



THE BOARD

William Barclay Allen
Chairman

Barbara J. Grutter
President & Treasurer

Carol M. Allen
Secretary

Mickey Craig
Board Member

Darryl Curtis
Board Member

Chuck Yob
Board Member

Levon Yuille
Board Member

June 12, 2005

The Honorable Mike Cox
Attorney General
State of Michigan
P.O. Box 30212
Lansing, MI 48909

Dear Mr. Cox:

Having seen press reports of the pending report of the Michigan Civil Rights Commission on the signature collection process for the Michigan Civil Rights Initiative, having presented testimony in the course of the Commission's ceremony, having signed the petition that was circulated, having been approached by a random signature gatherer, having served as member and chairman of the U.S. Civil Rights Commission, and serving now as Chairman of Toward A Fair Michigan (in which capacity I have particularly observed the process of politicking and the attempt to sway public opinion on this pending measure), I write to share my profound concern that the Michigan Civil Rights Commission intends to issue a report deliberately calculated to influence the outcome of the political process. Moreover, I have credible evidence that the Commission seeks to do this by means of a systematic misrepresentation of the facts of the situation, and in open collaboration with an interested party in the political process.

I do not make these allegations lightly, for I have enormous respect for the public institutions constituted to safeguard the accomplishments we have relied upon in the protection of civil rights. As an American black, I am particularly sensitive to ensure that the uses of race remain free of taints of abuse and deliberate belittling. And surely, nothing is more deliberately belittling than the reported argument that, because black citizens signed the petition, it is obvious that they could not have known what they were doing. If there were such a thing as "hate speech" in the prosecution of political objectives, this assumption of inherent incapacity would surely qualify.

The specific facts I would convey are three. First, the Commission performed only the most desultory investigation and failed completely to conduct any clarifying cross-examination even in cases where the testimony was on its face doubtful. Secondly, the Commission ignored direct testimony that ran counter to its

Attorney General Cox
June 12, 2006

originating thesis in the investigation, which was spurred by a construct first devised by the group, *By Any Means Necessary*, which has been engaged from the beginnings in a radical and extreme political opposition to the initiative. Thirdly, sufficient evidence exists – and the Commission received testimony to the effect – that at least some of the testimony it received was, if not suborned, at least solicited upon the representation that it did not matter if it was true.

In the first case, I observed a witness testifying that he was one of the signature gatherers, that he regretted participating, and that he was deliberately misled by the firm contracted to obtain the signatures. At no time, however, did the Commission ever inquire, nor did this particular witness ever acknowledge, that he had signed the petition. Thus, it is highly problematic that someone who alleged that he was under the impression that this was a good thing, designed to preserve affirmative action, failed to testify that he had actually signed the petition for which he solicited so many signatures from others.

In the second case, I testified to having read, understood, and signed the petition. I also indicated deep skepticism that any professional could have failed to understand the petition and that any professional could have signed it without reading it. Nor do I see it as sensible to displace the responsibility from the shoulders of such individuals to the signature gatherers, if the signers themselves did act so irresponsibly. Moreover, I testified to being approached in a public setting (the Ann Arbor Art Festival) by a signature gatherer who in no way misrepresented the petition. My testimony was volunteered, solicited by no one, and a direct response to the Commission's published request for testimony (though in fact the Commission only solicited testimony to corroborate the allegations).

In the third case, I was largely moved by having witnessed an operative from BAMN (Operation King's Dream) appear at Sunday worship before the congregation in which I worship to speak at great length (about 15 minutes) to urge members of the congregation (almost all black citizens) to appear to testify before the Commission. This exhortation included the specific assertion that it did not matter whether persons had signed, or could remember having signed, the petitions at all. It would suffice, it was suggested, if they might have signed, and therefore could appear to testify that they were misled to think that it was in support of affirmative action. I testified fully to this effect to the Commission, but the Commission did not consider the testimony (which could be corroborated by several hundred persons) worthy of notice of follow up.

For these reasons, I could consider it necessary to advise you and the public at large that it is highly likely the Michigan Civil Rights Commission has abused the public trust in the manner that it has prosecuted this "cause." Further, that they have likely done so is as much as "confessed" by the Commission's Executive Director, Linda Parker, who is quoted in the newspaper, *The Chronicle* (May 13-20, 2006 issue), as stressing the need to get information "to the people by any means necessary." Those code words, "by any means necessary," are the calling card of the political operatives seeking to defeat the initiative.

Attorney General Cox
June 12, 2006

My testimony was provided at the hearing in Lansing on May 8, 2006. That hearing was interesting in many ways, not the least of which was that, though I arrived and signed in first, I was ignored and not called to satisfy until such point as I expressed astonishment at the treatment I was being afforded. Additionally, the testimony that was given, despite strongly leading questions from the Commission, was far from confirming the allegations. Thirteen persons spoke, five of whom directly acknowledged working for and with BAMN or the other political campaign, One United Michigan. Additionally, only five of the thirteen actually claimed to have signed the petition, one of whom said she had signed an unattended petition in an apartment building lobby. This individual provided a moment of rare truth about the overall process in her response to a question from one of the commissioners about why she was concerned about having signed the petition. She said she was concerned because people told her she should be concerned. Another could not recall what she had been told at the time she signed, and yet another did not read the petition language. Yet one other speaker, a lawyer, claimed to have been misled about the petition because it was called a "civil rights measure," which just happens to be the very name of the initiative. He did not recall where he signed it, though he knew exactly what he was told, and further declared that he did not understand the language (as opposed to not having read it), although he is a lawyer. Yet one other said she stood in line for thirty minutes to sign the petition, and did not read it! One speaker did not recall actually signing nor what she was told, but much like the members of my congregation were urged to do, she testified that she "could not have signed it unless she was misled" by someone.

This, then, is the character of the record upon which the Michigan Civil Rights Commission has made such extraordinary demands of your office and the Supreme Court. I submit that it merits a very careful investigation of the use of public monies in a frankly political campaign.

Most sincerely,



William B. Allen
Chairman