

TESTIMONY OF HEATHER S. HEIDELBAUGH, ESQUIRE

My name is Heather Heidelbaugh. I am a practicing attorney in Pittsburgh, Pennsylvania, and I serve on the Executive Committee of the Republican National Lawyers Association. For a number of years, I have represented Republican candidates and party committees in various election-related litigation and have served in a leadership role in a number of projects and activities to protect the integrity of the election process in Pennsylvania and other states.

On October 29, 2008, I represented a candidate, voters and the Republican State Committee of the Commonwealth of Pennsylvania in a preliminary injunction before the Commonwealth Court in Harrisburg, Pennsylvania against ACORN and The Secretary of the Commonwealth. The Complaint alleged violations of the Pennsylvania Election code, Fraud and Misrepresentation and Violation of Equal Protection and Due Process. The Complaint asked the Court to Order the Secretary of the Commonwealth, the state administrator of Elections, to make certain that the computer data base of registered voters mandated by HAVA, known in Pennsylvania as the SURE system, was running properly and was on line consistently to election workers throughout the Commonwealth. Further, the injunction requested that the Court direct the Secretary to require that all election officials comply with HAVA and request and receive identification from all first time registrants, as required by law. And lastly, the Complaint asked the Secretary to insure there were adequate amounts of provisional ballots printed and available at each polling place.

The injunctive requests against ACORN sought the Court's Order that ACORN stop encouraging voting by individuals that they knew had falsely registered to vote, to provide to the Plaintiffs copies of the voter registration materials obtained by ACORN and known by ACORN to be false, that public service announcements be funded ACORN to educate first time voters that they would be required to provide identification at the polling place, and that ACORN be ordered to abide by the same terms to which ACORN had agreed with King County Washington prosecutors in the King County Settlement and Compliance Agreement to not fraudulently register individuals to vote. The Injunction was filed on October 17, 2008, based on information and facts obtained from Election workers and officials across the Commonwealth, and news reports about criminal activity of ACORN in the Commonwealth of PA. Four days later on October 21, I received a call from a woman I did not know. She informed me that she had worked for ACORN in their Washington, DC office for a number of years, had heard about the lawsuit I had filed, and had some information for me about ACORN. This individual, Ms. Anita Moncrief, agreed to testify in the court proceedings because, as she later testified under oath: "I contacted you once I heard about the lawsuit because I felt like this might be a chance for the truth actually to get out." [page 81, lines 6-17].

The next day I traveled to Washington, DC and met for the first time Anita Moncrief, who is seated in the front row here today. I have spent hours talking to Ms. Moncrief about what she had learned about ACORN from her years in the ACORN DC office and Ms. Moncrief agreed to testify under oath, subject to the penalty of perjury.

One of the first things that Ms. Moncrief told me was that she had been fired from her job for using an ACORN credit card for personal expenses. When she worked at ACORN in DC, she lived in a low rent apartment with rats in Baltimore with a new baby and was only making \$25,000 per year with ACORN. She charged moving expenses to the ACORN credit card, wrongly, and hoped to pay it back. The total amount owed is less than \$2,000 but she was fired.

Thereafter, she informed me that she had been a confidential informant for several months to the New York Times Reporter, Stephanie Strom, who had been writing articles about ACORN based on the information that she had provided.[page 81, lines 18-25] [Ms. Strom wrote the following articles about Acorn from July 9, 2008 to October 21, 2008: 1.) ‘Funds Misappropriated at 2 Nonprofit Groups’ July 9, 2008; 2.) ‘Head of Foundation Bailed Out Nonprofit Group After Is Funds Were Embezzled’ August 16, 2008; 3.) ‘Lawsuit Add to Turmoil for Community Group’ September 9, 2008; 4.) ‘On Obama, ACORN and Voter Registration’ October 10, 2008; 5.) ‘ACORN Working on Deal to Sever Ties with Founder’ October 15, 2008; and 6.) ‘ACORN Report Raises Issues of Legality’ October 21, 2008.] The New York Times articles stopped when Ms. Moncrief, who is a Democrat and a supporter of the President, revealed that the Obama Presidential Campaign had sent its maxed out donor list to Karen Gillette of the Washington, DC ACORN office and asked Gillette and Ms. Moncrief to reach out to the maxed out donors and solicit donations from them for Get Out the Vote efforts to be run by ACORN. Upon learning this information and receiving the list of donors from the Obama Campaign, Ms. Strom reported to Ms. Moncrief that her editors at the New York Times wanted her to kill the story because, and I quote, “it was a game changer”. That’s when Ms. Moncrief telephoned me on October 21, 2008. Ms. Strom never wrote another article about ACORN for the New York Times for the remainder of the period before Election Day, i.e. November 4, 2008.

Ms. Moncrief testified at the Injunction hearing about the telephone call from the Obama Presidential Campaign: “In late 2007 – I want to say it was November – I was in the Project Vote office by myself, and I received a call on the main line. I answered the call, and a caller identified himself as being from the Obama campaign. And he wanted to know was this the same Project Vote that Obama had worked with in the 90’s. I had been recently told that it was. So, of course, I said yes, and I was very excited. And I took his information. And I passed it on – well, I sent an e-mail to Karen Gillette, Nathan Henderson James, I want to say Kevin Whalen and Zach Polett – I think that was everyone I sent the e-mail to – letting them know we had been contacted and someone wanted them to get back to them as soon as possible...I didn’t get any official contact that they contacted anyone. I was told that if there are any inquiries, that they had needed to go through either Kevin or Zach, mostly Kevin because he handled those type of things. I think that I probably shouldn’t have written [that e-mail]. It was one of those things that I should have just called, and that was the feeling I got. But it wasn’t like anyone was being mean to me, but it was the impression [Karen Gillette gave me]. I worked with the [Obama] donor list extensively...There were a ton of duplicates because a lot of people gave more than once...the list is huge...so in order to get the list smaller, we were trying to get out the duplicates. That was really hard to do. And it was just really getting frustrated because we were always trying to get numbers and other stuff for these people because I think we were going to set up some meetings for Zach [Polett] or something to do with it, and I know there also might have been a mailing that was going to go out...[ACORN] wanted to use it for donor solicitations...I went through [the Obama donor list] and broke it up by state. I broke out California donors. I also looked at celebrities and Hollywood people, professors, and I broke them into separate categories because there were people looking for a spokesperson. We talked about Barbara Streisand because her foundation gave money. We talked about Bruce Springsteen. So we were trying to see who on that list...we had contact information for that might want to work with us or at least give money to us. Karen Gillette instructed me to do that.” [pages 61-63]. Ms. Moncrief worked on the Obama list culling it for potential donors. She testified: “I would go through the list...and I would break out smaller lists and sent that to Karen [Gillette]. And it was just donor cultivation. At that point, before I was fired, there was not a lot that we were doing with this. We were getting ready to do stuff. We had just ordered a ton of stationery and a lot of glossies.

They were the ACORN glossies, and then we had the exact same glossies with Project Vote on them. And then we were going to send them out as solicitations.” [pages 63-64].

Ms. Moncrief’s interest in my lawsuit against ACORN for fraudulent voter registration activities was two-fold: to tell the whole story about ACORN’s activities including the real story behind their voter registration activities, and second, to voluntarily put herself under oath so that the press would understand she was telling the truth and hopefully then the story would be reported. Ms. Moncrief testified: “[I am testifying] because I want the truth out. Honestly, a lot of people think I have a vendetta, but even after I left ACORN, I was still trying to be involved in the act because I believe that the local offices do a lot of good. Local offices where the people are involved and you see them every day and you’re there—like, when I worked in the D.C. office, you would – you’d stumble over some member, and there was just this type of informal environment. And that’s where a lot of the work was done. So I don’t think ACORN is a bad organization. I feel like they have gotten into a lot of areas that was not – that they weren’t meant to be in. And because we’re in these other areas, we’re losing focus of what’s really wrong with these communities. There’s so much that needs to be done, and we’re over here when we should be right there. So that’s why I’m here, because I don’t want ACORN to go away, I just want it to go back to what its supposed to be.” [pages 79-80].

Ms. Moncrief was on the stand for approximately two hours and her testimony was transcribed. The official court reporter for the hearings will not allow me to provide any one with a full copy of the transcript as she requires payment for all complete copies. I have my purchased copy of the Original Transcript here with me and I would like to provide the Committee with excerpts from Ms. Moncrief’s sworn testimony.

Ms. Moncrief testified that in October of 2005 she began working for Project Vote, a 501(c)(3) educational and charitable organization, as a development associate. [page 18, line 11] [page 102, line 11-13]: “Project Vote is a 501(c)(3) voter registration group. They do voter registration, election administration and voter protection.” Ms. Moncrief testified that Project Vote obtained donor lists with names, addresses and amounts of contributions. The lists were provided to ACORN from political parties, campaigns, and organizations that did the same type of work as ACORN such as ACT [America Coming Together]. In particular, Project Vote received donor lists from the John Kerry Campaign, the Bill Clinton Campaign, and the Barack Obama Campaign. The Obama Campaign sent their donor list to Project Vote, around late 2007. [page 40-41, lines 7-25, and 1-5]. Ms. Moncrief testified: “I know that I got the DNC list and the Kerry list around the same time, so I want to put that at October of 2007...and I think the Obama list came in, in late 2007, maybe November...It was passed on to me by Karen Gillette...It was forwarded to me and with the understanding that it had come from the campaign...I was to take out all the duplicates and get the list together for donor solicitations. We were breaking it down like California, D.C., New York, like that. We were also looking for telephone numbers as well.” Ms. Moncrief was to reach out to these Obama contributors who had maxed out to the presidential campaign and who could then give additional money to ACORN to do GET OUT THE VOTE work. [page 41, line 19]. Ms. Moncrief testified: “Yes. That was part of the plan...That was our development plan written by Karen Gillette, that we were to approach maxed out presidential donors.” [pages 41- 42, lines 1-25, and 1-2]. The money from the ‘maxed out presidential donors’ was allegedly to be used for ‘voter registration’ drives. Further, “when I left [Project Vote] the \$28 million budget was approaching 30 something million.” [page 42, lines 8-12].

She testified that she "...learned that there wasn't much of a difference between ACORN and Project Vote. [page 18, l. 18]: "Project Vote is a sister organization of ACORN. When I got there, I actually thought I was working for ACORN because that was the only thing I heard about during the interview. But when I got there, I realized that I was working for Project Vote, and they explained to me the difference between the two organizations. But as I was there, I learned that there wasn't much of a difference...I had an ACORN e-mail address up until...2007. I was considered to be part of the ACORN political operations staff, and I was actually a part of the strategic writing and research department with the acronym SWORD, which was basically an internal consulting department for ACORN political operations. So a lot of the work I did ...and answering some voter fraud allegations that came from 2004, were actually all ACORN work. It wasn't until...late 2006 that I actually began doing actual development work for Project Vote." She further testified, [page 22, line 9] in regard to the difference between ACORN and Project Vote: "Honestly, there really isn't a difference between Project Vote and ACORN except for the fact that one is a 501(c)(3) and one is not a (2)(3). As far as the – who does the voter registration work and how things get done...Project Vote is basically considered ACORN political operations." Ms. Moncrief testified: [page 44, line 1-25] "There was active cooperation between ACORN's political wing and Project Vote...[They] basically had the same staff. Nathan Henderson James was the strategic writing and research department...director of ACORN and he was the research director of Project Vote. Zach [Polett] was the executive director of Project Vote and the executive director of ACORN political. All of the organizations and the entities worked together. We shared the same space." Further, Ms. Moncrief testified: "...there's no real separation between the organizations for real. So when you have the same people that are working, that are—like, I was getting paid through Project Vote's checkbook, but I was working on ACORN stuff. I even did PowerPoints during the midterm elections for Jeffrey Robinson where they were like, okay, don't vote for Albert Win (ph) or vote for this person. And they had doorknob – door hangers that they would go and put on people's doors, and we turned this into a PowerPoint presentation. So there was never any division between the staff where you would say, okay, this is (2)(3) stuff and this (c)(4) stuff. It was just—I don't want to say business as usual, but it was a lot of collaboration between the organizations." [page 89, lines 21-25, page 90 1-25, page 91, lines 1-3].

Ms. Moncrief testified, [page 25, line 10 et seq.] "...ACORN is a member organization. It has...the national branch. But...the local offices...try to be self sustaining...when I was working in the DC office, I would hear all the time, if we don't increase our membership, we won't meet payroll...[The] money in the accounts for the local offices was determined by how many members they had on bank drafts or that they were going out in the community and collecting money from." ACORN, however, also has many affiliate organizations with whom it associates and for which the legal relationship to is unclear. Ms. Moncrief testified [page 26, line 4] "the number [of affiliates] changes all the time. To the best of my knowledge, it's got to be at least over 170. The last number I heard was 176, but its constantly changing." ACORN refers to its affiliates as "the council of organizations." [page 26, line 10-11]. In addition to the affiliates, there are state ACORN's and city branches of ACORN. Ms Moncrief testified [page 26, line 17-23]: "Well, often they say 'state ACORN,' its more like we're represented in let's say Pennsylvania and then they'll have three or four off-shoot offices, depending on the counties or where there's the most population."

ACORN and Project Vote targeted particular individuals and entities to solicit donations. [page 58, line 20]. These included: 1.) maxed out presidential donors; 2.) the billionaires club i.e. Herb Sandler, the Rockefellers; and 3.) the millionaires club i.e. Patricia Bowman, the

Bowman Foundation, Wellspring, and Sykes. The donor list from the Obama Campaign that was provided to ACORN/Project Vote was admitted into evidence during the Injunction hearing.

Ms. Moncrief testified at page 22, line 16: “ACORN political...was formerly run by Zach Polett and it’s the strategic planning arm of ACORN. It looks at contested congressional districts, ballot measures, initiatives like the minimum wage. And it’s a way to build the organization off of these types of drives.”

Part of the work that Ms. Moncrief did was to investigate voter fraud allegations lodged against ACORN by other groups. When she was involved in the investigation of the voter fraud allegations, she testified, [page 21, line 15]: “There were allegations that came out of the 2004 voter registration drive...My job was to actually write these voter fraud briefs...where I would contact the district attorney’s offices in the states [and] research the case. There was a report by a group at the time called AVCR, American Center for Voting Rights, so I had to refute a lot of the claims that were presented in that report. Through reading the report and doing my research, I learned about ACORN employees...some of them single moms that had been prosecuted or were being brought up on charges for things they had done in, I think it was Missouri, Kansas City.”

When she was hired, the National Director of Project Vote was Jehmu Green. When he left in October of 2006, Ms. Moncrief was then the only employee of Project Vote until the summer of 2007. In 2007, Karen Gillette began working in the DC office of Project Vote and began to supervise Ms. Moncrief. Ms. Moncrief testified at page 20, line 23: “And I have to say that’s when my work blossomed and I worked on what we call the \$28 million budget and donor list, donor cultivation, just basically anything that Karen [Gillette] would need.”

Project Vote in 2007 had a \$28 million dollar budget which was funded by CCI, an affiliate of ACORN. CCI is an acronym for Citizens Consulting Incorporated. Ms. Moncrief testified: “CCI is basically the accounting arm for all of the money, the payments, who gets what, the – how the organization operates and flows and makes sure its bills are paid. All of that goes through CCI...CCI makes disbursements to them either directly into their account or does transfers between I guess the different organizations.” All donations to ACORN or any of its approximately 175 affiliates are deposited into bank accounts held by CCI. Thereafter, CCI transfers money into various affiliates, one being Project Vote. I asked Ms. Moncrief the following question on direct examination: “And can you describe how the money flows between ACORN, Project Vote and any other organization like CCI?” She answered: “The money goes into accounts at CCI. CCI has dozens – dozens and dozens of accounts. Some of them are Project Vote. Some of them are ACORN.” Project Vote also received checks “directly to the D.C. office. Other checks would go to the Arkansas office where Zach [Polett] is, where ACORN political has its base. Those checks were usually copied, and [Ms. Moncrief] would have PDF access to them. The checks that [Ms. Moncrief] received [she] would copy and send them over to Little Rock for processing.” In CCI, Project Vote’s designation was ‘the vote account’. [page 88, line 20]. Money was wired into CCI, “sometimes and especially into what we call the vote account, which was Project Vote’s designation...in CCI. I would see incoming wires from the Rockefeller...Fund. I think sometimes Vanguard Charitable Endowment would also do wires. And other times there would be things that would say stuff like “general income” and it would just – wasn’t sure where it was coming from.” [page 88, lines 20- 25, page 89, lines 1-3]. There was money donated in which there was no source to the money. That was part of that whole donor reconciliation process.” [page 89, lines 6-7].

Ms. Moncrief had access to the accounting system known as NewVision. [page 42, lines 13-17]. “NewVision is the system that pulls up the accounts so you can see what has been credited to the account, deposited and what has been taken out of the account...[NewVision is the system] for all of them i.e. [Project Vote, ACORN, and CCI]. I had the Project Vote access. But NewVision worked with CCI and ACORN, and they had their own page in NewVision. For each – in each local office, they had their own page.” [pages 42-43, lines 13-25, and 1-2]. In mid 2007, Ms. Moncrief was granted access to NewVision. One of her job responsibilities was to reconcile accounts. Her first task in that regard was to reconcile the \$9 million gap between the contribution amount in the donor system known as ‘Donor Perfect’ and the NewVision system. [page 43, lines 3-14]. Ms. Moncrief testified that: “she print[ed] out deposit records going back sometime to early 2000. And then I would match them up with donor letters, information in NewVision and sometimes [the] recollection of people that used to handle that, depending on how far the information was going back...There were so many...random letters and money and checks that were never cashed...at one point we felt that we had got it as good as it was going to get.” [page 44, line 15 to 25]. Ms. Moncrief further testified: “...its hard to tell which – which accounts have what because CCI is – it’s not run very well. And there’s – sometimes you get paid twice. Sometimes you don’t get paid at all. Sometimes the accounts will show negative a hundred thousand dollars, and then magically the money is in there next week. So there’s really no way at this point without a forensic audit to tell what are the assets of any one of the ACORN entities. [page 65, lines 17-25]...To my knowledge, there may have been money that went to ACORN International.” [page 66, line 3-4].

In addition to her other duties, Ms. Moncrief learned about ACORN’s voter registration drives. The purpose of the voter registration efforts at ACORN was to get [page 23, line 2] “more members, which means more money...they’d say the more cards you get, the more money you get...It’s in the way they train the people for voter registration. Its to let them know that the cards are tied to money. So the more cards you get, the more money you get. If people are not producing cards, they’re wasting your time, get rid of them, get people who are producing.” Ms. Moncrief testified further: [page 23, line 16 et al:] “...they know that there is a vast number of people, because we do the census work, that are unregistered African-American or Latino voters. The Project Vote side gets money from certain liberal organizations to run these voter drives...” She said that donors increase their donations to ACORN based on the voter registration drives that ACORN agrees to conduct. “And there’s a concern of what happens after the election. So there’s a frenzy to build up money and resources before the election is decided because after, if it doesn’t go their way, there could be a serious drop off of funds.” The state or local chapters of ACORN are also interested in conducting voter registration drives. Ms. Moncrief testified: [page 27, line 4-14]: “...the local chapters get their direction from national...[National ACORN] would have these political plans already in place so the local offices would know where it was going. [National ACORN] had political directors in these offices, and a lot of times they worked in conjunction with the local. Because of the limited space, you would have political local or national sometimes in the same office.”

ACORN hires canvassers to conduct voter registrations. Some canvassers are employed as paid political canvassers that are paid a salary. [page 30, line 11-13]. Ms. Moncrief testified [page 28, line 22 et seq]: “...there have been problems over the years with how to pay the canvassers. There’s some states that do not allow you to pay per card. And so they’ve actually tried to figure out a way as late as 2007 to pay people for [registrations]...they’re still trying to figure out a way to pay people [without paying them per card] because that’s the motivation. It was always said that if you pay someone \$8 an hour, you know, they might go home; but if

you're paying them per card, they're more likely to go out there and get, lets say 20 to 30 cards per day." "Some of the canvassers that are political organizers are on staff payroll. They are hired with the understanding that they...are usually there through the whole voter registration drive. So I know that they are paid salary." [page 33, line 3-7].

Ms. Moncrief confirmed that ACORN does have a 'quota system' for their voter registration canvassers. [page 29, line 9]. Ms. Moncrief testified that she was aware of a system that required each canvasser to turn in "...at least 20 cards per day". [page 29, line 11-13]. If the canvasser does not turn in the minimum of 20 cards per day, the canvasser is "fired". [page 29, line 15]. Ms. Moncrief testified if the registration cards being turned in didn't meet the quota "they were told that they needed to start firing the non-performers; if the people weren't performing, then they were basically wasting the people's time and money and they needed to go." [page 50, line 6-11] "Sometimes they would say, check the numbers before they go out because if they're already bad, fire them right there; don't let them waste your money for the day." [page 50, line 6-13].

In order to meet the daily quota, ACORN "puts a lot of pressure on what they call the contractual employees, the part-time, temporary employees...that understand they have no obligation after the registration drive to be rehired. They know that they're only there for that amount of time...They would pressure these people to get the numbers in." "As far as the part-time employees, I'm a little fuzzy on how that works. Like I said, I have knowledge of them being paid in cash, but I know that it's something that might have been from previous years and has been worked on. So I can't be positive on how they're paid at this point." "To my knowledge, there are canvassers that are paid per registration card in cash." [page 33, line 7-19].

Ms. Moncrief also testified about additional canvassers that are hired if the registration numbers are not coming in at the rate anticipated. "And then there's a period of time where if there seems to be that they're not meeting goals for that state or whatever, that they might go through a hiring frenzy of hiring part-time employees to kind of fill in the gap...That's the 'ramp-up period'...They talked about the problems that were associated with this period [at the political operations retreat that we had in Arkansas]." Ms. Moncrief testified [page 31, line 2-6]: "[the ramp up period] is a time where there's massive hiring, where they'll put up flyers, go to community places where they can find people, job banks, social services offices; basically get the word out that they're hiring people to do voter registration and get as many people in the door as possible."

ACORN knew they had many internal problems. Ms. Moncrief described these internal problems in her testimony as follows:

I. QUALITY OF HIRES:

First, Acorn knew there was a problem with 'the quality of the people they were getting. Some of the people didn't know how to use basic office...systems, which made it very hard for copying the registration card and making sure that they were turning in accurate counts and work ethic issues." [page 34, line 1-6].

II. QUALITY CONTROL:

The second problem was 'quality control'. [page 34, line 12]. "At the meeting, they talked about ways to improve quality control...they were finding out which cards were bad...We were having a problem at the time with turnover. Turnover is a very big problem in the

organization, so they wanted to make sure that training was consistent and ongoing and these people understood exactly what was going on. The thing about it is that it was the same complaint from the previous registration drive as well...I wasn't aware of any concrete plans that came out of the meeting." [page 35, lines 1-10]. Ms. Moncrief testified: [page 44, line 19-25] "I remember...in Arkansas, Jessica Angus, Jarvis Houston, Zach Polett and Karen Gillette all knew and [discussed ACORN's lack of internal quality controls at the management level]. [page 45, lines 1-9].

III. TRAINING:

Third, there were problems with training. "There was a consistent concern about training. I even actually raised the issue myself that there was a sink or swim type thing going on in ACORN, where you come in and you really don't understand what you're doing and they expect you to move a mountain and then when you don't, they think you're stupid...So I actually talked to Zach [Polett] about ways to improve the training department and come up with...manuals...that we could actually follow." [page 35, line 12-21]. ACORN did have a training manual provided to its employees that engaged in canvassing for voter registration. However, the employees were never trained using the training manual. Ms. Moncrief testified: "...they tell people never ask someone if they're registered to vote because that's a yes or no question...ask them if they voted in the last presidential election. If they didn't vote, register them anyway, which at times can lead to duplicates." [page 36, line 18-25]. The new employees are sent out to obtain new registrations in areas in which they are likely to get registrations. That's the extent of their training. Ms. Moncrief testified: [page 37, line 1-12] "So they had very little training. They were given the information about the fraud, what would happen to them if they did commit the fraud, and they had to sign a piece of paper saying I have read these fraud policies and I understand that I could be prosecuted. Once they sign that paper, that was basically it. There was not a lot of room for ongoing training when you're in the middle of a massive drive." There was no program for on-going training.

If an employee was caught by law enforcement fraudulently registering voters, Ms. Moncrief testified that ACORN threw the employee under the bus. [page 36, line 2-4]. Instead of accepting blame or responsibility for failure to train employees or for telling them to ask improper questions of potential registrants, ACORN "...went after that employee intensely to make sure that they took the brunt of what was going on." [page 37, line 20]. Ms. Moncrief testified: "Through my research on the voter fraud brief, I saw...a consistent pattern that over the voter registration drives dating back to 2000, there was at least seven to nine people, sometimes only four...that were always heavily prosecuted. And some of them you could tell from their stories weren't...the brightest people in the world...I don't think they knew what they were getting into...They did do something wrong. They made a bad judgment...I...feel that they were caught up in trying to get the money and they were worried about getting fired..." [page 38, line 3-14]. Ms. Moncrief continued: "[ACORN] always felt that the quality assurance was adequate for what they were doing and that...adults should know better. So [ACORN] wouldn't give them any leeway. [ACORN] wouldn't understand well, maybe [the employees] weren't paying attention; maybe its good to reinforce these things over and over. It was more they did this, they were wrong, we're going to prosecute them, then we're going to move on and keep registering voters." [page 38-39, lines 20-25, and 1-2].

IV. DUPLICATE REGISTRATIONS:

Fourth, ACORN knew that their canvassers were turning in duplicate registrations. [page 45, line 10-25] [page 66, lines 16-21][page 67, lines 7-10] Ms. Moncrief testified: “I have knowledge that they were striving for at one time 40% accuracy rate.” Further, ACORN knew that their canvassers “dumped” voter registration cards on election divisions throughout the United States immediately before the cut off dates. Ms Moncrief testified that the Election Division “already had a bad opinion of [ACORN] because they sent so many cards over to them. So I was to try to sweet talk them, they said, make them feel like they’re really helping you, thank them a lot, and if all else fails, tell them that you’re doing a provisional voting academic survey or something. So I wouldn’t name myself.” Ms. Moncrief admitted that when she placed calls to the Election Divisions that she would not tell the election officials that she was with ACORN or Project Vote. She testified: “Sometimes I said I was doing an academic study. Sometimes I mentioned voter protection. Other times I just said my name is Anita and I was doing a provisional voting survey, could they help me.” [page 46, line 14-25]. Ms Moncrief testified: “There was awareness at the national ACORN level or Project Vote that there was fraudulent registrations.” Further, she testified: “I think that Zach Polett was aware that there were certain [local ACORN] offices that they had to watch more closely and that there might be quality control issues in certain places. ACORN was more interested in the total number of submitted registrations than the total number of valid registrations.” [page 51, line 1-4].

When a fraudulent voter registration card is discovered by an ACORN worker, “there’s a project called ‘Project Fix Error’ where they contact bad cards, whether they be from ACORN or whoever submitted the cards. They try to find out the type of information that is needed to get this person on the rolls. And from what I also understand, Democracy Alliance was approached or is funding this project.” [page 97, line 12-23]. ACORN seeks additional donors to fix the bad registrations they obtained in the first place in order to garner additional donations. [page 97, lines 24-25; page 98, lines 1-5].

V. USE OF VOTER REGISTRATION CARDS FOR OTHER PURPOSES:

Fifth, ACORN kept copies of the registration cards obtained for various purposes. Ms. Moncrief testified: “[The registration card] is brought back to the office. It’s supposed to be checked by whoever is doing quality control. They usually will call I think about 20 percent of the person’s batch. And if they do find it to be fraudulent, they’re supposed to call the whole batch and – just to make sure. And they’re supposed to look for similar handwritings and things like that...I know that there have been problems with people missing cards before and things slipping by and not being called until it gets to the board of elections...They try to tag them and separate them, though...Then after that process, the cards are inputted into a database, called the voter contact database and I think that’s used for GOTV...I think there is [an ACORN organizational plan] to contact them and make sure that they get on the rolls and that they stay on the rolls...I think they get a certain number of contacts before the election day, especially if they’re – they have an active APAL, the ACORN Precinct Action Leader program in that state. If they have an active APAL program, they would probably get more contacts...If they can’t make it to the polls, then yes, they are definitely encouraged to submit absentee ballots. [pages 71-72].

VI. FRAUD IN ABSENTEE BALLOTS:

Sixth, ACORN knew there was a high rate of fraud in their absentee ballots. Ms. Moncrief testified: “I know that there was some talk with the EA, Election Administration people, that there was a high rate of fraud in our absentee ballots and they needed to plan

accordingly for that. That – I wasn't really sure what that meant. And then I know as far as their voter database, they had—they have what they call the V base where they would put this information in. They would contact these registered voters to see if they were going to vote. If they – they would also see if they needed an absentee card. So they would have numbers of lets say 295 people in this county need an absentee ballot or these number of people might need a ride to the polls. So it was not only voter registration, it was also voter contact and following up to make sure these people got to the polls. [page 67, lines 7-25, page 68, lines 1-5]. Ms Moncrief produced a document from ACORN, notes from a management call from 2006, in which the document stated: “Universal absentee states give us an opportunity to do an absentee touch. That was stated by Jeff Robinson. Mike Slater comes back and says, History of fraud in absentee balloting and we need to incorporate into the way we design the program. Jeff Robinson says, “absentee voting works well for unlikely voters in some states.” Ms. Moncrief testified: “[ACORN] was aware that there is a problem with absentee ballots and they were coming up with some type of plan to address that. I'm not sure based on this information what type of plan that would be.” [page 69, lines 7-18]. Ms. Moncrief testified that a fraudulent registration can turn into a fraudulent absentee ballot “...if one of the cards is not caught either by ACORN or the board of elections, that person would be on the ballots. If they did not want to present themselves in person, they could get an absentee ballot very easily, vote and just mail it in.” [page 69 lines 19-25]. ACORN is aware that absentee ballots are fraudulently voted. [page 70, line 4].

VII. DENY VOTE REGISTRATION FRAUD:

Seventh, ACORN attempted to divert attention from the problems it had with its voter registration drives and deny that it knew the organization had problems in this regard. [page 56]. Ms. Moncrief testified: “[ACORN] had prepared responses that everyone was given to say that voter registration fraud doesn't really happen...It was certain spiels that were all given to say. And at the meeting in 2007, there was actually a conversation about how you can make sure everyone was on the same page of how to respond to that because those responses like, oh, you don't want African Americans to vote or you don't want minorities to vote or things where its very hard to come back at and they were good at fighting that.” [page 56]. Despite the fact that Ms. Moncrief had worked in 2005 on issues of voter registration fraud by ACORN in 2004, she was instructed by ACORN to deny ACORN knew of it or was involved with it. Ms. Moncrief testified: “...everyone in the organization was given a – talking points as to how to respond to allegations of voter fraud. But they much preferred that you run it through the media...So they even thought about passing those out to the organization as a whole, but most people in political had a copy of the voter fraud talking points.” [page 57, lines 7-16]. One of the talking points suggested that if an ACORN official was asked about registration fraud, he/she should state that it was a lone employee acting outside the scope of his employment and that ACORN would prosecute the employee to the fullest.

VIII. POLITICAL CONSIDERATIONS USED IN VOTER REGISTRATION DRIVES:

Eighth, ACORN chose which states Project Vote would conduct voter registration drives based on political considerations. Ms. Moncrief testified that the voter registration drives were NOT conducted in every state in the union. [page 49, line 4-6]. “I remember political plans for Ohio, Pennsylvania, Florida. want to say Maryland, maybe Colorado, New Mexico...It was basically the states that had either contested congressional seats or what were considered to be battleground states.” [page 49, line 7-13]. Ms. Moncrief defined ‘battleground states’ as: “where it could go either way, it was really close; and by coming in and registering new voters, it could

change the outcome of the election.” There were established goals for the battleground states for the number of registration cards that ACORN wanted to obtain. Ms. Moncrief testified: “That was usually contained in the political plans, but sometimes they would tweak those goals the closer [they] got to starting the registration drive.” [page 49, lines 22-24]. The local offices and their political directors are to submit information on an ongoing basis about the number of registrations their canvassers obtained. It was “sometimes a condition on the people getting paid, if they sent their batches in when they were supposed to.” [page 50, lines 1-5].

IX. MUSCLE FOR THE MONEY PROGRAMS:

Ninth, ACORN had official and unofficial programs called ‘Muscle for the Money’. [page 52, lines 17]. The first program, the official program, is the marketing name ACORN gives for its voter registration drives. Citizens Services Incorporated (CSI), an affiliate of ACORN, prices the cost to register a voter, drive the voter to the poll, and eventually get the voter to vote. CSI does voter identification, turnout and GOTV. [page 52, line 2-23]. “It’s sort of a consulting firm for candidates that want to use the services to help...them get elected.” [page 52, line 20-23]. ACORN/CSI markets its program to candidate or campaigns and sells their services by stating that if you use [the] program with their proven methodologies, they will get it done at a certain price. The Obama Campaign originally reported in FEC schedules that it paid CSI \$880,000 for ‘sound and lighting equipment’. [page 53, line 1- 14]. However, CSI does not possess sound and lighting equipment. Ms. Moncrief testified: “I made the flyer for the first CSI program that they did. They do voter identification, turnout, GOTV, calling voters, getting them out to the polls.” [page 53, line 13- 20]. Ms. Moncrief further testified: “[CSI] would get – let’s say they would try to get a certain number of people to commit. Let’s say they’d hire a canvasser and this canvasser is paid to get the 50 people in his area to the polls. If they didn’t get them to the polls by bus or whatever, make sure they get an ABSENTEE BALLOT or somehow get those people to the polls.” (emphasis added). [page 66, lines 9-15].

Ms. Moncrief further testified: “...when Karen [Gillette] was hired, they told me that she was going to – she was coming on but she would be through CSI. I know that our main person, which I’m not really sure what his title is but I always called him the money man, Jeff Robinson was through CSI. And Nathan Henderson James, he was the research director for Project Vote. But he transferred from Project Vote’s checkbook over to CSI’s checkbook. So the main managerial people were paid through CSI. And I think that after Zach [Polett] left Project Vote, he’s now with CSI.” Page 64, lines 4-17]. CSI was involved with ‘voter identification turnout’. Ms. Moncrief testified: “They were – I’m not really sure how they implemented it. I know I made the flyers for it, and so I understand what they did. But as far as how it was completely separate from ACORN, I know it was a consulting agency, but I’m not sure how they implemented the work that they said they were going to do without using the political directors or the canvassers that they already had on hand. I’m not sure.” [page 64-65, lines 18 to 25, 1-2]. CSI worked with ACORN and Project Vote. “All the affiliate organizations worked together. [page 65, lines 2-6]. Ms. Moncrief testified about a document she had access to that was introduced at the Injunction as follows: “It talks about America Votes and some notes from a meeting that took place I would say. [The document states under ‘Political Money Rules’]...we prefer that political money go to us in the form of a vendor, which would be CSI, our for profit business, which doesn’t have to report the cash because it’s a business, like the phone company.” [page 74, lines 1-19]

The second unofficial ‘Muscle for the Money’ Program is a corporate directed program for donations. Ms. Moncrief testified: “That [program] is what I learned in the local offices.

That's where – lets say the D.C. office where I was. They would be given a project to go work on, even if they didn't have interest in it. At the time, even after I was fired, I was working with ACORN, going to barbecues, doing other stuff with D.C. local. They got involved with a group called the Carlyle Group. They were paid by SEIU to harass a man named Mr. Rubenstein, and they wanted me to go out – the D.C. local did, wanted me to go out and break up a banquet dinner, protest out in front of his house. But the local – D.C. local did not have an invested interest really in messing with the Carlyle Group. It was because they were paid by SEIU to do this. And it was always referred to as 'Muscle for Money' because they would go out there, intimidate these people, protest. They did it in front of Sherwin Williams. They did it at H&R Block, where H&R Block was a target for years. And instead of, you know, reforming the way they did the rapid anticipation loans, they ended up giving money to the ACORN tax sites which paid for new computers and money to run these tax filing sites around the country." [pages 54-55] "The protesting was used to get companys to negotiate. The companys would pay money to get the protesting to stop. In addition to calling this activity 'Muscle for the Money', the insiders at ACORN called it "PROTECTION". [page 55, line 15]. Ms. Moncrief testified: "Protection. We were very – not to be flippant, but we were just always very sarcastic about it in the offices. We knew what was going on. And its not that we thought it was funny, it was just one of those things that we talked about. That's why I said it like that, so you understand." [page 55, lines 15-20]. The 'Muscle for Money'/'Protection' programs were carried out against Sherwin Williams, Jackson Hewitt, H&R Block, the Carlyle Group, and Money Mart. [pages 54 and 55].

X. PARTISAN POLITICAL ACTIVITY:

Tenth, ACORN and its affiliates engaged in partisan political activity despite their tax exempt status which prohibited them from doing so. ACORN was concerned 'publically' to prohibit its tax exempt organizations from engaging in partisan political activity but in actual practice it occurred behind the scenes. [page 90, lines 23-25, page 91, lines 1-8]. Ms. Moncrief was told not to get caught engaging in partisan political activity. [page 91, lines 9-11].

XI. VIOLATION OF GRANT PARAMETERS:

Eleventh, ACORN received a grant from the Election Assistance Commission, a governmental agency, and did not accurately report what the grant money was spent on. Ms. Moncrief testified as follows: "...there was one thing that really bothered me from last year. I received an e-mail. It was called 'dotting the I's and crossing the T's', and it was based on an Election Assistance Commission grant that we had just gotten. And it was from Nathan Henderson James and to myself and one other person; I can't remember the name. But it was just basically telling us, okay, guys, it's reporting time again; we need to show them what we did with this EAC money; so I want you to put this on letterhead – on ACORN letterhead and say something like, we had a really great time working with our partner, Project Vote. And the attitude of the e-mail was quotation marks, you know--...to where we knew that it wasn't that there was any type of partner organization. There might have been – on paper there might have been a partnership going on, but really it was ACORN and Project Vote together...The EAC was giving money to Project Vote for a poll watcher study in Delaware and they were working with ACORN, from what I understand on this. And I think Project Vote approached them with the understanding that they were going to hire a partner to help them in the community...[The project was done]...but it wasn't this whole nonpartisan thing that it was made out to be to get the money. It was just, hey, guys, we need to get this done for Delaware because we got this check; let's get this done; let's make this report out." [page 91, lines 15-25, page 92, lines 1-25]. Ms. Moncrief testified that there was a government grant in which the work was misrepresented

to the government. [page 92, lines 24-25, page 93, lines 1-3.] She testified: “And I didn’t like the fact that I was included in on that e-mail and they they – she was told to send the copies of it to me in the D.C. office, because I didn’t want anything to do with government grants.” [page 93, lines 3-6].

XII. QUESTIONS REGARDING PRESERVATION OF DOCUMENTS IN PENDING LITIGATION:

Twelfth, ACORN is possibly destroying documents. Ms. Moncrief testified that ACORN and its affiliates are in possession of documents. She testified: “I have knowledge that financial documents are possibly being destroyed...I was told that and I read that as well.” [page 93, lines 18]. “I’ve seen court papers saying that [The ACORN Eight] are trying to access the financial records of CCI but they are being blocked and they fear that records are being destroyed as they’re trying to access them.”

Mr. Chairman and Members of the Committee, it is imperative that Congress take immediate steps to:

1. Investigate the serious lawbreaking in which ACORN and its related entities are engaged;
2. STOP providing taxpayer funds to ACORN and its related entities that fund these illegal activities; and
3. Bring accountability to the American people by stopping these illegal activities, and demonstrate through your actions a clear dedication by Congress to protecting the integrity of the American electoral process from these lawbreakers.

The time is now. The American people are watching.

I am happy to answer any questions the Members may have regarding ACORN and its illegal activities. Thank you for allowing me to testify before you today.

MEMORANDUM

TO: Heather Heidelbaugh, Esq.
Vice-President, Republican National Lawyers Association

FROM: Cleta Mitchell, Esq.
Co-Chairman, Republican National Lawyers Association

DATE: March 17, 2009

RE: Violations of Law by ACORN Based on Facts Contained in Testimony of Anita Moncrief

You have requested that I review the testimony you have prepared for presentation to the Subcommittee on the Constitution, House Judiciary Committee on Thursday, March 19, 2009, based on the sworn testimony in open court of Anita Moncrief, a former ACORN/Project Vote employee to ascertain if the facts presented constitute any potential violations of law. Based on the testimony, there are substantial facts which describe numerous potential violations of federal law. The following is a summary of the facts described in the testimony which would constitute violations of federal law by ACORN¹.

I. Violations of law by Project Vote, ACORN, the Obama Presidential Campaign and others related to the Internal Revenue Code and federal campaign finance laws:

The testimony reflects the following significant facts:

- November 2007 – Project Vote contacted by Obama presidential campaign (p. 2)
- Project Vote received Obama donor list from Obama campaign (p. 3)
- Project Vote solicited Obama donors to pay for voter registration and to ‘get out the vote’ (p.3)
- Project Vote receives donor lists from other Democratic and labor union sources: John Kerry campaign, Bill Clinton campaign, Barack Obama campaign, Democratic National Committee, America Coming Together (“ACT”) (p.3)
- Project Vote development plan was to ‘approach maxed out presidential donors’, and ‘allegedly use the funds for voter registration drives’ (pp.3-4)
- ACORN ‘employees’ were paid through Project Vote for partisan campaign activities telling voters ... **“don’t vote for Albert Win (sic) or vote for this person” (p. 4)**
- There were no divisions between the staff of ACORN and Project Vote, and persons working for one entity actually perform work for either or both organizations (p. 4)

¹ This Memorandum is a summary only and not a legal brief. Citations to specific sections of the U.S. Code are purposely omitted.

- ACORN chose which states Project Vote would conduct voter registration drives, based on political considerations (p. 10-11)
- Registration drives (by Project Vote) conducted in ‘battleground states’, where ... “by coming in an registering new voters, it could change the outcome of the election”. (p. 11)
- The Obama campaign’s donor list was part of the evidence admitted into the hearing on the injunction in October 2008 (p. 5)
- ACORN political is the ‘strategic planning arm’ of ACORN, and it looks at contested congressional districts, ballot measures, initiatives like minimum wage, etc. (p. 5)
- Project Vote had a \$28 million budget which was funded through Citizens Consulting Incorporated (“CCI”) (p. 5)
- CCI is an ACORN affiliated entity, that receives, disburses all funds, including charitable contributions from the Rockefeller Fund, the Vanguard Charitable Endowment and other private foundations and donors, to the 175 affiliated ACORN entities (p. 5)
- In 2007, there was a \$9 million discrepancy in the ACORN affiliated accounts (p. 6)

Legal Issues.

1. Violations of the Internal Revenue Code. Project Vote is, according to its website (<http://projectvote.org>) a 501(c)(3) charitable and educational organization. As such, it is prohibited by the Internal Revenue Code from intervention in partisan campaign activities. According to the IRS, “Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.... voter education or registration activities with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention.” <http://www.irs.gov/charities/charitable/article/0,,id=163395,00.html>

Further, there are substantial rules and regulations governing charitable organizations with respect to assuring that funds contributed to the organization are used for permissible exempt purpose expenditures, that sufficient records and documentation of the receipt and use of funds are maintained and that the board of directors of the exempt organization are performing their fiduciary responsibilities as required by law.

2. Violations of the Federal Election Campaign Act of 1971, as amended (“FECA”). ACORN is a Louisiana, not-for-profit corporation, which has no tax exempt status from the Internal Revenue Service. A not-for-profit corporation is treated *no* differently from a for-profit corporation for purposes of the federal campaign finance laws, which absolutely prohibit corporate contributions to campaigns of federal candidates and / or corporate expenditures to support or oppose a federal candidate. The FECA further prohibit expenditures by non-profit corporations such as ACORN and Project Vote which are made in coordination with, at the

request, behest, suggestion or with the material involvement of a federal campaign (such as the Obama presidential campaign). The solicitation of funds by an organization for purposes of engaging in partisan campaign activities or to support or assist a federal campaign and/or candidate convert the organization into a Section 527 political organization and further a federal political committee required to register with the Federal Election Commission (“FEC”). Contributions to such an organization are limited to \$5,000 per calendar year and may not be received / accepted from corporations. Further, expenditures made by an organization in coordination with a candidate or political committee are considered contributions to that committee and are subject to the \$5,000 per election limit.

II. Voter Registration Fraud (pp 6-11). The record is filled with specific instances of fraudulent voter registration activities, failure to comply with state law in voter registration drives, absence of quality control and training, and the internal procedures as to how ACORN responds to allegations of illegality. The violations of law are well documented in the testimony and the list of ACORN related individuals charged with voter registration fraud, the criminal complaints in several jurisdictions and other evidence of voter registration is included in the testimony and the exhibits to the testimony.

III. Muscle for Money Program (pp. 11-12) The testimony reflects the following specific facts:

- ACORN has official and unofficial programs called “Muscle for the Money”

ACORN’s Official “Muscle for the Money” Program:

- The ‘official’ program is the name for the ACORN voter registration drives
- The Obama campaign paid ACORN affiliate Citizens Services International (“CSI”) almost \$900,000 for voter registration, voter identification, turnout and get-out-the-vote services
- Obama campaign reported to the FEC that the expenditure was for “sound and lighting equipment”, which does not exist
- ACORN / CSI markets its programs to campaigns, which pay ACORN / CSI for the ‘services’
- **ACORN is *paid not only to register voters, but to also convert those voter registrations into votes at the polls for specific candidates***
- ACORN is supposed to get the voters to the polls by bus or to make sure the voters get an absentee ballot and to make sure the votes are cast.
- CSI used the political canvassers and others employed by ACORN for its voter turnout programs

ACORN’s Unofficial “Muscle for the Money” Program:

- This is an ‘unofficial’ corporate directed program for donations
- Payments from SEIU were made to ACORN’s DC office to harass The Carlyle Group and, specifically, Mr. David Rubenstein, a founder of the company
- Even though DC ACORN had no interest in The Carlyle Group, they were paid by SEIU to go break up a banquet and protest at his house.

- It was called “Muscle for Money” because they would go intimidate people and protest.
- Targets of the paid protests included Sherwin-Williams, H&R Block, Jackson Hewitt, Money Mart, among others
- The purpose was to get money from the targeted entities for ACORN, to force the companies to ‘negotiate’

IV. Illegal Use of Funds from Election Administration Commission (“EAC”) (pp. 12-13)

The testimony reflects that ACORN received a grant from the EAC, but misreported / wrongfully reported the use of the federal funds.

Conclusions:

1. Project Vote should be investigated and audited by the IRS to ascertain whether Project Vote should be allowed to maintain its 501(c)(3) tax exempt status, based on the apparent misappropriation of charitable contributions for impermissible purposes.

2. Based on the testimony, Project Vote, ACORN and other ACORN affiliated entities illegally coordinated activities with the Obama presidential campaign, converting the expenditures by Project Vote, ACORN and ACORN affiliated entities to illegal, excessive corporate contributions to the Obama presidential campaign, in violation of federal law.

3. Voter Registration Fraud. The Department of Justice should *immediately* undertake a nationwide review of the fraudulent activities of ACORN and its affiliated entities to *stop* the ongoing illegal ACORN voter registration AND get-out-the-vote efforts. As is evident from the testimony, these are not isolated cases; rather, this is a nationwide scheme to fraudulently register voters, which registrations are then converted into actual votes under the ‘official’ Money for the Muscle program at ACORN and its affiliated entities. Further, the witness testimony clearly suggests that ACORN officials knew or should have known of the substantial registration fraud that was occurring and therefore willfully denied, deflected and dissembled regarding their knowledge, acceptance and ongoing perpetration of this fraud.

4. The Department of Justice and the FBI should *immediately* investigate the ‘Muscle for Money’ shakedown activities of ACORN and its affiliates, and should prosecute individuals responsible for the extortion of the targeted companies and individuals.

5. ACORN and its affiliated entities should be audited immediately and all government funds to ACORN halted until every penny of taxpayer dollars to ACORN and its 175 entities and affiliates are properly accounted for.

Please contact me if you have any additional questions. Thank you.