



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

July 5, 2007

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

Mr. Joseph:

We have received your letter dated June 20, 2007. While the Election Assistance Commission (EAC) cannot agree with much of the communication's implications and conclusions, the letter's ultimate statement regarding Ms. Wang's responsibilities to the EAC properly reflects our June 14<sup>th</sup> guidance in which we stated that "her only limitation is in speaking for the EAC or releasing nonpublic information." As the EAC has publicly released its documents pertaining to the development of the voter fraud report, Ms. Wang is free to speak about the project but not on behalf of the EAC.

That being said, the EAC is concerned with implications in your letter that Ms. Wang is in possession of EAC documents relevant to the development of the report that were not included in the over 40,000 pages the EAC has released. If Ms. Wang has retained EAC documents not in possession of the agency or that were otherwise not captured for publication, she needs to provide them to the EAC so we can make them available to Congress and the public. The EAC wants all such information offered for public scrutiny; I imagine that Ms. Wang would agree.

As we noted in our previous correspondence, if Ms. Wang has concerns regarding a specific request for information, or is requested to speak on behalf of the agency, she may contact her prior supervisor, Peggy Sims, or this office for guidance or authorization.

Sincerely,

A handwritten signature in black ink, appearing to read "G. S. Gilmour". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gavin S. Gilmour  
Deputy General Counsel

Attachment: EAC's letter dated June 14, 2007

cc: 1. Senator Dianne Feinstein  
Chair, Senate Rules and Appropriations Committee  
2. Job Serebrov



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