

September 29, 2011

John Mullen
Oceanside City Attorney
300 North Coast Hwy.
Oceanside, CA 92054

Bonnie Dumanis
San Diego District Attorney
Hall of Justice
330 W. Broadway
San Diego, CA 92101

Kamala D. Harris
California Attorney General
P.O. Box 944255
Sacramento, CA 94244-2550

RE: FORMAL COMPLAINT AND DEMAND FOR INVESTIGATION
VIOLATION OF PENAL PROVISIONS OF ELECTION CODE

Dear Ms. Harris, Mr. Rackaukus, and Mr. Mullen:

I write to file this formal complaint and request for investigation regarding illegal signature gathering tactics, in violation of state law, of the individual described below.

On Sunday, September 25, 2011, I attended the City of Oceanside's Harbor Day event. At about 11:00 a.m., I walked by a female initiative petition signature gatherer who had set up a small table at the event. The woman, who appeared to be in her late fifties, was urging people to sign a referendum petition to help prevent protect against child molesters and child abusers. I was interested, as a result, until I realized that the referendum petition had nothing to do with those issues and instead was about repealing SB 48, a bill signed into law by Governor Brown which amends the Education Code to include social sciences instruction on the contributions of lesbian, gay, bisexual and transgender (LGBT) persons and to prohibit discriminatory instruction and discriminatory materials from being adopted by the State Board of Education.

In addition to the signature gatherer's verbal misrepresentation about the content of the referendum petition, she also had posted large images and names of abduction victims, including Elizabeth Smart, in the attempt to mislead potential petition signers, like myself. Indeed, evidence of her misrepresentation is confirmed by the fact that the poster board she displayed referenced a *failed*

initiative petition that related to human trafficking and which was over one year old.¹ The Secretary of State's office had also issued a notice on August 3, 2010 that the Phung initiative had failed.² I have attached photographic evidence that corroborates these allegations. Additionally, I have posted a video of the woman and her signature-gathering table on YouTube (See <http://www.youtube.com/user/watersrobmax>.) Despite my efforts to correct her behavior, she persisted in disseminating false information about the referendum petition contents. Additionally, the woman refused to provide me with her name when I requested it.

The initiative and referendum process are highly regulated in the State of California to protect people from this type of deceitful and fraudulent activity. The actions of the circulation gatherer I've described constitute a clear, criminal violation of state law. California Elections Code Section 18600, in relevant part, reads:

18600. Every person is guilty of a misdemeanor who:

(a) Circulating, as principal or agent, or having charge or control of the circulation of, or obtaining signatures to, any state or local initiative, referendum or recall petition, intentionally misrepresents or intentionally makes any false statement concerning the contents, purport or effect of the petition to any person who signs, or who desires to sign, or who is requested to sign, or who makes inquiries with reference to it, or to whom it is presented for his or her signature.

(b) Willfully and knowingly circulates, publishes, or exhibits any false statement or misrepresentation concerning the contents, purport or effect of any state or local initiative, referendum, or recall petition for the purpose of obtaining any signature to, or persuading or influencing any person to sign, that petition.

(Cal. Elec. Code Section 18600.) It is clear from my personal observation, as well as the video and photographic evidence, that the signature gatherer intentionally misrepresented the contents of the referendum petition.

State law demands that the public has a right to be protected from such unscrupulous tactics. I therefore respectfully request that your respective offices immediately investigate and prosecute the signature gatherer to the full extent of the law. Please contact me if you require any additional information.

Sincerely,

Max Disposti

¹ See CA Attorney General Website, Initiative 09-00103, Proponent, Daphne Phung, available at http://ag.ca.gov/cms_attachments/initiatives/pdfs/i901_initiative_09-0103.pdf#xml=http://search.doj.ca.gov:8004/AGSearch/isysquery/9c3a41b4-e874-4288-a083-693797542310/2/hilite/.

² See Secretary of State Website, Notice, available at <http://www.sos.ca.gov/elections/ccrov/pdf/2010/august/10256km.pdf>.