

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERALDANA NESSEL
ATTORNEY GENERAL

M E M O R A N D U M

Memorandum Recommending Closure

[Rev. 02/11/2020]

February 24, 2021

TO: Danielle Hagaman-Clark
Division Chief
Criminal Trials & AppealsAPPROVED: Fadwa Hammoud 3.16.2021
Solicitor General Date Check here when Division Chief has final approval authority for the request.FROM: Richard Cunningham *RLC*
Assistant Attorney General
Criminal Trials & AppealsAPPROVED: Danielle Hagaman-Clark 3/2/2021
Division Chief DateRE: **Recommendation to Close File Without Filing Criminal Charges**
Due Date for Response: March 10, 2021 – Administrative Control Date
Unlock Michigan
AG No. 2020-0301943-A

Victim's position: N/A – Alleged Violations Of Election Law

Recommendation:

For the reasons herein stated and discussed, I recommend that criminal charges be denied and that this file be closed without further action. A thorough investigation of the facts and circumstances surrounding the circulation of ballot question petitions uncovered insufficient evidence to go forward on criminal charges. While the investigation found evidence of sleazy practices and shady activity, the similarly unethical conduct of the witnesses to such activity makes prosecution of the circulators untenable. And while a person responsible for training such circulators made remarks which could be construed as encouraging illegal behavior, they simply did not rise to the level supporting criminal charges.

Danielle Hagaman-Clark

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Facts:

This case really arises out of a dispute between two partisan political groups. **Unlock Michigan** is a Ballot Question Committee identifying with Republican Party interests, while **Keep Michigan Safe** is a Ballot Question Committee identifying with those of the Democratic Party. The underlying cause of this particular dispute is a Michigan statute that grants the governor certain emergency powers.

The **Unlock Michigan** (Republican Party) position is that the Governor has misused the Emergency Powers of Governor Act of 1945 to assume sweeping, permanent powers the legislature never intended a governor to have, in violation of the Separation of Powers doctrine. It is spearheading a ballot initiative petition drive to repeal the statute. The position of **Keep Michigan Safe** (Democratic Party) is that the statute is necessary to keep the residents of Michigan safe during the ongoing COVID-19 pandemic, and that the executive power of the governor must be protected during the public health crisis. It seeks to defeat the ballot initiative.

Both of these Ballot Question Committees engaged in a media campaign to present their positions to the public. Both also hired independent contractors to assist them in attaining their respective goals. **Unlock Michigan** hired National Petition Management, Inc, a California corporation, to help obtain petition signatures. That company used subcontractors **In The Field, Inc.**, **Let The Voters Decide, LLC** and **Smart Petition Company** to assist in the signature collection effort. **Keep America Safe** hired the firm of **Byrum & Fisk** as its communications component. The political consulting firm of **Farough & Associates** also assisted **Keep Michigan Safe** in the effort to defeat the ballot proposal.

As part of their respective efforts, each Ballot Question Committee established a public website. Within each website there is information of particular relevance. The **Unlock Michigan** website solicits volunteer petition circulators and explains the legal requirements regarding the circulation of the ballot initiative petition. The **Keep Michigan Safe** website encourages citizens to report any violations of law or misconduct by petition circulators.

Shortly after the petition circulation campaign began, **Byrum and Fisk** began to receive reports and hear rumors that petition circulators were lying to voters about the content and purpose of the petition, leaving petitions unattended in public places and engaging in other forms of misconduct. In response **Farough & Associates** employees attended **Unlock Michigan** events and activities for the purpose of documenting illegal activity. **Farough & Associates** called these people "trackers", but subsequent investigation indicates they would more appropriately be called agents provocateur. **Byrum and Fisk** provided four videos of incidents recorded by the **Farough & Associates** "trackers".

The Tisinger Training Session

One of these “trackers” attended and recorded a training session conducted by Erik Tisinger on September 4, 2020. That person was identified as Richard Williamson. He was interviewed and reported that he was hired as a research and communications specialist by Farough & Associates on 8/13/20 and was assigned by Farough officer Gretchen Hertz to conduct opposition research and tracking regarding Unlock Michigan. He was told that his duties would involve the audio and video recording of Unlock Michigan events. Farough procured a video recorder that was disguised to look like a pen and shipped that “video pen” to Williamson’s home.

William Erik Tisinger (a/k/a Erik Tisinger) has worked as a professional petition circulator on and off since 2012. He began working as a manager for In The Field in January 2020. He came to Michigan in the second week of August 2020 to work both on the Unlock Michigan and another ballot initiative. He was trained by an In The Field employee, and signed a form acknowledging that he understood the rules concerning the circulation of petitions.

In The Field brought about 20 professional circulators in from out-of-state, and also recruited local citizens to circulate the Unlock Michigan petitions. Paid circulators were to receive \$3.50 for each signature he or she collected. Part of Tisinger’s duties as a manager was to train the local circulators. During the five weeks he spent in Michigan, Tisinger conducted four training seminars each week. The training sessions were held in Grand Rapids, Kalamazoo and Grand Rapids. All of the sessions were sparsely attended.

The session attended by Williamson was held in Grand Rapids. In addition to Williamson there were two other persons in attendance. Those other persons have been identified as T.J. Hurtman and Shawn Cronin. Williamson learned about the session by conducting on-line research. He participated by presenting himself as a prospective petition circulator. The session went from about 11:00 am to 12:30 pm, and covered techniques for circulating petitions. Williamson recorded the session by use of his “video pen.” He subsequently turned the recording over to Gretchen Hertz at Farough. The recording was subsequently provided to the Detroit Free Press.

During the session Tisinger informed the attendees that they did not have a right to circulate petitions on private property like supermarket and mall parking lots. He told them he routinely did this and indicated that a circulator could simply express ignorance if confronted by a store manager. He talked about how he dodged between cars in parking lots to avoid private property owners.

Among the most disturbing portion of the recording is this exchange between Tisinger and the trainees:

Tracker [01:16:52] I have a friend who has a store. Could I like, if I talk to him and I'm like, "hey, man, can I just keep this? Can you have this petition on your counter? So when customers come in, they can sign it?"

Erik (Petition manager) [01:17:02] Technically, no. It. None of you are recording anything right now are you?

Petition gatherer trainee No.

Erik (Petition manager) Yes.

Erik (petition manager) Don't ever tell me about it again.

Tracker]OK

Erik (petition manager) [01:17:19] I'm, and I never heard this conversation. You guys never heard this conversation. Umm, [01:17:28] You can. The thing is, is that we'll get. People. This is a real. This can be a real shady job. And when I say shady, I mean, people do all sorts of illegal shit all the time and never get caught. It's really hard to get caught doing shit except for, like, forgeries. I'm not going to tell you the things that people do because I don't want you guys to do that shit, but you can do that. The thing is, is that legally speaking, you're supposed to witness everybody who gets, who signs.

Tracker Oh, OK.

Erik (petition manager) There are periods of time, especially on petitions that are highly opposed. And this one is highly opposed because the governor is like fucking pulling her hair out about it. [pauses] You might get deposed. You might have to go and do a deposition where, you know, you're in court and you're getting grilled by people.

Tracker Yeah.

Erik (petition manager) Did you get this signature? This person said they signed it at, you know, a store and you

weren't the person that you know. And they will. They do. They contact people like it's they're fucking it it it can get [00:01:10]crazy. I've been deposed and it's super easy. I'm just like, yeah, I got all the signatures. Do you know Debbie? [01:18:37] Deborah blah, blah, blah said that she signed with a woman. Well, I had my hair down that day and was just freshly shaved.

Tracker Yeah.

Erik (petition manager)]Yeah. I mean, I've literally done that and [01:18:48] been a jerk about it, but it happens. You can get deposed. I mean this is ...

Tisinger was subsequently interviewed about the training session. He flat out denied ever encouraging any trainee to violate the laws controlling the circulation of petitions. He insists that he never directly told anyone that it was permissible to leave petitions unattended and cited the exact language of the portion of the transcript concerning leaving petitions at stores or other facilities. He emphasized that such action would be permissible, as long as the circulator was present and actually witnessed the voter sign the document.

Farough & Associates Encounters With Circulators

In addition to this video of the training session, there were three other videos made of separate incidents involving a “tracker”. Investigation concludes that all three of those recordings were done by Farough & Associates employee Gretchen Hertz. They appear to have been recorded by use of a cell-phone camera or a “video pen” like that sued by Williamson. One was recorded at the Brighton Farmer’s Market, the second at the Falcons Nest Restaurant, and the third at Howell Western Wear store. Ms. Hertz, a licensed Michigan attorney, declined to be interviewed about the videos unless and until she is provided with a Kastigar agreement giving her immunity for any statements.

Brighton Farmers Market Video

In the Brighton Farmers Market video, Ms. Hertz is approached by a petition circulator who identifies herself as Eva from Florida. Ms. Hertz tells her that she was already signed, and then asks if it would be all right to sign her husband’s name. She makes it clear that her husband is not present. Eva assures her that it is permissible to sign her husband’s name. Ms. Hertz is then seen writing something on the petition, but that video does not show what she wrote.

Investigation of this incident led to an interview with Eva Noemi Reyes, a paid petition circulator from Arkansas who came to Michigan to circulate petitions. She confirmed that she was collecting signatures for the Unlock Michigan ballot question at the Brighton Farmers market but had no specific recollection of the incident involving Hertz. She stated that she was being paid \$3.50 per signature by Ryan Mazurkiewicz, a sub-contractor for "Let The Voters Decide". She had circulated petitions for Mazurkiewicz in Arkansas during the summer of 2020 and came to Michigan at his request. She stated that Mazurkiewicz did not provide any type of training regarding circulation of petitions in Michigan.

Ms. Reyes expressly stated that Mazurkiewicz had told her that if she had trouble getting signatures on the petition she should just lie to the voter as to its purpose. He told her that "it was just money" and the legal process would work it out. She further stated that when she asked whether a voter could sign for another person, like a spouse, Mazurkiewicz told her it would be another signature and more money." Even though she did not remember the encounter with Ms. Hertz, she admitted that she "probably" told her it was permissible to sign her husband's name.

Ryan Muzurkiewicz, a Florida resident, admitted that he was in Michigan circulating the Unlock Michigan petitions as a sub-contractor for Mark Jacoby's firm, Let The Voters Decide. He stated that he had trained Reyes and had shadowed her for a while to ensure that she was following the rules. He said that she knew what to do, as she had worked for him on another petition drive in Arkansas. He described her as laid-off teacher earning extra income. He expressly denied ever telling her that it was all right for a person to sign a spouse's name on a petition. He emphasized that he does not tolerate employees making false statement to voters in order to obtain a signature.

The Falcons Nest Video

The video taken at the Falcons Nest shows an array of partially filled out petitions at the take-out counter at the front of the restaurant. There is a separate petition for each of four counties (Lapeer, Genesee, Bay & Saginaw). Ms. Hertz is directed to the petition for Lapeer County. She then asks the restaurant employee who is near the petitions if it is all right for her to sign her husband's name. After being assured that this is permissible, Ms. Hertz signs the name, "Michael Hertz" in the signature portion of the petition. She does not fill in an address, date or other portions of the petition. After a few seconds she crosses out the name on the petition.

Robert and Nina Pittman are the owners of the Falcons Nest Restaurant and were interviewed about the incident. During the interview their adult son, who refused to give his name, often interjected himself into the conversation. Nina

Pittman advised that she was the person who circulated the petition. She indicated that she was present when Ms. Hertz signed someone else's name. The video shows that she was initially present but walked into the kitchen while Hertz was affixing the signature. She identified the employee to whom Hertz addressed the question as to whether she could sign for her husband as Cory Conrad. Ms. Pittman stated that she did not hear Hertz ask about signing for someone else but would have told her that cannot be done if she had heard the question. She was fully aware that a person could not sign on behalf of a spouse.

Ms. Pittman stated that she was told that if there were any mistakes on a petition it should not be submitted to Unlock Michigan. She felt that since Hertz had crossed out the name the petition was void, and she did not submit that petition to Unlock Michigan.

Cory Conrad was interviewed and confirmed that it has him on the video. He stated that he was never trained on how the petitions were to be circulated and that the petitions were just set out for people to sign. He indicated that he simply did not know whether a person could sign on behalf of his or her spouse. He did not know whether the Pittmans were being paid for circulating the petitions, but opined that they were just doing what they believe in.

Howell Western Wear Video

This video shows Hertz discussing a petition for Livingston County voters with a female who is not caught on camera. There are four voter signatures on the petition. The fourth name is Gretchen Cross. That is the maiden name of Gretchen Hertz. That signature line gives an address which investigation found to be a vacant lot. As shown in the video, Ms. Hertz asks the female whether she can sign her husband's name to the petition. She is told that it is permissible to do so. The video does not show whether she actually signed someone else's name. At the bottom of the petition, in the area for the certification of the circulator, there is the undated signature of David Scott.

Lynn Elberson is the owner of Howell Western Wear. She was shown the video of Hertz asking whether she could sign her husband's name. She declined to identify the store employee who interacted with Hertz, stating that she believed she and her employees were being set-up by the woman in the video. When asked about the circulator signature of David Scott she identified him as an older white male, tall, who was a nice guy and good salesman. She stated that Scott had come into the store and asked to leave petitions there for voter signatures. Because she supported the ballot proposal she allowed him to do so. She said the petition was at her store for about two weeks before Scott came back to retrieve it. She indicated that she wanted to speak with an attorney before making any further statements.

David Scott identified himself as a professional petition circulator who travels the country circulating various petitions. He confirms that he was in Michigan circulating petitions for the Unlock Michigan ballot question. He stated that he was then working for Mark Jacoby, who has been identified as owning "Let The Voters Decide". Scott admits that he was in Howell during this time but denies leaving petitions at a clothing store. He did not deny ever being at this clothing store. He said he went to such a clothing store, had the woman who was there sign the petition, and then left. He denied coming back to the store. He asserts that when in Howell he lost some partially completed petitions, but he had not yet signed as the circulator on those forms.

Voter Complaints About Circulator Misrepresentations

In addition to the incidents caught on video, the investigation developed several credible reports about misrepresentations made by petition circulators while soliciting signatures for the petition. Numerous citizen complaints were made that the circulators flat out lied about the purpose of the ballot initiative, and often made false statements to induce a person to sign. These complaints were similar in nature and presented the same type of "bait and switch" misconduct. Significant among them were complaints by attorneys Danielle Cadoret and Bruce Sage.

Ms. Cadoret related an incident where she was walking with a client in the Greektown area of Detroit. Both were wearing face masks. She indicates that a petition circulator approached stating that he was collecting signatures in support of continued face mask enforcement in Michigan. When she actually read the petition she discovered it was really the Unlock Michigan proposal to repeal the governor's emergency powers. She then chastised the circulator for lying. He admitted that he was a paid circulator but refused to identify himself or disclose who he was working for.

Bruce Sage reported that he had two encounters with Unlock Michigan petition circulators while traveling to and from his cabin in northern Michigan. In both incidents petition circulators were set up at a table at an expressway rest-stop. During both incidents he was asked to sign a petition. In both incidents he asked the circulator what the petition was about. In the first incident he was given the response that it was about business in Michigan. In the second incident the circulator was completely evasive. Mr. Sage was concerned that the circulators were simply not being truthful in their attempts to obtain signatures.

The AG investigator was also provided with a spread sheet showing the comments of over 450 voters regarding attempts to have them sign the Unlock Michigan petition. The comments varied, but many reported misrepresentations or down-right lies by a circulator. None of these comments identified the circulator by name or indicated for whom they were employed.

Self-Reported Circulator Misconduct

A representative of Unlock Michigan contacted the AG investigator and advised of a report the committee had received from a volunteer petition circulator. The purported circulator contacted Unlock Michigan and stated that she had signed a petition as the circulator but did not actually circulate that petition. She then mailed that petition to the ballot issue committee. Unlock Michigan then found that petition and turned it over to the AG investigator. It was not submitted to the Secretary of State. Unlock Michigan identified the purported circulator as Catherine Tomassoni.

Catherine Tomassoni, who resides in Iron Mountain, Michigan, was interviewed about the petition. She identified herself as a petition circulator and drop-off point person for volunteer circulators. She indicated that she received a petition containing 4 signatures that had not been signed by the circulator. There were other petitions dropped off to her by volunteer circulators, but this one was the only one not properly signed. She does not know who actually circulated the petitions. She decided to sign as the circulator and mail it to Unlock Michigan. No one from the ballot issue committee was aware of this, and no one else pressured or encouraged her to do so. After thinking the matter over she recognized what she did was wrong, and so she contacted Unlock Michigan and advised that she did not actually circulate the petition.

Keep Michigan Safe Co-operation

Keep Michigan Safe was completely cooperative throughout the investigation. Its representatives were candid and provided assistance and information when requested. Campaign finance records indicate that Keep Michigan Safe made substantial campaign expenditure payments to Farough & Associates, but there is nothing to indicate that the ballot initiative committee approved of, or was even aware of, the “agent provocateur” tactics used by Farough.

Unlock Michigan Cooperation

Unlock Michigan was likewise completely cooperative throughout the investigation. Most importantly its representative provided documentation to support the assertion that the committee had acted appropriately in ensuring that all circulators were aware of the legal obligations regarding the circulation of ballot initiative petitions. Paid circulators were provided with a Circulator Packet that included a “code of conduct” that goes beyond what the Election Law requires, copies of the relevant statutes and the “talking points” in favor of the petition. Volunteer circulators were required to watch the on-line video and were provided with the “talking points.”

Just as soon as Unlock Michigan became aware of the suspect petitions identified herein they pulled those petitions and provided them to the investigator. These suspect petitions were not provided to the Secretary of State to support the ballot initiative. The committee provided the AG with (1) the petition circulated by Richard Williamson; (2) all the petitions circulated by Tisinger and the local paid circulators he trained; (3) the petitions circulated by Eva Reyes; and (4) the petition signed as circulator by Catherine Tomassoni.

There is no evidence to directly link this ballot initiative committee to the tactics used by some of the paid circulators who were subcontracted to obtain voter signatures.

Attorney John D. Pirich

The investigation discussed herein was initiated following a formal complaint by attorney John D. Pirich to the Attorney General, the Secretary of State and the Director of the Bureau of Elections. He therein alleged substantial irregularities and possible illegalities associated with the circulation of the Unlock Michigan proposal, and requested an investigation into the actions of paid and volunteer petition circulators. He identified himself as an attorney with vast experience in election matters. He offered his thoughts as to the Election Law provisions that were violated during the circulation of the Unlock Michigan petitions.

Mr. Pirich was interviewed during the investigation and advised that he had received photographs and videos demonstrating improprieties from Mark Fisk at Byrum and Fisk. He directed the AG investigator to Mr. Fisk for copies of these materials. The information he provided is what led the investigator to those videos previously discussed.

Mr. Pirich's claim to expertise in election law matters appears to be well founded. He served as the attorney for a ballot question committee that circulated petitions for the successful effort to change marijuana laws. John Jacoby, the principle of Let The Voters Decide, collected voter signatures during that campaign. However, there is nothing to tie Mr. Pirich to Let The Voters Decide in the present case. But it does emphasize that Jacoby has a reputation for getting things done and is used by various campaigns.

Here there is no evidence to indicate that Mr. Pirich was acting with any motives other than a sincere intent to protect the integrity of the ballot initiative process. He should be commended for his efforts.

Discussion:

A discussion of the facts developed during the investigation best begins with a review of the applicable provisions of Michigan's Election Law, MCL 168.1 *et seq.* The obligations of ballot question petition circulators are set out in the statute, as are the penalties for any criminal violations.

Statutory Offenses

Law and procedure controlling Initiative and Referendum are set out in Chapter XXII of the Michigan Election Law. Of particular note are statutory provisions covering the circulation of ballot question petitions. There are several statutory provisions applying to paid petition circulators. A person who circulates such a petition as a paid circulator must file an affidavit disclosing this fact to the Secretary of State. MCL 168.482a. The circulator of a petition who knowingly makes a false statement concerning his or her status as a paid signature gatherer is guilty of a misdemeanor. MCL 168.482c. Any signatures on a petition circulated by a paid circulator who did not submit the required affidavit is invalid and cannot be counted. MCL 168.482a(2). However, this statute does not impose any criminal penalty on a paid circulator for failing to submit the required affidavit.

At this point it is important to note that in AG Opinion 7310, dated May 22, 2019, the Attorney General determined that the provision of MCL 168.482a amended by 2018 PA 608 requiring paid circulators to file an affidavit before circulating petitions violate the speech clause of the United States Constitution and the Michigan Constitution and are invalid. Thus the specific provisions requiring a paid circulator to file an affidavit cannot be a basis for any criminal prosecution.

But even disregarding the invalid duty imposed on paid circulators, there is another provision within Chapter XXII that imposes additional duties and criminal penalties regarding the circulation of ballot issue petitions. MCL 168.488 indicates that the criminal provisions of MCL 168.544c concerning primary election candidate petitions are applicable to ballot question petitions. MCL 168.488 provides:

168.488 Applicability of MCL 168.544c and 168.482(1), (4), (5), and (6).

Sec. 488.

(1) Section 544c applies to a nominating petition for an office in a political subdivision under a statute that refers to this section, and to the circulation and signing of the petition.

(2) Section 482(1), (4), (5), and (6) apply to a petition to place a question on the ballot before the electorate of a

political subdivision under a statute that refers to this section, and to the circulation and signing of the petition.

(3) A person who violates a provision of this act applicable to a petition pursuant to subsection (1) or (2) is subject to the penalties prescribed for that violation in this act.

Recognizing that the requirements of MCL 168.544c apply to ballot question petitions, it is next necessary to view the relevant portions of that statute.

168.544c Nominating petition; type size; form; contents; circulation and signing; validity of elector's signature; agreement of circulator to accept jurisdiction; service with legal process; violations; misdemeanor; felony; sanctions; refusal of individual to comply with subpoena; applicability of section to all sections.

Sec. 544c.

(1)-(4)...

(5) The circulator of a petition shall sign and date the certificate of circulator before the petition is filed. **A circulator shall not obtain electors' signatures after the circulator has signed and dated the certificate of circulator.** A filing official shall not count electors' signatures that were obtained after the date the circulator signed the certificate or that are contained in a petition that the circulator did not sign and date.

(6) Except as provided in section 544d, a petition sheet must not be circulated in more than 1 city or township and each signer of a petition sheet must be a registered elector of the city or township indicated in the heading of the petition sheet. The invalidity of 1 or more signatures on a petition does not affect the validity of the remainder of the signatures on the petition.

(7) ...

(8) An individual shall not do any of the following:

(a) Sign a petition with a name other than his or her own.

(b) Make a false statement in a certificate on a petition.

(c) If not a circulator, sign a petition as a circulator.

(d) Sign a name as circulator other than his or her own. (emphasis added).

(9) Except as otherwise provided in subsection (10), an individual who violates subsection (8) is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 93 days, or both.

(10) An individual shall not sign a petition with multiple names. An individual who violates this subsection is guilty of a felony.

(11) If after a canvass and a hearing on a petition under section 476 or 552 the board of state canvassers determines that an individual has knowingly and intentionally failed to comply with subsection (8) or (10), the board of state canvassers may impose 1 or more of the following sanctions:

(a) Disqualify obviously fraudulent signatures on a petition form on which the violation of subsection (8) or (10) occurred, without checking the signatures against local registration records.

(b) ...

(12) If an individual violates subsection (8) or (10) and the affected petition sheet is filed, each of the following who knew of the violation of subsection (8) or (10) before the filing of the affected petition sheet and who failed to report the violation to the secretary of state, the filing official, if different, the attorney general, a law enforcement officer, or the county prosecuting attorney is guilty of a misdemeanor, punishable by a fine of not more than \$500.00 or imprisonment for not more than 1 year, or both:

(a) The circulator of the petition, if different than the individual who violated subsection (8) or (10).

(b) If the petition is a nominating petition, the candidate whose nomination is sought.

(c) If the petition is a petition for a ballot question or recall, the organization or other person sponsoring the petition drive.

(13) If after a canvass and a hearing on a petition under section 476 or 552 the board of state canvassers determines that an individual has violated subsection (12), the board of state canvassers may impose 1 or more of the following sanctions:

(a) Impose on the organization or other person sponsoring the petition drive an administrative fine of not more than \$5,000.00.

(b) Charge the organization or other person sponsoring the petition drive for the costs of canvassing a petition form on which a violation of subsection (8) or (10) occurred.

(c) Disqualify an organization or other person described in subdivision (a) from collecting signatures on a petition for a period of not more than 4 years.

(d) Disqualify obviously fraudulent signatures on a petition form on which a violation of subsection (8) or (10) occurred without checking the signatures against local registration records.

...

(14) If an individual refuses to comply with a subpoena of the board of state canvassers in an investigation of an alleged violation of subsection (8), (10), or (12), the board may hold the canvass of the petitions in abeyance until the individual complies.

(15) A person who aids or abets another in an act that is prohibited by this section is guilty of that act.

(16) The provisions of this section except as otherwise expressly provided apply to all petitions circulated under authority of the election law. (emphasis added)

Another statutory provision that may be relevant in this case is MCL 168.931, covering prohibited conduct punishable as a misdemeanor. The applicable portion of this statute is MCL 168.931(2):

(2) A person who violates a provision of this act for which a penalty is not otherwise specifically provided in this act, is guilty of a misdemeanor.

The final statutory provisions considered in this analysis are MCL 168.933a and MCL 168.937 concerning Election Law Forgery. MCL 168.933a, added by 2018, Act 620, effective 12/28/18, provides:

Sec. 933a.

Except as otherwise provided in this act, a person who does either of the following for any purpose under this act is guilty of forgery:

(a) Knowingly makes, files, or otherwise publishes a false document with the intent to defraud.

(b) Knowingly makes, files, or otherwise publishes a document that contains false signatures with the intent to defraud.

MCL 168.937 is the penalty provision for Election Law forgery. It provides that unless otherwise provided, forgery is a felony punishable by a fine or \$1,000 and/or imprisonment of up to 5 years.

Other Conduct

The applicable statutes are clear on their face that certain types of conduct are illegal and subject to criminal sanctions. It is clear that a voter cannot sign someone else's name to a ballot question petition, that a person cannot make a false certification on such a petition, and that a circulator cannot sign his or her name to the ballot question petition until after the last voter signs the petition. MCL 168.544c. It is likewise clear that a person cannot make, file or otherwise publish any document required by the Election Law that contains false signatures with the intent to defraud. MCL 168.933a.

However, it must be noted at this point there is no statutory provision that expressly prohibits a circulator from making false statements about the purpose of the petition to a voter in an attempt to obtain the voter's signature. Evidently, the law presumes that the voter will read the wording on the petition before signing it and will rely on the language of the petition itself rather than the representations of the circulator. There is simply no provision in law that imposes a criminal sanction for making misrepresentations or outright lies to a voter to induce him or her to sign a ballot question petition.

Likewise, there are no statutory provisions that directly prohibit a circulator from simply advising a voter that he or she may sign their spouse's name, or the name of any other person, on a petition. It is clearly not permissible for a voter to sign someone else's name. However, the circulator would not directly commit a crime unless and until he or she actually signed the Certification Of Circulator on the petition, attesting to the fact that the voter's signature is believed to be the genuine signature of the voter.

But since it is a criminal offense for a voter to sign someone else's name, the circulator who indicates that it is permissible to do so is actually an "aider and abettor" to that crime. Thus there could be a theory under which the circulator could be prosecuted for telling a voter that it is permissible to sign a spouse's name even when the voter does not do so. When a circulator encourages a voter to sign someone else's name, knowing that such action would be illegal, and acts with the

intent to benefit from a payment for such additional signature, the argument would be that the circulator is guilty of attempting to violate MCL 168.544c, even if the voter does not actually sign the other person's name.

Analysis next turns to whether MCL 168.931(2) is broad enough to cover the conduct of circulators who intentionally misrepresent the purposes of a ballot question petition or engage in other questionable conduct not expressly covered by a statutory provision. That statutory provision states that anyone who violates a provision of the act (The Election Law, MCL 168.1 *et seq.*) for which a penalty is not specifically provided is guilty of a misdemeanor. There would thus be an argument that this is a "catch all" provision that creates a substantive offense concerning any and all duties imposed by The Election Law, MCL 168.1 *et seq.*

There is no Michigan case law directly addressing this issue. However, it is helpful to review the Michigan Supreme Court decision in People v Pinkney, 501 Mich. 259 (2018). There the defendant was charged under MCL 168.937 with Election Law Forgery. The Michigan Supreme Court there accepted the defendant's argument that the statute was simply a penalty provision and did not create a substantive offense and reversed his conviction. In its analysis the Court noted various provisions of the Election Law dealt with and penalized certain specific conduct, and the statutory language of MCL 168.937 indicates that the Legislature did not intend to create a substantive offense. As an aside it should be noted that in direct response to this decision the Legislature promulgated 2018, PA 620, which created the substantive offense at MCL 168.933a.

Given the opinion and analysis in Pinkney, *supra*, I conclude that MCL 168.931(2) is simply a penalty provision and not a substantive offense. Thus this statutory provision cannot be used as a basis for the criminal prosecution of circulators who engage in "bait and switch" and other tactics to get signatures for which they will be paid.

Prosecution Not Feasible

Investigation uncovered numerous violations of law. There can be no doubt that many of the statutes imposing criminal sanctions were violated during the circulating of the Unlock Michigan petitions. However, for a variety of reasons, criminal prosecution is simply not here feasible. The problem is simply one of proofs. There is a lack of sufficient admissible evidence to bring criminal charges. This can best be explained by examining the conduct of each of the suspects that were identified by the investigator.

Gretchen Hertz.

This agent provocateur may have been motivated by a sincere desire to ensure the integrity of the petition circulation process, but the tactics she used were problematic. She did not simply witness and record the actions of petition circulators but instead interjected herself into the situation by pointedly asking the circulator whether she could sign for her husband and implying that she would do so. She was fully aware that it was not lawful to do so. It would not be unfair to draw an analogy to a law enforcement officer sent into a massage parlor to determine if prostitution was occurring, and then having sex with one of the workers to prove that it was.

The Falcon's Nest video indicates that Ms. Hertz probably signed her husband's name to a petition. That would be a violation of MCL 168.544c. Even though the name was crossed out after only a short time, the crime still occurred. However, it would simply not be possible to establish the crime without the video. And there simply is no foundation for the admission of the video into evidence without the self-incriminating acknowledgment of this suspect.

Likewise, the Howell Western Wear video provides good circumstantial evidence that Ms. Hertz signed her maiden name and a phony address to a petition at that location. Intentionally providing a false address on the petition could provide a basis for a charge of forgery under MCL 168.933a. However, the video would be necessary in order to prove that offense. And there is simply no basis by which a foundation could be made to admit the video into evidence other than the testimony of Ms. Hertz.

Ms. Hertz, an attorney, is exercising her right against self-incrimination and has refused to make any statements concerning the video. This really precludes any prosecution against her. All possible charges against her would require the admission of the videos into evidence, and without her no foundation could be made.

While criminal charges could not proceed against her, there remain questions as to her fitness to practice law given such behavior. This may be a case that warrants a referral to the Grievance Administrator.

Catherine Tomassoni

This suspect clearly violated a criminal statute by signing a petition as the circulator when she did not actually circulate that petition. However, the problem here is again one of proofs. The "corpus delicti" rule would here preclude the use of her confession since there is no other evidence to demonstrate the crime. Under that well established rule of law there must be some evidence of criminal activity before

Danielle Hagaman-Clark

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a confession may be used as evidence. Here the petition she signed as the circulator appears valid on its face, and the only reason her criminal activity came to light was that she self-reported it to Unlock Michigan.

David Scott

Notwithstanding his denials, the evidence establishes that this paid petition circulator left petitions for voters to sign unattended at a store and signed petitions making certifications as a circulator before the voters signed the petition. This is most clearly demonstrated by the video from Howell Western Wear. However, that video could not be admitted into evidence without a foundation from Gretchen Hertz. And since Ms. Hertz will not cooperate without a grant of immunity, charges against Scott cannot be successful.

Here it must be recognized that the cooperation of Ms. Hertz would probably enable a prosecution against Mr. Scott. However, I recommend against immunity for Hertz. The misconduct and illegal activity that she committed would justify the same charges against her as those against Scott. This is not a case of giving up the little fish in order to catch the big one. And I fear that a jury could get sidetracked by the agent provocateur tactics used by Hertz in the other videos. MCR 6.201(B) and Brady considerations would require the disclosure of the other videos.

Lynn Elberson

The owner of Howell Western Wear probably aided and abetted the improper circulation of petitions by allowing Scott to leave the petitions at her store for people to sign. However, we would once again face insurmountable problems with proof. She never circulated petitions or signed any petitions as circulator, and her admission that she allowed Scott to leave petitions at her store would here probably be barred by the corpus delicti rule. Without the video made by Hertz, we could not establish that Scott signed the petitions as the circulator before it was filled with signatures.

Eva Reyes

The video taken at the Brighton Farmers Market clearly shows that Ms. Reyes told a person that it was all right to sign her husband's name. While not correct, such advice is not *per se* a violation of law. But the total facts and circumstances indicate that Reyes intended to have the person sign so that she could collect payment for an additional signature. There is a good argument to support the theory of aiding and abetting the crime of signing someone else's name.

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But here again there is a problem of proofs. The Brighton video or the testimony of Getchen Hertz would be necessary to support charges against Ms. Reyes. Without the cooperation of Hertz, charges could not be sustained.

Cory Conrad

This young man is shown on the Falcon Nest video, interacting with Ms. Hertz when she seeks assurance that she can sign her husband's name. There is no evidence that he circulated any petitions or signed his name as circulator to any petitions. With out the admission of the video there is no evidence of any connection to the petitions at the Falcon Nest.

Nina Pittman

She is an owner of the Falcons Nest Restaurant and is shown in a video being present for part of the time that the encounter with Hertz was being recorded. She identified herself as a volunteer petition circulator, and indicated that while the petitions were spread out on a counter she was present when each person signed and could honestly make the required circulator certification. She indicated she was circulating the petitions because she believed in the ballot proposal.

The fact that the petitions were set out on a counter for voter signatures is not *per se* a violation of the Election Law. A circulator has the duty to ensure that the voter signs in his or her presence, and that he or she believes the voter is a qualified elector who is signing his or her own name. Since Ms. Hertz crossed out the name "michael Hertz" on the petition, Ms. Pittman never "certified" that signature.

Richard Williamson

There is simply no evidence of any criminal activity by Mr. Williamson. While he was a "plant" sent to document the information being provided to petition circulators, his question as to whether a petition could simply be left at a business was appropriate under the circumstances. Unlike Ms. Hertz he never crossed the line between simply witnessing and recording events and inducing criminal conduct.

William Erik Tisinger

It would actually be charitable to say Mr. Tisinger exemplifies the worst of the worst in the occupation of professional petition circulators. The evidence indicates that he is fully aware of the requirements of law and takes relish in

finding ways around rules that would come between him and the money that can be made from circulating petitions.

During the training session he talked about ways to get around restrictions on circulating on private property. While he acknowledged the laws controlling circulators, he implied there are ways to get around those laws. He warns that while any violations of the laws might end up requiring a deposition or court appearance, he brags that it is easy to handle such proceedings. The totality of his comments present the “dog-whistle” argument that the important thing is to get signatures in any manner, so as to receive the greatest amount of money.

While the comments made by this suspect during the training session are unethical and possibly even immoral, they do not rise to the level supporting criminal charges. They simply are not sufficient to establish that he had the necessary intent to encourage or solicit criminal activity.

Conclusion:

Initiatives and Referendums are recognized procedures by which citizens in a democracy can voice their approval or disapproval of statutes enacted by a Legislature. The circulation of ballot question petitions is a time honored method of ensuring support by a significant number of voters before an issue is placed on the ballot. However, the need for a substantial number of petition signatures to even get on the ballot has given rise to a cottage industry involving the use of paid circulators to obtain voter signatures on a petition. The amount of money often involved in petition issues has sometimes resulted in misconduct and illegal activity by paid petition circulators. The Legislature has attempted by statute to control signature collection efforts. But in a free society some corruption and misconduct is inevitable. It is the price to be paid to live in a free society.

Here Unlock Michigan, a ballot question committee, is seeking to rescind a statute enacted by the Legislature. Because of the huge number of voter signatures required to even get the question on the ballot they hired contractors to select, train and supervise paid petition circulators. All evidence in the case indicates that the committee acted with due diligence to ensure as much as possible that the paid circulators were aware of the applicable provisions of law and would carry out the task in a professional and ethical manner. There is here no evidence that the committee encouraged, approved of, or tolerated any misconduct or sharp practices by a paid petition circulator.

The standards and practices of the paid circulator “culture” provide for compensation at a “per signature” rate, rather than at an hourly rate for their services. Here the paid circulators were generally paid at the rate of \$3.50 for each

voter signature. This provides an incentive to maximize the payment by obtaining as many signatures as possible. Unfortunately, this has led to the “bait and switch” and other improper tactics used by circulators to encourage voters to sign their petitions.

While the Legislature has enacted various laws and procedures to protect the integrity of the petition, not all the “sharp practices” of petition circulators are punishable with criminal sanctions. As recognized by the fact that the affidavit requirement for paid circulators was found to be unconstitutional, there are limits on the Legislature’s power to regulate the circulation of voter petitions.

Here the investigation found clear evidence of misrepresentations by petition circulators and questionable training by persons who recruited and were supposed to supervise paid circulators. However, those incidents were not in violation of any criminal statute. It is questionable as to whether such questionable tactics could even be made criminal in a free society.

The investigation did, however, find incidents where the conduct went beyond being simply misconduct and questionable practices, and were actually violative of criminal statutes. However, in each of those identified instances there was simply insufficient admissible evidence to support criminal charges.

For these reasons I recommend that we close this file without further action.



**DEPARTMENT OF
ATTORNEY GENERAL
CRIMINAL DIVISION**

ORIGINAL DATE 9/28/2020	ATTY GEN LEGAL FILES NUMBER. 2020-0301943-A
DATE OF THIS REPORT 10/5/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Allegan Street, Lansing, Michigan		REPORT NUMBER #1

ALLEGATION

It is alleged that Unlock Michigan, a Ballot Question Committee, hired professional petition companies which engaged in deceptive practices and made false statements to voters to sign the Unlock Michigan ballot petition and that the circulators of the petitions, falsely certified the signatures on the petitions. Furthermore, a company known as In The Field, and its trainer, William Erik Tisinger, encouraged its employees to engage in deceptive practices to gather the ballot proposal signatures.

UNLOCK MICHIGAN

Unlock Michigan is a Ballot Question Committee formed on 6/1/2020, ID # 519796.
Address: 2145 Commons Parkway, Okemos, Michigan 48864
Telephone Number: (313) 288-2346
Spokesperson: Fred Wszolek
Treasurer: Mary Doster, 2870 Dobie Road, Mason, Michigan 48854 (517) 525-4994
Depository: Flagstar Bank, Okemos, Michigan

PETITION SUBCONTRACTORS TO UNLOCK MICHIGAN

1. National Petition Management, Inc., a California corporation
DLARA ID# 80133417
Registered Agent: Lee B. Albright
Address: 5281 River Ridge Drive, Brighton, Michigan 48116
Telephone: (810) 229-9221
2. In the Field, Inc., a California corporation
CA ID#: 4251039
Registered Agent: LegalCorp Solutions, Inc.
Address: 2500 W. Orangethorpe Ave., Fullerton, CA 92833
Signer: Sonia Becerra
3. Let The Voters Decide, LLC, a California corporation
CA ID#: 201707610469
Registered Agent: Legal Zoom
Address 1: 1105 S. Euclid St., Suite D135, Fullerton, CA 92832
Address 2: 52 Riley Road, #305, Celebration, FL 54747
Sole Member: Mark A. Jacoby

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ORIGINAL DATE 9/28/2020	ATTY GEN LEGAL FILES NUMBER. 2020-0301943-A
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IDENTIFICATION OF WILLIAM ERIK TISINGER

WILLIAM ERIK T [REDACTED]

[REDACTED] White

Sex: Male

Date of Birth: [REDACTED]

Height: [REDACTED]

Weight: [REDACTED]

SSN: [REDACTED]

CA DL#: [REDACTED]

[REDACTED]

Affiliated Corporation: Tisinger Solutions, LLC

INTERVIEW OF ATTORNEY JOHN PIRICH

On Monday 10/5/2020 writer spoke with Attorney John Pirich (Pirich) by phone at 5 [REDACTED]. After initial introductions, Pirich explained that he is an experienced election law attorney and after reviewing the publicly available material, he believed the following Michigan Elections Laws were violated:

1. MCL 168.482e Prohibited Conduct
2. MCL 168.544c Nominating Petition
3. MCL 168.931 Prohibited Conduct

Pirich directed writer to speak with Mark Fisk for further information regarding the origin of the videos and photographs.

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Open.

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**DEPARTMENT OF
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ORIGINAL DATE 9/28/2020	ATTY GEN LEGAL FILES NUMBER. 2020-0301943-A
DATE OF THIS REPORT 10/7/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Allegan Street, Lansing, Michigan		REPORT NUMBER #2

IDENTIFICATION AND INTERVIEW OF MARK FISK

On October 6, 2020, writer interviewed the following person by phone:

Mark Fisk
Byrum & Fisk Advocacy Communications
1000 Coolidge Road, East Lansing, Michigan 48823
[REDACTED] cell

After being advised of the identity of the interviewing Agent, and the nature of the interview, Mark Fisk (Fisk) provided the following information.

About two months ago, Byrum & Fisk was hired as the communications component for the Ballot Question Committee Keep Michigan Safe (Safe), which opposed the Unlock Michigan Ballot Question Committee (Unlock). Part of their mission was to expose any alleged illegal activity by Unlock. Safe hired persons known as "trackers" to show up at Unlock petition events and tape, or photograph, any illegal activity.

Fisk identified the spokesperson for Unlock as Fred Wszolek. Fisk did not who else was part of the Unlock Committee. Unlock hired National Petition Management, Inc., which is a California company owned and managed by Lee Albright (Albright) of Brighton, Michigan, to gather petition signatures. Fisk believed that Albright subcontracted some of the petition signature gathering to a California company known as In The Field, Inc. In The Field used a trainer identified as Erik Tisinger to conduct training for new petition circulators in Michigan. Fisk commented petition gathering is a nationwide industry and those who work in the industry travel from state to state like gypsies, collecting petition signatures for profit. The petition circulators earn between a few dollars per signature, up to \$10 dollars per signature.

Early in the campaign, Fisk began hearing rumors about circulators lying to voters about the content or intent of petition, unattended petitions for voters to sign, widespread deceit, and registering people to vote at the same time asking them to sign the petition, which Fisk said they cannot do.

The four videos submitted by Fisk to the AG were obtained using trackers. The training video in which Erik Tisinger was recorded making incriminating statements to his trainees was obtained by a tracker, who responded to a Craigslist ad for employment. That video was captured by the tracker, who attended petition training sponsored by In The Field, Inc. on 9/4/2020 at 950 28th Street, Building A, Suite 107, Grand Rapids, Michigan. During the training, Tisinger provided a cell phone number of (616) 808-6147.

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The trackers information and supporting documents can be obtained from Attorney Chris Trebilcock at (313) 965-8575. [Agent Note: Open source search revealed Attorney Chris Trebilcock is employed by Clark Hill, P.C., in Detroit, Michigan.]

The California corporation known as Let The Voters Decide, LLC (LTVD), is owned by operated by Mark A. Jacoby (Jacoby). Fisk advised that Jacoby is a convicted felon for election law offenses. Fisk was made aware that Jacoby and his company LTVD, employed petition circulators in Michigan for the Unlock ballot question. However, Fisk did not know what the relationship was between Unlock, National Petition Management and LTVD was.

A secondary concern of Fisk's was the funding of the Unlock Ballot Question. Fisk stated that Unlock was 75% funded by a non-profit known as Michigan Citizens for Fiscal Responsibility (MCFR). Fisk added that State Senator Mike Shirkey encouraged his base to donate money to MCFR and the money raised by MCFR, was donated to Unlock. Fisk asserted this was a work around the campaign finance laws, because the individual donors who sent money to MCFR were shielded from being identified as donating to Unlock. Fisk identified Robert LaBrant (LaBrant) as a campaign finance expert who filed a campaign finance complaint regarding Unlock and MCFR with the State of Michigan. Fisk provided a phone number for LeBrant of [REDACTED].

Writer conducted an on-line search for MCFR with DLARA Corporations and found the following:

Michigan Citizens for Financial Responsibility, a Domestic Non-Profit Corporation
DLARA ID# 800924694
Resident Agent: Ellen Kletzka
Address: 106 West Allegan Street, Suite 200, Lansing, Michigan 48933

FOLLOW UP CALL WITH MARK FISK

In a follow up call with Fisk, writer mentioned to Fisk that in September, LTVD filed a certificate of conversion with the State of California, amending their address from Fullerton, California to an address in Celebration, Florida. Fisk advised that he heard from his trackers and others, that in that past month, Unlock was using petition circulators from Florida.

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DATE OF THIS REPORT 10/9/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Allegan Street, Lansing, Michigan		REPORT NUMBER #3

IDENTIFICATION AND INTERVIEW OF DANIELLE CADORET

On October 8, 2020, writer interviewed the following person by phone:

Danielle Cadoret, Attorney at Law
400 Monroe Ave., Suite 290
Detroit, Michigan
[REDACTED]

After being advised of the identity of the interviewing Agent and the nature of the interview, Danielle Cadoret (Cadoret) made the following statement:

On August 24, 2020 at approximately 12 noon, Cadoret and her client had left her office in downtown Detroit, when Cadoret's client, who was also a black male approached by a black male subject in front of the Greektown Casino. Both Cadoret and her client were wearing face masks. The subject stated he was obtaining petition signatures in support of continued face mask enforcement in Michigan. Cadoret, who is white, felt that the petition circulator targeted her black male client.

Cadoret listened to the explanation given by the petition circulator as to why he should sign the petition and then she read the language on the petition, which was to repeal the Governors' Emergency Powers. Cadoret stated that she gave the circulator "a civics lesson" and that he should not be lying to potential signers. The circulator admitted to Cadoret that he was a professional circulator, was being paid per signature, and that he had been told to give the misinformation. The subject gave no other information about his background, or what company he worked for.

Cadoret believes that there may be video footage captured by the Greektown Casino cameras of the encounter.

FOLLOW UP WITH MSP GAMING

Writer contacted D/Sgt Ponzetti to see if the video could be obtained. D/Sgt. Ponzetti opined that too much time has passed for the video to have been preserved, but she will check with MSP-Gaming.

On 10/9/2020 writer was advised by D/Sgt. Ponzetti that, unless preserved, there is a 14-day retention period for the video at Greektown casino.

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SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Allegan Street, Lansing, Michigan		REPORT NUMBER #4

IDENTIFICATION AND INTERVIEW OF JILL SCHMIDT

On October 8, 2020, writer interviewed the following person by phone:

Jill Schmidt (Schmidt)

██████ Michigan
(Refused to give her full address)

████████████████████
████████████████████

After being advised of the identity of the interviewing Agent and the nature of the interview, Schmidt made the following statement:

Schmidt was a volunteer who collected signatures on behalf of Unlock Michigan (Unlock). Schmidt contacted Unlock directly to volunteer and Schmidt received the petitions in the mail. Schmidt was directed by Unlock to watch a training video and then set up a table at BJ's Pizza on State Park Drive in Bay City to collect the signatures. Schmidt was not paid by Unlock, but later learned that Unlock was paying people to gather signatures.

Schmidt is in full support of repealing the Governor's emergency powers and questioned writer's motive for conducting the investigation. Schmidt does not know how the Attorney General obtained her information, as she did not email the office. However, Schmidt did email her state representative.

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DATE OF THIS REPORT 10/12/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Allegan Street, Lansing, Michigan		REPORT NUMBER #5

IDENTIFICATION AND INTERVIEW OF BRUCE SAGE

On October 12, 2020, writer interviewed the following person by phone:

Bruce J. Sage-Attorney at Law

[REDACTED]
[REDACTED]
[REDACTED]

Bruce Sage (Sage) stated that he had two encounters with the Unlock Michigan (Unlock) petition circulators while traveling to and from his cabin in northern Michigan. The first incident was at the rest area on I-75 northbound near Frankenmuth. Sage did not recall the date but said he had stopped at the rest area to use the bathroom and observed the petition circulators at a table. Sage questioned the circulators as to what the petition was about, and he was told it was about business in Michigan. Sage read the petition language and realized it was about the 1945 Emergency Powers act (1945 act). Sage said he used some harsh language with circulator for being dishonest with him as to what the petition said.

The second incident was at a rest area on southbound I-75 near U.S. 10. Sage did not know the date of the second encounter. There were two petition circulators sitting at a table, one was a woman and one was a man. The woman was circulating a petition about an issue un-related to the 1945 act, but was a measure Sage supported, so he signed it. The second circulator, who was male, was evasive as to what his petition was about. Sage read the language on the petition and realized it was about the 1945 act and he refused to sign it.

Sage was concerned that the in his two rest-area encounters with petition circulators regarding the 1945 act, neither subject was truthful with him as to what he would be signing. When asked, Sage stated he did not encounter anyone in the men's bathroom asking him to sign the petition. Using his cell phone, Sage recorded both of his encounters with the petition circulators.

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DATE OF THIS REPORT 10/13/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #6

IDENTIFICATION OF CASE RELATED SUBJECTS

The subject in Falcon's Nest restaurant video has been identified as:

Brandon Michael Conrad

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

The name listed on the Howell Western Wear video has been identified as:

David Todd Scott

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]



**DEPARTMENT OF
ATTORNEY GENERAL
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ORIGINAL DATE 9/28/2020	ATTY GEN LEGAL FILES NUMBER. 2020-0301943-A
DATE OF THIS REPORT 10/14/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #7

CONVERSATIONS WITH ATTORNEY MIKE COX

On Monday 10/12/2020 writer spoke with Attorney Mike Cox (Cox) by phone. Cox advised that he represents Unlock Michigan (Unlock), not as a criminal lawyer, but in the Court of Appeals. However, Cox has in his possession the Unlock petition signature sheets obtained by the company In The Field and the petition signature sheets from the subject depicted in the Brighton Farmer’s Market video as “Eva” from Arkansas. Cox requested to turn those petition signature sheets over to writer as Unlock did not want to submit them to the State of Michigan. Writer set an appointment with Cox to obtain the petition signature sheets.

On Wednesday 10/14/2020, writer had a second conversation with Cox, in which writer requested to obtain the petition signature sheets from the Falcon’s Nest Restaurant and the Howell Western Wear store. During our conversation, Cox relayed the following information. The voice of the female subject who was wearing the video recording device was recognized by someone at the Unlock campaign. Cox was told that person is Gretchen Hertz (Hertz). Hertz works for the Farough & Associates, a political consulting group. Cox stated that Hertz can be seen in one of the videos signing her name as Gretchen Cross, with an address that comes back to a vacant lot in Pinckney, Michigan. In a separate video, Hertz can be seen writing in the name of Michael Hertz, whom Cox believed was her husband.

Cox advised that he had viewed the Farough & Associates website on or about 10/3/2020, and at that time Hertz was listed as an employee. Cox re-visited the website on 10/14/2020, and she was no longer listed on their website.

VIDEO REVIEW

Writer conducted a review of the videos, and learned the following:

1. Western Wear video: The video depicts a female subject on 7/30/2020 signing her name as Gretchen Cross at 650 West Main Street, Pinckney, Michigan.
2. Falcon’s Nest video: The video depicts a female subject writing in the name of Michael Hertz, not signing it, and then crossing the name and the entire line out.

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ORIGINAL DATE 9/28/2020	ATTY GEN LEGAL FILES NUMBER. 2020-0301943-A
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IDENTIFICATION OF GRETCHEN HERTZ

Gretchen A. Hertz-Attorney at Law
Maiden name: Gretchen A. Cross

[REDACTED]
[REDACTED]

In a Google search using the term "Gretchen Hertz", the search returned a webpage indicating that Hertz was Director of Research for Farough & Associates and an attorney for over 20 years. Upon clicking the website hyperlink there is no information found for Hertz. Google listed Farough & Associates at 108 E. Grand River Ave., Brighton, Michigan.

Using Google maps, writer searched the address of 650 West Main Street, Pinckney, Michigan and found it to be a vacant grassy area proximal to the intersection of West Main Street and West Unadilla Street. Across West Main Street is a cemetery.

STATUS

Open.

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DATE OF THIS REPORT 10/19/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #8

EVIDENCE OBTAINED

On 10/16/2020, writer traveled to the Law Firm of Mike Cox in Livonia, Michigan and met with executive secretary, Mihala Iosif (Iosif). Iosif turned over a box, which contained the following items.

1. The petition circulated by Richard Williamson. Per an email written by Attorney Eric E. Doster, Williamson was the subject who recorded the Erik Tisinger training video in Grand Rapids.
2. All the petitions circulated by Tisinger and the petition signatures obtained local circulators that he trained.
3. The petitions circulated by Eva Reyes.
4. Petitions circulated by Catherine Tomassoni. Tomassoni contacted Unlock Michigan and advised them that she had signed a petition that she did not circulate.

The aforementioned items were placed into evidence at the Michigan AG-Detroit evidence room, location J-1.

STATUS

Open.

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SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #9

IDENTIFICATION AND INTERVIEW OF JOANNE SOB CZAK

On October 16, 2020, writer interviewed the following person by phone:

JoAnne Sobczak (Sobczak)

[REDACTED]
[REDACTED]
[REDACTED]

Sobczak contacted the Michigan Attorney General because she had signed a petition and the subject who was circulating the petition looked very similar to Brandon Caserta, who was recently arrested by the FBI for a terrorism plot.

Sobczak stated it was a Sunday in late August 2020. She as at the Metro Park-Metropolitan Beach with her friend Wayne, when white male subject approached them, stating he was collecting petition signatures for a LGBTQ rights proposal. Sobczak read part of the petition and realized it was not for LGBTQ rights, however they signed the petition. Sobczak is not sure what she signed.

Sobczak primary concern was that the subject that approached them was Brandon Caserta, who was recently in the news. However, Sobczak acknowledged that the subject they encountered did not have floppy ear lobes, with big earrings, nor was he as thin as Caserta appeared to be from media reports. Lastly, the subject Sobczak encountered appeared to have a darker shade of red hair, near the color of cinnamon. After talking it over with writer, Sobczak concluded that they were not the same people.

STATUS

Open.

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**DEPARTMENT OF
ATTORNEY GENERAL
CRIMINAL DIVISION**

ORIGINAL DATE 9/28/2020	ATTY GEN LEGAL FILES NUMBER 2020-0301943-A
DATE OF THIS REPORT 10/19/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #10

IDENTIFICATION AND INTERVIEW OF CATHERINE TOMASSONI

On October 19, 2020, writer interviewed the following person by phone:

Catherine Tomassoni

██████████
████████████████████
██████████
██████████

After being advised of the identity of the interviewing Agent and the nature of the interview Catherine Tomassoni (Tomassoni) provided the following information:

Tomassoni was a circulator and a drop off location for the Unlock Michigan petitions. Tomassoni received a petition that was not signed by the circulator and had been filled out using a blue felt marker. It had four signatures on it, and this was the only petition that was not signed properly. Tomassoni asked her husband what she should do and he suggested she sign it. Tomassoni signed the petition and mailed it via USPS to Unlock Michigan.

Afterwards, Tomassoni called Unlock Michigan and told them that she had not witnessed the petition being signed, yet she had signed it as the circulator. At no time was Tomassoni pressured by anyone at Unlock Michigan to sign the petition as the circulator, she signed it on her own volition.

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**DEPARTMENT OF
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ORIGINAL DATE 9/28/2020	ATTY GEN LEGAL FILES NUMBER. 2020-0301943-A
DATE OF THIS REPORT 10/26/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #11

IDENTIFICATION OF WITNESSES

On 10/26/2020, Attorney Christopher Trebilcock (Trebilcock) sent writer an email confirming that the person who captured the training video in Grand Rapids was Frank Nemecek. Trebilcock also confirmed that it was Gretchen Hertz who made the video recordings at The Falcon’s Nest Restaurant and Howell Western Wear.

In his email Trebilcock wrote, “In terms of your question, my understanding is that Gretchen Hertz was a contractor of a vendor that Keep Michigan Safe contracted with to conduct tracking. Gretchen is the person who provided the videos to Keep Michigan Safe.”

Frank Nemecek has been identified as the following person:

Frank Paul Nemecek, Jr.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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DEPARTMENT OF
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DATE OF THIS REPORT 10/27/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #12

INITIAL EVIDENCE REVIEW

On 10/27/2020, writer traveled to the Secretary of State, Bureau of Elections (BOE) office and met with Attorney Adam Fracassi (Fracassi). Fracassi has an office on the first floor of the Richard Austin Building. There are no individual office numbers, however Fracassi opened the locked office next to his and close to pole U-17 where the petitions were stored. Fracassi presented writer with the sealed boxes Marked Unlock Michigan (ULM). Each box had its own individual number affixed to the outside of the box by ULM with the highest number being 42. BOE affixed a seal to the top of the boxes. Writer and Fracassi counted the boxes present and confirmed there were 42 of them.

As an initial random review of the petitions, writer opened box #21 and examined all the petition forms found therein. Writer located four petition forms signed by David T. Scott of Ponte Vedra, Florida, as the circulator. Two were marked as Washtenaw County and the other two were marked as Livingston County. The two from Livingston County did not include the signature of Gretchen Cross dated 7/30/2020.

PHOTOGRAPHS

Writer took four photographs of the interior of the office containing the ULM boxes prior to entry and examination of box #21. Those photographs are electronically attached to the file.

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DATE OF THIS REPORT 10/27/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #13

CONTACT WITH PETITION SIGNERS

On 10/27/2020, writer made phone contact with two randomly selected signers of the petitions circulated by David T. Scott in Livingston County.

Anna Lawley (Lawley)

[REDACTED]
[REDACTED]

Signed petition: 7/13/2020

Lawley stated she was approached by an older white male subject in the Lowe's parking lot and asked to sign the petition. The circulator said it was about Gretchen Whitmer and repealing the law she was using. Lawley voluntarily signed it.

Mellisa Rauton

[REDACTED]
[REDACTED]

Signed petition: 7/18/2020

Rauton was either approached in a Meijer's parking lot or stopped at a roadside table for Unlock Michigan and signed the petition. She knew it was to repeal the governor's emergency powers and fully supports it. She did not remember who she talked to.

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DATE OF THIS REPORT 11/3/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #14

INTERVIEW OF LEE ALBRIGHT AND ERIC DOSTER

On 10/29/2020, writer interviewed the following persons at the Mike Cox Law firm, Livonia, Michigan. Mr. Cox represents Unlock Michigan and was present for the interview.

Lee Albright (Albright)
National Petition Management and National Political Consultants, LLC

Attorney Eric Doster (Doster)
Doster Law Offices, PLLC
2145 Commons Parkway, Okemos, Michigan 48864

After being advised of the identity of the interviewing Agent and the nature of the interview Albright and Doster provided the following information. Doster is the attorney who represents Unlock Michigan (ULM) as a ballot proposal question and ULM's address of record, is his law office.

ULM contracted with National Petition Management (NPM) to act as the general contractor managing the collection of petition signatures. NPM, through its sister company National Political Consultants, LLC, hired three sub-contractors, which were identified as:

1. In The Field (ITF)-a California company owned by Tyler Endsley
2. Let the Voters Decide-a California company owned by Mark Jacoby
3. Smart Petition Company-a Michigan company based in Flint, owned by Grace Smart

NPM first worked with ITF in 2010 and ITF and Erik Tisinger (Tisinger) normally work on progressive campaign issues such as the Fair and Equal ballot initiative, which was a LGBTQ ballot proposal. Tisinger previously worked for a Santa Monica, California company known as, "Progressive Campaigns" which also specialized in progressive related ballot proposals.

When the ITF training video became public, Albright had his manager, Kevin Lee Oglesby (Oglesby), contact the owner of ITF, Tyler Endsley (Endsley) to find out why Tisinger said circulators could leave their petitions unattended at a friend's business. It was the responsibility of Oglesby to monitor the situation with Endsley and ITF. Albright added that he is in the process of turning NPM over to Oglesby.

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Albright described Endsley and his company ITF as the “coordinator” and that Tisinger was the “sub-coordinator”. Albright did not know how the pay structure was organized between ITF, Endsley and Tisinger, or if Tisinger received a bonus for every signature collected. ULM had a total of 522 petition circulators, of which 272 were volunteers and the remaining 250 independent contractors paid per signature. ULM has a training video posted on its website and required all its volunteer circulators to watch it before circulating the petitions.

Albright was aware that John Jacoby (Jacoby) and his company Let The Voters Decide (LTVD), was twice convicted of voter fraud. Albright stated that in voter registration drives, “There is fraud that cannot be controlled.” However, Jacoby and his company LTVD get results. LTVD is used nationwide in ballot proposals and voter registrations drives. Albright cited the 2017 Michigan Marijuana ballot proposal in which Jacoby and LTVD was hired, and the Attorney for the ballot proposal was John Pirich.

Regarding unattended petitions left by the circulators at the Howell Western Wear store and the Falcon’s Nest restaurant, Albright commented that it was not normal for a paid circulator to leave a petition unattended. The petitions are their income; therefore, they do not want to let them out their sight. The petition circulators are only paid if they work and turn in valid petitions.

Circulators normally work in front on Michigan SOS offices. However, since the offices are closed due to Covid-19, they cannot. This was a preferred location as most people walking in and out were registered voters. Instead, paid circulators were instead forced to work grocery store parking lots and farmer’s markets. Most paid circulators try to keep the clipboard and the petition out of sight and casually approach the potential signer. Because of the downturn in the economy, paid circulators traveled to Michigan from out of state to earn an income.

The videotaped training class which featured Tisinger, had three students in it. Albright identified the three students as:

1. TJ Hurtman
2. Richard Williamson
3. Shawn Cronin

The source of the student’s names was Endsley at ITF.

The following documents were provided by Albright and Doster:

1. An unsigned agreement between National Petition Management and Unlock Michigan with an attached projected budget of between \$3.7 million and \$4.5 million
2. A signed Contract for Services dated 7/07/2020 between National Political Consultants, LLC and In The Field, Inc. The contract was signed by Kevin lee Olglesby and Tyler Endsley
3. Unlock Michigan Agreement by Circulator signed by Erik Tisinger on 8/11/2020
4. Exemplar of an Agreement by Circulator used by Unlock Michigan
5. National Petition Management Expense and payment Summary for Unlock Michigan
6. A copy of MCLs 168.482a and 168.482e

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Agent note: Attorney Mike Cox produced a Keep Michigan Safe (KMS) expenditure report, which showed payments made to Farough & Associates (Farough). However, formatting of the printed document did not include the figures paid by KMS to Farough. Writer reviewed the on-line submission made by KMS to the Michigan SOS and noted three payments made by KMS to Farough on 9/3/2020, the three payments totaled \$13,881.42. Writer noted an additional three payments made by KMS to Farough on 9/28/2020. Those payments totaled an additional \$7,751.82. In total, KMS Paid Farough \$21,633.24.

EVIDENCE

The aforementioned items were electronically attached to the file and the originals placed into evidence as item #2.

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SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #15

EMAIL FROM ATTORNEY MIKE COX

On Friday 11/6/2020 writer received the following email from Attorney Mike Cox (Cox):

Pete

- 1) For paid circulators, they were *all* given the attached ULM Circulator Packet which includes (a) the "Agreement by Circulator" which provides a code of conduct that goes beyond what Michigan law requires; (b) the relevant election law excerpt; and (c) Unlock Michigan talking points. *Many* of the circulators were informed about the unique Unlock Michigan website video and we assume many watched that. It is important to recall that these paid circulators were/are veterans of petition drives in many other states which have the same or similar requirements to Michigan [which we spelled out in (a) and (b) above].
- 2) For volunteers, all were required to watch the video and all were given either the "elevator speech" attachment and/or the talking points that Mr. Albright used with the paid circulators.

Mike

With his email, Cox attached two documents in PDF format. The documents were the Unlock Michigan elevator speech and the ULM Circulator packet from Lee Albright. The aforementioned documents have been electronically attached to the case file and a copy has been placed into evidence as item #3

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**DEPARTMENT OF
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SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #16

INTERVIEW OF LYNN ELBERSON

On 11/9/2020 writer interviewed the following person:

Lynn Elbersen (Elbersen)-Howell Western Wear

[REDACTED]
[REDACTED]
[REDACTED]

After being advised of the identity of the interviewing Agent and the nature of the interview, Elbersen provided the following information:

Elbersen was aware of and viewed the video in which a female subject came into Howell Western Wear asking to sign the Unlock Michigan (ULM) petition, and then asked if it was permissible for her to sign for her husband. Elbersen opined that her store and her employees were "set up" by the female subject. Elbersen refused to identify who the employee depicted in the video until she has had an opportunity to speak with her lawyer.

Writer presented Elbersen with a screenshot of the video in which the name David T. Scott can be seen written in on the circulator's certification section. Elbersen described David T. Scott (Scott), as an older white male, tall, who was a nice guy and good salesman. Scott had come into Howell Western Wear and asked Elbersen's permission to leave the ULM petition out for customers to sign, Elbersen supported the initiative and agreed. Elbersen said the petition was left at her store for approximately two weeks before Scott returned for it. Scott may have disclosed to Elbersen that he was a paid circulator, but she cannot recall.

Elbersen wanted to talk with her lawyer before she made any further statements.

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SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #17

INTERVIEW OF FRANK NEMECEK

On 11/10/2020 writer interviewed the following person at his home in Detroit:

Frank Nemecek (Nemecek)

[REDACTED]
[REDACTED]
[REDACTED]

After being advised of the identity of the interviewing Agent and the nature of the interview, Nemecek provided the following information:

Nemecek denied he was the person who made the video recording of the petition circulator training conducted by Erik Tisinger of In The Field in Grand Rapids, Michigan. Nemecek stated he filed a complaint with the Michigan Attorney General about some postings he had seen on-line about the Unlock Michigan petitions. Nemecek said he spoke with a woman from the Attorney General's Office, but he did not recall her name. When asked, Nemecek said he has heard of Attorney Chris Trebilcock, but does not know him.

[Agent Note: Writer reviewed the list of Unlock Michigan complaints filed with the Attorney General. Nemecek filed a complaint on 8/14/2020, which was part of a batch of complaints forwarded to our office from Attorney Chris Trebilcock. In his complaint, Nemecek said he was approached in the Best Buy parking lot in Dearborn, Michigan, and was told by the circulator, "There's this group that trying to strip the governor of her powers and we're trying to stop them. He then handed me an Unlock Michigan petition, asked me to sign, and told me that I could sign my wife's name as well since she wasn't here."]

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SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #18

INTERVIEW OF DAVID T. SCOTT

On Thursday 11/12/2020, at 3:25 p.m., writer interviewed the following person by phone:

David Todd Scott
White Male

[REDACTED]
[REDACTED]
[REDACTED]

[Agent note: The interview of David Scott was recorded utilizing one party consent. The recording was electronically attached to the file and a copy has been sent to Heckman & Nardone, Inc. for transcription.]

After being advised of the identity of the interviewing Agent and the nature of the interview, David Scott (Scott) made the following statement which is synopsisized as follows:

- In July and August 2020, Scott was in Michigan working as a circulator for Unlock Michigan (ULM) and Fair & Equal, a civil rights initiative.
- At first, Scott did not recall who he was working for, then stated he was working for Mark Jacoby in Detroit.
- Scott stated that he canvassed voters about the ULM proposal and that the proposal was to encourage the governor to work with the legislators.
- Scott stated did not recall how much he was paid per signature, but he was paid. Scott travels the country as a professional circulator and that, "I like to go where the money is."
- Scott admitted he was in Howell, Michigan at one point, and that he accidentally dropped some of his petitions on the street. There was a tattoo parlor in Howell that found some of his petitions that were partially filled out. Scott initially denied meeting the woman depicted in the video. Scott also visited the barber shop in Howell.
- Scott recalled a woman at a western clothing store. He talked to a woman there and she had her own petitions from the state. Scott offered for her to sign his petition because she could not sign her own.
- Scott denied leaving his petitions behind at the western clothing store. Scott admitted that "I may have left other papers there accidentally."
- Scott asserted that he did not certify the petition that was at the western clothing store.
- Scott reiterated that he had dropped some papers in downtown Howell and that a Hispanic man from the tattoo shop found them.

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- Scott recalled the western store with cowboy boots, he talked to the lady at the store, the owner, described her as an attractive brunette, and offered her to sign his petition then left. Scott did not remember going back to the store.
- Scott asserted that he always prints his name on all his petitions for the initiatives.
- Scott says he does not know how the woman in the western clothing store got his documents, however, Scott did not deny being at the store.

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Open.

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SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #19

INTERVIEW OF RICHARD WILLIAMSON

On Monday 11/24/2020, writer interviewed the following person by phone. Present for the phone interview was Attorney Clarence Dass, who represented Williamson.

RICHARD WILLIAMSON (Williamson)

[REDACTED]
[REDACTED]

After being advised of the identity of the interviewing Agent and the nature of the interview, Williamson made the following statement:

Williamson was hired by Farough & Associates (Farough) on 8/13/2020, as a research and communications specialist. Previously, Williamson was in the Peace Corps in Africa. On 9/1/2020, Gretchen Hertz (Hertz) of Farough, contacted Williamson about conducting opposition research and tracking regarding Unlock Michigan (ULM). The tracking would involve Williamson conducting video and audio recordings at ULM events. Farough ordered a "video pen" and had it shipped to Williamson's home. The video pen was a video and audio recorder disguised to look like a pen. As a tracker, Williamson recorded three ULM events.

1. A rally sponsored by Stand Up Michigan (SUM) and ULM at the Rosa Parks Circle in Grand Rapids, Michigan in late August 2020. Williamson used his cell phone to record this event.
2. Audio recording only of a rally sponsored by SUM and ULM at the outdoor amphitheater in Traverse City, Michigan in either September, or October 2020.
3. The In The Field (ITF) training session in Grand Rapids, Michigan.

Williamson did not record anything noteworthy at the rally's sponsored by SUM and ULM. If he had, it would have been provided to Hertz at Farough.

Williamson, while conducting on-line research, learned of the ITF training session from a Craigslist advertisement. As a prospective employee, Williamson attended the ITF training on 9/4/2020 at 950 28th Street SE, Building A, Grand Rapids, Michigan, 49508. The training started at 11 a.m. and finished at 12:30 p.m. and was run by Erik Tisinger (Tisinger). Including him, there was a total of three students in the class. He did not get the names of the other two. One subject said he was from out of state and another had on a Michigan sweatshirt. Williamson assumed the subject wearing the sweatshirt was from Michigan.

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Williamson said he was the person in the video who asked Tisinger if it was permissible for petition circulators to leave petitions at a friend's business, a vape shop, to gather signatures without the circulator present. Williamson said he was not instructed by anyone at Farough to ask the question, he came up with it on his own.

Williamson was also concerned about comments Tisinger made about working in parking lots and the comments he made about being deposed. Williamson described Tisinger as, "Crass, swears a lot, fast and loose, jovial, sarcastic and a musician with flashy jewelry." Tisinger told the class that he was once a circulator but is now in management. Williamson corresponded with Tisinger via text message at (616) 808-6147. [Agent note: Writer called (616) 808-6147 and the number is no longer in service.]

Williamson submitted five signatures for the ULM petition to ITF. He was compensated at the rate of \$3.50 per signature and was paid by cashier's check, which was signed by Tisinger. Williamson did not cash the check.

Williamson provided the training video he captured to Hertz at Farough. The video was made available to the Detroit Free Press. Williamson does not know if Hertz is currently employed with Farough, or not, as he has not spoken with her. Williamson stated he would testify.

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SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #20

INTERVIEW OF EVA REYES AND ERIC HERNANDEZ

On Thursday 11/20/2020, writer interviewed the following persons by phone:

Eva Noemi Reyes (Reyes)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Eric Hernandez (Hernandez)

[REDACTED]
[REDACTED]
[REDACTED]

[Agent note: The interview of Reyes and Hernandez was recorded utilizing one party consent. The recording was electronically attached to the file and a copy has been sent to Heckman & Nardone, Inc. for transcription.]

After being advised of the identity of the interviewing Agent and the nature of the interview, Reyes made the following statement, with Hernandez present on the phone, which is synopsisized as follows:

- Reyes and Hernandez are boyfriend and girlfriend, they live together.
- Reyes confirmed she and Hernandez were employed as a circulators by Unlock Michigan (ULM). Specifically, by Ryan Mazurkiewicz (Mazurkiewicz) of Let The Voters Decide (LTVD). Reyes later clarified that Mazurkiewicz owns a company known as The VAR Group, LLC, which was a sub-contractor/coordinator for LTVD. Reyes and Hernandez worked for Mazurkiewicz at the VAR Group.
- In June 2020, Reyes and Hernandez began working for Mazurkiewicz in Arkansas as circulators. In July, he invited them to come work for him in Michigan on two petition initiatives. One was ULM and the second one was for Fair Michigan. Reyes was paid \$3.50 per signature for the ULM petition and \$2.75 per signature for the Fair Michigan petition.
- Mazurkiewicz conducted no training on how to circulate a petition in Michigan, or what the rules were in Michigan. Mazurkiewicz told Reyes he was having trouble collecting petition signatures and she was instructed to lie to potential signers, "It was just money, the legal process would work it out." If signer was a Republican, Reyes was instructed to tell the signer the petition was to repeal the governor's emergency powers. If the signer was a Democrat, Reyes was instructed to tell the signer the petition was, "Putting it up for a vote".

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- Reyes was under instructions from Mazurkiewicz that it was okay if a husband or wife wanted to sign the petition for their spouse if they wanted to. Mazurkiewicz told Reyes, "It was another signature and more money."
- Writer confronted Reyes with the allegations about the video from the Brighton farmer's market on 8/1/2020, in which Reyes told a female subject, who was recording her, that she could sign her husband's name. Reyes did not recall the encounter, nor had she seen the video, but she recalled being at the Brighton farmer's market collecting signatures. Reyes admitted that she probably did say what was depicted in the video.
- Hernandez advised that by mid-September 2020, the relationship with Mazurkiewicz had deteriorated. They were staying in a hotel in Monroe, Michigan and had an argument over money and the inventory of Trump merchandise they were selling. The argument escalated and Mazurkiewicz assaulted Hernandez. Hernandez called 911 and the Monroe County Sheriff's (MCSO) arrived. Hernandez filed an assault report with MCSO.

Writer contacted MCSO and obtained a copy of the police report, MCSO Complaint # 19735-20, which named Mazurkiewicz as the suspect. The MCSO report is electronically attached to the file. [Agent note: At the conclusion of our interview, writer found the video on-line from a Detroit Free Press news article and forwarded the video to Reyes by email.]

STATUS

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**DEPARTMENT OF
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CRIMINAL DIVISION**

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DATE OF THIS REPORT 12/4/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #22

INTERVIEW OF NINA AND ROBERT PITTMAN

On 12/4/2020, writer interviewed the following persons at the Falcon's Nest Restaurant:

Nina M. Pittman
Robert L. Pittman

██
██

Falcon's Nest Restaurant

████████████████████
████████████████████

After being advised the identity of the interviewing Agent, and the nature of the interview, writer initially spoke with Robert Pittman (Robert). Shortly thereafter, their adult son and Nina Pittman (Nina) came out. The adult son, who did not identify himself, often interjected himself into the interview of Robert and Nina. All three subjects were shown the video and asked about it. Nina and Robert asserted they had done nothing wrong and that Nina can be seen in the periphery of the video and she was nearby when the female subject was signing the petitions. Nina said she did not hear the question posed by the female subject to Corey Conrad about signing for her husband. If Nina had heard it, she would have told her no. [Agent note: Writer reviewed the video captured by the female subject and determined that a woman, who appears to be Nina, is on the right side of the video and then walks into the kitchen.]

Nina stated that she was the circulator for the Unlock Michigan (ULM) petitions in her restaurant. She was told if there were any mistakes on her petitions, she was not to submit them to ULM. Because the female subject crossed out her husband's name, the petition page depicted in the video was void and Nina did not submit it to ULM.

Nina, Robert, and their son, all stated that this was a politically motivated investigation brought on by their political rival, Dawn Johnson (Johnson). Johnson ran for Township Clerk in 2020 and was defeated. They theorized it was probably Johnson who contacted the opposition to ULM, resulting in them being recorded by the female subject. Nina and her adult son opined that the video recording of their restaurant was entrapment.

After the conclusion of the interview, Nina called writer from ██████████ and requested writer return to the restaurant. Writer declined. Nina questioned writer about the investigation process and how long it would take, she added that the restaurant is near financial collapse.

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SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #23

INTERVIEW OF RYAN MAZURKIEWICZ

On 12/14/2020, writer interviewed the following person by phone:

Ryan N. Mazurkiewicz (Mazurkiewicz)

[REDACTED]
[REDACTED]
[REDACTED]

Owner: The VAR Group, LLC, a Florida Limited Liability Company

After being advised of the identity of the interviewing Agent and the nature of the interview, Mazurkiewicz provided the following information, which was recorded utilizing one party consent and synopsised as follows:

- Mazurkiewicz confirmed that he was in Michigan in 2020, collecting signatures for three ballot initiatives. One of those was Unlock Michigan.
- His company, The VAR Group, was a sub-contractor for Mark Jacoby’s company, Let The Voters Decide (LTVD).
- Eva Reyes (Reyes) and Eric Hernandez (Hernandez) were employees of The VAR Group. Mazurkiewicz met Reyes and Hernandez while working on a ballot proposal in Arkansas. Mazurkiewicz conflicted with Reyes and Hernandez about the sale of Trump gear in Michigan.
- Mazurkiewicz said he trained and shadowed Reyes and Hernandez and that he provided them with a script to follow. Writer advised Mazurkiewicz that Reyes was recorded by a female subject known as a tracker, telling the tracker it was permissible to sign her husband’s name on the petition. Mazurkiewicz asserted that he trained Reyes that she must witness 100% of the signatures. Writer advised Mazurkiewicz that Reyes said he had instructed her that was permissible for a spouse to sign the petition on behalf of their husband or wife. Mazurkiewicz stated that was not true and he trained Reyes and Hernandez they must witness 100% of the signatures.
- Mazurkiewicz stated that Reyes and Hernandez “Knew what to do and what not to do. They were professionals.” Mazurkiewicz explained that they previously worked for him in Arkansas and then in Michigan. They were laid off teachers earning extra income.
- Mazurkiewicz confirmed circulators were paid \$3.50 per signature and he received a .50 cent per signature override. This was a verbal agreement between The Var Group and LTVD, there was no contract in place.
- The state was split in half, by west and east. The upper peninsula was left to volunteers because there was not enough population. The VAR Group and LTVD covered the east side, while Tyler Endsley’s company, In The Field, covered the west side of the state. LTVD and The VAR Group had offices in Detroit, Warren, Flint and Ann Arbor.

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- Mazurkiewicz did not know, had never met, Erik Tisinger.
- Mazurkiewicz paid his employees through a “Zelle account” and issued a 10-99 to them at the end of the year.
- As a policy, Mazurkiewicz asserted that his company does not tolerate employees making false statements to prospective signers of the petitions.

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Open.

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DATE OF THIS REPORT 12/21/2020	CRIMINAL INVESTIGATIONS DIVISION

SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #24

INTERVIEW OF TYLER ENDSLEY

On 12/18/2020, writer interviewed the following person by video at the law firm of Fausone Bohn, LLP, 41700 Six Mile Road, Suite 101, Northville, Michigan 48168:

Tyler Endsley

[REDACTED]
[REDACTED]
[REDACTED]

Owner: In The Field, a California Corporation

After being advised of the identity of the interviewing Agent and the nature of the interview, Tyler Endsley (Endsley) provided the following information. Representing Endsley was Attorney Mark Mandell, who was present for the interview.

Endsley owns and operates In The Field, Inc. (INF) and incorporated the company on or about January 2019, using a third party incorporation service. The address for ITF is his home address in Newport Beach, California. Endsley co-owns On The Ground with Lawrence Ciaffone, which is a company similar to ITF.

ITF's business model is to assist candidates with ballot initiatives and support ballot measures across the united states. Endsley has worked with Lee Albright at National Petition Management (NPM) for the past 10 years. Endsley was called by Kevin Oglesby of NPM and asked to cover the western half of the State of Michigan for the ULM ballot initiative. Mark Jacoby's company Let the Voter's Decide (LTVD), had the east side of the state. For the ULM initiative, Endsley was paid a fixed amount of \$5.50 per signature. Of the \$5.50 per signature cost, \$3.50 went to the circulator, \$1.25 was the coordinator override, or commission, and the remaining \$.75 was for costs.

Erik Tisinger (Tisinger) was hired by Endsley in January 2020 as a manager. Tisinger worked in the ballot initiative industry since 2011, and worked 15 to 20 projects for ITF across the united states. Tisinger was familiar with the business. ITF paid Tisinger a salary of \$1,000 per week, plus expenses which included hotel, rental car, and gas. Endsley asserted that he showed Tisinger, trained him, on the complete A to Z process for managing a petition initiative. Endsley stated "I had contract circulators fill out a form of primarily what they cannot do. Erik was fully aware of what he can do and what he cannot do." It was Tisinger who reviewed and submitted petition forms to ITF. In a process known as "scrubbing" Tisinger redacted any signatures that were incomplete or had incorrect addresses for the county in which the forms indicated. Tisinger did not compare the names to voter records.

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After Endsley viewed the training video which captured Tisinger making statements that it was permissible to leave a petition unattended at a friend's vape shop, Tisinger had a conversation with Endsley in which Tisinger clarified what he meant. Tisinger asserted that it would be the responsibility of the vape shop owner to sign the petition as the circulator, not the person employed by ITF.

The conversation between Endsley and Tisinger took place by phone, approximately one week after the article and video were made public. Endsley said he was confused by Tisinger's actions and felt this was "Out of character for him." Tisinger "Tried to downplay his actions" and he told Endsley that he received a lot of questions from the person who was recording him. Endsley said he was "disappointed in Tisinger's conduct during the training" and lack of professionalism. Tisinger remains employed by ITF, but he was demoted to office help, he no longer manages petition initiatives. Tisinger's actions captured on video hurt Endsley's reputation within the industry.

Endsley knows Mark Jacoby of LTVD and provided a phone number of [REDACTED] Endsley provided a cell phone number for Tisinger of [REDACTED].

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DEPARTMENT OF
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SPECIAL AGENT NAME Pete Ackerly	AAG ASSIGNED Richard Cunningham	COMPLAINANT
STREET ADDRESS AND CITY OF INVESTIGATOR OFFICE 525 West Ottawa Street, Lansing, Michigan		REPORT NUMBER #25

INTERVIEW OF ERIK TISINGER

On 1/5/2021, writer interviewed the following person by phone.

William Erik Tisinger (Erik Tisinger)

[REDACTED]
[REDACTED]
[REDACTED]

After being advised of the identity of the interviewing Agent and the nature of the interview, Erik Tisinger (Tisinger) provided the following information. [Agent note: Using one party consent, the interview of Tisinger was recorded and is electronically attached to the case file.]

Tisinger has worked as a professional petition circulator, on and off, since 2012. He began working for In The Field (ITF) as a manager in January 2020, and this was the first time Tisinger worked as a manager for a ballot initiative. Prior to his employment with ITF, Tisinger worked as a circulator for National Ballot Access and Goldstein Ostic & Associates.

Tisinger came to Michigan in the second week of August 2020, to support the ballot initiatives for Unlock Michigan and Fair & Equal. He was trained by ITF employee, Felicia Semiao, who was from Rhode Island. As a manager, Tisinger was paid \$1,000 a week, plus hotels, flights, rental car and gas. ITF did not provide a training manual to Tisinger. However, Tyler Endsley (Endsley) sat through a couple of the ITF circulator orientations put on by Tisinger and provided coaching and feedback. Tisinger described states as "open access and closed access". He considered Michigan to be a closed access state. Tisinger signed the same form that circulators signed, stating that he acknowledged the rules.

Michigan was split into two halves, with ITF on the west side and he assumed it was Mark Jacoby's company on the east, with Lansing as the dividing line. In total, Tisinger spent five weeks in Michigan in which he conducted circulator orientations four times a week, which consisted of two orientations in Grand Rapids, one in Kalamazoo and one in Lansing. There were usually less than ten people who attended the trainings in Grand Rapids and less than ten in in Kalamazoo and Lansing. The trainings in Kalamazoo and Lansing were held in a park and not well attended. Tisinger and ITF also brought in 20 professional circulators from out of state. Tisinger commented that most locally hired circulators were not productive.

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Regarding the videotaped training in Grand Rapids on 9/4/2020, Tisinger said there was nothing different about it, except one person asked a lot of questions. Tisinger described that person as a white male, well dressed, glasses, and asked educated questions. Tisinger thought he would end up being a good circulator because he was engaged in the training. Regarding the video and the exchange about the vape shop, Tisinger stated the subject asked Tisinger if he could leave the petition at a friend's store, and Tisinger said "That's okay if he's there witnessing the signatures, and I do believe I had said if you're there, you can absolutely do that, because you have to witness the signatures coming in."

Writer advised that everyone who viewed the video, had the same conclusion, which was that it was that you advised it was permissible to leave the petition unattended behind at the friends vape shop. Tisinger asserted that was not what he was saying. Tisinger cited 1:19 in the video as proof that was not what he was saying and referred to him being there, witnessing the signatures. Tisinger asserted that was not what he intended, nor would he intend to say that it was okay to leave the signatures unattended. Tisinger's intent was to say that it was okay for the subject to use his friends vape shop, only if the circulator was there witnessing the signatures. Tisinger said it would be permissible for the for the circulator to not be present but allow the owner of the vape shop to sign the declarations page. They have to be there. You cannot leave the petition unattended.

Tisinger stated he did not receive any commissions, known as overrides, for his circulators. However, he amended his statement and said that he brought in three friends to work as circulators in Midland, Michigan. Two of them he knew and worked with before and the third was a friend of a friend. For the signatures they collected, Tisinger received a \$.50 override (commission), which was approved by Endsley. Excluding these three people, Tisinger did not receive a \$.50 cent override for the circulators he trained.

Writer asked Tisinger if during his previous trainings and experience in the industry if anyone else had asked him the question about leaving a petition behind at a friend's business to collect signatures. Tisinger stated that yes, he had, but "I instruct people that as long as you are there it's like leaving it at a table at arrest area as long as you witness the signatures." Tisinger wished he had been clearer on the issue with his instructions during the recorded orientation.

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September 24, 2020

Honorable Dana Nessel
Michigan Attorney General
G. Mennen Williams Bldg.
535 W. Ottawa Street
P.O. Box 30212
Lansing, MI 48909

Honorable Jocelyn Benson
Michigan Secretary of State
Richard H. Austin Bldg.
430 W. Allegan Street
4th Floor
Lansing, MI 48918

Jonathan Brater
Michigan Director of
Elections and Secretary
to the Board of State
Canvassers
Richard H. Austin Bldg.
430 W. Allegan Street
1st Floor
Lansing, MI 48918

**Re: Investigation Into Reported Criminal Conduct By Unlock Michigan, Its
Petition Firms, and Its Paid and Volunteer Petition Circulators**

Dear Attorney General Nessel, Secretary Benson, and Director Brater:

By way of introduction, I submit this request for a formal investigation based on my 45 plus years of experience regarding election matters. I fully understand that Const 1963, Art 2, Sec 9 reserves to "the people" the right to initiate legislation if signatures of registered voters exceeding 8% of the total votes cast for a Governor in the last proceeding gubernational election are certified by the State Board of Canvassers.

Based on my experience, I have seen abuses of the initiative process many times in the past. Complaints about these abuses have not been thoroughly investigated or prosecuted once the petition was either certified or rejected.

However, based on several media reports in the recent past¹ and the evidence of substantial irregularities and possible illegalities associated with the so-called "Unlock Michigan" proposal, I am requesting that your respective offices commence a formal investigation, relying on law enforcement agencies including the Michigan State Police, to examine the reported serious and substantial abuses associated with Unlock Michigan's petition gathering activities. For instance, it is patently improper or illegal to:

- (1) educate or train circulators as to how to abuse, evade, or violate clear statutory requirements contained in 1954 PA 116, the Michigan Election Law, MCL 168.1 et seq.;
- (2) informing or instructing circulators "... its really hard to get caught doing s----- except for, like forgeries."

¹ Copies of some of these stories are attached.

- (3) informing or instructing circulators how to engage in illegal activities such as leaving petitions unattended and signed by circulators at a later date;²
- (4) telling or instructing circulators it is “super easy” to give misleading information or collect signatures on private property and to “act stupid” if approached by police regarding trespassing.³

Unlock Michigan hired and paid the petition firms that appear to have violated the law and those firms in turn hired the circulators that have appear to have violated the law. Volunteer circulators appear to have violated the law as well. Unlock Michigan cannot escape responsibility and liability for any possible illegal conduct by its volunteers or paid agents. All of them should be investigated and be held accountable.

Power of the Attorney General to Investigate and Prosecute

The Attorney General has “the authority to prosecute, defend, and intervene” in cases or controversies affecting the interests of the state and the people of Michigan. *Federated Ins. Co. v. Oakland County Road Com’n*, 475 Mich. 286; 715 N.W.2d 846 (2006). Pursuant to MCL 14.30, the Attorney General has the duty to supervise and assist local prosecutors in the investigation and prosecution of all violations of law. The Attorney General may also intervene in any court proceeding “in order to protect any right or interest of the state, or of the people of the state.” MCL 14.101. These general powers specifically include investigating and prosecuting violations of the Michigan Election Law and Michigan Campaign Finance Act. See, e.g., MCL 168.31 and MCL 169.215.

Power of the Secretary of State to Investigate

The Michigan Election Law mandates that the Secretary of State “shall” investigate violations of the Election Code under MCL 168.31(h) and report violations to the Attorney General. Specifically, the Secretary of State shall “[i]nvestigate, or cause to be investigated by local authorities, the administration of election laws, and report violations of the election laws and regulations to the attorney general or prosecuting attorney, or both, for prosecution.”

Power of the Board of Canvassers to Investigate and Penalties

MCL 168.476(2), grants the Board of State Canvassers independent authority to investigate allegations that a person violated the Michigan Election Law while circulating or signing initiative petitions. Specifically, the Board “may hold hearings upon any complaints filed or for any purpose considered necessary by the board to conduct investigations of the petitions. To conduct a hearing, the board may issue subpoenas and administer oaths.” *Id.* A person who refuses to comply with “a subpoena of the board of state canvassers in an investigation of an alleged violation of [of the Code], the board may hold the canvass of the petitions in abeyance until the individual complies.” MCL

² Photos of unattended petitions are attached.

³ All of this conduct, if proven, would violate MCL 168.482e(1)(b),(c); 168.544c; and 168.931(1)(h), among other laws.

168.544c. The only limitation is that the Board must complete the canvass at least two (2) months prior to the election on which the initiative will appear (i.e., November, 2022).

In addition, the Board has the power to disqualify fraudulent signatures and signatures improperly collected, fine Unlock Michigan up to \$5,000, and to ban the organization from collecting signatures for a period of four (4) years. MCL 168.544c.

Election Law Violations

As described above, it appears that Unlock Michigan, its petition firms, and its volunteer and paid circulators may have violated these provisions of the election law:

MCL 168.482e(1)(b) and (c) which make it a misdemeanor to sign a false statement in a petition certificate and to sign a petition as a circulator if not a circulator, both of which are violated by persons who sign petitions as circulators if the petition was not signed in their presence.

It is a crime for any person to “willfully fail to perform a duty imposed upon that person by the act.” MCL 168.931(1)(h). Any circulator who fails to perform her/his legally required duties violates that provision as does a petition sponsor which submits fraudulent or improperly collected signatures.

Finally, it is also illegal to “aid or abet” another person in the violation of MCL 168.544c. *Id* 168.544c(15). Petition sponsors and their petition firms are subject to liability under that provision.⁴

Conclusion

Based on the foregoing, this is to respectfully request that your offices commence a formal investigation of Unlock Michigan, its petition firms, and its volunteer and paid circulators.

Very truly yours,

John D. Pirich


⁴ There may also be violations of the Penal Code. See, e.g., MCL 750.92; 750.423; 750.23; 750.157.

In secret recording, trainer for Unlock Michigan advises on unlawful tactics

<https://www.freep.com/story/news/politics/elections/2020/09/22/recording-unlock-michigan-repeal-whitmer-covid/5850734002/>

LANSING — A company collecting signatures to strip Gov. Gretchen Whitmer of her emergency powers coached paid petition circulators on giving voters false information, illegally collecting signatures without witnessing them, trespassing on private property, and even lying under oath, a secretly recorded videotape shows.

The video showing Erik Tisinger, a trainer for the California signature company In the Field, Inc., was secretly recorded Sept. 4 by a representative of Keep Michigan Safe — the group opposing the Unlock Michigan effort — and made available to the Free Press.

The profanity-peppered training session provides an inside look at the world of paid signature gatherers and could potentially pose problems for Unlock Michigan's attempts to certify the close to 500,000 signatures the group hopes to collect. It is the second example of irregularities in the Unlock Michigan signature collection process the Free Press has highlighted.

"This can be a real shady job," Tisinger tells the trainees. "And when I say shady, I mean, people do all sorts of illegal s--- all the time and never get caught. It's really hard to get caught doing s-- - except for, like, forgeries."

Tisinger then tells the trainees, who are paid \$3.50 per signature, that he does not want them to do illegal things, but "you can." He then, in some cases, proceeds to tell them how to do illegal things, while explicitly warning them to avoid only forging signatures, as that's too time-consuming and easy to detect.

Unlock Michigan is trying to repeal the Emergency Powers of Governor Act of 1945, which Whitmer is using to respond to the coronavirus pandemic.

In August, the Free Press reported that another company involved in collecting signatures, Let the People Decide, has a history of alleged "bait and switch" tactics in paid petition drives around the U.S., in which people were allegedly given inaccurate descriptions of what the initiatives would do, and the company is headed by a man who has a criminal record for falsifying his voter registration.

Fred Wszolek, a spokesman for Unlock Michigan, said In the Field, which hired Tisinger, will not get paid for the signatures it collects, based on the contents of the video.

In the Field and Tisinger could not be reached for comment Monday.

In the video, Tisinger, who describes himself as a manager from California, tells prospective signature gatherers:

To tell voters who are "on the fence" that signing the petition will only have the effect of putting the repeal of the emergency law on the ballot, so that all voters can decide its fate. "Don't you think that everybody should get the chance to vote on this?" Tisinger does not tell the trainees that the plan is to bypass voters by having the GOP-controlled Legislature approve the Initiative and thereby repeal the law, in a move that Whitmer would be unable to veto, under Michigan law.

That they can leave copies of their petitions with store clerks to collect signatures from customers, although Tisinger tells them it is illegal for them to collect signatures without witnessing them being signed.

That the Unlock Michigan petition drive is so contentious that they might end up being deposed in a courtroom over the signatures they collect, and whether they properly witnessed them, but that it is "super easy" to give misleading testimony about such questions.

That it is illegal to collect signatures on private property such as store parking lots without permission, but that they should avoid store managers and "act stupid" if approached by police about trespassing. "Act like you don't know anything," Tisinger said. "I had no idea I couldn't do that here, man."

After the training, the Keep Michigan Safe representative collected and turned in a few signatures and was issued an In the Field check for \$17.50. A copy of the check, dated Thursday, was also made available to the Free Press.

Wszolek confirmed Monday that In the Field "has some crews working on the west side of the state" on the campaign to repeal the 1945 law. He said In the Field is a subcontractor to the main firm Unlock Michigan has hired, National Petition Management, which did not respond to a phone message.

After he was told about the contents of the training session, Wszolek said he is suspicious that it "could be a setup" because he said Tisinger normally works on progressive campaigns, not conservative ones, such as Unlock Michigan. But in any case, he said In the Field will not get paid for the signatures it collects.

Whitmer said the revelations from the recording are "deeply disturbing and raise very serious concerns" amid a virus that has killed 200,000 Americans and more than 6,600 Michiganders.

Mark Fisk, a spokesman for Keep Michigan Safe, said any suggestion of a setup is absurd and completely false.

"They got caught red-handed again, and they're trying to weasel out of it," Fisk said.

"Unscrupulous and illegal tactics have become standard operating procedure for Unlock Michigan and this video showing a trainer encouraging people to break the law and lie under oath fits into a disturbing pattern."

Wszolek said Unlock Michigan has mostly relied on volunteer signature gatherers and has now collected more than 400,000 valid signatures. Fewer than 350,000 valid signatures are required under state law, but Wszolek said the campaign wants a significant cushion to allow for challenges.

Republicans in the Legislature say it is time for Whitmer to end the state of emergency that has been in place since March. It's the underpinning for emergency orders that require face coverings and limit the capacity of various businesses, but GOP lawmakers say Whitmer should be working with them on any restrictions, rather than acting unilaterally.

Under Michigan law, it is not illegal for signature gatherers to inaccurately describe the purpose of an initiative they are working on. But it is illegal for signature gatherers to submit signatures they did not witness. It is also illegal to testify falsely in a court proceeding, and to lie under oath.

At the Sept. 4 training session for petition circulators in Grand Rapids, Tisinger said he had held 12 small training sessions in Grand Rapids, Kalamazoo, and Lansing over the previous three weeks, and those sessions had produced only five signature gatherers who were steady earners.

Asked whether signature gatherer could leave a petition with a friend who owns a store so customers can sign it, Tisinger, said: "Technically, no." He then asked whether any of the trainees were recording the session and was told no.

"You guys never heard this conversation," he said. "You can."

However, "the thing is, is that legally speaking, you're supposed to witness everybody who gets, who signs."

Tisinger then raised the possibility of signature gatherers being subpoenaed to testify about their work at a court hearing.

"You might get deposed," he said. "You might have to go and do a deposition where, you know, you're in court and you're getting grilled by people."

He then demonstrated how lawyers might direct pointed questions about someone saying they signed the petition at a store and the signature gatherer who signed for the sheet was not present.

"I've been deposed and it's super easy," Tisinger said. "I'm just like, 'yeah, I got all the signatures.' " If the attorney then said one of those who signed said she signed the petition in the presence of a man, not a woman, Tisinger said he would reply: "Well, I had my hair down that day and was just freshly shaved."

Though Wszolek said he is suspicious Tisinger might have been an opposition plant, Tisinger told the trainees he is in the business of collecting signatures and signature gatherers are paid

not to have opinions. He is careful in the video to tell signature gatherers to make sure everyone legibly records their name, street address, their city or township, ZIP code and the date they signed. He also stressed the importance of making sure anyone who signs is a registered voter and of only having signatures from a single county on any given sheet.

"When you're not thorough, it shows when you get paid," Tisinger told the trainees. "Because we have this thing called validity. We go through and check these things against the voter logs. When you go to register to vote, you sign your name in a box. You print your name and everything and all your information. And then that goes into a computer system and it's logged."

He encouraged signature gatherers to find a spot where they can legally stay all day, such as on public property like a freeway rest stop or outside a public library, and set up a table with a sign and remain in place for the full day.

"I don't really want you guys doing it the way that I do it, only because it's kind of like guerrilla political tactics where you're running in and out of parking lots getting people to sign," he said. "Managers are looking for you and trying to kick you out, calling the cops on you. That's how I do it."

He added that if the signature gatherers wanted to, "you can work the parking lots. I don't care if you do that."

Unlock Michigan petition circulator has criminal record, history of 'bait and switch'

<https://www.freep.com/story/news/politics/elections/2020/08/28/unlock-michigan-mark-jacoby-criminal-record-bait-switch/5633064002/>

LANSING — The owner of a firm collecting signatures to repeal a law granting emergency powers to Michigan's governor has a criminal record for falsifying his voter registration and a history of alleged "bait and switch" tactics in paid petition drives around the U.S.

Mark A. Jacoby, 37, whose company, Let the Voters Decide, is publicizing that it will pay petition circulators \$3.50 for each valid signature to repeal the Emergency Powers of Governor Act of 1945, was arrested for suspected voter registration fraud and perjury in California and pleaded guilty in 2009 to a lesser charge of registering to vote at an address where he did not live.

When Jacoby was arrested in 2008, his company at the time, Young Political Majors, was registering voters for the California Republican Party and facing allegations its workers tricked voters into registering as Republicans by telling them they were signing a petition to toughen penalties for child molesters, the Los Angeles Times reported.

The "bait and switch" allegation is similar to ones that have arisen in connection with the Unlock Michigan campaign, where voters have said they were asked to sign a petition to help Gov. Gretchen Whitmer, help small business, or help hire more police and firefighters — not to repeal a law Whitmer says she badly needs to control the pandemic.

Though Michigan has no law barring petition circulators from lying about the purpose of petitions, Whitmer has denounced such tactics as "unscrupulous." Jacoby earlier faced similar allegations not just in California, but in Florida. And instructions from Jacoby's petition circulators on how to inaccurately "pitch" the repeal to Whitmer supporters — such as by describing the measure as one that would take pressure off Whitmer by putting more responsibility on the Legislature — posted July 17 and 23 on a private company Facebook page administered by Jacoby had not been removed as of Thursday morning.

A Free Press reporter was granted access to the private Facebook page Thursday morning after making an online request Tuesday.

Fred Wszolek, a spokesman for Unlock Michigan, said Thursday he has "never heard" of Let the Voters Decide, whose private Facebook page includes photos posted by its workers of Unlock Michigan signing events around the state, tips on how to avoid being asked to leave grocery store parking lots, and details about a Warren office where petition gatherers can drop off signatures and collect their pay.

Jacoby said he is a subcontractor to National Petition Management, the firm Unlock Michigan hired to head up its drive to collect about 500,000 signatures. But he said he expects his company will provide nearly 60% of the signatures Unlock Michigan collects.

Wszolek disputed that. "Our army of volunteer activists will be collecting more than 60% of the signatures," he said. "Maybe he's collecting some fraction of the remaining 40%.

As of July 20, Unlock Michigan had paid National Petition Management \$300,000 in the relatively early stages of the petition drive, records show. The California company, which also lists a Brighton address, did not respond to a Thursday email inquiring about its relationship with Let the Voters Decide.

The California case is not the only "bait and switch" allegation faced by Jacoby, who in a text message to the Free Press dismissed the concerns as old or unsubstantiated.

"I was pretty young back then, but I am not now," Jacoby said.

In Florida in 2004, the St. Petersburg Times reported that Gainesville Elections Supervisor Beverly Hill became suspicious when Jacoby appeared at the election office with a box of about 1,200 voter registration cards, including cards for 510 voters who had switched their registration to the GOP.

She said she randomly called the voters to verify they wanted to switch their affiliation. "All of them said, 'Absolutely not,'" Hill said. "They didn't even know they had signed a registration form."

The newspaper reported that the Florida Department of Law Enforcement opened an investigation in 2004 after hundreds of college students at campuses in Tampa, Tallahassee, Gainesville and Orlando said they had their voter registrations switched to Republican without their knowledge, after signing petitions circulated by Jacoby's firm at the time, YPM.

Joe Burns, a University of South Florida sophomore, said he filled out a petition for stiffer sentences for child abusers and questioned why they needed him to fill out a second form.

"It is just something I need to do," he said they told him.

He signed his name and checked no party affiliation. When he got his voter card, it was marked Republican. "It was somebody else's handwriting," Burns told the newspaper.

It does not appear any charges arose from the Florida investigation.

Jacoby said in a text message Wednesday the Free Press is "trying to beat a long dead horse," and "talking about unsubstantiated claims which are 10-15 years old."

Jacoby said there are "multiple companies working on" the Unlock Michigan petition drive, "including an (sic) felon who was convicted of actual voter fraud!!! (Which I wasn't)," he texted.

He later provided a name of someone he said is involved as a subcontractor in the Unlock Michigan campaign, who has a voter fraud conviction. The Free Press is investigating.

Whitmer's state of emergency under the Emergency Powers of Governor Act, which now extends through Sept. 4, is the major underpinning for Whitmer's emergency orders such as one requiring face masks in enclosed public spaces and another limiting capacity in restaurants to 50%. She has had to rely on the 1945 legislation since a judge ruled she cannot extend a state of emergency under the Emergency Management Act of 1976 without approval of the GOP-controlled Legislature, which has refused to grant such approval since late April.

If Unlock Michigan collects the required number of valid signatures and the Legislature votes to repeal the emergency law, Whitmer would not have the ability to veto the repeal and no vote of the public would be required, either.

In the California case, Jacoby's misdemeanor conviction came with three years of probation and 30 days of community service, according to the Inland Valley Daily Bulletin in Ontario, California.

Signature gatherers in California must sign a declaration stating they are either registered to vote in California or that they are eligible to do so.

Jacoby admitted to registering as a voter at his childhood home in Los Angeles, where he no longer lived.

Jacoby's attorney at the time, Michael Goldstein, told the media the charges against Jacoby and his arrest involving several law enforcement vehicles were politically motivated and a form of harassment. He said Jacoby was a lifelong California resident who, since eligible, did not even have to register in California to circulate petitions. He said Jacoby registered at his childhood home to try to prevent a disgruntled employee from finding out where he really lived.

Similar "bait and switch" allegations have surfaced recently in Michigan.

Ken Said of Livonia, a tool and die maker for an auto company, said he was approached at a grocery store by a man who asked him whether he would sign a petition to "help the governor." He said he read the petition, and when he saw what it was about said he did not think it would help Whitmer. The man said it would help her balance her duties, said Said, who refused to sign it.

Robin Pettypiece, who has a summer home in Rochester, said she was visiting the farmers market in St. Joseph on July 11 when she was twice approached by a woman asking her to sign a petition to "help the governor." Pettypiece said the woman would not answer follow-up questions about the petition, and although she did not look at or sign the petition, she believes the woman was circulating the petition to repeal the emergency law, and describing it inaccurately to try to get her to sign.

In Michigan, there is no state law making it illegal for petition circulators to lie about the purpose of a ballot initiative, though bills have been introduced in the Legislature in recent years to make it a crime to lie to voters asked to sign a petition.

Jacoby said Thursday he does "not condone, nor would we ever allow, bait-and-switch tactics."

But what Said and Pettypiece experienced is consistent with advice shared by signature collectors on the Let the Voters Decide private Facebook group, where Jacoby is one of the administrators, and where he shares information with signature gatherers who follow his company from state to state on various petition campaigns.

"If your (sic) working Michigan try this pitch," one of the group members posted on July 23, and which remained on the page as of Thursday morning.

"Ask if they are a Whitmer supporter," he said. If they are not, "it's a slam dunk."

If they are a Whitmer supporter, or they are on the fence, say, "Great, we have a petition to repeal the 1945 law so the Legislature will take some of the responsibility and it will not all be on her shoulders." Potential signers should be told: "That's why she catches so much flak; it's all on her."

"Give it a shot and let me know how well it works for you."

"Great advice," one member of the group replied.

"Nicely done," said another.

But one signature gatherer protested. "Why lie; be professional," he said.

Asked about that conversation on his company Facebook page, Jacoby claimed he had not seen the post. He said the petition circulators are independent contractors and "my group page allows everyone to share their opinions."

However, the person who made the post "no longer works for LTVD in part due to some of the issues you brought up," he said. "I will look into that post."

Earlier, on July 17, one signature gatherer posted: "How are you guys pitching this Michigan petition to Democrats?"

"Just trying to open up the state so small businesses don't go bankrupt," another signature gatherer replied.

That post had also not been removed as of Thursday.

Mark Flisk, a spokesman for Keep Michigan Safe, which opposes the Unlock Michigan initiative, said the Free Press disclosures about Jacoby and his company are disturbing.

"They got caught red-handed" in California, Fisk said. In Michigan, "he's clearly in a leadership role," and "he has people working for him."

The disclosures underline the need for heightened scrutiny of any signatures Unlock Michigan submits, Fisk said.

Jacoby said his company is nonpartisan and is unfairly portrayed as only working on Republican causes. The same Let the Voters Decide social media post that advertised payments of \$3.50 for each Unlock Michigan signature also publicized payments of \$2.75 per signature for the Fair and Equal Michigan petition, to enshrine civil rights for LGBTQ people.

Jacoby said he wanted the story to include the fact that he was also circulating the Fair and Equal Michigan petition, working as a subcontractor for a vendor he would not disclose. He said he expects his firm will also collect nearly 60% of the LGBTQ signatures.

But Josh Hovey, a spokesman for Fair and Equal Michigan, said the initiative wants nothing to do with Jacoby, or his company.

"Fair and Equal Michigan has strict signature collection standards and requires anyone engaged with us to commit to exclusively working on our issue," Hovey said.

"Mr. Jacoby has no contract with our campaign nor our vendors. We have asked him to stop communicating in social media suggesting that he is an agent of our campaign and have informed him in writing that we will not use any signatures he sends to us."

Gongwer: Jousting Over 'Unlock' Petition Heats Up As Signature Submission Nears

https://www.gongwer.com/programming/news.cfm?article_ID=591940103

The group seeking to bring before the Legislature an initiative petition that would repeal the law that gives the governor the apparent ability to keep the state under a state of emergency indefinitely and instead assure the primacy of the law that requires any state of emergency going beyond 28 days to have legislative authorization is close to submitting its petition signatures, and the subject of more claims of wrongdoing.

Keep Michigan Safe, the group fighting the petition drive by Unlock Michigan, provided to the Detroit Free Press audio of a training session – run by someone working for a subcontractor of the main signature-gathering firm Unlock Michigan hired – explaining to attendees how to evade Michigan laws on signature-gathering.

The proposal would repeal the 1945 Emergency Powers of the Governor Act. That would leave the 1976 Emergency Management Act as the clear authority on states of emergencies. A case is pending before the Michigan Supreme Court on whether Governor Gretchen Whitmer can continue to keep Michigan under a state of emergency without legislative approval.

In another development, Secretary of State Jocelyn Benson told reporters Tuesday it takes between 100 to 105 days for the Bureau of Elections to review petition signatures for validity, handle challenges and then produce a staff report recommending certification or rejection to the Board of State Canvassers. There are 100 days remaining in the year.

Over the years, the Bureau of Elections has taken wildly different amounts of time necessary to review the sample of 500 signatures it draws for initiative petitions.

Timing could be critical. If a certification decision does not happen until 2021, and if Democrats can win control of the House, or at least get to a 55-55 tie, in the November elections, it would force the proposal to the November 2022 ballot, assuming the House was unable to muster the votes to approve it. Even if the bureau completes its process before the end of the year, it's almost certain that the question of certification will wind up in court, a process that at best would take a couple weeks and further risk pushing the decision into 2021.

Of course, if Republicans retain House control then the timing question is irrelevant.

The video provided to the Free Press by Keep Michigan Safe shows Erik Tisinger telling the trainees he does not want them to break the law but they can and gives them advice on how to get away with it while discouraging forgeries as those are too easy to detect. Mr. Tisinger was

working for In the Field, a subcontractor to National Petition Management, which Unlock Michigan hired to help with signature collection.

The video, the Free Press reported, shows Mr. Tisinger instructing trainee to tell voters “on the fence” that signing the petition will only mean putting it on the ballot, not mentioning the goal of the petition is to secure enactment through legislative approval, not to actually reach the ballot. He also apparently warns trainees they may wind up deposed about their activities but that it is “super easy” to give misleading testimony.

Fred Wszolek, spokesperson for Unlock Michigan, said he believed the situation to be a set-up, that Mr. Tisinger typically works on progressive, not conservative, campaigns. Mr. Wszolek claimed there is no way the Keep Michigan Safe organization coincidentally happened to have a tracker recording a training led by Mr. Tisinger. Mr. Wszolek said Unlock Michigan will not use the signatures In the Field collected, which he estimated were about 3,000.

“What a shocking coincidence that there was a left-wing political operative here in Michigan working for a conservative-backed ballot proposal saying crazy things and urging people to break the law and there just happened to be an opposition video tracker in the room at the same time,” he said. “A complete set-up, absolutely.”

No contact information for Mr. Tisinger or In the Field could be found Tuesday.

Even if unscrupulous tactics were used, there is nothing in Michigan law that would lead to the invalidation of those signatures as long as they are valid signatures from registered voters with the petition form properly circulated. Unlock Michigan has said it intends to submit 500,000 signatures, well more than the 347,047 required for certification, providing a solid cushion for invalid signatures.

Ms. Benson, when asked about Unlock Michigan on Tuesday during a ballot drop box unveiling event, told reporters the state would “handle any ballot proposals that come to our office over the next few weeks equally, and no one’s going to get any special treatment.”

As to if the petition could be approved by the end of this year, Ms. Benson said it’s her belief that it takes between 100 and 105 days to review and “do everything that’s needed to prepare and evaluate signature petitions” but did not give a more specific time frame. She did acknowledge, however, that the state is undergoing very time consuming and important work with regards to the November election and that took priority over everything else.

When asked about the recent reports that Unlock Michigan is engaging in purposefully misleading signature collecting efforts – and if that had any bearing on the validity of the gathered signatures – Ms. Benson said both she and Attorney General Dana Nessel had called on the Legislature to enact laws to protect the system from fraud.

Mr. Wszolek, however, pointed to a court filing from May by Elections Director Jonathan Brater in the *Sawarimedia LLC v. Whitmer* case at the U.S. District Court for the Eastern District of Michigan in which he says "it takes approximately 60 days to complete the random sampling and challenge process" that occurs once a group submits their petition signatures for review.

"We think she misunderstood the question and that's the average amount of time for someone to renew their driver's license," he said in a swipe at the delays some motorists have seen at a secretary of state branch offices. "If we can collect 500,000 signatures in less than 80 days, they ought to be able to process a sample of 500 signatures in 60 days."

It was no coincidence that with 100 days left in the year, Ms. Benson said it takes 105 days to process a petition submission, Mr. Wszolek said.

Department of State spokesperson Jake Rollow said Mr. Brater's 60-day scenario involved a submission "in summer months with more staff resources available for petition review necessary to meet a constitutional deadline." There is a big difference between a review happening now and in July when there is a clear deadline for action to make the ballot, Mr. Rollow said.

"Comparing average days to how fast a petition can be reviewed with a pending constitutional deadline is apples and oranges. It is like comparing firefighter response time to a burning house versus a cat in a tree," he said. "Right now the Bureau of Elections is devoting all staff and resources to carrying out a successful presidential election amidst an unprecedented global pandemic. Preferential treatment will not be given to any petition, and the next deadline for review is not until 2022."

The time it has taken for the bureau to process initiative petition signatures has varied substantially through the years, making an average somewhat misleading. One of the faster processes was for the Promote the Vote voting access measure, or Proposal 3 of 2018, which took 59 days. The redistricting ballot proposal of 2018, Proposal 2, took 166 days between the time Voters Not Politicians submitted it and the bureau's staff recommended certification (eventual certification by the board did not happen for another 29 days because of legal wrangling). The proposal to legalize recreational marijuana took 178 days between the time organizers filed signatures and the Board of State Canvassers certified them.

In 2012, the collective bargaining proposal saw quick work from the Bureau of Elections with it taking 33 days for their recommendation to reach the Board of State Canvassers (it took much longer to certify because of a court fight). Also in 2012, proposals to limit taxes and international border crossings took 55 days each to go from signature submission to Bureau of Elections staff recommendations for approval (certification came several days later following court rulings).

The big difference is that the redistricting and marijuana proposals submitted signatures many months before they were due and the department had much more time to review them while

the others were submitted in the summer of the election year when the state faces an early September deadline to finalize ballots.

Mark Fisk, spokesperson for Keep Michigan Safe, denied the allegation of a set-up.

“He schools them on how to lie under oath. Sadly it’s very clear that these unscrupulous underhanded tactics are standard operating procedure with Unlocked Michigan,” he said, citing the group’s earlier use of a convicted criminal (which the group renounced after the revelation) and evidence of circulators misleading voters about the petition’s purpose. “They got caught red-handed again. This is on video.”

Mr. Fisk called for the Board of State Canvassers, the Bureau of Elections and the Department of Attorney General to review every signature Unlock Michigan submits, if they submit signatures, not just the 500-signature sample drawn.

He said Keep Michigan Safe would scrutinize every signature filed.

“We need them to take a long hard look at every signature and talk to these circulators and find out how widespread this criminality is,” he said.

He also disputed the contention from Unlock Michigan that a signature review can be completed quickly.

“This is a very through, a very time-consuming and painstaking process – as it should be,” he said.