From: info@rise-to-the-rescue.com <info@rise-to-the-rescue.com>

To: Matt.Abell@sbe.virginia.gov, info@sbe.virginia.gov, Justin.Riemer@sbe.virginia.gov

Cc: jag@rise-to-the-rescue.com, kcuccinelli@oag.state.va.us, mailoag@oag.state.va.us

Date: Thursday, November 22, 2012 08:24 pm

Subject: The Attorney General of Virginia must render an Official Opinion.

Attachments: vp-confirm-req-keyes-vice-herleikson.pdf (18MB)

Mr. Abell,

Attached to this e-mail is a copy of a follow-up letter that is being mailed to your attention. It is coming by regular mail.

After you receive the original, if you would kindly reply to this e-mail, confirming the receipt of this letter by your agency, I would be greatly appreciative.

I ask that the head of your agency, Justin Riemer, his acting deputy, (or any other individual agent qualified to take action under Virginia Code § 2.2-505), solicit an Official Opinion from the Attorney General of Virginia, affirming to the Virginia State Board of Elections that our 'choice of candidates' has indeed qualified, for equal consideration on Monday, December 17, 2012, when the electors convene in Richmond, VA, to cast their official electoral ballots.

Our appeal to the Attorney General of Virginia is based on the critical matter that you raised on Wednesday, November 21, 2012, when you stated: " . . . it is clear with the Democratic Party's unofficial margin of victory that your attempts to win Virginia's popular vote for President and Vice President have failed. Therefore, you are not in jeopardy of non-compliance with the 12th Amendment."

In this comment — though we mean to say so with all due respect — we sense an improper reading of the Virginia Code.

Even though each vote that is cast in the general election is to be cast for a 'choice of candidates' (or for their party), Virginia law prohibits these votes from being counted as such. This is made very clear in Virginia Code §§ 24.2-644B and 24.2-644C. The votes cast in a presidential election are only allowed to be counted on behalf of the electors themselves. Therefore, according to our reading of the law, it seems misleading for any presidential candidate or any political party to "claim" a popular vote victory in the Commonwealth of Virginia, because such claims have in fact been rendered inadmissible under Virginia law.

In hopes that this issue might be resolved immediately, and with measured accuracy, we feel strongly that this, and also the matter of accepting the substitution of my candidate for Vice President, ought to be inquired to the Attorney General of Virginia, so that he may be allowed to render an official opinion on both matters.

Any assistance you and your colleagues can provide, in terms of ensuring my request gets routed through the proper channels, shall be greatly appreciated.

Joseph A. Glean,
Candidate for President

Joseph A. Glean
8610 Washington Ave.
Alexandria, VA 22309
jag@rise-to-the-rescue.com

November 22, 2012

Virginia State Board of Elections
Washington Building, First Floor
1100 Bank Street
Richmond, VA 23219

Attn: Matt Abell, Election Administration Lead

To Whom It May Concern:

Thank you for acknowledging receipt of the attached request, submitted to your office on Tuesday, November 6, 2012, [copy enclosed.] However, I still await confirmation that this change has been accepted and that it has taken effect.

Darlene Herleikson, my candidate for Vice-President wishes to withdraw her candidacy.

As a write-in candidate for President, I possess (and wish to assert) the right to appoint a different candidate for Vice President, so that this position will not be left vacant.

This natural right (which appears to preface our statutory law) is cited in Virginia Code §§ 24.2-542 and 24.2-543, where it is mitigated to a small degree. To be precise, each of these statutes impose a deadline on ballot-access candidates, where it is specifically required that the appointment of a substitute candidate (in cases of death or withdrawal) be executed "before the State Board certifies to the county and city electoral boards the form of the official ballots," from which the advertised deadline of Friday, September 7, 2012, is derived.

Write-in candidates are not bound to this particular statutory deadline, since it is related to ballot preparation — in this particular case, the preparation of the 'general election' ballot. This exemption is plainly evidenced by the fact that write-in candidates are not even required to declare their initial candidate for Vice-President until at least 10 days prior to the day of the general election, from which the advertised filing deadline of Saturday, October 27, 2012, is derived.

The only statute-imposed deadline that seems to apply to our particular situation is the one established in Virginia Code §§ 24.2-801.1 and 24.2-805, where it is to be deduced (generally speaking) that unforeseeable circumstances may sometimes necessitate or even dictate the substitution of candidates in a Presidential election, and that such action is indeed permissible, so long as the request to appoint a substitute has been filed and accepted "at least six days before the time fixed for the meeting of the the electors," from which the statutory deadline of Tuesday, December 11, 2012, is derived.

As in the previous example, it appears once again that the intent of this deadline is merely intended to allow time for ballot preparation — in this particular case, the preparation of the 'electoral college' ballot.

My request to appoint **Alan Keyes** (of [redacted] Maryland) as my candidate for Vice President was submitted to your office on Tuesday, November 6, 2012, well ahead of the statutory deadline. Consequently, there appears to be no pertinent reason for your office to prohibit this action from taking place.

I know it is not anyone's intention to neglect or suppress my right [as candidate for President] to effectuate the appointment of a substitute candidate for Vice President, and appreciate that your office has kindly acknowledged receipt of my request. But I have not yet obtained satisfactory confirmation that this request has in fact been accepted and that it has taken effect.

As communicated to your office yesterday by e-mail, I wish to ensure that my ticket is in full compliance with the Twelfth Amendment of the United States Constitution, where is it written: "The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves." Unless and until my request — to replace **Darlene Herleikson** (of Virginia) with **Alan Keyes** (of Maryland) — has officially taken effect, I fear that our ticket will (in due course) be subjected to the consequences of non-compliance.

In reply to my concern, Mr. Abell indicated:

> "The State Board of Elections is still in the process of accumulating write in vote totals for all the candidates who filed a Joint Declaration of Intent to be a Write In Candidate for President and Vice President. However, it is clear with the Democratic Party's unofficial margin of victory that your attempts to win Virginia's popular vote for President and Vice President have failed. Therefore, you are not in

any jeopardy of non-compliance with the 12th Amendment. I shall provide you with your final numbers after the Board's certification on Monday, November 26, 2012."

It should be noted, however, that it was never our intention to "win" Virginia's popular vote, but simply to qualify for equal consideration at Virginia's electoral college.

In terms of its practical use, the establishment of Virginia's "write-in candidate" provision (found in Virginia Code § 24.2-644C, where it specifically addresses the subject of write-in votes for President and Vice President) seems to serve no purpose, except one: To provide a way for members of the general public to bypass the political parties, the media, the money people, so that ordinary citizens (like me) are fully and thoroughly enabled to slate candidates of their own choosing for equal consideration at the electoral college. And this is precisely what our campaign has sought to accomplish.

The path we now tread does not represent an oversight or a loophole in the law. It does not bespeak a "lack of specificity in Virginia Code," as Mr. Abell alleges. On the contrary, it is an avenue that appears to have been intentionally established by the Virginia General Assembly, and deliberately codified in Virginia's statutory law as a practical, functional electoral mechanism, intended to protect the sovereignty of the weak and the few against the otherwise immutable power of the political elite and those multitudes (of untold number) who have willingly bound themselves to serve as their subjects.

In a Presidential election, the candidate's "margin of victory" has absolutely no bearing in terms of qualifying for equal consideration at the electoral college. As a matter of fact, even though each vote must be cast for a 'choice of candidates' (or for their party), Virginia law prohibits these votes from being counted as such. This is made very clear in Virginia Code §§ 24.2-644B and 24.2-644C. Therefore, it is impossible for any Presidential candidate or any political party to "claim" a popular vote victory. Such claims are utterly inadmissible under Virginia law.

Consequently, the true winners of the general election held on Tuesday, November 6, 2012, were the **Frye/White** electors — electors for Barack Obama (President) and Joe Biden (Vice President) and for Joseph A. Glean (President) and Darlene Herleikson (Vice President).

And because of this, these electors are rightfully and lawfully enabled to vote at the electoral college — either for "our" ticket or for the Democrat party ticket.

The following is a brief explanation of why this is true:

(1) The Virginia SBE holds adequate proof that all thirteen of the Frye/White electors [Electors for Obama/Biden and Glean/Herleikson] have been elected to the office of "Elector for President and Vice-President" by the required majority of Virginia voters. This requirement was met on Tuesday, November 6, 2012, when our electors won the popular vote in Virginia's general election.

(2) The Virginia SBE holds adequate proof that each of these same thirteen electors [Electors for Obama/Biden and Glean/Herleikson] have been officially pledged to our campaign. This requirement was met on Friday, October 26, 2012, when our declaration of write-in candidacy was properly received, filed, and accepted by the Virginia State Board of Elections.

(3) Though the final numbers have not yet been certified, I believe the Virginia SBE holds adequate proof that the Virginia electorate has signaled "yes" to our choice of candidates. This requirement was met on Tuesday, November 6, 2012, when the electorate cast a vote (at the ballot-box) to activate, validate, and ratify the Glean/Herleikson ticket, the choice that our campaign offered to Virginia voters as a possible write-in option.

Since there is no such thing as a "no" vote in a presidential election, the casting of just one, individual vote (specifically cast in support of the Glean/Herleikson ticket) satisfies this particular condition with ample sufficiency.

In a presidential election, no single vote can be canceled out by the vote of another. Rather, every vote cast in such an election is fitted to serve only one purpose: The ratification of a proposed choice — a choice that (by law) had to be established with clarity, at least 10 days in advance of the election.

Therefore, every vote cast in a presidential election constitutes the signaling of "yes" to a particular slate of electors, pledged to a particular choice of candidates. And so whether it is the vote of one-million men, or the vote of just one courageous soul — on the whole, both votes carry the same weight in terms of satisfying the third requirement listed above. That said (and if it should be needed), I am able to provide your office with an affidavit from at least one voter, testifying that her vote was indeed cast in support of the Glean/Herleikson ticket.

Because this three-way match has been met (and with ample sufficiency), our candidates are now lawfully qualified to receive equal consideration at Virginia's electoral college.

In other words, the **Frye/White** electors — being pledged both to our ticket and to the Democrat party ticket — are enabled to do what the founding fathers had intended. Rather than being limited by the constraints instituted by the political parties, these thirteen electors now have the flexibility to accomplish what the position was actually meant to accomplish. They now have the ability to carefully weigh the options and, as it would be hoped (according to God's enabling grace), render the best choice for Virginia.

Regardless of any oath or promise these electors may believe they have made before the party bosses, pledging themselves to consider only one choice of candidates (the party choice), to the exclusion of all others, our filing of Form SBE-644 (Rev. 4/11), on Friday, October 26, 2012, had the effect of releasing them from any such oath, and relinquishing them from the bonds of any such pledge. In other words, our filing has successfully liberated these electors from any imaginary electoral restrictions placed on them by the political parties.

From its very inception, the electoral college was intended to mitigate (not magnify) a popular vote victory, through the careful, deliberate infusion of moral temperance. The only way for this to be accomplished is for the Virginia State Board of Elections to publicly affirm that our ticket has adequately qualified for equal consideration at Virginia's electoral college.

To that end, I contend that the 'electoral college' ballot must include the names of our candidates, provided that those names have been properly communicated to your office ahead of the statutory deadline, Tuesday, December 11, 2012. Otherwise, the **Frye/White** electors will have been denied the ability to properly fulfill their duty as electors. For anyone to maintain that these electors are to be given only one choice at the electoral college, to the exclusion of all others, is disreputable — it is an absolute reversal of the founders' intent. And it is the job of the Virginia State Board of Elections to ensure our candidates receive the equal consideration they are rightfully and lawfully entitled to receive.

Therefore, I insist that the head of the Virginia State Board of Elections, **Justin Riemer**, his acting deputy (or any other agent qualified to take action under Virginia Code § 2.2-505), solicit an Official Opinion from the Attorney General of Virginia, affirming to the State Board of Elections that our 'choice of candidates' has qualified, for equal consideration on Monday, December 17, 2012, when the electors convene in Richmond, VA, to cast their official electoral ballots.

Again, it is not for "lack of specificity in Virginia Code," that we feel it must come to this. Our appeal to the Attorney General of Virginia is based on the matter

specifically raised by Mr. Abell on Wednesday, November 21, 2012, where he asserts: " . . . it is clear with the Democratic Party's unofficial margin of victory that your attempts to win Virginia's popular vote for President and Vice President have failed. Therefore, you are not in jeopardy of non-compliance with the 12th Amendment."

In this comment, we sense an improper reading of the Virginia Code. According to our reading of the law, it is impossible for any Presidential candidate or any political party to "claim" a popular vote victory. As stated above, such claims are utterly inadmissible under Virginia law, pursuant to §§ 24.2-644B and 24.2-644C.

We appeal to the Attorney General of Virginia in hopes of settling this matter.

And if your office remains hesitant, for whatever reason, to acknowledge my right [as candidate for President] to substitute **Darlene Herleikson** (my candidate for Vice President) with **Alan Keyes**, then please let this claim also be inquired to the Attorney General of Virginia, that he may be allowed to render an official opinion on this matter as well.

Sincerely,

Joseph A. Glean
Candidate for President

Enclosure: Letter to Virginia State Board of Elections, dated November 6, 2012.

Enclosure

Joseph A. Glean
8610 Washington Ave.
Alexandria, VA 22309
jag@rise-to-the-rescue.com

November 6, 2012

Virginia State Board of Elections
Washington Building, First Floor
1100 Bank Street
Richmond, VA 23219

Attn: Matt Abell, Election Administration Lead

To Whom It May Concern:

This is to inform you that **Darlene Herleikson** – my candidate for Vice-President – has advised me of her intention to withdraw her candidacy following the conclusion of today's general election.

We accept that her name must be used in the full reporting of write-in votes cast for recognized Write-In candidates is scheduled to happen at the State Board of Election's Canvass on Monday, November 26, 2012, when the Virginia SBE meets to ascertain the results of the presidential election. To ensure the proper counting and recording of our votes, we wish for this arrangement to remain intact.

Otherwise, as candidate for President, I wish to substitute the name of a different candidate for Vice-President – **Alan Keyes**, former member of the Reagan Administration – so that his name may be used in the printing of the official ballots that are to be cast at the electoral college on Monday, December 17, 2012, when our electors convene in Richmond, VA (in the event that our electors win the general election).

Alan Keyes, [redacted] **MD** [redacted]

Sincerely,

Joseph A. Glean
Candidate for President

Enclosure