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JOHN M. FORMELLA
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September 23, 2022

William Christie, Esquire
Shaheen & Gordon
107 Storrs Street
P. O. Box 2703
Concord, NH 03302

Re: **CEASE AND DESIST ORDER**

Dear Attorney Christie:

On September 21, 2022, our Office called the New Hampshire Democratic Party to report that mailers, published by the New Hampshire Democratic Party ("NHDP"), which contained absentee ballot application forms, had incorrect addresses for the Kingston and East Kingston Town Clerks.

On September 21, you confirmed that the NHDP had issued the above-referenced mailers with postage pre-paid and pre-addressed envelopes for voters to return their absentee ballot applications. These mailers were issued based on mailing lists that the NHDP had in its possession. You also informed me that the NHDP had become aware of a printing error in at least two towns and was working to confirm if other towns were involved. I confirmed that the issue our Office was aware of involved Kingston and East Kingston where the return envelopes had the Post Office Box for the East Kingston Town Clerk but had the town of Kingston's name and its zip code. It appears these envelopes were supposed to be returned to the Kingston Town Clerk, but the address is not correct. *See* attached copy of the mailer. I also informed you that these return envelopes were addressed to the "Rockingham Board of Elections" which is an entity that does not exist. Finally, I informed you that we had received a report involving another town that a voter's domicile information was incorrect.

As we discussed, before speaking with you, our Office, on September 21, through Chief Investigator Richard Tracy, had contacted the United States Post Office in Kingston requesting that it hold any return envelopes from the mailer to ensure that those voters' requests for absentee ballots are directed to the correct Town Clerk. Additionally, during our September 21 discussion, you informed me that the NHDP had begun remediation efforts, including reaching out to each voter to whom a mailer was sent, either by telephone or email, to explain the corrective actions that the voter needs to take in order to obtain an absentee ballot. You also

confirmed that the NHDP planned to do in-person visits to voters it could not contact by telephone or email.

Finally, on September 22, you provided information from the NHDP that the issues of incorrect return addresses and incorrect domicile information on the mailers apply to 39 towns and cities with a total of 926 voters affected.

On September 21, the Secretary of State's Office was contacted by the Kingston Town Clerk regarding the address issue. And, our Office has now been contacted by several voters concerned about these mailers. Some of the concerns raised by these voters are that the mailer states, "You have a history of requesting absentee ballots" when the voter has not voted by absentee ballot in the past, the voter's domicile address is listed as a town or city in which they do not live, the return envelopes are addressed to "[County Name] Board of Elections" which are entities that do not exist, and the return envelopes have incorrect addresses for the Clerks.

The NHDP published and mailed the absentee ballot application mailers for the November 2022 General Election. While the NHDP's absentee ballot application complies with RSA 657:4, II(a), the return mail names and addresses to the Town and City Clerks and the voters' domiciles are incorrect in 39 municipalities for 926 voters.

The NHDP's mailer, with incorrect return mail addresses and voter domicile information, is causing voter confusion and frustration. The return mail addresses on the mailer are likely to mislead voters into unintentionally violating RSA 657:6. It could also disenfranchise some voters in that voters may complete the absentee ballot applications, believing they will receive absentee ballots for the State General Election, only to discover that their applications were never delivered to their Town or City Clerks. This discovery could be made at a time when the voters are not able to file follow-up applications for absentee ballots.

Additionally, given the already heavy burden on Clerks' offices around the state, Clerks have limited resources to determine which town or city the forms used by voters should be forwarded to. However, after ensuring that the forms are delivered to the correct town or city, we will instruct Clerks to accept these absentee ballot applications despite not being correctly addressed and directed to their offices.

In light of our conclusion that the NHDP has caused voter confusion given the incorrect return addresses to Clerks on its mailers, the incorrect direction to non-existent "boards of election," and the incorrect voter domicile information, the NHDP is hereby ordered to CEASE AND DESIST any and all activities which violate the law by causing voter confusion in the future. Furthermore, the NHDP shall CEASE AND DESIST from publishing any other absentee ballot application mailers for the 2022 election cycle unless they are accurate and include accurate return mail addresses and voter domicile information.

Additionally, the NHDP is required to notify each recipient of this mailer of the necessary remediation steps that they must take, including using the correct address for their

Clerk's Office, in order to obtain an absentee ballot for the 2022 General Election and assist each recipient with explaining how they can obtain an absentee ballot prior to the General Election.

The NHDP shall provide the Attorney General's Office with a written plan by close of business on Tuesday, September 27, 2022, explaining how it will accomplish this requirement and how it will update the Attorney General's Office on the status of its efforts under the plan.

Any future failure to comply with our State's election laws may result in this Office seeking enforcement action.

Cease and Desist Order Issued
By the Authority of:

JOHN M. FORMELLA
ATTORNEY GENERAL

for Jill Ruhm

Anne M. Edwards
Associate Attorney General
Election Law Unit
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