



May 30, 2017

**BY FIRST CLASS MAIL & E-MAIL**

California Democratic Party  
1830 9th Street  
Sacramento, CA 95811

**Re: *Ellis v. Eric Bauman et al.***

Dear Sir or Madam:

This firm represents Kimberly Ellis for California Democratic Party Chair (“Plaintiff”) in the action that is imminent against Eric Bauman and the California Democratic Party (collectively “Defendants”) regarding the May 2017 California Democratic Party election.

As you know, there is a duty to preserve evidence relevant to the subject matter of an action even without a court order, and even before the action is filed. *See, e.g., YCB Int’l, Inc. v. UCF Trading Co.*, 2012 U.S. Dist. LEXIS 104875, \*9–10 (N.D. Ill. July 25, 2012) (finding an e-mail sent by a company official to a supplier 10 months before litigation commenced put a supplier on notice of the potential litigation and triggered its duty to preserve evidence); *Ervine v. S.B.*, 2011 U.S. Dist. LEXIS 24937 (N.D. Ill. Mar. 10, 2011) (the duty to preserve evidence extends to third parties who should have known evidence may be relevant in future lawsuits); A. Benjamin Spencer, *Symposium: Civil Procedure and the Legal Profession: The Preservation Obligation: Regulating and Sanctioning Pre-Litigation Spoliation in Federal Court*, 79 *FORDHAM L. REV.* 2005, 2008 (April 2011) (observing that a pre-litigation hold request, a demand letter or similar correspondence, such as a cease and desist letter or a cure notice, may trigger the duty to preserve evidence) (citing cases).

The duty to preserve evidence extends to hard copy documents and electronic data, all of which may be an irreplaceable source of discovery. Consistent with that duty, we request that Defendants immediately preserve all existing documents and electronic information relevant to the subject matter of the action that are in the possession, custody, or control of Defendants and its subsidiaries, divisions, agents, and employees, and suspend deletion, overwriting, or any other

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possible destruction of all such documents and electronic information. The documents and electronic information relevant to the subject matter of the action include, without limitation:

- 1) Documents constituting or relating to the transmission to the State Party of the appointment/election of Democratic State Central Committee member delegates;
- 2) Documents constituting or relating to the transmission to the State Party of the appointment/election of Democratic State Central Committee member proxy holders;
- 3) Documents constituting or related to the payment of member dues to the Democratic State Central Committee;
- 4) Documents constituting or related to the payment of any registration fees for the 2017 California Democratic Party Convention;
- 5) Documents constituting or related to the waiver of member dues to the Democratic State Central Committee;
- 6) Documents constituting or related to the waiver of any registration fees for the 2017 California Democratic Party Convention;
- 7) Documents constituting or related to registration of attendees for the 2017 California Democratic Party Convention;
- 8) Documents defining registration requirements for the 2017 California Democratic Party Convention;
- 9) Documents related to credentialing and credential retrieval at the 2017 California Democratic Party Convention;
- 10) Documents related to the policies and practices in connection with the issuance and collection of ballots at the 2017 California Democratic Party Convention;
- 11) Ballots collected at the 2017 California Democratic Party Convention;
- 12) The final report issued by the Credentials Committee at the 2017 California Democratic Party Convention;
- 13) Notices of intent-to-run for California Democratic Party Chair in the 2017 election filed with the Secretary of the Party;
- 14) Documents constituting or relating to nominations for California Democratic Party Chair in the 2017 election;

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- 15) Documents constituting or relating to acceptances of nominations for California Democratic Party Chair in the 2017 election;
- 16) Documents constituting or relating to ballot counting;
- 17) Party registrations of all proxy holders appearing at the 2017 California Democratic Party Convention;
- 18) Documents identifying any County Central Committee members represented by proxy holders at the 2017 California Democratic Party Convention;
- 19) Documents identifying any Assembly District Election Meeting members represented by proxy holders at the 2017 California Democratic Party Convention;
- 20) Documents identifying the residential districts of any County Central Committee members represented by proxy holders at the 2017 California Democratic Party Convention;
- 21) Signed proxies used for admittance to the 2017 California Democratic Party Convention;
- 22) Documents indicating the filing times of all proxies used for admittance to the 2017 California Democratic Party Convention;
- 23) Documents related to any revocation or change of proxies used for admittance to the 2017 California Democratic Party Convention;
- 24) All sign in sheets for participants to the 2017 California Democratic Party Convention;
- 25) The Credential Committee Final Report;
- 26) The official voting list of delegates; and
- 27) The agendaed Credential Report.

With regard to electronic data, we request that it be preserved and maintained in a readily accessible format in accordance with the following safeguards:

1. **ELECTRONIC DATA TO BE PRESERVED.** The following types of electronic data should be preserved in a readily accessible format, in accordance with the steps set forth below:

- a. All electronic mail and information about electronic mail (including message contents, header and logs of email system usage) sent or received by anyone relating to the subject matter of the litigation;
  - b. All databases, including field and structural information as well as records, containing any information relating to the subject matter of the litigation;
  - c. All logs of activity on any computer systems that have been used to process or store data containing information relating to the subject matter of the litigation;
  - d. All other electronic data containing information about, or relating to, the subject matter of the litigation, including but not limited to:
    - i. All word processing files;
    - ii. All spreadsheets;
    - iii. Electronic data created by applications which process financial, accounting and billing information;
    - iv. All electronic calendar and scheduling program files and file fragments;
    - v. All electronic spreadsheet files;
    - vi. All telephone logs and contact manager information;
    - vii. Internet usage files;
    - viii. Audio recordings;
    - ix. Videotape and other video recordings;
    - x. Instant messages;
    - xi. Cell phone text messages;
    - xii. All file fragments.
2. **ON-LINE DATA STORAGE.** With regard to online storage and/or direct access storage devices attached to computers, we request that any existing electronic data files that meet the criteria set forth above not be modified or deleted, unless an exact mirror copy has been made and will be preserved and kept accessible for purposes of this litigation.
3. **OFFLINE DATA STORAGE, BACKUPS, AND ARCHIVES.** With regard to all electronic media used for offline storage, such as magnetic tapes and cartridges, CDs, DVDs, and the like, used with any computer, that contain any electronic information relating to the subject matter of this litigation, we request that any activity that may

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result in the loss of such data be stopped. This request is intended to cover all removable electronic media used for data storage in any device containing backup and/or archive data sets.

4. **PRESERVATION OF REPLACED DATA STORAGE DEVICES.** We request preservation of any electronic data storage devices and/or media that may contain data relating to the subject matter of the litigation that are replaced for any reason.
5. **FIXED DRIVES ON STAND-ALONE PERSONAL COMPUTERS AND NETWORK WORKSTATIONS.** We request that relevant electronic data that existed on fixed drives attached to standalone microcomputers and/or network workstations at the time of filing of this action not be altered or erased, or other procedures performed such as data compression and disk refragmentation or optimization routines that may impact such data, unless an exact copy has been made of such active files and of directory listings (including hidden files) for all directories containing such files and that any deleted electronic files and file fragments be completely restored and all such data preserved during the pendency of this litigation.
6. **APPLICATIONS AND UTILITIES.** We request preservation of copies of all applications and utilities that may be used to process electronic data discussed in this letter.
7. **LOG OF SYSTEM MODIFICATIONS.** We request that an activity log be maintained reflecting document modifications made to any electronic data processing system that may affect any system's capability to process any electronic data relating to the subject matter of the litigation.
8. **PERSONAL COMPUTERS USED BY EMPLOYEES, CONTRACTORS AND OTHERS UNDER THE CONTROL OF DEFENDANTS.** Please immediately take the following steps with regard to all the fixed drives attached to any personal computers used by anyone under Defendants' control:
  - a. An exact copy should be made of all electronic data relating to the subject matter of the litigation;
  - b. Full directory listings (including hidden files) for all directories and subdirectories should be written;

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- c. All removable electronic media, such as floppy diskettes, magnetic tapes and cartridges, CDs, DVDs and the like that existed before the delivery of this letter and that contain relevant data should be collected, maintained intact and kept available during the pendency of this litigation.
9. LOCATION OF ELECTRONIC DATA. Relevant electronic data that should be preserved in a manner consistent with the directions in this letter may be found in hard copy files, computer hard drives, removable media (such as CDs and DVDs), flash drives, laptop computers, PDAs, Blackberry devices, cell phones, backup tapes, and any other location where hard copy and electronic information is stored, including personal computers used or accessed at home or elsewhere.
  10. EVIDENCE CREATED AFTER RECEIPT OF THIS LETTER. Any relevant electronic data created after receipt of this letter should be preserved in a manner consistent with the directions in this letter.

If any of the above-referenced materials are routinely destroyed, we request that Defendants promptly begin preserving and maintaining such material. Moreover, we request that the above-referenced materials be produced within seven (7) days.

Please feel free to contact me to discuss any aspect of this letter. Thank you in advance for your attention to these matters.

Very truly yours,  
THE TIDRICK LAW FIRM

/s/ Joel B. Young, Esq.

JOEL B. YOUNG