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Subject: NALEO Educational Fund Comments on Voting Rights Act attorney
To: "votersfirstact@crc.ca.gov" <votersfirstact@crc.ca.gov>

March 17, 2011

Via Electronic Mail

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

Dear Members of the Citizens Redistricting Commission:

I am writing on behalf of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund to express our perspectives on the Commission's selection of its Voting Rights Act (VRA) attorney. The NALEO Educational Fund is the leading nonprofit, nonpartisan organization that facilitates full Latino participation in the American political process from citizenship to public service. Our Board and constituency include Republicans, Democrats, and persons who are not affiliated with either of those parties.

The Commission's VRA attorney has the important responsibility of helping to ensure that the Commission's maps comply with one of the highest-priority criteria set forth in the Voters First Act – compliance with the VRA. In addition, in order to ensure robust participation in the Commission's hearings by all Californians, the VRA attorney must have the trust of the public, including California's underrepresented groups. Finally, consistent with core values of the Voters First Act, the past work of applicants for the VRA attorney position must demonstrate the ability to be impartial.

We understand that the Commission's Legal Committee is interviewing four applicants for the Voting Rights Attorney position, and that these applicants may be considered by the full Commission. Thus, we would like to point out some aspects of the prior employment and consulting work of the applicants that we believe bear on their qualifications. In some cases, we raise issues regarding the type of representation applicants have engaged in. We understand that when attorneys take on clients, they often take on a broad spectrum of representation matters, and must zealously advocate for their clients. However, as noted further below, in some cases, the nature of the work has implications for whether the attorneys or firms can engender the trust of Californians, particularly those from underrepresented groups, and thereby function effectively as VRA counsel.

We provide the following comments on the applicants for the VRA attorney position:

1). Two of the attorneys, Gilda Daniels (GRD Consulting) and Bruce Adelson (Federal Compliance Consulting), have significant experience with the Department of Justice working to enforce the VRA on behalf of under-represented groups. We believe this experience suggests that these applicants not only have significant legal expertise with the VRA, but will also garner trust from the public and underrepresented groups.

2) We believe that certain aspects of Dan Kolkey's professional and political experiences raise questions that should be considered by the Commission. During the last 10 years, he has held membership in a political party central committee. In addition, he served in as Legal Affairs Secretary and counsel for four years to Governor Pete Wilson. We believe the Commission should consider whether his membership in a partisan central committee and work in a leadership position with a high-ranking statewide partisan elected official would affect the public's trust in his impartiality. In turn, we believe the Commission should take this into account when reviewing the application of Gibson, Dunn & Crutcher, for whom Mr. Kolkey serves as a partner.

4) We note that attorneys at Nielsen, Merksamer, Parrinello, Gross & Leoni have engaged in significant work defending local government jurisdictions against claims under the California Voting Rights Act (CVRA). The CVRA provides protections against certain election systems that impair the ability of underrepresented Californians to elect the candidates of their choice. Because of the extensive work of Nielsen, Merksamer in defending against CVRA claims, we believe that the firm would not garner the trust of underrepresented groups in California.

Thank you for your attention to our comments, and we look forward to continuing our work together.

Sincerely,

Rosalind Gold

Senior Director, Policy, Research and Advocacy

NALEO Educational Fund

