



# PISANELLI BICE

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## VIA EMAIL AND U.S. MAIL

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Dear Ms. St-Jules:

On June 12, 2024, the Secretary of State (the "Secretary") asserted that the Nevada Green Party submitted sufficient signed petitions to qualify for ballot access under NRS 293.1715. But a review of the submitted petitions confirms that this assertion was improper; the petition circulators failed to attest to the information required by statute, which renders the purported signatures invalid.

Under NRS 293.1715(2)(c), a minor political party may obtain ballot access by submitting a ballot-access petition signed by at least one percent of the "total number of votes cast at the last preceding general election for the offices of Representative in Congress which must be apportioned equally among the petition districts." Among other things, a valid petition must include an affidavit from the petition circulator attesting that "the signers are registered voters in this State according to [the circulator's] best information and belief and that the signatures are genuine and were signed in [the circulator's] presence." NRS 293.172(1)(b). As the Secretary's office has made clear, the circulator's affidavit must include the following information and be substantially similar to this form:

I, \_\_\_\_\_ (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at \_\_\_\_\_ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) ***that I believe each person who signed was at the time of signing a registered voter in the county of his or her residence;*** and (6) that the number of signatures affixed thereon is \_\_\_\_\_.

NAC 293.182(2)(b) (emphasis added). Any affidavit, if not identical to this affidavit, must be substantially similar to satisfy the minor political party's burden under Nevada law. *See Las Vegas Convention & Visitors Auth. v. Miller*, 124 Nev. 669, 682, 191 P.3d 1138, 1146-47 (2008) (holding, in context of a ballot initiative, that courts apply a substantial compliance standard to

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determine whether a petitioner satisfied its statutory obligations to obtain ballot access). In that case, the court affirmed the Secretary's decision to reject initiative petitions whose affidavits omitted the number of signatures and a statement that signatories had the opportunity to review the measure's full text before signing. *Id.* at 686, 689-90, 191 P.3d at 1151.

Here, the Nevada Green Party's petition did not substantially comply with NRS 293.172 or NAC 293.182 because the circulators' affidavits did not include a required element—a contemporaneous statement that the circulator "believe[s] each person who signed was at the time of signing a registered voter in the county of his or her residence" or substantially similar language to that effect. Instead, it appears that the Nevada Green Party used the affidavit for qualifying an initiative petition under Nevada law, not a candidate for office:

I, [name of circulator], being first duly sworn under penalty of perjury, depose and say: (1) that I reside at [circulator's address]; (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is [number]; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

The affidavit for qualifying an initiative petition is wholly different and omits the requirement that circulators expressly attest to their belief that each person who signed was at the time of signing a registered voter in the county of his or her residence. Thus, the affidavits do not comply with Nevada law for minor political party ballot access, and all signatures provided are invalid. *Las Vegas Convention & Visitors Auth.*, 124 Nev. at 686, 689-90, 191 P.3d at 1149, 1151 (affirming Secretary's decision to reject initiative petitions which had defective affidavits of circulator).

Because the affidavits are deficient under Nevada law, the Nevada Green Party did not and cannot meet its burden under NRS 293.1715 to qualify for ballot access as a minor political party. The Secretary has no authority or discretion to ignore the requirements of Nevada law, including NRS 293.172 and NAC 293.182. The Secretary is duty-bound to follow and enforce the laws. *See Jaworski v. Rhode Island Bd. of Regents*, 530 F. Supp. 60, 65 (D.R.I. 1981) ("It is elementary that government must follow the law just as private citizens must."). As such, the June 12, 2024 Certification was issued in error and should be immediately rescinded as having been issued in error. The "Government has a duty to correct any previous mistakes in enforcing the law it might have made." *United States v. Undetermined Quantities of Clear Plastic Bags of an Article of Drug for Veterinary Use*, 963 F. Supp. 641, 646-47 (S.D. Ohio 1997).

Thank you for your immediate attention to this matter.

Cordially,

/s/ Todd L. Bice

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