



Facsimile Cover Sheet

Date	June 15, 2006	Fax #	484-762-5100
Time	10:40 AM	# of Pages	12
			(Including cover sheet)

TO: Chetly Zarko

FROM: Candace Chivis *CC*

FOIA Coordinator

MESSAGE:

**Attached are the exhibits that were attached to the MCRC report
filed with the court on June 7, 2006.**

Via fax and US Mail

Notice of Confidentiality: The information contained in this facsimile message is intended only for the personal and confidential use of the designated recipients named above. This message may be worker-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient, you are hereby notified that you may have received this document in error, and that any reviews, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us.



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF CIVIL RIGHTS
DETROIT

LINDA V. PARKER
DIRECTOR

June 15, 2006

Mr. Chetly Zarko



Re: MDCR# 359808 Your request dated June 14, 2006 for Public Records
under the Freedom of Information Act

Dear Mr. Zarko:

On June 14, 2006, the department received your request for a copy and/ or inspection of the following:

Documents described by you as, "all material the Commission has collected related to the Michigan Civil Rights Initiative report issued on Monday."

A telephone call to you by George Wirth, on Wednesday, June 14, 2006, resulted in a clarification of your original request. It is my understanding that you only want copies of the transcripts from the MCRC hearings held regarding the MCRI petition signature gathering; and copies of the five exhibits referenced in the MCRC report filed with the Michigan Supreme Court on June 7, 2006.

The transcripts were electronically forwarded to you on Wednesday, June 14, 2006.

Enclosed you will find the exhibits that were attached to the MCRC report filed with the court.

Your request has been granted. The requested documents are enclosed.
The copying fee has been waived for this request for administrative reasons.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Candace Chivis".

Candace A. Chivis

FOIA Coordinator

phone: 313-456-3819

fax: 313-456-3831

email: ChivisC@michigan.gov



STATE OF MICHIGAN
 TERRI LYNN LAND, SECRETARY OF STATE
 DEPARTMENT OF STATE
 LANSING

July 13, 2005

STAFF REVIEW OF INITIATIVE PETITION

SPONSOR: Michigan Civil Rights Initiative Committee, P.O. Box 1398, Southgate, Michigan 48195

DATE OF FILING: January 6, 2005.

NUMBER OF VALID SIGNATURES REQUIRED: 317,757 signatures.

TOTAL FILING: 70,569 sheets containing 508,159 signatures.

SIGNATURE SAMPLE

NOT INCLUDED IN SAMPLE: 364 sheets; 2,189 signatures.

	<u>Sheets</u>	<u>Signatures</u>
Circulator certificate defective:	133	852
County of circulation entry defective:	108	158
All signatures on sheet defective:	10	9
Signatures dated more than 180 days prior to filing:	113	1,170
	364	2,189

INCLUDED IN SAMPLE: 70,205 sheets containing 505,970 signatures.

SAMPLE SIZE: 500 signatures.

SAMPLE RESULT: 450 valid signatures; 50 invalid signatures.

Valid signatures	
Registered signers:	450
Invalid signatures	
Facially defective signatures:	12
Signatures determined invalid due to signer's registration status:	38
Total	500

Exhibit a.

ANALYSIS OF SAMPLE RESULT

- The signature validity standards employed by staff when sampling the petition were consistent with established law and current Board practices and policies; no new signature validity standards were employed.
- Forty-two (42) signatures identified in the challenge filed against the petition are among the 50 signatures determined invalid in the sample.
- The estimated number of valid signatures which appear on the petition as determined under the sampling process is 455,373. (See attached "Results from MCRI Petition.") Based on the standard procedures traditionally employed to sample petitions, the sample data demonstrates that the petition is sufficient.

SUMMARY OF CHALLENGE DATA

The challenge is unique as it heavily relies on the alleged "misrepresentation of the petition" by petition circulators while collecting signatures from Michigan voters. Misrepresentation of a petition has not been presented to the Board as the critical issue associated with the sufficiency of an initiative petition. The staff report reaches no conclusions on the legal authority of the Board to consider misrepresentation as a basis for finding petition signatures invalid. The following summary is the result of an analysis of the challenge documents and is intended to advise the Board on the categories of challenges that would have to be accepted in order to determine the petition invalid. A more detailed analysis follows the summary.

- A total of 325 signatures are identified in the challenge. After processing the challenge, staff identified 42 invalid signatures as referenced above and 88 challenges that are unacceptable. The reasons for determining the 88 challenges unacceptable are detailed in the accompanying documentation.
- The remaining 195 challenges involve issues related to the alleged "misrepresentation" of the petition and remain unresolved at this date.
- Had the sample revealed that the number of valid signatures was 297 or less, the petition would be insufficient. At least 153 of the 195 misrepresentation challenges would have to be accepted to render the petition insufficient.
- To reach the insufficiency threshold (i.e., an additional 153 invalid signatures) it would be necessary for the Board to determine invalid:
 - 3 signatures challenged on the basis of "misrepresentation" which are supported by a personalized statement;

- 32 signatures challenged on the basis of "misrepresentation" which are supported by a form statement executed by the signer;
 - 10 signatures challenged on the basis of "misrepresentation" which are supported by a statement executed by the circulator;
 - 36 signatures challenged on the basis of "misrepresentation" which are supported by a statement executed by a person who claims that he or she interviewed the signer by phone; and
 - at least 72 signatures challenged by implication. The signatures challenged by implication are not supported by a statement executed by either the signer or the circulator. To reach 72 invalid signatures in this category, the Board must determine invalid:
 - 1) 38 signatures collected by circulators who *other signers* allege misrepresented the petition; and
 - 2) at least 34 signatures collected by circulators who are alleged to have misrepresented the petition according to persons who claim to have conducted phone interviews with *other signers* who interacted with the circulator.
- It merits observation that any determination that signatures challenged by "implication" are invalid would necessarily be premised on three assumptions 1) that the circulator misrepresented the petition to every signer he or she encountered 2) that every signer who interacted with the circulator did not understand the purpose of the petition and 3) that every individual who signed the petition at the request of the circulator would wish to have their signature determined invalid.

**KEY TO ACCOMPANYING CHALLENGE DOCUMENTATION AND
"MISREPRESENTATION" CLAIMS**

--- Challenge Status ---				
Categories	Unresolved	Rejected	Overlap	Total
A - Alleged misrepresentation of petition	68	7	1	76
C - Alleged deception: circulator statements	4	0	0	4
D - Invalid date	0	0	2	2
F - Alleged forgery or fraud	0	6	0	6
H - Alleged invalid or nonexistent address	0	1	1	2
I - Alleged illegible or incomplete information	0	3	1	4
R - Registration status challenges	0	30	13	43
Z - Alleged circulator deception	90	29	6	125
Signatures subjected to multiple challenges	33	12	18	63
	195	88	42	325

"MISREPRESENTATION" CLAIMS: The signatures challenged on the basis of "misrepresentation" are reflected in the above chart as described below:

- In 3 instances, the voter drafted and executed a personalized statement which alleges misrepresentation (all 3 are included under category "A").
- In 32 instances, the voter executed a form statement supplied by the petition opponents which alleges misrepresentation (29 are included under category "A"; 3 are included under "Multiple" - the last category on the chart).
- In 10 instances, the circulator who collected the signature executed a statement which alleges misrepresentation (4 are included under category "C"; 6 are included under "Multiple" - the

last category on the chart. In 3 cases, the signers also executed form statements; in 1 case, a person who claims to have interviewed the signer by phone executed a statement).

- in 36 instances, someone who claims to have interviewed the signer by phone executed a statement which alleges that the petition was misrepresented to the signer (all 36 are included under category "A").
- In 114 instances, no statement was executed by the signer or the circulator. Instead, the signature was challenged because it was collected by a circulator alleged to have deceived other signers included in the sample (90 are included under category "Z"; 24 are included under "Multiple" – the last category on the chart). Of the 114 signatures challenged on this basis, 38 of the challenges are based on form statements executed by other signers; 73 of the challenges are based on statements executed by persons who claim to have interviewed other signers by phone; and 3 of the challenges are based on personalized statements executed by other signers.

MICHIGAN CIVIL RIGHTS COMMISSION

Proposed Policy Statement Regarding Affirmative Action Plans

Section 210 of the Elliott-Larsen Civil Rights Act, P A. 453 of 1976 as amended states:

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 commission approves the plan.

Affirmative action plans which are carefully designed to overcome the pervasive current and past effects of discrimination are permissible by law

An affirmative action plan shall include:

1. Reason for the underutilization of the racial or ethnic groups that identifies specific problematic employment practices, that caused the problem. The reason cannot be benign, nor solely to promote diversity.
2. Identification of the current effect of past discrimination and a narrowly tailored remedy to overcome that effect.
3. Relatively short parameters for the duration of the plan.
4. Flexible measurements which do not unnecessarily trammel the rights of others

The Commission will not consider for approval any affirmative action plan which lacks a factual predicate (demonstration of the present effects of past discrimination) or for which the time period for coverage has expired.

Adopted: October 18, 1999

C:\MyFiles\WPwin\PositionStatements\PosStat.AffActPL.wpd

VOLUNTARY AFFIRMATIVE ACTION PROGRAMS

Affirmative action is often necessary to eliminate segregated patterns in the work place. The past systemic exclusion of minorities, women and handicappers from the work force has operated to deprive them of equal opportunities in gaining employment and obtaining advancement.

The effects of these employment practices cannot be eliminated merely by removing prejudicial attitudes from future personnel decisions. Positive steps are required to enable minorities, women and handicappers to share in the benefits and rewards derived from meaningful employment.

Voluntary compliance is and always has been the preferred method of achieving equal employment opportunities for protected groups. Affirmative action programs have generally been regarded as sound business practices. Through the institution of such programs, the employer's exposure to costly civil rights litigation is reduced. Through the implementation of such programs, employment decisions are based solely on job related criteria and produce better results.

Section 210 of the Elliott-Larsen Civil Rights Act and Section 208 of the Michigan Handicappers' Civil Rights Act provide employers with the opportunity to submit to the Commission affirmative action plans designed to "eliminate (the) present effects of past discriminatory practices or ensure equal opportunity with respect to religion, race, color, national origin, sex, ... or handicap." The Michigan Civil Rights Commission encourages employers, pursuant to these statutory provisions, to develop affirmative action plans, in accordance with Department guidelines, and submit these plans to our agency for approval.

ADOPTED: November 13, 1978

Jan 11 2006 12:11PM

MDCR-DHR/UMSP

No 21415 P 2/2



Paid for with regulated funds by the

Michigan Civil Rights Initiative Committee

PO Box 1398, Southgate, MI 48195 www.michigancivilrights.org 734-730-4842

Statement of Jennifer Gratz
Executive Director, Michigan Civil Rights Initiative

To the Michigan Civil Rights Commission:

The Michigan Civil Rights Initiative is dedicated to giving the people of Michigan the opportunity to end preferential treatment based on race, gender, ethnicity, or national origin by State or local governments, to that end, we believe that civil rights belong to everyone and are not the sole propriety of a single group or individual.

Last January, MCRI submitted more than half-a-million petition signatures asking voters to end racial and gender preferences in university admissions, state employment and government contracting. The Michigan Secretary of State has certified these petition signatures, and the Michigan Court of Appeals has ordered this initiative on the November ballot.

Tonight, the Michigan Civil Rights Commission will hold a hearing on the baseless claims put forward by a group whose very name indicates it will use any means necessary to accomplish its radical political agenda, including breaking the law and intimidating voters and state officials.

MCRI highly doubts that the Michigan Civil Rights Commission or the Department of Civil Rights is capable of conducting a fair and impartial public hearing on this issue given its vocal and public opposition to our initiative.

Nearly all of the allegations of "fraud" have been made by the group By Any Means Necessary, a group whose name - and pattern of behavior - makes clear its willingness to deceive, intimidate and break the law to advance it's agenda.

These allegations have been reviewed by the Bureau of Elections, the appropriate body to investigate elections claims, and have been found to be without merit.

MCRI cooperated completely with the Bureau of Elections when it reviewed BAMN's claims. For each and every allegation, we provided evidence showing how MCRI set the gold standard for following Michigan elections law in circulating its petitions. The Bureau of Elections has already determined these allegations did not merit further review or investigation. And even today, state Elections Director Chris Thomas said of BAMN's allegations, "They just never made their case."



**STATE OF MICHIGAN
CIVIL RIGHTS COMMISSION**
ORDER

Commission Address

 110 W. Michigan Avenue, Suite 800
 Lansing, MI 48913

Telephone

517-335-3165

In the Name of the People of the State of Michigan.

TO: Michigan Civil Rights Initiative, P O Box 1818, Southgate MI 48195

YOU ARE ORDERED TO:

1.

Produce the following items, in person or by mail, on or before the date, time, and place listed at Number 2, below:

(1) Name, Address and Telephone Number of all Petition coordinators and copies of signature tally sheets

(2) All material used to train, educate, suggest statements or responses by circulators to questions regarding MCRI and the petitions.

(3) List of all MCRI offices and paid employees

(4) Name and address of all organizations that MCRI contracted with in connection with the efforts to gather signatures on the ballot petition.

(5) All documents and materials provided to MCRI by any organization that MCRI contracted with in the effort to gather signatures on the ballot petition

(6) All documents and materials provided by MCRI to any organization that MCRI contracted with in the effort to gather signatures on the ballot petition

2.

Place		
Michigan Civil Rights Commission 130 W. Michigan Avenue Lansing, MI 48913		
Attention: George Wirth		
Day	Date	Time
Tuesday	May 30, 2006	12:00 Noon

Failure to comply with this order may subject you to enforcement proceedings in the Circuit Court of the State of Michigan.


Issued By

 Mark Bernstein, Commission Chair

Date

FROM : LAN EXEC

FAX NO. : 5172410546

May. 30 2006 11:04AM P1

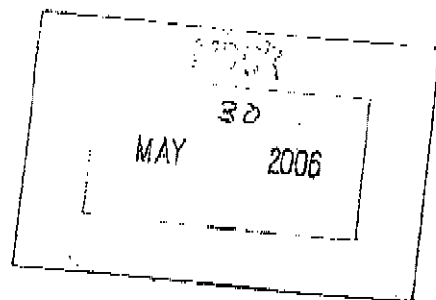


Michigan Civil Rights Initiative Committee

www.michigancivilrights.org

Affirmative Action was Never Meant to Include Racial Preferences

5/30/06



Michigan Civil Rights Commission
Attn: George Wirth
110 W. Michigan Ave.
Lansing, MI 48913

Mr. Wirth,

In accordance with Article 5 section 29 of the MI Constitution of 1963, the Commission is required to have court authorization when requesting records. If we receive a court order, we will comply with that court order.

Furthermore, we request you specify which law or statute you believe we are in violation of that would prompt you to request this information.

Sincerely,

Jennifer Gratz
Executive Director

Cc: Michigan Attorney General Mike Cox