

John D. Burns
6629 Battleford Drive
Raleigh, NC 27613
johnburnsnc@yahoo.com
(919) 306-6906

May 8, 2013

James H. Slaughter
Chairman – Council of Review
North Carolina Democratic Party
Rossabi, Black, Slaughter, P.A.
3623 N Elm Street, #200
Greensboro, NC 27455

Nina Szlosberg-Landis
First Vice Chairperson
North Carolina Democratic Party
2710 Rosedale Avenue
Raleigh, NC 27607

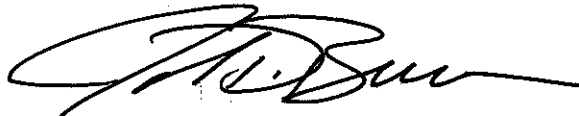
Dear Jim and Nina:

Attached, please find a Petition requesting removal of Randolph Voller from the position of Interim Executive Director of the North Carolina Democratic Party and review and reversal of certain acts by Mr. Voller and the Executive Council of the North Carolina Democratic Party on April 28, 2013. Pursuant to relevant portions of the Plan of Organization, because the Chairman is the Respondent, I am serving this on Nina, as First Vice Chairperson, and upon Jim as Chairman of the Council of Review.

My fellow petitioners and I do not file this Petition lightly. Nor is it filed out of ill will to Mr. Voller or the 12 Sustaining Fund Co-Chairs he appointed to the Executive Council. Rather, we seek to enforce and clarify the language of the Plan of Organization and the powers of the Chairperson of the North Carolina Democratic Party.

If you have any questions, please feel free to contact me.

Sincerely,



John D. Burns

Enclosure

CC: Zack Hawkins, Second Vice Chair
Andy Ball, Third Vice Chair
Melvin Williams, Secretary
(ALL VIA EMAIL)

**NORTH CAROLINA DEMOCRATIC PARTY
BEFORE THE COUNCIL OF REVIEW**

JOHN D. BURNS; GREG FLYNN; TREVA R. JOHNSON; and MONTICA TALMADGE,)

Petitioners,)

v.)

**RANDOLPH VOLLER, Chair and Acting
Executive Director, North Carolina Democratic
Party**)

Respondent.)

PETITION

Petitioners, complaining of Respondent, allege that he has exceeded his authority as Chairman of the North Carolina Democratic Party by terminating the services of the Executive Director of the North Carolina Democratic Party and appointing himself to the position on an interim basis. He has also exceeded his authority by appointing multiple co-chairs of the Sustaining Fund, in an unsanctioned attempt to dilute the votes of the Vice Chairpersons of the North Carolina Democratic Party, the District Chairpersons democratically elected to the Executive Council, and the elected representatives of the Party's auxiliary organizations, so as to shield his actions from inquiry or supervision by the Executive Council.

In so acting, the Respondent has exceeded his powers as Chairman, and caused the Executive Council to take or approve of actions which are unauthorized by the Plan of Organization. In support of these allegations, Petitioners show the Council of Review the following:

FACTS

1. Respondent Randolph Voller is the Chairman of the North Carolina Democratic Party.
2. Petitioners are active North Carolina Democrats with interest in the proper operations of the State Party and full representation on the Executive Council by duly elected Vice Chairpersons, Congressional District Chairpersons and the representatives of auxiliary organizations. Petitioner John D. Burns is an active member of the North Carolina Democratic Party, a member of the State Executive Committee and a resident of the Thirteenth Congressional District. Petitioner Greg Flynn is an active member of the North Carolina Democratic Party, a member of the State Executive Committee and a resident of the Fourth Congressional District. Petitioner Montica Talmadge is an active North Carolina Democrat, the Democratic National Committeewoman for the Young

Democrats of America, a voting member of the North Carolina Democratic Party Executive Council and a resident of the Fourth Congressional District. Petitioner Treva R. Johnson is an active North Carolina Democrat, the immediate past Chairperson of the Wilkes County Democratic Party, and a resident of the Fifth Congressional District.

3. In or about March 2013, Respondent terminated the services of the Executive Director of the North Carolina Democratic Party.
4. On March 28, 2013, Respondent, acting in his capacity as Chairman, appointed himself as Acting Executive Director of the Party, without the approval or informed consent of the Executive Council.
5. This self-appointment was outside the scope of the rightful powers of the Chairman of the North Carolina Democratic Party and are without precedent.
6. On April 28, 2013, at 2:30pm, the Executive Council of the North Carolina Democratic Party held a meeting in the city of Raleigh.
7. At that meeting, several council members planned to introduce resolutions addressing the Respondent's *ultra vires* actions concerning the Executive Directorship of the Party.
8. Upon arriving at the meeting, Executive Council members learned that the Chairman had appointed 12 additional Co-Chairs of the Sustaining Fund, 10 of which were appointed in the days before the scheduled meeting and that Respondent intended that all those Co-Chairs would be voting members of the Executive Council.
9. After the roll was called, Mr. Luke Hyde objected to the appointment of 12 Co-Chairs of the Sustaining Fund and requested a ruling from the Chairman as to whether the Plan of Organization allowed a Chairman to make such appointments.
10. In response to this request for a ruling, Respondent appointed a parliamentarian who ruled that the Respondent's appointments were valid.
11. The ruling of the Respondent was then challenged pursuant to the Rules of the meeting and Robert's Rules of Order.
12. A motion was made from the floor to allow the 8 Sustaining Fund Co-Chairs present to remain on the Executive Council and vote, but the 4 of the 12 who were not present would not be allowed to remain on the Council.
13. Prior to the vote, the Respondent ruled that the 8 newly appointed members would be allowed to vote on the motion.

14. The Respondent's ruling was upheld, and the motion passed. The margin of these votes was determined by the votes of 7 of the 8 Sustaining Fund Co-Chairpersons appointed by the Respondent.
15. Thereafter, on votes carried by the votes of 7 Sustaining Fund Co-Chairpersons, the resolutions offered by members of the Executive Council which challenged the Respondent's *ultra vires* actions were either defeated or prevented from coming to the floor.

THE SUSTAINING FUND CO-CHAIRPERSONS SHOULD HAVE ABSTAINED

16. The votes of the Co-Chairpersons of the Sustaining Fund were contrary to the Rules of the Meeting and Robert's Rules of Order. No member should vote on a question in which he has a direct personal or pecuniary interest not common to other members of the organization. (Robert's Rules, 11th ed., p. 407.) It was incumbent upon the newly-appointed Co-Chairpersons of the Sustaining Fund to abstain from voting on whether or not they should have the vote.

THE NUMBER OF CO-CHAIRS IS LIMITED BY WELL ESTABLISHED PARTY PRECEDENT AND THE INTENT OF THE PLAN

17. Section 4.03 of the Plan of Organization reads: "the state chair shall appoint a treasurer, a sustaining fund chair or co-chairs, a chair for minority affairs and a state advisor for the Teen Dems, all of whom shall serve at the pleasure of the state chair as appointed officers...."
18. Section 4.07 of the Plan of Organization reads: "The members of the state executive council shall be: the state chair, each of the three state vice chairs, the secretary, the treasurer, the chair or co-chairs of the Sustaining Fund, the chair for minority affairs, the advisor to the Teen Dems, the state presidents of all state auxiliary organizations with by-laws approved by the state executive committee, the congressional district chairs, the members of the Democratic National Committee from North Carolina, the national committeeman and the national committeewoman of the Young Democrats of North Carolina, and three at-large members appointed by the state chair."
19. Well established North Carolina Democratic Party precedent and the intent of the Plan of Organization have limited the number of Co-Chairs of the Sustaining Fund to two or three persons. Any attempt to use the Sustaining Fund to effectively increase the number of at-large appointments by the Chair is a violation of the intent behind the Plan of Organization and well established precedent. The Plan of Organization envisions a party where elected representatives, elected by the full SEC, Congressional Districts, and their respective auxiliary groups, constitute the vast majority of the Executive Council. The intention behind the Plan of Organization was not to have an Executive Council

controlled by the Chairman with such a large number of members serving at the pleasure of the Chairman. Allowing a Chairman to appoint an unlimited number of persons to the Executive Council dilutes the vote of duly elected members of the Executive Council, and is contrary to Democratic ideals and the Democratic system of government envisioned in the Plan of Organization. It would allow the Chair to exercise complete control of the party with virtually no checks and balances.

20. As a result of these actions, the Respondent undemocratically manipulated the structure of the Executive Council, avoided supervision and oversight of the Executive Council over those actions he has taken that are outside the powers and duties of his office, and acted in a manner contrary to the letter and spirit of the Plan of Organization.

WHEREFORE, Petitioners pray for judgment of the Council of Review against the Respondent as follows:

1. That the Respondent's unilateral termination of the prior Executive Director was conducted without proper authority or oversight by the Executive Council.
2. That the Respondent's appointment of himself as interim Executive Director without the informed approval of the Executive Council is outside of the powers of the Chairman, an abuse of the authority of that position, and contrary to the Plan of Organization.
3. That Respondent be immediately removed from the position of Interim Executive Director.
4. That the appointment of more than three Sustaining Fund Co-Chairs, for the purposes of swinging a vote of the Executive Council, was an abuse of the authority of the Chairman and contrary to the letter and spirit of the Plan of Organization.
5. In the alternative, that the newly appointed Co-Chairpersons of the Sustaining Fund be barred from voting on the motions or questions concerning their qualifications as members of the Executive Council and that the Respondent must also refrain from voting on any motions or rulings regarding the Co-Chairpersons of the Sustaining Fund's qualifications as members of the Executive Council.
6. That the actions taken by the Executive Council at the meeting of April 28, 2013 be deemed invalid and void.
7. For a ruling that Democratic Party precedent and the intent of the Plan of Organization requires that no more than three persons may be Co-Chairs of the Sustaining Fund.

8. For such other and further relief as the Council deems just and proper.

Petitioners respectfully request that the Council of Review as constituted as of the date of this petition, including the Chairman thereof, review this petition. Petitioners request a speedy hearing.

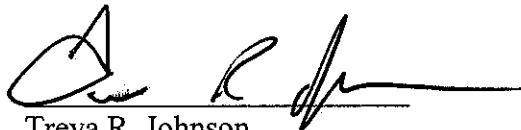
Respectfully submitted, this 8th day of May, 2013



John D. Burns
SEC Member – Wake County
13th Congressional District
Petitioner

Greg Flynn
SEC Member – Wake County
4th Congressional District
Petitioner

Montica Talmadge
Member, Democratic National Committee
North Carolina Democratic Party Executive Council
4th Congressional District
Petitioner




Treva R. Johnson
Active North Carolina Democrat
Immediate Past Chairman
Wilkes County Democratic Party
5th Congressional District
Petitioner

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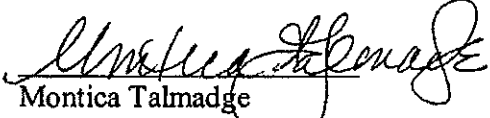
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5th Congressional District
Petitioner

CERTIFICATE OF SERVICE

The undersigned has served the above Petition upon the persons shown below at the addresses shown below, by email delivery and by US Postal Service, this 8th day of May, 2013.



John D. Burns

James H. Slaughter, Esq.
Chairman – Council of Review
Rossabi, Black, Slaughter, P.A.
3623 N Elm St # 200
Greensboro, NC 27455
jslaughter@lawfirmrbs.com

Nina Szlosberg-Landis
First Vice Chairperson
North Carolina Democratic Party
2710 Rosedale Avenue
Raleigh, NC 27607
Napro1@earthlink.net

Zack Hawkins
Second Vice Chairperson
North Carolina Democratic Party
zackafhawkins@gmail.com

Andy Ball
Third Vice Chairperson
North Carolina Democratic Party
andyballnc@gmail.com

Melvin Williams
Secretary
North Carolina Democratic Party
Melvin535@gmail.com