



28905 Wight Road  
Malibu, California 90265

VIA EMAIL

March 24, 2021

Legal Affairs Committee  
2020 Citizens Redistricting Commission  
[votersfirst@crc.ca.gov](mailto:votersfirst@crc.ca.gov)

Re: RFI Candidates – Litigation Counsel and Voting Rights Act (VRA) Counsel

Honorable Members of the Legal Affairs Committee,

We wrote on February 18, 2021 to express grave concerns regarding Gibson Dunn's qualifications to serve as the Citizen Redistricting Commission's Voting Rights Act and litigation counsel. Since that time, our concerns have grown. Gibson Dunn's dishonesty in its lack of disclosure of political contributions is even greater than what is detailed in the Commission's report, and, just this week, Gibson Dunn took positions in the California Supreme Court that make it impossible for Gibson Dunn to provide the Commission with honest legal advice.

The Commission's report details nearly \$50,000 in contributions not included in Gibson Dunn's application.<sup>1</sup> However, the report fails to include tens of thousands of additional contributions, many of which are to California candidates in excess of \$2,500 in a year and reflect a clear potential conflict of interest under Government Code 8252:

- Congressional contributions by Ted Boutrous, Jr. beyond those listed in the report.<sup>2</sup>
- Congressional contributions by Gibson, Dunn & Crutcher, LLP PAC, none of which were listed in the report.<sup>3</sup>
- All state legislative contributions by both Boutrous<sup>4</sup> and the firm's PAC.<sup>5</sup>

---

1

[https://d3n8a8pro7vhmx.cloudfront.net/ccrc/pages/127/attachments/original/1616084413/GibsonDunnCrutcher\\_Conflict\\_Report\\_031621.pdf](https://d3n8a8pro7vhmx.cloudfront.net/ccrc/pages/127/attachments/original/1616084413/GibsonDunnCrutcher_Conflict_Report_031621.pdf)

<sup>2</sup> [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_name=Boutrous%2C+Theodore&min\\_date=01%2F29%2F2011](https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=Boutrous%2C+Theodore&min_date=01%2F29%2F2011)

<sup>3</sup>

[https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00344754&min\\_date=01%2F29%2F2011](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00344754&min_date=01%2F29%2F2011)

<sup>4</sup> <http://powersearch.sos.ca.gov/advanced.php> contributor name "Boutrous, Theodore"

<sup>5</sup> <http://powersearch.sos.ca.gov/advanced.php> contributor name "Gibson Dunn Crutcher"

The report also creates the false impression Gibson, Dunn & Crutcher's lobbying work is limited. In addition to the listed state lobbying activity, the commission should consider the firm's millions of dollars in federal lobbying activity when determining whether the firm will engender the requisite high level of trust and confidence.<sup>6</sup> Applicants have a responsibility to be honest and forthright so the Commission can choose its counsel based on a full understanding of the applicants. Gibson Dunn has failed, twice now, to be honest and forthright; that should be disqualifying.

Perhaps even more importantly, Gibson Dunn took positions this week in a California Voting Rights Act case pending in the California Supreme Court, that render Gibson Dunn unable to give honest legal advice to the Commission. Specifically, in their March 22, 2021 brief in *Pico Neighborhood Ass'n, et al. v. City of Santa Monica*, Case No. S263972, Gibson Dunn argues that a minority community cannot achieve electoral success in a district unless it constitutes a majority or "near-majority" (which it describes as 49%) of the district's electorate. That argument is not only inconsistent with the electoral experience of California, it is also contrary to the law, but if the Commission seeks legal advice concerning the propriety of drawing "influence districts" (districts with minority proportions between 25% and 50%), Gibson Dunn could not provide correct and honest advice without undermining its position in *Pico Neighborhood Ass'n, et al. v. City of Santa Monica*.

Consider, for example, if the Commission is faced with the choice of drawing one majority-Latino district or two Latino-influence districts with 35% and 40% Latino proportions. The law provides the Commission the discretion to choose two Latino-influence districts, rather than one majority-Latino district, particularly where Latinos have had significant electoral success in similar influence districts or other considerations would tend to show they are likely to be successful in influence districts. Yet, if Gibson Dunn were to advise the Commission in this way, that would contradict the positions it is taking in *Pico Neighborhood Ass'n, et al. v. City of Santa Monica*. Like any law firm, Gibson Dunn owes its clients undivided loyalty. Simultaneously representing the City of Santa Monica in its fight against minority voting rights and the Commission, would require Gibson Dunn to divide its loyalties. The Commission deserves better.

Respectfully submitted,

SHENKMAN & HUGHES

/s/ Kevin I. Shenkman

Andrea A. Alarcón

---

<sup>6</sup> <https://disclosurespreview.house.gov/?index=%22lobbying-disclosures%22&keyword=%22gibson%20dunn%22>  
<https://lda.senate.gov/filings/public/filing/search/?registrant=gibson+dunn>