

April 28, 2008

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Republican Party of Texas  
900 Congress, Suite 300  
Austin, Texas 78701  
Attn: Tina Benkiser

Ref: Challenge

Madam Chair:

Please deliver the following challenges to the Republican State Officials Committee as required in the bylaws of the SREC and to the Temporary Credentials Committee of the State Convention.

As the signers of this challenge, we have voted in the Republican General Primary and challenge the delegate status of the following person according to Republican Party of Texas (henceforth "RPT") Rule 11(b), which provides the remedy for violations related to this challenge, RPT Rule 27 (b), governing the filing of this challenge, and RPT Rule 5, authorizing Robert's Rules of Order and, therefore, the main motion to censure for abuse of authority as noted below:

**Tina Benkiser, Chair, Republican Party of Texas, 900 Congress, Suite 300, Austin, Texas 78701**

During the week before the Senate District Conventions, the parties to this Challenge attempted to obtain the Dallas County Republican Party's (henceforth "DCRP") copies of the Precinct Convention Minutes for the Precincts that lie within Dallas County. In violation of Rule 22(b), as explained below, our attempts were repeatedly and summarily blocked by the representatives of the DCRP office. It is our contention that the Chair of the Republican Party of Texas was directly involved in the denial of our requests to view and copy the Precinct Convention Minutes by representatives of the DCRP. This involvement constitutes an intentional violation of the Rules of the Republican Party of Texas and Texas Election Code. Therefore, we ask that the Temporary Credentials Committee of the State Convention exercise the remedy proscribed by RPT Rule 11(b):

Challenge – **Any officer** or committee chairman of any convention, whether it be in temporary or permanent organization, **who intentionally violates the Rules of the Republican Party of Texas or the directives of the Texas Election Code, shall be subject to a challenge filed under the provisions of Rule 27; and if such challenge is upheld by the convention which hears the challenge, that officer** or committee chairman **shall be removed from serving as a delegate to any convention of the Party at any level throughout the year.**

We request that Tina Benkiser, Chair of the Republican Party of Texas, be removed from serving as a delegate to the Texas State Convention for violating Rule 22 b:

RPT Rule No. 22 - b. Transmittal of Precinct Convention Minutes: The Permanent Chairman of the Precinct Convention shall sign and safely transmit to the county chairman no later than the third day after the date of the precinct convention or deposit in the mail not later than the second day after the date of the precinct convention **such record (minutes) and a copy thereof**, and maintain a third copy for himself at least until the end of that year's biennial state convention. In multidistrict counties, the County Chairman shall deliver the original record to the temporary chairmen of the Senatorial District conventions. **The copy shall be public record.**

After alarming news from other parts of Texas reached us, we determined that we should exercise our right to access the Precinct Convention Minutes as provided by RPT Rule 22(b). The purpose of our request was to ensure that all rules and laws, specifically Rules 20, 21, and 22(b), were followed. News of the Tarrant County Republican Party's violation of Party Rules and Roberts Rules of Order Newly Revised by adding delegates to the Precinct Convention Minutes after the adjournment of a precinct convention had us and other Republicans concerned that a similar abuse might occur in Dallas County, though we had no specific knowledge that the DCRP was involved in such activities.

One of the first delegates who attempted to access those documents, Lev Shepelev, was allowed access to the Minutes of the Precinct Conventions in his Senate District on March 24, 2008. However, he was denied the privilege of using the Dallas County Republican Party's resources, i.e. copier and fax machine, because, according to Mr. Shepelev's recollection, the office's machines were suffering from overuse. He used his time at the DCRP office to review and transcribe the names of the Republicans elected as Delegates and Alternates at their respective Precinct Conventions.

Salvador Ayala and Jarrod Atkinson arrived at the DCRP Office with a copy machine and requested that we be allowed to make copies of the County Chair's copy of the Precinct Convention Minutes. That request was denied. According to Mirand Zepeda and Mike Walz, their instructions to not allow us to copy the Minutes came directly from the RPT legal counsel. The Chair of the Republican Party of Texas, Tina Benkiser, would have had direct involvement in this prohibition. Furthermore, considering that Ms. Benkiser has served as the Chair of the Rules Committee and is an attorney, her extensive knowledge of the wording, intent, and implementation of the Rules should provide her with a thorough understanding of RPT Rule 22(b) and Texas Election Code.

The "Written Request for Access and Duplication of Public Records," presented to the DCRP Executive Director on March 27, 2008, is included. After presenting this letter, we were informed that a list of the delegates and alternates could be provided, but only after the conclusion of the Senate District Conventions and at significant financial cost, as the list would have to be compiled and all personal information removed. However, this refined list would not have allowed us the opportunity to accomplish our stated goals, including verifying that the list of Delegates and Alternates had not been altered and would be in keeping with neither the intent nor the scope of the RPT Rules.

Regarding Rule 22(b), the 2006 State Convention considered and intentionally phrased the Party Rules to reflect the intent of TEC 174.027(f) below. If the intent of RPT Rule 22(b) was to restrain access to Precinct Convention Minutes and the information contained within, there would not be a provision making such records public information.

§ 174.027. Records of Convention

(a) The convention chair shall prepare, sign, **and make a copy of a list of the names and residence addresses of the delegates and any alternates selected by the convention.**

(b) The convention chair shall sign and **make a copy** of the list of precinct convention participants required by Section 174.025(c).

(c) The convention chair shall deliver the **originals and copies of the lists to the county chair** not later than the third day after the date of the precinct convention, except that if delivered by mail, they shall be deposited in the mail not later than the second day after the date of the precinct convention.

(d) **The county chair shall retain the copies of the lists** until the end of the voting year in which they are received.

(e) If senatorial district conventions will be held in the county, the county chair shall deliver the originals of the lists to the temporary chairs of the senatorial district conventions before the conventions convene.

(f) The original lists are not public information.

Texas Election Code, Section 163.004(c) below defines a "rule on electoral affairs" as "a rule or amendment of the class described by Subsection (a)" which is a reference to party rules.

Sec. 163.004. ADOPTING RULES. (a) A political party's rules, including amendments to rules, governing or affecting its general or runoff primary elections, conventions held under this code, or nominees may be adopted only by:

(1) a state convention; or

(2) the state executive committee as a temporary rule, if adoption before the next state convention is necessary.

(b) A temporary rule must be considered by the first state convention following its adoption. The state convention may rescind, modify, or ratify the temporary rule. If the state convention fails to act, the temporary rule expires on the day after the date the convention adjourns.

**(c) In this chapter, "rule on electoral affairs" means a rule or amendment of the class described by Subsection (a).**

Therefore, a rule on electoral affairs is a party rule. Texas Election Code, Sections 163.007 and 161.009 treats party rules "as if the rule were a statute," and party officers "as if [they] were a public officer."

Sec. 163.007. RULES ENFORCEABLE BY MANDAMUS. A rule on electoral affairs is enforceable by writ of mandamus in the same manner as if the rule were a statute.

Sec. 161.009. PARTY OFFICER SUBJECT TO MANDAMUS. The performance of a duty placed by this code on an officer of a political party is enforceable by writ of mandamus in the same manner as if the party officer were a public officer.

Texas Election Code, Section 163.003 requires party rules to be consistent with state law.

Sec. 163.003. CONSISTENCY WITH STATE LAW. The rules adopted by a political party must be consistent with state law.

Since we treat party rules "as if they were a statute," to allow an interpretation of public records as "access but no duplication" would be inconsistent with the Texas Public Information Act, which provides for access AND DUPLICATION of such public information (Government Code, Sections 552.203, 552.221(a), 552.221(b)(1)).

§ 552.203. GENERAL DUTIES OF OFFICER FOR PUBLIC INFORMATION. Each officer for public information, subject to penalties provided in this chapter, shall:

**(1) make public information available for public inspection and copying;**

(2) carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal; and

(3) repair, renovate, or rebind public information as necessary to maintain it properly.

§ 552.221. APPLICATION FOR PUBLIC INFORMATION; PRODUCTION OF PUBLIC INFORMATION.

**(a) An officer for public information of a governmental body shall promptly produce public information for inspection, duplication, or both on application by any person to the officer. In this subsection, "promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay.**

**(b) An officer for public information complies with Subsection (a) by:**

**(1) providing the public information for inspection or duplication in the offices of the governmental body; or**

**(2) sending copies of the public information by first class United States mail if the person requesting the information requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F.**

When presented with the relevant rules and laws, Ms. Benkiser instructed the DCRP to continue to obstruct our attempts to access to the Precinct Convention Minutes and, therefore, is subject to the penalties and remedies afforded by the State of Texas and the Republican Party of Texas.

We wish to ensure that the Rules are followed at all levels so that voters have confidence that the Republican Party of Texas acts in accordance with the law and the ethical values that we, as Republicans, Texans and Americans, espouse. We also would like to avoid allowing a precedent to be set that the RPT can change or ignore the rules and law, as this precedent could lead to any number of conflicts with the Texas Election Code and the Attorney General's Office.

We respectfully ask that you include this challenge in the Credentials Committee Report to be presented to the floor of the State Convention Delegation. We also would like to remind the Committee that neither the RPT Chair nor Vice Chair is allowed a vote under Roberts' Rules of Order Newly Revised.

The above challenges have been sent via certified or registered mail not later than thirty (30) days following the date of the SD convention.

Signed,

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**Jarrold Atkinson**  
**Dallas County Republican Precinct Chair – 1134**  
**12219 Montego Plaza**  
**Dallas, TX 75230**

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**Sal Ayala**  
**904 Green Cove Ln.**  
**Dallas, TX 75232**