

Republican Party of Virginia  
State Central Committee

June 22, 2019

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BRIEF OF SCOTT WYATT FOR DELEGATE

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## INTRODUCTION

I represent the campaign of Scott Wyatt, who is a candidate for the Republican nomination for the 97<sup>th</sup> House of Delegates District. As you know, an ugly dispute over the nomination has roiled the party internally and embarrassed us publically. Fortunately, the dispute has been resolved by the official committees of the party, in a manner that is both fair and consistent with our *Plan of Organization*. You, the members of the State Central Committee, can confirm this resolution at the June 22 meeting of the SCC. And you should, for two reasons.

First, there have been unprecedented attacks on official committees and the decision-making processes of the *Plan* brought by one of the candidates and his supporters within the party.<sup>1</sup> The SCC should follow the lead of its Executive Committee and affirm the authority of our official committees and *Plan* in the face of such attacks.<sup>2</sup> Second, the State Board of Elections has asked the RPV for guidance regarding the legitimate nominee for the District.<sup>3</sup> The SCC has authority to do so under Article X, Section C of the *Plan*, which states that “[t]he State Central Committee shall make the final decision, upon timely appeal, on all Party controversies and contests in any Election District of the State, rulings of the General Counsel and on all other matters deemed to affect the efficiency of the Party organization or the success of the Party.” (italics and underlining added). Accordingly, a resolution of the SCC is the most appropriate and definitive manner in which to respond to the SBE

## ARGUMENT

This dispute has surfaced two distinct issues. The first is: what was the legitimate method of nomination, and who is the nominee? The second is: who is the chairman of the Hanover County Republican Committee? The two issues are conceptually distinct and best addressed separately.

### **I The convention was valid; and Scott Wyatt is the nominee.**

The first question—relating to the method of nomination and identity of the nominee—has already been decided by the First District Committee and that decision is final.

Throughout this process Scott Wyatt has submitted to the judgment of our official committees. Accordingly, when disagreement arose regarding the method of nomination, he filed

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<sup>1</sup> Three examples of such attacks are attached as **Schedule 1**, the first being the text of a Facebook post by Christopher K. Peace in which he describes a meeting of the First District Committee as a “faux hearing” and the second and third being news articles in which RPV Executive Director John Findlay attacks the legitimacy of the resolution passed at the same meeting.

<sup>2</sup> The text of the resolution passed by the Executive Committee of the State Central Committee, affirming the authority of the First District Committee, is attached as **Schedule 2**.

<sup>3</sup> See **Schedule 3**.

a Contest and Appeal on May 9, 2019. On May 20, 2019 the 1<sup>st</sup> CDC held a hearing on the Contest and Appeal, at which it issued a Ruling. In the Ruling, the 1<sup>st</sup> CDC found that: (i) the appeal to the 1<sup>st</sup> CDC was ripe to be heard by the committee and (ii) the purported motion of the 97<sup>th</sup> Legislative District Committee cancelling the convention and selecting a party canvass as the method of nomination was out of order. In light of those findings, the 1<sup>st</sup> CDC went on in the Ruling to hold that:

1. the convention held on May 4, 2019 was valid;
2. the certification of the nominee elected at the convention to the State Board of Elections was valid and proper; and
3. the Call by the 97<sup>th</sup> LDC for the Party Canvass scheduled for June 1, 2019 is null and void.<sup>4</sup>

The Ruling of the 1<sup>st</sup> CDC has not been appealed. More than thirty days have passed since the Ruling was issued, and so it is final.<sup>5</sup> However, in light of the defiance of some, and the questions posed by the SBE, the SCC should affirm the authority of the 1<sup>st</sup> CDC to issue the Ruling. Accordingly, I propose that the SCC adopt the resolution attached as **Exhibit A**.

## **II. Mr. Collette is the current chairman of the Hanover County Republican Committee.**

The second question-relating to the chairman of the Hanover County Republican Committee—also has been answered, in this case by the actions of the HCRC and the silence of the General Counsel. This issue is a bit more confused, because the Appeals Committee of the RPV has rendered a dubious ‘decision’ that clouds the issue, but the answer is clear.

On May 29, 2019 the Hanover County Republican Committee voted by a margin of 80-1 to remove its then-chairman Dale Taylor.<sup>6</sup> In defiance of that vote, Ms. Taylor issued a call for the HCRC, ostensibly as chairman. Nicholas Collette brought a contest challenging that call. On June 13, 2019 the HCRC heard the contest and, by vote of 59-6, invalidated the call and reaffirmed Ms. Taylor’s removal. The HCRC also elected Mr. Collette as chairman.<sup>7</sup> Ms. Taylor has not brought a contest or appeal challenging her removal or the election of Mr. Collette.

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<sup>4</sup> A copy of the minutes of the 1<sup>st</sup> CDC hearing is attached as **Schedule 4**.

<sup>5</sup> *Plan*, Art. X, §(B)(5). Counsel for Chris Peace has argued that the time for the appeal remains open, as Mr. Wyatt brought a conditional appeal to the 1<sup>st</sup> CDC on June 14, 2019. However, at its meeting on June 15, 2019 the 1<sup>st</sup> CDC declined to hear the conditional appeal. Instead, it merely reaffirmed the findings and rulings it made at the May 20, 2019 hearing, resolving that: “Be it resolved that the 1<sup>st</sup> Congressional District Republican Committee reiterates its decision of May 20, 2019 regarding the 97<sup>th</sup> House of Delegates and demands the Republican Party of Virginia and Chairman Jack Wilson respect the authority and decision of the 1<sup>st</sup> Congressional District Republican Committee on all interactions with the State Board of Elections and the public.” Accordingly, the May 20, 2019 Ruling of the 1<sup>st</sup> CDC remains the last word on the matter, and any appeal to that ruling was due no later than June 19, 2019.

<sup>6</sup> A copy of the minutes of the HCRC’s May 29, 2019 meeting is attached as **Schedule 5**.

<sup>7</sup> A draft copy of the minutes of the HCRC’s June 13, 2019 meeting is attached as **Schedule 6**.

On June 10, 2019 SCC Chairman Jack Wilson asked the General Counsel of the RPV for a “General Counsel Opinion as to whether th[e] removal was proper under the Party Plan, prior General Counsel Opinions, as well as your May 29<sup>th</sup> opinion which is binding, but still subject to appeal.”<sup>8</sup> On June 12, 2019 the General Counsel properly declined to provide such a ruling, stating that Ms. Taylor’s removal was “properly before the Hanover County Republican Committee and is best resolved through the appeals process where committees are more likely to be familiar with the facts and have tools to ascertain facts that I, as general counsel, lack.”<sup>9</sup>

Without notice to the membership of the HCRC, Mr. Collette, or the Wyatt campaign, Mr. Wilson convened the Appeals Committee on June 15, 2019 to hear an ‘appeal’ of the General Counsel decision to decline to make a ruling. By a vote of 3-1, the Appeals Committee issued a ‘decision’ overruling the HCRC’s removal of Ms. Taylor and, implicitly, the HCRC’s acts upholding Mr. Collette’s contest and electing him chairman.<sup>10</sup>

The ‘decision’ of the Appeals Committee is invalid, for at least three reasons. First, notice of the ‘appeal’ was given to neither: (i) the members of the HCRC who voted to remove Ms. Taylor, (ii) Mr. Collette, who brought a contest related to the removal and was elected as chairman in Ms. Taylor’s place, nor (iii) Mr. Wyatt, despite the interest each has in Ms. Taylor’s removal. Accordingly, the ‘appeal’ failed to provide those parties the fundamental fairness required by Virginia law and the *Plan*.

The Appeals Committee’s failure to provide these interested parties notice is more than a bit ironic. The basis of the ‘decision’ is the finding that Ms. Taylor was not given adequate notice of the proceeding to remove her, despite the fact that she was given actual notice of: (i) the charges against her, (ii) the date of the hearing on those charges, and (iii) the identity of her accusers thirty days prior to the hearing. On the other hand, the Appeals Committee gave *no notice whatsoever* of the ‘appeal’ hearing to Mr. Wyatt, Mr. Collette, and the members of the HCRC who voted to remove Ms. Taylor, despite the fact that the appeal directly implicated their rights and sought to overrule their acts. The hypocrisy of the members of the Appeals Committee in this regard is breathtaking, even in the political arena.

Second, the Appeals Committee has no power or competence to make factual findings; it is limited to questions of *Plan* interpretation.<sup>11</sup> Notwithstanding which, the ‘decision’ of the appeals committee asks and answers numerous factual questions. It states, for example, that “[t]he removal notice printed in Hanover Committee’s newsletter, which all parties seem to agree

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<sup>8</sup> A copy of Jack Wilson’s letter dated June 10, 2019 is attached as **Schedule 7**.

<sup>9</sup> A copy of the General Counsel’s June 12, 2019 letter to Jack Wilson is attached as **Schedule 8**.

<sup>10</sup> A copy of the decision of the Appeals Committee dated June 15, 2019 is attached as **Schedule 9**. The incoherence of the ‘decision’ is becomes clear when you consider that it was rendered under a provision of the *Plan* that provides for the overturning of an interpretation of the *Plan* rendered by the General Counsel, but has the intent and effect of overruling the acts of the HCRC.

<sup>11</sup> *Plan*, Art. X §(A)(1) (“a ruling or interpretation of the State Party Plan...” (underlining added)).

was the only document provided to Ms. Taylor in initiating a removal . . .” But whether or not Ms. Taylor received any other notice is a question of fact. Accordingly, the ‘decision’ is invalid because it is based on factual findings the Appeals Committee had no power to make.

Third, the Appeals Committee has no power to overrule the acts of an official committee. The Appeals Committee has the power to “overturn[.]” a “ruling or interpretation of the State Party Plan.”<sup>12</sup> Nothing in the *Plan* gives it the power to overrule the acts of official committees. That power rests with the official committees themselves.<sup>13</sup> Accordingly, the ‘decision’ is invalid because the remedy it imposes a remedy outside the power of the Appeals Committee.

Indeed, the ‘decision’ does not merely fail to observe the most basic standards of procedural fairness and exceed the authority of the Appeals Committee. It usurps the authority of the other official committees of the party. Specifically, it is an attack on the power and right of the HCRC (and every other party committee) to be the first to hear contests of its acts. And it is an attack on the power and right of the district committees and SCC to hear appeals arising in the committees subordinate to them. To address this serious attack on the integrity on the *Plan*, the party and its committees, I propose that the State Central Committee adopt the resolution attached as **Exhibit B**.<sup>14</sup>

## CONCLUSION

This fracas has ceased to be a dispute between Mr. Wyatt and Mr. Peace, if ever it was. The question before you, the members of the State Central Committee, is not whether you prefer one candidate over the other. The question is whether or not you will protect the process set out in the *Plan*, and the authority of the official committees of the party.

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<sup>12</sup> *Plan*, Art. X, §A(1).

<sup>13</sup> *Plan*, Art. X, §B.

<sup>14</sup> The resolution intentionally is not framed as an appeal from the ‘decision.’ The ‘decision’ is not merely incorrect; it grossly exceeds the Appeals Committee’s legitimate authority and, in so doing, deforms the decision-making processes of the party. Accordingly, it is not subject to appeal, for being unwise or incorrect, but to invalidation and repudiation, for being entirely outside the authority of the Appeals Committee to render.

## EXHIBIT A

WHEREAS, on May 20, 2019 the First District Committee issued a Ruling stating that (i) the convention held by the 97<sup>th</sup> Legislative District Committee on May 4, 2019 was valid; (ii) the certification of the nominee elected at the convention to the State Board of Elections was valid and proper; and (iii) the Call by the 97<sup>th</sup> Legislative District Committee for a Party Canvass scheduled for June 1, 2019 is null and void; and

WHEREAS, the Ruling was not appealed within thirty days of May 20, 2019 and therefore is not subject to further appeal pursuant to Article X, Paragraph (B)(5) of the *Plan of Organization of the Republican Party of the Virginia*; and

WHEREAS, two ELECT-511 forms have been submitted to the State Board of Elections on behalf of the 97<sup>th</sup> Legislative District Committee, one of which names the candidate elected at the convention as the nominee and the other of which names the candidate elected at the party canvass as the nominee; and

WHEREAS, the State Board of Elections has asked the Republican Party of Virginia for guidance regarding the identity of the legitimate nominee for the 97<sup>th</sup> District; and

WHEREAS, the Republican Party of Virginia acts and speaks through its official committees; and

WHEREAS, the State Central Committee is the highest official committee of the Republican Party of Virginia;

The State Central Committee of the Republican Party of Virginia resolves as follows:

1. The Ruling is valid and not subject to appeal, and therefore represents the final and definitive resolution of the Republican Party of Virginia of the matters addressed in it.
2. The ELECT-511 identifying Scott Wyatt, the nominee elected at the convention to the State Board of Elections, is valid and proper and any other ELECT-511 is invalid and improper.
3. The State Secretary of the Republican Party of Virginia is directed to provide a copy of this resolution to the State Board of Elections by email no later than 10:00 a.m., Monday, June 24, 2019 and to inform the State Board of Elections that this represents the Republican Party of Virginia's response to its inquiry regarding the identity of the legitimate nominee for the 97<sup>th</sup> House of Delegates District.

## EXHIBIT B

WHEREAS, on May 29, 2019 the Hanover County Republican Committee voted to remove its then-chairman Dale Taylor by a vote of 80-1; and

WHEREAS, on June 13, 2019 the Hanover County Republican Committee heard the contest of Nicholas Collette, challenging a call issued by Ms. Taylor after her removal as chairman, upheld such contest and affirmed Ms. Taylor's removal as chairman by a vote of 59-6; and

WHEREAS, Ms. Taylor has not contested her removal or appealed the Hanover County Republican Committee's decision upholding Mr. Collette's appeal; and

WHEREAS, on June 15, 2019 the Appeals Committee of the Republican Party of the Virginia issued a 'Decision' that purported to (i) make factual findings regarding Ms. Taylor's removal and (ii) overrule the decisions of the HCRC; and

WHEREAS, the Appeals Committee of the Republican Party of Virginia has the authority to overturn the rulings of the General Counsel on matters of interpretation of the *Plan or Organization of the Republican Party of Virginia*, but does not have the power to (i) make factual findings or (ii) overrule the acts of official committees of the party; and

WHEREAS, the State Central Committee is the highest official committee of the Republican Party of Virginia;

NOW THEREFORE, The State Central Committee of the Republican Party of Virginia resolves as follows:

1. The Decision exceeds the authority of the Appeals Committee, and is null and void.
2. The decisions of the HCRC to remove Ms. Taylor and to uphold the contest of Mr. Collette are valid and binding unless and until they are overruled pursuant to a contest or appeal brought pursuant to Article X, Section B of the *Plan or Organization of the Republican Party of Virginia*.