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Testimony for the Michigan Civil Rights Commission
Public Hearing on the Flint Water Crisis

Dear Members of the Michigan Civil Rights Commission

I welcome the opportunity to provide my perspective on the Flint water crisis. I believe my perspective is unique in that I was the emergency manager in Benton Harbor, a city that is eighty-nine percent African American. My appointment resulted in an uproar by the City commission and the president of the BH/Twin City NAACP, which accused the State of Michigan of targeting the City because the citizens are primarily African American.

Following are the major issues that confronted the City at the time of my appointment.

- The City's 2009 fiscal year audit revealed that General Fund expenditures exceeded General Fund revenues by \$1.3 million.
- Total cash decreased from \$1.7 million in 2006 to \$300 thousand in 2009, a \$1.4 million difference in three years, despite over \$4 million of asset sales.
- As of June 30, 2009, the amount owed to the Internal Revenue Service for taxes withheld from employee wages was \$678 thousand.
- The City was delinquent in property tax revenues, collected on behalf of other communities, by \$2 million.
- The City owed the General Employee's Retirement System \$3.1 million and the Police and Fire Pension System \$840 thousand.
- The City withheld, for its own use, \$785 thousand of water revenues collected on behalf of another community.
- The City owed vendors delinquent payments exceeding \$500,000.
- Over \$1 million of a HUD Section 108 grant was squandered due to loans to companies approved by the City Commission, which the City is repaying to HUD at \$150,000 per year.
- (The total of these short-term obligations exceeded \$9 million. The City's annual revenues averaged \$6.5 million.)
- The City was paying \$80 thousand to \$100 thousand in bank overdraft charges.
- There was no satisfactory plan to resolve the financial problem. The City manager's deficit elimination plan included unattainable revenues and no cost reductions
- The City had no accountants and, therefore, was unable to generate financial statements, or even prepare bank reconciliations. Nor did any of its Finance

Department employees have academic or job related accounting or financial expertise.

- The City was paying in excess of \$100,000 more than required per year for rubbish collection due to its refusal to accept the low bidder for rubbish collection services
- Budgeted appropriations exceeded budgeted revenues each year from 2000 to 2010
- Actual expenditures exceeded budgeted appropriations each year
- Budgeted revenues exceeded actual revenues each year
- Actual expenditures exceeded actual revenues each year for over ten years and total operating losses were \$12 million.
- During that ten-year period, although revenues ranged from \$6.1 million to \$7.8 million, expenditures exceeded revenues by over \$1 million five times, and by over \$2 million two times.
- The City offset a portion of the operating losses with \$4.5 million of land sales, and by borrowing \$2 million, and by transferring \$1 million from other funds.

A review of the findings of State review teams for other cities would reveal a list of major issues that had gone unresolved for, literally, years.

The State, as it does for other cities confronted by financial emergencies, allowed the City of Benton Harbor to provide an acceptable plan to correct its financial problems. Not only did the City fail to provide an acceptable plan, but, as I quickly discovered, the City was incapable of providing an acceptable financial plan due to its lack of financial expertise.

Governor Blanchard had no racist agenda to target Highland Park, a city that is over ninety percent African American. Governor Granholm had no racist agenda to target Benton Harbor, a city that is over ninety percent African American. And Governor Snyder had no racist agenda to target Detroit, a city that is over eighty percent African American.

This begs the question, "What is the State's alternative when a City is, for all intents and purposes, bankrupt?"

When a corporation declares or is declared bankrupt, a receiver is appointed by the court that assumes the authority of the company's board of directors and of its management team. Cities, for which a financial emergency has been declared, are, in fact, bankrupt, and the emergency manager becomes the State appointed receiver.

This is not a case of a democracy versus a dictatorship. It is a case of the State interceding to protect the citizens and the surrounding communities from the effects of a poorly run city. It is not only the State's right to do so, it is the State's obligation to do so.

When various individuals and organizations play the proverbial race card, it draws attention. However, the facts don't support the accusations that the State is singling out minority communities. Correlation does not equate to cause.

In the early twentieth century, Ford Motor Company moved its automobile manufacturing plant from Highland Park to Dearborn. Later in the twentieth

century, the Chrysler Corporation moved its headquarters from Highland Park to Auburn Hills. Also, in the 1990s, Whirlpool began to move its factories from Benton Harbor to Mexico, Asia, Arkansas, Tennessee, and elsewhere. And the loss of automobile industry jobs in the cities of Detroit, Flint, Pontiac, and Ecorse is well documented. Many of the residents of these cities who lost their jobs were African Americans. And most of the residents that remained in those cities were African Americans.

Anyone that claims that the three governors that have declared financial emergencies in those communities did so because the residents are primarily African Americans, is ignoring the facts. The facts are that tens of thousands of African Americans (including my family) migrated to those cities from the south in order to escape the Jim Crow laws and to earn a living. Many of them had little or no education. My father had a fourth-grade education, and he was no exception. So, when the jobs disappeared, many individuals that had education and transferable skills left those cities, and found work elsewhere, leaving those cities with many low-skilled, uneducated residents, who were primarily African Americans in circumstances that could not be sustained as before. It is well documented that white flight and fewer job opportunities resulted in many poor communities, including Benton Harbor, that are primarily African American.

The Benton Harbor State takeover was resolved in four years after over ten years of deficits. Most financial emergencies are resolved within a three to five year period.

The emergency manager law, which was opposed by many unions, some local NAACP branches, and other organizations, is an absolute necessity for restoring financial solvency to failing cities. However, any law is only as good as the individuals who are responsible for carrying it out.

Governor Granholm visited Benton Harbor soon after my appointment in 2010, and was warmly greeted by the community. Governor Snyder, Lieutenant Governor Calley, and Treasurer Dillon neither visited Benton Harbor nor met with me to discuss the myriad of issues confronting Benton Harbor during my tenure. Also, the State deputy treasurer paid little attention to Benton Harbor, and did not provide updates regarding Benton Harbor to the State treasurer or to the governor's office.

Moreover, little thought was involved in deciding on my replacement, as the City is now confronted with lawsuits related to the actions of my replacement, who was very inexperienced.

Also, the State does not use the experience of its emergency managers to enhance the successes of future EMs. Despite my successes in Benton Harbor, I have never been contacted by the State to discuss my successes and failures, for another EM position, to consult with new appointees, or to serve on an advisory board for other cities experiencing financial emergencies. It causes me to question the attention that is being given by the administration to a such an important job. It is not only a waste of talent and a poor way to manage any organization, but also a failure to give the emergency manager position the attention that it deserves.

Laws are only as effective as the manner in which they are administered. There are laws against shooting unarmed civilians. However, it is not enough to give guns to police officers and assume that they will follow the laws, and perform their duties in the best interest of the public. It is also important that we give the guns to the right people and supervise them properly.

My focus in this paper has, thus far, been on the effectiveness of emergency managers, the emergency managers law, and the administration of the law. However, it is important that we understand that, if the Michigan Department of Environmental Quality (DEQ) had performed its job properly, there would not be a public hearing on the "Flint Water Crisis, because there would not have been a "Flint Water Crisis."

Managers, including emergency managers, can only be as effective as the information they receive and the performance of their team. As an emergency manager for Benton Harbor, the DEQ monitored and approved every act I undertook regarding the Benton Harbor water plant. I relied on the DEQ to provide me with direction and/or approval for any changes we were contemplating. After all, managers are not expected to have expertise in the various departments of their operations. We rely on the internal staff and external agencies that are required to and expected to possess the necessary expertise in the particular areas.

The DEQ failed to require that the city of Flint properly treat the Flint River water to prevent the leakage of lead into the system. However fingers are now pointed at the emergency manager, who was relying on the expertise of the agency that was, by law, required to monitor and direct the City in its transition.

It is appalling that the residents and employees within the city of Flint were subjected to what has been characterized as criminal acts by State employees. Three Michigan Department of Health and Human Services workers and three Michigan Department of Environmental Quality employees have been charged for failing to act, and/or failing to minimize the harm done, and/or ignoring data, and/or intentionally altering figures, and/or covering up significant health risks.

The Flint emergency manager did what most good managers should do. He relied on the advice and stipulations of the individuals who had the necessary knowledge. But those individuals failed to properly direct him. Emergency managers should shoulder the blame when they defy the advice of their managers and that of State agencies. But that is not what happened. To attribute the Flint water crisis to an emergency manager, when he approved the change of the water source to the Flint River with the blessings of the DEQ, is, in my opinion, misguidedly appealing to the factions that oppose the emergency manager law.

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