



U.S. ELECTION ASSISTANCE COMMISSION  
1225 NEW YORK AVENUE, N.W., SUITE 1100  
WASHINGTON, D.C. 20005

June 14, 2007

James P. Joseph  
Arnold & Porter L.L.P.  
555 Twelfth Street, NW  
Washington, DC 20004-1206

Via Hand Delivery ONLY

Mr. Joseph:

This letter is in response to your inquiry in which you request that your client, Ms. Tova Wang, be authorized by the U.S. Election Assistance Commission (EAC) to discuss agency matters pertaining to her prior employment.

As you are aware, Ms. Wang was employed by the EAC under its authority to hire experts and consultants pursuant to 42 U.S.C. §3109 (as implemented by 5 C.F.R. §304). As such, her agreement with the EAC created an employee/employer relationship. This is clearly stated in the employment contract she signed. As a former Federal employee, Ms. Wang has a duty to the Commission. In this respect she is no different than thousands of other present and former Federal employees and therefore has no authority to speak for the EAC, release non-public information or discuss privileged matters with third parties without specific direction from the agency. As you note in your letter, this concept is also clearly stated in her employment contract. Your request that the EAC provide a short term, former employee *carte blanche* authority to speak on behalf of the agency is exceptional and clearly inconsistent with the treatment and rights of other EAC employees.

Ultimately, however, Ms. Wang's responsibilities as a former employee should not have a significant impact on her ability to discuss her personal opinions on voting fraud, voter intimidation or EAC's Voting Fraud and Voter Intimidation Project. First, the project dealt mostly with summarizing and gathering publicly available information such as press articles, books and personal opinion. Ms. Wang is free to discuss public matters as she wishes. Moreover, the EAC has recently decided to make the Voting Fraud and Voter Intimidation Project's correspondence and documents available to the public. On June 8, 2007, the EAC Commissioners voted to publicly release (waiving associated privileges) all Voter Fraud Project documents it has provided in response to Congressional requests. These responses represent a comprehensive collection of documents and correspondence regarding the project

Ms. Wang remains free to provide her personal opinion on voting fraud or voter intimidation to anyone she wishes. Her only limitation is she may not speak for the EAC or release nonpublic information. If Ms. Wang has questions concerning specific requests for information, or is requested to speak on behalf of the EAC, she may contact her prior supervisor, Ms. Peggy Sims at (202)566-3127 for assistance.

Sincerely,

Gavin S. Gilmour  
Deputy General Counsel

cc: Job Serebrov