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Licensed in Idaho

September 9, 2020

Hon. Lawrence Denney
Secretary of State
700 W. Jefferson St., Room E205
Boise, ID 83702

By email to ldenney@sos.idaho.gov

Re: Eligibility of independent presidential candidate Kanye West

Dear Secretary Denney:

I write on behalf of my client Brady Harrison concerning presidential candidate Kanye West's eligibility for the upcoming general election. In short, Mr. West is ineligible to appear on the Idaho general election ballot and seek election as an independent candidate for president, as he is a registered member of the Republican party in Wyoming. We ask that you declare him ineligible and direct county clerks to exclude his name from the ballots or remove it from already-printed ballots.

Idaho law provides that a candidate seeking to run for president as an independent must declare on his or her declaration of candidacy that he or she has "no political party affiliation." I.C. § 34-708A. Mr. West certified on the declaration of candidacy form that he submitted to your office that he is "not affiliated with any political party" and that he is offering himself as an independent candidate for president. Mr. West stated in that same form that he is a resident of Wyoming. As you will see from the attached papers, he is registered to vote in that state and is a registered member of the Republican party. By this registration he is

affiliated with a political party and therefore ineligible to run in Idaho as an independent candidate for the office of president.¹

An Arizona court recently issued an order barring Mr. West from the ballot in that state as an independent candidate for president for the same reason Mr. West is ineligible to appear on the ballot in Idaho. Arizona law provides that “[a]ny qualified elector who is not a member of a political party that is recognized pursuant to this title may be nominated as a candidate otherwise than by primary election or by party committee” Ariz. Rev. Stat. § 16-341. Mr. West argued the non-affiliation requirement in Arizona applied only to parties recognized by that state. But the court rejected that argument, ruling that “the most sensible reading [of § 16-341] is that it prohibits Mr. West’s nomination.”² So, too, in this case, § 34-708A says, simply, that a person seeking to run as an independent candidate for president must not have any party affiliation; the most plausible reading of that law is that a person registered as a member of a political party is affiliated with that party and cannot run for president as an independent.

The harm to my client, as well as Idaho voters generally, if an ineligible candidate remains on the ballot is plain: maintaining an ineligible candidate on a ballot in a presidential election will cause significant confusion and will likely lead many voters to vote for a candidate that cannot hold the office, effectively depriving those voters of their constitutionally guaranteed right to vote.

And so we request that you declare Mr. West ineligible and direct ballots to be printed without his name on them or that his name be stricken from already-printed ballots. Because of the importance of the integrity of elections, we plan to seek judicial relief if Mr. West remains on the ballot. Timing is of course critical as your office and the county clerks prepare for November’s election, and so please let me know by tomorrow at noon Mountain Daylight Time whether your office intends to declare Mr. West ineligible and direct that his name be omitted or removed from

¹ On his Federal Election Commission forms Mr. West stated an affiliation with the “BDY” party, which, apparently, is the “Birthday Party,” although our search does not indicate the Birthday Party is a recognized or even organized political party. Nevertheless, Idaho law does not limit affiliation to the party stated on FEC forms.

² Late yesterday, the Arizona Supreme Court affirmed the trial court’s decision on the ground that Mr. West’s electors failed to comply with a state law requiring candidates to file a statement of interest. The court did not express a view on the party affiliation issue.

September 9, 2020

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ballots for the November election. I realize this is not a lot of time, but we have only just learned of Mr. West's affiliation with the Republican party and we wanted to give you an opportunity to address this matter first. Thank you very much for your efforts and for your attention to this issue.

Sincerely,

MOONEY WIELAND PLLC



Carl J. Withroe

cc: Brian Kane
Deputy Attorney General

Enclosure