



Republican National Committee

Counsel's Office

May 2, 2012

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

VIA ELECTRONIC MAIL

Dear Chairman McDonald:

On April 30, 2012, I provided you with an opinion letter explaining why any action to “un-bind” Nevada’s delegates to the 2012 Republican National Convention would be impermissible under the national party rules (*The Rules of the Republican Party*). Specifically, I explained that “[a]ny 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 [Nevada Republican Party] 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 of *The Rules of the Republican Party*.”

I provide this supplemental letter to emphasize that my opinion applies equally to the binding of delegates *and* to the allocation of delegates. In its Rule 15(e) submission, the Nevada Republican Party made clear that “[p]ursuant to § 15(b) of the Rules of the National Republican Committee, in Presidential election years, National Delegates and Alternates *shall be allocated* proportionally based on the final results of the Nevada Presidential Preference Poll” *Nevada Republican Party Delegate Binding Rules for 2012* at section 1 (emphasis added). That is, each candidate is entitled to have delegates supporting him elected to the delegate slots that he earned in the Presidential Preference Poll. *See id.* (“National delegates shall be chosen at the Nevada Republican Convention by election. Any candidate who receives less than the percentage required for one Delegate will receive no Delegates.”)

Based on my review of the Nevada Republican Party’s 15(e) filing, in particular Sections 1, 4.2, 4.3., and 4.4 of the *Delegate Binding Rules for 2012*, it appears the slots should be allocated as follows:

1. The three RNC members, who are automatic delegates, should each be allocated and bound to their preferred presidential candidate.

2. Congressional district delegates should be elected to fill delegate slots allocated to each candidate but only to the extent a candidate has slots available. A nomination to fill a Congressional district delegate slot shall only be in order if the person's preferred candidate has available delegate slots to fill. The preferred means to ensure that no presidential candidate receives more than his allocated slots is to conduct the congressional district delegate selections sequentially, and if a candidate has reached his allocation, no further nominations for delegate candidates who support said presidential candidate shall be in order.
3. At-large (statewide) prospective delegates should be elected by determining how many delegate slots each presidential candidate has available after processes 1 and 2 above have been completed, and allocating to each available slot the highest vote-receiving prospective delegate that supports the candidate with an available slot. So, for example, if Ron Paul has 2 slots available after processes 1 and 2 above, the two highest vote-getters that support Ron Paul should be allocated to him. And if Mitt Romney has 4 slots available after processes 1 and 2 above have been completed, the 4 highest vote-getters that support Mitt Romney should be allocated to him.

In order to effectuate this process and ensure that a delegate or prospective delegate actually supports the presidential candidate he professes to support, an authorized representative of the presidential campaign that the delegate or prospective delegate professes to support should be allowed to confirm whether or not the delegate is an actual supporter. If a prospective delegate's name is certified to the RNC but has not been approved by an authorized representative of the candidate he or she professes to support, grounds for a contest may exist. In any case, to the extent a prospective delegate is purportedly elected in excess of the number of slots allocated to his or her preferred candidate, such delegate will be bound to vote at the national convention for the candidate to whom that delegate was allocated.

As I explained in my last letter, 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 the seating of Nevada's entire delegation to the National Convention.

Sincerely,



John R. Phillippe Jr.
Chief Counsel

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