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March 7, 2012

Via Fax and U.S. Mail (501) 682-3510

Mr. Mark Martin
Arkansas Secretary of State
State Capitol
500 Woodlane, Suite 256
Little Rock, AR 72201

Re: Fred Smith's Ineligibility

Dear Mr. Martin

Pursuant to Arkansas law and the Rules of the Democratic Party of Arkansas, we have requested that Fred Smith's name not appear on our primary ballot as he does not meet our eligibility requirements. According to *A.C.A. § 7-7-201(b)(4)*, the Democratic Party of Arkansas has the right to process applications of its candidates. It has determined, after the last minute filing of Fred Smith, that he was ineligible due to a felony conviction. He has violated the DPA's rules in that he was not eligible when he filed to run a candidate for the DPA's nomination.

The Arkansas Supreme Court in *Hill v. Carter*, 357 Ark 597 (2004) provides the Secretary of State with support and the Party the authority to determine the qualifications of its prospective candidates. There a candidate was determined ineligible by a county committee secretary after filing and the candidate was determined to live outside of the district they were trying to represent. Here, there is no difference as only after filing it was learned by the Party that Smith was ineligible due to the fact his felony conviction was not expunged.

Furthermore, the Party has the rights under its Rules to determine eligibility to

Arkansas Secretary of State
March 7, 2012

Re: Fred Smith's Ineligibility
Page 2

seek its nominee. After all, this is the Party's Primary and its ballot. Finally, we request that the Secretary of State remove Fred Smith as he is not a certified candidate to seek our nomination for District 52. Fred was informed at the time of filing that if we determined his representations concerning his criminal record and the status of his alleged expungement were incorrect that we would not allow his name to be on the primary ballot.

Yours very truly,

A handwritten signature in black ink that reads "T. Benton Smith". The signature is written in a cursive, flowing style.

T. Benton Smith, PLC

TBS/ma