

**VOTE FRAUD, INTIMIDATION & SUPPRESSION IN
THE 2004 PRESIDENTIAL ELECTION**



August 2, 2005

“Free and honest elections are the very foundation of our republican form of government. Hence any attempt to defile the sanctity of the ballot cannot be viewed with equanimity.”

United States v. Classic, 313 U.S. 299 at 329 (1941).



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Legislative Fund

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Dear Fellow Americans:

The American Center for Voting Rights Legislative Fund (“ACVR Legislative Fund”) is proud to present the following report as the most comprehensive and authoritative review of the facts surrounding allegations of vote fraud, intimidation and suppression made during the 2004 presidential election. Using court records, police reports and news articles, ACVR Legislative Fund presents this “after action report” which documents hundreds of incidents and allegations from around the country, notes whether a factual basis for the charge exists and assesses what actions, if any, were taken by the responsible party, law enforcement or the courts. Most importantly, ACVR Legislative Fund makes eight key recommendations that, if implemented, will secure the American election system so that all voters will have the ability to participate free of intimidation and harassment and no legitimate voter will be disenfranchised by an illegal vote. These recommendations also call for accountability for the political parties and activist groups engaged in the political process by holding them responsible for the actions of their operatives seeking to cast illegal votes or to intimidate or harass voters.

ACVR Legislative Fund found that thousands of Americans were disenfranchised by illegal votes cast on Election Day 2004. For every illegal vote cast and counted on Election Day, a legitimate voter is disenfranchised. This report documents a coordinated effort by members of some organizations to rig the election system through voter registration fraud, the first step in any vote fraud scheme that corrupts the election process by burying local officials in fraudulent and suspicious registration forms.

ACVR Legislative Fund further found that, despite their heated rhetoric, paid Democrat operatives were far more involved in voter intimidation and suppression activities than were their Republican counterparts during the 2004 presidential election. Whether it was slashing tires on GOP get-out-the-vote vans in Milwaukee or court orders stopping the DNC from intimidating Republican volunteers in Florida, the evidence presented in this report shows that paid Democrat operatives were responsible for using the same tactics in 2004 that they routinely accuse Republicans of engaging in.

Based on the findings of this report, it is clear that legislative reforms alone will not restore the public’s trust in the American election system. ***Thus ACVR Legislative Fund’s central recommendation is for both national political parties to formally adopt a zero-tolerance fraud and intimidation policy that commits them to repudiate any effort to intimidate voters or volunteers or commit vote fraud and to cooperate in the prosecution of any individual or allied organization that commits vote fraud or that seeks to intimidate any eligible voter from participating in the election.*** By its very nature, vote fraud is not a crime which an individual has an incentive to commit. The only object of vote fraud – or voter

intimidation – is to achieve a political result. As such, legislation reform and enforcement should focus on the political stakeholders who are the beneficiaries of any vote fraud or voter intimidation. ACVR Legislative Fund also makes specific recommendations for legislative reform that will help stop vote fraud before it happens. ACVR Legislative Fund was founded on the belief that it should be easy to vote but tough to cheat. These common-sense recommendations – such as requiring government-issued photo ID at the polls and accurate statewide voter registration databases – will help assure that all legitimate voters are able to cast a ballot and that no American is disenfranchised by illegal votes.

In addition to recommended changes and a zero-tolerance commitment by the political parties, ACVR Legislative Fund has identified five cities as “hot spots” which require additional immediate attention. These cities were identified based on the findings of this report and the cities’ documented history of fraud and intimidation. ACVR Legislative Fund will work with national and state political parties, state legislators and local officials to create a process that supports local election officials in these cities and ensures that any effort to continue the historic pattern of fraud and intimidation in the 2006 election is exposed and stopped.

1. Philadelphia, PA
2. Milwaukee, WI
3. Seattle, WA
4. St. Louis/East St. Louis, MO/IL
5. Cleveland, OH

ACVR Legislative Fund believes that public confidence in our electoral system is the cornerstone of our democracy. Punishing those who engaged in acts of vote fraud and voter intimidation in 2004 and strengthening the legislative safeguards against such activity in future elections makes clear to the American public that such activities are not tolerated at any level by any party and serves as a warning to deter those who may consider illegal activities for future elections. In the coming weeks and months, ACVR Legislative Fund will work with national and local leaders from both political parties as well as election officials and grassroots activists to restore citizens’ faith in the American electoral process.

As Counsel and Board Member of the American Center for Voting Rights Legislative Fund, we are pleased to present this report to the public.



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Executive Summary

The 2004 presidential election was unlike any other. A closely divided but highly passionate American electorate achieved the highest percentage of voter turnout since 1968, as 122 million voters went to the polls on Election Day. President George W. Bush was reelected with the most votes for any presidential candidate in history, while his challenger Senator John Kerry received the second most votes ever. However, despite huge voter turnout on November 2, recent studies have shown that public confidence in the American election system is low. As has been pointed out by election law expert Professor Richard L. Hasen, a post-election NBC News/*Wall Street Journal* poll found that more than a quarter of Americans worried that the vote count for president in 2004 was unfair. Moreover, a Rasmussen Reports poll found that 59 percent of Americans believed that there was “a lot” or “some” fraud in American elections.¹

The American Center For Voting Rights Legislative Fund (“ACVR Legislative Fund”) was founded on the belief that public confidence in our electoral system is the cornerstone of our democracy. ACVR Legislative Fund was established primarily to further the common good and general welfare of the citizens of the United States of America by educating the public about vote fraud, intimidation and discrimination which impacts the Constitutional right of all citizens to participate in the electoral process. This important task requires an honest accounting of activity during the 2004 election, so that we may move forward with a common set of facts to address the issues that undermine public confidence in American elections. ACVR Legislative Fund presents the following report as the most comprehensive and authoritative look at the facts surrounding allegations of vote fraud, intimidation and suppression leveled by both parties during the 2004 election. This investigation found the following:

- While Democrats routinely accuse Republicans of voter intimidation and suppression, neither party has a clean record on the issue. Instead, the evidence shows that Democrats waged aggressive intimidation and suppression campaigns against Republican voters and volunteers in 2004. Republicans have not been exempt from similar criticism in this area, as alleged voter intimidation and suppression activity by GOP operatives led the Republican National Committee to sign a consent decree repudiating such tactics in 1982. However, a careful review of the facts shows that in 2004, paid Democrat operatives were far more involved in voter intimidation and suppression efforts than their Republican counterparts. Examples include:
 - Paid Democrat operatives charged with slashing tires of 25 Republican get-out-the-vote vans in Milwaukee on the morning of Election Day.
 - Misleading telephone calls made by Democrat operatives targeting Republican voters in Ohio with the wrong date for the election and faulty polling place information.

¹ Professor Richard L. Hasen, Testimony Before The Commission On Federal Election Reform (Carter-Baker Commission), Washington, DC, April 18, 2005

- Intimidating and deceiving mailings and telephone calls paid for by the DNC threatening Republican volunteers in Florida with legal action.
 - Union-coordinated intimidation and violence campaign targeting Republican campaign offices and volunteers resulting in a broken arm for a GOP volunteer in Florida.
- Vote fraud and voter registration fraud were significant problems in at least a dozen states around the country. Vote fraud is a reality in America that occurred not only in large battleground states like Wisconsin but in places like Alabama and Kentucky. The record indicates that in 2004, voter registration fraud was mainly the work of so-called “nonpartisan” groups such as Association of Community Organizations for Reform Now (ACORN) and NAACP National Voter Fund. Examples include:
- Joint task force in Wisconsin found “clear evidence of fraud in the Nov. 2 election in Milwaukee,” including more than 200 felon voters, more than 100 double voters and thousands more ballots cast than voters recorded as having voted in the city.
 - NAACP National Voter Fund worker in Ohio paid crack cocaine in exchange for a large number of fraudulent voter registration cards in names of Dick Tracy, Mary Poppins and other fictional characters.
 - Former ACORN worker said there was “a lot of fraud committed” by group in Florida, as ACORN workers submitted thousands of fraudulent registrations in a dozen states across the country, resulting in a statewide investigation of the group in Florida and multiple indictments and convictions of ACORN/Project Vote workers for voter registration fraud in several states.

I. ACVR Legislative Fund's Recommendations For Future Action

No amount of legislative reform will effectively deter those who commit vote fraud and intimidation if there is no punishment of those individuals and organizations that commit vote fraud or who intimidate voters. By its very nature, vote fraud is not a crime which an individual has an incentive to commit. The only object of vote fraud – or voter intimidation – is a political result. As such, legislation reform and enforcement should focus on the political stakeholders who are the beneficiaries of any vote fraud or voter intimidation. Past prosecutions of vote fraud tend to limit the prosecution to the individual operatives who are caught and not address the organizations sponsoring the illegal activity. Voters will not have confidence in legislative reforms unless individuals and organizations seeking to illegally influence the outcome of elections are held accountable. Those organizations whose workers commit vote fraud need to be held just as responsible as the individual operatives engaged in the fraud. Organizations often create conditions under which vote fraud is not only possible, but encouraged. Punishing those who engaged in vote fraud and intimidation makes clear to the American public that such activities are not tolerated at any level by any party and serves as a warning to deter those who may consider illegal activities in future elections.

ACVR Legislative Fund's central recommendation is for both political parties to adopt a zero-tolerance fraud and intimidation policy that commits them to reporting and cooperating in the prosecution of any individual and organization involved in fraud and intimidation during the 2004 election. Leaders of both political parties can take immediate steps to boost confidence in the electoral process by calling on law enforcement officials to punish the individuals and organizations that engaged in documented vote fraud and intimidation last year.

This report also makes specific recommendations for legislative reform that will help stop vote fraud before it happens and will assure citizens of the opportunity to participate in elections free of intimidation. ACVR Legislative Fund was founded on the belief that it should be easy to vote but tough to cheat. These recommendations – such as government-issued photo ID at the polls and accurate statewide voter registration databases – will help assure that all legitimate voters are able to cast a ballot and that no American is disenfranchised by illegal votes or being wrongly excluded from the voter roll.

ACVR Legislative Fund is committed to working with national and local leaders from both major political parties as well as election officials and grassroots activists to restore citizens' faith in the American electoral process. ACVR Legislative Fund presents the following recommendations for future action:

1. Both national political parties should formally adopt a zero-tolerance fraud and intimidation policy that commits the party to pursuing and fully prosecuting individuals and allied organizations who commit vote fraud or who seek to deter any eligible voter from participating in the election through fraud or intimidation. No amount of legislative reform can effectively deter those who commit acts of fraud if there is no punishment for the crime and these acts continue to be tolerated.

2. States should adopt legislation requiring government-issued photo ID at the polls and for any voter seeking to vote by mail or by absentee ballot. Government-issued photo identification should be readily available to all citizens without cost and provisions made to assure availability of government-issued identification to disabled and low income citizens.
3. States should adopt legislation requiring that all polling places be fully accessible and accommodating to all voters regardless of race, disability or political persuasion and that polling locations are free of intimidation or harassment.
4. States should create and maintain current and accurate statewide voter registration databases as mandated by the federal Help America Vote Act (“HAVA”) and establish procedures to assure that the statewide voter roll is current and accurate and that the names of eligible voters on the roll are consistent with the voter roll used by local election authorities in conducting the election.
5. States should adopt legislation establishing a 30-day voter registration cutoff to assure that all voter rolls are accurate and that all registrants can cast a regular ballot on Election Day and the election officials have opportunity to establish a current and accurate voter roll without duplicate or fictional names and assure that all eligible voters (including all recently registered voters) are included on the voter roll at their proper precinct..
6. States should adopt legislation requiring voter registration applications to be delivered to the elections office within one week of being completed so that they are processed in a timely manner and to assure the individuals registered by third party organizations are properly included on the voter roll.
7. States should adopt legislation and penalties for groups violating voter registration laws, and provide the list of violations and penalties to all registration solicitors. Legislation should require those organizations obtaining a voter’s registration to deliver that registration to election officials in a timely manner and should impose appropriate penalties upon any individual or organization that obtains an eligible voter’s registration and fails to deliver it to election authorities.
8. States should adopt legislation prohibiting “bounty” payment to voter registration solicitors based on the number of registration cards they collect.

II. Voter Intimidation & Suppression Introduction

Allegations of voter intimidation and suppression have been leveled by both political parties and across the political spectrum. This section of the report details the most serious of the allegations, notes the factual basis for the charges and what actions, if any, were taken by the responsible party, law enforcement or the courts. While some reference to past incidents and allegations are made in order to provide context to the study, this report focuses exclusively on the 2004 presidential election and assesses each allegation equally without regard to the political party against which the charge was made.

Democrats have traditionally alleged that Republicans engage in voter intimidation and voter suppression campaigns targeting minority communities. The 2004 presidential campaign was marked by aggressive, repeated and coordinated charges by Democrats that the GOP was engaged in a massive campaign to intimidate and harass minority voters, effectively keeping them away from the polls. These charges did not end on Election Day. After the election, in April 2005, Senator Kerry charged that “too many people were denied their right to vote, too many who tried to vote were intimidated.”² In June 2005, Democratic National Committee Chairman Howard Dean said “the Republicans are all about suppressing votes.”³

The following section addresses allegations of voter intimidation and suppression leveled by both parties in the 2004 election.

² *Kerry: Trickery Kept Voters From Polls*, Michael Kunzelman, THE ASSOCIATED PRESS, April 10, 2005

³ DNC Chairman Howard Dean, Remarks To The Campaign For America’s Future “Take Back America” Conference, Washington, DC, June 2, 2005

III. Charges Of Voter Intimidation & Suppression Made Against Republican Supporters

3.1 Overview

Democrats have traditionally alleged that Republicans engage in voter intimidation and voter suppression campaigns targeting minority voters. The 2004 presidential campaign was no different.

Charges of voter intimidation and suppression against Republicans typically refer back to allegations of such activity in New Jersey in the 1980s. In 1982, the Republican National Committee and New Jersey Republican Party signed a Consent Decree in federal court pledging that they would not condone any tactics that would intimidate Democrat voters. The Consent Decree was part of a settlement in a civil lawsuit brought by Democrats alleging that a Republican “ballot-security task force” frightened some minority voters from polling places during the 1981 general election in New Jersey. Democrats alleged that the Republican task force hired off-duty police officers to monitor polls and posted signs in minority areas warning against vote fraud. The RNC denied these allegations and agreed to a “Consent Decree.” Under the terms of the Consent Decree the RNC agreed to “refrain from undertaking any ballot security activities in polling places or election districts where the racial composition of such districts is a factor.”⁴

The New Jersey consent decree, and the events leading to the RNC’s agreement to sign it, has provided Democrats with a platform from which to charge Republicans with voter intimidation in elections since 1982. While a review of the consent decree provides historical context to charges of voter intimidation and suppression made against Republicans today, this report evaluates such activity occurring during the 2004 campaign. Of course, allegations mean little if not supported by facts. An internal Kerry-Edwards/DNC manual obtained by the press in October 2004 urged Democrat operatives to launch “pre-emptive strikes” alleging Republican voter intimidation against minority voters, regardless of whether evidence of such intimidation actually existed. The Kerry-Edwards/DNC “Colorado Election Day Manual” stated: “If no signs of intimidation techniques have emerged yet, launch ‘pre-emptive strike.’”⁵ Though titled “Colorado Election Day Manual” this document and its recommendations were reportedly part of the campaign plan used by Democrats in Florida and other battleground states.⁶

Any effort to suppress or intimidate any voter from freely participating in our election process is reprehensible. All credible allegations of such activity should be seriously investigated by the appropriate law enforcement authority and, where found to have occurred, prosecuted. It is, however, equally reprehensible to use false charges of voter suppression or harassment to motivate some segment of the electorate.

⁴ *GOP Agrees Not To “Intimidate” Democratic Voters*, THE ASSOCIATED PRESS, November 4, 1982; *GOP Agrees to Settle “Ballot Security” Suit*, Bill Peterson, THE WASHINGTON POST, July 24, 1987

⁵ Kerry-Edwards/DNC “Colorado Election Day Manual: A Detailed Guide To Voting In Colorado,” November 2004 (Exhibit A)

⁶ *Manual Reveals Voting Tactics*, Lucy Morgan, ST. PETERSBURG TIMES, October 15, 2004

The following section seeks to analyze the relative merits of the Democrats' allegations.

3.2 Incidents Of Voter Intimidation & Suppression

(a) Charges Of Long Lines Orchestrated By Republicans To Suppress The Minority Vote

On June 2, 2005, Democratic National Committee Chairman Howard Dean charged that Republicans caused long lines at polling places on Election Day to suppress the minority vote. Dean stated:

“The Republicans are all about suppressing votes: two voting machines if you live in a black district, 10 voting machines if you live in a white district. ... You know, the idea that you have to wait on line for eight hours to cast your ballot in Florida there's something the matter with that. ... Well, Republicans, I guess, can do that because a lot of them never made an honest living in their lives.”⁷

Dean was just the latest Democrat leader to make this charge. In January 2005, the Rev. Jesse Jackson charged that “blatant discrimination in the distribution of voting machines ensured long lines in inner-city and working-class precincts that favored John Kerry, while the exurban districts that favored President Bush had no similar problems.”⁸ The Democrat staff of the House Judiciary Committee, led by Ranking Member Rep. John Conyers (D-MI), alleged in a January 2005 report that “the misallocation of voting machines [in Ohio] led to unprecedented lines that disenfranchised scores, if not hundreds of thousands, of predominantly minority and Democratic voters.” The Conyers report specifically cited Franklin County, Ohio, as an area in which Republicans intentionally misallocated voting machines in order to cause long lines and disenfranchise minority voters.⁹

However, Democrat election officials in Franklin County and the U.S. Department of Justice have refuted this allegation. During the recent U.S. House Administration Committee hearing held in Columbus, William Anthony, Chairman of the Franklin County Democratic Party and County Board of Elections, flatly rejected the allegation that long lines were part of some effort to disenfranchise minorities and/or Democrat voters. Anthony further testified that long lines were not limited to minority and Democrat communities. Anthony stated under oath:

“Some have alleged that precincts in predominantly African American or Democratic precincts were deliberately targeted for a reduction in voting machines, thus creating the only lines in the county. I can assure you Mr. Chairman and members of the committee, both as a leader in the black community and Chairman of the local Democratic Party and

⁷ DNC Chairman Howard Dean, Remarks To The Campaign For America's Future “Take Back America” Conference, Washington, DC, June 2, 2005

⁸ *Senators Should Object To Ohio Vote*, Rev. Jesse Jackson, Op-Ed, CHICAGO SUN-TIMES, January 4, 2005

⁹ *Preserving Democracy: What Went Wrong In Ohio*, Report Of The House Judiciary Committee Democratic Staff, January 5, 2005

a labor leader and Chairman of the Board of Elections, that these accusations are simply not true.”¹⁰

Anthony stated that “on Election Day I spent several hours driving around the county in the rain and observed long lines in every part of our county, in urban and suburban neighborhoods, black and white communities, Democrat and Republican precincts.” He referred to those who made claims about long lines and disenfranchisement as “conspiracy theorists” and “Internet bloggers.”¹¹

Anthony noted that the entire process for allocating voting machines in the county was controlled by a Democratic supervisor.¹² He cited three reasons for the long lines in Franklin County on Election Day 2004: increased voter turnout, static resources and an exceptionally long ballot.¹³ Finally, Anthony was “personally offended” by these allegations. As he told *The Columbus Dispatch*, “I am a black man. Why would I sit there and disenfranchise voters in my own community? ... I feel like they’re accusing me of suppressing the black vote. I’ve fought my whole life for people’s right to vote.”¹⁴

In July 2005, the U.S. Department of Justice reported that its investigation of Franklin County found that the county “assigned voting machines in a non-discriminatory manner.” As to charges of racial disparities in voting machine allocation, the Justice Department found that “the allocation of voting machines actually favored black voters because more white voters were voting on each voting machine than black voters.” The Department reported that white precincts averaged 172 voters per machine, while black precincts averaged 159 voters per machine. Noting that elections in Franklin County – and everywhere in Ohio – are run by a six-member Board of Elections equally divided between Republicans and Democrats, the Department concluded that “long lines were attributable not to the allocation of machines, but to the lack of sufficient machines to serve a dramatically enlarged electorate under any allocation.”¹⁵

(b) State Rep. John Pappageorge’s Statement That Republicans Needed To “Suppress” The Detroit Vote

In the 2004 campaign, Democrats repeatedly cited a quote by 73-year-old Michigan state Rep. John Pappageorge as evidence of Republican plans to suppress the minority vote. In July 2004, Pappageorge was quoted by the *Detroit Free Press* as saying, “If we do not suppress the

¹⁰ Testimony Of William Anthony At U.S. House Committee On House Administration Hearing, Columbus, OH, March 21, 2005

¹¹ *Id.*

¹² *Jackson Will Join Call For Vote Probe*, Jon Craig and Robert Vitale, THE COLUMBUS DISPATCH, November 27, 2004

¹³ Testimony Of William Anthony At U.S. House Committee On House Administration Hearing, Columbus, OH, March 21, 2005

¹⁴ *Jackson Will Join Call For Vote Probe*, Jon Craig and Robert Vitale, THE COLUMBUS DISPATCH, November 27, 2004

¹⁵ Letter From John Tanner, Chief Of Voting Section Of U.S. Department Of Justice’s Civil Rights Division, To Franklin County Assistant Prosecuting Attorney Nick A. Soulas, Jr., June 29, 2005 (Exhibit B)

Detroit vote, we're going to have a tough time in this election." Detroit is 83 percent African American.¹⁶

When questioned about his statement, Pappageorge said the quote was misunderstood and then apologized to every Detroit legislator in the state House of Representatives. Pappageorge stated, "In the context that we were talking about, I said we've got to get the vote up in Oakland (County) and the vote down in Detroit. You get it down with a good message."¹⁷ Pappageorge immediately resigned from his position as a chairman of Michigan Veterans for Bush-Cheney.¹⁸

We have found no evidence of any plan by Pappageorge or others to suppress the minority vote in Detroit. In fact, minority voter participation in the presidential election in Michigan was up in 2004.¹⁹ Voter turnout in Detroit increased in 2004 from 2000, and African American voters reportedly voted 95 percent for John Kerry.²⁰ Statements such as those by Pappageorge are highly inflammatory, even in the absence of any corresponding effort to suppress voter turnout. No political party, candidate or campaign should premise its success on a strategy of suppressing the participation of any class or group of voters, whatever that group of voters' racial or demographic characteristics. Rather, the political process works best when the parties, candidates and their campaigns focus on delivering a message that encourages their support and seeks to persuade voters to support their position.

(c) Charges That Republicans Spread Misinformation On Date of Election And Polling Places

In the weeks leading up to Election Day 2004, there were scattered reports of misinformation being spread about where and when the vote would take place. In Ohio, there were reports of fliers being distributed that said Republicans were to vote on Tuesday (November 2) and Democrats on Wednesday (November 3). Callers to nursing homes reportedly told senior citizens that the elderly were not allowed to vote and other callers directed people to the wrong polling places in African American neighborhoods or said voters who owed back child support or had unpaid parking tickets would be arrested if they came to the polls.²¹

No paid Republican operative has been linked to these misinformation efforts. A review of such incidents linked to paid Democrat operatives appears in the next section of this report. While we found no evidence that GOP operatives were responsible for these heinous acts, both the Republican and Democrat parties and law enforcement should be fully committed to investigating and prosecuting all reported efforts to misinform voters, or any effort to

¹⁶ *Democrats Blast GOP Lawmaker's 'Suppress The Detroit Vote' Remark*, THE ASSOCIATED PRESS, July 21, 2004

¹⁷ *Id.*

¹⁸ *Remark Sets Off Election Fervor*, Kathleen Gray, DETROIT FREE PRESS, October 13, 2004

¹⁹ *Blacks, Hispanics Vote For Kerry But Energize Both Campaigns*, Gromer Jeffers Jr., THE DALLAS MORNING NEWS, November 3, 2004

²⁰ *Voters Brave Rains, Long Lines In Michigan To Cast Votes On Election Day*, THE ASSOCIATED PRESS, November 3, 2004; *Kerry Holds Narrow Lead In Divided Michigan*, Charlie Cain and Mark Hornbeck, THE DETROIT NEWS, November 3, 2004

²¹ *Analysis: Ohio Voters Wait And Vote*, Al Swanson, UNITED PRESS INTERNATIONAL, November 2, 2004

intentionally misdirect a voter so the voter will be denied the opportunity to participate in the election. What follows is a review of incidents in which it was charged that Republicans misinformed Democrat voters in 2004.

News reports indicate that in Franklin County, Ohio, a bogus flier was distributed telling Democrats to vote on Wednesday, November 3, the day after Election Day. The flier falsely claimed to be from the Franklin County Board of Elections. Republican operatives were never linked its distribution, and the Chairman of the Franklin County Democratic Party “didn’t think it was a ploy by his Republican counterparts.” Election officials took action to counteract this false information.²² Franklin County Elections Director Matthew Damschroder, a Republican, held a press conference to warn voters about the fraudulent flier and reemphasize that the election was indeed on November 2. The county Elections Board also mailed a post card to each of the more than 800,000 registered voters in the county informing them of their correct precinct and voting location at a cost of over \$250,000 to the county.²³ These efforts by election officials to respond quickly to reports of voter misinformation are commendable and illustrate responsible action in response to this issue.

In Lake County, Ohio, some voters reportedly received letters on fake election board letterhead telling them that if they were registered by certain Democrat groups they would be unable to vote on Election Day.²⁴ The letter, headlined “Urgent Advisory,” said that no one registered by NAACP, America Coming Together (ACT), or the John Kerry and Capri Cafaro campaigns would be able to vote because the groups had registered voters illegally.²⁵ ACT spokesman Jess Goode charged that the letter was “proof positive that the Republicans are trying to steal the election in Ohio. They know they can’t win if all legitimate Ohio voters cast their ballots, so they’re kicking up a storm of voter intimidation and suppression.”²⁶ The Cleveland *Plain Dealer* reported that Lake County Sheriff Dan Dunlap was investigating the matter. We could find no evidence that any paid Republican operative was linked to these letters in Lake County.

In Milwaukee, a flier from the fictional group “Milwaukee Black Voters League” was reportedly distributed in African American neighborhoods inaccurately telling voters they were ineligible if they voted previously in the year or if they had been convicted of any offense, no matter how minor.²⁷ The flier also warned, “If you violate any of these laws, you can get ten years in prison and your children will get taken away from you.”²⁸ A spokesman for the Wisconsin Republican Party denounced the flier as “appalling,” and a Bush-Cheney ‘04

²² *As Election Draws Near, Beware Of Dirty Tricks*, Suzanne Hoholik, THE COLUMBUS DISPATCH, November 2, 2004

²³ Testimony Of William Anthony At U.S. House Committee On House Administration Hearing, Columbus, OH, March 21, 2005; *As Election Draws Near, Beware Of Dirty Tricks*, Suzanne Hoholik, THE COLUMBUS DISPATCH, November 2, 2004

²⁴ *Charges Of Dirty Tricks, Fraud And Voter Suppression Already Flying In Several States*, Kate Zernike and William Yardley, THE NEW YORK TIMES, November 1, 2004

²⁵ *Voters Told To Ignore Hoax*, Grant Segall, [Cleveland] PLAIN DEALER, October 29, 2004; *Court Actions Piling Up On Ohio Voter Eligibility*, John Nolan, THE ASSOCIATED PRESS, October 28, 2004

²⁶ *Voters Told To Ignore Hoax*, Grant Segall, [Cleveland] PLAIN DEALER, October 29, 2004

²⁷ *Campaigns Condemn Political Flier*, Steve Schultze, Milwaukee Journal Sentinel, October 30, 2004

²⁸ *Now They’re Registered, Now They’re Not*, Jo Becker and David Finkel, THE WASHINGTON POST, October 31, 2004

spokesman said the campaign would “not tolerate any effort to suppress or intimidate voters.”²⁹ We were unable to find any reports of Republican operatives linked to the Milwaukee fliers.

At least some of the misleading information on voting locations came from the Kerry campaign itself. On Election Day, *The Columbus Dispatch* reported that hundreds of Columbus voters received directions to the wrong polling places after Kerry campaign canvassers “mixed up the precincts in several Columbus neighborhoods.” While the *Dispatch* reported that the affected neighborhoods were “predominantly pro-Kerry,” some residents were extremely unhappy after receiving directions to the wrong polling place. Dawn M. McCombs, 37, “who complained to the Ohio Democratic Party about the error,” said “This just really makes me mad ... It’s just stupid.” Columbus resident Yolanda Tolliver, who received one of the Kerry campaign fliers, was concerned about how the mistake might affect the area’s elderly and poor residents. “We have people who have to work, and people who don’t work at all. They’re used to being discouraged. What happens is when they get frustrated, they won’t vote at all,” Tolliver said. Franklin County Board of Elections Director Matthew Damschroder said that while he didn’t think the distribution of the incorrect poll information was “malicious,” it “could disenfranchise a voter.”³⁰

(d) McAuliffe Letter Alleging RNC-Funded Disenfranchisement

On October 13, DNC Chairman Terry McAuliffe sent a letter to RNC Chairman Ed Gillespie accusing Republicans of “systematic efforts to disenfranchise voters – to impose unlawful ID requirements in New Mexico, to throw eligible voters off the rolls in Clark County Nevada and to deprive voters of their rights to vote a provisional ballot in Ohio, among other examples.” The letter argued that while Republicans claimed to combat vote fraud, “it is actually the Republicans who are engaging in vote fraud in Nevada, Oregon and potentially other states.” McAuliffe cited the example of a voter registration organization paid by the RNC that was accused of “ripping up Democratic voter registration forms” in Nevada.³¹

McAuliffe’s reference to “ripping up Democrat voter registration forms” was a reference to the charges leveled by a former employee of the voter registration firm Sproul & Associates. These charges were, however, later found to be without merit. In October 2004, former Sproul & Associates employee Eric Russell claimed to have witnessed his supervisors tearing up Democrat registration forms. Russell, who admitted to being a disgruntled employee upset about not being paid for work he claimed to have done, said he witnessed his supervisor shred eight to ten Democratic registration forms from prospective voters.³²

On the basis of these allegations, the Nevada Democratic Party sued the state of Nevada to reopen voter registration only in Clark County. A state court judge rejected the suit, saying

²⁹ *Campaigns Condemn Political Flier*, Steve Schultze, Milwaukee Journal Sentinel, October 30, 2004

³⁰ *Kerry Crew Gives Some Voters Wrong Poll Site*, Matthew Marx and Dean Narciso, THE COLUMBUS DISPATCH, November 2, 2004

³¹ Democratic National Committee, *McAuliffe Letter Demands Answers From Gillespie On RNC Funded Vote Fraud*, Press Release, October 13, 2005

³² *Executive Denies Voter Registration Forms Destroyed In Nevada*, Adam Goldman, THE ASSOCIATED PRESS, October 13, 2004

that Democrats' thin evidence of registration forms actually being destroyed did not justify reopening the registration process.³³

In late October, Nevada Secretary of State Dean Heller announced that a state investigation of Eric Russell's claims against Sproul found "no evidence of an organized or concerted effort which would influence or impact the result of the elections in Clark County based on these allegations."³⁴

Allegations were also made that Sproul & Associates was registering Republicans exclusively and tearing up registration cards in Minnesota, Oregon, Pennsylvania and West Virginia.³⁵ While the Secretary of State and Attorney General launched investigations of Sproul's activities in Oregon, there are no reports indicating any indictments or other legal actions taken against Sproul or its workers in these states.³⁶ The mere fact of these allegations and the other documented abuses of the voter registration process and incidents of voter registration fraud detailed in this report support reforming the process by which third-party groups participate in voter registration efforts and call for more accountability and oversight of third party voter registration efforts by election officials.

(e) **Charges That Republicans Targeted Minority Precincts For Polling Place Challengers In Jefferson County, Kentucky**

Prior to and since the 2003 elections, Democrats and their allies alleged that the Jefferson County, Kentucky, Republican Party's placement of challengers in Democrat precincts was an attempt to suppress the African American vote by illegally targeting precincts in the county based on race.³⁷ Days before the 2003 gubernatorial election, the American Civil Liberties Union filed a lawsuit accusing the county Republican Party of singling out minority Democrat precincts for intimidation through vote challengers.³⁸

On November 4, Jefferson County Circuit Judge Thomas Wine denied the ACLU's effort to ban GOP challengers from the polls and determined that their allegations of racial targeting were not supported by the evidence. Judge Wine found that Republicans placed challengers in county precincts without regard to any racial criteria. The judge ruled that the county Republican Party used a "racially neutral" method of placing challengers, choosing those precincts "with the highest percentage of registered Democratic voters vis-à-vis Republican." Judge Wine noted that "speculation alone" by the ACLU and Democrats about the challengers' placement was "not sufficient" to merit a restraining order. According to Judge Wine's order,

³³ *Nevada Judge Declines To Reopen Voter Registration In Vegas Area*, Ken Ritter, THE ASSOCIATED PRESS, October 15, 2004

³⁴ Nevada Secretary Of State, *Alleged Vote Fraud Investigations Ongoing*, Press Release, October 28, 2004

³⁵ *Voter Registration Drive Funded By GOP Accused Of Deception, Destroying Registration Cards*, Deborah Hastings, THE ASSOCIATED PRESS, October 22, 2004; *3 Former Workers: Firm Paid Pro-Bush Bonuses*, Mark Brunswick and Pat Doyle, STAR TRIBUNE, October 27, 2004

³⁶ *Vote Fraud Report Draws State Inquiry*, Jeff Mapes, THE OREGONIAN, October 14, 2004

³⁷ *The Long Shadow Of Jim Crow: Voter Intimidation And Suppression In America Today*, People For The American Way/NAACP Special Report, www.pfaw.org, Accessed April 12, 2005

³⁸ *GOP Vote Challengers Intended To Discourage Kentucky Democrats, Lawsuit Claims*, Mike Torralba, THE ASSOCIATED PRESS, November 1, 2003

state law entitled Republicans to have challengers at the polls on Election Day and barred such challengers from disrupting the election process by “intimidating or harassing verbally” any voter, under penalty of being removed from the polling place.³⁹

Despite the charge that Republicans were seeking to suppress the African American vote through their poll watcher program, the results of elections in 2003 and 2004 showed the opposite effect. In 2003, African American turnout actually increased in key county precincts targeted by Republicans for monitoring, and elections officials reported “no problems” with the Republican poll watchers.⁴⁰ President Bush actually lost Jefferson County by a larger margin in 2004 than he did in 2000. John Kerry won the county by 5,592 votes in 2004, while Al Gore won it in 2000 by 4,849 votes.⁴¹

(f) Ohio Challenger Allegations

In the weeks leading up to the 2004 election, the issue of partisan challengers at polling places in Ohio became a lightning rod for charges voter intimidation and suppression. Ohio law allows observers who have been properly registered and credentialed by boards of election to be present at polling locations to observe the conduct of election. The observers are supervised by election officials and have a narrowly defined role. Ohio law allows each party, as well as candidates and issue campaigns, to appoint these observers, denominated as “challengers” in the statutes. Both Republicans and Democrats applied to have thousands of challengers monitor the vote across Ohio on November 2.⁴²

Republicans said they wanted challengers in polling places because of concerns about fraudulently registered voters in Ohio.⁴³ Democrats said they registered challengers only to watch the GOP observers, who they accused of trying to intimidate minority voters. The Rev. Jesse Jackson called the Republican challenger effort “Old South politics, a type of intimidation.”⁴⁴

Democrats “filed lawsuits accusing the GOP of trying to suppress turnout and intimidate black voters” through their challenger program. One lawsuit, filed by civil rights activists Marian and Don Spencer, asked U.S. District Judge Susan J. Dlott of Cincinnati “for an emergency restraining order barring partisan challengers from polling stations” in Ohio on the grounds that such challengers would “intimidate black voters.”⁴⁵ Another lawsuit brought by Summit County Democrats asked U.S. District Judge John Adams of Akron to “to declare unconstitutional a decades-old Ohio law that allows challengers to sit in polling places and

³⁹ See *Curington v. Richardson*, Jefferson Circuit Court, Case No. 03CI9552 (November 4, 2003 Order). (Exhibit C)

⁴⁰ *Jefferson Turnout*, Joseph Gerth, THE COURIER-JOURNAL, November 6, 2003; *Precincts See No Trouble With Monitors*, THE COURIER-JOURNAL, November 5, 2003

⁴¹ CNN Website, www.cnn.com, Accessed May 4, 2005; CBS News Website, www.cbsnews.com, Accessed May 4, 2005

⁴² *Challenges At The Polls Tuesday Are Limited*, Mark Niquette, THE COLUMBUS DISPATCH, October 31, 2004

⁴³ *Two Big Legal Wins For Ohio GOP*, CBS NEWS, November 2, 2004

⁴⁴ *Jackson: Republican Voter Challenges Reminiscent Of Old South*, THE ASSOCIATED PRESS, November 1, 2004

⁴⁵ *Judge To Decide If GOP Can Challenge Voters*, Bill Sloat and Jesse Tinsley, [Cleveland] PLAIN DEALER, November 1, 2004

challenge voters.”⁴⁶ Both Judge Dlott and Judge Adams held that the Ohio statute providing for challengers was unconstitutional and barred challengers from the polls on Election Day.⁴⁷ Neither Dlott or Adams ruled that the Republican challengers were intended to suppress minority voter participation. During the hearing before Judge Dlott Republicans were questioned extensively about the Republican challengers and the evidence established that the determination of which polling places Republican challengers observed was made without regard to any racial characteristic of the precincts in which challengers participated.

However, early on the morning of Election Day, a three-judge panel from the 6th U.S. Circuit Court of Appeals in Cincinnati overturned the lower courts’ rulings to allow challengers in Ohio polling places. The court ruled that the presence of Election Day challengers was allowed under state law, and that while registered voters should be able to cast ballots freely, there is also a “strong public interest in permitting legitimate statutory processes to operate to preclude voting by those who are not entitled to vote.”⁴⁸ The Plaintiffs appealed the 6th Circuit’s ruling to the U.S. Supreme Court, but Associate Justice John Paul Stevens declined to hear the case, and thus refused to block the election challengers. Justice Stevens wrote that while the accusations leveled by the Plaintiffs were “undoubtedly serious” time was too short for the court to render a proper decision. Stevens also expressed faith in local election officials in declining to hear the case by writing, “I have faith that the elected officials and numerous election volunteers on the ground will carry out their responsibilities in a way that will enable qualified voters to cast their ballots.”⁴⁹

Allegations that Republican challengers in the polls would “intimidate and suppress the black vote” in Ohio in 2004, were spectacularly unfounded. African American turnout was up in predominantly black precincts in Ohio. In Cleveland, “turnout was up nearly 22 percent [from 2000] and it went higher in some black wards.” In 2004, President Bush doubled his support from Ohio’s black voters from 2000. According to the Cleveland *Plain Dealer*, “Black voters may have given President Bush the edge in Ohio.”⁵⁰ The paper also reported that the “most feared delays of the election – from Republican challengers questioning the validity of voters at the polls – never materialized.”⁵¹ According to the *New York Times*, “there were no reports that large numbers of voters were being challenged or denied a ballot [in Ohio].”⁵²

On April 28, 2005, U.S. District Judge Susan J. Dlott issued an order denying a second motion for preliminary injunction against Republicans, holding that no voter’s due process rights

⁴⁶ *Poll Rulings Monday*, Stephen Dyer, AKRON BEACON JOURNAL, October 30, 2004

⁴⁷ *G.O.P. In Ohio Can Challenge Voters At Polls*, James Dao and Adam Liptak, THE NEW YORK TIMES, November 2, 2004

⁴⁸ *G.O.P. In Ohio Can Challenge Voters At Polls*, James Dao and Adam Liptak, THE NEW YORK TIMES, November 2, 2004; *Federal Court Clears The Way For GOP Representatives To Challenge Voters’ Eligibility In Ohio*, Lisa Cornwell, THE ASSOCIATED PRESS, November 2, 2004

⁴⁹ *Justice Lets Ohio Ruling On Monitors At Polls Stand*, Adam Liptak, THE NEW YORK TIMES, November 3, 2004

⁵⁰ *Both Parties Take Heart From Black Voters’ Turnout*, Olivera Perkins and Margaret Bernstein, [Cleveland] PLAIN DEALER, November 7, 2004

⁵¹ *Long Waits Biggest Problem At Most Polling Places*, Scott Hiaasen et al., [Cleveland] PLAIN DEALER, November 3, 2004

⁵² *Voters Find Long Lines And Short Tempers, But Little Chaos At Polls*, Robert D. McFadden, THE NEW YORK TIMES, November 3, 2004

are violated by Ohio's polling place challenger rules. Judge Dlott ruled that there was no evidence to support giving the plaintiffs any relief on any of their claims.⁵³

The plaintiffs in the case had claimed that the procedures established by the Republican Secretary of State would deprive properly registered voters of the opportunity to vote. They asserted that a voter whose qualifications to vote were challenged would be denied rights because they might fail to fully answer questions put to them by the precinct judges. According to Judge Dlott, the plaintiffs "failed to establish a likelihood of success on the merits of claims and have not shown that any irreparable injury has resulted or will result from the [challenge] procedures." Judge Dlott held that the plaintiffs "produced no evidence at the hearing that any eligible voter was wrongfully denied a ballot under [the Ohio challenger rules] in the November 2004 election or that such a voter would be denied a ballot in any future election." Judge Dlott reasoned that "while the magnitude of the burden of having one's properly registered right to vote revoked is great, there is no evidence that it has happened or will happen in May's primary."⁵⁴

It has been noted that it is not difficult to convince the winner of an election that the result was proper and the election was fair and honest. The difficulty is to assure the losing candidate and party that the election was legitimate. Providing openness and transparency in the conduct of elections is an important means to assure that voters and the participants in the election (the candidates and political parties) – especially those who sought a different outcome - have confidence that the election has been conducted in a fair and honest manner and that the result is a legitimate expression of the will of the voters. The presence of observers in polling places deters attempts at vote fraud and also provides assurance that there was no misconduct by election officials. All political parties and candidates should have appropriate means to have observers in polling places. State law should allow a role for observers and should provide them a meaningful opportunity to monitor the conduct of the election without interfering with the lawful conduct of the election. As the Ohio and Kentucky litigation illustrate, the mere presence of observers in polling places also invites legal challenge that such a presence is in some manner discriminatory. The outcome of the Ohio and Kentucky litigation and the actual participation in the respective elections by minority voters suggests that claims of observers lawfully monitoring the conduct of the election does not deter participation by minority or other voters.

⁵³ See *Spencer v. Blackwell, et al.*, United States District Court for the Southern District of Ohio, Case No. C-1-04-738 (April 28, 2005 Order). (Exhibit D)

⁵⁴ *Id.*

IV. Charges Of Voter Intimidation & Suppression Made Against Democratic Supporters

4.1 Overview

In June 2004, as each campaign traded charges of intimidation, suppression and fraud, RNC Chairman Ed Gillespie sent a letter to DNC Chairman Terry McAuliffe proposing that the two parties work together to place election lawyers and embedded reporters at key polling places to monitor the vote on Election Day. McAuliffe did not respond to this suggestion but sent a letter to Gillespie in October charging the GOP with “systematic efforts to disenfranchise voters.”⁵⁵

Into late October, this charge of voter suppression became a common talking point for Democrat politicians and their supporters. The Rev. Jesse Jackson said on CNN, “The big issue in Florida is not whether we vote, the big issue is vote suppressing.”⁵⁶ Greg Moore, Executive Director of the NAACP National Voter Fund, said, “There are forces across [Ohio], very powerful people, trying to suppress and intimidate the minority community from voting.”⁵⁷ Sen. Hillary Clinton (D-NY) warned Democrats to watch out for GOP-orchestrated “shenanigans” on Election Day, saying, “For an administration and a president who likes [sic] to go around talking about exporting democracy, it ought to start here at home, and they ought to protect the right to vote in America.”⁵⁸ Vice Presidential candidate Sen. John Edwards (D-NC) stated that Republicans were “up to their old tricks ... trying to keep people from voting.”⁵⁹

The following is a summary of all documented cases of voter suppression, harassment and intimidation during the 2004 general election. The following incidents are derived from court pleadings and press coverage concerning the activity of both parties.

4.2 Incidents Of Voter Intimidation & Suppression

(a) Five Democrat Operatives In Milwaukee Charged With Slashing Tires Of Republican Vans On Morning Of Election Day⁶⁰

On Monday, January 24, 2005, five Democrat operatives were charged with felony counts of “criminal damage to property” for slashing the tires of 25 get-out-the-vote vans rented by Republicans early on the morning of Election Day. The vans had been rented by Republicans to help transport observers and voters to the polls on Election Day. The five individuals charged in the case were all paid Democrat operatives. Two defendants in the case are the sons of

⁵⁵ Democratic National Committee, *McAuliffe Letter Demands Answers From Gillespie On RNC Funded Vote Fraud*, Press Release, October 13, 2005

⁵⁶ CNN’s “Late Edition,” October 24, 2003

⁵⁷ NAACP National Voter Fund, *NAACP Chairman Julian Bond Headlines Get-Out-The-Vote Rally/Town Hall Meeting*, Press Release, October 29, 2004

⁵⁸ *Sen. Clinton In S.F.*, Mary Anne Ostrom, SAN JOSE MERCURY NEWS, October 16, 2004

⁵⁹ *Edwards: Republicans Will Be ‘Up To Their Old Tricks,’* Liz Sidoti, THE ASSOCIATED PRESS, October 16, 2004

⁶⁰ Milwaukee Criminal Complaint attached as Exhibit E

prominent Milwaukee Democrats: U.S. Rep. Gwen Moore and former Acting Mayor Marvin Pratt, Chairman of the Kerry-Edwards campaign in Milwaukee.⁶¹ The following is a list of the individuals charged with slashing tires on the morning of November 2, 2004, and their connections to the Democrat campaign in 2004:

- **Michael J. Pratt**
 - ✓ Paid \$7,965.53 by the Democratic Party of Wisconsin in 2004
 - ✓ Pratt's father is former Acting Mayor Marvin Pratt, who chaired the Kerry-Edwards campaign in Milwaukee

- **Sowande Ajumoke Omodunde (a.k.a "Supreme Solar Allah")**
 - ✓ Paid \$6,059.83 by Gwen Moore for Congress and the Democratic Party of Wisconsin in 2004
 - ✓ Son of U.S. Rep. Gwen Moore (D-WI)

- **Lewis Gibson Caldwell, III**
 - ✓ Paid \$4,639.09 by Gwen Moore for Congress and the Democratic Party of Wisconsin in 2004

- **Lavelle Mohammad**
 - ✓ Paid \$8,858.50 by the Democratic Party of Wisconsin and America Coming Together (\$966 for canvassing work in June and July) in 2004

- **Justin J. Howell**
 - ✓ Paid \$2,550.29 in 2004 by the Democratic Party of Wisconsin⁶²

According to the criminal complaint filed in the case, on the day before the election, DNC consultant Opel Simmons witnessed individuals at the Democratic headquarters in Milwaukee discussing a plan to go to the Republican campaign office and cover it with yard signs, placards and bumper stickers. They referred to their plan as "Operation Elephant Takeover." However, upon learning that there were security guards at the Republican headquarters, they called off the operation.⁶³

According to the complaint, at about 3 a.m. on Election Day, several people at the Democratic headquarters were gearing up for another project. Some of them dressed in what was described as "Mission Impossible" type gear – black outfits and knit caps. Simmons asked them what they were up to and warned them about the security guard. One of them told Simmons, "Oh, man, you don't want to know, you don't want to know." They were laughing and joking and continued to tell Simmons that he did not want to know what they were going to do.⁶⁴

⁶¹ *5 Charged In GOP Tire Slashings*, Derrick Nunnally, MILWAUKEE JOURNAL SENTINEL, January 25, 2005

⁶² Federal Election Commission Website, www.fec.gov, Accessed April 6, 2005

⁶³ Milwaukee Criminal Complaint

⁶⁴ *Id.*

About 20 minutes later, the group returned to Democrat headquarters very excited, saying things like:

- “They won’t go anywhere now, man, we got ‘em, we got ‘em”
- “Man, I walked right past the security guard. He didn’t even know anything was going on.”
- “That’s ‘cause, you know, I was acting all crazy, you know, I was acting crazy. I even let him watch me piss.”⁶⁵

The group went on talking about the affair and described the sound of the air escaping the tires. There was apparently much bragging as they described their various roles in the escapade. Mohammad was the “deception guy” who walked around acting drunk. According to the criminal complaint, when Simmons asked them what was going on, defendant Michael Pratt told him, “We got ‘em. We hit the tires.” Simmons told investigators that at some point on Election Day a staffer at Democrat headquarters pulled an article on the tire-slashing incident from the *Milwaukee Journal Sentinel*’s website. Simmons said that upon seeing the article, defendant Lavelle Mohammad said he wanted to frame it and put it on his wall. Simmons said he did not talk to any of the other defendants about the tire slashing incident over the course of Election Day.⁶⁶

While the Kerry-Edwards campaign and state Democrats denied knowledge of the plan to vandalize the Republican get-out-the-vote vehicles, the vehicle used by the defendants was rented by Simmons, a political consultant from Virginia working for the DNC in Wisconsin. According to the criminal complaint filed in the case, Simmons told police that he had rented the vehicle “to be used by his workers for their campaign activities.” When questioned by police on the night of November 2, Simmons said he knew that five of his workers were involved in slashing tires at Republican headquarters early that morning, and identified all five defendants to police.⁶⁷

In all, forty tires on 25 separate vehicles were slashed in the incident causing \$4,192.35 of damage to the tires, plus \$1,125 in towing charges. Since the damage exceeded the \$2,500 threshold for a felony, the five were charged with felony “criminal damage to property,” which carries a maximum punishment of 3 1/2 years in prison and a \$10,000 fine. The five defendants pleaded not guilty at their March 4 arraignments.⁶⁸ A trial was originally scheduled for mid-July, but has since been postponed until January 2006.⁶⁹

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Trial Set In Tire Slashings*, Derrick Nunnally, MILWAUKEE JOURNAL SENTINEL, March 5, 2005

⁶⁹ *5 To Be Tried Early Next Year In Election Day Tire-Slashing*, MILWAUKEE JOURNAL SENTINEL, July 18, 2005

(b) Court Issues Injunction Against Democrat Operatives Targeting Ohio Voters With Phone Calls Providing Deceptive Information to Voters

During the U.S. House Administration Committee hearings in March 2005, a common point of inquiry was the issue of phone calls made in an apparent effort to misdirect voters. The committee's Ranking Member, Rep. Juanita Millender-McDonald (D-CA), stated that Ohio voters were "disenfranchised" when "voters were told ... that the presidential election would be on Wednesday the 3rd of November as opposed to November 2nd."⁷⁰

Ohio voters who had identified themselves as Republicans received telephone calls telling them that the election was to be held a day later than Election Day, that their polling locations had been changed and that they could only vote if they brought four separate pieces of identification to the poll. This information was intentionally deceptive and intended to direct voters to a polling place where they would not be able to cast a ballot.

The Marion County Common Pleas Court issued a temporary restraining order against the Marion and Greene County Democratic Parties, the Ohio Democratic Party and America Coming Together (ACT) enjoining them from making inaccurate and deceptive phone calls to targeted voters.⁷¹ The judge originally assigned to the case recused himself because he had "personally received a phone call" like the one described by the plaintiff in which incorrect information about date of the election and polling place was given, a point he noted in the Judgment Entry he signed effectuating his recusal. The Ohio Supreme Court appointed a visiting judge to hear the case who then issued a temporary restraining order against the county and state Democrat parties and against ACT.⁷²

Judge David C. Faulkner ordered state and local Democrats and ACT to stop their calls "misstating the date of the November 2, 2004 election" and "directing [voters] to the wrong location to which they should report to vote."⁷³ Faulkner's restraining order specifically stopped the Democrats from the following activities:

"Any acts of interfering in any way with the rights of Ohio registered voters to vote in the November 2, 2004 election, including, but not limited to, telephoning or contacting in any way any such registered voters and misstating the date of the November 2, 2004 election, directing them to the wrong location to which they should report to vote, telling such voters that they must bring certain documentation to the polls in order to vote and suggesting to, telling or implying to said voters that there are procedural and/or documentary hurdles they must overcome in order to vote in the November 2, 2004 election."⁷⁴

⁷⁰ Rep. Juanita Millender-McDonald (D-CA), U.S. House Committee On House Administration Hearing, Columbus, OH, March 21, 2005

⁷¹ See *Ohio Republican Party v. Marion County Democratic Party et al.*, Marion County Court of Common Pleas, Case No. 04 CV 0791. (Exhibit F)

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

The Marion County Democratic Party provided an affidavit in the case that explained its role in the matter. The affidavit, as completed by Cathy Chaffin, Chair of the Marion County Democratic Party, explained that Kerry-Edwards campaign staffers made the misleading phone calls blocked by Judge Faulker's order. Chaffin stated in the affidavit that once she became aware that Kerry-Edwards staffers were using her office space to make calls giving "the wrong polling location" to voters, she tried multiple times to get them to stop the calls, to the point of threatening to kick them out of the office if the calls did not stop. Below are the key points from Chaffin's affidavit.⁷⁵

- The Marion County Democratic Party provided space to the Kerry-Edwards campaign for use as its campaign headquarters.
- Ms. Chaffin became aware that Kerry-Edwards staffers were placing telephone calls to voters and giving out voting locations and "that the wrong polling location was being given."
- Ms. Chaffin called Kerry-Edwards campaign staffer Jim Secreto and told him the activity must stop. She was assured that it would stop.
- A few days later, Ms. Chaffin learned that the phone calls were continuing. She again told Mr. Secreto to stop and again was told that the activity would cease.
- Finally, on Election Day, Ms. Chaffin learned that the telephone calls were still being made. At that time, she told Mr. Secreto that if the calls did not stop, he would have to leave Marion County Democratic Headquarters.⁷⁶

The case is still pending before the Marion County Court of Common Pleas.

(c) **Court Issues Injunction Against Democratic National Committee Ordering It To Stop Distributing Intimidating Materials To Republican Volunteers In Florida**

On Election Day 2004, a Seminole County, Florida, court stopped the DNC and state Democratic Party from "further intimidation" and dissemination of materials that were "designed or intended to intimidate or unduly threaten the activities of poll watchers" organized by the Florida Republican Party.⁷⁷

Florida law allows all candidates and political parties to have observers in polling places to monitor the conduct of the election. Both the Florida Republican Party and the state

⁷⁵ *Id.*

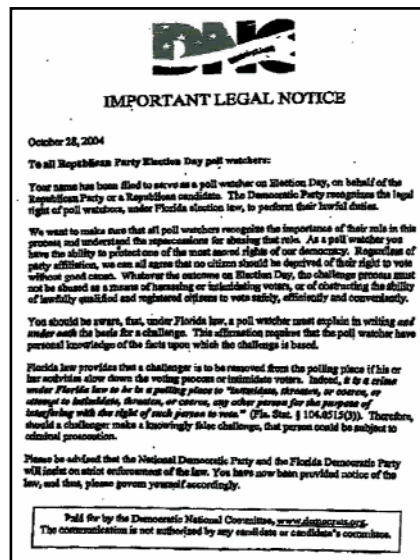
⁷⁶ *Id.*

⁷⁷ See November 2, 2004, Order on Motion for Temporary Injunction, *J. Thomas Monk, and All Those Persons Similarly Situated Throughout the State of Florida v. Democratic National Committee, Democratic Executive Committee of Seminole County, and the Florida Democratic Party*, 04-CA-2312-16-L. (Exhibit G)

Democratic Party organized thousands of volunteers to participate in the election observers in polling locations across Florida.⁷⁸

Under Florida law, the names and addresses of volunteer poll observers are filed with election officials in advance of the election. The DNC and Florida Democrat Party obtained these records on the identity of Republican poll observers and sought to prevent them from volunteering by sending them a letter threatening legal action against them personally. The letter, entitled “IMPORTANT LEGAL NOTICE,” stated that each poll watcher receiving the document had “now been provided notice of the law.”⁷⁹

Individual volunteers who received the letter threatening legal action by the DNC went to court in Seminole County and obtained an injunction against the DNC and the Florida Democratic Party.⁸⁰ Seminole Circuit Judge Nancy Alley ordered the DNC, Florida Democratic Party and Democratic Executive Committee of Seminole County to stop “further intimidation, further dissemination of these materials ... designed or intended to intimidate or unduly threaten the activities of poll watchers who are duly carrying out their responsibilities” granted under Florida law. The court ruled that the flyer constituted a “misrepresentation of [poll observers’] legal rights and obligations.”⁸¹ The DNC sought an emergency appeal of the trial court’s order to the Florida Appeals Court but was rebuffed.⁸²



(d) Intimidating And Misleading Phone Calls To GOP Volunteers Made By President Bill Clinton And DNC General Counsel Joe Sandler In Florida

In addition to the intimidating letters sent by the DNC to Republican volunteers, the DNC paid for recorded phone calls to Republican poll observers’ homes in Florida featuring the same message that the court in Seminole County found to be intimidating and misleading.

These phone calls were recorded by former President Bill Clinton and DNC General Counsel Joe Sandler. The call from Sandler said, “Please be advised that any challenge to a voter must be stated in writing, under oath, and that you must have direct and first-hand knowledge of the voter’s ineligibility. Interfering with a citizen’s right to vote is a serious offense and swearing out a false statement is a felony. Violations will be referred to federal and

⁷⁸ *Poll Watchers Will Keep Their Eyes On Florida*, Jeff Kunerth, ORLANDO SENTINEL, October 30, 2004

⁷⁹ DNC’s “IMPORTANT LEGAL NOTICE” Distributed To Republican Poll Observers In Florida (Exhibit H)

⁸⁰ See November 2, 2004, Order on Motion for Temporary Injunction, *J. Thomas Monk, and All Those Persons Similarly Situated Throughout the State of Florida v. Democratic National Committee, Democratic Executive Committee of Seminole County, and the Florida Democratic Party*, 04-CA-2312-16-L.

⁸¹ *Id.*

⁸² See *Democratic National Committee, et al. v. J. Thomas Monk*, District Court of Appeal of the State of Florida Fifth District, Case No. 5D04-3642. (Exhibit I)

state prosecutors.” The recording finished by noting, “This call is paid for by the Democratic National Committee, www.democrats.org, not authorized by any candidate.”⁸³

(e) **Court Orders MoveOn.org To Cease Voter Intimidation And Harassment In Ohio**

On Election Day, individuals in Franklin County, Ohio, were threatened and harassed at their polling places by agents of MoveOn.org after being asked about their voting preference and revealing their intention to vote Republican. Similar situations are alleged to have occurred elsewhere around the state and prompted a lawsuit filed in the Franklin County Common Pleas Court. Voters were intimidated by MoveOn.org in an attempt to dissuade them from voting for George W. Bush or in an attempt to harass them after they voted.⁸⁴

Examples of such intimidation include one plaintiff who arrived at his polling place and was called over to a table operated by MoveOn.org that promised “Free Coffee.” The plaintiff asked for a cup of coffee, was asked if he would voter for Kerry, and responded that he would not. The person at the table refused him a cup of coffee. The plaintiff then noticed that particular individual and others standing near the plaintiff’s car. When he exited the polling place, the MoveOn.org table was placed in front of his car, blocking his exit. When he asked them to move, the individuals harassed him, took his picture and recorded his license plate.⁸⁵

Another voter noticed a loud and boisterous gentleman at her polling place wearing a “Voting Rights Staff” badge and standing well within 100 feet of the polling place. In fact, he stood right outside one plaintiff’s voting booth and told her that she only had a few seconds left and needed to make her final vote. These plaintiffs sought, and received, a temporary restraining order against MoveOn.org. The complaint has subsequently been amended to include allegations of similar acts by agents of MoveOn.org that occurred elsewhere in the state.⁸⁶

(f) **Ohio Court Ordered Democrat Polling Place Challengers To Remove Deceptive Arm Bands and Badges**

On Election Day, several Lucas County voters brought suit against the Lucas County Board of Elections and Democratic challengers in the polling place who were wearing armbands and/or badges identifying them as “Voter Protection Staff,” “Voting Rights Staff,” and other similar terms. The Lucas County Court of Common Pleas granted the temporary restraining order prohibiting the use of such intimidating insignia.⁸⁷

⁸³ Full transcript of Sandler call attached as Exhibit J

⁸⁴ See *Timms et al. v. MoveOn.org*, Franklin County Court of Common Pleas, Case No. 04 CVH11 011533. (Exhibit K)

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ See *Metzger v. Doe*, Lucas County Common Pleas Court, Case No. 04-1540. (Exhibit L)

(g) Violence Against Republican Volunteers In Philadelphia On Election Day

Philadelphia has a long history of vote fraud and intimidation.⁸⁸ According to press and police reports filed on November 2, this past election was no different. Reports indicate that Republican volunteers in Philadelphia were violently intimidated by Democrat activists on Election Day 2004.

One Republican activist, working as a Bush campaign legal volunteer to monitor the vote in Philadelphia, was “cornered in a parking lot by roughly 10 large men, whom the police later identified as ‘union goons.’” The men tried to tip over the minivan the Republican attorneys were sharing, “punching it relentlessly, breaking parts off and failing to drag us out, they chased us in and out of the dense urban traffic.” It took “a frantic 911 call and a police roadblock” to stop the assault, and the GOP volunteers “had to be secreted out of town to safety by a police escort.”⁸⁹

According to police reports filed after the incident, the union members’ SUV was a rental vehicle.⁹⁰ On Election Day, rental vehicles were used all over the city “primarily by the parties ... for transporting voters and election monitors.”⁹¹

(h) Union-Coordinated Violence And Intimidation Against Republican Campaign Offices And Volunteers

On October 5, a Bush-Cheney campaign volunteer in Orlando had his arm broken when trying to stop union activists from storming the campaign office. This incident was part of a series of simultaneous demonstrations coordinated by the AFL-CIO against Bush-Cheney campaign offices in 20 cities, intimidating campaign volunteers with violence and vandalism. In Orlando, AFL-CIO members stormed and ransacked the Bush-Cheney field office as part of what one local newscaster called a “coordinated attack against the Bush-Cheney campaign.” Protesters also defaced posters of President Bush and dumped piles of letters on to the floor of the office. Several protesters in Orlando faced possible assault charges as a result of the incident.⁹²

As part of the 20-city anti-Bush protest, more than 100 AFL-CIO members “stormed” the Bush-Cheney campaign’s Miami office and “pushed volunteers” inside. Three dozen union members rushed a campaign office in Tampa, shaking up elderly volunteers.⁹³ Union members staged an “invasion” of the Republican campaign office in West Allis, Wisconsin, where police

⁸⁸ *Dead Men Can Vote*, Scott Farmelant, PHILADELPHIA CITY PAPER, October 12-15, 1995

⁸⁹ *The Reality Of Intimidation*, Eric Wang, Op-Ed, THE [UVA] CAVALIER DAILY, <http://www.cavalierdaily.com/CVarticle.asp?ID=21349&pid=1216>, November 10, 2004 (Exhibit M)

⁹⁰ Police Reports, Philadelphia Police Department, November 2, 2004 (Exhibit N)

⁹¹ *The Reality Of Intimidation*, Eric Wang, Op-Ed, THE [UVA] CAVALIER DAILY, <http://www.cavalierdaily.com/CVarticle.asp?ID=21349&pid=1216>, November 10, 2004

⁹² *Protestors Storm, Ransack Bush-Cheney Headquarters In Orlando*, LOCAL 6 NEWS, www.local6.com, October 5, 2004; *Second Break-In Hits A Bush Office In State*, David Postman, THE SEATTLE TIMES, October 12, 2004

⁹³ *Florida GOP Workers Claim Intimidation By Labor Protesters*, Mike Schneider, THE ASSOCIATED PRESS, October 5, 2004

were called after 50 activists “marched right in” and “took over the place for about 30 minutes” with bullhorns and chanting.⁹⁴

(i) Violence And Other Incidents of Intimidation

In 2004, Republicans were subject to an aggressive and sometimes violent campaign of harassment and intimidation orchestrated by Kerry supporters. At least three Bush-Cheney offices were shot at during the election season. A swastika was burned into the front yard of a Bush-Cheney supporter in Madison, Wisconsin. Other incidents included offices burglarized, windows smashed, tires slashed and other property damage. The following is a timeline of documented election-related violence and intimidation against the Bush-Cheney ‘04 campaign and Republicans in 2004.

September 2, 2004: Gun Shot Fired Into Huntington, WV, Republican Headquarters.⁹⁵

September 3, 2004: Windows Broken, Anti-Bush Messages Scrawled At Gallatin County, MT, Republican Headquarters.⁹⁶

September 6, 2004: Huntington, WV, Republican Headquarters Egged.⁹⁷

September 13, 2004: Swastika Drawn On Duluth, MN, Resident’s Lawn, Signs Also Defaced With Words “Nazi” And “Liar.”⁹⁸

September 16, 2004: Community College Professor In Florida Punched Republican County Chairman In Face.⁹⁹

September 22, 2004: West Elmira, NY, Resident Found Swastika Drawn On Bush Campaign Sign In His Yard.¹⁰⁰

September 23, 2004: Office Ransacked During Break-In At Vilas County, WI, Republican Headquarters, Obscene Words And Graphic Pictures Sprayed On Campaign Signs.¹⁰¹

September 26, 2004: Windows Smashed And Signs Stolen At Oxford, MS, Bush-Cheney ‘04 Headquarters.¹⁰²

⁹⁴ *Anti-Bush Crowd Needs To Calm Down*, Patrick McIlheran, MILWAUKEE JOURNAL SENTINEL, October 9, 2004

⁹⁵ *Few Leads In Shooting At GOP HQ*, www.wowktv.com, September 2, 2004

⁹⁶ *GOP Headquarters Vandalized In Political Protest*, Walt Williams, BOZEMAN DAILY CHRONICLE, September 4, 2004

⁹⁷ *Bush Rally Planned For Arena*, Bob Withers and Bryan Chambers, THE [Huntington, WV] HERALD-DISPATCH, September 8, 2004

⁹⁸ *Campaign Vandalism Increases*, Mark Stodghill, DULUTH NEWS-TRIBUNE, September 14, 2004

⁹⁹ *Fight Breaks Out At Republican Headquarters*, WCJB NEWS, www.wcjb.com, September 20, 2004

¹⁰⁰ *Swastika On Bush Sign Troubles Resident*, John P. Cleary, [Elmira, NY] STAR-GAZETTE, September 23, 2004

¹⁰¹ *Vilas County Republican Headquarters Vandalized*, WAOW NEWSLINE 9, September 23, 2004

¹⁰² *Vandals Hit Local Bush Campaign Office*, Martin Bartlett, THE DAILY MISSISSIPPIAN, September 28, 2004

October 1, 2004: Laptops Of Executive And Field Director Stolen From Bush-Cheney '04 Headquarters In Seattle, WA.¹⁰³

October 1, 2004: Swastika Burned Into Front Yard Of Bush-Cheney '04 Supporter In Madison, WI.¹⁰⁴

October 2, 2004: Collinsville, OH, Resident Chains Down Bush-Cheney '04 Signs After Several Signs Stolen And One Was Replaced With Kerry Sign.¹⁰⁵

October 3, 2004: Burglary At Thousand Oaks, CA, Victory 2004 Headquarters Where Bush-Cheney '04 Banner Was Stolen From Outside Premises.¹⁰⁶

October 5, 2004: Gun Shots Fired Into Knoxville, TN, Bush-Cheney '04 Office, Shattering Office's Glass Front Doors.¹⁰⁷

October 8, 2004: Two Men Were Caught On A Hidden Camera Tearing Down And Urinating On Bush-Cheney '04 Sign In Akron, OH.¹⁰⁸

October 9, 2004: Oxnard, CA, Supporter Placing Bush-Cheney '04 In Yards Verbally Abused, Knocked Down And Had Signs Stolen.¹⁰⁹

October 9, 2004: Bush-Cheney Signs Near Vail, CO, Cut In Half And Burned In "Ransacking."¹¹⁰

October 10, 2004: Office Windows Broken And Field Director's Laptop Bag and Purse Stolen In Burglary At Canton, OH, Victory Office.¹¹¹

October 11, 2004: Windows Broken, Petty Cash Stolen And Computers Tampered With In Burglary At Spokane, WA, Victory 2004 Headquarters.¹¹²

October 13, 2004: Walls And Windows Of York, PA, Victory 2004 Headquarters Vandalized With Pro-Kerry Spray-Paint And Signs Outside Destroyed.¹¹³

¹⁰³ *3 Computers Are Stolen From Bush Campaign Office*, David Postman and Ashley Bach, THE SEATTLE TIMES, October 7, 2004

¹⁰⁴ *Swastika Burned Into Grass On Bush-Cheney Supporter's Lawn*, WISC-TV Website, www.channel3000.com, Accessed October 12, 2004

¹⁰⁵ *Bush-Cheney Signs Going Missing In Collinsville*, THE ASSOCIATED PRESS, October 2, 2004

¹⁰⁶ *Republicans Claim Democrats Are Behind Office Attacks*, David D. Kirkpatrick, THE NEW YORK TIMES, October 26, 2004

¹⁰⁷ *Shots Fired At Knoxville Bush-Cheney Office*, Duncan Mansfield, THE ASSOCIATED PRESS, October 5, 2004

¹⁰⁸ *Men Videotaped Vandalizing Sign*, Marilyn Miller and Andale Gross, AKRON BEACON JOURNAL, October 8, 2004

¹⁰⁹ *Letter To The Editor*, VENTURA COUNTY STAR, October 13, 2004

¹¹⁰ *Welcome To The Tea Party*, Matt Zalaznick, Op-Ed, VAIL DAILY, October 9, 2004

¹¹¹ *Campaign Office Burgled Sunday*, Edd Pritchard, CANTON REPOSITORY, October 12, 2004

¹¹² *President Bush's Campaign Office In Spokane Burglarized, Vandalized*, David Postman, THE SEATTLE TIMES, October 11, 2004

¹¹³ *News In Brief From Central Pennsylvania*, THE ASSOCIATED PRESS, October 15, 2005

October 13, 2004: Window Smashed At Laconia, NH, Victory 2004 Headquarters.¹¹⁴

October 13, 2004: Kerry Supporter Caught Stealing Bush Sign In Cape Girardeau, MO, Pulled Knife On Sign's Owner And Was Arrested.¹¹⁵

October 15, 2004: Someone Destroyed Large Plywood Bush-Cheney '04 Sign, Then Tried To Smash Debris Though Glass Door Of Santa Fe, NM, Republican Party Headquarters.¹¹⁶

October 15, 2004: Someone Lined Window Sill With Bullet Casings At Littleton, NH, Republican Headquarters.¹¹⁷

October 16, 2004: Unknown Suspects Vandalized Large Bush-Cheney Campaign Sign In Hollister, CA, With Obscenities.¹¹⁸

October 17, 2004: Stickers Placed Over Windows Of Gettysburg, PA, Victory 2004 Headquarters.¹¹⁹

October 18, 2004: Eggs Thrown At Keene, NH, Victory 2004 Headquarters.¹²⁰

October 18, 2004: 21 Protesters Arrested At Bush-Cheney '04 Campaign Headquarters In Arlington, VA.¹²¹

October 20, 2004: Rocks Thrown Through Windows At Multnomah County, OR, Republican Party Headquarters.¹²²

October 21, 2004: Bomb Threat Made Against Lake Havasu, AZ, Republican Party Headquarters.¹²³

October 21, 2004: Windows Smashed At Multnomah County Republican Party Headquarters In Portland, OR.¹²⁴

¹¹⁴ *Missing Campaign Signs Signal Statewide Trend*, Kathleen D. Bailey, EXETER NEWS-LETTER, October 19, 2004

¹¹⁵ *Cape Man Claims He Was Threatened At Political Rally*, Linda Redeffer, SOUTHEAST MISSOURIAN, October 16, 2004

¹¹⁶ *Political Differences Causing Vandalism In City Different*, Steve Terrell, THE SANTA FE NEW MEXICAN, October 19, 2004

¹¹⁷ *Democrats Push Students Online To Register To Vote*, John DiStaso, THE UNION LEADER, October 21, 2004

¹¹⁸ *Partisan Tension In SBC*, Erin Musgrave, HOLLISTER [CA] FREE LANCE, October 24, 2004

¹¹⁹ *Suspect In Gettysburg Vandalism To Enter Plea In District Court*, 1320 WGET Website, www.wget.com, Accessed October 20, 2004

¹²⁰ *Democrats Push Students Online To Register To Vote*, John DiStaso, THE UNION LEADER, October 21, 2004

¹²¹ *21 Arrested In Arlington Protest Of Bush Administration AIDS Policy*, Elaine Rivera, THE WASHINGTON POST, October 19, 2004

¹²² *Someone Hurling Rocks*, THE OREGONIAN, October 22, 2004

¹²³ *Bomb Threat Made Against Lake Havasu Republican HQ*, TRI-STATE NEWS NETWORK, October 22, 2004

¹²⁴ *Oregon Political Fight Getting Rough*, Janie Har, THE OREGONIAN, October 22, 2004

October 22, 2004: Break-In Discovered At Cincinnati, OH, Victory 2004 Headquarters.¹²⁵

October 22, 2004: Break-In Discovered At Flagstaff, AZ, Victory 2004 Headquarters. Perpetrators gained entry by throwing a cinder block through a plate glass window.¹²⁶

October 22, 2004: Chunk Of Concrete Tossed Through Glass Door Of Republican Headquarters In Santa Cruz, CA.¹²⁷

October 23, 2004: Two Kerry Supporters Arrested After Stealing Pro-Bush Signs From Activist And Pushing Police Officer At Edwards Rally In St. Petersburg, FL.¹²⁸

¹²⁵ *Local Bush/Cheney Headquarters Robbed*, THE CINCINNATI ENQUIRER, October 23, 2004

¹²⁶ *Flag GOP Office Vandalized*, Seth Muller, ARIZONA DAILY SUN, October 23, 2004

¹²⁷ *Vandals Strike At GOP Office, Yes On J Business*, Jondi Gumz and Cathy Redfern, SANTA CRUZ SENTINEL, October 26, 2004

¹²⁸ *Florida In Candidates' Crossfire*, Jamie Thompson, ST. PETERSBURG TIMES, October 24, 2004

V. Vote Fraud & Illegal Voting Introduction

Vote fraud and illegal voting occurred in multiple states around the country on Election Day 2004. This section of the report catalogs the many and varied instances of vote fraud, votes illegally cast and voter registration fraud committed in the 2004 election cycle. Legislative reforms have been proposed to address the past history of vote fraud. See, Texas Review of Law and Politics, *Securing the Integrity of American Elections: The Need for Change*, Publius, Fall 2005, discussing specific proposed legislative reforms.

While this section points out where fraud occurred last year, it is also important to dispel one of the more pervasive urban legends stemming from 2004 vote: that the election in Ohio was “stolen.” A bipartisan consensus has now emerged confirming that the 2004 election in Ohio was fairly decided. In the weeks and months immediately following the November 2 vote, some alleged that the election was stolen. In January 2005, the Democrat staff of the House Judiciary Committee, led by Ranking Member Rep. John Conyers (D-MI), alleged in a report that “exit polls bolster claims of irregularities and fraud” and that “hundreds of thousands” of Democrat voters in Ohio may have been disenfranchised.¹²⁹ A lawsuit drafted by a lawyer associated with Conyers alleged that Republicans changed the election results in Ohio by “inserting unauthorized and so far undetected operating instructions into the [voting machine] software.” The suit stated that “the confederate of defendants-contestees Bush, Cheney, and Rove who was actually changing the vote totals did not need physical access to the computer,” and that a “further part of the plan to steal the election” was for White House Chief of Staff Andrew Card “to make a very nervous and shaky claim to victory in Ohio” on the morning of November 3.¹³⁰ In March 2005, Teresa Heinz Kerry echoed this charge, saying “two brothers own 80 percent of the [voting] machines used in the United States ... [it is] very easy to hack into the mother machines.”¹³¹

The DNC Voting Rights Institute’s report on the election in Ohio, released on June 22, 2005, rejected these claims that the election was stolen. According to the report, the DNC’s own “statistical study of precinct-level data does not suggest the occurrence of widespread fraud that systematically misallocated votes from Kerry to Bush.” The DNC’s experts found that the similarity between the vote patterns for Kerry in 2004 and the Democrat gubernatorial candidate in 2002 was “strong evidence against the claim that widespread fraud systematically misallocated votes from Kerry to Bush.” The DNC report further stated that long lines at the polls on Election Day did not affect the election’s final result: “[T]he difficulties experienced by African American and other voters at the polls did not, in and of themselves, cost John Kerry the election in Ohio.”¹³²

Just as it is clear that the outcome of the election in Ohio was decided fairly, it is also clear that thousands of Americans were disenfranchised by illegal votes cast on November 2.

¹²⁹ *Preserving Democracy: What Went Wrong In Ohio*, Report Of The House Judiciary Committee Democratic Staff, January 5, 2005

¹³⁰ See *Moss v. Bush*, Ohio Supreme Court, Case No. 04-2088. (Exhibit O)

¹³¹ *Teresa Heinz Kerry Hasn’t Lost Her Outspoken Way*, Joel Connelly, THE SEATTLE POST-INTELLIGENCER, March 7, 2005

¹³² *Democracy At Risk: The 2004 Election In Ohio*, Report Of The Democratic National Committee’s Voting Rights Institute, June 22, 2005

For every illegal vote cast and counted on Election Day, a ballot cast by a legitimate voter is cancelled out, effectively disenfranchising the properly registered voter. In Wisconsin, a joint federal-local law enforcement task force found “clear evidence of fraud in the Nov. 2 election in Milwaukee,” including hundreds of illegal votes by double voters and felons.¹³³ In Washington, a state judge found that more than 1,600 illegal and fraudulent votes were cast in an election decided by a mere 133 votes.¹³⁴ In both Wisconsin and Washington, illegal votes may have decided statewide elections in 2004.

In addition to actual illegal votes, there appears to have been a coordinated effort by members of some organizations to rig the election system through voter registration fraud. Criminal investigations and news reports suggest that thousands of fictional voters such as the now infamous Jive F. Turkey, Sr., Dick Tracy and Mary Poppins were registered to vote. This widespread voter registration fraud was accompanied by an apparently coordinated national litigation strategy to manipulate election laws in battleground states and, specifically, to eliminate the provisions of election law that would prevent vote fraud. If successful, this litigation may have allowed Dick Tracy to vote not once, but twice.

¹³³ *Inquiry Finds Evidence Of Fraud In Election*, Greg J. Borowski, MILWAUKEE JOURNAL SENTINEL, May 11, 2005; *Preliminary Findings Of Joint Task Force Investigating Possible Election Fraud*, May 10, 2005

¹³⁴ Transcript Of The Decision By Chelan County Superior Court Judge John Bridges, June 6, 2005

VI. Vote Fraud, Voter Registration Fraud & Election Irregularities Around The Country

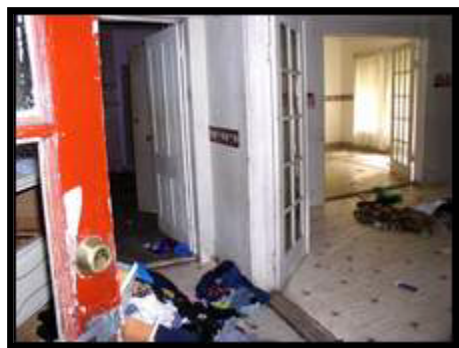
6.1 Alabama

(a) Vote Fraud Under Investigation In Alabama

According to the *Montgomery Advertiser*, “vote fraud has been a fact-of-life in Alabama elections for many years.”¹³⁵ The 2004 election cycle appears to have been no exception, as the state Attorney General’s office is reportedly investigating vote fraud allegations in West Alabama.¹³⁶

The Tuscaloosa News reported finding “blatant” vote fraud in a closely contested mayoral runoff in Greensboro.¹³⁷ Candidate Johnnie Washington won that election by 90 votes, but included in the tally were 251 absentee votes for Washington, compared to only 51 for his opponent, Vanessa Hill. Hill is contesting the election’s results “on the basis of a number of suspicious absentee ballots cast in the days leading up to the election.”¹³⁸

After the initial August election, the *News* reported finding multiple absentee ballots cast from addresses of vacant houses and people submitting ballots from addresses that were not their homes. Five people claimed the apparently vacant mobile home pictured at right as their residence in casting absentee ballots in the August election. The *News* further reported that a man at the center of the absentee ballot controversy spent two years in prison after being convicted of 15 counts of vote fraud in 1998.¹³⁹



The *News* reported finding voting irregularities in Marion similar to those discovered in Greensboro. The paper’s findings in Marion included absentee ballots cast from empty homes, a “mysterious influx of voters, described as suspicious by one official” and allegations of “intimidation and bribery to secure votes and voters who may be long dead.” The vacant house pictured at left was listed as the residence of five absentee voters, though according to a neighbor, “nobody has lived there in years.”¹⁴⁰

¹³⁵ *Group Aims To End Vote Fraud In Region*, Al Benn, Op-Ed, THE MONTGOMERY ADVERTISER, April 8, 2005

¹³⁶ *AG’s Office Investigates Black Belt Ballot Issue*, Johnny Kampis, TUSCALOOSA NEWS, January 29, 2005

¹³⁷ *Absentee Ballots Raise Questions In Greensboro*, Johnny Kampis, TUSCALOOSA NEWS, September 5, 2004

¹³⁸ *Judge Won’t Rule Yet In Greensboro Mayor Case*, Johnny Kampis, TUSCALOOSA NEWS, March 9, 2005

¹³⁹ *Absentee Ballots Raise Questions In Greensboro*, Johnny Kampis, TUSCALOOSA NEWS, September 5, 2004

¹⁴⁰ *Fraud Grips Black Belt*, Johnny Kampis, TUSCALOOSA NEWS, September 12, 2004

According to the *News*, the irregularities in Greensboro and Marion “appear to be part of a trend that may have twisted Election Day results throughout Alabama’s Black Belt, one of the poorest regions in the United States, and one with a long history of vote fraud.”¹⁴¹ However, this most recent string of vote fraud allegations moved some community activists to speak out on the issue. In early 2005, a new citizen advocacy group called Democracy Defense League (DDL) was formed in the state to “focus attention on fraudulent voter activities and to push legislators to pass more stringent laws to stop them.”¹⁴² As DDL’s chairman, former Alabama Bureau of Investigation agent Perry Beasley, recently said, “Vote fraud is a crime against democracy ... Every time it’s committed, someone is disenfranchised. It encourages apathy. It makes a mockery of the democratic process. It puts corrupt people in the place of public trust.”¹⁴³

6.2 Colorado

(a) Vote Fraud & Irregularities In Colorado

According to *The Denver Post*, prosecutors in at least 47 Colorado counties investigated cases “involving accusations of forged signatures, felons voting or people who attempted to vote twice.”¹⁴⁴ The paper reported the following numbers on vote fraud and irregularities during the November 2004 election:

- ✓ 122 people voted twice statewide, casting absentee ballots through the mail, then showing up in person to vote on Election Day;
- ✓ 120 felons cast illegal ballots statewide;
- ✓ In Denver, 81 residents voted twice and 52 felons cast ballots;
- ✓ In Jefferson County, elections officials requested that prosecutors investigate 30 cases of people attempting to vote twice and 256 cases of suspicious signatures on absentee ballots;
- ✓ In El Paso County, officials reported 23 cases of prisoners or parolees who voted.¹⁴⁵

Less than one month before Election Day, *The Denver Post* reported that Colorado’s voter rolls contained as many as 6,000 felons ineligible to vote, enough to “tip the outcome of the election” or “force the outcome of any close race into the courts.” The *Post* reported that felons had illegally voted as recently as the August 2004 primary, and that many of the 536 felons who registered to vote in 2004 did so through voter registration drives run by third-party groups. Workers in those groups reportedly “eager to sign up new voters assured them they

¹⁴¹ *Id.*

¹⁴² *Group Aims To End Vote Fraud In Region*, Al Benn, Op-Ed, THE MONTGOMERY ADVERTISER, April 8, 2005

¹⁴³ *AG’s Office Investigates Black Belt Ballot Issue*, Johnny Kampis, TUSCALOOSA NEWS, January 29, 2005

¹⁴⁴ *Vote Fraud Probed In State*, Susan Greene and Karen E. Crummy, THE DENVER POST, March 24, 2005

¹⁴⁵ *Id.*

could lawfully register and vote.” One group, the Colorado Voting Project, reportedly signed up 77 voters on a single day in the Denver County Jail.¹⁴⁶

(b) Voter Registration Fraud Indictments In Colorado

At least 7 Colorado residents working for voter registration drives have been indicted and/or pleaded guilty to vote fraud charges stemming from the 2004 election.

- ✓ ACORN worker’s girlfriend who admitted to signing up three friends to vote 40 times and registering herself 25 times was charged with 15 counts of felony forgery;¹⁴⁷
- ✓ ACORN worker plead guilty to filling out false voter registration forms for the November election, sentenced to a year probation and 150 hours of community service;¹⁴⁸
- ✓ ACORN worker charged in October with falsely filling out multiple voter forms;¹⁴⁹
- ✓ Man charged with five counts of perjury for filling out several phony registration forms for ACORN workers;¹⁵⁰
- ✓ Two men indicted on 19 and 29 counts of forgery, respectively, related to voter-registration drives;¹⁵¹
- ✓ Man charged with forging 48 voter-registration applications.¹⁵²

(c) ACORN And Other Third-Party Groups Linked To Hundreds Of Fraudulent Voter Registrations In Colorado

In the months leading up to Election Day 2004, ACORN and other third-party voter registration groups were linked to hundreds of fraudulent registration submitted to elections officials across the state. In October, Denver’s 9 News reported “widespread voter registration fraud” committed by groups such as ACORN that “could affect thousands of Colorado votes and cause chaos at the polls on November 2nd.”¹⁵³

“A review of voter registration forms in five counties has revealed hundreds of potentially fraudulent forms. KUSA-TV reported Monday that it found 719 forms in

¹⁴⁶ *6,000 Felons On Voter Lists*, Susan Greene and Jeffrey A. Roberts, THE DENVER POST, October 10, 2004

¹⁴⁷ *Briefing*, ROCKY MOUNTAIN NEWS, November 10, 2004; *Investigation Reveals Potentially Fraudulent Voter Forms*, THE ASSOCIATED PRESS, October 12, 2004

¹⁴⁸ *Briefing*, ROCKY MOUNTAIN NEWS, January 4, 2005

¹⁴⁹ *2 Charged In Vote Fraud*, Gary Gerhardt, ROCKY MOUNTAIN NEWS, October 28, 2004

¹⁵⁰ *Prosecutors Charge Another Man In Registration Fraud*, Sue Lindsay, ROCKY MOUNTAIN NEWS, November 2, 2004

¹⁵¹ *Vote Fraud Probed In State*, Susan Greene and Karen E. Crummy, THE DENVER POST, March 24, 2005

¹⁵² *Partisan Fingers Point On Voter-Fraud Issue*, Peggy Lowe, ROCKY MOUNTAIN NEWS, October 14, 2004

¹⁵³ *I-Team Investigation Uncovers Voter Registration Fraud*, KUSA-TV 9 News Website, www.9news.com, Accessed May 26, 2005

Denver, Douglas, Adams, Boulder and Lake counties that had the wrong names, social security numbers and dates of births for voters. Many of the forms were turned in by voter registration drives which pay their workers based on the number of people they sign up.”¹⁵⁴

The 9 News report stated that “most of the fraud has come from registration drives,” and identified ACORN, New Voters Project and Colorado Progressive Coalition as among the groups whose employees submitted the bogus forms.¹⁵⁵

The 9 News report indicated that some of the fraudulent forms it discovered were “completely bogus” and filled in with fake “names, addresses, social security numbers or dates of birth.” Other fraudulent forms were submitted in the names of legitimate voters, with “one or two facts changed that could affect their registration when they show up at the polls November 2nd.” For example, Colorado resident Tom Stanislawski had registered six months prior to being fraudulently re-registered and having his party identification changed. “My concern would be I’d walk in November 2nd and be unable to vote,” Stanislawski said.¹⁵⁶

Other examples of voter registration fraud cited by the 9 News report included Kym Cason, who told a reporter that in order to help her boyfriend, who worked for ACORN, she “registered herself 25 times and her friends 40 times.”¹⁵⁷ Cason was charged with 15 counts of felony forgery and five counts of misdemeanor procuring false registrations in November 2004.¹⁵⁸ Gerald Obi told 9 News that voter registration drive workers “pressured him to keep registering to vote,” and he ultimately registered 35 times. The report found that several prisoners, including alleged child molester John Turner, registered from behind bars in Douglas and Adams counties. Meanwhile, in Boulder County, more than 2,000 people have had eight or more changes to their voter registration forms.¹⁵⁹

Denver District Attorney Bill Ritter said that the people admitting to voter registration fraud in 9 News’ report needed to be prosecuted. “People are trying to corrupt the election process. People should be prosecuted,” Ritter said.¹⁶⁰

ACORN and other groups were implicated in fraudulent registration activity around Colorado. In August, after three prosecutors joined a criminal probe by the state Attorney General’s office into potentially fraudulent registrations in three counties, ACORN said that it “might be responsible” for some of the activity.¹⁶¹ In October, ACORN admitted that its

¹⁵⁴ *Investigation Reveals Potentially Fraudulent Voter Forms*, THE ASSOCIATED PRESS, October 12, 2004

¹⁵⁵ *I-Team Investigation Uncovers Voter Registration Fraud*, KUSA-TV 9 News Website, www.9news.com, Accessed May 26, 2005; *I-Team: Officials From Across The State Say Registration Workers Who Appeared In 9NEWS Stories Should Go To Jail*, KUSA-TV 9 News Website, www.9news.com, Accessed May 26, 2005

¹⁵⁶ *I-Team Investigation Uncovers Voter Registration Fraud*, KUSA-TV 9 News Website, www.9news.com, Accessed May 26, 2005

¹⁵⁷ *Id.*

¹⁵⁸ *Briefing*, ROCKY MOUNTAIN NEWS, November 10, 2004

¹⁵⁹ *I-Team Investigation Uncovers Voter Registration Fraud*, KUSA-TV 9 News Website, www.9news.com, Accessed May 26, 2005

¹⁶⁰ *I-Team: Officials From Across The State Say Registration Workers Who Appeared In 9NEWS Stories Should Go To Jail*, KUSA-TV 9 News Website, www.9news.com, Accessed May 26, 2005

¹⁶¹ *3 Prosecutors Join Vote Fraud Probe*, John Sanko, ROCKY MOUNTAIN NEWS, August 7, 2004

employees had submitted hundreds of fake registration forms in Colorado.¹⁶² However, as ACORN admitted its culpability in the registration fraud the group also lashed out at the press. According to one report, ACORN's Western regional director, Jim Fleischmann, "downplayed the severity of the problem," saying, "Just because you register someone 35 times doesn't mean they get to vote 35 times ... The local press is having a feeding frenzy on this."¹⁶³

9 News reported that there was a "record number of fraudulent registrations across" Colorado in 2004.¹⁶⁴ Election officials agreed that the level of fraudulent voter registration activity was unprecedented in Colorado history. "Everyone here at the commission has never seen anything like this. In the state we've never seen anything like this before," said Denver clerk and recorder Karon Hatchett.¹⁶⁵

Kerry campaign officials in Colorado dismissed concerns about voter registration fraud in the state, calling it a "tired tactic" by the Republicans to suppress votes. After Secretary of State Donetta Davidson warned voter registration drive leaders about fraud, Sue Casey, Colorado state director for the Kerry-Edwards campaign, responded by saying Davidson's comments were aimed at creating "an environment of fear" to discourage voters from showing up on Election Day.

"This is the classic move by Republican tacticians: create an environment of fear that discourages voters from showing up on Election Day, for this is the only way they know how to win," said Sue Casey, Kerry-Edwards 2004 Colorado state director. Casey said the tactic had worked for Republicans in Florida in 2000. "And now that they see Colorado slipping out of their previously firm grasp, they are bringing this tired tactic to the Centennial State."¹⁶⁶

(d) Partisan Tactics In Colorado Voter Registration Drives

According to a 9 News report, a voter registration group operating in Colorado under the name "Choose 2 Vote" paid workers \$3 for each Democrat or independent voter they registered and nothing for Republican applications.¹⁶⁷ The group admitted to only being interested in Democrat registrations:

"Company spokesman Derrick Lee admitted to 9NEWS he was only interested in registering Democrats. 'Yeah, what do you want me to say? It's true,' said Lee. 'The Republicans weren't paying money for voter registrations.'¹⁶⁸

¹⁶² *Faulty Voter Applications Are Blamed On Workers*, Gabrielle Crist, ROCKY MOUNTAIN NEWS, October 15, 2004

¹⁶³ *Colorado To Tackle Voter-Fraud Fears*, Valerie Richardson, THE WASHINGTON TIMES, October 14, 2004

¹⁶⁴ *I-Team Investigation Uncovers Voter Registration Fraud*, KUSA-TV 9 News Website, www.9news.com, Accessed May 26, 2005

¹⁶⁵ *Investigation Reveals Potentially Fraudulent Voter Forms*, THE ASSOCIATED PRESS, October 12, 2004

¹⁶⁶ *Partisan Fingers Point On Voter-Fraud Issue*, Peggy Lowe, ROCKY MOUNTAIN NEWS, October 14, 2004

¹⁶⁷ *I-Team Uncovers Partisan Tactics In Colorado Voter Registration Drives*, KUSA-TV 9 News Website, www.9news.com, Accessed May 26, 2005

¹⁶⁸ *Id.*

However, one Colorado county received so many questionable registration forms from “Choose 2 Vote” that it turned them over to the Secretary of State for investigation. And in August, “Choose 2 Vote” worker John McCarthy was charged with forgery and procuring false registrations for nearly 50 voters.¹⁶⁹

Canvassers for Moving America Forward, a voter registration group active in Colorado and other states in 2004, were reportedly instructed to re-register people who indicated that they were supporters of Democrat Senate candidate Ken Salazar and “walk away” from backers of Republican Senate candidate Pete Coors.¹⁷⁰ Moving America Forward is a political committee affiliated with New Mexico Governor Bill Richardson.¹⁷¹

6.3 Florida

(a) ACORN Linked To Voter Registration Fraud In Florida

In October 2004, after a series of high-profile voter registration fraud incidents involving ACORN employees, the Florida Department of Law Enforcement (FDLE) announced that ACORN was the target of a statewide vote fraud investigation. FDLE Spokesman Tom Berlinger confirmed that ACORN was the main target when he told the South Florida *Sun-Sentinel*, “So far the only group we’ve identified with certainty in North and South Florida as having connections to some of the vote fraud issues is ACORN.”¹⁷²

The following is a summation of the top voter registration fraud incidents involving ACORN:

- ✓ **Mac Stuart, Former Miami-Dade Field Director For ACORN, Said There Was “A Lot Of Fraud Committed” And Republican Voter Registrations Were “Routinely Kicked Back.”** Stuart alleged that ACORN violated a slew of election laws, including “illegally copying voter registration applications and selling them to labor union groups, allowing people to sign petitions who were not registered voters and suppressing Republican voter registration applications.” Stuart said it was common for ACORN to hold on to hundreds if not thousands of registration cards for weeks at a time and photocopy them for money.¹⁷³

Only a week before the election – and after the registration deadline – Stuart turned in to election officials a box of nearly 180 ACORN voter registration forms that he said the group had been holding on to. Stuart, who was fired from his position with ACORN in August after being accused of trying to cash a paycheck that wasn’t his, claims he was

¹⁶⁹ *Id.*

¹⁷⁰ *Election Tactics Push Envelope*, Michael Riley, THE DENVER POST, October 24, 2004

¹⁷¹ *Gov. Richardson: Kerry Did What He Could But Bush Ran Strong And Smart*, THE ASSOCIATED PRESS, November 3, 2004

¹⁷² *Voter Registration Drive A Subterfuge, Lawsuit Claims*, Brittany Wallman, [South Florida] SUN-SENTINEL, October 30, 2004

¹⁷³ *Ex-Worker Sues Activist Group*, Jeremy Milarsky, [South Florida] SUN-SENTINEL, October 21, 2004

actually fired just days after voicing his concerns about ACORN's practices at a group meeting in late July.¹⁷⁴

- ✓ **Florida Residents Suing ACORN For Disenfranchising Them By Mishandling Voter Registration Forms.** Eleven South Florida residents who were disenfranchised by ACORN's apparent mishandling of their registration cards sued the group in late October 2005. According to their attorneys, the eleven individuals – one from Broward and ten from Miami-Dade – filled out voter registration forms that were never turned in by ACORN. According to the *Sun-Sentinel*, 19-year-old Miami resident Jude Daniel was among those whose voter registration forms were found after the registration deadline in ACORN's Miami office. Daniel was not on the voter rolls even though he filled out the form in August. "It was important to me ... It would have been my first time," Daniel told the *Sun-Sentinel*.¹⁷⁵
- ✓ **Former St. Petersburg Mayor Charles Schuh, A 68-Year-Old Democrat, Was Fraudulently Registered By ACORN As A 30-Year-Old Female Republican.** Schuh, whose registration information was changed by an ACORN employee, said, "It was a blatant case of vote fraud and forgery, and someone ought to be taken to task for that ... [W]hen things like this happen, it further degrades the people's trust in the election process."¹⁷⁶
- ✓ **ACORN Investigated In St. Petersburg For Changing Party Affiliations On Voter Registration Forms.** The state attorney's office investigated allegations that ACORN fraudulently changed party affiliations on voter-registration forms in St. Petersburg.¹⁷⁷
- ✓ **Thousands Of Pinellas And Hillsborough County Residents Were Unable To Vote In August Primary Because ACORN And Other Groups Failed To Submit Their Voter Registration Applications On Time.** According to the *St. Petersburg Times*, more than 2,500 Pinellas County residents and another 1,500 Hillsborough residents who thought they had registered for the Aug. 31 primary were told they couldn't vote because the groups that helped them register failed to turn in their applications on time. The majority of the late registration forms, including more than 2,100 in Pinellas, reportedly came from ACORN. Hillsborough Supervisor of Elections Buddy Johnson called ACORN's actions in this manner "absolutely unacceptable."¹⁷⁸
- ✓ **ACORN Consultant Hired To Run Florida Minimum Wage Campaign Left Group After "He Grew Increasingly Uncomfortable With ACORN's Methods."** Veteran St. Petersburg political consultant Joe Johnson left ACORN after becoming concerned about

¹⁷⁴ *Filled-In Voter Forms Surface*, Brittany Wallman and Alva James-Johnson, [South Florida] SUN-SENTINEL, October 27, 2004; *Ex-Worker Sues Activist Group*, Jeremy Milarsky, [South Florida] SUN-SENTINEL, October 21, 2004

¹⁷⁵ *Voter Registration Drive A Subterfuge, Lawsuit Claims*, Brittany Wallman, [South Florida] SUN-SENTINEL, October 30, 2004

¹⁷⁶ *Signup Mistakes Blamed On Group*, Tom Zucco, ST. PETERSBURG TIMES, October 4, 2004

¹⁷⁷ *Voter Registration Process Causes Concern*, Dara Kam, THE PALM BEACH POST, October 7, 2004

¹⁷⁸ *Signup Mistakes Blamed On Group*, Tom Zucco, ST. PETERSBURG TIMES, October 4, 2004; *Activist Group Blamed For Voter Roll Goofs*, Tom Zucco, ST. PETERSBURG TIMES, October 4, 2004

some of its practices, including its failure to turn in complete voter registration cards. Johnson told CNN, “I saw some things I was very uncomfortable with.”¹⁷⁹

(b) ACORN’s Minimum Wage Hike Campaign Aimed To Increase Democrat Turnout

While ACORN’s activities were increasingly reported in the media toward the end of the campaign, its start in Florida during the 2004 cycle has been less well documented. In August 2003, ACORN announced that it would spearhead a campaign to put a ballot initiative before Florida voters to raise the minimum wage in the state to \$6.15 an hour. However, according to the *St. Petersburg Times*, the real goal behind the minimum wage amendment was to defeat President Bush and increase Democrat turnout in the November 2004 election.¹⁸⁰ According to a 2003 internal ACORN plan:

“A Florida constitutional amendment initiative to create a minimum wage of \$6.15 with indexing will help defeat George W. Bush and other Republicans by increasing Democratic turnout in a close election ...”¹⁸¹

The minimum wage amendment was “aimed at influencing the presidential election” right “from the start” and its “top two donors [were] Democratic-base groups: \$225,000 from MoveOn.org and \$499,000 from the National Education Association.”¹⁸²

ACORN and its various subsidiary groups have 501(c) 3 and 501(c) 4 tax designations.¹⁸³ As such under federal tax law, its 501(c) 3 organizations are barred from engaging in partisan political activity. Similarly, the federal Bipartisan Campaign Reform Act (BCRA) is an effort to limit the role of “soft money” in federal political activity with a strict prohibition against coordinated activity between a federal campaign and outside organizations. The purpose of this report is not to address violations of tax law or campaign finance law. However, it is clear from the documents that we have received that ACORN was acting in Florida and a number of other battleground states in a clearly partisan manner in coordination with Democrat organizations and candidates.¹⁸⁴ The effect is to have tax deductible funds which are undisclosed and unlimited being used to influence a federal election in a clearly partisan manner. This may have even involved federal grants, as an ACORN subsidiary nonprofit, ACORN Housing Corporation, reported receiving more than \$1.7 million in government grants in 2002 and 2003.¹⁸⁵

¹⁷⁹ *Group Faces Accusations Of Broken Voting Laws*, Lucy Morgan, ST. PETERSBURG TIMES, October 22, 2004; CNN’s “Newsnight With Aaron Brown,” October 27, 2004

¹⁸⁰ *Group Accused Of Voter Registration Violations*, Lucy Morgan, ST. PETERSBURG TIMES, October 22, 2004

¹⁸¹ Florida ACORN, “Floridians For All: Campaign Plan For A November 2004 Minimum Wage Constitutional Amendment Initiative,” October 1, 2003 (Exhibit P)

¹⁸² *Wage Initiative Tied To Kerry Voters*, Paige St. John, THE [Fort Myers] NEWS-PRESS, October 25, 2004

¹⁸³ *ACORN & The Money Tree*, Meghan Clyne, NATIONAL REVIEW ONLINE, October 31, 2004

¹⁸⁴ Florida ACORN, “Floridians For All: Campaign Plan For A November 2004 Minimum Wage Constitutional Amendment Initiative,” October 1, 2003

¹⁸⁵ *ACORN & The Money Tree*, Meghan Clyne, NATIONAL REVIEW ONLINE, October 31, 2004

(c) **ACORN, MoveOn.org And Mac Stuart**

ACORN hired Mac Stuart as coordinator for minority voter outreach for its voter registration effort in Miami-Dade County. In this position, Stuart supervised the voter registration forms that were collected, copied and sent to ACORN's voter registration arm Project Vote in New York and also filed with the election officials for registration. Mr. Stuart became increasingly concerned about the operation ACORN conducted, especially after he was told by an election official that it was illegal to copy voter registration forms. He told his supervisor of this concern about illegal activity and was told not to talk about it. Stuart also learned that 1,200 Republican voter registration forms had been segregated from the other voter registrations into a separate box and understood that ACORN was not going to turn them in. He secretly spoke with an official at the Florida Chamber of Commerce, which was opposing ACORN's minimum wage initiative in 2004, and this individual said that he should turn in the 1,200 Republican voter registrations before the deadline. Stuart did turn them in. However, Mr. Stuart found another box of 181 forms that he was told would be destroyed. He took these and reported ACORN's activities to election officials and the press. ACORN then fired Stuart. After being fired, Stuart filed suit against ACORN alleging that he was wrongly terminated because he reported its illegal acts. ACORN has countersued for libel and slander.¹⁸⁶

Various e-mails document that MoveOn.org, Project Vote and American Families United were assisting in the funding of this effort. ACORN would send Project Vote and American Families United (to their Brooklyn NY office) copies of completed voter registration cards. It is illegal under Florida law to copy and sell voter registrations cards. MoveOn.org, Project Vote and American Families would then pay ACORN \$4.00 per registration card (payment for registrations is illegal under Florida law). The payment for the voter registration cards was sent to the ACORN subsidiary Citizens Consulting, Inc, (CCI) a 501(c)(3) Louisiana corporation. There is also evidence of cash transfers of at least \$25,000 by MoveOn.org to Florida ACORN to fund this effort. Under this campaign, which was coordinated with Project Vote/Voting for America, Inc., ACORN was to provide the staffing for the field canvassers involved in the voter registration and get-out-the-vote effort, who would be paid by CCI.¹⁸⁷

(d) **Other Voter Registration Fraud Issues In Florida**

- ✓ **Duval Voter Registrations Included Addresses Of Parking Lot, Public Park, And Utilities Building.** In early October 2004, Duval County elections officials asked prosecutors to investigate "possible vote fraud involving 25 registration forms with apparently bogus addresses, including some that match a public park, a parking lot and a utilities building." *The Associated Press* checked each address and found only one that matched an occupied house, and found that most of the addresses didn't exist.¹⁸⁸

¹⁸⁶ Depositions of ACORN-Associated Individuals In Mac Stuart Case (Exhibit Q, Q1 and Q2)

¹⁸⁷ Victory 2004 Florida Coordinated Campaign Plan, "Florida Victory 2004," September 3, 2004 (Exhibit R); Depositions of ACORN-Associated Individuals In Mac Stuart Case; Florida ACORN, "Floridians For All: Campaign Plan For A November 2004 Minimum Wage Constitutional Amendment Initiative," October 1, 2003

¹⁸⁸ *Fla. Officials Asked To Probe Vote Fraud*, Brendan Farrington, THE ASSOCIATED PRESS, October 7, 2004

- ✓ **New Jersey Man Whose “Tactics Have Generated Well-Publicized Suspicions And Accusations Of Election Fraud” Canvassed Florida Neighborhoods For Kerry Campaign.** Craig Callaway, a part-time city council president in Atlantic City, worked as a canvasser for Kerry in Pinellas County for a few weeks before being asked to leave the campaign. According to the *St. Petersburg Times*, a judge voided Callaway’s city council election in 2003, concluding that more than 200 votes he received came from forged or fraudulent absentee ballots. The judge reportedly said that Callaway’s election “was so contaminated by fraud and misconduct that the mathematical result must be rendered in doubt.”¹⁸⁹
- ✓ **“Howard The F. Duck” Of Coconut Creek Registered To Vote In Broward County.**¹⁹⁰

(e) **Double-Voting And Inaccurate Voter Rolls In Florida**

Nearly 100 voters in at least five Florida counties voted more than once in the 2004 election. It was reported in January that the FBI and U.S. Attorney’s office were investigating 59 cases of double voting in Duval County. According to the *Florida Times-Union*, at least 41 of these double votes counted while another 18 involving provisional ballots were not part of the final tally.¹⁹¹ Broward County officials referred to the Florida Department of Law Enforcement (FDLE) at least 30 cases of people voting at early-voting locations and also voting at the polls on Election Day.¹⁹² In Palm Beach County, three voters reportedly voted twice by casting absentee ballots and also showing up at the polls.¹⁹³ There were also reports of double voting in Volusia and Sumter counties.¹⁹⁴

Despite election reforms enacted after the 2000 recount, problems with Florida’s voter rolls, and the potential for massive double-voting, persisted in 2004. The *Chicago Tribune* published an analysis in December 2004 finding that Florida had more than 64,000 dead people on its voter rolls, the most of six battleground states analyzed by the paper.¹⁹⁵ The *New York Daily News* reported in August that some 46,000 people were illegally registered to vote in both Florida and New York City. The paper found that between 400 and 1,000 registered voters actually voted twice in at least one election.¹⁹⁶ In September, the *Cleveland Plain Dealer* reported that more than 27,000 people were listed as active voters in Ohio and Florida, and as many as 400 people voted in both states in the same election in the last four years.¹⁹⁷ In October,

¹⁸⁹ *Fraud Issues Haunt Canvasser*, Adam C. Smith, ST. PETERSBURG TIMES, October 26, 2004

¹⁹⁰ *Broward Mailing New Ballots*, Tim Reynolds, THE ASSOCIATED PRESS, October 28, 2004

¹⁹¹ *Double Voting Being Investigated*, David DeCamp, FLORIDA TIMES-UNION, January 25, 2005

¹⁹² *Double-Voters’ Names Going To Prosecutors*, Amy Sherman, THE MIAMI HERALD, November 14, 2004;

Absentee-Ballot Glitches Prompt Request For Inquiry, Erika Bolstad, THE MIAMI HERALD, November 17, 2004

¹⁹³ *Possible Attempts To Double Vote Eyed*, George Bennett, THE PALM BEACH POST, November 5, 2004

¹⁹⁴ *Volusia Canvassers Examine 3 In Vote Fraud*, Ludmilla Lelis and Jeff Libby, ORLANDO SENTINEL, November 4, 2004; *Area Voters Encounter Few Snags*, Lindsay Jones and John Pacenti, THE PALM BEACH POST, November 3, 2004

¹⁹⁵ *Dead Voters On Rolls, Other Glitches Found In 6 Key States*, Geoff Dougherty, CHICAGO TRIBUNE, December 4, 2004

¹⁹⁶ *Exposed: Scandal Of Double Voters*, Russ Buettner, [New York] DAILY NEWS, August 22, 2004

¹⁹⁷ *Voters Double-Dip In Ohio, Fla.*, Scott Hiasen, Dave Davis and Julie Carr Smyth, [Cleveland] PLAIN DEALER, October 31, 2004

the *Orlando Sentinel* found that over 68,000 people were registered to vote in Florida and either Georgia or North Carolina. The paper also found 1,650 cases in which voters cast ballots in Florida and also in another state in the 2000 and 2002 elections.¹⁹⁸

6.4 Illinois

(a) Nine Democrats Found Guilty Of Vote-Buying In East St. Louis

On June 29, 2005, a federal jury convicted Charles Powell, Chairman of the East St. Louis Democratic Party, and four others of felony conspiracy to commit vote fraud. The jury deliberated for more than five hours before convicting the five “of scheming to buy votes with cash, cigarettes and liquor last November to try to get key Democrats elected.” Prosecutors alleged that money for the vote-buying “flowed from the Belleville-based St. Clair County Democrats to their East St. Louis counterparts in a bid to elect certain Democratic candidates, including Mark Kern as St. Clair County Board chairman.” Each count carries up to five years in prison and \$250,000 in fines.¹⁹⁹

The five convictions on June 29 brought the total number of East St. Louis Democrats found guilty of vote-buying in the last four months to nine. On March 22, 2005, four Democrat activists in East St. Louis pleaded guilty to paying voters \$5 to \$10 to vote for the “Democratic ticket” in the November 2004 election. Those pleading guilty included three precinct committeemen and one precinct worker. According to the *Belleville News-Democrat*, the money used to buy votes came from the St. Clair County Democratic Central Committee, which paid \$73,326 to East St. Louis Democratic precinct committeemen days before the election.²⁰⁰

Powell, then an East St. Louis City Councilman, was indicted in March 2005 along with four others on charges of “paying residents to vote in the Nov. 2 election to try to influence the races for Supreme Court, County Board chairman and president.” Powell and three of the others charged served as Democrat precinct committeemen. At the time, all five pleaded innocent to the charges.²⁰¹ Powell subsequently lost his bid for re-election to the City Council in April 2005.²⁰²

Among those convicted with Powell was Kelvin Ellis, the city’s Director of Regulatory Affairs and a Democratic precinct committeeman.²⁰³ Ellis was already in jail at the time of his indictment charged in January 2005 with plotting the murder of a witness to a federal vote fraud investigation. According to the indictment, Ellis plotted to kill a witness who told the FBI that

¹⁹⁸ *Double Votes Taint Florida, Records Show*, Roger Roy and Beth Kassab, ORLANDO SENTINEL, October 23, 2004

¹⁹⁹ *Federal Jury Convicts Five People In Federal Vote Fraud Trial*, THE ASSOCIATED PRESS, June 29, 2005

²⁰⁰ *Four Plead Guilty To Vote-Buying*, Beth Hundsdorfer, BELLEVILLE NEWS-DEMOCRAT, March 23, 2005

²⁰¹ *ESL Party Chairman Is Indicted*, Mike Fitzgerald and Beth Hundsdorfer, BELLEVILLE NEWS-DEMOCRAT, March 24, 2005; *Five Are Charged With Election Fraud*, Michael Shaw and Doug Moore, ST. LOUIS POST-DISPATCH, March 24, 2005

²⁰² *Powell Loses Race For Council*, Mike Fitzgerald, BELLEVILLE NEWS-DEMOCRAT, April 6, 2005

²⁰³ *Five Are Charged With Election Fraud*, Michael Shaw and Doug Moore, ST. LOUIS POST-DISPATCH, March 24, 2005

he had committed election fraud and other offenses.²⁰⁴ “[W]hen voters are paid for their votes, our democracy is corrupted, and corrupted for all,” said U.S. Attorney Ronald Tenpas after announcing the indictments.²⁰⁵

6.5 Kentucky

(a) Kentucky State Senator Indicted On Vote-Buying Charges

On May 5, 2005, Kentucky state Senator Johnny Ray Turner (D) was indicted on charges of accepting illegal campaign contributions and buying votes in his 2000 primary election campaign. Turner’s campaign treasurer and cousin, Loren Glenn Turner, and businessman Ross Harris were also indicted for their participation in the scheme. According to the Louisville *Courier-Journal*, the indictments were the “latest in a broader federal investigation into allegations of voting fraud in several Eastern Kentucky elections.” Loren Glenn Turner and Ross Harris were convicted of similar charges in a separate case involving a 2002 judicial election in Pike County in September 2004. All three have claimed innocence in this latest case.²⁰⁶

The federal indictment alleged that the defendants conspired to funnel money from Ross Harris to Johnny Ray Turner’s campaign through straw donors. In addition, the three allegedly bought votes by delivering checks with the payee information left blank. While the defendants claimed that the funds were for “vote hauling,” a legal activity in Kentucky, the U.S. Attorney alleges that they never intended it for such lawful purposes.²⁰⁷

U.S. Attorney Gregory Van Tatenhove stated that the point of the indictments was to make sure that “the vast majority of votes that are cast honestly” are “not diluted” by illegal actions.²⁰⁸ Meanwhile, the *Lexington Herald Leader* editorialized against the practice of paid vote hauling. Noting that Turner paid “more than 650 people a total of about \$34,000 to haul votes” during his 2000 campaign, the *Herald Leader* stated that while campaigns helping citizens get to the polls is good, “paid vote hauling all too often is no more than thinly disguised vote buying.”²⁰⁹ A trial is slated to begin on July 25 for Johnny Ray Turner and Loren Glenn Turner, while Ross Harris’ trial has been separated from the others due to his poor health.²¹⁰

²⁰⁴ *Murder Plot Charge Stems From Voting Probe*, Michael Shaw and Douglas Moore, ST. LOUIS POST-DISPATCH, January 22, 2005

²⁰⁵ *ESL Party Chairman Is Indicted*, Mike Fitzgerald and Beth Hundsdorfer, BELLEVILLE NEWS-DEMOCRAT, March 24, 2005.

²⁰⁶ *Senator, 2 Other Men Are Indicted*, Elisabeth J. Beardsley, THE [Louisville] COURIER-JOURNAL, May 6, 2005

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *End Vote Hauling*, Editorial, LEXINGTON HERALD LEADER, May 5, 2005

²¹⁰ *Federal Vote-Fraud Trials To Be Separate*, Lee Mueller, LEXINGTON HERALD LEADER, May 18, 2005

6.6 Michigan

(a) ACORN Linked To Voter Registration Fraud In Michigan

In late September 2004, the *Detroit Free Press* reported that campaign workers in several Michigan counties were under investigation for submitting thousands of fraudulent voter registrations to elections officials in the state. The fraud appeared to be an outgrowth of “unprecedented” voter registration campaigns conducted in Michigan by third-party groups aiming to influence the November election. The *Free Press* named two such groups as having “submitted apparently-fraudulent applications,” Public Interest Research Group in Michigan (PIRGIM) and ACORN/Project Vote.²¹¹

The voter registration fraud in Michigan included efforts to “register nonexistent people or forging applications for already-registered voters” in Wayne, Oakland, Ingham and Eaton counties, according to the report. Ingham County Clerk Mike Bryanton said some of the fraud included “names taken out of the phone book and as many as eight people registered from a single apartment address.” The voter registration drives “produced thousands of registration applications from voters already on the rolls” in Detroit. State Elections Director Christopher Thomas said the “irregularities were like nothing he had seen before.” Thomas said that voter registration fraud “undermines confidence in the system and burdens local elected officials.” Officials from PIRGIM and ACORN/Project Vote “downplayed the issue” of voter registration fraud in the state, saying that there were a limited number of fraudulent registrations that were generally the work of inexperienced workers.²¹²

A *Free Press* editorial took on PIRGIM and ACORN/Project Vote, calling fraudulent voter registrations “yet another blow” to the election system. The paper wrote that voter registration fraud puts the integrity of the entire system “at stake.” The *Free Press* further noted that the “last thing” election workers needed was “a flood of new voter applications of dubious origin,” as they were already under pressure to get things exactly right after the Florida recount debacle.²¹³

6.7 Minnesota

(a) ACORN Worker Caught With Hundreds Of Voter Registration Forms In Trunk Of His Car

When police pulled a man over for running a stop sign at Minneapolis-St. Paul International Airport in late September 2004, they made a startling discovery in his trunk: more than 300 voter registration forms that had been filled out but never delivered to the Secretary of State’s Office. The car’s driver, Joshua Reed of St. Louis Park, identified himself as a former employee of ACORN’s voter registration drive in the Twin Cities.²¹⁴

²¹¹ *Campaign Workers Suspected Of Fraud*, Dawson Bell, DETROIT FREE PRESS, September 23, 2004

²¹² *Id.*

²¹³ *Vote Fraud: Phony Registrations Are Yet Another Blow To System*, Editorial, DETROIT FREE PRESS, September 27, 2004

²¹⁴ *Stash Of Voter Cards Probed*, Patrick Sweeney, [St. Paul] PIONEER PRESS, October 8, 2004

Minnesota law requires registration forms to be turned in within ten days of being filled out and signed, but the forms found in Reed's car were weeks or months old. Police took the forms to the Secretary of State's office where workers photocopied them. Secretary of State Mary Kiffmeyer asked metro-area county election officials to accept the photocopies as valid registrations, which they did. However, a handful of voters were unable to have their registrations processed as water damage caused some of the forms to be illegible. Since the forms contained sensitive personal data, like signatures, driver's license numbers and full dates of birth, there was significant potential for identity theft. Reed reportedly told authorities he had been fired from ACORN for making copies of the forms, though ACORN denied that assertion.²¹⁵

Reed, who faced an unrelated felony drug case when he was pulled over in September, pleaded guilty on December 4 to two felony counts and admitted to failing to promptly turn over the voter registration forms and forging signatures on 18 other voter registration forms. Hennepin County Attorney Amy Klobuchar said of the case, "It was very important for the public integrity of our electoral system that somebody, if they do something like this, gets charged, gets convicted and gets consequences."²¹⁶

6.8 Missouri

(a) ACORN Linked To Voter Registration Fraud In Missouri

In September 2003, St. Louis Election Board workers discovered more than 1,000 suspicious new voter registration forms among a batch of 5,000 submitted by ACORN. Keena Carter, the election board's deputy Democratic director, first became suspicious after discovering a blatantly fraudulent form attempting to re-register her brother, Alderman Greg Carter (D-27th Ward), under the name "Alderman Gregory" and listing his office address as his home. Election Board workers called one of the names listed on the suspicious forms only to find that the name listed on the form was that of a baby. Many of the bogus forms listed addresses in Illinois and elsewhere in Missouri outside of St. Louis. ACORN blamed most of the group's fraudulent registrations on four temporary workers that ACORN said it fired after the workers admitted filling out forms with fake names, addresses and Social Security numbers.²¹⁷

ACORN employees submitted fraudulent voter registration forms in Kansas City as well, according to news reports. Andrew Ginsberg, ACORN's head organizer in Kansas City, admitted to firing "five or six employees" for submitting fraudulent registrations to election officials, and turned their names over to police. These cases reportedly included ACORN workers making up names as well as submitting duplicate registrations.²¹⁸

²¹⁵ *Stash Of Voter Cards Probed*, Patrick Sweeney, [St. Paul] PIONEER PRESS, October 8, 2004

²¹⁶ *Man Pleads Guilty In Voter Registration Scam*, THE ASSOCIATED PRESS, December 7, 2004

²¹⁷ *Voter Registration Fraud Dogs City*, Jo Mannies, ST. LOUIS POST-DISPATCH, September 19, 2003

²¹⁸ *Political Groups Using Incentives To Encourage Voter Registration*, David A. Lieb, THE ASSOCIATED PRESS, June 27, 2004

Less than a month before the November election, workers at the St. Louis County Board of Election were still finding fraudulent registrations. KMOV News 4 reported in early October that election officials were “trashing hundreds of faulty voter registrations, most of them collected by voter drive groups like Pro-Vote and America Coming Together.” KMOV’s report indicated that 10,000 new voter registration forms were submitted to the county elections office in the days before the registration deadline and asked, “[C]an all of them be checked before November 2?”²¹⁹

(b) Operation Big Vote And Voter Registration Fraud In St. Louis

In February 2005, a St. Louis jury convicted Nonaresa Montgomery, the head of Operation Big Vote, of lying to a grand jury investigating thousands of fraudulent voter registration forms turned in to the city elections board before the 2001 mayoral primary. Montgomery’s perjury stemmed from her statement that she could not track the cards that she turned into the board when in fact she could.²²⁰ Testimony in the case indicated that destroying copies of the fraudulent forms was discussed at a meeting attended by Montgomery, St. Louis Comptroller Darlene Green, assistant Democratic election board director Keena Carter and longtime political activist Pearlie Evans.²²¹

Six Operation Big Vote volunteers pled guilty in December 2004 to dozens of election law violations for filling out the fraudulent forms.²²² Prosecutors had alleged that Operation Big Vote used names of dead people (including that of longtime Alderman Albert “Red” Villa, who died in 1990), prepared multiple registration forms for the same person, filled out forms on behalf of others with or without their permission and simply made up people to register.²²³

(c) Fraudulent Voter Registration Activity In Missouri By America Coming Together (ACT) And Missouri Pro-Vote

In June 2004, the St. Louis-based nonpartisan nonprofit Center for Ethics and the Free Market reported that thousands of duplicative and fraudulent voter registration forms were filed in the county by America Coming Together (ACT) and Missouri Pro-Vote. The Center found that more than a quarter of the voter registration applications turned in to St. Louis officials by these two groups were “deemed duplicative,” and hundreds were rejected by election officials as they came from ineligible voters.²²⁴

²¹⁹ *Investigation Reveals Phony Registration Cards*, Jamie Allman, KMOV Website, www.kmov.com, October 7, 2004

²²⁰ *Jury Finds Montgomery Guilty In Vote Fraud Case*, Robert Patrick, ST. LOUIS POST-DISPATCH, February 11, 2005

²²¹ *Darlene Green Testifies In City Vote Fraud Trial*, Robert Patrick, ST. LOUIS POST-DISPATCH, February 10, 2005

²²² *Jury Finds Montgomery Guilty In Vote Fraud Case*, Robert Patrick, ST. LOUIS POST-DISPATCH, February 11, 2005

²²³ *Head Of 2001 Voter-Registration Drive Convicted Of Perjury*, THE ASSOCIATED PRESS, February 10, 2005

²²⁴ The Center For Ethics And The Free Market, *Laying The Groundwork: A Study Of Voter Registration In Missouri*, www.centerforethics.org, June 2004 (Exhibit S)

(d) Corrupted Voter Rolls And Double-Voting In Missouri

In May 2004, Democrat State Auditor Claire McCaskill released an audit finding that the St. Louis Election Board's voter files included dead people, felons and Illinois residents. McCaskill's audit found that "nearly 10 percent, or 24,000, of the city's registered voters are either dead, been convicted of a felony, registered in another jurisdiction or otherwise questionable."²²⁵

In September 2004, the *Kansas City Star* reported that more than 300 people may have voted twice in the same election in Missouri in 2000 and 2002, though the number "could be even higher." The *Star* found about 150 potential double-voters in St. Louis or St. Louis County, 60 in the Kansas City area and the rest spread around the state.²²⁶

6.9 Nevada

(a) Voter Registration Fraud In Nevada

Voter registration fraud "plagued Clark County" in 2004. After the fictional horror movie character Freddy Krueger registered to vote in Clark County, top elections official Larry Lomax began to sound the alarm bell about voter registration fraud in the Las Vegas area. "We've never seen anything close to this," Lomax told the *Las Vegas Review-Journal*. His office flagged several hundred suspicious voter registration forms and Lomax said he had a stack of "obviously fraudulent" forms. Some of the fraudulent forms included the names of clearly fictitious people, while others had names of illegal immigrants or names of registered voters with party affiliations suspiciously switched.²²⁷

Lomax believed that it was money, and not necessarily partisan interest, that fueled much of the voter registration fraud in the Las Vegas area. One voter registration worker reportedly left his pay stub in a stack of forms, which showed him being paid by the form, not the hour, a violation of state law. Another worker flatly told Lomax that he was being paid by the form. More than 100 nonprofit groups requested voter registration forms from Lomax's office, and though he declined to say which ones submitted the fraudulent registrations, he did indicate they were smaller, less well-known groups.²²⁸

(b) Charges Of Partisan Voter Registration Fraud In Nevada

In October 2004, Sproul & Associates, a Republican National Committee vendor paid to do voter registration work, came under intense scrutiny for its activity in Nevada. Eric Russell, a former employee of the Sproul & Associates' voter registration effort Voters Outreach of

²²⁵ *Audit Critical Of City Election Board*, THE ASSOCIATED PRESS, May 26, 2004

²²⁶ *One Person, One Vote? Not Always*, Greg Reeves, THE KANSAS CITY STAR, September 5, 2004

²²⁷ *Vote Fraud Allegations: Judge Denies Request*, Adrienne Packer and J.M. Kalil, LAS VEGAS REVIEW-JOURNAL, October 16, 2004; *Fake Voter Sign-Ups Increasing*, Erin Neff and Brian Haynes, LAS VEGAS REVIEW-JOURNAL, July 9, 2004; *County Battling Vote Fraud*, Adrienne Packer, LAS VEGAS REVIEW-JOURNAL, July 17, 2004

²²⁸ *County Battling Vote Fraud*, Adrienne Packer, LAS VEGAS REVIEW-JOURNAL, July 17, 2004

America, claimed to have witnessed his supervisors tearing up Democrat registration forms. Russell, who admitted to being a disgruntled employee upset about not being paid for work he claimed to have done, said he witnessed his supervisor shred eight to 10 Democratic registration forms from prospective voters.²²⁹

Sproul & Associates denied Russell's allegations. DNC Chairman Terry McAuliffe cited the Nevada allegations as evidence of the GOP's "systematic efforts to disenfranchise voters all over the country." Republicans said Democrats were using "selective outrage" in seizing on the Russell allegations and pointed to similar charges against Democrat-aligned voter registration groups in Nevada. Republicans presented to the press three registration forms submitted by Moving America Forward, a group linked to Democrat Gov. Bill Richardson of New Mexico that listed addresses that do not exist or are empty lots. The NAACP was also contacted by Clark County elections officials in regard to "problems with voter registration cards."²³⁰

On the basis of Russell's allegations, the Nevada Democratic Party sued the state of Nevada to reopen voter registration only in Clark County. A state court judge rejected the suit, saying that Democrats' thin evidence of registration forms actually being destroyed did not justify reopening the registration process.²³¹

In late October, Nevada Secretary of State Dean Heller announced that a state investigation of Eric Russell's allegations against Sproul & Associates found "no evidence of an organized or concerted effort which would influence or impact the result of the elections in Clark County based on these allegations."²³²

(c) Felons Registered To Vote In Nevada

In October 2004, the *Chicago Tribune* reported finding more than 700 felons illegally registered to vote in Clark County. The *Tribune's* list included people "serving time in prison, those on parole, and those who have committed violent crimes and sex offenses," all of whom were banned from voting, according to state law. According to the local Board of Elections, the county did not "have the staff" to check the felon registrant names.²³³

²²⁹ *Executive Denies Voter Registration Forms Destroyed In Nevada*, Adam Goldman, THE ASSOCIATED PRESS, October 13, 2004

²³⁰ *Registering Voters: Add One, Take Away Two*, Jo Becker and Thomas B. Edsall, THE WASHINGTON POST, October 14, 2004; *Vote Fraud Allegations: Judge Denies Request*, Adrienne Packer and J.M. Kalil, LAS VEGAS REVIEW-JOURNAL, October 16, 2004; *Extent Of Vote Fraud In County Unknown*, Kirsten Searer, LAS VEGAS SUN, July 21, 2004

²³¹ *Nevada Judge Declines To Reopen Voter Registration In Vegas Area*, Ken Ritter, THE ASSOCIATED PRESS, October 15, 2004

²³² Nevada Secretary Of State, "Alleged Vote Fraud Investigations Ongoing," Press Release, October 28, 2004

²³³ *Felons Slip Through The Net Of Voter Registration Rules*, Michael Martinez and Geoff Dougherty, CHICAGO TRIBUNE, October 31, 2004

6.10 New Mexico

(a) Voter Registration Fraud In New Mexico

It was clear in August 2004 that New Mexico would have a significant problem with voter registration fraud. That month, Bernalillo County Clerk Mary Herrera estimated that she had some 3,000 registration forms with one problem or another making them invalid. “We have a mess here. ... I’d rather say it now, so we have time to straighten it out,” Herrera said. The problems included forms with faulty addresses, signatures and Social Security numbers.²³⁴

Many incidents of voter registration fraud were reported throughout the Summer and Fall of 2004. The general surge in fraud complaints led local U.S. Attorney David Iglesias to form a special task force on vote fraud in September 2004.²³⁵

- ✓ **Two Albuquerque Teenagers – Aged 13 And 15 – Were Registered To Vote.** In August 2004, Albuquerque resident Glen Stout received voter registration cards in the mail for his 13-year-old son and their 15-year-old neighbor across the street. Stout told the *Albuquerque Journal* that the registration card listed a Social Security number that didn’t match his son’s, and the date of birth made him appear old enough to vote.²³⁶
- ✓ **Dead Man Registered To Vote In Albuquerque Area.** Bernalillo County resident Patricia Laven reportedly received a voter registration card for her father, who had passed away two and a half years earlier.²³⁷
- ✓ **Voter Registration Cards Listed False Addresses, Including Empty Lot, Shopping Center And Parking Lot.**²³⁸
- ✓ **Just Before The Election, Bernalillo County Clerk Asked Prosecutors To Review Two Dozen Suspicious Voter Registration Cards.** As Election Day approached, complaints of fraudulent registrations “rolled in,” with “people claiming that they’re getting cards they didn’t request with incorrect names, Social Security numbers and birthdates.”²³⁹
- ✓ **One Voter “Registered – And Reregistered – Four Times In A 60-Day Period, Although None Of His Key Information Had Changed.”**²⁴⁰
- ✓ **“In One Instance, A Woman Registered In March With A Last Name Of Maestas-Perea. In May, She Put Down Perea-Maestas.”**²⁴¹

²³⁴ Clerk: Voter Forms ‘A Mess,’ Shea Andersen, ALBUQUERQUE TRIBUNE, August 17, 2004

²³⁵ Election ‘Mischief’ Under Scrutiny, Dan McKay, ALBUQUERQUE JOURNAL, September 10, 2004

²³⁶ Too Young To Vote, Dan McKay, ALBUQUERQUE JOURNAL, August 20, 2004

²³⁷ Dead Man Registered To Vote Again, KRQE Website, www.krqe.com

²³⁸ KRQE News 13 Report, August 16, 2004

²³⁹ Clerk Seeks Vote-Fraud Review, Dan McKay, ALBUQUERQUE JOURNAL, October 29, 2004

²⁴⁰ Probe Irregularities In Voter Registration, Editorial, ALBUQUERQUE JOURNAL, August 9, 2004

²⁴¹ *Id.*

(b) ACORN Linked To Voter Registration Fraud In New Mexico

According to Bernalillo County Clerk Mary Herrera and Sheriff Darren White, the numerous voter registration groups active in New Mexico “could be to blame” for the wave of fraudulent registrations.²⁴² ACORN was linked by press reports to much of the voter registration fraud that occurred in New Mexico in the weeks and months leading up to the November election.

- ✓ **ACORN Worker Registered 13-Year-Old To Vote, Father Joined Lawsuit Asking Secretary Of State To Require IDs At Polls.** An ACORN worker fraudulently registered a 13-year-old to vote in Albuquerque, according to press reports. A copy of the boy’s registration form reportedly indicated that a former ACORN employee turned in the form to election officials. ACORN spokesman Matthew Henderson said the group fired the worker in question in May “for what he called ‘dishonest practices’ unrelated to voter registration forms.”²⁴³

The 13-year-old’s father, Glen Stout, joined a lawsuit to require first-time voters to show IDs before casting their ballots. Stout said this incident underscored the need for ID at the polls, as someone may have voted in his son’s name.²⁴⁴

- ✓ **ACORN Voter Registration Forms Found In Apartment During Drug Bust.** About a dozen voter registration forms were discovered during a search of an Albuquerque apartment that was part of a drug investigation. The occupant of the apartment, who was arrested on drug charges, reportedly told police that he obtained the forms while working for ACORN.²⁴⁵
- ✓ **Woman Unable To Vote At Polls, Blamed ACORN Workers Who “Joked” When She Said She Wanted To Register As Republican.** Albuquerque resident Ingrid Bober was reportedly unable to vote because poll workers said she was not on list of registered voters. Bober said she registered in February with ACORN, but she suspected her registration was not turned in, as the ACORN worker “joked” about her being a Republican.²⁴⁶
- ✓ **ACORN Worker Took The Fifth Amendment During Testimony On The Group’s Handling Of Registration Forms.**²⁴⁷

²⁴² *Too Young To Vote*, Dan McKay, ALBUQUERQUE JOURNAL, August 20, 2004

²⁴³ *More Glare On Voter Sign-Ups*, Shea Andersen, ALBUQUERQUE TRIBUNE, August 25, 2004

²⁴⁴ *Dad of ‘Voter’ Joins Suit To Require IDs*, Dan McKay, ALBUQUERQUE JOURNAL, August 25, 2004

²⁴⁵ *Albuquerque Police Find Voter Registration Forms At Albuquerque Apartment*, THE ASSOCIATED PRESS, October 16, 2004

²⁴⁶ *County’s Early-Polling Places ‘Slammed’ With Voters, Calls*, Dan McKay and Andy Lenderman, ALBUQUERQUE JOURNAL, October 19, 2004

²⁴⁷ *Fight Over Voter ID Heats Up*, Andy Lenderman, ALBUQUERQUE JOURNAL, September 19, 2004

(c) **Other Voter Registration And Election Fraud Issues In New Mexico**

Other issues related to election fraud and questionable voter registration activities in New Mexico included:

- ✓ **Man “Working For Governor Richardson” Reportedly Attempted To Collect Woman’s Absentee Ballot.** According to the *Albuquerque Journal*, a woman said that a man claiming to be “working for Governor Richardson” came to her door and tried to collect her absentee ballot, an illegal practice in New Mexico. The director of Richardson’s political organization, Moving America Forward, said that the man did not work for the governor, and that the group did not collect absentee ballots.²⁴⁸
- ✓ **College Student Said He Was Fired From Moving America Forward, The “527” Group Affiliated With Governor Richardson, For Registering Too Many Republicans.** New Mexico State University student Joshua Pena told the *Albuquerque Journal*, “They said I was registering too many Republicans ... We (the group) were pushing for the Democratic vote.” Moving America Forward’s director denied the charge, saying “We would never, ever fire somebody because of that.”²⁴⁹
- ✓ **Republican Voter Registration Forms Stolen From New Voters Project Office In Albuquerque.** According to *The Associated Press*, 100 to 200 mostly Republican forms were stolen during the night of September 12.²⁵⁰

6.11 Ohio

(a) **Charges That Exit Poll Results Exposed Republican Election Fraud & Confirmed Democrat Victory On Election Day**

Shortly after the election, theories began circulating on the Internet about the gap between the vote count and the results of the exit polls, which on Election Day showed Kerry leading nationally and in key battleground states. Only a week after the election, University of Pennsylvania professor Steven Freeman caused a stir on the Internet when he released a paper raising the specter of election fraud based on this exit poll discrepancy.²⁵¹ By late November, the Rev. Jesse Jackson was citing a “suspicious” gap between exit poll results and the vote count.²⁵² In January 2005, Democrats used this claim as a key rationale for their challenge of the Ohio election results in Congress. Democrat Rep. John Conyers’ Judiciary Committee staff report, which formed the basis of the challenge, charged that “exit polls bolster claims of irregularities and fraud” and “provide important evidence that something was amiss in the Ohio election.”²⁵³ More recently, a study by the “left-leaning non-profit” U.S. Count Votes found that exit polls

²⁴⁸ *Woman Reports Ballot Ruse*, Andy Lenderman, ALBUQUERQUE JOURNAL, October 23, 2004

²⁴⁹ *Fight Over Voter ID Heats Up*, Andy Lenderman, ALBUQUERQUE JOURNAL, September 19, 2004

²⁵⁰ *Activist Reports Theft Of Voter Forms*, THE ASSOCIATED PRESS, September 23, 2004

²⁵¹ *Election Numbers Still Leave Questions For Some*, Larry Eichel, THE PHILADELPHIA INQUIRER, November 23, 2004

²⁵² *Jackson Rallies For Ohio Vote Probe*, Stephanie Zimmermann, CHICAGO SUN-TIMES, November 28, 2004

²⁵³ *Preserving Democracy: What Went Wrong In Ohio*, Report Of The House Judiciary Committee Democratic Staff, January 5, 2005

results showed “corruption of the official vote count occurred most freely in districts that were overwhelmingly Bush strongholds.”²⁵⁴ *The Washington Post* reported that the U.S. Count Votes study “clearly leaves the impression that the authors believe there was wholesale fraud in the 2004 presidential election.”²⁵⁵

Yet as these theories circulated around the Internet, a bipartisan consensus emerged that the flaws in the exit polls did not support the conclusion that President Bush’s victory in Ohio was the result of election fraud. In January 2005, the firms that performed the exit polls – Edison Media Research and Mitofsky International – released a report stating that the exit polls’ flaws were caused primarily by an oversampling of Kerry supporters, as Kerry voters were more likely to participate in the exit poll interviews than Bush voters. The report cited the inexperience and youth of its interviewers as another problem with their poll.²⁵⁶

Democrat pollster Mark Blumenthal agreed that the faulty exit polls did not indicate fraud in the 2004 election for President. He said that some of the studies on the Internet come from people who “really want to find that the exit polls are evidence of some fraud.” As Blumenthal told ABC’s “Nightline,”

“There is a bit of a statistical food fight here if you go on the Internet, between those who really want to find that the exit polls are evidence of some fraud, and some of us who are more skeptical. And what I’ve said before is I think it’s a lot of sound and fury signifying not very much. Because – at the end of the day, Warren Mitofsky agrees, I agree, everyone agrees that there was a small and probably significant error across the whole country.”²⁵⁷

Warren Mitofsky, considered the “father of the exit poll,” leads one of the firms that produced the flawed exit polls in 2004.²⁵⁸ Mitofsky criticized the Internet theories and the U.S. Count Votes study, noting that polling is not its authors’ area of expertise. “The trouble is they make their case very passionately and not very scholarly ... I don’t get the impression that any of these people have conducted surveys on a large scale,” Mitofsky said. According to Mitofsky, the theory that the exit poll results are some indication of fraud is “totally implausible.”²⁵⁹

In May 2005, the nonpartisan Election Science Institute (ESI) dealt another blow to the exit poll fraud theory when it released a study confirming “pollster Warren Mitofsky’s assertion that the exit polls that put John Kerry ahead of George Bush in Ohio on Election Day 2004 do not necessarily indicate that there was fraud in the Ohio election.” The ESI study was presented at the annual conference of the American Association of Public Opinion Research and conducted by a research team led by Dr. Fritz Scheuren, president of the American Statistical Association

²⁵⁴ *Analysis Of The 2004 Presidential Election Exit Poll Discrepancies*, U.S. Vote Counts, March 31, 2005, Updated April 12, 2005; *Vote Fraud Theorists Battle Over Plausibility*, Terry M. Neal, THE WASHINGTON POST, April 24, 2005

²⁵⁵ *Vote Fraud Theorists Battle Over Plausibility*, Terry M. Neal, THE WASHINGTON POST, April 24, 2005

²⁵⁶ *Evaluation Of Edison/Mitofsky Election System 2004*, Edison Media Research and Mitofsky International, January 19, 2005

²⁵⁷ ABC’s “Nightline,” January 19, 2005

²⁵⁸ *Id.*

²⁵⁹ *Vote Fraud Theorists Battle Over Plausibility*, Terry M. Neal, THE WASHINGTON POST, April 24, 2005

and Vice President for Statistics at NORC, a research institute based at the University of Chicago. ESI “used more detailed information from the exit polls than previous studies.” Dr. Scheuren confirmed Mitofsky’s finding, stating that “it looks more like Bush voters were refusing to participate and less like systematic fraud.”²⁶⁰

The liberal online newsmagazine Salon.com recently reported that a “consensus among experienced pollsters” now favors Mitofsky’s view it was the overrepresentation of Kerry voters in the exit polls – not election fraud – that caused them to differ from the official vote count. Several key individuals “who once suspected that the exit polls pointed to election fraud, have begun to change their minds.” Bruce O’Dell, one of the founders of U.S. Count Votes, “the group that has been leading the charge to show that exit polls prove Kerry won,” now believes “it’s impossible to say whether the exit polls suggest that Bush stole the election,” and calls Mitofsky’s explanation of what went wrong “plausible.” Salon.com reported that one researcher found a math error in U.S. Count Votes’ analysis that “basically stuck the final nail in the coffin of any theories purporting to show that the exit polls proved the election was stolen.”²⁶¹

Finally, the DNC Voting Rights Institute’s report on the election in Ohio, released on June 22, 2005, rejected claims that widespread fraud cost Kerry the election in Ohio. The DNC’s “statistical study of precinct-level data does not suggest the occurrence of widespread fraud that systematically misallocated votes from Kerry to Bush.” The DNC’s experts found that the similarity between the vote patterns for Kerry in 2004 and the Democrat gubernatorial candidate in 2002 was “strong evidence against the claim that widespread fraud systematically misallocated votes from Kerry to Bush.”²⁶²

Back in Ohio, editorial boards around the state panned the exit poll fraud theories. The *Akron Beacon Journal* called them “frivolous,” saying that “early exit polls were inaccurate and never intended as predictors of the final vote.”²⁶³ The *Cleveland Plain Dealer* opined that the “die-hard band of zealots” pushing the exit poll fraud theory need to realize that “the only poll that counts is the one conducted by ballot.” Even Conyers’ hometown paper, the *Detroit Free Press*, accused him of “grasping at straws” in an effort to overturn the election. The *Free Press* suggested that if Conyers was truly interested in election reform he might turn his attention back home to Detroit:

“If Conyers really wants to get to the bottom of problematic balloting, he ought to come back home. Few places in America have as inept an election system as Detroit. Voters stand in lines that are needlessly long, show up to find balloting places closed, lose their votes to incompetent election officials, and have no confidence that the other people standing in line with them are really eligible to vote. Detroit would be fertile ground for congressional investigators. Conyers should turn his attention homeward and leave the media alone.”²⁶⁴

²⁶⁰ Election Science Institute, *Ohio Exit Polls ‘Not a Smoking Gun’ For Fraud, Study Says*, Press Release, May 14, 2005

²⁶¹ *No Exit*, Farhad Manjoo, SALON.COM, June 15, 2005

²⁶² *Democracy At Risk: The 2004 Election In Ohio*, Report Of The Democratic National Committee’s Voting Rights Institute, June 22, 2005

²⁶³ *Do The Math*, Editorial, AKRON BEACON JOURNAL, December 5, 2004

²⁶⁴ *Conyers Has No Right To Polling Data*, Editorial, DETROIT FREE PRESS, December 27, 2004

(b) Voter Registration Fraud In Ohio

A number of organizations seeking to influence the outcome of the presidential election were very active in Ohio in 2004. Election authorities received almost one million new voter registrations and a total of 5.7 million votes in Ohio were cast in the 2004 General Election, a historic high for Ohio.²⁶⁵ This unprecedented voter participation should be celebrated. However, not every organization involved in voter registrations efforts is to be commended. The unfortunate fact is that Ohio election authorities experienced an unprecedented number of fraudulent voter registrations and some organizations appear to have been engaged in efforts to facilitate and pay for the submission of fraudulent voter registration forms.

This point was noted by Keith Cunningham, President of the Ohio Association of Election Officials, when he testified about the election in Ohio before the House Administration Committee in March 2005. During his testimony, Cunningham remarked that “disruptive” and “distracting” political activists on the ground in Ohio made it increasingly difficult for elections officials to do their jobs.

Cunningham: “[T]he November 2004 election was probably the single most difficult thing I have ever tried to manage in my life. ... For instance, the card we send out to voters that tell them where they’re registered, what your precinct is. I spent the better part of an afternoon arguing with somebody that the type on that card was too small, when it’s the same card we’ve been sending out for some time and it’s the default setting on the printer. My belief is that not everyone in November 2004 was dealing in good faith. And there were people on the ground and present in Ohio who ... were attempting to create chaos and confusion in hopes that out of it could come something that could be exploited.”²⁶⁶

Part of the “chaos and confusion” referenced by Cunningham stemmed from the thousands of fraudulent voter registrations submitted to elections officials in every corner of Ohio.

A state investigation of voter registration fraud in the Buckeye State in 2004 was one of the “biggest of its kind in recent years.”²⁶⁷ Perhaps as a result of registration fraud, it was reported that according to the 2003 Census numbers, voter registration exceeded the number of voting-age people in four Ohio counties: Franklin, Delaware, Fayette and Mercer.²⁶⁸ Further, the Cleveland *Plain Dealer* reported that 27,000 voters were eligible to cast ballots in both Ohio and Florida last year.²⁶⁹

²⁶⁵ *One Last Knock And A Plea: Volunteers Scratch For Votes*, Jack Torry, THE COLUMBUS DISPATCH, October 31, 2004; *Republicans Beat Democrats In Ohio Ground Game*, Sam Howe Verhovek and Elizabeth Shogren, LOS ANGELES TIMES, November 4, 2004

²⁶⁶ Testimony Of Keith Cunningham At U.S. House Committee On House Administration Hearing, Columbus, OH, March 21, 2005

²⁶⁷ *Voter Registration Investigation One Of Largest In Recent Years*, THE ASSOCIATED PRESS, September 23, 2004

²⁶⁸ *Figures Don’t Add Up*, Dennis J. Willard and Doug Oplinger, AKRON BEACON JOURNAL, October 2, 2004

²⁶⁹ *Voters Double-Dip In Ohio, Fla.*, Scott Hiaasen, Dave Davis and Julie Carr Smyth, [Cleveland] PLAIN DEALER, October 31, 2004

(c) **NAACP, ACORN And Other Third-Party Groups Linked To Thousands Of Fraudulent And Suspicious Voter Registrations In Ohio**

NAACP National Voter Fund

- ✓ **NAACP National Voter Fund Worker Paid Crack Cocaine In Exchange For Fraudulent Registrations.** Perhaps the most outrageous example of voter registration fraud occurred in Defiance County, where Chad Staton pled guilty to submitting hundreds of fraudulent voter registration forms for the NAACP National Voter Fund in exchange for crack cocaine. Mr. Staton filled out and submitted voter registration forms in the name of cartoon characters, action figures, celebrities and other fictitious residents of Lucas, Cuyahoga and other counties.

Elections officials throughout northern Ohio received registration forms from Mary Poppins, Jeffrey Dahmer, George Foreman, Michael Jordan, Dick Tracy and a host of other individuals. After an investigation of the matter, Defiance County Sheriff David Westrick learned that Mr. Staton was responsible for completing some of these forms and arrested him.

Mr. Staton provided a taped admission regarding these crimes, was indicted and subsequently pled guilty. Mr. Staton admitted being paid for his efforts in crack cocaine by an NAACP National Voter Fund employee, Georgianna Pitts. Ms. Pitts, a Toledo native, was reported to be an employee of the NAACP and paid Mr. Staton with crack cocaine for the falsified forms. Ms. Pitts died suddenly of a drug overdose before being prosecuted. Sheriff Westrick was able to trace the falsified registration forms and learned that they were submitted to the Cuyahoga County Board by NAACP Voter Protection Project, located in Cleveland, Ohio.²⁷⁰

- ✓ **NAACP National Voter Fund Registers Man Dead For Two Decades.** In Lake County, a man who had been dead for more than two decades was registered on a card submitted by the NAACP.²⁷¹
- ✓ **48 Forged Voter Registration Cards Submitted by NAACP.** In Mahoning County, 48 voter registration cards were flagged as part of a group of cards submitted by the NAACP in Cleveland. The registration cards were originally misfiled by the NAACP with the Cuyahoga County Board of Elections which forwarded them to Mahoning County. Many appeared to be in the same handwriting, and as the Board attempted to verify them, voters repeatedly told the board that they did not sign new registration cards.²⁷²
- ✓ **NAACP National Voter Fund Investigated In Cleveland.** County Board of Election officials flagged 17 registration cards submitted by NAACP National Voter Fund state director Thaddeus Jackson, which all bore signatures that looked alike. The Board of

²⁷⁰ See *State v. Staton*, Defiance County Court Case No. 04-CR-09070. (Exhibit T); *Man Arrested After Voter Forms Turned In For Mary Poppins, Michael Jordan*, *Ohio Officials Say*, THE ASSOCIATED PRESS, October 19, 2004

²⁷¹ *Dead Man On Voter Rolls Sparks Inquiry*, Michael Scott, [Cleveland] PLAIN DEALER, September 23, 2004

²⁷² *Suspicious Voter Cards Are Piling Up*, Lisa A. Abraham, AKRON BEACON JOURNAL, September 29, 2004

Elections asked the Cuyahoga County Prosecutors Office to investigate the potential forged signatures arising from a registration drive where volunteers were paid \$2.00 per signature collected. Most of these registrations contained fake addresses, fictitious names and vulgarities.²⁷³

ACORN – Association of Community Organizations for Reform Now

- ✓ **ACORN Submits “Blatantly False” Voter Registration Cards In Franklin County.** In June 2004, ACORN fired two employees for filing false registration forms and forging signatures. The two ACORN employees claimed to be registering voters in Franklin County. Board of Election officials reviewed the forms and determined that the registrations contained “blatantly false” information. Election officials referred the matter to the Franklin County Sheriff’s Office for investigation. Registration cards submitted by ACORN and its partner group, Project Vote, contained fake first names, incorrect birth dates and Social Security numbers, forged voter signatures when compared to information on file with the Franklin County Board of Elections.²⁷⁴
- ✓ **ACORN Registrations Include Dead Person, 25 Addresses For The Same Man, And Suspected Terrorist.** In Franklin County, hundreds of cases of suspected election fraud were reviewed. Among the applications reviewed were: One application signed in the name of a man who passed away February 25; applications showing different addresses for the same man; one registration purportedly from Nuradin Abdi, an illegal alien and suspected terrorist charged with plotting to blow up a Columbus mall. The Franklin County Prosecutor reviewed hundreds of cases of suspected election fraud in the days leading up to the November 2004 Presidential election. Prosecutor Ron O’Brien stated that, “what causes some of this to happen is that people are being paid to register new voters.” Some of the suspected cases of fraud were submitted by the Columbus Urban League, while others came from ACORN.²⁷⁵
- ✓ **Similar Handwriting And False Addresses Found On ACORN Cards In Hamilton County.** In October 2004, the Hamilton County Board of Elections requested that the head organizer for ACORN appear before the Board to discuss fraudulent registrations submitted by a paid ACORN staffer. The employee submitted approximately 19 registration cards for individuals who did not exist after Board of Election officials noticed that the registration cards all had similar handwriting and false addresses. The Hamilton County Sheriff’s Department could not find the individuals, and the Board of Elections subpoenaed the individuals.²⁷⁶
- ✓ **ACORN Turned In Hundreds Of Registration Cards Past Deadline.** Other improprieties by ACORN workers were investigated in Franklin County when ACORN

²⁷³ *Voter Registration Drive Raises Some Questions*, Mark Naymik, [Cleveland] PLAIN DEALER, March 18, 2004.

²⁷⁴ *Made-Up People*, Robert Vitale, THE COLUMBUS DISPATCH, June 2, 2004; *Two Fired Over Bogus Voter Registration Forms*, Robert Vitale, THE COLUMBUS DISPATCH, June 3, 2004

²⁷⁵ *Suspected Terrorist Registered To Vote In Franklin County*, WBNS-TV, www.10tv.com, Accessed October 23, 2004; *Election Fraud Cases Under Review*, WBNS-TV, October 22, 2004

²⁷⁶ *Alleged Fraudulent Voter Cards Scrutinized*, Cindi Andrews, THE CINCINNATI ENQUIRER, October 8, 2004; *Voting Organizer Discusses Fraud*, Mark Hansel, CINCINNATI POST, October 16, 2004

delivered 526 new voter registrations to the board of elections three days after the statutory deadline. ACORN explained that the registrations were found “in a mismarked box.”²⁷⁷

- ✓ **Warrant Issued For ACORN Employee Who Forged Signature On Voter Registration Card.** A Franklin County Grand Jury issued a warrant for a parolee accused of forging a signature on a voter registration form on behalf of ACORN. Kevin Dooley, a Columbus resident working for ACORN, was indicted on felony counts of false election registration and submitting false election signatures.²⁷⁸
- ✓ **ACORN/Project Vote Employee Indicted In Lucas County.** A Toledo woman employed by Project Vote and paid \$5 per registration card was charged with submitting a fraudulent registration card to the Lucas County Board of Elections. The election board received a registration card for a woman who was already registered with a different birth date and signature. The woman advised authorities she had not filled out a registration card.²⁷⁹

ACT – America Coming Together

- ✓ **1,000 Registration Cards Investigated In Summit and Lake Counties.** Election officials in Lake and Summit Counties investigated irregularities in some 1,000 voter registration forms and absentee ballot requests. In Lake County, one group attempted to register a dead person. Other potentially fraudulent documents were referred to the Lake County Sheriff’s Office by the Board of Elections. The investigation centered on registration efforts by the NAACP National Voter Fund and America Coming Together (ACT).²⁸⁰
- ✓ **Jive Turkey, Sr., Registers To Vote.** The Cuyahoga County Board of Elections received some 1,284 suspicious voter applications that were turned over to prosecutors to investigate for potential fraud. Among those registered was a Jive Turkey, Sr., who included an off-color middle name on the form. Most forms were submitted by America Coming Together (ACT) and ACORN/Project Vote.²⁸¹
- ✓ **ACT Accused Of Falsified Registration From Nursing Home Resident.** In Lake County, a woman in a nursing home was registered by ACT and purportedly signed the card in a firm cursive signature. Upon investigation, it was learned that the registrant was not able to sign her name, but used a shaky “X” as her signature.²⁸²

²⁷⁷ *Alleged Fraudulent Voter Cards Scrutinized*, Cindi Andrews, THE CINCINNATI ENQUIRER, October 8, 2004

²⁷⁸ *Warrant Issued For False Registration*, THE ASSOCIATED PRESS, September 7, 2004

²⁷⁹ *Voter Aide Indicted In Fake Registration*, TOLEDO BLADE, January 6, 2005

²⁸⁰ *1,000 Cases of Suspicious Voter Registrations*, Steve Luttner and Michael Scott, [Cleveland] PLAIN DEALER, September 24, 2004; *Possible Election Fraud is Probed*, John Arthur Hutchinson, LAKE COUNTY NEW HERALD, September 22, 2004

²⁸¹ *Fowl Play*, Scott Hiaasen, [Cleveland] PLAIN DEALER, October 22, 2004

²⁸² *Dead Man On Voter Rolls Sparks Inquiry*, Michael Scott, [Cleveland] PLAIN DEALER, September 23, 2004

- ✓ **Trumbull County Investigated Possible ACT Voter Registration Fraud.** The Trumbull County Board of Elections asked its county prosecutor to investigate possible fraud on a registration card submitted by ACT. Upon investigation, the Board found that the voter did not fill out a voter registration card, the address, birth date and telephone number on the card were wrong and the signature was not his.²⁸³

AFL-CIO

- ✓ **Forged Signatures, Duplicate Registrations, And Nonexistent Addresses Found On Registrations Submitted By AFL-CIO.** Over 50 registration cards submitted by the Ohio AFL-CIO to the Summit County Board of Elections turned out to be illegitimate, as some were for individuals who were already registered, and many appeared to have the same handwriting.²⁸⁴

6.12 Pennsylvania

(a) Third-Party Groups And Voter Registration In Pennsylvania

Given its status as a major battleground state in the 2004 election, Pennsylvania was a key target for third-party groups seeking to influence the outcome of the presidential race last year. The state was such a high priority that the George Soros-funded get-out-the-vote group America Coming Together (ACT) actually had its start in Philadelphia in 2003. ACT waged an aggressive voter identification and turnout campaign for the 2003 Philadelphia mayoral race that became the model for its widely expanded national activities during the 2004 election, in which ACT had a budget of \$8.5 million for Pennsylvania alone.²⁸⁵

As a result of this third-party investment, Pennsylvania's voter rolls surged to almost inexplicable dimensions. Philadelphia's voter rolls nearly matched census estimates of the voting-age population.²⁸⁶ In all, the state's voter rolls surged by 535,000 new voters.²⁸⁷

²⁸³ *Elections Chief Fears Scheme*, Lisa A. Abraham, AKRON BEACON JOURNAL, August 19, 2004

²⁸⁴ *Prosecutor To Probe Vote Fraud*, Lisa A. Abraham, AKRON BEACON JOURNAL, August 25, 2004

²⁸⁵ *Focusing On Face Time In Battleground States*, Thomas Fitzgerald, THE PHILADELPHIA INQUIRER, July 18, 2004

²⁸⁶ *Election-Eve Song: Republicans Charge Fraud, Democrats Intimidation*, Mary Claire Dale, THE ASSOCIATED PRESS, October 26, 2004

²⁸⁷ *Voters: Newly Registered Pose New Variables*, Matthew P. Blanchard and Alletta Emeno, THE PHILADELPHIA INQUIRER, October 31, 2004

(b) Suspicious Voter Registrations And Illegal Polling Places In Pennsylvania

In September 2004, the Pennsylvania Republican Party sent a letter to 130,000 newly registered voters in Philadelphia urging them to vote Republican. However, about 10,000 of these cards came back as returned mail as the address did not exist and/or no one by the voter's name lived at the address on the envelope. Republicans soon discovered that many of the addresses listed for new registrants were in fact vacant lots and boarded-up buildings. In one sample of 100 registrants, 15 turned out to be dead.²⁸⁸ At least some of these faulty registrations may have come from voter registration drives, as some Pennsylvania residents complained that ACORN was deliberately putting inaccurate information on their registration forms.²⁸⁹



The location of polling places in Philadelphia also became an issue as Election Day 2004 approached. In October, Republican ward leaders challenged the location of 63 polling places, which included local bars, unsafe abandoned buildings, a private home decorated with a Kerry sign in the window (pictured at left) and a district office of Democrat state Sen. Vincent Fumo. Of the 63 locations challenged by Republicans, 43 were inaccessible to the handicapped and 17 were in businesses or homes where voters could be intimidated, according to the request.²⁹⁰ About 900 polling places in Philadelphia's 1,681 precincts were in private buildings.²⁹¹ Some Democrats charged that Republicans were attempting to "suppress" the minority and low-income vote by questioning the location of polling places, even though some of the ward leaders challenging the polling locations were African Americans.²⁹² Philadelphia's city commissioners eventually refused the request to move the polling locations, saying the petitions were turned in too late to be considered.²⁹³

(c) Illegal Felon Voting In Pennsylvania

There is evidence that some third-party groups such as MoveOn.org and America Coming Together (ACT) illegally distributed and collected absentee ballots from prison inmates in at least one Philadelphia prison. In October 2004, CBS 3 reported that Rep. Curt Weldon (R-PA) confronted college students walking out of the Curran-Fromhold Prison in Northeast Philadelphia with absentee ballots collected from inmates. CBS 3 noted that "it is illegal in Pennsylvania for a third party to distribute or collect absentee ballots." The news report asserted

²⁸⁸ *Both Parties Complain Of Vote Fraud*, Tom Infield, THE PHILADELPHIA INQUIRER, October 25, 2004

²⁸⁹ *Vote Fraud Suspected In Registration Deluge*, Sharon Spohn, THE MERCURY, October 8, 2004

²⁹⁰ *A Tally Of Election Semi-Dirty Tricks*, William Bunch, PHILADELPHIA DAILY NEWS, October 19, 2004; *GOP Fails In Effort To Move Polls*, Chris Brennan, PHILADELPHIA DAILY NEWS, October 18, 2004

²⁹¹ *Americans Vote Among Kegs, Caskets, Home-Cooking*, Mary Claire Dale, THE ASSOCIATED PRESS, December 4, 2003

²⁹² *GOP Fails In Effort To Move Polls*, Chris Brennan, PHILADELPHIA DAILY NEWS, October 18, 2004

²⁹³ *GOP Bid For Poll Shifts Rejected*, Michael Currie Schaffer, THE PHILADELPHIA INQUIRER, October 21, 2004

that no one was checking to see if these inmates were serving time for felonies, as anyone in prison on a felony conviction is not permitted to vote.²⁹⁴

(d) Vote-Buying In Philadelphia

Recently *Business Week* reported that a Deputy City Commissioner requested that the District Attorney's office investigate a scheme to trade cheese for votes. Flyers were distributed on primary election day – May 17 – promising free cheese to voters who cast ballots for particular candidates. The woman who wrote the flyers, Hill Creek tenant council President Gerri Robinson, doesn't think she did anything wrong. "The people around here, you can't get them to come out and do nothing unless you're giving them something," she says. Besides, she adds, the flyers worked: The two cases of cottage cheese were gone by day's end.²⁹⁵

6.13 Virginia

(a) Nader Campaign Staffer Guilty Of Election Fraud

On June 28, 2005, James Polk, Virginia state coordinator for Ralph Nader's 2004 presidential campaign, pleaded guilty to felony election fraud. Polk admitted to signing candidate petitions before a notary that he did not personally circulate, a violation of state law. According to court documents, Polk illegally signed the petitions just days before the August 2004 deadline for Nader to get on the Virginia presidential ballot. Polk was sentenced to 30 days in prison, fined \$2,500 and must avoid political activity ten years.²⁹⁶

In court, Polk apologized for his actions, "saying he had spent much of his career in politics trying to get people to trust the election system and to believe that their vote counted for something." Polk told the judge before sentencing, "Now people will doubt even more that their vote matters. For that, I am very much ashamed."²⁹⁷

6.14 Washington

(a) Vote Fraud And Irregularities In Washington

After losing both the original count and a subsequent machine recount to Republican Dino Rossi, Democrat Christine Gregoire won a hand recount and was certified as winner of the 2004 Washington gubernatorial election by 129 votes out of more than 2.8 million cast.²⁹⁸ The ensuing litigation to determine the actual result of the election uncovered clear evidence of vote fraud and irregularities that cast serious doubt upon the validity of a number of votes far

²⁹⁴ *Lawmaker Threatens Political Lawsuit*, KYW CBS 3, <http://kyw.com>, October 29, 2004; *Whose Vote Fraud?*, Editorial, THE NEW YORK POST, February 27, 2005

²⁹⁵ *Cheesy Way To Lure Voters*, Eamon Javers, BUSINESS WEEK, August 1, 2005

²⁹⁶ *State Leader Of Nader's Campaign Pleads Guilty*, Jon Frank, THE [Norfolk] VIRGINIAN-PILOT, June 29, 2005

²⁹⁷ *Id.*

²⁹⁸ *Washington Governor's Election Certified, Showing Democrat Win*, David Ammons, THE ASSOCIATED PRESS, December 30, 2005

exceeding Gregoire's margin of victory. Illegal votes and election irregularities may have determined the winner of the 2004 gubernatorial race in the state of Washington.

In the months leading up to the election contest trial brought by Rossi, election management problems in Washington continued to come to light. In March, 95 uncounted absentee ballots were found in King County's election warehouse.²⁹⁹ Pierce County officials found another 64 such uncounted absentees.³⁰⁰ King County Elections Director Dean Logan said under oath that he couldn't be sure if the election results were accurate within 129 votes – Gregoire's margin of victory:

“The question is, do you know whether the returns in King County were accurate within 129 votes?” GOP attorney Rob Maguire asked Logan on page 225 of the 476-page deposition transcript, released Monday night by Rossi's office. ‘No, I do not,’ Logan replied.”³⁰¹

The debate in Washington after the November election and recounts was not about whether illegal votes were cast on Election Day. Both sides agreed that they were, as Democrats and Republicans submitted competing lists of hundreds of illegal felon voters.³⁰² The debate instead centered on whether an equitable method of determining if such illegal votes adversely affected one candidate over the other existed, and if so, whether a new election was in order.

In his June 6 decision to uphold Gregoire's election as governor, Chelan County Superior Court Judge John Bridges recognized that more than 1,000 illegal and fraudulent votes were cast in an election decided by a mere 133 votes (the judge deducted four felon votes from Rossi's total). Judge Bridges found the following illegal and fraudulent votes in the 2004 Washington gubernatorial race:

- ✓ A total of 1,678 illegal votes cast in the 2004 general election.
- ✓ 1,401 votes cast by felons whose voting rights had not been restored.
- ✓ 19 votes cast by deceased voters.
- ✓ 6 votes cast by people voting more than once.
- ✓ 252 votes cast in King and Pierce counties for which “there could not be found a registered voter through crediting.”³⁰³

While Judge Bridges' decision recognized the presence of large-scale illegal and fraudulent voting in the November election, he rejected the method by which Rossi's expert

²⁹⁹ *Higher-Up Linked To Flawed Report*, Keith Ervin, THE SEATTLE TIMES, May 21, 2005

³⁰⁰ *Prosecutors To Challenge 110 Voters*, Keith Ervin, THE SEATTLE TIMES, April 29, 2005

³⁰¹ *King County Election Director Answers Questions Under Oath*, Rebecca Cook, THE ASSOCIATED PRESS, April 25, 2005

³⁰² *Dems Flag 743 Votes They Say Felons Cast*, David Postman, THE SEATTLE TIMES, May 7, 2005

³⁰³ Transcript Of Decision By Chelan County Superior Court Judge John Bridges, June 6, 2005

witnesses proposed to account for the illegal votes. Judge Bridges further ruled that the “judiciary should exercise restraint in interfering with the elective process,” and that “unless an election is clearly invalid, when the people have spoken their verdict should not be disturbed by the courts.” Thus Bridges upheld the election not because there was no significant illegal and fraudulent voting, but because he did not believe it was the judiciary’s role to overturn the election, given the evidence before him.³⁰⁴

6.15 West Virginia

(a) Five Indicted On Vote-Buying Charges In West Virginia

In May 2005, five Lincoln County, West Virginia, Democrats were indicted by a federal grand jury on charges of participating in a conspiracy to buy votes dating back to 1990. The indictment charges that the five conspired to buy votes in elections held in 1990, 1992, 1994, 1996, 1998, 2000, 2002 and 2004 “for the purpose of selecting and electing candidates for the United States House of Representatives and in some instances, for the presidency and vice-presidency of the United States.”³⁰⁵ Those indicted include Lincoln County Circuit Clerk Greg Stowers, Wandell “Rocky” Adkins, Clifford Odell “Groundhog” Vance, Toney “Zeke” Dingess and Jackie Adkins.³⁰⁶ All five pleaded not guilty to the charges and a trial is set for August 15, 2005.³⁰⁷

The indictment alleges that voters were paid in liquor and cash, typically \$20 per vote, and handed slates listing the preferred candidates.³⁰⁸ The five defendants also laid gravel on roads for supporters and fixed traffic tickets as part of the conspiracy, the indictment says.³⁰⁹ Lawyers for the defendants have argued that investigators intimidated local residents and violated their political rights by videotaping voters at polling places, dispatching undercover informants with hidden cameras and microphones to ask questions and, in one case, following voters home and questioning them about vote-buying. Assistant U.S. Attorney Karen George argued that surveillance “conducted by investigators was successful enough that the defendants were unaware of it until it became evidence in the pending case.”³¹⁰

³⁰⁴ *Id.*

³⁰⁵ *Lincoln Circuit Clerk Accused Of Vote Buying*, Jennifer Bundy, THE ASSOCIATED PRESS, May 5, 2005

³⁰⁶ *Election Fraud Charges Seem Like Old News In Lincoln County*, Lawrence Messina, THE ASSOCIATED PRESS, May 10, 2005

³⁰⁷ *In W.Va. County, Vote-Buying Indictments Turn Few Heads*, Lawrence Messina, THE ASSOCIATED PRESS, June 20, 2005; *Motions Shed Light On Vote Fraud Probe*, Tom Searls, CHARLESTON GAZETTE, June 24, 2005

³⁰⁸ *Election Fraud Charges Seem Like Old News In Lincoln County*, Lawrence Messina, THE ASSOCIATED PRESS, May 10, 2005; *Motions Shed Light On Vote Fraud Probe*, Tom Searls, CHARLESTON GAZETTE, June 24, 2005

³⁰⁹ *Motions Shed Light On Vote Fraud Probe*, Tom Searls, CHARLESTON GAZETTE, June 24, 2005

³¹⁰ *Men Accused Of Election Fraud Want Evidence, Charges Dismissed*, Lawrence Messina, THE ASSOCIATED PRESS, June 23, 2005

The recent vote-buying case in Lincoln County is an offshoot of a 2004 federal election fraud probe in neighboring Logan County that resulted in several convictions. A dozen people have been charged overall and five pleaded guilty.³¹¹ Those pleading guilty included:

- ✓ Former Logan County Police Chief Alvin R. “Chipper” Porter pleaded guilty to buying votes for a slate of Democratic candidates during the county’s May 2002 primary election. Porter was sentenced to three years probation, fined \$1,000 and ordered to give “monthly speeches about his experience with political corruption to eighth grade civics classes, parent-teacher organizations and other groups” for three years.³¹²
- ✓ Former Logan County Sheriff Johnny “Big John” Mendez pleaded guilty to conspiring to buy votes during the 2002 and 2004 primaries. Mendez was sentenced to a year of home confinement and five years probation.³¹³
- ✓ Millionaire Charleston lawyer Mark O. Hrutkay pleaded guilty to mail fraud for failing to report \$10,000 in cash he gave Mendez to buy support for his wife’s campaign for the state House of Delegates. Mendez admitted paying residents \$10 to \$100 for their vote. Hrutkay was sentenced to a year in prison and fined \$20,000.³¹⁴
- ✓ Former Logan County Veterans Of Foreign Wars post President and Commander Ernest J. Stapleton pleaded guilty to mail fraud for taking \$35,000 in VFW money and using some of it to make political contributions. Stapleton was sentenced to five years probation, the first ten months of which on home confinement, fined \$10,000 and ordered to pay \$35,000 in restitution to the VFW post.³¹⁵
- ✓ Lincoln County resident Jojena Adkins was sentenced to a year in prison for lying to a federal grand jury investigating vote-buying in southern West Virginia.³¹⁶

A recent *Charleston Gazette* editorial called the crackdown on vote fraud “good for West Virginia.” “Hard-up rural counties need clean local government. They can’t conquer their economic obstacles if local politicians care only about grabbing petty power and putting factional flunkies into public jobs,” the *Gazette* opined.³¹⁷

³¹¹ *Agents Secretly Filmed, Recorded Election Activities*, Lawrence Messina, THE ASSOCIATED PRESS, June 1, 2005; *Election Fraud Probe Fuels Partisan Rancor*, Lawrence Messina, THE ASSOCIATED PRESS, May 15, 2005

³¹² *Logan Lawyer Pleads Guilty To Mail Fraud Charge*, Jennifer Bundy, THE ASSOCIATED PRESS, January 7, 2005; *Ex-Police Chief Gets Lesson In Civics*, Toby Coleman, CHARLESTON GAZETTE, February 16, 2005

³¹³ *Logan Lawyer Pleads Guilty To Mail Fraud Charge*, Jennifer Bundy, THE ASSOCIATED PRESS, January 7, 2005; *Ex-Sheriff Given Home Confinement, Probation For Vote Buying*, Allison Barker, THE ASSOCIATED PRESS, January 21, 2005

³¹⁴ *Logan Lawyer Gets Year In Prison*, Toby Coleman, CHARLESTON GAZETTE, April 5, 2005

³¹⁵ *Former VFW Post Leader Sentenced To Home Confinement*, Jennifer Bundy, THE ASSOCIATED PRESS, January 14, 2005

³¹⁶ *Woman Gets One-Year Sentence In Vote Fraud Investigation*, THE ASSOCIATED PRESS, January 27, 2005

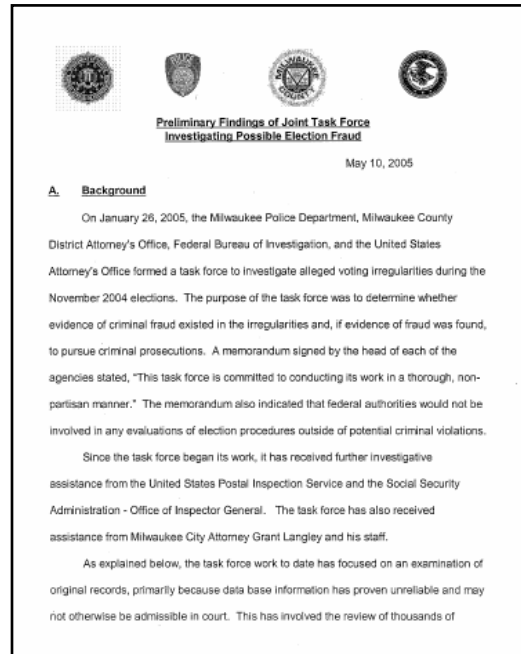
³¹⁷ *Politicos Courthouse Machines*, Editorial, CHARLESTON GAZETTE, May 9, 2005

6.16 Wisconsin

(a) Vote Fraud And Illegal Voting In Wisconsin

Shortly after the November 2 vote in which John Kerry carried Wisconsin's 10 electoral votes by 11,384 votes, the *Milwaukee Journal Sentinel* began an investigation into vote fraud and irregularities in the city. The *Journal Sentinel* soon revealed that thousands more ballots were cast than people identified as voting and thousands of ballots were cast from invalid addresses around the city. In late January, the U.S. Attorney and Milwaukee County D.A. responded to the paper's reports by announcing a joint investigation of vote fraud in the city.³¹⁸

In the months since, the *Journal Sentinel* uncovered thousands of fraudulent and suspicious votes cast in Wisconsin on Election Day 2004. The paper revealed that at least 278 felons cast illegal ballots in the November election. However, the actual number of illegal felon voters was "likely far higher" than that, as the paper was able to review information on felons against only about 38 percent of the 2.98 million people who voted on November 2. The *Journal Sentinel* further revealed that 7,000 more ballots were cast than people later recorded as voting, and 1,200 votes were cast from invalid addresses, three-quarters of which came from voters who registered on Election Day. The paper also found 1,300 same-day registration cards that could not be processed for reasons ranging from missing addresses and names to addresses listed outside the city.³¹⁹



Exacerbating the problems with illegal and suspicious votes, the city of Milwaukee, in violation of Wisconsin law, failed to submit key materials to the County Elections Board for certification on Election Day (e.g., copies of voter logbooks, voting machine tapes with vote totals and election-day incident logs.). Thus, discrepancies between the number of ballots cast and the count of voters went undiscovered until long after the election results were finalized. Also violating Wisconsin law, the Milwaukee County Elections Board improperly certified the election results without any double-checking of the totals by the city or county panels.³²⁰

On May 10, the joint task force on election fraud led by U.S. Attorney Steven Biskupic, a Republican appointee, and Milwaukee County D.A. Michael McCann, a Democrat, reported

³¹⁸ *Police, FBI Join Investigation Into Possible Election Fraud*, Greg J. Borowski, MILWAUKEE JOURNAL SENTINEL, January 27, 2005

³¹⁹ *Review Indicates 278 Felons Cast Ballots Illegally In State*, Greg J. Borowski and Mark Maley, MILWAUKEE JOURNAL SENTINEL, April 1, 2005; *Some Sites Show Huge Vote Gaps*, Greg J. Borowski, MILWAUKEE JOURNAL SENTINEL, February 2, 2005

³²⁰ *Nov. 2 Vote Not Properly Verified*, Greg J. Borowski, MILWAUKEE JOURNAL SENTINEL, March 25, 2005

finding “clear evidence of fraud in the Nov. 2 election in Milwaukee.”³²¹ The task force’s preliminary findings mirrored many of the *Journal Sentinel*’s revelations, including double-voting, felon voting and large gaps between the number of ballots cast and people identified as voting.

Key findings of the election fraud task force included:

- ✓ More than 100 instances of double-voting, including people voting twice, voting under fictitious names and addresses and voting in names of dead people.
- ✓ More than 200 felons casting illegal ballots.
- ✓ Approximately 65 fake names registered to vote by paid voter registration workers.
- ✓ The number of votes cast in Milwaukee “far exceeds the total number of recorded voters.” At least 4,609 more votes were cast than people identified as voting and “multiple wards had discrepancies in excess of 100 votes,” a phenomenon the task force continues to investigate.³²²

While the joint task force report indicated that the investigation of vote fraud in Wisconsin was “far from complete,” evidence of fraud and irregularities uncovered by both law enforcement and the *Journal Sentinel* made election reform one of the top issues in state politics.³²³ Particularly controversial has been a proposal to require photo ID at the polls.

According to the *Journal Sentinel*, at least some of the vote fraud uncovered by its reporters and law enforcement may have been prevented had a photo ID requirement been in place on November 2. As the paper reported:

“A photo ID requirement might have caught some of the problems highlighted in Tuesday’s preliminary report. It notes cases of people voting in the name of a dead person or as someone else. Investigators located some people listed as voting who said they did not vote. In other cases, according to Tuesday’s report, people ‘registered and voted with identities and addresses that cannot in any way be linked to a real person.’”³²⁴

The state Assembly and Senate passed a photo ID requirement with bipartisan majorities this past Spring.³²⁵ The bill was vetoed by Governor Jim Doyle, and the state Assembly failed to get the necessary two-thirds majority for an override.³²⁶ Doyle, who vetoed a similar measure in 2003, said the requirement would have “disenfranchised” senior citizens who don’t have driver’s

³²¹ *Inquiry Finds Evidence Of Fraud In Election*, Greg J. Borowski, MILWAUKEE JOURNAL SENTINEL, May 11, 2005

³²² *Preliminary Findings Of Joint Task Force Investigating Possible Election Fraud*, May 10, 2005 (Exhibit U).

³²³ *Id.*

³²⁴ *Inquiry Finds Evidence Of Fraud In Election*, Greg J. Borowski, MILWAUKEE JOURNAL SENTINEL, May 11, 2005

³²⁵ *Assembly Approves Requiring Picture IDs At The Polls*, J.R. Ross, THE ASSOCIATED PRESS, February 24, 2005; *Senate Approves Voter ID Measure*, Steven Walters, MILWAUKEE JOURNAL SENTINEL, April 14, 2005

³²⁶ *No ID Needed At Polls Anytime Soon*, Stacy Forster, MILWAUKEE JOURNAL SENTINEL, May 4, 2005

licenses and otherwise made Wisconsin's voting laws too strict.³²⁷ As passed, the bill would have provided "free IDs for those who couldn't afford them" and allowed "people in nursing homes and hospitals to do without the ID if someone witnesses their votes."³²⁸

(b) ACORN/Project Vote Workers Charged With Election Fraud In Wisconsin

To date, four ACORN/Project Vote workers have been charged with felony election fraud in Wisconsin. The *Milwaukee Journal Sentinel* noted that these incidents underscored "how easy it is for an unscrupulous person to get a fake name on the rolls." Further, the newspaper noted that the sheer volume of cards – ACORN/Project Vote turned in some 40,000 voter registrations in Milwaukee County alone – meant that "they get little scrutiny from officials."³²⁹

In May 2005, Milwaukee ACORN/Project Vote workers Urelene Lilly and Marcus L. Lewis were charged with five felonies apiece for filling out multiple voter-registration cards using fictitious information. According to the *Journal Sentinel*, Lilly was addicted to crack cocaine at the time the voter registration fraud occurred. Lilly reportedly submitted approximately 75 fraudulent voter registration forms to election officials, taking names from the phone book, using made-up birth dates and Social Security numbers, and having her 15-year-old daughter sign each card. Lewis was reportedly fired by ACORN/Project Vote for submitting a registration form for a dead man, but admitted to submitting duplicate registrations on "numerous" occasions prior to being fired. Lilly and Lewis were charged with felony counts of forgery, election fraud and misconduct in public office, since they were sworn in as "deputy voter registrars" for the registration drive.³³⁰

In October 2004, less than a week before Election Day, ACORN/Project Vote workers Damien Jones and Robert Marquise Blakely were charged with felony election fraud for falsifying voter registration forms in Racine and Kenosha. Jones, a Green Party candidate for state Assembly who led the ACORN/Project Vote voter registration drive in Racine and Kenosha, was reportedly fired by the group in September after irregularities were discovered at the Racine city clerk's office. Jones and Blakely were reportedly charged with four counts of felony election fraud apiece, as well as five misdemeanor counts of misconduct in public office, due to their status as "deputy registrars" in Racine.³³¹

Also in late October, the *Journal Sentinel* reported that two men deputized by the city of Milwaukee to register voters for ACORN/Project Vote were felons still serving probation and were not eligible to register people to vote. The report indicated that Milwaukee resident Tonsie L. Wilson was deputized by the city only six days after being convicted of felony burglary and

³²⁷ *Doyle Vetoes School Choice, Voter ID Bills*, Steven Walters and Patrick Marley, MILWAUKEE JOURNAL SENTINEL, April 30, 2005

³²⁸ *No ID Needed At Polls Anytime Soon*, Stacy Forster, MILWAUKEE JOURNAL SENTINEL, May 4, 2005

³²⁹ *A New Push To Repair Elections*, Greg J. Borowski, MILWAUKEE JOURNAL SENTINEL, May 15, 2005

³³⁰ *A New Push To Repair Elections*, Greg J. Borowski, MILWAUKEE JOURNAL SENTINEL, May 15, 2005; *Arrest Warrants Issued In Alleged Vote Fraud Case*, Derrick Nunnally and Greg J. Borowski, MILWAUKEE JOURNAL SENTINEL, May 12, 2005

³³¹ *Racine, Kenosha Voter Application Fraud Alleged*, Tom Kertscher, MILWAUKEE JOURNAL SENTINEL, October 29, 2004

sentenced to 2 ½ years of probation. Wilson was also reportedly convicted of “misdemeanor disorderly conduct and misdemeanor violation of a domestic abuse order” on the same day. Milwaukee resident Corethious Taylor was reportedly deputized by the city in August 2004, despite having been convicted of felony drug charges in June 2003 and sentenced to 2 ½ years of probation.³³²

(c) Charges Filed For Illegal Voting In Wisconsin

To date, federal prosecutors have charged five Wisconsin residents with illegal voting in the November 2 election. Two people have been charged with illegally voting while on felony parole or probation, while three others were charged with voting multiple times on Election Day.

On June 23, the *Milwaukee Journal Sentinel* reported that a man on parole and a woman on probation cast ballots on Election Day, “even though state law forbids felons under state supervision from voting.” According to the criminal complaint, Milo Ocasio, who was on parole for a felony conviction of discharging a firearm from a vehicle, admitted to voting. He said he did not read the rules of his supervision carefully enough and did not realize he was unable to vote. Kimberly E. Prude, who was on probation for a Waukesha County forgery conviction and has a string of other felony convictions, was actually working as an election inspector, “even though such workers are required to be qualified to vote, the complaint states.” According to the complaint, an unidentified woman told Prude “not to worry about it because felons vote ‘all the time.’”³³³

The *Journal Sentinel* also reported in late June 2005 that three Wisconsin residents have been charged with double voting. According to the paper, Enrique Sanders “cast two ballots, registering – and voting – once with his driver’s license then repeating the process using his Social Security card as identification, according to a criminal complaint.”³³⁴ A pair of cousins – Theresa J. Byas and Brian L. Davis – were also charged. The *Journal Sentinel* reported that they “each filled out on-site registration cards and cast ballots at two separate polling places in the same voting district on election day, the complaints say, adding that both show up in the poll records for the Phillis Wheatley School on N. 20th St. and the Frances Starms Discovery Learning Center on N. 25th St.”³³⁵

(d) Vote-Buying In Milwaukee

Like some other cities, Milwaukee has a history of illegal vote-buying. On Election Day 2000, Democrat workers in Milwaukee gave homeless men packs of cigarettes in exchange for absentee votes. A television station captured the Democrat workers in the act of giving packs of cigarettes to homeless men at City Hall in Milwaukee.³³⁶ One of the individuals involved, wealthy New York socialite and major Democrat donor Connie Milstein, originally told reporters

³³² *Felons Served As Election Deputies*, Tom Kertscher, MILWAUKEE JOURNAL SENTINEL, October 23, 2004

³³³ *Federal Charges Filed Against Three Voters*, Derrick Nunnally, MILWAUKEE JOURNAL SENTINEL, June 23, 2005

³³⁴ *Id.*

³³⁵ *2 More Charged With Voting Twice*, Derrick Nunnally, MILWAUKEE JOURNAL SENTINEL, June 24, 2005

³³⁶ *Effort To Boost Absentee Vote Raises Questions*, Jamaal Abdul-Alim, MILWAUKEE JOURNAL SENTINEL, November 5, 2000

that she was helping homeless men vote at the behest of the Gore campaign.³³⁷ Milstein later backed away from that statement, saying she regretted her actions and “acted alone” in Milwaukee without the help or direction of Democrat or Gore campaign staffers.³³⁸ In May 2001, Milstein agreed not to contest a civil complaint charging her with 10 violations of state election law and paid a \$5,000 fine.³³⁹

In 2002, Democrat Wisconsin Governor Jim Doyle’s campaign held a bingo party at a home for the mentally ill and reportedly used quarters as bingo prizes and kringle and soft drinks to induce residents of the facility to cast absentee ballots.³⁴⁰ Wisconsin state law forbids candidates and parties from providing anything worth more than \$1 to lure someone to vote. While no charges were filed in the case, it was revealed that at least two votes were cast at the bingo and kringle party.³⁴¹

³³⁷ *Cigarettes Case Involves 15 To 25*, MILWAUKEE JOURNAL SENTINEL, November 14, 2000; *Sheriff Blames Chief’s Policy For Prisoners’ Escape*, Cary Spivak and Dan Bice, MILWAUKEE JOURNAL SENTINEL, November 15, 2000

³³⁸ *Incentive To Voters Questioned*, Jamaal Abdul-Alim, MILWAUKEE JOURNAL SENTINEL, November 6, 2000

³³⁹ *\$5,000 Settles Election Case*, David Doege, MILWAUKEE JOURNAL SENTINEL, May 3, 2001

³⁴⁰ *Bingo Game Spurs Probe Of Doyle’s Campaign*, Steve Schultze and Nahal Toosi, MILWAUKEE JOURNAL SENTINEL, October 24, 2002

³⁴¹ *No Charges To Be Filed Over Bingo Party*, STEVE SCHULTZE, MILWAUKEE JOURNAL SENTINEL, November 2, 2002; *At Least 2 Votes Cast At Bingo Event In Kenosha, TV Station Says*, MILWAUKEE JOURNAL SENTINEL, October 29, 2002

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- C. *Curington v. Richardson*, Jefferson Circuit Court, Case No. 03CI9552 (November 4, 2003 Order).
- D. *Spencer v. Blackwell, et al.*, United States District Court for the Southern District of Ohio, Case No. C-1-04-738 (April 28, 2005 Order).
- E. Milwaukee Tire Slashing Criminal Complaint
- F. *Ohio Republican Party v. Marion County Democratic Party et al.*, Marion County Court of Common Pleas, Case No. 04 CV 0791.
- G. November 2, 2004 Order on Motion for Temporary Injunction, *J. Thomas Monk, and All Those Persons Similarly Situated Throughout the State of Florida v. Democratic National Committee, Democratic Executive Committee of Seminole County, and the Florida Democratic Party*, 04-CA-2312-16-L.
- H. DNC’s “IMPORTANT LEGAL NOTICE” Distributed To Republican Poll Observers In Florida
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- M. *The Reality Of Intimidation*, Eric Wang, Op-Ed, THE [UVA] CAVALIER DAILY, <http://www.cavalierdaily.com/CVarticle.asp?ID=21349&pid=1216>, November 10, 2004
- N. Police Reports, Philadelphia Police Department, November 2, 2004
- O. *Moss v. Bush*, Ohio Supreme Court, Case No. 04-2088.

- P. Florida ACORN, "Floridians For All: Campaign Plan For A November 2004 Minimum Wage Constitutional Amendment Initiative," October 1, 2003
- Q. Depositions Of ACORN-Associated Individuals In Mac Stuart Case
- R. Democrat Victory 2004 Florida Coordinated Campaign Plan, "Florida Victory 2004," September 3, 2004
- S. The Center For Ethics And The Free Market, *Laying The Groundwork: A Study Of Voter Registration In Missouri*, www.centerforethics.org, June 2004
- T. *State v. Staton*, Defiance County Court Case No. 04-CR-09070.
- U. *Preliminary Findings Of Joint Task Force Investigating Possible Election Fraud*, May 10, 2005

Kerry Edwards

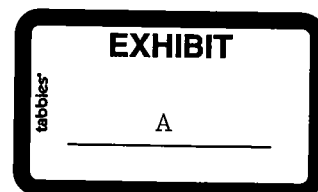
COLORADO ELECTION DAY MANUAL

A DETAILED GUIDE TO VOTING IN COLORADO

NOVEMBER 2004



Democratic National Committee
www.democrats.org



disenfranchise them by turning out in record numbers and challenging any effort at intimidation
-- Link this fight to the historical fights to enfranchise minorities, going back to the civil rights struggle.

2. If no signs of intimidation techniques have emerged yet, launch a "pre-emptive strike" (particularly well-suited to states in which these techniques have been tried in the past).
 - Issue a press release
 - i. Reviewing Republican tactic used in the past in your area or state
 - ii. Quoting party/minority/civil rights leadership as denouncing tactics that discourage people from voting
 - Prime minority leadership to discuss the issue in the media; provide talking points
 - Place stories in which minority leadership expresses concern about the threat of intimidation tactics
 - Warn local newspapers not to accept advertising that is not properly disclaimed or that contains false warnings about voting requirements and/or about what will happen at the polls
3. Train field staff, precinct workers, and your own poll watchers thoroughly in the rules they need to know for election day.
4. Plan and completely prepare for possible legal action well in advance of election day
5. Have Secretary of State record public service announcements about election day – when polls are open, who is eligible, etc.

III. LEGAL CHALLENGES

1. Any GOP voter intimidation activity in which the RNC is involved may be a violation of the 1982 consent decree which the DNC still has in force in New Jersey federal court against the RNC.
2. Regardless of whether the RNC is involved, voter intimidation activity can be challenged through a civil lawsuit against the state or local Republican party or Republican campaign involved, based on one or more of a number of legal grounds which, depending on the circumstances, may include:
 - The Civil Rights Act of 1957
 - The Voting Rights Act of 1965
 - To the extent voters are being refused the right to vote at the polls based on change of address, etc., the National Voter Registration Act of 1993 (Motor Voter law)



U.S. Department of Justice

Civil Rights Division

Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

June 29, 2005

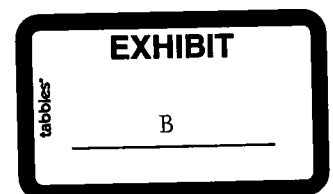
Nick A. Soulas, Jr.
Assistant Prosecuting Attorney
Civil Division
Franklin County
373 South High Street
Columbus, Ohio 43215

Dear Mr. Soulas:

The Voting Section of the Civil Rights Division recently conducted an investigation into the November 2, 2004 general election in Franklin County, prompted by allegations that Franklin County systematically assigned fewer voting machines in polling places serving predominantly black communities as compared to its assignment of machines in predominantly white communities. As set forth below, the evidence our investigation has revealed establishes that Franklin County assigned voting machines in a non-discriminatory manner. Accordingly, there was no violation of Section 2 of the Voting Rights Act, 42 U.S.C. 1973, and we are thus closing our file.

We note at the outset that elections in Franklin County, as elsewhere in Ohio, are run by a six-member Board of Elections, three of whose members are representatives of each major political party. In Franklin County, the members of the two parties appear to work well together and share a common goal of running fair elections. The structural bi-partisanship of the Board extends to active cooperation in decisions on election issues, and that spirit of cooperation also has been extended to our investigation. We very much appreciate the readiness and openness with which the Board has greeted and filled our requests for records and other information.

It is clear that there were long lines at polling places across Franklin County, and it was not uncommon for voters to have to wait three or more hours to cast their ballots. This was especially true within the City of Columbus, where the ballot was exceptionally long. But the long lines were attributable not to the allocation of machines, but to the lack of sufficient machines to serve a dramatically enlarged electorate under any allocation. Voters came to the



polls in record numbers last November. Within Franklin County, the number of registered voters rose from 681,949 for the 2000 general election to 845,720 for the 2004 general election, an increase of 24%. Voter turnout rose even more sharply, from 417,800 in 2000 to 535,575 in 2004, an increase of over 28%. In fact, Ohio as a whole had one of the largest increases in turnout in the nation from the 2000 election. To ensure that this type of situation does not occur again, the Board has determined on its own initiative to increase the number of voting machines from 2,904 to 5,000 for the 2006 election.

A major complicating factor in the appropriate allocation of voting machines was the artificially inflated voter registration rolls in the county. The 845,720 registered voters in 2004 actually exceeded the 2000 total voting age population of Franklin County (800,657) by 45,063 persons. This unsettling disparity resulted from the loss, during preparation for computer system changes in anticipation of the year 2000, of voter history data necessary for purging the voter rolls of ineligible voters as required by the National Voter Registration Act. The County chose to start fresh with new voter histories, with the result that there had been no voter purge since 1999. The County resumed regular purging of its voter list only after the 2004 election, and on June 20, 2005 removed approximately 114,000 ineligible individuals from its voter registration list. The 2005 purge brings the voter registration total well below the 2000 voting age population in the county.

In any event, the Board used the inflated voter rolls in the Fall of 2004 as one factor in its allocation of voting machines, and it also used past voter turnout as another factor. Of course, any allocation -- no matter how bipartisan -- was inevitably going to be inelegant and imprecise given that the Board had to make allocation decisions well before the election and was constrained by the number of voting machines available (2,904), the number of precincts (788), and the Ohio practice of having at least two machines in each precinct so that voting can continue if one machine breaks down. As Elections Director Damschroder acknowledged, the process involved "some math and some art."

With respect to the purported racial disparities in machine allocations, the reality is that while there tended to be more registered voters (based on the inflated rolls) per machine in predominantly black precincts than white precincts, the allocation of voting machines actually favored black voters because more white voters were voting on each voting machine than black voters. To understand how this came to be, it is important to note that voter turnout in Franklin County, as in much of the United States, varies significantly by race. Within the 392 precincts whose 2000 population was over 95 percent white in voting age population, voter turnout was 60.1% of total voter registration in 2000, and 68.1% in 2004. The 54 precincts over 66.6% black in voting age population had turnout of 51% in 2000 and 59.5% in 2004. Within the 12 most heavily white precincts, voter turnout was 78.9%. In the 12 most heavily black precincts, turnout was 61.8%.

In considering voter turnout, the Board tended to allocate fewer machines to the 54 predominantly black precincts per registered voter because of the long history of lower black turnout. But while there were fewer voting machines in black precincts than in white precincts based on registration, the disparity was reversed when compared to actual voter turnout in the 2004 election. In fact, voting machines in the white precincts were busier than the machines in the black precincts, and black persons who went to the polls were not at a disadvantage due to the number of machines. To the contrary, the allocation of voting machines actually favored black voters because more white voters were voting on each voting machine than black voters. (Specifically, white precincts averaged 172 voters per machine, while black precincts averaged 159 voters per machine.) The disadvantage for white voters (less than 10%) was relatively minor, and not enough to violate the Voting Rights Act. Nevertheless, we note that but for the decision of the Board to adjust for voter turnout ahead of time, the disparities would have been much greater.

Our investigation further revealed that the predominantly black polling places stayed open later than the predominantly white precincts in order to serve those voters who were in line at the normal 7:30 p.m. poll closing time. Polls in Ohio normally are open for 13 hours, from 6:30 a.m. until 7:30 p.m. Within the City of Columbus, where lines were longest, the 25 most heavily black precincts (averaging over 89% black voting age population) stayed open one hour and 15 minutes longer than the polls in the 25 most heavily white precincts (averaging over 99% white voting age population). To be sure, data are not available to determine the flow of voters through polling places, so it is not possible to establish from these figures whether voters in the black sites waited longer than voters in the white sites.

Allowing for problems or incidents in individual precincts (one white precinct was open for less than the 13 hours prescribed by state law), the principal cause of the difference appears to be the tendency in Franklin County for white voters to cast ballots in the morning (i.e., before work), and for black voters to cast ballots in the afternoon (i.e., after work). We have established this tendency through local contacts and through both political parties, and it accords with our considerable experience in other parts of the United States. Morning voters may wait in line several hours, as happened in white precincts, without keeping the polls open after 7:30 a.m.; this is not the case, however, at sites where voters arrive after 5:30 p.m..

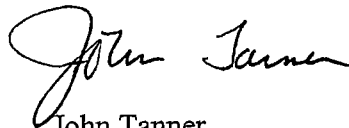
We have examined other possible factors related to the delay. The predominantly black precincts had larger numbers of newly registered, first-time voters -- 17.6% of voters in the 50 most heavily black precincts compared to 7% in the 50 most heavily white precincts. However, only 45.1% of newly registered voters in black precincts actually went to the polls, compared to 84.1% in the white precincts. There also were proportionately slightly more provisional ballots cast in black precincts (3.5% of all ballots) than in white precincts (2.2% of all ballots). The system for casting provisional ballots in Franklin County required the ballot to be cast on the machine, rather than on a separate paper ballot. As Mr. Damschroder pointed out, this was

especially awkward and time-consuming in Columbus, where the ballot itself was cumbersome. Yet it does not appear that these factors were significant in terms of overall voting time.

The circumstances of the November 2 election clearly identify areas for improvement, and the Board has taken the principal step in its decision to increase the number of voting machines from 2,904 to 5,000. We commend the County for its outreach program to familiarize voters with voting machines, a program that will be expanded significantly as new voting devices are purchased. Such outreach will minimize delays in voting in future elections, as will the Board's agreement to attempt to identify precincts with voters who may require additional time in voting due to physical, educational or language barriers.

Again, thank you for the ready cooperation that both the Board and you personally extended to us during our investigation. We are equally ready to provide any assistance we can in identifying and addressing potential problems and to help you fulfill your goal of better serving the voters of Franklin County.

Sincerely,

A handwritten signature in cursive script that reads "John Tanner". The signature is written in black ink and is positioned above the printed name.

John Tanner
Chief
Voting Section

NOV - 5 2003

NO. 03CI9552

JEFFERSON CIRCUIT COURT

DIVISION TEN (10)

REV. GEORGE C. CURINGTON, SR., ET. AL

PLAINTIFFS

VS.

ORDER

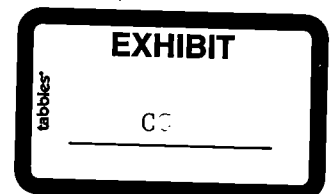
JACK RICHARDSON, IV

DEFENDANT

This matter was called on the Court's docket for the purpose of considering the Plaintiff's Motion for a Restraining Order. Having considered the Plaintiff's motions and the Defendant's response, including the Affidavit of Jack Richardson, IV, the Plaintiff's Motion for a Restraining Order is *denied* for the reasons stated on the record, as well as those cited below.

KRS 117.315 provides for the appointment of challengers. The only qualification for a challenger is they be registered voters in the county where the election is held. KRS 117.315(3). Any challenger must be trained. KRS 117.187. A challenge is limited to observing the actions of the voter and the election officer prior to the voter going into the voting room. KRS 117.235. Any voter who is challenged may fill out an oath of voter card and may then vote. KRS 117.316(2).

A challenger must have a reason to believe a person is not qualified to vote. KRS 117.316. Challengers may not disrupt the election process by intimidating or harassing verbally or otherwise any voter who is being challenged or any precinct election officer. KRS 117.317(3). Any challenger who violates the duties under KRS 117.316 or commits an act prohibited under KRS 117.317 may be removed from the polling place. KRS 117.318.

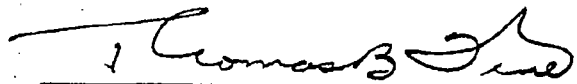


Any person who violates the provisions of KRS Chapter 117 is subject to criminal penalties.

While the Plaintiffs have announced various reasons why the voters of a particular precinct may be concerned by a challenger, speculation alone is not sufficient to grant relief under CR 65. Further, the Plaintiffs have immediate relief under KRS 117.318.

Finally, the Defendant has stated a racially neutral reason for placing challengers in a limited number of precincts. They chose those precincts with the highest percentage of registered Democratic voters vis-a-vis Republican. The Republicans have an insufficient number of poll workers and challengers to place challengers in all of Jefferson County's 496 precincts.

Denial of injunctive relief does not dispositive on the merits of the Complaint. Therefore, this is an interlocutory order only.



THOMAS B. WINE, JUDGE

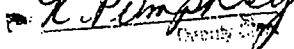
DATE: November 4, 2003

cc: David A. Friedman
Brian C. Edwards
Walter L. Sales

ENTERED IN COURT

NOV 04 2003

TONY MILLER, CL.



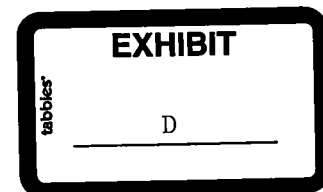
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Marian A. Spencer <i>et al.</i>	:	
	:	Case No. C-1-04-738
Plaintiffs	:	
	:	District Judge Susan J. Dlott
v.	:	
	:	ORDER DENYING
J. Kenneth Blackwell <i>et al.</i>	:	PLAINTIFFS' SECOND
	:	MOTION FOR PRELIMINARY
Defendants	:	INJUNCTION

This matter comes before the Court on the Second Motion for Preliminary Injunction of Plaintiffs Donald and Marian Spencer and Plaintiff Charter Committee of Greater Cincinnati (doc. #42). The Court held a hearing on Plaintiffs' motion on April 27, 2005 and now **DENIES** their motion.

I. FACTUAL BACKGROUND

Just prior to the November 2004 election, Plaintiffs Marian and Donald Spencer brought a challenge to Ohio Revised Code sections 3505.21 and 3505.20. Ohio Revised Code section 3505.21 allows political parties to appoint to any of the polling places in the county one qualified elector to serve as a challenger at the polling places. If a person is challenged, the presiding judge then swears in the person challenged and asks particular questions depending on the nature of the challenge. O.R.C. § 3505.20.



Anticipating a greater than usual number of challengers at that election, Defendant Secretary of State Kenneth Blackwell issued a memo outlining challenger and witness guidelines. Blackwell's memo states that challengers may not unnecessarily delay the voting process, and if a challenger challenges so many voters that his actions slow down the voting process, the presiding judge should take immediate action, such as warning the challenger and then expelling him from the polling place.¹ The memorandum also instructs that whenever possible, the presiding judge² shall move the challenged voter to an area ten feet from the polling area and ask the voter the relevant questions by administering form 10-U.³ The Hamilton County Board of Elections also issued a memo regarding challengers – its memo states that challengers must have a good faith basis for challenging a voter and may not blanket challenge or randomly challenge voters.

This Court granted Plaintiffs' motion for preliminary injunction on November 1, 2004. Defendants immediately appealed to the Sixth Circuit for a stay of that order pending appeal, which the Sixth Circuit granted. See Summit County Democratic Cent. and Executive Comm. v. Blackwell, 388 F.3d 547 (6th Cir. 2004). Judge Rogers, writing for the panel, stated that there was a significant question as to Plaintiffs' standing, but he assumed without deciding that

¹Plaintiffs' ex. 7.

²Although Blackwell's memorandum seems to indicate that only the presiding judge is necessary in the process of moving the voter ten feet away and asking him or her relevant questions about his or her eligibility, section 3505.20 refers to the "*judges*" asking a voter the relevant questions. It therefore seems clear that all election judges are required to administer the relevant questions to voters they suspect of ineligibility and all election judges are required to evaluate the response.

³10-U also states that "failing to answer any question fully or refusing to sign this form will result in the loss of your right to vote." (Plaintiffs' ex. 7.)

Plaintiffs had standing, given the “nonspeculative possibility that at least some actual injury will occur, in the form of greater delay and inconvenience in voting.” Summit County, 388 F.3d at 550. The Sixth Circuit held that Plaintiffs had not shown a substantial likelihood of success on the merits, stating that “[c]hallengers may only *initiate* an inquiry process by precinct judges. The lower court orders do not rely on the likelihood of success of plaintiffs’ challenges to the procedure that will be used by precinct judges once a challenge has been made.” Id. at 551. The Sixth Circuit dismissed the appeal, finding it moot and stating that further proceedings would take place in this Court.

Plaintiffs have now amended their complaint to address the precise procedure that the Sixth Circuit noted that this Court did not address: “the procedure that will be used by precinct judges once a challenge has been made.” Id. at 551. Their second amended complaint challenges O.R.C. § 3505.20 and the regulations issued regarding the statute.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 65 authorizes the Court to grant a temporary restraining order or preliminary injunction. When deciding whether to issue a preliminary injunction, the Court considers four factors: “(1) whether the movant has a ‘strong’ likelihood of success on the merits; (2) whether the movant would otherwise suffer irreparable injury; (3) whether issuance of a preliminary injunction would cause substantial harm to others; and (4) whether the public interest would be served by issuance of a preliminary injunction.” Leary v. Daeschner, 228 F.3d 729, 736 (6th Cir. 2000). “The four considerations applicable to preliminary injunction decisions are factors to be balanced, not prerequisites that must be met.” In re DeLorean Motor

Co., 755 F.2d 1223, 1229 (6th Cir. 1985). A district court is not required to make specific findings concerning each of the four factors used in determining a motion for preliminary injunction if fewer factors are determinative of the issue. Nat'l Hockey League Players' Ass'n v. Plymouth Whalers Hockey Club, 325 F.3d 712, 717 (6th Cir. 2002).

III. ANALYSIS

Plaintiffs argue that O.R.C. § 3505.20 deprives a voter of due process by severely burdening the right to vote. Plaintiffs contend that O.R.C. § 3505.20 severely burdens the right to vote since a challenged voter's right to vote could be denied if he fails to fully answer any question the precinct judges deem necessary to test his qualification as a voter, and the precinct judges' decision is final. Plaintiffs also argue that Defendant Blackwell requires voters to provide greater proof than is required by statute because a challenged voter must sign an affidavit or lose his vote, something not called for by statute. Finally, Plaintiffs argue that the statute conflicts with the Help America Vote Act ("HAVA"), 42 U.S.C. § 15301 et seq., which requires provisional balloting in federal elections, and should be struck down under the supremacy clause.

A. Likelihood of Success on the Merits

1. Due Process – The Questioning Process

Plaintiffs allege that voters are severely burdened by the fact that precinct judges can quiz voters about facts like age and residence that were already established when the voter was placed on the rolls. Plaintiffs also allege that the right to vote is burdened because all precinct judges must question a challenged voter, completely stopping the voting process and causing delay.

Finally, Plaintiffs argue that the wide discretion afforded precinct judges in asking questions “necessary” to test a challenged voter’s qualifications without giving the voter notice or an opportunity to be heard renders the statute unconstitutional.

Plaintiffs analyze the situation under Anderson v. Celebrezze, 460 U.S. 780, 789 (1983).

Under Anderson, the Court conducts a balancing test between the severity of the burden and the importance of the State’s interests:

[The Court] must first consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate. It then must identify and evaluate the precise interests put forward by the State as justifications for the burden imposed by its rule. In passing judgment, the Court must not only determine the legitimacy and strength of each of those interests; it also must consider the extent to which those interests make it necessary to burden the plaintiff’s rights. Only after weighing all these factors is the reviewing court in a position to decide whether the challenged provision is unconstitutional.

Anderson, 460 U.S. at 789. If an election regulation imposes a “severe” burden, the State regulation must be narrowly drawn to serve a compelling state interest. Timmons v. Twin Cities Area New Party, 520 U.S. 351, 358-60 (1997). If the regulation imposes a lesser burden, however, the State regulation must be justified only by important state regulatory interests. Id.; Burdick v. Takushi, 504 U.S. 428, 433 (1992). Plaintiffs argue that the burden in this case is severe because the burden is the loss of the voter’s right to vote. Plaintiffs point to no example, however, of someone who was in fact eligible to vote whose right to vote was revoked pursuant to O.R.C. § 3505.20.

The other burden described is that of being subjected to any such questions necessary to test the person’s qualifications to vote and of being required to submit an affidavit regarding their qualifications if challenged. Judge Debevoise addressed a similar concern in Vargas v.

Calabrese, 634 F. Supp. 910, 929 (D. N.J. 1986). Judge Debevoise held that since precinct judges couldn't ask just any question but only, as here, questions necessary to test the person's qualifications to vote, the plaintiffs could not succeed under Anderson. Judge Debevoise concluded that necessary questions can relate only to grounds for voter ineligibility put forth in the statute – citizenship, residency, or age. This Court finds such a conclusion to be a logical interpretation of the Ohio statute as well. The statute provides for challenges on three different grounds – citizenship, residency, and age, and provides specific questions for those categories. It then states that the presiding judge “shall put such other questions to the person challenged under respective heads designated by this section as are necessary to test the person's qualifications as an elector at the election.” O.R.C. § 3505.20. Since the headings designated in the section pertain only to citizenship, residency, and age, it is reasonable to conclude that the “necessary questions” contemplated by the statute relate only to those headings.

Plaintiffs also protest the use of the Form 10-U affidavit in the challenge process. The Form 10-U affidavit that a challenged voter must sign does not restrict a challenged voter any more than the procedure outlined in O.R.C. § 3505.20. While the statute does not require an affidavit, it does require the person to answer questions under oath, the functional equivalent of signing an affidavit. Plaintiffs have therefore not shown that the use of the affidavit poses any due process problem.

While the magnitude of the burden of having one's properly registered right to vote revoked is great, there is no evidence that it has happened here or will happen in May's primary. In Vargas, the loss of the vote occurred only after the election law itself was violated, and here there is no such allegation. As to the State's interests, Judge Debevoise rightfully held that the

state has a great interest in preventing voter fraud and that the precinct judges need flexibility in crafting the questions to ask to test someone's voting qualifications. Vargas, 634 F. Supp. at 929. Ohio's interest in preventing election fraud and assuring that only properly eligible voters cast actual ballots is equally important. O.R.C. § 3505.20 serves that interest.

Finally, Plaintiffs refer to a due process violation by implying that under the questioning process set forth in O.R.C. § 3505.20, a person's right to vote can be revoked without notice or opportunity to be heard. Plaintiffs did not put forth a thorough due process analysis in their motion nor at the hearing. Notwithstanding, the statute itself provides notice of the challenge procedure and the grounds on which a voter can be challenged, and the question and answer process set forth in O.R.C. § 3505.20 certainly provides some opportunity to be heard before a voter is deemed ineligible. Plaintiffs have not offered any suggestion of what process is, in fact, due under these circumstance in place of the one set forth in the statute.

Under the facts presented in the motion for preliminary injunction and at the preliminary injunction hearing, Plaintiffs have failed to show a strong likelihood of success on the merits of their constitutional claims.

2. HAVA

Plaintiffs contend that O.R.C. § 3505.20's instruction that precinct judges shall refuse a challenged voter a ballot if he fails to fully or sufficiently answer a precinct judge's questions, directly contradicts the Help America Vote Act ("HAVA"), 42 U.S.C. § 15301 et seq. HAVA directs that when an individual is eligible to vote for federal office but an election official asserts that the voter is not eligible, the person shall be given a provisional ballot. 42 U.S.C. § 15482. This Court held in the first Spencer order that "[t]his part of section 3505.20 conflicts with, and

is thus superceded by, federal law because the Help America Vote Act (“HAVA”), 42 U.S.C. § 15301 et seq. requires election officials to give a provisional ballot to any voter whose name does not appear on the rolls or whom an election official believes would be ineligible to vote.” Spencer v. Blackwell, 347 F. Supp. 2d 528, 531 (S.D. Ohio 2004). Plaintiffs allow that none of the special, primary, or general elections currently scheduled to take place in Hamilton County in 2005 are federal elections. Plaintiffs have therefore, at this time, failed to show any likelihood of success under HAVA.

3. National Voter Registration Act

In their second amended complaint, Plaintiffs allege that Defendants have violated Plaintiffs’ rights under the National Voter Registration Act (“NVRA”), 42 U.S.C. § 1973gg. This claim was not mentioned in their motion for preliminary injunction nor expanded upon at the April 27 hearing. Plaintiffs have therefore, at this time, failed to show any likelihood of success on the merits of an NVRA claim.

B. Irreparable Harm

Plaintiffs have failed to show that irreparable harm occurred in the November 2004 election due to the procedures set forth in O.R.C. § 3505.20 or that irreparable harm will result if such procedures are not enjoined. Plaintiffs produced no evidence at the hearing that any eligible voter was wrongfully denied a ballot under O.R.C. § 3505.20 in the November 2004 election or that such a voter would be denied a ballot in any future election.

IV. CONCLUSION

Because Plaintiffs have failed to establish a likelihood of success on the merits of their

claims and have not shown that any irreparable injury has resulted or will result from the procedures set forth in O.R.C. § 3505.20, their Second Motion for Preliminary Injunction is **DENIED.**

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge

**WHITE COLLAR CRIME
CIRCUIT COURT
STATE OF WISCONSIN CRIMINAL DIVISION MILWAUKEE COUNTY**

STATE OF WISCONSIN Plaintiff CRIMINAL COMPLAINT

vs.

Pratt, Michael
4045 N. 16th Street
Milwaukee, Wisconsin 53209
(DOB: May 14, 1972)

Mohammad, Lavelle
4723 West Lloyd Street
Milwaukee, Wisconsin 53208
(DOB: August 27, 1969)

Omokunde, Sowande A.
4043 N. 19th Place
Milwaukee, Wisconsin 53209
(DOB: August 22, 1979)

Howell, Justin
2402 Olive Street
Racine, Wisconsin 53403
(DOB: July 24, 1984)

Caldwell, Lewis G.
2938 N. Summit Ave.
Milwaukee, Wisconsin 53211
(DOB: December 29, 1976)

Defendant(s)

Complaining Witness:
Michael Sandvick

DA Case Number:
Circuit Court Case Number:

THE ABOVE NAMED COMPLAINING WITNESS BEING DULY SWORN SAYS THAT THE ABOVE NAMED DEFENDANT(S) IN THE COUNTY OF MILWAUKEE, STATE OF WISCONSIN.

COUNT 01: CRIMINAL DAMAGE TO PROPERTY (REDUCED IN VALUE BY MORE THAN \$2,500), PARTY TO A CRIME (As to Defendants Michael Pratt, Sowande Omokunde, Lewis Caldwell, Lavelle Mohammad and Justin Howell)

On November 2, 2004, at 7113 West Capitol Drive, City of Milwaukee, as party to a crime, did intentionally cause damage to the physical property of the Republican Party Of Wisconsin without said person's consent, whereby said property was reduced in value by more than \$2500.00, contrary to Wisconsin Statutes Section 943.01(2)(d) and 939.05.

AS TO COUNT 01:

Upon conviction of this charge, a Class I Felony, the maximum possible penalty is a fine of not more than \$10,000 or imprisonment for not more than 3.5 years or both.

Your complaining witness states that he is a detective employed by the Milwaukee Police Department. He makes this complaint based upon his own investigation, based upon statements made to him by adult citizens who he believes to be reliable and based upon his review of reports prepared by fellow law enforcement officers. Complainant states that he has reviewed such reports in the past and has found them to be accurate and reliable.

Complaining witness states that on November 2, 2004, at approximately 6:45 a.m. the Milwaukee Police Department was contacted by Rick Wiley who identified himself as a political director for the Republican Party of Wisconsin. Mr. Wiley informed the Milwaukee Police Department that between October 29 and November 1, 2004 he had rented a large number of vans to be used for the final weekend of the presidential campaign. He stated that on November 1, 2004 all the vans were parked at a Republican Party office located at 7113 West Capitol Drive in the City and County of Milwaukee. When Mr. Wiley arrived at the Capitol Drive office at approximately 6:15 a.m. on Tuesday, November 2, he discovered that the tires had been slashed on a number of the vans. Mr. Wiley stated that some of

EXHIBIT

tabbles

E

Pratt, Michael	DOB: May 14, 1972
Omokunde, Sowande A.	DOB: August 22, 1979
Caldwell, Lewis G.	DOB: December 29, 1976
Mohammad, Lavelle	DOB: August 27, 1969
Howell, Justin	DOB: July 24, 1984

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the tires went flat right away. In addition, during the course of the day three vans that were not immediately recognized as having flat tires had tires deflate while being driven that morning. Mr. Wiley subsequently made arrangements with the Firestone dealer on 60th and Capitol Drive to get the tires repaired. The Firestone dealer dispatched tow trucks to the Republican Party office to begin repairing the tires. In addition, the three vans that became disabled were towed to the Firestone station for the purposes of repairs. Mr. Wiley reported that Firestone began towing vehicles around noon. The invoices provided by Mr. Wiley show that 40 tires on 25 separate vehicles were damaged during the course of this incident. The total cost for repairing the tires was \$4,192.35. In addition, the towing charges were \$1,125.00. Mr. Wiley stated that he had rented the vehicles and that he and the Republican Party of Wisconsin were responsible for repairing the damage. He further stated that he had given no one in the world permission or consent to slash the tires. Mr. Wiley had rented the vans for the purposes of being used to transport voters to the polling places on November 2, 2004 as well as transporting poll watchers to their poll locations.

Complaining witness states that 7113 W Capitol Drive is on the south side of Capitol Drive and that that block on the south side is bounded to the west by the 3900 block of North 72nd Street and is bounded on the east by the 3900 block of North 71st Street. Complainant states that an alley runs behind 7113 W Capitol Drive connecting the 3900 block of north 72nd Street to the 3900 block of North 71st Street and that there is a vacant lot west of 7113 W Capitol Drive which can be used for parking.

Complaining witness states that he spoke with Lawrence Shobe who identified himself as the service manager at the Firestone Tire Center located at 4080 N. 60th Street. Mr. Shobe confirmed that the repairs to the RNC vehicles were completed on November 2-3, 2004. He examined the tires as the vehicles were brought in and 90% of the flat tires had slashes or punctures on the sidewalls and needed to be replaced. He confirmed that the charges for these repairs were \$4192.35, plus the towing charges.

Complaining witness states that Milwaukee Police Detective Matthew Quist spoke to an adult citizen Cedric Peoples who identified himself as a security guard for Milwaukee Patrol. Mr. Peoples stated that on the night of November 2, 2004, he was working as a security guard at the Republican National Committee office located at 7113 West Capitol Drive in the City and County of Milwaukee. Mr. Peoples stated that there was a parking lot on the west side of the building where there were several rented vans used by the campaign. Peoples stated that there was an alley behind the building where there were several more vans rented by the campaign. At approximately 3:30 a.m. on November 2, 2004, Mr. Peoples was circling the block in his own personal car when he began to see suspicious behavior. Peoples informed Detective Quist that he saw two vans in the 3900 block of North 72nd Street with van number one facing southbound and van number two facing northbound. Both vans were new rental style vans that were light in color. Peoples saw a black male who he described as being in his late 20s to early 30s exit the van which was facing southbound and walk over to the van that was facing northbound. This black male began talking to persons that were in the northbound facing van. Peoples was able to see that there were two to four people inside the second van. The black male then entered the second van which drove off northbound. This van pulled around the block into the 3900 block of North 71st Street and the doors were opened to the van, and the same black male that Peoples had originally observed exited this van. This individual subsequently identified as the defendant Lavelle Mohammad began walking westbound on West Capitol Drive and walked all the way to the rear of a

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Howell, Justin	DOB: July 24, 1984

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furniture store at 72nd and Capitol Drive where Peoples observed defendant Mohammad begin to urinate behind the building.

Defendant Mohammad then walked over to the bus stop at 72nd and Capitol Drive. Peoples stated that he continued to monitor defendant Mohammad because he was suspicious, as he knew that the buses had already stopped running. Peoples observed defendant Mohammad talking to someone on a cell phone. Peoples watched Mohammad wait at the bus stop for five to 10 minutes and then Peoples saw the van drive by Mohammad going westbound and then make a u-turn returning eastbound. The van stopped in front of defendant Mohammad who motioned for it to go. This van then went eastbound and did not return.

Peoples then observed a white newer model four-door sedan with Illinois license plate 4969825 pull up eastbound and stop next to defendant Mohammad. Defendant Mohammad then entered this vehicle which was driven by an individual subsequently identified as Lashaunda J. Williams. Peoples followed Ms. Williams' car which drove to the area of the west parking lot on North 72nd Street. Defendant Mohammad then got out of the vehicle and walked over to the van that Peoples had originally seen defendant Mohammad get out of. Defendant Mohammad reentered that van and drove off. The white auto then also drove off. Peoples followed the auto southbound for half a block and wrote down the license plate number on a piece of paper. Peoples then drove into the alley behind 7113 W Capitol Drive where several of the Republican rental vans were parked. At that point Peoples saw a white male who he described as being in his late teens to early 20s standing by some of the vans. Defendant Caldwell is a white male. When Peoples got out of his vehicle to see what defendant Caldwell was doing, Peoples saw defendant Caldwell then flee eastbound into the alley. Peoples could then hear the sound of air going out of tires. He then checked and saw that tires had been slashed on the vans in the alley. Peoples checked vans in the parking lot to the west where tires had also been slashed.

Your complaining witness states that during the course of the investigation, it was determined that the white automobile bearing Illinois license plate 4969825 was listed as being rented by an individual named Opel Simmons III. Police also learned that Simmons was in Wisconsin to work for the Democratic National Committee.

On November 2, 2004 at approximately 8:30 p.m., Milwaukee Police officers located the vehicle with Illinois license plate 496-9825, which was parked on the street in the 3900 block of North Teutonia Street. At approximately 10:00 p.m. an individual identified as Lashaunda J. Williams was observed placing something in the trunk of the vehicle and then entering the vehicle and driving away. The vehicle was subsequently stopped on 7th Street. When officers questioned Ms. Williams, she informed them that the car was a rental and that her boss, Opel Simmons, was the one who had rented it. While officers were present at this scene on North 7th Street, they were approached by Opel Simmons who informed them that he was the person who had rented the car and that it was to be used by his workers for their campaign activities. Simmons was asked to accompany the officers to the Police Administration Building and agreed to do so. While there Simmons spoke to Detective Brian Reilly and informed Detective Reilly that he had knowledge of what had occurred at the Republican Party headquarters although he was not directly involved. He stated that he knew that tires had been slashed at the Republican headquarters and that five of his workers were involved. Simmons identified them defendant Michael Pratt, defendant Sowande Omokunde who Simmons knew as Supreme Allah, defendant Lavelle Mohammad, defendant Lewis Caldwell and defendant Justin Howell. He stated that

Pratt, Michael	DOB: May 14, 1972
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on Monday, November 1, 2004, a group of individuals were at the Democratic headquarters at Teutonia and Capitol when they discussed a plan to go to the Republican National Committee office at 71st and Capitol and put yard signs, placards and bumper stickers on their building. They wanted it to look like a Democratic Party headquarters. They even came up with the name "Operation Elephant Takeover." Simmons stated that after this meeting took place, he and Levar Stoney drove to Madison in order to meet with other individuals from the Democratic Party. He stated that none of this plan was ever sanctioned by the Democratic Party. Simmons stated that when he returned to Milwaukee in the early hours of November 2, 2004, he was informed by one of his workers that there were security guards at the Republican office, and the plan was called off.

Your complaining witness states that Milwaukee Police officers were present when Mr. Simmons was interviewed by Milwaukee County Assistant District Attorney David Feiss. Simmons informed Assistant District Attorney Feiss that when he returned to the Democratic Party headquarters sometime around 3:00 a.m. on November 2, 2004, he observed defendant Pratt, defendant Omokunde, defendant Mohammad, defendant Caldwell and defendant Howell dressed in what he described as "Mission Impossible" type gear, black outfits and knit caps. Simmons then asked the five, "What are you guys going to do? You know they got folks up there." One of the five responded by telling him words to the effect of "Oh, man, you don't want to know, you don't want to know." He indicated that they were laughing and joking with him and told him again that they couldn't tell him what they were about to do and that he didn't want to know. He then told them to be careful and stated that he didn't know what they had planned but they could not confront anyone. Simmons stated that prior to leaving, defendant Lavelle Mohammad looked at him and said in response to Simmons' questions about what they were getting ready to do, "You don't want to know, don't ask."

Simmons stated that approximately 20 minutes later all five of the defendants were extremely excited. When they came into the office, defendant Pratt stated, "They won't go anywhere now, man, we got 'em, we got 'em." Simmons asked what was going on, and defendant Mohammad repeated, "We got 'em, we got 'em. They're not going anywhere now." Defendant Caldwell stated, "Man, I walked right past the security guard. He didn't even know anything was going on." Then defendant Mohammad stated, "That's 'cause, you know, I was acting all crazy, you know, I was acting crazy. I even let him watch me piss." Simmons again asked, "What's going on?" and defendant Pratt said, "We got 'em. We hit the tires." Then all five of the defendants started to remark about various tires and how they heard the "phew, phew, phew" sound of air coming out of the tires. Simmons stated that he could not recall specific statements by defendants Omokunde or defendant Howell but that they were both present and participated in the conversation.

Simmons stated that at some point during the day someone in the office pulled an article from the Journal Sentinel website on the incident. Simmons had a conversation with defendant Mohammad in which defendant Mohammad remarked that he was going to pull that article down and frame it and put it on his wall. Simmons stated that he interpreted this as a sort of "you can't catch me" type statement by defendant Mohammad. Simmons stated that he did not talk to any of the other defendants about the tire-slashing incident during the course of the day on November 2, 2004.

Complaining witness states that Levar Stoney was interviewed by an FBI Agent on January 14, 2005 in Virginia. He informed the agent that he had been in Wisconsin from early October until just after the November election working on a Get Out the Vote effort. On the day before the election he was at

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Democratic headquarters when there was a discussion of a plan to go to the Republican headquarters and place or remove signs. He heard no discussion about slashing of any tires. They were to meet at their headquarters at 2:00 a.m.

At around 11:00 p.m. he drove to Madison with Opel Simmons to pick up some materials they needed for election day. When they returned, they went to hotel for a short while and then returned to headquarters. When they arrived at around 2:30 a.m., he saw defendant Pratt, defendant Mohammad, defendant Howell, defendant Caldwell and defendant Omokunde, who he knew as "Supreme". They were with co-workers of his, Alicia Smith, Myesha Ward and Ashley Collier. A person who he did not know who he described as a friend of defendant Howell's was also present. He heard someone in the group say "are you ready to go?" He responded by saying that there were about 100 vans and a lot of people still at the Republican headquarters. He decided he did not want to go and he was taunted as a result.

A short time later Stoney said he awoke to a lot of commotion in the office. He walked out and he saw defendant Pratt, defendant Mohammad, defendant Omokunde, defendant Howell, defendant Caldwell and the friend of Howell's. He heard one of them say "we got em good." The group discussed slashing tires and then proceeded to go into details about what their roles had been. Stoney heard that defendant Mohammad was the "deception guy", who walked around acting like he was drunk. He heard that defendant Omokunde tried to slash some tires, however he was unsuccessful on his first attempt. On his second attempt Omokunde was able to slash a tire. He heard that defendant Caldwell, also known as "Gib" got one or two and defendant Pratt got four tires. During this conversation Stoney saw one of the men carrying a knife which he described as a "steak knife." Stoney heard defendant Pratt tell the person with the knife to put it away.

Complaining witness states that Lashaunda "Joy" Williams spoke to Milwaukee Police detectives on November 3, 2004 and special agents with the Federal Bureau of Investigation on January 13, 2005 regarding this incident. Ms. Williams stated that she was present at the north side Democratic headquarters which was at 3967 North Teutonia Ave. on Monday, November 1, 2004 when a discussion took place about "Operation Elephant Takeover" which involved a plan to put Kerry signs around the building of the Republican headquarters. She recalled defendant Pratt, defendant Mohammad, defendant Caldwell and defendant Omokunde as being present at this meeting. Williams stated that shortly after the meeting defendant Pratt received a phone call from defendant Mohammad informing him there was a security guard out at the headquarters, and the group called off their plans. Williams stated that she then drove back to her hotel to take a shower and a nap. She returned to the office about 1:30 a.m. Thereafter she left the office to return to her hotel room to retrieve a lap top computer. Williams was unable to remember the exact time that she had done this, but on her way back she stopped for gas at the BP gas station on Capitol Drive. A prepaid gas card receipt recovered from the vehicle being driven by Ms. Williams shows that this transaction took place at the Amoco station at North 73rd and West Capitol at 3:35 a.m. on November 2, 2004. After leaving the gas station she saw defendant Mohammad standing on the corner by the Republican headquarters on Capitol Drive. He was wearing a black jacket, jeans and glasses and was leaning against a pole in the grassy area. She stated that she did a u-turn and came back around to talk to him. Defendant Mohammad then entered her vehicle, and she drove him a short distance and dropped him off at a van that had been rented by the Democratic campaign effort. While he was in the car defendant Mohammad made a comment to her to the effect of, "We really got 'em." Williams stated that throughout the night she

Pratt, Michael
Omokunde, Sowande A.
Caldwell, Lewis G.
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had seen defendant Mohammad with defendant Pratt, defendant Omokunde, defendant Caldwell and an unknown black male whose name she did not know subsequently determined to be defendant Howell. Williams stated that during the course of the day of November 2nd 2004, she had a conversation with defendant Mohammad where she asked him if he'd seen the article in the paper about the vans at the Republican headquarters. Defendant Mohammad smiled at her and replied affirmatively. Williams stated that his tone of voice and his facial expression and body language led her to believe that he was acknowledging to her that he was involved in slashing the tires.

Complaining witness states that adult citizen Alicia Smith was interviewed by agents from the Federal Bureau of Investigation in Virginia on December 6, 2004. Ms. Smith informed the agents that she had been employed as a Get Out the Vote supervisor in Milwaukee from October through November of 2004. While there she worked for Opel Simmons and was a co-worker of Ms. Williams. Ms. Smith stated that she was present at the Democratic headquarters on North Teutonia Avenue when there was discussion a day or two prior to the election about an election day antic which they called "Operation Elephant Takeover." She described this as a plan to put Kerry/Edwards signs and stickers on or around the building that the Republican National Committee headquarters was located in. Smith stated that subsequently this plan was called off when it was discovered that the Republican headquarters was monitored by security guards. She stated that she and a co-worker, Ashley Collier, arrived at the party headquarters sometime between 12:00 and 1:00 a.m. on November 2, 2004. Smith stated that she stayed there until 2:30 or 3:00 a.m. when she left with Collier and Myesha Ward to return to Ward's hotel room so that they could change clothes. When Smith was leaving, Ms. Williams was also leaving in order to pick up a computer from her hotel. Opel Simmons and an individual named Levar Stoney remained at the headquarters location.

Smith stated that at about the same time that she was leaving headquarters between 2:30 and 3:00 a.m., defendant Pratt, defendant Omokunde, defendant Mohammad, defendant Caldwell and defendant Howell indicated that they were going to "check out" the Republican headquarters. Smith stated at the time they made this statement she was not aware of any election day antics they had planned.

When Smith returned to headquarters around 4:30 or 5:00 a.m., she saw Lashaunda Williams who told her that when she was on her way back to headquarters, she had seen defendant Mohammad a block or so away from the Republican headquarters and that she had picked him up and given him a ride back to his vehicle. When she arrived back at the office, Smith also heard defendant Pratt, defendant Omokunde, defendant Mohammad, defendant Caldwell and defendant Howell talking about slashing tires of vehicles leased by the RNC that were parked at RNC headquarters. Smith could not remember which of the five said it, but someone stated "it was like a choir" and then made the sound of deflating tires. Smith stated that defendant Omokunde, who she knew as Allah, stated, "I only got to do two" referring to slashing of the tires. Smith told defendant Omokunde that she wanted nothing to do with it and left the room. She stated that no one else was present when defendant Omokunde made this statement.

Complaining witness states that FBI agents interviewed Myesha Ward on January 14, 2005 and she stated that she had been in Wisconsin from September 28, 2004 through the election on November 2, 2004. On November 1st she was at the Democratic campaign office when a discussion took place about a plan called "Operation Elephant Takeover" in which they discussed putting up placards and bumper stickers at the Republican Campaign headquarters. This was scheduled to take place at

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Howell, Justin	DOB: July 24, 1984

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around 2:00 am on November 2nd, 2004. However prior to leaving to carry out this plan Ward and others were informed that there was a security guard at the Republican office and the plan was cancelled. Ward then left the office around 1:30 am and returned between 2:30 and 3:00 am. When she returned defendants Pratt, Mohammad and Howell were present. Ward believed that Omokunde and Caldwell were also there, but she was not certain of this.

She next recalled seeing all five defendants together sometime around 4:00AM. They were excited and worked up. She recalled them making comments to the effect of "we got them" or "we did it".

Complaining witness states that during the course of this investigation, he received information from FBI Special Agent Terry Sparacino. Agent Sparacino obtained information regarding calls made by the cell phone owned by defendant Mohammad, telephone number 414-350-3873, as well as information regarding cell phone activity for defendant Pratt, telephone number 414-688-5650, and defendant Omokunde, cell phone number 414-803-1707. This information consisted of information on incoming and outgoing calls made by the defendants as well as cell tower information indicating the approximate location of the defendants at the time calls were made. This information showed that on November 2, 2004, at approximately 2:52 a.m. defendant Mohammad placed a call to the Democratic Party headquarters on Teutonia. The cell tower information indicates that the call went through a cell tower located at 7677 West Appleton Avenue. At 2:53 a.m. defendant Mohammad received a call which went through the same cell tower.

Cell phone records showed that there were two calls at 2:54 a.m. and one call at 3:33 a.m. from Pratt to Mohammad all of which went through the same 7677 West Appleton Avenue cell tower. Defendant Mohammad then called defendant Pratt at 3:34 a.m. Defendant Pratt then called defendant Mohammad at 3:36 a.m. with each of these calls again going through the West Appleton Avenue cell tower. Defendant Pratt then called defendant Mohammad at 3:42 a.m. with that call going through a cell tower located at 5750 West Fond Du Lac Avenue. Defendant Mohammad then placed another phone call at 3:43 a.m. bouncing through a cell tower at 4222 West Capitol Drive. Defendant Pratt then called defendant Mohammad twice at 3:44 a.m. again going through the 4222 West Capitol Drive cell tower.

Special Agent Sparacino's analysis of defendant Pratt's cell phone records shows that the call from defendant Pratt to defendant Mohammad at 2:54 a.m. went through a cell tower at 3533 North 27th Street which is consistent with defendant Pratt being at the Democratic Party headquarters at Capitol and Teutonia. The cell tower records show that the 3:36 a.m. call from defendant Pratt to defendant Mohammad went through the tower at 5120 West Capitol Drive. The calls at 3:42 a.m. and 3:44 a.m. from defendant Pratt to defendant Mohammad went through the North 27th Street cell tower.

Pratt, Michael DOB: May 14, 1972
Omokunde, Sowande A. DOB: August 22, 1979
Caldwell, Lewis G. DOB: December 29, 1976
Mohammad, Lavelle DOB: August 27, 1969
Howell, Justin DOB: July 24, 1984

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Your complaining witness states that the cell tower activity is consistent with defendant Pratt and defendant Mohammad traveling from the Democratic Party headquarters to the Republican Party headquarters and is consistent with other witnesses who suggested that defendant Mohammed had been sent in advance to screen activity at the location.

****End of Complaint****

Subscribed and sworn to before me
and approved for filing on this 24th
day of January, 2005



DEPUTY ASSISTANT DISTRICT ATTORNEY



Complaining Witness

David A. Felss\JO

-- FELONY COMPLAINT --

J:\COMPLAINT\PRATT, MICHAEL\OMOKUNDE, SOWANDE\CALDWELL, LEWIS\MOHAMMAD, LAVELLE\
HOWELL, JUSTIN\XFC.DOC TYPIST: JO

COMMON PLEAS COURT
MARION CO. OHIO

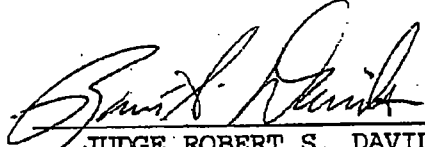
2004 NOV -2 AM 8:53

JULIE M. KAGEL
CLERK OF COURTS
IN THE COURT OF COMMON PLEAS OF MARION COUNTY, OHIO
GENERAL DIVISION

OHIO REPUBLICAN PARTY, :
Plaintiff, : Case No. 04-CV-0791
-vs- : JUDGE ROBERT S. DAVIDSON
MARION COUNTY DEMOCRATIC :
PARTY, et al., : JUDGMENT ENTRY
Defendants. :
:

This day this cause came on to be heard on the Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction. Although the Plaintiff's paperwork appears to be in order, and the request might appear to be legitimate, this Court feels obligated to recuse itself from consideration of the Motion because the undersigned personally received a phone call similar to the one referenced in Plaintiff's complaint. This Court will arrange for the appointment of another judge in this matter.

It is so ORDERED.


JUDGE ROBERT S. DAVIDSON

cc: Mark Landes
Marion County Democratic Party, 1585 Harding Highway E.,
Marion, OH
Greene County Democratic Party, 68 E. Main St.,
Xenia, OH 45385
Ohio Democratic Party, 271 E. State St., Columbus, OH 43215
ACT Ohio, 1397 Dublin Rd., Columbus, OH 43215

EXHIBIT
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IN THE COURT OF COMMON PLEAS, MARION COUNTY OHIO

OHIO REPUBLICAN PARTY

Plaintiff

CASE NO. 04-CV-0791

VS.

JUDGE FAULKNER

MARION COUNTY DEMOCRATIC PARTY, ET. AL.

Defendants

AFFIDAVIT OF CATHY CHAFFIN

STATE OF OHIO,
COUNTY OF MARION, ss

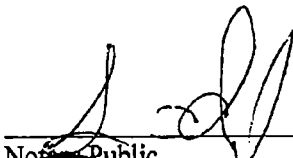

- 1) I am Cathy Chaffin, Chair of the Marion County Democratic party
- 2) That the Marion County Democratic Party did provide the physical resources for the campaign office, office equipment, a phone line, and some additional support for the Kerry/Edwards campaign in Marion County Ohio.
- 3) That the Marion County Democratic Party did from time to time have communication with Kerry/Edwards campaign with regards to activities being conducted in the camping headquarters. However, our main focus was local candidates and campaigns.
- 4) Further, at times there were activities that I was not always aware of being conducted by the Kerry/Edwards campaign and that I had no control over until I became aware of these activities. They did not consult me at all times prior to engaging in conduct.
- 5) On or about October 30, 2004 I became aware of certain activities being conducted by the Kerry/Edwards staff in Marion pertaining to phone calls being made to voters which gave out polling locations. The complaint was that the wrong polling location was being given.

- 6) I immediately took action to stop this activity by calling the local Kerry/Edwards Staffer Jim Secreto and advised him to cease this activity. I was informed that this would in fact cease.
- 7) I learned again later this weekend that this activity was continuing. I again advised Mr. Secreto to cease this activity. He agreed.
- 8) However, on November 2, 2004 I became aware that the activity had not in fact stopped and I advised Mr. Secreto that he could not operate out of the headquarters if he continued to violate my directive. He ceased his activity that day at approximately 10:00 A. M.
- 9) After that date and time, no further phone calls were made which gave out polling locations to my knowledge.
- 10) At no time did anyone associated with the Marion County Democratic Party authorize the Kerry/Edwards campaign or any volunteers to make phone calls which gave out polling locations. In fact, it was and is the policy of the party not to give out this information but instead to refer voters to the Marion County Board of Elections.
- 11) I am attaching a sample of the phone number sheets that were used by the Kerry/Edwards volunteers in determining who was to receive phone calls.

Affiant sayeth naught.


Cathy Chaffin

Sworn to before me a Notary Public for the State of Ohio, County of Marion on this 23rd day of November, 2004


Notary Public
 **STEVEN E. CHAFFIN ATTORNEY AT LAW**
NOTARY PUBLIC, STATE OF OHIO
My Commission has no Expiration Date
Section 147.03 O.R.C.

COMMON PLEAS COURT
MARION CO. OHIO

2004 NOV -2 PM 2: 24

JULIE M. KAGEL
CLERK OF COURTS
MARION COUNTY COURT OF COMMON PLEAS

Ohio Republican Party,) Case No. 04 CV 0791

) Plaintiff,)

) Vs.) Temporary Restraining Order

Marion County Democratic Party)
et al.,)

) Defendants.)

This cause came to be heard on Plaintiff Ohio Republican Party's Motion for a Temporary Restraining Order with Mr. Mark Landes on behalf of Plaintiff and Mr. Steven E. Chaffin on behalf of Defendant Marion Democratic Party only, participating by telephone. Upon consideration of the Motion, supporting memorandum and affidavit thereto, and given the arguments presented,

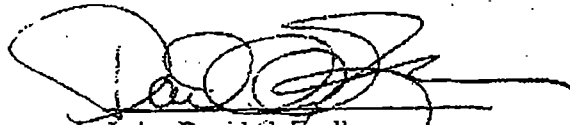
IT IS HEREBY ORDERED, ADJUDGED AND DECREED that in order to preserve the status quo, and without adjudication as to fault or wrong doing, Defendants and all of their directors, officers, employees, agents, and/or principals and anyone acting in concert with them who have notice of this Order be, and hereby are, enjoined until further Order of this Court from: Any acts of interfering in any way with the rights of Ohio registered voters to vote in the November 2, 2004 election, including, but not limited to, telephoning or contacting in any way any such registered voters and misstating the date of the November 2, 2004 election, directing them to the wrong location to which they should report to vote, telling such voters that they must bring certain documentation to the polls in order to vote and suggesting to, telling to or implying to said voters that there are procedural and/or documentary hurdles they must overcome in order to vote in the November 2, 2004 election.

IT IS FURTHER HEREBY ORDERED, per the Motion of Plaintiff, that Plaintiff need not post as security with the Clerk of Court a bond or cash as the Court finds that no monetary damages will be incurred or suffered by Defendants if Defendants are found to have been wrongfully enjoined or restrained by this Order.

This Temporary Restraining order shall be effective through November 15, 2004 unless extended or modified by further Order of this Court.

A hearing on Plaintiff's application for a preliminary injunction is hereby ordered on Monday, November 15, 2004 before this Court at 1:00 P.M. and notice of said hearing and the time and place thereof shall be given to Defendants forthwith by Plaintiff serving a copy of Notice of Hearing on Defendants or their counsel as applicable.

IT IS SO ORDERED.



Judge David C. Faulkner
Sitting by Assignment

COMMON PLEAS COURT
MARION CO. OHIO

IN THE COURT OF COMMON PLEAS, MARION COUNTY, OHIO

2004 NOV -1 PM 4:32

**Ohio Republican Party
211 S. Fifth Street
Columbus, OH 43215**

JULIE H. KAGEL
CLERK OF COURTS

Plaintiff,

vs.

**Marion County Democratic Party
1585 Harding Hwy E
Marion OH 43302,**

04 CV 0791

and

Case No. _____

**Greene County Democratic Party
68 East Main Street
Xenia, OH 45385**

Judge JUDGE ROBERT S. DAVIDSON

and

Complaint

**Ohio Democratic Party
271 E. State St.
Columbus, OH 43215,**

and

**ACT Ohio
1397 Dublin Road
Columbus, OH 43215,**

Defendants.

COMPLAINT

The Parties, Nature of Action, and Factual Background

1. Plaintiff Ohio Republican Party ("GOP") is a "major political party," as defined in R.C. § 3501.1(F)(1). To elect the candidate who receives the most votes in the November general election, the GOP has an interest in having all votes cast by electors at the correct precinct where they are registered and that they are not fraudulently misled as to the legal requirements to cast a vote.

2. Defendant Ohio Democratic Party ("ODP") is a "major political party," as defined in R.C. § 3501.1(F)(1).

3. Defendant Marion County Democratic Party is local branch of Defendant ODP, whose activities primarily focus upon electors in Marion County, Ohio.

4. Defendant Greene County Democratic Party is a local branch of Defendant ODP, whose activities primarily focus upon electors in Greene County, Ohio.

5. Defendant ACT Ohio is a "527 committee" dedicated to "get-out-the-vote" activities for Democratic candidates.

6. In Ohio, a voter may cast a ballot only in his or her precinct of residence. R.C. § 3503.01. It is a crime under Ohio law for a voter to knowingly vote anywhere except in the precinct in which he or she resides. R.C. § 3599.12(A)(1).

7. Upon information and belief, membership of the GOP across the State of Ohio, including but not limited to members in the following counties, Butler, Franklin, Fairfield, Marion, and Greene have, in the past week, received phone calls from Defendants in which the Defendants inform the GOP members that their polling location is different than what it actually is. (See Exhibit A).

8. In Ohio, an elector generally only has to announce his or her full name and address, and then write his or her full name and address or signature in the pollbook prior to receiving a ballot. R.C. § 350518.

9. Upon information and belief, membership of the GOP across the State of Ohio, including but not limited to members in the following counties, Butler, Franklin, Fairfield, Marion, and Greene have, in the past week, received phone calls from Defendants in which the Defendants inform the GOP members that they will only be permitted to vote at their polling location if they bring with them at least four different types of identification.

10. The 2004 General Election will be held on Tuesday, November 2, 2004.

11. Upon information and belief, membership of the GOP across the State of Ohio, including but not limited to members in the following counties, Butler, Franklin, Fairfield, Marion, and Greene have, in the past week, received phone calls from Defendants in which the Defendants inform the GOP members that the election is being held on Wednesday, November 3, 2004.

12. Defendants, at least during some of the phone calls, have misrepresented who they are.

13. Plaintiff seeks to enjoin Defendants from further contacting Plaintiff's members, or any other electors or voters, and from further hindering or attempting to hinder Plaintiff's members or another other electors or voters from voting.

14. The General Election will be held on November 2, 2004. Thus, money damages are not adequate to prevent the continued loss of electors exercise of their right to vote.

Claims

Count I: Civil Recovery for Criminal Act

15. Plaintiff incorporates by reference as if fully rewritten the foregoing allegations of its Complaint.

16. Through their fraudulent representations, Defendants have unduly delayed or hindered Plaintiff electors from attempting to vote and/or from voting.

17. Defendants' actions are in violation of R.C. § 3599.26, which is a felony of the fifth degree.

18. Plaintiffs have been injured by Defendants' criminal acts, and are entitled to recover full damages in this civil action pursuant to R.C. § 2307.60(A).

19. Plaintiffs have been damaged in an amount in excess of \$25,000 due to Defendants' criminal act.

Count II: Ohio Corrupt Activity Act R.C. § 2923.31 et seq.

20. Plaintiff incorporates the foregoing allegations of its Complaint.

21. Defendants violated Ohio Corrupt Activity Act, R.C. § 2923.31 et seq., by formulating and implementing the fraudulent scheme as alleged above. The defendant persons and enterprises are the same Defendants alleged above.

22. Said scheme constitutes a pattern of corrupt activity as defined in R.C. § 2923.31(E).

23. Said pattern of corrupt activity consists of the predicate acts of unduly delaying or hindering Plaintiff's membership and other electors and voters from attempting to vote and/or from voting, which is a crime in violation of R.C. § 3599.26(A).

24. Plaintiff have been injured, as alleged above, in violation of R.C. § 2923.34(B).

25. Plaintiffs are entitled pursuant to R.C. § 2923.34(E) to injunctive relief without it showing a special or irreparable injury.

26. Plaintiff has been damaged in an amount in excess of \$25,000 due to Defendants' pattern of corrupt activity.

Count III: Fraud, Misrepresentation

27. Plaintiff incorporates the foregoing allegations of its Complaint.

28. Plaintiff's membership reasonably relied upon the fraudulent statements, misrepresentations and willful non-disclosures of Defendants, to Plaintiff's members' detriment.

29. As a direct and proximate result of each Defendants' fraudulent representations, misrepresentations, concealment and/or non-disclosure, Plaintiff has been damaged and will continue to be damaged, in excess of \$25,000.

Count IV: Civil Conspiracy

30. Plaintiff incorporates by reference as if fully rewritten the foregoing allegations of its Complaint.

31. All Defendants have conspired with each other to commit the acts alleged above, all of which have given rise to the causes of action alleged in Count's I-III set forth above.

32. Plaintiff has been damaged in an amount in excess of \$25,000, due to Defendants' civil conspiracy.


Relief Requested

WHEREFORE, Plaintiff demands judgment as follows:

A. Compensatory damages in excess of \$25,000 and injunctive relief that requires each Defendant to cease contacting and making fraudulent misrepresentations to Plaintiff's members and other electors and voters;

B. Prejudgment and postjudgment interest, attorney fees, costs of this action and any other relief deemed appropriate by this Court.

Respectfully submitted,



Mark Landes (0027227)

marklandes@isaacbrant.com

Jeffrey A. Stankunas (0072438)

jeffreystankunas@isaacbrant.com

ISAAC, BRANT, LEDMAN & TEETOR, LLP

The Midland Building, Suite 900

250 East Broad Street

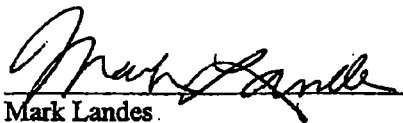
Columbus, Ohio 43215-3742

Tel (614) 221-2121/Fax (614) 365-9516

Attorneys for Plaintiff Ohio Republican Party

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Complaint was provided to a duly appointed process server on November 1, 2004, to be served on Defendants.



Mark Landes (0027227)

AFFIDAVIT

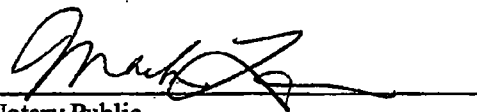
I, Jamie Straw, do hereby swear as follows:

1. I am a voter in Marion County, Ohio. I am registered Republican.
2. I received a telephone call at our home. The call told us the wrong polling place to go to. Our polling place is Marion Veterans Coliseum. The caller said that they were from the Marion County Democratic Party. The caller also said that we would have to take identification with us in order to vote.
3. Enclosed is a tape recording of the call from the Marion County Democratic Party telling us the wrong polling place.



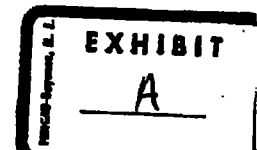
Jamie Straw

Sworn to before me, a Notary Public, this 1st day of November, 2004.

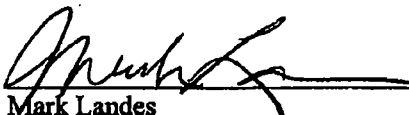


Notary Public

MARION COUNTY, OHIO
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.



Respectfully submitted,



Mark Landes (0027227)

marklandes@isaacbrant.com

Jeffrey A. Stankunas (0072438)

jas2@isaacbrant.com

ISAAC, BRANT, LEDMAN & TEETOR, LLP

The Midland Building, Suite 900

250 East Broad Street

Columbus, Ohio 43215-3742

Tel (614) 221-2121/Fax (614) 365-9516

Attorneys for Plaintiff

MEMORANDUM IN SUPPORT

I. INTRODUCTION

This case because of the actions by Defendant to thwart registered Republican voters from exercising their right to vote in the November 2, 2004 election. As the media has revealed over the past months, there have been numerous attempts by the Democratic Party to dissuade legitimate, registered Republican voters from voting in tomorrow's election. Plaintiff seeks a restraining order herein for the latest attempt by the Democratic Party, through the Defendants herein, to thwart Republican voters from voting.

Plaintiff has learned that as recently as today Defendants have telephoned registered Republican voters and (1) misinformed them as to the date of the election, stating that the election will be held on Wednesday, November 3, 2004; (2) misinformed them as to the polling place to which they should go to vote; and (3) have told such voters that certain documentation must be brought to the polls in order for them to vote, such as credit card statements and identification information.

To ensure that the election process tomorrow is not tainted by such tactics, a temporary

restraining order should issue against Defendants to halt their un-American conduct.

II. STATEMENT OF FACTS

In the interest of brevity, given the immediate nature of the relief sought herein, and given that Plaintiff first learned of Defendants' misconduct earlier today, Plaintiff refers the Court to the Complaint filed simultaneously herewith, as well as the Affidavit presented, for the facts of the current controversy. Given this egregious set of facts, Plaintiff firmly believes that the law favors the granting of a Temporary Restraining Order against Defendants, as discussed below.

III. ARGUMENT

A. The Standard to Obtain Injunctive Relief

As the Court well knows, Civil Rule 65(A) provides in relevant part:

A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court, in writing, the efforts, if any, which have been made to give notice and the reasons supporting his claim that notice should not be required***.

Additionally, under Civil Rule 65(B), for purposes of preliminary injunctive relief, this Court must consider and balance the following four factors to determine whether to issue a temporary restraining order and a preliminary injunction against Defendants:

- (1) Whether the plaintiff will suffer irreparable injury if the preliminary relief is not granted;
- (2) Whether the plaintiff has a substantial likelihood or probability of success on the merits;
- (3) Whether the preliminary injunction would unjustifiably harm third parties; and
- (4) Whether the public interest would be served by issuing the preliminary injunction.

Vanguard Transp. Sys., Inc. v. Edwards Transfer & Storage Co. (1996), 109 Ohio app. 3d 786, 790, 673 N.E.2d 182, citing *Valco Cincinnati, Inc. v. N & D Machining Serv., Inc.* (1986), 24 Ohio St.3d 41, 492 N.E.2d 814.¹ As set forth more fully below, the above factors are met in this case and the requested temporary restraining order and a preliminary injunction are warranted.

B. Plaintiff Is Entitled To Injunctive Relief Against Defendants.

1. Plaintiff has suffered and continues to suffer irreparable harm for which there is no adequate remedy at law.

"Irreparable harm exists when there is a substantial threat of material injury which cannot be adequately compensated through monetary damages." *Garono v. State* (1988), 37 Ohio St.3d 171. Here, the material injury is the interference with the rights of registered Republican voters to vote and to vote unimpeded by the erroneous demands conveyed to them by Defendant as to what they must bring with them to the polls in order to vote. There can be no greater irreparable injury than interfering with and/or thwarting citizens' rights to vote in an election. This injury is irreparable in that once the polls close at 7:30 p.m. on November 2, 2004, no further votes can be cast, and no polls are reopened such that the wrong that the Defendants are perpetrating can be undone. Further, monetary damages are insufficient to compensate Plaintiff, or more importantly, the registered Republican voters whose votes are being interfered with. Therefore, Plaintiff has met the requirement of showing that it (and the registered Republican voters) have suffered and will continue to suffer irreparable harm for which there is not an adequate remedy at law.

¹ The grant or denial of an injunction, preliminary injunction or temporary restraining order vests within the sound discretion of this Court. *Danis Clarkco Landfill Co. v. Clark Cty. Solid Waste Mgt. District* (1995), 73 Ohio St.3d 590.

2. Plaintiff is highly likely to succeed on the merits of its claims.

The evidence in this matter establishes that Defendants have, via the telephone, told registered Republican voters that the election is November 3, 2004, rather than November 2, 2004 have misdirected voters about where they are to go to vote, and have told the voters that they must bring documentation to the polls in order to be able to vote, all of which are false. Given these falsities, there is a substantial likelihood that Plaintiff will prevail on the merits of its claims for fraud and violations of the Ohio Corrupt Activities Act.

3. No unjustifiable harm will impact third parties.

Unless the Court issues temporary and preliminary orders preventing Defendants from their improper conduct, Plaintiff, and the registered Republican voters will suffer irreparable injury as set forth above. Simultaneously, the issuance of such orders will cause Defendants to suffer no harm. The temporary restraining order and preliminary injunction requested by the Plaintiff will not preclude Defendants from lobbying their respective positions to voters. It will only make them do so through the use of facts and truth, rather than through misstatements.

The Defendants can set forth no undue hardship that they will suffer if the temporary restraining order and the preliminary injunction are granted because the order requested will only stop their unlawful actions, which they are not entitled to continue. Alternatively, the interests of all of the voters affected will be protected by such an order.

4. The public interest favors the granting of a temporary restraining order and preliminary injunction.

In addition to the lack of undue harm on third parties, the public interest is supported in knowing that the public's right to vote will not be interfered with, and that the public's voices will be heard on election day. Plaintiff and the public expect that their right to vote will not be undercut by others who resort to improper means to try to dissuade them from exercising their

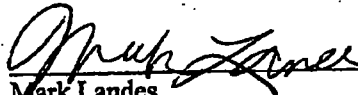
right to vote. A refusal to enforce rights such as those which Plaintiff presently seeks to enforce would thwart the entire election process. Without the requested order, others would be encouraged to adopt the methods of Defendants, which ultimately would result in rampant election fraud against more and more registered voters. A refusal to enforce the Plaintiff's rights herein and the rights of the registered Republican voters would favor fraud over fairness.

Thus, Plaintiff asks the Court for an order that makes Defendants cease their unlawful activity. The public interest is paramount, and must be protected.

IV. CONCLUSION

As set forth above, each factor supports the issuance of restraining and injunctive relief and therefore, Plaintiff respectfully request that its motion be granted in all respects.

Respectfully submitted,



Mark Landes (0027227)

marklandes@isaacbrant.com

Jeffrey A. Stankunas (0072438)

jas2@isaacbrant.com

ISAAC, BRANT, LEDMAN & TEETOR, LLP

The Midland Building, Suite 900

250 East Broad Street

Columbus, Ohio 43215-3742

Tel (614) 221-2121/Fax (614) 365-9516

Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT, IN AND FOR
SEMINOLE COUNTY, FLORIDA

J. THOMAS MONK,
AND ALL THOSE PERSONS
SIMILARLY SITUATED THROUGHOUT
THE STATE OF FLORIDA

CLASS REPRESENTATION

Plaintiffs,

vs.

CASE NO.: _____

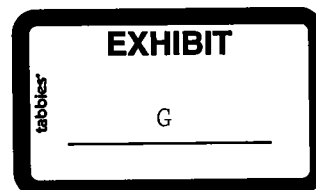
DEMOCRATIC NATIONAL COMMITTEE,
DEMOCRATIC EXECUTIVE COMMITTEE OF SEMINOLE COUNTY,
AND THE FLORIDA DEMOCRATIC PARTY,

Defendants.

ORDER ON MOTION FOR TEMPORARY INJUNCTION

Having come before the Court, this 1st day of November, 2004, and having reviewed the Complaint and Temporary Injunction and having heard the arguments of counsel, the Court makes the following findings:

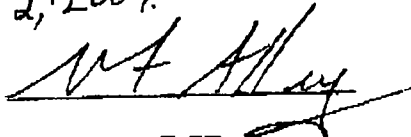
1. Representatives of Defendants have distributed or intend to distribute flyers to Republican poll watchers, substantially in the form of Exhibit "A" attached to this Order.
2. The election process should be allowed to proceed without any interference, intimidation, or other threats that may have a chilling effect on the free exercise of voters to cast their legal ballots and, as well, the free exercise of the duties of all election workers, including officials of the Supervisor of Election's office and all duly appointed authorized poll watchers.
3. It appears from the specific facts shown by the verified pleading that immediate and irreparable injury or loss will result to Plaintiff and other poll watchers if an injunction is not



granted. The injury if an injunction is not granted outweighs any harm if an injunction is granted.

4. Granting an injunction is in the public interest.
5. An injunction is necessary to preserve, maintain, and restore the status quo.
6. Plaintiff is likely to prevail on the merits due to the misrepresentations of legal rights and obligations in the flyer.

Accordingly, this Court orders that the Motion for Temporary Injunction is GRANTED. (why)
The Court hereby ENJOINS the further intimidation, further dissemination of ~~any~~ ^{these} materials ~~as~~
~~other actions~~ ^{by Defendant} /designed or intended to intimidate or unduly threaten the activities of poll watchers
who are duly carrying out their responsibilities ~~and privileges~~ ^{in Fed} granted Florida Statutes,
§ 101.131. ^{was} on November 2, 2004.


CIRCUIT JUDGE

Dated: November ^{was} 2, 2004



IMPORTANT LEGAL NOTICE

October 28, 2004

To all Republican Party Election Day poll watchers:

Your name has been filed to serve as a poll watcher on Election Day, on behalf of the Republican Party or a Republican candidate. The Democratic Party recognizes the legal right of poll watchers, under Florida election law, to perform their lawful duties.

We want to make sure that all poll watchers recognize the importance of their role in this process and understand the repercussions for abusing that role. As a poll watcher you have the ability to protect one of the most sacred rights of our democracy. Regardless of party affiliation, we can all agree that no citizen should be deprived of their right to vote without good cause. Whatever the outcome on Election Day, the challenge process must not be abused as a means of harassing or intimidating voters, or of obstructing the ability of lawfully qualified and registered citizens to vote safely, efficiently and conveniently.

You should be aware, that, under Florida law, a poll watcher must explain in writing *and under oath* the basis for a challenge. This affirmation requires that the poll watcher have personal knowledge of the facts upon which the challenge is based.

Florida law provides that a challenger is to be removed from the polling place if his or her activities slow down the voting process or intimidate voters. Indeed, *it is a crime under Florida law to be in a polling place to "intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such person to vote."* (Fla. Stat. § 104.0515(3)). Therefore, should a challenger make a knowingly false challenge, that person could be subject to criminal prosecution.

Please be advised that the National Democratic Party and the Florida Democratic Party will insist on strict enforcement of the law. You have now been provided notice of the law, and thus, please govern yourself accordingly.

Paid for by the Democratic National Committee, www.democrats.org
The communication is not authorized by any candidate or candidate's committee.

EXHIBIT "A"



IMPORTANT LEGAL NOTICE

October 28, 2004

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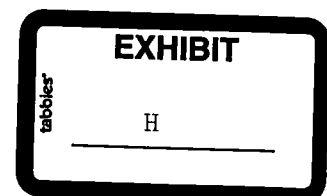
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Paid for by the Democratic National Committee, www.democrats.org.
The communication is not authorized by any candidate or candidate's committee.



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

DEMOCRATIC NATIONAL
COMMITTEE, ET AL.,

Petitioner,

v.

CASE NO. 5D04-3642

J. THOMAS MONK,

Respondent.

_____/

DATE: November 2, 2004

BY ORDER OF THE COURT:

ORDERED that the EMERGENCY PETITION TO DISSOLVE
TEMPORARY RESTRAINING ORDER, ETC., filed November 2, 2004, is treated as a
Petition For Writ Of Certiorari and is denied.

*I hereby certify that the foregoing is
(a true copy of) the original Court order.*



FRANK J. HABERSHAW, CLERK

cc: James Dickson Crock, Esq.
Daniel J. Gerber, Esq.
Kenneth W. Wright, Esq.
Hon. Nancy F. Alley

EXHIBIT

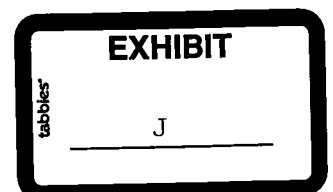
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I

Democratic National Committee call to Florida Republican Poll Watchers
November 1, 2004

“Hi, this is Joe Sandler legal counsel for the DNC Voting Rights Institute. I am calling because you play an important role in tomorrow’s election as a poll observer. Please be advised that any challenge to a voter must be stated in writing, under oath, and that you must have direct and first-hand knowledge of the voter's ineligibility. Interfering with a citizen's right to vote is a serious offense and swearing out a false statement is a felony. Violations will be referred to federal and state prosecutors. Alachua deserves an election that is peaceful, fair and orderly and it begins with you. Thank you for volunteering. This call is paid for by the Democratic National Committee. www.democrats.org, not authorized by any candidate.”

STLDOCS 163055v2A



IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

David Timms,
425 Metro Place North, Suite 620
Dublin, Ohio 43017

and

Robin L. McAfee
2376 Laurelwood Ave.
Columbus, Ohio 43229

Plaintiffs,

v.

MoveOn.Org.
c/o Carrie Olson
408 Grant St.
Berkeley, CA 94703
Statutory Agent

and

MoveOn PAC
c/o Gregory Colvin
235 Montgomery, Suite 1220
San Francisco, CA 94104
Statutory Agent

Defendants.

04CVH11 11533

CASE NO.

JUDGE

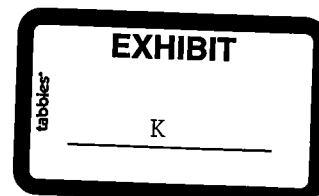
FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2011 NOV -2 PM 5:29
CLERK OF COURTS-CV

VERIFIED COMPLAINT FOR DECLARATORY AND
EMERGENCY INJUNCTIVE RELIEF

Now come Plaintiffs, David Timms and Robin McAfee (hereinafter "Plaintiffs"), by and through counsel, and for their Verified Complaint states as follows:

Preliminary Statement

1. Plaintiffs bring this Complaint for a declaratory judgment and for a temporary restraining order, preliminary injunction, and permanent injunction against Defendants.



Specifically, Plaintiffs seek an order prohibiting Defendants from interfering with electors and congregating at the polls, in violation of Ohio R.C. § 3505.21, and harassing electors attempting to vote at the polling places.

Parties and Venue

2. Plaintiff, David Timms, is a United States citizen, and is an eligible voter and works at 415 Metro Place, Dublin, Ohio, in Franklin County, Ohio.

3. Plaintiff, Robin McAfee, is a United States citizen, is an eligible voter, and resides at 2376 Laurelwood Ave., Columbus, Ohio, Franklin County, Ohio.

4. Defendant MoveOn.Org is a non-profit I.R.C. §501(c)(4) organization that is organized in California, and doing business in Ohio. Specifically, MoveOn.Org has organized a volunteer or paid campaign to station its agents/employees outside Ohio polling places, including in Franklin County, Ohio.

5. Defendant MoveOn PAC is a political action committee, which, upon information and belief is funding this effort by MoveOn.org.

6. Venue is proper in this Court pursuant to Rule 3(B)(3) and (6) of the Ohio Rules of Civil Procedure.

FACTS

7. Ohio law prohibits any form of electioneering within 100 feet of a polling place. Specifically, Ohio Revised Code § 3505.35 provides:

During an election and the counting of ballots, **no person shall** loiter or congregate within the area between the polling place and the small flags of the United States placed on the thoroughfares and walkways leading to the polling place; in any manner hinder or delay an elector in reaching or leaving the place fixed for casting his ballot; within such distance give, tender or exhibit any ballot or ticket to any person other than this own ballot to the judge of election; exhibit any ticket or ballot which he intends to cast; or **solicit in any manner attempt to influence any elector in casting his vote.** No person, not an election official,

employee, witness, challenger, or police officer shall be allowed to enter the polling place during the election, except for the purpose of voting. No more electors shall be allowed to approach the voting shelves at any time than there are voting shelves provided. **The judges of election and the police officer shall strictly enforce the observance of this section.**

8. Here the volunteer member agents of MoveOn.Org are engaged in harassing qualified Ohio electors at polling places in Franklin County, Ohio as described in the attached affidavits.

COUNT I
DECLARATORY RELIEF

9. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 8 of this Verified Complaint as if specifically rewritten herein.

10. Plaintiff is entitled to judgment declaring that Defendants' conduct is in violation of R.C. §§ 3505.30 and 3505.35.

COUNT II
INJUNCTIVE RELIEF

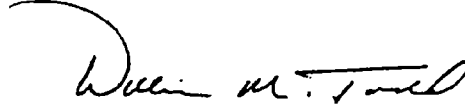
11. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 10 of this Verified Complaint as if specifically rewritten herein.

12. The above-described conduct of Defendants is causing irreparable injury to Plaintiffs for which there is no adequate remedy at law.

13. Plaintiff is therefore entitled to an order from this Court enjoining Defendants from continued violation of R.C. §§ 3505.30 and 3505.35 preventing defendants and their agents from loitering and congregated at polling places in Franklin County, Ohio for the purpose of interfering with qualified electors attempting to vote.

WHEREFORE, Plaintiffs respectfully request this Court grant them Declaratory and Injunctive Relief, and such other relief as this Court deems just and proper.

Respectfully submitted,

A handwritten signature in cursive script, reading "William M. Todd". The signature is written in black ink and is positioned above a horizontal line.

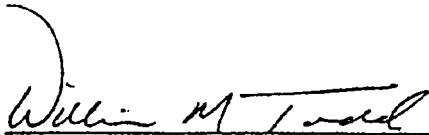
William M. Todd (0023061)
Mary C. Mertz (0075225)
Squire, Sanders & Dempsey, LLP
1300 Huntington Center
41 S. High Street
Columbus, Ohio 43215-6101
Attorney for Plaintiffs.

CERTIFICATE OF SERVICE

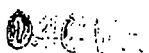
The undersigned hereby certifies that the foregoing document was served by US mail and facsimile this 2nd day of November, 2004, upon the following persons:

MoveOn.Org.
c/o Carrie Olson
408 Grant St.
Berkeley, CA 94703

MoveOn PAC
Gregory Colvin
235 Montgomery, Suite 1220
San Francisco, CA 94104



William M. Todd



AFFIDAVIT OF DAVID S. TIMMS

STATE OF OHIO)
: SS:
COUNTY OF FRANKLIN)

David S. Timms, having first been duly cautioned and sworn, hereby deposes and testifies as follows:

1. My name is David S. Timms. I am over the age of 18 and otherwise am legally competent to testify as to the matters contained herein. I have personal knowledge of the information contained herein.

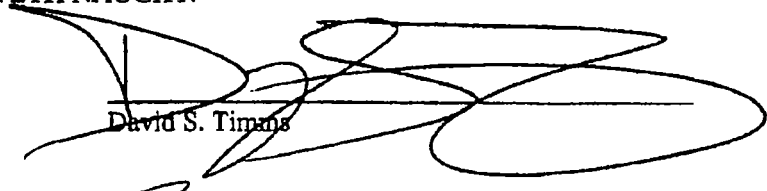
2. Today, November 2, 2004, I arrived at my polling place, at Capitol City Baptist Church, 5442 Sunbury Road, Columbus, Ohio 43230, to vote. I walked by a card table with a MoveOn.org sign on it and asked the male manning the table if I could have a cup of coffee. He asked if I was voting for Kerry. I told him no. He said, "Then no, you cannot have a cup of coffee."

3. I then went to the end of a very long line of voters and noticed the man I had spoken with speaking with another man near my car. After voting I returned to my car and the men had moved their table in front of my car, blocking my exit. I asked them to move and they refused. I backed up my car and was proceeding to leave the church parking lot when I noticed the second man taking my picture. I got out of my car and asked him what he was doing, who he was, and what he intended to do with the photo. He refused to answer my questions.

4. I fear that these individuals who took my photo wrote down my license plate number, will find out who I am, and retaliate against me for voting for George W. Bush.

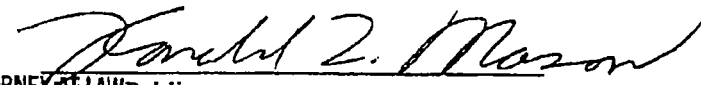
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COMMON PLEAS COURT
FRANKLIN COUNTY, OHIO
NOV 2 2004 PM 5:29
CLERK OF COURTS - CV

FURTHER, AFFLIANT SAYETH NAUGHT.


David S. Timans

Sworn to and subscribed before me this 2 day of November, 2004.




RONALD L. MASON, ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.

directors, officers, employees, agents, and/or principals and anyone acting in concert with them who have notice of this Order be, and hereby are, enjoined until further Order of this Court from:


Any acts of interfering in any way with the rights of Ohio registered voters to vote in the November 2, 2004 election, including but not limited to, harassing voters, telephoning or contacting in any way any such registered voters and misstating the date of the November 2, 2004 election, directing them to the wrong location to which they should report to vote, telling such voters that they must bring certain documentation to the polls in order to vote and suggesting to, telling to or implying to said voters that there are procedural and/or documentary hurdles they must overcome in order to vote in the November 2, 2004 election.

IT IS FURTHER HEREBY ORDERED, per this Motion of Plaintiff, that Plaintiff need not post as security with the Clerk of Court a bond or cash as the Court finds that no monetary damages will be incurred or suffered by Defendants if Defendants are found to have been wrongfully enjoined or restrained by this Order.

This Temporary Restraining order shall be effective through November 15, 2004 unless extended or modified by further Order of this Court.

(DL)
Nov. 15 2004 A hearing on Plaintiff's application for a preliminary injunction is hereby ordered on *9:00a* before this Court at *9:00a* and notice of said hearing and the time and place thereof shall be given to Defendants forthwith by Plaintiff serving a copy of Notice of Hearing on Defendants or their counsel as applicable.

IT IS SO ORDERED



Judge

Sam Thurber, and Diane Brown, in their official capacities as members of the Board of Elections. Specifically, Plaintiffs seek an order prohibiting John Doe Defendants from (1) wearing uniforms or other identifying clothing or items, and (2) conversing with voters, assisting voters with voting, influencing voters, and any other activities other than challenging voters or observing voting activities in the polling places where they are stationed, in violation of Ohio R.C. § 3505.21, and further prohibiting defendant Board of Elections from not enforcing the requirement that challengers be prohibited from wearing uniforms or other identifying clothing or items, conversing with voters, assisting voters with voting, influencing voters, and any other activities other than challenging voters or observing voting activities in the polling places where they are stationed, in violation of Ohio R.C. §3505.21.

Parties and Venue

2. Plaintiff, Sue E. Metzger is a United States citizen and resides at 3141 Manley Road #112, Maumee, Ohio, 43537, in Lucas County.

3. Plaintiff, Sue E. Metzger, is a United States citizen, is an eligible voter, and resides at 3141 Manley Road #112, Maumee, Ohio, 43537, in Lucas County.

4. Plaintiff Ed Nagle is a United States citizen and resides at 4344 Carolina Avenue, Toledo, Ohio, 43612, in Lucas County.

5. Plaintiff Ed Nagle is a United States citizen, is an eligible voter, and resides at 4344 Carolina Avenue, Toledo, Ohio, 43612, in Lucas County.

6. Defendants John and Jane Doe 001 – 100 are challengers working in polling places in Lucas County, Ohio.

7. Defendants Lucas County Board of Elections, and Bernadette Noe, Paula Ross, Sam Thurber, and Diane Brown, in their official capacities as members of the Board of

Elections, are empowered by the Revised Code to oversee every aspect of the conduct of elections in Lucas County, Ohio, as provided in Ohio R.C. §3501.11

8. Venue is proper in this Court pursuant to Rule 3(B)(3) and (6) of the Ohio Rules of Civil Procedure.

FACTS

9. Ohio law prohibits any witness or challenger from wearing any type of uniform or coordinated dress at a polling location. Specifically, Ohio R.C. § 3505.21 provides:

*** * * [n]o candidate, no uniformed peace officer as defined by section 2935.01 or the Revised Code, no uniformed state highway patrol trooper, no uniformed member of any fire department, no uniformed member of the armed services, no uniformed member of the organized militia, no person wearing any other uniform and no person carrying a firearm or other deadly weapon shall serve as a witness or challenger * * *. (Emphasis added.)**

10. Defendants John and Jane Doe 001 – 100 are challengers working in polling places in Lucas, County Ohio, under Revised Code §3505.20 and §3505.21.

11. Said Defendants are wearing armbands, signs and/or badges identifying the challengers as “Voter Protection Staff”, “Voting Rights Staff”, or other similar terms. Such armbands, signs and/or badges constitute improper uniforms under Revised Code §3505.21.

12. The duties of challengers are set forth in R.C. 3505.21. See R.C. 3506.13.

13. Ohio R.C. § 3505.21 provides: “Upon the filing of a certificate the person named as challenger therein shall be permitted to be in and about the polling place during the casting of the ballots and shall be permitted to watch every proceeding of the judges and clerks of elections from the time of the opening until the closing of the polls.” Section 3505.21 does not allow challengers to do anything in the polling place except challenge voters and observe proceedings consistent with R.C. 3505.

14. The term "election officers" includes challengers. See Oliver v. Bode, 3 Ohio N.P. 298 (1896).

15. Section 3599.38 provides:

No election official, witness, challenger, deputy sheriff, special deputy sheriff, or police officer, while performing that person's duties related to the casting of votes, shall do either of the following:

(1) Wear any badge, sign, or other insignia or thing indicating that person's preference for any candidate or for any question submitted at an election;

(2) Influence or attempt to influence any voter to cast the voter's ballot for or against any candidate or issue submitted at an election.

16. Defendant Challengers are violating Ohio election law by being present in polling places on Election Day under the false pretense of challenging and observing voters, when they have no intention to do so, but instead are in polling places for sole and express purpose to actively converse with and illegally influence voters as they are in and about the polling place and voting booth, and within the 100 yard perimeter surrounding the polling place.

17. Defendants Lucas County Board of Elections, and Bernadette Noe, Paula Ross, Sam Thurber, and Diane Brown, in their official capacities as members of the Board of Elections, have expressly declined to enforce the requirement that challengers be prohibited from wearing uniforms or other identifying clothing or items in violation of Ohio R.C. §3505.21

COUNT I
DECLARATORY RELIEF

18. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 17 of this Verified Complaint as if specifically rewritten herein.

19. Plaintiff is entitled to judgment declaring that Defendant's conduct is in violation of R.C. §§ 3505.21 and 3505.35.

COUNT II
DECLARATORY RELIEF

20. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 19 of this Verified Complaint as if fully restated herein.

21. Plaintiffs are entitled to judgment declaring that Challengers' conduct is in violation of R.C. §§ 3505.20, 3505.21, 3505.35, and 3599.38, and that the Board of Elections has the obligation imposed upon it by Title 35 of the Ohio Revised Code to intervene and require such action to cease or to eject such Challengers from the polling places.

COUNT III
INJUNCTIVE RELIEF

22. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 21 of this Verified Complaint as if specifically rewritten herein.

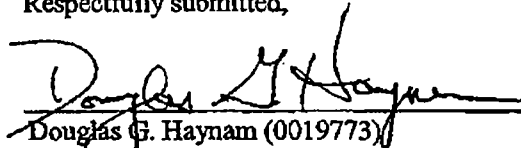
23. The above-described conduct of Defendants is causing irreparable injury to Plaintiff for which there is no adequate remedy at law.

24. Plaintiff is therefore entitled to an order from this Court barring said challengers from all polling places or enjoining Defendants from continued violation of R.C. §§ 3505.21 and 3505.35 through challengers wearing armbands, signs and/or badges.

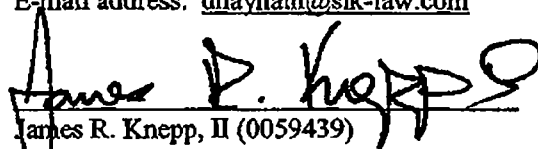
25. Plaintiff are therefore entitled to an order from this Court enjoining Defendants from continued violation of R.C. §§ 3505.20, 3505.21, 3505.35, and 3505.99 by conversing with voters, assisting voters with voting, influencing voters, and any other activities other than challenging voters or observing voting activities in the polling places where they are stationed, as well as within the 100 yard perimeter surrounding the polling place.

WHEREFORE, Plaintiffs respectfully request this Court grant them Declaratory and Injunctive Relief, and such other relief as this Court deems just and proper.

Respectfully submitted,



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tantonini@rcolaw.com

FILED
LUCAS COUNTY

2004 NOV -2 P 5:17

COMMON PLEAS COURT
BERNIE QUILTER
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

SUE E. METZGER and ED NAGLE,

*
* Case No. 04-1540
*

Plaintiffs,

*
* Honorable Charles Doneghy
*

vs.

*
* **JUDGMENT ENTRY**
*

JOHN AND JANE DOE 001-100, et al.,

*

Defendants.

*

*

*

*

This matter is before the Court upon a motion for a temporary restraining order pursuant to civil rule 65.

Plaintiffs request an order preventing challengers at polling locations from displaying a band or neck tag indicating that the electorate may inquire as to questions related to the voting process. Plaintiffs have also requested a temporary restraining order to prevent challengers from communicating with the electorate at the polling locations.

R.C. 3505.21 states in pertinent part, that challengers shall be permitted to be in and about the polling places during the casting of the ballots and shall be permitted to watch every proceeding of the judges and clerks of elections from the time of the opening until the closing of the polls.

Based on the foregoing, this Court finds that display of the neck tag indicated in the motion that invites voter questions is contrary to the specific functions of a challenger as outlined in R.C. 3505.21. Further, as to Plaintiffs' assertions that Defendants are engaging in communications with voters, assisting voters with voting, influencing voters, or engaging in other activities outside the confines of the functions of a challenger as outlined in R.C. 3505.21, the Court finds there are no facts to support the conclusions in the affidavit. The affidavit merely assumes facts which are not in evidence.

As such, the Court GRANTS Defendants motion for a Temporary Restraining Order as it relates to the display of the neck tag or badge, but DENIES the motion for all other purposes. The matter will be set for a preliminary injunction hearing two weeks from today. IT IS SO ORDERED.

November 2, 2004


JUDGE CHARLES DONEGHY

cc: James Knepp
Douglas Haynam
Anthony Ranazzi

The reality of intimidation

Eric Wang

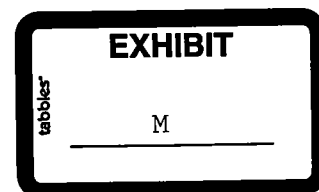
Cavalier Daily Columnist

WITH THE presidential election out of the way, charges of "voter intimidation" will lie low for another four years for most Americans. But for some of us who were intimidated last Tuesday, that term will have a lasting impression for years to come. For those of us who were driven out of town for exercising our right to monitor the election, voting intimidation took on a new and personal meaning. It was an experience that was quite at odds with what the media depicted.

I went to Philadelphia last week as part of the "Lawyers for Bush" campaign. We went to the "battleground state" of Pennsylvania and were caught in a battle of physical force. We had heard about the political "ground war," but instead found ourselves in the middle of an outright war.

At the end of the day, I was cornered in a parking lot by roughly 10 large men, whom the police later identified as "union goons." After trying to tip over the minivan I was sharing with another attorney, punching it relentlessly, breaking parts off and failing to drag us out, they chased us in and out of the dense urban traffic in their high-powered SUVs. Only after a frantic 911 call and a police roadblock were our assailants apprehended. Even then, a growing mob surrounded us and we had to be secreted out of town to safety by a police escort. Our experience was not unique; several other "Lawyers for Bush" teams in Philadelphia reported similar violence.

While I could not tell for sure whom the "union goons" were working for, the police revealed their SUVs were rental vehicles, which were used primarily by the parties that day for transporting voters and election monitors. Suspiciously enough, our attackers were also aided by the prompt appearance of a slick-looking lawyer from the state Democratic Party. Who intimidated whom? You



decide.

One thing is for sure: Neither I nor any of my colleagues intimidated Philadelphia voters. The very thought of physically unimpressive law students and middle-aged lawyers threatening residents in rough neighborhoods is absurd. Instead, we were there to monitor the election, along with our counterparts from the Democratic Party and groups dressed in ominous black shirts like MoveOn.org and "Voter Protection."

"Civil rights groups" that alleged Republicans intimidated voters blatantly twisted the facts for political gain. It is incredibly naïve to believe that those who would resort to force would not also resort to fraud. Our job was to prevent fraud.

Contrary to what most of us are used to, many voters in inner-city Philly vote in bars, private homes, funeral homes, and places officially listed as "vacant lots." The same patchwork of state election laws that gave us the "hanging chads" in Florida allow Philadelphia voters to cast ballots in "crack houses," as one attorney described her post.

Not only do such polling places, closed from public view, foster fraud, but they abound far out of proportion to the population. Every three to four blocks there is a voting site, each of which saw 100 to 200 voters last Tuesday. Republican efforts to move the voting booths to more wholesome places nearby were met by cries of "disenfranchisement." Meanwhile, suburban voters lined up at the polls by the thousands and waited for hours. Who disenfranchised whom?

To prevent fraud, the Republican Party recruited poll watchers, almost all from the local communities, to stand outside to see if they could spot anyone who was ineligible (i.e. not registered there or claiming to be someone who was dead) trying to vote multiple times. Rabidly partisan Democratic local election officials fixing the machines were another worry.

Most of our poll watchers in the heavily Democratic districts were not even Republicans. A few single teenage mothers were merely looking for a decent day's pay. None were intimidating, a

few were chased off or blocked from doing their jobs and many didn't even show up. The job of the lawyers and law students was to check on our poll watchers. When necessary, we obtained court orders to stop election officials from unlawfully ejecting them.

While Democrats portrayed our ballot protection efforts as suppressing and intimidating minority voters, the real violence was directed against us -- the election monitors. In fact, for the most part, we got along fine in the black neighborhoods until an all-white mob tried to beat us up.

The 2004 election may now be in the history books, but there are still many chapters to be written. To start with, let's set the record straight on who intimidated whom.

Eric Wang's column appears Wednesdays in The Cavalier Daily. He can be reached at ewang@cavalierdaily.com.

PHILADELPHIA POLICE DEPARTMENT
COMPLAINT OR INCIDENT REPORT

YEAR 2004	DIST/DC 23	DC. NO. 47155	SECT. E	DIST. 9	VEH. NO. 915	REPORT DATE 11.2.04
CRIME OR INCIDENT CLASSIFICATION Vandalism			CODE 1409	TIME OUT 6:46	TIME IN 8:06	
LOCATION OF OCCURRENCE Ridge Ave. + Grand Ave.				<input type="checkbox"/> IN <input checked="" type="checkbox"/> OUT	TYPE OF PREM S3	
DATE OF OCCUR. 11.2.04	DAY CODE 2	TIME OF OCCUR. 6:40	NATURE OF INJURY 0			
COMPLAINANT Richard P.		AGE 53	RACE W	SEX M	PHONE (HOME) 317	
ADDRESS				PHONE (BUSINESS)		
FOUNDED <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		REPORT TO FOLLOW <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Close Out		UNIT	CODE	INV CONT NO.
WITNESSES <input type="checkbox"/> Yes <input type="checkbox"/> No	TRACEABLE PROP. <input type="checkbox"/> Yes <input type="checkbox"/> No	UNIQUE DESCRIPTION OF OFFENDER <input type="checkbox"/> Yes <input type="checkbox"/> No		OTHER EVIDENCE <input type="checkbox"/> Yes <input type="checkbox"/> No		
DESCRIPTION OF INCIDENT (Include Description of Crime Scene if Applicable)						
Veh # 204 Dodge Durango 4dr. Black Pa. FBI 7251 U.V. # 1D4H848D64F181770 owner Express Car + Truck Rental Inc. 565 W. Street Rd. Warminster, Pa operated by Frederick Cosens with 46415 S 28 58 Driver # NJ. C66972680005532						
WITNESS	ADDRESS		Complainant			
WCS unable to identify the driver. 9B on						
OFFENDER INFORMATION						
Location:						
PROPERTY DESCRIPTION (Include Make, Model, Color and Serial No. Where Applicable)			PROP CODE	INSURED <input type="checkbox"/> YES <input type="checkbox"/> NO	STOLEN VALUE \$	
W. Moss - Gr. c. Wagon Asian make 24yrs						
also works for Bush Campaign						
VEHICLE 1 - OWNER'S NAME			VEHICLE 2 - OWNER'S NAME			
VEHICLE 1 - OPERATOR'S NAME			VEHICLE 2 - OPERATOR'S NAME			
WANTED/STOLEN MESSAGE SENT GARRID NO. DATE		DIST/UNIT TERMINAL	RECEIPT NO.	SENT BY		
REPORT PREPARED BY 204431 DAVS			NO. 5330	DIST/UNIT PAGES 9	TOTAL NO. 2	PAGE 2
REVIEWED BY			NO.	DIST/UNIT	REASON FOR	

PERSONAL AND DESCRIPTIVE
 INFORMATION HAS BEEN REDACTED

EXHIBIT
 N

PHILADELPHIA POLICE DEPARTMENT
COMPLAINT OR INCIDENT REPORT

YEAR 04	DIST/OCC. 23	D.C. NO. 47156	SECT.	DIST. 09	VEH. NO. 18	REPORT DATE 11-2-4
CRIME OR INCIDENT CLASSIFICATION			CODE	TIME OUT 645	TIME IN Ⓟ	A P
LOCATION OF OCCURRENCE DIRAND AVE + R. Dg = AV				<input type="checkbox"/> IN	TYPE OF PREM.	
DATE OF OCCUR. 11-2-4		DAY CODE 3	TIME OF OCCUR. 645	A Ⓟ	NATURE OF INJURY none	
COMPLAINANT FRcdonick cd			AGE 46	RACE w	SEX m	PHONE (HOME) 211
						PHONE (BUSINESS)

PERSONAL AND DESCRIPTIVE INFORMATION HAS BEEN REDACTED

FOUNDED <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	REPORT TO FOLLOW <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Close Out	UNIT	CODE	INV. CONT NO.
WITNESS <input type="checkbox"/> Yes <input type="checkbox"/> No	TRACEABLE PROP. <input type="checkbox"/> Yes <input type="checkbox"/> No	UNIQUE DESCRIPTION OF OFFENDER <input type="checkbox"/> Yes <input type="checkbox"/> No	OTHER EVIDENCE <input type="checkbox"/> Yes <input type="checkbox"/> No	

DESCRIPTION OF INCIDENT (Include Description of Crime Scene if Applicable)
R/C Disturbance
 Above compl stated when he approached the offender's veh, the veh sped off. at this time the veh almost struck him with the pass side mirror. At this time the compl has no injuries and has rejected medical attention. ALL persons involved in incident

WITNESS are worked for the 2004 campaign	ADDRESS 53/w/m	PHONE NO. OR 8-13-51.24
OTHER INFORMATION Hard P.		

PROPERTY DESCRIPTION (Include Make, Model, Color and Serial No. Where Applicable)	PROP. CODE	INSURED <input type="checkbox"/> Yes <input type="checkbox"/> No	STOLEN VALUE \$
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Refer to DC 04-23-47156 for Vandalism

VEHICLE 1 - OWNER'S NAME		VEHICLE 2 - OWNER'S NAME	
VEHICLE 1 - OPERATOR'S NAME		VEHICLE 2 - OPERATOR'S NAME	
WANTED/STOLEN MESSAGE SENT General No. Date	DIST/UNIT TERMINAL	RECEIPT NO.	SENT BY
REPORT PREPARED BY R/O Roden 250163	NO. 7139	DIST/UNIT PAGES 91A	TOTAL NO. PAGE 1
REVIEWED BY GAJ	NO. 11602	DIST/UNIT REFERRAL DATE	CEN NO.

PHILADELPHIA POLICE DEPARTMENT
COMPLAINT OR INCIDENT REPORT

YEAR 04	DIST/DCG. 23	D.C. NO. 47155	RECT. E	DIST 9	VEH. NO. 915	REPORT DATE 11 2 04
CRIME OR INCIDENT CLASSIFICATION Vandalism			CODE 1409	TIME OUT 646	TIME IN 806	
LOCATION OF OCCURRENCE Ridge Ave. + Grand Ave						TYPE OF PREM OUT 53
DATE OF OCCUR 11 2 04	DAY CODE 2	TIME OF OCCUR 640	NATURE OF INJURY D			
COMPLAINANT Richard P I		AGE 53	RACE W	SEX M	PHONE (HOME) 7	
ADDRESS				PHONE (BUSINESS)		
ROUNDED <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	REPORT TO FOLLOW <input type="checkbox"/> Yes <input type="checkbox"/> No		UNIT		CODE	INV CONT NO
WITNESS <input type="checkbox"/> Yes <input type="checkbox"/> No	TRACEABLE PROP <input type="checkbox"/> Yes <input type="checkbox"/> No	UNIQUE DESCRIPTION OF OFFENDER <input type="checkbox"/> Yes <input type="checkbox"/> No		OTHER EVIDENCE <input type="checkbox"/> Yes <input type="checkbox"/> No		
DESCRIPTION OF INCIDENT (Include Description of Crime Scene if Applicable) R/L Vandalism Report Above complainant a lawyer for the Bush campaign stated as he was in his vehicle (KIA Sedona Silver in view) at the gas station across from the parking place, stated several men black white surrounded his vehicle rocked the vehicle, and broke the passenger side mirror, and rear windshield wiper blade. He stated he drove away and was chased by 2 vehicles to 1900 Spring Garden St. VEH# was a 2004 Dodge Durango Silver HT. RKE SWW Unit, D412454342 24315 operated by Bernard Griggs B/M						
PROPERTY DESCRIPTION (Include Make, Model, Color and Serial No. Where Applicable)			PROP. CODE	INSURED <input type="checkbox"/> Yes <input type="checkbox"/> No	STOLEN VALUE \$	
VEHICLE 1 - OWNER'S NAME			VEHICLE 2 - OWNER'S NAME			
VEHICLE 1 - OPERATOR NAME			VEHICLE 2 - OPERATOR NAME			
WANTED/STOLEN MESSAGE SENT COMM. NO. DATE		DIST/UNIT TERMINAL	RECEIPT NO.	SENT BY		
REPORT PREPARED BY 20402 Davis			NO 5330	DIST/UNIT PAGES 9	TOTAL NO. 2	PAGE 1
REVIEWED BY			NO	DIST/UNIT	REFERRAL DATE	CEN. NO.
PURSUANT TO ACT 158 OF 1992, THE BELOW PERSON ACKNOWLEDGES RECEIPT OF THE NOTIFICATION OF VICTIM SERVICES FORM:						

PERSONAL AND DESCRIPTIVE INFORMATION HAS BEEN REDACTED

IN THE SUPREME COURT OF OHIO

Rev. Bill Moss
1640 Franklin Ave.
Columbus, OH 43205

Ruth Carol Moss
1640 Franklin Ave.
Columbus, OH 43205

Bonnie L. Awan
4484 Willowbrook Road
Columbus, Ohio 44220

Mohammed S. Awan
4484 Willowbrook Road
Columbus, Ohio 44220

Eugene Beer
105 W. Kenworth
Columbus, Ohio 43214

Dr. Marilyn Blackwell
6408 Busch Blvd apt. 483
Columbus, Ohio 43229

Linda Byrket
2657 Brandon Rd.
Upper Arlington, Ohio 43227

Frank C. Cleveland, Jr.,
1445 Venice Drive
Columbus, Ohio 43207

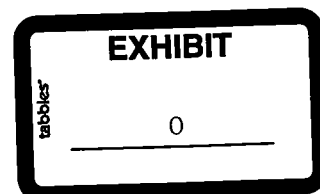
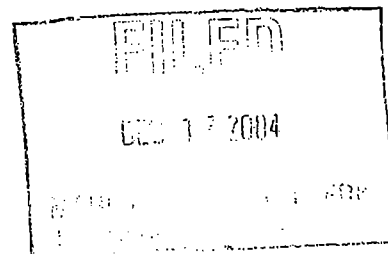
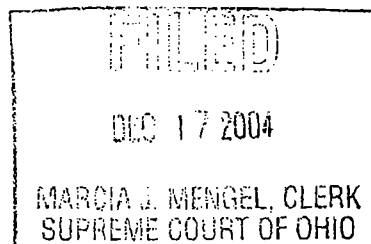
Brian Conaway
1327 King Avenue
Columbus, Ohio 43212

Case No.

04-2088

VERIFIED ELECTION CONTEST
PETITION

(R. C. 3515.08)



geographically distributed throughout the nation) and an honest vote count, there is a probability of roughly one in 45,000 that this official election result would occur (that is, that Kerry would receive 48.1% of the vote or less). This implies that there is a 44,999/45,000 chance that the national exit poll result is either not random or that the election itself was not honest. The probability that a pollster with the experience, reputation, and ability of Warren Mitofsky would not be able to draw a random sample is vanishingly small. On a national basis, there are even fewer red herrings which could be legitimately raised than there were with respect to the fraudulent certified Ohio results. The reasonable conclusion is that there was election fraud in connection with the vote counting on a national basis.

78. The vote fraud in connection with the national vote may also mean that the national exit poll is the most accurate representation of the votes actually cast. This means that candidate Bush probably did not win a “mandate” of 3.5 million votes but actually lost the national vote by a significant margin to John Kerry. The chance of Kerry receiving a greater percentage of the popular vote than Bush in an honest election was 98.7%.

79. Knowing that the evidence of the election fraud (the exit polls) would be in plain view for a short period of time, there was a further part of the plan to steal the election which plan was designed and/or implemented by defendants-contestees Bush, Cheney, and Rove acting through as yet unidentified agents (John Doe, Richard Roe, and Karl Roe 1-100). That part of the plan was to reduce or eliminate the amount of time the fraudulent results would be subjected to serious scrutiny by a well-funded adversary. Accordingly, Andrew Card, an associate of defendants-contestees Bush, Cheney, and Rove appeared on national television in the very early morning hours of November 3, 2004, to make a very nervous and shaky claim to victory in Ohio.

Mr. Card essentially called for a concession and an end to any inquiry into the results.

80. Unconstitutional discrimination served as a deliberate provocation which distracted attention from vote fraud needed to control absolutely the outcome of the election. The discrimination served to decrease the vote for candidates Kerry and Connally by an amount which could not be known precisely in advance. The vote fraud served to control precisely in certain critical counties the certified vote for candidates Bush, Cheney, Kerry, Moyer, and Connally by amounts which (when taken in the aggregate) could be known in advance and which would be sufficient to control the outcome of the election.

81. On information and belief, contestors allege that defendants-contestees Bush, Cheney, Rove and those acting on their behalf (e.g., the as yet unidentified John Doe, Richard Roe, and Karl Roe 1-100), used various means to change fraudulently the legitimate results of the election. While a variety of methods were used to perpetrate the election fraud of which there is clear and convincing evidence in the form of the exit polls, given the election fraud discussed below perpetrated or acquiesced in by Defendant-Contestee Blackwell through the misuse of his official powers and his abuse of the public trust, it is likely that traditional easily detectable means were one of the principal methods of the election fraud.

82. On information and belief, contestors allege that traditional means of vote fraud were used. On information and belief, contestors allege that unlawful ballots (not cast by a registered voter but merely added to the stack of ballots being counted) were added to those cast by lawful voters and that lawfully cast ballots were either destroyed or altered (as for example by adding a second vote to the one allowed vote for President and thereby invalidating the ballot).

83. On information and belief, contestors allege that a low technology traditional form of

election fraud occurred in Trumbull County which has 274 precincts. On information and belief, contestors allege that Dr. Werner Lange conducted a study of the poll books in some 106 precincts in the Trumbull County communities of Warren City, Howland Township, Newton Falls City, Girard City, and Cortland Township. According to the Lange study, 580 absentee votes were cast for which there was no notation of absentee voting in the poll books. These 106 precincts averaged 5.5 fraudulent absentee votes per precinct. If this trend prevailed throughout the 11,366 precincts in Ohio, it would mean that at least 62,513 fraudulent votes were cast in the November 2, 2004 election. The presence of fraudulent absentee ballots also give the Bush-Cheney campaign every reason to prevent interested persons from inspecting the poll books.

84. On information and belief, contestors allege that defendant-contestor Blackwell using his official powers as Secretary of State ordered all 88 boards of election to prevent public inspection of poll books until after certification of the vote on December 6, 2004. This alleged action by the co-chair of the Ohio Bush-Cheney campaign apparently caused violations of R.C. §§3599.161(B) and (C) and may have caused such violations by every board of elections in the state.

85. Each violation of any provision of Title XXXV (35) constitutes a separate prima-facie case of election fraud pursuant to R.C. §3599.42.

86. On information and belief, one of these means of changing the legitimate result to a fraudulent result included gaining physical or electronic access to the tabulating machines and systems. There are many ways to gain access to the voting and vote tabulating systems. In certain circumstances (for example when there is a modem attached to a vote tabulating computer or when a vote tabulating computer has a wireless access port), the confederate of defendants-contestees Bush, Cheney, and Rove who was actually changing the vote totals did not need

physical access to the computer. Electronic access can be obtained from almost anywhere in the world under the right circumstances. An illustrative explanation of how this change can be effected when, for example, the GEMS vote tabulating system is used appears on the World Wide Web at (www.chuckherrin.com/hackthevote.htm). A copy of this explanation is attached hereto as Exhibit B. Briefly, this method which has been demonstrated by Bev Harris on national television involves accessing the spreadsheet which contains the results, changing the votes actually received by one or more candidates in a race, leaving the total votes cast in the race unchanged, and erasing or falsifying the electronic audit trail which could show the access to the computer and the spreadsheet.

87. On information and belief, a second of these means of changing a legitimate result to a fraudulent result included inserting unauthorized and so far undetected operating instructions into the software used to operate either the vote tabulating machines or the voting machines (in the case of direct recording electronic voting machines without a voter verified paper audit trail (referred to herein as "DRE" machines)). On information and belief the undetected operating instructions were only operational on November 2, 2004. On information and belief, the logic and accuracy tests of the DRE machines did not include setting the system date of the machine forward to November 2, 2004, to test what would happen to the machine in actual operation on November 2 and 3, 2004. Without such a test, it would have been very difficult to detect the effect of the unauthorized operating instructions inserted into the software. On information and belief, some or all of the unauthorized operating instructions were pre-set to delete themselves a given amount of time after the election. Ohio counties using DRE machines include Auglaize, Franklin, Knox, Lake, Mahoning, Pickaway, and Ross.

Floridians for All

Campaign Plan for a November 2004 Minimum Wage Constitutional Amendment Initiative

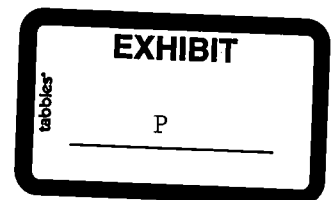
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Introduction

A Florida constitutional amendment initiative to create a minimum wage of \$6.15 with indexing will help defeat George W. Bush and other Republicans by increasing Democratic turnout in a close election, will deliver wage gains to at least 300,000 Floridians, and will catalyze the construction of permanent progressive political infrastructure that will help redirect Florida politics in a more progressive, Democratic direction.

The 2004 election in Florida is shaping up to be just as close as 2000, which Al Gore won by 537 votes. Although there have been demographic changes and growth through out Florida when the 2000 total are adjusted for 2004 it is still razor thin. Unofficial NCEC analysis shows that Gore's adjusted margin is 404, combined with the 2004 adjusted Nader voter- 25,138 (assuming 25% stay home, 25% vote for Bush and 50% vote for Gore). The 2004 adjusted margin is 25,542-too close for comfort.

The 2004 projections indicate addition turnout of 370,000 a total of 6.4 million, increasing the vote goal by 200,000 in order to have a winning margin. The other significant change in preliminary analysis is that the electorate will have 10% fewer ticket splitters than 2000. With less persuadable voters, the need to increase base voters and turning out more infrequent voters is critical to reach the vote goal in Florida.

Given that turnout is down when the economy it bad, since our voters are more discouraged, the need for a exciting ballot initiative strategy that works to address the needs of the most economically needy, and also likely Democratic voters, is a fundamental part of a winning strategy in Florida.

Florida ACORN is building a coalition, called Floridians for All, that will unite labor unions, community and civil rights organizations, the faith community, elected officials, sectors of the business community, political organizations, and thousands of grassroots activists behind the proposed strategy. At the same time, we are building the infrastructure to carry out the campaign and ensure the accomplishment of our objectives.

The empirical evidence from other states indicates that initiatives generally increase voter turnout, and that minimum wage initiatives can significantly increase the turnout of supporters without increasing turnout from the opposition. ACORN's own experience running municipal and state minimum wage ballots [Denver, Houston (1996), Missouri (1996), New Orleans (2002)] supports the conclusion that these efforts are highly motivating to low-wage voters. In 2000, 6.1 million voters came to the polls in Florida, a turnout of approximately 70%. A targeted campaign that works to turn out 1% of that electorate, approximately 61,000 voters, would not only make the difference for the Democratic Presidential candidate but also lend significant support to Congressional and local races. As an example, Congressional District 5 was won by conservative Republican Ginny Brown-Waite, by little over 4,000 votes. From the top of the ticket on down, a ballot initiative strategy which mobilizes infrequent voters and energizes

unregistered Democratic constituency will help defeat George W. Bush and allow Floridians to vote themselves a raise.

An estimated 300,000 Florida workers would receive a direct raise from our proposal. Moreover, thousands more would receive residual raises because of their wage level just above the new minimum. Floridians sorely need this proposed raise. In 2001, over 28% of Florida's workers earned less than the poverty line (approximately \$8.70 an hour). A full 20% of those workers earned less than \$7.69 an hour, a result that can be partially explained by the concentration of workers in the lowest wage job sectors – retail and service. A whopping 37.3% of the state's workforce is employed in service sector jobs, with another 19.6% in the low wage retail sector. The additional earnings of minimum wage workers, almost \$700 million in the first year alone, would be directly pumped back into the economy, helping to stimulate the stagnant economy created under the watch of Bush's destructive tax cuts. Not only is this proposal beneficial to Florida's economy, it also helps to seed a mass constituency for future change.

Because we are starting this campaign early, and because we have a plan, the Floridians for All Campaign will challenge the institutional forces for progressive and Democratic change in the state to build permanent political capacity. This is particularly important to rehabilitating the long-term prospects of our side. In a state where Democrats control only 53 of 160 legislative seats, and zero Constitutional offices, the need to rebuild infrastructure and capacity to win, has never been more important. For example, the signature gathering phase of the campaign will lead to the construction of a vast database of hundreds of thousands of economic justice activists and voters in the state. These are the same voters the Democratic Party must court and win to regain a presence in state politics. The campaign will also force organizations like ACORN to build massive field capacity to deliver these necessary signatures and GOTV. A vast network of activists and voters, combined with a sophisticated field campaign will act as a unifying force among Democratic electoral forces. The combined strength of community, labor, and faith organizations committed to mobilizing their members and leaders at the grassroots level, will result in a cohesive strategy to retake the White House in 2004 and rebuild the Florida Democratic Party.

Campaign Goals

The goals of this campaign are threefold:

1. 1. To increase voter turnout of working class, mainly Democratic voters without increasing opposition turnout;
2. 2. To increase the power of progressive constituencies by moving a mass agenda, putting together the capacity to get on the ballot and win, and by putting our side on the offensive;
3. 3. To deliver a wage increase to hundreds of thousands of Floridians.

Presidency, but also a key Senate race, Congressional seats and also significant turnover in the Florida Legislature. Given these many key races, exciting and mobilizing constituency has never been more important, but in order to do this there must be a compelling issue on the ballot. Though presidential year elections always result in higher turnout, the 2000 elections demonstrate the importance of every vote in Florida, and we do not want to leave turnout to chance. These turnout figures from the most recent Florida elections demonstrate the overall decline in voter participation and the need to refocus efforts on mobilizing and motivating our base.

1992	83%
1994	66%
1996	67%
1998	49%
2000	70%
2002	55%
AVG	64%

General Election Turnout Statistics from the Florida Secretary of State
<http://election.dos.state.fl.us/online/voterpercent.shtml>

Giving our constituency the opportunity to vote themselves a raise is probably the most compelling reason to go the ballot box. Candidates will make many promises, but turning out to vote for a higher minimum wage is a voter's guaranteed chance to affect real change at the ballot box.

The process of building a statewide network of progressive forces can be accelerated greatly through the use of the minimum wage ballot initiative. Though there are many groups that represent and advocate for the needs of social justice, civil liberties, and environmental concerns, the strength of these forces is limited through a lack of coordination amongst these groups. While the groups promote diverse agendas, a coalition of necessity is required in the face of organized and unilateral support amongst opposition groups. This ballot initiative will bring together progressive forces from around the state around a common goal: increasing turnout in the 2004 election in order to support campaigns which represent the interests of all our groups.

Approximately 303,000 workers would be directly affected by a minimum wage increase, putting millions of dollars into the pockets of working families across Florida. In addition to the workers who are directly affected, many more will benefit through the rising tide of wages that results from raising the baseline wage level. Unlike tax cut policies which supposedly put money into peoples pockets, but really just raid state and federal treasuries, a minimum wage increase will put real in the hands of those who need it the most: working families.

Campaign Strategy

We define winning here as accomplishing the three campaign objectives:

1. 1. Driving heightened Democratic turnout;
2. 2. Passing the initiative
3. 3. Building permanent political capacity for future gains.

Our plan to win centers on a series of strategic premises, layed out as follows:

1. First, we will divide the electorate into targeted groups of voters/potential voters, and make a strategic plan vis-à-vis each group. We are in the process of completing this plan, but roughly, the categories/plans are as follows:

*African American voters – According to NCEC, there are 440,000 unregistered VAP (Voting Age Population) African-Americans in Florida. Of the 440,000 unregistered voters statewide, 176,000 of these voters live in the 475 majority African-American precincts in Florida. This campaign will work to register 50,000 of these potential voters through voter registration drives in the following major metropolitan areas:

VAP (from 2000)	Total VAP	White	Latino	Black	County
Miami	283,673	32,116	195,859	49,000	1.7M
M-Dade					
Orlando	144,987	81,100	23,414	32,563	670K
Orange					
Tampa	228,681	126,387	42,711	50,109	746K
Hillsborough					
Fort Lauderdale	122,821	77,807	11,282	28,620	1.2M
Broward					
St. Petersburg	194,796	141,797	7,618	36,752	744K
Pinellas					
Jacksonville	539,278	353,983	20,759	139,700	573,888
Duval					
Tallahassee	124,431	74,942	5,341	39,327	
Leon	188,445				

This potential universe of newly registered voters, and highly motivated activists can be the deciding factor in the 2004 election. Registering 50,000 new African-American voters in these majority precincts can result in a net vote gain of approximately 21,000 votes (assuming 70% turnout of new registrations and 60% approval for the measure).

*Non-Cuban Latino voters – There are 800,000 Hispanic voters in Florida, 400,000 of whom are non-Cuban, and 345,000 new potential Hispanic voters of Voting Age Population. The Hispanic population is the fastest growing population in Florida, and presents the Democratic Party with an opportunity to build a new, revitalized constituency within Florida. While non-Cuban Hispanic voters have traditionally voted

Democratic in Florida, the community as a whole has shown significant support for Governor Bush, as evidenced by his substantial lead in the 2002 gubernatorial race. In order for Democrats to hold this growing population, they must figure out a way to excite Hispanics in spite of the connection that has been created between Gov. Bush and Hispanic voters. The minimum wage ballot initiative is the very type of economic issue that can drive Hispanic turnout, both away from Gov. Bush, but also from the traditional Republican strongholds in the Cuban community. According to Sergio Bendixen, of the 400,000 Cuban voters in Florida, 250,000 of them are "economic refugees" as opposed to "political refugees" who are hard-line anti-Castro and thus strong Republican supporters. Economic refugees are the product of the Mariel boatlift, according to Bendixen, and are more likely to respond to economic concerns. Based on this assessment, the minimum wage campaign could be the very issue that Democratic candidates need to drive turnout in this key constituency.

Floridians for All will register 1/3 of the potential 2000 Census VAP in Miami (195,859) and Orlando (23,414) which will result in 72,360 new registered voters and a gain of 30,391 new votes (based on 70% turnout and 60% favorability)

*Union members – The AFL-CIO is formulating a very targeted plan for its members in Florida in 2004. Floridians for All is coordinating with labor as to how best use this effort to the fullest advantage. Many union members are not yet registered, and this is a priority in 2003. Union members are registered at approximately a 60% rate in Florida. Because a number of these voters are Republican or swing voters, the AFL-CIO is going to be targeting registrations and mobilization efforts in Democratic leaning precincts in order to best mobilize their members "on the right issues". Union members have demonstrated that they do not like to be told to vote for a particular candidate. Instead, members respond more favorably to discussions about issues, and where the candidates stand. The minimum wage initiative is an excellent issue for unions to use as a mobilizing tool because it is an issue that labor has a strong history of supporting.

2. Throughout the entire course of this campaign, we will ultimately register 100,000 new poor and working class voters. We will database these voters and integrate them centrally into our strategy. In ACORN's past work, we find that *80% of new registrants vote if a phone number is obtained and used*. The petition gathering process is the opportunity to build a statewide database of working families and activists numbering in the hundreds of thousands. In addition to utilizing phone numbers acquired through petition gathering, we will also develop an extensive email database and the capacity to mass-mail to these voters. The petition give voters the option to provide both phone numbers and email addresses, which we are enthusiastically encouraging.

In early signature gathering efforts we have found that 20% of respondents are providing email addresses; a response rate that would result in an email database of at least 100,000 voters. This database could turn out to be one of the most powerful components of the entire campaign as we build a statewide operation for Election Day 2004. The ability to

mass-email constituents on upcoming events, releases of new studies, and just generally reach out to supporters in a extremely cost efficient manner is a very powerful tool.

3. We will build the field capacity to directly and personally reach those poor and working class, Democratic voters who will not be reached by labor or other committed forces. These are the voters who we register during the petition gathering process who we will be able to reach through phonebanking, mail, and most important precinct walking and Election Day turnout strategies. We have already started to build this field capacity through the development of a field canvas program. The canvas works to reach both constituents and other voters through direct contact at the doors. An individual canvasser is able to reach approximately 60 voters per night and have conversations with XX voters. Currently we have a canvas staff of 10 people in Orlando and Tallahassee resulting in direct and indirect contact with over 600 voters per night. A field canvas of 45 people in several locations across the state will ultimately be able to reach over 13,000 voters per week resulting in both signatures, phone numbers, emails and donations. Overall, in the course of the campaign, we will reach these voters at least 7 times, through doorknocking, direct mail, phone calls and email where available. The opportunity to utilize email and the web is extensive particularly in neighborhoods we are targeting through our canvass. Our website at www.floridiansforall.org will allow for updates, a download of the petition and also secure online donations.

4. In order to best focus our energies on field and turnout capacity, we will "outsource" those elements of the campaign that are not as critical to directly increasing turnout and building permanent political capacity. This means that paid media and television components of the campaign that are important to persuading the existing "swing" electorate to vote for our issue, while key to winning, will be handled externally so that the campaign can focus on new voters and Democratic constituency turnout. While media will play a crucial role in whether the question is approved by the voters, this element of the electorate is not the focus of our field efforts. The minimum wage initiative is committed to registering and mobilizing new voters from within traditional Democratic strongholds in an effort to drive turnout to the polls. These strategies are detailed in more depth later in this plan.

5. We will put 2,000 volunteers and workers on the doors from April to August, and 3,000 from Labor Day through Election Day. Many of these people will come from organizations that have affiliated with the campaign and through our field captain system that is being created to build the volunteer base statewide. One part of this volunteer network is our March primary program during which we will staff poling sites across the state in order to collect signatures from registered voters going to the polls. The teachers union has shown this strategy to be a very successful one, having gathered over 400,000 signatures in one day alone! At even a quarter of this effort, Floridians for All will able to gather 100,000 signatures, nearly 14% of our 700,000 goal in one day. We are working to develop a network of poll captains around the state who will be responsible for making this massive one-day mobilization possible.

6. We will mobilize a set of organizations and forces in the state and in support of the campaign so as to succeed in mobilizing the grassroots and withstanding the onslaught from the business elites. In the early stages of the campaign we have already received the endorsements of the two largest labor organizations in Florida, the Florida AFL-CIO and the Florida Education Association (a joint NEA and AFT union). This major institutional support is only the beginning of our coalition building around the state which will result in the endorsements of over 500 organizations statewide. We will also create a steering committee of elected officials and key supporters from this list of institutional partners to oversee and give leadership to the effort. We will enlist the support of organizations in targeted sectors: e.g. African American churches, community organizations, local unions, local activist groups, etc. Our coalition is already gathering endorsements from local churches, community organizations and local union affiliates. We will mobilize the legal capacity, led by the Brennan Center, and the policy capacity, led currently by the Economic Policy Institute, and the communications capacity, led by the Center for Community Change, to run an aggressive statewide campaign.

7. We will raise sufficient funds to drive our field and GOTV strategies, pay for campaign necessities, and not compete substantially with other Democratic causes. Through a combination of 501c3 and 501c4 dollars, we will raise the necessary funds to facilitate voter registration and voter mobilization statewide, and educate our voters about the benefits of an increase in the minimum wage.

Traditional Assumptions

GOTV programs not designed to specifically promote a ballot initiative, but designed solely around candidates and political parties sometimes lack the personal handle that excites voters and gets them to the polls. This is not to say that extensive fieldwork through doorknocking, phonebanking, direct mail and large Election Day activities are not a successful means to turnout constituency voters. Traditional GOTV does this very well. The minimum wage ballot campaign is meant to complement that type of GOTV program by appealing to the *non-traditional* voters, those infrequent voters who cannot be counted on to turnout through traditional means, and instead need a more compelling reason to vote. Believing that self-interest and a "what's in it for me attitude" can have significant bearing on voter turnout, we are putting minimum wage on the ballot in order to court those voters. Potential voters who see minimum wage as having a direct impact on their lives, are much more likely to be core Democratic constituency voters, including low-income and minority voters as opposed to Republicans resulting in an increased turnout for Democratic constituencies without the backlash of augmented opposition turnout.

Even though 2004 is a presidential year, and will result in higher turnout than the 2002 midterm election, the need to energize and mobilize core Democratic voters and new voters is of the utmost importance. Low-income workers who are affected by an increase in the minimum wage are more likely to vote, based solely on personal, material returns, rather than the more abstract view of voting for the sake of participation. 2002 was seen

as an opportunity to reinvigorate a Democratic base still recovering from the 2000 Presidential election, but turnout results show that a candidate detached from the needs of working families neither excites Democrats, nor wins. Potential new Democratic voters in working class neighborhoods are also likely to stay home without a direct incentive. Raising the minimum wage is that incentive and can draw out new and core Democratic voters who want the Democratic Party to return to its base. It is an issue that affects lower-wage, working Americans where it matters most, in their pockets and for their families.

Though both major political parties are actively courting African-American and Latino voters, the reality is that any candidate will ultimately fall short of expectations within constituency communities. Given this, and the lingering resentment from the 2000 election debacle which disenfranchised thousands of voters, the chance that base Democratic voters in minority communities will not participate is a real possibility. In order to overcome this, a minimum wage ballot initiative will encourage voters to turnout based on the opportunity to, in theory, vote themselves a raise.

Florida Voting Patterns

In spite of a supposedly reinvigorated Democratic base in 2002, turnout was a paltry 55% statewide, a significant factor in Jeb Bush's victory over Bill McBride, 56-43. In spite of the fact that the Florida electorate is still 43% Democratic in registration, as opposed to the Republican 39%, recent election results have failed to reflect any sort of Democratic majority. The reasons are many, but the lack of core Democratic issues that voters can identify with, and in turn *want* to vote for, has played a large role in this downturn. Though turnout was 55% in the 2002 General Election, turnout in Democratic strongholds such as Palm Beach, Miami-Dade and Broward Counties was only 53, 52 and 45 respectively. Broward is the most glaring example; in a county where McBride won 59% of the vote, turnout was an abysmal 45%. Low turnout among Democratic constituencies doomed Democrats in 2002, and in order to avoid these results, there must be a way to pull out Democratic voters, already skeptical of the voting process in light of the 2000 election debacle.

Another lesson from the 2002 election is that Florida voters do not follow the party line, but are instead more nuanced voters who respond to issues, but not necessarily the messengers. Amendment 9, Florida's Amendment to Reduce Class Size was approved by voters 52-48, even though the messenger, gubernatorial candidate Bill McBride was soundly defeated. In spite of the best efforts by Republicans to create doomsday predictions about the effects of this amendment, the electorate was able to differentiate between the issue they supported, and the candidate they did not. This demonstrates that a good issue that appeals to Florida voters can succeed regardless of political party affiliation.

Over the past 3 Presidential Election cycles, 1992, 1996 and 2000, voter turnout has average 73%. While this number is relatively high, these voters are not the ones who can make the difference in the 2004 elections. The voters who already turnout, are the ones

that are being courted by more traditional GOTV methods. Floridians for All is working to mobilize those potential voters in core Democratic constituencies by registering new voters and turning them out around a particular issue. That said, our new voters are not those who are currently represented in past election turnout numbers, but are rather the constituency in high density African-American and Latino neighborhoods as described earlier in this campaign plan.

Campaign Elements

Listening Process & Strategic Analysis

Since January, the campaign has conducted a systematic process of listening to key institutional forces – in the Democratic Party and its allies, in labor, in the community, etc. - in Florida. Our goal was to answer two major questions:

1. 1. Is there support for the proposed strategy?
2. 2. Will it be possible to put together the necessary funding and capacity to carry out this effort?

In the end, the answer to both questions is clearly yes. However, there is work to be done, and it is clear that only through decisive, immediate action will the pieces of the puzzle come together. Moreover, in talking to key political strategists across the state, it is clear that too few resources are currently geared towards field and expanding and mobilizing the Democratic electorate. It is clear that without this campaign, Democratic forces in Florida will fail to be mobilized in sufficient numbers to win close races. As was shown in the 2002 cycle in Florida and elsewhere, when the Democratic base isn't engaged, when we don't stand for core issues, and when we don't invest early and heavily in field, we lose.

Research

We are in the process of putting together an extensive collection of research to demonstrate the impact of increasing the minimum wage for Florida's workers. The Economic Policy Institute in Washington, DC has agreed to provide significant technical and research support to our campaign by providing a number of policy pieces that will address the following questions:

- • Looking to examine the history of low-wage workers within the state of Florida, this piece will examine who will benefit from a minimum wage increase, by looking specifically at demographic information. This piece will also examine trends over time in Florida by looking at the history of wage levels and also comparing Florida wage levels to other Southern states and regions of the country. In looking at the impact of a minimum wage increase, we will also look at the impact on social assistance programs and look at some of the other social problems associated with poverty.

- • A second piece will look at the cost of living in Florida and demonstrate what it actually costs to live in Florida today. Incorporating costs of housing, health care, transportation, food, child care and other expenses in several major cities across the state, we will explain the true costs of living for various family sizes in Florida and the impact that a minimum wage increase will have.

We will also have several pieces examining the opposition response to our work. Our analysis will show the fallacies of the doomsday predictions that will be released by business opposition further demonstrate the gains that will be made by workers as a result of our campaign.

Another element that we are looking to examine is the impact on immigrant communities, and how they would directly benefit from our campaign.

The first policy is set to be released October 14, 2003.

Polling

Another part of our research is polling, both at the beginning and later ends of the campaign. We will conduct an early poll that will allow the campaign to ask the critical questions without restrictions. This poll will allow for a strategy that connects registration, signature gathering and mobilization efforts to voters in the base turnout neighborhoods by determining the best localized message. This poll will test both non-voting and infrequent base voters in order to understand not only the motivations of our base voters, but also to drive turnout in under-performing precincts where we focus our registration and mobilization efforts.

We will also conduct polling later in the campaign to determine the effectiveness of our messages and messengers and gauge the responses of the electorate. Using this information, we will be able to better refine our outreach and also our Election Day GOTV efforts.

Building the Coalition

We have begun to build the Floridians for All Coalition at multiple levels. At the "letterhead" level, we are in the process of building a campaign "sponsoring committee" that would consist of leading Democratic elected officials and other key institutional forces at the national and state level. This list currently includes partners such as the Florida AFL-CIO, the Florida Education Association, Alliance for Retired Americans, and others. We are also identifying three elected officials to recruit as campaign co-chairs. This ethnically and geographically diverse trio will serve as public spokespersons for the campaign and will help raise funds.

The coalition itself will be multi-layered. Ultimate decision-making authority will rest with the steering committee. In order to be a member of the steering committee a group will have to meet one of the following requirements: a) either contribute \$50,000 to the

campaign or b) commit 50,000 signatures gathered. By limiting the steering committee to these groups we will assure that only those groups that are firmly committed and invested in our campaign will have management direction.

The day to day operations will be overseen by a campaign director who will come on staff in the late fall of 2003, as the signature gathering phase progresses (see subsection below).

Signature Gathering Phase

In order to gather the 488,000 necessary valid signatures by August 4, 2004 required to be placed on the ballot we anticipate needing to gather approximately 650,000 signatures (75% validity rate). The signatures must come from at least 12 of the existing Congressional Districts prior to the 2002 redistricting. The required geographic diversity requires our signature gathering programs to be based in major cities around the state (Orlando, Tampa, Miami, Jacksonville, St. Petersburg) in order to both build statewide capacity for the campaign as well as achieve the requisite number of signatures. The signatures will be gathered through both internal capacity (canvass and organizational site gathering) and also professional signature gathering firms.

The internal signature gathering phase has begun with our canvass program in Orlando and surroundings. This program contains two key components, one of which is the door-to-door signature gathering. Our door canvas allows us to not only gather valid signatures and new voter registrations, but also solicit funds to offset the costs of signature gathering. We will also be conducting signature gathering and voter registration at high-density sites such as supermarkets and other retail stores. Signatures that are gathered by coalition members will also be counted as part of the internal signature goal.

We believe that internal ACORN led operations in Orlando, Tampa/St. Petersburg and Miami will be able to provide 100,000 of the required signatures. In combination with 200,000 signatures from organizational partners (Jobs with Justice, AFL-CIO and affiliates, FCAN and congregational groups among others) this will require the campaign to purchase 350,000 signatures. As detailed in the attached budget, this would cost approximately \$490,000 (at \$1.40/signature, based on early quotes).

In early 2004 we will begin using professional signature gathering firms to collect the remaining signatures needed for to qualify for the ballot. Currently, we anticipate contracting with the Associates to provide the necessary signatures. Though the cost per signature has not yet been determined, we anticipate cost in the range of \$1 - \$1.30 per signature, based on both the ultimate number required and the geographical scope of the operation

Fundraising

In order to raise not only the \$490,000 for paid signature gatherers, but also the additional funds for materials and the actual campaign, which commences in late summer of 2004 with the Labor Day kickoff, we will hire a fulltime campaign fundraiser. We are currently working with Terri Shuck, former Development Director for PFAW as our fundraising consultant. One of the fundraising director's responsibilities is to organize a major donor plan as well as working to develop funding sources from unions and other institutions including 501c3 foundation money for education and research on this campaign. We are currently in the process of assembling a national fundraising committee, which includes foundation officers, major Democratic fundraisers and other key Progressive allies. This committee will help us raise funds from both the foundation 501c3 world for education and outreach, as well as 501c4 political money for partisan outreach.

Staffing

The largest portion of staff on our campaign will come from field canvassers. Looking only at the cities where ACORN and Floridians for All will provide direct staffing (as opposed to contractual work with paid signature gathering firms) we are conservatively assuming 10 people per each field canvass (Miami, Orlando and St. Petersburg) with a crew director for each site and a general canvass director based in Orlando. This internal field crew will work on a contractual basis with the campaign and be paid on an incentive driven scale as detailed in attachment A.

Aside from the field canvassers, a fundraising director, we will have a full time volunteer coordinator to work with sites around the state, working with the various sites around the site to oversee organizational signature commitments, provide technical assistance and materials to these sites and also handle local press work. We will also have two people on staff doing database and petition verification work. These two people will work exclusively on ensuring that signatures are presented to county election officials, verified and then presented to state officials. Coordinating with 67 election supervisors is a full time job in itself, and that is why we are devoting 2 people to this exclusively.

The campaign director will have complete oversight of the minimum wage initiative. We anticipate bringing this person on in the late fall of 2003, as the signature gathering phase progresses and we move into further into message development with allies. The campaign director will have ultimate responsibilities for the initiative from supervising staff, raising and distributing funds, coordinating the many site directors statewide, qualifying and ultimately the core of our campaign.

Media

Developing a strong message through paid but also earned media will be pivotal to the success of our campaign. We have not illusions of outspending a business industry that will fight this proposition tooth and nail and can invest many millions of dollars into

defeating our campaign. While we will want to be on the same television and radio airwaves to make sure our message is heard in that venue, our success will come through earned media development, through press conferences, editorial boards, letters to the editor, and public events.

Through the early signature gathering phase we will limit the amount of publicity work we do. There will be a press conference announcing our filing and the event will highlight the benefits of a minimum wage increase. As we work to gather signatures and raise resources for the campaign we will begin a more public face in the summer of 2004 when we announce our success in qualifying for the ballot, and the real campaign begins. Once we have, then we will ramp up our entire campaign including working with op-ed boards, letters to the editor and press conferences around the state highlighting the impact of a minimum wage increase for Floridians. Local events with minimum wage earners, testimonials detailing the impact of minimum wage increases, and economists debunking to doomsday predictions of conservative economists will all help spread the word about raising wages for all.

Technology

This campaign is an exciting opportunity to use some of the most innovative database and hand-held technology on the market in an effort to both enhance our voter database and ease data collection, but also as a tool to better educate the electorate on our issue. As mentioned earlier in this plan, email collection and database development will play a crucial role in determining the success of the campaign in reaching our targeted constituency. Our database work will allow for the integration of donor information and specified message development into our email lists.

The rapid development of hand-held technology now allows for not only access to voter databases and electronic walklists, but also the ability to integrate video clips and MP3 into doorknocking raps. Based on voting history and demographics, field canvassers could show a short video clip to a potential voter urging their support of the initiative. We estimate the startup costs of handheld technology to be approximately \$10,500 for a crew of 10 field canvassers, including software and hardware costs.

Using data collected from voter files and field outreach, we can then use predictive dialers to target our constituency with a both a recorded message and live opt-out capability. While this technology can be utilized through traditional phonebanks and more technologically savvy call-centers, we can also create localized versions with a few phone lines and a computer. As the costs of hardware and software have both decreased, the ability to cost-effectively reach our audience has risen significantly.

Legal

Paul Sonn and Nathan Newman of the Brennan Center in New York have drafted the ballot initiative language. We have been careful to ensure that the language of the question fulfills the single issue requirement of a Florida ballot initiative so that it will

pass approval by the Supreme Court. We fully expect an unfriendly opinion on this ballot question from the Attorney General office and an astronomical economic impact statement from Tallahassee. Though these opinions will not help us in the court of public judgment, we will be able to generate our own amicus briefs to the court and release our own economic impact statement.

Once we gather the necessary 10% signature requirement to receive a hearing at the Florida Supreme Court, our lawyers will be prepared to demonstrate how this question satisfies the single issue requirement. After passing this legal challenge, we will proceed to collect the remaining signatures and get the certified by county election officials.

Recent ballot initiatives in Ohio and Oregon have resulted in significant legal challenges on the local level. As Republicans are working to perfect this strategy, Democratic campaigns are also working to prepare their own legal responses. We are currently in the process of contacting Florida and national legal firms about their assistance in these potential challenges.

Building the Campaign Infrastructure

In order to develop the capacity required to implement and win a successful initiative campaign we will need to build our internal staff structure (as detailed above) and also create a larger statewide progressive network. Realizing that no one organization is large enough to run a ballot campaign alone, our coalition will rely on mobilizing our membership and coordinating our message in order to win. Each organization that is a partner in the minimum wage campaign will need to designate someone to act as a liason to the campaign. That person will be responsible for coordinating the internal signature gathering and organizational media with the larger coalition.

As the signature gathering phase progresses, those partners that committed 50,000 signatures to have a place on the steering committee, will need to develop internal organizational programs to collect these signatures. Signatures will then be turned over to the initiative campaign staff, who will handle verification and submission. Each participating organization will also be expected to host 1-2 large press events in which they target their message to their constituency.

Television

Because Florida is such a large state, the television viewership is broken down into 12 major media markets. This means that in order to run an effective television campaign we would need to hit all of these targets, with varying degrees of density. The cost of such a television campaign will be extremely prohibitive so the we will have to target our media buys to areas we believe will most reach our base Democratic constituency, primarily South Florida and Tampa Bay. The South Florida region is broken down into the Miami-

Ft. Lauderdale (Broward, Miami-Dade and Monroe) and West Palm Beach- Ft. Pierce (Indian River, Martin, Okeechobee, Palm Beach and St. Lucie) markets. Tampa Bay consists of a single Tampa-St. Petersburg market which includes 10 counties (Citrus, Hardee, Hernando, Highlands, Hillsborough, Manatee, Pasco, Pinellas, Polk and Sarasota)

Opposition Research, Division, & Cooptation

In response to our campaign, there will be significant opposition policy research from the usual suspects, including the Employment Policies Institute, an industry sponsored DC think tank that will release data about the negative impact of a minimum wage increase in Florida. There will be numbers citing increased unemployment and the strain on small businesses to pay workers this new minimum wage. It is also likely that David MacPherson, a professor at FSU who has released several studies for the Employment Policies Institute on the supposed negative effects of wage increases, will be commissioned to do similar work on this campaign. While all substantially untrue, we will have our own body of evidence to counteract the effects and media impact of these policy briefs. In addition to the resources of the ACORN Living Wage Center, we are also working closely with the Economic Policy Institute to release our own policy work.

Aside from the think tank level of opposition, we need to ensure that our coalition remains strong and that partners do not split over internal organizational priorities or other electoral strategies that will be in play in the 2004 election. In order for this campaign to succeed we will need partners to deliver on committed signatures and make sure that our message stays on target. Because raising the minimum wage will have impact on so many sectors, coalition partners will be able to market the campaign to their constituency in different ways while still staying on the key message, increasing the minimum wage and demonstrating power at the ballot box.

The Campaign Climax (Labor Day 2004 through 11/2/04)

While gathering the signatures, building the coalition and qualifying for the ballot are large undertakings by themselves, the actual campaign doesn't really begin until Labor Day when voters return from the summer lull and turn their attention to the Presidential election. With the enormous amount of press that will be focused on the Florida election in general, it is important to be able to reach our members and constituency on the importance of turning out to vote for a minimum wage increase. On Labor Day, we will hold a large press conference with allies from across the state as a re-introduction of the campaign to the voters. In late September we will release the results of a statewide poll showing support for the initiative and complement that with personal stories from workers benefiting from this minimum wage increase.

In October we will begin our volunteer phonebanks. Similar to the phone banking operations run as part of the Small Class Size Initiative, we will turn out members and constituents to call petition signers and other targeted voters to come out and vote themselves a raise. Callers will tell personal stories about the impact this raise will have

for them and urge voters to come out specifically around this issue. Instead of typical GOTV which targets voters to turnout solely for the sake of turning out, the minimum wage campaign gives voters a very clear reason to vote and shows tangible results in the communities.

Leading up to the election, we will coordinate door-to-door efforts with other GOTV efforts including an extensive, yet to be developed, Election Day plan. The popularity of early voting in the 2002 election means that there will be more early voting poll sites and a higher percentage of voters who cast their votes in the weeks leading up to Election Day, instead of only on November 2. Aware of this fact, our phonebanks will highlight the opportunities for early voting and coordinate with voters to provide rides to the polls.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-22764-CIV-KING/O'SULLIVAN

MAC STUART,

Plaintiff,

vs.

ASSOCIATION OF COMMUNITY
ORGANIZATIONS FOR REFORM NOW,
INC., d/b/a ACORN, an Arkansas
corporation,

Defendant.

FILED
2005 MAY 16 AM 10:44
CLERK OF U.S. DISTRICT COURT
S.D. OF FLA. - MIAMI

**NOTICE OF FILING DEPOSITION TRANSCRIPTS IN
SUPPORT OF FUTURE MOTION(S) FOR SUMMARY JUDGMENT**

Plaintiff, MAC STUART, ("STUART"), hereby gives notice of the filing of the following deposition transcripts in support of future motion(s) for summary judgment:

1. Frank Houston; and
2. Brian Kottenring.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered, by mail, this 15th day of May, 2005, to Faith E. Gay, Esq. and Brian H. Koch, Esq. White & Case LLP, Wachovia Financial Center, Suite 4900 200 South Biscayne Blvd., Miami, FL 33131.

Respectfully submitted,

ROTHSTEIN ROSENFELDT ADLER
Counsel to Plaintiff
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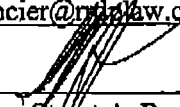
By: 
Stuart A. Rosenfeldt, Esq.
Florida Bar No.: 316113
Michael A. Pancier, Esq.
Florida Bar No. 958484

EXHIBIT
tabbles
Q

1

1 IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

2 CASE NO. 04-22764-CIV-KING/O'SULLIVAN

3 MAC STUART,
4 Plaintiff,
5
6 vs.
7 ASSOCIATION OF COMMUNITY
8 ORGANIZATIONS FOR REFORM NOW,
9 INC., d/b/a ACORN, an Arkansas
10 corporation,
11 Defendant.

12
13 Wednesday, January 5, 2005
14 300 Las Olas Place
15 300 S.E. Second Street
16 Fort Lauderdale, Florida
17 10:00 a.m. to 11:06 a.m.

18 DEPOSITION OF FRANK ALEXANDER HOUSTON
19 Taken before Darline M. West,
20 Registered Professional Reporter, Notary Public
21 in and for the State of Florida At Large,
22 pursuant to Notice of Taking Deposition filed
23 by the Plaintiff in the above cause.
24
25

3

1 THEREUPON,
2 FRANK ALEXANDER HOUSTON,
3 called as a witness on behalf of the Plaintiff,
4 herein, having been first duly sworn was examined
5 and testified as follows:
6 THE WITNESS: Yes.
7 DIRECT EXAMINATION
8 BY MR. ROSENFELDT:
9 Q. Could you state your name and your
10 residential address for the record.
11 A. Yeah. Frank Alexander Houston.
12 Currently my address is 2356 Third Street,
13 Wyandotte, Michigan. Zip Code 48992. This is my
14 parent's residence. I don't have a permanent
15 place. I'll be living in Michigan.
16 Q. 2356 Wyandotte -- I'm sorry, Third
17 Street, Wyandotte, Michigan, how do you spell
18 Wyandotte?
19 A. W-Y-A-N-D-O-T-T-E. In truth, I
20 probably won't be there that much longer. I've
21 been visiting during the holidays.
22 Q. Is that your residence?
23 A. Yeah. I mean, that's on my driver's
24 license.
25 Q. That's what you consider home at least

2

1 APPEARANCES:
2
3 ROTHSTEIN ROSENFELDT
4 300 Las Olas Place, Suite 860
5 300 S.E. Second Street
6 Fort Lauderdale, Florida 33301
7 Phone: (954) 522-3456
8 By: STUART A. ROSENFELDT, ESQ.
9 On behalf of the Plaintiff
10
11 WHITE & CASE
12 Wachovia Financial Center, Suite 4900
13 200 South Biscayne Boulevard
14 Miami, Florida 33131
15 Phone: (305) 925-4794
16 By: BRIAN KOCH, ESQ.
17 On behalf of the Defendant
18
19 I N D E X
20
21 WITNESS: FRANK ALEXANDER HOUSTON
22
23 PAGE:LINE
24
25 DIRECT EXAMINATION
26 BY MR. ROSENFELDT..... 3:7
27
28 E X H I B I T S
29
30 PAGE:LINE
31
32 Plaintiff's Exhibit 1..... 31:17
33 Plaintiff's Exhibit 2..... 33:4
34 Plaintiff's Composite Exhibit 3..... 45:14
35 Plaintiff's Exhibit 4..... 49:25
36 Plaintiff's Composite Exhibit 5..... 53:19
37 Plaintiff's Exhibit 6..... 54:25
38
39
40
41
42

4

1 until you find a new one?
2 A. I was living in Florida for the last
3 year-and-a-half. I'm going to be renting, but
4 I'm shopping around.
5 Q. Got you. Have you ever had your
6 deposition taken before?
7 A. In 6th grade. Long, long time ago.
8 Q. Must have been a witness to a dog bite
9 or something?
10 A. Something along those lines.
11 Q. So it's clear for the record, that you
12 understand, it's a real simple process. I ask
13 questions; you answer them. You're under oath.
14 A. Right.
15 Q. We have one interest absolutely in
16 common here, and that's that this court reporter
17 get down accurately what we say. There's certain
18 ground rules we follow to do that: One is, I
19 will not interrupt your answer, even though I'm
20 tired of it.
21 A. You don't know how long-winded I am.
22 Q. See, you interrupted.
23 I'll try not to interrupt your answer,
24 and you try not to interrupt my question. Yeses
25 and nos need to be verbalized because they don't

5

1 have a nod of the head thing there (Indicating).
 2 And if you don't understand my question, tell me
 3 and I'll see what I can do to help you
 4 understand. Okay?
 5 A. Okay.
 6 Q. Actually, before we got on the record,
 7 I had asked about Eric Thompson. Do you know
 8 Eric Thompson?
 9 A. Yes.
 10 Q. Does he work for ACORN?
 11 A. I believe he still does.
 12 Q. Do you know what he does for them?
 13 A. I really couldn't tell you. I really
 14 don't know.
 15 Q. Do you have any idea where he lives?
 16 A. I know he lives in Miami. I want to
 17 say I heard Little Haiti. I don't know. I've
 18 had a hard time reaching him when I tried to get
 19 a hold of him in the past.
 20 Q. Do you have his phone number, cell
 21 number?
 22 A. I had his old cell number. I don't
 23 really know if I have it still.
 24 Q. Where would you look to find his old
 25 cell phone?

6

1 A. In my work cell phone. I don't have it
 2 with me, but I could check it.
 3 Q. Would you do me a favor and see if you
 4 have his old cell number and give it to your
 5 lawyer?
 6 A. I can do that.
 7 Q. Okay.
 8 A. I can check later today and pass it on
 9 to these folk if I have it.
 10 Q. Okay. Do you know a David Jackson?
 11 A. Yes.
 12 Q. Who's he?
 13 A. David Jackson has worked in the way of
 14 positions for ACORN since -- I don't know,
 15 roughly, now, eight months ago. And I think
 16 right now he's working as a community organizer,
 17 I think, is his position with ACORN. I'm not
 18 sure that's his official title.
 19 Q. Do you know where?
 20 A. I believe he's working in
 21 Fort Lauderdale. But he was working in Miami
 22 when he was working with me.
 23 Q. Okay. Now you work for ACORN?
 24 A. I'm a political consultant,
 25 technically. So I'm on a contractual basis with

7

1 ACORN. And I still am.
 2 Q. Can you give me a brief background of
 3 your educational background?
 4 A. I'll keep it short. If you want more,
 5 let me know. I did undergrad at Eastern Michigan
 6 University, history, political science, secondary
 7 education background. Not working on a higher
 8 degree right now.
 9 Q. You are working on --
 10 A. No, not right now.
 11 Q. You say you're a political consultant.
 12 Did you have any specialized training for that?
 13 A. What do you call "training"? You know,
 14 I --
 15 Q. Ever work on a campaign?
 16 A. Yes. Well, when I was in college, my
 17 earliest political experience, I got elected to
 18 city council when I was 18. Did that for a few
 19 years. It was like local campus, city issues.
 20 When I was done with council -- I came off of
 21 city council and worked for an organization
 22 called PIRG or the Fund for Public Interest, and
 23 I did receive various training with them.
 24 Mostly I was a lobbyist and campus director for
 25 them. That's pretty much my political background

8

1 before this.
 2 Q. Is that a Nader organization?
 3 A. The PIRG organization -- Ralph Nader
 4 did a bunch of speaking engagements on college
 5 campuses encouraging special interest groups. He
 6 didn't technically start PIRG, but kind of
 7 inspired the creation of PIRG. I worked there
 8 for a couple years.
 9 Q. When did you become in any way
 10 affiliated with the ACORN organization?
 11 A. It would have been late June of 2003.
 12 I think I officially came the last week -- as a
 13 consultant, the last week of June 2003.
 14 Q. Was there a location that you worked
 15 out of?
 16 A. The first week was in Chicago, and then
 17 since then it was in Florida and various
 18 locations.
 19 Q. What other locations besides Florida?
 20 A. It's quite a list. The first week,
 21 like I said, I started off doing some basic work
 22 from Chicago. I then arrived in the St. Pete
 23 area. I was going to be based in Orlando, which
 24 is where I was primarily based for the next,
 25 roughly, five months. I did probably spend a

<p style="text-align: right;">9</p> <p>1 month and a half at that time outside of Florida 2 in Chicago or Colorado, Michigan, visiting 3 family, doing other work. Originally I only 4 planned on being here two months. I had to tend 5 to some personal things. 6 And then in December -- it would be 7 2003, I moved to Tampa, which is probably the 8 address you have on record for me here, which is 9 where my place of residence was the rest of the 10 time. And then I spent considerable periods of 11 time all over the state. Probably most notably 12 spent a couple months of time in Miami, scattered 13 throughout the year. Probably a few weeks worth 14 of time in Jacksonville -- Tallahassee, but Tampa 15 would be the primary residence base for me. 16 Q. Was there a written contract in terms 17 of your consulting agreement? 18 A. Yes. 19 Q. Can you briefly describe what had 20 responsibilities you or -- 21 A. Yeah. Sure. I mean, when I was 22 originally hired, my main goals were to create 23 some sort of Citizen Outreach Program in Florida. 24 When I say "create," create a systems structure, 25 basic training materials, you know, things like</p>	<p style="text-align: right;">11</p> <p>1 is? 2 A. Yes. 3 Q. What is it? 4 A. It's technically a PAC, I think legally 5 created by ACORN with the idea when ACORN was 6 first interested in working on the minimum wage 7 campaign, we wanted to see a broad coalition of 8 people supporting it, working in it, helping it, 9 assisting it, and this was going to be the entity 10 that various organizations, individuals who were 11 support raising the minimum wage could come 12 together to find the campaign, to do it in one 13 name. 14 So, for instance, if you and I are both 15 supported raising the minimum wage and let's say 16 you were -- I don't know, it doesn't matter if 17 you're a laborer, attorney, whoever you are or 18 whatever organization you are that supports this 19 cause, that we can both take part in a campaign 20 that wouldn't be just under ACORN. 21 Q. I understand. Okay. 22 As a consultant, I presume, no taxes 23 were taken out of your paycheck? 24 A. No. Declared it myself. 25 Q. I've been there. Been a consultant.</p>
<p style="text-align: right;">10</p> <p>1 that, to support a campaign to raise Florida's 2 minimum wage through a citizen initiative 3 process. I was responsible for creating training 4 materials and systems. Aside from that, I was 5 also recruiting a couple -- my goal was 6 originally to recruit a few directors to run 7 local offices for the campaign. 8 Q. Okay. 9 A. And to help training those folks on 10 basic structures and systems they should have in 11 place for collecting petitions for minimum wage. 12 Primarily my responsibility, aside from minimum 13 wage, in terms of collecting the petitions for 14 minimum wage, was to create a structure that 15 would build our membership and educate people 16 about the campaign. 17 Q. You mean the minimum wage campaign? 18 A. Yes. We did door-to-door citizen 19 outreach. That's how we talked to people about 20 issues and how we trained ourselves to do that. 21 Q. Were you a consultant to ACORN -- 22 A. Yes. 23 Q. -- or a ACORN related entity? 24 A. No. It was ACORN. 25 Q. Do you know what Floridians for All</p>	<p style="text-align: right;">12</p> <p>1 Did you receive your checks from ACORN? 2 A. Yes. 3 Q. No other entity? 4 A. No. 5 Q. Now, are you familiar with something 6 called Project Vote? 7 A. Yes. 8 Q. What is that? 9 A. Project Vote is technically a C3 10 organization that, I believe, was created by 11 ACORN. I don't know if that's the legality of 12 how it was created. Its sole purpose is to 13 register people to vote and get people out to 14 vote from primarily low income, moderate income 15 communities, primarily people of color. 16 Q. Is it partisan or nonpartisan? 17 A. Nonpartisan. Being a C3, as I'm sure 18 you're aware, it's nonpartisan. 19 Q. Floridians for All, that was a PAC, so 20 obviously some form of partisanship? 21 A. No, that's not true. 22 Q. What is your understanding of the 23 partisan nature of Floridians for All? 24 A. It's nonpartisan organization. 25 Strictly created just to raise the minimum wage.</p>

13

1 Q. Do you know Mac Stuart?
 2 A. Yes.
 3 Q. When did you first meet Mac Stuart?
 4 A. I don't know the exact date. I would
 5 say late November of 2003.
 6 Q. Okay. And how did you come to meet
 7 him?
 8 A. How I came to meet Mac, we had just
 9 opened up our Miami Citizen Outreach Program to
 10 raise the minimum wage. We had put an ad in the
 11 paper interviewing for temporary employees. Some
 12 people would call them paid petitioners. And Mac
 13 had turned in an application or basically called
 14 for an interview and came in and interviewed, and
 15 I conducted the initial interview with Mac.
 16 Q. You don't recall meeting him before
 17 that when he was actually asked to sign the
 18 petition?
 19 A. That's right. I forgot about that. He
 20 claims he met me on the street. Frankly, I
 21 didn't remember. I think he said he met me the
 22 first or second day we petitioned in Miami, and,
 23 you know, I frankly, didn't remember. But it's
 24 quite possible.
 25 Q. So he came in and interviewed for the

14

1 job.
 2 Did you hire him?
 3 A. Yes.
 4 Q. Was it your decision to hire him?
 5 A. Initially, yes.
 6 Q. At the time you hired him, did you know
 7 anything about his criminal background?
 8 A. No.
 9 Q. Did you ask?
 10 A. I don't believe so.
 11 Q. Okay. Was there any kind of
 12 application that you had him fill out?
 13 A. Yes.
 14 Q. Do you know if that was maintained by
 15 the company?
 16 A. Yes, it was initially.
 17 Q. Okay. What was his original position
 18 you hired him to do?
 19 A. He was -- I'm trying to remember the
 20 exact title at the time because we changed the
 21 title a little bit. It was either a petitioner
 22 or -- canvasser was the title of the position.
 23 And he was, I believe, when he first came on
 24 staff, he was a contractual employee, and we
 25 quickly shifted all of our contractual employees

15

1 to temporary employees, is what we called them.
 2 I could be wrong about that. He may have been a
 3 temporary employee right from the get-go. I,
 4 frankly, don't remember.
 5 Q. I take it the difference between a
 6 contractual employee and a temporary employee is
 7 whether or not you withhold wages and do Social
 8 Security?
 9 A. Yeah. That's it primarily, the
 10 difference.
 11 Q. Have you ever heard of an organization
 12 called the Financial Justice Institute?
 13 A. The Financial Justice Institute?
 14 Q. Yes. Or something to that effect.
 15 A. I don't believe so.
 16 Q. Okay. The work that you did when you
 17 were in Florida during the last year-and-a-half
 18 was always on behalf of ACORN; am I right?
 19 A. Yes.
 20 Q. Okay. You didn't do work on behalf of
 21 Project Vote?
 22 A. Well, it's kind of hard to
 23 differentiate what -- I mean, most of the voter
 24 registration activities that ACORN does they do
 25 in the name of Project Vote. So it's kind of

16

1 hard to differentiate what was Project Vote
 2 versus ACORN in terms of the voter registration
 3 work we did, but primarily I did very little work
 4 with Project Vote because there was really only,
 5 roughly, a month and a half of time that I
 6 actually oversaw voter registration at a larger
 7 scale level in Florida.
 8 Q. What was that month and a half?
 9 A. It was starting right after July 4th.
 10 It was whatever that Monday was after -- you
 11 know, Monday, Tuesday around July 4th.
 12 Q. Of '04?
 13 A. Yes. Until, I want to say, mid August.
 14 Q. Is that after the minimum wage
 15 initiative had qualified?
 16 A. Yes.
 17 Q. So that was done and now you were
 18 focusing on getting more people registered?
 19 A. Right. Exactly.
 20 Q. When you were doing that, where were
 21 your headquarters, so to speak?
 22 A. I was headquartered in Tampa, really,
 23 since December 2003.
 24 Q. Okay. Was Mac ever promoted, to your
 25 knowledge, from the initial canvasser position?

17

1 A. Yes.
2 Q. Were you involved in the decision to
3 promote him?
4 A. Not initially, no.
5 Q. When you say "not initially," were you
6 consulted on it?
7 A. Not really, no.
8 Q. Do you have any information about how
9 that decision was made?
10 A. Yes. Well, actually, I should
11 differentiate. There's a few different ways you
12 can consider promotion. I was aware that he was
13 promoted to be what we would call a team leader
14 position, where they're overseeing a small group
15 of canvassers, actually, on the street when
16 they're canvassing. That, I was aware of.
17 His numbers -- his personal numbers
18 going out collecting petitions were good, and he
19 seemed to be at that time kind of stand-up, take
20 initiative, make things happen guy. At that
21 time, that's the impression I had. I didn't make
22 that decision, and I wasn't, frankly, in the
23 Miami office during that time period.
24 The two directors that were there at
25 that time felt he had a potential to be a good

18

1 staff program. They promoted him a slight step
2 up in pay and responsibility with that. What I
3 was thinking about with your question was a
4 promotion to come into a salary decision, and
5 that decision I wasn't involved in.
6 Q. Let's talk about the team leader
7 position first.
8 A. That's fine.
9 Q. Who were the directors that were in the
10 Miami office that you believe were involved in
11 making the decision?
12 A. Rhonda Russell, and Matt Besant,
13 B-E-S-A-N-T.
14 Q. Do you know whether they're still
15 associated with ACORN?
16 A. Neither one are, as best I know.
17 Q. Do you know where they're from, where
18 they live?
19 A. Oh, I want to say Rhonda -- she was
20 from the Baltimore area, but I really don't
21 remember. Matt Besant was from Wisconsin and, I
22 believe, is in Wisconsin. I don't know where.
23 Q. I would assume Madison?
24 A. I don't think so. I did hear, when he
25 left ACORN, he was living -- I want to say

19

1 somewhere northern in the state. I don't know
2 Wisconsin that well.
3 MR. ROSENFELDT: Let's go off the record
4 for a second.
5 (A discussion was held off the record)
6 BY MR. ROSENFELDT:
7 Q. You said Mac had been given this team
8 leader position where he essentially supervised a
9 group of other canvassers?
10 A. In what we would call the field or out
11 on the streets. You know, it's four, five people
12 typically.
13 Q. These are people getting petitions
14 signed?
15 A. Mac, as a team leader, is still
16 expected to collect petitions and, you know, to
17 some degree check in and provide additional
18 training.
19 Q. Kind of like a working foreman?
20 A. That's a good way to put it.
21 Q. In getting the minimum wage petition
22 signed, was he also responsible for getting voter
23 registration applications signed?
24 MR. KOCH: I'm going to object. Sort of
25 beyond -- the limitation of his job duties to

20

1 a certain extent are beyond the scope of
2 discovery we're looking at right now.
3 MR. ROSENFELDT: We're looking at what
4 happened illegally.
5 MR. KOCH: Just his job responsibilities
6 I guess, promotions, decisions of that nature
7 are beyond the scope of Judge King's order,
8 which limits discovery to the issue of
9 whether the defendant engaged in the unlawful
10 acts.
11 MR. ROSENFELDT: I think I'm entitled to
12 some leeway to get to that.
13 MR. KOCH: I've given you some and will
14 continue to do so.
15 MR. ROSENFELDT: I'm not going to go all
16 the way up how he got promoted and all that
17 stuff. We'll stop at team leader.
18 MR. KOCH: That's works.
19 THE WITNESS: Should I answer the
20 question?
21 BY MR. ROSENFELDT:
22 Q. Let me restate the question.
23 As a team leader, was he also
24 responsible for getting voter registration
25 applications completed?

<p style="text-align: right;">21</p> <p>1 A. "Responsible" is not the word I would 2 use, because at that time the priority wasn't 3 voter registration. The truth of the matter was, 4 we knew, when we were collecting petitions, there 5 would be some people we'd run across that weren't 6 registered to the vote, and those folks we'd want 7 to register to vote so we could later collect a 8 petition from them. With those folks, we 9 encouraged our canvassers, if you ran across 10 someone who wasn't registered to vote, we would 11 ask them if they wanted to register. 12 We would collect the voter registration 13 and submit it to the supervisor of elections 14 office. At that time, it wasn't really something 15 we held people accountable for. It wasn't like Mac 16 would be fired if he didn't collect voter 17 registration applications. 18 Q. His primary responsibility was getting 19 the petition signed? 20 A. Right. We didn't evaluate staff based 21 on their ability to collect any sort of voter 22 registration in December of '03 -- no November of 23 '03 when Mac first came on staff. 24 Q. Even when he became team leader, that 25 wasn't --</p>	<p style="text-align: right;">23</p> <p>1 of ACORN that they be asked to sign the petition 2 anyway and fill out a voter registration form? 3 A. No. 4 Q. Was there a policy that specifically 5 forbade that? 6 A. Yes. 7 Q. Was that a written policy? 8 A. I don't know if it was written at that 9 time. 10 Q. Was it ever written? 11 A. Well, let me put it this way: I did 12 send an e-mail out to our director level staff 13 reminding them that that was not legal. So I 14 don't remember if there was a handout or 15 something along those lines that specified that. 16 Q. So you said you sent an e-mail to the 17 director level staff? 18 A. Right. Who would then communicate 19 that -- 20 Q. Do you have a copy of that e-mail? 21 A. I don't know. 22 Q. Do you know when you sent that e-mail? 23 A. I don't really recall the date. It 24 would have been sometime between that November of 25 '03 and the end of January/early February of '04,</p>
<p style="text-align: right;">22</p> <p>1 A. No. That wasn't the priority of the 2 minimum wage campaign throughout the whole 3 petition drive. 4 Q. When these canvassers would go out to 5 get the petition signed, were they given voter 6 registration application forms just in case they 7 ran across that person? 8 A. Like I said, it wasn't a priority as 9 much. I don't remember ever making a 10 concentrated push to make sure our canvassers had 11 application forms on their clipboard. Yeah, we 12 encouraged people to take them with them. 13 Frankly, we didn't even always have them in the 14 office with us, enough for all of our staff. 15 Q. Were the people who were trained to get 16 the petition signed told to ask whether or not 17 the person was a registered voter? 18 A. Yes. 19 Q. And if the person was not and they 20 filled out a voter registration form or 21 application at the time, were they asked to sign 22 the petition? 23 A. Can you restate that one more time? 24 Q. If the person who was approached by the 25 canvasser was not registered, was it the policy</p>	<p style="text-align: right;">24</p> <p>1 and frankly, the reason I can't recall is, 2 there's several things like that that I would 3 periodically send out reminders to people on. I 4 just now cannot recall when I sent out the 5 initial versus a reminder on it. I know I sent 6 out a reminder probably in February. 7 Q. When Mac was a team leader, where there 8 other team leaders? 9 A. In Miami? 10 Q. In Miami. 11 A. I believe they promoted Mac, and I 12 think within a week after Mac they promoted 13 another woman, who I can't recall her name. 14 Q. So there was more than one team leader? 15 A. Not the first week or two he was on 16 staff there, but -- I mean, this is hazy for me. 17 And frankly, I wouldn't know on a day-to-day 18 basis who was the team leaders. But I believe 19 there was a second team leader that came on 20 within a week or two when Mac did. 21 Q. Let me ask you this: You said one of 22 your responsibilities was to kind of set up a 23 structure? 24 A. Right. 25 Q. And in the plan as opposed to the</p>

6 (Pages 21 to 24)

25

1 execution, was that structure to have more than
 2 one team leader working out there?
 3 A. It all depended on the number of
 4 petitions or canvassers for you. The idea for
 5 every four or five temporary employees collecting
 6 petitions, you have a team leader with them.
 7 Q. That's the best case scenario, so to
 8 speak?
 9 A. Right. I don't recall if that was
 10 implemented. Like I said, it's a rough number.
 11 If it was six people or four people, I don't
 12 recall.
 13 Q. Miami was certainly an area where you
 14 find a lot of people sympathetic to the minimum
 15 wage initiative, right?
 16 A. Generally, if you look at our numbers
 17 at the election time, we pretty much thought the
 18 whole state would be sympathetic. Our order of
 19 priorities, Orlando was the first place we
 20 started up the campaign, and Miami was the second
 21 priority.
 22 Q. Were team leaders responsible in any
 23 way for making decisions or reporting on payroll?
 24 A. I'm sorry. What's that again?
 25 Q. Were team leaders responsible for

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1 anything in the payroll function for the people
 2 they supervised?
 3 A. The only thing -- the only thing that
 4 the team leaders were responsible for that would
 5 have anything to do with payroll was, the
 6 petitioners, when they came back, would record
 7 how many petitions they collected and any other
 8 numbers they brought -- how many voter
 9 registrations they collected, if they collected
 10 any of those, anything along those lines.
 11 What the process was supposed to be, a
 12 team leader would sign off what the canvasser had
 13 collected, and the director would review each
 14 individual canvasser's numbers and the team
 15 leaders numbers. That's where the responsibility
 16 lay, making sure each petition had the
 17 canvasser's name on it, for instance, all the
 18 basic information, so the numbers match up. If
 19 they said they collected 50 petitions, the team
 20 leaders would check it, and they would turn it in
 21 and say this person collected 50 petitions.
 22 Q. So the team leaders didn't decide how
 23 much people got paid or anything like that?
 24 A. No.
 25 Q. You've heard an allegation at this

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1 point that some of the temporary employees or
 2 contractors who worked with ACORN were
 3 compensated on a per registration card basis?
 4 A. I heard the allegation, yes.
 5 Q. Do you have any information as to
 6 whether that's accurate?
 7 A. Let me put it this way: I don't.
 8 Q. Okay. Have you, outside of discussions
 9 with counsel, talked with anybody else to
 10 determine whether or not that's accurate?
 11 A. Yes.
 12 Q. Who have you spoken with?
 13 A. Mac Stuart.
 14 Q. And when was that?
 15 A. That was in June of '04.
 16 Q. Okay. And what did he tell you?
 17 A. He told me that he was concerned that
 18 when he was going to be doing voter registration,
 19 that we were going to require him to do a pay
 20 system he didn't support, and I asked what that
 21 was, and he basically said he wanted to pay on a
 22 system that would, in fact, be a pay per card
 23 basis, to which I replied, "That's illegal, and
 24 you can't do that." That was the only
 25 conversation I had with anyone about paying per

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1 card.
 2 Q. When you had that conversation with
 3 him, had he already implemented that pay system?
 4 A. I really didn't know because I wasn't
 5 supervising him. So I really didn't see his
 6 payroll records. Frankly, I don't think I asked
 7 him. I just said, "You can't do that. That's
 8 not how you're going to be able to pay people
 9 when you're working with me."
 10 Q. Did he express any opposition to what
 11 you were telling me?
 12 A. He said he wanted to do it. "It's a
 13 good way to reward people for their work." I'm,
 14 like, "That's not Florida law, though."
 15 Q. Did he refuse to honor your order?
 16 A. It wasn't an order at that point. It
 17 was more a discussion. I didn't supervise Mac at
 18 that point. Mac had actually asked to speak to
 19 me to express some frustrations he was having in
 20 Miami. He wanted to ask what the plan was going
 21 to be for him after June, to which I said, "I'm
 22 not supervising you right now. What would you
 23 like it to be?" It was a general conversation.
 24 And that was one of the things he had brought up.
 25 Q. Who was supervising him?

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1 A. I really don't know officially who it
 2 was, but I think, technically, Eric Thompson, but
 3 I'm not sure.
 4 Q. Okay. What was Eric Thompson's
 5 position at that time in the ACORN organization,
 6 if you know?
 7 A. I don't know what it was at that time.
 8 Q. Okay. What was the highest level of
 9 position you knew Eric Thompson to have ever held
 10 in the ACORN organization?
 11 A. I don't know. I think the two
 12 positions I think Eric had that I could probably
 13 name some sort of title to, I believe, are
 14 parallel, parallel in terms of response. So I
 15 don't really know how to quantify it.
 16 Q. What were they?
 17 A. Head organizer was his title for the
 18 Miami program for us. I don't know when that
 19 ended. And then I know when he was doing that,
 20 he at times oversaw an earned income tax credit
 21 program where he educated people about earned
 22 income tax credit. I don't know if he was still
 23 doing organizing work at that point or not. I,
 24 frankly, don't know what his job was for the last
 25 six to eight months.

30

1 Q. When you had that conversation with Mac
 2 that you described a few minutes ago, where Mac
 3 said he wanted to pay in an incentive-based way,
 4 and you told him it was illegal, was Mac at that
 5 time, to your knowledge, responsible for making
 6 the payroll decisions of ACORN?
 7 A. No. It wasn't -- to the best of my
 8 understanding of what his role was, it wasn't to
 9 make payroll, what I call decisions in terms of
 10 how you pay people. He was only responsible for
 11 saying this is how many -- this is how much money
 12 somebody gets paid based on how many hours or
 13 days they worked. That was the limit to what I
 14 knew he had responsible for.
 15 Q. What was his position at that time?
 16 A. I don't know what his title was,
 17 honestly. What, in fact, he was doing, I think,
 18 was a voter registration program.
 19 Q. And aside from the discussion with Mac
 20 and without any reference to any discussions you
 21 had with counsel, are you aware of any other
 22 information about the accusation that ACORN was
 23 paying \$2 per registration card?
 24 A. No.
 25 Q. Are you familiar with documents called

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1 Daily Tally Information?
 2 A. There could be multiple forms of that.
 3 But, yes, we used -- there's different lingo for
 4 the sheets we used to record payroll information
 5 in ACORN. Actually, sometimes we called them
 6 crew sheets, team record sheets, sometimes tally
 7 sheets. So I don't know which one -- I don't
 8 know. I'd have to see the sheet.
 9 MR. ROSENFELDT: What I'd like to do for
 10 expediency is get some exhibit stickers, and
 11 as I identify a document, I'll mark it rather
 12 than interrupt the deposition flow with the
 13 court reporter.
 14 MR. KOCH: That works.
 15 MR. ROSENFELDT: If we can take a second
 16 for you to hand me some exhibit stickers.
 17 (Plaintiff's Exhibit 1 was marked for
 18 identification.)
 19 BY MR. ROSENFELDT:
 20 Q. I'm handing you a two-page document,
 21 actually handing it to your counsel, who will
 22 then hand it to you, which I've marked as Exhibit
 23 1 to this deposition.
 24 Right now, generally first of all, have
 25 you ever seen this document before?

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1 A. I've not seen this one, no.
 2 Q. Second of all, have you seen a document
 3 similar; meaning, something laid out in the same
 4 way with the "Daily Tally Information" at the
 5 top?
 6 A. Let me put it this way: I've never
 7 seen anything like this that's blank. That's
 8 very close to the same --
 9 Q. Do you mean -- you've never -- I'm not
 10 sure if I'm following your answer.
 11 You've never seen any document that
 12 records similar information?
 13 A. Well --
 14 Q. Forget about what's handwritten on
 15 here.
 16 A. I know what you're saying. Let me put
 17 it this way: Never seen a voter registration
 18 tally sheet that had just this information or
 19 laid out this way on it.
 20 Q. You don't know who designed this?
 21 A. I have no idea.
 22 Q. You've never seen anything like it
 23 before?
 24 A. No, I haven't.
 25 Q. Okay. We're done with that.

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1 A. Hand this back to you?
2 Q. Actually, put it right there so the
3 court reporter can keep track of it.
4 (Plaintiff's Exhibit 2 was marked for
5 identification.)
6 BY MR. ROSENFELDT:
7 Q. I'm handing you what's been marked as
8 Exhibit 2. This is another document that says
9 "Daily Tally Information."
10 Have you ever seen any form similar to
11 this?
12 A. No.
13 Q. Okay. In the information recording the
14 productivity of the canvassers that you've seen,
15 what other information was on it other than
16 what's on these kinds of forms?
17 A. You're talking individual
18 canvasser-by-canvasser basis?
19 Q. Yeah.
20 A. Let's see. I don't know what Mac used
21 during his period here doing voter registration
22 that you're showing me. During the period that I
23 had a part in voter registration, which is two
24 periods, just to reiterate, one is during the
25 minimum wage petition drive, where there is a

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1 couple voter -- during the minimum wage petition
2 drive, which ended at the end of July 2nd of '04,
3 any voter registrations we collected at that
4 point were usually limited to a couple per
5 canvasser, on average. So we were primarily
6 actually more concerned with the petition numbers
7 we were collecting.
8 So an average canvasser would go out,
9 and we would record -- it was broken up by who
10 was in a team, and it would say how many
11 petitions were collected, how many -- if there
12 was more than one petition they were circulating
13 for us, because we, at times, supported other
14 campaigns, it would specify each one and specify
15 what voter registrations we collected, and it
16 would also specify -- I'm trying to recall,
17 e-mail addresses and, I believe, that's it.
18 The --
19 Do you want me to answer the second
20 period as well? I'm assuming.
21 Q. Sure.
22 A. The second period of voter
23 registration, starting in -- after July 2nd, I
24 believe, it's probably the 6th or 7th, something
25 like that, during that period, I think we called

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1 them a team record sheet, I think, the lingo we
2 used. It was broken out, once again, where it
3 would have the canvasser's name, and it would
4 have the number of voter registrations they
5 collected, the phone numbers on those
6 registrations, e-mail addresses.
7 And then there was place -- I believe
8 this is true for both the prior sheet we used and
9 this sheet starting in July, the canvasser's
10 initials, the team leader's initials, and the
11 director's initials, therefore, each person
12 verifying the information was accurate. The
13 biggest difference is, there was never anything
14 for pay on those sheets.
15 Q. Those weren't documents that were used,
16 to your knowledge, to determine the pay to be
17 paid to the canvassers?
18 A. That's not completely true because we
19 paid people on a shift basis. So if someone went
20 out and canvassed, we needed a record. This was
21 in fact the basis of how they were paid, is that
22 they worked. But it wasn't the per card
23 allegation, and it wasn't recorded on the sheet
24 how much that person would be paid.
25 Q. Got you.

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1 So it may have been a resource from
2 which the ultimate pay determination was made?
3 A. Oh, yes. Because we needed a
4 verification that they did in fact work.
5 Q. Earlier you talked about an e-mail you
6 had sent reminding people that they can't get
7 people to sign the petition who weren't
8 registered.
9 A. Right.
10 Q. Where did you send that e-mail from?
11 A. It would have been my personal e-mail
12 address.
13 Q. Okay.
14 A. Or are you meaning physically?
15 Q. Yeah.
16 A. I was probably in Tampa at the time. I
17 mean, I travel a lot. So I don't really
18 remember.
19 Q. Do you have, like, a personal e-mail
20 address you carry with you everywhere?
21 A. Yeah.
22 Q. Have you had it for a long time?
23 A. Yes.
24 Q. What is that e-mail address?
25 A. Fhouston, like the city, H-O-U-S-T-O-N,

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1 4, just the number, at Juno.com.
 2 Q. Juno?
 3 A. Yeah. J-U-N-O.com.
 4 Q. Do you save your sent e-mails?
 5 A. Most of them I do.
 6 Q. So is it likely that that e-mail that
 7 you were referring to you could find?
 8 A. I don't know. Honestly, I had a couple
 9 viruses hit my computer in December, another one
 10 in -- sometime in January, February. So I may
 11 have the latter ones I would have sent out that
 12 could have pertained to this. I really don't
 13 know.
 14 Q. Do you have a laptop?
 15 A. Yes, I do.
 16 Q. Is that usually where you send your
 17 e-mails from?
 18 A. Yes. The one I had is dead, but my
 19 e-mail is still intact on that. Like I said, in
 20 December I lost every e-mail I had sent. My
 21 whole account was erased in December. It's one
 22 of those worm viruses that was going around.
 23 Then I got a new laptop in June of '04. So I
 24 still have the old laptop, though, yeah.
 25 Q. Okay. When you send an e-mail as

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1 important as documenting a reminder of legal
 2 compliance, do you print it?
 3 A. No.
 4 Q. Okay.
 5 A. And that's just due to some of our
 6 offices at that time didn't even have printers.
 7 And when I'm traveling, it's not always possible.
 8 Q. You said you sent that to
 9 director-level people?
 10 A. Right.
 11 Q. At the time, who can you recall was a
 12 director-level person?
 13 A. Well, since I can't remember what month
 14 it was off the top of my head, I mean, it could
 15 vary from a couple of people to, you know --
 16 probably in the first week of February, which
 17 would have been -- I'm sure I sent something out
 18 by that point. There was, I want to say, roughly
 19 15 to 20 directors at that point on staff.
 20 Q. Do you know who those directors were in
 21 February?
 22 A. I don't think I can recite them all by
 23 name right now.
 24 Q. Give me what you can recall, and we'll
 25 from there.

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1 A. Okay. I'll give the ones I can think
 2 of. Nakiya Jones. She was overseeing --
 3 Do you want to know who they were
 4 overseeing or --
 5 Q. It would be helpful.
 6 A. Nakiya Jones was a lead director for
 7 Tampa -- I mean the Tampa office. Let me do this
 8 geographically so I can try and recall.
 9 Meryl Ibis, she was in Tallahassee. In Orlando
 10 it was Patrick Winogrand. In St. Petersburg it
 11 was Russell Bernstein. In Jacksonville it was
 12 Danielle Atkinson. Bear with me here. In
 13 Fort Lauderdale it was Hakin Sutton. In Miami at
 14 the time it was Renee Ruiz. Those were, in fact,
 15 the lead directors.
 16 There's also some salaried assistant
 17 directors, and I'm probably going to forget a
 18 couple of them here that I don't believe were on
 19 staff at that point. But I remember Matt Besant
 20 was still an assistant director in Miami at that
 21 time, although he was leaving staff sometime in
 22 January, I think. So he may be off staff by that
 23 point. That's all I really can't recall right
 24 now. I'd have to pull out notes to know any more
 25 than that.

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1 Q. Mack Stuart was, I take it, was not an
 2 intended recipient of that e-mail?
 3 A. No, he wasn't. He wasn't on my staff.
 4 Q. Do you know a Katina Deberry?
 5 A. Yeah.
 6 Q. Who is she?
 7 A. She was some sort of administrative
 8 assistant that worked in CCI, which is where we
 9 sent our payroll requests to.
 10 Q. Is that Citizens Consulting, Inc.
 11 A. Yeah. Yes, it is.
 12 Q. They're in New Orleans?
 13 A. Yes, it is.
 14 Q. They were the ones who ultimately cut
 15 the payroll checks?
 16 A. Yes.
 17 Q. So I take it that CCI is some way
 18 affiliated with ACORN?
 19 A. Yeah. I don't really know how close
 20 the affiliation is, but yes.
 21 Q. Do you know whether it's -- do you know
 22 if CCI is a --
 23 MR. KOCH: I'm going to object to this
 24 being outside the scope.
 25 MR. ROSENFELDT: They're the ones who

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1 were actually issuing the payroll checks.
2 MR. KOCH: The relationship between CCI
3 and ACORN is not one of the allegations
4 that's placed in the complaint. It doesn't
5 involve any of the unlawful acts that are
6 alleged in the complaint.
7 MR. ROSENFELDT: If they're the ones
8 issuing the checks, they're being paid on a
9 per card basis, I would think their
10 relationship to ACORN would be reasonably
11 relevant.
12 MR. KOCH: I'm going to be very
13 courteous and allow it --
14 MR. ROSENFELDT: You're always very
15 courteous.
16 MR. KOCH: -- to a certain extent. To
17 the extent the witness has or does not have
18 knowledge of any legal affiliation between
19 entities is unrelated to the actual
20 allegations of whether or not the events
21 happened or did not happen.
22 MR. ROSENFELDT: I'm not sure I'm
23 following you, but I'll see what I can do
24 here.
25 THE WITNESS: If you can restate it for

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1 me.
2 BY MR. ROSENFELDT:
3 Q. You don't seem to know much about the
4 exact relationship between CCI and ACORN?
5 A. I don't know the legal relationship,
6 no.
7 MR. ROSENFELDT: It's academic at that
8 point.
9 MR. KOCH: Right.
10 BY MR. ROSENFELDT:
11 Q. There have been allegations in this
12 lawsuit that voter registration cards were being
13 copied, Xeroxed. Do you have any information on
14 that?
15 A. What information?
16 Q. Do you know whether that occurred?
17 A. We copied voter registration
18 applications, yes.
19 Q. For what purposes?
20 A. Two main purposes: One is, we kept a
21 copy of them because we received a grant to do
22 voter registration, that we were in fact doing
23 voter registration, through our funder.
24 Q. Who was the grantor funder?
25 A. It changed. It was initially Working

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1 Assets, and then it was Working Families United.
2 Q. Working Assets?
3 A. Yes.
4 Q. Is Working Assets a company?
5 A. I don't really know what either one is.
6 I think they're both 501C3s.
7 Q. Do you know where Working Assets is
8 located?
9 A. No, I do not.
10 Q. You got a grant from them that was to
11 be used for the nonpartisan effort to get
12 registrations?
13 A. I mean, I didn't do much of anything
14 with it. But ACORN or Project Vote, one or the
15 other.
16 Q. Do you know whether Project Vote is a
17 separate entity or just kind of a name --
18 A. I believe it's a separate entity. Like
19 I said before, I think Project Vote is a 501C3.
20 Q. And they would get grants, and in order
21 to substantiate the grants, they had to prove
22 that they actually registered the people?
23 A. Right. That was the primary reason we
24 would collect copies. The secondary reason was
25 so we had a written record in our office in case

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1 anyone ever claimed, you know, that they weren't
2 registered, we wanted to be able -- or claimed
3 they were registered, they went to vote and
4 somehow the supervisor's office didn't have them
5 on their rolls or any possible discrepancy, we
6 wanted to have a local on copy file.
7 Q. Are you familiar with the terms of the
8 grants?
9 A. Not at all.
10 Q. Do you know whether they were written
11 documents?
12 A. I'm not aware. I don't know.
13 Q. Do you have any understanding of
14 whether the grants were based on the number of
15 registrations?
16 A. I don't know.
17 Q. Okay. Did you ever hear something to
18 the effect that ACORN or Project Vote would
19 receive a certain amount of money for each
20 registration that they secured?
21 A. No, I've never heard that.
22 Q. There's been an allegation they were
23 being paid \$3.85 at one point and then \$4.10 at
24 another point for each registration?
25 MR. KOCH: I'm going to object to beyond

<p style="text-align: right;">45</p> <p>1 the scope for this line of questioning. 2 There's no allegations in this complaint that 3 relate to any payments that are made to -- 4 you know, relating to grants or anything 5 along those lines. 6 BY MR. ROSENFELDT: 7 Q. Anyway, do you know -- 8 A. No. 9 Q. -- whether there was -- 10 A. I've never heard of that, no. 11 Q. Are you familiar with documents such as 12 I'm going to hand you which is going to be marked 13 as Exhibit 3? 14 (Plaintiff's Composite Exhibit 3 was 15 marked for identification.) 16 BY MR. ROSENFELDT: 17 Q. I'm handing you Composite Exhibit 3. 18 It's called a "Worker Batch Sheet, Special 19 Project Vote Sheet." 20 Have you seen anything like this 21 before? 22 A. Yes. 23 Q. What is this? 24 A. It's a Worker Batch Sheet, to answer 25 your question directly. It's just basically a</p>	<p style="text-align: right;">47</p> <p>1 A. I'm not sure which person, but we would 2 send them to Keturah -- I don't remember 3 Keturah's last name. 4 Q. That was a woman in Brooklyn? 5 A. Yes. That's who we actually sent them 6 to. I don't know who was responsible for them 7 once they got there. 8 Q. Did you ever learn that there was an 9 allegation that it was unlawful to make copies of 10 these cards? 11 A. I don't think -- I've never heard of an 12 allegation that it was unlawful, no. 13 Q. Okay. As you sit here right now, do 14 you have any understanding, aside from what you 15 may have heard from counsel, that it's unlawful 16 to re -- 17 A. Can you restate that? 18 Q. As you sit here right now, do you have 19 any understanding -- I understand you're not a 20 lawyer. I'm just asking about your 21 understanding -- short of what you received from 22 counsel, because I don't want to you talk to me 23 about what you learned from your lawyer -- about 24 whether it is illegal to make copies of voter 25 registration applications?</p>
<p style="text-align: right;">46</p> <p>1 way of us tracking the overall amount of 2 registrations a person gets with the actual 3 copies of the applications. This is how we 4 would -- we do it this way so we can track the 5 individual registrations that a specific 6 canvasser collected. So, for instance -- this 7 looks like Samuel Lossaint -- 8 Q. It's spelled L-O-S-S-A-I-N-T, it looks 9 like. 10 A. The reason we would collect this, so we 11 could then verify the people that Samuel 12 registered. The other information on this sheet, 13 how many people had e-mails and phones. 14 Q. Was this a term document or was it used 15 to send to America's Families United? I see it 16 says America's Families United. 17 A. I'm not really sure if we sent these to 18 America's Families United. I personally didn't. 19 I know I never instructed any of my staff to do 20 that. We would actually keep a copy of these in 21 our office and send them internally to Project 22 Vote, and what they did with them at that point, 23 I'm not sure. 24 Q. Do you know who at Project Vote would 25 have the most information about that?</p>	<p style="text-align: right;">48</p> <p>1 A. As far as I've been aware, it's totally 2 legal. 3 Q. Do you have any understanding, as you 4 sit here right now, again, short of any 5 information from counsel, as to whether it is 6 legal to make copies and sell them per 7 registration? 8 A. We never did it, so I never really 9 thought about it. I don't know if it's legal or 10 not. We never did it. 11 Q. I want to follow up on that. Is it 12 your contention that it was never an arrangement 13 to be paid per registration card that was 14 provided to America's Families United? 15 A. As far as I know, yeah. 16 Q. Okay. I want to make sure as far as 17 you know. 18 A. I've never heard of this -- 19 Q. Okay. 20 A. -- happening. 21 Q. If it was your desire to really get to 22 the bottom of that, who would be the person that 23 you think would have the knowledge as to whether 24 or not -- well, strike that. 25 Who would have knowledge as to the</p>

12 (Pages 45 to 48)

49

1 terms of the grants from America's Families
 2 United and that other organization that you
 3 mentioned?
 4 A. Probably the person who has the best
 5 knowledge of the grant would be Joanne Wright.
 6 That's who I would call.
 7 Q. Is it W-R-I-G-H-T?
 8 A. I think so.
 9 Q. And what is her position?
 10 A. Her initial title, I believe, is -- I
 11 don't know what her official title is. I think
 12 she's like a deputy political staff -- I'm trying
 13 to think of the title.
 14 MR. KOCH: Just to interject, if you
 15 don't know the answer to a question, don't
 16 speculate, don't guess. If you don't know,
 17 say you don't know.
 18 BY MR. ROSENFELDT:
 19 Q. Do you know who she works for?
 20 A. She works for ACORN.
 21 Q. Do you know where she works for ACORN,
 22 where her headquarters is?
 23 A. I don't know where she is now. She was
 24 based in Brooklyn.
 25 (Plaintiff's Exhibit 4 was marked for

50

1 identification.)
 2 Q. I'm handing you what's been marked as
 3 four. It's a composite document. At the top
 4 it's entitled "Project Vote Voter Registration
 5 Administrative Procedures."
 6 MR. KOCH: Are these all intended to be
 7 procedures?
 8 MR. ROSENFELDT: Well, this is how the
 9 document came to me. In fact, there may
 10 be -- and he can point it out. There are
 11 different documents attached to each other.
 12 MR. KOCH: It also looks like there's
 13 different pages that are missing. These seem
 14 to be sporadic.
 15 THE WITNESS: This doesn't look
 16 familiar. Let me glance at it.
 17 You're asking if I'm familiar with this?
 18 BY MR. ROSENFELDT:
 19 Q. First of all, have you ever seen it
 20 before?
 21 A. I will say a lot of these things tend
 22 to look the same after you've seen 500 pages of
 23 them. I don't believe I've seen these. I'm
 24 sorry. I just want to review these thoroughly.
 25 Q. Please take your time, all the time you

51

1 need.
 2 A. All right. I can say I don't think
 3 I've ever seen any of these before.
 4 MR. ROSENFELDT: Brian, do you think
 5 these are maybe two-sided and only one side
 6 got copied? Is that your impression?
 7 MR. KOCH: No. I think that you have
 8 certain pages here that are part of a packet
 9 that may have been together, but it doesn't
 10 include all of the information.
 11 MR. ROSENFELDT: Okay.
 12 MR. KOCH: There seems to be breaks in
 13 the pages, and there's another document that
 14 was also provided that appears sort of to
 15 have pieces of the puzzle, but not the entire
 16 puzzle.
 17 MR. ROSENFELDT: Who provided this, me
 18 or you?
 19 MR. KOCH: Probably the way it was
 20 provided to you guys and then provided to us.
 21 MR. ROSENFELDT: So it came in my
 22 disclosures to you?
 23 MR. KOCH: Yes.
 24 Are we done with this one?
 25 MR. ROSENFELDT: We're done.

52

1 BY MR. ROSENFELDT:
 2 Q. Have you ever heard the expression a
 3 rap sheet in the voters registration context as
 4 opposed to somebody's police record?
 5 A. Yeah. I mean, in reference to people's
 6 police records or other than people's police
 7 records? I'm sorry.
 8 Q. Other than.
 9 A. Yeah. We refer to -- a rap is what we
 10 tell someone when we register them to vote or
 11 sign a petition. What we use -- it's a basic
 12 script we use, and we instruct our canvasser how
 13 to talk with someone on the street.
 14 Q. Kind of like we would use the word
 15 shtick?
 16 A. Yeah. Comparable.
 17 Q. If you take a look at the -- I'm going
 18 to open up this -- the Exhibit 4 that you don't
 19 recognize. I'm just going to ask to you take a
 20 focus at the commonly asked questions and ask you
 21 if you that is something, maybe, distinctive, the
 22 rest of it you recognize?
 23 A. Like I said, I don't recognize this
 24 sheet at all.
 25 Q. Okay. Just checking.

<p style="text-align: right;">53</p> <p>1 Have you heard of allegations made that 2 after July 2nd several voter registrations 3 collected by ACORN were not actually taken to a 4 supervisor of elections and registered? 5 A. Yes, I've heard those allegations. 6 Q. Okay. Do you have any information on 7 whether that's accurate? 8 A. I mean, I'll say, as far as I know, 9 every voter registration card we collected during 10 that period we turned in. 11 Q. Do you understand or have you heard 12 that Mac Stuart took a thousand Republican voter 13 registrations to the Dade County Supervisor of 14 Elections shortly before the deadline? 15 A. I've heard that allegation, yeah. 16 Q. Do you have any information about that? 17 A. I don't know if it's valid or not, I 18 really don't. 19 (Plaintiff's Composite Exhibit 5 was 20 marked for identification.) 21 Q. Okay. I'm going to show you Composite 22 Exhibit 5, which I don't have any other copies 23 of, but I'll make it before we leave, and ask if 24 you recognize that document? It's a composite 25 document.</p>	<p style="text-align: right;">55</p> <p>1 identification.) 2 Q. Okay. Again, this is one I don't have 3 extra copies of. I'm showing you Exhibit 6. 4 Have you ever seen a document like that 5 before? 6 A. Oh, yeah. 7 Q. What is it? 8 A. Well, restoration of rights -- civil 9 rights application. 10 Q. Okay. Is that something that you've 11 ever dealt with in your work for ACORN here in 12 Florida? 13 A. Limitedly, to a limited degree, yes. 14 Q. In what way? 15 A. Well, some of our staff were concerned 16 with restoring the rights of convicted felons who 17 are eligible for the right to vote. I know some 18 of our staff did in fact circulate these forms. 19 Q. Do you know anything about your staff 20 organizing or getting petitions signed outside of 21 jails? 22 A. No, I don't know that. 23 MR. ROSENFELDT: Let's take a 24 five-minute break and I may be done. 25 (A recess was taken)</p>
<p style="text-align: right;">54</p> <p>1 A. I've never seen any of these pages 2 before. 3 Q. Okay. Have you ever seen any form like 4 that that says, "invoice"? 5 A. I've seen forms with the word "invoice" 6 on them, but never one of these forms, ever, or 7 anything comparable to it. And I would just say 8 that anything that was approved during the times 9 that I oversaw either minimum wage or voter 10 registration, that I would have authorized being 11 paid for, would have gone through myself at some 12 point, and none of these have ever come across 13 me. So I don't know what this is. 14 Q. If you look at the top of the fax sheet 15 there's a date, June. 16 A. Yeah. 17 Q. That's really before you came back 18 to -- that was when you were still working 19 primarily on the minimum wage initiative, 20 correct? 21 A. Yes. 22 Q. In fact, it was just before the end of 23 that? 24 A. Correct. 25 (Plaintiff's Exhibit 6 was marked for</p>	<p style="text-align: right;">56</p> <p>1 BY MR. ROSENFELDT: 2 Q. Are you ever heard of an organization 3 called WALD? 4 A. No. 5 Q. I'm going back just to make sure. I 6 know you said you didn't recognize Exhibit 4, but 7 there's something here called "Tips for face to 8 face voter registration." I'm wondering if 9 you've ever seen that document? 10 A. That's the one I already just looked 11 at, right? 12 Q. Well, you looked at a different page of 13 that document. 14 A. Is this different than one of the ones 15 you already hand me? 16 Q. No. You looked through this document 17 already. 18 A. This is not one I've seen before or 19 produced. So it's not to say it wasn't used, but 20 I'm not aware of it. 21 Q. Okay. And then there's this one page 22 called "Just One Vote." You never saw it? 23 A. Once again, haven't seen it, didn't 24 produce it. 25 MR. ROSENFELDT: Given the limited</p>

14 (Pages 53 to 56)

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1 scope, we're done.
 2 MR. KOCH: Okay.
 3 THE WITNESS: Thanks for keeping it
 4 short.
 5 (Whereupon, signature was not
 6 waived. The deposition concluded at 11:06
 7 a.m.)
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59

1 CERTIFICATE OF OATH
 2 STATE OF FLORIDA
 3 COUNTY OF PALM BEACH
 4 I, the undersigned authority, certify that
 5 FRANK ALEXANDER HOUSTON personally appeared
 6 before me and was duly sworn.
 7
 8 WITNESS my hand and official seal this 15th
 9 day of January, 2005.
 10
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DARLINE MARIE WEST
 Notary Public

My Commission Expires:
 October 26, 2005
 #DD062167

REPORTER'S CERTIFICATE

15 STATE OF FLORIDA
 16 COUNTY OF PALM BEACH

I, DARLINE MARIE WEST, RPR, certify that I
 was authorized to and did stenographically report
 the foregoing deposition/proceedings; and that
 the transcript is a true record thereof.
 I further certify that I am not a relative,
 employee, attorney, or counsel of any of the
 parties, nor am I a relative or employee of any
 of the parties' attorney or counsel connected
 with the action, nor am I financially interested
 in the action.

Dated this 15th day of January, 2005.

DARLINE MARIE WEST, RPR

58

1 CERTIFICATE
 2
 3 STATE OF FLORIDA
 4 COUNTY OF PALM BEACH
 5 I, FRANK ALEXANDER HOUSTON, hereby certify
 6 that I have read the foregoing transcript of my
 7 deposition and that the statements contained
 8 therein, together with any additions or
 9 corrections made on the attached Errata Sheet,
 10 are true and correct.
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Dated this _____ day of _____
 9 2005.

FRANK ALEXANDER HOUSTON

The foregoing certificate was subscribed to
 before me this _____ day of _____,
 17 2005, by the witness who has produced a
 _____ as identification and who
 18 did not take an additional oath.
 19
 20
 21
 22
 23
 24
 25

Notary Public
 My commission expires:

60

1 VERITEXT FLORIDA, LLC
 2 BENOWITZ - BERMAN - COOK - IVY - MATZ TRAKTMAN
 3 Suite 1020 Biscayne Building
 4 19 West Flagler Street
 5 Miami, Florida 33130
 6 (305) 371-1884
 7 (305) 377-1100 (fax)
 8 January 16, 2005
 9 Brian Koch, Esq.
 10 White & Case
 11 Wachovia Financial Center, Suite 4900
 12 200 South Biscayne Boulevard
 13 Miami, Florida 33131
 14 RE: : Stuart v. ACORN
 15 DEPO OF : Frank Alexander Houston
 16 TAKEN: : January 5, 2005
 17 Number of pgs.: 60
 18 Available for reading until: February 20, 2005
 19 Dear Mr. Koch:
 20 This letter is to advise you that the transcript
 21 of FRANK ALEXANDER HOUSTON's deposition is
 22 completed and is available for reading and
 23 signing.
 24 Please have Mr. Houston make an appointment to
 25 come to our office at Suite 1020, 19 West Flagler
 Street, Miami, Florida to read and sign the
 transcript. Our office hours are 8:30 a.m. to
 4:30 p.m., Monday through Friday. Depending on
 the length of the transcript, Mr. Houston should
 allow sufficient time for review.

If the reading and signing has not been completed
 prior to the above-referenced date, we shall
 conclude that Mr. Houston has waived the reading
 and signing of the deposition transcript.
 Your prompt attention to this matter is
 appreciated.

Sincerely,
 Darline Marie West, RPR
 cc: (Copy to all counsel)

1

1 UNITED STATES DISTRICT COURT
 2 SOUTHERN DISTRICT OF FLORIDA
 3 CASE NO. 04-22764-CIV-KING/O'SULLIVAN
 4 MAC STUART,
 5 Plaintiff,
 6 vs.
 7 ASSOCIATION OF COMMUNITY
 8 ORGANIZATIONS FOR REFORM NOW,
 9 INC., d/b/a ACORN, an Arkansas
 10 corporation,
 11 Defendant.
 12
 13 Rothstein Rosenfeldt
 14 300 S.E. 2nd Street, Ste. 860
 15 Ft. Lauderdale, FL 33301
 16 January 14, 2005
 17 10:05 o'clock a.m.
 18
 19 DEPOSITION OF BRIAN KETTENRING
 20 Taken before Tambria Lee Dery, RPR,
 21 Court Reporter and Notary Public in and for the
 22 State of Florida at Large, pursuant to Notice of
 23 Taking Deposition filed in the above cause.
 24 -----
 25

3

1 THEREUPON:
 2 BRIAN KETTENRING
 3 called as a witness on behalf of the Plaintiff,
 4 having been first duly sworn, was examined and
 5 testified as follows:
 6 DIRECT EXAMINATION
 7 BY MR. PANCIER:
 8 Q Good morning, sir, please state your full
 9 name and address.
 10 A Brian Kettenring, K-E-T-T-E-N-R-I-N-G. Do
 11 you want my work address?
 12 Q Why don't you give me your home address
 13 and then I'll ask you about your business address.
 14 A Home address is 20 Northeast 41st Street,
 15 Number 3, Miami, Florida 33137.
 16 Q All right. And what is your current
 17 business address?
 18 A 1380 West Flagler, Miami, Florida 33135.
 19 Q All right. And with whom are you
 20 currently employed?
 21 A ACORN.
 22 Q Okay.
 23 A All caps.
 24 Q Are you employed with any particular
 25 subdivision of ACORN or for what I guess lack of a

2

1 APPEARANCES:
 2
 3 MICHAEL PANCIER, ESQUIRE
 4 Rothstein Rosenfeldt
 5 300 S.E. 2nd Avenue, Suite 860
 6 Ft. Lauderdale, Florida 33301
 7 on behalf of the Plaintiff.
 8
 9 BRIAN KOCH, ESQUIRE
 10 White & Case
 11 200 S. Biscayne Blvd., Suite 4900
 12 Miami, Florida 33131
 13 on behalf of the Defendant.
 14
 15 I-N-D-E-X
 16 EXAMINATION PAGE
 17 DIRECT EXAMINATION, BY MR. PANCIER: 3
 18
 19 E-X-H-I-B-I-T-S
 20 EXHIBIT NUMBER 1: 10
 21 EXHIBIT NUMBER 2: 23
 22 EXHIBIT NUMBER 3: 43
 23 EXHIBIT NUMBER 4: 57
 24 EXHIBIT NUMBER 5: 61
 25 EXHIBIT NUMBER 6: 62
 EXHIBIT NUMBER 7: 65
 EXHIBIT NUMBER 8: 68
 EXHIBIT NUMBER 9: 71
 EXHIBIT NUMBER 10: 73
 EXHIBIT NUMBER 11: 74
 EXHIBIT NUMBER 12: 77
 EXHIBIT NUMBER 13: 77
 EXHIBIT NUMBER 14: 82
 EXHIBIT NUMBER 15: 87
 23
 24
 25

4

1 better word would be the mother entity?
 2 A I'm the -- my title is southern regional
 3 director for ACORN.
 4 Q And again, are you employed by the mother
 5 entity ACORN? Because my understanding is you have
 6 different subsidiaries of ACORN.
 7 MR. KOCH: Objection, form.
 8 MR. PANCIER: You have Project Vote, you
 9 have different projects that are all part of
 10 the same umbrella.
 11 THE WITNESS: Well, ACORN is part of one
 12 corporation, so I'm presently on the payroll of
 13 the national organization.
 14 BY MR. PANCIER:
 15 Q Okay. And that's the entity that is based
 16 out of Arkansas?
 17 A Correct. Incorporated out of Arkansas.
 18 Q Okay. Corporate headquarters are in New
 19 Orleans?
 20 A Yes.
 21 Q All right. How long have you been the
 22 southern regional director for ACORN?
 23 A Since December 1st, 2004. Previously,
 24 from January 1st, 2003, approximately, I was the
 25 Florida state head organizer.

5

1 Q Okay. So that would have been from
2 approximately January 1st, '03 to approximately
3 December 1, '04?
4 A Correct.
5 Q Now, for southern regional director, are
6 you responsible for any particular area in the
7 country?
8 A The southern states.
9 Q Okay.
10 A Including Florida.
11 Q Including what, Georgia, Alabama?
12 A Georgia -- we have offices in North
13 Carolina, for example, Tennessee, Arkansas, you
14 know, just a few other southern states and we're
15 also opening new offices in other southern states.
16 Q And during the time that you were Florida
17 state head organizer, you were also working under
18 national ACORN?
19 A No, during that time, I was on the payroll
20 of the state organization.
21 Q Okay. And what was the name of the state
22 organization?
23 A Florida ACORN.
24 Q Okay. Is Florida ACORN a separate
25 corporation?

6

1 A No.
2 Q Okay. Was it just -- was it a business
3 name that was used?
4 A Yes, and it has its own Board of Directors
5 and its own leadership structure, but it's more an
6 internal sort of demarcation rather than a formal
7 one.
8 Q Okay. And Florida ACORN essentially
9 reports to the national ACORN as do all the other
10 entities located throughout the country?
11 MR. KOCH: Objection, form. You can
12 answer.
13 MR. PANCIER: You can answer.
14 THE WITNESS: Okay. Yes, yes.
15 BY MR. PANCIER:
16 Q Okay. Are you familiar with an entity
17 called AHC?
18 A Yes.
19 Q And what entity is that?
20 A It's ACORN Housing Corporation.
21 Q Okay. And that's also doing business out
22 of 1380 West Flagler?
23 A Correct. It's a separate corporation.
24 Q Okay.
25 A From ACORN.

7

1 Q You're not responsible or do any work for
2 them at all?
3 A I'm not.
4 Q Okay. And can you tell us what the entity
5 Floridians for All is?
6 A Floridians for All is two things, it's a
7 state political action committee organized under
8 Florida law to carry out the Florida minimum wage
9 campaign. It's also the name of the coalition that
10 was promoting the campaign for Amendment 5 to raise
11 Florida's minimum wage.
12 Q All right. And did you do any work for
13 Floridians for All?
14 A Did I -- for -- I mean, what do you mean
15 work for?
16 Q Sure. Well, in your capacity during the
17 time you were Florida head state organizer for
18 ACORN, did you perform any services for Floridians
19 for All?
20 A What I would say is I worked on the
21 minimum wage campaign. It wasn't -- I don't know
22 how -- I mean, so yes, I worked on the minimum wage
23 campaign, absolutely, as a part of my duty, in my
24 capacity as Florida head organizer.
25 Q All right. And as far as Floridians for

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1 All is concerned, did you hold any type of
2 employment with that entity?
3 A No.
4 Q All right. And was Floridians for All a
5 subsidiary of ACORN national?
6 A No.
7 Q Okay. It was a wholly separate entity?
8 A Correct.
9 Q Did ACORN engage in any funding for
10 Floridians for All?
11 A Yes, I believe ACORN made a number of
12 contributions, financial contributions as a
13 corporation to the pack, Floridians for All.
14 Q Okay. Were any of ACORN's employees used
15 to solicit petitions, signatures or voter
16 registration for Floridians for All?
17 A Floridians for All was not involved in any
18 voter registration activities, that's not its
19 purpose. ACORN's staff and members were a
20 membership organization, so ACORN staff and members
21 were involved in collecting signatures for the
22 minimum wage, yes.
23 Q Okay. What is your understanding of the
24 type of, if you know, the type of corporation that
25 ACORN is, as far as its tax status?

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1 A My understanding is that we are a
2 nonprofit corporation that has no special tax
3 exemption relative to the IRS.
4 Q Okay. So it's not any of the 501
5 corporations?
6 A Correct.
7 Q All right. Do you have any knowledge as
8 to what the tax status was for Floridians for All?
9 A It's a state pack sort of provided for by
10 Florida state law.
11 Q You're not aware if it had any type of
12 federal tax status, if you know?
13 A I know that it didn't and I don't
14 believe -- well, I know that it didn't.
15 Q Okay. Now, are you familiar with the
16 entity Project Vote and/or Voting for America, Inc.?
17 A I'm familiar with Project Vote. Project
18 Vote is a national voter registration organization.
19 They focus on voter registration in minority
20 communities across the country. They often work
21 very closely with ACORN, so we know them quite well.
22 Q Well, aren't they a subsidiary of ACORN?
23 MR. KOCH: Objection, form. You can
24 answer.
25 MR. PANCIER: From time to time --

10

1 THE WITNESS: What does that mean? So I
2 know.
3 MR. PANCIER: He's making legal objections
4 on the record to preserve them. Unless he
5 instructs you not to answer a question, you're
6 to just go ahead and answer it.
7 MR. KOCH: That's correct.
8 THE WITNESS: Okay. So your question was?
9 BY MR. PANCIER:
10 Q My question was is Project Vote actually a
11 subsidiary of ACORN national or a related entity?
12 A I guess I don't know what you mean by
13 subsidiary. I think my answer is no, but it's an
14 organization we work very closely with.
15 MR. PANCIER: Let's go ahead and mark this
16 as Exhibit Number 1, please.
17 (Thereupon, Exhibit Number 1 was marked for
18 identification.)
19 BY MR. PANCIER:
20 Q Mr. Kettenring, I've handed you what's
21 been marked as Exhibit 1, which is a document that I
22 had acquired from the Florida Secretary of State
23 regarding Project Vote, Voting for America, Inc.
24 And if you look at the first page, it has at least
25 an address -- actually, go to page 2, it has an

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1 address of 1024 Elysian Fields Avenue, New Orleans,
2 Louisiana?
3 A Correct.
4 Q And that's the same address of ACORN
5 corporate, is it not?
6 A Correct, it is.
7 Q All right. Are you familiar with a lady
8 by the name of Barbara Verdi?
9 A Yes, I am.
10 Q Do you know who she is?
11 A She's the director of Citizens Consulting,
12 Inc., or CCI.
13 Q And CCI, that's also an ACORN entity?
14 MR. KOCH: Objection to form.
15 MR. PANCIER: If you know.
16 THE WITNESS: CCI's a corporation that
17 contracts with ACORN and other organizations
18 for a variety of services, so I would not
19 characterize it as an ACORN entity, I would
20 characterize it as, you know, an organization
21 we work with.
22 BY MR. PANCIER:
23 Q All right. And here, at least on this
24 document, CCI is the entity that at least registered
25 Project Vote as an entity in the state of Florida?

12

1 A Correct.
2 Q All right. And is that, are you aware if
3 that's something that CCI does on behalf of these
4 entities?
5 MR. KOCH: Objection, form.
6 MR. PANCIER: If you know.
7 THE WITNESS: I believe they do.
8 BY MR. PANCIER:
9 Q Okay. What type of interaction, and let
10 me concentrate during the time that you held the
11 position of Florida state head organizer, during
12 that timeframe, if you could tell us what type of
13 interaction did you have -- or let me rephrase,
14 during that time period, what type of interaction
15 did ACORN in Florida have with CCI?
16 A CCI provides to ACORN the corporation and
17 therefore Florida ACORN a variety of services. The
18 main ones during the period that you'd be, you know,
19 raising would have been accounting, bookkeeping,
20 payroll, some legal services, computer consulting
21 technology, website development, e-mail services.
22 So sort of a variety of what you might call internal
23 operational services. And we deal with them, you
24 know, on a daily basis.
25 Q Going back a moment to Project Vote, is it

1 your understanding that Project Vote was a 501BC
 2 organization?
 3 A That's my understanding, yes.
 4 Q And if you could tell us what your
 5 personal understanding is of what having a 501BC
 6 designation entails?
 7 A Essentially means it's a nonpartisan
 8 organization, that it pursues, you know, the IRS
 9 sort of designated guidelines of what a nonprofit
 10 sort of in their eyes should do so that it can
 11 receive taxes and contributions.
 12 Q All right. And can you tell us during
 13 that same timeframe as my prior question, what type
 14 of interaction did ACORN Florida have with Project
 15 Vote?
 16 A We had a contractual arrangement -- well,
 17 I was not a party to the nature of it, so I won't
 18 say contractual arrangement, we had an arrangement
 19 with Project Vote to do voter registration. We,
 20 Florida ACORN, helped perform voter registration,
 21 helped Project Vote meet its objective of
 22 registering low and moderate income families during
 23 that time.
 24 Q And was Project Vote funding the ACORN
 25 services insofar as gathering voter registrations?

1 opened a Miami office sometime in the Summer of '98.
 2 Do you have any reason to doubt that date?
 3 A I have no reason to doubt that.
 4 Q All right. And at least originally, the
 5 head organizer for Miami, would that have been Eric
 6 Thompson?
 7 A Yes.
 8 Q Okay.
 9 A Actually, no.
 10 Q No?
 11 A No, there was a previous person who worked
 12 there named Aaron Dorfman who left.
 13 Q Is it Aaron, E-R-I-N or A-A-R-O-N?
 14 A A-A-R-O-N, Dorfman, D-O-R-F-M-A-N, so what
 15 I know is Eric moved from the New York office to the
 16 Miami office as the head organizer.
 17 Q Okay. Do you recall when Mr. Thompson
 18 became head organizer in Miami?
 19 A Not specifically, no.
 20 Q Okay. When you came down to assume your
 21 job duties in Florida, was Mr. Thompson already in
 22 charge of the Miami office?
 23 A Yes.
 24 Q All right. And I guess for the record,
 25 you came down originally from California, correct?

1 A Yes.
 2 Q Okay. Let me get some background
 3 information on ACORN. I'm going to ask you a couple
 4 questions just to get this out of the way here. Do
 5 you know approximately how many states ACORN is
 6 currently active?
 7 A It's between 20 and 30.
 8 Q All right. And is ACORN governed by a
 9 national board?
 10 A Yes.
 11 Q All right. And that board is made up of
 12 two representatives of each state that has an active
 13 board?
 14 A Correct.
 15 Q And an association president?
 16 A Correct.
 17 Q And I believe you indicated that the
 18 headquarters was in New Orleans, Louisiana,
 19 national?
 20 A We don't -- we don't have a headquarters,
 21 per se. A lot of our internal operations, you know,
 22 CCI is there and some key personnel are in New
 23 Orleans, but we don't have a headquarters, per se,
 24 but that's one of our national offices, so --
 25 Q Now, my records would indicate that ACORN

1 A Correct.
 2 Q All right. And did you hold a similar
 3 position in California as to what you held in
 4 Florida?
 5 A No, I was -- I was the campaign director
 6 in California and I also at the time I left
 7 California to come to Florida, I was the Sacramento
 8 City head organizer, so this was for me a promotion,
 9 too.
 10 Q All right. So coming to Florida, you were
 11 basically responsible for the whole state of
 12 Florida?
 13 A Correct.
 14 Q Who did you report to once you came to
 15 Florida?
 16 A Helene O'Brian, who's ACORN's national
 17 field director.
 18 Q And where was she based out of?
 19 A Phoenix.
 20 Q Now, can you briefly tell us what the
 21 structure was at ACORN upon your arrival in Florida?
 22 And by structure, I mean, you know, I guess starting
 23 with who would be the folks that would, you know, be
 24 situated in a particular office and then I guess go
 25 on up the chain of command, how did that work?

17

1 A Sure. Well, when I arrived, I came to the
2 St. Petersburg office January, 2003. We had two
3 offices at the time, one in Miami and one in St.
4 Petersburg. For all practical purposes, I had very
5 little to do with the Miami office for the bulk of
6 my time there, for the reason being that Eric, who
7 was the head organizer there, had, you know, eight
8 or nine years at the time of seniority with ACORN in
9 terms of experience and my mandate when I came to
10 Florida was to expand the organization in the state,
11 so --
12 Q All right. Now, what would be other
13 employees that would be based out of an office, you
14 had the head organizer, then would you also have
15 field organizer?
16 A Correct. The typical structure of a local
17 office is there's the head organizer who is the top
18 staff person for the local office and then there's
19 field organizers who report to that head organizer.
20 So Eric, you know, when I arrived, was the head
21 organizer in Miami and in St. Petersburg, the person
22 who had been the head organizer was stepping out of
23 that role and moving into a different role, so when
24 I arrived in St. Petersburg, there was not a head
25 organizer there, so I also assumed those duties.

18

1 Q Okay. Apart from the field organizers,
2 are there any other types of employees that would be
3 based out of a local office?
4 A Sure, I mean, sometimes there's an
5 administrative person or, you know, we've been --
6 sometimes there's someone working on our, you know,
7 like on earned income tax credit. We've been
8 running tax sites or free tax sites for the public,
9 so there might be employees working on that. All of
10 that is general under the direction of the head
11 organizer of the local office. Sometimes not,
12 but --
13 Q And during that time, was there an
14 employee by the name of Tamika Pierce who worked
15 down in Florida?
16 A Tamika Pierce is not an employee of ACORN,
17 she's a board member.
18 Q Okay.
19 A And she's in Orlando.
20 Q Okay. Earlier, we had discussed I guess
21 out of each I guess local or state had certain board
22 members, do the board members have any say in how
23 the organization is run in a particular state?
24 A Yes, there's -- the form of the
25 organization is that the head organizer reports to a

19

1 local Board of Directors and then typically, there's
2 also a state board.
3 Q Did you do any reporting at all to Ms.
4 Pierce?
5 A Yes, in her capacity as a board member of
6 the state board of Florida ACORN, yes, but it's
7 important to note that she was not -- the Orlando
8 office didn't even exist until I moved to Orlando
9 roughly in July, 2003.
10 Q Okay.
11 A So she probably was not an elected officer
12 of the organization until the Fall of 2003.
13 Q All right. Is it your understanding that
14 as far as the field organizers, they're required to
15 attend two annual training conferences and a
16 biannual ACORN convention?
17 A A biannual convention, yes, and an annual
18 meeting in New Orleans which we call year-end,
19 year-begin.
20 Q Correct. That's the training conference
21 in December?
22 A Correct.
23 Q All right.
24 A We do additional trainings, but --
25 Q Are you aware if in addition to the

20

1 conventions and the December training conference in
2 New Orleans, if the field organizers are required to
3 attend any other training at a central location?
4 MR. KOCH: I'm going to I guess raise an
5 objection. This deposition is being conducted
6 in accordance with Judge King's schedule, order
7 following the scheduling conference, specially
8 stating that discovery during the month of
9 January in 2005 is limited to the issue of
10 whether the Defendants engaged in the unlawful
11 acts alleged by the Plaintiff in the Complaint.
12 I think we're starting to go outside the scope.
13 MR. PANCIER: Let me explain my predicate.
14 Essentially, what some of the allegations were
15 made were with respect to certain things that
16 are, that the Plaintiff alleges that were done
17 illegally and I believe during his deposition
18 testified that these were things that were in
19 either company documents or things that were
20 instructed to him during these training
21 conferences, so I'm just trying to establish
22 that these training conferences did in fact
23 take place and were a corporate requirement for
24 the employees.
25 MR. KOCH: To the extent that Mac Stuart

1 didn't admit to whether or not he went or did
2 not go to any of these training conferences, I
3 don't think that issue's in play here.

4 THE WITNESS: So you'll tell me whether or
5 not to answer?

6 MR. PANCIER: Before you instruct him
7 whether or not to answer the question again, I
8 want to pose my predicate on the record that in
9 addition, that I believe some defenses were
10 raised that if any wrongdoing was done, it was
11 done strictly on the local basis and that there
12 was nothing national about it. So again, our
13 contention would go to the issue of whether or
14 not there were any things that were done
15 illegally. And I think my question was -- what
16 was it again?

17 (Thereupon, the pending question was read back
18 as follows: Question, "Are you aware if in addition to
19 the conventions and the December training conference in
20 New Orleans, if the field organizers are required to
21 attend any other training at a central location?")

22 MR. PANCIER: It's a yes or no question.
23 MR. KOCH: You can answer that.
24 THE WITNESS: Yes.
25

1 Q Okay. And were the field, what's the term
2 again, field organizers, they were required to
3 attend the, at least the ones in there were required
4 to attend the Orlando training?

5 A Yes.

6 Q All right. And is it fair to say that as
7 far as the Orlando training is concerned, ACORN
8 utilized that forum to ensure that its employees are
9 following the company's rules and guidelines when
10 performing their job duties?

11 A Yes.

12 Q Okay. And in fact, at the training, the
13 attendees were actually provided with training
14 documentation, whether they were handouts or
15 manuals?

16 A That I don't know.

17 MR. PANCIER: Go ahead and mark this
18 Number 2.
19 (Thereupon, Exhibit Number 2 was marked for
20 identification.)

21 BY MR. PANCIER:

22 Q Mr. Kettenring you've been handed what's
23 been marked as Exhibit 2, which is the corporate
24 documents I pulled from the Secretary of State
25 regarding CCI, which we had spoken about earlier.

1 BY MR. PANCIER:

2 Q Okay. And is there like a designated
3 number of training sessions that the field
4 employees, organizers are required to attend?

5 A A specific number?

6 Q Yes.

7 A No.

8 Q Okay. And do you know where the trainings
9 are usually conducted?

10 A I mean, they were -- yes, I knew where
11 they were conducted, they were conducted in
12 different locations at different times.

13 Q During the same timeframe, which was the
14 position you held immediately prior to this one,
15 were there any trainings held in Orlando?

16 A Yes.

17 Q Okay. And do you recall when the Orlando
18 trainings took place?

19 A No.

20 Q All right. And do you know who was
21 required to attend the Orlando training?

22 A Well, there were -- if I recall, there
23 were multiple trainings in Orlando and I was present
24 for, you know, I was present for some or all of one
25 or two of those.

1 And if you look on the second page of this exhibit
2 where it has the corporate address, 1024 Elysian
3 Fields Avenue, Louisiana, New Orleans, that's the
4 same address utilized by ACORN?

5 A Correct.

6 Q And if you look on the next page where it
7 says director, it also has Barbara Faherty as the
8 director?

9 A Correct.

10 Q Do you know if -- well, actually, let's
11 back up for a moment. Do any of the ACORN employees
12 in Florida, do they get paid by CCI; in other words,
13 do they get CCI checks?

14 MR. KOCH: Objection, form.

15 MR. PANCIER: If you know.

16 THE WITNESS: What do you mean by CCI
17 checks?

18 BY MR. PANCIER:

19 Q In other words, let's talk about Miami
20 local office, for example, you had the head
21 organizer and then you had the field organizer, you
22 indicated there might be other individuals working
23 in that particular office, do you know if they're
24 paid by ACORN or if they're paid by CCI?

25 A Are you asking which corporation actually

25

1 pays them?

2 Q Right.

3 A In terms of people doing work for ACORN?

4 Q Well, is there a difference? In other

5 words --

6 A Yes, I mean, and I'm not -- I'm not aware

7 of any people doing work for ACORN who would not be

8 paid by ACORN, the corporation.

9 Q Okay. Let me ask you this, for example,

10 during your prior position, there was a point in

11 time where voter registrations were being gathered

12 in the South Florida community, correct?

13 A Correct.

14 Q All right. And did ACORN contract or hire

15 employees to gather these voter registrations?

16 A Yes.

17 Q Okay. And were those either employees or

18 contractors that would submit these registrations to

19 the local office, would that be paid by ACORN or by

20 CCI?

21 A Typically, by ACORN. I'm not aware of

22 situations in which someone doing voter registration

23 would be -- I mean, CCI processes the checks, but I

24 don't believe that they would, to my knowledge, be

25 paid by CCI.

26

1 Q Okay. And so would CCI in that regard

2 only be no more than a payroll company such as

3 paychecks or one of these other entities?

4 A In a sense, yes.

5 Q Okay. Do you have any knowledge if, for

6 example, CCI is registered as a lobbyist with

7 Congress?

8 A I don't have any knowledge of that, no.

9 Q Okay. And you don't know if they do any

10 lobbying work or anything like that?

11 MR. KOCH: Objection, outside the scope.

12 THE WITNESS: I've never heard that.

13 You'll tell me if you don't want me to answer,

14 okay?

15 MR. KOCH: If you don't know, you might as

16 well get it on.

17 BY MR. PANCIER:

18 Q Could you describe how ACORN went about

19 doing its voter registration campaign prior to the

20 '04 Presidential Election? And again, I'm talking

21 for that period of time that you were the head

22 organizer of Florida.

23 MR. KOCH: Objection, form.

24 THE WITNESS: I mean, essentially what we

25 did is we had, you know, teams of people with

27

1 really three phases to it, one was during the

2 minimum wage signature drive, another was after

3 the minimum wage signature drive, and a third

4 you might call sort of direct voter

5 registration operations prior to July 1st,

6 2004, which would have been while the minimum

7 wage signature drive was still going on.

8 BY MR. PANCIER:

9 Q Let me just interrupt you briefly and I'll

10 let you continue. What was the deadline for

11 submissions of signatures on the minimum wage

12 campaign?

13 A It's legally complicated, but the

14 practical deadline that we used was July 1st, 2004,

15 so --

16 Q I'm sorry for the interruption, but you

17 were indicating that there were three phrases as to

18 how ACORN did the voters registration during that

19 time period, so you can continue.

20 A Well, in each case, the commonality would

21 be there would be a team leader or, you know, a

22 canvas director, there were different titles, but

23 there would be a management individual who would

24 hire a team of people to go out and administer

25 voters and we worked on a shift structure,

28

1 essentially, where you started at X time and you

2 ended at Y time and, you know, you were expected to

3 go out and register voters, mostly at high volume

4 sites, so at grocery stores and bus stops and that

5 kind of thing.

6 Q Do you know if there were any encouraging

7 or in any of the ACORN literature that some of the

8 registrations were to actually take place outside of

9 city or county jails?

10 A No, I'm not aware of that.

11 Q And if that was in some of your

12 literature, you would find that unusual?

13 A Yes.

14 Q All right. I'm sorry, go ahead and

15 continue.

16 A And I think that's -- I think I said the

17 basics, which is essentially we would establish, you

18 know, what you might call a local voters

19 registration operation. There would be a site

20 manager of some kind and then they would hire

21 individuals to go out and register voters and, you

22 know, the methodology we used was primarily for most

23 of 2004, which we call high volume site voter

24 registration, again, places where there's a lot of

25 foot traffic. We did some door-to-door voter

29

1 registration, as well.
 2 MR. KOCH: I would like to object to the
 3 form to the previous question that ended with
 4 unusual.
 5 BY MR. PANCIER:
 6 Q With respect, you said that you have these
 7 teams and they would hire folks to go ahead and do
 8 the actual registrations using shift structures.
 9 Now, how were these employees compensated, were they
 10 salary, by the hour, by the vote gathered, not by
 11 the vote, by the registrations they gathered?
 12 A It was -- I wasn't directly involved in
 13 the voter registration in sort of many senses, so
 14 all of my knowledge is through second hand, but my
 15 basic understanding is there was a shift structure
 16 and you were paid by shift.
 17 Q Okay. Do you know if any of the employees
 18 were paid by the number of voter registrations that
 19 they had gathered?
 20 A That is illegal under Florida law in terms
 21 of paying per card is illegal under Florida law and
 22 we were very clear about that and so the only case
 23 in which I've ever heard of that being alleged to
 24 have happened is in the case of Mr. Stuart and
 25 people associated with him.

30

1 Q Okay. Well, had not employees been paid
 2 by the card under Mr. Thompson, as well?
 3 MR. KOCH: Objection, form.
 4 THE WITNESS: I would have no way of
 5 knowing, but again, I'll reiterate, I mean, our
 6 common knowledge and practice was that, you
 7 know, we understood the Florida law, that you
 8 can't pay per card.
 9 BY MR. PANCIER:
 10 Q All right. Does ACORN pay per card in any
 11 other jurisdiction other than Florida, outside of
 12 Florida?
 13 A In states where it's legal, yes.
 14 Q All right. And is it your understanding
 15 that if ACORN became aware that they were paying
 16 employees per the number of registrations in
 17 Florida, then it would immediately put a stop to
 18 that?
 19 A Absolutely.
 20 Q All right. Do you know if during this
 21 timeframe, same timeframe, if any of the ACORN local
 22 offices were copying the voters registration cards,
 23 you know, prior to the submission of the originals
 24 to the Department of Elections?
 25 A Yes.

31

1 Q Okay. And where was that taking place?
 2 A That occurred in two ways, either in the
 3 local office, it was our general practice to
 4 photocopy every single registration for primarily
 5 the purposes of what you might call quality control
 6 and fraud prevention and the copying was either done
 7 in the local office or at some point during the
 8 voter registration drive, we set up an account with
 9 kinko's, sort of a national arrangement, so often
 10 the cards were copied at local kinko offices, as
 11 well.
 12 Q And then were the copies of those cards,
 13 were they then submitted to any entities outside of
 14 the ACORN umbrella?
 15 MR. KOCH: Objection to form.
 16 BY MR. PANCIER:
 17 Q Do you understand the question? If not,
 18 I'll rephrase. Let me make it clear, I'll rephrase.
 19 Do you know if copies of those voters registrations
 20 were sent to other entities such as America's
 21 Families United?
 22 A I don't know the exact answer to the
 23 question.
 24 Q Okay. If you don't know, you don't know,
 25 that's fine. Do you know after those copies were

32

1 made of those registrations, and you indicated part
 2 of it was to do quality control to make sure that
 3 the folks that are registered on those forms are in
 4 fact who the form says they are and not some make
 5 believe person, what is then done with the copies of
 6 those registrations?
 7 A They were sent to Brooklyn.
 8 Q Okay.
 9 A To our office in Brooklyn.
 10 Q Okay. And that was the ACORN office in
 11 Brooklyn?
 12 A Well, ACORN and Project Vote both have
 13 offices in Brooklyn and what I don't know is sort of
 14 specifically sort of what happened to them in
 15 Brooklyn, I don't know the mechanics of that, but --
 16 Q And with respect to this drive that we're
 17 talking about, the gathering of these petitions,
 18 was --
 19 A Petitions or voter registrations?
 20 Q Let me rephrase. With respect to the
 21 gathering of these voter registration cards, was
 22 ACORN receiving funding from Project Vote to
 23 initiate this process?
 24 A Yes.
 25 Q All right. And do you know if Project

33

1 Vote then paid ACORN based on the number of
2 registrations that were gathered?
3 A I don't know the direct answer to that. I
4 believe not.
5 Q Okay.
6 A I believe there was a master contract.
7 Q I'm sorry?
8 A I believe there was a master agreement.
9 Q Okay. Do you know who would be the
10 individual most knowledgeable who would know what
11 that relationship, if any, was between Project Vote
12 and ACORN?
13 A Probably -- yes, Zach Polett.
14 Q That's Zach as in Zachary?
15 A Correct.
16 Q Okay. And how do you spell the last name?
17 A P-O-L-E-T-T.
18 Q And where is Mr. Polett located?
19 A Little Rock, Arkansas.
20 Q Okay. I always wondered if they had a
21 little rock in that town over there.
22 Was it your understanding that under
23 Florida law, it was a violation of Florida Statutes
24 to make photocopies of voters -- of signed voters
25 registration cards?

34

1 MR. KOCH: If to the extent your
2 understanding is based on what you've learned
3 from counsel, you're instructed not to answer
4 the question.
5 BY MR. PANCIER:
6 Q Let me rephrase the question this way,
7 during the time that you held the position that,
8 again that we're talking about, the Florida head
9 organizer, during that time period, did you have any
10 understanding if the copying of voters registration
11 cards was illegal in the state of Florida? You can
12 answer that with a yes or no.
13 MR. KOCH: You can answer.
14 THE WITNESS: Did I have an understanding?
15 MR. PANCIER: Yes.
16 THE WITNESS: Yes.
17 BY MR. PANCIER:
18 Q And what was your understanding during
19 that timeframe, if that understanding was
20 independent of anything that your attorneys may have
21 told you.
22 A If it was independent of anything my
23 attorneys --
24 Q In other words, did you have an
25 understanding that was, that you --

35

1 A That wasn't strictly from my attorneys?
2 Q That you learned on your own or from any
3 source other than counsel.
4 MR. KOCH: If your understanding was that
5 it was legal, you could answer question. If
6 your understanding was that it was illegal, you
7 could answer no, presumably.
8 BY MR. PANCIER:
9 Q What was your understanding insofar as the
10 copying of cards were concerned?
11 A My understanding is that it was completely
12 legal.
13 Q Okay. And what was the basis of the
14 understanding that you had as far as the legality
15 was concerned?
16 A Consultation with attorneys and with
17 Project Vote.
18 Q All right. And who were the attorneys
19 with whom you had consulted with? And don't tell me
20 what you said, just tell me who they are.
21 A Well, my -- I'm not the one who consulted
22 directly with the attorneys.
23 Q Okay. Then tell me who had advised you
24 that it was okay to do that. And by that, I'm
25 saying the copying of the voter registration cards.

36

1 A I don't remember specifically, it would
2 have been someone at Project Vote.
3 Q Okay.
4 A So --
5 Q And the folks at Project Vote with whom
6 you were dealing with, were they based out of New
7 Orleans?
8 A No, mostly Brooklyn.
9 Q Okay. Do you know who Rachel Marcola is?
10 A Rachele?
11 Q Is that how you pronounce it? It looks
12 like Rachel to me.
13 A I know who she is.
14 Q Who is she?
15 A I know her. She works in the Brooklyn
16 office.
17 Q Of ACORN or Project Vote or both?
18 A I don't know, actually.
19 MR. KOCH: Objection to form.
20 BY MR. PANCIER:
21 Q Who is Keturah Suggs?
22 A I believe Keturah works for, she works in
23 Brooklyn, I believe. And I believe she works for
24 Project Vote.
25 Q All right. And how about Joanne Wright?

37

1 A Joanne also same thing.
 2 Q Okay. She works out of Brooklyn?
 3 A Out of Brooklyn office.
 4 Q Do you know if any of them may have been
 5 the one who told you it was okay the copying of the
 6 voter registration cards?
 7 A It could have been Joanne.
 8 Q Okay. Who's America's Families United, if
 9 you know?
 10 A They're a foundation that funds voter
 11 registration work.
 12 Q Did America's Families United have any --
 13 well, let me ask you this, did they fund any of the
 14 minimum wage petition gathering activities in
 15 Florida while you were there?
 16 A No.
 17 Q All right. Did they fund any of the
 18 Florida voters registration activities in Florida?
 19 A That's my understanding, yes.
 20 Q Okay. And what was your understanding as
 21 to how the America's Families United funds would be
 22 used by ACORN?
 23 A I don't believe they funded ACORN, I
 24 believe they funded Project Vote.
 25 Q Okay. Did ACORN oversee any of the

38

1 activities done by Project Vote in Florida?
 2 A What do you mean by oversee?
 3 Q Well, did they monitor what was going on,
 4 did they participate in what Project Vote was doing,
 5 did they provide any services?
 6 A You might -- some, yes.
 7 Q Okay. Tell us what type of, you know,
 8 interaction ACORN had with Project Vote in Florida
 9 during your tenure.
 10 A Well, in my capacity as Florida head
 11 organizer, I mean, I kept an eye on the big picture,
 12 all the activities going on in the state. And so to
 13 the extent that I, in my capacity as Florida head
 14 organizer tried to just have a handle on what was
 15 going on, that's one way in which that would have
 16 occurred.
 17 Q All right. Well, in your position, did
 18 you have any control over any of the Project Vote
 19 activities in Florida?
 20 A I didn't have control, but more the
 21 ability to monitor and troubleshoot.
 22 Q By monitor and troubleshoot, what do you
 23 mean?
 24 A I might amend and say monitor,
 25 troubleshoot or assist, you know, so for example, if

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1 Project Vote was going to be running a direct
 2 project to register voters and wanted to open an
 3 office in Naples, Florida, you know, I might or
 4 someone on my staff might help them to identify
 5 office space, you know, or that type of a thing. So
 6 it was a, you know, it was a mutually beneficial
 7 sort of partnership, you might say, so --
 8 Q Well, if I asked you this, I apologize,
 9 but are you aware if Project Vote paid any of the
 10 ACORN employees for the gathering of voters
 11 registration cards?
 12 A I believe Project Vote paid people to
 13 register voters, but they would not have been ACORN
 14 employees, they would have been Project Vote
 15 employees.
 16 Q Okay. Now, earlier, I had asked you about
 17 Floridians for All, and I believe you indicated that
 18 they were the pack in Florida, I guess charged with
 19 promoting the Amendment 5, which was the minimum
 20 wage amendment to the Florida Constitution. Were
 21 you involved at all with Floridians for All?
 22 A Yes.
 23 MR. KOCH: Objection, asked and answered.
 24 BY MR. PANCIER: Again, refresh my recollection.
 25 What was your position, if at all, with Floridians

40

1 for All?
 2 A I had no formal position, but I worked
 3 closely with the staff of Floridians for All and
 4 insofar as Floridians for All was the coalition of
 5 groups promoting Amendment 5, ACORN was a leading
 6 partner in that coalition, so in my capacity as
 7 Florida head organizer, I played a very active role
 8 in building a coalition to raise the minimum wage.
 9 Q And I guess if I'm understanding you, is
 10 it fair to say that Floridians for All, and I guess
 11 using your terminology, wasn't just an independent
 12 entity, but it was actually a coalition of different
 13 organizations within the state that were all in
 14 favor of seeking the passage of Amendment 5?
 15 A Yes.
 16 Q All right. And you indicated that ACORN
 17 was one of the members of that coalition?
 18 A Correct.
 19 Q And do you recall who some of the other
 20 members were?
 21 A Yes, there were, you know, different
 22 unions, different churches, community organizations,
 23 small businesses.
 24 Q For example, like the FEA was a member of
 25 that coalition?

41

1 A The FEA, the Florida Education Association
2 was a member of the coalition, yes.
3 Q And you don't recall which union groups
4 were?
5 MR. KOCH: Objection, this is outside the
6 scope.
7 MR. PANCIER: Just going for some
8 background. That's fine, I'll move on.
9 BY MR. PANCIER:
10 Q Now, was it your understanding that
11 Floridians for All was solely nonpartisan?
12 A In what sense?
13 Q Well, was it conducting business on behalf
14 of any political party or was it a nonpartisan
15 entity?
16 A It was not conducting business on behalf
17 of any political party, no.
18 Q So nonpartisan?
19 MR. KOCH: Objection, asked and answered.
20 THE WITNESS: There were -- I'm not sure
21 how best to answer the question. There's a lot
22 of different ways to answer -- it's a
23 question -- the question is what do you mean by
24 nonpartisan?
25

42

1 BY MR. PANCIER:
2 Q Let me back up for a moment. Is ACORN a
3 nonpartisan organization?
4 A Yes.
5 Q All right. And what's your understanding
6 of what nonpartisan means?
7 A Advocating the participating in party
8 politics or advocating the election or defeat of
9 candidates.
10 Q All right. Using your definition of
11 nonpartisan, was Floridians for All a nonpartisan
12 organization?
13 MR. KOCH: Was your definition, just for
14 point of clarification, was your definition of
15 partisan or nonpartisan?
16 MR. PANCIER: He gave a -- what did I ask
17 him for?
18 THE WITNESS: I think I defined partisan.
19 MR. KOCH: I think so also, so for
20 purposes of clarification --
21 BY MR. PANCIER:
22 Q So nonpartisan would be the negative of
23 the definition you just gave, one that does not
24 engage in those particular activities that you just
25 described?

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1 A Yes. And I would describe Floridians for
2 All as nonpartisan.
3 Q And I think you've already -- let me ask
4 you, was Project Vote a member of the Floridians for
5 All coalition?
6 A No.
7 Q All right. Does ACORN subsist in part by
8 contributions from either individuals or other
9 entities?
10 A Yes.
11 Q All right. Are you aware if at all those
12 contributions made, let's say by individuals to
13 ACORN, if those are tax deductible or not?
14 A Not if they're made to ACORN.
15 MR. PANCIER: We're up to Number 3.
16 (Thereupon, Exhibit Number 3 was marked for
17 identification.)
18 BY MR. PANCIER:
19 Q I'm going ahead and handing you what's
20 been marked as Exhibit 3, and I've handed a copy to
21 your counsel. Please take a look at Exhibit 3 and
22 let me know if this is a document that you
23 recognize.
24 A Yes.
25 Q All right. And what is this document?

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1 A This was an early draft plan for the
2 minimum wage campaign.
3 Q And do you know who drafted this?
4 A Myself and some other staff.
5 Q Okay. Now, you had described Floridians
6 for All as being an independent political action
7 committee within the state of Florida, yet you're
8 listed as the contact person at least on this
9 particular document, any particular reason?
10 A Well, I was, you know, as I indicated, I
11 was involved in the sort of development of the
12 strategy and execution of the coalition's work and
13 so I was, you know, I was an important strategist,
14 so in that capacity, I would have developed a
15 document like this.
16 Q Was ACORN spearheading the coalition
17 otherwise known as Floridians for All?
18 A Yes.
19 Q All right. Were there any subsequent
20 drafts to this document?
21 A There were.
22 Q Do you know who has copies of them?
23 A No, I don't.
24 Q You don't have copies of them?
25 A My computer crashed on Friday and I've

<p style="text-align: right;">45</p> <p>1 lost everything and I'm in the process of trying to 2 recover it now.</p> <p>3 Q You need to backup your stuff.</p> <p>4 A Yes.</p> <p>5 Q Now, if you look on the third page 6 introduction --</p> <p>7 A Which page?</p> <p>8 Q Third page, right under Introduction. It 9 says, A Florida constitutional initiative to create 10 a minimum wage of \$6.15 with indexing will help 11 defeat George W. Bush and other Republicans by 12 increasing Democratic turnout in a close election, 13 et cetera. What did that have to do with the 14 minimum wage campaign?</p> <p>15 A The many supporters of the minimum wage 16 campaign also were interested in seeing a change in 17 political leadership, you know, at the top, so that 18 was a reference to that effect.</p> <p>19 Q So it's not as if Floridians for All was 20 engaging in any type of partisan activity, correct?</p> <p>21 A Well, we later removed that statement, 22 that's why I emphasized that this was an early 23 draft.</p> <p>24 Q All right. These don't have page numbers, 25 but I think on the ninth page in the middle, it says</p>	<p style="text-align: right;">47</p> <p>1 A This piece of it -- let me put it this 2 way, this piece does not look like something I would 3 have written.</p> <p>4 Q Okay.</p> <p>5 A So I'm not sort of familiar with why it 6 would be written this way and were I to write about 7 these issues, I would not write them in this way.</p> <p>8 Q All right. And you have no idea who wrote 9 that?</p> <p>10 A I don't.</p> <p>11 Q All right. And as far as the -- you had 12 discussed earlier I guess the signature gathering 13 phase at Floridians for All and my question is how 14 were the folks that were actually going out with the 15 petitions, who paid them?</p> <p>16 A Who paid the signature gatherers?</p> <p>17 Q Yes.</p> <p>18 A ACORN.</p> <p>19 Q Okay. And they were paid with ACORN funds 20 or were they paid through funds or grants from other 21 entities, if you know?</p> <p>22 A The money would have come from other 23 entities.</p> <p>24 Q Okay. And do you know who were the 25 entities who funded the ACORN's petition gathering</p>
<p style="text-align: right;">46</p> <p>1 Traditional Assumptions. Are you there?</p> <p>2 A Yes.</p> <p>3 Q If you look above that, under paragraph 7, 4 it says, We will raise sufficient funds to drive our 5 field and GOTV strategies, pay for campaign 6 necessities, and not compete substantially with 7 other Democratic causes. Through a combination of 8 501c3 and 501c4 dollars, we will raise the necessary 9 funds to facility voter registration and voter 10 mobilization statewide, and educate our voters about 11 the benefits of an increase in the minimum wage.</p> <p>12 My question is as far as the use of 13 501c3 and 501c4 dollars, were any of those dollars 14 used by Floridians for All to register voters in 15 Florida?</p> <p>16 A No.</p> <p>17 Q All right. And what, if anything, did you 18 mean when you put in here as far as utilization of 19 501c3 and 501c4 dollars being used to facilitate 20 voter registration and mobilize voters?</p> <p>21 A That would be a reference to our plans to 22 register and mobilize, you know, voters for the 23 election.</p> <p>24 Q All right. And by saying our plans, 25 you're referring to ACORN?</p>	<p style="text-align: right;">48</p> <p>1 during the signature gathering phase in Florida?</p> <p>2 MR. KOCH: I'm going to object. Again, I 3 mean, I think we're starting to get outside the 4 scope of whether or not the act specifically 5 involved here were engaged in or not engaged 6 in.</p> <p>7 MR. PANCIER: Well, again, whether certain 8 funds that were tailored as tax exempt were 9 being used improperly goes to whether or not 10 there was any legality and likewise, I want to 11 see how, you know, again, whether there was any 12 illegal activity in the signature gathering 13 phases, again, I also want to know who was 14 funding that.</p> <p>15 MR. KOCH: Well that's not one of the 16 allegations that Mac Stuart is making in the 17 purposes of his Complaint, which is what we're 18 here for. Whether or not he was terminated, 19 it's an employment action and, you know, the 20 funding here deals with, you know, whether or 21 not he blew the whistle on a particular 22 activity. This goes completely outside of 23 that.</p> <p>24 MR. PANCIER: Well, it also would be 25 pertinent if in fact folks who were -- let me</p>

12 (Pages 45 to 48)

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1 lay down a predicate here.
2 BY MR. PANCIER:
3 Q During the signature gathering phase when
4 people were being asked to sign the petition to put
5 the minimum wage on the ballot, was ACORN also
6 simultaneously getting people to register to vote if
7 they hadn't been registered at the time?
8 A Yes.
9 Q All right. So in other words, if -- well,
10 let me back up for a moment. During the signature
11 gathering phase, were the ACORN employees taken out
12 to some of these high traffic areas to get people to
13 sign the petitions?
14 A Yes.
15 Q And were not the -- well, let me rephrase.
16 Were the ACORN employees instructed that during the
17 process of the signature gathering phase, if a
18 person indicated they were not registered to vote,
19 that the ACORN employee would try to get that person
20 to register by having voter registration forms
21 available?
22 A Yes.
23 Q Now, are you aware that if likewise --
24 well, let me back up for a moment. During this
25 petition phase here, were not if an individual was

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1 not registered to vote at the time, did not ACORN
2 have the individual sign the petition and sign a
3 voters registration at the same time, do you know if
4 that ever happened?
5 A It may have happened -- Florida law states
6 that essentially if you're not registered and let's
7 say you were to sign a voter registration card and a
8 petition at the same time, we would have to turn in
9 that voter registration card to an official
10 government office by the close of business that same
11 day or postmark it at the post office by midnight
12 that night. Early on in our efforts, we attempted
13 to do both, you know, if we encountered someone who
14 was not registered. We concluded very quickly that
15 it was unwieldy and so our practice and, you know,
16 training to our staff became, you know, from my
17 understanding that it's just not worth it, you know,
18 so what that meant is that for the majority of the
19 time that we were doing these activities
20 simultaneously, if someone was not registered, we
21 would just register them to vote, we would not have
22 them sign the petition. If they were registered, we
23 would have them sign the petition.
24 Q And are you aware of any ACORN employees
25 being instructed to in the situation where the

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1 person was not registered to vote at the time, that
2 they would sign the petition undated and then the
3 voters registration form that this person filled out
4 would be submitted to the Department of Elections
5 first and then later on, the petition would then be
6 submitted?
7 A I'm not aware of any being instructed to
8 do that. That would be illegal, I believe.
9 Q All right. So if any ACORN employees were
10 doing that, it's your understanding that would be a
11 violation of Florida law?
12 A I don't know. It certainly would be a
13 violation of our practices.
14 Q All right. So that's not something that
15 ACORN would instruct any of its signature gatherers
16 to do, correct?
17 A No.
18 Q All right. During either the signature
19 gathering phase or subsequently just the voter
20 registration phase, do you know if the ACORN
21 employees, as part of their packets that they were
22 given to go out and do their registrations or their
23 signature gatherings included within those packets
24 were restoration of civil rights forms?
25 A I don't know. I've heard rumors about

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1 that happening, but it was not our practice.
2 Q Okay. And where did you hear those rumors
3 about that happening?
4 A Related to the Mac Stuart case.
5 Q So that would only be through him, if that
6 had occurred?
7 A I mean, I think so. I'm not -- I don't
8 know.
9 Q All right. So it would not be, to your
10 understanding, ACORN would not instruct any of its
11 employees that, you know, if you encounter a
12 convicted felon, to have them fill out these
13 restoration of civil rights forms concurrently with
14 a voters registration form?
15 A This was an issue that frequently came up,
16 but I don't know what systems, if any, were
17 developed sort of statewide to handle that when it
18 arose.
19 Q What do you mean this was frequent issue
20 that routinely came up, what do you mean?
21 A There's a lot of ex-felons in
22 African-American and other low-income communities
23 where we would register voters, so we would
24 encounter this frequently. And I was not a party to
25 the development of the practices or lack thereof

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1 about what to do with them, so I just don't really
 2 know.
 3 Q Okay. Well, you were director for the
 4 state of Florida, so what, if anything, once you
 5 heard these issues come to your attention, what, if
 6 anything, did you do as far as contacting someone
 7 further up in ACORN to try to come up with a
 8 solution for that issue?
 9 MR. KOCH: Objection, misstates prior
 10 testimony.
 11 THE WITNESS: Keep going?
 12 MR. PANCIER: You can answer.
 13 MR. KOCH: You can answer.
 14 THE WITNESS: I would have -- I mean, I
 15 wouldn't have directed anything, because Frank
 16 Houston and other senior staff on the ground
 17 would have addressed it.
 18 BY MR. PANCIER:
 19 Q All right. And what was Mr. Houston's
 20 position?
 21 A He was essentially the field director
 22 of -- he had different titles, but he oversaw a lot
 23 of our voter registration and signature gathering
 24 work. He oversaw the signature drive and lots of
 25 them, although not all of the voter registration --

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1 Q So if Mr. Houston would have instructed
 2 the ACORN employees to have the convicted felon fill
 3 out the civil rights restoration forms concurrently
 4 with the registration, that would be contrary to
 5 ACORN policies and procedures?
 6 A I don't know, because the first question
 7 would be to look into what the state of Florida law
 8 was in this area, and I literally, I had nothing to
 9 do with this form of work.
 10 MR. KOCH: Objection to the form of the
 11 question.
 12 MR. PANCIER: Fair enough.
 13 MR. KOCH: Do you want to take a short
 14 break?
 15 MR. PANCIER: Go ahead. If you want.
 16 MR. KOCH: Are you almost done?
 17 MR. PANCIER: I still have a while.
 18 (Thereupon, a brief recess was had.)
 19 BY MR. PANCIER:
 20 Q Do you know an individual by the name of
 21 Akito Pilgrim?
 22 A No, never heard of him.
 23 Q Do you know of the Daily Kos?
 24 A Kos?
 25 Q Yes, I'm sorry, the Daily Kos?

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1 A Yes, the Daily Kos, it's a progressive
 2 log.
 3 Q Have you spoken at all to anyone who
 4 writes on that log?
 5 A No.
 6 Q Do you know if anyone at ACORN is friends
 7 with I guess someone who goes under the pseudonym
 8 name Akito Pilgrim?
 9 MR. KOCH: I'm going to have to object as
 10 to being completely outside the scope.
 11 MR. PANCIER: There's some statements
 12 attributed to ACORN and Mac Stuart and I'm just
 13 trying to determine if in fact it was Mr.
 14 Kettenring or if he knows who else would have
 15 provided information to this individual.
 16 MR. KOCH: That's still outside the scope
 17 of whether or not ACORN did the acts or engaged
 18 in the acts that are alleged in the Complaint.
 19 MR. PANCIER: Do you want to go ahead and
 20 answer? And I'll show you there are certain
 21 statements attributed to ACORN employees with
 22 respect to allegations that Mac Stuart has
 23 brought and I want to know if that was
 24 information that was provided by Mr. Kettenring
 25 or if he knows who provided them. If he didn't

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1 or he doesn't know who did, then I'll move on.
 2 MR. KOCH: I still think it's outside the
 3 scope and for purposes of this deposition,
 4 based on the limited discovery at issue, I
 5 don't think there's a reason to go forward with
 6 that question.
 7 BY MR. PANCIER:
 8 Q Do you know who fired Mac Stuart?
 9 MR. KOCH: Objection. Also outside the
 10 scope.
 11 MR. PANCIER: And the reason for his
 12 termination, that would be also be outside the
 13 scope? That's one of the questions you asked
 14 Mr. Stuart in his deposition.
 15 MR. KOCH: And at a certain point, you
 16 called it outside the scope.
 17 MR. PANCIER: If you deem it beyond the
 18 scope, we'll move on. I'll ask about another
 19 date.
 20 MR. KOCH: That's going to be one of the
 21 issues here.
 22 BY MR. PANCIER:
 23 Q Do you know an individual by the name of
 24 Joe Johnson?
 25 A Yes.

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1 Q Who is he?
2 A He was the campaign manager for the
3 Floridians for All campaign and he worked for maybe
4 four or six months for the campaign. We ended his
5 contract prior to election day and ended up hiring a
6 different campaign manager.
7 Q Okay. Did Mr. Johnson ever complain to
8 you or anyone at ACORN that you're aware of with
9 respect to the, any of ACORN's methods insofar as
10 either the minimum wage campaign or voter
11 registration?
12 A No.
13 Q All right. He never complained to you?
14 A No.
15 MR. PANCIER: Let's go ahead and mark this
16 as Exhibit Number 4. Here's a copy.
17 (Thereupon, Exhibit Number 4 was marked for
18 identification.)
19 BY MR. PANCIER:
20 Q Mr. Kettingring, if you take a look at
21 what's been marked as Exhibit 4, particularly in the
22 middle of the page here, purports to be an e-mail.
23 Do you recognize this e-mail? If you need to take a
24 look at it, please do.
25 A Give me a minute to read it.

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1 Q Sure.
2 A Okay. What's the question?
3 Q Did you prepare the e-mail?
4 A I believe I did, yes.
5 Q All right. Regarding talking to
6 reporters?
7 A Yes.
8 Q Okay. If you turn to the second page,
9 about a third of the way, where it begins with the
10 sentence, These issues are particularly sensitive
11 right now for several reasons: 1. We are under
12 attack from the bad guys, and compounded with some
13 mistakes of our own (like late VR cards), we are
14 walking a thin line right now. What did you mean by
15 that?
16 A We had turned in voter registration cards
17 late for the deadline for to vote in the August
18 primary, so I guess it would have been they call it
19 the bookend date, which is the date by which you had
20 to turn in voter registration cards. And a couple
21 of our offices, our staff had screwed up and not
22 turned them in, so people were able to vote in the
23 November 2nd election, but not able to vote in the
24 primary and we received some negative press
25 associated with that, so we were concerned about

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1 that.
2 By the Fall, we were concerned that
3 there was a concerted, you might call it right wing
4 or Republican strategy to manufacture, in our
5 opinion, a crisis about voter registration fraud so
6 that it then could be turned into a strategy to
7 attack organizations such as ACORN and/or to
8 suppress the black vote. And that turned out to be,
9 the first part was true, so this was sort of a
10 reference to that environment.
11 Q Well, when you say compounded with some
12 mistakes and then you give an example like late VR
13 cards, what other mistakes were you referring to
14 there?
15 A I mean, that was the main one. The point
16 of that was to say that because we had made a
17 legitimate mistake in turning in those cards late,
18 we were then therefore had put a target on our back
19 and we were getting attacked for a whole variety of
20 false and baseless accusations, including, for
21 example, the accusation of Mr. Stuart, which were
22 absolutely in our opinion manufactured. So as a
23 reference to, you know, you make one mistake and
24 they hit you with everything and try to come after
25 you with stuff that is not true.

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1 Q Are you aware of any situations where
2 during the voters registration process, if
3 registrations made by those who designated
4 Republicans on their forms were being discarded or
5 simply were not turned in?
6 A Absolutely not.
7 Q Not aware of that having occurred?
8 A Absolutely not. Let me amend to say the
9 only possible time I'm aware of that is through the
10 actions of Mr. Stuart himself.
11 Q Okay. Mr. Stuart, what was his position?
12 A I mean, he held different positions, so --
13 Q Well, during this time period of your
14 tenure --
15 A He had different positions.
16 Q -- what was the last position he held?
17 A He was a voter registration team leader
18 or, you know, there's not a, I don't know, a title
19 that he would have had, but he was a manager of
20 voter registration staff. He was a low level
21 manager.
22 Q All right. Do you have any evidence to
23 rebut that Mr. Stuart was advised by his supervisor
24 to discard Republican voters registration cards?
25 MR. KOCH: Objection to form.

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1 MR. PANCIER: You can answer it if you
 2 know.
 3 THE WITNESS: Do I have any evidence?
 4 MR. PANCIER: Yes.
 5 THE WITNESS: The evidence would be that
 6 if you talked to anybody at ACORN associated
 7 with the voters registration drive, they would
 8 all consistently tell you that idea is
 9 preposterous, that we didn't even look at the
 10 party registration of the people we were
 11 registering, let alone instruct people to
 12 handle particular cards in a particular manner.
 13 MR. PANCIER: We'll mark 5.
 14 (Thereupon, Exhibit Number 5 was marked for
 15 identification.)
 16 BY MR. PANCIER:
 17 Q Let me show you what's been marked as
 18 Exhibit 5. Please take a look at this document and
 19 see if you've ever seen this e-mail or letter
 20 before.
 21 A I have not.
 22 Q All right. Do you know if any MoveOn.org
 23 funds were used to pay any of the ACORN employees in
 24 the gathering of petition signatures on the minimum
 25 wage campaign?

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1 A I don't know the answer to that.
 2 Q All right. That's fine. Now, during the
 3 time when signatures were being gathered for the
 4 petitions, the signature gatherers, were they paid a
 5 shift pay like you indicated before or were they
 6 paid by the hour or were they paid by the number of
 7 signatures they received?
 8 A Shift pay.
 9 Q Okay. With respect to the petition
 10 gatherers, was there any particular quota that the
 11 person needed to fulfill in order to satisfy ACORN's
 12 requirements?
 13 A There probably was, but I don't know what
 14 it was.
 15 Q As far as voter registration was
 16 concerned, was there any quota as far as each person
 17 out in the field insofar as how many registrations
 18 they were required to gather up on a particular day
 19 or shift?
 20 A I don't know the answer to that.
 21 MR. PANCIER: Okay. We'll mark this as
 22 Number 6.
 23 (Thereupon, Exhibit Number 6 was marked for
 24 identification.)
 25

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1 BY MR. PANCIER:
 2 Q Mr. Kettenring, you've been handed what's
 3 been marked as Exhibit 6. It appears to be a
 4 kinko's invoice under the America's Families United
 5 account. Have you ever seen any of these type of
 6 kinko's invoices for work done on your behalf?
 7 A Only in connection with this case have I.
 8 Yes, I'm familiar with the concept.
 9 Q Okay. If you turn to the second page, it
 10 appears to be a document that says America's
 11 Families United Submission Batch Sheet. Are you --
 12 have you ever seen any of these batch sheets, either
 13 this one or one similar to this being used at ACORN
 14 or Project Vote?
 15 A I've heard references to them and I've
 16 seen them in reference to this case.
 17 Q Okay. Other than in this case, you
 18 haven't seen them from any other source?
 19 A I don't think so, no.
 20 Q Okay. And were you aware that these type
 21 of submissions were being turned in by either ACORN
 22 or Project Vote to America's Families United for
 23 payment?
 24 MR. KOCH: Objection to form.
 25 THE WITNESS: I was aware that there was

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1 some form of reporting to AFU as a major funder
 2 of voter registration and I had heard of
 3 references made to AFU batch sheets, which we
 4 now have in front of us. I wasn't aware of the
 5 specific mechanics of, you know, who did what
 6 to whom.
 7 BY MR. PANCIER:
 8 Q And you don't have any knowledge as far as
 9 if AFU was paying either ACORN or Project Vote
 10 anywhere from \$4 or higher per the number of
 11 registrations submitted?
 12 A I don't, no.
 13 Q And you don't know what the mechanics were
 14 insofar as how the AFU funding would be allocated to
 15 either ACORN or Project Vote, is that fair?
 16 A I do not know, yes.
 17 Q Do you know someone named David L.
 18 Jackson?
 19 A Yes.
 20 Q Who's he?
 21 A He worked in the Miami office. He at one
 22 point during his tenure was sort of the, basically
 23 kind of an office assistant and then later, you
 24 know, I think he later was sort of an assistant
 25 director during our Get Out The Vote work, so a low,

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1 you know, I don't want to say low level, but, you
2 know, he was an office assistant of some type for
3 most of his time in the Miami office.
4 Q Do you recall when he would have become
5 assistant director?
6 A Probably when we began doing Get Out The
7 Vote work and stopped doing voter registration, but
8 I don't recall.
9 Q All right. And do you know to whom did
10 Mr. Jackson report to?
11 A It was different people at different
12 times.
13 Q How about in May of '04, who would he have
14 reported to?
15 A I don't know.
16 MR. PANCIER: Let's go ahead and mark this
17 as Exhibit Number 7.
18 (Thereupon, Exhibit Number 7 was marked for
19 identification.)
20 BY MR. PANCIER:
21 Q Mr. Kettenring, you've been handed what's
22 been marked as Exhibit Number 7. Are you familiar
23 with this type of form called a Daily Tally
24 Information Sheet?
25 A No. I've seen this, in fact, I believe

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1 this exact same form once and that was -- maybe
2 twice, it was provided to me the first time by a
3 reporter Lucy Morgan from the St. Petersburg Times,
4 who, you know, it had been leaked to her in an
5 attempt to embarrass ACORN and she faxed it to me
6 probably sometime in September or October of 2004.
7 Q Okay.
8 A So I think I've in fact seen this exact
9 same form, although I'm not -- I've never heard of
10 this kind of form, I've never seen it other than
11 that. It may have also been presented to me, I
12 can't remember, but I met with FDLE, the Florida
13 Department of Law Enforcement, I did a voluntary
14 interview with them about some of the related
15 matters, and I believe they showed me some of these
16 kind of forms. Also I saw it related to this issue.
17 Q And this form would show that -- let me
18 ask you in, the names on here, do you know if these
19 folks were employees of ACORN, any of the people
20 here?
21 A I do not recognize any of the names,
22 except for David Jackson.
23 Q Okay.
24 A I recognize the name Kim Witt and I think
25 that because there was some allegations against Mr.

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1 Stuart that he was, I don't know if Kim Witt was a
2 real person or not, but an allegation came up in our
3 tangles with Mr. Stuart that he may have been
4 cashing illegally checks for an individual named Kim
5 Witt, you know, something like that, I don't really
6 recall the details, but, you know, the name Kim Witt
7 is the only name I recognize besides David
8 Jackson's, so --
9 Q And here it has, I guess it's kind of cut
10 off, but it would show for example if you look on
11 the first page under Delkeisha Gavins, number of
12 cards 10 and right next to it says paid 20.00, so it
13 would attempt to indicate that \$2 per card was paid
14 to her. If that was the case, it would be, the your
15 understanding, be in violation of ACORN policy?
16 A Yes.
17 Q All right. And it's also I believe you
18 testified earlier it was your understanding that if
19 that practice was going on, it would have been
20 illegal in the state of Florida?
21 A Yes, that's my understanding.
22 Q Did that reporter tell you who had faxed
23 her that document?
24 A I believe it was Joe Johnson.
25 Q Okay. And did Mr. Johnson work out of the

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1 St. Pete office?
2 A He primarily worked out of his home, but
3 this was, you know, several months after he had been
4 terminated. It was also after Mr. Stuart had been
5 terminated, so, you know, one assumes the two of
6 them were in some sort of communication.
7 Q Other than your assumption, you don't have
8 any --
9 A I have no evidence of that.
10 MR. PANCIER: We'll mark Number 8.
11 (Thereupon, Exhibit Number 8 was marked for
12 identification.)
13 BY MR. PANCIER:
14 Q Sir, you've been handed what's been marked
15 as Exhibit Number 8. It purports to be an e-mail
16 from Eric Thompson to koolmac90@yahoo.com, and then
17 under that, there's an original message from a
18 Rachel Marzola?
19 A Rachelle.
20 Q Sorry, to Rachelle, CC Keturah Suggs.
21 Have you ever seen this e-mail?
22 A Only in connection with this
23 investigation.
24 Q Investigation, what do you mean?
25 A This whatever.

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1 Q This case?
 2 A Yes.
 3 Q All right.
 4 A This case.
 5 Q All right. Now, the e-mail address
 6 flacorn@acorn.org, do you know whose e-mail that
 7 was?
 8 A That's Eric Thompson's e-mail.
 9 Q Okay. And on or about July 30th, '04,
 10 what was Mr. Thompson's position?
 11 A He was director of our financial justice
 12 center. He had stepped down, was the Miami local
 13 head organizer probably in January, '04 or sometime,
 14 sometime in the Winter there he stepped out of the
 15 role of Miami head organizer.
 16 Q And his position was taken over by Mr.
 17 Houston?
 18 A No, there was no head organizer after
 19 that. I assumed some of those duties later from
 20 mostly long distance.
 21 Q Okay. And I'm sorry, you indicated
 22 Rochelle, what was her position?
 23 A Rachele. She worked for Project Vote.
 24 Q All right.
 25 A Well, Project Vote or ACORN, although if

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1 you look at her e-mail here, it looks like Project
 2 Vote.
 3 Q Well, it says pvnatfield@acorn.org
 4 A Well, all -- acorn.org doesn't mean
 5 anything about what organization, it's pv, Project
 6 Vote, that indicates to me that she was probably
 7 working for Project Vote.
 8 Q And again, Project Vote is basically set
 9 up out of the same headquarters as ACORN?
 10 A Yes, and there's a network of
 11 organizations, some of which share the same e-mail
 12 systems.
 13 Q Okay.
 14 A Which ends in the tag line acorn.org.
 15 Q And who was Joanne Wright? And I
 16 apologize if I asked you that previously.
 17 A She works, I don't know which entity she
 18 works for, but she works with ACORN and Project Vote
 19 in the Brooklyn office.
 20 Q All right. And then Keturah Suggs, what
 21 was her position again?
 22 A I don't know her position. I mean, she,
 23 according to this e-mail, it looks like she worked
 24 for Project Vote. She was administrative in nature,
 25 was my understanding.

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1 Q And do you know who a lady named Katina at
 2 CCI is?
 3 A Yes, Katina was a bookkeeper.
 4 Q Okay. And then this e-mail again would
 5 indicate that certain monies were sent to Katina at
 6 CCI for a number of voter registrations, again, you
 7 don't know why something like that would take place?
 8 A I mean, I know that monies were
 9 transferred from -- I'm just looking to see if -- I
 10 guess this e-mail doesn't indicate, but presumably
 11 monies were, you know, conveyed to I guess -- this
 12 would have been probably the Miami ACORN office for
 13 voter registration, yes, Miami ACORN for voter
 14 registration allocation, so this would have been a
 15 transfer of funds to Miami ACORN to support its
 16 voter registration work.
 17 Q And a transfer would have been made by
 18 CCI?
 19 A Correct.
 20 Q All right.
 21 MR. PANCIER: Let's go ahead and mark
 22 this.
 23 (Thereupon, Exhibit Number 9 was marked for
 24 identification.)
 25

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1 BY MR. PANCIER:
 2 Q You've been handed what's been marked as
 3 Exhibit 9. It appears to be a couple of e-mails
 4 here, making reference to the national kinko's Fed
 5 Ex account. And have you seen any of these e-mails
 6 before?
 7 A No.
 8 Q All right. I asked you who Joanne Wright
 9 was, right?
 10 A Yes.
 11 Q Do you know who polnat@yahoogroups.com is?
 12 A It's some sort of e-mail group of
 13 political staff.
 14 Q Okay.
 15 A That someone nationally would have
 16 managed.
 17 Q All right. Do you know who Hakim Sutton
 18 is?
 19 A Yes, he worked for us. He worked for us
 20 in the Spring of 2004 in the Fort Lauderdale office.
 21 Q Is that for ACORN or Project Vote or both?
 22 A ACORN. He supervised -- he was, you know,
 23 a local office director. He would not have been
 24 working for us in June, 2004, to my recollection. I
 25 think he left significantly earlier than that, so

<p style="text-align: right;">73</p> <p>1 someone may have been using that e-mail address. 2 Q All right. And how about -- well, what 3 was Frank's position, Frank Houston? 4 A Frank was the canvas director. 5 Q And Danielle Atkinson? 6 A Danielle was one of the three regional 7 directors working under Frank. 8 Q And do you know who ksrubyslippers@aol.com 9 is? 10 A Yeah, that is, what's her name, Renee 11 Ruiz. 12 Q And what was her position? 13 A She was -- she was -- she was in the Miami 14 office and she was also at later on in her tenure in 15 Florida the regional director, so she oversaw some 16 of the other offices in southern Florida in addition 17 to Miami. 18 Q Back in June of '04, do you know whether 19 she held a managerial or supervisory role at ACORN? 20 A She definitely in her entire tenure had a 21 managerial point. At some point prior to the 22 election, she moved to Arizona to work on Get Out 23 The Vote work there. I don't know when she moved. 24 MR. PANCIER: This will be Exhibit 10. 25 (Thereupon, Exhibit Number 10 was marked for</p>	<p style="text-align: right;">75</p> <p>1 Exhibit 11. It appears to be an America's Families 2 United Batch Sheet submitted by a Samuel Lossaint, 3 7-22-04, and then with some attached registrations. 4 Do you -- 5 A One clarification, these are registration 6 applications. 7 Q Okay. And do you know who Samuel Lossaint 8 is? 9 A No. 10 Q All right. Okay. In the middle of the 11 page, it says, Name of Field Director/Supervisor, 12 then it has Mac, Cherry and David. Do you know who 13 Cherry and David were? 14 A David is David Jackson, who we've 15 discussed. 16 Q Okay. 17 A Cherry is -- works for us, I'm trying to 18 remember Cherry's last name. Cherry Johnson? Is it 19 Cherry Johnson? Cherry Johnson. Yeah, Cherry also 20 worked in the Miami office. 21 Q Okay. If you look on the bottom, it has 22 like total hours worked, hours in field, it says eye 23 checked (initials of checker), fraud called 24 (initials of checkers), number of cards in batch, 25 numbers verified with answered called. Are you</p>
<p style="text-align: right;">74</p> <p>1 identification.) 2 BY MR. PANCIER: 3 Q Mr. Kettenring, you've been handed what's 4 been marked as Exhibit 10 to your deposition. It 5 appears to be a fax to Mac at ACORN from Katina 6 DeBerry from CCI from the New Orleans, Louisiana 7 address. If you turn to the first page, it appears 8 to be an invoice, it says to ACORN, Consultant: 9 Lizett Virella. Amount due, 50.00, and then there's 10 a signature of ACORN representative there. Do you 11 recognize that signature? 12 A I do not. 13 Q Do you know if that's Eric Thompson's 14 signature? 15 A I do not. 16 Q You have no idea? 17 A I mean, it could be Eric's, I just have no 18 idea. 19 Q I'm sorry? 20 A I don't know. 21 MR. PANCIER: This is 11. 22 (Thereupon, Exhibit Number 11 was marked for 23 identification.) 24 BY MR. PANCIER: 25 Q I'm handing you what's been marked as</p>	<p style="text-align: right;">76</p> <p>1 familiar with this type of a batch sheet? 2 A No. 3 Q For America's Families United? 4 A No. 5 Q And do you have any idea why any of the 6 folks at ACORN would be submitting a batch sheet 7 with attached voter registration applications to 8 America's Families United? 9 A Well, clearly one thing they're trying to 10 demonstrate here at the bottom is that we did, it's 11 what it looks like to me, I've never seen this form 12 before, but it looks like they're trying to document 13 that we did fraud check cards or what we call 14 quality control cards just to verify the accuracy of 15 the information, so certainly there was an attempt 16 to document due diligence in showing that the 17 quality of the registrations, you know, obviously if 18 you were asking people to provide these sheets, so 19 they had a number of systems and we complied with 20 their systems. 21 Q Okay. Do you know if ACORN or Project 22 Vote was selling copies of the applications, voter 23 registration applications to any organizations? 24 A No. 25 MR. PANCIER: This will be 12.</p>

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1 (Thereupon, Exhibit Number 12 was marked for
2 identification.)
3 BY MR. PANCIER:
4 Q Mr. Kettenring, you've been handed what's
5 been marked as Exhibit 12, it appears to be an
6 e-mail from Rachel.
7 A Rachele.
8 Q Rachele, okay, Marzola to Miami ACORN and
9 to Mac Miami, CC: Joanne Wright, Keturah Suggs;
10 Subject: Miami voter registration altercation. And
11 it has a memo that says 6/16/04: \$3148.80 was sent
12 to Katina at CCI for 768 registrations.
13 From my calculations, it's \$4.10 per
14 registration. Do you have any knowledge or reason
15 why that amount of money would be sent to Katina at
16 CCI for that number of registrations?
17 A No.
18 MR. PANCIER: This is 13.
19 (Thereupon, Exhibit Number 13 was marked for
20 identification.)
21 BY MR. PANCIER:
22 Q You've been handed what's been marked as
23 Exhibit 13, I believe, which a Project Vote Voter
24 Registration Administrative Procedures dated
25 January, '04. If you could go ahead and take a look

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1 at these and tell me if you recognize any of these
2 documents.
3 A I'm familiar with the concept of what this
4 would be, but I don't -- I would not have
5 necessarily seen or if I had seen, paid attention to
6 nor read this, because I was not directly involved
7 in voter registration, so --
8 Q Okay. If you take a look at the second
9 page, where it says mail copies to Brooklyn, the
10 first thing you will want to do is make copies of
11 your cards. Then it continues on here. Again, do
12 you know if this was handed out at any of the
13 training seminars?
14 A No.
15 Q All right. Do you know if anything like
16 this was handed out to any of the ACORN employees in
17 Miami who were also doing work for Project Vote?
18 A No.
19 Q If you look on the bottom of page 2, it
20 says Allocations: We do allocations every Wednesday
21 for the cards we have received here in Brooklyn. We
22 will send you an e-mail letting you know what was
23 allocated. How --
24 A Where were you?
25 Q Turn the page to page 3, How offices get

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1 paid for voter reg. National political does
2 allocations for card copies as they arrive in the
3 Brooklyn office. Once you know that Joanne has
4 requested the allocation, follow up with Bobbie in
5 Little Rock, and it gives a phone number. Set a
6 date for when your contractual people will get paid.
7 And it continues.
8 Do you know who Bobby in Little Rock
9 is?
10 A Yes.
11 Q Who is she?
12 A She's an assistant to Zach Pollet.
13 Q Okay. And does Bobby work with ACORN or
14 with Project Vote or both, if you know?
15 A I don't know.
16 Q Okay. And do you know, does the term here
17 national political, do you know what significance,
18 if any, there is to that term national political
19 within the lexicon of Project Vote or ACORN?
20 A Significance?
21 Q Yeah, is that a term --
22 A What does that refer to?
23 Q Yes, is that a term for some organization?
24 A No, it probably refers to ACORN's national
25 political office which Zach oversees, Zach Pollet.

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1 Q Okay. If you turn back to page 2, where
2 it makes an indication in here with whom to send
3 Excel worksheets to national political and it has
4 three names, let's see, I think Joanne Wright, we
5 had mentioned her already.
6 A Yes.
7 Q Jessica Angus, do you know who she was?
8 A Yes, she was ACORN's national political
9 field director. She was based in DC.
10 Q Okay.
11 A During this time.
12 Q All right. And do you know who Jim
13 Fleischmann is?
14 A Jim is part of our national political
15 staff. He had no responsibilities vis-a-vis
16 Florida, he mostly works in the Northwest.
17 Q All right. If you turn to page 4, it
18 says, All political contractual paperwork should be
19 sent to Katina DeBerry, CCI, and it has a New
20 Orleans address. Do you know what political
21 contractual paperwork is?
22 A I think it's a reference to, you know, we
23 would have people sign, you know -- well, you might
24 call them new employee packets upon the hiring of
25 someone to do this kind of work, so it's a reference

<p style="text-align: right;">81</p> <p>1 to those packets.</p> <p>2 Q Okay.</p> <p>3 A Like tax forms and all that kind of thing,</p> <p>4 so --</p> <p>5 MR. KOCH: If I can just interject, if you</p> <p>6 don't know the answer to a question, don't</p> <p>7 speculate.</p> <p>8 THE WITNESS: All right.</p> <p>9 BY MR. PANCIER:</p> <p>10 Q If you look towards the bottom of the page</p> <p>11 where it says Subcontracting and it reads, As you</p> <p>12 know, this Working Assets contract has the potential</p> <p>13 to mean major resources for the organization and our</p> <p>14 early performance will have a major impact on PV's</p> <p>15 relationship with WALD.</p> <p>16 Do you know what Working Assets, have</p> <p>17 you heard of that term used before?</p> <p>18 A Yes.</p> <p>19 Q What is that?</p> <p>20 A They're a telephone company, a progressive</p> <p>21 telephone company based in San Francisco that, among</p> <p>22 other things, have given monies for voter</p> <p>23 registration work.</p> <p>24 Q And do you know if they funded any of</p> <p>25 Project Vote's activities in Florida?</p>	<p style="text-align: right;">83</p> <p>1 been marked as Exhibit 14. Sir, I've handed you</p> <p>2 what's been marked as Exhibit 14, it appears to be</p> <p>3 an e-mail from Lizett Virella to aperez@wsvn.com</p> <p>4 with CC various e-mails. Do you recognize this</p> <p>5 e-mail?</p> <p>6 A I believe I do, yes.</p> <p>7 Q All right. This is the e-mail that Mac</p> <p>8 Stuart drafted or that you believe -- well, that</p> <p>9 purports to have been drafted by Mac Stuart and sent</p> <p>10 to WSVN Television in Miami?</p> <p>11 A Correct.</p> <p>12 Q All right. There's some addresses on the</p> <p>13 CC here.</p> <p>14 A Yes.</p> <p>15 Q Fhouston4@juno.com?</p> <p>16 A Frank Houston, yes.</p> <p>17 Q And then where it says polnat@acorn.org,</p> <p>18 do you know that was?</p> <p>19 A That's Jessica Angus. The third one is</p> <p>20 mine.</p> <p>21 Q And the fourth one, it says</p> <p>22 polnatflvr4@acorn.org?</p> <p>23 A I don't remember whose that would have</p> <p>24 been.</p> <p>25 Q And the next one is similar, except it's</p>
<p style="text-align: right;">82</p> <p>1 A I don't know.</p> <p>2 Q All right. And what is the significance,</p> <p>3 if any, of the term WALD?</p> <p>4 A Working Assets Long Distance.</p> <p>5 Q That's the name of the organization?</p> <p>6 A Yes, that's working assets.</p> <p>7 Q Okay. If you look at the third page from</p> <p>8 the end, where it says Voter Registration Team --</p> <p>9 A Yes.</p> <p>10 Q -- it indicates on there goals of 20</p> <p>11 registrations per day, 120 per week. Now, this is a</p> <p>12 Project Vote document. Did ACORN have any similar</p> <p>13 type goals, if you're aware of?</p> <p>14 A I don't know.</p> <p>15 Q Were you aware of at least per this</p> <p>16 document Project Vote had a particular goal for its</p> <p>17 team?</p> <p>18 A I was not aware.</p> <p>19 MR. PANCIER: Off the record.</p> <p>20 (Thereupon, an off-the-record discussion was had.)</p> <p>21 MR. PANCIER: This will be 14.</p> <p>22 (Thereupon, Exhibit Number 14 was marked for</p> <p>23 identification.)</p> <p>24 BY MR. PANCIER:</p> <p>25 Q Mr. Kettenring, I'm handing you what's</p>	<p style="text-align: right;">84</p> <p>1 vr5?</p> <p>2 A Yeah, I don't remember whose name those</p> <p>3 would have been voter registration staff, but I</p> <p>4 don't know which one.</p> <p>5 Q All right. And would you have received</p> <p>6 this e-mail on or about August 6th, '04?</p> <p>7 A I believe I received it, yes.</p> <p>8 Q Now, you had testified earlier that during</p> <p>9 the, when voters registrations were obtained either</p> <p>10 during the petition campaign or post petition, that</p> <p>11 those would have to be submitted to the Department</p> <p>12 of Elections on the same day?</p> <p>13 A No, that was if you were attempting to</p> <p>14 also have someone sign the minimum wage petition.</p> <p>15 Q Okay.</p> <p>16 A And have that petition be valid, you would</p> <p>17 have to turn in the voters registration card</p> <p>18 essentially the same day, specifically in order to</p> <p>19 do that and have that petition be compliant with</p> <p>20 Florida law.</p> <p>21 Q All right.</p> <p>22 A And that's my understanding of the law.</p> <p>23 Q Okay. And do you know what was instructed</p> <p>24 to the staff?</p> <p>25 A Well, like I said earlier, what was</p>

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1 eventually instructed was if you run into people who
 2 are not registered while you're collecting minimum
 3 wage petitions, just register them to vote and we'll
 4 get them at some other point to sign the minimum
 5 wage petition.
 6 Q Okay. Had anyone advised you during the
 7 same timeframe we've been talking about if in
 8 Florida, any of the ACORN folks out in the field
 9 were knowingly or intentionally putting any false
 10 information on any of the minimum wage petitions?
 11 MR. KOCH: Asked and answered.
 12 MR. PANCIER: I didn't ask that one.
 13 MR. KOCH: Go ahead and answer.
 14 THE WITNESS: Knowingly putting
 15 information, false information on minimum wage
 16 petitions?
 17 MR. PANCIER: Right.
 18 THE WITNESS: In the only cases that that
 19 would have happened would have been someone
 20 attempting to defraud us in terms of collecting
 21 minimum wage petitions, in which case we would
 22 have caught that through our quality control
 23 and then terminated that person, so -- so the
 24 answer is yes, in that context.
 25

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1 BY MR. PANCIER:
 2 Q All right. And you made an interesting
 3 answer, because you said it would come up in perhaps
 4 the case someone was trying to defraud ACORN. What
 5 do you mean?
 6 A Well, if someone was, you know,
 7 theoretically going through a phone book and writing
 8 down names for minimum wage petitions, we had
 9 quality control procedures that sought to prevent
 10 that from happening, so they would be attempting to
 11 turn into us and be paid for work that was
 12 fraudulent.
 13 Q Okay, I understand. So it's not as if
 14 they were paid by the number of people they signed,
 15 that's not what you meant, though, right?
 16 A No, as much as just, you know, they were
 17 being paid to do a job and they had to do the job.
 18 Q Okay. And was it your understanding that
 19 if during the -- any time that a voters registration
 20 was being done, whether, again, during the petition
 21 campaign or post petition, that if someone
 22 identified themselves as being a convicted felon,
 23 what, if anything, were the ACORN -- well, what did
 24 ACORN, if you know, expect its employees to do under
 25 those circumstances?

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1 A As I indicated earlier, I was aware that
 2 the issue came up, but I was not aware of how Frank
 3 and his team resolved to solve that.
 4 Q All right.
 5 A So --
 6 Q And Frank and his team, was that
 7 responsible for the whole state or just the south,
 8 South Florida?
 9 A Frank and people -- Frank and people who
 10 reported to Jessica Angus nationally were
 11 responsible for the whole state.
 12 MR. PANCIER: Mark this as Exhibit 15, the
 13 last exhibit.
 14 (Thereupon, Exhibit Number 15 was marked for
 15 identification.)
 16 BY MR. PANCIER:
 17 Q Mr. Kettenring, you've been handed what's
 18 been marked as Exhibit 15, which purports to be an
 19 e-mail from Brian Kettenring, flacornho@acorn.org,
 20 dated August 6th, 2004. Do you recognize this
 21 e-mail?
 22 A I recognize some of the content in here,
 23 but it's clearly a jumble of a couple different
 24 e-mails together, so it's --
 25 Q Fair enough. Did you draft an e-mail on

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1 or about August 6th, '04, which read, This is the
 2 guy we terminated on Wed. He can hurt us as he
 3 knows too much. I'm talking to our lawyers and some
 4 others about how to handle this, Brian?
 5 A This is an e-mail that I believe is a
 6 doctored e-mail.
 7 Q Okay.
 8 A When Lucy Morgan, the reporter from the
 9 St. Pete Times called me about allegations made by
 10 Joe Johnson and Mac Stuart, she indicated to me
 11 verbally, I believe, you know, this is all a little
 12 fuzzy now, but that there was some e-mail where I
 13 purportedly wrote, quote, "he knows too much." I
 14 responded at the time saying I would never write
 15 such a thing. It's not the kind of language I would
 16 ever use in reference to anybody, because we have
 17 nothing to hide.
 18 So I then a couple months ago
 19 instructed our technology staff at CCI to go back
 20 and find the original e-mail that I wrote on August
 21 6th to Joe Johnson. And I did write a very similar
 22 e-mail to Joe Johnson that contained some of these
 23 words, but did not contain the sentence, "he can
 24 hurt us, as he knows too much." So what you have
 25 here is a doctored e-mail, to my knowledge.

22 (Pages 85 to 88)

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1 Q All right, sir. So let me ask you, where
 2 are all the e-mails maintained at ACORN
 3 electronically?
 4 A Well, to the extent that any sort of
 5 record is existent, it would be in New Orleans in
 6 CCI, you know, as I indicated, those are technology
 7 works, so CCI would have access to that.
 8 Q All right. And are those e-mails, are
 9 they stored?
 10 A Many of them are not, but Ryan Hanson,
 11 who's our e-mail guy, was able to recover this
 12 e-mail. This was about two months ago, so --
 13 Q And you have a copy of that e-mail?
 14 A Well, I did until my computer crashed this
 15 past weekend.
 16 Q Was a copy provided to your attorneys?
 17 A Did you ever get it?
 18 MR. KOCH: I have not seen a copy of that.
 19 THE WITNESS: They asked me for it.
 20 MR. PANCIER: Don't tell me what they told
 21 you.
 22 THE WITNESS: What's that?
 23 MR. PANCIER: Don't tell me what your
 24 lawyers told you.
 25 MR. KOCH: We haven't seen a copy of that.

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1 MR. PANCIER: I'm sure, because you would
 2 have shown it to me.
 3 What I would ask is through you and your
 4 attorneys is to notify ACORN corporate that
 5 they are not to do anything to delete or to
 6 touch any of the electronic data they have on
 7 their hard drive systems so we can then, you
 8 know, through counsel, determine a way to
 9 locate copies of whatever original e-mails are
 10 on the system.
 11 BY MR. PANCIER:
 12 Q Now, you indicated that your computer
 13 currently crashed?
 14 A Correct.
 15 Q All right. Do you still have that
 16 computer?
 17 A It's not in my possession right now, it's
 18 still -- yeah, it's at --
 19 Q I don't mean this very second, but you
 20 still have possession of that computer?
 21 A Correct.
 22 Q I also ask that you not do anything to get
 23 rid of it or throw it or kick it or throw it out the
 24 window, even though you may want to.
 25 A I'm trying to do the opposite, I'm trying

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1 to recover it.
 2 MR. KOCH: I'll object to the form of that
 3 question.
 4 BY MR. PANCIER:
 5 MR. PANCIER: With that, sir, that's all I
 6 have to ask you right now, given the scope of
 7 the Court's order. I've exhausted my time and
 8 your time.
 9 THE WITNESS: Thank you.
 10 MR. PANCIER: I don't know if counsel is
 11 going to ask you anything.
 12 MR. KOCH: No questions. We will read.
 13 MR. PANCIER: And I will order regular
 14 delivery with Condense It and ASCII and all the
 15 trimmings and thank you for your time, sir.
 16 MR. KOCH: Copy.
 17 (Thereupon, the deposition concluded at
 18 approximately 12:40 o'clock p.m.)
 19 (Signatures and Formalities were now waived.)
 20
 21
 22
 23
 24
 25

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1 CERTIFICATE OF OATH
 2 STATE OF FLORIDA)
 :Ss
 3 COUNTY OF BROWARD)
 4
 5 I, the undersigned authority, certify that
 6 BRIAN KETTENRING, personally appeared before me and
 6 was duly sworn.
 WITNESS my hand and official seal this 4th
 7 day of February, 2005.
 8
 9
 10 _____
 11 TAMBRIA LEE DERY
 12 STATE OF FLORIDA)
 :SS
 13 COUNTY OF BROWARD)
 14
 15 I, TAMBRIA LEE DERY, Court Reporter,
 16 certify that I was authorized to and did
 16 stenographically report the deposition of
 17 BRIAN KETTENRING, that a review of the transcript
 18 was requested, and that the transcript is a true
 19 and complete record of my stenographic notes.
 18 I further certify that I am not a relative,
 19 employee, attorney, or counsel of any of the parties,
 19 nor am I a relative or employee of any of the parties'
 20 attorney or counsel connected with the action, nor am
 20 financially interested in the action.
 21 DATED this 4th day of February, 2005.
 22
 23
 24 _____
 25 TAMBRIA LEE DERY

EXCEPT FOR ANY CORRECTIONS
MADE ON THE ERRATA SHEET BY
ME, I CERTIFY THIS IS A TRUE
AND ACCURATE TRANSCRIPT.
FURTHER DEPONENT SAYETH NOT.

WITNESS' NAME

STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

Sworn and subscribed to before me this _____
day of _____, 2004.
PERSONALLY KNOWN _____ OR I.D. _____

Notary Public in and for the
State of Florida at Large.

My commission expires:

VERITEXT FLORIDA, LLC
BENOWITZ - BERMAN - COOK - IVY - MATZ TRAKTMAN
Suite 1020 Biscayne Building
19 West Flagler Street
Miami, Florida 33130
(305) 371-1884
(305) 377-1100 (fax)

February 4, 2005
Brian Kettenring
20 Northeast 41st Street, Number 3
Miami, Florida 33137.
RE : Stuart vs. ACORN
DEPO OF : Brian Kettenring
TAKEN : January 14, 2005
Number of pgs : 95
Available for reading until: March 4, 2005
Dear Mr. Kettenring:

This letter is to advise you that the transcript of your
deposition is completed and is available for reading and
signing.
Please make an appointment to come to our office at Suite
1020, 19 West Flagler Street, Miami, Florida, to read and
sign the transcript. Our office hours are 8:30 a.m. to 4:30
p.m., Monday through Friday. Depending on the length of the
transcript, you should allow yourself sufficient time to
review.

If the reading and signing has not been completed prior to
the above-referenced date, we shall conclude that you have
waived the reading and signing of the deposition transcript.

Your prompt attention to this matter is appreciated.

Sincerely,
TAMBRIA DERY, Court Reporter
cc: (Copy to all counsel)

ERRATA SHEET

RE : Stuart vs. ACORN
DEPO OF: Brian Kettenring
TAKEN : January 14, 2005
DO NOT WRITE ON TRANSCRIPT, ENTER ANY CHANGES HERE

Page #	Line #	Change	Reason
6	_____	_____	_____
7	_____	_____	_____
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18	_____	_____	_____
19	_____	_____	_____
20	_____	_____	_____

State of Florida)
County of Broward)

Under penalties of perjury, I declare that I have read
my deposition transcript, and it is true and correct
subject to any changes in form or substance entered here.

Date Signature

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION

4 CASE NO. 04-22764-CIV-KING/O'SULLIVAN

5 MAC STUART,

6 Plaintiff,

7 vs.

8 ASSOCIATION OF COMMUNITY
9 ORGANIZATIONS FOR REFORM NOW,
10 INC., d/b/a ACORN, an
11 Arkansas corporation,

12 DEFENDANT.

COPY

13 DEPOSITION

14 OF

15 MAC STUART

16 Suite 4900
17 200 South Biscayne Boulevard
18 Miami, Florida

19 Monday, January 4, 2005
20 10:00 a.m. - 12:00 p.m.

APPEARANCES

For the Plaintiff:

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For the Defendant:

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I N D E X

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Certified Question

Page 70, Line 7: I don't want to be contentious. If you're not going to give us the name, you're not going to. I just want to be clear, you're not going to give us the person's name?

1 THEREUPON:

2 MAC STUART,

3 a witness named in the notice heretofore filed, having
4 been first duly sworn, deposes and says as follows:

5 MR. PANCIER: Before we get started, let me
6 just get on the record that pursuant to Judge
7 King's order dated December the 7th, 2004,
8 discovery or this deposition will be limited to
9 the issue of whether the defendant engaged in the
10 unlawful acts alleged by the plaintiff in the
11 complaint. So, besides that and, obviously, some
12 background information, which is -- you know,
13 obviously, it's easier for you to go into now,
14 again, those are the areas that we are prepared
15 to answer today. And, obviously, anything else
16 outside the scope, we can bring him back on
17 another day mutually convenient to everyone,
18 depending, I guess, how the Judge ends up doing
19 the next phase of the discovery.

20 MS. DAKER: Exactly. Agreed.

21 And we would just reserve the right to
22 recall Mr. Stuart to any, you know issues
23 relevant to the case that aren't raised today
24 that don't fall within the scope of the Court's
25 order.

1 MR. PANCIER: Right.

2 DIRECT EXAMINATION

3 BY MS. DAKER:

4 Q. Mr. Stuart, my name is Angela Daker. I'm
5 taking your deposition today.

6 Have you ever participated in a deposition
7 before?

8 A. No.

9 Q. I'm just going to explain to you a little bit
10 about the process. Basically I'm just going to ask you
11 questions. You can answer them verbally so that the
12 court reporter can take down what you're saying. If you
13 need me to explain a question or rephrase a question,
14 just ask me to and I will.

15 If you don't know the answer to a question,
16 just say I don't know. We don't want you to guess or,
17 you know, hypothesize about things. We just want to know
18 what you know. So if you don't know the answer to a
19 question, just let me know and we'll move on to another
20 question. Okay?

21 A. Okay.

22 Q. Now, you're here represented by counsel today?

23 A. That's correct.

24 Q. And how long has your counsel been representing
25 you?

1 A. Since September.

2 Q. September of 2004?

3 A. Yes.

4 Q. How did you meet them?

5 A. I was referred to them.

6 Q. By whom?

7 A. A mutual friend who was interested, more or
8 less, what was going on in my case.

9 Q. What is the name of your friend?

10 A. Jim Johnson.

11 Q. Now, in terms of preparation for today's
12 deposition, what did you do to prepare?

13 A. Nothing.

14 Q. Did you review any documents?

15 A. No.

16 Q. You didn't meet with your lawyers?

17 A. No.

18 Q. Now, I'm just going to ask you a few background
19 questions.

20 What is your full name?

21 A. Mac William Stuart.

22 Q. Your current address?

23 A. 1776 Northwest 53rd Street, Miami, Florida,
24 33142.

25 Q. Telephone number?

- 1 A. 786-663-1656.
- 2 Q. What is your date of birth?
- 3 A. April 20, 1966.
- 4 Q. Where were you born?
- 5 A. Miami.
- 6 Q. What is your highest level of education?
- 7 A. High school.
- 8 Q. Where did you go to high school?
- 9 A. Adlai Stevenson in Bronx, New York.
- 10 Q. So you have not lived in Miami your whole life?
- 11 A. No.
- 12 Q. You lived in New York for a period of time?
- 13 A. Over 20 years.
- 14 Q. When did you move back to Miami?
- 15 A. I came to Miami in 1989.
- 16 Q. Now, are you currently employed?
- 17 A. No.
- 18 Q. What was your last employment?
- 19 A. Florida Acorn.
- 20 Q. Now, are you married?
- 21 A. No, I'm separated right now.
- 22 Q. So how many times -- so you're separated, but
- 23 not divorced?
- 24 A. That's correct.
- 25 Q. How many times have you been married?

1 A. Just once.

2 Q. Any children?

3 A. No.

4 Q. Brothers or sisters?

5 A. Yes. I have four brothers and one sister.

6 Q. What are their names?

7 A. My brother who precedes me is Anthony. Then
8 comes Richie. Then comes my sister, Karolyn. I have a
9 brother in New York named Albert. And my baby brother is
10 Norberto.

11 Q. What about, have you ever been arrested?

12 A. Yes, I have.

13 Q. Can you tell me when?

14 A. I went to prison for armed robbery in 1996.

15 Q. Was that in Florida or New York?

16 A. It was here.

17 Q. Any other arrests?

18 A. I've had several: Driving with a suspended
19 license, carrying a concealed firearm, a few drug
20 charges.

21 Q. What was the result of those arrests?

22 A. Most of them were time served.

23 Q. So you did not serve time for them?

24 A. No.

25 Q. Which ones were there convictions for?

1 A. Basically all of them. When you take time
2 served, it's a conviction. They don't withhold
3 adjudication sometimes, sometimes they do.

4 Q. When did these other arrests, besides the armed
5 robbery, which was in '96, when did those occur?

6 A. Way before that. Way before that. I've had a
7 few incidents. I think I had a possession of cocaine
8 charge back in 2002. That's the last time I've been
9 through the system.

10 Q. That was Florida?

11 A. Yes.

12 Q. Miami?

13 A. Yes.

14 Q. Were all of those other arrests in Florida?

15 A. Miami.

16 Q. Prior to your employment with Acorn who were
17 you employed by?

18 A. I was self-employed.

19 Q. What were you doing?

20 A. I had detailing establishment, I ran a car
21 wash.

22 Q. In Miami?

23 A. Yes.

24 Q. How long have you done that for?

25 A. I've done that for about 10 years.

1 Q. Prior to that?

2 A. Prior to that I worked for Home Depot, Palmetto
3 General Hospital, a few other places.

4 Q. So Acorn was the first time you had done
5 community work?

6 A. Yes.

7 Q. When were you first employed by Acorn?

8 A. November 22, 2003.

9 Q. What position were you hired for at that time?

10 A. Petition gatherer.

11 Q. What were the responsibilities of a petition
12 gatherer?

13 A. The job description was to go out on the street
14 and have people sign a petition to help raise the minimum
15 wage from 5.15 to 6.15 an hour.

16 Q. At that time when you were first hired, your
17 position as a petition gatherer was limited to getting
18 people to sign a minimum wage petition basically?

19 A. That's correct.

20 Q. How much were you paid at that time?

21 A. I think, I do believe it was like \$45 a day.

22 Q. Who was the person who initially hired you?

23 A. Frank Houston.

24 Q. When you were hired in that position, who was
25 your direct supervisor?

1 A. Matthew Bessant.

2 Q. How do you spell Bessant?

3 A. B-e-s-s-a-n-t.

4 Q. Did you have anyone reporting to you at that
5 time?

6 A. No.

7 Q. Now, how long did you hold that position?

8 A. About a week. I became a team leader right
9 after -- actually, I was the second person hired in Miami
10 to do minimum wage. Everyone else came from out of town.
11 They came from Washington and Wisconsin. They were all
12 from out of town. I was from Miami and I knew the
13 locations. I built all the sites, basically.

14 Q. So a week later -- was that a promotion?

15 A. Yes.

16 Q. So a week later you moved into the position of
17 team leader?

18 A. That's correct.

19 Q. What did that position entail, what were the
20 responsibilities of that position?

21 A. The same responsibilities, only I was
22 responsible to go out with four other people who were all
23 new people. I was supposed to train them and show them
24 how the petition-gathering process was to be done and at
25 the end of the night I used to have to stay behind to do

1 paperwork.

2 Q. As part of that -- so you did supervise four
3 people?

4 A. In the beginning, yes.

5 Q. Who were those people, if you remember?

6 A. Shaunte Lee, Juan Silviera and someone else.
7 There was a few others. They would rotate because
8 people wouldn't last long. It was my job on observation
9 day, when they go out to work on the first day, I would
10 have to report back to Matthew and let him know was this
11 person able to do this job.

12 Q. Just to be clear, at that point your
13 responsibilities are related solely to gathering
14 petitions for the minimum wage campaign?

15 A. Yes, and registering people to vote.

16 Q. So included with your first position that we
17 talked about, petition gatherer, you also -- that
18 encompassed registering people to vote?

19 A. That's correct.

20 Q. How would that work?

21 A. We would actually walk up to the individual and
22 ask them -- give them my speech as far as helping raise
23 the minimum wage in the State of Florida and ask them if
24 they were registered voters. And then if they weren't,
25 you fill out a voter registration card, have them fill

1 that out and then pass them the minimum wage petition.

2 Q. And that would be simultaneous?

3 A. Yes.

4 Q. Simultaneously filling out the voter
5 registration card with signing the minimum wage petition?

6 A. That's correct.

7 Q. Who trained you on how to -- and I'm talking
8 about -- just so you know, I'm going to go
9 chronologically through all of your positions. So who
10 trained you with regard to gathering petitions in your
11 first two positions as petition gatherer and team leader?

12 A. Frank Houston.

13 Q. When did that training occur?

14 A. It occurred during the week of the rally that
15 they had in downtown last year about the workers and all
16 that. During that time I went out, Frank Houston took me
17 out on my observation day. The same day he hired me, as
18 a matter of fact, we all went downtown and basically I
19 was just thrown into the thick of things, tear gas and
20 the whole nine. And he explained how the process went.
21 I would watch him for a while.

22 Q. What was the date, so just so we can be clear?

23 A. Excuse me?

24 Q. The date.

25 A. I think it was November 22.

1 Q. Of 2003?

2 A. Yes, the FTA rally they had.

3 Q. That was your training date, as well?

4 A. Yes.

5 Q. Now, how long did you hold the position of team
6 leader?

7 A. From November to January.

8 Q. So November 2003 to January 2004?

9 A. That's correct.

10 Q. And during that time period between
11 November 2003 to January of 2004 did your
12 responsibilities stay the same?

13 A. Yes.

14 Q. Was Matthew Bessant the person you were
15 reporting to the entire time?

16 A. Matthew Bessant and Renee Ruiz.

17 Q. When did you start reporting to Rene Ruiz?

18 A. She came in during December. Right during the
19 Christmas break we had a lot of students come in to
20 volunteer from out of town. There was a whole thing they
21 had, give them free housing. These are all volunteers.

22 And Rene Ruiz came from Arizona, if I'm
23 correct, and basically she just took over.

24 Q. What was her official position?

25 A. She was the director.

1 Q. The director of Miami Acorn?

2 A. No, Floridians For All.

3 Q. So she was director of Floridians For All.

4 Matthew Bessant's position was --

5 A. Co-director.

6 Q. Co-director of Floridians For All?

7 A. That's correct.

8 Q. At that point what was the relationship, if you
9 know, between Floridians for All and Acorn?

10 A. Floridians For All, to my understanding, was a
11 sister company that was created just for the purpose of
12 helping raise the minimum wage.

13 Q. So when you were hired, though, were you
14 officially an Acorn employee or were you a Floridians For
15 All employee or were you unclear?

16 A. It was very confusing because my checks would
17 say Florida Acorn and sometimes it would say Floridians
18 For All.

19 Q. Now, in January of 2004 your position changed?

20 A. Yes.

21 Q. What was your position?

22 A. I became a community organizer.

23 Q. Who hired you?

24 A. Eric Thompson.

25 Q. What were your responsibilities in that

1 position?

2 A. At the time I was -- when I became a community
3 organizer, I was supposed to go out into the community
4 and help people sign up to be members of Acorn and take
5 on issues within the community, you know, be the voice of
6 the people. As well as that, I was put in charge of the
7 voter registration project.

8 Q. Which community were you organizing in?

9 A. Miami.

10 Q. Throughout the whole city?

11 A. Yes.

12 Q. You were working out of the Miami Acorn office.
13 What's the address?

14 A. 1380 West Flagler.

15 Q. Is that the office you worked out of in the two
16 previous positions we spoke of?

17 A. Yes.

18 Q. So with regard to the voter registration piece
19 of your new position, what were your responsibilities
20 there?

21 A. I was instructed to form a self-sufficient team
22 for voter registration purposes. That way it wouldn't
23 cost the office -- it wouldn't cost the company any
24 money.

25 Q. What does self-sufficient mean?

1 A. That they would be able to support themselves
2 with the overhead, we would be able to pay for supplies
3 and there wouldn't be a loss.

4 Q. How would they support themselves?

5 A. Well, they were -- at the time they were paying
6 \$3.75 per card and I was instructed to pay at least --
7 anywhere from \$1.50, to \$2 a card. This would leave a
8 \$1.75 profit for the company.

9 Q. Back up a second. 3.75 per card, you said they
10 were getting paid 3.75 per card. "They" was who?

11 A. Floridians For All. Acorn.

12 Q. Who were they paid \$3.75 per card by?

13 A. At the time it was a different funder, I'm not
14 sure who it was. But near the end it became America's
15 Families United.

16 Q. So in January it was a different funder, some
17 foundation, I presume, who gave them a grant?

18 A. I don't think it was a grant.

19 Q. So your understanding of how the payment from
20 the funder, whose name you don't recall, to Acorn or
21 Floridians For All, Acorn slash Floridians For All,
22 because you're unsure of which one it was, how did that
23 work?

24 A. We would -- at the end of the week I would send
25 in an e-mail to Brooklyn, New York, Project Vote, to a

1 lady named Keturah Suggs.

2 Q. Do you know how to spell her name?

3 A. K-e-t-u-r-a-h, Suggs, S-u-g-g-s.

4 Q. And she was in Brooklyn, New York. Who did she
5 work for?

6 A. Project Vote.

7 Q. So someone in Project Vote's offices in
8 Brooklyn?

9 A. Yes. And we were instructed every Monday
10 morning to submit an e-mail and on Tuesday we would send
11 the actual copies of the voter registration cards to
12 Brooklyn, New York. And, in turn, they would send it to
13 the funders and the funders would send a check back to
14 Project Vote. Project Vote would then send the money to
15 New Orleans, to CCI, Citizens Consulting Incorporated.

16 Q. How did you get your understanding of how the
17 3.75 was paid?

18 A. This was common knowledge.

19 Q. But do you remember a specific person telling
20 you this?

21 A. Yes. Well, we had an e-mail, actually, before
22 that. Matthew Bessant showed me. Rene Ruiz showed me.
23 It was a lot of emphasis on registering more people to
24 vote. This was the way we cut the overhead for supplies,
25 et cetera.

1 Q. Now, I wanted to ask you about Project Vote.
2 What was, if you know, what was Project Vote's
3 relationship to Acorn at this point? I'm talking about
4 back in January of 2004.

5 A. They were all connected.

6 Q. Connected in what way?

7 A. It's umbrella company, a sister company.

8 Q. CCI, what is the relationship between CCI --

9 A. CCI does the payroll for Acorn.

10 Q. Do you know if there's any official
11 relationship between the organizations?

12 A. Yes. It belongs to Acorn. They are the ones
13 that cut our checks. They just go under the name of
14 Citizens Consulting Incorporated.

15 Q. And the e-mails that you say that Matthew
16 Bessant and Rene Ruiz showed you, do you have a copy of
17 those e-mails?

18 A. No. At the time I was just -- at the time when
19 I first seen the e-mail, I was a team leader, so I wasn't
20 in on the conference calls or anything to that effect.
21 We were just instructed to register more people to vote.
22 This way we can pay for our supplies.

23 Q. So let me ask you this. How long did you hold
24 that position for?

25 A. Which one?

1 Q. The January 2004 community organizer slash
2 being in charge of the voter registration project?

3 A. Until my termination in August.

4 Q. So on how many occasions did you send this
5 e-mail to -- is her name Keturah?

6 A. Yes.

7 Q. -- to Keturah in Brooklyn, New York?

8 A. Every week.

9 Q. Every week from January 2004 until --

10 A. August 5, 2004.

11 Q. August 2004. Okay.

12 You were supposed to send copies of your voter
13 registration cards to them?

14 A. Yes.

15 Q. How did the copying process take place?

16 A. In the beginning we had a copy machine in the
17 office, and the copy machine hardly worked from time to
18 time, it was running out of toner. So in June, I do
19 believe, they came up with an account at Kinkos. And we
20 were instructed to take the cards down to Kinkos on
21 Tuesdays and Thursdays.

22 Q. June 2004?

23 A. Yes.

24 Q. Who else -- I'm trying to think -- was there
25 anyone else in January 2004 -- just because I want to go

1 chronologically or else it will be very confusing -- who
2 held your position, the same position as you?

3 A. Community organizer?

4 Q. With regard to the voter registration project.

5 A. No. I was the sole director.

6 Q. And you reported to whom?

7 A. Eric Thompson.

8 Q. Did you report to anyone else?

9 A. No.

10 Q. Who specifically, because I understand you said
11 it was common knowledge, but who specifically in the
12 organization knew that cards were being copied and sent
13 to Project Vote in Brooklyn and also that the e-mails
14 that you said you were sending to Keturah were being
15 sent?

16 A. Everyone.

17 MR. PANCIER: I'm going to object to form.

18 You can answer.

19 THE WITNESS: Everyone. This goes on
20 through the whole nation, all 33 offices.

21 BY MS. DAKER:

22 Q. I understand you don't know everyone
23 nationally, but names of people in the Miami Acorn office
24 or Florida Acorn who knew that you were sending copies of
25 cards to Brooklyn, New York.

1 A. Elizabeth Anderdas.

2 Q. Could you spell her last name?

3 A. A-n-d-e-r-d-a-s.

4 Q. What is her position?

5 A. She is now the lead director for the Hialeah
6 office for Acorn.

7 Q. What was her position at that time?

8 A. Community organizer.

9 Q. So she held the parallel position to you, but
10 in a different office?

11 A. No. We were all community organizers. You had
12 maybe six organizers at the time. You had a gentleman
13 named Willie Tiller, he is no longer employed. A
14 gentleman named Wayne, I forgot his last name. Who else?
15 It was myself, Sonya. I forgot Sonya's last name, also.
16 And you had Cherry Johnson.

17 Q. Now, with regard to you said -- and I don't
18 remember exactly what you said, correct me if I'm wrong,
19 but you said that you were told that you could pay people
20 or to pay people, you were instructed to pay people
21 between \$1.50 and \$2 per card?

22 A. Yes.

23 Q. Who instructed you to do that?

24 A. My supervisor, Eric Thompson.

25 Q. And this was when?

1 A. When I first started in January of 2004.

2 Q. Did you tell anyone that Eric Thompson had told
3 you to pay people who were doing voter registration work
4 \$2 per voter registration card?

5 A. No, I didn't feel a need to.

6 Q. Why was that?

7 A. I thought it was part of my job description.

8 Q. At that point had you had any training
9 regarding registering people to vote or regarding Florida
10 law on voter registration?

11 A. As far as Florida law, no, I didn't have any
12 knowledge on that. But on the training, I was a team
13 leader during the petition process and I was registering
14 more people than anyone else.

15 Q. So did you have training on doing voter
16 registration or you're saying that you were the one who
17 was doing it so no one there would have been qualified to
18 train you?

19 MR. PANCIER: Object to the form.

20 You can answer.

21 THE WITNESS: We were all instructed on how
22 to register people to vote from the beginning
23 when we started as petition gatherers. So
24 basically I became a supervisor. My job was to
25 hire individuals, send them out and train them

1 the way they trained me.

2 BY MS. DAKER:

3 Q. So at that point in January 2004 were you
4 actually going out doing voter registration or were you
5 just supervising people who were doing voter
6 registration?

7 A. I was doing coalition building. I was
8 basically finding sites for my people to go to. And I
9 built a reputation with the Board of Elections. We would
10 go out to schools, training schools and the Board of
11 Elections would come out with the machines, with the --
12 what's it called -- the voting machines. While we
13 registered people to vote there, they would instruct
14 people to show them how to work the new machines. So we
15 worked hand in hand.

16 Q. But with regard to what you were doing as a
17 supervisor, were you actually sitting down and having
18 people fill out voter registration cards or were you
19 supervising people who did that?

20 A. I would go out at times, also.

21 Q. Was there, at that point, when you were hired
22 in January of 2004, a written description of your job, a
23 written job description?

24 A. No.

25 Q. From January 2004 to August 2004 have you ever

1 seen a written job description for the position you held?

2 A. No.

3 Q. Now, back to the training issue, I understand
4 that training was on the job, so you were trained from
5 the beginning, you know, alongside people who were
6 actually doing the work you were going to do. But were
7 there any official trainings?

8 A. In February there was. I went to Missouri.

9 Q. What was that training on?

10 A. Voter registration.

11 Q. Who conducted the training?

12 A. Jessica Angus.

13 Q. What is Jessica's position?

14 A. She is the national director.

15 Q. Of?

16 A. Project Vote, I think.

17 Q. Did you get any written materials at that
18 training?

19 A. Yes, we did.

20 Q. What did those written materials encompass?

21 A. They had a speech on how to encourage people to
22 vote, did they want to see changes in their community,
23 et cetera. It was a bunch of paperwork, probably wasn't
24 worth the paper it was printed on.

25 Basically they went out there to pick my brain

1 because every week we report the numbers nationwide and
2 Miami had the best numbers and everyone wanted to know
3 how it was I was doing it.

4 Q. During that training did they discuss, you
5 know, issues of fraud or fraud prevention or quality
6 control?

7 A. Yes, they did.

8 Q. What was that at the February training on those
9 issues?

10 A. The issues on fraud training was basically the
11 same thing I was doing as a team leader. I would come in
12 at night and I call 10 percent of your batch. Let's say
13 you turn in 30 cards. I would check 10 percent of that.
14 I just randomly picked maybe five to 10 cards. And if
15 they verified, that was it.

16 Q. So you did the quality control function for a
17 while?

18 A. Yes. And then they hired other individuals.

19 Q. When did they hire the other individuals?

20 A. As the project got bigger.

21 Q. Now, back in January 2004, the project you were
22 working on where you were reporting to Eric Thompson was
23 the only voter registration project being run in Miami at
24 that time?

25 A. Yes.

1 Q. And at some time there came to be another voter
2 registration project?

3 A. Project Vote stepped in sometime in June after
4 the minimum wage campaign had ended.

5 Q. June 2004?

6 A. Yes.

7 Q. And what do you mean, they stepped in?

8 A. They stepped in. They stopped all community
9 organizing and they basically forced me to be the
10 director for Project Vote and do things their way under
11 their structure. It was either that or I was out of a
12 job.

13 Q. And this -- do you have a more specific date
14 besides June of 2004?

15 A. They came back from the rally in California
16 sometime around June 25, 2004.

17 Q. So at that time your position changed?

18 A. No. I still held the position as director, but
19 now Project Vote was signing my checks.

20 Q. Who were you reporting to at that time?

21 A. Then I started reporting to Frank Houston.

22 Q. Previous to that you had been reporting to Eric
23 Thompson from January 2004 until June 2004?

24 A. That's correct.

25 Q. What were your responsibilities at that time?

1 A. In June?

2 Q. Right.

3 A. Same thing. Only the pay structure had
4 changed.

5 Q. How did the pay structure change?

6 A. We were instructed to pay per day, which came
7 out to like \$35 a day on your first week and then moved
8 on up after the second week. And by like the third week
9 you were allowed to become a team leader and you were
10 able to go as high as maybe \$50 a day.

11 Q. So what was the pay structure previous to that?

12 A. Per card.

13 Q. And Frank Houston, can you just describe how
14 you came into this new position or how you were told
15 about it?

16 A. I was basically -- they just came in and took
17 over. Brian Kettenring came down after the minimum wage
18 campaign had ended, and they wanted to put more emphasis
19 on the voter registration project. So they brought four
20 other directors down. So we had five directors at one
21 time and everybody was in charge of hiring their own
22 staff.

23 Basically we were supposed to attack Miami. We
24 had a goal of 103,000 people to register.

25 Q. When you say directors, directors of voter

1 registration?

2 A. Yes.

3 Q. So it was a big expansion of the voter
4 registration program?

5 A. Yes.

6 Q. Who were the other four directors of voter
7 registration?

8 A. Charles Wilcher; James Stewart -- no relation.
9 What's that guy's name -- there was another gentleman,
10 Hispanic guy, I don't remember his name offhand. Cherry
11 Johnson and myself. Edwin Torres, that's his name.

12 Q. Did Frank Houston sit you guys down together or
13 separately to discuss, We're changing the pay structure,
14 this is how things are going to work from now on?

15 A. Yes. We had a training seminar in Orlando.

16 Q. When was that training seminar?

17 A. Last week of June.

18 Q. And you attended the entirety of that training
19 seminar?

20 A. Yes. Yes, I did.

21 Q. At that training seminar what was discussed?

22 A. Basically the same thing that was told to me in
23 Missouri, only it was different now with the pay
24 structure, how it was going to change. Everyone had a
25 quota now. You had to bring in a minimum of 20 cards per

1 day. If not, they would give you like three days. If
2 you couldn't meet your quota, they'd let you go. We were
3 instructed to let individuals go.

4 Q. So people who couldn't bring in 20 cards per
5 day would be terminated?

6 A. That's correct.

7 Q. And the pay structure was going to change to a
8 shift pay structure?

9 A. Yes, exactly, a shift.

10 Q. That depended -- I'm just trying to recap what
11 you've said so far to make sure I have it. And the shift
12 pay, the amount of shift pay changed, presumably, as --
13 you know, the longer you were there, you got paid more?

14 A. That's correct.

15 Q. What was range again of the different shift
16 pays?

17 A. It started at \$38 a day, went up to 45 after a
18 second week. And then when you became a team leader, it
19 came up to, I believe, almost \$55 a day.

20 Q. Who was responsible for determining what that
21 pay would be?

22 A. All the directors. We would have -- well, I
23 had on the computer, you have your employees and every
24 day we had to e-mail the numbers in. Everyone's
25 individual numbers would be placed next to their name:

1 How many people they registered, how many had phone
2 numbers, how many had e-mails and so on and so on. And
3 from there at the end of the week they would show a tally
4 of what each individual did.

5 Q. So as a director you were responsible for
6 payroll for the people who worked for you?

7 A. Yes.

8 Q. Starting in June -- what was the date again
9 that you started?

10 A. June 25.

11 Q. Starting June 25, 2004, between June 25, 2004
12 and the time you left Acorn, who were the people who
13 worked for you doing voter registration?

14 A. I had a hundred employees.

15 Q. Is that a hundred employees at one time or over
16 the period of time?

17 A. At one time. In the end they gave me an
18 administrative director when they brought Meryl Ibis down
19 from Jacksonville, and my job was to take over the whole
20 payroll procedure, make sure everyone got paid.

21 Q. When did that start?

22 A. That came sometime in July, middle of July.

23 Q. Did you have anyone assisting you in performing
24 the payroll duties?

25 A. Yes. I had an assistant director named David

1 Jackson.

2 Q. When did David Jackson become an assistant
3 director?

4 A. I hired David Jackson, I think, in March. He
5 was my assistant director during the time I was working
6 for Eric Thompson and he transferred over with me.

7 Q. What were David's responsibilities while he
8 worked for you as assistant director?

9 A. Basically the same thing: Cash everyone out at
10 the end of the day if I wasn't in the office. He did a
11 lot of hiring for me because I was always out in the
12 street doing coalition building. Running to the Board of
13 Elections, dropping off cards, picking up cards.

14 Q. And he held that position until what date?

15 A. He's still employed.

16 Q. Okay. By Acorn?

17 A. Yes.

18 Q. Did he report to anyone else?

19 A. Eric Thompson.

20 Q. And then after you started working for Frank
21 Houston he began reporting to Frank Houston?

22 A. We all did. Frank Houston and we had a
23 regional director named Patrick Winogrand.

24 Q. When did Patrick assume that position?

25 A. Sometime in July they gave us a chain of

1 command.

2 Q. Starting in July what was that chain of
3 command?

4 A. Patrick Winogrand was our regional director.
5 If you couldn't get in touch with Patrick, then you went
6 over to Frank Houston. Then if you couldn't get in touch
7 with Frank Houston, then you had Brian Kettenring.

8 Q. Prior to July what was the chain of command, to
9 use your term?

10 A. Eric Thompson.

11 Q. That's it?

12 A. That's it.

13 Q. And Eric's position at that point was?

14 A. Head organizer for Miami Acorn.

15 Q. And let me ask you this. Do you know who Eric
16 Thompson reported to?

17 A. He reported to, I do believe, CCI, Citizens
18 Consulting Incorporated.

19 Q. Do you know the name of a person there who he
20 reported to?

21 A. No. I do, I just don't remember it offhand.
22 It's like the big president of Acorn. All the head
23 organizers -- every office has a head organizer and they
24 go to New Orleans maybe three times a year. And that's
25 where they get their instructions, what actions they're

1 supposed to take, what rallies and so on.

2 Q. At the Orlando training, you said it was
3 similar to the training you had attended with Jessica
4 Angus. Did they discuss issues about fraud there?

5 A. Same procedure.

6 Q. And for fraud checking?

7 A. Yes.

8 Q. And by that I mean doing a random selection of
9 cards every day?

10 A. Yes.

11 Q. Calling the people and making sure the
12 information is accurate and, correct?

13 A. That's correct.

14 Q. And all of those things you described earlier.

15 But did they discuss anything regarding the
16 laws in Florida, for example, related to registering
17 people to vote?

18 A. Never.

19 Q. So in your time at Acorn, because I think we've
20 covered now the whole time, during your time at Acorn,
21 you never had a training regarding Florida laws related
22 to voter registration?

23 A. No.

24 Q. And you've never received any materials,
25 written materials related to Florida voter registration

1 laws?

2 A. No.

3 Q. From Acorn, I'm sorry.

4 A. No.

5 Q. And that information or information regarding
6 Florida laws related to voter registration was never
7 communicated to you orally by anyone?

8 A. On June 27 it was by the Board of Elections.

9 Q. Well, since you brought that up, what happened
10 on June 27?

11 A. I went in to turn in my cards, as I usually do,
12 once a week. And from my understanding you're only
13 allowed to hold a card 10 days before it has to be
14 processed. The cards were 20 days late because we had
15 just started the Kinkos procedure.

16 And as I went to turn it in, Ms. Kaye Johnson,
17 she's one of the supervisors at the Dade County Board of
18 Elections, she asked me why are these cards so late. And
19 explained the procedure that they were going to Kinkos to
20 be copied. And that's when I was informed that the
21 copying of voter registration cards in the State of
22 Florida is against the law.

23 Q. So Kaye Johnson told you that on June 27?

24 A. In the presence of David Jackson, who
25 accompanied me.

1 Q. Let me just back up one second. You said your
2 understanding was you couldn't hold cards for more than
3 10 days. Where did you get that understanding from?

4 A. That we were instructed to do so with Acorn.

5 Q. Who at Acorn told you that?

6 A. I think Jessica Angus, Rene Ruiz. It was
7 common, you know, our job was to get them in and out.

8 Q. Now, following up on that, what did you do
9 after Kaye Johnson told you -- what exactly did she tell
10 you?

11 A. That copying voter registration cards is
12 against the law. That we were breaking the law.

13 Q. What did you do after Kaye Johnson told you
14 this?

15 A. I think I broke every speed limit getting back
16 to the office.

17 Q. Okay.

18 A. And I followed my chain of command. I called
19 Patrick, who wasn't available.

20 Q. Did you speak to Patrick or you left him a
21 message?

22 A. I left him a message. Then I called Frank. He
23 also wasn't available. Brian Kettenring was in the
24 office.

25 Q. Did you speak to Frank, you left him a

1 voicemail?

2 A. I left him a voicemail, also.

3 Q. Then you tried Brian Kettenring, who was in the
4 office?

5 A. That's correct.

6 Q. And what happened when you saw Brian
7 Kettenring?

8 A. I explained --

9 MR. PANCIER: Saw or spoke?

10 MS. DAKER: I said "saw."

11 THE WITNESS: I explained the situation that
12 just transpired at the Board of Elections. And
13 he told me, Don't worry about it, being that they
14 were a political organization, they were exempt.
15 He threw some 501 something at me. It just went
16 over my head. But it still didn't sit well with
17 me.

18 As a matter of fact, that same evening we
19 had another training in Orlando on June 27, the
20 same day this transpired. I drove all the way up
21 to Orlando. We were in Orlando three days,
22 Friday, Saturday and Sunday. And during those
23 three days I brought it up to Frank Houston and
24 everyone present from around the country who were
25 directors also.

1 BY MS. DAKER:

2 Q. What was Frank Houston's response?

3 A. He told me if I had a problem turning in cards
4 to the Board of Elections, to have one of my employees do
5 so.

6 Q. What was the problem he thought you had turning
7 in cards?

8 A. That I mentioned what we were doing was
9 illegal. And I told him I refused to drop off cards
10 anymore because I was the one that had to sign for them.

11 Q. I'm sorry. I misunderstood you. When you said
12 he said if you have a problem, he meant if you don't want
13 to or you don't agree with it?

14 A. That's correct.

15 Q. So what specifically did you tell Frank
16 Houston?

17 A. Everything that was told to me by the Board of
18 Elections.

19 Q. Did you specifically tell Frank Houston you did
20 not want to turn in or you did not want to turn in cards,
21 or what exactly did you tell him, I guess?

22 A. I told Frank Houston what was transpiring was
23 illegal. He had four other directors in the office, and
24 I'm the only one running down to the Board of Elections
25 to turn these cards in. Everyone would give me their

1 cards at the end of the week.

2 Q. So what portion of it did you tell Frank
3 Houston you thought was illegal?

4 A. Everything that was explained to me; that once
5 a voter registration card is signed, it's against the law
6 for you to copy that information.

7 Q. So, I guess, not to belabor the point, but I'm
8 trying to get, at the heart of your concern was the
9 copying of the cards?

10 A. The heart of my concern was as a director, any
11 fraud that came up under my name when I signed, I was
12 responsible for. My fraud-checking system was
13 meticulous. When my staff went over it, I went over it
14 again. During the nine months I worked there, I never
15 had one fraudulent card. Kaye Johnson will verify this.
16 Yet you had other organizations in Dade County that were
17 being shut down in Dade County for fraud.

18 When I found this all out -- like I said, I was
19 the one signing off on this in the end.

20 Q. Because you were turning them in to the Board
21 of Elections?

22 A. Yes. And I would have to have the exact count
23 on how many cards I was turning in at the time, and I
24 would have sign off to the Board of Elections. If
25 anything came up wrong, it was on me.

1 Q. So Frank Houston, what was Frank Houston's
2 response again?

3 A. He said if I had a problem submitting the cards
4 to the Board of Elections, have one of my street-level
5 employees drop them off at the satellite office in
6 downtown Miami.

7 Q. Did Frank Houston at that point convey to you
8 or tell you the same thing that Brian Kettenring had told
9 you regarding some sort of an exemption?

10 A. Yes, he did.

11 Q. What specifically did he tell you?

12 A. Basically he was like they were exempt because
13 they were nonpartisan/nonprofit and something again about
14 a 501 corporation that I still to the day, I can't find
15 out what was going on. But I knew it just didn't sink
16 well with me.

17 Q. So then what happened after that?

18 A. What bothered Frank Houston was the fact that
19 over the three days I pestered him on this issue. And as
20 directors, you know, we all stay in the same motel and
21 everything and basically everyone was inquiring what was
22 going on, because everyone else was in the blind. And I
23 explained to all the other directors nationwide what was
24 transpiring.

25 Q. What other directors were present at this

1 meeting or training?

2 A. Anyone who was anyone. A lot of people I just
3 don't remember anymore. There was a girl named Amy from
4 Jacksonville, a guy named Ben from Tampa. These were
5 guys that I would see like every three months, whenever
6 we were in Orlando.

7 Q. Was it a national or was it a state training?

8 A. It was a national training.

9 Q. What about people from -- national people from
10 Acorn, Acorn's national offices? I guess I'm talking
11 about supervisors or people in supervisory positions to
12 Frank Houston or Brian Kettenring.

13 A. Well, my understanding after Brian Kettenring,
14 that was it. That was as far as we were allowed to go.

15 Q. Was Brian Kettenring at that training?

16 A. No.

17 Q. Winogrand?

18 A. Patrick was, Frank Houston was.

19 Q. Was Jessica Angus there?

20 A. No. Jessica Angus is national so she's always
21 here and there, but she calls the shots basically.

22 Q. She calls the shots with regard to what?

23 A. The Project Vote aspect and anything else that
24 has to deal with raising money and campaigns and
25 everything for Acorn.

1 Q. When you say the Project Vote aspect, you mean
2 the voter registration aspect --

3 A. Yes.

4 Q. -- of Acorn's operations.

5 Now, you said that Frank Houston was bothered,
6 troubled by the fact that you were discussing this, what
7 transpired at the Board of Elections office with other
8 directors in Orlando. How do you know this?

9 A. He basically told me. He said, I'm stirring up
10 a lot, I'm causing a lot of confusion because on Sunday
11 before we left going back to Miami and everyone was going
12 back to their respective offices, I brought it up in
13 front of everyone again: Frank, what are we going to do
14 about Miami?

15 And Frank just gave me a look and he said,
16 We'll take care of it.

17 Q. What happened after the training?

18 A. I was suspended the next day for
19 insubordination on Monday morning.

20 Q. Do you know what the date was?

21 A. August 2.

22 Q. August 2 you were suspended for
23 insubordination. How was that communicated to you?

24 A. Patrick Winograd called me over the phone
25 from, I think, Orlando somewhere. I was on my way again

1 to Kinkos that day. And I was on route to Kinkos, he
2 called me. I had a company van. And he said, Mac, stop
3 whatever you're doing and just turn the van in and go
4 home for a few days.

5 And I asked him why.

6 And he was telling me about the
7 insubordination. And then he said, Let things cool off
8 for a few days.

9 And I was on route to Kinkos. He said, Don't
10 even go to Kinkos. They had sent someone else en route
11 already to pick up the cards before, prior to me --

12 Q. He called you on your cellphone?

13 A. Yes.

14 Q. What was the insubordination -- what was the
15 insubordination that Patrick Winogrand said was the basis
16 of your suspension?

17 A. I talked back to Frank and I told him what I
18 didn't like.

19 Q. You said you were on your way to Kinko's. Why
20 did you decide to go to the Kinko's to pick up the cards
21 if you disagreed with the doing that or you thought that
22 was a violation?

23 A. It was my job. It was my job. I was still
24 employed. I went back Monday morning, same procedure,
25 like nothing happened. I say, Fine. I had to job to do.

1 Q. Now, after this conversation with Patrick
2 Winograd where he said you were suspended for four days,
3 what happened?

4 A. I turned around, I dropped off the van and I
5 went home.

6 Q. At some point you were terminated?

7 A. On Thursday, August 5.

8 Q. And how were you terminated?

9 A. Over the phone again. I was at home that
10 morning -- no, let me rephrase that.

11 On August 3, I do believe, I drew up my own
12 notice of intent and I took it to Brian Kettenring. And
13 I explained everything. I showed him my notice of
14 intent, how I was going to file suit because I didn't
15 feel what they did to me was right. I had no business
16 being suspended for speaking my mind on something that I
17 felt -- that I knew wasn't right.

18 Q. And your notice of intent, do you have a copy
19 of it?

20 A. I do believe they have a copy.

21 MS. DAKER: Was that produced to us?

22 MR. PANCIER: I'm not sure.

23 BY MS. DAKER:

24 Q. What did your notice of intent say?

25 A. How everything that was going on -- how I was

1 told that copying voter registration cards is illegal and
2 how I was wrongfully terminated, how I was suspended for
3 no apparent reason, for voicing my opinion.

4 Q. So the notice of intent was an intent to file
5 the suit that you have filed that we're here taking the
6 deposition in?

7 A. No. That came afterwards.

8 Q. So what else was encompassed in the notice of
9 intent?

10 A. If I'm correct, how they were paying \$4.10 per
11 card and how copying voter registration cards in the
12 State of Florida was illegal, how they were transferring
13 grant money.

14 Q. So you showed this to Brian Kettenring and what
15 was his response?

16 A. Nothing. I gave him a courtesy copy and he
17 laughed. No sooner than I was out the door, I could
18 actually hear him on the phone trying to get Acorn's
19 legal counsel.

20 Q. What day was this?

21 A. August 3.

22 Q. Then did you have any other communications with
23 any of your supervisors at Acorn between August 3 and
24 August 5?

25 A. Eric Thompson called me on August 4.

1 Q. At that point he was not your supervisor
2 officially?

3 A. No, but he was my friend.

4 Q. What transpired in that conversation?

5 A. He told me about --

6 MR. PANCIER: Let me just object to that.
7 I think at this point you are getting beyond the
8 scope of the deposition as far as --

9 MS. DAKER: That's fair.

10 BY MS. DAKER:

11 Q. So your next contact with a supervisor at Acorn
12 was when?

13 A. Was August 5.

14 Q. What happened on August 5?

15 A. I was terminated over the phone. And I wasn't
16 given a hearing. That's according to the bylaws of
17 Acorn, because Eric Thompson did provide me with that.
18 He told me I'm entitled to an arbitrary hearing.

19 Q. And you were terminated by whom?

20 A. Per Frank Houston through Patrick Winograd.

21 Q. What did Patrick Winograd tell you the basis
22 of your termination was?

23 A. Insubordination and improper payroll procedure.

24 Q. And what specifically, if he told you, what was
25 the improper payroll procedure?

1 A. He claimed that I was paying people on their
2 first day observation, I was paying them on their first
3 day. Acorn has a policy that on your first day they
4 don't pay you.

5 But on that same Sunday, as a matter of fact, I
6 brought that issue up to Frank and he said, You can pay
7 someone on the first day, the observation day, if they
8 meet the quota like everyone else.

9 Q. So this was at the Orlando training?

10 A. That's correct.

11 Q. And just so I'm clear, what were the dates of
12 the last Orlando training you attended?

13 A. 28th, 29th and 30th of July 2004.

14 Q. Just to be clear, you attended two trainings in
15 Orlando throughout the time you were employed at Acorn?

16 A. Two trainings in Orlando and one in Missouri.

17 Q. When was the earlier Orlando training?

18 A. Sometime in June.

19 Q. 2004?

20 A. Yes.

21 Q. Both of those were conducted by Frank Houston?

22 A. The first one in Orlando was conducted by
23 Jessica Angus. Frank Houston was present. And the
24 second one was conducted by Frank. We were working on
25 GOTV, on the Get-Out-The-Vote Campaign.

1 Q. And when Patrick called you on August 5 to tell
2 you you had been terminated, what was your response?

3 A. Nothing. I hung up. I asked him -- as a
4 matter of fact, I asked him for written documents as far
5 as my termination.

6 Q. And what was his response?

7 A. He said, We'll e-mail you a copy.

8 Q. Did he give you any other basis for your
9 termination?

10 A. No.

11 Q. Prior that date, August 5, had anyone spoken
12 with you about the propriety of your payroll procedures?

13 A. No.

14 Q. All right. Now, what I want to do is just go
15 through some of -- to the extent that we haven't already,
16 some of the specific allegations in your complaint.
17 Okay? So I actually have -- I brought extra copies just
18 because I figured that would be easier than passing
19 everything around the table.

20 On page 6 in paragraph 21 where the complaint
21 states, "On or about July 27, 2004, plaintiff objected to
22 and refused to participate in defendant's conduct, which
23 was in violation of law, rule and/or regulation."

24 I just want to clarify. What specific conduct
25 are you referring to in paragraph 21?

1 A. It was actually July 30, that was the voter
2 registration cards.

3 Q. The copying of the voter registration cards as
4 we discussed earlier?

5 A. Yes.

6 Q. We don't have to go into the whole thing again,
7 I just wanted to clarify.

8 A. That's correct.

9 Q. Is this in reference to any other conduct?

10 A. No.

11 Q. Besides the activity you described earlier
12 regarding the copying of the cards, did anyone at Acorn
13 ever ask you to participate in any other conduct that you
14 felt was unlawful or illegal?

15 A. Such as?

16 Q. I'm just asking because -- I'm asking if they
17 ever asked you, in your mind, to participate in any
18 conduct that you thought was unlawful or illegal.

19 A. No. I was employed for nine months. I gave
20 this company my blood, sweat and tears. I worked
21 60 hours a week. I worked seven days a week sometimes.
22 I was all into this. And this here, when I found out on
23 July 27 through the Board of Elections, it was a
24 throwback, because the whole time I was a scapegoat. It
25 was like everyone over me knew what was going on.

1 Basically I was just a paper director. That was it, I
2 was a director on paper and that was all.

3 Q. What do you mean by that?

4 A. I had no actual power. I mean, sure, I could
5 hire and I could fire, and that's about it. But as far
6 as judgment calls on anything, forget it. I had no say
7 so. And that's when I realized I was just being used the
8 whole time.

9 Q. I just want to clarify that paragraph 21 is in
10 regards to copying the cards.

11 A. That's correct.

12 Q. Now, in paragraph 13 on page 4, your complaint
13 states, "Acorn paid \$2 for each completed registration
14 card. The remuneration Acorn paid to its petitioners was
15 based upon the number of voters each was able to obtain."

16 When did -- and just to be clear, and I know
17 we've discussed this a little bit so we don't have to
18 rehash everything, but what was the period of time during
19 which Acorn paid people \$2 per card for a voter
20 registration?

21 A. From January 2004 to June 2004.

22 Q. Now, who, if you know, was paid \$2 per card
23 during that period of time?

24 A. I paid about 20 employees during that time.

25 Q. Do you know their names?

1 A. I have all the files at home. There's one guy
2 named Samuel Louissaint. He was like my best worker. He
3 was making like \$1,200 every two weeks.

4 Q. I have a list of names, actually. It's pretty
5 lengthy, but I would like to go through it, just so we
6 can check people out.

7 So you have Samuel Louissaint, who's on here?

8 A. Yes. Frenel Bazard.

9 Q. Got him.

10 A. You can call some names off.

11 Q. Kenny?

12 A. Alce, yes.

13 Q. Yesenia?

14 A. Alipizar, yes.

15 Q. Paul Altenberg?

16 A. Yes.

17 Q. When you say yes, you mean yes, they were paid
18 \$2 per card at some point in time?

19 A. Yes.

20 Q. Between January 2004 and June 2004?

21 A. And June.

22 Q. Tashana Arnold?

23 A. I think she only worked like a week and then
24 she committed fraud. She didn't even get paid.

25 Q. What do you mean she committed fraud?

1 A. She went home one day and just went in the
2 phone book on me.

3 Q. When you say that, what do you mean?

4 A. They actually go in the phone book and just
5 start writing names down.

6 Q. On voter registration cards?

7 A. Yes. And make up dates of birth and the last
8 four digits of Social Securities.

9 Q. Who discovered that fraud?

10 A. My quality control.

11 Q. Who was that at that time?

12 A. Shenita Gilbert.

13 Q. Were any of these cards that were the result of
14 Tashana Arnold's fraud ever turned in to --

15 A. No.

16 Q. -- the Board of Elections in Miami?

17 A. No. I didn't feel the need for them to be
18 prosecuted.

19 Q. Now, Michael Auguste?

20 A. Michael --

21 Q. A-u-g-u-s-t-e.

22 A. I don't remember. I don't remember him. No, I
23 don't think so.

24 Q. Adriana Boldan?

25 A. I think so.

1 Q. Tarsha Bowles?

2 A. Yes.

3 Q. Cedric Colbert?

4 A. Yes.

5 Q. Felix DeLeon?

6 A. Felix DeLeon worked one day, never came back.

7 Q. Was he paid or no?

8 A. No.

9 Q. He wasn't paid or he didn't pick up his
10 paycheck?

11 A. Yes, never picked up his check.

12 Q. Lanice Dogan?

13 A. She worked two days. She was a girlfriend to
14 Michael Hutchinson. You'll find his name in there
15 somewhere.

16 Q. Okay. And was she paid or no?

17 A. She got paid. I gave him her check. She told
18 me it was okay, they were boyfriend/girlfriend living
19 together. And he never paid her.

20 Q. Okay. And how do you know that?

21 A. She called me.

22 Q. But her paycheck, was it for \$2 per card?

23 A. Yes.

24 Q. She called you and said she never got paid.
25 Was that issue resolved?

1 A. Yes. Eventually I paid her out of my own
2 pocket.

3 Q. Maria Dubon, D-u-b-o-n?

4 A. Maria Dubon, no. She was the office manager.

5 Q. Rosa Fernandez?

6 A. Rosa Fernandez, I don't think worked out. She
7 was like very minimal. She was during that time frame,
8 also, though. I don't think I kept her long.

9 Q. So was she paid per card or you don't know?

10 A. Yes, if I'm correct.

11 Q. Delkeisha Gavins?

12 A. Yes.

13 Q. Paul Hamilton?

14 A. Paul Hamilton, yes. He was one of my best
15 workers.

16 Q. Sheila Hollings?

17 A. Hollings, yes.

18 Q. Ebony Holmes?

19 A. I don't remember.

20 Q. Ebony Hughes?

21 A. Yes.

22 Q. Michael Hutchinson?

23 A. Yes.

24 Q. Alton Johnson?

25 A. Yes.

1 Q. Cassandra Johnson?

2 A. I don't remember her.

3 Q. Carrie Jones?

4 A. No.

5 Q. What was Carrie's position?

6 A. I think he came after, after the \$2 per card
7 started.

8 Q. After --

9 A. In June.

10 Q. So after June 25 or whenever?

11 A. He was working for per shift.

12 Q. Nikki Jones?

13 A. I can't remember. I don't remember.

14 Q. Christina LaRochelle?

15 A. Yes.

16 Q. Shawnte Lee?

17 A. Shawnte Lee only worked -- she was actually --
18 she was a team leader, also. She left very early. She
19 left like in December. She was an aspiring actress doing
20 commercials.

21 Q. So no?

22 A. No. She didn't work for me.

23 Q. Luis Llanes?

24 A. Luis Llanes, yes.

25 Q. Deborah Louis?

1 A. Yes.

2 Q. You already said Samuel Louissaint?

3 A. Yes.

4 Q. Odalys Machia?

5 A. I don't remember.

6 Q. You don't remember the person or you don't
7 remember how they were paid?

8 A. I don't remember the person.

9 Q. Elisha Mack?

10 A. I think she only worked like two days.

11 Q. Was she paid per card?

12 A. I think she turned in a bunch of fraud.

13 Q. Rontivious Mack?

14 A. Yes.

15 Q. Are they related?

16 A. Yes, they are. They're cousins.

17 Q. Boyd Monsanto?

18 A. Yes.

19 Q. Phillip Owi?

20 A. Mr. Owi, he works for the University of Miami.
21 He's a college professor. He was basically on the
22 minimum wage petitioner. He was trying to become a
23 community organizer. I had him on staff, but he never
24 turned cards in.

25 Q. Acela?

1 A. Paaron.

2 Q. Right.

3 A. Yes.

4 Q. Frantz Philippe?

5 A. I don't remember.

6 Q. You don't remember the person or --

7 A. No, I don't remember the individual.

8 Q. Pedro Quintero?

9 A. Yes.

10 Q. Christina Palacios?

11 A. Yes.

12 Q. Angel Perez?

13 A. Yes.

14 Q. Anthony Preston?

15 A. Yes.

16 Q. Reynald Remy?

17 A. I don't remember the individual.

18 Q. Lorena Rodriguez?

19 A. I don't remember her, either.

20 Q. Melissa Royo?

21 A. Yes.

22 Q. Paula Salazar?

23 A. Yes.

24 Q. Patricia Saunders?

25 A. Ms. Saunders worked two days, also, I think, or

1 one day. She didn't cut it.

2 Q. So was she paid or not?

3 A. I do believe she was paid for like maybe
4 20 cards, \$40 she got.

5 Q. So she was paid per card, but she only worked
6 for a short period of time?

7 A. Yes.

8 Q. Joanne Seymour?

9 A. Ms. Seymour. Ms. Seymour. The name sounds
10 familiar.

11 Q. Tacora Slaton?

12 A. Yes.

13 Q. Sonya Starks?

14 A. I don't remember.

15 Q. Karolyn Stuart?

16 A. No.

17 Q. Karolyn Stuart is related to you?

18 A. Yes. That's my sister. She was on the minimum
19 wage petition. I tried to bring her onto the voter
20 registration project, but they took her on as a community
21 organizer. She's also working -- she's still employed
22 with Acorn.

23 Q. As a community organizer?

24 A. In Hialeah.

25 Q. So she never did voter registration?

1 A. No.

2 Q. And then Richie Stuart?

3 A. My brother.

4 Q. Was he paid per card?

5 A. No. He was my assistant director.

6 Q. So he did not do direct voter registration?

7 A. No.

8 Q. Lizett Virella?

9 A. Yes.

10 Q. Martha Zuluaga?

11 A. Yes.

12 Q. And what about Princess Tucker?

13 A. Princess Tucker, I think she was working
14 between two different organizations. She was working for
15 us and someone else at the same time.

16 Q. Some other unrelated organization?

17 A. Yes. Doing the same thing, also.

18 Q. Doing voter registration?

19 A. Yes.

20 Q. So did she work for you, though?

21 A. She worked for me for a little while, yes.

22 Q. Was she paid per card?

23 A. Yes, she was.

24 Q. Were you her supervisor -- during what periods
25 of time were you her supervisor?

1 A. I think maybe three weeks.

2 Q. When?

3 A. Sometime maybe in May or June. I think she
4 filed suit, also.

5 Q. Now, did she continue to work for Acorn after
6 you were supervising her?

7 A. No.

8 Q. Do you know why she left Acorn?

9 A. If I'm -- it was a payroll problem.

10 Q. Was she terminated or she voluntarily left?

11 A. She voluntarily left.

12 Q. Now, you had said something earlier, it's on
13 the payment per card issue. You had indicated that
14 people were getting paid \$4.10 per card?

15 A. No.

16 Q. Can you explain that statement.

17 A. America's Families United was paying Project
18 Vote \$4.10 per card. The pay went up per card in June
19 just in the State of Florida only. Everyone else around
20 the nation was getting 3.75. But this was a swing state,
21 so they wanted to put more emphasis on getting the voters
22 out in Florida.

23 Q. When you say everyone else was getting paid
24 3.75, do you mean every other Acorn office?

25 A. Throughout the nation.

1 Q. And when you say they were getting paid 3.75,
2 who was that by?

3 A. The same funders, I do believe.

4 Q. And when did this start?

5 A. In June. There was an e-mail submitted by
6 Jessica Angus explaining how the pay scale from 3.75 to
7 4.10 went up and how they wanted more emphasis on
8 registering people to vote.

9 Q. Do you have a copy of that e-mail?

10 A. I think so.

11 THE WITNESS: Do we have a copy of that?

12 MR. PANCIER: I don't know. I'm not sure.

13 THE WITNESS: I'm not sure. I think I did.

14 BY MS. DAKER:

15 Q. So the pay that Acorn was going to receive from
16 this funder, who at this point is, I think, according to
17 your complaint, America's Families United --

18 A. Yes.

19 Q. -- was \$4.10 per card?

20 A. Yes.

21 Q. So that allegation is not that individuals were
22 paid \$4.10 per card, it's that Acorn was paid \$4.10 per
23 card?

24 A. Per copy.

25 Q. Now, related to a couple of the other

1 allegations in your complaint -- on the \$2.10 issue, who
2 did you send your payroll documentation to?

3 A. To a lady named Katrina at CCI, but Eric
4 Thompson had to sign off on the allocation.

5 Q. So prior to June 25, Eric Thompson signed off
6 on your payroll documentation?

7 A. That's correct. That's the only way my staff
8 would get paid.

9 Q. Did he sign off on it in an official manner,
10 did he sign something in writing or did he look at it and
11 orally approve and send it?

12 A. No, he would sign it. He would sign the
13 document, an allocation with all my employees. I would
14 add up my total payroll, and he would sign off on it.

15 Q. After June 25 how did your payroll procedure
16 work?

17 A. Everything went -- all the numbers were daily
18 reported to Frank Houston. And then on Monday morning
19 every other week I would still have to submit it off to
20 CCI. Frank Houston would have the last say so. It would
21 get approved to him. I'd send him a courtesy copy and if
22 he approved it, he would say, Mac, okay, go ahead, and I
23 would send off my payroll.

24 Q. Would he sign something in writing or was it
25 oral?

1 A. I guess it was oral. He would call down and
2 say, Okay, your payroll has been approved. And I would
3 send it off to New Orleans.

4 Q. Was there anyone else at CCI who you ever dealt
5 with besides Katrina?

6 A. Nancy. That's all I know is Nancy.

7 Q. So she is another person -- what was her
8 position, if you know?

9 A. I think she was like over payroll. She was
10 like a problem solver. When people wouldn't get paid or
11 anything like that, we had to go to Nancy to get paid,
12 basically.

13 Q. When you submitted your payroll to Eric and
14 then Frank, what exactly was it that you were submitting
15 to them?

16 A. An allocation.

17 Q. Can you just describe that?

18 A. An allocation was a sheet of paper that we drew
19 up off the computer with all the employees' names and how
20 much they were owed.

21 Q. And was it a spreadsheet or something like
22 that?

23 A. No. An allocation, it says "Allocation Form,
24 Florida Acorn."

25 Q. I'm just going to look. I'll show you. We'll

1 just keep moving on.

2 Now, David Jackson assisted you in drafting
3 your payroll?

4 A. Yes.

5 Q. Did anyone else assist you?

6 A. No.

7 Q. Now, I want to move on to other allegations in
8 the complaint, the withholding of Republican cards.

9 In paragraph 20 on page 5 the complaint states,
10 "Upon information and belief, the conduct of Acorn
11 described above as a pattern and practice which was
12 conducted nationwide, especially its fraudulent
13 withholding of Republican voter registrations and its use
14 of unlawful means to incentivize its petitioners to
15 gather voter registrations."

16 Well, the second piece of that we've already
17 talked about because that's about paying people per card,
18 I think.

19 The first piece is fraudulently withholding
20 Republican voter registration cards. Can you tell me
21 what information you have regarding Acorn withholding
22 Republican registration cards.

23 A. After the minimum wage made the ballot,
24 Amendment 5 --

25 Q. Which was when?

1 A. June -- they just stopped taking -- put it this
2 way. I found in my office in a box put aside over 1,000
3 Republican cards that were never processed.

4 I was then transferred to a satellite office.
5 I was forced out of the Miami office to open up an office
6 in Liberty City.

7 Q. When was this?

8 A. In June.

9 Q. Do you have a specific date or no?

10 A. I don't remember what date in June.

11 Q. Was it before or after the change from Eric
12 Thompson to Frank Houston?

13 A. No, it was after. After. We were told to
14 expand, we were going to open up an office in South Dade,
15 another one in North Miami. And Meryl Ibis came down
16 again from Jacksonville, and she just took over.

17 Q. So you found a box of about a thousand or at
18 least a thousand?

19 A. At least a thousand.

20 Q. -- at least a thousand Republican voter
21 registration cards in your office. At that time did you
22 share an office with anyone?

23 A. Meryl Ibis was taking over my office. I was in
24 the process of coming back and forth, still transferring
25 stuff to the other office.

1 Q. When did you first go out to the Liberty City
2 office?

3 A. Sometime in June.

4 Q. You said you were forced over there. How did
5 that come about?

6 A. They brought down four directors, like I said.
7 And all of them got terminated in the end. None of them
8 worked out. Even with four other directors they couldn't
9 beat my team. I was still getting -- I was beating their
10 numbers out and I still had the best numbers in the
11 nation. My staff was loyal to me, I guess.

12 And then they brought Meryl Ibis down from
13 Jacksonville, who, I think she had to register maybe
14 6,000 people. And she met her goal. And Meryl Ibis came
15 down and, you know, they just basically just gave her the
16 home office.

17 Q. When did Meryl come down?

18 A. Sometime in late June.

19 Q. When did you first start going out to Liberty
20 City?

21 A. Late June.

22 Q. Late June after -- so very late June, if it's
23 after Frank Houston took over?

24 A. Frank took over --

25 Q. Well, Frank Houston became your supervisor --

1 A. Yes. Yes. That's when everything changed.
2 Everything changed. They brought more directors down and
3 basically they tried to make it sound, Okay, Mac, you're
4 getting the best numbers in the nation, let's see if you
5 can do it somewhere else. And I did that. I opened up
6 another office and I beat out the Miami office three
7 weeks running.

8 Q. Now, the Republican voter registration cards
9 that you found, what did you do with them?

10 A. I turned them in to The Board of Elections.

11 Q. When did you do that?

12 A. On the last day you were able to register.

13 Q. Which was when?

14 A. September -- no. Was it August 15? August 30.
15 August 30.

16 Q. After you found the Republican cards did you
17 talk to anyone about that?

18 A. I didn't know what was going on. I ran a fraud
19 check because they didn't have no batch sheet.
20 Technically, you're supposed to have a batch sheet for
21 each individual. And it never showed who registered
22 these people. And it was all Republicans.

23 And then someone came from the Miami office to
24 work for me in Liberty City. And they were telling me
25 what was going on in the Miami office. They were

1 basically putting more emphasis on Democrats. They
2 stopped paying for the address changes, party changes,
3 they wanted all new registration.

4 Q. Who told you this?

5 A. Another employee.

6 Q. What's the employee's name?

7 A. Her name is Joanna Formigo.

8 Q. Is she still an Acorn employee?

9 A. No.

10 Q. You said Joanna told you what they were now
11 doing in the Miami office, they had an emphasis on --

12 A. Democrats only.

13 Q. What is does "emphasis" mean?

14 MR. PANCIER: Object to the form.

15 THE WITNESS: Inner city.

16 BY MS. DAKER:

17 Q. What do you mean when you say, "emphasis"?

18 A. Emphasis, stay out of South Beach, stay out of
19 Kendall, stay out of Miami Lakes, stay out of affluent
20 neighborhoods. Target blacks and Hispanics.

21 Q. So, I'm going to jump around a little bit here.
22 You said you did a fraud check on the one thousand or so
23 Republican voter registration cards you found. What do
24 you mean you did a fraud check?

25 A. I was doing my, you know, quality control. And

1 they were all valid.

2 Q. What did it entail, though?

3 A. Calling up, finding out was it a fact that they
4 registered on such and such a date and so on. And some
5 of the people said, Hey, I never got my card. The cards
6 were getting dated from May.

7 Q. Now, after you found the box, just to follow up
8 on this, after you found this box, did you discuss it
9 with Frank Houston?

10 A. After I found the box, I tried to inquire as to
11 what was going on, how did this box wind up in my office.
12 That was the first question. No one knew anything. My
13 understanding was some people came down from -- was it
14 Orlando? And I had cards from Orange County and a bunch
15 of other stuff. It was all thrown in there. They just
16 dropped them off in my lap, basically.

17 Q. Who did you make those inquiries to?

18 A. I made these inquiries to Frank.

19 Q. Did you make the inquiry to anyone else?

20 A. No.

21 Q. What was Frank's -- Frank, you mean Frank
22 Houston?

23 A. Yes.

24 Q. What was Frank Houston's response?

25 A. He said if they're good, turn them in.

1 Q. Now, while you were doing voter registration
2 personally, while you were out there registering people
3 to vote, did anyone ever tell you to withhold Republican
4 cards or not register Republican voters?

5 A. When I was moved out of the Miami office, it
6 was basically because they didn't want me around too
7 much.

8 MR. PANCIER: Mac, just answer her question.

9 THE WITNESS: No.

10 BY MS. DAKER:

11 Q. Now, when you were supervising people who were
12 registering people to vote in your position, did any of
13 your supervisors ever instruct you to tell your people
14 not to register Republicans to vote or to withhold
15 Republican registration cards?

16 A. No.

17 Q. Now, I wanted to ask you about 179 voter
18 registration forms found after the deadline. Do you know
19 what I'm referring to?

20 A. Yes, I do.

21 Q. Can you just explain to me what you know about
22 those 179 voter Republicans.

23 A. I received a phone call from an Acorn employee.

24 Q. Who was the Acorn employee?

25 A. I haven't named that person until today. The

1 Florida Department of Law Enforcement asked me to and I
2 haven't done it. They wanted him to remain anonymous
3 because they're still employed.

4 Q. So you're refusing to answer that question?

5 A. That question -- I'm not refusing you anything.
6 I'm just not giving the name, that's all.

7 Q. I don't want to be contentious. If you're not
8 going to give us the name, you're not going to. I just
9 want to be clear, you're not going to give us the
10 person's name?

11 A. No.

12 MS. DAKER: Can we mark that question.

13 THE WITNESS: Not at this point, anyway.

14 BY MS. DAKER:

15 Q. So you received a call from someone who is
16 currently employed in the Miami office --

17 A. Still employed.

18 Q. -- of Acorn. What did they tell you during
19 that call?

20 A. They told me they found some more cards in a
21 broom closet.

22 Q. Did they describe the cards to you?

23 A. They said they were just voter registration
24 cards, Democrats, Republicans and no-party affiliations.

25 Q. When did you get this call?

1 A. Sometime in October.

2 Q. Do you have an exact date?

3 A. I don't remember. I wasn't employed then.

4 Q. Why did the person -- why do you think that
5 person called you?

6 MR. PANCIER: Hold on. First, let me object
7 to the form as it calls for speculation.

8 And with respect to the last question, I
9 believe it was probably outside the scope of the
10 Judge's order, but we can always address that at
11 a later point in time.

12 MS. DAKER: Right.

13 MR. PANCIER: And as far as the current
14 questioning is now, unless you can tie it into
15 the scope of the Judge's order -- I'll allow him
16 to answer it, but I don't think a foundation has
17 been laid insofar as how it pertains to whether
18 there were any, to use his language, unlawful
19 acts as alleged in the complaint.

20 BY MS. DAKER:

21 Q. Let's back up a second. You received this
22 phone call. What did you do after you received the phone
23 call?

24 A. I was instructed where I would find the cards,
25 if I wanted them.

1 Q. This person told you where the cards were?

2 A. Yes.

3 Q. Where did the person tell you the cards were?

4 A. Right outside the back door of Acorn by the
5 dumpster.

6 Q. What did you do after you received this call?

7 A. I went and took them. I went down and picked
8 up the cards.

9 Q. Why?

10 A. Why? Because these were people who weren't
11 being registered to vote.

12 Q. Then what did you do?

13 A. I then went on to my attorney's office and gave
14 them to him.

15 Q. What was the date on this?

16 A. I have no idea.

17 Q. You don't recall.

18 Okay. Now, if you know, did this person tell
19 you that they put the cards outside the back door of
20 Acorn?

21 A. The individual who called me, yes.

22 Q. Now, after you turned the cards in to your --
23 gave the cards to your lawyer, what happened, without
24 going into any conversations you may have had with your
25 lawyer.

1 A. I made a few phone calls --

2 MR. PANCIER: Hold on. I'm going to object
3 to the form of the question, it's vague. And I
4 will instruct you not to get into anything that
5 you were told through your attorneys --

6 THE WITNESS: You're right.

7 MR. PANCIER: -- as attorney/client, so...

8 BY MS. DAKER:

9 Q. Now, do you know if those cards were eventually
10 turned in to the Board of Elections?

11 A. I think they were.

12 Q. You didn't turn those cards in?

13 A. No.

14 Q. Do you know who did?

15 A. No.

16 Q. So where do you get your understanding that
17 they were turned in from?

18 MR. PANCIER: If that understanding comes
19 from counsel, I'll instruct you not to answer it.

20 THE WITNESS: It comes from counsel.

21 BY MS. DAKER:

22 Q. In paragraph 20 of the complaint the complaint
23 states, "The conduct of Acorn described above is a
24 pattern and practice which was conducted nationwide."

25 I'm just curious as to where you get that

1 understanding, that the conduct described in
2 paragraph 19, which you have in front of you so you can
3 take time to review it --

4 A. Nineteen or 20?

5 Q. Well, in 19 it lays out (a), (b), (c), (d) and
6 (e), allegedly improper conduct. And then in
7 paragraph 20 it alleges that, "The conduct of Acorn
8 described above is a pattern and practice which was
9 conducted nationwide."

10 What is the basis of the understanding that
11 these practices were conducted nationwide?

12 A. I never said that was conducted nationwide.
13 Statewide.

14 Q. When you say, "statewide," you mean --

15 A. In the State of Florida.

16 Q. Now, with regard to another allegation on the
17 same page, paragraph 19(e), it alleges that Acorn was
18 violating section 97.041 Florida Statutes by obtaining
19 and submitting completed voter registration applications
20 which were prepared by individuals, i.e., convicted
21 felons whose civil rights had not been restored, who were
22 not qualified to vote in this state."

23 Do you know of instances when people, employees
24 of Acorn registered people who were known to be convicted
25 felons?

1 A. All of us. Standard operating procedure.

2 Q. When you say, "all of us," who do you mean?

3 A. Everyone who was trained through Acorn as a
4 petition gatherer.

5 Q. In Florida?

6 A. In Miami.

7 Q. In Miami.

8 What do you mean when you say they registered
9 people who were convicted felons?

10 A. We would go down to inner cities, which you're
11 going to find nothing but felons in the majority, and
12 they would say, no, we're convicted felons.

13 We have a civil rights registration form, which
14 we would have them fill out and then have them fill out
15 the voter registration card and then tell them they would
16 have a card in November.

17 Q. What did you do with those two, the civil
18 rights registration form and the voter registration
19 application?

20 A. The voter registration application would be
21 processed. Acorn would be paid \$4.10 for it. And the
22 civil restoration form would sit in a corner collecting
23 dust.

24 Q. When did this occur?

25 A. This went on through the whole minimum wage

1 campaign, through the whole voter registration project.

2 Q. So through the entire time you worked at Acorn?

3 A. Yes. We registered over 10,000 felons.

4 Q. Who instructed you to do this?

5 A. We were given a standard site list of where to
6 go, post offices, the county jails, hospitals and so on
7 and so on. And it was right there on the list. We would
8 actually go in front of the Dade County Jail and catch
9 people at the window when they're picking up their
10 property: Hey, would you like your civil rights
11 restored?

12 Q. Do you have copy of this list?

13 A. Which list are we speaking to?

14 Q. The list you just mentioned, the list of sites.

15 A. I have one at home somewhere.

16 Q. You said it was right there on the list. What
17 is on the list?

18 A. All the possible sites on where to obtain voter
19 registration cards: Sporting events, flea markets,
20 et cetera.

21 Q. Was there anything in writing that you received
22 that said if someone tells you they are a convicted
23 felon, then have them fill out the restoration of civil
24 rights form and have them fill out the voter
25 registration?

1 left blank.

2 Q. When was this?

3 A. This was during the whole campaign, the minimum
4 wage campaign.

5 Q. What were the dates of the minimum wage
6 campaign?

7 A. It was a time -- November, I think
8 November 2003 to June 2004.

9 Q. But starting in January of 2004 you did not
10 have responsibility for the minimum wage campaign?

11 A. No.

12 Q. Now, you said that the dates were left blank,
13 and were dates filled in?

14 A. No. We were instructed to submit the voter
15 registration cards in first. Then by the end of the
16 week, then they would turn in their petitions.

17 Q. Who were you instructed to do this by?

18 A. Rene Ruiz.

19 Q. And this is when you held the position before
20 January 2004?

21 A. Yes. And during, after, the same thing because
22 we all shared an office.

23 Q. Right. So, when you say it was the same thing,
24 you were not instructed to do that, but you heard other
25 people being instructed to do that?

1 A. That's right. We would sit in in the morning
2 meetings -- it was a like a pep rally we would have every
3 morning and all the new trainees -- and how -- it went on
4 and on.

5 Q. Who would attend that meeting?

6 A. Anyone -- myself, Cherry Johnson, all the
7 senior staff employees.

8 Q. At that time Rene Ruiz was the --

9 A. Director.

10 Q. -- director.

11 Now, I have a copy of -- this is what we were
12 looking for earlier, I think. I have a copy of a
13 document, it's Bates labeled MAC-00110. We can make it
14 Exhibit 1.

15 MR. PANCIER: Do we have the complaint
16 marked?

17 MS. DAKER: We'll have the complaint marked
18 as an exhibit. The complaint will be Exhibit 1.

19 And this is a form titled, "Miami" -- I'm
20 just going to go through some documents. We're
21 very close to the end -- the document is titled
22 at the top, "Miami Acorn Voter Registration Team
23 Allocation Form," and that's the MAC-00110.

24 MR. PANCIER: I think it has numbers on it.
25 Each page should be Bates numbered.

1 MS. DAKER: Right. So MAC-00110 through,
2 every number through MAC-00115.

3 (Thereupon, the Complaint and Allocation
4 Form were marked as Defendant's Exhibit Nos. 1
5 and 2, respectively, for Identification.)

6 BY MS. DAKER:

7 Q. I'll show this to you and you can take a moment
8 to review it.

9 A. I'm familiar with this.

10 Q. Is this document that has been marked as
11 Exhibit 2, is this the copy of the allocation form that
12 you were discussing earlier?

13 A. No. This is a copy of a form that people if
14 they didn't receive their checks, there was something
15 wrong with that, that payroll that came in that
16 weekend -- Acorn was having a lot of monetary problems at
17 the time. Those individuals were not paid. I then had
18 to resubmit a separate allocation through fax to the
19 individual up top.

20 Q. So with regard to the allocation form that you
21 discussed earlier that your supervisors signed off on,
22 you said first Eric Thompson, then Frank Houston signed
23 off on it, what information -- well, do you have a copy
24 of those, any of those, a sample?

25 A. I gave everything to my attorney.

1 MR. PANCIER: And it would be in our initial
2 disclosure, I believe. If not, I could double
3 check.

4 BY MS. DAKER:

5 Q. I'm not going to get hung up on it. We'll go
6 back and look.

7 But what information was contained in the
8 allocation form?

9 A. The allocation form was similar to that, only
10 it showed the time period the individual worked, the
11 amount of cards they turned in, if I'm correct, and how
12 much they were owed for the two-week period.

13 Q. And that was the only -- so the pay period was
14 two weeks?

15 A. Yes.

16 Q. So that was the only form that was ultimately
17 submitted to your supervisors?

18 A. That's correct.

19 Q. And then that form was submitted to CCI?

20 A. Yes.

21 Q. You submitted that form to CCI after your
22 supervisors, Eric and Frank, signed off on it?

23 A. Yes.

24 Q. Now, let's mark this one as Defendant's
25 Exhibit 3.

1 A. May I reiterate something?

2 Q. Yes.

3 A. When I started working for Frank, I stopped
4 sending off paperwork to CCI. Everything went to Frank.
5 He would approve the payroll.

6 Q. So this is starting on about January 25 -- I'm
7 sorry, June 25, 2004, you started submitting your payroll
8 paperwork, which is this allocation form that you've
9 testified about --

10 A. Actually, between the period of June to my
11 termination, there was a spreadsheet. I think I did see
12 him with a copy earlier. It's a spreadsheet that gets
13 e-mailed every night. I believe that's it there.

14 Q. Is this it?

15 A. It's an Excel spreadsheet.

16 MS. DAKER: One second. Let me mark this.
17 I'm going to mark it, I'll mark it as 3.

18 I'm going to mark something with the title
19 at the top, "Period Two Payroll," as Exhibit 3
20 for purposes of the deposition, this deposition.

21 (Thereupon, the Period Two Payroll was
22 marked as Defendant's Exhibit No. 3 for
23 Identification.)

24 THE WITNESS: That's it there.

25

1 BY MS. DAKER:

2 Q. It's two pages. Let me show it to you, and you
3 can take a look at that.

4 A. This document here would come at the end of the
5 spreadsheet.

6 Q. So that is not a copy of the spreadsheet?

7 A. No. You just had the spreadsheet. That's the
8 spreadsheet.

9 MS. DAKER: I'll mark this as -- what am I
10 on now -- 4.

11 (Thereupon, the Spreadsheet was marked as
12 Defendant's Exhibit No. 4 for Identification.)

13 BY MS. DAKER:

14 Q. So, just to be clear, what has been marked as
15 Exhibit 3 comes at the end of, so we think, what has been
16 marked as Exhibit 4? And you can review both of them and
17 then let us know.

18 A. Yes, this is it.

19 Q. So 3 and 4 together are what you would submit
20 to Frank Houston as your payroll?

21 A. Daily.

22 Q. Daily?

23 A. It was an e-mail every night.

24 Q. And you did not separately submit any paperwork
25 to CCI after you started reporting to Frank Houston?

1 A. No.

2 Q. Prior to Frank Houston, just to be clear, when
3 you were reporting to Eric Thompson, you gave him the
4 allocation form you have described? And we're going to
5 look for it, you haven't seen a copy of it today?

6 A. No, I haven't seen a copy of it. I know I have
7 one.

8 Q. Now, I want to move on from that point and show
9 you what we're going to mark as Exhibit 5 for purposes of
10 this deposition. It's a document titled, "Project Vote
11 Voter Registration Manual," and I want you to take a look
12 at it.

13 A. I know what that is.

14 (Thereupon, the Project Vote Voter
15 Registration Manual was marked as Defendant's
16 Exhibit No. 5 for Identification.)

17 BY MS. DAKER:

18 Q. Okay. Have you had the opportunity to review
19 Exhibit 5?

20 A. Yes.

21 Q. And is this a document you've seen before?

22 A. Yes.

23 Q. When did you see this document?

24 A. In June.

25 Q. June of 2004?

1 A. Yes.

2 Q. Who provided this document to you?

3 A. I do believe Jessica Angus did.

4 Q. When did you receive this document?

5 A. In the Orlando training.

6 Q. The first --

7 A. The first Orlando training.

8 Q. The first Orlando training from Jessica Angus.

9 Did you review this manual?

10 A. Yes.

11 Q. Completely?

12 A. Actually, that's a printout. We had a disk.

13 We had a CD.

14 Q. But is this an accurate -- do you want to take
15 a look and make sure this is an accurate --

16 A. Yes. I can tell by the headlining, this is it.

17 Q. I just want you to take your time to review it
18 and make sure that is a copy of what was provided to you
19 guys on disk at the June Orlando training.

20 A. As to earlier when we were talking about the
21 sites, it says it right here, "local jails." This is in
22 their training manual.

23 Q. But this is a copy of what you received --

24 A. Yes, that's correct.

25 Q. -- from Jessica.

1 Was this training manual, just to be clear, was
2 this manual a sort of outline for the training?

3 A. Outline for directors.

4 Q. So an outline for training for directors at the
5 June, which is the first --

6 A. Yes.

7 Q. -- Orlando training conducted by Jessica Angus?

8 A. Yes. They had recruited a whole bunch of new
9 directors.

10 (Thereupon, the Project Vote Voter
11 Administrative Procedures were marked as
12 Defendant's Exhibit No. 6 for Identification.)

13 BY MR. PANCIER:

14 Q. Now, I wanted to show you what we'll mark as
15 Exhibit 6, it's Bates labeled MAC-00046 through
16 MAC-00056, and it's titled, "Project Vote Voter
17 Registration Administrative Procedures." This was a
18 document that was produced to us by your lawyers during
19 discovery or in their initial disclosures.

20 Are you finished reviewing Exhibit 6?

21 A. Yes, I am.

22 Q. Do you recognize this?

23 A. Yes.

24 Q. And what is this?

25 A. It's similar to the voter registration manual

1 that you just showed me, only that one there has an
2 outline on the rap you're supposed to use when you
3 approach a potential registrant.

4 Q. Was this provided to you at some point by
5 someone at Acorn?

6 A. I think I received that sometime in June.

7 Q. Do you remember who you received it from?

8 A. I think it came out of a training seminar,
9 also.

10 Q. The first Orlando training seminar?

11 A. Yes.

12 Q. And you reviewed it after you received it?

13 A. Yes.

14 Q. I forgot to ask you, during the time you first
15 became employed at Acorn to the time you left Acorn, how
16 were you paid, what was your pay structure?

17 A. I was paid daily.

18 Q. So a shift?

19 A. Yes. And I would get, I think it was like
20 \$45 a day and \$10 extra for being a team leader. And at
21 the time they had incentives. If you brought in over
22 40 petitions, they would pay you 25 cents per petition
23 after the 40.

24 Q. Like a bonus?

25 A. Yes.

1 Q. So did you have that pay structure throughout
2 your entire time at Acorn or did it change?

3 A. It would fluctuate with the Floridians For All
4 project. And they would go on and they started doing
5 after a quota of 60, they would pay you a bonus. But I
6 was no longer with Floridians For All at the time.

7 Q. Did you ever get paid per voter registration
8 card?

9 A. Me? No. When we were doing the minimum wage
10 campaign, registering people to vote was part of the job
11 and it was free money for Acorn.

12 Q. Okay. I forgot to ask you about one person.
13 Kim Wit?

14 A. Yes.

15 Q. Was Kim Wit someone who worked for you?

16 A. Yes.

17 Q. And he did voter registration?

18 A. Yes.

19 Q. Was he paid per card?

20 A. Yes.

21 Q. When did he work at Acorn?

22 A. I think during the time of March, from March to
23 June -- March until August, if I'm correct.

24 Q. Just one second.

25 We'll mark this as -- what are we on, 7?

1 MR. PANCIER: Seven.

2 MS. DAKER: Right.

3 (Thereupon, the Payroll Allocations were
4 marked as Defendant's Exhibit No. 7 for
5 Identification.)

6 BY MS. DAKER:

7 Q. We'll mark this one as Exhibit 7, and it's
8 ACO-00033 through 35. Let me hand this over to you.

9 Have you reviewed Exhibit 7?

10 A. Yes, I have.

11 Q. Is this a copy of the allocation form?

12 A. No, that's for staff employees. Eric would
13 have to sign off on that for his staff to get paid and
14 all community organizers.

15 Q. So when you say staff, you mean --

16 A. Salaried employees.

17 Q. -- salaried employees, not people?

18 A. Contractual.

19 Q. Contractual or temporary.

20 And one last document. We're going to mark it
21 Exhibit 8. It's marked 00079 through -- they're actually
22 out of order, so that's not going to work. It's actually
23 MAC-00075 through MAC-00083. It looks like they're
24 supposed to be together.

25 I just wanted you to look through these and let

1 us know if you've seen that before and if so, where you
2 received it.

3 (Thereupon, the Project Vote Voter
4 Administrative Procedures were marked as
5 Defendant's Exhibit No. 8 for Identification.)

6 MR. PANCIER: Isn't this the same one that
7 we just looked at?

8 MS. DAKER: Is it the same?

9 MR. PANCIER: I think yours was --

10 MS. DAKER: Oh, mine was directly.

11 MR. PANCIER: It didn't have a Bates number
12 in mine and this one does.

13 MS. DAKER: Yes, they're slightly different.

14 MR. PANCIER: Okay.

15 MS. DAKER: The cover page is the same, but
16 the content is slightly different. So, no,
17 they're different. I'll give you both. You can
18 look at both together. This is Exhibit 8 and
19 Exhibit 6.

20 MR. PANCIER: They're the same but they're
21 just in a different order is what I'm thinking.

22 MS. DAKER: You think so?

23 THE WITNESS: You're correct. I got this at
24 the last training, I think, when we were talking
25 about GOTV.

1 BY MS. DAKER:

2 Q. So you think you received Exhibit 6 or 8, or
3 you think they're the same or different?

4 MR. PANCIER: I think they are the same, but
5 in different order.

6 BY MS. DAKER:

7 Q. But you received it --

8 A. I think. I'm not sure.

9 Q. But you received these at some point?

10 A. I've seen them, yes.

11 Q. And reviewed them?

12 A. Yes.

13 Q. And then just since you brought this up, the
14 distinction between contractual and temporary employees
15 at Acorn, what is that distinction?

16 A. Contractual is when they first started the
17 minimum wage campaign. You would work, you would receive
18 a check, but you paid your own taxes at the end of the
19 year.

20 Acorn then started doing temporary status
21 sometime in May or June when they started deducting taxes
22 of employees with checks. That's when they rephrased it
23 around the temporary employees.

24 Q. So as of May or June, whenever this change
25 happened, you're not exactly sure, there were no more

1 independent contractors?

2 A. No. Not for the minimum wage campaign.

3 Q. What about for voter registration?

4 MR. PANCIER: We're getting beyond the scope
5 at this point.

6 MS. DAKER: Okay. That's fine.

7 Hold on one second.

8 We're done.

9 MR. PANCIER: All right. I guess depending
10 on whatever the next stage is, we'll obviously
11 produce him for whatever other areas.

12 If it's ordered, we'll take a copy and we'll
13 read. And I'll have him read my copy.

14 MS. DAKER: We will order.

15 (Thereupon, the deposition was
16 concluded.)

17

18

MAC STUART

19

20 Sworn to and subscribed before
21 me this ____ day of _____, 20__

22

23

Notary Public in and for
the State of Florida at Large.

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CERTIFICATE OF NOTARY

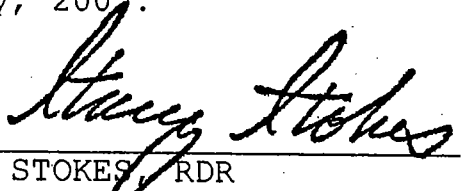
STATE OF FLORIDA)
COUNTY OF DADE)

SS

I, STACEY STOKES, a Shorthand Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I did report in shorthand the deposition of MAC STUART, a witness called by the Defendant in the above-styled cause; that the witness was first duly sworn by me; that the reading and signing of the deposition were not waived by the witness; that the foregoing pages, numbered from 1 to 92, inclusive, constitute a true record.

I further certify that I am not an attorney or counsel of any of the parties, nor related to any of the parties, nor financially interested in the action.

WITNESS my Hand and Official Seal this 13th day of January, 2005.

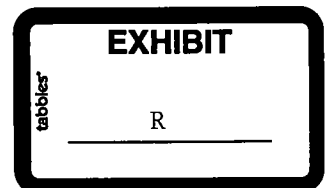


STACEY STOKES, RDR
Notary Public State of Florida
My Commission # DD111704
Expires May 6, 2006

FLORIDA VICTORY 2004

September 3, 2004

VICTORY 2004 FLORIDA COORDINATED CAMPAIGN



I. INTRODUCTION

Democrats have a unique opportunity in 2004: to rightfully return the state to the blue side of the electoral ledger. Polling data indicate that the race in Florida is stable with neither side garnering a firm advantage. This underscores the necessity of a well-run and well-funded coordinated campaign.

In order to prevail, Victory 2004 will need the greatest grassroots organization the state has ever seen. Our staff will build, train and activate over 33,000 volunteers, including 3,809 precinct captains, to manage and implement an elaborate voter contact and GOTV plan. This team will be complemented by a generous paid and earned media campaign and an advanced technology system to track and direct progress.

Victory 2004 will focus its ground game primarily on two segments of the Florida electorate: 1) the under-performing Democratic base, particularly in sporadic voting African-American and non-Cuban Hispanic communities, and 2) swing voters, with particular attention paid to women in the I-4 corridor between Tampa, Orlando and Daytona Beach. In addition to following the Kerry-Edwards/DNC field model, this plan outlines several unique elements of Victory 2004's plan, including: our plan for ballot protection; an elaborate Early Vote (Absentee Vote in Person) campaign; a comprehensive and aggressive absentee ballot program and a program to motivate Florida veterans to support our ticket.

In broad geographic terms, it is essential to 1) maintain and increase our base lead in the three key South Florida counties: Miami-Dade, Broward and Palm Beach; equally important is 2) minimizing Republican gains in northern Florida. In tactical terms, it is essential that we cut into the Republicans' traditional advantage among absentee voters and run up our advantage among early voters, especially in base vote communities.

We anticipate amendments and improvements to our plan. We need to quickly develop a systematic market-by-market surrogate-scheduling plan. A Jewish vote plan is being developed along with other constituency-specific organizing plans.

Coordinated Campaign Decision Making Table:

A committee of the following individuals and organizations will serve as table partners of the Coordinated Campaign. This committee will meet bi-weekly through September and weekly during October.

- State Party Chair Scott Maddox
- Kerry-Edwards Campaign
- U.S. Senate Nominee
- Coordinated Campaign Director
- AFL-CIO
- SEIU
- Florida Academy of Trial Lawyers
- Florida Education Association
- Florida Congressional Delegation

Goals:

- Identify undecided and persuadable voters for John Kerry and the Democratic ticket;
- Energize and motivate Democrats with unreliable or non-voting histories;
- Track statewide volunteer efforts in Florida-specific software;
- Recruit and train 1,391 precinct captains in base precincts;
- Recruit and train 2,418 precinct captains in swing precincts;
- Turn out Kerry supporters in base precincts;
- Persuade swing targets in swing precincts;
- Win the state of Florida for Kerry-Edwards with 3,314,240 supporters.

II. VOTE GOALS & TARGETING:

Vote Scenario:

	2004		2002		2000
Exp. Vote 70%	6,373,538	Turnout	5,100,581	Turnout	5,963,110
Dem Performance		Bush	2,856,845	Bush	2,912,790
Win # (52%)	3,314,240	McBride	2,201,427	Gore	2,912,253
Nader		Kunst	42,039	Nader	97,488
		Vote		Vote	
Vote Deficit	554,498	Margin	655,418	Margin	537

NEW

Vote Goal:

The Florida statewide vote goal, based on a 52% Democratic win number, is 3,314,240. Within that goal, Victory 2004's targeting will focus on a universe of persuadable voters derived from the Kerry-Edwards Florida vote model and a turnout target of 711,493 Democrats in our base precincts. Our initial focuses, especially for precinct captain recruitment, will be geographic. We will focus on two precinct types:

Base voter precinct targets are defined as:

- High Democratic Performance (65% +)
- We have 1391 base vote targeted precincts with approximately 711,493 base voters.

Persuasion precinct targets are defined as:

- Democratic Performance between 40% and 65%
- Persuasion Percentage above the statewide average – 14.9%
- We have 2,418 persuasion-targeted precincts that include 408,430 persuasion targets.
- The above numbers are placeholders, pending Florida-specific targeting.

The coordinated campaign will use the state-specific Florida vote model to guide paid voter contact activity, volunteer persuasion phone calling, and volunteer ID calls. Based on currently available modeling data, the campaign assumes a Presidential Swing Target of 926,525 voters. Our persuasion voter contact targets will be pulled from this subset. Given Bull's Eye data, we estimate our GOTV target will number approximately 931,291 infrequent voters and 397,766 new registrants. (Between January 2003 and February 2004, 397,766 Democrats were added to the file statewide.)

New Registrants:

			2003				2004	
	Individuals	%	HH	W/Phones	Individuals	%	HH	W/Phones
New Registrants	787,25	100.00%	414,805	787,255	453,178	100.00	167,234	453,178
Democrats	250,45	31.81%			147,315	32.51		
Dem Male	110,49	14.04%	67,402	62,157	67,090	14.80	27,788	36,099
Dem Female	139,95	17.78%	84,700	78,652	80,225	17.70	33,602	43,132
NPA/Ind Male	103,21	13.11%	57,725	57,477	67,188	14.83	23,612	35,609
NPA/Ind Female	110,54	14.04%	60,976	60,457	65,909	14.54	23,122	34,872
Republicans	245,31	31.16%			125,715	27.74		
GOP Male	129,02	16.39%	84,399	78,800	67,145	14.82	32,371	39,095
GOP Female	116,29	14.77%	77,029	70,573	58,570	12.92	29,391	34,209
AA Male	35,61	4.52%	19,864	18,323	23,637	5.22	8,253	11,932
AA Female	47,58	6.04%	25,999	24,900	28,867	6.37	9,691	14,718
Hispanic Male	40,81	5.18%	21,076	21,835	24,050	5.31	7,929	12,700
Hispanic Female	46,87	5.95%	24,255	24,622	26,591	5.87	9,025	13,859

Special Population Targets:

The Victory 2004 campaign will give special focus to population targets including, but not limited to:

- African-Americans
- Hispanics
- GLBT community
- Veterans (and families of)
- Seniors (focus on absentee voting)
- Sportsmen
- Republican Women (esp. with Democratic husbands)
- College Students
- Haitian immigrants, particularly in South Florida

The Florida political team will include volunteer constituency directors who aim to meet the needs of the community and increasing participation in these groups' networks. The goal of the constituency program will be to feed people into the field program and increase our volunteer base.

Voter Contact:

Our targets are categorized below and include suggested volunteer and paid voter contact activity:

Presidential Swing Target: *This universe is a placeholder, based on Strasma data. *
 926,525 Total Presidential Swing (from model)
 414,391 Households with phone numbers

Volunteer ID calls are the first round of calls to presidential swing voters, and the 2s and 3s gained through those calls will become our persuasion universe. The persuasion program will include 2 volunteer contacts and 9 paid contacts.

- Total Contacts: 12
- Precinct Captains: 2,418
- Volunteer Contacts: 2
 - 1 Persuasion Call

- 1 GOTV Volunteer Call
- Paid Contacts: 10
- 1 Paid Auto ID call
 - 1 Paid Auto ID to undecided remainder
 - 5 Mail contacts
 - 1 Paid Live call on September 15th
 - 1 Paid Live GOTV call
 - 1 Paid Auto GOTV call

Persuasion Program Calendar

Wednesday, September 15	Paid Live call
Tuesday, October 12 – Thursday, October 28	Volunteer Persuasion Calls
Tuesday, October 12	Auto ID Call
Friday, October 15	Mail Piece 1 Drops
Tuesday, October 19	Mail Piece 2 Drops
Friday, October 22	Mail Piece 3 Drops
Sunday, October 24 – Thursday, October 28	Live ID Call
Friday, October 30-Tuesday, November 2	<ul style="list-style-type: none"> • Volunteer GOTV Call • Paid Live GOTV Call • Paid Auto GOTV Call

Base Vote Target:

931,291 Total base vote target
354,366 Households with phone numbers
397,766 New Democratic registrants
1,329,057 Total New Registrants and Base Vote Target

The Base Vote Target is primarily made-up of (but not limited to) African-American and non-Cuban Hispanic Democrats with weak voter history from 1391 high GOTV index precincts. 397,766 new registrants will receive the same Early Vote contact program. Both of these numbers are subject to change as we identify what other organizations are doing in the base, how much excitement is generated, and the volume of new registrants. The program itself consists of two volunteer contacts and 19 paid contacts totaling approximately \$2.673 million.

Total Contacts: 19

Precinct Captains: 1,391

Volunteer contacts: 2

- 2 Volunteer calls

Paid contacts: 17

- 2 Paid auto-calls (express Kerry-Edwards message)
- 7 Paid auto-calls (generic Democratic turnout)
- 4 Paid canvasses (focus on urban base precincts)
- 2 Paid live calls
- 2 Paid mail

EARLY VOTE PROGRAM:

Early Vote Timeline:

Saturday, October 16 th – Monday, November 1	<ul style="list-style-type: none">• Paid canvassing of universe (2x)• Volunteer calls to universe
Sunday, October 16 th	<ul style="list-style-type: none">• Auto Call 1
Monday, October 18 th	<ul style="list-style-type: none">• Auto Call 2
Monday, October 18 th	<ul style="list-style-type: none">• Mail 1 drops
Wednesday, October 20 th	<ul style="list-style-type: none">• Auto Call 3
Friday, October 22 nd	<ul style="list-style-type: none">• Auto Call 4
Sunday, October 24 th	<ul style="list-style-type: none">• Auto Call 5
Monday, October 25 th	<ul style="list-style-type: none">• Mail 2 drops
Monday, October 25 th	<ul style="list-style-type: none">• Auto Call 6
Wednesday, October 27 th	<ul style="list-style-type: none">• Auto Call 7
Saturday, October 30 th	<ul style="list-style-type: none">• Auto Call 8

For fifteen days leading up to Election Day, Florida residents may vote in person at public places (typically city halls and public libraries). Florida law also provides for traditional absentee voting.

These two forms of voting have played a key role in recent general elections. In 2000, 11% of all votes cast came through Absentee or Absentee in Person (Early Vote), and according to a *St. Petersburg Times* analysis, in 2002 16% of all votes came from the same population.

Kerry-Edwards campaign polling data confirm that Early Vote can play a similarly significant role this year. Most recently, a post-convention Kiley & Company poll indicated that 11% of Florida voters will vote in advance of Election Day.

The Kiley poll describes the universe of early voters as leaning heavily Democratic, including a disproportionately high number of African-Americans and voters from other base Democratic communities.

Given the history and trends of the Early Vote, Florida Victory 2004 views it as a potential gold mine and an excellent opportunity to turn out Florida's energized (and aggravated by 2000) Democratic base.

While keeping an eye on what other organizations are doing to get out this key vote, the Victory 2004 campaign will marshal a significant portion of its resources to make Early Vote's impact as significant as possible. This effort will be focused especially on key urban counties.

To better inform this project, we would like to spend \$20,000 on focus groups to determine base precincts' response to Early Vote. We will also produce a more detailed plan for the Early Vote Program within several weeks. What is contained below is designed to paint in broad strokes the goals and tactics of our program.

Universe:

Given the Kiley data and experience from recent elections, the Early Vote program should focus on sporadic voters, especially African-American, Hispanic and female voters with weak voter history, and new registrants. This universe will number approximately 1,329,057 voters.

Grassroots Leadership:

Leaders of the campaign at the grassroots will play a key role in the development and execution of the Early Vote Program:

- The campaign will challenge precinct captains to deliver a specific number of early voters. We are looking into the legality of creating a competition among the precinct captains for this project.

- We will also ask local elected officials to design proposals for local Early Vote Programs.

Staff Leadership:

To direct and manage the grassroots leadership, to develop more fully this plan and to ensure the absolute success of the Early Vote plan, the campaign will hire by September 15 a Statewide Early Vote Director and three Regional Early Vote Directors.

- Early Vote staff will also be placed in Miami-Dade, Broward and Palm Beach counties, and Orlando, Jacksonville, in Tampa/St. Petersburg.
- Two Early Vote Cyber Organizers will make use of the FLDP website and email addresses collected by the campaign to motivate volunteers and encourage early votes.

Training:

Our Regional Organizing Conferences on September 12th and October 9th will include training on Early Vote.

Special Outreach:

In addition to the broad universe for Early Vote, the campaign will creatively reach out to probable candidates for Early Vote including (but not limited to) seniors with flexible schedules; the unemployed and people at unemployment check pickup locations; community service organizations; people who have unusual jobs; college students; parishioners at African-American churches; business employees through a workplace outreach program; and members of tightly-knit immigrant communities including the Puerto Rican and Haitian communities of South Florida.

Events:

- In mid-October, "Early Voting House Meetings" will make use of the network developed by campaign's organizers to encourage strong early turnout. Some of these house meetings will be organized around major campaign and social events through Florida including debate watch parties, Halloween, Labor Day, or even television's Sweeps Night.
- Surrogate and possible principal events that take place near Early Vote locations will be employed to promote Early Vote opportunities and to physically deliver voters to Early Vote sites.
- \$30,000 has been budgeted in October to fund these events.

Voter Contact:

Below is an approximate schedule of paid and volunteer contacts to the Early Vote universe. We will submit a more detailed plan after the hiring of an Early Vote Director and closer to the date of the Early Vote period. Please note that Early Vote begins Monday, October 18th, fifteen days prior to Election Day.

Note also that the auto calls will likely be sent to specific universes rather than the broad universe; we will work to build these universes after we learn more about what types of voters are open to Early Vote.

Communication:

All October campaign voter communication to base communities will emphasize the ease of Early Voting. Extra effort will be made, however, not confuse voters by promoting Early Vote locations too close to Election Day. Among the current ideas:

- Earned and paid media campaign to Hispanic and African-American outlets;
- Sound trucks throughout urban neighborhoods.

Ballot Pickup:

In Florida, it is legal to handle ballots. This means it is possible for the campaign to canvass base neighborhoods, pick up completed ballots and deliver them to Early Vote locations. We will incorporate these deliveries into our Early Vote canvassing program.

Monitoring:

Throughout the fifteen day Early Vote period, the campaign will monitor on a daily basis the characteristics of voters who are participating so that we can augment or alter the target universe. This will also help the campaign gauge the involvement of other Democratic groups, as well as the RNC, in turning out Early Voters. The data can be collected from town clerks. Victory 2004 will identify which targeted counties will participate in this program.

Condo Commando Program:

A Condo Commando Program will use our precinct captain and volunteer structure to turn out condominium residents for the Early Vote Program. The target audience of the program is white, middle class retirees who live in condominium communities, primarily in the Palm Beach - Broward corridor. The campaign will particularly utilize house meetings in these communities to boost together Early Vote. \$20,000 has been budgeted to pay for literature for condo commando canvasses and events.

A similar program may be initiated in conjunction with our College Campus Outreach, along the lines of a 'Campus SWAT Team' focused on Early Vote.

ABSENTEE VOTE BY MAIL (TRADITIONAL ABSENTEE)

Universe:

The universe for the absentee vote by mail program includes two components:

- Democrats over 65 who have voted in 1 of 4 or 2 of 4 elections since 1996: 267,885 individuals in 223,238 households.
- NPA/Independents over 65 who have voted in 1 of 4 or 2 of 4 elections since 1996: 111,952 individuals in 93,293 households. We assume we will ID approximately 50% of this universe as supporters, which brings the number to: 46,647.

Total absentee universe: 379,837 individuals in 269,885 households of Independent and Democratic voters who are 65+ and who have voted in 1 of 4 or 2 of 4 recent elections.

Military Ballots:

The campaign is developing a thorough plan to address proactively the issues experienced in 2000 regarding military absentee ballots.

Monitoring and Integration:

Victory 2004 field staff and precinct captains in targeted absentee vote precincts will monitor on a weekly basis the number and type of voters who mail absentee ballots. In addition, the Florida Voter File will be updated to include a system for designating which voters have completed and mailed their absentee ballots. These voters will be removed from the GOTV universe and additional absentee contacts.

Program:

Total contacts: 5

- 1 Volunteer call
- 2 Paid mail contacts
- 2 Paid live calls
- 4 Paid automatic calls

Absentee Program Timeline:

Wednesday, September 25	Initial Auto Call
Friday, October 1 – Sunday, October 17	Ongoing Volunteer Calls
Friday, October 1	Mail Piece 1 drops
Saturday, October 2	Auto Call 2
Wednesday, October 6	Live Chase Call

Wednesday, October 13	Auto Call 3
Monday, October 18	Mail Piece 2 drops
Monday, October 18	Auto Call 3

Voter Contact Totals:

BASE VOTE UNIVERSE: 1,329,057(Strasma GOTV Universe + New Regs)

EARLY VOTE	Unit Cost	Broad U	Contact	Match/HH	Cost
Volunteer Call	0.0800	1,329,057	0.43	0.490	\$22,402.58
Volunteer Call to Subset of AB Calls	0.0800	1,329,057	0.43	0.120	\$5,486.35
Phone 1 Auto	0.0800	1,329,057	0.43	0.490	\$22,402.58
Phone 2 Auto	0.0800	1,329,057	0.43	0.490	\$22,402.58
Phone 3 Auto	0.0800	1,329,057	0.43	0.490	\$22,402.58
Phone 4 Auto	0.0800	1,329,057	0.43	0.490	\$22,402.58
Phone 5 Auto	0.0800	1,329,057	0.43	0.490	\$22,402.58
Phone 6 Auto	0.0800	1,329,057	0.43	0.490	\$22,402.58
Phone 7 Auto	0.0800	1,329,057	0.43	0.490	\$22,402.58
Phone 8 Auto	0.0800	1,329,057	0.43	0.490	\$22,402.58
Paid Phone Live	0.1500	1,329,057	0.43	0.490	\$42,004.85
Mail 1	0.4000	1,329,057	1.00	0.625	\$332,264.25
Mail 2	0.4000	1,329,057	1.00	0.625	\$332,264.25
Paid Canvass	0.5300	1,000,000	1.00	0.625	\$331,250.00
Paid Canvass	0.5300	1,000,000	1.00	0.625	\$331,250.00
					\$1,576,142.96

GOTV UNIVERSE: 1,000,000 (Estimated Subset of Early Vote)

BASE/GOTV UNIVERSE	Unit Cost	Broad U	Contact	Match/HH	Cost
Phone Auto	0.0800	1,000,000	0.43	0.490	\$16,856.00
Phone Live	0.1500	1,000,000	0.43	0.490	\$31,605.00
Mail 1	0.4000	1,000,000	1.00	0.625	\$250,000.00
Mail 2	0.4000	1,000,000	1.00	0.625	\$250,000.00
Paid Canvass	0.5300	1,000,000	1.00	0.625	\$331,250.00
					\$879,711.00

ABSENTEE UNIVERSE: 379,837 voters

ABSENTEE BY MAIL	Unit Cost	Broad U	Contact	Match/HH	Cost
Volunteer Call	0.0800	379,837	0.43	0.490	\$6,402.53
Mail 1	0.4000	379,837	1.00	0.625	\$94,959.25
Mail 2	0.4000	379,837	1.00	0.625	\$94,959.25
Auto Call 1	0.0800	379,837	0.43	0.490	\$6,402.53
Auto Call 2	0.0800	379,837	0.43	0.490	\$6,402.53
Auto Call 3	0.0800	379,837	0.43	0.490	\$6,402.53
Auto Call 4	0.0800	379,837	0.43	0.490	\$6,402.53
Paid Live Call	0.1500	379,837	0.43	0.490	\$12,004.75
Paid Live Call	0.1500	379,837	0.43	0.490	\$12,004.75
					\$245,940.66

PRESIDENTIAL PERSUASION UNIVERSE: 926,525 Strasma Placeholder

SWING/PERSUASION	Unit Cost	Broad U	Contact	Match/HH	Cost
Paid Auto ID Call	0.2000	926,525	0.50	0.490	\$45,399.73
Paid Live ID Call	0.5000	926,525	0.50	0.490	\$113,499.31

Volunteer Persuasion Call	0.0800	926,525	0.50	0.490	\$18,159.89
Mail 1	0.4000	926,525	1.00	0.625	\$231,631.25
Mail 2	0.4000	926,525	1.00	0.625	\$231,631.25
Mail 3	0.4000	926,525	1.00	0.625	\$231,631.25
Mail 4	0.4000	926,525	1.00	0.625	\$231,631.25
Volunteer GOTV Call	0.0800	926,525	0.50	0.490	\$18,159.89
1 Paid Live GOTV Call	0.1500	926,525	0.50	0.490	\$34,049.79
1 Paid Auto GOTV Call	0.0800	926,525	0.50	0.490	\$18,159.89
					\$1,173,953.50

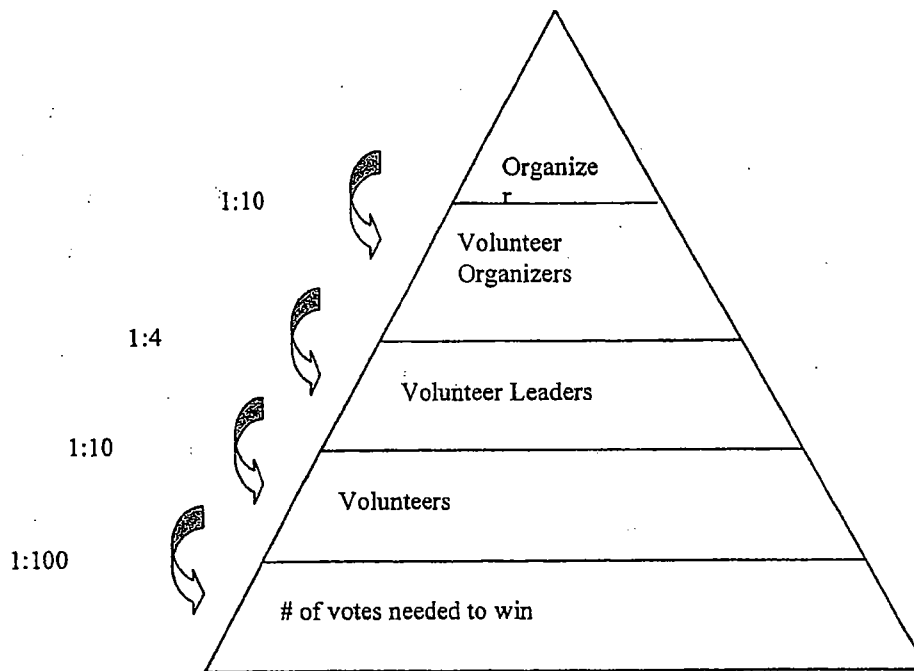
\$3,875,748.12

III. CAPACITY:

The Victory 2004 campaign must rely on unprecedented volunteer commitment and effort to build a grassroots organization unlike one ever seen in Florida and the Democratic Party. We must engage supporters to build the capacity to carry out our voter contact goals. For example, to meet just the call goals, the campaign will need at least 1,092,230 shifts of volunteer service in the final two months. And given the campaign's assumption that it takes one volunteer to win 100 votes, we will need a total of at least 33,142 (win number 3,314,240 divided by 100) volunteers on our team. Clearly the need to develop an elaborate and intense grassroots campaign organization is of the utmost importance in the coming weeks.

Assumptions:

The following pyramid illustrates the assumptions underlying volunteer capacity goals for the campaign:



Volunteer Capacity Calculations:

To win, the campaign will need significant manpower from its grassroots volunteer operation. As outlined above, the biggest facet of the volunteer effort will be the completion of 1,092,230 volunteer-to-voter calls. We estimate that this will necessitate 24,282 volunteer shifts:

- Between September 1 and Election Day, there are approximately 71 working campaign days (this excludes Yom Kippur, and Rosh Hashonah, Halloween, and September 11 and counts weekend days as double).
- Each 'working campaign day' will include 3 hours of voter contact, with an estimated 15 attempted contacts per hour.
- At this rate, to meet its goals the campaign will need to include (1,092,230 / 45 / 71) 342 volunteers per working day for a total of 24,282 volunteers between September 1 and Election Day. (Note: as of this writing, 35,000 volunteers have signed up on the JohnKerry.com website alone.)

These volunteers will be led by the most extensive precinct leader team in Florida history. To date, the campaign has already identified a significant number of precinct leaders through its house meeting and community action meeting programs. To date, more than 27,771 volunteers have also been identified for the effort.

Within several weeks the campaign will have identified a total of 3,809 precinct captains, including 1391 from targeted base precincts and 2,418 targeted persuasion precincts.

But these calls are just one part of the volunteer program. Volunteers will be integral to every part of the campaign. Because the campaign estimates that it takes one volunteer to earn 100 votes, we believe the campaign will need at least the 33,142 volunteers, and probably many more.

To build a team consisting of 33,142 volunteers, we need:

- 15% of our volunteers recruited in June (4,971)
- 25% of our volunteers recruited in July (8,286)
- 50% of our volunteers recruited in August (16,571)
- 80% of our volunteers recruited in September (26,514) and
- 100% of our volunteers recruited in October (33,142)

Volunteer Phoning and Canvassing:

Our primary volunteer phoning and canvassing operations will be run through centralized phone banks and canvass sites out of our field offices. By September 10, we will have at least 25 field offices throughout the state of Florida.

Precinct Teams:

Precinct organizing will anchor our voter contact program. Precinct captains will be recruited in all target base and persuasion precincts. Our primary focus is creating teams with a precinct captain and one volunteer per 100 Democratic votes. Their purpose will be to implement a volunteer-based voter contact program.

Organizing Conventions & Trainings:

Our first in-state training for field organizers was held August 27th. Two additional trainings will be held in September and October. The goal of each training is to review the strategy of the next phase of the field plan. In addition, regional organizing conventions will be held on September 12th and October 9th. The October training will focus on Early Vote tactics. Finally, local trainings will be held regularly in every field office for precinct captains, volunteer organizers and phone bank supervisors.

"Road Trip to Victory" Out of State Volunteers and Travelers:

Florida is in a unique position to draw out-of-state volunteers because of its status as the site of the Florida recount and as a symbolic battleground. Led by an Out-of-State Volunteer Coordinator, Victory 2004 will coordinate recruitment and deployment of 10,000 out of state volunteers for targeted get out the vote efforts.

The campaign recently brought on additional staffers to help ensure a smooth, efficient and massive out-of-state effort:

- A full-time senior operative joined the Florida campaign recently to identify 'ubers' who can manage counties and key precincts for the final month of the campaign. These ubers will work with existing field staff to implement GOTV efforts in key regions.
- An additional staff member started work in the headquarters recently to secure housing for the influx of out-of-state talent.
- We are also investigating adding several paid staffers to assist with the management of the out of state volunteer program on a regional basis.

IV. ADDITIONAL PROGRAMMATIC ELEMENTS AND TOOLS:

Volunteer and Voter Tracking:

- **Voter File:** The Florida voter file is managed by Leverage and hosted online. Each organizer has access to the voter information for his or her geographic region. Organizers will print call and canvass lists using Leverage. The IDs gained through calling and canvassing will be inputted into the voter file nightly. Because the current phone match on the voter file is 49%, we will engage in a program to enhance the Florida voter file with new phone numbers (including possibly prospecting by auto-call for live numbers, i.e. call 240-0000, then 240-0001).
- **Bottled Lightning:** this program tracks and records field volunteer activity including events and office work, house meetings and constituency preferences. It will also communicate with the voter file.
- **Dashboard:** The "Dashboard" online software tracks progress against goals, using information from Bottled Lightning and the Voter File. It allows staff and precinct leaders to easily gauge progress regionally and statewide.

Ballot Protection:

We believe a comprehensive program combining and merging legal, field and resources aimed at both preventing and preparing for a potential recount is critical. Dave Friedman has joined the campaign to establish an organization capable of mounting an extremely aggressive legal operation.

The specter of 2000 still haunts Florida politics and the current machination by the Secretary of State regarding the "felon list" demonstrates that without continuous oversight, we should expect no better in 2004.

Critical in a state as large as Florida are varied electoral protection and enhancement strategies relating to absentee ballots (both domestic and overseas); poll protection, felon issues, and machine monitoring and validation. This is a unique necessity combined (as the Recount was) field and lawyer operation that needs the cooperation of the entire team.

We utilized the August 31st primary as an opportunity to do a dry run of this lawyers' operation and will develop a comprehensive ballot review, ballot security and voting machine security validity plan.

Total pre-recount cost of this program is \$85,000. Please see Appended Election Protection Plan for additional information.

Minority Media:

We believe that it is important to institutionalize a specific minority media, mail and phone program in three different communities – Caribbean, African-American and non-Cuban Latino. We will work to identify vendors in all these areas.

The total media budget would be \$750,000 (\$475,000 African-American and \$275,000 Hispanic). The radio could be paid either on a split if there are partisan references or 100% non-Federal if, for example, the script were simply 'Get Out and Vote Today, Our Lives and Future Depend On It.'

The mail should be a discreet subset of the base program and should have no additional costs element.

Military Families:

We believe cutting the Bush margin among military families provides us with a real opportunity in Florida. The margin among military absentee ballots was critical in the 2000 election.

We would like to understand what current thinking is among this voter segment, and determine whether a focused mail and phone operation would bear fruit (particularly, given the number of ex-senior military officers who endorsed Senator Kerry). We propose utilizing at least two focus groups: one aimed at returned reservists and the other, families of currently stationed full-time military.

A well-orchestrated and timed surrogate operation will also be designed to increase support in this segment.

If a military families program is considered, the program cost is estimated at \$100,000.

Referenda:

Florida voters will be faced with eight different constitutional amendments on the November 2 ballot. Each initiative will attract a different constituency and needs to be taken into account through the remainder of the campaign. Among the initiatives:

- **Parental Notification Of A Minor's Termination Of Pregnancy:** Proposing an amendment to the state Constitution to authorize the Legislature to require by general law for notification to a parent or guardian of a minor before the termination of the minor's pregnancy.
- **The Medical Liability Claimant's Compensation Amendment:** Proposes to amend the state Constitution to provide that an injured claimant who enters into a contingency fee agreement with an attorney in a claim for medical liability is entitled to no less than 70 percent of the first \$250,000 in all damages received by the claimant, and 90 percent of damages in excess of \$250,000, exclusive of reasonable and customary costs and regardless of the number of defendants.
- **Authorizes Miami-Dade and Broward County Voters to Approve Slot Machines In Pari-mutuel Facilities:** Authorizes Miami-Dade and Broward counties to hold referenda on whether to authorize slot machines in existing, licensed pari-mutuel facilities (thoroughbred and harness racing, greyhound racing, and jai alai) that have conducted live racing or games in that county during each of the last two calendar years before effective date of this amendment.
- ***Florida Minimum Wage Amendment:** Creates a Florida minimum wage covering all employees in the state covered by the federal minimum wage. The state minimum wage will start at \$6.15 per hour six months after enactment, and thereafter be indexed to inflation each year.
- **Repeal of High Speed Rail Amendment:** Repeals an amendment in the Florida Constitution that requires the Legislature, the Cabinet and the Governor to proceed with the development and operation of a high speed ground transportation system by the state and/or by a private entity.
- **Patients' Right to Know About Adverse Medical Incidents:** Current Florida law restricts information available to patients related to investigations of adverse medical incidents, such as medical malpractice. This amendment would give patients the right to review, upon request, records of health care facilities' or providers' adverse medical incidents, including those which could cause injury or death.
- **Public Protection from Repeated Medical Malpractice:** Current law allows medical doctors who have committed repeated malpractice to be licensed to practice medicine in Florida. This amendment prohibits medical doctors who have been found to have committed three or more incidents of medical malpractice from being licensed to practice medicine in Florida.

(Source: FloridaVoteSmart.org)

Student Organizing:

If 2004 is as close in Florida as 2000 was, finding new voters, especially new voters on campus, could be the difference between a win and a loss. The student population in Florida, as described in the table below, is significant enough to warrant an aggressive student-organizing program.

School	Undergra	Location	Phone	Website
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	duates			
University of Florida	47,640	Gainesville	352-392-1365	www.ufl.edu
Florida Institute of Technology	2,300	Melbourne	321-674-8030	www.fit.edu
University of Central Florida	44,000	Orlando	407-823-3000	www.ucf.edu
University of North Florida	13,620	Jacksonville	904-620-2624	www.unf.edu
University of South Florida	42,000	Tampa	813-974-3350	www.usf.edu
University of West Florida	9,267	Pensacola	850-474-2230	uwf.edu
Florida A&M University	12,463	Tallahassee	850-599-3796	www.famu.edu
Florida Atlantic University	23,836	Boca Raton	561-297-3040	www.fau.edu
Florida Southern College	2,300	Lakeland	941-680-4111	www.flsouthern.edu
Florida State University	37,328	Tallahassee	850-644-2525	www.fsu.edu
Jacksonville University	2,050	Jacksonville	904-744-3950	www.ju.edu
Nova Southeastern University	4,100	Ft. Lauderdale	954-262-7300	www.nova.edu
Rollins College	2,837	Winter Park	407-646-2000	www.rollins.edu
University of Miami	9,000	Coral Gables	305-284-2211	www.miami.edu
University of Tampa	3,000	Tampa	813-253-3333	www.utampa.edu
Florida Gulf Coast University	5,122	Fort Myers	800-590-3428	www.fgcu.edu
Florida International University	33,436	Miami	(305) 348-2000	www.fiu.edu
Total at Major Campuses:	294,299			

A special outreach effort will be made to historically black colleges and universities throughout Florida. The most significant of these campuses are as follows:

Florida A&M University	11,150	Tallahassee	850-599-3796	www.famu.edu
Bethune Cookman College	2,301	Daytona Beach	940-255-1401	www.bethune.cookman.edu
Edward Waters College	610	Jacksonville	904-355-3030	www.ewc.edu
Florida Memorial College	1500	Miami	305-626-3650	www.fmc.edu

Student Organizing Goals:

FL student organizer will facilitate student program to achieve three goals:

- 693 student volunteers;
- Campus organizations (with leaders) on every major campus;
- Participate in voter contact with field organizers.

Student Organizing Phases:

- **Recruiting Campus Organizers:** We will establish campus-by-campus steering committees, and campus organizers will work in regional field offices and be responsible for activity on their individual campuses. Individual organizers will not be compensated monetarily but will receive internship credit or recommendations based on performance.
- **Conference Call with Student Leadership:** We will schedule a conference call to introduce our campaign team and to foster a dialogue among interested students. This will be our first opportunity to engage student leaders and interested students.
- **Calendar of Tabling Opportunities and Welcome Back Week:** Assembling a calendar of opportunities at campuses around the state will enable regional organizers to act quickly to recruit students when they arrive in their regions.

- **Increase Student Vote on FL Campuses:** We will obtain student directories for every major campus and match this data against the voter file will make it easier for the campaign to target the unregistered students as well as ID and turnout those who are already registered to vote.
- **Student Targeted Events and GOTV Concerts:** Events targeted to students and hosted on college campuses in the weeks leading up to November 2 will be critical to motivate large student populations to the polls.

V. UNIVERSES & CALL PROGRAM:

Florida is a complex state of numerous geographic regions that range from large urban cities to rural towns. It is imperative that targeted call universes and programs be applied regionally rather than to the state as a whole. Call scripts and talking points must also be tailored according to regional polling data.

Kerry Vote Goal By the Numbers:

North: 567,795 Kerry Vote Goal
497,758 Democratic Base Voters
196 Base Precincts (108,179 base voters)
622 Swing Precincts (58,955 swing voters)

Plan of Action:

1. Recruit 818 Precinct Captains
2. Swing Precincts Universe: Blind ID to Independents in swing precincts
3. Base Precincts Universe: Persuasion message & ID to low performing D's & independents

Central: 1,475,361 Kerry Vote Goal
1,238,432 Democratic Base Voters
253 Base Precincts (122,346 base voters)
2379 Swing Precincts (376,587 swing voters)

Plan of Action:

1. Recruit 2632 Precinct Captains
2. Swing Precincts Universe: Blind ID to Independents in swing precincts (Independent voters with verified phones)
3. Base Precincts Universe: Persuasion message & ID to low performing D's & independents

South: 1,271,581 Kerry Vote Goal
1,058,322 Democratic Base Voters
937 Base Precincts (490,758 base voters)
1205 Swing Precincts (174,582 swing voters)

Plan of Action:

1. Recruit 937 Precinct Captains
2. Base Precincts Universe: Persuasion message & ID to low performing D's & independents (Dems & Independents with verified phones, who voted in '00 but not '02)
3. Swing Precincts Universe: Blind ID to Independents in swing precincts (Independent voters with verified phones)

Presidential Swing Precincts:

North: 58,955 voters
36,846 HH

Week	Dates	Universe	Pct Calls	Total Calls
Week 7	8/24-9/4	36,846	.10	3,684

Week 6	9/5-9/11	36,846	0.10	3,684
Week 5	9/12-9/18	36,846	0.12	4,422
Week 4	9/19-9/25	36,846	0.14	5,158
Week 3	9/26-10/2	36,846	0.16	5,895
Week 2	10/3-10/9	36,846	0.18	6,632
Week 1	10/10-10/16	36,846	0.20	7,368

Central: 376,587 voters
235,366 HH

Week	Dates	Universe	Pct Calls	Total Calls
Week 7	8/29-9/4	235,366	0.10	23,536
Week 6	9/5-9/11	235,366	0.10	23,536
Week 5	9/12-9/18	235,366	0.12	28,243
Week 4	9/19-9/25	235,366	0.14	32,951
Week 3	9/26-10/2	235,366	0.16	37,658
Week 2	10/3-10/9	235,366	0.18	42,366
Week 1	10/10-10/16	235,366	0.20	47,073

South: 174,582 voters
109,113 HH

Week	Dates	Universe	Pct Calls	Total Calls
Week 7	8/29-9/4	109,113	0.10	10,911
Week 6	9/5-9/11	109,113	0.10	10,911
Week 5	9/12-9/18	109,113	0.12	13,093
Week 4	9/19-9/25	109,113	0.14	15,276
Week 3	9/26-10/2	109,113	0.16	17,458
Week 2	10/3-10/9	109,113	0.18	19,640
Week 1	10/10-10/16	109,113	0.20	21,823

Base Precincts:

North: 108,179 voters
67,612 HH

Week	Dates	Universe	Pct Calls	Total Calls
Week 7	8/29-9/4	67,612	0.10	6,761
Week 6	9/5-9/11	67,612	0.10	6,761
Week 5	9/12-9/18	67,612	0.12	8,113
Week 4	9/19-9/25	67,612	0.14	9,466
Week 3	9/26-10/2	67,612	0.16	10,818
Week 2	10/3-10/9	67,612	0.18	12,170
Week 1	10/10-10/16	67,612	0.20	13,522

Central: 122,346 voters
76,466 HH

Week	Dates	Universe	Pct Calls	Total Calls
Week 7	8/29-9/4	76,466	0.10	7,646
Week 6	9/5-9/11	76,466	0.10	7,646
Week 5	9/12-9/18	76,466	0.12	9,175

Week 4	9/19-9/25	76,466	0.14	10,705
Week 3	9/26-10/2	76,466	0.16	12,235
Week 2	10/3-10/9	76,466	0.18	13,764
Week 1	10/10-10/16	76,466	0.20	15,293

South: 490,758 voters
306,724 HH

Week	Dates	Universe	Pct Calls	Total Calls
Week 7	8/29-9/4	306,724	0.10	30,672
Week 6	9/5-9/11	306,724	0.10	30,672
Week 5	9/12-9/18	306,724	0.12	36,807
Week 4	9/19-9/25	306,724	0.14	42,941
Week 3	9/26-10/2	306,724	0.16	49,076
Week 2	10/3-10/9	306,724	0.18	55,210
Week 1	10/10-10/16	306,724	0.20	61,345

VI. TIMELINE:

Phase II: Building Support-8/23-9/12

Goals:

- Build volunteer capacity in specific areas of concentration to conduct voter contact

Steps:

- Call Independents in Swing Precincts
- Call weak-voting Democrats in Base Precincts
- Identify 50% of Precinct Captains

Sunday, August 22 nd	<ul style="list-style-type: none"> • Planning meeting with RFDs and FD – 1 pm • Statewide Field Call – 3 pm
Sunday – Thursday, August 22 nd -26 th	<ul style="list-style-type: none"> • Phone Banks • Calls to ID independent voters in persuasion precincts
Saturday, August 28 th	<ul style="list-style-type: none"> • Statewide Field Training at Broward County AFL-CIO
Sunday, August 29 th	<ul style="list-style-type: none"> • Statewide Planning Meeting – 1-6 pm • Statewide Field Call – 3 pm
Sunday-Thursday, August 29 th – September 3 rd	<ul style="list-style-type: none"> • Phone Banks to independent voters in persuasion precincts
Sunday, September 12 th	<ul style="list-style-type: none"> • Organizing Conventions throughout Florida

Phase III: Persuade & Motivate the Voters- 9/13-10/16

Goals:

- Turn persuadable voters into Kerry/Edwards voters through a personal voter contact
- Begin preparations for Early Vote campaign (esp. NPA women in I-4 corridor)

Steps:

- Call Independents in Swing Precincts
- Call weak-voting Democrats in Base Precincts
- Identify 100% of Precinct Captains

Sunday-Thursday, September 13 th -16 th	<ul style="list-style-type: none"> • Phone Banks • ID calls to independent voters in persuasion precincts
Sunday, September 19 th	<ul style="list-style-type: none"> • Planning Call with RFDs and FD – 1 pm • Statewide Field Call – 3pm
Sunday-Thursday, September 20 th – 23 rd	<ul style="list-style-type: none"> • Phone Banks to ID independent voters in persuasion precincts
Saturday, September 25 th	<ul style="list-style-type: none"> • Canvass
Sunday, September 26 th	<ul style="list-style-type: none"> • Planning call with RFDs and FD – 1 pm • Statewide Field Call – 3pm
Sunday – Thursday, September 26 th – 29 th	<ul style="list-style-type: none"> • Phone Banks • Calls to ID independent voters in persuasion precincts
Thursday, September 30 th	<ul style="list-style-type: none"> • Presidential Debate (Miami) • Organize Visibility outside debate • Organize Statewide FDP fundraisers

Friday, October 1	<ul style="list-style-type: none"> • Reporting of Absentee Ballot Requests
Saturday, October 2	<ul style="list-style-type: none"> • Canvass
Sunday, October 3 rd	<ul style="list-style-type: none"> • Planning meeting with RFDs and FD – 1 pm • Statewide Field Call 3pm
Sunday, October 3 rd	<ul style="list-style-type: none"> • State Leadership Training with Rakis, Shea, Robinson, Baker, Baldick et al
Sunday – Monday, October 3 rd – 4 th	<ul style="list-style-type: none"> • Phone Banks to ID independent voters in persuasion precincts
Tuesday, October 5 th	<ul style="list-style-type: none"> • Vice Presidential Debate (Cleveland) • Organize Debate Watch Parties
Wednesday – Thursday, October 6 th and 7 th	<ul style="list-style-type: none"> • Phone Banks to ID independent voters in persuasion precincts
Friday, October 8 th	<ul style="list-style-type: none"> • Presidential Debate (St. Louis) • Organize Watch Parties • FDP Low Dollar Fundraiser
Saturday, October 9 th	<ul style="list-style-type: none"> • In-State Training for Field Staff
Sunday – Tuesday, October 10 th – 12 th	<ul style="list-style-type: none"> • Phone Banks to ID independent voters in persuasion precincts
Wednesday, October 13 th	<ul style="list-style-type: none"> • PC & Phone Bank Leader Training, followed by Debate Watch Party
Thursday, October 14 th	<ul style="list-style-type: none"> • Early Vote Phone Banks
Friday, October 15 th	<ul style="list-style-type: none"> • Reporting of Absentee Ballot Requests
Saturday, October 16 th	<ul style="list-style-type: none"> • Organizing Convention for field and constituency staff and top volunteer leadership

Phase IV: Early Vote 10/17-10/28 (Early Vote Begins October 18th)

Goal:

- Turn out voters for Early Vote

Steps:

- See Early Vote section of plan

Sunday, October 17 th	<ul style="list-style-type: none"> • Planning Meeting with RFDs and FD – 1 pm • Statewide Field Call – 3 pm
Sunday-Sunday, October 17 th -October 28 th	<ul style="list-style-type: none"> • Early Vote Canvasses and Phone Bank to Base Precincts and Ids
Monday, October 18 th	<ul style="list-style-type: none"> • Early Vote (Absentee Vote in Person) begins
Sunday, October 24 th	<ul style="list-style-type: none"> • Planning meeting with RFDs and FD – 1 pm • Statewide Field Call – 3 pm

Phase V: Remind the Voters 10/29-11/1

Goals:

- Remind voters of the how, where, and when to vote

Steps:

- Deploy volunteers for GOTV
- Train volunteers, precinct & phone bank leaders for GOTV

Friday-Monday, October 29 th – November 1 st	<ul style="list-style-type: none"> • Phone Banks and Canvasses
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Sunday, October 31 st	<ul style="list-style-type: none">• Planning meeting with RFDs and FD – 1pm• Statewide Field Call – 3 pm
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Phase VI: GOTV-Get out the Vote- 11/2

Goals:

- Turnout all identified 1s and base voters

VII. PAID FIELD STAFF:

Field Organizers:

Central Region (41 organizers)	North Region (11 organizers)	South Region (41 organizers)
Daytona (5)	Gainesville (4)	Ft. Lauderdale/Broward (14)
Melbourne (5)	Jacksonville (2)	Ft. Myers (4)
Orlando (8)	Pensacola (2)	Miami-Dade (15)
St. Petersburg (13)	Tallahassee (3)	Palm Beach (8)
Tampa (10)		

Late October GOTV Staff (125k):

Senior GOTV, communications, and surrogate advance staff will be added to each field office during September.

Office Locations:

County	City		County	City
Alachua	Gainesville	<i>We anticipate the need for additional offices during September. The offices listed here are the campaign's initial beachheads in the most important counties.</i>	Miami Dade	Little Haiti
Brevard	Melbourne		Miami Dade	Calle Ocho
Broward	Ft. Lauderdale HQ		Miami Dade	Aventura
Broward	Plantation		Miami Dade	Palmetto Bay
Duval	Jacksonville		Orange	Orlando Main
Escambia	Pensacola		Orange	Orlando East
Hillsborough	Tampa		Palm Beach	West Palm Beach
Leon	Tallahassee Main		Palm Beach	Delray
Leon	Tallahassee Storefront		Palm Beach	Belle Glade
Miami Dade	Miami Main		Pinellas	St. Petersburg
Miami Dade	Liberty		Volusia	Daytona Beach

APPENDICES

A. Veterans Organizing Plan

Veteran Population: 1,875,597 (15% of the state)

Congressional Veterans: Sen. Bill Nelson and Rep. Allen Boyd

National Guard and Reserve Troops deployed: 42% (13,788 – which I believe is the highest in the nation.)

Active Duty: 55,267

Reserve: 48,198

National Guard: 13,158

Killed in Iraq/Afghanistan: 40/13

If you add in the active duty, reserve and National Guard you add an additional 116,623 military personnel in the state. Also, if you assume that in general there is one member of these units in each household, you are looking a potentially an additional 116K households that have a direct household military connection in the state. Anecdotally, you will have extended families, parents, siblings etc...that may live in the state and have strong military connections.

All of the following numbers are based on population data rather than voter registration data.

Breakdown of Veterans by field region is as follows:

Total	Central	5,248,621	913,369	17%
Total	South	4,695,372	534,609	11%
Total	North	2,339,493	427,619	18%

Vet population in the state corresponds nicely with the presidential swing voters from the targeting:

Central:	430,601
South:	355,895
North:	140,069

Breakdown of veterans by media market is as follows:

Media Market	Total Pop	% Vet	Raw Vet #
Tampa-St. Petersburg	2,902,829	18%	522,509
Orlando	2,249,316	17%	382,384
Miami	2,999,476	8%	239,958
West Palm Beach	1,262,110	16%	201,938
Jacksonville	1,068,435	18%	192,318
Mobile, AL – Pensacola	910,195	18%	163,835
Fort Myers – Naples	733,795	19%	139,421
Tallahassee – Thomasville, GA	472,504	13%	61,426
Panama City	242,002	19%	45,980
Gainesville	222,023	13%	28,863

Breakdown of media market and corresponding field regions:

Media Market / Region	Total Pop	% Vet	Raw Vet #
Tampa-St. Petersburg	2,902,829	18%	522509
Orlando	2,249,316	17%	382384
Central	5,152,145	18%	904,893
Fort Myers – Naples	733,795	19%	139421
Miami	2,999,476	8%	239958
West Palm Beach	1,262,110	16%	201938
South	4,995,381	12%	581317
Jacksonville	1,068,435	18%	192318
Mobile AL – Pensacola	910,195	18%	163835
Tallahassee – Thomasville, GA	472,504	13%	61426
Panama City	242,002	19%	45980
Gainesville	222,023	13%	28863
North	2,915,159	17%	492422

It is clear from population numbers that the most crucial veteran region in the state for the campaign is central Florida. 49% of all the veterans in Florida live in the central region - almost one million veterans - and the two main media markets in central FL cover virtually all of the veterans in this region. Almost one in six people in this region are veterans. In addition, this area represents the campaign's highest number of presidential swing voters according to the targeting.

The rest of the veterans in the state are relatively evenly divided between the northern and southern regions. The density of veterans compared to the general population in the north is 30% greater but due to the sheer size of the population in the southern region there is a greater raw number of vets. The small and diverse number of media markets in the north, make communicating through free press on mass more difficult - or at least more balkanized. The large and concentrated markets in the south provide more centralized free press opportunities for high level surrogates.

Veterans Surrogates:

Based on the vet population numbers, targeting and set up of the media markets we should concentrate our veteran surrogate trips in the central part of the state with the heaviest emphasis on Orlando, Tampa - St. Pete and the I-4 corridor. My guess is that veterans in the south will tend to be more supportive of Kerry-Edwards than in the north but we need some survey research to here to drive the north / south scheduling. On a basic level, scheduling veteran surrogates for the north could help tamp down GOP vote and cut into their advantage there.

Available veteran surrogates currently used by the campaign and the DNC are:

- Senator Max Cleland
- Crewmates and Swift Boat Captains
- General Clark
- Ambassador and former FL Congressman Pete Peterson
- 12 generals from the convention (including former Joint Chiefs of Staff Crowe and Shalikashvilli)
- Balanos Brothers (5 Hispanic brothers who all fought in Vietnam)
- Paul Bucha and other Congressional Medal of Honor Recipients
- General Claudia Kennedy

- Paul Rieckhoff (Served in the Army in Iraq, just came off active duty in May. Has been an outspoken critic of the war)
- Joseph Lesniewski- Kerry's guest for the WWII memorial. 101st Airborne, 506th Regiment, Easy Company, famous "Band of Brothers."

Veterans Field Situation:

Currently there are 4,481 veterans marked on the voter file in FL – this is .2% of the number of veterans in the state. We have 3,390 veterans that have signed up to be Veterans for Kerry in Florida according to the campaign. That gives us a starting point of 7,871 vets in the state in addition to what the local organizers have collected – which seems to be limited to date.

According to research, there are two main ways to find vets in large numbers in FL.

- Any veteran that is at least 10% disabled due to their service is eligible for property tax relief. Property taxes are generally public record but they are assessed by county. We are checking with two or three supportive county commissioners to see how much of this data we will be able to mine but this will still only give us disabled veterans.
- Military plates available in FL if you are a member of the National Guard, U.S. Reserve, Ex-Prisoner of War, Pearl Harbor Survivor, Purple Heart, and Medal of Honor societies. HSMV also issues military services specialty license plates for the United States Army, Navy, Air Force, and Coast Guard. All military plates, except Medal of Honor, are available at local tax collector's offices. I am hopeful that there are 150-200K of these plates in the state. Preliminary research indicates that we will be able to buy these lists through vendors but I will not have an answer to that until Monday at the earliest.

Other options: The remaining options are the traditional networks – VFW, American Legions, Army reserves and national guards and other veteran organizations in the state. We are currently putting together a comprehensive list of all of these organizations in the state and will need to go to the local organizers to collect local veterans lists from supportive vets. This approach is limited in creating enough data to run a real field program unless we hit the jackpot.

Yet Organizers:

We should hire 3 organizers, one for each region with the best organizer assigned to central FL. We may even want to consider hiring a late addition to the central region for the final month. Depending on the success of the data search, these folks could be added to the surrogate team if we come up short on the data and need to concentrate on press and surrogates.

State Leadership Structure:

We will put together a statewide veterans steering committee with county captains responsible for veteran-to-veteran outreach in their community. This steering committee will have regular conference calls to keep the group updated and on the same program.

APPENDIX B. Turnout by Race and Ethnicity in Recent Florida Elections

2000 GENERAL ELECTION

Race	# Reg	% Reg	# Reg Dem	% Reg Dem	# Reg GOP	% Reg GOP	# Reg I/N	% Reg I/N
Caucasian	6,613,587	53.18%	2,614,913	39.54%	2,906,263	43.94%	1,077,495	16.29
African-American	888,487	38.08%	754,533	84.92%	48,446	5.45%	85,084	9.58
Hispanic	734,033	31.87%	236,314	32.19%	324,573	44.22%	172,173	23.46
Hispanic/Other	913,802	35.37%	304,398	33.31%	372,979	40.82%	234,72	25.69
Total	8,415,876	55.90%	3,673,844	43.65%	3,327,688	39.54%	1,397,299	16.6

1998 GENERAL ELECTION

Race	# Reg	% Reg	# Voted	% of Voters	% Voted (of Reg)	% Voted (of total)
Caucasian	6,586,453	52.96%	3,240,526	83.24%	49.2	26.06%
African-American	856,974	36.73%	357,108	9.17%	41.67	15.30%
Hispanic	655,259	28.45%	225,538	5.79%	34.42	97.90%
Hispanic/Other	767,839	29.72%	295,216	7.58%	38.45	11.43%
Total	8,220,026	54.60%	3,892,850	100.00%	47.36	25.86%

1996 GENERAL ELECTION

Race	# Reg	% Reg	# Voted	% of Voters	% Voted (of Reg)	% Voted (of total)
Caucasian	6,565,941	52.80%	3,896,276	82.44%	59.34	31.33%
African-American	845,179	36.22%	446,290	9.44%	52.8	19.13%
Hispanic	583,862	25.35%	300,796	6.36%	51.52	13.06%
Hispanic/Other	666,757	25.80%	383,913	8.12%	57.58	14.86%
Total	8,077,877	53.65%	4,726,479	100.00%	58.51	31.39%

1994 GENERAL ELECTION

Race	# Reg	% Reg	# Voted	% of Voters	% Voted (of Reg)	% Voted (of total)
Caucasian	5,845,493	47.00%	0	0.00%		0.00%
African-American	614,384	26.33%	0	0.00%		0.00%
Hispanic	99,720	4.33%	0	0.00%		0.00%
Hispanic/Other	99,720	38.60%	0	0.00%		0.00%
Total	6,559,598	43.57%	0	0.00%		0.00%

Source: 2000 Coordinated Campaign Review

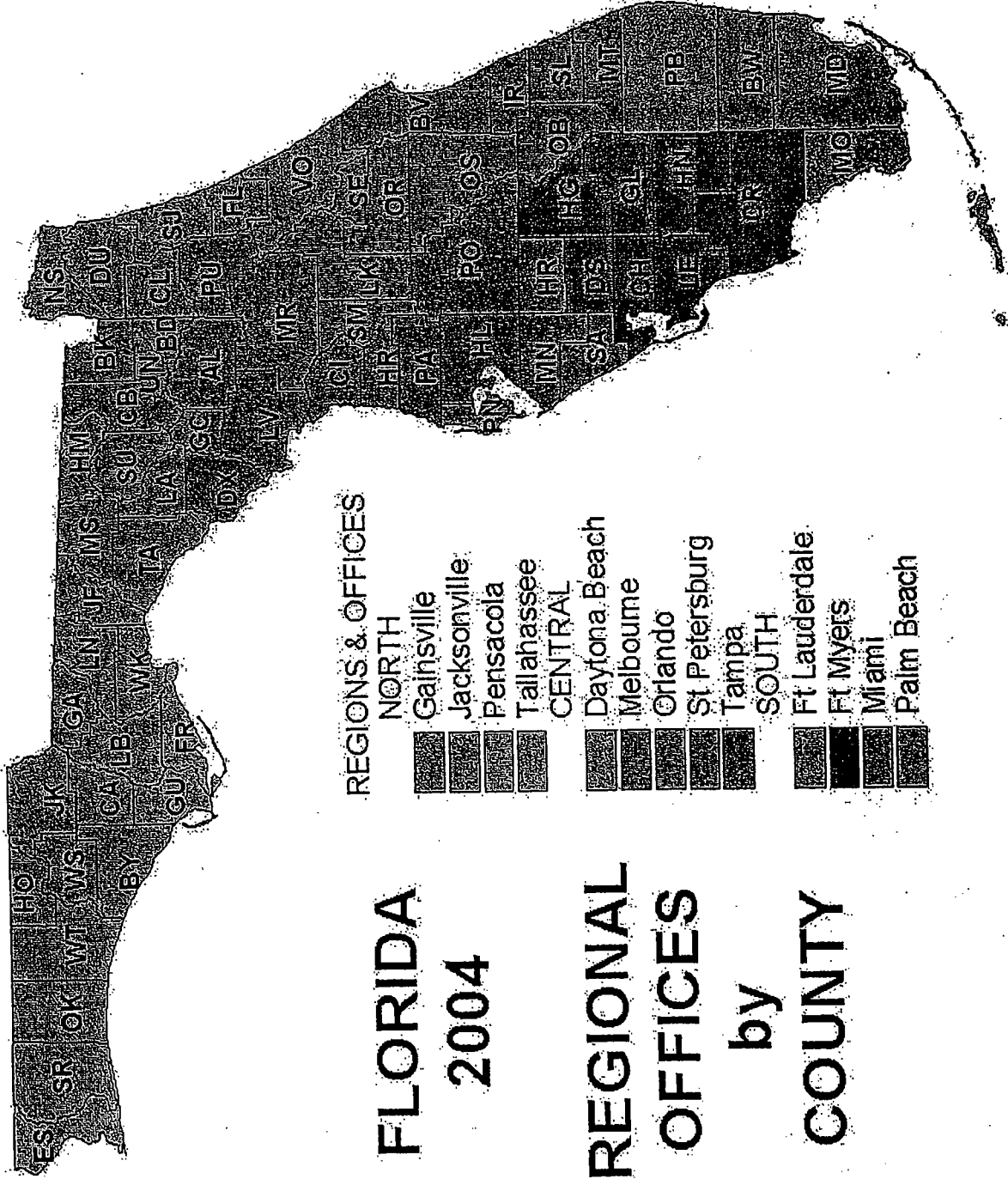
APPENDIX C: Voter Statistics by County

COUNTY	REG	PROJECTED TURNOUT %	EXPECTED VOTE	GOAL TURNOUT %	GOAL RAW	PREZ SWING	PREZ SWING VOTERS	GOTV %	TARGET VOTERS	DEM BASE %	DEM BASE VOTERS	PREZ DEM PERFORMANCE	PERFORMANCE ADJUSTMENT	GOAL %
Alachua		71.	89,485	71.3	89,485	11.6	10,389	12.2	15,261	52.8	47,28	59.6	0.62	60.2
Baker		65.	7,641	65.9	7,641	11.2	853	7.7	897	31.6	2,41	35.2	0.62	35.8
Bay		63.	63,188	63.7	63,188	9.4	5,959	6.6	6,573	33.2	20,94	36.6	0.62	37.2
Bradford		66.	9,176	66.7	9,176	10.4	955	5.8	792	37.4	3,43	41.6	0.62	42.2
Brevard		77.	236,737	77.1	236,737	19.1	45,335	11.9	36,542	40.2	95,17	49.6	0.62	50.2
Broward		64.	634,324	64.8	634,324	18.6	118,301	15.9	155,836	55.9	354,42	68.3	0.62	68.9
Calhoun		71.	5,426	71.4	5,426	13.2	715	12.9	983	43.5	2,36	49.9	0.62	50.5
Charlotte		68.	71,964	68.5	71,964	14.6	10,492	6.5	6,830	38.3	27,57	44.9	0.62	45.5
Citrus		70.	59,866	70.5	59,866	15.2	9,082	6.0	5,067	41.0	24,53	48.3	0.62	48.9
Clay		66.	55,824	66.5	55,824	8.4	4,700	3.0	2,489	25.2	14,05	27.5	0.62	28.1
Collier		74.	104,261	74.9	104,261	10.2	10,614	6.4	8,934	29.3	30,56	32.7	0.62	33.3
Columbia		59.	19,036	59.9	19,036	11.1	2,117	5.3	1,684	39.7	7,55	44.6	0.62	45.2
De Soto		50.	8,446	50.0	8,446	11.9	1,001	6.5	1,091	41.2	3,47	46.6	0.62	47.2
Dixie		39.	3,658	39.6	3,658	15.2	557	6.7	621	39.9	1,45	46.9	0.62	47.5
Duval		65.	290,533	65.0	290,533	10.1	29,344	6.3	28,017	39.2	113,89	43.5	0.62	44.1
Escambia		68.	119,183	68.7	119,183	6.3	7,509	7.1	12,261	35.8	42,70	38.2	0.62	38.8
Flagler		81.	31,429	81.2	31,429	16.4	5,148	11.8	4,573	44.5	13,98	53.2	0.62	53.8
Franklin		62.	4,347	62.0	4,347	11.9	518	6.0	417	44.3	1,92	50.2	0.62	50.8
Gadsden		60.	15,361	60.2	15,361	17.2	2,641	4.4	1,133	57.6	8,84	69.2	0.62	69.8
Glades		78.	6,413	78.5	6,413	10.8	691	14.7	1,199	38.7	2,48	43.4	0.62	44.0
Gilchrist		54.	3,119	54.4	3,119	13.8	429	6.1	349	40.3	1,25	46.6	0.62	47.2
Gulf		63.	5,736	63.2	5,736	10.7	611	4.2	380	43.0	2,46	47.9	0.62	48.5
Hamilton		58.	4,353	58.6	4,353	12.6	547	10.7	792	44.1	1,91	50.3	0.62	50.9
Hardee		57.	6,701	57.5	6,701	12.7	852	7.2	833	38.5	2,57	43.9	0.62	44.5
Harney		52.	8,051	52.3	8,051	14.1	1,138	8.0	1,229	37.3	3,00	42.9	0.62	43.5
Hernando		68.	68,992	68.3	68,992	15.2	10,501	7.7	7,732	44.4	30,66	52.5	0.62	53.1
Highlands		66.	37,747	66.9	37,747	14.0	5,296	7.0	3,949	37.0	13,94	42.9	0.62	43.5
Hillsborough		72.	382,572	72.2	382,572	12.4	47,324	10.3	54,796	44.4	169,79	50.5	0.62	51.1
Holmes		71.	7,142	71.7	7,142	10.4	743	9.8	971	34.8	2,48	38.9	0.62	39.5
Indian River		69.	54,168	69.6	54,168	12.2	6,614	7.2	5,580	37.2	20,12	42.5	0.62	43.1
Jackson		69.	17,943	69.3	17,943	7.7	1,389	7.5	1,937	44.4	7,97	48.1	0.62	48.7
Jefferson		71.	5,823	71.2	5,823	8.1	489	6.5	531	54.2	3,15	58.9	0.62	59.5
Lafayette		63.	2,695	63.4	2,695	15.0	405	4.8	205	36.0	97	42.4	0.62	43.0
Lake		68.	96,996	68.7	96,996	13.7	13,288	6.9	9,714	38.2	37,06	44.3	0.62	44.9
Lee		73.	206,241	73.1	206,241	12.3	25,388	7.2	20,444	35.2	72,57	40.2	0.62	40.8
Leon		71.	103,580	71.3	103,580	15.7	16,221	9.4	13,609	52.9	54,74	62.3	0.62	62.9

VICTORY 2004 FLORIDA COORDINATED CAMPAIGN

Levy	19,940	69.	13,782	69.1	13,782	11.5	1,585	12.8	2,561	43.3	5,97	48.9	0.62	49.5
Liberty	3,750	64.	2,425	64.7	2,425	12.7	307	6.6	248	45.1	1,09	51.5	0.62	52.1
Madison	38,379	60.	23,174	60.4	23,174	13.7	3,182	27.2	10,430	47.5	11,00	54.9	0.62	55.5
Manatee	177,136	65.	115,620	65.3	115,620	13.9	16,060	6.3	11,165	40.6	46,96	47.1	0.62	47.7
Marion	162,018	69.	112,888	69.7	112,888	14.3	16,132	7.4	11,969	40.3	45,54	46.9	0.62	47.5
Martin	91,360	71.	65,685	71.9	65,685	18.6	12,185	7.2	6,530	35.6	23,38	43.8	0.62	44.4
Miami-Dade	959,720	69.	669,298	69.7	669,298	13.2	88,414	12.1	115,757	46.7	312,78	53.5	0.62	54.1
Monroe	50,429	70.	35,377	70.2	35,377	16.6	5,869	11.8	5,947	43.3	15,31	51.7	0.62	52.3
Nassau	37,897	67.	25,735	67.9	25,735	8.1	2,077	6.2	2,347	30.8	7,93	33.5	0.62	34.1
Okaloosa	110,464	64.	71,184	64.4	71,184	10.4	7,432	4.9	5,410	23.4	16,62	26.1	0.62	26.7
Okeechobee	17,473	58.	10,192	58.3	10,192	14.1	1,435	6.3	1,092	44.1	4,49	51.2	0.62	51.8
Orange	439,652	69.	304,663	69.3	304,663	22.0	66,934	11.5	50,687	41.3	125,85	52.6	0.62	53.2
Osceola	94,513	60.	57,477	60.8	57,477	20.4	11,731	7.2	6,813	42.9	24,63	53.6	0.62	54.2
Palm Beach	714,182	66.	476,489	66.7	476,489	18.7	88,913	11.3	80,442	52.1	248,39	63.7	0.62	64.3
Pasco	231,179	64.	149,607	64.7	149,607	9.1	13,659	6.3	14,570	47.1	70,39	51.8	0.62	52.4
Pinellas	580,851	69.	402,891	69.4	402,891	10.7	42,988	10.0	58,283	48.3	194,40	54.0	0.62	54.6
Polk	265,892	68.	181,298	68.2	181,298	16.0	29,008	9.5	25,124	40.5	73,35	47.9	0.62	48.5
Putnam	40,801	65.	26,561	65.1	26,561	12.6	3,352	7.7	3,149	43.8	11,63	50.0	0.62	50.6
Santa Rosa	81,582	64.	52,729	64.6	52,729	8.9	4,677	3.8	3,120	25.8	13,59	28.3	0.62	28.9
Sarasota	230,977	65.	150,489	65.2	150,489	14.5	21,776	8.2	18,973	40.6	61,17	47.5	0.62	48.1
Seminole	205,149	72.	148,377	72.3	148,377	19.3	28,607	11.7	23,891	36.9	54,75	45.7	0.62	46.3
St. Johns	93,589	68.	63,911	68.3	63,911	10.1	6,449	4.5	4,224	30.9	19,73	34.3	0.62	34.9
St. Lucie	127,436	66.	84,699	66.5	84,699	21.6	18,303	10.8	13,711	43.2	36,59	54.8	0.62	55.4
Sumter	35,944	71.	25,744	71.6	25,744	9.0	2,317	12.9	4,632	41.4	10,64	45.4	0.62	46.0
Suwannee	20,596	61.	12,672	61.5	12,672	12.4	1,568	4.5	923	34.7	4,40	39.5	0.62	40.1
Taylor	11,434	57.	6,605	57.8	6,605	21.9	1,445	7.0	801	35.1	2,32	44.3	0.62	44.9
Union	6,751	56.	3,807	56.4	3,807	18.8	715	7.4	498	36.1	1,37	44.4	0.62	45.0
Volusia	276,443	70.	195,264	70.6	195,264	14.1	27,454	10.9	30,156	47.6	92,88	55.3	0.62	55.9
Wakulla	13,744	64.	8,854	64.4	8,854	13.5	1,197	5.4	742	43.5	3,84	50.2	0.62	50.8
Walton	31,098	64.	20,084	64.6	20,084	8.9	1,789	6.5	2,032	32.5	6,52	35.8	0.62	36.4
Washington	13,852	56.	7,800	56.3	7,800	10.6	829	5.9	813	39.6	3,08	44.2	0.62	44.8
STATE TOTAL	9,329,430		6,373,538		6,373,538		926,525		931,291		2,794,51			3,

APPENDIX D: Field Organization Regions Map



APPENDIX E: Absentee Vote in Person

Attorney-Client Privileged, Attorney Work Product

MEMORANDUM

To: Dave Friedman

August 21, 2004

From: Stephen F. Rosenthal

Re: Early Voting in Florida

Just three months ago, the Florida Legislature enacted a law creating a new system of "early voting" in the 2004 primary and general elections. Fla. Session Laws Ch. 2004-252, §§ 9-13. The early voting provisions create 15-day windows before election day in which people can cast a ballot, and they also affect certain deadlines for other aspects of the election laws.

1. The Law

1. Early Voting

1. Timing: A voter is entitled to cast a ballot in person during the fifteen days before election day at certain designated locations. Fla. Stat. §101.657(1)(b) (2004). Early voting must be made available for at least eight hours each weekday and at least eight hours in the aggregate during each weekend during the 15-day period.

- For the general election, early voting runs from October 18 - November 1.
- For the primary, early voting runs from August 16-30.

2. Locations: Each County Supervisor must designate early voting locations. Those locations are limited to: (1) the main office of the supervisor, (2) a branch office of the supervisor, provided that it is a "full-service facility of the supervisor" and was designated as such at least one year prior to the election, or (3) city halls and public libraries, provided that they are located "so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable." §101.657(1)(a) (2004). A supervisor must allow early voting to be conducted at the main office and at qualified branch offices, but has discretion over which city halls and public libraries to open to early voting.

3. Voting procedure: An early voter must complete a special certificate affirming that she is registered in the county and resides at the address shown on the voter registration

rolls. §101.657(2)(a) (2004). The voter who votes early shall “deposit[] the voted ballot in a voting device used by the supervisor to collect or tabulate ballots.”

4. Challenges and provisional ballots: The same challenge procedure (pursuant to Fla. Stat. § 101.111) applies to early voting; however, the law requires that “[a]ny challenged [early] voter *must* vote a provisional ballot.” Fla. Stat. § 101.657(2)(b) (2004) (emphasis added).

5. Canvassing: The canvass of early voted ballots “shall be substantially the same” as the canvassing of votes cast on election day. Fla. Stat. §101.657(2)(c) (2004). The ballots are to remain confidential until the close of the polls on election day. Fla. Stat. §101.657(1)(a) (2004) (“The results or tabulation may not be made before the close of the polls on election day”). As to provisional ballots, the canvassing board determines the validity of the ballot by majority vote. Fla. Stat. § 101.657(2)(b) (2004).

2. Other Deadlines Affected by the Early Voting Period

Addition of the early voting period required modification of several existing deadlines, which should be noted independently of how early voting is administered.

1. Deadline for revisions to security procedures: Prior to the 2004 amendment, each supervisor had to submit any revisions to the county’s security procedures to the Department of State no later than 45 days before election day. That deadline has been advanced fifteen days, as the new law requires submission no later than 45 days before early voting commences. Fla. Stat. § 101.015(4)(c) (2004). For the general election, that deadline is September 2.

2. Timing of Testing of Automatic Tabulating Equipment: Each elections supervisor must now conduct the public test of the accuracy of the automatic tabulation equipment no earlier than ten days prior to the first day of early voting. Fla. Stat. § 101.5612(2) (2004). For the general election, that means the test must be conducted between October 8 and October 17. The supervisor or her designee must notify the county party chair of the date, time and location of the test at least fifteen days prior to the commencement of early voting.

II Legal and Practical Considerations

1. Early Voting Locations

1. Branch offices of the supervisors of elections: The provision permitting branch offices to be used as early voting sites is subject to two tenable interpretations.¹ Sites "designated as such" could refer to sites designated as full-service branch offices one year ago, or it could refer only to branch offices designated as early voting sites one year ago. On its face, the more plausible interpretation would seem to be the former, allowing supervisors to use established branch offices as early voting sites. Branch offices had already been authorized, under the prior version of the statute, as sites at which voters could cast absentee ballots in person. Fla. Stat. § 101.657(2) (2003). Were the new statute to be interpreted otherwise, no branch office could qualify to be used in the 2004 elections, since none of these sites could have been designated as an early voting site a year ago.

2. City halls and public libraries: The equal-opportunity-to-vote provision clearly evidences the Legislature's intent that all citizens, rich and poor, urban and rural, be afforded equal access to early voting sites. Most likely, this will require designating several city halls and public libraries as early voting sites. The supervisor has discretion to make the geographic selections of the city halls and libraries within the bounds of what is "practicable," Fla. Stat. §101.657(1)(a) (2004). In light of this statutory discretion, any challenge to a supervisor's site selection would need to demonstrate a failure to service a geographic sector of voters which has a conveniently located city hall or public library. An equal opportunity analysis would probably require a comparison of the number of registered voters within a certain radius of each designated site as well as an overlay of the party affiliation of registered voters in that area. A public records request for documents showing how each supervisor arrived at his or her decision of which sites to open would be advisable to prepare for any legal challenge.

2. Weekend Hours

Because the statute affords county supervisors discretion over when to conduct early voting during the weekends -- requiring only eight hours of poll opening "in the aggregate" over the course of a weekend -- how that time is allocated could affect which voters might take advantage of the voting opportunity. For instance, a decision not to open early voting sites on a Sunday might weaken the ability of core Democratic church communities to organize trips to the polls.

3. Procedures

1. Repeal of witness requirement: Early voting replaced what had been known as in-office absentee ballot voting. Previously, in order to vote an absentee ballot at the supervisor of elections' office, a voter was required to have his signature witnessed by another person. See §101.657(2)(a) (2003). The "early voting voter certificate" replaces the "in-office voter certificate" and is identical except for the change in title and the deletion of the witness requirement. To the extent that any county has not generated revised forms, we should make sure that the defunct witness requirement has not crept into early voting by mistake. (In fact, the Division of Elections' website still erroneously implies that there is a signature verification requirement; its "Early

¹ The provision reads: "In order for a branch office to be used for early voting, it shall be a full-service facility of the supervisor and shall have been designated *as such* at least 1 year prior to the election" §101.657(1)(a). (emphasis added).

Voting” page advises “[v]oters who want to vote early . . . [to] remember to bring a photo *and signature* verification with them.”²

2. Ballot security: The elongation of the voting period creates additional risks of lost or stolen ballots. The new law requires county supervisors to establish written procedures to assure the accuracy and security of “procedures related to early voting.” §101.015(4)(b) (2004).

3. Challenges and provisional ballots: The 2004 amendments appear to make it easier for a challenger to force a voter to cast a provisional rather than a regular ballot. On election day at the precincts, the standard procedure is that the clerk and inspectors decide by majority vote whether a challenged voter may cast a regular or a provisional ballot. Fla. Stat. § 101.111(3)(a). The early voting provisions provide that “[a]ny challenged [early] voter *must* vote a provisional ballot.” Fla. Stat. § 101.657(2)(b) (2004) (emphasis added). It then falls to the canvassing board to determine whether these ballots should be counted. Id. It might be argued that the early-voting-challenge provision’s adoption of § 101.111 disallows any change in the rules governing when a voter must cast a provisional ballot. The better argument, however, is that the mandatory command in § 101.657(2)(b) that “[a]ny challenged voter must vote a provisional ballot” creates a different rule for early voting. Practically speaking, since early voting avoids perhaps the biggest downside of provisional balloting -- the incorrect-precinct-invalidation rule -- the effect of the challenge provision may not be that significant.

² <<<http://election.dos.state.fl.us/earlyvoting.shtml>>> (visited August 20, 2004) (emphasis added).

APPENDIX F: General Information on Absentee Voting

NOTE: In order for a voter's absentee ballot to be counted, the voter must sign his/her name on the Voter's Signature's line.

NOTE: For an overseas voter, the voter must include the date he/she signed the Voter's Certificate on the "Date" line. §101.65(2004)

A. Who may vote Absentee?

An elector his or her residence to another is permitted to vote absentee in the county of his/her former residence in that election for President and Vice President, United States Senator, statewide offices, and statewide issues when an elector changes his or her residence to another county in Florida from the county in Florida in which he or she is registered as an elector after the books in the county to which the elector has changed his or her residence are closed. After the general election, such person shall not be permitted to vote in the county of the person's former residence. §101.663(1) (2004).

An elector registered in this state who moves his or her permanent residence to another state and who is prohibited by the laws of that state from voting for the offices of President and Vice President of the United States shall be permitted to vote absentee in the county of his or her former residence for those offices. §101.663(2) (2004).

Although neither the statute nor the administrative code expressly provides for the use of absentee ballots by all other voters, the Florida Department of State website notes that "[a]ll qualified voters are permitted to vote absentee under Florida law." See <http://election.dos.state.fl.us/absenteevoting.shtml>. This is consistent with Fla. Stat. § 101.64, which requires an absentee voter to affirm only that he or she is a registered and qualified voter in the county and that her or she will vote only once in the election. Fla. Stat. § 101.64 (2004).

B. Procedures for Obtaining

A request to the Secretary of State for an absentee ballot may be in person or in writing or by telephone. Except as provided in *s. 101.694*, one request shall be deemed sufficient to receive an absentee ballot for all elections which are held within a calendar year, unless the elector or the elector's designee indicates at the time the request is made the elections for which the elector desires to receive an absentee ballot. Such request may be considered canceled when any first-class mail sent by the supervisor to the elector is returned as undeliverable. §101.62(1)(a)(2004)

The supervisor may accept a written or telephonic request for an absentee ballot from the elector, or, if directly instructed by the elector, a member of the elector's immediate family, or the elector's legal guardian. For purposes of this section, the term "immediate family" has the same meaning as specified in paragraph (4)(b). The person making the request must disclose the name of the elector for whom the ballot is requested; the elector's address; the elector's date of birth; the requester's name; the requester's address; the requester's driver's license number, if available; the requester's relationship to the elector; and the requester's signature (written requests only). §101.62(1)(b)(2004)

If a request for an absentee ballot is received after the Friday before the election by the supervisor of elections from an absent elector overseas, the supervisor shall send a notice to the elector acknowledging receipt of his or her request and notifying the elector that the ballot will not be forwarded due to insufficient time for return of the ballot by the required deadline.

§101.62(2)(2004)

To each absent qualified elector overseas who has requested an absentee ballot, the supervisor of elections shall, not fewer than 35 days before the first primary election, mail an absentee ballot. Not fewer than 45 days before the second primary and general election, the supervisor of elections shall mail an advance absentee ballot to those persons requesting ballots for such elections.

§101.62(4)(a)(2004)

NOTE: The provisions of this code shall not be construed to prohibit any elector from voting in person at the elector's precinct on the day of an election notwithstanding that the elector has requested an absentee ballot for that election. An elector who has received an absentee ballot, but desires to vote in person, shall return the ballot, whether voted or not, to the election board in the elector's precinct. The returned ballot shall be marked "canceled" by the board and placed with other canceled ballots. However, if the elector does not return the ballot and the election official:

§101.69(2004).

- (1) Confirms that the supervisor *has received* the elector's absentee ballot, the elector *shall not be allowed to vote in person*.
- (2) Confirms that the supervisor has *not received* the elector's absentee ballot, the elector *shall be allowed to vote in person* as provided in this code. The elector's absentee ballot, if subsequently received, shall not be counted and shall remain in the mailing envelope, and the envelope shall be marked "Rejected as Illegal."

Cannot determine whether the supervisor has received the elector's absentee ballot, the elector may vote a provisional ballot.

C. Deadlines

The absentee ballot should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located no later than 7 p.m. on the day of the election. All ballots received thereafter shall be marked with the time and date of receipt and filed in the supervisor's office §101.65(2004), §101.67(2)(2004).

For absentee ballots received from overseas voters, there is a presumption that the envelope was mailed on the date stated on the outside of the return envelope, regardless of the absence of a postmark on the mailed envelope or the existence of a postmark date that is later than the date of the election. § 101.6952(2)(2004).

FLORIDA LEGAL TEAM OPERATION OVERVIEW

GOALS

- Ensure every voter can cast a ballot that will be counted
- Promote voter confidence
- Answer questions and provide support to campaign staff

ORGANIZATION

- Core team of senior counsel and campaign election law coordinators to manage program (see Senior Counsel & Coordinators spreadsheet).
- 67 county lead counsels and deputy lead counsels managing operations at county level.
- 1,500 – 2,000 precinct attorneys for November 2.
- Issues teams and litigation team to address substantive issues and prepare for potential litigation.
- Integration with coordinated campaign -- county lead counsel and teams to communicate directly with field offices to address problems, answer questions.

EARLY PREVENTION AND RESOLUTION OF PROBLEMS

- County lead counsel meet with Supervisors of Elections to collect information, fix problems from August through the November 2 election.
- Legal team provides information to campaign, helps formulate voter education plans.
- County counsel seek to persuade Supervisors to fix problems, litigation as last resort.
- Election law training for all volunteer lawyers, abbreviated training for poll watchers.

EARLY VOTING & NOVEMBER 2 OPERATIONS (see attached chart on p.2)

- Early voting: precinct lawyers present at all target polling places to assist voters.
- November 2: 1,500 – 2,000 precinct lawyers present at all target polling places, on call near other polling places.
- On-site precinct lawyers work with voters, campaign staff, and election officials to solve problems; county lead & deputy counsel work with Supervisors to fix larger problems.
- Incidents reported to county lead counsel, up to legal boiler room to detect systematic problems, consult with campaign boiler room and national legal team on major decisions.
- Litigation team and campaign press team available for emergency crisis response.

FIELD IMPLEMENTATION – connecting voters with precinct lawyers (see chart, p.3)

- Campaign volunteers and poll watchers contact lawyers directly for assistance.
 - Field staff and poll watchers get index card with cell phone number for (1) the precinct lawyer who will be present or nearby on call, and (2) county lead counsel/deputy counsel (who can dispatch precinct lawyers).
 - Poll watchers to wear blue hats; poll watchers & precinct lawyers to wear “Every Vote Counts” buttons.
 - Poll workers, precinct lawyers have legal bullet point sheets to answer questions.

- Problems also reported to toll-free 800 number, local campaign numbers; reports relayed to county lead/deputy counsel, who dispatch precinct lawyers to polling places.
 - GOTV lit and palm cards have phone numbers to contact for help.
 - Phone numbers distributed to constituency groups, organizers, etc.
- Legal boiler room to monitor radio, TV, internet reports of problems.

Florida Democratic Legal Team organization – Election Day

Nat'l Boiler Room – Washington, D.C.

Florida Boiler Room – Ft. Lauderdale

Legal Team *reports to* *Coordinated Campaign*

Organization Team

in call for assignments from boiler room

Lead counsel & staff (region coordinators?)

- Master org lists, incl. issues group experts
- Incident report log
- Full law manuals
- Monitor radio & TV

Talks to:

- 1) county lead counsels
- 2) regional supervisors
- 3) issues group experts when needed
- 4) campaign boiler room
- 5) nat'l legal boiler room

Top campaign staff

- Phone #s for legal boiler room

regional legal coordinators in boiler room or campaign field offices will monitor and coordinate with county lead/deputy counsel.

County Supervisor Office (67)

67 lead counsel, 67 deputy leads

- Precinct lawyer lists w/phone #s
- Basic law manual
- Cell phone & Blackberry w/chargers
- Phone #s for boiler room, region coordinator

Talks to:

- 1) lawyers in field to monitor, solve problems
- 2) poll watchers if precinct lawyer can't be reached
- 3) campaign field office
- 4) FL legal boiler room (or regional coordinator if necessary) with incident reports, updates

Field offices (13)

Field supervisors & staff
Maybe have regional legal coordinators in field offices?

deal program target of lawyers: 3,370 @ targeted pcts 50 roaming (10 pcts each) 820 full-time lawyers (*this number may be scaled back*)

Polling places (~1,370 targeted)

Talks to:

- 1) poll watchers & voters to respond, fix problems
- 2) campaign field office
- 3) county lead/deputy counsel for assignments, reports
- 4) regional supervisor if can't reach county lead counsel

Polling places (~5,330 total)

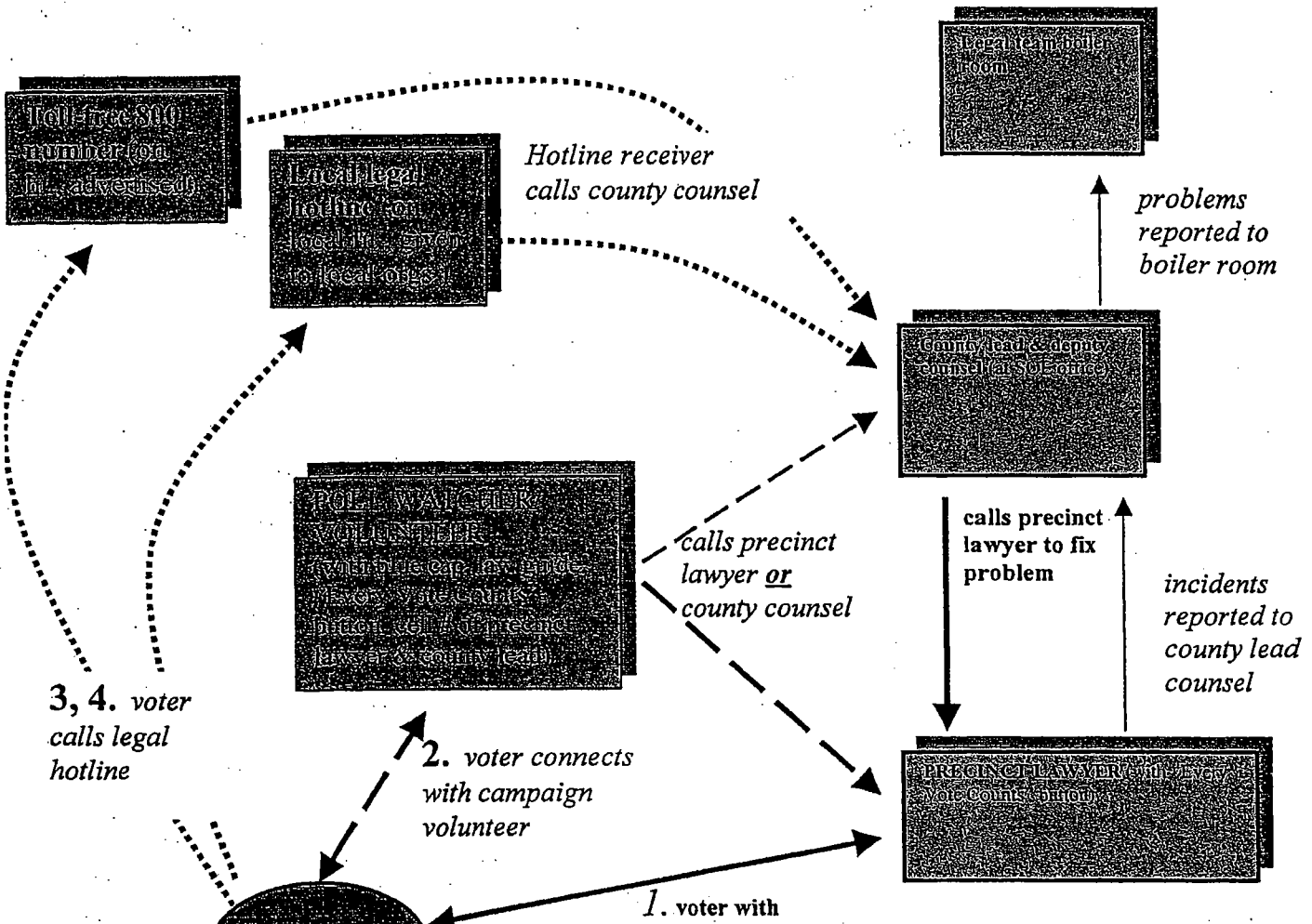
*Up to 1,820 precinct
lawyers: 1,370 at targeted
pcts, 450 roaming*

- Legal bullet points
- Basic law manual
- Incident report form
- Affidavit forms
- Phone #s for county lead & deputy counsel, campaign field office, regional supervisors
- Cell phone w/charger, Blackberry if possible

Poll watchers – name on official list by Oct. ___

- Blue hats (or shirts, etc.)
- Legal bullet points
- Phone #s for field office, precnt. lawyer, county lead & deputy counsel if crisis
- Cell phone w/charger
- “How to vote” educ. lit.?
- Poll closing form to record all results (incl. provisional ballots, etc.)

FIELD IMPLEMENTATION – connecting voters with precinct lawyers



1. Voter and precinct lawyer locate each other directly at polling place.
2. Voter connects with campaign volunteer/poll watcher → if campaign worker cannot fix problem, he/she refers problem directly to precinct lawyer (in person or by cell phone). **If** campaign worker cannot reach lawyer, he/she calls county lead counsel, who calls precinct lawyer to fix problem.
3. Voter calls local legal hotline printed on local lit. → hotline receiver in field office calls county lead counsel → county lead counsel calls precinct lawyer to fix problem.
4. Voter calls statewide toll-free 800 hotline → hotline receiver has numbers for all county lead counsel, calls the right one → county lead counsel calls precinct lawyer to fix problem.

APPENDIX G: Paid Contact Universes

Base Universe: 1,329,057 = Strasma GOTV Universe (931,000) + estimated appx. 397,000 new registrants
 Swing Universe: 926,525 = from model

Universe/Time	Contact Type	Universe	How Derived
Base Early Vote	Volunteer Call	571,496	43% contact rate of 1,329,057
Base Early Vote	ABS Vol Call	159,486	12% of Universe (estimated subset)
Base Early Vote	Auto Call	571,496	43% contact rate of 1,329,057
Base Early Vote	Paid Live Call	571,496	43% contact rate of 1,329,057
Base Early Vote	Direct Mail	1,107,548	Entire Base GOTV Universe, Househoded by 1.2
Base Early Vote	Paid Canvass	1,107,548	Entire Base GOTV Universe, Househoded by 1.2
Base Election Day	Auto Call	430,000	43% contact rate of 1,000,000
Base Election Day	Paid Live Call	430,000	43% contact rate of 1,000,000
Base Election Day	Direct Mail	833,333	1,000,000 (estimated universe after Early Vote removed) Househoded by 1.2
Base Election Day	Paid Canvass	833,333	1,000,000 (estimated universe after Early Vote removed) Househoded by 1.2
Persuasion	Auto ID Call	207,000	50% contact rate of 414,000 phones on file
Persuasion	Paid Live ID Call	207,000	50% contact rate of 414,000 phones on file
Persuasion	Volunteer Persuasion Call	207,000	50% contact rate of 414,000 phones on file
Persuasion	Direct Mail	227,000	Half of vote deficit
Persuasion	Volunteer GOTV Call	300,000	Estimated Universe
Persuasion	Paid Live GOTV Call	300,000	Estimated Universe
Persuasion	Auto GOTV Call	300,000	Estimated Universe
Absentee	Volunteer Call		
Absentee	Direct Mail		
Absentee	Live Call		
Absentee	Auto Call		

APPENDIX H: Florida New Registrants, By Quarter, 2003-2004

	2003 Q 1	2003 Q 2	2003 Q 3	2003 Q 4	2004 Q 1	2004 Q 2
New Registrants	204,935	181,676	206,648	188,718	292,612	156,992
New Registrants Dem Male	28,787	25,208	28,713	27,074	43,373	23,228
New Registrants Dem Female	36,442	31,858	37,515	33,235	52,585	27,049
New Registrants NPA/Ind male	26,420	23,661	27,087	25,368	42,465	24,201
New Registrants NPA/Ind female	29,194	25,710	29,673	26,284	41,863	23,558
New Registrants GOP male	34,576	30,287	32,296	30,912	43,870	22,680
New Registrants GOP female	31,198	27,077	30,208	27,019	38,689	19,338
New Registrants African-American male	9,228	8,884	9,307	7,950	14,399	9,110
New Registrants African-American female	12,610	11,858	12,530	10,262	18,047	10,645

New Registrants Hispanic Male	9,509	9,107	12,331	9,644	15,178	8,687
New Registrants Hispanic Female	10,925	10,519	14,396	10,757	16,829	9,545
New Registrants HH	159,540	111,392	82,995	72,985	110,401	58,258
New Registrants Dem Male HH	24,989	17,084	13,423	12,129	18,330	9,410
New Registrants Dem Female HH	31,064	21,529	17,513	15,007	22,635	10,928
New Registrants NPA/Ind male HH	22,627	15,142	10,746	9,543	151,171	8,445
New Registrants NPA/Ind female HH	23,898	16,278	11,520	9,703	15,075	8,050
New Registrants GOP male HH	30,622	21,671	16,924	15,672	21,456	10,860
New Registrants GOP female HH	27,383	19,444	16,368	14,234	19,732	9,594
New Registrants African-American male HH	7,932	5,672	3,488	2,913	5,158	3,129
New Registrants African-American female HH	10,547	7,401	4,644	3,663	6,320	3,418
New Registrants Hispanic Male HH	8,360	5,403	4,373	3,134	5,142	2,811
New Registrants Hispanic Female HH	9,491	6,269	5,133	3,579	5,875	3,153
New Registrants w/phones	204,935	181,676	206,648	188,718	292,612	156,992
New Registrants Dem Male w/phones	16,532	13,944	16,168	15,113	23,667	12,203
New Registrants Dem Female w/phones	20,794	17,909	21,026	18,449	28,649	14,170
New Registrants NPA/Ind male w/phones	15,058	13,119	14,963	13,947	22,709	12,644
New Registrants NPA/Ind female w/phones	15,681	13,967	16,143	14,300	22,308	12,296
New Registrants GOP male w/phones	21,441	18,276	19,750	18,749	25,880	12,854
New Registrants GOP female w/phones	19,157	16,284	18,361	16,296	22,861	11,033
New Registrants African-American male w/phones	4,844	4,503	4,752	4,100	7,361	4,519
New Registrants African-American female w/phones	6,668	6,181	6,595	5,292	9,301	5,331
New Registrants Hispanic Male w/phones	5,096	4,785	6,685	5,142	8,105	4,497
New Registrants Hispanic Female w/phones	574	5,493	7,611	5,637	8,881	4,864

APPENDIX I: Surrogate Scheduling

With only two months remaining in the general election, the Florida Surrogate operation is working to achieve a near-constant presence of national surrogates within the state. What follows below is an overview of our objectives for the surrogate program as well as some thoughts on the process we will employ to achieve these objectives.

Surrogate Presence:

During the campaign's 2-month final stretch, we hope to have at least one national surrogate in each of the four major media markets per week. In addition, we should aim to bring additional national surrogates to the other six media markets in proportion to their size, media strength, and strategic importance.

Major Media Markets:

Miami-Ft.L / Tampa-St.P / Orlando-Daytona / West Palm Beach

1 surrogate/week * 4 markets * 8 weeks = 32 national surrogates

Other Media Markets:

- Jacksonville / Naples-Ft.M / Pensacola / Tallahassee / Panama City / Gainesville
- Using percentage of statewide voters as a rough benchmark, it would be proportional to send to the minor media markets ¼ of the surrogates we send to the major media markets. Padding this number to account for the importance of having a presence in each part of the state, we should aim to send a collective total of 10 - 13 surrogates to the six minor media markets

Thus, on the whole we should seek to bring up to 45 national surrogates to the state between Labor Day and Election Day. This number should and will be adjusted by the amount of time spent in-state by the principals, but for the time being we will need to begin plans to pursue 5-6 national surrogates per week.

Given that only 2 months remain until election day, and taking into account the fact that activity will increase as we near the end, we should be preparing to host approximately 20 surrogates in the month of September.

Surrogate Strategy:

The three primary purposes of the surrogate program should be as follows: (1) to provide campaign activity and events in lieu of candidate appearances when the principals are unable to be in state; (2) to achieve a campaign presence in all local media markets across the state; (3) to reach out to various constituency groups and to address specific issues important to the campaign, especially as it regards winning the support of swing voters.

In addition to our outreach to various constituency groups, the surrogate program should seek to highlight issues that are crucial to the campaign's core strategy. In our efforts to use the surrogate program to reach out to swing voters, the two foremost issues we will seek to emphasize are **health care and national security.**

Seven key constituency groups have been targeted by the surrogate program. These are:

- Women voters
- Senior voters
- African-American voters
- Hispanic voters
- Jewish voters
- Veterans
- Youth

In scheduling surrogate appearances, specific constituency groups should be matched with specific media markets. Specifically, efforts should be made to focus certain surrogate activity along the following lines:

- Women → Orlando, Tampa, Daytona
- Seniors → Palm Beach, Tampa, Naples-Ft.M, Broward Co.
- African-American → Orlando, Tampa, Miami-Ft.L, Jacksonville, Tallahassee
- Hispanic → Miami-Dade, Orlando, Tampa
- Jewish → Palm Beach, Miami-Ft.L
- Veterans → Pensacola, Jacksonville, Panama City, Tampa, Orlando
- Youth → Gainesville, Tallahassee, Miami, Orlando (college campuses)

Scheduling Process:

The surrogate operation will inevitably involve a mixture of (a) responding to internal field office requests and external invitations and (b) making proactive requests in accordance with our overall surrogate strategy. Obviously, the bulk of our time and efforts should be focused on the latter. In order to be able to focus our energy on fulfilling our big-picture goals, we will need to adopt an effective process for developing and cultivating surrogate events.

There are a number of somewhat discrete stages in the surrogate scheduling process. I would characterize these as such:

1. Initial Phase

- a) Ideas that originate within campaign are generated, developed, and prioritized.
- b) Requests & invitations received by the surrogate operation are evaluated and either rejected, tabled, or sent to DC.

2. Requests to DC

Official request form completed and forwarded to the DNC. This step should occur well in advance of the proposed event.

3. Follow-Up

Member of surrogate team keeps abreast of the status of the request, ensuring that all parties are kept informed and making any changes that may be necessary.

4. Scheduling

Once a surrogate visit is confirmed, the scheduler works with DC, field staff, press staff, surrogate advance, and the surrogate's staff to plan day's events and logistics.

5. Day-Of

Prior and subsequent to the surrogate's arrival, the scheduler works with Surrogate Advance in accommodating day-of arrangements and in facilitating any last-minute changes.

6. Post-Visit

Press clippings and general input are collected and forwarded to DC.

Perhaps most important of all steps in the surrogate process is the first – the generation and development of ideas. The surrogate team will solicit considerable input and should meet regularly to ensure that the ideas being produced mesh with the overall strategy and objectives of the surrogate program.

As part of the overall surrogate plan, we should produce a rough blueprint of the 40-45 surrogates we plan to host. Such a blueprint could include our 'wish-list' surrogates and could break down our anticipated surrogate visits in terms of geography, issues, and time.

As it now stands, the surrogate team will work collectively in generating and cultivating ideas for surrogate activity. Soliciting input from key Florida campaign staff, we will work to ensure that the surrogate program is on track to fulfill our goals.

Beyond the idea phase, we will break down individual requests and events by geography, so that one member of the surrogate operation is responsible for dealing with requests and invitations, for following up on requests that have been forwarded to DC, and for scheduling the trips that come to fruition. Gwen Graham will be responsible for events in North Florida, Michael Evans will be responsible for events in Central Florida, and Bill Abely will be responsible for events in South Florida. Under this process, we can be assured that someone is always responsible for each stage of the scheduling process and that no idea or event will fall through the cracks.

Surrogate Resources:

When we go to the trouble and expense of bringing a national surrogate into the state, it is obviously desirable to maximize that surrogate's local exposure. In addition to any headliner events that anchor a surrogate's visit, we should strive to fill in any time we have with additional events or media hits.

In order to facilitate the scheduling of both major surrogate events and additional surrogate uses, we should make efforts to obtain and/or compile the following information:

- List of statewide talk radio programs.
- List of all county and local Democratic Clubs
- List of condo communities or retirement homes that will host political speakers
- List of college & university Democratic and political organizations
- List of significant civic organizations and their regular meeting times

Florida Victory 2004 Signature Page

I hereby agree to participate in the coordinated campaign, Florida Victory 2004, and to contribute field and fundraising help at the levels ascribed below.

Democratic National Committee

Tom Shea, Kerry-Edwards 2004

Scott Maddox, Florida Democratic Party

Congressman Kendrick Meek, Kerry-Edwards Campaign Chair

Ken Robinson, Florida Victory 2004

Cindy Hall, Florida AFL-CIO

Andy Ford, Florida Education Association

Alexander Clem, Academy of Florida Trial Lawyers

Monica Russo, Florida SEIU

Center for Ethics and the Free Market

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LAYING THE GROUNDWORK: A Study Of Voter Registration In Missouri

EXHIBIT

tables

S

Executive Summary

The Center for Ethics and the Free Market has undertaken a study of voter registration in Missouri since July, 2003. Various press accounts have indicated an unprecedented level of registration activity in a state viewed by many as pivotal in the upcoming elections. This study examines details of the activities of two organizations, America Coming Together (ACT) and Missouri Pro-Vote, who have been particularly active in Missouri.

There are six key findings included in the study:

- 1) Since July 2003, less than half of the massive number of voter registrations turned in by ACT and Pro-Vote to the St. Louis City Board of Elections are reported as "new registrants" by the board. In all, 9,857 cards were rejected for various reasons by the Election Board.
- 2) Despite its claims of a "systematic, scientific approach" to voter registration, and its use of state Democratic Party voter files, ACT and Pro-Vote have been missing the mark by turning in thousands of duplicative registrations.
- 3) ACT and Pro-Vote's aggressive registration activities in St. Louis City occur at a time when the city population has decreased by 16,000 since the 2000 census and while the city's voter registration rolls stand at 249,346 while the 2002 estimated population of residents 16 years of age or older is only 261,500.
- 4) More troubling, a recent audit by Missouri State Auditor Claire McCaskill found that nearly 10% of registered voters in St. Louis City are "questionable," including over 2,000 who are felons. This fact, compounded with the inundation of registration cards by groups such as ACT and Pro-Vote make the potential of fraud a legitimate concern in the upcoming elections.
- 5) The Missouri Department of Corrections, whose employees are represented by the Service Employees International Union, have requested over 16,000 voter registration cards from the Missouri Secretary of State.
- 6) Jackson County, Missouri is just beginning to receive a substantial number of registrations from ACT. The dispensation of these registration efforts merits further study.

While their stated purpose is "laying the groundwork to defeat George W. Bush and elect Democrats in federal, state and local elections in 2004," ACT is a 527 committee that expends "soft" money and is not officially affiliated with the Democratic Party or any specific campaign.

The two groups, ACT and Missouri Pro-Vote are linked together in a number of ways. First, ACT's St. Louis operation is housed in the same building as Pro-Vote and the local Service Employees International Union. Secondly, ACT and another similar organization (Partnership for America's Families -- PAF) are both located in Washington, D. C. at 888 16th Street, NW and share an executive director/officer, Steve Rosenthal. Thirdly, ACT and PAF have contributed over \$76,000 to Pro-Vote since January, 2004. The evidence of apparent coordination between these groups is quite clear.

In terms of voter registration, The Center has identified over 106,000 voter registration applications requested by ACT and Pro-Vote in Missouri since July 2003 – substantially more than requested by the Missouri Republican Party and the Missouri Democratic Party combined. This large volume of potential registrations raises a number of concerns given the problems with duplicative and rejected voter registrations turned in by the groups. These concerns are even more troubling given the recently-reported presence of felons acting as registration solicitors by the group in Missouri.

In short, by inundating election authorities who are under significant legal and staffing constraints with such large numbers of non-verified applicants, the activities of these groups threatens to undermine the legitimacy of Missouri's electoral system. Election authorities must continue their diligence to root out fraudulent activities and law enforcement agencies must watch closely for any potential defrauding of the system. Because of its commitment to open and honest government, the Center for Ethics will also continue to

monitor the voter registration activities underway in Missouri.

A Study Of Voter Registration In Missouri

Purpose Of ACT And Its Allies:

From ACT's Website: "America Coming Together is the largest voter mobilization project in American history. Knocking on doors and speaking the truth, ACT canvassers are laying the groundwork to defeat George W. Bush and elect Democrats in federal, state, and local elections in 2004." (America Coming Together Website, www.americacomingtogether.org, Accessed June 3, 2004)

From Partnership For America's Families' (PAF) Website: "The Partnership for America's Families (PAF) is an independent, non-partisan, non-profit organization founded in 2003 to educate, register and mobilize progressive voters." (Partnership For America's Families Website, www.americasfamilies.org, Accessed June 4, 2004)

National/State Locations:

ACT And PAF's National Offices Are Both Headquartered With A Number Of National Organized Labor Offices At 888 16th Street NW Washington, D.C., 20006. (ACT & PAF Websites, June 4, 2004)

ACT's St. Louis Operation Is Housed In The Same Building As ProVote And The Local Service Employees International Union. "The group's St. Louis operation is in a West End building that also houses the Service Employees International Union and the Missouri Progressive Vote Coalition." (Jo Mannies, "Independent Group's Canvassers Sign Up Voters In Poor Areas Of City, At Colleges," *STL P-D*, March 15, 2004)

ACT/PAF Funding Sources:

ACT & PAF Fundraising Thru 1st Quarter 2004

527 Committee	Amount Raised
ACT- Nonfed Acct	\$19,046,000.00
PPAF	\$3,071,211.00
TOTAL	\$22,117,211.00

SOURCE: Tray.com, Accessed June 5, 2004

Top Donors To ACT & PAF

(Amounts reflect combined contributions to both organizations)

Top ACT Donors	Location	Amount To ACT
Victory Campaign 2004 (Labor Org)	DC	\$7,375,000.00
Soros, George (Soros Fund Mgt)	NY	\$5,000,000.00
Lewis, Peter B (Progressive Corp)	OH	\$2,995,000.00
Glaser, Robert (Realnetworks)	WA	\$745,000.00
SEIU	NY	\$500,000.00
Top PAF Donors		
SEIU	NY	\$1,950,000.00
AFL CIO	DC	\$620,763.00
AFSCME	DC	\$250,000.00

SOURCE: Tray.com, Accessed June 5, 2004

ACT/PAF's Coordinated Efforts With State Political Organizations:

ACT/PAF Combined Payments To Missouri Political Entities

Missouri Entity	Date	Purpose	Payment
Progressive Vote Coalition	1/9/2004	Temporary Labor	\$10,526.50
Progressive Vote Coalition	1/22/2004	Temporary Labor	\$4,904.31
Progressive Vote Coalition	8/1/2003	Organizing Consulting	\$2,135.00
Progressive Vote Coalition	12/2/2003	Organizing Consulting	\$3,327.00
Progressive Vote Coalition	12/10/2003	Organizing Consulting	\$5,783.00
Progressive Vote Coalition	11/11/2003	Organizing Consulting	\$12,603.00
Progressive Vote Coalition	10/30/2003	Organizing Consulting	\$7,100.00
Progressive Vote Coalition	10/3/2003	Organizing Consulting	\$7,311.00
Progressive Vote Coalition	9/30/2003	Organizing Consulting	\$11,801.00
Progressive Vote Coalition	8/13/2003	Organizing Consulting	\$10,524.00
Total			\$76,014.81
Missouri Democratic Party	2/18/2004	Voter List	\$9,290.82
Missouri Democratic Party	11/12/2003	Voter List	\$11,709.18
Total			\$21,000.00

SOURCES: Federal Election Commission & Internal Revenue Service 527 Filings, Accessed June 3-5, 2004

The Chart Above Indicates The Amount ACT/PAF Has Paid To ProVote And The Missouri Democratic Party For Canvassing Recruitment And Voter Lists Since August 2003 As Reported In FEC And IRS Filings.

- ProVote received its first payment from ACT/PAF only days after George Soros pledged \$10 million to ACT at a kickoff event for the organization. (Thiemer, AP, August 8, 2003)

ACT And ProVote's Total Registration Application Requests In Missouri

Organization	Location	# Registration Applications Requested	Date Sent
MO Citizen Education Fund (ProVote)	STL	2,589	7/3/2003
MO Citizen Education Fund (ProVote)	STL	2,665	7/30/2003
MO Citizen Education Fund (ProVote)	STL	2,601	8/25/2003
MO Citizen Education Fund (ProVote)	STL	2,585	9/16/2003
MO Citizen Education Fund (ProVote)	STL	2,649	10/1/2003
MO Citizen Education Fund (ProVote)	STL	2,584	10/20/2003
MO Citizen Education Fund (ProVote)	STL	2,321	11/14/2003
America Coming Together	KC	1,000	11/17/2003
MO Citizen Education Fund (ProVote)	STL	2,569	12/8/2003
America Coming Together	KC	5,287	12/16/2003
2003 Total		26,850	
Missouri Pro-Vote	STL	2,546	1/7/2004
Missouri Pro-Vote	STL	3,000	1/22/2004
Missouri Pro-Vote	STL	5,229	1/22/2004
Missouri Pro-Vote	STL	2,658	1/26/2004
America Coming Together	KC	8,497	1/30/2004
Missouri Pro-Vote	STL	2,599	2/25/2004
Missouri Pro-Vote	STL	2,500	3/2/2004
America Coming Together	STL	5,099	3/18/2004
Missouri Pro-Vote	STL	2,599	3/23/2004
America Coming Together	KC	5,199	3/23/2004
Missouri Pro-Vote	STL	2,599	4/8/2004
Missouri Progressive Vote	STL	2,599	4/21/2004
America Coming Together	STL	5,199	4/27/2004
America Coming Together	KC	5,199	4/28/2004
Missouri Progressive Vote	STL	2,599	5/10/2004
America Coming Together	KC	5,199	5/12/2004
Missouri Progressive Vote	STL	2,599	5/25/2004
Missouri Progressive Vote Coalition	Columbia	1,500	6/8/2004
ACT (America Coming Together)	STL	4,698	6/9/2004
ACT (America Coming Together)	KC	5,199	6/10/2004
Missouri Pro-Vote	STL	2,399	6/14/2004
2004 Total		79,715	
Cumulative Total		106,565	

SOURCE: Missouri Secretary of State's Office, requested via Missouri Open Records Act

A Look At Other Voter Registration Efforts In Missouri

Organization	Total Registration Apps Requested Since July 2003
ACORN	51,484
AFL-CIO	39,115
MDP	31,437
RNC/MRP	25,491
Missouri Department Of Corrections/Parole & Probation	16,448
Combined Total	163,975

SOURCE: Missouri Secretary of State's Office, requested via Missouri Open Records Act

The Charts Above Detail The Number Of Registration Applications That ACT And ProVote Have Requested In Missouri Since July 2003 In Comparison To Other Voter Registration Organizations.

- > Since July 2003, ACT and ProVote have requested over 106,000 total registration applications in Missouri.
- > ACT and ProVote's registration requests far exceed the individual requests of other prominent state/national organizations that are also undertaking registration drives.
- > The state Department of Corrections, which has a number of employees represented in collective bargaining by the SEIU, has requested just under 16,500 registration applications since July 2003.
 - ❖ According to the state Division of Personnel FY 2003 annual report, the Department of Corrections has just under 11,600 employees. (Missouri Office of Administration, FY 2003 Division of Personnel Report, Accessed June 20, 2004)

A Look At ACT And ProVote's Ongoing Registration Efforts In The City Of St. Louis

City Of St. Louis Voting Population Issues:

2002 U.S. Census Age Estimate Information

For The City Of St. Louis

City Total	16 Years And Over
338,353	261,500
100%	77.29%

SOURCE: U.S. Census Bureau, www.census.gov, Accessed June 24, 2004

The Table Above Shows The 2002 U.S. Census Bureau Age Estimates For The City Of St. Louis.

- > According to estimates, the city of St. Louis could have as many as 261,500 residents of voting age by the 2004 general election when taking into consideration those who were 16 at the time of the reported estimates and could potentially turn 18 by registration deadlines.

Recent State Audit Information Regarding City Voter Registration Data As Of April 8, 2003: "From Audit: We obtained the voter registration data as of April 8, 2003. There were 249,346 voters registered in the city of which 194,060 were active voters and the remaining 55,286 were inactive voters. We noted over 24,000 voters registered in the city that were either deceased, also registered in another jurisdiction, had been convicted of a felony, or were living at an address included on the city's vacant lot listing." (Missouri State Auditor Report, www.auditor.state.mo.gov, Accessed June 14, 2004)

Analysis Table

Total Registered Voters In STL City Per State Audit (As Of April 8, 2003)	2002 U.S. Census Pop. Estimate (16 And Over)	2003 U.S. Census Pop. Loss Estimate	# ACT/ProVote Registration Apps Turned into St. Louis City (July 21, 2003-May 11, 2003)
249,346	261,500	15,966	34,452

SOURCES: Missouri State Auditor Report, www.auditor.state.mo.gov, Accessed June 14, 2004; U.S. Census Bureau, www.census.gov, Accessed June 20, 2004

The Table Above Outlines Voting Population Issues That Pertain To The City Of St. Louis.

- > The findings of the state audit and the city population estimates of the U.S. Census Bureau appear to show that there is a high percentage of city residents who are on city voter rolls either as active or inactive voters.
- > Despite a recent U.S. Census Bureau estimate that the city of St. Louis has lost 15,966 residents since the 2000 census, ACT and ProVote have turned in almost 34,500 registration applications. (U.S. Census Bureau, www.census.gov, Accessed June 20, 2004)

ACT And ProVote's Claims:

Registration Plans/Predictions

In February 2004, ACT And Other Groups Planned To Register 50,000 Additional Missouri Voters Following Early Efforts That Registered Over 46,000 New Voters In St. Louis And Kansas City. "In Missouri, America Coming Together, which is run by Ellen Malcolm of EMILY's List, and other pro-Democratic groups have registered more than 46,000 new voters in St. Louis and Kansas City, a total that has threatened to overwhelm election officials there. The two groups hope to snare another 50,000 in coming months, and that effort will be paired with AFL-CIO registration programs." (John Bresnahan, "Labor Focuses On Key States," *Roll Call*, February 27, 2004)

In March, ACT Organizers Said They Had Added 49,000 Missourians To The Rolls With Most Coming From The St. Louis Area, And They Hoped To Double That Figure Before The General Election. "America Coming Together is conducting a massive voter registration drive in five states, including Missouri. Locally, it's largely targeting people who live in urban, Democratic-leaning neighborhoods. Organizers say their effort has added at least 49,000 new voters to Missouri's rolls, most of them from the St. Louis area. They hope to double that number by the voter registration deadline this fall." (Jo Mannies, "Independent Groups Outspend Bush," *STL P-D*, March 15, 2004)

Monitoring Canvassers & Registration Efficiency

In February, ACT's State Director Don Redmond Said The Organization Was Using A "Systematic, Scientific Approach" For Its State Registration Efforts. "Much of the increased registration, at least in St. Louis, can be attributed to the work of two Democratic-leaning independent groups. Both groups, America Coming Together and the Progressive Vote Coalition, have sought new voters that will support their views. 'We're targeting anyone who we think will be in keeping with a progressive vote,' said Donald Redmond, state director of America Coming Together. 'We have a systematic, scientific approach.'" (Steve Rock, "Voter Registration Is On The Rise In Missouri," *KC Star*, February 20, 2004)

Redmond Asserted That Technology Was Making "Ground-Game Activities" Easier, And He Said ACT Planned To Knock On Up To 1 Million Missourians' Doors Possibly 3-5 Times Before The Election. "We now know that ground-game activities are the way to go," said Donald Redmond. . . . 'It's the star again, but we're using technology to do it better.' His team intends to knock on 850,000 to 1 million Missouri doors at least three to five times - identifying, registering and courting potential Democrats, then getting them to the polls." (Ron Fournier, "Heartland Voters," *AP*, April 27, 2004)

A March P-D Story Noted That ACT Supervisors Monitored Canvassers Who Went Door-To-Door With Palm Pilots That Listed Registered Adults At A Particular Address. "It's a dicey neighborhood along Page Avenue, with burned out houses and vacant lots dotting the street. Eric Brown - tall, sporting a black knit cap and leather jacket - looms outside a door. . . . Consulting a Palm Pilot, Brown shouts out the names of the adults registered at that address. Anyone else living there who's not registered? So it goes as Brown and several co-workers spend another afternoon canvassing door-to-door in search of unregistered residents. A supervisor stands on the sidewalk, monitoring their work." (Jo Mannies, "Independent Group's Canvassers Sign Up Voters," *STL P-D*, March 15, 2004)

ACT And ProVote's Results:

How The "Systematic, Scientific Approach" Has Fared From July 21, 2003-May 11, 2004

(NOTE: Each municipality collects and reports data in a unique fashion)

Month	New Registrations	Duplicates	Transfers	County	Rejects / Ineligible	Felon	Questionable	Underage	Name Change Transfers	Monthly Totals	% Of New Registrations
Jul-03	650	178	310	15	59	1			7	1220	53.28%
Sep-03	848	309	497				33	4		1691	50.15%
Oct-03	1483	888	1028	3		1	15		5	3383	43.25%
Nov-03	680	411	435						6	1532	44.39%
Dec-03	346	188	140	16						690	50.14%
Jan-04	3045	1925	2137	252	61	3	6	36	13	7478	40.72%
Feb-04	2947	1417	1361	15	66	2			2	6800	50.81%
Mar-04	3972	2060	1489	40	31		76		15	7683	51.70%
Apr-04	1588	1154	901	26	11					3680	43.15%
May-04	510	497	336	16	26					1385	36.82%
Totals	16049	9007	8834	383	244	7	130	40	48	34542	46.44%

SOURCE: St. Louis City Board of Election Records, Accessed June 16, 2004

NOTE: The 46.44% figure under the "% Of New Registrations" column is an average % for all months included

Definitions Of Terms In Chart:

- > **New Registrations:** New voters added to city rolls
- > **Duplicates:** Registrations rejected due to preexistence of registrant on city rolls

- **Transfers:** People who have moved within the city limits and were already on city rolls
- **County:** Registration cards turned in from county residents
- **Rejects:** Ineligible to vote because of incomplete or illegible forms
- **Felon:** Ineligible to vote due to status as felon
- **Questionable:** Registration applications under review by city officials
- **Underage:** Registrations rejected due to lack of age qualifications
- **Name Change:** Registrant changed name for reasons such as marriage, religion, etc

NOTE: The numbers on the chart above reflect an estimated total of the ACT/ProVote findings for each month received as reported by the board of elections. These totals are subject to change due to returned mail stating that a person does not reside at listed address, no such address, or an undetected duplicate, meaning a person could have filled out an application with two different circulators, and one application was entered before the other. (St. Louis City Board of Election Records, Accessed June 16, 2004)

The Chart Above Shows A Monthly Breakdown Of ACT And ProVote’s Combined Registration Activities In St. Louis City As Reported By The Board Of Elections.

- Since July 2003, ACT and ProVote have combined to turn in over 34,500 registration applications to the city of which over 16,000 or roughly 46.4% have been included as new registrations as of May 11, 2004.
- The 34,500 registration applications turned into the city are 32.4% of the total that ACT and ProVote have requested statewide since July 2003. (See chart on page 5 for total requested registration applications)
- 26% of ACT and ProVote’s registration applications turned into the city have been deemed duplicative.
- ACT and ProVote have turned in approximately 850 registration applications that were either rejected, came from the underage, were questionable, or came from felons or county residents.

Jackson County’s Monitoring Efforts:

ACT’s Recent Efforts In Jackson County	
# Registration Applications Turned In By ACT Since June 1	780
Issues:	
# Apps Positively Signed By Someone Other Than Registrant	10
# Apps Possibly Signed By Someone Other Than Registrant; Sent New Cards	49
No Address Or Address Does Not Exist	15
Apps From Kansas	7
Apps From Minnesota	1
Under-Aged Applications	5
Miscellaneous Address Problems	623

SOURCE: Jackson County Election Board Records, Accessed June 14, 2004

(NOTE: Each municipality collects and reports data in a unique fashion)

The figures listed in the chart above reflect tallies compiled by Jackson County election officials that were accessed by the Center for Ethics. The 623 “miscellaneous address problems” means that the County is in the process of contacting those included under that heading to verify an address. It is too early to determine the success or failure rate of ACT’s registration applications.

TRANSCRIPT FROM CRIMINAL DOCKET 282

Rev. Code, Secs. 2937.19; 2953.03

04-CR-09070

Criminal Action: Before John T. Rohrs, III Judge
of Defiance Municipal Court, Defiance County, Ohio

Form A

COURT

THE STATE OF OHIO		IN COURT OF COMMON PLEAS DEFIANCE COUNTY, OHIO	Complaint of	Deputy Gina Waxler
		OCT 26 2004	On the charge of	3599.11
Case No.	vs.	<i>Chad Staton</i>	Defendant	see docket attached
CR04-1467		Chad Staton		
		700 1/2 Stratton St.		
		Defiance, OH 43512		
Defendant was bound over <u>October 22, 2004</u>				
Bond set at \$0/R, condition: sign Waiver of Extradition, not leave County of Defiance, may go to Lucas Co. on 10/19/04 and 10/20/04 <i>Disposition of case in court above</i> Defendant in writing waived his right to Preliminary Hearing and was bound over to the Grand Jury of Defiance County, Ohio				
Attorney E. Charles Bates				

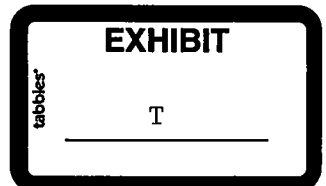
*BE IT REMEMBERED, That on the 10th day of September, 2004, came
Deputy Gina Waxler who filed written complaint against one
Chad Staton Whereupon the following proceedings*

were had. Said complaint being in words and figures following, to-wit:

That on or about September 10, 2004, one Chad Staton did unlawfully
"knowingly write or assume the name of another, real or fictitious, in
registering or attempting to register, to wit: filled out voter
registration forms with fictitious names."

Contrary to Section 3599.11 of the Ohio Revised Code.

This crime is commonly known as False Registration, a Felony of the fifth
degree.



287

04 CR 09070

IN THE MUNICIPAL COURT OF DEFIANCE
DEFIANCE COUNTY, OHIO

CASE NO. _____

STATE OF OHIO

vs.

Chad Staton

FILED
IN COURT OF COMMON PLEAS
DEFIANCE COUNTY, OHIO

OCT 26 2004

Glenn Siegler
CLERK

AFFIDAVIT IN SUPPORT OF
ISSUANCE OF ARREST WARRANT

Before the Hon. John T. Rohrs III, Judge of the Defiance Municipal Court, Defiance, Ohio, the

Undersigned being duly sworn deposes and says, that he has reason to believe that Chad Staton
one,

violated 3599.11 of the Ohio Revised Code.
section,

The facts tending to establish the probable cause for the issuance of a warrant for the arrest of
Chad Staton are as follows: Staton filled out over one hundred Voter Registration Forms in

several different names and addresses and then signed the forms while at his Defiance County Residence.

The defendant took the forms to Toledo, Ohio where he was paid in crack cocaine for the filled out voter
registrations. Chad Staton gave a taped admission of the above.

FILED
OCT 16 AM 8:47
MUNICIPAL CLERK

Deputy Amin Wexler
Affiant

Sworn to before me and subscribed in my presence
this

15th day of October, 2004

Stacy Flores
Notary Public
9-21-05

John T. Rohrs III, Judge of the
Defiance Municipal Court, Defiance, Ohio

IN THE COURT OF COMMON PLEAS OF DEFIANCE COUNTY, OHIO

FILED
IN COURT OF COMMON PLEAS
DEFIANCE COUNTY, OHIO

Defiance County Grand Jury
Term One, Part Three, 2004.

DEC 06 2004

Case No. 04 CR 09070

Jean Zigler
TEN COUNT INDICTMENT

Count One

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or between September 10, 2004 and October 1, 2004, at Defiance County, Ohio, **Chad A. Staton** did, knowingly, impersonate another or write or assume the name of another, real or fictitious, in registering or attempting to register, in violation of Ohio Revised Code, Section 3599.11(A), **False Registration**, a Felony of the Fifth Degree, and against the peace and dignity of the State of Ohio; and,

Count Two

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or between September 10, 2004 and October 1, 2004, at Defiance County, Ohio, **Chad A. Staton** did, knowingly, impersonate another or write or assume the name of another, real or fictitious, in registering or attempting to register, in violation of Ohio Revised Code, Section 3599.11(A), **False Registration**, a Felony of the Fifth Degree, and against the peace and dignity of the State of Ohio; and,

Count Three

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or between September 10, 2004 and October 1, 2004, at Defiance County, Ohio, **Chad A. Staton** did, knowingly, impersonate another or write or assume the name of another, real or fictitious, in registering or attempting to register, in violation of Ohio Revised Code, Section 3599.11(A), **False Registration**, a Felony of the Fifth Degree, and against the peace and dignity of the State of Ohio; and,

FFREY A. STRAUSBAUGH
DEFIANCE COUNTY
PROSECUTING
ATTORNEY
07 WEST THIRD STREET
DEFIANCE, OHIO 43512
419-784-3700
FAX 419-782-0594

Count Four

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or between September 10, 2004 and October 1, 2004, at Defiance County, Ohio, **Chad A. Staton** did, knowingly, impersonate another or write or assume the name of another, real or fictitious, in registering or attempting to register, in violation of Ohio Revised Code, Section 3599.11(A), **False Registration**, a Felony of the Fifth Degree, and against the peace and dignity of the State of Ohio; and,

Count Five

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or between September 10, 2004 and October 1, 2004, at Defiance County, Ohio, **Chad A. Staton** did, knowingly, impersonate another or write or assume the name of another, real or fictitious, in registering or attempting to register, in violation of Ohio Revised Code, Section 3599.11(A), **False Registration**, a Felony of the Fifth Degree, and against the peace and dignity of the State of Ohio; and,

Count Six

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or between September 10, 2004 and October 1, 2004, at Defiance County, Ohio, **Chad A. Staton** did, knowingly, impersonate another or write or assume the name of another, real or fictitious, in registering or attempting to register, in violation of Ohio Revised Code, Section 3599.11(A), **False Registration**, a Felony of the Fifth Degree, and against the peace and dignity of the State of Ohio; and,

Count Seven

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or between September 10, 2004 and October 1, 2004, at Defiance County, Ohio, **Chad A. Staton** did, knowingly, impersonate another or write or assume the name of another, real or fictitious, in registering or attempting to register, in violation of Ohio Revised Code, Section 3599.11(A), **False Registration**, a Felony of the Fifth Degree, and against the peace and dignity of the State of Ohio; and,

FFREY A. STRAUSBAUGH
DEFIANCE COUNTY
PROSECUTING
ATTORNEY
07 WEST THIRD STREET
DEFIANCE, OHIO 43512
419-784-3700
FAX 419-782-0594

Count Eight

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or between September 10, 2004 and October 1, 2004, at Defiance County, Ohio, Chad A. Staton did, knowingly, impersonate another or write or assume the name of another, real or fictitious, in registering or attempting to register, in violation of Ohio Revised Code, Section 3599.11(A), False Registration, a Felony of the Fifth Degree, and against the peace and dignity of the State of Ohio; and,

Count Nine

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or between September 10, 2004 and October 1, 2004, at Defiance County, Ohio, Chad A. Staton did, knowingly, impersonate another or write or assume the name of another, real or fictitious, in registering or attempting to register, in violation of Ohio Revised Code, Section 3599.11(A), False Registration, a Felony of the Fifth Degree, and against the peace and dignity of the State of Ohio; and,

Count Ten

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or between September 10, 2004 and October 1, 2004, at Defiance County, Ohio, Chad A. Staton did, knowingly, impersonate another or write or assume the name of another, real or fictitious, in registering or attempting to register, in violation of Ohio Revised Code, Section 3599.11(A), False Registration, a Felony of the Fifth Degree, and against the peace and dignity of the State of Ohio.

A TRUE BILL:

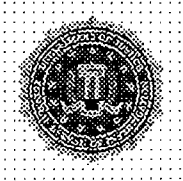
This Bill of Indictment found upon testimony sworn and sent before the Grand Jury at the request of the Prosecuting Attorney.

JEFFREY A. STRAUSBAUGH
PROSECUTING ATTORNEY


GRAND JURY FOREMAN

By 

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Preliminary Findings of Joint Task Force
Investigating Possible Election Fraud

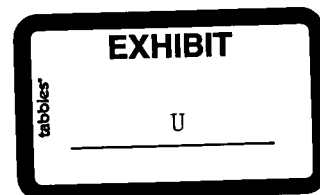
May 10, 2005

A. Background

On January 26, 2005, the Milwaukee Police Department, Milwaukee County District Attorney's Office, Federal Bureau of Investigation, and the United States Attorney's Office formed a task force to investigate alleged voting irregularities during the November 2004 elections. The purpose of the task force was to determine whether evidence of criminal fraud existed in the irregularities and, if evidence of fraud was found, to pursue criminal prosecutions. A memorandum signed by the head of each of the agencies stated, "This task force is committed to conducting its work in a thorough, non-partisan manner." The memorandum also indicated that federal authorities would not be involved in any evaluations of election procedures outside of potential criminal violations.

Since the task force began its work, it has received further investigative assistance from the United States Postal Inspection Service and the Social Security Administration - Office of Inspector General. The task force has also received assistance from Milwaukee City Attorney Grant Langley and his staff.

As explained below, the task force work to date has focused on an examination of original records, primarily because data base information has proven unreliable and may not otherwise be admissible in court. This has involved the review of thousands of



registration cards and the information contained on such cards. As a result, the task force, particularly members of the Milwaukee Police Department, has expended well over 1,000 work hours. The work has been slow, painstaking and is far from complete. Still, the task force commends the Milwaukee Police Department for committing these resources and particularly notes the investigative work conducted by Detective Michael Sandvick and Officers Neil Saxton and Michael Perez. We also specifically note the work of Investigator Aaron Weiss of the Milwaukee County District Attorney's Office.

B. Summary of Findings

Based on the investigation to date, the task force has found widespread record keeping failures and separate areas of voter fraud. These findings impact each other. Simply put: it is hard to prove a bank embezzlement if the bank cannot tell how much money was there in the first place. Without accurate records, the task force will have difficulty proving criminal conduct beyond a reasonable doubt in a court of law.

With that caveat, the task force has made the following specific determinations based on evidence examined to date:

1. The task force has developed evidence of more than 100 individual instances of suspected double-voting, voting in names of persons who likely did not vote, and/or voting in names believed to be fake. Those investigations continue.
2. In addition, the task force has determined that more than 200 felons voted when they were not eligible to do so. In order to establish criminal cases, the government must establish willful violations in individual instances.

3. Also, the task force has found that persons who had been paid to register voters as “deputy registrars” falsely listed approximately 65 names in order to receive compensation for the registrations. The evidence does not indicate that these particular false registrations were later used to cast votes.

4. The number of votes counted from the City of Milwaukee exceeds the number of persons recorded as voting by more than 4,500.

C. Findings Related to Fraud

Phantom voter identities/addresses/votes. The task force has individually reviewed hundreds of names and addresses associated with the various data bases suggesting that thousands of people registered *and* voted using suspect names and/or addresses. To date, the investigation has concentrated on the 70,000+ same-day registrations. To date, we have found that a large majority of the reported errors were the result of data entry errors, such as street address numbers being transposed. However, the investigation has found more than 100 instances where votes were cast in a manner suggesting fraud. These include:

1. Persons with the same name and date of birth recorded as voting more than once.
2. Persons who live outside Milwaukee, but who used non-existent City addresses to register and vote in the City.
3. Persons who registered and voted with identities and addresses that cannot in any way be linked to a real person.

4. Persons listed as voting under a name and identity of a person known to be deceased.
5. Persons whose identities were used to vote, but who in subsequent interviews told task force investigators that they did not, in fact, vote in the City of Milwaukee.

Voter-drive fraud. In separate instances, persons who were paid money to obtain registrations allegedly falsified approximately 65 names on registration forms, allegedly to obtain more money for each name submitted. There is no evidence gathered to date that votes were cast under these specific false names.

Felons. The investigation has found more than 200 felons who were not eligible to vote in the 2004 election, but who are recorded as having done so. Not all felons are ineligible to vote. In order for such action to constitute a criminal offense, the prosecution must establish, beyond a reasonable doubt, that the felon was ineligible to vote under state law and that the felon knew that he or she was ineligible to vote. As a result of this standard, the task force is proceeding cautiously in its charging decisions and is evaluating each case on the individual facts. We note, however, that we have expanded our investigation to include felons who may have voted in suburban areas as well.

In each of the alleged cases of potential fraud, the task force will not be releasing any further details in order to protect the integrity of the continuing investigation.

D. Vote Total Discrepancy

An additional finding of the task force to date is that the number of votes cast far exceeds the total number of recorded voters. The day after the November 2, 2004 election, the City of Milwaukee reported the total number of votes as 277,344. In late November an additional 191 previously uncounted absentee ballots were added, for a total of 277,535 votes cast. Still later, an additional 30 ballots were added, bringing the total number of counted votes to 277,565. City records, however, have been unable to match this total to a similar number of names of voters who cast ballots – either at the polls (under a prior registration or same day registration) or cast absentee ballots. At present, the records show a total of 272,956 voter names – for a discrepancy of 4,609.

The task force will continue to investigate this discrepancy. There remains an open question of how certain absentee ballots were handled or recorded. We further note that no geographic pattern exists for these over-votes, and multiple wards had discrepancies in excess of 100 votes. In addition, some wards had the opposite: more voters than votes. We believe that one explanation for this latter circumstance is that individuals were allowed to register and vote from a specific ward even though they were supposed to register and vote in a different ward. When a data base was later compiled, the voter name was moved to the correct ward, but the vote number remained in the incorrect ward.

A further analysis of this situation continues, but the investigation is hampered by widespread record keeping errors with respect to recording the number of voters. At each polling place, the name and number of voters was supposed to be checked by two

identical poll books, as well as by the voter number (the pink slip). In a preliminary analysis of individual wards, the task force has found: poll books that do not match voter numbers; voter numbers that were skipped; and voter numbers that were used more than once.

E. Additional Record Keeping Problems

As indicated, the task force has been hampered by numerous instances of inadequate record keeping. Any criminal prosecution will depend on access to and the available use of original records accurately recording the names of voters and the corresponding vote numbers. As indicated above, records regarding vote numbers have been inconsistent and conflicting. In addition, for criminal purposes, proof of the identity of the person voting often is best established by the original (green) voter registration card. Yet in the November 2004 election, same-day registrations were accepted in which the card had incomplete information that would help establish identity. For example: 48 original cards for persons listed as voting had no name; 548 had no address; 28 did not have signatures; and another 23 cards had illegible information. These were part of approximately 1,300 same-day registrations for which votes were cast, but which election officials could not authenticate as proper voters within the City.

Included in this 1,300 were 141 same-day registrants from addresses outside the City of Milwaukee, but who voted within the City of Milwaukee. In several instances, the voter explicitly listed municipality names other than Milwaukee on the registration cards. These included cards that listed "West Allis," "Oak Creek," "Ashland," "Reedsburg," and "Hayward."

Another record keeping procedure hampering the investigation appears to be the post-election misfiling or loss of original green registration cards that were considered duplicates, but that in fact corresponded to additional votes. These cards were used to record votes, but approximately 100 cards of interest to investigators can no longer be located. In addition, other original green registration cards continue to be found. As late as April of this year, an additional box of green registration cards was located by election officials.

F. Future Investigations

Although many hours already have been undertaken, we realize that much more investigation is still to be done. There are many leads and interviews that still must be pursued. If individual members of the public believe that they have information on specific instances of election fraud, they are asked to call the Milwaukee Police Department, Election Task Force at 414-935-7802.

James Finch
Special Agent in Charge
Federal Bureau of Investigation

Nannette Hegerty
Chief, Milwaukee Police Department

E. Michael McCann
Milwaukee County District Attorney

Steven M. Biskupic
United States Attorney