

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

FILED

STATE OF LOUISIANA

2008 OCT -1 P 3: 32

NO.: 08-8342

DIVISION "H"

ASSOCIATION OF COMMUNITY ORGANIZATIONS OF REFORM NOW

CIVIL DISTRICT COURT

VERSUS

WADE RATHE, ET. AL.

FILED: _____

DEPUTY CLERK

ORDER

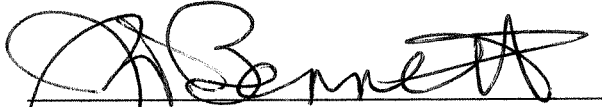
Considering the above and foregoing Motion to Enroll as Counsel of Record;

IT IS ORDERED, ADJUDGED AND DECREED that the Motion to Enroll as Counsel of Record is hereby GRANTED, and Jeffrey W. Bennett is hereby enrolled as counsel of record for defendants, Citizens Consulting, Inc. and Mike Jones, in the above-captioned case.

SIGNED in New Orleans, Louisiana, this ____ day of October, 2008.

JUDGE

Respectfully submitted,



JEFFREY W. BENNETT (Bar No. 20100)
1321 Hickory Avenue, Suite 201
Harahan, LA 70123
Telephone: (504) 913-3319
Attorney for defendants, Citizens Consulting, Inc.
and Mike Jones

"Recognized as Notice of Enrollment pursuant to District Court Rule 9.12 effective January 4, 2004."

VERIFIED

Cm
10/6/08

CIVIL DISTRICT COURT FOR THE FILED

PARISH OF ORLEANS

STATE OF LOUISIANA

DIVISION "H"

NO. 08-8342

2008 SEP 19 P 1:00

CIVIL DISTRICT COURT

ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW, ET AL.

VERSUS

WADE RATHKE, ET AL.

FILED: _____
DEPUTY CLERK

MOTION TO INTERVENE AND FOR A WRIT OF MANDAMUS

MAY IT PLEASE THE COURT:

The interveners herein are all Board Members and voting Members of the Plaintiff Corporation Association of Community Organizations For Reform Now a Louisiana Non-profit Corporation, herein after ACORN.

1. ACORN is represented herein by Marcel Reid and Karen Inman, both members of the board of Directors of Acorn and members of the Interim Management Committee. Both are also

Voting Members of the Corporation and now wish to intervene in their individual capacity.

ACORN is made a nominal defendant herein for the purposes of getting an order issued to staff members who are attempting to frustrate the wishes of the Board of Directors.

2. ACORN the Corporation and Marcel Reid and Karen Inman are also joined by the below listed ACORN Board members and Voting Members in their individual capacities:

3. Marcel Reid is a DC Delegate to the Association Board and member of the Interim Management Committee. Marcel resides at 3790 Martin Luther King Jr., Blvd, SE, Apartment B-1, Washington, DC 20032.

4. Karen Inman is an Association Board Delegate from Minnesota and member of the Interim Management Committee. Karen resides at 690 LaFond Ave. St. Paul, MN

DALE N. ATKINS
CLERK - CIVIL DISTRICT COURT
1000 PINEAUX AVENUE ROOM 402
NEW ORLEANS, LA 70112

DATE: 9/19/2008 at 13:09
PAGE#: 2008 - 08342 SEC: 12
PRICE PAID BAL

PETITION OF INTERVENTION	\$ 100.00	\$ 100.00	\$ 0.00
ISC	\$ 20.50	\$ 20.50	\$ 0.00
INDIVLUAL LEGAL FEE	\$ 10.00	\$ 10.00	\$ 0.00
TOTAL PAID CASE # 200808342:		\$ 130.50	

RECEIPT TOTAL \$130.50
CHANGE DUE \$.00
TOTAL PAID Amt. \$130.50

10-7-08
VERIFIED
CEDERICK FAVAROTH

55104.

5. Adrianna Jones is an Association Board Delegate from Michigan. Adrianna resides at 842 SE Logan St., Grand Rapids MI 49506.
6. John Jones is an ACORN Washington State Board Delegate. John resides at 8321 49th Ave. South Seattle WA 98118.
7. Coya Mobley is an Association Board Delegate from Ohio. Coya resides at 346 Kenwood Ave. Dayton, OH 45405.
8. Yvonne Stafford is an Association Board Delegate from North Carolina. Yvonne resides at 1018 Everett Place, Charlotte, NC 28205.
9. Fannie Brown is an ACORN California State Board Delegate. Fannie resides at 7438 Weld St. Oakland, CA.
10. Louise Davis is a DC Delegate to the Association Board Delegate. Louise resides at 738 Congress St., SE, Washington DC 20032.
11. The defendant Wade Rathke is of full age and domiciled in Orleans Parish.
12. The Board Created the Interim Management Committee to manage the crisis created by the discovery that the brother of Wade Rathke had embezzled nearly one million dollars from the corporation.
13. It was also discovered that Wade Rathke knew of the embezzlement and failed to inform the Board.
14. The Board discharged Wade Rathke and his brother Dale Rathke.
15. Wade Rathke claimed that he resigned.
16. Despite the firing and or resigning of Wade Rathke and the Board authorizing an Interim Committee to manage the affairs of the corporation the staff has refused to turn over to the Interim Management Committee the financial records of the corporation.

17. On August 11, 2008 Karen Inman went to the offices of Acorn and demanded the financial records including the list of all bank accounts, deposits of money and current contracts for Acorn.
18. Each of the interveners have made a written demand to be given access to the records of the corporation and each has been refused.
19. Karen Inman the member of the Interim Management Committee and agent of the committee was put out of the ACORN office.
20. As Board Members and voting members of ACORN the interveners are requesting that they be given access to all of the corporate records of Acorn. Having been refused that request the Interveners pray that a Writ of Mandamus be issued to anyone person or entity in possession of the corporate records, ordering them to make those records available to the interveners.
21. ACORN receives much of its funding from non-profit sources and relies heavily on the good will of donors.
22. The embezzlement and the failure to report it threatens that good will.
23. The interveners believe that much of the records of Acorn are in the control of Michael Jones and Citizens Consulting, Inc. ("CCI").
24. The interveners also believe that staff members of ACORN are attempting to prevent the interveners from having access to the records.
25. Defendants should be ordered to show cause why a writ of Mandamus should not be issue herein ordering CCI, Michael Jones and any staff person exercising control over the records of the corporation to give the interveners access to all corporate records.

WHEREFORE, plaintiff interveners, pray that after due proceedings that there be a judgment in favor of plaintiffs, and against Michael Jones, Citizens Consulting Inc. and Acorn as nominal defendant.

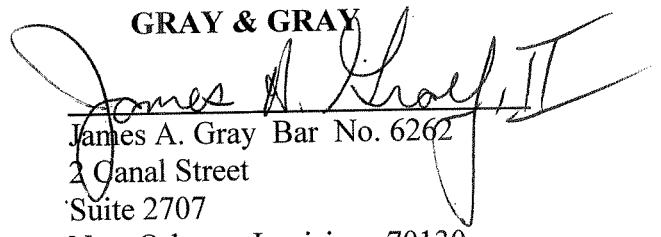
Ordering the issuance of a Writ of Mandamus, directed to defendants, ordering them to give access to the interveners to all corporate records.

FURTHER ORDERING THAT the defendants disclose the location of all banking accounts, deposits of money, assets and contracts belonging to ACORN.

FURTHER ORDERING THAT there be the issuance of a rule nisi directed to defendants Michael Jones, Citizens Consulting Inc. and Acorn, to show cause why a writ of Mandamus should not issue herein.

Respectfully Submitted,

GRAY & GRAY


James A. Gray Bar No. 6262
2 Canal Street
Suite 2707
New Orleans, Louisiana 70130
Telephone: (504)522-0838
Facsimile: (504)522-084

PLEASE SERVE:

Michael JONES 1024 Elysian Fields Avenue, New Orleans, La 70117

CITIZEN'S CONSULTING INC.

Thru NATIONAL REGISTERED AGENTS, INC., 1011 N. CAUSEWAY BLVD., STE. 3,
MANDEVILLE, LA 70471

ACORN

Thru NATIONAL REGISTERED AGENTS, INC., 1011 N. CAUSEWAY BLVD., STE. 3,
MANDEVILLE, LA 70471

CIVIL DISTRICT COURT FOR THE

FILED

PARISH OF ORLEANS

STATE OF LOUISIANA 2008 SEP 19 P 1:00

NO. 08-8342

DIVISION "H"

CIVIL DISTRICT COURT

ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW, ET AL.

VERSUS

WADE RATHKE, ET AL.

RULE TO SHOW CAUSE

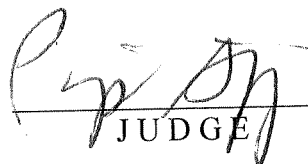
YOU ARE HEREBY ORDERED the defendants disclose the location of all banking accounts, deposits of money and contracts belonging to ACORN.

YOU ARE HEREBY ORDERED, DIRECTED AND COMMANDED, in the name of the State of Louisiana and of this Honorable Court, to show cause before this Court on the

2nd day of October, 2008 at 9:00 ~~A~~m., why there should not be judgment in favor of plaintiffs, and against you as follows:

1. Ordering the issuance of a writs of Mandamus ordering that the plaintiffs be given access to all books of the corporation Acorn.

NEW ORLEANS, LOUISIANA the 19th day of Sept., 2008


JUDGE

PLEASE SERVE:

Michael JONES 1024 Elysian Fields Avenue, New Orleans, La 70117

CITIZEN'S CONSULTING INC.

Thru NATIONAL REGISTERED AGENTS, INC., 1011 N. CAUSEWAY BLVD., STE. 3, MANDEVILLE, LA 70471

ACORN

Thru NATIONAL REGISTERED AGENTS, INC., 1011 N. CAUSEWAY BLVD., STE. 3, MANDEVILLE, LA 70471

SEP 22 2008

MAINTAINED CIV MINUTES

APPROVED



DIVISION "H"

Date Only

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 08-8342

DIVISION "H"

SECTION

Asso. of Community Org. for Reform, et al

VERSUS

Wade Rathke, et al

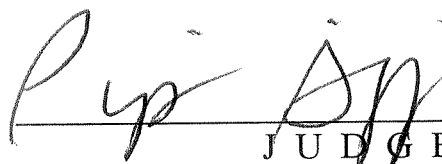
THIS MATTER will come before the Court for hearing on the 2nd
day of October, 2008, at 9:00 o'clock A.M.,
before Division H, on an application for a ~~preliminary injunction and/or a~~ ^{writ of mandamus}
~~dissolution or modification of a temporary restraining order, and/or a dissolution or~~
~~modification of a preliminary injunction.~~

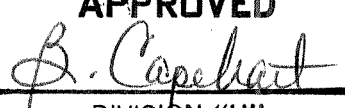
ORDER

IT IS ORDERED that the application in this matter is to be heard upon
the verified pleadings and/or supporting affidavits. A copy of this order shall be
served upon the defendant in conformity with C.C.P. 3609.

IT IS FURTHER ORDERED that the applicant for the ~~preliminary~~ ^{writ of}
~~injunction~~ ^{mandamus} file his/her affidavits not later than seventy-two (72) hours prior to hearing,
and that the defendant-in-rule file his/her affidavits not less than twenty-four (24)
hours prior to hearing.

READ AND SIGNED IN NEW ORLEANS, LOUISIANA, on this the
19th day of September, 2008.


J U D G E

APPROVED

DIVISION "H"
Date Only

SEP 22 2008
ENTERED ON MINUTES

Giesel ___ (CA) moved that the board appoint Bertha Lewis to be Interim Chief Organizer until the October board meeting, or longer if approved by the board. The motion was seconded and passed overwhelmingly with 3 no votes.

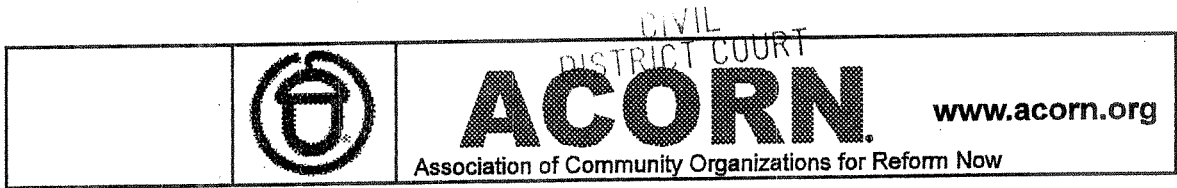
As there were no further updates, the call was adjourned.

Meeting adjourned.

Submitted by Maxine Nelson, Secretary

FILED

2008 AUG 21 P 4: 25



ACORN ASSOCIATION BOARD
DETROIT, MICHIGAN

JUNE 20, 2008

Meeting called to order at 6:25pm by ACORN President Maude Hurd. Maud explained that only duly elected delegates were to remain in the room. Fannie Brown, California (no longer a board delegate) refused to leave the room. Maude welcomed the board and invited guests (members of ISM Committee): Zach Pollet, Helene O'Brien and Steve Kest; also Beth Kingsley, Attorney.

Maud then reviewed the Agenda; read statement from the Executive Committee and gave ground rules for the meeting. Each state delegate has one minute for questions. States to make statements in alphabetical order. States present: Arizona, Arkansas, California, Connecticut, Delaware, Kansas, Maryland, Michigan, Minnesota, Missouri, Mississippi, New Mexico, North Carolina, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Washington and D.C. Each state made comments.

1. Updates and Presentations

A. Beth Kingsley, Legal: Harmon, Curran Spielberg and Eisenbly

Report: Should hear from General Counsel fairly regularly. States there are at least 100 separate corporations within ACORN and that corporate relationships should be re-examined and regularized. (See Summary Report.) Question and Answer session followed presentation. ACORN General Counsel came in per request of Beth Kingsley to answer questions from the board regarding the misappropriation of funds 1999-2000 by Dale Rathke.

B. Needmore Foundation meeting report: Paul Satriano and Steve Kest

Paul reported on financial reporting and control (see memo). Stated Needmore seemed receptive. Steve is primary contact for all foundations as Executive Director. Stated all grants suspended by Needmore when they heard of embezzlement which occurred 1999-2000. Agreed with what the Board had already done; fired Dale Rathke and Wade no longer Chief Organizer and what his connection with ACORN will be. Has also talked to 30 other foundations. Some have still processed grants for ACORN; most taking a "wait and see" attitude and some have stated that they're very disappointed. CHHD (stated that board take steps to recognize the gravity of what has happened). CHHD holding on sending out letters to offices that were to receive funds.

Questions asked of the Staff Management Council that was in place in 2000: Steve Kest, Helene O'Brien and Zach Polett.

9:25pm—Dinner Break—

C. Professional Consultants: Steve Kest and Bertha Lewis

- Public Relations: Rubenstein PR
- Financial Systems: Mesirow Financial Consulting
- Legal Counsel: Sidley, Austin LLP (pro bono) has criminal law experience

These agencies will report to Interim Staff Management Committee.

~ D. Interim Staff Management Committee(ISM Committee)- doing work of day to day operations of this organization. ISM Committee will be in place until next regular Board meeting (October 2008).

Board will elect 3 members tonight to serve on ISM Committee and will have the responsibility of reporting to the Board once a month.

Board to meet with other 7 members of ISM Committee tomorrow (Sat. June 21) at 10:30 am. Lengthy discussion ensued.

2. Selection of 3 Board Members to work with Interim Staff Management Committee; Chaired by Toni McElroy and Paul Satriano. Nominees from the floor as follows:

- Legal: Dathan-Or.; Mary Hutchins, Mo.; Karen Inman, Minn.
- Financial: Carol Hemingway, Pa. and Alicia Gaddis, Ca.
- Organizational Structure: Hugh Alleyman, Del.; Marcell Reid, D.C.; Gloria, Md. And Stephanie, R.I.

++ A paper ballot vote was taken (vote results to be disclosed at end of meeting).

3. Meeting with Wade-11:00pm- John Jones, Facilitator gave ground rules.

Wade greeted everyone and stated that he had worked for this Board since 1976 when ACORN Board organized in Arkansas. Has been with ACORN(which he founded in 1970) 38 years; celebrated anniversary on Wednesday June 18, 2008. He then explained the situation with Dale. Stated he never misused funds and that this wasn't a coverup. Presented a power point on attacks this organization has endured. Quote "An accusation alone doesn't mean it's fact". Stated he made the decision to step aside after someone went to funders. Spoke on the growth of the organization. He wanted to keep the organization safe. Stated he would like to be in the "Emeritus" position and felt he could play a role in the organization as: Trainer, Negotiator, Disaster Recovery & Emergency Preparedness, New Programs & Funds Development, Senior Professional Status or Advisor & Resource person. He also stated that one can always look back

in hindsight and see where things could have been handled differently, but that he and the Staff Management Council thought that was a reasonable decision at that time.

Questions and answers concluded at 11:55pm.

Motion by Karen Inman, Mn. (read a preprinted motion) "That Wade Rathke shall immediately and permanently be terminated from all employment with ACORN and its affiliated organizations or corporations. Further more, Mr. Rathke should be removed from all boards & any leadership roles with ACORN or its affiliated organizations or corporations". Motion seconded by Emily, Connecticut ACORN. A vote was taken by paper ballot; 2 per states represented. Results: 29-yes; 14-no; 1 abstain.

Results of vote for the 3 Board members to be part of ISM Committee:
Legal- **Karen Inman**; Finance-**Carol Hemingway**; Organizational Structure- **Marcel Reid**.

Meeting adjourned.
Submitted by Maxine Nelson, Secretary

CIVIL DISTRICT COURT FOR THE
PARISH OF ORLEANS
STATE OF LOUISIANA

FILED
2008/08/22 P 3:34
CIVIL DISTRICT COURT

NO. 08-8342

DIVISION "H"

ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW
VERSUS
WADE RATHKE, ET AL.

FILED: _____
DEPUTY CLERK

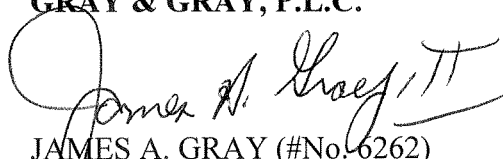
MOTION TO DISMISS BERTHA LEWIS FROM PETITION FOR TEMPORARY
RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND PERMANENT
INJUNCTION

MAY IT PLEASE THE COURT:

Petitioner, the Association of Community Organizations for Reform Now ("ACORN"), a foreign non-profit corporation with its principal place of business in the State of Louisiana, to voluntarily dismiss individual Respondent Bertha Lewis from the above captioned action.

The defendant, Bertha Lewis, was not served and there has been no attempt to serve her. Plaintiff may dismiss her as a matter of right. Lewis was named in the initial pleadings due to misinterpretations concerning her perceived actions versus the acts of agents of Dale Rathke, Wade Rathke and CCI in their needless interference with members of the IMC seeking to exercise the duties and responsibilities entrusted them from the Association Board.

Respectfully submitted,
GRAY & GRAY, P.L.C.



JAMES A. GRAY (#No. 6262)
2 Canal Street
Suite 2707
New Orleans, Louisiana 70130
Telephone: (504) 522-0838
Facsimile: (504) 522-0842
E-mail: nitsuaii@aol.com

8-25-08
VERIFIED
C. FAVAROTH

CIVIL DISTRICT COURT FOR THE
PARISH OF ORLEANS
STATE OF LOUISIANA

FILED
AUG 22 P 3:34

CIVIL
DISTRICT COURT

NO. 08-8342

DIVISION "H"

ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW

VERSUS

WADE RATHKE, ET AL.

ORDER

Considering the ex-parte motion to dismiss prior to service and answer:

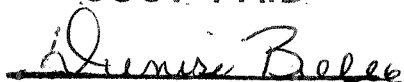
IT IS ORDERED THAT Bertha Lewis be dismissed from this matter without prejudice.

Thus done this 22nd day of August, 2008, in the Parish of Orleans.



Judge

COST PAID


Deputy Clerk

SHERIFFS COSTS PAID


DEPUTY CIVIL SHERIFF

AUG 25 2008

RECORDED ON MINUTES

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 08-8342

DIVISION "H"

ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW

VERSUS

WADE RATHKE, ET AL

FILED
2008 AUG 27 P 3:39
SECTION 12
CIVIL DISTRICT COURT

FILED: _____

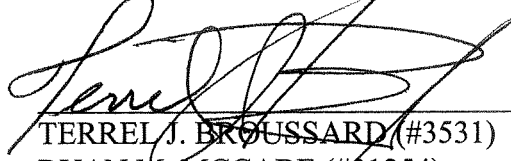
DEPUTY CLERK

MOTION AND ORDER TO ENROLL AS COUNSEL OF RECORD

NOW INTO COURT, through undersigned counsel, comes plaintiff, Association of Community Organization for Reform Now (hereinafter referred to as "ACORN"), who desires that Terrel J. Broussard and Ryan M. McCabe of Montgomery, Barnett, Brown, Read, Hammond & Mintz, L.L.P., be enrolled as counsel of record for ACORN.

Respectfully submitted,

**MONTGOMERY, BARNETT, BROWN
READ, HAMMOND & MINTZ, L.L.P.**



TERREL J. BROUSSARD (#3531)

RYAN M. MCCABE (#31254)

3300 Energy Centre

1100 Poydras Street

New Orleans, LA 70163-3200

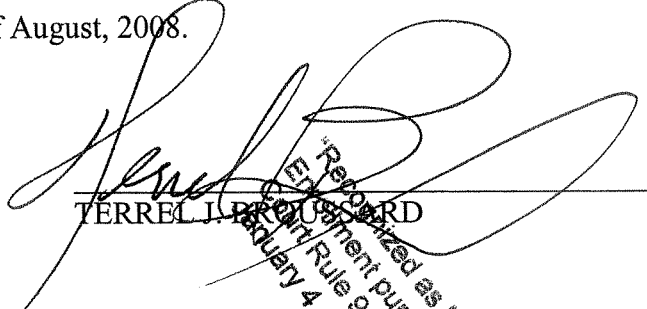
Telephone: (504) 585-7683

Facsimile: (504) 200-8983

**Attorneys for Association of Community
Organizations for Reform Now**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Motion and Order to Enroll As Counsel of Record has been served on all counsel of record, by hand, facsimile, e-mail and/or United States Postal Service, this 26th day of August, 2008.



TERREL J. BROUSSARD

Reorganized as Notice of
Enrollment pursuant to District
Court Rule 9.12 effective
January 4, 2004.

8-28-08
VINEYARD
CLERK

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

FILED

STATE OF LOUISIANA

2008 AUG 27 P 3:39

NO. 08-8342

DIVISION "H"

SECTION 12

ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW

CIVIL

DISTRICT COURT

VERSUS

WADE RATHKE, ET AL

FILED: _____
DEPUTY CLERK

ORDER

CONSIDERING THE ABOVE AND FOREGOING MOTION;

IT IS HEREBY ORDERED that Terrel J. Broussard and Ryan M. McCabe of Montgomery, Barnett, Brown, Read, Hammond & Mintz, L.L.P., be enrolled as counsel of record for Association of Community Organization for Reform Now.

New Orleans, Louisiana, this ____ day of _____, 2008.

J U D G E

ATTORNEY'S NAME: Gray II, James 06262
AND ADDRESS: World Trade Center, 2 Canal St. Suite 707
New Orleans LA 70130

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO: 2008 -- 08342 2 SECTION: 12 -- H

ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW VERSUS RATHKE, WADE ET AL

CITATION

TO: JONES, MIKE
THROUGH: CITIZEN'S CONSULTING INC.
2609 CANAL STREET
4TH FLOOR
NEW ORLEANS LA 70119

YOU HAVE BEEN SUED: You are ordered to show cause September 4, 2008
at 11:00 AM as prescribed in the annexed copy of petition as prayed for and according to law.

You must either comply with the demand contained in the petition

PETITION FOR TEMPORARY RESTRAINING ORDER PRELIMINARY INJUNCTION AND PERMANENT INJUNCTION

a certified copy of which accompanies this citation, or file an answer or other legal pleading in the office of the Clerk of this Court, Room 402, Civil Courts Building, 421 Loyola Avenue, New Orleans, LA, within fifteen (15) days after the service hereof under penalty of default

ADDITIONAL INFORMATION

- * Legal assistance is advisable. If you want a lawyer and can't find one, you may call the New Orleans Lawyer Referral Service at 561- 8828. This Referral Service operates in conjunction with the New Orleans Bar Association.
- * If you qualify, you may be entitled to free legal assistance through the New Orleans Legal Assistance Corp.; you may call 529 - 1000 for more information.

COURT PERSONNEL ARE NOT PERMITTED TO GIVE LEGAL ADVICE

IN WITNESS HEREOF, I have hereunto set my hand and affix the seal of the Civil District Court for the Parish of Orleans, State of LA August 21, 2008

Clerk's Office, Room 402, Civil Courts Building,
421 Loyola Avenue
New Orleans, LA

DALE N. ATKINS, Clerk of
The Civil District Court
for the Parish of Orleans
State of LA

by 
Deputy Clerk

SHERIFF'S RETURN

(for use of process servers only)

PERSONAL SERVICE
On this 26 day of August, 2008 2:10 pm
served a copy of the w/i petition
PETITION FOR TEMPORARY RESTRAINING ORDER
PRELIMINARY INJUNCTION AND PERMANENT INJUNCTION

DOMICILIARY SERVICE
On this _____ day of _____
served a copy of the w/i petition
PETITION FOR TEMPORARY RESTRAINING ORDER
PRELIMINARY INJUNCTION AND PERMANENT INJUNCTION

On: JONES, MIKE
THROUGH: CITIZEN'S CONSULTING INC.

On: JONES, MIKE
THROUGH: CITIZEN'S CONSULTING INC.

MIKE JONES
Returned same day
Deputy Sheriff of Orleans No. 144

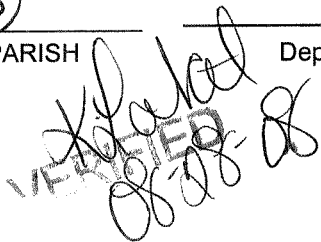
by leaving same at the dwelling house, or usual place of abode, in the hands of _____ a person of suitable age and discretion residing therein as a member of the domiciliary establishment, whose name and other facts connected with this service I learned by interrogating HIM / HER the said _____ JONES, MIKE

Mileage: \$ _____
ENTERED /

being absent from the domicile at time of said service.
Returned same day

PAPER 3
SERIAL NO. 9115
DEPUTY PARISH RETURN

No. _____
Deputy Sheriff of _____



08.8342

"#"

Assoc. of Comm Org.

VS

Wade Rathke, Esq.

DISTRICT CIVIL COURT

2008 AUG 28 A 11:04

FILED

Dear Clerk,

Please re-issue the Pet w/ea
memo & mt to reset ~~to~~ to.

Citizens Consulting, Inc.
through National Registered Agents, Inc
321 Vermont St.
Suite 203
Covington, La 70433

Thank you.

8-28-08
VERIFIED
C. FAVAROTH

1c/Oct 8-28-08
C.F.

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 08-8342

DIVISION "H"

SEP 10 12:05

SECTION 12

ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW

VERSUS

WADE RATHKE, MIKE JONES, CPA, DALE RATHKE,
BERTHA LEWIS AND ELIZABETH WOLF

FILED: _____

DEPUTY CLERK

**NOTICE OF 1442 DEPOSITION
AND DEPOSITIONS FOR ALL PURPOSES**

TO: MIKE JONES, CPA
c/o Citizens Consulting Inc.
2609 Canal Street, 4th Floor
New Orleans, LA 70119

PLEASE TAKE NOTICE that pursuant to Louisiana Code of Civil Procedure, Article 1442, that plaintiff, Association of Community Organization for Reform Now ("ACORN"), will take the deposition for all purposes in accordance with Louisiana Code of Civil Procedure, before a qualified notary public or other person authorized to administer oaths of MIKE JONES, CPA, on **Tuesday, September 2, 2008, at 1:00 p.m.**, at the law offices of **Montgomery, Barnett, Brown, Read, Hammond & Mintz, L.L.P.**, 3300 Energy Centre, 1100 Poydras Street, New Orleans, Louisiana 70163-3200. The deposition will continue until completed.

Respectfully submitted,

**MONTGOMERY, BARNETT, BROWN
READ, HAMMOND & MINTZ, L.L.P.**



TERREL J. BROUSSARD (#3531)

RYAN M. MCCABE (#31254)

3300 Energy Centre

1100 Poydras Street

New Orleans, LA 70163-3200

Telephone: (504) 585-7683

Facsimile: (504) 200-8983

**Attorneys for Association of Community
Organizations for Reform Now**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Notice of 1442 Deposition and Depositions for All Purposes has been served on all counsel of record, by hand, facsimile, e-mail and/or United States Postal Service, this 28th day of August, 2008.



TERREL J. BROUSSARD

9-9-08
VERIFIED
C. BARNETT

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

FILED

SUBPOENA

No. 08-8342

MUG 28 P 12:06

DIVISION "H"

Association of Community Organization for Reform Now

vs. CIVIL DISTRICT COURT

Wade Rathke, Mike Jones, CPA, Dale Rathke, Bertha Lewis and Elizabeth Wolf

TO: Mike Jones, CPA, c/o Citizens Consulting, Inc., 2609 Canal Street, 4th Floor, New Orleans, LA 70119

CLERK, CIVIL DISTRICT COURT - Please issue a subpoena to the above party as directed below.

SUBPOENA REQUEST

[] YOU ARE COMMANDED to appear in the Civil District Court, Parish of Orleans in Division "____", 421 Loyola Ave., New Orleans, LA 70112, on the ____ day of _____, 19____ at o'clock ____m., to testify the truth according to your knowledge, in a controversy pending herein between the parties above named; and hereof you are not to fail under the penalty of the law. By order of the Court.

DEPOSITION SUBPOENA REQUEST

[X] YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME
September 2, 2008, 1:00 p.m.

REQUEST FOR WRIT OF SUBPOENA DUCES TECUM

[X] YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects for the ____ trial, X deposition, or ____ hearing (state type) _____ at the place, date and time specified below (list documents or objects) pursuant to the provisions of Article 1354 et. seq. of the LA Code of Civil Procedure.

SEE EXHIBIT "A"

PLACE

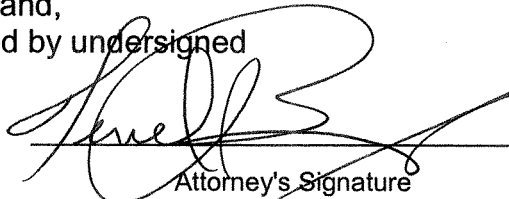
Montgomery, Barnett, Brown, Read, Hammond & Mintz, L.L.P.
3300 Energy Centre
1100 Poydras Street
New Orleans, Louisiana 70163-3200

DATE AND TIME
September 2, 2008
1:00 p.m.

DALE N. ATKINS, CLERK
CIVIL DISTRICT COURT

Issued at the request of, and,
Fees and cost guaranteed by undersigned

ATTORNEY
THIS


Attorney's Signature

[] ORIGINAL REQUEST
[] SERVICE COPY (BRING THIS NOTICE WITH YOU)

ATTORNEY'S
NAME & BAR NUMBER
ADDRESS
&
TELEPHONE NUMBER

Terrel J. Broussard (#3531)
3300 Energy Centre, 1100 Poydras Street
New Orleans, Louisiana 70163-3200
(504) 585-7683

[] SHERIFF'S RETURN COPY
[] ATTY'S FILE COPY

File original and two copies with Clerk
fourth copy for Attorney's File
REQUEST

9-9-08
VERIFIED
C. FAVAROTH

**SUBPOENA DUCES TECUM FOR MIKE JONES
AND
SUBPOENA UNDER LA. C.C. P. ART. 1442 FOR CITIZENS
CONSULTING INC. (REFERRED TO BELOW AS CSI)**

EXHIBIT "A"

1. Produce all financial statements in whatever format which they exist, of ACORN and its Affiliates which you or CSI prepared or directed to be prepared for the last ten (10) years.
2. Produce and all documents, in whatever format which they exist, of ACORN and its affiliates that indicate a change in status, directors, or affiliation particularly for the period beginning July 1 through August 17, 2008.
3. Produce all contracts between CSI and ACORN and its affiliates and subsidiaries.
4. Produce all documentation, in whatever format which they exist, of all sums paid on behalf of ACORN, its affiliates or subsidiaries from 2008 to the present, in particular from July 1 to August 17, 2008.
5. Produce all documentation, in whatever format in which they exist, of all sums received and deposited in any account or transferred to any account of ACORN its affiliates and subordinates.
6. Produce all checks written to Wade Rathke and Dale Rathke from 2008 to the present.

ATTORNEY'S NAME: Gray II, James
AND ADDRESS: World Trade Center Canal St. Suite 2707
New Orleans LA 70130

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO: 2008 -- 08342 4

SECTION: 12 -- H

ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW VERSUS RATHKE, WADE ET AL

CITATION

TO: CITIZENS CONSULTING, INC.
THROUGH: NATIONAL REGISTERED AGENT, INC.
321 VERMONT ST.
SUITE 203
COVINGTON LA 70433

YOU HAVE BEEN SUED:

You must either comply with the demand contained in the petition
FOR TEMPORARY RESTRAINING ORDER PRELIMINARY INJUNCTION AND PERMANENT INJUNCTION

a certified copy of which accompanies this citation, or file an answer or other legal pleading in the office of the Clerk of this Court, Room 402, Civil Courts Building, 421 Loyola Avenue, New Orleans, LA, within fifteen (15) days after the service hereof under penalty of default

* ADDITIONAL INFORMATION *

* Legal assistance is advisable. If you want a lawyer and can't find one, you may call the New Orleans Lawyer Referral Service at 561- 8828. This Referral Service operates in conjunction with the New Orleans Bar Association. *
* If you qualify, you may be entitled to free legal assistance through the New Orleans Legal Assistance Corp.; you may call 529 - 1000 for more information. *

* COURT PERSONNEL ARE NOT PERMITTED TO GIVE LEGAL ADVICE *

IN WITNESS HEREOF, I have hereunto set my hand and affix the seal of the Civil District Court for the Parish of Orleans, State of LA August 28, 2008

Clerk's Office, Room 402, Civil Courts Building,
421 Loyola Avenue
New Orleans, LA

DALE N. ATKINS, Clerk of
The Civil District Court
for the Parish of Orleans
State of LA

by Lubik Fournelle
Deputy Clerk

SHERIFF'S RETURN

(for use of process servers only)

PERSONAL SERVICE

DOMICILIARY SERVICE

On this _____ day of _____
_____ served a copy of the w/i petition
FOR TEMPORARY RESTRAINING ORDER PRELIMINARY
INJUNCTION AND PERMANENT INJUNCTION

On this _____ day of _____
_____ served a copy of the w/i petition
FOR TEMPORARY RESTRAINING ORDER PRELIMINARY
INJUNCTION AND PERMANENT INJUNCTION

On
CITIZENS CONSULTING, INC.

On
CITIZENS CONSULTING, INC.

THROUGH: NATIONAL REGISTERED AGENT, INC.

THROUGH: NATIONAL REGISTERED AGENT, INC.

Returned same day

No.

Deputy Sheriff of _____

Mileage: \$ _____

* by leaving same at the dwelling house, or usual place of
* abode, in the hands of _____
* a person of suitable age and discretion residing therein as
* a member of the domiciliary establishment, whose name
* and other facts connected with this service I learned by
* interrogating HIM / HER the said _____
* CITIZENS CONSULTING, INC.

being absent from the domicile at time of said service.

Returned same day

No.

Deputy Sheriff of _____

9/4/08
PAPER 5 / ENTERED /
RETURN 51
SERIAL NO. DEPUTY PARISH

K. Adams
09/10/08

CIVIL DISTRICT COURT
 PARISH OF ORLEANS
 STATE OF LOUISIANA

NO. 08-8342

DIVISION 44
FILED
 SEP - 9 2008
 DEPUTY CLERK
 CIVIL DISTRICT COURT

ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW

VERSUS

WADE RATHKE, ET AL.

PETITION FOR WRIT OF QUO WARRANTO

[Handwritten Signature]

*1/c/c Out 9-17-08
 C.F.*

The petition of the Association of Community Organizations for Reform Now (hereinafter "ACORN"), an Arkansas corporation, whose primary corporate office is located in New Orleans, Louisiana, through its Executive Committee, with respect represents:

1.

Made defendant in this Quo Warranto proceeding are the persons who filed the captioned and numbered cause and identified themselves as authorized to bring this action on behalf of ACORN, to wit Marcel Reid and Karen Inman.

2.

According to its by-laws, ACORN is governed by a Board of Directors (the Association Board) that consists of more than 40 members. Actions of the Association Board generally require a majority vote.

DALE W. ATKINS
 CLERK, CIVIL DISTRICT COURT
 402 CIVIL COURTS BUILDING
 1215 PULASKI AVENUE - ROOM 402
 NEW ORLEANS, LA 70112

3.

The by-laws further provide that the Association Board sets general policy that is executed by a Chief Organizer, a term ACORN uses for its CEO or most senior staff position.

OTHER PETITION INFORMATION			
	PRICE	PAID	BAL
FAX FEES			0.00
\$ 15.00	\$ 15.00		0.00
\$ 20.50	\$ 20.50		0.00
INDIGENT LEGAL FEE			0.00
\$ 10.00	\$ 10.00		0.00

4.

The by-laws delegate ACORN's Executive Committee the authority to act on behalf of the Association Board between meetings. The Executive Committee consists of Maude Hurd, Maria Polanco, Maxine Nelson, Paul Satriano, Marie

TOTAL PAID CASE # 200808342: \$105.00
 RECEIPT TOTAL \$105.00
 AMOUNT RECEIVED \$105.00
 CHANGE DUE \$0.00
 Check # 0077 Amt. \$105.00

9-18-08
VERIFIED
 CEDERICK FAVAROTH

//

Pierre, Alicia Russell, Vanessa Guerringer. Neither Marcel Reid nor Karen Inman sit on the Executive Committee.

5.

In June 2008, ACORN's Chief Organizer, Wade Rathke, was terminated from that job.

6.

On June 3, 2008, the Association Board also established an Interim Staff Management Committee and authorized it to fulfill, on an interim basis, the role and responsibilities of Chief Organizer. Ten senior ACORN staff people were appointed to this committee: Bertha Lewis, Steve Kest, Zach Polett, Noemi Ramos, Derecka Mehrens, Helene O'Brien, Ginny Goldman, Katy Gall, Steve Bradberry, and Matthew Henderson.

7.

At a subsequent Association Board meeting, on June 20, 2008, the Board appointed three Board members to work with this Committee, which was re-named Interim Management Committee. These Board members were Carol Hemingway, Karen Inman, and Marcel Reid.¹

8.

The Board members on the IMC were not given authority to take actions on behalf of the Board, but were directed to work with the rest of the IMC in carrying out its functions and to report back to the full Board on a regular basis.

9.

At a telephone meeting of the Association Board on July 13, 2008, the IMC was given "access to professional consultants needed to carry on the work so that the will of the Association Board be carried out." No person was given authority to bring a lawsuit, however, without specific direction from the Association Board.

¹ See Affidavit of Maxine Nelson, Secretary of ACORN, attached hereto as Exhibit 1. This affidavit supports all of the allegations in this Petition.

10.

On August 12, 2008, unbeknownst to and without approval or of authority from the Association Board or the Executive Committee, and, consequently, with no vote having been taken by the Association Board or Executive Committee, a Petition for Temporary Restraining Order, Preliminary Injunction and Permanent Injunction was filed under docket number 08-8342, Division "H", in this Honorable Court. The Petition alleges that Marcel Reid and Karen Inman somehow had authority to bring the action.

11.

Neither Marcel Reid nor Karen Inman have the "full authority of the Board of Directors" to take this action as alleged in paragraph 2 of the Petition", nor do they have authority under any other provision of the by-laws or of law.

12.

The by-laws of ACORN do not permit individual members of the Association Board to bring litigation or take such action on behalf of ACORN, without specific and express authority.

13.

After learning of the litigation, a telephone pole of the Association Board was conducted pursuant to the by-laws to determine how the Association Board wished to proceed.

14.

By greater than 2/3 majority, the margin the by-laws require for the Association Board to act in a telephone pole, the Association Board voted to direct that the lawsuit be withdrawn. The vote was communicated to counsel for Inman and Reid (who claims to represent ACORN) in a letter from ACORN's president on September 8, 2008.

15.

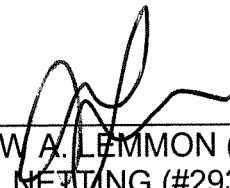
For all of the above reasons, the Association Board and its Executive Committee, exercising the authority delegated to it by the Association Board,

have not authorized the captioned litigation, and hereby demand that the persons holding themselves out to have authority to bring this action on ACORN's behalf appear and prove the source of their alleged authority.

WHEREFORE, petitioner prays that:

1. A writ of *quo warranto* issue, requiring defendants in rule, who identify themselves as authorized by ACORN (Marcel Reid and Karen Inman), to show by what right or authority they claim to have the authority to bring the captioned litigation;
2. That this matter be assigned for a hearing, as a preliminary matter, before the hearing on the preliminary injunction; and
3. After said hearing that there be Judgment entered on behalf of petitioners declaring that the defendants in rule had and have no authority to bring or institute legal actions on behalf of ACORN; and
4. That Marcel Reid and Karen Inman be instructed to dismiss the captioned litigation, all at their cost.

Respectfully Submitted
LEMMON LAW FIRM, L.L.C.

By: 
ANDREW A. LEMMON (#18302)
IRMA L. NETTING (#29362)
15058 River Road
P.O. Box 904
Hahnville, Louisiana 70057
985.783.6789 Telephone
985.783.1333 Facsimile

Attorneys for Petitioners

PLEASE SERVE:

Ms. Karen Inman and Ms. Marcel Reid
Through their attorney
Mr. James Gray, II
Gray & Gray

World Trade Center
2 Canal Street Suite 2707
New Orleans, LA 70130

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has on this 9th day of September, 2008, been served on all known counsel of record by fax and by depositing a copy of same in the United States Mail, properly addressed and postage prepaid.



ANDREW LEMMON

ORDER

IT IS ORDERED that Plaintiffs
show cause on the 2nd day of Oct, 2008 at 9am
~~at 8:30 A.M.~~, why Petition for Quo Warranto
should not be granted.

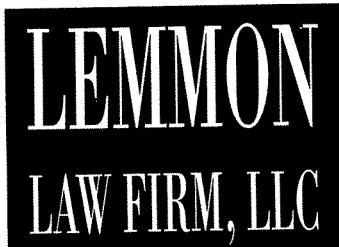
SIGNED AT NEW ORLEANS, LOUISIANA, on this the
22nd day of Sept, 2008

B. Cypelbert

JUDGE

minutes Clerk

15058 River Road
Post Office Box 904
Hahnville, Louisiana 70057
985.783.6789
985.783.1333 Fax



New Orleans Office:
650 Poydras Street, Suite 2335
New Orleans, LA 70130
504.581.5644
504.581.2156 Fax

PLEASE REPLY TO HAHNVILLE OFFICE
September 9, 2008

9-9

Clerk of Court
Civil District Court
201 Civil Courts Building
421 Loyola Avenue
New Orleans, LA 70112

Re: Association of Community Organizations For Reform Now v. Wade
Rathke, et al, No. 08-8342, Div. H

Dear Sir:

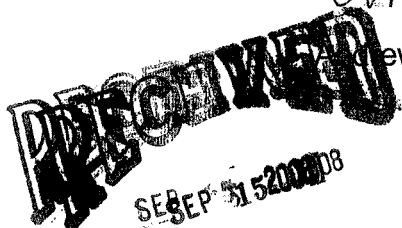
As a follow up to our fax filing on September 9, 2008, enclosed please find an original and two copies of Petition for Writ of Quo Warranto to be filed in the above captioned matter. Please return a signed and stamped copy to me in the enclosed self-addressed and stamped envelope. Enclosed is a check in the amount of \$105.00 to cover costs.

Also, please serve Ms. Karen Inman and Ms. Marcel Reid, through their attorney. Enclosed is a check in the amount of \$20.00 made payable to Orleans Parish Sheriff to cover the cost of this service.

Thanking you for your cooperation, I am

Very truly yours,

Andrew A. Lemmon Htb
Andrew A. Lemmon



AAL/tlb
Enclosures
cc: James Gray
Richard Goins
Bill Rittenberg

Andrew A. Lemmon • andrew@lemmonlawfirm.com
M. Lauren Lemmon • lauren@lemmonlawfirm.com
James (Jake) Lemmon • jake@lemmonlawfirm.com
Irma L. Netting • irma@lemmonlawfirm.com
Harry T. Lemmon, of Counsel



ATTORNEY'S NAME: Lemmon, Andrew 18302
AND ADDRESS: 15068 Riv PO Box 904
Hahnville 70057-6023

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO: 2008 -- 08342

7

SECTION: 12 -- H

ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW VERSUS RATHKE, WADE ET AL

CITATION

TO: KAREN INMAN AND MARCEL REID
THROUGH: THEIR ATTORNEY OF RECORD, JAMES GRAY, II
WORLD TRADE CENTER
2 CANAL STREET, SUITE 2707
NEW ORLEANS LA 70130

YOU HAVE BEEN SUED:

You must either comply with the demand contained in the petition
FOR WRIT OF QUO WARRANTO

a certified copy of which accompanies this citation, or file an answer or other legal pleading in the office of the Clerk of this Court, Room 402, Civil Courts Building, 421 Loyola Avenue, New Orleans, LA, within fifteen (15) days after the service hereof under penalty of default

* ADDITIONAL INFORMATION *
* Legal assistance is advisable. If you want a lawyer and can't find one, you may call the New Orleans Lawyer Referral Service at 561- 8828. This Referral Service operates in conjunction with the New Orleans Bar Association. *
* If you qualify, you may be entitled to free legal assistance through the New Orleans Legal Assistance Corp.; you *
* may call 529 - 1000 for more information. *
* COURT PERSONNEL ARE NOT PERMITTED TO GIVE LEGAL ADVICE *

IN WITNESS HEREOF, I have hereunto set my hand and affix the seal of the Civil District Court for the Parish of Orleans, State of LA September 17, 2008

Clerk's Office, Room 402, Civil Courts Building,
421 Loyola Avenue
New Orleans, LA

DALE N. ATKINS, Clerk of
The Civil District Court
for the Parish of Orleans
State of LA
by Ludwik Farnoth
Deputy Clerk

SHERIFF'S RETURN
(for use of process servers only)

PERSONAL SERVICE
On this 24 day of SEPT
2008 served a copy of the w/i petition
FOR WRIT OF QUO WARRANTO

DOMICILIARY SERVICE
On this _____ day of _____
_____ served a copy of the w/i petition
FOR WRIT OF QUO WARRANTO

On
KAREN INMAN AND MARCEL REID

On
KAREN INMAN AND MARCEL REID

THROUGH: THEIR ATTORNEY OF RECORD, JAMES GRAY, II

THROUGH: THEIR ATTORNEY OF RECORD, JAMES GRAY, II

by leaving same at the dwelling house, or usual place of
abode, in the hands of _____
a person of suitable age and discretion residing therein as
a member of the domiciliary establishment, whose name
and other facts connected with this service I learned by
interrogating HIM / HER the said _____
KAREN INMAN AND MARCEL REID

Returned same day
1015 AM C. Martin No. 13
Deputy Sheriff of _____

Mileage: \$ _____

being absent from the domicile at time of said service.
Returned same day

PAPER / ENTERED / RETURN
6 19102 1
SERIAL NO. DEPUTY PARISH

Deputy Sheriff of _____

VERIFIED
14 9-26-08

FILED

2008 OCT -1 P 2:00

CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

CIVIL
DISTRICT COURT

NO. 08-8342

DIVISION "H"

ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW

VERSUS

WADE RATHKE, ET AL.

**ACORN'S SUBMISSION IN SUPOORT OF ITS
PETITION FOR WRIT OF QUO WARRANTO**

MAY IT PLEASE THE COURT:

The Association of Community Organizations for Reform Now (hereinafter "ACORN"), an Arkansas corporation, whose primary corporate office is located in New Orleans, Louisiana, is governed by a Board of Directors, through its By-Laws.¹ Actions by the Board generally require a majority vote at a regular or special meeting.² The two Board members who filed the captioned and numbered cause and identified themselves as authorized to bring this action on behalf of ACORN do not have authority of the Board of Directors to bring the lawsuit by a majority vote at either a regular or special meeting.³

The By-Laws specifically also provide for two other voting procedures for Board action: written consent or telephone poll, which may be used between meetings of the Board.⁴ The two Board members who brought this lawsuit likewise did not have authority by written consent or telephone poll. In fact, a telephone poll was conducted pursuant to the By-Laws, and more than 2/3 of the Board voted to instruct the two Board members who filed this lawsuit to withdraw

¹ See ACORN Exhibit A, Affidavit of Maxine Nelson, Secretary of ACORN. A complete copy of the By-Laws is attached to that Affidavit as Exhibit 1.

² Id. at Article Six, Paragraph 11.

³ See ACORN Exhibit B, Affidavit of Maude Hurd, President of ACORN.

⁴ See ACORN By-Laws, Article Six, Paragraph 12.

10-2-08
VERIFIED
CEDERICK FAVAROTH

it.⁵

Neither Marcel Reid nor Karen Inman had authority to bring the litigation, and both have been instructed to dismiss it by valid vote of the Board. The attorney who holds himself out as representing ACORN also has been instructed by a valid vote of the Board to dismiss the lawsuit. They have refused. ACORN respectfully requests that the Court order that they follow the By-Laws of the organization and the will of the Board. They are not authorized to represent ACORN, and ACORN does not wish to be a plaintiff in this litigation.

BACKGROUND:

The basic facts and documents underlying this Quo Warranto should not be in dispute.⁶ ACORN's By-laws provide that the Board sets general policy that is executed by a Chief Organizer, a term ACORN uses for its CEO or most senior staff position, but still accountable to the Board. After Wade Rathke was terminated as ACORN's Chief Organizer by ACORN's Board, the Board established an Interim Staff Management Committee, later called the Interim Management Committee (IMC), to act as Chief Organizer. As the name suggests, this role was on an interim basis.

The IMC was to act as Chief Organizer and report to and carry out the will of the Board until the regular Board meeting (scheduled for October 17-19, 2008) or until the Board appointed a new Chief Organizer. The IMC consisted of thirteen people, ten staff and three Board members selected to work with the committee and report back to the Board. The only special authority ever given to the three Board members on the IMC was to have access to ACORN's professional consultants to make sure that they could carry out this role as instructed by the Board. The IMC as a whole remained accountable to the Board in a full and transparent way. No authority was transferred to IMC beyond

⁵ Exhibit B, Affidavit of Maude Hurd, President of ACORN. A summary of the telephone poll vote is attached to the affidavit as Exhibit 2.

⁶ Exhibit A, Affidavit of Maxine Nelson, Secretary of ACORN, sets out the basic facts from the minutes of the various meetings and conferences.

that ordinarily exercised by a chief staff person. It was not given authority to exercise the powers of the Board or its officers.

Bertha Lewis was selected as director of the IMC and then appointed as interim Chief Organizer until the October Board meeting in the July 13, 2008 telephone Board meeting. In that role, she has attempted to work with the IMC in supporting the mission and will of the Board. The two Board members who filed the lawsuit were two of thirteen on that committee and had no authority to act apart from the rest of the committee. To the extent the authority of the chief staff person had been transferred to Ms. Lewis, she did not authorize the litigation.

DISCUSSION:

The two Board members who filed the lawsuit are members of the IMC and the Board. They will apparently claim that their authority to file this lawsuit derived from a Board telephone meeting on July 13, 2008. In that meeting, the IMC was given "access to professional consultants needed to carry on the work so that the will of the Association Board be carried out." That will was the charge given to these three Board members -- to work with the rest of the IMC, and report back to the full Board. More importantly, no individual member of the IMC was given authority to do anything independently.

Nevertheless, on August 12, 2008, unbeknownst to and without approval or of authority from the Board or the Executive Committee, and, consequently, with no vote having been taken by the Board or Executive Committee, these two Board members filed the Petition for Temporary Restraining Order, Preliminary Injunction and Permanent Injunction. Neither Marcel Reid nor Karen Inman have the "full authority of the Board of Directors" to take this action as alleged in paragraph 2 of the Petition", nor do they have authority under any other provision of the By-Laws or of law.

ACORN does not agree with the allegations stated in the Petition and believes that the allegations and pendency of this litigation are interfering with

ongoing activities of the Board to accomplish some of the goals stated by the two Board members who filed the lawsuit, only in a different manner. ACORN had already retained the Sidley Austin Law Firm to investigate and make recommendations regarding the 1999-2000 embezzlement that had occurred, and it had hired the Meisirow Accounting Firm to make recommendations regarding internal controls and other financial matters. It is ACORN's surmise that the two Board members filed the lawsuit in an attempt to coerce the Board into their way of handling the situation surrounding Mr. Rathke's termination and the resulting turmoil in the organization.

These two Board members, and their attorney, further attempted to coerce the Board by reporting that the Temporary Restraining Order had been granted, attaching a copy, instructing the Board, IMC, Senior Staff, and Executive Committee to comply with its terms, and warning the Board that it may otherwise be participating in concealment of evidence and violations of federal law. In fact, at the time Mr. Gray wrote the Board, IMC, Senior Staff, Executive Committee, and Corporate Counsel, he and his clients knew that the bond had not and would not be paid and that the TRO was not in effect. This pesky fact was not reported to the members of the ACORN Board, all of whom are non-lawyers or to ACORN's Corporate Counsel.

ACORN is also concerned about the relationship between the two Board members who filed the suit, their attorney, and KAPFCU, an organization that the two Board members promoted to take over the financial responsibilities for ACORN from CCI, one of the named defendants in the Petition.⁷ Mr. Gray holds himself out to represent both KAPFCU and ACORN in this matter, which appears to present a conflict of interest. ACORN has not hired KAPFCU, the KAPFCU proposal is not responsive to the Board's resolution for financial review, and KAPFCU has no legal interest in the litigation. KAPFCU's only interest in this

⁷ A copy of the proposal submitted by the two Board members, on behalf of KAPFCU, is attached as Exhibit C.

litigation is in taking over ACORN's business from CCI. Mr. Gray has ignored ACORN's request to explain the relationship, and ACORN specifically refuses to waive any conflict.

ACORN itself was forced into action upon learning of the lawsuit and the conflict. Its President, Maude Hurd, requested that James Gray articulate the authority under which the lawsuit was filed and provide her (as President) and the Board with copies of all retainer agreements and other documents that he believed authorized him to represent ACORN or showed his relationship with KAPFCU.⁸ Mr. Gray ignored his alleged client's request.

After the continued pursuit of the litigation by the two Board members, without Board approval, and despite inquiries from ACORN's President, a telephone poll was requested under Article Six, Paragraph 12 of the By-Laws, to determine whether the Board wanted to continue or withdraw the litigation. The procedure was reviewed and evaluated as proper in advance by ACORN's corporate counsel. The overwhelming vote (greater than the 2/3 required by the By-Laws) was to withdraw the litigation.⁹ Acorn's President sent another letter to Mr. Gray to inform him of ACORN's decision and instructed him to dismiss the lawsuit according to the will of the Board.¹⁰ Mr. Gray again ignored his alleged client's instructions. This time, however, he responded to the President's letter with a letter to the Board attempting to explain the purpose of his lawsuit and then offering his interpretation of the Board's By-Laws, which he then used to disregard the Board's instruction that he dismiss the lawsuit.¹¹

The substance of Mr. Gray's argument is his belief that the telephone poll somehow failed to conform to the notice requirements of the By-Laws. The telephone poll process is contained in Article Six, Paragraph 12 of the By-Laws, dealing with actions of the Board other than at regular and special meetings; the notice requirements are contained in Article Six, Paragraph 10 of the By-Laws,

⁸ See Exhibit 1 to Hurd Affidavit.

⁹ Exhibit B, Hurd Affidavit.

¹⁰ Exhibit 3 to Hurd Affidavit.

¹¹ Exhibit 4 to Hurd Affidavit.

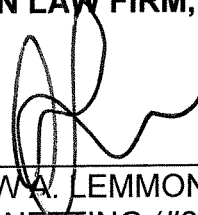
dealing with regular and special meetings. He found those articles to be in conflict and *ipse dixit* concluded that it allowed him to ignore the Board's telephone poll.

The letter is also defamatory to the ACORN staff and Executive Committee. It accuses unnamed members of the Senior Staff and Executive Committee of unspecified criminal acts, and it impugns the motive of the Quo Warranto as seeking "to conceal information and evidence from the Association Board."

CONCLUSION:

The two Board members who filed the lawsuit did so on their own, not with the authority of ACORN. ACORN itself has requested that the lawsuit be dismissed. Because the two Board members had no authority in the first instance, and because ACORN's Board has further voted to dismiss the lawsuit, ACORN requests that this Court order the lawsuit dismissed and order ACORN be dismissed from the lawsuit.

Respectfully Submitted
LEMMON LAW FIRM, L.L.C.

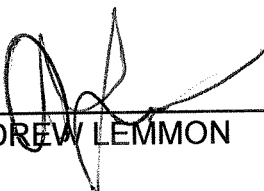
By: 
ANDREW A. LEMMON (#18302)
IRMA L. NETTING (#29362)
15058 River Road
P.O. Box 904
Hahnville, Louisiana 70057
985.783.6789 Telephone
985.783.1333 Facsimile

Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has on this 1st day of October, 2008, been served on all known counsel of record by fax

or email and by depositing a copy of same in the United States Mail, properly addressed and postage prepaid.



ANDREW LEMMON

FILED
2:01
CIVIL
DISTRICT COURT

BYLAWS of the ASSOCIATION OF
COMMUNITY ORGANIZATIONS FOR
REFORM NOW (ACORN)

ARTICLE ONE:

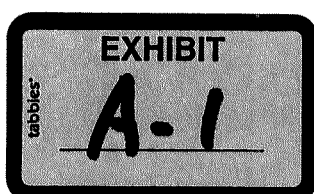
LOCAL GROUPS, AFFILIATION

1. The local community organization shall constitute the basic unit of the corporation.
2. Local community organizations organized by ACORN shall be deemed to be affiliated with the corporation.
3. The Board shall have power to make arrangements for local community organizations not organized by ACORN to associate in manners and according to terms authorized by the Board and agreed to be the non-ACORN organization(s) which may include giving such organizations representational status on various ACORN authoritative bodies; allowing these entities the benefit of ACORN resources, etc.; provided, however, that said moves toward association be accepted by the associating non-ACORN local organization in a fashion that embodies democratic principles. Other bylaws inconsistent with the section shall be superseded by this section.

ARTICLE TWO:

MEMBERSHIP

1. All individuals who are members in good standing of local community organizations of ACORN, and who agree to comply with such conditions of membership as maybe imposed by ACORN, shall be members of ACORN.
2. Privileges of membership in ACORN shall include but not be limited to the right to receive information, technical assistance, and such other benefits as may be made available to the membership of the corporation.
3. Obligations of the membership shall include but not necessarily be limited to the payment of statewide dues and such other obligations of membership as may be accepted by the membership of ACORN in accordance with corporate procedures, specifically including, but not



limited to, the timely payment of statewide dues.

4. In order to enhance ACORN's capacity to advance the interests of low and moderate income people, the Board may institute the following additional categories of membership with the following rights and responsibilities:

a) ASSOCIATE MEMBERSHIP. An Associate Member shall indicate his or her interest in becoming an Associate Member by (i) signing an appropriate membership card; and (ii) paying dues set by the Board. In turn, ACORN shall enroll said member on its membership newsletter list and said member shall be allowed all privileges of membership comprehended in Section Two of this Article. In addition, Associate Members shall have the right to vote on prioritization of issues of importance to them through an annual poll which will be presented to and acted upon by the National Board.

b) PROVISIONAL MEMBERSHIP. ACORN may accord Provisional Member status to persons evidencing eventual interest in fuller participation in ACORN. ACORN shall enroll said member on its provisional membership rolls and said member shall be allowed all privileges of membership comprehended in Section Two of this Article during a period of time to be determined by the Board, at its discretion. In addition, Provisional Members shall have the right to vote on prioritization of issues of importance to them through an annual poll which will be presented to and acted upon by the National Board.

c) ORGANIZATIONAL MEMBERSHIP. An Organizational Member shall indicate his or her interest in becoming an Organizational Member by (i) signing an appropriate membership card; and (ii) by having a set dues amount paid on his or her behalf paid by the organization of which he is a member. In turn, ACORN shall enroll said member on its membership newsletter list; said member shall be allowed all privileges of membership comprehended in Section Two of this Article; and further, said member shall have the right to vote for his organization's representative on the ACORN Board of Directors.

d) PROVISIONAL ORGANIZATIONAL MEMBERSHIP. A Provisional Organizational Member shall achieve this membership status by having a set dues amount paid on his or her behalf paid by the organization of which he is a member. In turn, ACORN shall enroll said member on its provisional organizational membership rolls and said member shall be allowed all privileges of membership comprehended in Section Two.

ARTICLE THREE:

LOCAL GROUPS, OPERATION

1. Every local group should democratically elect officers from the general membership of the local group to carry on its local policies, represent it in various governmental ACORN bodies, and execute its actions. The officers are encouraged to be a chair, co-chair, treasurer, and secretary, as well as any other officers the membership may wish to elect. The terms of the local group officers shall be for a one year period. At the first meeting of the local group, temporary officers should be elected and permanent officers or a confirmation of the temporary officers should occur within three meetings or that time when the group has stabilized its membership.
2. If local groups have local Bylaws, these bylaws cannot conflict with the Bylaws of the corporation or its statewide affiliates.
3. From the point at which the association begins organizing a state affiliate, until its Executive Board is formed and adopts state Bylaws, the governing of bylaws shall be those of the Association for general procedures, and those of Arkansas ACORN for internal state and local operation and practice.
4. Local groups shall have the power to select local committees according to their own decisions and needs.
5. Local groups are encouraged to have meetings at regular intervals at such times as the membership decides.
6. The chairperson or other duly elected authorized representative shall have the additional functions of representing the group on state and district executive boards.
7. The local groups are the primary units of decision and action within ACORN, and the foundation upon which the entire organization exists. As such, local groups are encouraged to make decisions and initiate actions with their local members on problems in their communities or areas of interest for the betterment of all the membership, and of ACORN as a whole.
8. Local groups are encouraged to set up committees such as membership committees which assure that the obligation of all members are met within ACORN.
9. Every local group, no matter how old or young, how big or small, will

have equal voting on ACORN governing boards, and therefore enjoy an equal say in all organizational policies.

10. Local groups and their executive committees shall have full use of all ACORN facilities and resources.
11. On local group issues that could financially strip the effective support of all local groups, the local group must take responsibility with the assisting of the whole organization for the securing of resources to deal with the issue.

ARTICLE FOUR:

DISTRICT BOARDS

1. Local groups are encouraged to coordinate wherever feasible their actions with other local affiliated groups of ACORN so that the most progress will be achieved. This also guarantees that the mutual interest of all ACORN local groups will be best served. Accordingly, local community organizations shall affiliate on a district-wide basis wherever appropriate, the district to be determined by the needs of the local groups in question.
2. The district boards shall be composed of representatives of each local group in the area. Each group shall have a seat for its chair or other duly authorized representative, and shall have one vote.
3. Decisions of the district boards on question of policy, rules, regulations or whatever cannot supersede the authority and responsibility of the statewide or multi-statewide authority.

ARTICLE FIVE:

STATE LEVEL CO-ORDINATION

1. All local community organizations within a particular state shall be affiliated and coordinated on a statewide basis. Such affiliation and coordination shall be accomplished through a state Executive Board, which will be composed of the chairs or duly authorized representatives from each affiliated local group in the state.
2. Each group represented on the Executive Board shall have one vote on all issues.
3. The affairs of the statewide organizations shall be controlled by the Executive Board, and in the intervals between meetings of the membership,

the Executive Board shall exercise the full powers of the organization, including the establishment of such rules, regulations and policies as may be necessary to assure the orderly conduct of the affairs of the organization, provided that such Boards take no action inconsistent with multi-state level authorities.

4. State Executive Boards are encouraged to meet at least once every month, with appropriate notice to be given to all groups informing them of the meeting. Special meetings shall be called when necessary, with appropriate notice given.

5. Executive Boards shall have authority to set up any committees, on either a temporary or permanent basis, which might be needed to help them in the handling of their responsibilities and duties.

6. Decisions of the state-wide Executive Boards on questions of policy, rules, regulations or whatever cannot supersede the authority and responsibility of multi-state authority

7. The Association Board of Directors shall be a state's governing board until a state Executive Board is formally constituted and assumes its position. The Association Board of Directors will also mediate any conflicts that under state Bylaws would have required mediation by the state Executive Board, until that state Executive Board is formed.

ARTICLE SIX:

ASSOCIATION BOARD OF DIRECTORS

1. The corporation as a whole shall be governed by a Board of Directors.

2. The number of the board of Directors shall be equal to one plus twice the number of state ACORN organizations affiliated with the Association, which are organized to the extent that they will have proven able to select representatives – in other words, one director being the Association president, and two directors coming from each state.

3. State delegates shall be chosen by their respective states Executive Boards, two representatives and two alternates. The terms for each post shall be for two years, one representative's and one alternate's terms extending from odd year to odd year, the other representatives and alternate's terms extending from even year to even year.

4. For any new state to enjoy delegation rights, it must have at least three community organizations affiliated with ACORN in its state; and its right

to send delegates must be approved by a majority vote of the Board of Directors; provided, however, that if the ACORN organizations have been in existence for more than six months, then their right to send delegations shall be presumed.

5. Each state representative shall have one vote, two votes for each state. If only one from a state delegation is able to attend a meeting, then s/he shall have authority to vote an additional second vote for her/his state.
6. The Association President shall be selected in a manner prescribed in Article Seven. Upon accepting the office of President, the individual in question shall resign from her/his position of state delegate.
7. The Association President shall serve as Chair of the Board of Directors, and shall vote only in case of a tie.
8. If any vacancies occur in Director's posts, such positions shall be filled according to provisions set forth in these Bylaws.
9. Regular meetings of the Boards should occur twice annually, once in mid-April, once in early October. Notice the exact time and place of each regular meeting shall be sent by prepaid post no earlier than 8 weeks nor later than 2 weeks before the meeting dates. The notice provisions of this section shall not apply if consent and notice forms are signed by a number equaling a majority of the Board of Directors.
10. Special meetings of the Board of Directors shall be held whenever called by the President or by a majority of the state delegations. Notice of each special meeting of the Board of Directors shall be given to each Director at least 7 days before the day on which the special meeting is to be held. Every such notice shall state the time and place of the meeting and the purpose thereof. The business transacted at such special meetings shall be confined to the purposes stated in the notice, unless otherwise voted by the Board. The notice provision of this section shall not apply if consent and notice forms are signed by a number equal to at least three-fourths of the number of Directors of the Board.
11. At each meeting of the Board of Directors, at least a majority of the state delegations shall be present in order to constitute a quorum for the transaction of business. Unless otherwise indicated herein, a majority vote of a quorum shall suffice for the full validation of a Board Decision.
12. The Board may act through two-thirds written consent – i.e., a particular action, order or policy decision of the Board shall have full effect if said decision is signed by two-thirds of the voting members of the Board,

and the Association President. The Board may also act by means of a phone poll: The Association President, or the Chief Organizer with the Association President's knowledge and consent, shall poll the members of the Board by phone. If two-thirds of the members of the Board support a position in such a manner, then that particular action, order or policy decision shall have full effect. Following such a phone poll the Chief organizer shall take responsibility for acquiring written memoranda regarding the action (e.g., written consent forms).

13. The Board may establish such committees other than the Executive Board that it deems necessary or appropriate to assist in carrying out the purposes of this organization.

14. The Board may authorize any officer, agent, or employee to enter into any contract or execute in the name of the corporation any instrument, and such authority may be general or specific, except that no officer, agent, or employee, unless so authorized, shall have the power or authority to bind the corporation by any contract or agreement or to pledge its credit or render it financially liable for any purpose whatsoever.

15. All checks drawn on the bank accounts of the corporation may be signed on its behalf as authorized by the Board.

ARTICLE SEVEN:

OFFICERS

1. The officers of the corporation shall consist of a President, Vice President, Secretary and Treasurer, and such officers and assistant officers as may be deemed necessary, whose terms shall be for two years. The duties of these officers shall be as the Board and these Bylaws indicate.

2. Persons will be appointed to corporate offices either through appointment by the board of Directors, or upon election by the general membership. The Board shall determine the manner by which said officers shall be selected. The Board can remove officers with or without cause with a vote equal in number to three-fourths of the members sitting on the Board.

3. A state delegate can serve simultaneously as delegate and officer, excepting the office of Association President/Chair of the Board.

ARTICLE EIGHT:

MEMBERSHIP ARTICLES

1. There shall be several ways of reaching a total membership vote depending on what is specified in the call for a vote. The Board shall have responsibility for choosing, by a majority vote which method is appropriate for the election in question. The methods are:
 - a. Ballots clearly stating the proposition shall be inserted in the USA or other mailing which is received by each member, and to be resumed within two weeks after the date of publication of the USA, or of the postmark in the mailing.
 - b. General membership of this organization can vote in a multi-state convention when they are held.
 - c. Membership shall vote in local group meetings, and then their votes will be polled at Board of Directors meetings, or at such a time chosen by the Board.
 - d. Membership shall vote in local group meetings, and then their votes shall be polled at a meeting of their respective state Executive Board and/or the Association Board of Directors.
 - e. The voters shall be polled on a statewide basis at statewide conventions.
2. Voting shall be monitored and totaled by special committee established by the Board of Directors so that it will assure a fair and accurate reporting.
3. Any member who is a member in good standing at the time of the ballot shall have one vote.

ARTICLE NINE:

STAFF

1. The day to day affairs of this corporation shall be carried out by a staff under the supervision of a Chief Organizer.
2. The Chief Organizer shall serve at the pleasure of the Board of Directors
3. The Chief Organizer shall have the right to employ such other staff personnel as s/he deems appropriate and necessary to carry out the affairs of this organization.
4. The Chief Organizer, unless otherwise incapacitated, shall be present at all meetings of the Board of Directors in order to make reports as requested

and instructed by the Board, and to insure that Board decisions, policies, rules, and regulations are communicated and carried out by the staff.

5. The Chief Organizer shall have the right to appoint the Head Organizer for a State (or Region). If a state or regional Executive Board exists in the project, then the Chief Organizer's recommendation has to be ratified by a majority vote of the Board in question. If not ratified, then the Chief Organizer must submit other candidates for the job until there is agreement.

6. The Chief Organizer shall have the right to suspend the Head Organizer for a state (or Region). If a state or regional Executive board exists in the project, then the suspension takes effect immediately, but the Chief Organizer needs a majority vote of the Board in question within 30 days in order to make the suspension permanent. If a majority vote is lacking at that time, the Chief Organizer and the state Board will have 30 days to resolve their disagreements in which case the suspension will still continue as temporary. If the dispute cannot be resolved at that point, then the issue shall be submitted to the Board of Directors of the Association for final decision. In the interim, the decision of the Chief Organizer shall prevail. If the Association Board overrules the Chief Organizer's suspension, then the Head Organizer will be entitled to back pay without loss of benefits or tenure.

7. The State (or Regional) Board shall have the right to suspend the Head Organizer for the state (or region). If the Chief Organizer objects to that suspension, he shall have only 10 days in which to sound his written objections in the suspension to the State Board. Within 20 days after that, the parties shall conclave to see if they can resolve their disagreements. If the dispute cannot be resolved, then the issue shall be submitted to the Association for final decision. In the interim, the decision of the State Executive Board shall prevail.

8. The Chief Organizer shall have the right to transfer staff throughout the Association. In the case of transferring a Head Organizer, the Chief Organizer shall have to satisfy the State (or Regional) Executive Board that they will have a competent replacement, which will have to be approved by a majority vote of that board.

ARTICLE TEN:

POLITICS

1. ACORN is a nonpartisan organization.

ARTICLE ELEVEN:

GRIEVANCES

1. Each state Executive Board shall establish a system for settling grievances within local groups or between local groups in the state, to the end that ACORN's organizational democracy, harmony and unity might be maintained. For intra-state matters, the decisions of the Board of Directors shall be responsible for setting up a mediation and grievance system, to the end that ACORN's organizational democracy, harmony, and unity might be maintained.

ARTICLE TWELVE:

BYLAWS

1. These Bylaws shall take effect upon the issuance of ACORN's certificate of incorporation by the Arkansas' Secretary of State.
2. These Bylaws can be amended by a vote of the Board of Directors, or by a majority vote of the membership.

ARTICLE THIRTEEN:

ADMINISTRATORSHIP

1. The objectives of this bylaw are to preserve ACORN's integrity as an effective, harmonious, unified, and democratic organization. It is hoped this will never have to be invoked, but if necessary it will be.

2. Definitions:

a. Administratorship shall be understood to mean a situation wherein the usual rights of ACORN regional authorities to direct policies, affairs and activities of their particular region shall be temporarily suspended; and given to an administrator.

b. As used in this bylaw, "authority" can mean any ACORN agent (e.g. ACORN staff person, officer, member, etc.)

c. As used in this bylaw, "regional" refers to any regional aggregation of ACORN groups – e.g. citywide, statewide, intercountywide, etc.

d. As used in this bylaw, notice shall be understood to have been given

when either hand delivered or sent by US Mail postpaid.

e. As used in this bylaw, regional "official" shall be understood to mean a member elected to an ACORN post (not a staff member).

f. As used in these bylaws, ACORN national shall be understood to refer to the multi-statewide Association, the governing body of which as the ACORN Board of Directors, which consists of representatives from all ACORN states which representatives have equal voting, participation and policy making authority.

g. ACORN Board shall be understood to refer to the national ACORN Board of Directors.

h. "Opportunity to be heard" shall be understood to include the following: the right to present evidence and witnesses to make cross-examinations and arguments. The Board, however, shall set parameters for such presentations as long as both sides have comparable opportunities to present their cases. The case of each side shall be processed by an advocate selected by the side's highest ranking authority, and said advocate shall be an ACORN member.

3. Cause: Administratorship shall be established when it is necessary to insure that:

a. An ACORN regional is experiencing no corruption,

b. An ACORN regional is experiencing no financial malpractice,

c. An ACORN regional is experiencing no undemocratic procedures,

d. An ACORN regional is experiencing no activity which would cause the regional to sever its ties with ACORN,

e. An ACORN regional is not violating the political decisions of ACORN national,

f. An ACORN regional is not being infiltrated by alien elements who would tend to bring ACORN under the influence of an organization which is:

i. Is corrupt

ii. Is anti-democratic

iii. Would use ACORN for its own purposes and designs.

g. An ACORN regional is not violating any key article or bylaw of the organization which would tend to significantly undermine ACORN's organizational effectiveness.

4. Principles: No administratorship shall be imposed upon any ACORN regional without the consent of a $\frac{3}{4}$ majority vote of the Board of Directors.

5. Phases and Procedures: There shall be two kinds of administratorship; Provisional Administratorship and Full Administratorship. Both Administratorships shall be similar in that the regional ACORN people (staff and membership) shall lose all rights to ACORN rights and properties, except as shall be granted them by the Administrator. (Loss of rights shall be understood to include the loss of the right to serve as an ACORN agent in contractual and other relations to the public.) The administratorships shall differ as follows:

Provisional Administratorship:

When it appears to a majority of the ACORN Board that an ACORN regional may be engaging in activity which triggers administratorship sanctions, the President shall appoint an administrator to assume control of the ACORN regional. The administrator shall have full administratorship powers except that s/he may only dictate arrangements that would tend to preserve the regional in question: i.e., the administratorship shall be disallowed from taking steps which would dissolve the regional, or siphon from the regional funds normally due to the regional. For Provisional Administratorship to take effect, written notice must be given to the regional's highest authority. The Board may manifest its intention to institute provisional administratorship through a regular or special meeting; through a written and signed resolution; or by phone poll subsequently ratified through written and signed memoranda. Provisional Administratorship may last no longer than eight months.

Full Administratorship:

This consists of a total revaluation and construction process. Here the ACORN regional can be dissolved, reorganized from scratch, or established according to the discretion of the Administrator. ACORN rights and properties in the regions shall be distributed as the Administrator shall deem appropriate. Presumably, Full Administratorship is preceded by Provisional Administratorship. It is instituted by a majority vote of the Board of Directors sitting at a regular or special meeting; provided,

however, the vote shall not be taken until after each side of the administratorship question has two weeks written notice and opportunity to be heard. If an administratorship is voted, President shall appoint an administrator who shall pursue her/his duties in accordance with the three-fourths vote from the Board. The period of Full Administratorship shall end (a) when there is nothing to administer; (b) when the regional is again prepared to function as a self-sufficient ACORN regional with full rights, responsibilities and privileges. The Board sitting at a regular or special meeting shall make the determination of self-sufficiency, and the issue may be brought before the Board by the administrator or by the people in the region affected. In no case shall any Full Administratorship last beyond two years.

6. Any administratorship may be ended if the regional in question and ACORN can come to an accommodation. Such accommodation, however, must be ratified by three-fourths majority of the board in same manner of ratification required for the institution of Provisional Administratorship.

FILED
OCT -1 P 2:01
CIVIL
DISTRICT COURT

CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 08-8342

DIVISION "H"

ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW
VERSUS
WADE RATHKE, ET AL.

AFFIDAVIT OF MAUDE HURD

State of MA

County of Suffolk

BEFORE ME, the undersigned Notary, Maude Hurd, on this 25th day of September, 2008, personally came and appeared Maude Hurd, known to me to be a credible person and of lawful age, who being by me first duly sworn, did depose and say:

That I am currently, and at all relevant times was, the President of the Association of Community Organizations for Reform Now ("ACORN").



That the captioned lawsuit was filed on August 12, 2008, by two members of ACORN's board (Marcel Reid and Karen Inman), without authority from me, as President of ACORN, or the Board.

That neither Marcel Reid nor Karen Inman have the "full authority of the Board of Directors" to file the lawsuit, as alleged in paragraph 2 of the Petition;

That the by-laws of ACORN do not otherwise permit individual Board members to bring litigation or take any action on behalf of ACORN, without expressed authority.

That I, as President of ACORN, sent a letter to James Gray, attorney for the two Board members who brought the lawsuit, and requested that he provide documentation of his and his clients' authority to bring the lawsuit, copies of all court filings, expressed ACORN's concern that his alleged representation of ACORN and Kappa Alpha Psi Federal Credit Union, which had submitted a bid to do ACORN's accounting work (and in competition with CCI, one of the defendants herein), was a potential conflict of interest, and requested that he explain the mutual representation and produce all documents that related to that relationship, including retainer agreements and contracts.¹

That Mr. Gray has not responded to ACORN's request.

That pursuant to Article 6, Paragraph 12 of ACORN's by-laws, with my knowledge and consent, Bertha Lewis, interim Chief Organizer for ACORN, conducted a telephone poll of ACORN's Board of Directors from August 25 - September 5, 2008 to determine whether each member of the Board voted to continue to captioned litigation or to withdraw it.

¹ A copy of the text of this letter is attached to this Affidavit as Exhibit 1.

That she conducted such poll and obtained the written memoranda from each member of the Board, as required by Article 6, Paragraph 12 of ACORN's by-laws.²

That the result of the telephone poll was 36 to withdraw; 11 to continue; and 4 who could not be reached; a greater than 2/3 majority required for Board action under the by-laws.

That pursuant to the vote of the Board, I, as President of ACORN, sent a letter to James Gray on September 8, 2008, reporting the result of the Board vote, and instructing him to dismiss the captioned lawsuit, in accordance with the vote of the Board.³

That James Gray has not complied with ACORN's directive.

That instead, Mr. Gray sent a letter to all of the Board that stated his interpretation of the by-laws, accused the Executive Committee and Senior Staff of various criminal acts, and purported to advise the Board, whose instructions he has refused to follow.⁴

That Ms. Elizabeth Kingsley, corporate counsel for ACORN, and acting within that authority, wrote a letter to Mr. Gray to discuss his refusal to follow the will of the Board, despite his earlier assurances to her that he would follow the Board's will and to request the documents from Mr. Gray that demonstrated his alleged authority and that showed the relationship between him and ACORN and him and KAPFCU.⁵

That Mr. Gray has not responded to this request either.

² The summary of votes is attached to this Affidavit as Exhibit 2.

³ A copy of the text is attached to this Affidavit as Exhibit 3.

⁴ Attached to this Affidavit as Exhibit 4.

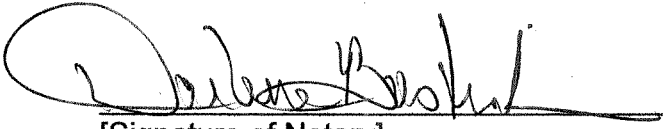
⁵ Attached to this Affidavit as Exhibit 5.

That neither Karen Inman nor Marcel Reid has responded to any of the requests for information or explanation that were addressed to Mr. Gray, their attorney.

That the foregoing is true and correct to the best of my knowledge, information, and belief.


Maude Hurd, President ACORN

Sworn to and subscribed before
me this 25th day of September, 2008


[Signature of Notary]

Darlene Bostick
[Printed name of Notary]

Notary Public

My commission expires: August 30, 2013

Mr. James Gray, II
Gray & Gray
World Trade Center
2 Canal Street Suite 2707
New Orleans, LA 70130

VIA FACSIMILE 504-522-0842

Dear Mr. Gray:

As President of ACORN and a member of its Board, whom you purport to represent, I hereby request that you immediately provide me and the organization with a complete copy of all papers you have filed with the court, and that you provide a copy of any future filings in advance. You can send those by e-mail to acornpres@verizon.net, or by overnight delivery to 60 Edson St., Dorchester, MA 02124. In addition, please copy ACORN's outside counsel Elizabeth Kingsley on any such documents. She can be reached at bkingsley@harmoncurran.com, or by fax at 202-328-6918.

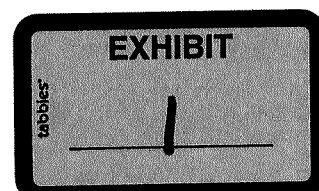
Please also send every engagement letter or other agreement you have entered into with ACORN, Ms. Inman, or Ms. Reid, and any other contracts they have executed in ACORN's name. We also demand an explanation of your representation of KAPFCU and request that you explain the potential conflict with representing ACORN and KAPFCU, which is specifically not waived by ACORN.

As you will appreciate, each and every of ACORN's directors has a right to examine ACORN's corporate records and documents simply by virtue of their status as the corporation's directors. I am making this request to see ACORN's corporate records on my own behalf as a member of the Board, and in order to make this information available to the entire Board of Directors, many of whom have explicitly requested to see it.

Sincerely,

Maude Hurd
President, Association of Community Organizations for Reform Now

FILED
OCT -1 P 2:01
CIVIL
DISTRICT COURT



To: Beth Kingsley, Andrew A. Lemmon

From: Bertha Lewis

Re: Updated Tally of Withdraw and Continue Consent Forms as of September 10th

Date: September 10, 2008

FILED

2008 OCT -1 P 2:01

CIVIL
DISTRICT COURT

We received an updated consent form from Linda Scammica, who indicated that she wanted to rescind her vote to continue the lawsuit, so that changes the count. Thus, as of September 8th, 2008 there have been 36 votes to withdraw (2 of which we do not have consent forms from due to the Hurricane, 1 of which was from an alternate), and 11 votes to continue. In addition, it should be noted that there was an additional consent form signed to withdraw the lawsuit by Alton Bennett, who represents ACORN Housing on the Board as a non-voting member; there also was one member who chose not to vote, as noted below; and there were 4 members we were unable to speak with. The Summary is as follows:

Voted to Withdraw

Pres	Maude Hurd
AR	Maxine Nelson
AR	Johnnie Pugh
AZ	Alicia Russell
AZ	Charlotte Peper
CA	Giselle Quezada
CA	Alicia Gaddis
CO	Jose Jurado
CT	Sharon Patterson
DE	Hugh Alleyne
DE	Angela Walker
FL	Tamecka Pierce
FL	Aaron Pridgen
KS	Sarah Lott-Edwards
MA	Angie Wilkerson
MA	Sandra Ramgeet
MD	Sonya Merchant-Jones
MD	Gloria Swieringa
MN	Paul Satriano
MO	Mary Hutchinson
MO	Patricia Williams
MS	Valerie Berry
MS	Steven C. Simmons
NJ	Pedro Rivas
NJ	Millie Sharpe
NM	Beatriz Quinones
NV	Veronica Dunn-Jones
NY	Maria Polanco
NY	Marie Pierre
OH	Linda Scammica
OR	Cassandra Patterson



OR	Dathen Moorman
TX	Bonnie Mathias
TX	Toni McElroy

Voted to Withdraw, vote not received

LA	W (alt), Hurricane	Lanny Roy (alt)
LA	W, Hurricane	Vanessa Gueringer

Vote to withdraw received from non-voting representative to the Board.

AHC	W, non-voting member	Alton Bennett
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Voted to Continue

CT	Emilline Bravo
DC	Louise Davis
MI	Adrianna Jones
MI	Jamesie Morgan
MN	Karen Inman
OH	Coya Moblely
PA	Carol Hemingway
PA	Rosa Chacon
RI	Stephanie Cannady
RI	Mary Scott
WA	John Jones

Did not Vote

NC	Yvonne Stafford
----	-----------------

Board Members that Were Not Reached

DC	Marcel Reid
GA	Regina Upchurch
IN	Mary Sears
LA	Beulah Labostrie

September 8, 2008

Mr. James Gray, II
Gray & Gray
World Trade Center
2 Canal Street Suite 2707
New Orleans, LA 70130

FILED
2008 OCT -1 P 2: 01
CIVIL
DISTRICT COURT

VIA FACSIMILE and Overnight Delivery 504-522-0842

Dear Mr. Gray:

I am writing to inform you that the Board has voted to withdraw the litigation entitled "Association of Community Organization for Reform Now vs. Wade Rathke, et al", Civil District Court of the Parish of Orleans, State of Louisiana, No. 08-8342, Division "H". This action was taken by a telephone poll pursuant to Article Six, Paragraph Twelve of the ACORN bylaws.

Accordingly, you are directed by the ACORN Board and in accordance with the rules of professional ethics to withdraw this lawsuit within twenty-four hours of receipt of this letter. When you have taken this step, please send an image of a stamped copy showing that the lawsuit has been withdrawn to me by e-mail to acornpres@verizon.net, and to ACORN's outside counsel Elizabeth Kingsley by e-mail at bkingsley@harmoncurran.com, or by fax at 202-328-6918.

Sincerely,

Maude Hurd
President, Association of Community Organizations for Reform Now

cc: Terrel J. Broussard
Stephen P. Schott
Bertha Lewis
Elizabeth Kingsley



GRAY & GRAY

A Professional Law Firm

World Trade Center
2 Canal St. Suite 2707
New Orleans, La. 70130
Office (504) 522-0838
Fax (504) 522-0842

FILED
2008 OCT -1 P 2:01
CIVIL
DISTRICT COURT

September 10, 2008

Interim Management Committee
Association of Community Organizations
For Reform Now (ACORN)
739 Eighth Street, S.W.
Washington, DC 20003

RE: ACORN Litigation Update and Notice of New York Times Article

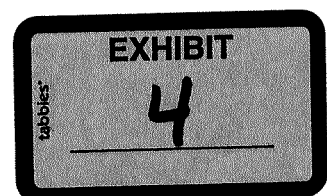
Association Board,

This letter is to inform you about a recent New York Times article related to the TRO Petition filed on behalf of the IMC; and unresolved questions which were created by Stephanie Strom. And to clear the air regarding various misstatements of fact and law that appear to have been circulated by staff and others.

During this engagement we have merely sought to identify and preserve all ACORN assets, and protect them from dissipation and concealment. Unfortunately, our preliminary investigation has uncovered evidence which indicates Senior Staff and Executive Committee involvement in the commission and/or concealment of a variety of unlawful and criminal acts.

The facts appear to be that senior staff members approached Association Board members and attempted to get signatures on a "blank piece of paper" during the week of the Democratic Convention. Many Association Board members refused to sign this so-called "petition" and questioned the authority of the staff to poll board members in this fashion.

Apparently, after being unsuccessful at first; the staff then called a telephone meeting on or about September 5, 2008 in which they requested Association Board members to sign the surveys at issue here. Thus, the signed surveys are invalid because they were elicited during an unauthorized "meeting" held in violation of ACORN by-laws.



Article Six, section 11 provides: At each meeting of the Board of Directors, at least a majority of the state delegations shall be present in order to constitute a quorum for the transaction of business. Unless otherwise indicated herein, a majority vote of a quorum shall suffice for the full validation of a Board Decision.

Thus without a "meeting" at which there is a "quorum", there cannot be any "transaction of business" by Acorn's Board of Directors. Further, there cannot be "full validation of a (purported) Board Decision" without such a meeting at which there is a quorum with a majority thereof voting in favor of the proposed action.

So while Article Six, section 12 indicates "(t) he Board may act through two-thirds written consent" and/or "by means of a phone poll", with no direct reference to the need for a meeting, it seems there must be a corresponding meeting per section 11 with notice per section 9 (Regular Meetings) or section 10 (Special Meetings).

Thus, while some provisions of the ACORN by-laws appear to conflict; the board must informed and receive proper notice prior to any formal meeting or action by the Association Board action. As a practical matter, there must always be some kind of notice for ACORN to transact business. A quorum is unlikely to spontaneously convene; vote in adequate numbers to affect some consequential matter on a totally impromptu basis; while simultaneously waiving prior notice. This was not done here. Based on these facts and the notice provisions of the ACORN by-laws the signed surveys appear to be flawed and invalid. And do not express to true intent or formal directive of the Association Board.

What this all means:

There are now two ACORN "lawsuits" pending in Louisiana. The first one is the TRO Petition to prevent Dale Rathke, Wade Rathke, Citizen's Consulting Inc. and others from signing contracts or destroying documents without Association Board authorization. The second "lawsuit" seeks a court order to withdraw the previous TRO Petition. Thus, the first seeks transparency and accountability, the second seeks to conceal information and evidence from the Association Board.

What is also true is we are going to court. There will be a preliminary hearing on the TRO petition; or there will be a preliminary on the motion to withdraw the TRO petition. ACORN is going to court in Louisiana; we are only waiting for a hearing date to be set. At any point, it is clear that this story is not going to go away and will probable gain momentum.

In light of this fact the Association Board must be more vigilant and visibly proactive to restore trust and integrity in ACORN. Maintaining the TRO Petition is the first step in proving to our funders and the world that the Association Board is in control of ACORN and acting responsibly. Pursuing a forensic examination and independent audit is the second thing the Association Board should do to establish transparency and accountability.

I can be reached at (504) 522-0838 if you have any questions regarding this letter. And finally, I apologize for any previous delay in communicating with the

Association Board. These delays were caused by the mandatory evacuation of New Orleans prior to Hurricane Gustav. Thank you for your attention to these very important matters.

Cordially,

James Gray, II

Cc: Association Board

return receipt - sign.

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

1726 M Street, NW, Suite 600 Washington, DC 20036

(202) 328-3500 (202) 328-6918 fax

2008 OCT -1 P 2:01

CIVIL DISTRICT COURT

September 17, 2008

Mr. James Gray, II
Gray & Gray
World Trade Center
2 Canal Street Suite 2707
New Orleans, LA 70130

Dear Mr. Gray:

This letter is in response to yours of September 10, 2008, to express my concern over your repeated failure to respond to ACORN's President and her requests for documents and information, and to notify you of the conflict of interest between ACORN and your credit union client. Your disagreement with the Board's vote and your tortured interpretation of the Board's by-laws in no way excuses your failure to follow your client's instructions or requests, nor does it allow you to represent a client whose interest is in conflict with the Board.

Your letter is inaccurate in a number of substantive ways, and it slanders ACORN's Senior Staff and Executive Committee and accuses the Board of concealment of evidence. None of your accusations adds anything to the discussion or is in the interest of the organization, and your repeated accusations of various crimes against all who oppose your two Board member clients potentially subjects the Board to liability. Keep in mind that you hold yourself out to be representing the Board, and everything you say could be imputed to the Board if you are found to represent the Board. Rule 1.2 of Professional Conduct requires that you act in the best interest of your client. At a minimum, if you do represent ACORN, you would not be allowed to say things like this that subject it to liability without some evidence, which you have not provided to anyone.

Your accusation that Board members were approached by senior staff with a blank piece of paper to sign again may be serious, but it was not part of any vote, if it occurred at all. It is unclear to me what significance this alleged fact has to the telephone poll, but the alleged Senior Staff actor should be identified if your two Board member clients are looking for something to be done to address that issue. Be clear, however, this has nothing to do with the telephone poll and in no way justifies your refusal to follow the Board's mandate.

The telephone poll was conducted by the Chief Organizer with the Board President's knowledge and consent, as authorized in the by-laws. Please notify me immediately if my assumption that you are not accusing her of fraud is in error. Otherwise, the by-laws are very clear that one acceptable methodology for Board action is through a telephone poll conducted by the CO with the President's knowledge and Consent. Although a meeting is another acceptable methodology, a meeting is not required and does not in any way conflict with the telephone poll provisions. There is no separate notice provision for a phone poll, but the Board all received notice of the telephone poll when they were called. The Board voted 36 to withdraw; 12 to continue; 1



James Gray
September 17, 2008
Page 2

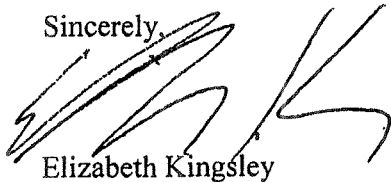
abstention; and 4 who could not be reached. More than 2/3 of the entire Board voted to withdraw the lawsuit.

The stated purpose of your lawsuit and your two Board member clients is in conflict with the effect of their actions. The Board has attempted to be vigilant and proactive in maintaining ACORN's long standing trust and integrity. Your clients' actions undermine the decision of the Board in how to proceed, and your reckless accusations against unidentified members of the Senior Staff and Executive Committee go far beyond your stated goals. The Board has decided how to proceed, and your two Board members' decision to publicly parade their disagreement with the Board's decision is damaging to the organization.

Your refusal to provide contracts and other documents that authorize you to speak for or represent the Board also is troubling. Rule of Professional Conduct 1.16 requires that you provide the Board with copies of its documents. The Board President requested that you send her copies of every engagement letter or other agreement you have entered into with ACORN, Ms. Inman, or Ms. Reid, and any other contracts they have executed in ACORN's name on September 17, 2008. That is over a week ago, and you have not even acknowledged her letter. If you represent the Board, which is denied, you must provide this information to her immediately. If you do not represent the Board, then you must stop holding yourself out in that way.

The Board President also asked for you to explain your relationship with KAPFCU, whom you also hold yourself out to represent. She is concerned (as am I) that your representation of these two entities is a conflict of interest under Rule 1.7, which the Board specifically does NOT waive. KAPFCU is a contractor that made an unsolicited proposal to the Interim Management Committee that was presented by your two Board member clients at the July 29, 2008, meeting in Chicago. That proposal has never been approved or authorized by the Board or the Executive Committee, and KAPFCU has an obvious financial interest in the Board's relationship with CCI and any decision to hire someone else to perform the accounting functions for ACORN. That interest alone probably disqualifies you from representing ACORN against CCI. As corporate counsel, I again demand copies of all of your retainers and correspondence with ACORN, the two Board member clients, KAPFCU, and anyone else involved in this litigation. I also call on you to withdraw from the alleged representation of ACORN as a result of the conflict of interest.

Sincerely,



Elizabeth Kingsley

cc: Mr. Terrel Broussard

July 7, 2008



ACORN
Association of Community Organizations for Reform Now

www.acorn.org

MEMORANDUM OF UNDERSTANDING

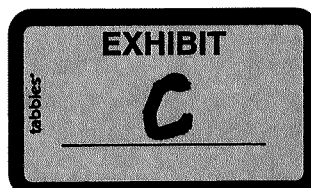
ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW AND KAPPA ALPHA PSI FEDERAL CREDIT UNION

This Memorandum of Understanding (hereinafter referred to as "MOU") is made and entered into by and between the KAPPA ALPHA PSI FEDERAL CREDIT UNION ("KAPFCU") whose address is P.O. Box 703047, Dallas, TX 75370 and ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN) whose national address is 1024 Elysian Fields Avenue, New Orleans LA, 70117.

This Memorandum of Understanding will form the basis for a collaborative business relationship between the ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN) and KAPPA ALPHA PSI FEDERAL CREDIT UNION (KAPFCU). The goal of this Agreement / MOU is to establish a long term collaborative relationship between KAPFCU and ACORN to enter into a strategic alliance to assist ACORN, its related organizations and the Association Board in their ongoing efforts to reorganize ACORN and restructure its current operational management.

PARTIES

ACORN, the Association of Community Organizations for Reform Now, is the nation's largest community organization of low- and moderate-income families, working together for social justice and stronger communities. Since 1970, ACORN has grown to more than 350,000 member families, organized in 850 neighborhood chapters in 103 cities across the U.S. and in cities in Canada, the Dominican Republic and Peru. ACORN has taken action and won victories on issues of concern to our members, including better housing for first time homebuyers and tenants, living wages for low-wage workers, more investment in our communities from banks and governments, and better public schools.



Additionally, there are various other companies and organizations which are members of the "ACORN family". These ACORN "related organizations" are those which ACORN helped to establish and maintain to pursue its corporate purposes, or which have received public funds, contracts, real property or other benefits through its affiliation with ACORN, its membership or staff. These organizations were created or supported by virtue of mandates from ACORN, and ACORN supplied resources so that those mandates might be fulfilled.

Kappa Alpha Psi Fraternity, Inc. is an international organization founded on the campus of Indiana University, Bloomington, Indiana on January 5, 1911. Since its inception, it has trained over 125,000 men, particularly undergraduates, for leadership roles in their communities and the attainment of a high degree of excellence in their academic pursuits. KA-PSI is a predominantly African-American fraternal association with a 97 year history, of providing training for leadership and development services.

KAPFCU, the Kappa Alpha Psi Federal Credit Union, provides financial services (deposit accounts, college loans, auto loans, unsecured home improvement loans, signature loans, and secured financing) to underserved communities and targeted populations across the country. KAPFCU is a *Certified Community Development Financial Institution* (CDFI) and a *Low Income Credit Union* (LICU) as designated by the National Credit Union Administration (NCUA). KAPFCU seeks to improve the social, economic and financial conditions of *African-Americans, Hispanics* and *Women* in America. Providing financial literacy and development services to minority youth is an important function that KAPFCU undertakes in an effort to break the chains of intergenerational poverty.

PURPOSE

The purpose of this Agreement / Memorandum of Understanding is to prepare and implement a strategic alliance for day-to-day management and implement a crisis management public awareness campaign to announce the strategic alliance, educate, deter and prevent predatory lending and mortgage fraud – in addition to developing innovative concepts to fund and implement the recommendations. Accordingly, Kappa Alpha Psi Federal Credit Union will assist the Association of Community Organizations for Reform Now in its efforts to reorganize and restructure the current operational management, and restore confidence in its ongoing leadership.

Each organization operates according to its own respective rules and procedures. The parties desire through this Agreement / MOU to establish specific guidelines regarding corporate structure, the sharing of documents, information and management responsibilities regarding the day-to-day operations of ACORN, its related organizations and encourage cooperation between the parties to provide including financial literacy and homeownership counseling to low-income families, women and minorities in underserved communities.

RECITALS

Whereas, ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW and KAPPA ALPHA PSI FEDERAL CREDIT UNION both desire to produce a higher standard of living and better quality of life for the underserved residents through education and access to capital;

Whereas, ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW and KAPPA ALPHA PSI FEDERAL CREDIT UNION both have an interest in the creation and implementation of a crisis management strategy and public awareness campaign which will support the branding and marketing of the KAPFCU and ACORN as leaders in Social Justice, Economic Justice, and Combating Predatory Lending and Mortgage Fraud;

Whereas, ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW and KAPPA ALPHA PSI FEDERAL CREDIT UNION both desire to protect their respective investments in time, energy, and intellectual property, as they relate to their respective interests in the crisis management strategy and public awareness campaign;

WHEREAS, ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW and KAPPA ALPHA PSI FEDERAL CREDIT UNION have the common objective to promote, directly or indirectly, financial literacy, homeownership, fair lending, community reinvestment, economic development with the aim of contributing to the social, financial and economic opportunities for low-income, women and minority communities.

WHEREAS, ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW and KAPPA ALPHA PSI FEDERAL CREDIT UNION seek guidelines to structure and strengthen their relationship, to foster closer co-operation and service delivery, and to announce and publicly disclose this valuable collaboration.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and conditions hereinafter set forth, the sufficiency of which all parties agree, ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW and KAPPA ALPHA PSI FEDERAL CREDIT UNION hereby agree as follows:

AGREEMENT

Therefore, having found common ground, it is agreed that the ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN) and KAPPA ALPHA PSI FEDERAL CREDIT UNION (KAPFCU) both hereby agree to establish a strategic partnership for the day-to-day management of ACORN and related organizations, and the planning, development and implementation of a national Public Awareness Campaign on Combating Predatory Lending and Mortgage Fraud.

The goal of the strategic partnership is to raise resources, maintain adequate management and staff, educate the ACORN membership and constituents, and position the ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW and KAPPA ALPHA PSI FEDERAL CREDIT UNION to be recognized as a national leaders in social justice and economic justice advocacy, and combating predatory lending and mortgage fraud.

1. Purpose of Agreement / MOU. The purpose of this MOU is to establish the terms and conditions under which the parties agree to collaborate and provide crisis management and consulting services, including Legal, Accounting, Human Resource, Public Relations and Banking and Financial services to ACORN, its related organizations and the Association Board.

2. Term of Agreement / MOU. This MOU is effective upon the day and date last signed and executed by the duly authorized representatives of the parties to this MOU and the governing bodies of the parties' respective boards and shall remain in full force and effect for not longer than ten years. However, this Agreement / MOU may be terminated, for cause, by either party upon 60 days written notice, which notice shall be delivered by hand or by certified mail to the address listed above.

3. Responsibilities of KAPFCU. KAPFCU will assist the ACORN Board to reorganize ACORN and related corporation(s) and restructure its current operational management during this current crisis of confidence. We share your commitment to helping low-income, minority and underserved communities. Moreover, KAPFCU can provide the ACORN Board with immediate access to seasoned *legal, accounting, finance, management and community development professionals* who have experience in auditing, coordinating and managing numerous and diverse non-profit, for profit and philanthropic corporate entities.

- Identify Organizational Structures of ACORN and Related organizations
- Identity ACORN and related company Property and Assets
- Identify ACORN and related company Banking and Financial Accounts
- Implement Management Reorganizations
- Implement Human Resource and Staffing recommendations
- Publicize the existing Strategic Alliance
- Reposition ACORN and related organizations in positive public light
- Employ legal, accounting and management consultants, and legislative advocates to defend Association Board members

- Authorize and defend the use of ACORN intellectual property, licenses, copyrights, trademarks and servicemarks.
- File and defend lawsuits brought on behalf of the general membership and Association Board members.

4. Responsibilities of ACORN. ACORN, its related organizations and Association Board will utilize KAPFCU as primary financial deposit institution for all ACORN and related company banking and financial accounts. ACORN, its related organizations and Association Board will encourage eligible ACORN membership to join and utilize KAPFCU for savings, checking, financial interments, etc. ACORN, its related organizations and Association Board will advertise and promote the strategic alliance through affiliated companies and networks. ACORN, its related organizations and Association Board will cooperate with KAPFCU management efforts and initiatives, including;

- Publicize and Promote the Strategic Alliance with KAPFCU
- Cooperate with KAPFCU and consultants
- Provide known financial information and accounts to KAPFCU
- Provide Access to Computer Networks, Servers, Websites, and files and records including passwords and security codes
- Turnover all known financial books and corporate records
- Support legal actions recommended by KAPFCU
- Support management decisions of KAPFCU

5. Management Fees and Costs. The parties hereby agree that KAPFCU will receive seven hundred fifty dollars (\$750.00) a day *per diem*, plus all related costs and expenses associated with this agreement, and an asset management fee of ~~twenty five~~ *Fifteen* percent (15%) of the total assets acquired, recovered or placed under management pursuant to this agreement. All associated costs and fees are paid to KAPFCU or any related credit union service organization.

6. General Provisions. In support of the above Agreement / Memorandum of Understanding, the parties / strategic partners further expressly agree that –

A. Management Authority. KAPFCU will manage, operate and administer all staff and personnel for ACORN and its related entities and the public awareness campaign on behalf of the ACORN, its related organizations and Association Board.

B. Authority to Sub-contract and Employ. KAPFCU has the direct authority to contract and hire staff, experts and consultants to facilitate the planning, development, and execution of the crisis management strategy and public awareness campaign under terms delineated in subsequent formal agreements, joint venture, or other binding contracts. KAPFCU retains the right and sole discretion to hire consultants, specialists and sub-contractors under this agreement, including but not limited to Legal, Accounting, Public Relations, Human Resource, Management, etc. on behalf of ACORN, its related organizations and the Association Board.

C. Asset Management. KAPFCU possesses the authority to control and manage all computer, real estate and financial assets, including all real property leased, owned or controlled by ACORN, its related organizations and Association Board.

D. Grant Administration. KAPFCU is authorized to request and apply for philanthropic grants and Local, State and Federal resources to complete the crisis management strategy and the public awareness campaign on behalf of ACORN, its related organizations and Association Board.

E. Intellectual Property Rights. KAPFCU retains all trademarks and copyrights in the intellectual property rights created for use in the public awareness campaign or predatory lending and mortgage fraud initiatives.

F. Financial Intermediary. KAPFCU will act as a tax-exempt financial intermediary for ACORN, its related organizations and Association Board during this strategic alliance and public awareness campaign.

G. Mutual Support. ACORN, its related organizations and Association Board, and KAPFCU all hereby agree to participate and support the legal, management and publicity efforts, and exchange information (subject to strict confidentiality and non-disclosure agreements) necessary to develop, structure and promote the crisis management strategy and public awareness campaign.

H. Amendments. Either party may request changes to this Agreement / MOU. Any changes, modifications, revisions or amendments to this Agreement / MOU which are mutually agreed upon by and between the parties to this Agreement / MOU shall be incorporated by written instrument, and effective when executed and signed by all parties to this Agreement / MOU.

I. Applicable Law. The construction, interpretation and enforcement of this Agreement / MOU shall be governed by the laws of the State of Texas. The courts of the State of Texas shall have jurisdiction over any action arising out of this Agreement / MOU.

J. Entirety of Agreement. This Agreement / MOU, consisting of four pages, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.

7. Signatures. In witness whereof, the parties to this Agreement / MOU through their duly authorized representatives have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement / MOU as set forth herein. The effective date of this Agreement / MOU is the date of the signature last affixed to this page.

IN WITNESS this agreement and memorandum of understanding is hereby agreed, executed and entered on this _____ day July of 2008.

KAPPA ALPHA PSI FEDERAL CREDIT UNION

By: _____

Name (Print): Victor F. Russell

Title : President / Chairman of the Board

Date: _____

ASSOCIATION OF COMMUNITY DEVELOPMENT ORGANIZATIONS FOR REFORM NOW

By: _____

Name (Print): _____

Title : _____

Date: _____

CIVIL DISTRICT COURT FOR THE
PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 08-8342

DIVISION "H"

ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW
VERSUS
WADE RATHKE, ET AL.

AFFIDAVIT OF MAXINE NELSON

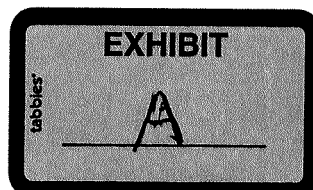
State of Arkansas

County of Jefferson

BEFORE ME, the undersigned Notary, Brenda Snider, on this
1 day of ~~September~~ October, 2008, personally came and appeared Maxine Nelson,
known to me to be a credible person and of lawful age, who being by me first duly
sworn, did depose and say:

That I am currently, and at all relevant times was, the Secretary for the Association
of Community Organizations for Reform Now ("ACORN");

That pursuant to Article Six, Paragraph 12 of ACORN's by-laws, a meeting of
ACORN's Board of Directors by telephone conference call was held on June 3, 2008;



That during that meeting, an Interim Staff Management Committee of ten staff members was formed to assume the role and responsibilities of Chief Organizer (formerly held by Wade Rathke) on an interim basis, "until a replacement mechanism has been determined and implemented and approved by the Board."

That the motion to form the ISMC was amended to add "3 Board members chosen by the Board who will work with this Interim Staff Management Committee and that there will be a monthly report to the Board."

That another motion was adopted at that meeting to hold an in person meeting to be held on June 20 during the ACORN convention.

That at the June 20, 2008 meeting, the Board chose the 3 Board members who would work with the ISMC and report to the Executive Board at least monthly;

That the Board was reminded that the ISMC (now called the IMC) was "not a policy-making body but was to function in the role of the Chief Organizer until either the October Association Board meeting or the Board's appointment of a new Chief Organizer."

That an informational phone call among the Board members was held on July 13, 2008 and a report was given by the IMC;

That during the call approval was given for funds for the IMC to have access to professional consultants when needed to carry on the work of the IMC so that the will of the Association Board be carried out.

That the only authority given to the IMC was to function as Chief Organizer and carry out the will of the Board;

That no members of the IMC were given authority to take actions on behalf of the Board;

That neither Karen Inman nor Marcel Reid, nor any other member of IMC, individually or as the IMC, or as ACORN were given or had authority to bring the litigation entitled "Association of Community Organization for Reform Now vs. Wade Rathke, et al", Civil District Court of the Parish of Orleans, State of Louisiana, No. 08-8342, Division "H"; on behalf of ACORN, whom they purport to represent;

That neither Marcel Reid nor Karen Inman have the "full authority of the Board of Directors" to take the captioned action as alleged in paragraph 2 of the Petition;

That the by-laws of ACORN do not otherwise permit individual Board members to bring litigation or take any action on behalf of ACORN without expressed authority;

That the document attached as Exhibit 1 is a true and correct copy of the ACORN bylaws as currently in effect; and

That the foregoing is true and correct to the best of my knowledge, information, and belief.

Maxine Nelson
Maxine Nelson, Secretary ACORN

Sworn to and subscribed before

me this 1 day of OCTOBER 2008

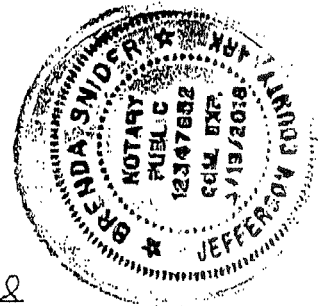
[Notary Seal"]

Brenda Snider
[signature of Notary]

Brends Snider
[printed name of Notary]

Notary Public

My commission expires: 4-19, 2016



CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.: 08-8342

ASSOCIATION OF COMMUNITY ORGANIZATIONS OF REFORM NOW

VERSUS

WADE RATHE, ET. AL.

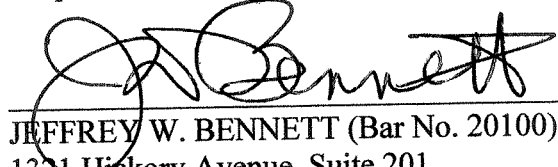
FILED: _____

DEPUTY CLERK

MOTION TO ENROLL AS COUNSEL OF RECORD

NOW INTO COURT, through undersigned counsel, comes Jeffrey W. Bennett, who respectfully requests that he be permitted to enroll as counsel of record for defendants, Citizens Consulting, Inc. and Mike Jones, in the above-captioned case.

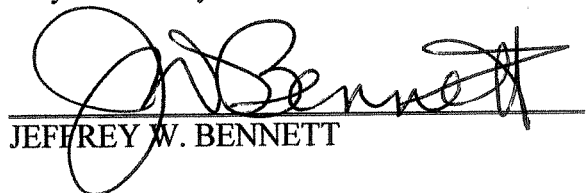
Respectfully submitted,



JEFFREY W. BENNETT (Bar No. 20100)
1321 Hickory Avenue, Suite 201
Harahan, LA 70123
Telephone: (504) 913-3319
Attorney for defendants, Citizens Consulting, Inc.
and Mike Jones

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing pleading has been served upon all counsel of record by placing same in the U.S. Mail, first-class postage prepaid and properly addressed, or via facsimile, or via hand delivery this 1st day of October, 2008.



JEFFREY W. BENNETT

VERIFIED

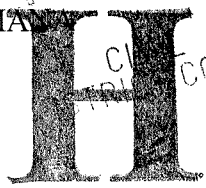
cm

10/6/08

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

FILED
AUG 12 P 2:39

STATE OF LOUISIANA



SECTION 12

NO.: 08-8342

DIVISION

SECTION NO.:

ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW

VERSUS

WADE RATHKE, ET. AL.

FILED: _____

DEPUTY CLERK

Petition for Temporary Restraining Order Preliminary Injunction and Permanent Injunction

The petition of by Marcel Reid and Karen Inman, both members of the board of Directors of Acorn and members of the Interim Management Committee who are residents of Washington, D.C. and Minnesota respectively..

PLAINTIFFS:

1. ACORN is a Louisiana Corporation Organized under the laws of this parish and state with its principal place of business located in this parish and state. ACORN has over One Hundred and Fifty (150) subsidiaries with interlocking directors most of which are Louisiana Corporations authorized to business in this parish and state.
2. The Board of Directors or ACORN has established the Interim Management Committed represented by Marcel Ried and Karen Inman who represent that they have the full authority of the Board of Directors of ACORN to take this action.
3. The Interim Management Committee was established to manage the crisis created by the discovery that the brother of Wade Rathke, Dale Rathke had embezzled nearly one million dollars for the corporation.

DEFENDANTS

4. Made Defendants in this action are dissident directors and staff members who refuse to comply with directives of the board of directors to provide records for review by the

DATE: 8/12/08 of 4:40 PM
 CASE # 08-8342
 RECEIVED 8/12/08
 CIVIL DISTRICT COURT
 PARISH OF ORLEANS
 NEW ORLEANS, LA 70112

MAILED 10:00 AM
 AUG 12 2008
 CIVIL DISTRICT COURT
 PARISH OF ORLEANS
 NEW ORLEANS, LA 70112

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 PARISH OF ORLEANS
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MAILED 10:00 AM
 AUG 12 2008
 CIVIL DISTRICT COURT
 PARISH OF ORLEANS
 NEW ORLEANS, LA 70112

VERIFIED
C. SIMON
8-15-08

Interim Management Committee. They are:

- a. Wade Rathke, the former Chief Administrative Officer who either resigned or was terminated from his position because he either knew or should have know of embezzlement of funds of ACORN by his brother Dale Rathke. Wade Rathke either concealed or did not accurately represent this fact to the circumstance surrounding the embezzlement to the Board of Directors of Acorn. Even though his relationship with ACORN has been terminated, he continues to meet with staff members regarding this and other governance issues which impede the ability of the Interim Management Committee to perform its function.
- b. Dale Rathke, who has admitted to have misappropriated, embezzled or otherwise caused the withdrawal of an amount that, may exceed One Million Dollars from the Funds of ACORN is uncooperative and refuses to cooperate with and interferes with the Interim Management Committee fact finding mandate.
- c. Mike Jones, CPA a person of the age of majority and is an accountant for ACORN who has refused to provide ACORN records in spite of requests form the Interim Management Committee;
- d. Citizens Consulting, Inc. A corporation domiciled in Orleans Parish. Citizens Consulting, Inc. does the accounting for Acorn and is the employer of Mike Jones, CPA. Through Elizabeth and Mike Jones, Citizens Consulting, Inc. refused to turn over to Acorn its books.
- e. Bertha Lewis, a person of the age of majority and is a member of the Staff at ACORN, who has refused to provide ACORN records in spite of frequent written and requests;

BASIS FOR PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF

5. It was discovered the Wade Rathke in his official capacity as ACORN Executive Director did conceal or improperly report the embezzlement of approximately one million dollars of ACORN funds by his brother, Dale Rathke. Once the theft was discovered, Wade

Rathke sought no criminal investigation but permitted reimbursement of the embezzled sums the terms of which and the repayment of which must be investigated by the Interim Management Committee.

6. It was also discovered that Wade Rathke knew of the embezzlement and failed to fully inform the Board as was his duty. For his reason he employment was terminated although he asserts that he was permitted to resigned. In spite of his severed relationship, he continues to frequent the offices and exert influence over the staff.
7. Despite the firing and or resigning of Wade Rathke, and in spite of the Board authorizing an Interim Committee to manage the affairs of the corporation the staff has refused to turn over to the Interim Management Committee the financial records of the corporation. This act impedes the fiduciary function of the committee and cause irreparable harm to ACORN
8. On August 11, 2008 Karen Inman went to the offices of Acorn and demanded the financial records including the list of all bank accounts, deposits of money and current contracts for Acorn.
 - a. Elizabeth Wolf a staff member of the New Orleans office of Acorn refused to recognize the authority of the Board and the Board Committee over the Corporation.
 - b. Mike Jones, CPA and partner in Citizens Consulting, Inc. also refused to give the financial records including the list of all bank accounts, deposits of money and current contracts to Karen Inman.
 - c. Karen Inman, the member of the Interim Management Committee and while acting on behalf of the committee was ejected of the ACORN office located at Canal St. New Orleans La.
9. Despite of a directive to relinquish all financial authority and cease the expenditure of ACORN funds, Elizabeth Wolf, and other staff members acting in concert with Wade Rathke continue to receive and expend funds of ACORN.

10. ACORN receives much of its funding from non-profit sources and relies heavily on the good will of donors. The current threat to the financial stability of ACORN is real and apparent as the continued aura of financial malfeasance will discourage donors and ultimately destroy ACORN.
11. ACORN will suffer irreparable harm if the defendants are not restrained from: contact with employees, expending and receiving; destroying or prohibiting the review of accounting and other data necessary to fulfill the fiduciary responsibility of the Interim Management Committee.
12. Money damages cannot make ACORN whole. For that reason if this behavior is allowed to continue ACORN will suffer irreparable harm.
13. NO Bond is required since ACORN through its Interim Management Committee seeks its own records and seeks to prevent the depletion and demise of its own funds and corporate treasury.
14. Plaintiff's attorney have attempted to inform the Defendants and their attorneys that a Preliminary and Permanent Injunction will be sought today at 2:00 PM. (See Attached)
15. Plaintiff fears that before a hearing can be had herein, the funds of ACORN will be depleted; unauthorized and nefarious conduct will permit the depletion of funds of ACORN; financial stability to ACORN must be restored to placate its funding sources. It therefore seeks, and is entitled to the issuance of a temporary restraining order herein, without bond, directed against Wade Rathke, Dale Rathke, Mike Jones, CPA, Bertha Lewis, Citizens Consulting, Inc. and other acting on their behalf directing them to cease any conduct that may affect the financial attributes of ACORN; not to enter into any contracts on behalf of the ACORN or its subsidiaries; and not to expend funds of the ACORN or its subsidiaries except for wages already earned as of the date of this order, unless other wise specified by this Court. And the defendants be further ordered to disclose the location of all checking accounts, money deposits; and contracts, and financial and documents that reflect the management of ACORN and its subsidiaries.

Defendants should be ordered to show cause why preliminary injunction in the form and substance of the above temporary restraining orders should not be issue herein.

In due course, final injunction should issue herein in the form and substance of the temporary retraining orders.

WHEREFORE, plaintiff ACORN, prays that after due proceedings, that there be a judgment in favor of plaintiff, ACORN and against Wade Rathke, Dale Rathke, Mike, Jones, CPA Bertha Lewis, Citizens Consulting, Inc. and their agents and assigns as follows and that the following orders issue herein:

Ordering the issuance of a temporary restraining order, without bond, directed to defendants, restraining, enjoining and prohibiting them from continue to enter into contracts and waste money of the Corporation and making any payments on behalf of the Corporation other than for wages already earned until further orders of the Court.

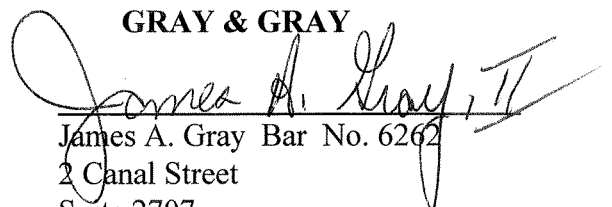
FURTHER ORDERING THAT the defendants disclose the location of all banking accounts, deposits of money and contracts belonging to ACORN.

FURTHER ORDERING THAT there be the issuance of a rule nisi directed to defendant to show cause why preliminary writs of injunction in the form and substance of the above temporary restraining orders should not issue herein.

In due course, ordering issuance of final injunctions in the form and substance of the temporary restraining orders.

Respectfully Submitted,

GRAY & GRAY



James A. Gray Bar No. 6262
2 Canal Street
Suite 2707
New Orleans, Louisiana 70130
Telephone: (504)522-0838
Facsimile: (504)522-0842

PLEASE SERVE:

Wade Rathke, Dale Rathke,
Mike Jones, CPA
Citizens Consulting, Inc.

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

FILED
AUG 12 P 2:39
CIVIL DISTRICT COURT
SECTION NO.:

STATE OF LOUISIANA

NO.: *08-8342*

DIVISION

ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW

VERSUS

WADE RATHKE, ET. AL.

FILED: _____

DEPUTY CLERK

VERIFICATION

STATE OF LOUISIANA

PARISH OF ORLEANS

BEFORE ME, the undersigned Notary Public came and appeared: Karen Inman, who after being duly sworn, said that Affiant is the Chairman of the Interim Management Committee of the mover in the foregoing Motion for Temporary Restraining Order and for Rule for Preliminary Injunction; that Affiant has read said motion and all allegations contained therein are true and correct; to the best of Affiant's knowledge, information and belief.

Karen Inman

KAREN INMAN

SWORN TO AND SUBSCRIBED

BEFORE ME ON THIS 12

DAY OF August, 2008

James A. Gray III

NOTARY PUBLIC

FILED

2008 AUG 14 A 10:54

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

CIVIL DISTRICT COURT
STATE OF LOUISIANA

NO.: 08-8342

DIVISION H

SECTION NO.: 12

ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW

VERSUS

WADE RATHKE, ET. AL.

FILED: _____

DEPUTY CLERK

TEMPORARY RESTRAINING ORDER
AND RULE TO SHOW CAUSE

YOU ARE HEREBY ORDERED, RESTRAINED, ENJOINED AND PROHIBITED in the name of the State of Louisiana and of this Honorable Court from continuing to enter into contracts on behalf of the Acorn, until further orders of the Court.

FURTHER ORDERING THAT the defendants are Prohibited from destroying any and all records of ACORN and any related entity until further order of the court,

YOU ARE HEREBY ORDERED, DIRECTED AND COMMANDED, in the name of the State of Louisiana and of this Honorable Court, to show cause before the Hon. Rose Ledet, Div. "B", Duty Judge on the 21st day of August, 2008 at 9⁰⁰ a.m., why there should not be judgment in favor of plaintiff, ACORN and against you as follows:

1. Ordering the issuance of preliminary writs of injunction in the form and substance of the above temporary restraining orders requested and/or issued herein.
2. In due course, ordering issuance of final injunctions in the form and substance of the temporary restraining orders requested.

All as prayed for in the motion this day filed, a certified copy of which is attached hereto and made a part hereof.

NEW ORLEANS, LOUISIANA the _____ day of _____ AUG 14 2008²⁰⁰⁸


JUDGE

Bond amount is set at \$ 1,250,000.00
AUG 15 2008

ENTERED ON MINUTES



UNITED STATES OF AMERICA

STATE OF LOUISIANA

PARISH OF ORLEANS

FILED

2008 AUG 12 P 2:39

AFFIDAVIT OF ATTORNEY

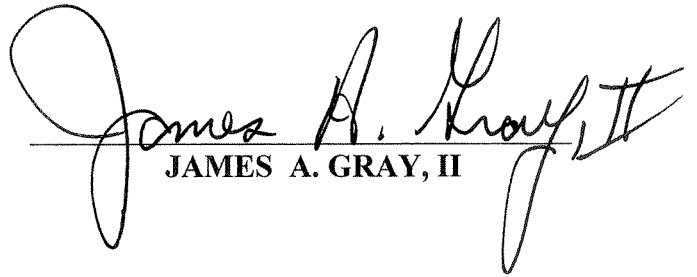
CIVIL DISTRICT COURT

BEFORE ME, Terrel J. Broussard, a Notary Public, duly commissioned and qualified, in and for the Parish of Orleans, State of Louisiana personally came and appeared:

JAMES A. GRAY, II

who after being duly sworn, deposed and said:

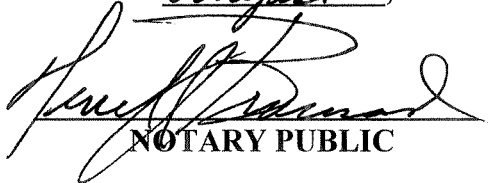
I, James A. Gray, represent ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW in the above captioned matter. I attempted to contact the defendants herein to tell them that I was seeking a Temporary Restraining Order against them at 1:00p.m. today.


JAMES A. GRAY, II

SWORN TO AND SUBSCRIBED

BEFORE ME ON THIS 12th

DAY OF August, 2008


NOTARY PUBLIC

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.: 08-834 Q

DIVISION

H

NO.:

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4/23/13 A 11:58
CIVIL DISTRICT COURT
SECTION 12

ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW

VERSUS

WADE RATHKE, ET. AL.

FILED: _____

DEPUTY CLERK: _____

AFFIDAVIT

State of Louisiana

Parish of Orleans

BEFORE ME, the undersigned Notary Public, personally came and appeared **James A. Gray, II**, attorney for ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW who, first being duly sworn deposed and said:

He was given a card by Karen Inman a Board Member of ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW (hereafter ACORN) for the purpose of notifying agents of ACORN of legal action that had been authorized. It was represented that this card was obtained when she went to the offices of ACORN at 2609 Canal Street, and met with to Michael Jones, CPA, and Wade Rathke. She was given a card by Michael Jones, CPA which listed the above address and the telephone number. That card was presented to me.

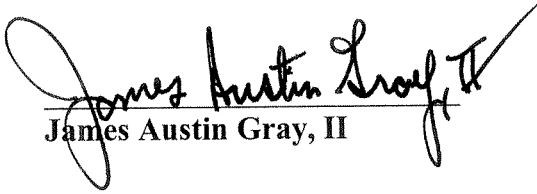
Pursuant to the Louisiana Code of Civil Procedure, I called the number on that card to give notice of this Petition for a Temporary Restraining Order, Preliminary Injunction and Permanent Injunction.

FILED

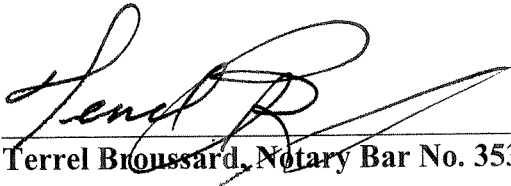
2008 AUG 13 AM 11:30
CIVIL DISTRICT COURT

After I initiated the call, the operator answered, "ACORN". I asked to speak to Mike Jones, CPA. I was told that he was at lunch. I left a message for him that; "I would seek a Restraining Order at 2:00 p.m." I called the same number again and asked to speak to Wade Rathke. After some delay, I was told that I could speak with Elizabeth Wolf. Ms. Wolf was the staff person that was with Wade Rathke the day before. There was no answer and the call rotated to her voice mail. I left a voice message which stated; "I will be in Civil District Court for Orleans Parish at 2:00 p.m. seeking the Restraining Order against Citizens Consulting, Inc., Michael Jones, CPA, Wade Rathke, Dale Rathke and Bertha Lewis." I have received no response from any of these efforts.

At this point I have no other means of giving additional notice to the defendants. Based on the answers of the operator and what was observed the day before it is my belief that Wade Rathke, Mike Jones CPA and Citizens Consulting, Inc. have actual knowledge that a Temporary Restraining Order is being sought on behalf of the Board of Directors of ACORN.


James Austin Gray, II

THUS DONE AND SWORN BEFORE ME this 12th day of August 2008


Terrel Broussard, Notary Bar No. 3531

TERREL J. BROUSSARD, La. Bar No. 3531
NOTARY PUBLIC
Notary ID No. 18898
State of Louisiana
My Commission is issued for Life.

PLEASE SERVE:

~~Bertha Lewis
New York ACORN
88 Third Avenue
Brooklyn NY 11217~~

Mike Jones, CPA
Citizen's Consulting Inc.
2609 Canal Street
4th Floor
New Orleans LA 70119

~~Elizabeth Wolf
Citizen's Consulting Inc.
2609 Canal Street
4th Floor
New Orleans LA 70119~~

~~Wade Rathke
ACORN International
1024 Elysian Fields Ave.
New Orleans LA 70117~~

-or-

Wade Rathke
ACORN International
2609 Canal Street
5th Floor
New Orleans LA 70119

Dale Rathke
2609 Canal St
5th Floor
New Orleans LA 70119

FILED

NOV 13 AM 11:58

CIVIL
DISTRICT COURT

The New York Times

FILED

2008 AUG 13 A 11:58

Funds Misappropriated at 2 Nonprofit Groups

By STEPHANIE STROM
Published: July 9, 2008

CIVIL
DISTRICT COURT

Two prominent national nonprofit groups are reeling from public disclosures that large sums of money were misappropriated in unrelated incidents by an employee and a former employee.

The groups, Acorn, one of the country's largest community organizing groups, and the Points of Light Institute, which works to encourage civic activism and volunteering, have dealt with the problems in very different ways.

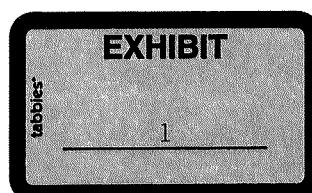
Acorn chose to treat the embezzlement of nearly \$1 million eight years ago as an internal matter and did not even notify its board. After Points of Light noticed financial irregularities in early June, it took less than a month for management to alert federal prosecutors, although group officials say they have no clear idea yet what the financial impact may be.

A whistle-blower forced Acorn to disclose the embezzlement, which involved the brother of the organization's founder, Wade Rathke.

The brother, Dale Rathke, embezzled nearly \$1 million from Acorn and affiliated charitable organizations in 1999 and 2000, Acorn officials said, but a small group of executives decided to keep the information from almost all of the group's board members and not to alert law enforcement.

Dale Rathke remained on Acorn's payroll until a month ago, when disclosure of his theft by foundations and other donors forced the organization to dismiss him.

"We thought it best at the time to protect the organization, as well as to get the funds back into the organization, to deal with it in-house," said Maude Hurd, president of Acorn. "It was a judgment call at the time, and looking back, people can agree or disagree with it, but we did what we thought was right."



The amount Dale Rathke embezzled, \$948,607.50, was carried as a loan on the books of Citizens Consulting Inc., which provides bookkeeping, accounting and other financial management services to Acorn and many of its affiliated entities.

Wade Rathke said the organization had signed a restitution agreement with his brother in which his family agreed to repay the amount embezzled in exchange for confidentiality.

Wade Rathke stepped down as Acorn's chief organizer on June 2, the same day his brother left, but he remains chief organizer for Acorn International L.L.C.

He said the decision to keep the matter secret was not made to protect his brother but because word of the embezzlement would have put a "weapon" into the hands of enemies of Acorn, a liberal group that is a frequent target of conservatives who object to its often strident advocacy on behalf of low- and moderate-income families and workers.

Wade Rathke said he learned of the problem when an employee of Citizens Consulting alerted him about suspicious credit card transactions. An internal investigation uncovered inappropriate charges on the cards that led back to his brother.

"Clearly, this was an uncomfortable, conflicting and humiliating situation as far as my family and I were concerned," he said, "and so the real decisions on how to handle it had to be made by others."

The executive director of New York Acorn, Bertha Lewis, who has been named director of an interim management committee set up to run the national group's day-to-day operations, said Dale Rathke was paid about \$38,000 a year but that none of that money was used to pay back Acorn.

Instead, she said, the Rathke family has paid Acorn \$30,000 a year in restitution since 2001, or a total of \$210,000.

A donor has offered to give Acorn the rest of what the Rathkes owe, and an agreement to that effect should be finalized in coming days, Ms. Lewis said.

“Now that this is under our watch, we are putting financial auditors in place, legal counsel in place, a strong management team in place to make sure this organization moves forward for another 38 years,” she said. “I will not allow and the board will not allow something like this to happen again.”

But the fact that most of the handful of people who did not disclose the fraud when they learned of it eight years ago still work for Acorn or its affiliates concerns many of the group’s financial supporters.

“We’ve told them that when the process is ended, we’ll have a look at it,” said Dave Beckwith, executive director of the Needmor Fund, which has given money to some of Acorn’s charity affiliates for at least 10 years and was contacted by the whistle-blower in May.

Representatives of some 30 foundations and large donors have been discussing the matter on conference calls and may establish a committee to monitor Acorn’s overhaul of its management and accountability systems.

Officials at Points of Light began looking into complaints about a store the organization operated on eBay and by late June had discovered what its president and chief executive, Michelle Nunn, called “abnormalities” in the business practices of an independent contractor hired to run the store, which did a brisk business auctioning travel packages and items donated to the organization.

The travel auctions were stopped immediately, Ms. Nunn said, and the store was shut down a short time later. Points of Light also posted a statement on its Web site last weekend about the problems and contacted the United States Attorney’s Office in Washington, as well as people who had bought the travel packages.

Two people who have been involved in the internal investigation at Points of Light, who spoke on the condition of anonymity because it is incomplete, said it appeared that Maria Herrmann, a former Points of Light fund-raiser who was hired as an independent contractor to manage the eBay store operation, may have been auctioning off bogus trip packages.

Ms. Herrmann did not respond to a message left at her home on Tuesday, and phone and e-mail messages to the office were answered by automated responses from the service Points of Light has hired to process reimbursement applications for the packages.

The organization is making good on trips scheduled through next Tuesday, Ms. Nunn said, and hopes to repay consumers for the rest of the packages that were sold. She said Points of Light began alerting donors last week about the problem, and some have agreed to help it repay customers who bought the packages.

Ms. Nunn also said she did not know how much the group would lose. "Our hope is that this is an isolated event, and that the actions of what we believe to be a single individual at this point doesn't jeopardize the work of millions of volunteers," she said.

The problem surfaced when Points of Light began getting complaints from people who had not received the vouchers and certificates they needed to redeem the travel packages.

Anna Ware, a small business owner in Atlanta, said that in late June when she arrived at the Seattle hotel included in a package she had bought from the Points of Light eBay store, the hotel had not received the certificates for her stay. She sent Ms. Herrmann an e-mail message and received an automated response from her Points of Light e-mail address. Two days later, the certificates arrived by FedEx.

"I could be out several thousand dollars," said Ms. Ware, who has bought trip packages as bonuses for her employees as well as for gifts for friends and family. "I'm now calling them all and letting them know those trips may not happen."

Dozens of people posted similar comments on an eBay discussion board, which the site has closed.

The legitimate trip packages were put together by Mitch-Stuart Inc., a company that bundles airline seats and hotel rooms. It sells the packages on consignment to nonprofit organizations like the Red Cross and Big Brothers Big Sisters, which resell them for a higher price, pocketing the difference.

Ms. Nunn said that Mitch-Stuart was not involved in any way with the bogus packages and that it was helping Points of Light make good on all trips sold for travel through next Tuesday.

THE WALL STREET JOURNAL

As Of July 31, 2008
PAGE ONE

2008 AUG 13 A 11:58

CIVIL
DISTRICT COURT

Democratic Ally Mobilizes In Housing Crunch

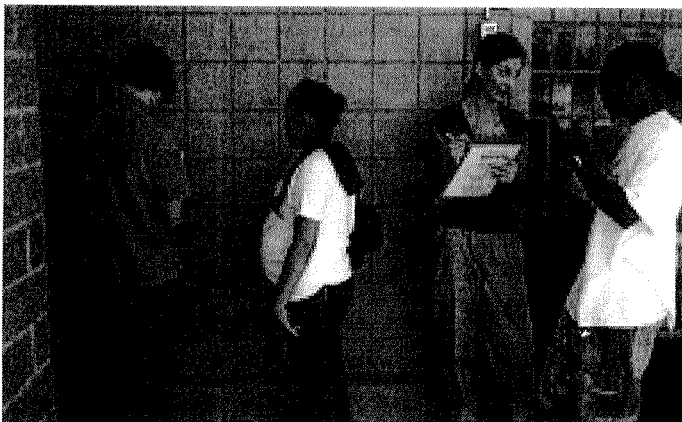
Acorn Leads Drive to Register Voters
Likely to Back Obama; New Federal Funds

By ELIZABETH WILLIAMSON and BRODY MULLINS
July 31, 2008; Page A1

(See Corrections & Amplifications item below.)

The housing bill signed Wednesday by President George W. Bush will provide a stream of billions of dollars for distressed homeowners and communities and the nonprofit groups that serve them.

SEE A PHOTO SLIDESHOW ▶



Brody Mullins/The Wall Street Journal

Acorn volunteers registered people to vote in late July.

1.2 million low-income Hispanics and African-Americans, who are among those most likely to vote Democratic. Technically nonpartisan, the effort is one of the largest such voter-registration drives on record.

One of the biggest likely beneficiaries, despite Republican objections: Acorn, a housing advocacy group that also helps lead ambitious voter-registration efforts benefiting Democrats.

Acorn -- made up of several legally distinct groups under that name -- has become an important player in the Democrats' effort to win the White House. Its voter mobilization arm is co-managing a \$15.9 million campaign with the group Project Vote to register

The organization's main advocacy group lobbied hard for passage of the housing bill, which provides nearly \$5 billion for affordable housing, financial counseling and mortgage restructuring for people and neighborhoods affected by the housing meltdown. A third Acorn arm, its housing corporation, does a large share of that work on the ground.

EXHIBIT

tabbles
2

Acorn's multiple roles show how two fronts of activism -- housing for the poor and voter mobilization -- have converged closely in this election year. The fortunes of both parties will hinge in part on their plans for addressing the fall of the nation's housing market and the painful economic slowdown. Some of the places buffeted worst by mounting foreclosures are states whose voters could swing the election. Five battleground states where Acorn has registration drives were among the top 10 states for foreclosure rates as of June: Colorado, Florida, Nevada, Michigan and Ohio.

Partly because of the role of Acorn and other housing advocacy groups, the White House and its allies in Congress resisted Democrats' plans to include money for a new affordable-housing trust fund and \$4 billion in grants to restore housing in devastated neighborhoods. In the end, the money stayed in the bill; the White House saw little choice.

What most riles Republicans about the bill is the symbiotic relationship between the Democratic Party and the housing advocacy groups, of which Acorn is among the biggest. Groups such as the National Council of La Raza and the National Urban League also lobby to secure government-funded services for their members and seek to move them to the voting booth. Acorn has been singled out for criticism because of its reach, its endorsements of Democrats, and past flaws in its bookkeeping and voter-registration efforts that its detractors in Congress have seized upon.



Democratic Sen. Robert Casey Jr. joins members of Acorn in a rally at the Capitol in March. Acorn's voter-registration push has made it an important player in the Democrats' effort to win the White House.

Republicans critical of Acorn's roles say any money that it gets for housing makes it easier for the group to put money into voter drives. "These are taxpayer funds, in an indirect method, being used to subsidize political activism," says Rep. Jeb Hensarling, Texas Republican and chairman of the conservative House Republican Study Committee. "I'm sure they're not going out and registering any Republicans."

Democrats say Republicans are simply opposed to housing aid and voter registration for the poor.

Acorn also has a political arm that has endorsed Sen. Barack Obama's presidential campaign. But other groups spanning the political spectrum, ranging from the environmentalist League of Conservation Voters to Republican-friendly faith-based groups and the National Rifle Association, also do voter registration. They often target like-minded voters while endorsing candidates through separate entities. The faith-based groups, like the housing groups, also have gotten public money.

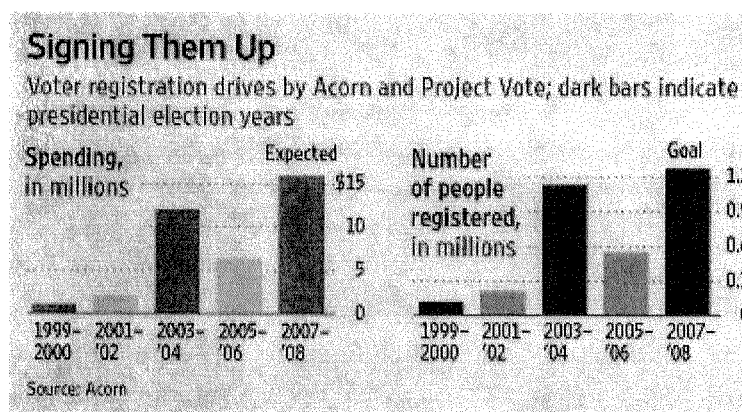
"We're trying to empower people in our communities to improve their lives," says Acorn spokesman Charles Jackson. "That is through voter registration and helping them to save their homes." He dismisses the idea that housing aid helps voter efforts: "The funds don't intermingle," he says. "There are clear walls with Acorn."

Last week, while lawmakers were brokering the final deals ahead of Saturday's 72-13 Senate vote in favor of the housing bill, Acorn workers were in the midst of the organization's most ambitious voter drive.

Acorn worker Stephanie Willis was scouting for new voters in a seedy neighborhood of Aurora, Colo., a Denver suburb. Spotting a woman seated on a park bench, Mrs. Willis hustled over and thrust a clipboard and pen at her. Within minutes, Brenda Hernandez was a new registered voter. Mrs. Willis then handed Mrs. Hernandez a flier listing Acorn's housing and other services, and signed her up to be an Acorn member.

"Obama!" Mrs. Hernandez yelled, attempting to fist-bump Mrs. Willis, who already was scanning for other people to register.

Acorn's Mr. Jackson says that when the group registers voters, it also "aims to educate them on issues facing their communities" and tells them about its services. Other groups also recruit voters and members at the same time; laws for tax-exempt groups only prohibit them from promoting specific political parties.



Sen. Obama is especially reliant on registration drives, such as Acorn's with Project Vote, to help him win the White House. The Illinois Democrat draws his strongest support from blacks, Hispanics and young people, groups that are among the least likely to be registered. After law school, Sen. Obama was the director of Project

Vote in Chicago. The Obama campaign, noting that interest groups routinely register voters and endorse candidates through separate efforts, emphasizes that it accepts no donations from the groups' political action committees.

Steering Money to Groups

Democrats on Capitol Hill have helped to steer millions of dollars in housing and other grants from the federal government toward Acorn and groups like it. The groups must qualify and compete for the money, which is typically doled out from the federal government to states and municipalities. The housing package includes a new, permanent source of affordable-housing money that congressional Democrats and grass-roots groups

have sought for years. The Affordable Housing Trust Fund and the Capital Magnet Fund will be funded by a tax on mortgages backed by Fannie Mae and Freddie Mac, the government-sponsored mortgage titans.

FILED
2008 AUG 13 A 11:58

That tax eventually will channel upwards of \$600 million annually in grants for developing and restoring housing, mostly as low-income rentals, available to Acorn and other groups. Democrats on Capitol Hill and housing groups say the housing-assistance money is vital to helping Americans hit hardest by what some call the largest drop in home values since the Great Depression. But they acknowledge the perception of political conflict in giving federal funds to an organization that does political work.

"We are guarding against it," said Massachusetts Rep. Barney Frank in an interview. He secured the Affordable Housing Trust from his seat as chairman of the House Financial Services Committee. "We have a lot of restrictions in the bill" banning using the housing money for lobbying or political purposes, he said.

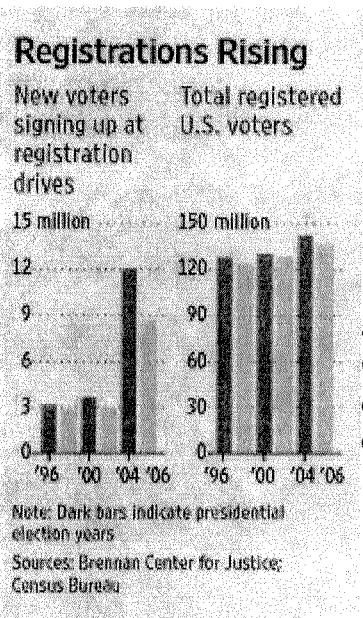
He added that housing-advocacy groups aren't unique in having an affinity for government officials who can steer money their way. "People who build affordable housing tend to support the Democrats...who support affordable housing," he said. "I am a lot less worried about this relationship than I am about the Pentagon and Lockheed."



Stephenie Willis

Powerful Lobbying Tool

Acorn describes itself as the nation's largest grass-roots community organization, with more than 400,000 families organized into 1,200 neighborhood chapters in 110 cities. Over four decades, Acorn has turned its broad membership into a powerful lobbying tool. Its representatives are well-known in the marble halls of the Capitol, and press local, state and federal governments for "social justice" programs, such as raising the minimum wage and advocating for hospitals to provide more free care to those lacking insurance.



Few housing organizations have as wide a reach or as many housing counselors and programs that can win grants as Acorn Housing Corporation, the group's housing-aid effort.

It's difficult to track Acorn's finances because of its group of legally separate offshoots, nearly all of which use an address in New Orleans in their tax filings with the Internal Revenue Service. Project Vote, with which Acorn has a "joint-effort agreement" to do voter registration, also uses the New Orleans address on its IRS forms. Acorn is providing one-quarter of the effort's budget for this election, and the canvassers are members of Acorn's staff.

Acorn Housing Corporation, the group's housing-aid arm, has released a copy of its 2007 tax form, but the main group, National Acorn, won't release financial statements and isn't required to. Unlike several Acorn subsidiaries, it doesn't seek tax-exempt status. "We're a private organization; it's our members' business, basically," Mr. Jackson said.

Overall, the main national Acorn entities for which tax information is available -- including its Housing Corporation -- spent \$14.7 million in 2006. That information is gathered from IRS filings submitted by a half-dozen separate entities. The filings show that Acorn Housing raised \$6.9 million for its activities in 2006, of which \$1.7 million, or nearly 25%, came from government grants.

Last year, as the housing crisis worsened, Acorn Housing raised \$7.7 million, of which \$2.8 million, or 36%, was from the government, according to a return supplied by the housing group. Acorn Housing's income pays for work including housing construction and renovation, and staff who counsel homeowners on avoiding foreclosures and who work with lenders on behalf of borrowers to restructure loans.

Project Vote says it spent \$9.1 million on voter-registration activities in 2006, and \$15 million in the presidential election year of 2004.

When Republicans controlled Congress, they doled out money from President Bush's faith-based initiatives to churches and religious groups that helped rally Republican voters. Now that Democrats are in charge of Congress, they control the spoils. But the GOP's Rep. Hensarling says he doesn't think organizations with political arms -- on either side -- should be allowed to receive government funds. "I wonder what Democrats would think if we were in the majority and we took taxpayer funds to subsidize the National Rifle Association's low-income housing fund," he says.

Missteps at Acorn

Acorn has had a number of missteps. This month its founder, Wade Rathke, resigned after news emerged that his brother Dale had embezzled nearly \$1 million from Acorn and affiliated groups eight years ago -- information the group kept from law-enforcement authorities and most members. Dale Rathke left the organization only last month.

Late last year, a handful of Acorn canvassers in Washington state admitted that they had falsified voter registrations by illegally filling out hundreds of forms with names such as Dennis Hastert, Leon Spinks and Fruito Boy Crispila. In April, eight Acorn workers pleaded guilty to similar charges in Missouri for falsifying forms.

To reduce any incentive to commit fraud, Acorn currently pays canvassers a flat hourly rate of \$8. Some other organizations pay canvassers by the number of registration forms they turn in.

Acorn's registration campaigns are part of a growing emphasis on voter mobilization in American politics. More than 20 million people filled out applications at voter-

Corrections & Amplifications

Wade Rathke founded the community organization Acorn. A previous version of this July 31 page-one article about Acorn's housing and voter registration efforts incorrectly gave his first name as Wayne.

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA P 3: 08

SECTION 8

No. 08-8342

CIVIL DISTRICT COURT SECTION 12
DIVISION H

Association of Community Org. for Reform
VERSUS

Wade Rathke, et al

RE-ALLOTTED TO DIVISION
FOR THE PURPOSE OF RECUSAL

HEARING ONLY
DATE: 8-12-08
SECTION 10
C. Oliver

MOTION HEARING

RE-ALLOTTED TO DIVISION
FOR THE PURPOSE OF RECUSAL

Pursuant to Uniform Rule 9.3 (App. 3), the Judge of Division of H will be

on a pre-arranged vacation from August 19, 2008 to September 2, 2008, and

respectfully requests a reallocation of the Application for Injunctive Relief in the above captioned matter.

IT IS ORDERED THAT the Clerk of Court reallocate the Application for Injunctive Relief only in the above captioned matter to another section in Civil District Court, omitting Division "H".

New Orleans, Louisiana, this 12 day of August, 2008

8-15-08 Michael G. Bagneris
MICHAEL G. BAGNERIS
JUDGE, DIVISION "H"

VERIFIED
C. STORACE

Judge Ethel S. Julien is on vacation until 9-2-08 and will not be available to hear this matter (injunct) within 10 days. IT IS ORDERED that this matter be re-allocated to another DIVISION, omitting DIV "N" new Orleans, LA this 12th day of August, 2008.

AUG 15 2008
ENTERED ON MINUTES

Approved. @ DIV "N"

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 08-8342

DIVISION "H"

ASSOCIATION OF COMMUNITY ORGANIZATIONS OF REFORM NOW

VERSUS

WADE RATHKE, ET. AL.

FILED:

DEPUTY CLERK

MOTION TO CONTINUE AND RESET HEARING

NOW INTO COURT, through undersigned counsel, comes plaintiff, Association of Community Organizations For Reform Now, requesting that the Hearing on the request for a preliminary Injunction presently set for August 21, 2008 at 10:00 a.m. be continued until _____ day of _____, 2008 due to our failure to serve defendants.

WHEREFORE, plaintiff prays that the Hearing on a Preliminary Injunction scheduled for August 21, 2008 at 10:00 be continued and reset.

Respectfully Submitted,

JAMES A. GRAY, II #6262
WORLD TRADE CENTER
SUITE 2707, 2 CANAL STREET
NEW ORLEANS, LOUISIANA 70130
TELEPHONE: (504) 522-0838
FACSIMILE: (504) 522-0842

ORDER

IT IS ORDERED, that the Rule to Show Cause why a Preliminary Injunction should not be issued that was previously set for August 21, 2008, be hereby continued and reset on the 4th day of Sept., 2008 at 11:00 a.m. before Division H.

THEREFORE YOU ARE HEREBY ORDERED, DIRECTED AND COMMANDED, in the name of the State of Louisiana and of this Honorable Court to show cause before this Court on the 4th day of Sept., 2008, at 11:00 a.m. why there should not be judgment in favor of plaintiff, ASSOCIATION OF COMMUNITY ORGANIZATION FOR REFORM NOW, (ACORN) And against you as follows:

- Ordering the issuance of preliminary writs of injunction Prohibiting you from destroying any and all records of ACORN and any related entity until further order of this court.
- Further Ordering that you turn any and all records of ACORN over to the Plaintiff's herein.

check Amt: \$30.00
 RECEIVED \$30.00
 RECEIPT# 129721
 DATE 8/20/2008 15:10
 PRICE PAID
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NOTION TO CONTINUE
 01.00
 TOTAL \$30.00

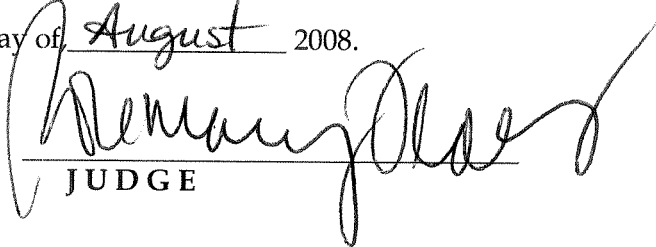
DELIN. ATKINS
 CIVIL DISTRICT COURT
 402 CIVIL COURTS BUILDING
 1200 LA AVENUE, SUITE 402
 NEW ORLEANS, LA 70112
 (504) 522-9100

FILED
AUG 20 2 58
CIVIL DISTRICT COURT

3. In due course, Ordering issuance of final injunctions in the form and substance of the Preliminary Injunction.

All as prayed for in the original Petition in this matter, a certified copy of which is attached hereto and made a part hereof.

New Orleans, Louisiana this 21st day of August 2008.

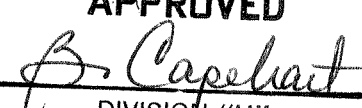


JUDGE

Please Serve:
Wade Rathke

Michael Jones
And Citizens Consulting Inc

Dale Rathke

APPROVED


DIVISION "H"
Date Only

AUG 22 2008
ENTERED ON MINUTES

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 2008-8342

DIVISION " H "

SECTION

Asso. of Community Org. of Reform

VERSUS

Wade Rathke, et al

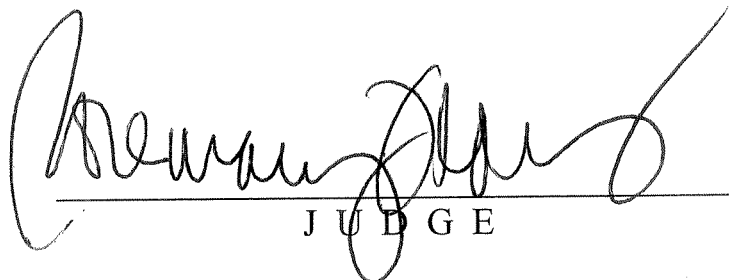
THIS MATTER will come before the Court for hearing on the 4th
day of September, 2008, at 11:00 o'clock A.M.,
before Division H, on an application for a preliminary injunction and/or a
dissolution or modification of a temporary restraining order, and/or a dissolution or
modification of a preliminary injunction.

ORDER

IT IS ORDERED that the application in this matter is to be heard upon
the verified pleadings and/or supporting affidavits. A copy of this order shall be
served upon the defendant in conformity with C.C.P. 3609.

IT IS FURTHER ORDERED that the applicant for the preliminary
injunction file his/her affidavits not later than seventy-two (72) hours prior to hearing,
and that the defendant-in-rule file his/her affidavits not less than twenty-four (24)
hours prior to hearing.

READ AND SIGNED IN NEW ORLEANS, LOUISIANA, on this the
21st day of August, 2008.



J U D G E

APPROVED

B. Capelait
DIVISION "H"
Date Only

AUG 22 2008
ENTERED ON MINUTES

CIVIL DISTRICT COURT FOR THE

PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 08-8342

2008 AUG 21 P 4 28

CIVIL DISTRICT COURT DIVISION "H"

ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW

VERSUS

WADE RATHKE, ET AL.

FILED: _____

DEPUTY CLERK

**MEMORANDUM IN SUPPORT OF PETITION
FOR TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUNCTION, AND PERMANENT INJUNCTION**

MAY IT PLEASE THE COURT:

Petitioner, the Association of Community Organizations for Reform Now ("ACORN"), a foreign non-profit corporation with its principal place of business in the State of Louisiana, submits this memorandum in support of its Petition for Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction.

FACTUAL BACKGROUND

In April of this year it was disclosed that Dale Rathke, the brother of ACORN founder Wade Rathke, admitted to having embezzled nearly \$1 million from ACORN and affiliated charitable organizations in 1999 and 2000. *See, e.g.*, Exhibit "A" (New York Times Article dated August 16, 2008; New York Times Article by Stephanie Strom dated July 9, 2008; ACORN Association Minutes Detroit MI, June, 2008; ACORN Association Board Call Meeting July 13, 2008). The small group of executives which controlled ACORN decided to keep the information from almost all of the group's board members and not to alert law enforcement. Wade Rathke and said group of executives knew or should have known that their fiduciary duties to ACORN obligated them to make a full and unreserved disclosure of the incident to ACORN's full Board of Directors and to law enforcement authorities. Rather, the officers unilaterally decided not to alert law enforcement officials and negotiated an agreement for the Rathke family to repay the money stolen by Dale Rathke. Without the knowledge of ACORN's the full Board of Directors, said agreement was carried on the books of an affiliated entity, Defendant Citizens Consulting Inc. ("CCI"), as a loan to an officer.

8-22-08
V.P.
C. M.

On June 20, 2008, ACORN's full Board created the Interim Management Committee (the "IMC") and, by majority vote, appointed three disinterested Board members to serve on that committee. *See* Exhibit "B" (ACORN corporate documents). The IMC is vested with all powers necessary to investigate and prosecute the Rathke embezzlement and the resulting events and to take actions to protect ACORN from future theft and embezzlement. In a subsequent meeting on July 13, 2008, Acorn's Board specifically allocated funds to the Committee and authorized it to hire consultants in order to fulfill its mission. *See id.*

Defendant CCI is either an affiliate of or a contractor for ACORN and provides paycheck and cash management services for ACORN.¹ Defendant Mike Jones is a principal of CCI. On information and belief, all assets belonging to ACORN or its affiliates are administered in some way by CCI. CCI knew or should have known that it was obligated to disclose to Acorn's full Board of Directors Dale Rathke's embezzlement and the Rathke family's subsequent assumption of the debt. Further, CCI breached its duties and its trust to ACORN, ACORN's affiliates, and ACORN's contributors by deceptively carrying the agreement with Rathke family as a loan to an officer on its books when no such loan occurred without knowledge or authority of ACORN's full Board of Directors.

Such clandestine and deceptive practices were continued when CCI, through its principal, Mike Jones, informed a disinterested ACORN Board member that she was prohibited from reviewing the financial records of ACORN or its affiliates because CCI was an independent payroll service with no connection to ACORN or its affiliates (despite the fact that all of ACORN's assets were administered by CCI). CCI and ACORN's respective brochures and marketing materials refer to each other as interrelated entities. Moreover, the records of the Louisiana Secretary of State show that at least seventy-five corporations have boards of directors interlocking with ACORN, many of which list a principal place of business identical to that of ACORN.²

ACORN seeks to remedy ongoing deceptive practices that have and will continue to cause irreparable damage to ACORN's reputation as a non-profit organization working for social

¹ ACORN expects that the relationship between CCI, the Rathkes, and other involved ACORN executives and employees will be clarified and exposed by the ACORN corporate documents and records presently being withheld from ACORN's full Board of Directors.

² ACORN's principal place of business is located at 1024 Elysian Fields Avenue, New Orleans, Louisiana 70117.

justice and stronger communities. If the directors who serve on ACORN's Interim Management Committee are not able to prevent said deceptive practices, there is a serious risk that ACORN's donors and supporters will minimize or terminate their relationship with ACORN and will have lost confidence in a culture of deception created by this concealment of the federal crime committed by Dale Rathke. ACORN asserts that it is entitled to an injunction against the defendants because it will suffer irreparable harm if it is not permitted to enforce its following rights:

1. To discover if additional crimes have been committed;
2. To protect the fiscal and moral integrity of ACORN and its affiliates;
3. To determine whether the Rathkes have embezzled more than the \$948,507.50 which they have admitted was embezzled by Dale Rathke;
4. To secure and protect ACORN's assets and to strengthen ACORN's system of internal controls to prevent the reoccurrence of theft and other embezzlement; and
5. To review its own records to secure its financial existence.

ACORN filed its Petition for Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction on August 12, 2008. This Court signed a Temporary Restraining Order on August 14, 2008, thereby prohibiting (a) Defendants from destroying any and all records of ACORN and any related entity until further order of this Court; (b) Defendants from entering into contracts on behalf of ACORN; and (c) ordering Defendants to show cause on the August 21, 2008, at 9:00 a.m. why there should not be judgment in favor of ACORN and against Defendants granting ACORN's petition for a preliminary injunction and a permanent injunction. ACORN has not posted bond.

At the hearing on ACORN's petition for a preliminary injunction and at the trial on the merits for the issuance of the permanent injunction, ACORN will offer as evidence the minutes of the June 10, 2008, and July 13, 2008, meetings of ACORN's full Board of Directors wherein the full Board mandated the review and investigation of the issues created by the concealment of Rathke's embezzlement of ACORN's funds. The testimony of ACORN directors Marcel Reid and Karen Inman will be offered to demonstrate the authority to proceed with this action and the irreparable harm that has resulted from the concealment of the fact surrounded the embezzlement of ACORN funds.

LAW AND ARGUMENT

Article 3601(A) of the Louisiana Code of Civil Procedure requires a court to issue an injunction “in cases where irreparable injury, loss, or damage may otherwise result to the applicant”. A preliminary injunction is an interlocutory procedural device designed to preserve the existing status pending a trial of the issues on the merits of the case. *The Lafreniere Park Found. v. The Friends of Lafreniere Park, Inc.*, 698 So. 2d 449, 452 (La. App. 5 Cir. 1997); *Federal Nat’l Mortgage Ass’n v. O’Donnell*, 446 So. 2d 395 (La.App. 5 Cir. 1984). The trial court has great discretion to grant or deny the relief. *Id.*

To obtain a preliminary injunction the moving party must (1) show that the damage he will suffer may be irreparable if the injunction does not issue; (2) that he is entitled to the relief sought; and (3) must make a prima facie showing that he will prevail on the merits of the case. *Lafreniere*, 698 So. 2d at 453; *General Motors Acceptance Corp. v. Daniels*, 377 So. 2d 346, 348 (La. 1979).

“Irreparable injury” has been defined as “a loss sustained by an injured party which cannot be adequately compensated in money damages or for which such damages cannot be measured by a pecuniary standard.” *Terrebonne Parish Police Jury v. Matherne*, 405 So. 2d 314, 319 (La.), *cert. denied*, 456 U.S. 972 (1981). Although “[i]t is not necessary to show irreparable injury...when the act complained of is unlawful”³ ACORN will suffer irreparable injury if its petition for a preliminary injunction is denied. *Lafrienerne*, 698 So. 2d at 452; *see also Ouachita Parish Police Jury v. American Waste & Pollution Control Co.*, 606 So. 2d 1341 (La. App. 2 Cir. 1992), *writ denied*, 609 So. 2d 234 (La. 1992), *cert. denied*, 508 U.S. 909 (1993) (“[I]rreparable injury is a requisite only when the conduct sought to be enjoined is lawful. The jurisprudence firmly establishes that when the conduct is illegal, a showing of irreparable injury is not required.”). For instance, absent further injunctive relief, ACORN will be unable (a) to discover if additional crimes have been committed; (b) to protect the fiscal and moral integrity of ACORN and its affiliates; (c) to determine whether the Rathkes have embezzled more than the \$948,507.50 which they have admitted was embezzled by Dale Rathke; (d) to secure and protect ACORN’s assets and to strengthen ACORN’s system of internal controls to prevent the

³ Defendants’ unlawful acts include, but are not limited to, Dale Rathke’s embezzlement of nearly \$1 million dollars from ACORN, the Defendants’ subsequent attempts to conceal this federal crime, and the Defendants’ refusal to grant ACORN’s full Board of Directors access to ACORN’s books and records so that said Directors can investigate the embezzlement which Defendants endeavored to hide.

reoccurrence of theft and other embezzlement; and (e) to review its own records to secure its financial existence.

Furthermore, ACORN is entitled to injunctive relief for the following additional reasons.

I. Injunctive Relief is Necessary to Prevent the Spoliation of ACORN's Corporate Documents.

In addition to Defendants' concealment of a federal crime, the foregoing conduct of the Defendants constitutes "spoliation of evidence," which is an intentional destruction of evidence for purpose of depriving opposing parties of its use. *See, e.g., Desselle v. Jefferson Parish Hosp. Dist. No. 2*, 887 So. 2d 524, 534 (La. App. 5 Cir. 2004); *Barthel v. State, Dep't of Transp. & Dev.*, 917 So. 2d 15, 20 (La. App. 1 Cir. 2005). A petitioner asserting a claim for spoliation of evidence must allege that the defendant intentionally destroyed evidence. *Id.*

Here, the issuance of an injunction is mandated, at the very least, to determine the pervasive nature of Dale Rathke's admitted criminal conduct. Spoliation of the corporate documents at issue constitutes irreparable injury because the resulting unavailability of documents cannot be compensated by money damages and/or cannot be measured by any pecuniary standard. For instance, if one of the documents destroyed helps to establish ACORN's case against Dale Rathke or serves as evidence of ACORN's damages, then the destruction of that document cannot be measured by a pecuniary standard. If the petitioner is less likely to prevail in the action but for the spoliation, the damages caused by the spoliation are speculative and immeasurable.

Further, the injunction herein at issue seeks to prevent future conduct from occurring, not to remedy or punish prior conduct. Upon information and belief, ACORN's corporate documents and records intentionally have been destroyed in the past. Further, ACORN believes that future intentional destruction of ACORN's corporate documents and records will occur absent the injunction. Accordingly, this Court should enjoin the Defendants from the spoliation of ACORN's corporate documents and records.

II. Injunctive Relief is Necessary so that ACORN's Directors May Exercise Their Absolute and Unqualified Right to Examine ACORN's Books and Records.

In the leading Louisiana treatise on corporations, Professors Morris and Holmes assert that a corporation's directors must have full and unfettered access to the corporation's books and records in order to comply with their fiduciary duties:

Both shareholders and directors have the right to inspect corporate books and records in certain circumstances. The right of a director to information is, however, much broader than that of a shareholder, and has entirely different theoretical underpinnings.

A director is, of course, a manager of the corporation and, as such, owes duties both to it and its shareholders. Indeed, a director may face liability for failure to adequately acquaint himself with the business and affairs of the corporation. Thus, it is often said that, at common law, a director's right to inspect records is absolute and unqualified.

Glenn G. Morris & Wendell H. Holmes, 7 LA. CIVIL L. TREATISE §24.03 (2008); *see also* H. Henn & J. Alexander, LAWS OF CORPORATIONS § 216 (3d ed. 1983); Ludlum, *Corporate Directors: Their Right to Inspect*, 5 TEX. TECH L. REV. 35 (1973); McLaughlin, *The Directors' Right to Inspect the Corporate Books and Records – Absolute or Otherwise*, 22 BUS. LAW 413 (1967).

The foregoing position has position was tacitly adopted in *Pittman v. Riverside Realty Co.*, 36 So. 2d 642 (La. 1948), wherein the Louisiana Supreme Court indicated its approval of the lower court's holding that the directors of a corporation have "an absolute right to examine the books." *Id.* at 643; *see also* *In re New Orleans Paddlewheels, Inc.*, 350 B.R. 667, 677 & 677 n.48 (Bkrcty. E.D. La. 2006) (holding that "[d]irectors have an absolute and unqualified right to all corporate books and records" and characterizing *Pittman's* holding as "unless properly enjoined by a court, directors may not be barred access to corporate records").

Each and every of ACORN's directors – not only the directors who serve on the IMC, but rather the entire Board of Directors – have an absolute right to examine ACORN's corporate records and documents simply by virtue of their status as the corporation's directors. Defendants' actions have effectively divested ACORN's directors of this important right. Accordingly, this Court should issue a mandatory injunction requiring Defendants to make ACORN's documents and records available to ACORN's full Board of Directors.

III. Injunctive Relief is Necessary to Enable ACORN's Board Members to Exercise Their Corporate Powers and to Fulfill Their Fiduciary Duties to ACORN.

The entirety of the powers of a corporation such as ACORN is vested in its board of directors. LA. REV. STAT. § 12:81 ("All the corporate powers shall be vested in, and the business and affairs of the corporation shall be managed by, a board of directors of not less than one natural person."); *see also* *New Orleans Paddlewheels*, 350 B.R. at 678 ("The president serves at the pleasure of the board, not the other way around."); *State ex rel. Dendinger v. J.D. Kerr Gravel Co.*, 104 So. 60 (La. 1925) (holding that management of the corporation belongs to the

board of directors, not to its officers). In their management of the corporate affairs, directors are under a duty to use their best efforts to promote the interests of the corporation. *Babineaux v. Judiciary Commission of La.*, 341 So. 2d 396, 400 (La. 1976). Here, it would not be in ACORN's best interest for its directors to idly sit by and allow Defendants to spoliage ACORN's corporate records and documents and prevent said directors from gaining access to the remaining records and documents.

Just as how the entirety of a corporation's powers are vested in its board of directors, that corporation's board of directors may establish a committee composed of board members and may delegate any or all of its powers to that committee. LA. REV. STAT. § 12:81(C)(8). Indeed, Professors Morris and Holmes make clear that there are "no express limitations whatsoever on the board's power to delegate functions to committees" and have characterized Section 12:81(C)(8) as a statute of "extraordinary breadth." 7 LA. CIVIL L. TREATISE §19.06 (2008).

Consistent with the Board's ability to delegate its powers to a given committee, a majority of ACORN's Board of Directors vested the Internal Management Committee with all powers necessary to investigate and prosecute the Rathke embezzlement and the resulting events and to take actions to protect ACORN from future theft and embezzlement. In prohibiting the IMC from examining ACORN's corporate records and documents, Defendants have prevented the directors who serve on the IMC from exercising the corporate powers delegated to them by ACORN's full board of directors.

CONCLUSION

For the above and foregoing reasons, Petitioner, the Association of Community Organizations for Reform Now, respectfully prays that this Court grant its request for a preliminary injunction, thereby preserving the status quo until a trial on the merits can be heard on Petitioner's request for a permanent injunction. Although a showing of irreparable harm is not necessary because Defendants have engaged in the aforementioned unlawful acts, particularly the concealment of Dale Rathke's embezzlement from ACORN, irreparable harm indeed is present in this case because Defendants' actions threaten the existence, solvency, and viability of ACORN, as well as hinder the efforts of the members of ACORN's Board of Directors in fulfilling their fiduciary duties to ACORN. Accordingly, this Court should enter a

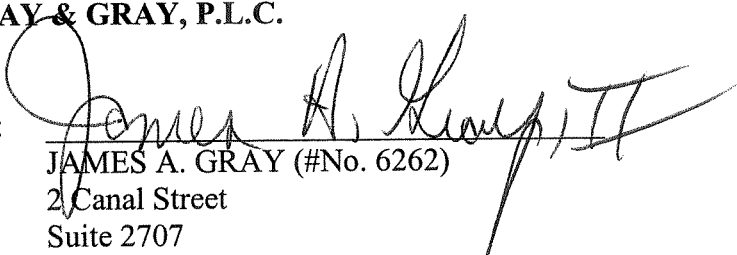
preliminary injunction in this case, without bond, continuing the prohibitions set forth in this Court's August 14, 2008, Temporary Restraining Order.

FILED
2008 AUG 21 P 11:25

Respectfully submitted,

GRAY & GRAY, P.L.C.

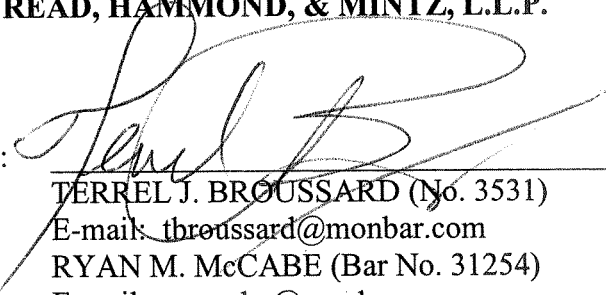
BY:


JAMES A. GRAY (#No. 6262)
2 Canal Street
Suite 2707
New Orleans, Louisiana 70130
Telephone: (504) 522-0838
Facsimile: (504) 522-0842
E-mail: nitsuaii@aol.com

and

**MONTGOMERY, BARNETT, BROWN,
READ, HAMMOND, & MINTZ, L.L.P.**

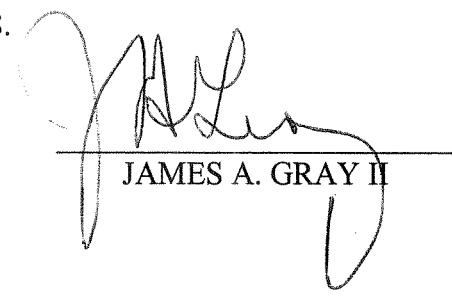
BY:


TERREL J. BROUSSARD (No. 3531)
E-mail: tbroussard@monbar.com
RYAN M. McCABE (Bar No. 31254)
E-mail: rmccabe@monbar.com
3300 Energy Center
1100 Poydras Street
New Orleans, Louisiana 70163
Telephone: (504) 585-7683
Facsimile: (504) 200-8983

Attorneys for Association of Community
Organizations for Reform Now

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has been served on all counsel of record via U.S. Mail, postage prepaid, facsimile and/or e-mail, properly addressed, on this 22d day of August, 2008.


JAMES A. GRAY II

THE WALL STREET JOURNAL

As Of July 31, 2008
PAGE ONE

FILED

2008 AUG 21 P 4: 25

Democratic Ally Mobilizes In Housing Crunch

CIVIL
DISTRICT COURT

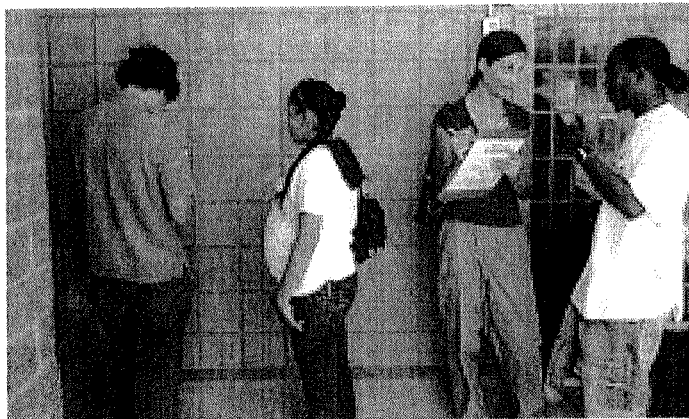
Acorn Leads Drive to Register Voters
Likely to Back Obama; New Federal Funds

By ELIZABETH WILLIAMSON and BRODY MULLINS
July 31, 2008; Page A1

(See Corrections & Amplifications item below.)

The housing bill signed Wednesday by President George W. Bush will provide a stream of billions of dollars for distressed homeowners and communities and the nonprofit groups that serve them.

SEE A PHOTO SLIDESHOW ▶



Brody Mullins/The Wall Street Journal

Acorn volunteers registered people to vote in late July.

1.2 million low-income Hispanics and African-Americans, who are among those most likely to vote Democratic. Technically nonpartisan, the effort is one of the largest such voter-registration drives on record.

One of the biggest likely beneficiaries, despite Republican objections: Acorn, a housing advocacy group that also helps lead ambitious voter-registration efforts benefiting Democrats.

Acorn -- made up of several legally distinct groups under that name -- has become an important player in the Democrats' effort to win the White House. Its voter mobilization arm is co-managing a \$15.9 million campaign with the group Project Vote to register

The organization's main advocacy group lobbied hard for passage of the housing bill, which provides nearly \$5 billion for affordable housing, financial counseling and mortgage restructuring for people and neighborhoods affected by the housing meltdown. A third Acorn arm, its housing corporation, does a large share of that work on the ground.

EXHIBIT

tabbles

"A"

Acorn's multiple roles show how two fronts of activism -- housing for the poor and voter mobilization -- have converged closely in this election year. The fortunes of both parties will hinge in part on their plans for addressing the fall of the nation's housing market and the painful economic slowdown. Some of the places buffeted worst by mounting foreclosures are states whose voters could swing the election. Five battleground states where Acorn has registration drives were among the top 10 states for foreclosure rates as of June: Colorado, Florida, Nevada, Michigan and Ohio.

Partly because of the role of Acorn and other housing advocacy groups, the White House and its allies in Congress resisted Democrats' plans to include money for a new affordable-housing trust fund and \$4 billion in grants to restore housing in devastated neighborhoods. In the end, the money stayed in the bill; the White House saw little choice.

What most riles Republicans about the bill is the symbiotic relationship between the Democratic Party and the housing advocacy groups, of which Acorn is among the biggest. Groups such as the National Council of La Raza and the National Urban League also lobby to secure government-funded services for their members and seek to move them to the voting booth. Acorn has been singled out for criticism because of its reach, its endorsements of Democrats, and past flaws in its bookkeeping and voter-registration efforts that its detractors in Congress have seized upon.



Democratic Sen. Robert Casey Jr. joins members of Acorn in a rally at the Capitol in March. Acorn's voter-registration push has made it an important player in the Democrats' effort to win the White House.

Republicans critical of Acorn's roles say any money that it gets for housing makes it easier for the group to put money into voter drives. "These are taxpayer funds, in an indirect method, being used to subsidize political activism," says Rep. Jeb Hensarling, Texas Republican and chairman of the conservative House Republican Study Committee. "I'm sure they're not going out and registering any Republicans."

Democrats say Republicans are simply opposed to housing aid and voter registration for the poor.

Acorn also has a political arm that has endorsed Sen. Barack Obama's presidential campaign. But other groups spanning the political spectrum, ranging from the environmentalist League of Conservation Voters to Republican-friendly faith-based groups and the National Rifle Association, also do voter registration. They often target like-minded voters while endorsing candidates through separate entities. The faith-based groups, like the housing groups, also have gotten public money.

"We're trying to empower people in our communities to improve their lives," says Acorn spokesman Charles Jackson. "That is through voter registration and helping them to save their homes." He dismisses the idea that housing aid helps voter efforts: "The funds don't intermingle," he says. "There are clear walls with Acorn."

Last week, while lawmakers were brokering the final deals ahead of Saturday's 72-13 Senate vote in favor of the housing bill, Acorn workers were in the midst of the organization's most ambitious voter drive.

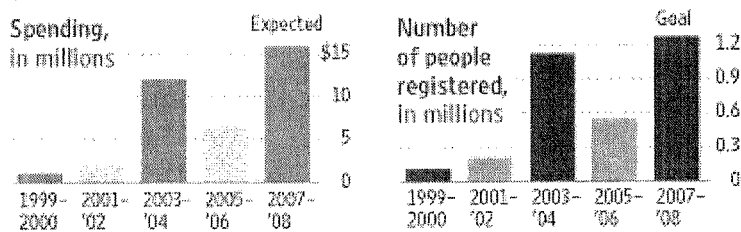
Acorn worker Stephanie Willis was scouting for new voters in a seedy neighborhood of Aurora, Colo., a Denver suburb. Spotting a woman seated on a park bench, Mrs. Willis hustled over and thrust a clipboard and pen at her. Within minutes, Brenda Hernandez was a new registered voter. Mrs. Willis then handed Mrs. Hernandez a flier listing Acorn's housing and other services, and signed her up to be an Acorn member.

"Obama!" Mrs. Hernandez yelled, attempting to fist-bump Mrs. Willis, who already was scanning for other people to register.

Acorn's Mr. Jackson says that when the group registers voters, it also "aims to educate them on issues facing their communities" and tells them about its services. Other groups also recruit voters and members at the same time; laws for tax-exempt groups only prohibit them from promoting specific political parties.

Signing Them Up

Voter registration drives by Acorn and Project Vote; dark bars indicate presidential election years



Sen. Obama is especially reliant on registration drives, such as Acorn's with Project Vote, to help him win the White House. The Illinois Democrat draws his strongest support from blacks, Hispanics and young people, groups that are among the least likely to be registered. After law school, Sen. Obama was the director of Project

Vote in Chicago. The Obama campaign, noting that interest groups routinely register voters and endorse candidates through separate efforts, emphasizes that it accepts no donations from the groups' political action committees.

Steering Money to Groups

Democrats on Capitol Hill have helped to steer millions of dollars in housing and other grants from the federal government toward Acorn and groups like it. The groups must qualify and compete for the money, which is typically doled out from the federal government to states and municipalities. The housing package includes a new, permanent source of affordable-housing money that congressional Democrats and grass-roots groups

Corrections & Amplifications

Wade Rathke founded the community organization Acorn. A previous version of this July 31 page-one article about Acorn's housing and voter registration efforts incorrectly gave his first name as Wayne.

The New York Times

Funds Misappropriated at 2 Nonprofit Groups

By STEPHANIE STROM

Published: July 9, 2008

Two prominent national nonprofit groups are reeling from public disclosures that large sums of money were misappropriated in unrelated incidents by an employee and a former employee.

The groups, Acorn, one of the country's largest community organizing groups, and the Points of Light Institute, which works to encourage civic activism and volunteering, have dealt with the problems in very different ways.

Acorn chose to treat the embezzlement of nearly \$1 million eight years ago as an internal matter and did not even notify its board. After Points of Light noticed financial irregularities in early June, it took less than a month for management to alert federal prosecutors, although group officials say they have no clear idea yet what the financial impact may be.

A whistle-blower forced Acorn to disclose the embezzlement, which involved the brother of the organization's founder, Wade Rathke.

The brother, Dale Rathke, embezzled nearly \$1 million from Acorn and affiliated charitable organizations in 1999 and 2000, Acorn officials said, but a small group of executives decided to keep the information from almost all of the group's board members and not to alert law enforcement.

Dale Rathke remained on Acorn's payroll until a month ago, when disclosure of his theft by foundations and other donors forced the organization to dismiss him.

"We thought it best at the time to protect the organization, as well as to get the funds back into the organization, to deal with it in-house," said Maude Hurd, president of Acorn. "It was a judgment call at the time, and looking back, people can agree or disagree with it, but we did what we thought was right."

The amount Dale Rathke embezzled, \$948,607.50, was carried as a loan on the books of Citizens Consulting Inc., which provides bookkeeping, accounting and other financial management services to Acorn and many of its affiliated entities.

Wade Rathke said the organization had signed a restitution agreement with his brother in which his family agreed to repay the amount embezzled in exchange for confidentiality.

Wade Rathke stepped down as Acorn's chief organizer on June 2, the same day his brother left, but he remains chief organizer for Acorn International L.L.C.

He said the decision to keep the matter secret was not made to protect his brother but because word of the embezzlement would have put a "weapon" into the hands of enemies of Acorn, a liberal group that is a frequent target of conservatives who object to its often strident advocacy on behalf of low- and moderate-income families and workers.

Wade Rathke said he learned of the problem when an employee of Citizens Consulting alerted him about suspicious credit card transactions. An internal investigation uncovered inappropriate charges on the cards that led back to his brother.

"Clearly, this was an uncomfortable, conflicting and humiliating situation as far as my family and I were concerned," he said, "and so the real decisions on how to handle it had to be made by others."

The executive director of New York Acorn, Bertha Lewis, who has been named director of an interim management committee set up to run the national group's day-to-day operations, said Dale Rathke was paid about \$38,000 a year but that none of that money was used to pay back Acorn.

Instead, she said, the Rathke family has paid Acorn \$30,000 a year in restitution since 2001, or a total of \$210,000.

A donor has offered to give Acorn the rest of what the Rathkes owe, and an agreement to that effect should be finalized in coming days, Ms. Lewis said.

“Now that this is under our watch, we are putting financial auditors in place, legal counsel in place, a strong management team in place to make sure this organization moves forward for another 38 years,” she said. “I will not allow and the board will not allow something like this to happen again.”

But the fact that most of the handful of people who did not disclose the fraud when they learned of it eight years ago still work for Acorn or its affiliates concerns many of the group’s financial supporters.

“We’ve told them that when the process is ended, we’ll have a look at it,” said Dave Beckwith, executive director of the Needmor Fund, which has given money to some of Acorn’s charity affiliates for at least 10 years and was contacted by the whistle-blower in May.

Representatives of some 30 foundations and large donors have been discussing the matter on conference calls and may establish a committee to monitor Acorn’s overhaul of its management and accountability systems.

Officials at Points of Light began looking into complaints about a store the organization operated on eBay and by late June had discovered what its president and chief executive, Michelle Nunn, called “abnormalities” in the business practices of an independent contractor hired to run the store, which did a brisk business auctioning travel packages and items donated to the organization.

The travel auctions were stopped immediately, Ms. Nunn said, and the store was shut down a short time later. Points of Light also posted a statement on its Web site last weekend about the problems and contacted the United States Attorney’s Office in Washington, as well as people who had bought the travel packages.

Two people who have been involved in the internal investigation at Points of Light, who spoke on the condition of anonymity because it is incomplete, said it appeared that Maria Herrmann, a former Points of Light fund-raiser who was hired as an independent contractor to manage the eBay store operation, may have been auctioning off bogus trip packages.

Ms. Herrmann did not respond to a message left at her home on Tuesday, and phone and e-mail messages to the office were answered by automated responses from the service Points of Light has hired to process reimbursement applications for the packages.

The organization is making good on trips scheduled through next Tuesday, Ms. Nunn said, and hopes to repay consumers for the rest of the packages that were sold. She said Points of Light began alerting donors last week about the problem, and some have agreed to help it repay customers who bought the packages.

Ms. Nunn also said she did not know how much the group would lose. "Our hope is that this is an isolated event, and that the actions of what we believe to be a single individual at this point doesn't jeopardize the work of millions of volunteers," she said.

The problem surfaced when Points of Light began getting complaints from people who had not received the vouchers and certificates they needed to redeem the travel packages.

Anna Ware, a small business owner in Atlanta, said that in late June when she arrived at the Seattle hotel included in a package she had bought from the Points of Light eBay store, the hotel had not received the certificates for her stay. She sent Ms. Herrmann an e-mail message and received an automated response from her Points of Light e-mail address. Two days later, the certificates arrived by FedEx.

"I could be out several thousand dollars," said Ms. Ware, who has bought trip packages as bonuses for her employees as well as for gifts for friends and family. "I'm now calling them all and letting them know those trips may not happen."

Dozens of people posted similar comments on an eBay discussion board, which the site has closed.

The legitimate trip packages were put together by Mitch-Stuart Inc., a company that bundles airline seats and hotel rooms. It sells the packages on consignment to nonprofit organizations like the Red Cross and Big Brothers Big Sisters, which resell them for a higher price, pocketing the difference.

Ms. Nunn said that Mitch-Stuart was not involved in any way with the bogus packages and that it was helping Points of Light make good on all trips sold for travel through next Tuesday.



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ACORN ASSOCIATION BOARD
CALL MEETING CIVIL
DISTRICT COURT
JULY 13, 2008

President Maude Hurd convened the call with a state-by-state roll call. She reported that, as she had asked staff to email out on Friday, July 11, she had scheduled this conference call of the board in order to respond to requests from Board members for reports about what's going on in the ACORN world. She then reviewed the items to be covered:

1. Updates on the Current Situation
2. Report on Chief Organizer Status
3. Report from Board members working with the Interim Management Committee

There first developed a problem with the functioning of the conference call number, so the call switched to a different. After this, President Hurd announced that the call-in # for future calls, until further notice, would be 218-936-1200; 231187#.

President Hurd further stated that, since the intention of this call was to hear updates rather than to entertain and act on motions, that she intended to schedule a conference call Board meeting on Thursday, July 17 at 8 pm EDT to consider any motions that might come out of this call and that she would ask all delegates with proposals to be considered by the board to submit them by Monday night so that they could be sent out to the delegates.

The board discussed the need to get information about board meetings and materials to all delegates, including those without email addresses. After discussion the President stated that staff would be directed to send materials by express to those board members without access to email addresses or fax.

Bertha Lewis gave a report from Interim Management Committee (IMC) including the following:

** The Committee held daily conference calls immediately after the Convention and now will have weekly conference calls and will post weekly updates on Head Organizer conference.

** First in-person meeting of IMC meeting was held on July 7 in Washington, DC to deal with media, staff and disclosure.

** Committee would report monthly to Executive Committee and Board at end of July, August and September. Final report to Executive Committee and Board before October Association Board meeting.

FILED

** Bertha Lewis was named head of Interim Management Committee.

** Maude and Bertha talked with a NY Times reporter and story ran Wednesday, July 9. Not much fall-out from article. Articles also in NY Post and Wall Street Journal.

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CIVIL COURT

** Bertha Lewis, Steve Kest and Zach Polett have been working with funders. Bertha reported that a group of approximately 30 funders have gotten together and talked about how to deal with ACORN. She added that we are working with them and hope that they don't try to dictate ACORN's courses of action. An effort was made to defund ACORN from the national Health Care Action Now (HCAN) plan, but that defunding was unsuccessful and ACORN's participation and funding continues. Zach reported that We Are America Alliance funding for ACORN has also been threatened, but that funding was now secure.

** Meetings also set up with the Sandler Foundation and the Catholic Campaign for Human Development (CCHD).

** Newly elected President of American Federation of Teachers (AFT) invited Bertha to her swearing-in ceremony at AFT's national convention to show support for ACORN.

Bertha reported that she had talked with Wade and is working with the IMC to set up a face-to-face meeting with him on July 28th.

Karen Inman (MN) gave a report on legal matters and indicated that the IMC was met with delays in getting all the information it needed and actions that were to have been taken were delayed. She also reported that board may or may not have directors' insurance. Zach stated that he and Bertha would check on this with the Legal Department and get a report back to the board.

✓ Carol Hemingway (PA) gave a report on fiscal matters and indicated that the board members on the IMC need authorization to contact and employ on behalf of the organization independent consultants,

Gloria Swearingen (MD) moved that funds be created to allow that the board members appointed by the board to sit on the Interim Management Committee have access to professional consultants needed to carry on the work so that the will of the Association Board be carried out. The motion was seconded by Coya Mobley and passed unanimously.

Marcel Reid (DC) gave report on organizational development. She indicated that the IM committee had unanimously supported Bertha Lewis as Director for the IMC. For the committee to act efficiently, it was felt that she needed to be appointed interim Chief Organizer.