

WASHINGTON, D.C. OFFICE
flour mill building
1000 potomac street nw
suite 200
washington, d.c. 20007-3501
TEL 202 965 7880 FAX 202 965 1729

anchorage, alaska
beijing, china
new york, new york
portland, oregon
seattle, washington
GSBLAW.COM

GARVEY SCHURED BARER

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

Please reply to BRAD C. DEUTSCH bdeutsch@gsblaw.com TEL EXT 1793

May 27, 2016

BY HAND DELIVERY & EMAIL

Mr. Jim Roosevelt and Ms. Lorraine Miller Co-Chairs, Rules and Bylaws Committee Democratic National Committee 430 South Capitol Street, S.E. Washington, DC 20003

Re: Credentials Challenge to Platform Committee Co-Chair Dannel Malloy and Rules Committee Co-Chair Barney Frank

This firm serves as legal counsel to Bernie 2016, Inc. (the "Campaign"), the official campaign committee for Senator Bernie Sanders' 2016 U.S. presidential bid. We submit this letter on behalf of the Campaign, pursuant to Rules II(A), II(C), VII(B)(5), VII(F)(3), VII(G) and VII(H) of the DNC's Call for the 2016 Democratic National Convention (the "Call"), and Regulations 3.1(C) and (D) of the Regulations of the Rules and Bylaws Committee (the "RBC Regulations"), to commence formal credentials challenges and contests against Governor Dannel Malloy, appointed Co-Chair of the Standing Platform Committee, and former Representative Barney Frank, appointed Co-Chair of the Standing Rules Committee for the 2016 National Convention (the "Convention"), or alternatively to seek advisory opinions concerning the fitness of these individuals to serve in their appointed roles.

Both Governor Malloy and Mr. Frank (the "Chairs") have been harsh, vocal critics of Senator Sanders, and equally active supporters of his challenger, Hillary Clinton. While it is expected, acceptable, and even desirable, that committee members and leaders at the Convention will represent a diversity of political views and presidential preferences, the preferences of party officials must not interfere with the fair and neutral administration of Convention business and procedures.

Governor Malloy and Mr. Frank have both been aggressive attack surrogates for the Clinton campaign. Their criticisms of Senator Sanders have gone beyond dispassionate ideological disagreement and have exposed a deeper professional, political and personal hostility toward the Senator and his Campaign. The Chairs therefore cannot be relied upon to perform their Convention duties fairly and capably while laboring under such deeply held bias. The appointment of two individuals so outspokenly critical of Senator Sanders, and so closely affiliated with Secretary Clinton's campaign, raises concerns that two of the three Convention Standing Committees are being constituted in an overtly partisan way designed to exclude meaningful input from supporters of Senator Sanders' candidacy. The Campaign respectfully



but emphatically requests, under the qualification standards clause of the Call,¹ that both Governor Malloy and Mr. Frank be disqualified from their respective positions with the Standing Platform and Rules Committees.

I. Barney Frank

Mr. Frank's animosity toward Senator Sanders dates back decades. In 1991, while serving alongside Senator Sanders on the House Financial Service Committee, Mr. Frank accused Senator Sanders of "unduly denigrat[ing] the institution and a lot of the members" of Congress.² After Senator Sanders won the New Hampshire Democratic presidential primaries in February, Mr. Frank wrote an opinion piece in which he professed his "resentment" toward the Senator.³ And Mr. Frank's invective against Senator Sanders has only intensified as Senator Sanders has notched additional primary victories.

In a March interview, Mr. Frank defamed Senator Sanders as "outrageously McCarthyite." When asked to confirm that he considered Senator Sanders' supporters to "have a slightly unrealistic sense about the political process," Mr. Frank answered glibly: "I didn't say slightly." When the same interviewer paraphrased that "the argument that people like Sanders would make is that, the financial system is corrupt fundamentally," Mr. Frank responded bluntly: "if that's the case it's even dumber than I thought."

The Campaign has justifiable significant doubts, in light of his past and present comments, about whether Mr. Frank is capable of respecting Sanders supporters, and what he has called their "dumb" and "unrealistic" viewpoints. An individual so harshly dismissive of views held by 45 percent of the Party's constituency is not qualified to serve as an even-handed or effective leader at the Convention. The Co-Chairs of the Standing Rules Committee hold broad power to submit resolutions and measures for vote on the floor of the Convention. It is imperative that this power be wielded by someone who respects, and is inclusive of, opposing viewpoints. Mr. Frank's barbed remarks toward Senator Sanders and his supporters demonstrate that Mr. Frank is not such a person. The Campaign thus respectfully demands that Mr. Frank be disqualified as Co-Chair of the Standing Rules Committee.

¹ See Call, Rule II(C).

² Elizabeth Kolbert, "Political Outsider Coping with Life as an Insider," *New York Times*, August 18, 1991, *available at* http://www.nytimes.com/1991/08/18/us/political-outsider-coping-with-life-as-an-insider.html?pagewanted=2.

³ Barney Frank, "Three Reasons Why Things Will Get Harder for Bernie Sanders," *Politico*, February 3, 2016, *available at* http://www.politico.com/magazine/story/2016/02/three-reasons-why-things-will-get-harder-for-bernie-sanders-213591.

⁴ Isaac Chotiner, "Barney Frank Is Not Impressed with Bernie Sanders," *Slate*, March 30, 2016, *available at* http://www.slate.com/articles/news and politics/interrogation/2016/03/barney frank is not impressed by bernie sanders.html.

⁵ *Id*.

⁶ *Id*.

⁷ See Call, Rule VII(H)(1).



II. Dannel Malloy

Governor Malloy has candidly admitted that he "will continue to work hard to make sure [Hillary Clinton] is elected president of the United States this November," a pledge that the Campaign justifiably believes would influence his work as Co-Chair of the Standing Platform Committee. Not only is Governor Malloy an avowed loyalist of the Clinton Campaign, he is an incendiary critic of Senator Sanders. While justly criticizing "Donald Trump and his extremist agenda" in press remarks, Governor Malloy has gone on to draw pejorative comparisons between Mr. Trump and Senator Sanders. Governor Malloy has unfairly ascribed blame for national gun control laws single-handedly to Senator Sanders, referring to the three-day wait provision of the Brady Bill as the "Charleston-Sanders loophole." Malloy has even ventured that Senator Sanders should be "held accountable" for the "death and destruction" cause by his "mistakes."

Such exaggerated and divisive criticisms betray a closed mind and a lack of civility that would make it difficult if not impossible for Governor Malloy to effectively conduct his duties as Co-Chair of the Standing Platform Committee. In this role, Governor Malloy will be tasked with direction and oversight of a platform embodying the party's core principles. This platform should be as inclusive as possible, expressing where practicable the input of the significant percentage of Democrats who support Senator Sanders. The Campaign has legitimate concerns that Governor Malloy's open animosity toward Senator Sanders will make him unreceptive or even antagonistic to the viewpoints of these voters. The foreseeable exclusion of such a large constituency from this process would be damaging not only to the Campaign and its supporters, but to the DNC's own efforts to unify the party.

III. Conclusion

The Campaign does not object to the credentials of the remaining Co-Chairs or Vice-Chairs of either Standing Committee, and sees no reason that one Chair, supported by four Vice-Chairs, could not capably lead each of these groups.¹³ The Campaign has no doubt that the Standing Platform and Rules Committees will run more transparently, fairly and smoothly if their leadership is free from influence by self-proclaimed partisans intent on marginalizing Campaign supporters.

⁸ Mary O'Leary, "In Connecticut, Hillary Clinton beats Bernie Sanders after 'fantastic campaigns'," *New Haven Register*, April 26, 2016, *available at* http://www.nhregister.com/government-and-politics/20160426/in-connecticut-hillary-clinton-beats-bernie-sanders-after-fantastic-campaigns.

⁹ See Maxwell Tani, "Hillary Clinton's Campaign Is Unleashing its Surrogates on Bernie Sanders," Business Insider, February 22, 2016, available at http://www.businessinsider.com/hillary-clinton-bernie-sanders-guns-malloy-2016-2 ("Sen. Sanders has been to gun safety the same way as Trump should hold himself responsible for diplomacy").

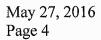
¹⁰ "Conn. Gov. Dan Malloy tells Springfield supporters Hillary Clinton 'the real thing,' hits Bernie Sanders on guns," *Mass Live*, February 25, 2016, *available at*

http://www.masslive.com/politics/index.ssf/2016/02/connecticut_gov_dan_malloy_tel.html.

¹¹ Maxwell Tani, "Hillary Clinton's Campaign Is Unleashing its Surrogates on Bernie Sanders," *Business Insider*, February 22, 2016, *available at* http://www.businessinsider.com/hillary-clinton-bernie-sanders-guns-malloy-2016-2.

¹² See Call, Rule VII(G)(5).

¹³ Because the Co-Chairs and Vice-Chairs may cast votes in the case of a tie, the Campaign believes it is in fact preferable to have an odd number of Chairs and Vice-Chairs.





Accordingly, the Campaign respectfully requests that this Committee disqualify Governor Malloy and Mr. Frank or, in the alternative, provide a hearing followed by an advisory opinion concerning the fitness of the Chairs to serve in their appointed roles under Regs. 3.1(C) and (D) of the RBC Regulations.

If this Committee is unable to provide its advice or assistance pursuant to the RBC Regulations, the Campaign will seek resolution of these issues by presenting its objections in motions as the first items of business at the initial meetings of the Standing Platform and Rules Committees¹⁴ and, to the extent necessary, will request the drafting and adoption of minority reports from both Standing Committees for presentation to the floor of the full Convention.¹⁵

Respectfully Submitted,

Brad Deutsch

Counsel to Bernie 2016

GSB:7806813.3

¹⁴ See Robert's Rules of Order, Rule 11 (permitting principal motions to be brought on any subject); Rule 52 (permitting the raising of motions by individual committee members without prior authorization of the Chair); Call, Rule VII(B)(1) (meetings of standing committees to be held in accordance with procedures approved by Rules and Bylaws Committee); RBC Reg. 1.8 (Robert's Rules of Order are the rules of procedure approved and adopted by RBC).

¹⁵ See Call, Rules VII(G)(6) (Standing Platform Committee's procedures for requesting preparation of a minority report); VII(H)(3) (same procedures for Standing Rules Committee); VIII(M) (requirements for presentation and consideration of minority reports by full Convention).