

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR

**In the Matter of the Request for the
Removal of Kwame M. Kilpatrick
from the Office of Mayor of the City
of Detroit**

**No. EO-2008-004-LO
Hon. Jennifer M. Granholm**

PREHEARING ORDER

WHEREAS, pursuant to Section 327 of the Michigan Election Law, 116 PA 1954, MCL 168.327, the parties, through their counsel, have been notified that a hearing is scheduled to begin in this matter on September 3, 2008 at 9:00 a.m. in the Cadillac Place State Office Building in Detroit;

WHEREAS, it is necessary and appropriate to establish rules of practice and procedure for that hearing in order to assure both the fairness and efficiency of the hearing process;

IT IS THEREFORE ORDERED that the hearing on September 3, 2008 will proceed in the following manner:

1. Schedule: The parties shall be prepared to appear at 9:00 a.m. on September 3, 2008 and proceed until conclusion, with extended evening and weekend hours if necessary.

2. Pending Motions: Both parties filed preliminary motions and briefs on August 6, 2008. Response briefs are due on or before August 20, 2008, and final reply briefs are due on or before August 25, 2008. As the Governor recognizes that some of the preliminary issues may be dispositive, she intends to rule on any such issues promptly and before the hearing on September 3, 2008. Until a decision is issued, the parties shall proceed and shall prepare on the assumption that the hearing will commence at the scheduled date, time, and place.

3. Witnesses and Exhibits: On or before August 15, 2008, the Petitioner shall file and serve a list containing the names of all witnesses the Petitioner expects to call at the hearing on September 3, 2008 and a copy of each proposed exhibit Petitioner intends to introduce. On or before August 25, 2008, the Respondent shall file and serve a list containing the names of all witnesses the Respondent expects to call and a copy of each proposed exhibit Respondent intends to introduce. Proposed exhibits filed and served by each party shall be individually tabbed and identified and shall be contained in one or more three-ring binder(s) or other suitable device(s) to assure convenient reference and access.

4. Opening Statements: Each party may, but is not required to, offer an opening statement not to exceed a maximum of 15 minutes in duration, beginning with the Petitioner and followed by the Respondent who may reserve doing so until after the Petitioner has rested.

5. Witnesses: The Petitioner shall present any identified witnesses first and they shall be subject to cross-examination by the Respondent and, if applicable, redirect by the Petitioner. The Respondent shall present any identified witnesses after the Petitioner has rested and they shall be subject to cross-examination by the Petitioner and, if applicable, redirect by the Respondent. If multiple attorneys appear on behalf of a party, only one attorney may question or cross-examine a particular witness and only that attorney may object during that witness's testimony. All witnesses may be subject to questioning or cross examination by the Governor. All witnesses shall be sworn.

6. Evidentiary Issues:

A. Subpoenas: Each party is responsible for securing the attendance of the witnesses it intends to call. The Governor is without authority under Section 327 of the Michigan Election Law, 116 PA 1954, MCL 168.327, to issue and enforce subpoenas and therefore all subpoena requests shall be denied.

B. Stipulations: The parties may and are encouraged to agree to any undisputed facts.

C. Admissibility: The rules of evidence as applied in a nonjury civil case in circuit court shall be utilized as a guideline but the Governor will ultimately determine the admissibility of any evidence and may admit and give probative effect to evidence of a type commonly relied upon by

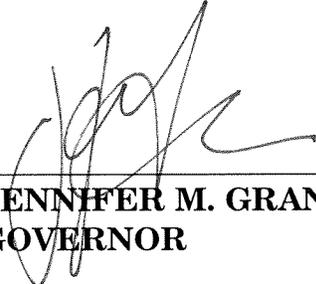
reasonably prudent persons in the conduct of their affairs. The Governor may exclude irrelevant, immaterial or unduly repetitious evidence.

Objections to offers of evidence may be made and shall be noted in the record.

D. Burden of Proof: Section 327 of the Michigan Election Law, 116 PA 1954, MCL 168.327, requires that the Petitioner submit sufficient evidence to the Governor establishing grounds for the Respondent's removal from office.

7. Closing Arguments: Each party may, but is not required to, offer a closing argument not to exceed 15 minutes in duration, beginning with the Petitioner and followed by the Respondent. Following the conclusion of closing arguments, the hearing record shall be considered closed.

8. Decision: After the conclusion of the hearing, the Governor shall make a final determination on whether Petitioner's charges are supported by and in accordance with the sufficient evidence in the record so as to warrant Respondent's removal from office.



JENNIFER M. GRANHOLM
GOVERNOR

Dated: August 11, 2008