STATE ELECTION COMMISSION
2221 Devine Street, Suite 105
Columbia, South Carolina 29205

June 27, 2008
4:00 p.m.

Present: Mr. John H. Hudgens, III, Chairman; Ms. Cynthia M. Bensch; Mr. Tracey C. Green; Ms. Pamella B. Pinson (via teleconference); and Mr. Thomas Waring (via teleconference)

Others Present: Ms. Donna Royson, Deputy Director; Mr. Garry Baum, Director of Public Information and Training; Mr. Chris Whitmire, Public Information Officer; Mr. Parkin Hunter, S.C. Attorney General’s office; Mr. John Crangle, Common Cause South Carolina; Mr. Greg Jocoy, South Carolina Green Party; Mr. Eugene Platt, Candidate for State House of Representatives District 115; Mr. Matt Richardson, South Carolina Democratic Party; Mr. Christopher Marley, Charleston County Democratic Party; and four other members of the public.

THE MEETING OF THE STATE ELECTION COMMISSION WAS HELD PURSUANT TO THE FREEDOM OF INFORMATION ACT AND ALL REQUIRED NOTIFICATIONS WERE MADE.

Chairman Hudgens called the meeting of the State Election Commission (SEC) to order and asked if all notices of the meeting were posted as required by the Freedom of Information Act. Ms. Royson replied that the notices had been posted.

The first item of business was to approve the minutes of the May 21, 2008, meeting of the State Election Commission. Ms. Bensch made a motion to approve the minutes. Mr. Green seconded the motion. The motion carried unanimously.

The next item on the agenda was discussion of whether candidates who have been defeated in a primary should have access to the general election ballot. Chairman Hudgens stated that this issue was brought to the Board by the South Carolina Green Party regarding Eugene Platt, the party’s candidate for South Carolina House of Representatives District 115. Ms. Royson added that Mr. Platt had been certified by the Green Party as their official candidate for that seat. Chairman Hudgens asked if Mr. Platt had been defeated in the June 10, 2008, Democratic Party. Ms. Royson replied that he had. Ms. Royson said that SEC staff had informed the Green Party that it was their belief that the law would not allow the SEC to place Mr. Platt’s name on the ballot due to the provisions of S.C. Code of Laws § 7-11-10.

Chairman Hudgens reminded his fellow commissioners that they had copies of laws, court cases, and Attorney General’s opinions related to the question at hand. Mr. Jocoy said that he and other members of the public in attendance had not been provided with copies of the same. Chairman Hudgens pointed out that the documents were freely available to the public. After some discussion, Chairman Hudgens asked Mr. Baum to make copies of the documents for those in the room who wanted them.

Ms. Bensch asked if a reversal of SEC staff policy would provide ballot access to all candidates who lost in the June primary. Ms. Royson replied that if SEC staff continued to apply the law as they had been applying it, the ballot would not be open to other losing candidates.
Mr. Green made a motion for the meeting go into a 10 minute recess while copies were made. Ms. Bensch seconded the motion. The motion carried unanimously and the meeting was in recess.

After approximately 10 minutes, Chairman Hudgens called the meeting back to order and noted that the copies had been distributed. Chairman Hudgens reiterated that the South Carolina Green Party has indicated they want Mr. Platt’s name placed on the General Election ballot, and that SEC staff has responded that state law prevents them from doing so. Chairman Hudgens said that for the staff’s application of the law to change, he would first need to hear a motion from a member of the Commission. Chairman Hudgens stated that it was the Commission’s wish to hear from those in attendance who wanted to speak on the matter and asked speakers to limit comments to three minutes.

Mr. Crangle spoke in support of Mr. Platt’s name appearing on the ballot saying it was not the legislative intent of S.C. Code of Laws § 7-11-10 to prevent a candidate who lost a primary from appearing on the general election ballot as a candidate of another party. Mr. Crangle also stated that Mr. Platt’s first amendment rights may be violated if Mr. Platt’s name is not allowed on the ballot.

Mr. Richardson identified himself as an attorney representing the South Carolina Democratic Party and the party’s nominee for State House District 115. Mr. Richardson spoke against allowing Mr. Platt’s name to appear on the ballot. Mr. Richardson stated that this situation was not unique, that the statute specifically addressed it, and that the statute had been ruled constitutional by the Supreme Court of South Carolina.

Mr. Platt spoke in support of his name appearing on the General Election ballot as the Green Party’s nominee saying that early in the process, the Democratic Party had no problem with him being another party’s nominee. Mr. Platt also stated that the Green party had nominated him prior to being defeated in the Democratic Primary.

Mr. Marley spoke against allowing Mr. Platt’s name to appear on the ballot, saying that the law in question had been on the books for some time, and that Mr. Platt had every opportunity to review those laws before filing for office with any party.

Mr. Jocoy spoke in support of Mr. Platt’s name appearing on the General Election ballot, delivering a written statement, which is attached.

Chairman Hudgens asked if anyone else wished to speak, and none did. Ms. Bensch moved that the meeting go into executive session. Chairman Hudgens asked Ms. Bensch her purpose for moving to go into executive session. Ms. Bensch replied that she desired the Board to receive legal advice. Ms. Pinson seconded the motion. The room was cleared while the Commissioners and Mr. Hunter met in executive session.

Attendees were notified when the executive session was complete. Chairman Hudgens called the meeting back to order and stated that no votes were to taken and no decisions were made during the session.

Chairman Hudgens asked if there were any motions to be made regarding the question at hand, and there were none.
Mr. Green stated his reasoning for not making a motion, saying that most of the arguments in favor of allowing Mr. Platt's name to appear on the ballot related to the constitutional rights of the candidate. Mr. Green stated that the SEC had only the authority to enforce the election law and not go behind the law to determine its constitutionality. Mr. Green stated that the SEC can only enforce the law as it is plainly written.

Chairman Hudgens echoed the remarks of Mr. Green and thanked everyone in the room for their attendance. There being no further business, Ms. Pinson made a motion to adjourn the meeting of the State Election Commission. Mr. Waring seconded the motion. The motion carried unanimously and the meeting was adjourned.

Respectfully submitted,

Chris Whitmire
Public Information Officer