



**Republican
National
Committee**

Counsel's Office

April 30, 2012

Chairman Michael McDonald
Nevada Republican Party
6330 McLeod Drive, Suite 1
Las Vegas, NV 89120

VIA ELECTRONIC MAIL

Dear Chairman McDonald:

You have requested an opinion as to whether any action taken at the upcoming Nevada Republican Convention to “un-bind” Nevada’s delegates to the 2012 Republican National Convention would be permissible under the national party rules (*The Rules of the Republican Party*). It is my opinion that such a change is impermissible.

Any action taken at the Nevada Republican Convention to alter the method in which delegates are elected, selected, allocated, or bound for the 2012 Republican National Convention from the method described in the plan that was timely filed with the Republican National Committee prior to October 1, 2011, in accordance with Rule 15(e)(1), would be in conflict with *The Rules of the Republican Party*. Specifically, it would constitute a material change in violation of Rule 15(c)(12), which provides as follows:

No delegates or alternate delegates shall be elected, selected, allocated, or bound pursuant to any Republican Party rule of a state or state law which materially changes the manner of electing, selecting, allocating, or binding delegates or alternate delegates....if such changes were adopted or made effective after October 1 of the year before the year in which the national convention is to be held.

Because *The Rules of the Republican Party* govern the selection, election, allocation and binding of national convention delegates (and, indeed, are incorporated into the Bylaws of the Nevada

Republican Party), action in conflict with them would be improper. Procedurally, such action would be out of order and should be ruled as such. Substantively, if such action were to occur, it would be superseded by *The Rules of The Republican Party*, specifically Rule 15(c)(12).

If a state party can establish that it was impossible to submit its delegate selection plan by October 1, 2011, it can apply for a waiver of that deadline from the Republican National Committee. However, there do not appear to be any facts to suggest that submitting such a plan that did not bind delegates would have been impossible. Therefore, the Nevada Republican Party should not expect to receive a waiver, and any material change in the absence of such a waiver will jeopardize the seating of the Nevada delegation at the 2012 Republican National Convention.

To be clear, under the Delegate Binding Rules that the Nevada Republican Party submitted in its 15(e) filing, each delegate elected at the State Convention (including automatic delegates) must be assigned by the Nevada Republican Party Secretary a binding obligation to vote for a particular Presidential Candidate, and those "assignments shall be proportional to the votes each Presidential Candidate received in the Presidential Preference Poll." *See* Section 4.1 of the Nevada Party Delegate Binding Rules for 2012. Although the Nevada Delegate Binding Rules provide a mechanism to try, where possible, to assign a delegate an obligation to vote for his or her preferred candidate, some delegates may be and will likely be assigned a binding obligation to vote for a Presidential Candidate who is not his or her preferred choice. *See* Sections 4.1 - 4.4 of the Nevada Party Delegate Binding Rules for 2012. That binding obligation was part of the Rule 15(e) submission filed with the RNC, and must be respected and maintained under *The Rules of the Republican Party*.

While this opinion is purely advisory and not binding on any committee of the Republican National Committee or of the Republican National Convention, I believe it is highly likely that any committee with jurisdiction over the matter would find improper any change to the election, selection, allocation, or binding of delegates, thus jeopardizing Nevada's entire delegation to the National Convention.

Sincerely,

A handwritten signature in black ink, appearing to read "J.R. Phillippe Jr.", with a stylized, cursive flourish at the end.

John R. Phillippe Jr.
Chief Counsel

cc: Governor Bob List, National Committeeman
Ms. Heidi Smith, National Committeewoman
Mr. David Gallagher, Executive Director