

EXHIBIT Y



State of Michigan
MICHIGAN CIVIL RIGHTS COMMISSION

JENNIFER M. GRANHOLM
GOVERNOR

MARK BERNSTEIN, J.D.
MOHAMMED ABDRABOH, J.D.
ALBERT CALILLE, J.D.
DR. TARUN K. SHARMA
KELVIN W. SCOTT, J.D.
MATTHEW WESAW
KAREN HENRY STOKES

June 7, 2006

Michigan Hall of Justice
925 West Ottawa Street
Lansing, Michigan 48913

Dear Justices of the Michigan Supreme Court:

This report presents evidence of shameful acts of deception and misrepresentation by paid agents of the Michigan Civil Rights Initiative ("MCRI").

The Michigan Civil Rights Commission conducted public hearings in Detroit, Flint, Lansing and Grand Rapids where scores of citizens testified, under oath, about allegations of voter fraud perpetrated by petition circulators working on behalf of the MCRI. Over five hundred affidavits alleging voter fraud were also submitted during the hearing process.

We are grateful to these honest, concerned citizens for their courage to come forward on this matter of grave concern.

We consider these citizens and their testimony credible, and, therefore, the conduct of MCRI reprehensible.

The Commission was born during our national awakening to the necessity of protecting voting rights. Indeed, there is nothing more central or sacred to the mission of the Commission than an individual's voting rights.

Since 1964, Michigan has benefited from the wisdom of voters who overwhelmingly supported the first state constitution establishing a civil rights commission in the United States. The Elliot-Larsen Civil Rights Act, passed in 1976, is extraordinary in explicitly encouraging our Commission to adopt a broad jurisdictional vision.

In conducting these hearings about the alleged fraud of MCRI proponents, the Commission lived up to its responsibilities. By submitting this report, we are simply doing our job.

Two notable and distressing truths emerge from the hundreds of pages of testimony included in the report. First, the instances of misrepresentation regarding the content of the MCRI ballot language

are not isolated or random. Acts of misrepresentation occurred across the state, in multiple locations in the same communities, and over long periods of time. Second, the impact of these acts of deception is substantial. It appears that the acts documented in the report represent a highly coordinated, systematic strategy involving many circulators and, most importantly, thousands of voters.

The events at issue in this report arise in the gap between the responsibilities attendant upon citizenship in a democracy. The responsibility of voters to read and understand the content of ballot language when signing a circulator's petition. And the responsibility of MCRI and its agents to be truthful. Does a voter's failure to live up to his or her responsibility give license to the fraudulent acts of a circulator? All fair-minded citizens know the answer to this question.

These serious grievances go to the core of our democracy and violate the very constitution that this honorable court is sworn to uphold. It is not enough for this court to say that it is against injustice. It must work to secure justice. Just as our commission has done its duty, so, too, must this court.

If the Secretary of State lacks jurisdiction and the Board of Canvassers has been restricted from exercising authority by the courts, then where do aggrieved citizens turn for relief? Surely it cannot be this court's intent to rule out any relief for victims of this fraud. To do so would put Michigan voters at the mercy of predatory special interest groups operating without consequence or accountability.

Forty years ago, the great theologian and civil rights activist, Rabbi Abraham Joshua Heschel spoke about responsibility: "In a free society, some are guilty, but all are responsible." Today, this truth applies to this profoundly important matter.

We live in a time of increasing cynicism about issues of public interest. This distrust flows less from the content of public policy than from the conduct of those who attempt to influence policy. In this case, the conduct of MCRI and its agents add fuel to this destructive fire.

We strongly urge this honorable Court to consider this report and the disturbing testimony contained herein during its deliberation.

Sincerely yours,

Mark Bernstein
Chairperson, Michigan Civil Rights
Commission

Mohammed Abdrabboh
Vice Chairperson, Michigan Civil Rights
Commission

Attachments



STATE OF MICHIGAN
DEPARTMENT OF CIVIL RIGHTS
DETROIT

JENNIFER M. GRANHOLM
GOVERNOR

LINDA V. PARKER
DIRECTOR

June 7, 2006

Michigan Supreme Court
Michigan Hall of Justice
925 W. Ottawa St.
Lansing, MI 48913

Dear Members of the Michigan Supreme Court:

Attached for filing is the Michigan Civil Rights Commission's *Report Regarding the Use of Fraud and Deception in the Collection of Signatures for the Michigan Civil Rights Initiative Ballot Petition*. The *Report* pertains to four public hearings that were held in Detroit, Flint, Lansing, and Grand Rapids in response to citizen complaints of fraud in the signature gathering process.

The Michigan Civil Rights Commission has petitioned the Court for Leave to Appear as Amicus Curiae because the Commission strongly believes that the Court needs to be fully aware of the allegations being raised surrounding this ballot initiative.

Also included in this filing is a personal letter to the Court from Mark Bernstein, Commission Chair and Mohammed Abdrabboh, Commission Vice-Chair, who were present at each of the four hearings. The Commissioners offer their perspectives on the testimony and evidence that was presented at the hearings.

The Michigan Civil Rights Commission respectfully urges this honorable Court to review the information contained in the *Report* and attached transcripts. It is the Commission's belief that this *Report* raises significant civil rights concerns relating to our most fundamental right, that being the right to vote.

Sincerely,

George Wirth (P-36349)
Special Assistant Attorney General for the
Michigan Civil Rights Commission

**Report of the Michigan Civil Rights Commission
Regarding the Use of Fraud and Deception
In the Collection of Signatures
For the Michigan Civil Rights Initiative Ballot Petition**

Background of the Case

This report is written to document the results of the Michigan Civil Rights Commission (MCRC) efforts over a five month period from January to June 2006, to investigate allegations of voter fraud perpetrated by the Michigan Civil Rights Initiative (MCRI) and its agents.

The investigation focused on the conduct that took place in the gathering of signatures for the Michigan Civil Rights Initiative. Specifically, these allegations involve acts of deception and misrepresentation in the signature gathering process.

On June 27, 2003, the United States Supreme Court upheld the use of affirmative action¹ by the University of Michigan in *Grutter v Bollinger*, 539 U.S. 306, 288 F.3d 732 (2003). Shortly thereafter, the MCRI initiated a ballot petition drive in support of an initiative to nullify this landmark civil rights decision. The MCRI seeks to amend the Michigan Constitution to prohibit the use of affirmative action in public employment, public education, and public contracting on the basis of race, sex, color, ethnicity or national origin.

From the very beginning, the language on the ballot has been a matter of contention. In 2003, the Board of State Canvassers approved the ballot language and form. The circuit court, however, held that the form did not comply with State elections law. The Michigan Court of Appeals reversed the circuit court order in *Coalition to Defend Affirmative Action & Integration v Board of State Canvassers*, 262 Mich App 395; 686 NW2d 287 (2004). Instead of continuing to circulate petitions to place the issue on the ballot for the 2004 election MCRI began to circulate new petitions, with identical language, to place the issue on the 2006 ballot.

On January 6, 2005, MCRI submitted 508,159 petition signatures for the November 2006 ballot. The number of valid signatures required was 317,757². The State Board of Canvassers has neither approved nor rejected the language for the 2006 ballot initiative because the Board failed to reach a decision as to whether or not there was substantial

¹The phrase affirmative action is used throughout the report and should be given its traditional meaning. *Black's Law Dictionary* defines affirmative action programs as positive steps designed to eliminate existing and continuing discrimination, to remedy lingering effects of past discrimination, and to create systems and procedures to prevent future discrimination; commonly based on population percentages of minority groups in a particular area. Factors considered are race, color, sex, creed and age.

² Michigan Department of State , Bureau of Elections, Staff Review of Initiative Petition, July 13, 2005 attached as exhibit a.

fraud involved in the gathering of the signatures on the petitions. While the matter was still pending before the Board the MCRI filed a petition of mandamus with the Michigan Court of Appeals. The MCRI alleged that the Board lacked the authority to investigate fraudulent gathering of petition signatures. In *Michigan Civil Rights Initiative v Board of State Canvassers*, 268 Mich App 506: 708 NW2d 139 (2005) the Court agreed with MCRI and issued an order of mandamus directing the Board to approve the petition for placement on the November 2006 ballot.

In an October 31, 2005, opinion the Court stated:

The challengers and intervenors assert that the legislature, through Sec. 476(2), conferred broad authority on the Board to “hold hearings on *any* complaints filed or for any purpose considered necessary by the board to conduct investigations of the petitions.” Yet, it is clear to us that the Legislature has only conferred upon the board the authority to canvass the petition “to ascertain if the petitions have been signed by the requisite number of qualified and registered electors. MCL 168.476(1) clearly indicates that this authority encompasses examining the validity of the signatures and the registration status of the elector whose signature appears on the ballot, and investigating any doubtful signatures. Moreover, it is also clear that the Legislature, through MCL 168.476(2), only conferred upon the Board the right to hold hearings, should a complaint be filed or for any purpose considered necessary “to conduct investigations of the petitions.” We cannot construe Sec. 476(2) as a delegation of additional authority or as an expansion beyond the authority prescribed under Sec. 476(1). Here, the challengers and intervenors seek an investigation that goes beyond the four corners of the petition itself (i.e., the validity of the signatures or registration status of the electors) into the circumstances by which the signatures were obtained. Such an investigation is clearly beyond the scope of the Board’s authority set forth under MCL 168.476. Because the Legislature failed to provide the Board with authority to investigate and determine whether fraudulent representations were made by the circulators of an initiative petition, we hold that the Board has no statutory authority to conduct such an investigation. Moreover, an attempt by the Board to go beyond its authority clearly outlined in the constitution and statute clearly undermines the constitutional provision that reserves for the people of the State of Michigan the power to propose laws through ballot initiatives.

On March 29, 2006, the Michigan Supreme Court denied application for leave to appeal thereby upholding the decision of the Court of Appeals. There is currently pending before the court a motion for reconsideration filed on April 18, 2006, by Operation King’s Dream. It is on behalf of this pending motion for reconsideration of the March 29, 2006 Order denying application for leave to appeal that this report is being filed.

Michigan Civil Rights Commission as an Interested Party

The Constitution of the State of Michigan reads:

Article I, Section 2 declarations of rights, equal protections, discrimination:

No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

Article V, Section 29 establishes a civil rights commission and addresses membership, duties, and appropriation. It reads:

It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

Article 2 Sec. 209 and Sec. 210 of the Elliott-Larsen Civil Rights Act reads:

Sec 209. A contract to which the state, a political subdivision, or an agency thereof is a party shall contain a covenant by the contractor and his subcontractors not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges, of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Breach of this covenant may be regarded as a material breach of the contract.

Sec 210. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to religion, race, color, national origin, or sex if the plan is filed with the commission under rules of the commission and the commission approves the plan.

Article 7 of the Elliott-Larsen Civil Rights Act at 37.2705 (1) reads:

This act shall not be construed as preventing the commission from securing civil rights guaranteed by law other than the civil rights set forth in this act.

The MCRC rules at 37.22 read:

The rules of the commission shall be available to the public, at offices of the department.

These rules shall be liberally construed to accomplish the purposes of the constitution and policies of the commission.

On November 13, 1978, the MCRC adopted a policy supporting the use of voluntary affirmative action programs. The policy was revised on October 18, 1999, and has not changed since that time.³

During the fall and winter of 2005 MCRC became aware of allegations that MCRI petition circulators targeted African American voters in their own communities. Citizens complained that circulators, who were African American, had misrepresented and misled signers into believing the amendment to be placed on the ballot was in favor of affirmative action. The testimony at the hearings confirmed that the areas in which signatures were gathered were not selected arbitrarily or haphazardly, but rather in deliberate and calculated manner. African American circulators, some of whom did not understand the ballot proposal, were sent into these areas and unsuspecting African American voters were lured into signing the petition. From the public hearing testimony, these citizens believe that the actual ballot proposal is inapposite and incongruous to their own personal and firmly held beliefs about civil rights and affirmative action.

When an issue such as the MCRI petition drive arises that may dramatically change the statutes that the MCRC and the Michigan Department of Civil Rights (MDCR) enforce, the MCRC and MDCR closely monitor the issue. This is especially true in the case of the MCRI because it impacts both the Elliott-Larsen Civil Rights Act and the way discrimination is defined under the Michigan Constitution.

Moreover, in following the media coverage of the MCRI ballot initiative it was clear that a substantial number of people were confused as to whether the initiative would protect the traditional use of affirmative action or eliminate the traditional use of affirmative action in public education, public employment and public contracting.

The Michigan Department of State Bureau of Elections recognized the confusion caused by the wording of this language. On January 20, 2006, new language was proposed by the Board of Elections and approved by the State Board of Canvassers as the official ballot language. For the first time, the MCRI was identified as a proposal to ban affirmative action programs in public education, employment and contracting.

Christopher Thomas, Director of the Bureau of Elections, indicated to the MDCR that the Bureau only has jurisdiction to investigate allegations of fraud in the actual voting process, and not in the gathering of petition signatures necessary to place an initiative on the ballot. Therefore, when the Michigan Court of Appeals ruled that the State Board of Canvassers did not have jurisdiction to investigate fraud in the gathering of petitions, the MCRC felt compelled to hear the testimony of concerned citizens.

³ Copies of the Michigan Civil Rights Commission's policies are attached as exhibits b.

The Public Hearings Process

The MCRC convened a public hearing in Detroit on January 11, 2006, to hear testimony of fraud.

Citizens traveled from across the state to provide testimony at the Detroit hearing. For example, Sammy Williams from Benton Harbor and several individuals from Flint traveled to Detroit to testify. After the second hearing, held in Flint, the public response to the hearings intensified, and the commission scheduled two additional hearings in Lansing and Grand Rapids.

The Commission sought inclusion of all views on this issue and invited MCRI to attend the hearings. The response from MCRI was to release a statement issued by Jennifer Gratz, Executive Director of MCRI. In the statement Ms. Gratz stated:

Tonight MCRC will hold a hearing on baseless claims . . . and that MCRI highly doubts the MCRC is capable of conducting a fair and impartial hearing on this issue given its vocal and public opposition to our initiative.

Ms. Gratz also stated that the allegations of fraud in the circulation of petitions have been reviewed by the Bureau of Elections, the appropriate body to investigate election claims, and have been found to be without merit.⁴

These statements were incorrect at best, and intentionally misleading, at worst. Ms. Gratz and MCRI petitioned the court to restrict the Board of Canvassers from conducting a thorough review of the conduct of MCRI circulators. To date, the public hearings convened by MCRC and this report represent the only review of MCRI circulator conduct.

With the exception of public officials who attended to give welcoming remarks, all testimony was taken under oath and transcribed by Network Court Reporting Service. People of all ages provided testimony. This included students who testified about how their parents and relatives were deceived, union representatives who testified about the deception of their members, and senior citizens who spent their entire lives fighting against racism and supporting affirmative action who found that their names appeared on a ballot petition to eliminate affirmative action, without their knowledge.

The citizens who testified presented credible and compelling evidence about deliberate and orchestrated fraud committed by circulators. Although the testimony came from both African American and White citizens, it became clear to the MCRC that the conduct of the circulators was not limited to a small number of isolated incidents, but rather a strategy that targeted African American citizens on a statewide basis. The petition circulators frequently chose locations where it would be expected that a large number of supporters of affirmative action would congregate, such as churches and community

⁴ MCRI Release, Jan. 6, 2006 Exhibit 5 of the Detroit Hearing transcript and exhibit c.

gatherings in African American neighborhoods. It was at these venues that African American circulators would ask voters to sign a petition to support affirmative action.

In order to have as much information as possible to assist the Court, and to have a fully informed Commission, the MCRC issued a Commission Order for MCRI to produce evidence. The requested evidence would assist MCRC in identifying circulators and their managers, and to determine what they were told about how to gather petitions and what they actually were telling voters who signed the petition.⁵ MCRI refused to comply with the narrowly tailored order that was issued under the authority of the MCRC as codified in the Michigan Constitution, the Elliott-Larsen Civil Rights Act and the Rules of the MCRC.⁶ Without the information requested in the MCRC Order and without the voluntary cooperation of MCRI to answer questions and concerns about the petition gathering process the MCRC cannot make an educated analysis of who is actually at the root of the fraud that has occurred.

Testimony at Public Hearings

Three groups or themes emerged from the public hearing testimony.

The first and primary group consists of citizens who claim to have personally been victims of fraud and deceit. These citizens signed the ballot petition under the belief that they were signing a petition in support of continuing affirmative action. This group also includes circulators who voluntarily testified about their role in these specific deceptive events. Some of these witnesses testified that they were prevented or not given the opportunity to read the petition before signing. Others stated that they did not take the time to read the petition because they believed the comments made by the circulator. These comments included representations that they were signing a document to support the minimum wage, a document to support affirmative action and/or a document to protect civil rights. A complete record of witness testimony is set forth in the attached transcripts.

The second group included citizens who offered anecdotal or observational testimony about friends and/or relatives who signed the MCRI petition under the belief that they were signing a petition to support affirmative action. This group also consisted of citizens who were approached by circulators, but who did not personally sign the petition because they were previously aware of its true purpose or because they read the petition and understood it to be an anti- affirmative action petition.

The third group included citizens who were neither directly or indirectly involved in the petition signing process, but who voiced outrage that in their view, such reprehensible conduct occurred and that no action was taken to void the petitions or to punish the organizers of the petition drive.

⁵ MCRC Order attached as exhibit d.

⁶ MCRI May 30, 2006, response to MCRC Order attached as exhibit e.

The purpose of the hearings was to focus on conduct in the gathering of petition signatures. When a person in this third group began their testimony, the Commission felt obligated to allow that person a short period of time to voice their concern. These comments were not invited by the Commission. Although these citizens presented no direct evidence, they expressed the anger, frustration, shame, embarrassment, and outrage experienced as a result of the conduct of the MCRI petition gatherers.

Testimony in Detroit

The first public hearing was held at Cadillac Place in Detroit on January 11, 2006. Approximately 450 concerned citizens attended this hearing; a number well over the venue seating capacity.

Ruthie Stevenson, President of the Macomb County Chapter of the NAACP, testified that she was approached outside the Mt. Clemens Post Office by an MCRI circulator. She was asked to sign a petition about affirmative action and was told by the circulator that Ruthie Stevenson supported the petition. Ms. Stevenson stated that she told the circulator, "I'm Ruthie Stevenson, and I'm not in support of this divisive initiative," and the circulator walked away. Ruthie Stevenson also read an affidavit of Noah Felix who was also told by a circulator that Ruthie Stevenson supported the petition.

Six representatives from AFSCME Local 207 testified that they and other members of the Local were tricked, duped and misled into signing the MCRI petition. Local 207 represent the Detroit water and sewer treatment workers.

In addition to voters being given fraudulent information about the MCRI petition, Sammy Williams, an African-American circulator, testified that he was told the petition was for affirmative action. Williams further testified that if he had known it was to ban affirmative action he never would have signed or circulated it.

In addition to hearing testimony from 28 citizens in Detroit, the MCRC received 218 affidavits and documents signed by citizens who state they were misled or fraudulently induced to sign the ballot petition.

Of particular note are a letter written by Wayne County Circuit Court Judge Robert L. Ziolkowski and an affidavit signed by Genesee County Circuit Court Judge Archie L. Hayman.

Judge Ziolkowski stated that he was approached by a circulator to sign a pro-affirmative action petition while shopping at a pharmacy in Detroit. After signing the petition, he heard customers talking about the representations made by the circulator. Judge Ziolkowski confronted the circulator and verified that the circulator's representations were false. The circulator told Judge Ziolkowski that she was instructed to present the MCRI as a pro-affirmative action ballot proposal.

Judge Hayman's affidavit states that he was misled by a petition circulator to believe that the petition was a civil rights petition for affirmative action and other equal opportunity programs. Judge Hayman stated if he had been informed that the petition aims to eliminate or limit affirmative action and other equal opportunity programs, he never would have signed this petition.

The hearing in Detroit ended at 8:47 pm, with over 20 citizens still waiting to testify. During the hearing, MCRC Commissioner Kelvin Scott asked that a second hearing be scheduled in Flint to accommodate people who were unable to give testimony due to time constraints.

Testimony in Flint

A second hearing before the MCRC was held on February 8, 2006, at the Mott Center on the University of Michigan Flint Campus. Approximately 200 citizens were present.

The Commission received sworn testimony from 31 citizens and received 106 affidavits from citizens concerned about their experience with MCRI petition circulators.

The MCRC heard repeated testimony that petition circulators represented the proposed constitutional amendment for which they were soliciting signatures as being "in support of affirmative action" and civil rights. As former Flint Mayor Woodrow Stanley stated, "I don't remember the exact words, but I know the pitch was not, 'Do you want to sign a petition to get rid of affirmative action?' That is not what was said on any of the three occasions when I had an opportunity to encounter circulators."

Ms. Kathleen Butler stated that when she asked the circulator if this petition was for affirmative action, the circulator answered "Yes." She stated, "I'm very upset that I was duped into signing this petition. I feel like I was lied to, deliberately lied to. I never, ever would sign a petition like this."⁷

Ms. Kim Peterson stated that a petition circulator told them that the petition was against discrimination and "for affirmative action." She read the proposed amendment and determined this was not at all "for" affirmative action and she did not sign the petition.

James Edwards, Fred Anthony, and William Allen each stated that a petition circulator had told them that the petition was against discrimination and "for affirmative action."

Another woman, Ms. Heather Miller, brought affidavits from five circulators who affirmed that they did not realize that they were circulating a petition that was against affirmative action.

Reverend Willie Hill stated that he was told by a circulator that the petition was to keep affirmative action. It was reported that petitioners also told signers that the amendment

⁷ MCRC February 8, 2006, Flint Hearing Transcript pg. 16

would help their children get into college, or that it would help the petitioner go to college.

Ms. Deidre Belton stated that she believes circulators who were incompetent and unable to question or comprehend the nature of the proposal on the petition, were intentionally recruited by MCRI so that they would disingenuously mislead potential signers.

Others commented about the fact that so many signatures were obtained in urban communities with largely African American residents. About one-quarter of the total number of signatures gathered by MCRI are likely from African American individuals. It was felt that these communities were targeted by MCRI who hired African American circulators, suggesting to them that the petition drive would ensure civil rights. In turn the African American circulators, motivated by money, unwittingly persuaded fellow African Americans to sign a petition for an amendment that they would not have knowingly supported.

Kathryn Blake testified about how a black female circulator at the Flint African American festival tricked a substantial number of African Americans (including Katherine Williams the CEO and curator of the Museum of African Ancestry and Research Center) to sign the petition, saying it is for affirmative action.

The hearing ended at 9:00 pm by prior agreement with the venue. When the hearing ended, there were still over a dozen citizens who had requested to speak to the Commission, but due to time constraints could not be heard.

Testimony in Lansing

The third hearing was conducted at Gier Park Community Center in Lansing, Michigan on May 8, 2006. Approximately 125 individuals attended.

In Lansing, testimony again revealed that citizens had been subjected to misleading statements and intentionally presented with misinformation by MCRI petition circulators.

At this hearing, a petition circulator, Reverend Nathaniel Smith, described the petitioner orientation that he attended. He stated that petitioners (about 35 to 40 African American persons) were told that this ballot proposal was about keeping and maintaining civil rights. He had no idea that he was circulating a petition against affirmative action until a citizen told him. He stated that he then read the proposal and was humiliated and embarrassed when he realized that he had gathered at least 500 signatures that would place this type of amendment on the ballot. He stopped gathering signatures. He stated that he believed hundreds of people had signed the petition under false pretenses.

A state representative from the Lansing area, Mr. Michael Murphy, declared that he and other state representatives had repeatedly heard from constituents that they had been tricked into signing the MCRI petition. These constituents had been told that successful

passage of the MCRI would strengthen fairness and equity and opportunity in the state. These citizens were unaware that they were signing a petition to place an amendment on the ballot that would end affirmative action programs within the state.

A 17 year old high school student from Detroit, Jevon Cochran, relayed how his grandfather, aunts and uncles were tricked into signing the MCRI petition. One of his aunts was approached at Wayne State University and given misinformation; she also signed the petition.

Shirley Schwartz, a citizen who strongly supports affirmative action, stated that she was at a University of Michigan function when an African American woman who was circulating the petition approached her. When she asked the circulator about the petition, she was told that it was for affirmative action. She believed that she and many others, who were waiting in line to sign the petition, were misled by the circulator.

Joyce Schon presented 31 affidavits from voters to the commission. She stated that these individuals saw their names on a website that identified MCRI petition signers. These people were visibly upset to discover that they had signed something that could lead to the end of affirmative action. All explained how the ballot language was misrepresented to them by the circulator.

Michigan State University Professor William Allen, the only MCRI supporter to testify at any of the four hearings, testified that he found the petition to be clearly understandable and not misleading.

Some citizens voiced concern regarding illegal procedures employed by MCRI circulators. For example, Ms. Debra Gomez stated that she signed a petition that was left on a table in her housing complex with no circulator present. This is contrary to the affidavit signed by the circulator that affirms he or she has observed the citizen signing the petition.

Testimony in Grand Rapids

The fourth and final hearing was held in Grand Rapids at the Grand Rapids Public Schools Administrative Offices on May 22, 2006. The auditorium held 250 people and the seating was at capacity, including "standing room only." Others not able to get into the "packed" auditorium were watching on a monitor in the hallway outside of the auditorium.

Robert Womak, who hosts a radio talk show on WJNZ, 1140 AM, targeted to the African-American community, testified about allegations of fraud that he heard from callers when he read the names of Grand Rapids petition signers on his radio program.

One granddaughter called in and said her grandmother's name was on the petition but that she can't read or write, and seldom leaves the house. Others called in and said their

names were on petitions with old, invalid addresses. It is believed that these individuals would never have signed using these obsolete addresses.

Several voters in Grand Rapids including Deron Jackson and Tina Belbot testified that they signed the petition after being told it was a petition to raise the minimum wage.

Robert Davidson testified that he and his wife were registering voters in front of a store in Kalamazoo when he saw a ballot circulator who was mainly approaching only Black citizens and asking them if they wanted to sign a petition for affirmative action. Davidson testified that he knew the MCRI petition was going around and after telling a few people to read the petition before they signed it, the circulator subsequently got into his truck and drove off.

Lupe Ramos Montigny is a teacher, political and community activist and a self described product of affirmative action. Ms. Montigny stated she signed the petition without reading it because she was asked by an MCRI circulator if she wanted to protect affirmative action.

Rosie Smith testified that her name appeared on the signature list in support of MCRI. However, Ms. Smith said her name appeared as Rosie Lee Smith and she never uses Lee and only signs as Rosie L. Smith. She stated that she doesn't remember signing any petition in support of MCRI.

Edwina Cervantes stated that she was asked to sign a petition to increase the minimum wage and later found her name as an MCRI ballot proposal signature.

Danee Mayhue stated that she never signs her middle name Dannee Sue Mayhue as it appeared on the ballot petition.

Quincy Watson testified that his friend was circulating the MCRI petition and insisted that it was to preserve affirmative action. Mr. Watson stated that he went with his friend to meet the individuals who were employing his friend as a circulator. It was a husband and wife team. Mr. Watson further stated that he asked these agents of MCRI to confirm that the petition was for affirmative action. They declined to do so. The friend was being paid \$1.50 per signature.

Summary

The MCRC approached the public hearing process in an objective, inclusive manner.

Every effort was made to obtain testimony from MCRI including the issuance of a valid, lawful, narrowly tailored Order to produce relevant information. The failure of MCRI to comply with the MCRC Order effectively precluded a complete assessment of these allegations.

The weight of the evidence received in the form of sworn testimony and affidavits offered by aggrieved citizens from across the state, paints a disturbing picture of deception and misrepresentation.

Hundreds of concerned citizens attended the four MCRC hearings. They did so in many cases after working all day and often driving long distances. The hearings were crowded and in some cases uncomfortable. Still, the people came and stayed to give and hear testimony, and to support their families, friends, and neighbors who also attended the hearings.

The results of MCRC hearings were not based on the actions of a few disgruntled opponents of MCRI who are putting forth baseless claims of fraud. At least two circuit court judges believed they were deceived into signing the petition, as does Hannah McKinney, the Mayor of Kalamazoo. Attorneys, educators and other professionals have also testified or signed affidavits as to how they were purposely tricked and deceived into signing the petition. The MCRC believes that the number of people who have come forward is just the tip of the iceberg. There is substantial credible testimony that MCRI's efforts to change the Constitution of the State of Michigan rest on a foundation of fraud and misrepresentation.

Findings and Recommendations

The Commission, in light of the testimony obtained during the public hearing process, makes the following findings and recommendations:

- The instances of misrepresentation regarding the content of the MCRI ballot language are not random or isolated. These acts occurred across the state, in multiple locations in the same communities, and over long periods of time.
- The impact of the acts of misrepresentation is substantial. It appears that the acts documented in this report represent a highly coordinated, systematic strategy involving many circulators and, most importantly, thousands of voters.
- The events at issue in this report highlight the gap between two responsibilities: first, the responsibility of voters to read and understand the content of ballot language when signing a circulator's petition; second, the responsibility of MCRI and its agents to be truthful. A failure of the first responsibility should not permit abrogation of the second. The conduct of MCRI to avoid false and misleading statements is of paramount importance irrespective of all other events.
- In the absence of intervention by the Michigan Attorney General or an Order of the Michigan Supreme Court, victims of voter fraud perpetrated by MCRI and/or agents of MCRI in the gathering of ballot signatures lack relief or remedy. The Secretary of State Bureau of Elections lacks jurisdiction and the Michigan Board of Canvassers has been restricted, as a result of MCRI litigation, from investigating the conduct of circulators.

- The Michigan Attorney General enjoys the authority to conduct an investigation into voter fraud involving MCRI and/or agents of MCRI and should conduct such an investigation to preserve the integrity of Michigan's electoral process.
- The Michigan Supreme Court should reconsider and grant Leave to Appeal to Operation King's Dream in the matter of *Michigan Civil Rights Initiative v. Board of State Canvassers* 206 Mich App 506 (2005).
- The Michigan Supreme Court should exercise its jurisdiction in equity to address this matter as provided by the Constitution or by law. MCR7.301(A)(7)
- The Michigan legislature should support strong preventative laws to prevent similar acts of misconduct in the future.