



April 6, 2011

Citizens Redistricting Commission
1130 K Street, Suite 101
Sacramento, CA 95814
Email: votersfirstact@crc.ca.gov

Members of the Citizens Redistricting Commission,

As Chair of the California Democratic Party's Redistricting Subcommittee, I write you to encourage a consistent standard in your decision to select a Voting Rights Act counsel.

As you are aware, I wrote the Commission on March 16 expressing concerns with the bids of both Nielsen, Merksamer and Gibson, Dunn as members of both firms have longstanding ties to the Republican Party. At your recent meeting additional concerns were raised about whether Gibson, Dunn adequately disclosed all its past and present political activities. These are being researched by your staff and the public looks forward to their conclusions.

It is critical that any firm considered by the Commission be subject to the same level of strict scrutiny. Failure to do so would represent a failure to maintain the public transparency and trust that the Commission has done an admirable job of doing so far.

Indeed, in her March 18 testimony, Marguerite Leoni of Nielsen, Merksamer made several statements that provided only some of the facts to the Commission. She stated, "We, as a firm, do not make political contributions." While technically accurate, she failed to mention that employees from the firm have individually given over \$200,000 to federal Republican candidates. Indeed she failed to mention that she herself has given \$3,300 in donations to Republican presidential candidates.

She went on to say, "We do not represent either of the political parties, and any relationship we had as counsel to the Republican side ended years ago." Again, while technically accurate, she failed to mention that *The Recorder* referred to Nielsen, Merksamer as a "Republican powerhouse," partner Steven Merksamer was chief of staff to Governor Deukmejian or that Leoni herself was the attorney for the GOP when the party tried to challenge California's 1982 redistricting plan.

Leoni minimized the importance of the firm's lobbying role saying, "being thoroughly involved in the public life of this state, our representation of clients does require, under the law, for us to register as lobbyists." She did not point out that in 2008 Nielsen Merksamer ranked second among lobbying interests in California, bringing in \$2.58 million in lobbying contracts alone. While deemphasizing this role to the Commission, the firm's website still proudly quotes the *California*

Journal to other potential clients saying, "Nielsen, Merksamer has become a powerful force in state and national politics. It is safe to say that very little of any consequence occurs in state political and governmental circles ... without the knowledge or active involvement of the firm."

Regarding their representation of other California jurisdictions Leoni said, "We haven't been retained by them with regard to this process." Again, while this may be technically accurate, this only reflects half the story. In 2010, Nielsen Merksamer was hired by Merced County to help them be removed from the preclearance requirements of Section 5 of the Federal Voting Rights Act. While the firm is not representing the county on statewide redistricting matters, as a self-described Voting Rights Act expert Leoni knows that whether a jurisdiction is covered by Section 5 could significantly affect the Commission's work and how legislative districts are configured.

I do not write this to disparage either Nielsen, Merksamer or Ms. Leoni. Rather, I offer it as examples of how important it is that the Commission do its own due diligence in a consistent matter to maintain the public trust that you have worked so hard to foster. Indeed, perhaps no role of the Commission is more critical than ensuring the public continues to have faith in your process.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jess Durfee". The signature is fluid and cursive, with the first name "Jess" and the last name "Durfee" clearly legible.

Jess Durfee
Chairman, San Diego County Democratic Central Committee
Co-Chair, Voter Services Committee, California Democratic Party
Chair, CDP Redistricting Subcommittee