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October 28, 2010

Mr. Victor E. Salazar
Fresno County Registrar
2221 Kern Street
Fresno, CA 93725

RE: URGENT ELECTION ERROR

Dear Mr. Salazar:

This firm represents the primarily formed committee supporting Yes on 23, California Jobs Initiative, the ballot measure known as Proposition 23, which will be voted on at the November 2, 2010 election next Tuesday.

It has been brought to our urgent attention from an absentee voter in Fresno County that the Vote by Mail Official Ballot for the County of Fresno contains an inaccurate ballot label for Proposition 23. The ballot label appearing on your Absentee Ballot, as well as in your Sample Ballot & Voter's Pamphlet mailed to all voters, and presumably repeated on your actual Ballot to be used in the election booth (which we have not seen yet), reads as follows:

23. SUSPENDS AIR POLLUTION CONTROL LAWS REQUIRING MAJOR POLLUTERS TO REPORT AND REDUCE GREENHOUSE (sic) GAS EMISSIONS THAT CAUSE GLOBAL WARMING UNTIL UNEMPLOYMENT DROPS TO 5.5 PERCENT OR LESS FOR FULL YEAR. INITIATIVE STATUTE.

This ballot label was held by a court of law to be false and misleading. See Superior Court case #34-2010-80000612 *Coupal v. Brown* (Order and Judgment attached) whereby the Sacramento Superior Court ruled on August 3, 2010 that the ballot label had to be rewritten as follows:

23. SUSPENDS IMPLEMENTATION OF AIR POLLUTION CONTROL LAW (AB 32) REQUIRING MAJOR SOURCES OF EMISSIONS TO REPORT AND

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REDUCE GREENHOUSE GAS EMISSIONS THAT CAUSE GLOBAL WARMING, UNTIL UNEMPLOYMENT DROPS TO 5.5 PERCENT OR LESS FOR FULL YEAR. INITIATIVE STATUTE.

As you can see by a comparison of both versions, the first ballot label, found false and misleading, is quite pejorative and prejudicial, using words such as “polluter” and implying that all of California’s air pollution control laws could be suspended instead of just one.

Therefore, the Yes on 23, California Jobs Initiative, demands that you take immediate steps to reprint the ballots remaining to be sent to vote by mail voters as well as all ballots to be distributed on election day.

Fresno County is a county of significant size in California and in a close election, its vote, now tainted by this serious error, could call into question the state results and possibly give rise to an election contest and require a new statewide election on Proposition 23. It is critical that all steps be taken to remedy the damage done to the Yes on 23 initiative campaign by Fresno County’s error.

Please contact me at your earliest convenience to discuss the remedies available to you.

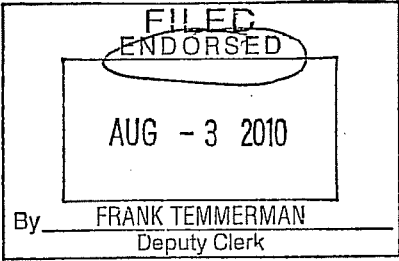
Very truly yours,



Colleen C. McAndrews

CCM:mf
Enclosure(s)

cc: Debra Bowen, Secretary of State



8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SACRAMENTO

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11
12
13 **JON COUPAL, an individual; HOWARD
JARVIS TAXPAYERS ASSOCIATION, an
14 incorporated California Association,**

15 Petitioner,

16 v.

17 **DEBRA BOWEN, in her official capacity as
18 Secretary of State of the State of California,**

19 Respondent,

20
21 **KEVIN HANNAH, in his official capacity as
interim State Printer, EDMUND G.
22 BROWN JR., in his official capacity as the
Attorney General of the State of California,**

23 Real Parties in Interest.

Case No. 34-2010-00080000612

~~Proposed~~ **ORDER AND JUDGMENT
AFTER HEARING ON PETITION FOR
PEREMPTORY WRIT OF MANDATE**

**ELECTION MATTER: PROPOSITION
23**

Date: August 3, 2010
Time: 9:00 a.m.
Dept: 29
Judge: The Hon. Timothy M. Frawley

Action Filed: July 27, 2010

24
25 The petition for peremptory writ of mandate by Jon Coupal, an individual, and Howard
26 Jarvis Taxpayers Association, an incorporated California Association, came on for hearing in
27 Department 29 of this Court on August 3, 2010. Stephen P. Acquisto, Supervising Deputy
28 Attorney General, appeared on behalf of Edmund G. Brown Jr., the Attorney General, Debra

1 Bowen, the Secretary of State, and Kevin Hannah, the Acting State Printer. Thomas W. Hiltachk
2 appeared on behalf of Petitioner Jon Coupal, an individual, and Howard Jarvis Taxpayers
3 Association, an incorporated California Association.

4 Having read and considered the memoranda of points and authorities filed by the parties,
5 and having heard argument of counsel,

6 IT IS HEREBY ORDERED AND ADJUDGED THAT:

7
8 _____ The Petition for Peremptory Writ of Mandate is denied.

9
10 X The Petition for Peremptory Writ of Mandate is granted in part and denied in part.
11 As reflected in the attached exhibit ^{"A"}, the Secretary of State shall implement changes to the Ballot
12 Label and Ballot Title and Summary, and make the revised Ballot Label and Ballot Title and
13 Summary available for public examination throughout the remainder of the 20-day public display
14 period that began July 20, 2010, and is set to end August 9, 2010. Thereafter, if no court-ordered
15 changes are made to the revised Ballot Label and Ballot Title and Summary, the Secretary of
16 State is directed to forward the revised Ballot Label and Ballot Title and Summary, and its
17 translations to Real Party in Interest Kevin Hannah and county elections officials, for inclusion on
18 the November 2, 2010 General Election ballot and ballot pamphlet.

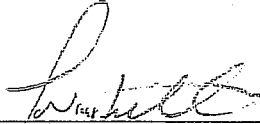
19
20 _____ The Petition for Peremptory Writ of Mandate is granted in its entirety. The Secretary
21 of State shall delete the Ballot Label and Ballot Title and Summary from the ballot pamphlet and
22 furnish this information to the Acting State Printer.

23
24 Dated: August 3, 2010

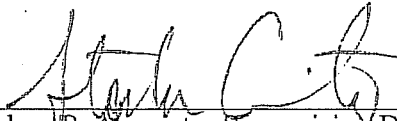
Timothy M. Frawley
25 Honorable Timothy M. Frawley
26 Superior Court of California, County of
27 Sacramento
28



1 APPROVED AS TO FORM

2 

3 _____
4 Thomas W. Hiltachk
5 Attorney for Petitioners Jon Coupal, and
6 Howard Jarvis Taxpayers Association

7 

8 _____
9 Stephen P. Acquisto, Supervising Deputy Attorney General
10 Attorney for Respondent, Debra Bowen,
11 and Real Parties in Interest, Edmund G. Brown Jr.,
12 and Kevin D. Hannah
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Exh.

A

Count Limitations

The ballot label for Proposition 23 would be revised as follows:

SUSPENDS IMPLEMENTATION OF AIR POLLUTION CONTROL LAWS (AB 32) REQUIRING MAJOR POLLUTERS SOURCES OF EMISSIONS TO REPORT AND REDUCE GREENHOUSE GAS EMISSIONS THAT CAUSE GLOBAL WARMING, UNTIL UNEMPLOYMENT DROPS TO 5.5 PERCENT OR LESS FOR FULL YEAR. INITIATIVE STATUTE. Fiscal Impact: Likely modest net increase in overall economic activity in the state from suspension of greenhouse gases regulatory activity, resulting in a potentially significant net increase in state and local revenues.

The ballot title and summary for Proposition 23 would be revised as follows:

SUSPENDS IMPLEMENTATION OF AIR POLLUTION CONTROL LAWS (AB 32) REQUIRING MAJOR POLLUTERS SOURCES OF EMISSIONS TO REPORT AND REDUCE GREENHOUSE GAS EMISSIONS THAT CAUSE GLOBAL WARMING, UNTIL UNEMPLOYMENT DROPS TO 5.5 PERCENT OR LESS FOR FULL YEAR. INITIATIVE STATUTE.

- Suspends State law that requires greenhouse gas emissions be reduced to 1990 levels by 2020, until California's unemployment drops to 5.5 percent or less for four consecutive quarters.
- ~~Requires State to abandon~~ Suspends implementation of comprehensive greenhouse-gas-reduction program that includes increased renewable energy and cleaner fuel requirements, and mandatory emissions reporting and fee requirements for major ~~polluters~~ emissions sources such as power plants and oil refineries; ~~until suspension ends.~~

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- The suspension of AB 32 could result in a modest net increase in overall economic activity in the state. In this event, there would be an unknown but potentially significant net increase in state and local government revenues.
- Potential loss of a new source of state revenues from the auctioning of emission allowances by state government to certain businesses that would pay for these allowances, by suspending the future implementation of cap-and-trade regulations.
- Lower energy costs for state and local governments than otherwise.