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MICRC

03/30/21 8:00 am Subcommittee Meeting

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>> Good morning. As Chair of the Voting Rights Act legal Council Committee, I call this meeting of the Michigan Independent Citizens Redistricting Commission subcommittee for the voting rights attorney to order.

We are -- this Zoom webinar is being live streamed on -- I'm sorry, I did not say the time, so the time is 8:03 a.m.

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This meeting is also being transcribed and those transcriptions will be made available and posted on the RedistrictingMichigan.org along with written public comment submissions.

And members of the media who may have questions before, during or after the meeting should direct the questions to Edwards Woods, III, Communications and Outreach Director for the Commission, at WoodsE3@Michigan.gov or 517-331-6309.

Members of the media should have his contact information.

The Secretary shall call the roll and declare if there is a quorum.

>> Sally: Good morning, Commissioners.

When I call your name, please unmute yourself and indicate you're present and the city or county you are remotely attending from.

Doug Clark.

>> Doug: Present and I'm remotely joining the meeting from Rochester Hills, Michigan.

>> Sally: Anthony Eid.

>> Anthony: Present; remotely attending from Detroit, Michigan.

>> Sally: Rebecca Szetela.

>> Rebecca: Present and remotely attending from Wayne County, Michigan.

>> Sally: Three of four Commissioners for this subcommittee are present.

There is a quorum.

>> Rebecca: Thank you.

Okay. Next on our agenda is to actually adopt the agenda.

Do we have any edits or changes to the agenda proposed?

Hearing none, can I get a motion to approve the agenda from either Anthony or Doug?

>> Anthony: So motioned.

>> Doug: I will second it.

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>> Rebecca: Having a motion to adopt the agenda, all in favor please raise your hand to so indicate.

All opposed?

Okay, the agenda is adopted.

Okay, let me see, all right, since there are no -- the agenda has been adopted and we don't have any minutes to approve, the next on our agenda would be public comment.

Do we have any public comment today, Sally?

>> Sally: No live public comment this morning, Chair.

>> Rebecca: No live public comment.

All right, okay so just a few thoughts about public comment before we continue because this is a virtual meeting members of the public had to sign up in advance to address the Commission.

Staff at the Department of State will unmute each member of the public for up to two minutes on a first come, first serve basis.

Since we don't have public comments, obviously, we won't have comments; but if you have written comments, you can submit your thoughts to the Commission and the public e-mailing redistricting at Michigan.gov. The Department of State will provide your written thoughts to the Commission. And by indicating the e-mail you would like to submit as a written comment, it will be included in the online meeting archive for the Commission.

Public comment sign up links are also posted on Redistricting Michigan social media pages on Facebook and Twitter at redistricting MI.

Let's see.

Okay, all right, so it looks like we are going to be moving on to new business at this point.

I'm sorry, I'm just jumping ahead a bit.

All right, so new business.

We have number A is discussion of the VRA legal counsel proposals.

So I'm sure everybody reviewed the packet that was sent over by Sue which included the various proposals in two separate e-mails along with the recommendations of the prescreening that was done.

That recommendation was for two groups that submitted Anthony or Doug do you have any comments or discussion about the two individual groups that were submitted for advancement to interviews?

Doug go ahead.

>> Doug: Yeah, let me tell you the process I went through.

I initially took a look at the two individuals that were in the first grouping.

And I did it assessment on their RFPs.

And the conclusion that I came to was that one of the individuals I didn't feel was -- I know he is qualified but I didn't feel that he was appropriate for our group.

And the reason being, and let me tell you who that was, that was Brian Sells, I'm sorry.

>> Rebecca: Sells, yes.

>> Doug: A couple things.

He seems to be very, very oriented towards minorities and towards liberal concepts from what I've seen.

And I not only looked to the proposal but I also went out on the Twitter and I went out on the Facebook and read some of the postings and so forth.

And I thought it was more to the extreme on the liberal side than what we would want because I know our focus is to be nonpartisan and I thought we would be better off with a more moderate individual.

Additionally with Brian, this is not the only type of work that he is involved with. He is significantly involved with litigation.

And most recently litigation that he is involved with is these new voting rights laws from the state of Georgia.

And he has participated in the lawsuits against the state of Georgia on those.

That's a high, very, very high profile type of project to work on.

And so if we happen to hire him, I think over the course of time there is going to be some conflict because does his time go there or does his time come to us.

And because it's so high profile and I feel that it's really a positive thing toward his career to deal with the voting rights issues that we are not going to get necessarily all his attention at times.

So I saw that with Brian.

The other thing I saw, and I looked at was Federal Compliance, which is Bruce Adelson. And the thing I really liked about Bruce, a few things, not just the one thing, number one, he seemed to be very nonpartisan.

He appeared also to be middle of the road, which, again, I think it fits the agenda we are looking for.

The other thing I really liked about him is this appears to be the main focus of his work is in redistricting and redistricting type of matters.

And I think over time he has probably developed really good expertise on that.

And I could be very, very qualified to help us in that area.

He is a senior trial attorney.

He is also works at Georgetown University and University of Pittsburgh, which I thought were relevant.

And the other significant thing is he is licensed in Michigan.

And he has done work in Michigan, which I think is significant for our purposes.

So, I mean, I personally would not recommend Brian go to the Commission as one of the candidates.

But I do recommend that Bruce does.

So given that, I took a look at the second set of people.

Or groups.

And there is five of those.

And I really got it down to one that I wanted to consider, and that is the Clark Hill law firm.

However, as I look into that I thought they were the better of the other five, I looked into that and I had here is my concern: You take a look at the first two people and it's -- they don't have a group of other people that are working with them.

Clark Hill does.

They have identified four people, a group of four people.

Personally I would prefer to deal with one in this situation.

Although they are very well capable of coordinating among the four of them but I would rather have the interface in dealing with just one individual throughout the whole process.

But also associated with the organizational structure of those four individuals I felt that that's going to drive cost for us.

Because now you will have four people involved and I believe they had a breakdown of two of them at 40% at a time and two of them at 10%.

Where you go back and take a look at somebody like Bruce Adelson and he is charging by the hour.

And it appears to be more economically feasible to go that route.

So I'm not convinced that I would recommend that Clark Hill also be brought up to the Commission itself as well.

So at this point I'm only looking at one person, and that is Bruce Adelson and I felt he was the best qualified.

I felt he was very well qualified.

And I had concerns about all the others, so I will yield back.

>> Rebecca: Okay, thank you very much, Doug.

Anthony, do you have any comments?

>> Anthony: Yes.

So the process I went through consisted of we had seven applicants and I wanted to go through them before reading our staff evaluation just because I didn't want our staff evaluation to bias me any way so I went through and removed any identifying information that I could and then looked at all 7 of them independently.

And the results I came up with ended up being quite similar to what our staff came up with.

So that is a good sign in my book.

My number one choice was Federal Compliance services with Bruce Adelson, who Doug was just talking about.

I agree with what much of what Doug said.

This was by far and away by almost 20 points on a scale of 100 the person that scored the highest, I think.

Bruce seems like a very well rounded individual.

He has a ton of experience in this field.

And I think he would serve the Commission very well.

I do have a little concern about his hourly fee.

It is a high hourly fee.

So I think that that is something we will have to talk to the Commission about.

And I know it's on our agenda after this discussion.

Second on my list was Brian Sells.

Although he was a bit lower than Federal Compliance, I also think he has, you know, all of the experience necessary to do the job and do the job properly.

However, I do share some of the concerns that Doug has, you know, the guy has worked with you know, Eric holder who worked with partisan secretary, partisan Attorney General.

And who, you know, is out there, you know, like Doug was saying on the more quote, unquote liberal side of things.

However, I do think his work in redistricting you know is pretty essential.

And would do the job well.

So while he is not my most preferred candidate I think if, you know, I don't think we can just bring one person to the Commission so I would like to have him be the second person that we bring forth.

The third person I had was Clark Hill services.

Pull up my notes on them real quick.

I thought they had a very professional looking RFP.

I think they hit all of you know the notes that they needed to hit in order to get, you know, a recommendation.

They were quite close to Brian Sells on my ranking sheet.

So that's another one where I think if we want to give the Commission options, I say we can bring three and go from there.

And then the four other ones, you know, ranked quite a bit lower on my list, so I wouldn't want to move forward with consideration for them.

But those would be the three that I'm looking at Federal Compliance, Brian Sells and Clark Hill.

>> Rebecca: Thank you very much Anthony.

Brittini, I saw you have joined us, just to sort of bring you up to speed we were discussing the two/three people recommended by our prescreen with our staff which

was Federal Compliance consulting which is Bruce Adelson's group and the second one was Brian Sells which is law office of Brian Sells and then Doug had mentioned I'm not sure if you joined when he was first talking that he was considering Clark Hill as well but he had some concerns about that.

So do you have any thoughts or comments or concerns about the two that were proposed and then also Clark Hill as well?

>> Brittini: I don't want to repeat the things that everyone else has said.

And I did catch Doug's comments.

I will say my top two are the same that were suggested to us and I did a similar process to Anthony.

Clark Hill came up, but I felt that the two that were presented to us or suggested to us represented the stronger choices out of the bunch, with the favorite being Adelson, yep. Keeping my short those are my comments.

>> Rebecca: All right. So I'll add my comments as well. So I agree with what has been said so far.

I think that the top two candidates are Federal Compliance Consulting and the Law Office of Brian Sells.

I did look pretty closely at Clark Hill, but I felt that compared to the other two the experience level just wasn't as high.

I felt like both Bruce Adelson and Brian Sells have really focused pretty narrowly on Voting Rights Act and have a lot of really good experience that I think sort of ranks them far and above Clark Hill.

So my personal feeling is that we should advance the two, notwithstanding Doug's concerns.

And I think those are legitimate, but I wouldn't want to exclude Brian Sells at this point based on those concerns.

I would rather submit it to the Commission so the full Commission can consider those concerns and evaluate them rather than sort of blocking him at the Committee level, so those are kind of my thoughts.

Any additional?

Go ahead, Doug, I see your hand up.

>> Doug: Yeah, in my opinion we are not required to bring two forward.

Actual play we are not required to bring any forward if we don't want.

But I just felt very strongly about Brian and his liberal points of views on everything. So let me give you an example.

I saw a Twitter response from him that says: You probably have seen this picture of Georgia Governor Brian Kemp and his gaggle of white men signing the state's voter suppression law.

Well, the legislature didn't put it in as a voter suppression law. So he has already taken his position on that.

He has already taken his position racially on it is a group of white men. Which to me could have been legislatures, so he has already got his opinion towards the liberal point of view and that is what bothered me a lot.

So, I mean, I would still support not bringing him forward. But that's going to be a vote for the four of us I believe, so I just wanted to point that out and how strong I feel about that. I yield back, Rebecca.

>> Rebecca: I appreciate that. I mean, to make it easier do we want to sort of separate these into two groups? Because I think we all have -- we all have very strong it sounds like beliefs that the Federal Compliance Consulting should be advanced. Do we want to take a vote on them? And then also do a separate vote on Brian Sells and see whether we want to advance his company as well? Does that make sense to everybody?

>> Brittini: That's fine with me.
>> Rebecca: Can I get a motion to submit Federal Compliance Consulting to the full Commission for consideration on an interview?
>> Doug: Yeah, I will submit that as a motion.
>> Brittini: I will second.
>> Rebecca: We have a motion by Commissioner Clark and a second by Commissioner Kellom. All in favor please raise your hand to submit consent. All opposed same sign.

The motion carries. So we will be submitting Federal Compliance Consulting to the full Commission for an interview and consideration for hiring for the voting rights legal counsel position. All right. Do we want to deal separately with Brian Sells? Okay, I'm not seeing anyone moving on that, so do we want to only submit a single person for consideration? Any comments?

>> Brittini: I honestly don't have a problem with submitting a single name with, you know, sharing why we submitted a single name. Especially reviewing my personal comments of being decisive. I think that would be an interesting thing to do, and, you know, for our fellow Commissioners. But, I mean, yeah, that is what my thought is right now.

>> Rebecca: Okay. Any other comments? All right. So it sounds like we are not in favor of advancing Brian Sells. Yeah, can I -- I think I'm going to move on that. Can I get a second?

I would just like to get that preserved.

If I move to advance Brian Sells to the Commission, can I get a second on that?

All right. Seeing none, okay, so I think we have our two.

Do we want to take any further consideration of Clark Hill or have we decided we are not advancing Clark Hill as well?

>> Anthony: You know, I think that we clearly have one preferred candidate, at least the four of us do.

So at this point we are weighing the benefits of having competition versus not having competition in the meeting.

The whole Commission will receive all seven anyway and, you know, everyone can make their own decision at that point.

But being unified in one person, you know, might be good, it might sway a few people on the main Commission as well so just depends what we want to do.

>> Rebecca: Okay, go ahead Julianne.

>> Julianne: Thank you. No, I appreciate always the discussion and the deliberation of the Commission and the committee here.

I just wanted to highlight some of the staff perspective. Really there were some very impressive litigation firms that applied; but, again, we were judging based on Voting Rights Act experience.

And being able to guide the Commission through that process and I really believe that the conversation that's happened this morning has tracked our analysis as well.

So I just wanted to add that comment for your benefit.

>> Anthony: Rebecca, I think you are muted.

>> Rebecca: I'm sorry.

Go ahead, Doug.

>> Doug: Yeah, I mean, I agree with what Julianne says.

All the can't diplomats all seven of them I mean they are all good legal people from what I could tell.

But they have their fields of expertise.

And some of them dabble in the Voting Rights Act and some, particularly Bruce, I mean, this is his main stay for his business.

So I think that's very relevant as we move forward.

I yield back.

>> Rebecca: Okay. Well, since we have no further discussion on the selection of the proposals, we will submit the single entity Bruce Adelson's group.

The next item on the agenda is discussion of pricing.

Sue, is that something you were going to weigh in on?

There is not much to discuss if we only have one person.

>> Sue: I believe Sarah was going to put the chart up for us.

It's a spreadsheet or put it in the chat so you take a quick look at it.

>> Rebecca: I believe Bruce Adelson was \$425 I think I saw that somewhere.

>> Sue: I think he put it in his proposal and some others were up to \$1200 an hour so he was competitively priced with the others.

>> Rebecca: Okay. All right. I'm just waiting for that chart.

I think Sarah might have stepped away.

Sue, you are on mute if you are talking.

>> Rebecca: Okay. We are just going to wait one second.

>> Julianne: Madam Chair.

>> Yes.

>> Julianne: There is a computer issue that will take just a moment to resolve.

>> Rebecca: Yep.

Doug, did you want to go ahead and make a comment while we are waiting?

>> Doug: Yeah, I do. I want to go back to what Anthony had indicated about Bruce, about he thought the \$425 an hour was excessive.

I personally don't see that as excessive for legal assistance.

I think it's more to the standard from what I've seen and dealt with.

And so I wouldn't call it -- him low balling it or it's at an extremely high rate.

We are just trying to take advantage.

I think it's right where it should be from an hourly standpoint, so I just wanted to make that comment.

>> Rebecca: Yeah, I agree.

For a very skilled attorneys at this level 20 years plus experience I think that \$400 an hour is very reasonable.

>> Doug: Yep.

>> Rebecca: Okay, so we have that chart up now.

So as we can see Federal Compliance Consulting is \$425 an hour plus travel.

Clark Hill was the \$350 blended hourly rate, Brian Sells was \$550 an hour.

So, I mean, they all seem to be within the same sort of range except for the other one is quite a bit higher but they weren't selected, so any discussion or concerns about the pricing?

Doug, go ahead. I see your hand.

>> Doug: I'll make a comment about Brian Sells.

When I went through his response, I saw a comment that he estimated that the cost would be 25% of his 2020 revenue.

And his 2020 revenue is \$553,535, so it turned out to be \$138,000 plus a little bit.

So I didn't pick up on the dollar amount you're talking about here, the \$500 an hour. But, I mean, my comment on the 500 is it's in the ballpark of what Bruce had. It's not that much more, significantly, so I think his pricing is, to me, would be acceptable.

But, again, I'm not judging my opinions on the price at this point.

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I was judging it on qualifications, so I wanted to make that point of what I saw in the RFP though where he made that comment about 25% of 2020 revenue.

He didn't think it would exceed that, but I did pick up on that so I yield back.

>> Rebecca: Okay, all right, any other comments?

Okay. Well, we actually covered our next agenda item, which was C, because we already narrowed it down to Bruce Adelson. So I think unless we have something else to discuss guys, I think we are done.

Most efficient committee meeting ever apparently.

So can I get a motion to adjourn? Go ahead, Doug. Do you have a comment or were you going to make a motion?

>> Doug: I got a comment. As we move forward with the Commission at 9:30.

>> Rebecca: Yes.

>> Doug: Are you going to take the lead and talk about what we discussed or --

>> Rebecca: Yes.

>> Doug: Or how do you want to handle that.

>> Rebecca: Yes.

>> Doug: I will make the motion to adjourn.

>> Rebecca: Okay, can I get a second?

>> Anthony: I will second.

>> Rebecca: All right. Motion is seconded. All in favor please raise your hand to so indicate. All opposed same sign.

All right, that is it, we have a motion to adjourn. Everybody have great hour in between. See you in an hour, guys.