysterious partisan organization that the board knew nothing about much less able to contact. This description of my client is not only completely false, but the Board also possesses the information proving it false.

After being contacted by this Board's Associate General Counsel on June 11, 2024, I not only agreed to be interviewed and provide documentation on our training efforts, I was responsive to every single question I was asked. After cooperating with every request of this Board, you could imagine my surprise when the Chairman announced his intention to issue a subpoena to me. In light of the statements made during the hearing, and considering the actions of the majority, it is hard to see how a reasonable person could not question the true motivations and intentions of this board.

Regardless, I previously informed the Board of the nature of my client's activities via email on June 13, 2024. Because the Board ignored my email during the meeting (despite the fact that the first substantive question asked of Justice For All's ("JFA") chairperson, Italo Medelius, concerned POP (June 26, 2024 the Board Meeting at 1:27:40 – 1:24:46)), I will reiterate the information contained therein:

> People Over Party is unaffiliated with any political parties, existing or proposed, and unaffiliated with any candidates, independent or otherwise. In seeking to provide voters with more choices in the general election, my client has gathered petitions for the proposed party, "Justice for All." Such activities were performed of my client's own accord and without any coordination with the representatives of the proposed political party.
>
> In order to ensure legal compliance and the accuracy of the petitions, my clients provided petition circulators with thorough training. This training included ensuring that the signor was a North Carolina registered voter who had not signed a petition for any other candidate during this election cycle and ensuring that the circulator properly conveyed the purpose of the petition to each potential signor prior to obtaining the signature. Additionally, each petition was reviewed numerous times to ensure accuracy and compliance with North Carolina law.[1]

In addition, I had also provided a copy of the PowerPoint that was used to train circulators. None of this was acknowledged during the meeting.[2] I find it gravely concerning that the Board would give such weight to objections submitted by a Democratic organization, but would fail to

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[1] *See* June 13, 2024 Email Correspondence attached hereto as Exhibit "A".

[2] The level of unpreparedness by the Board during the meeting was breathtaking. Mr. Medelius was asked a number of questions that a cursory review of the documents and responses that he had provided clearly answered. By way of example, Ms. Millen asked, "As you gather signatures, are you contemplating a statewide ongoing political organization with distinctive character?" (June 26, 2024 Board Meeting at 1:34:24 – 1:33:31). This was clearly addressed in Mr. Medelius' document product. The "Petition for Ballot Access Document" states, in relevant part, as follows: "The NC Justice For All Party will be nominating Dr[.] Cornel West for President in 2024. Our party is founded on Dr[.] West's vision. Beyond this election we will be running candidates at all levels of government. Our aim is and will always be to unite in solidarity with movements of truth and justice, who seek a choice beyond the domination of the two-party system." (https://s3.amazonaws.com/dl.the Board.gov/State_Board_Meeting_Docs/2024-06-26/New%20Party%20Petitions/Justice%20for%20All%20Party%20Petition%20Intent%20Document.pdf).

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even consider my email, especially in light of the fact that the Board indicated that JFA was not certified as a political party due to the alleged "fraud" investigation involving POP.[3] Such conduct demonstrates the political priorities of the Board, as the speculative complaints of a democrat operation and random social media posts were given priority consideration.

While I object to the Board's "cherry-picking" of extrinsic "evidence," I note that North Carolina law limits the Board's decision to certify a new political party to the contents of the petitions themselves and does not allow for the consideration of any extrinsic evidence. N.C.G.S. § 163-96 provides, in relevant part, as follows:

> Any group of voters which shall have filed with the State Board of Elections petitions for the formulation of a new political party which are signed by registered and qualified voters in this State equal in number to one-quarter of one percent (0.25%) of the total number of voters who voted in the most recent general election for Governor. Also the petition must be signed by at least 200 registered voters from each of three congressional districts in North Carolina. To be effective, the petitioners must file their petitions with the State Board of Elections before 12:00 noon on the first day of June preceding the day on which is to be held the first general State election in which the new political party desires to participate. **The State Board of Elections shall forthwith determine the sufficiency of petitions filed with it** and shall immediately communicate its determination to the State chair of the proposed new political party.

N.C.G.S. § 163-96(a)(2) (emphasis added).

The statute clearly indicates that the Board may only consider the petitions and that the only issue for the Board to determine is whether the petitions are sufficient.[4] While the Board is permitted to conduct "investigations" pursuant to N.C.G.S. § 163-23, such activities are clearly limited by the statutory language contained in N.C.G.S. § 163-96.

To the extent that the Board continues to conduct an "investigation," there are numerous legal concerns. As a reminder, and as mentioned throughout the meeting by Mr. Eggers, in 2022, the Board was publicly admonished by a federal judge for failing to timely conduct its investigation, thereby prejudicing the Green Party. *See North Carolina Green Party v. North Carolina State Board of Elections*, 620 F.Supp.3d 407 (E.D.N.C. 2022) (noting that the Board failed to conduct the bulk of its investigation until after its June 30 vote not to certify the Green Party, and noting that the Democratic Senatorial Campaign Committee ("DSCC") and North

[3] Notably, the "meeting folder" posted on the Board's website includes a correspondence from Clear Choice Action that is dated June 25, 2024 – twelve days after my email to the Board – but my email was not included.

[4] The statute also requires that the signatures be verified by the chairman of the appropriate county board of elections. *See* N.C.G.S. § 163-96(b).

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Carolina Democratic Party[5] instigated a significant delay in the certification process). Two years later, the Board is engaging in the same unlawful conduct.

Moreover, the comments made by various Board members during the meeting indicates that the Board is improperly legislating without abiding by the North Carolina Administrative Procedure Act (the "Act"). *See* N.C.G.S. § 150B, *et seq*. With respect to the general purpose and intent of the proposed political party and the July 1 deadline, the Board has failed to abide by the Act (i.e., proper notice and comment procedures) and, therefore, any such rulemaking is null and void.

First, notably absent from North Carolina law is any prohibition on the use of a candidate name in the proposed new party's general purpose and intent. The law does not define "general purpose and intent;" it simply states, "In addition to the form of the petition, the organizers and **petition circulators shall inform the signers of the general purpose and intent of the new party**." N.C.G.S. § 163-96(b) (emphasis added). The law does not say that the general purpose and intent cannot reference any particular candidate.[6]

Secondly, with respect to the July 1 deadline, I find it absolutely appalling that the Board would, of its own accord, attempt to rewrite statutes, especially in light of the fact that the Board was publicly admonished by a federal judge for engaging in such conduct in 2022. While I agree that the deadline should not be enforced under these circumstances, the statute is crystal clear, and any attempt by the Board to rewrite such a law is improper.[7]

Furthermore, I note that numerous questions proposed to Mr. Medelius concerned the number of petitions circulated by POP. First, had the Board done its due diligence, it would have directed such questions to POP prior to the June 26, 2024 meeting.[8] Its failure to do so, especially in light of the fact that I had previously responded to a request for information on June 13, 2024, coupled with the fact that it is aware of a July 1 statutory deadline, indicates that the Board is

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[5] Significantly, the Elias Law Group represented the intervenor defendants, DSCC and North Carolina Democratic Party, in the *North Carolina Green Party v. North Carolina State Board of Elections* matter and also now represent Clear Choice Action.

[6] Ms. Millen's questions to Mr. Medelius about googling JFA and being redirected to Dr. West's campaign website, as well as her questions related to statements made by Dr. West were all clearly premised on an attempt to create a rule that prohibits the name of a candidate from being included in the general purpose and intent. As a member of the Board, Ms. Millen should be aware that her personal opinion is not the law.

[7] I note that Mr. Eggers explained to the Board that he did not see any authority in the statute for the Board to move or otherwise not enforce the July 1 deadline, and Mr. Lewis concurred with this assessment. (June 26, 2024 Board Meeting at 3:21:57 – 3:22:14).

[8] In fact, Mr. Carmon admitted that he did not know anything about the organization and assumed that the activities conducted by POP were not in accordance with those being performed by JFA: "The dilemma it creates for me, uh, for us is that these signatures are collected um – I don't want to say rogue because I don't know anything about the organization – but not in, um, alignment with what you all were doing." (June 26, 2024 Board Meeting at 1:32:20 – 1:32:37).

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purposely delaying certification of JFA (and other parties) in order to advance its members' own political agendas.

Specifically, Chairman Hirsch, prior to asking Mr. Medelius any substantive questions, revealed his true motivation in voting against JFA. Chairman Hirsch requested that a video from Twitter/X be presented, wherein a circulator by the name of Scott Presler states that the alleged purpose of the petition is "to take away votes from Joe Biden." Chairman Hirsch stated, "Clearly not the purpose and intent of the party…of the proposed party. I just wanted to put that out there for our understanding of the purpose and intent." (June 26, 2024 Board Meeting at 1:26:50 – 1:27:26). Evidently, after seeing a clip that was only seventeen second long, the Chairman feels that no other information could have been conveyed to the proposed signors. The Chairman's failure to consider that such a short clip could have been taken out of context demonstrates that his loyalty is to the Democratic Party, as opposed to the Board, to which he owes a fiduciary duty. Additionally, I note that Mr. Presler has no connection to POP. He is not and has never been affiliated with my client.

Similarly, Ms. Millen has demonstrated such political bias that her involvement in any such "investigation" going forward would be a conflict of interest. She is clearly unable to separate her own political agenda with her fiduciary duties as a Board member: "If this Board keeps rubberstamping thinly veiled so-called 'parties,' national operatives are going to continue to come in and try and manipulate our system. The new party statute and the unaffiliated candidate statute should be read as one coherent framework for getting on the ballot and allowing unaffiliated candidates to follow the more lenient new party rules by creating faux parties is turning a blind eye to partisan mischief." (June 26, 2024 Board Meeting at 3:24:45 – 3:25:13). To imply that the Constitution Party, We the People, and JFA are "faux parties" is to slap thousands of Americans who disagree with the two-party system and who are looking for an alternative. Ms. Millen has inserted her own personal opinion into this – that anyone who finds and utilizes a loophole in the law is clearly behaving in a nefarious manner. Unfortunately for her, that is not the law. It would defy logic to create a new political party and not have any candidate "ready to go," so to speak.

Second, the Board should be aware that North Carolina law does not require that individuals who collect signatures be registered voters residing in North Carolina. Anyone can circulate. Any attempt to limit POP, or any individuals associated with the organization, from circulating petitions would be a First Amendment violation. *See, e.g., Libertarian Party of Va. v. Judd*, 718 F.3d 308, 317 (4th Cir. 2013) (affirming judgment in favor of third-party political organization and non-resident paid petition circulator who challenged Virginia's state residence requirement on petition circulation).

Finally, I am in receipt of the Board's subpoena dated July 2, 2024 – the day after the Board received a request for documents from Congress and the day after the July 1st deadline. Said subpoena has a return date of July 9, 2024.[9] To be clear, you gave me less than a week, which

[9] My client, Charisma Harris, also received a subpoena on July 2, 2024, which also has a return date of July 9, 2024. I had previously informed Mr. David Richards on June 26, 2024 that I am counsel to Charisma Harris and respectfully requested that all communications regarding this matter be addressed to me. For the record, Ms. Harris is a vendor acting as an agent for POP. Ms.

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includes a federal holiday, to respond. This is the extent of the "investigation" that the Board has performed with respect to POP. While my client and I are, and have always been, willing to cooperate with the Board's requests for information, it is absolutely fascinating that the Board waited, not only until after its Board meeting, but also after it received a request for documents from Congress, to request any additional information regarding POP.

Nevertheless, I am responding to the subpoena as follows. I object to all of the requests as they are overly broad, unduly burdensome, untimely, seek information that is protected from disclosure under the attorney-client privilege, seek information that is in the possession of the county boards of election, and seek information that is not relevant to the subject matter of the "investigation." Subject to and without waiving the foregoing objections, all responsive information was previously provided to the Board via email on June 13, 2024. In addition, I am attaching a sworn declaration from David Saddler, a Manager for Campaign Petition Management, a canvassing and petition management company engaged by POP to train circulators and manage POP's petition efforts to independently support JFA in North Carolina.[10] Mr. Saddler participated in multiple circulator trainings conducted on behalf of POP and spent significant time training, interacting with, and listening to the circulators who collected signatures.

Harris objects to all of the requests in the subpoena, as they are overly broad, unduly burdensome, untimely, seek information that is protected from disclosure under the attorney-client privilege, seek information that is in the possession of the county boards of election, and seek information that is not relevant to the subject matter of the "investigation." Subject to and without waiving the foregoing objections, Ms. Harris is not in possession of any responsive documents.

[10] Declaration of David Saddler (attached as Exhibit A).

In conclusion, Chairman Hirsch admitted that "the main focus of the questions that were sent out had to do with the purpose and intent of the parties." (June 26, 2024 Board Meeting at 1:24:17 – 1:24:24). Evidently, the basis of the Board's determination not to certify JFA was not based on any "investigation" conducted by the Board, but rather was based upon "objections" filed by the Democratic Party of North Carolina and Clear Choice Action. But what about the purpose and intent of the objections filed by those democratic actors? As the Board heard from the chairwoman of We The People, Ceara Foley, Clear Choice Action has been "emotionally manipulating" individuals who had signed the petition. After hearing that statement, by yielding to the frivolous objections authored by a Democratic organization whose sole purpose is to "stop[] any third-party or independent candidates from gaining traction before the November Election,"[11] as I stated previously, it is difficult to see how a reasonable person could do anything but conclude the Board's integrity is questionable.

Sincerely yours,



Paul Hamrick
Counsel to People Over Party

cc: The Honorable Bryan Steil
Chairman
U.S. House of Representatives
Committee on House Administration

The Honorable Jim Jordan
Chairman
U.S. House of Representatives
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[11] Michael Scherer, *Biden allies form new group to coordinate attacks on third-party candidates*, Wash. Post (Mar. 14, 2024), https://www.washingtonpost.com/politics/2024/03/14/biden-third-party-super-pac/.

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