Friday, March 19, 2021

California Citizens Redistricting Commission
1130 K Street, Suite 101
Sacramento, CA  95814

Re: public comment for March 22-24 Legal Affairs Committee

Dear Commissioners:

As the former County Clerk in Yolo County, I know the importance of robust disclosure and good legal counsel. I offer the following comments in that light.

CONFLICT OF INTEREST DISCLOSURE REQUIREMENTS

The submitted Conflict Reports do not all appear to conform to the requirements of the RFIs. These reports flag activities that did not require disclosure and ignore various activities that required disclosure.

The Conflicts of Interest provision of the RFIs state:

With respect to the attorneys who are expected to work in connection with this representation, please disclose any financial, business, professional, lobbying or other relationship that presents a potential conflict as described in California Government Code Section 8252. In addition: (1) identify any lobbying work the firm has performed in California during the past 10 years; and (2) identify any political contributions, including contributions made by a firm political action committee, to candidates as described in California Government Code Section 8252, during the past ten years.

The first section asks individuals to disclose conflicts as defined under Government Code Section 8252. The second section asks the firm to disclose all California lobbying and political contributions. The distinction between the individual’s and firm’s requirements is critical.

KEY PROVISIONS OF STATE LAW
The two key provisions of Government Code 8252 are:

(ii) Served as an officer, employee, or paid consultant of a political party or of the campaign committee of a candidate for elective federal or state office.

(vi) Contributed two thousand dollars ($2,000) or more to any congressional, state, or local candidate for elective public office in any year, which shall be adjusted every 10 years by the cumulative change in the California Consumer Price Index, or its successor.

Disclosures required from commission applicants and from line drawers differed significantly, which may be a source of confusion. But under the standard for counsel, applicants should have considered the following:

* Work for campaign committees is limited to political parties and candidates for federal or state office. It does not include work for non-candidate propositions.

* Firm and individual campaign contributions only apply to candidates for federal, state or local offices. They do not apply to Presidential candidates or non-candidate campaigns, and under regulation 60814, would apply only to California candidates (https://wedrawthelines.ca.gov/wp-content/uploads/sites/64/2011/04/regulations.pdf).

* Individual campaign contributions would only apply to amounts over $2,500 in a calendar year ($2,000 plus inflation adjustment imposed by California State Auditor). Firm campaign contributions would apply to any amount.

APPLICANTS

UCLA Voting Rights Project: According to the report, the amount Not Detailed is $0.

RPLG: Individual contributions by Jonathan (Jon) Holtzman, Linda Ross, Atruther (Art) Hartinger, Jenica Maldonado, and Imran Dar do not require disclosure as all are under $2,500 per calendar year and were not made by the firm. The accurate amount Not Detailed should be $0.

Strumwasser Woocher Levitt: This firm worked for the Consumer Watchdog Campaign committee would not have disclosure required as it was for a non-candidate proposition campaign committee. Frederic C. Woocher and Michael J. Strumwasser, respectively, properly disclosed contributions to Katie Hill and John Garamendi for Congress in their applications. Additional individual contributions by Woocher and Salvador E. Perez would not have required disclosure as all are under $2,500 and were not made by the firm. The accurate amount Not Detailed should be $0.
Crimcard Akin: The report, for reasons described above, incorrectly identifies some individual contributions as requiring disclosure. It correctly identifies some contributions that did require disclosure, but fails to identify many additional contributions that do require disclosure.

Gibson Dunn: The report, for reasons described above, incorrectly identifies some individual contributions as requiring disclosure. It correctly identifies some contributions that did require disclosure, but fails to identify many additional contributions that also requiring disclosure. The report does not include the $38,542 spent on state lobbying activity on behalf of King’s Casino: that total is Not Disclosed.

CONCLUSION

Based on the corrected reports, it appears the UCLA Voting Rights Project, RPLG, and Strumwasser Woocher Levitt made good faith efforts to meet the disclosure requirements.

On the other hand, Crimcard Akin and Gibson Dunn should address their failures to provide the required disclosures when answering question #2, which is: “The public must have a high level of trust and confidence in counsel’s ability to provide objective, balanced, nonpartisan advice to the Commission. How can you provide that assurance?”

Thank you for your consideration.

Tony Bernhard
Davis, California