

**UNITED STATES OF AMERICA  
COMMISSION ON CIVIL RIGHTS  
SUBPOENA DUCES TECUM**

To: **SAM HIRSCH**  
at **950 Pennsylvania Avenue, NW, Washington DC 20530**

PURSUANT to the authority of the Civil Rights Commission Amendments Act of 1994, 42 U.S.C. § 1975 et seq., a copy of which is included hereto,

YOU ARE HEREBY COMMANDED to be and appear before the United States Commission on Civil Rights, at a **deposition and session for return of subpoenaed documents** at **10:00 A.M.** on **November 19, 2010** at the **U.S. Commission on Civil Rights, 624 9<sup>th</sup> Street, N.W., Washington, DC 20425**, and

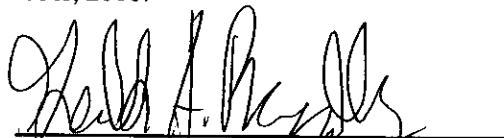
YOU ARE HEREBY COMMANDED FURTHER to bring with you and produce before said Commission, **those documents responsive to the attached notice of deposition and request for documents.**

HEREOF FAIL NOT, as you will answer your default under the pains and penalties in such cases provided for in 42 U.S.C. § 1975a(e)(2), reproduced herein.

PURSUANT to the Rules on Hearings of the United States Commission on Civil Rights, a copy of which is attached hereto, an office has been established at **624 Ninth Street, N.W., Suite 620, Washington, DC 20425**, for return of subpoenas. For communications to the Commission with respect to this subpoena, contact David P. Blackwood, General Counsel, Office of the General Counsel.

Issued by the United States Commission on Civil Rights, and

Given under my hand this 21<sup>st</sup> day of October, 2010.

  
\_\_\_\_\_  
Gerald A. Reynolds  
Chairman

**UNITED STATES OF AMERICA  
COMMISSION ON CIVIL RIGHTS  
RETURN OF SERVICE**

[To be completed by person serving the subpoena.]

On \_\_\_\_\_, at \_\_\_\_\_, I served the original of this subpoena on the within named \_\_\_\_\_ by delivering a copy of said subpoena, together with a copy of the Civil Rights Commission Amendments Act of 1994 and the Rules on Hearings of the United States Commission on Civil Rights to \_\_\_\_\_.

Declaration of Server

I declare, under penalty of perjury under the laws of the United States of America, that the foregoing information contained in the Return of Service is true and correct.

Executed on \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF SERVER

\_\_\_\_\_  
ADDRESS OF SERVER

**CIVIL RIGHTS COMMISSION AMENDMENTS ACT OF 1994 (P.L. 103-419)**

42 U.S.C. § 1975a

(e)(1) The Commission, or on the authorization of the Commission, any subcommittee of two or more members of the Commission, at least one of whom shall be of each major political party, may, for the purpose of carrying out this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee deems advisable. Each member of the Commission shall have the power to administer oaths and affirmations in connection with the proceedings of the Commission. The holding of a hearing by the Commission or the appointment of a subcommittee to hold a hearing pursuant to this paragraph must be approved by a majority of the Commission, or by a majority of the members present at a meeting when a quorum is present.

(e)(2) The Commission may issue subpoenas for the attendance of witnesses and the production of written or other matter. Such a subpoena may not require the presence of a witness more than 100 miles outside the place wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process. In case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

(e)(3) A witness attending any proceeding of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(e)(4) The Commission may use depositions and written interrogatories to obtain information and testimony about matters that are the subject of a Commission hearing or report.

## NOTICE OF DEPOSITION

Please take note that the U.S. Commission on Civil Rights, by undersigned counsel, will take the deposition upon oral examination of **SAM HIRSCH** as to information known or available to said deponent regarding the matters identified below. Said deposition will commence on **November 19, 2010 at 10:00 A.M.**, and continue thereafter until completed or recessed. The aforesaid deposition will take place at the offices of the U.S. Commission on Civil Rights, 624 Ninth Street, N.W., Washington, DC 20425.

## SUBJECT MATTER OF DEPOSITION

1. All information relating to the activities of the New Black Panther Party for Self Defense with regard to the presidential election of 2008.
2. All decision making within the Department of Justice relating to the case styled The United States of America v. New Black Panther Party for Self Defense, et al., Civil Action No. 2:09-cv-0065, in the United States District Court for the Eastern District of Pennsylvania.
3. All information relating to the manner and method by which the Department of Justice has pursued voter intimidation matters.
4. All information relating to the decision by the Department of Justice to limit the relief sought in the New Black Panther Party litigation.
5. All information confirming, refuting, or otherwise related to the testimony provided to this Commission by Thomas Perez, Christopher Coates, and/or J. Christian

Adams. This request includes, but is not limited to, allegations in said testimony as to whether civil rights laws are enforced by the Department in a race-neutral fashion.<sup>1</sup>

6. All information relating to the communications referenced in the *Vaughn* index provided by the Department as a result of the lawsuit styled *Judicial Watch v. Department of Justice*, Civil Action No. 10-851, currently pending in the United States District Court for the District of Columbia.<sup>2</sup>

#### DOCUMENTS TO BE PRODUCED AT DEPOSITION

Pursuant to the notice of deposition of which this is a part, you are hereby directed to respond completely and fully to the following requests for the production of documents no later than ten (10) days before the date of your deposition. The production of such documents is to be made at the offices of the U.S. Commission on Civil Rights, 624 Ninth Street, N.W., Washington, DC 20425.

#### INSTRUCTIONS AND DEFINITIONS

1. The United States Commission on Civil Rights shall be referred to as the “U.S. Commission on Civil Rights,” the “Commission,” or the “agency.”
2. The United States Department of Justice shall be referred to as “DOJ” or the “Department.”
3. The Civil Rights Division of the United States Department of Justice shall be referred to as “the Civil Rights Division.”

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<sup>1</sup> This testimony is available on the Commission website at <http://www.usccr.gov/NBPH/NBPH.htm>.

<sup>2</sup> See attached.

4. The Voting Rights Section of the Civil Rights Division of the United States Department of Justice shall be referred to as “the Voting Rights Section.”
5. The New Black Panther Party for Self-Defense shall be referred to as “NBPP” or the “New Black Panther Party.”
6. “The New Black Panther Party litigation” shall refer to the case styled The United States of America v. New Black Panther Party for Self Defense, et al., Civil Action No. 2:09-cv-0065 in the United States District Court for the Eastern District of Pennsylvania.
7. If any document responsive to this request was, but is no longer, in your possession, custody or control, please furnish a description of each such document and indicate the manner and circumstances under which it left your possession, custody, and control and state its present location and custodian, if known.
8. If for any request there is no responsive document in your possession, custody, or control, indicate whether documents that would have been responsive were destroyed or mislaid, and if so, the circumstances under which they were destroyed or mislaid.
9. The terms “writing” and/or “document” as used herein means all records, papers, books, transcriptions, pictures, drawings or diagrams of any nature, whether transcribed by hand or some mechanical, electronic, photographic or other means, as well as sound reproductions of oral statements or conversations by whatever means made, whether in your actual or constructive possession or control or not, relating or pertaining in any way to the subject matters in connection with which it is used and includes originals, file copies, or other copies no matter how

prepared and all drafts prepared in connection with such writing, whether used or not, including by way of illustration and not by way of limitation, the following: books, records, lists, receipts, contracts, agreements, expense accounts, sound and tape recordings, records of electronic communications (whether in electronic form or otherwise), memoranda (including written memoranda of telephone conversations and other conversations, discussions, meetings, agreements, acts and activities), minutes, plans, diaries, computer printouts, calendars, desk pads, scrapbooks, notebooks, letters, communications, correspondence, bulletins, complaint circulars, forms, opinions or reports of consultants, pamphlets, notices, statements, journals, summaries or reports of investigations or negotiations, postcards, telegrams, telex messages, reports, intra-office or inter-office communications, test results, findings or reports, and any and every other method by which information is recorded and/or transmitted, including, but not limited to, any recorded, transcribed, punched, computerized, filmed, and/or graphic matter, however produced and/or reproduced, filings with any agency, department or Court, photostats, microfilm, maps, deposition transcripts, affidavits, and all other writings whether prepared by you for your own use or for transmittal or received by you. If any such writings and/or documents are maintained in folders, produce the file folders containing such data, including the precise order in which such items are contained in the file folder and all wording on each such file folder.

10. "Communication" means any oral or written exchange of words, thoughts, or ideas between two or more persons, whether person-to-person, in a group, by telephone, by letter, by electronic mail, by telex, or by any other process. All such

communications in writing shall include, without limitation, printed, typed, hand written, or other readable documents, correspondence, memos, reports, contracts, both initial and subsequent diaries, log books, minutes, notes, studies, surveys, and forecasts.

11. When appropriate in the context of a discovery request or a response thereto, the singular shall mean the plural, and the masculine gender shall mean the feminine, and vice versa.
12. The terms “and” and “or” shall be interpreted conjunctively or disjunctively so as to require, in each context, the most complete and inclusive response.
13. Unless otherwise indicated, these discovery requests refer to the time, place and circumstances of the occurrence mentioned or complained of (i) in the pleadings to the New Black Panther Party litigation; (ii) in the related DOJ investigation and decision-making process relating to said litigation; and (iii) in the testimony before the Commission of Thomas Perez, Christopher Coates, and/or J. Christian Adams.
14. If any responsive documents are available electronically, please provide a current Internet address whereby such document may be downloaded or otherwise obtained.

#### DOCUMENT REQUESTS

The following documents are requested:

1. Any and all documents describing the facts of the New Black Panther Party litigation.
2. Any and all documents providing incident reports or witness statements with regard to the circumstances which gave rise to the New Black Panther Party litigation.

3. All documents evidencing any investigation conducted by the Department, or on its behalf, relating to the actions of the NBPP in Philadelphia during the 2008 presidential election.
4. All documents evidencing any reports of alleged voting intimidation (or other voting-related improprieties) by members of the NBPP, other than those that gave rise to the New Black Panther Party litigation.
5. All documents evidencing any reports or summaries of events or descriptions received by you from any third party with regard to the activities, practices, and/or actions of the NBPP generally, and/or those named as defendants in the New Black Panther Party litigation.
6. All documents evidencing any additional facts learned by you, subsequent to the filing of the complaint in the New Black Panther Party litigation, that influenced the Department's decision to drop three of the defendants as parties and to reduce the relief sought.
7. Any and all documents evidencing communications by or between the Voting Rights Section and yourself relating to the NBPP and/or the New Black Panther Party litigation.
8. Any and all documents evidencing communications by or between the Civil Rights Division and David W. Ogden and/or the Office of the Deputy Attorney General relating to the NBPP and/or the New Black Panther Party litigation.
9. Any and all documents evidencing communications by or between the Civil Rights Division and Thomas J. Perrelli and/or the Office of the Associate Attorney General



- (including, but not limited to, Sam Hirsch) relating to the NBPP and/or the New Black Panther Party litigation.
10. Any and all documents evidencing any communications by anyone within the Department with the Attorney General of the United States and/or the Office of the Attorney General with regard to the New Black Panther Party litigation.
  11. Any and all internal memoranda evaluating potential charges in the New Black Panther Party litigation.
  12. Any and all internal memoranda or other documents evidencing the decision (or potential decision) to dismiss any defendants, or reduce the relief sought against any defendants, in the New Black Panther Party litigation.
  13. All documents evidencing the original investigative memo (a/k/a the "J Memo") relating to the New Black Panther Party litigation.
  14. All documents evidencing communication by or between any member of the Civil Rights Division and the appellate section relating to the New Black Panther Party litigation.
  15. All documents evidencing any review by the appellate section of any aspect of the New Black Panther Party litigation.
  16. All documents evidencing any other voter intimidation cases that have been reviewed by the appellate section prior to trial or the entry of a default judgment.
  17. All documents evidencing any research or investigation by DOJ with regard to the New Black Panther Party and/or its affiliates.
  18. All documents relating to the investigation of the circumstances which gave rise to the New Black Panther Party litigation.

19. All video evidence obtained by the Department relating to the New Black Panther Party generally, as well as the actions of the New Black Panther Party in Philadelphia on Election Day, 2008.
20. All documents evidencing concern over First Amendment implications of voter intimidation cases. This request includes, but is not limited to, the circumstances surrounding the New Black Panther Party litigation.
21. All documents evidencing any other voter intimidation cases in which concerns were raised within the Department about the First Amendment rights of those believed to have intimidated voters.
22. All documents evidencing any other voter intimidation cases in which the status of an individual as a poll watcher affected the Department's decision to dismiss or lessen charges relating to voter intimidation.
23. All documents evidencing the decision to limit injunctive relief in the New Black Panther Party litigation to a single municipality and only through November 2012.
24. All documents evidencing communications by or between the Department and any third parties relating to the New Black Panther Party litigation, including, but not limited to, communications with Kristen Clarke of the NAACP Legal Defense Fund.
25. All documents evidencing any effort by the Department to determine if Kristen Clarke of the NAACP Legal Defense Fund had any communication with Department attorney Laura Coates about the NBPP litigation.
26. Any and all documents detailing Department protocol with regard to third-party contacts relating to pending litigation.

27. All documents evidencing all other instances in which DOJ has consulted with outside third parties, with no pre-existing role or relationship, with regard to voter intimidation cases.
28. Any and all documents evidencing communications by or between the Department and any member of the Executive Office of the President and/or the White House with regard to the New Black Panther Party litigation.
29. Any and all documents evidencing communications by or between the Department and any member of Congress with regard to the New Black Panther Party litigation.
30. All documents evidencing communications by or between the Department and Michael Coard.
31. All documents evidencing communications by or between the Department and Malik Zulu Shabazz.
32. All documents evidencing communications by or between the Department and Minister King Samir Shabazz (a/k/a Maurice Heath).
33. All documents evidencing communications by or between the Department and Jerry Jackson.
34. All documents evidencing the contention that the decision to dismiss defendants and to reduce the relief sought in the New Black Panther Party litigation was made by career employees at the Department.
35. Any and all documents evidencing draft complaints or pleadings with regard to the New Black Panther Party litigation.

36. All documents evidencing communications by or between the Voting Rights Section and any other portion of the Department with regard to the New Black Panther Party litigation.
37. All documents evidencing any legal analysis relating to the New Black Panther Party litigation.
38. All documents evidencing the procedures and/or mechanisms in place within the Department, since the inception of the Voting Rights Act, to receive, investigate, and/or resolve complaints regarding voter intimidation.
39. All documents evidencing claims within the Voting Section's ICM system relating to voter intimidation cases and/or the New Black Panther Party litigation.
40. All documents evidencing the Voting Section's understanding of the elements and standards of a Section 1973i(b) case.
41. All documents evidencing DOJ attempts to pursue actions pursuant to Section 1973i(b).
42. All documents provided by you and/or the Department to the Office of Professional Responsibility relating to the NBPP litigation or the decision making process relating to same.
43. All documents provided by you and/or the Department to the Office of Inspector General relating to the NBPP litigation or the decision making process relating to same.
44. All documents evidencing any effort by you and/or the Department to determine the validity of all or any portion of the testimony of Christopher Coates before the Commission.

45. All documents evidencing any effort by you and/or the Department to determine the validity of all or any portion of the testimony of J. Christian Adams before the Commission.