



FAIRFAX COUNTY DEMOCRATIC COMMITTEE

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January 21, 2013

Hon. Dennis J. Smith
Chief Judge
Fairfax County Circuit Court
4100 Chain Bridge Road
Fairfax, VA 22030

Re: Appointment of Electoral Board Member

Dear Judge Smith:

It is with great reluctance that we write you regarding the pending appointment by Judges of the Fairfax Circuit Court to fill the three (3) year term of a member of the Fairfax County Electoral Board commencing March 1, 2013. By the terms of the statute, that position is allocated to the Governor's party and this letter makes no effort to abridge the Fairfax County Republican Party's right to submit not less than three nominations for your consideration. Because the Fairfax County Democratic Committee ("FCDC") understands that the current incumbent, Mr. von Spakovsky, is seeking reappointment, FCDC believes that it would be negligent if it failed to bring to the attention of the Judges of the Circuit Court multiple concerns about the current incumbent.

No doubt you will remember that Electoral Board Chairman Seth Stark appeared before you on November 2nd and 5th and related that the Electoral Board had canceled a previously scheduled November 2nd meeting and that his two fellow Board members were refusing to meet before the election to resolve the issues that FCDC brought before you. Mr. von Spakovsky was one of the two members who refused to meet.

Prior to the incumbent's appointment to the Electoral Board, it had been the practice of the Fairfax Elections Office to make voter registration materials available for the public in any of the several languages spoken by the citizens of Fairfax. One of the incumbent's first actions was to call to the attention of the Board that Section 203 of the Voting Rights Act did not compel the provision of such multilingual materials. He then moved that the General Registrar be directed to immediately remove those materials from the counters of the Election Office. The motion passed 2-1.

Just this year, the incumbent moved that the nonpartisan voter information materials provided, at no cost, to the Election Office by the local chapter of the League of Women Voters be removed from the office because a Mid-western chapter of the League was a party to voter

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protect litigation. His justification was that the League had become too adversarial. His motion passed 2-1.

The incumbent has also shown a decided bias in the degree to which the representatives of the two county party committees are allowed to voice their concerns during Board meetings. The representative of the Republican Party is allowed to carry on at considerable, and frequently tangential, length without interruption while the representative of the Fairfax Democrats barely gets a sentence out before the incumbent interrupts, argues, tries to down shout those comments and cuts off the Party's representative.

This practice reached its zenith when the incumbent abruptly moved to adjourn the October 26th meeting rather than address the 15 pending issues that had been raised by the FCDC representative regarding the then on-going absentee voting process and the upcoming election day.

We also provide you with a copy of the recent New Yorker magazine profile of the incumbent together with a copies of the letters written by career attorneys of the voting rights section of the U.S. Department of Justice referenced in that article. We also invite you to review the dossier of more than 100 documents regarding Mr. von Spakovsky assembled by the Justice William J. Brennan, Jr. Center of the New York University Law School that can be found at:

http://web.archive.org/web/20120411080042/http://www.truthaboutfraud.org/hans_von_spakovsky.html

The conclusion that FCDC draws from all these events, and others, is that the incumbent is temperamentally ill-suited to properly perform the functions and duties of an Electoral Board member for the people of Fairfax County and urge the Judges of the Circuit Court to appoint either of the other two nominees of Fairfax Republican Party, each of whom has demonstrated a willingness to work with both county political parties to assure free, fair and open elections for all of Fairfax's citizens.

Thank you for considering our perspective and experience.

If you have any questions regarding this matter, please feel free to contact me.

Sincerely yours,



Cesar del Aguila
Chair

cc: Jay McConville, Chair
Fairfax County Republican Committee