

**RULES & BYLAWS COMMITTEE AND CREDENTIALS COMMITTEE
2008 DEMOCRATIC NATIONAL CONVENTION**

GEORGE W. BOYD, elected At-Large Delegate
9803 McNeely Lake Drive,
Louisville, Kentucky 40229;

TONI CANTERBURY, elected District Level Delegate
214 Virginia Avenue
South Williamson, Kentucky 41503;

GYPSY CANTRELL, elected At-Large Delegate
P.O. Box I,
Elkhorn City, Kentucky 41522;

JACQUELINE COLEMAN, elected District Level Delegate
781 Buster Pike
Harrodsburg, Kentucky 40330;

HOWARD L. DAWES, JR., elected District Level Delegate
P.O. Box 992
Calvert City, Kentucky 42029;

OLIVIA ANNE MORRIS FUCHS, elected District Level Delegate
3803 Ashridge Drive
Louisville, Kentucky 40241-1652;

BONNIE GIBSON, elected District Level Delegate
316 SB Thomas Road
Bowling Green, Kentucky 42103;

JUDITH GREENWELL GREEN, elected Alternate Level Delegate
749 South 43rd Street
Louisville, Kentucky 40211;

GAIL HARDY, elected Alternate Delegate
2529 Canton Road
Cadiz, Kentucky 42211;

JOYCE B. LEMASTER, elected Alternate Delegate
830 North Wilson Avenue
Morehead, Kentucky 40351;

JOSEPH H. MATTINGLY III, elected District Level Delegate
104 West Main Street
Lebanon, Kentucky 40033-0678;

JOHN "JAY" LEE MURPHY, elected District Level Delegate
629 Apricot Drive
Richmond, Kentucky 40475;

MARSHALL TYLER MURPHY, elected District Level Delegate
300 North Broadway
Lexington, Kentucky 40508;

ELIZABETH PACE, elected District Level Delegate
20 Heritage Place
Winchester, Kentucky 40391;

HAROLD ROBINSON, elected District Level Delegate
467 Indian Gap Road
Frankfort, Kentucky 40601

WILLIAM RYAN, elected District Level Delegate
1907 Alfresco Place
Louisville, Kentucky 40205;

MICAH SPICER, elected District Level Delegate
4105 Boyd Road
Wingo, Kentucky 42088;

PATRICIA VINCENT, elected District Level Delegate
P.O. Box 82
Nebo, Kentucky 42441;

TINA WARD-PUGH, elected District Level Delegate
150 North Galt Avenue
Louisville, Kentucky 40206;

TIM K. WIREMAN, elected District Level Delegate
1535 Howards Branch Road
Salyersville, Kentucky 41465

CHALLENGING PARTIES

v.

**CHALLENGE FOR FAILURE TO IMPLEMENT A PLAN
APPROVED BY THE DNC RULES AND BYLAWS COMMITTEE**

RUTH ANN PALUMBO, recently named District Level Delegate
10 Deepwood Drive
Lexington, Kentucky 40505-2106;

and

KENTUCKY DEMOCRATIC PARTY
Jennifer Moore, Chair
Jeremy Horton, Executive Director
190 Democrat Drive
Post Office Box 694
Frankfort, Kentucky 40602

Pursuant to the 2008 Delegate Selection Rules, 2008 Regulations of the Rules & Bylaws Committee, and 2008 Call for the Democratic National Convention, the above-named **CHALLENGING PARTIES**, each of whom complies with the requirements of § 2(A) of the Rules of Procedure of the Credentials Committee of the 2008 Democratic National Convention, hereby challenges the **KENTUCKY DEMOCRATIC PARTY**, by and through its Chair, Jennifer A. Moore, and Executive Director, Jeremy Horton, (hereinafter "KDP") and **RUTH ANN PALUMBO**, recently named PLEO Clinton Delegate from the Commonwealth of Kentucky, wherein the Challenge lies, (hereinafter "Palumbo") (collectively "Challenged Parties") due to their failure to implement a plan approved by the Democratic National Convention ("DNC") Rules and Bylaws Committee ("RBC").

SUMMARY

1. The Challenged Parties failed to implement an approved DNC RBC plan by: (1) presenting for certification to the DNC, a delegation that was not, as required by the Delegate Selection Rules, equally balanced between gender; (2) choosing to replace *only* elected pledged Clinton delegates, and not pledged Obama delegates and/or a mixture thereof, upon receiving notice by the DNC that the Kentucky delegation was not balanced between gender; and (3) failing to honor the presidential preference of those elected pledged Clinton delegates that were replaced (*i.e.*, replacing pledged Clinton delegates with pledged Obama delegates instead of pledged Clinton delegates).

2. The Challenged Parties' open and numerous violations of the 2008 Delegate Selection Rules, 2008 Regulations of the Rules & Bylaws Committee, and 2008 Call for the Democratic National Convention should not be tolerated. The Challenging Parties thus respectfully request that the DNC refuse to seat those recently named delegates such as Palumbo, whose known presidential preference is not for Clinton, and instead, replace the delegates from Kentucky that resigned due to gender inequality in the Kentucky delegation, with known female pledged Clinton delegates.

JURISDICTION

3. Pursuant to § 6(C) of the 2008 Delegate Selection Rules for the Democratic National Convention ("Delegate Selection Rules"), Delegate Selection Plans must provide for equal division between delegate men and women within a state's entire convention delegation.

4. The Delegate Selection Rules further provide that: (1) each state Delegate Selection Plan must provide how and under what conditions an alternate is to replace a delegate and/or fill a vacancy; (2) the individual who permanently replaces a delegate who resigns and/or dies shall be of the same presidential preference and to the extent the same political subdivision within the state as the replaced delegate; and (3) the DNC Rules and Bylaws Committee ("DNC RBC") shall have continuing jurisdiction to ensure compliance with these requirements. [See Delegate Selection Rules, § 18]

5. The Regulations of the RBC provide that it has jurisdiction to hear and decide any challenge which is initiated prior to the 56th day before the 2008 Democratic National Convention. The Regulations of the RBC provide that any challenge filed after that date and/or challenges that are still pending before the RBC, but not yet decided, fall within the jurisdiction of the Credentials Committee.

5. The 2008 Call for the Democratic National Convention ("Call"), which incorporates the

Rules of Procedure for the Credentials Committee for the 2008 Democratic National Convention, states that challenges, such as the instant challenge, can be brought before the Credentials Committee “for failure to implement a plan approved by the DNC RBC.”

RELEVANT BACKGROUND

6. As required under the Delegate Selection Rules, Kentucky’s Delegate Selection Plan provides that replacement of a delegate and/or alternate occurs when a delegate resigns and/or dies. Should such a vacancy occur, Kentucky’s Delegate Selection Plan provides that the permanent replacement should be selected, to the extent possible, by the delegate who resigns. Yet, the Kentucky Delegate Selection Plan provides that the permanent replacement must, as required by the national Delegate Selection Rules, be of the same presidential preference as the replaced delegate *and* to the extent possible, from the same political subdivision within the state as the replaced delegate.

7. Here, the KDP failed to implement its 2008 Delegate Selection Plan as approved by the RBC. Specifically, on or about June 20, 2008, after being notified by the DNC that the composition of Kentucky’s delegation was not equal in its division of men and women as required by the rules because it had 3 too many men, the KDP sought to have several male delegates resign in order to replace them with female delegates. The three male delegates chosen, however, were *all* pledged Clinton delegates. Additionally, all the chosen Clinton male delegates were not included in the decision process as to who their permanent female replacements would be, and in some instances, were not even replaced with a permanent female delegate of the same presidential preference (*i.e.*, Clinton) and/or same political subdivision within the state.

8. Upon receiving notice by the DNC of the inaccuracy between the division of men and women in Kentucky’s delegation, the KDP did not immediately notify the Clinton Campaign

or its Kentucky Chair of any of the required DNC changes or individuals with whom the KDP sought to have resign as delegates. Instead, Kentucky's Clinton Campaign Chair ("Kentucky's Clinton Chair") received a call from At-Large, pledged Clinton Delegate Jeff Harney, who informed Kentucky's Clinton Chair that KDP Executive Director Jeremy Horton, called him on Thursday, July 3, 2008, to inform him that he was "being removed" as a delegate and would be replaced by a female Clinton delegate.

9. Pledged to Senator Clinton, Mr. Harney felt and has expressed to the KDP and Kentucky's Clinton Chair that he was unfairly singled out because of his openly gay status.

10. Upon receiving notice of the discrepancy in Kentucky delegation's composition from Mr. Harney, Kentucky's Clinton Chair called the KDP regarding the deficiency and KDP's decision to ask Mr. Harney to resign. Kentucky's Clinton Chair was told that he would have to speak with KDP Chair Jennifer A. Moore, who informed him of the mistake by the KDP which resulted in the KDP not conducting its state convention in accordance with the DNC guidelines.

11. At that time, Kentucky's Clinton Chair questioned KDP's Chairwoman Moore regarding the KDP's plans to correct its delegation error, especially in regards to Mr. Harney. Kentucky's Clinton Chair was informed that the DNC and KDP agreed that Mr. Harney would be provided floor credentials for each day of the convention in exchange for his resignation. This alleged "agreement" has since been confirmed by Patrice Taylor of the DNC. The Challenging Parties, however, hereby request that this Agreement be confirmed by this Committee.

12. In regards to the two remaining delegate positions that would need to be replaced with female delegates, KDP Chairwoman Moore informed Kentucky's Clinton Chair that her uncle (Jesus Menendez) who was also a pledged Clinton Delegate, would resign and be

replaced by her aunt (Shirley A. Menendez). KDP Chairwoman Moore further stated that in regards to the third delegate, yet another Clinton delegate – Clinton PLEO Todd Hollenbach would resign and his spot would be filled by a pledged Clinton female.

13. Kentucky's Clinton Chair requested that KDP Chairwoman Moore consult Kentucky's Clinton Chair before *any* further decisions were made with respect to *any* of the replacement delegates, especially as it related to pledged Clinton PLEO Todd Hollenbach and his replacement

14. KDP Chairwoman Moore then requested Kentucky's Clinton Chair call Kentucky Senator Gerald A. Neal, another pledged delegate, to see if he would possibly agree to resign and be replaced by his wife so as to allow Clinton Delegate Jeff Harney to not be replaced.

15. With no indication by the KDP that a decision had to be made in the next 24 hours, Kentucky's Clinton Chair ended his call with KDP Chairwoman Moore, who indicated she was going on 4th of July holiday and reached Senator Neal on the following, Monday, July 7th, 2008. Senator Neal most graciously agreed on that date to the requested change, if it was necessary. Kentucky's Clinton Chair then called KDP Chairwoman Moore several times on both July 7th and 8th to notify her of Senator Neal's agreement. But when KDP Chairwoman Moore returned Kentucky's Clinton Chair's calls on Tuesday, July 8th, 2008 at 4:30 p.m., KDP Chairwoman Moore informed Kentucky's Clinton Chair that it was too late to effect any changes because the KDP had been required to send the replacement names to the DNC by Friday July 4th, 2008 – a national holiday. Such a mandatory date and deadline, however, were never even mentioned by KDP Chairwoman Moore to Kentucky's Clinton Chair during their conversation on July 3, 2008.

16. Kentucky's Clinton Chair then requested on July 8, 2008, the names of the delegates

who had allegedly resigned, along with their recently named permanent female replacements. After requesting that information on two separate occasions, KDP's Chairwoman Moore finally informed Kentucky's Clinton Chair that the following male delegates resigned: (1) Jeff Harney - Pledged Clinton At-Large Delegate; (2) Todd Hollenbach – Pledged Clinton PLEO; and (3) Jesus Menendez – Pledged Clinton Delegate. KDP's Chairwoman Moore informed Kentucky's Clinton Chair that those individuals were replaced permanently by Sarah Allen, Ruth Ann Palumbo, and Shirley Menendez respectively.

17. Upon learning of the recent alleged female Clinton delegate replacements, Kentucky's Clinton Chair informed KDP Chairwoman Moore that the replacement of Mr. Hollenbach with Palumbo, a known, state-wide Obama supporter, was not appropriate under the Delegate Selection Rules and Kentucky Delegate Selection Plan. Kentucky's Clinton Chair also informed Chairwoman Moore that unless the replacement of Mr. Hollenbach with a known pledged Clinton supporter occurred, a challenge would be filed with the DNC.

18. Indeed, Palumbo, who was a strong open supporter of Senator Obama's during the Kentucky Primary, acted as a leader in his campaign and as a surrogate speaking on his behalf against Senator Clinton throughout the campaign. For instance, Ryan Alessi of the Lexington Herald-Leader in his post on April 8, 2008, stated that "[a]lso there [at the opening of the Obama campaign headquarters in Lexington, Kentucky] in support of Obama were state Rep. Ruth Ann Palumbo, D-Lexington" She was shown in the accompanying photograph which appeared with the article on the front page of the Lexington Herald-Leader. Challenged Party, Ruth Ann Palumbo, spoke in behalf of Senator Obama at that opening. <http://www.kentucky.com/329/story/369701.html>

19. In addition, at forums such as those held at the Prestonsburg Community College in

Prestonsburg, Kentucky and Nelson County Democratic Party in Bardstown, Kentucky, the participants included Challenged Party, Palumbo, as representative of Senator Obama.

20. Furthermore, it is public knowledge that at the Fayette County Democratic County Convention on May 31, 2008, Palumbo entered the caucus, pledged support for Obama, and participated as an Obama delegate with the 76th Legislative District Obama Caucus.

21. As a result of this information, on July 8, 2008 and July 9, 2008, Patrice Taylor of the DNC confirmed to Kentucky's Clinton Chair that she would call the KDP to tell them that Mr. Hollenbach's replacement with Palumbo was wrong.

22. On not fewer than five (5) separate occasions, Kentucky's Clinton Chair has called KDP Executive Director Jeremy Horton to inquire as to the status of the replacement of Palumbo with a declared Clinton delegate and each time, KDP Executive Director Jeremy Horton stated that no decision had been made.

23. But on July 31, 2008, KDP Executive Director Jeremy Horton informed Kentucky's Clinton Chair that Palumbo would remain as a recently named Clinton PLEO and that no changes to that would be made. It is on that date that all available options at the state-level were exhausted and negotiations and discussions with respect to the composition of Kentucky's delegation and the recently named alleged female Clinton replacement delegates ceased and the injury to the Challenging Parties occurred.

24. As of the date of filing this Challenge, presidential preference papers by Palumbo have yet to be provided to Kentucky's Clinton Chair and no official notice of *any* change in the identity of any the elected delegates has ever been made to the entire Kentucky delegation.

25. Indeed, the national delegate listing on the DNC web site reflects that it was not updated until August 5, 2008 – after KDP Executive Director Jeremy Horton indicated that no

further challenges to the recent female delegate replacements would be made. It is thus the position of the Challenging Parties that a change to place the Kentucky Delegation in compliance with DNC rules should have and could have been made in a timely manner by the KDP.

26. The Challenging Parties direct the Committee's attention to the fact that the KDP consciously made the decision to target all 3 male delegates by removing 3 male pledged Clinton supporter. Thus, not even one Obama pledged male delegate was ever even requested and/or asked to sacrifice his participation in the DNC in order to achieve compliance with the DNC Delegate Selection Rules.

27. Further, in attempting to achieve compliance with the DNC rules, the Challenging Parties believe that the Clinton pledged PLEO Delegate held by Todd Hollenbach was not appropriately replaced and instead must be replaced by a known pledged female Clinton PLEO, not by a state-wide Obama supporter – especially when Senator Clinton won the popular vote of the Commonwealth of Kentucky by 259,000 votes winning all 6 congressional districts earning her 4 PLEO delegates to Senator Obama's 2 PLEO delegates.

28. Attached as Exhibit A and incorporated by reference is a list of elected female officials who have declared for Senator Clinton. This listing was provided by the KDP and any one of names contained therein could have been chosen to represent Senator Clinton had the KDP properly followed the intent and spirit of the DNC rules in replacing Mr. Hollenbach.

29. Each Challenging Party has been injured by the addition to the Kentucky Delegation of Palumbo, an Obama supporter, not a Clinton supporter. The Challenging Parties assert that if the placement of Palumbo onto the Kentucky Delegation as a Clinton PLEO is allowed to stand all those who participated in the process conducted by the KDP through the State

Convention and resulting elections will be viewed as hollow and that there should be no reason for any Democrat to have confidence in that process or participate in it in the future.

30. The Challenging Parties therefore respectfully request that the Credentials Committee enforce the Rules for the 2008 Democratic National Convention by denying Palumbo the right to participate as a pledged Clinton PLEO and instead, replace her with a true, declared, pledge female Clinton delegate from the attached Exhibit A.

31. By his or her signature hereto on the following pages, each Challenging Party hereby indicates his or her subscription to the substance, intent and principles of the Charter and Bylaws of the Democratic Party of the United States; his or her personal injury with respect to the Delegate Selection Process by the above enumerated violations; states that such injury will be continuing if not rectified; and acknowledges his or her receipt of service of this Challenge upon him or her.

Respectfully Submitted,

Olivia Morris Fuchs, Challenging Party
Olivia Morris Fuchs
Kentucky Home Life Building
239 South Fifth Street, Suite 1700
Louisville, Kentucky 40202-3248
(P) (502) 587-7700
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CERTIFICATE OF SERVICE

It is hereby certified that the original and a copy of this Challenge have been filed by United States Postal Service, certified mail, return receipt requested, postage prepaid, and by Federal Express, signature required, for next day delivery, on this 13th day of August, 2008, to:

Chair,
2008 Convention Credentials Committee
c/o Democratic National Committee
430 South Capitol Street S.E.
Washington, D.C. 20003.