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February 15, 2018

The Honorable Kevin Lundberg
Senator, Colorado State Senate
200 E Colfax, Room 346
Denver, CO 80203

Re: Funding Vote on Colorado Civil Rights Commission

Dear Senator Lundberg:

I have the honor of serving as the Executive Director of the Congressional Prayer Caucus Foundation. The Foundation serves nearly 100 members of Congress who are part of the Congressional Prayer Caucus (the names of those members of Congress who serve on the Congressional Prayer Advisory Team are listed on the left).

In addition, the Foundation serves Legislative Prayer Caucuses in 31 states, including Colorado, which have over 1000 state senators and state representatives as members. These leaders are working together to preserve the integrity of our first principles and protect First Amendment rights for all.

We recently learned that you and two other courageous members of the Joint Budget Committee refused to vote to fund the Colorado Civil Rights Commission, at least until its recent derelictions can be addressed. We applaud you for your courage in directly applying the provisions of the Colorado State Constitution and Colorado statutes to the lawless recent behavior of the Colorado Civil Rights Commission.

Article II of the Colorado Constitution lists the Bill of Rights adopted by and for the citizens of Colorado. Section 3 states that "all persons have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness." Senator, we respectfully submit that it is the unique duty of the legislators of Colorado to do the will of the people of Colorado as expressed in the Colorado

Constitution. This will of the people is that all persons in Colorado have natural and alienable rights, including defending their liberties, acquiring and protecting property, and obtaining happiness. Is this not precisely what Jack Phillips sought to achieve in his chosen profession as a masterpiece baker? Was not Jack Phillips engaging in a peaceful and honorable profession, one he hoped would allow him to acquire and possess property and thereby obtain economic safety and happiness? Has not Mr. Phillips, directly as the result of the hostile action of the Colorado Civil Rights Commission, been deprived of his natural, essential, and inalienable rights?

Section 4 of the Colorado Bill of Rights provides the first civil right specifically identified by the people of Colorado, and that is Religious Freedom. Section 4 states in pertinent part that “the free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed, and no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion” Again, Denver baker and businessman Jack Phillips sought, as a right of religious conscience and as protected by the Colorado Constitution, to honor the sacred bond of marriage, according to his religious beliefs, by using his skills as a baker to honor only the union of one man and one woman. This was his natural and inalienable civil right, one completely disregarded by the Civil Rights Commission, which fined him for exercising the freedom of religion guaranteed by the Colorado Constitution.

Another matter concerning the Colorado Civil Rights Commission goes directly to the integrity of the Commission. In the oral arguments before the U.S. Supreme Court in the *Masterpiece Cakeshop* case, Justice Kennedy cited to pages 293-94 of the Appendix, where Commissioner Hess said that “freedom of religion used to justify discrimination is a despicable piece of rhetoric.” Justice Kennedy asked whether the Commission had disavowed this statement by Commissioner Hess, and was told that the Commission had not disavowed or disapproved of this statement that showed Commissioner Hess’ obvious hostility of religion. Moreover, as was noted in the U.S. Supreme Court, the Commission has excused gay bakers when they have refused to make cakes with a message with which they disagreed.

An essential element of Due Process is an impartial tribunal. Commissioner Hess’s comment shows that he was not impartial, yet he did not recuse himself from deciding the fate of Mr. Phillips’ civil rights claim of religious conscience. This certainly casts a dark cloud on the entire proceeding of the Commission, and this may be only one example of where the Commission failed to grant to someone before it impartial justice. Certainly an investigation into the apparent bias of the Commission would make sense before funding is provided.

Finally, in the oral arguments before the U.S. Supreme Court in *Masterpiece Cakeshop*, the Chief Justice noted that in many instances states provide a religious exemption to their public accommodation statutes. Given the contesting civil rights claims by both Mr. Phillips and his two potential customers who wanted him to sculpt a cake for their same-sex wedding, it certainly would be in the best interests of the people of Colorado to reconsider and amend the public accommodations statute to allow the protection of civil rights for all Colorado citizens. If you would like our help in this regard, please let us know. Again, thank you for your courageous stand.

Sincerely,



Lea Carawan

Executive Director

Congressional Prayer Caucus Foundation