



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 2

26 Federal Plaza – Room 3614

New York, New York 10278-0104

Telephone: (212) 264-0300

Facsimile: (212) 264-2450

August 11, 2009

Judicial Watch

Attn: Tegan Millspaw

501 School Street, SW, Suite 725

Washington D.C. 20024

Re: Freedom of Information Act Request
Case No. 02-2009-0118

Dear Mr. Millspaw:

This is in response to your request for all documents pertaining to charges filed against Association of Community Organizations for Reform Now (ACORN) for the period from January, 2000 to the present date. Enclosed are the discloseable documents from Case No. 2-CA-37616. Our search has disclosed the existence of two other cases that may be responsive to your request, against NY ACORN Housing & Norwax, Inc., Cases nos. 2-CA-33005 and 2-CA-32708. However, pursuant to this Agency's file retention policy, case files are retained for a six-year period, which commences at the close of the calendar year during which the case is closed. The files are then destroyed unless they are selected for permanent retention based on their legal significance. The files in question were closed on February 15, 2001 and on April 27, 2000, respectively. Neither case file has been selected for permanent retention. Accordingly, the files are not available for production.

I am withholding certain documents from the case file in Case No. 2-Ca-37616 for the following reasons. Affidavits are privileged from disclosure by Exemption 7(C) and (D) of FOIA, 5 U.S.C. §552 (b)(7)(C), and 7(D). Since affidavits contain matter personal to the individuals supplying the statement and to individuals referred to in the statements, they are exempt from disclosure under Exemption 7(C). This exemption protects the personal privacy of individuals submitting statements and individuals named therein, and requires the balancing of their interests in privacy against the interest of a requesting party in disclosure. You have submitted no consideration which would, I find, overcome the privacy rights of individuals and, therefore, their right of privacy must prevail. Alirez v. NLRB, 676 F.2d 243 (10th Cir., 1982).

Affidavits are also within Exemption 7(D), because their disclosure would reveal the identity of confidential sources, i.e., an individual who provides information under an express assurance of confidentiality or in circumstances from which assurances can be reasonable inferred. See *U.S. Department of Justice v. Landano*, 508 US 165, 172 (1993). The term "source" has been held to include a broad range of individuals and institutions, including persons who give information to the Board. See *United Techs Corp. v. NLRB*, 777 F.2d 90, 94 (2^d Cir 1985) . In this case the affidavits encompassed by your request were provided to the Agency under an express assurance of confidentiality, and are wholly exempt from disclosure.

Internal memoranda relating to the investigation and processing of the case, including file notes and investigative reports, while encompassed by your request are not provided, as they are privileged from discovery under the exceptions to the Freedom of Information Act (FOIA). Requests for internal memoranda may be denied because they are privileged from disclosure under Exemption 5 regardless of whether a case is open or closed. In order to assure that Agency deliberations are carried on in the candid manner necessary for effective decision making. Predecisional internal memoranda are exempt from disclosure. Renegotiation Board v. Grumman Aircraft Corp., 421 U.S. 168, 184 (1975); Kent Corp. v. NLRB, 530 F.2d 612 (5th Cir. 1976), cert. denied, 429 U.S. 920 (1976). The predecisional memoranda are also exempt since they are work product of the attorneys and investigator who prepared them. See NLRB v. Sears Roebuck & Co., 421 U.S. 132, 150-54 (1975). Pursuant to Exemption 5, I have withheld, file notes, internal reports, minutes of internal meetings concerning the case and documents which contain information about the case which we use to input information into the data base.

Certain documents have been provided in redacted form because portions of those documents are protected under Exemptions 6 and 7C. Exemption 6 permits agencies to withhold information about individuals in "personnel medical and similar files" where disclosure would constitute a clearly unwarranted invasion of personal privacy." "5 U.S. 552(b)(6). The "files" requirement covers all information which "applies to a particular individual." U.S. Dept. of State v. Washington Post Co., 456 U.S. 595, 601-602 (1982). Exemption 6 requires agencies to balance the public's right to disclosure against the individual right to privacy. The kind of public interest involved is information which if disclosed would shed light on an agency's performance of its statutory duties." U.S. Dept. of Justice v. Reporters Committee for the Freedom of the Press, 489 U.S. 749, 773 (1989).

Exemption 7(C), 5 U.S.C. (b)(7)(C), permits agencies to withhold information compiled for law enforcement purposes where disclosure of the information "could reasonably be expected to constitute an unwarranted invasion of personal privacy." Individuals named in a law enforcement investigation, including third parties mentioned in investigatory files, as well as witnesses and informants who provide information during the course of an investigation, have such a privacy interest. See Nation Magazine, Washington Bureau v. U.S. Customs Service, 71 F.3d 885, 894 (D.C. Cir. 1995); Van Bourg, Allen Weinberg & Roger v. NLRB, 751 F.2d 982, 985 (9th Cir. 1985). Further, Exemption 7(C) requires the balancing of the individual right to privacy against the public's right to disclosure. As is the case with Exemption 6, the kind of public interest involved is information which if disclosed would "shed light on an agency's performance of its statutory duties." U.S. Dept. of Justice v. Reporters Committee for the Freedom of the Press, supra.

The information sought includes recognizable privacy interests such as the names and home addresses, social security numbers, and personal tax information of particular individuals. You have not satisfied your burden of proof as to the public interest in disclosure. See Carter v. U.S. Dept. of Commerce, 830 F.2d 388, 390-391 nn. 8& 13 (D.C. Cir. 1987). The information sought is therefore partially exempt from disclosure under Exemptions 6 and 7C.

I have provided to you an internal memo to ACORN, dated November 17, 2005, and titled "Regarding Rodney Roberts Canvassing," which contains certain information concerning the level of production ACORN requires of its organizers. Similar information is also in a document I have provided, dated, January 9, 2006 and titled "Canvasser's Contract." Because this information is arguably covered by FOIA Exemption 4, 5 U.S.C. §552 (b)(4), I have redacted it and I am withholding these portions of the documents at this time. See Executive Order No. 12, 600, 3 C.F.R. Sec. 235 (1988), reprinted in 5 USC Sec. 552 note (1994); Board's Rules and Regulations, Sec. 102.117 (c)(2)(iv)(H). The agency will undertake the following evaluation process with respect to the portions of the documents being withheld pursuant to Exemption 4. We ask that you review the documents, and contact this office if you want the documents without the redactions arguably

covered by Exemption 4. If you inform us that you still want the information, we will send the documents to the submitter, who must be given the opportunity to assert objections to disclosure under the applicable governing legal standard enunciated in Critical Mass Energy Project v. Nuclear Regulatory Comm'n, 975 F.2d 871 (D.C. Cir. 1974)(en banc), cert. denied, 507 U.S. 984(1993). See Executive Order No. 12, 600, 3 CFR 235 (1988), reprinted in 5 U.S.C. §552 not (1994).

The case files identified above contain other disclosable documents including communications and documents submitted by the parties, routine administrative material such as internal routing slips, NLRB casehandling forms, return receipt slips and envelopes which are not being forwarded at this time since your request does not specifically indicate your desire to obtain this information. If you wish to obtain any of this information, said documents, with appropriate deletions, will be forwarded to you upon written request.

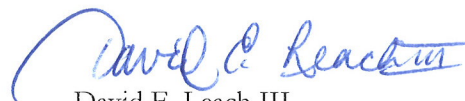
As required by Section 552(b) of the FOIA, 5 U.S.C. 552 (b), the Agency hereby informs you that it has not provided you with 57 pages of information in response to your request under the FOIA.

Your request for a fee waiver is granted pursuant to 5 USC Sec. 552(a)(4)(A)(iii). Accordingly, there are no charges assessed to you for processing your request and there is no need to address your organization's status as a representative of the news media.

The undersigned is responsible for the determination that certain of the documents you seek are privileged from disclosure under FOIA.

The undersigned is responsible for the above determination. You may obtain a review thereof under the provisions of the NLRB's Rules and Regulations, 29 C.F.R. 102.117(c)(2)(v) by filing an appeal with the General Counsel, National Labor Relations Board, Washington, D.C. 20570, within 28 calendar days from the service of this letter. Thus, the appeal must be received by the close of business at 5:00 pm (EDT) **September 8, 2009**. Any appeal should contain a complete statement of the reasons upon which it is based.

Very truly yours,



David E. Leach III
Acting Regional Director



90-04 161 STREET, ROOM 405, JAMAICA, NY 11432 TEL:718-298-8900 FAX:718-657-0537 www.legal-aid.org

Peter v.Z. Cobb
President

Steven Banks
Attorney-in-Chief

Tamara A. Steckler
Attorney-in-Charge

Queens County Office
Kim M. McLaurin
Attorney-in-Charge

Fax Cover Sheet

Date: 4-17-06

TO: MR. ROBERTS

Organization: _____

Fax: _____ EX 617C

Phone: _____

FROM: _____

Phone: _____

Subject: Meeting on 4-10-06

Pages: (including cover) _____

Comments: MR. ROBERTS, ATTACHED IS THE INFO YOU REQUESTED IN REGARDS TO THE ISP MEETING HELD AT WALKER'S SCHOOL ON 4/10/06. AND JUST AS A REMINDER, WE ARE SCHEDULED TO TAKE THE 9:30 AM TRAIN FROM HARLEM ON THURS TO TRAVEL TO THE WESTCHESTER SCHOOL FOR SPECIAL EDUCATION. SEE SPID THEN.

Confidentiality Note: This facsimile is intended for the person or entity to whom it is addressed, and may contain information that is privileged, confidential or otherwise protected from disclosure. Dissemination, distribution, or copying of this facsimile or the information herein by anyone other than the intended recipient is prohibited. If you have received this facsimile in error, please notify us immediately by telephone or return this facsimile by mail.

Statement of Facts

1. I, Dakem (R. R. Roberts), started working for the Association of Community Organizations for Reform Now (ACORN) on or about November 7, 2005. On or about November 14, 2005, I was advised by the [REDACTED] EXG, 7c [REDACTED], that all organizers must work 11 hours each weekday and 5 hours on Saturday for a total of 60 hours each week with no right to overtime. He, additionally, advised that if I missed any time, I would be obligated to make up the hour(s) at the earliest juncture. This policy drew my concern as, in my estimation, this practice violates the Fair Labor Standards Act and state law, due to this and other issues, I began to organize the workers to unionize the workplace at ACORN.

2. On or about November 21, 2005, following a meeting where it was raised that ACORN Management sought to unionize health care and WEP workers, I handed the Executive Director of New York ACORN, [REDACTED], a notice requesting voluntary recognition of our labor association as the exclusive representative of workers in ACORN (Exhibit "A"). EXG, 7c

3. Moments following service of the request for recognition letter upon [REDACTED] EXG, 7c [REDACTED], I was advised by [REDACTED] [REDACTED] that I would be returning to training as a canvasser. None of my co-workers, who started working at the same time as I, had been ordered to return to training. In my estimation, this practice was disparate, discriminatory, and retaliatory for requesting recognition of an association of laborers.

4. On November 21, 2005, at approximately 3:00 PM, [REDACTED] EXG, 7c [REDACTED] of Bronx ACORN, issued a verbal reply to the formal request, advising that ACORN would only recognize a national bargaining unit, effectively, denying voluntary recognition of our labor association.

5. I announced to all ACORN workers who were present that ACORN management had engaged in discriminatory behavior as a result of my request for recognition of the Negation. I also announced that I was walking out and I would return the next day at 1:00 PM as I would only work 8 hours as permitted by law. I finally

advised the workers, in [REDACTED] presence, that my practice here was a concerted action, in defense of the right to organize, as such it is protected by law.

6. On November 22, 2005, at approximately 1:00 PM, I entered the Bronx ACORN office to report to work for the day. [REDACTED] EX 6, 7c
[REDACTED] handed me a termination letter (Exhibit "B"). When asked if I had the right to appeal, [REDACTED] became loud, boisterous and verbally abusive, using profanities as he demanded the I leave the premises. This behavior was witnessed by nearly a dozen staff members and was, apparently, very intimidating to myself and the other workers.

7. In December 2005, during the second day of hearings before the NLRB for a representation election, [REDACTED] ACORN Management, announced, a previously EX 6, 7c
unannounced decision, to close the Bronx ACORN office by January 2006. This announcement was intended to discourage the unionization of the Bronx office. The Bronx office is a lucrative ACORN asset with hundreds of associate and full ACORN members. Bronx ACORN office is part of a complex which combines the Bronx office with an approximately 60 unit housing complex, the worker of which is part of the sought for Bronx unit. [REDACTED] failed to establish a legitimate business motive for the EX 6, 7c
threatened Bronx office closure. Bronx ACORN was never closed, though workers have complained of the constant pressure and unusual changes in their normal work schedules since the threatened closures. One worker who testified at the representation hearing, [REDACTED] EX 6, 7c
quit as a result of the pressures of the threatened closure.

Dakem (R. R. Roberts)
Provisional Secretary General
Negation of the Negation



**597 East 139th Street
Bronx, NY 10454**

Telephone: (718) 292-0070 Fax: (718) 292-8846

November 22, 2005

**To Mr. Roberts,
As a probationary trainee you are hereby terminated for
insubordination and failure to perform your work duties on
November 21, 2005**

Sincerely

[Redacted signature block]

EX 472

SCHULTE ROTH & ZABEL LLP

919 Third Avenue
New York, NY 10022
(212) 756-2000
fax (212) 593-5955

www.srz.com

Writer's Direct Number
(212) 756-2370

Writer's E-mail Address
jaimie.kent@srz.com

June 15, 2006

Christen Ritter
Board Agent
National Labor Relations Board
Region 2
26 Federal Plaza, Room 3614
New York, New York 10278-0104

RECEIVED
NLRB
REGION 2
2006 JUN 16 PM 1:01
NEW YORK, NY

Re: Negation of the Negation and Association of Community Organizations for Reform Now (ACORN), Case No. 2-CA-37616

Dear Ms. Ritter:

Schulte Roth & Zabel LLP is counsel to the Respondent, the New York chapter of the Association of Community Organizations for Reform Now ("NY ACORN").

Subsequent to NY ACORN's June 9, 2006 submission responding to the unfair labor practices filed by the Negation of the Negation, we received copies of all unfair labor practice charges and representation petitions filed by the Negation of the Negation or Dakem (R. R.) Roberts ("Mr. Roberts") since 1998, pursuant to our May 11, 2006 FOIA request. It appears from one of these charges, the unfair labor practice charge filed by the Negation of the Negation against Clinical Directors Network (Case No. 2-CA-37328), that Mr. Roberts was working as an independent contractor for Clinical Directors Network while he also was employed by NY ACORN. We believe that this explains Mr. Roberts's frequent absences and tardiness (as discussed in the June 9 submission) while he was employed at NY ACORN.

We also write to inform you that Mr. Roberts has continued to aggressively approach NY ACORN workers about the Negation of the Negation. On June 12, Mr. Roberts went to the Brooklyn office of NY ACORN and approached a group of canvassers on their way out to the field and tried to hand out business cards. Despite being told by the canvassers that they were not interested, Mr. Roberts proceeded to scream at one of the canvassers (with vulgarities) and to threaten her physically. Several of the other canvassers had to swarm around this woman to protect her because they believed Mr. Roberts was going to hit her. It appears to

Christen Ritter
June 15, 2006
Page 2

have become a pattern or practice of Mr. Roberts's to engage in such aggressive and threatening conduct.

Respectfully,



Jaimie Kent

Jaimie Kent

cc: Mark E. Brossman, Esq.
Scott A. Gold, Esq.
Bertha Lewis

AFFIDAVIT OF SERVICE

Association of Community Organization
for Reform Now (ACORN)
Attn.: W. Peter Santiago,
Director of Employment and Training
597 East 139th Street
Bronx, NY 10454

Re.: Association of Community Organization for
Reform Now (ACORN)
Case No.: 2-CA-37616

Christen Ritter

CHARGE PETITION

I certified that I served the above-referenced letter this day by post paid regular mail on the addressee above together with a transmittal letter. This is a true copy.

Subscribed and sworn to by me

Wanda A. Prater

This 21st day of April 2006

Paula J. Gómez
Designated Agent



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 2
26 Federal Plaza – Room 3614
New York, New York 10278-0104

Telephone: (212)264-3853
Facsimile: (212)264-2450
E-mail: christen.ritter@nlrb.gov

May 10, 2006

Scott Gold, Esq.
Schulte, Roth & Zable, LLP
919 Third Avenue
New York, NY 10022

Re: ACORN (NOTN)
Case No. 2-CA-37616

Dear Mr. Gold:

The above charge alleges the Association of Community Organizations for Reform Now (ACORN) demoted and discharged Dakem Roberts in retaliation for his activities on behalf of the Negation of the Negation, threatened to close to dissuade employees from engaging in activities on behalf of the NOTN, and established a rule prohibiting access to Bronx ACORN. Please find a copy of the charge enclosed.

In order to conduct a full investigation, please provide any evidence and/ or a position statement and the following information to the Region by no later than close of business on May 24, 2006:

1. A copy of any rule regarding access to the Bronx facility and solicitation on the premises.
2. A copy of Dakem Roberts' personnel file.
3. Any documents referring to the closure of the Bronx ACORN office.

In addition, if you would like a copy of other charges filed by the Negation of the Negation, please send a letter to the Region to the attention of Leah Jaffe indicating your request and your willingness to pay for any processing charges.

Please be advised that in the event you fail to submit evidence in a timely manner, the Regional Director will decide the merit of the case based upon the evidence available to her. Further, failure to provide evidence in a timely fashion, including making witnesses available for the purpose of providing affidavits may be construed as a failure to fully cooperate with the investigation.

Very truly yours,

Christen Ritter
Board Agent

Enc.


National Labor Relations Board

NOTICE OF DESIGNATION OF REPRESENTATIVE
AS AGENT FOR SERVICE OF DOCUMENTS

<p>Negation of the Negation</p> <p style="text-align: center;">and</p> <p>Association of Community Organization for Reform (ACORN)</p>	<p>Case No. 2-CA-37616</p>
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To: **Regional Director,**

I, the undersigned party, hereby designate my representative, whose name and address appear below and who has entered an appearance on by behalf in this proceeding, as my agent to receive exclusive service of all documents and written communications relating to this proceeding, including complaints and decisions and orders, but not including charges, amended charges, subpoenas, directions of elections or notices of elections, and I authorized the National Labor Relations Board to serve all such documents only on said representative. This designation shall remain valid until a written revocation of it, signed by me, is filed with the Board.

<p>Full name of party</p> <p></p> <p>Signature of party (please sign in ink)</p>	<p>Representative's name, address, zip code (print or type)</p> <p>Scott A. Gold Schulte Roth & Zabel, LLP 919 Third Avenue New York, New York 10022</p>			
<p>Title</p> <p>Executive Director, NY ACORN</p>	<table border="1"> <tr> <td data-bbox="776 1549 971 1617"> <p>Area Code</p> <p>212</p> </td> <td data-bbox="971 1549 1458 1617"> <p>Telephone Number</p> <p>756-2051</p> </td> </tr> </table>		<p>Area Code</p> <p>212</p>	<p>Telephone Number</p> <p>756-2051</p>
<p>Area Code</p> <p>212</p>	<p>Telephone Number</p> <p>756-2051</p>			
<p>Date</p> <p>4/28/06</p>				

NATIONAL LABOR RELATIONS BOARD
NOTICE OF APPEARANCE

Negation of the Negation and Association of Community Organization for Reform Now (ACORN)	CASE 2-CA-3761 6
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REGIONAL DIRECTOR

EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570


THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF Association of Community Organization for Reform Now (ACORN)
IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

REPRESENTATIVE IS AN ATTORNEY

IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: <u>Scott A. Gold, Esq.</u>	
MAILING ADDRESS: <u>Schulte Roth & Zabel LLP; 919 Third Avenue; New York, New York 10022</u>	
E-MAIL ADDRESS: <u>scott.gold@srz.com</u>	
OFFICE TELEPHONE NUMBER: <u>(212) 756-2051</u>	FAX: <u>(212) 593-5955</u>
CELL PHONE NUMBER: _____	
SIGNATURE: <u></u> <small>(Please sign in ink.)</small>	
DATE: <u>4/28/06</u>	

IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 2
26 Federal Plaza – Room 3614
New York, New York 10278-0104

Telephone: (212)264-3853
Facsimile: (212)264-2450
E-mail: christen.ritter@nlrb.gov

June 2, 2006

Scott Gold, Esq.
Schulte, Roth & Zable, LLP
919 Third Avenue
New York, NY 10022

Re: ACORN (NOTN)
Case No. 2-CA-37616

Dear Mr. Gold:

I understand that you have requested an extension of time to provide evidence. However, the prior deadline to provide evidence was May 24, and to date I have not received any evidence.

In order to conduct a full investigation, please provide any evidence and/ or a position statement and the following information to the Region by no later than close of business on **June 9, 2006**:

1. A copy of any rule regarding access to the Bronx facility and solicitation on the premises.
2. A copy of Dakem Roberts' personnel file.
3. Any documents referring to the closure of the Bronx ACORN office.

Please be advised that in the event you fail to submit evidence in a timely manner, the Regional Director will decide the merit of the case based upon the evidence available to her. Further, failure to provide evidence in a timely fashion, including making witnesses available for the purpose of providing affidavits may be construed as a failure to fully cooperate with the investigation.

Very truly yours,

Christen Ritter
Board Agent

Ritter, Christen

From: Kent, Jaimie [Jaimie.Kent@srz.com]
Sent: Friday, June 09, 2006 6:15 PM
To: Ritter, Christen
Cc: Gold, Scott
Subject: Negation of the Negation and Association of Community Organizations for Reform Now (ACORN), Case No. 2-CA-37616
Attachments: ACORN Position Statement.DOC

<<ACORN Position Statement.DOC>>

Dear Ms. Ritter,

Pursuant to our telephone conversation, we attach the position statement of the Association of Community Organizations for Reform Now (ACORN) in response to the charge filed by the Negation of the Negation (Case No. 2-CA-37616). As discussed, we are sending you a hard copy of the position statement, along with attachments, via Federal Express, which you should receive on Monday.

Regards,

Jaimie Kent
Associate
Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022

Direct Dial: (212) 756-2370
Fax: (212) 593-5955
Email: jaimie.kent@srz.com

U.S. Treasury Circular 230 Notice: Any U.S. federal tax advice included in this comm

NOTICE

This e-mail message is intended only for the named recipient(s) above. It may contain confidential information.
=====



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 2
26 Federal Plaza – Room 3614
New York, New York 10278-0104

Telephone: (212)264-3853
Facsimile: (212)264-2450
E-mail: christen.ritter@nlrb.gov

April 21, 2006

Dakem R.R. Roberts
1011 Woodycrest Avenue
Bronx, NY 10452

Re: Association of Community
Organization for Reform Now
Case No. 2-CA-37616

Dear Mr. Roberts:

As you are the charging party in this case you are required to provide an affidavit to the Region. In order to proceed in processing your charge I have scheduled an appointment for Tuesday, May 2, 2006 at 10AM at the Region's offices at 26 Federal Plaza, Room 3614. If you cannot attend this appointment you must contact me as soon as possible to arrange an alternate date.

Please be advised that if you fail to appear for your appointment as scheduled or call to reschedule I may recommend to the Regional Director that your charge be dismissed for lack of cooperation. Please contact me if you have any questions.

Very truly yours,

Christen Ritter
Board Agent

SCHULTE ROTH & ZABEL LLP

919 Third Avenue
New York, NY 10022
(212) 756-2000
fax (212) 593-5955

www.srz.com

Writer's Direct Number
(212) 756-2051

Writer's E-mail Address
scott.gold@srz.com

June 9, 2006

Christen Ritter
Board Agent
National Labor Relations Board
Region 2
26 Federal Plaza, Room 3614
New York, New York 10278-0104

RECEIVED
NLRB
REGION 2
2006 JUN 12 PM 12:03
NEW YORK, NY

Re: Negation of the Negation and Association of Community Organizations for Reform Now (ACORN), Case No. 2-CA-37616

Dear Ms. Ritter:

Schulte Roth & Zabel LLP is counsel to the Respondent, the New York chapter of the Association of Community Organizations for Reform Now ("NY ACORN"), in connection with the above-referenced matter. The purpose of this submission is to respond to the unfair labor practices against ACORN¹ filed on April 19, 2006 and amended May 5, 2006, by the Complainant, the Negation of the Negation. (The Negation of the Negation's charge, as amended, is attached hereto as Exhibit A.)

I. Preliminary Statement

The Negation of the Negation alleges that NY ACORN demoted and ultimately terminated the employment of Dakem (R. R.) Roberts ("Mr. Roberts"), the Provisional Secretary General of the Negation of the Negation, because he attempted to form a union at NY ACORN. The Negation of the Negation's allegations are completely without merit. Mr. Roberts did not meet the minimum standards for employees at NY ACORN. His employment was terminated due to his insubordination and poor performance, including repeated tardiness without notice or approval and failure to adhere to NY ACORN policies and procedures. Mr. Roberts's alleged

¹ Although the Negation of the Negation's unfair labor practice charges were filed against "ACORN," Mr. Roberts was employed by NY ACORN, a chapter of the national organization. [REDACTED], who is named in the charges, is the Executive Director of NY ACORN, not of the national organization. EX-617C

"protected activities" do not shield him from disciplinary actions for unsatisfactory work performance and violations of important NY ACORN policies.

II. Discussion

A. NY ACORN

ACORN, a non-profit organization, is a community-based association of low- and moderate-income families working together for social justice and stronger communities by coordinating campaigns for better housing, schools, neighborhood safety, health care, job conditions, and more. Among other activities, ACORN's canvassers and organizers work to organize members of buildings and neighborhoods around pressing issues in their communities-at-large.

ACORN has a long history of supporting and working with unions. ACORN's work includes, for example, campaigns to organize workers on the behalf of unions and coalitions with unions to lobby for living wage legislation. ACORN also is directly affiliated with unions' local chapters, including, among others, SEIU Locals 100 and 880. On a local level, NY ACORN helped found the Working Families Party, a grassroots, community and labor based political party with chapters through New York, along with a coalition of other community organizations, unions, and individuals. Recent NY ACORN activities include working with the United Federation of Teachers to help organize home daycare workers and participating in rallies with SEIU 32BJ throughout New York City to bargain for better contracts for building workers.

NY ACORN's main office is in Brooklyn, but it also has a small office at 597 East 139th Street, Bronx, New York (the "Bronx Facility"). The Bronx Facility is a residential building. Part of the basement of the building is used by NY ACORN as a satellite office for canvassing and organizing campaigns in the Bronx area.

B. Mr. Roberts's Employment with NY ACORN

On November 7, 2005, Mr. Roberts began working at NY ACORN as an organizer-in-training.² [REDACTED] for NY ACORN's operations in the Bronx and Manhattan ([REDACTED]), previously had interviewed Mr. Roberts and recommended him for employment. [REDACTED] of NY ACORN ([REDACTED]), had approved [REDACTED] recommendation and authorized the hiring of Mr. Roberts. EXG17C

Mr. Roberts commenced his employment with NY ACORN, like all new organizers-in-training, as a canvasser. Generally, each newly hired organizer-in-training spends his or her first week as a canvasser and then the second week participating in classroom training and observation of organizers. Whether and when a canvasser moves on to be a full-time

² Copies of documents from Mr. Roberts's personnel file are attached hereto as Exhibit B. Please note that materials regarding the Negation of the Negation, obtained by NY ACORN after the termination of Mr. Roberts's employment, were also placed in Mr. Roberts's personnel file. These documents are separated from documents pertaining to Mr. Roberts's employment at NY ACORN by a colored piece of paper.

EX67C

organizer is a decision ultimately made by [REDACTED] upon recommendation from her staff, based on several factors, including the demands of current projects and the individual's ability, experience, and performance.

Canvassers check-in at the NY ACORN office at 3 p.m. each afternoon and participate in training for 30 to 40 minutes. During such training, participants engage in daily role plays through which they learn the "canvass rap," *i.e.*, the message that canvassers deliver when knocking on doors seeking new members, donations, or other support. Canvassers then go door-to-door in the evening to sign up new members, request donations, and/or inform people of issues ACORN is working on. The canvassers each must fulfill the minimum standards of NY ACORN by signing up an average of at least five new NY ACORN members each day and collecting at least \$50 in donations each day.³

Throughout his short tenure at NY ACORN, Mr. Roberts was insubordinate and failed to meet minimum standards set for canvassers and organizers at NY ACORN. For example, Mr. Roberts was disruptively resistant to the canvasser training he received from [REDACTED], the [REDACTED] for the Bronx and Manhattan offices of NY ACORN ([REDACTED]). During role play activities, Mr. Roberts would insist on debating the method being taught by [REDACTED], thereby impeding the training of other canvassers. Mr. Roberts was reluctant to apply the "canvass rap" and instead indicated that he would "do it his way."

EX67C

EX67C

Despite the disruption that Mr. Roberts caused to training sessions, [REDACTED] reluctantly permitted Mr. Roberts to try canvassing "his own way." Mr. Roberts was unsuccessful, however, in obtaining more than two memberships or raising more than \$12 on any given day he canvassed when using his own method, and, therefore, failed to meet NY ACORN's minimum standards with respect to the number of members canvassers must sign up and the amount of donations canvassers must collect each day. (Mr. Roberts's "Canvasser Daily Report" for the week ending November 11, 2005 is attached hereto as Exhibit D.)⁴

EX67C

Mr. Roberts refused to comply with other NY ACORN rules with respect to canvassing. For instance, NY ACORN has a dress code prohibiting canvassers from wearing any head coverings (other than for religious purposes) or other overly concealing clothing (such as baggy pants) while "on the canvass." Such important rules are in place because canvassing generally takes place at night when apartment buildings' halls are dark, and NY ACORN does not want individuals who look through their peepholes when deciding whether to open their

³ NY ACORN has canvassers sign a contract indicating their agreement to meet these standards. When NY ACORN moved offices in late December 2005 (from Manhattan to the present Brooklyn office), several of the files of [REDACTED] of NY ACORN ("Mr. Basta"), were misplaced, including these contracts. On January 9, 2006, however, [REDACTED] recreated the contract. The contract reflects NY ACORN's standards - *i.e.*, that canvassers sign up at least 25 members per week and collect at least \$250 per week. (The contract is attached hereto as Exhibit C.)

EX67C

⁴ A Canvasser Daily Report for Mr. Roberts is not available for the week ending November 18, 2005. According to [REDACTED] records, however, Mr. Roberts only canvassed on one day that week, November 14, and only signed up one member and collected only \$6 dollars that day.

EX67C

doors to be frightened if they cannot see the face of the canvasser or if they think the canvasser is hiding something in his or her clothing. Mr. Roberts refused to abide by this rule by wearing a hat and announcing that he would never take it off – without a religious or other explanation – while canvassing neighborhoods, despite being told to do so.

Mr. Roberts also failed to meet NY ACORN standards with his lax approach to punctuality and attendance. Mr. Roberts was employed by NY ACORN from November 7 to November 22, 2005, and of approximately 11 workdays (not including November 22, the morning of which Mr. Roberts' employment was terminated), he was absent three days and consistently late most of the other days, without prior notice or approval. When questioned by [REDACTED] or others, Mr. Roberts would simply reply that "he had some things to do." EXG, 7C

On November 17, 2005, [REDACTED] drafted a memorandum stating that "Mr. Roberts has failed to comply with ACORN's standards," that "[h]is up to date work performance and attitude are not suitable to this organization," and that his "recommendation . . . is to terminate the employment of Mr. Rodney Roberts." ([REDACTED] memorandum is attached hereto as Exhibit E.) EXG 7C

Nearly every Monday, NY ACORN holds a full staff meeting at the Brooklyn office, and then has employees break into smaller groups according to the NY ACORN office they mainly work out of. These meeting collectively run from approximately 11 a.m. to 1 p.m. On November 21, 2005, after the full staff meeting and before his smaller group meeting, Mr. Roberts went to use the computer to type something up. [REDACTED] informed him that he must get off the computer and go to the small group meeting, but Mr. Roberts refused to get up. EXG, 7C

Instead of going to his small group meeting, Mr. Roberts entered [REDACTED] office while [REDACTED] was on the telephone, threw a piece of paper on her desk, and turned on his heel and walked out. When [REDACTED] got off her telephone call, she read the piece of paper and saw that it was a letter requesting that NY ACORN voluntarily recognize the Negation of the Negation as the bargaining representative for NY ACORN workers working at the Bronx Facility.⁵ Mr. Roberts did not say anything to [REDACTED] when he entered her office, and [REDACTED] did not have an opportunity to say anything to Mr. Roberts. Mr. Roberts never tried to approach [REDACTED] on any other occasion to discuss his letter or the Negation of the Negation. EXG, 7C

Sometime after, Mr. Santiago saw Mr. Roberts. Because the other organizers-in-training already had left with the full-time organizers to participate in the organizing campaign, [REDACTED] told Mr. Roberts to directly report to the Bronx Facility and that they would figure out what he should do for the day when he got there. Although the trip from the Brooklyn office to the Bronx Facility generally takes about 45 minutes, Mr. Roberts did not report to the Bronx Facility until approximately 3:20 p.m., over two hours after he had left the Brooklyn office. G V 67C

⁵ The letter Mr. Roberts handed [REDACTED] is included in Mr. Roberts's personnel file, attached hereto as Exhibit B. EXG 7C
As discussed below, Mr. Roberts subsequently filed a petition for an election with the National Labor Relations Board (the "Board"), and this petition was denied. (See Exhibit F.)

When Mr. Roberts finally made his way to the Bronx Facility that afternoon, he barged into the office of ██████████ the former ██████████ for NY ACORN's operations in the Bronx and Manhattan (before ██████████ assumed the position), while she was on the telephone and handed her a copy of the letter he had given to ██████████ after the full staff meeting earlier that day. When ██████████ explained to Mr. Roberts that she was in the middle of a phone call and would not have time to talk to him about the letter until later, Mr. Roberts replied that "the office was too disorganized" and that "there was no job description," therefore, he was going to leave work immediately and not return until the next day. He announced that this conduct was a "walkout" and that he could not be issued an oral or written warning for this behavior because it was a "protected concerted activity." EX 6, 7C

As Mr. Roberts was storming out of ██████████ office, he ran into ██████████ ██████████ questioned Mr. Roberts about his delay in getting to the Bronx Facility, but Mr. Roberts provided no explanation. ██████████ then told Mr. Roberts that he would be canvassing for the day because the canvassers had not yet left for the field⁶ and it was not possible for Mr. Roberts to join up with the full-time organizers an hour and a half after they had left to organize. Mr. Roberts began to yell at ██████████. Mr. Roberts told him that the assignment to the canvass was a "demotion" and announced that he was walking out for the day. EX 6, 7C

On November 22, 2005, when Mr. Roberts returned to the office in the Bronx Facility from his "walkout," ██████████ handed him a letter informing him that his employment with NY ACORN was terminated. Mr. Roberts then proceeded to the back of the office to speak with an employee who was there. ██████████ asked him to leave, as he was no longer an employee of NY ACORN, and Mr. Roberts refused. Mr. Roberts also began to rant about how ██████████ knew nothing about organizing – an ironic statement considering ██████████ position at NY ACORN. ██████████ told Mr. Roberts he had two choices: leave on his own will or ██████████ would call the police. Mr. Roberts then left the office. EX 6, 7C

C. The Negation of the Negation

Mr. Roberts has identified himself as the Provisional Secretary General of a labor organization he calls the Negation of the Negation. On March 27, 2006, in Case No. 2-RC-23050, the Regional Director, Region 2 of the Board denied the petition of the Negation of the Negation for an election in a unit consisting of all full-time and regular part-time organizers and canvassers employed by ACORN at the Bronx Facility. (The Regional Director's decision is attached hereto as Exhibit F.) On April 19, 2006, Mr. Roberts's request for review of the Regional Director's decision was rejected by the Board's Office of the Executive Secretary. (The Office of the Executive Secretary's letter to Mr. Roberts is attached hereto as Exhibit G.)

⁶ As discussed above, canvassers arrive daily at 3 p.m., participate in 30-40 minutes of training, and then leave to canvass neighborhoods.

D. The Negation of the Negation's Allegations

ACORN responds to each of the Negation of the Negation's allegations as follows:

- 1. On or about November 21, 2005, [ACORN], by its officers, agents and representatives, demoted its employee Dakem Roberts because he sought to form a labor organization and because he engaged in protected concerted activities.**

The Negation of the Negation's claim that Mr. Roberts was demoted because of his attempt to form a labor organization has no basis in fact, because Mr. Roberts was never demoted. Mr. Roberts's title was not changed, and there was no change in his salary. Instead, as discussed above, Mr. Roberts was treated the same way as every other organizer-in training when he was asked to accompany full-time organizers, instead of starting his own organizing campaign.

To the extent the Negation of the Negation alleges that this treatment was in response to Mr. Roberts's attempt to form a labor organization and his alleged protected concerted activities, this claim also is without merit. As discussed above, NY ACORN had planned to have Mr. Roberts – and all of the other organizers-in-training – accompany full-time organizers due to the short work week. Further, Mr. Roberts's failure to arrive at the Bronx Facility after the staff meeting in Brooklyn until 3:20 p.m. (over one hour late) – after the organizers had already left the office but before the canvassers had done so – was the sole reason that [REDACTED] decided to put Mr. Roberts on the canvass that afternoon.

- 2. On or about November 22, 2005, [ACORN], by its officers, agents and representatives, terminated its employee Dakem Roberts because he sought to form a labor organization and because he engaged in protected concerted activities.**

Mr. Roberts's employment was terminated by NY ACORN on November 22, 2005 because he was disruptive, a substandard employee, and rude to his supervisors.⁷ Mr. Roberts's poor performance and insubordination manifested themselves in several ways. He:

- argued with NY ACORN training staff regarding NY ACORN's training methods, thereby disrupting the training sessions for other trainees;
- refused to apply the "canvass rap" taught to all NY ACORN canvassers and instead insisted on "doing things his own way";
- failed to meet NY ACORN's minimum standards with respect to signing up new members and collecting contributions while "doing things his own way";

⁷ Indeed, NY ACORN had been considering terminating Mr. Roberts's employment *prior* to the alleged protected activities, which occurred, according to the Negation of the Negation's charge, on November 21 and November 22, 2005. (See Exhibit E.) (He also alleges protected activities in December 2005 and April 2006.) (See Exh. E.)

(iv) refused to abide by NY ACORN's dress code while canvassing neighborhoods by insisting on wearing a hat while knocking on doors late at night;

(v) acted insubordinate by disregarding demands by his superiors that he remove his hat while canvassing;

(vi) was absent three times and consistently in reported late for work during his first two weeks of employment without notice, explanation, or authorization;

EX617C (vii) barged into [REDACTED] office and harangued her while she was on the telephone and told him she could not speak with him until later;

(viii) instigated a heated argument with [REDACTED] after he stormed out of [REDACTED] office; and

EX617C (ix) walked off the job without authorization or justification.

In consideration of this misconduct, the Negation of the Negation's claim that Mr. Roberts's employment was wrongfully terminated is completely without merit.

EX617C **3. In December 2005, [ACORN], through [REDACTED], Executive Director, threatened to close the Bronx facility in order to dissuade employees from engaging in activities on behalf of the Negation of the Negation.**

There is no factual basis for the Negation of the Negation's assertion that Ms. [REDACTED] threatened to close the NY ACORN office in the Bronx Facility. NY ACORN has not considered, and is not considering, closing the office in the Bronx Facility.⁸ EX617C

The only change recently contemplated – and since implemented – with respect to the office in the Bronx Facility has involved whether canvassers and organizers would check-in there in the morning, versus checking-in at the Brooklyn office. From April 2004 through December 2004 no one reported to the office in the Bronx Facility – all canvassers and organizers were required to report to Brooklyn – so NY ACORN could centralize their deployment on canvasses and organizing campaigns in the morning. Starting in January 2005, some employees began checking-in at the NY ACORN office in the Bronx Facility instead, because it is closer to their homes. These employees would then go to the office in the Bronx Facility later in the day to do "phone banking" so they could go home from the Bronx Facility. In late 2005, the Senior Staff of NY ACORN began to consider returning to the procedure in effect until December 2004, and approximately two weeks ago, the decision was made to do so. Therefore, all canvassers and organizers will soon be reporting in the morning to the Brooklyn office.

The decision to have all canvassers and organizers report to the Brooklyn office was based solely on the interest in centralizing deployment for NY ACORN's canvassing and

⁸ Because NY ACORN has not considered closing the office in the Bronx Facility, we are not able to provide any documents referring to such closure as requested in your June 2, 2006 letter.

organizing campaigns. The activities of the Negation of the Negation never entered the Senior Staff's discussion surrounding this decision.

4. In April 2006, [ACORN] established a rule prohibiting access to Bronx ACORN facilities to Dakem Roberts without the consent of management although others are allowed access without consent from management, because of Roberts's activities on behalf of the Negation of the Negation.

The claim by the Negation of the Negation that Mr. Roberts was singled out to be prohibited from entering the Bronx Facility is outrageous and untrue. Contrary to the Negation of the Negation's claims, the Bronx Facility has had firm, generally-applicable policies prohibiting access to any unauthorized individuals since before April 2006 and thus did not create any policies applicable only to Mr. Roberts.

Since the building was purchased in 1999, the Bronx Facility has been a participant in the New York City Safe Halls Program. Through this program, police officers of the New York City Police Department are permitted to enter the building at any time to sweep the building and identify and question any individual loitering in the halls. If any such person is found to not be either a resident, an authorized guest of a resident, or individual otherwise authorized to be in the building, the police are authorized to arrest such individual for trespassing. Signs posted both inside and outside the Bronx Facility provide notification of this policy. (Photographs of these signs are attached hereto as Exhibit H.) In addition, the House Rules of the Bronx Facility, adopted when the building was purchased in 1999, mandate that "[a]ll doors to the building should be kept locked at all times" (A copy of the House Rules is attached hereto as Exhibit I.)

On April 19, 2006, Mr. Roberts entered the residential section of the Bronx Facility without permission, and hung up flyers regarding the Negation of the Negation. Mr. Roberts was not a resident or otherwise authorized person when he entered the Bronx Facility in disregard of the policies and sign postings. (See Exhibits H and I.) Upon information and belief, because the doors of the Bronx Facility are kept locked, Mr. Roberts must have improperly followed a resident or otherwise authorized individual into the building.⁹

C. The Negation of the Negation's Charge Is Without Merit Because Mr. Roberts's Activities Are Not Protected by the NLRA and the Termination of His Employment Was Lawful.

1. Mr. Roberts's Activities Were Not "Protected Concerted Activities" Under the NLRA.

The Negation of the Negation does not indicate in its charge what Mr. Roberts's alleged "protected concerted activities" were. Even assuming, *arguendo*, that the charge refers to (i) Mr. Roberts's giving of the letter requesting voluntary recognition to [REDACTED] and/or (ii) *EXG, 7*

Mr. Roberts's "walkout," neither of these qualify as protected concerted activities under the National Labor Relations Act (the "NLRA").

EX617c

Mr. Roberts's provision of a letter to ██████████ seeking voluntary recognition and his "walkout" were not concerted activities under the NLRA. "[T]o find an employee's activity to be 'concerted,' [the Board] shall require that it be engaged in with or on the authority of other employees, and not solely by and on behalf of the employee himself." *Meyers Industries, Inc. (Meyers II)*, 281 NLRB 882, 885 (1986) (internal citations omitted), *enfd* 835 F.2d 1481 (D.C. Cir. 1987), *cert. denied*, 487 U.S. 1205 (1988). Mr. Roberts was alone when he presented Ms. Lewis the letter, and similarly, acted alone when he "walked out." The Board will not find an unfair labor practice in such a situation when "there [is] no evidence to show (1) that any employee had authorized or instructed [Mr. Roberts] to [seek voluntary recognition from NY ACORN or to walk out]; (2) that any employee had discussed with him the [letter or the walkout]; or (3) that any employee was aware of and supported [the letter or the walkout]. See *id.* at 886 (citing *Mannington Mills*, 272 NLRB 176, 177-78 (1984)).

Even if the Board determines that these activities were "concerted," they are not protected by the NLRA. To be protected, such activities must be "in support of a demand for a change in the employer's policies involving terms and conditions of employment." *NLRB v. Marsden*, 701 F.2d 238, 241-42 (2d Cir. 1983) (finding employer did not violate the NLRA when it terminated the employment of employees who walked out but did not do so to change the employer's policies), *denying enforcement to* 259 NLRB 909 (1982).

At no time did Mr. Roberts ask any member of NY ACORN management "to modify any policy or respond in any way. No demand was ever communicated regarding any desired change in terms and conditions of employment." See *id.* at 242; see also *Vemco, Inc. v. NLRB*, 79 F.3d 526 (6th Cir. 1996) (employees concerted activity, a walkout, was not protected under the NLRA because there was no "evidence that the disciplined individuals sought to effect a change in company policy"), *setting aside* 314 NLRB 1235 (1994).

Indeed, Mr. Roberts did not speak to ██████████ when he threw the letter on her desk, and the letter did not state any terms or conditions of employment that the Negation of the Negation was seeking to change. Similarly, when Mr. Roberts engaged in his "walkout," his only stated reasons were that "the office was too disorganized" and that "there was no job description." These statements do not amount to any demand that NY ACORN change any of the terms or conditions of employment, and "[t]he need for such a demand is fundamental to the purpose of the [NLRA]." *Marsden*, 701 F.2d at 242. Because "[c]oncerted activities, to be protected, must be a means to an end, not an end in themselves," Mr. Roberts's activities cannot be deemed protected by the NLRA. See *id.*

EX617c

2. The Termination of Mr. Roberts's Employment Was Lawful and the Negation of the Negation's Charge Is Nothing More Than Harassment of NY ACORN.

NY ACORN's disciplining Mr. Roberts for insubordination and for his inadequate work performance is in no way related to Mr. Roberts's alleged protected activity. Rather, the discipline was motivated by his own misconduct and poor performance.

Furthermore, as set forth above, NY ACORN disputes that Mr. Roberts engaged in any protected concerted activities. Even assuming that he did, Mr. Roberts cannot be permitted to hide behind such acts when he failed to properly or adequately perform his job duties or cooperate with his supervisors. NY ACORN would have terminated the employment of any employee who engaged in such conduct, and as discussed above, had already begun to consider terminating Mr. Roberts's employment prior to any of the alleged protected activities. The Board has repeatedly found that the mere fact that an employee engages in concerted activities does not establish the unlawfulness of a subsequent termination. *See, e.g., Klate Holt Co.*, 161 NLRB 1606, 1612 (1966):

"Moreover, even if we were prepared to find that Respondent was seeking an opportunity to terminate [Complainant] because of its annoyance with the way in which he engaged in protected activity, we would not, in this case, find that Respondent discriminatorily discharged him. The mere fact that an employer may desire to terminate an employee because he engages in unwelcome concerted activities does not, of itself, establish the unlawfulness of a subsequent discharge. If an employee provides an employer with a sufficient cause for his dismissal by engaging in conduct for which he would have been terminated in any event, and the employer discharges him for that reason, the circumstance that the employer welcomed the opportunity to discharge does not make it discriminatory and therefore unlawful." (Internal citations omitted.)

See also Accent Moving & Storage, Inc., 305 NLRB 203, 208-09 (1991), *enfd.*, 978 F.2d 1267 (10th Cir. 1992) (despite the employer's attitude toward the employee's union activities, the employer ceased scheduling him for work because it genuinely believed that the employee had resigned and not for reasons proscribed by the NLRA).

Mr. Roberts has acted as though his submitting a letter to Ms. Lewis seeking voluntary recognition of the Negation of the Negation and/or walking out for a day could insulate him from failing to perform his job. He was repeatedly rude and acted insubordinate to his supervisors/trainers and was present at work seemingly on his own schedule. Mr. Roberts's attempt to use his job at NY ACORN solely to gain notoriety for his labor organization cannot be tolerated. In *Ad Art, Inc.*, 238 NLRB 1124, 1132 (1978), *enfd.*, 645 F.2d 669 (9th Cir. 1980), the Board held that

Christen Ritter
June 9, 2006
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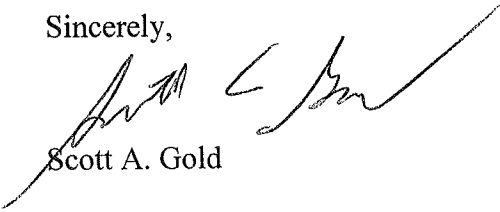
"Section 7 . . . is not, however, a sword which an employee may use to gain immunity in order to conceal his true motive of simply harassing an employer. *Olympic Delivery Service, Inc., d/b/a Rocket Messenger Service*, 167 NLRB 252 (1967); *Charles & Meyers Co.*, 190 NLRB 448 (1971)."

There is not a scintilla of evidence here that Mr. Roberts's employment was terminated for a discriminatory or retaliatory reason. Indeed, there is no evidence of union animus by NY ACORN. Certainly the Negation of the Negation has not alleged such exists, and it cannot do so because NY ACORN is in fact a known proponent of unions and collective action.

III. Conclusion

For the foregoing reasons, the Negation of the Negation's charge is without merit and should be dismissed.

Sincerely,



Scott A. Gold

Attachments

cc: Bertha Lewis
Jaimie Kent, Esq.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
AMENDED CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 2-CA-37616	Date Filed 5/5/06

INSTRUCTIONS
File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Association of Community Organizations for Reform Now (ACORN)		b. Number of workers employed Approx. 20
c. Address (street, city, state, ZIP code) 597 East 139th Street, Bronx, NY 10454		e. Telephone No. & Fax No. (718) 292-0700 (Fax)(718) 292-8846
f. Type of Establishment (factory, mine, wholesaler, etc.) Community Based Organization	d. Employer Representative W. Peter Santiago, Dir. of employment and training	
g. Identify principal product or service Social Welfare		

h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a)(1) and (3) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or around November 21, 2005, the above named employer, by its agents, officers and representatives demoted its employee Dakem Roberts because he sought to form a labor organization and because he engaged in protected concerted activities.

On or around November 22, 2005, the above named employer, by its agents, officers and representatives, terminated its employee Dakem Roberts because he sought to form a labor organization and because he engaged in protected concerted activities.

In December 2005, the above-named Employer, through Bertha Lewis, Executive Director, threatened to close the Bronx facility in order to dissuade employees from engaging in activities on behalf of the Negotiation of the Negotiation.

April 2006, the above-named Employer established a rule prohibiting access to Bronx ACORN facilities to Dakem Roberts without the consent of management although others are allowed access without consent from management, because of Roberts' activities on behalf of the Negotiation of the Negotiation.

By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

i. Full name of party filing charge (if labor organization, give full name, including local name and number)

Negotiation of the Negotiation

1a. Address (street and number, city, state and ZIP code)

**1011 Woodycrest Avenue
Bronx, NY 10452**

4b. Telephone No. & Fax No.

(646) 670-4066

Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization).

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By *[Signature]*
Signature of representative or person making charge

Dakem R.R. Roberts

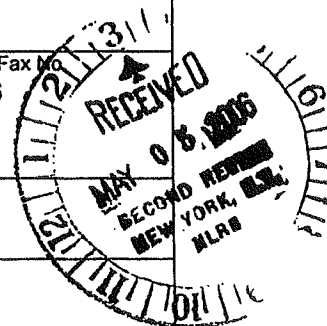
Title **Provisional Secretary General
of the Negotiation of the Negotiation**

Address
Same as above

Telephone No.
Same as above

Date
May 5, 2006

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT
(U.S. CODE, TITLE 18, SECTION 1001)**



EMPLOYEE PAYROLL TRANSMITTAL FORM
(to be completed by employer at hire - PLEASE PRINT)

NAME: Rodney R. Roberts SS#: [REDACTED] EX617C

SOCIAL SECURITY no.: [REDACTED] EX617C

ORGANIZATION: ACORN CITY/STATE Bronx

JOB TITLE: Organizer **Check Book: NYACORN

* EMPLOYMENT DATE: 11/7/5 EFFECTIVE SENIORITY DATE (if different): _____

COMPENSATION:

Salaried workers: annual compensation of \$ 25,000.00

paid semi-monthly (twice per month: 24 payments) or
 weekly (52 payments);

Hourly workers: \$ _____ per hour,

paid semi-monthly (twice per month: 24 payments) or
 weekly (52 payments).

*incomplete
PKs
he got \$650
A/P.*

The following documents must be attached:

- APPLICATION FOR EMPLOYMENT, filled out and signed by the new hire
- EMPLOYEE INFORMATION WORKSHEET
- IRS FORM W-4: Employee's Withholding Allowance Certificate
- INS FORM I-9: Employment Eligibility Verification
- COUNCIL HEALTH PLAN (NEW EMPLOYEE) INFO SHEET
- COUNCIL BENEFICIAL ASSOCIATION (NEW EMPLOYEE) INFO SHEET
- EXEMPT EMPLOYEE FORM
- ACKNOWLEDGMENT OF STAFF POLICIES (last page of SUMMARY)

Form completed by: PS Date: 11/22/05

EMPLOYEE CANNOT BE PAID UNTIL THIS FORM IS
COMPLETED AND SUBMITTED WITH ALL DOCUMENTS

EMPLOYMENT APPLICATION

Name: Rodney R. Roberts SS#: [REDACTED] Date: 11/15/5

Present address: [REDACTED] Years at 1 yr.

Home telephone no.: [REDACTED] Mobile phone no.: [REDACTED] EX67C

Position(s) for which you are applying: Organizer

Please describe why you want to work for our organization: To organize for social justice.

Are you 18 years or older? [REDACTED] Can you work overtime? Yes [] No EX67C

Are you currently employed? No [] Yes. By whom?/position? [REDACTED]

When would you be available for work? Immediate

Have you previously worked for this firm? No [] Yes. When? [REDACTED]

Have you any relatives who are now or have previously worked for this firm? No [] Yes

Degrees earned: [REDACTED] EX67C

What foreign languages do you speak, if any? Spanish

Have you ever been convicted of a felony? [REDACTED]

References: EX67C

1. Name: [REDACTED] Address: [REDACTED]

Phone: [REDACTED] Business: [REDACTED] May we contact? Yes [] No

2. Name: [REDACTED] Address: [REDACTED]

Phone: [REDACTED] Business: [REDACTED] May we contact? Yes [] No EX67C

3. Name: [REDACTED] Address: [REDACTED]

Phone: [REDACTED] Business: [REDACTED] May we contact? Yes [] No

ADDITIONAL REPRESENTATIONS FOR EMPLOYMENT

Should I be employed by your organization, I agree to conform to your organization's rules and regulations. I agree that I am an at-will employee, meaning that my employment and compensation can be terminated at any time, for any reason or for no reason, without notice, at the option of either my employer or myself.

I certify that the information provided on this application is true and complete to the best of my knowledge and agree that falsified information or significant omissions may disqualify me from further consideration for employment and may be considered justification for dismissal if discovered at a later date.

I have read this application in its entirety, including these Representations.

X Signature: R. R. [Signature] Date: 11/17/5

For office use only*****

EMPLOYEE INFORMATION WORKSHEET
(to be filled out by employee - PLEASE PRINT)

NAME: Rodney Russell Roberts
First Middle Last

SOCIAL SECURITY NUMBER: [REDACTED] DATE OF BIRTH: [REDACTED]

PERMANENT STREET ADDRESS: [REDACTED] APT. No. [REDACTED]

City State ZIP [REDACTED] Area code/phone number [REDACTED]

EX617C

In case of an emergency, please notify the following (name / complete address / (area code) phone number):

- 1. [REDACTED]
- 2. [REDACTED]

EX617C

Closest relatives not living with you: (name / complete address / (area code) phone number):

- 1. N/A
- 2. _____

Please list any disabilities requiring accommodation or special medical problems we should know about.

Answers to the following questions are optional and used only for EEOC Statistics:

ETHNIC ORIGIN: () [REDACTED]

EX617C

GENDER: (X) Male () Female

CERTIFICATION: I understand that

- My regular work week will consist of 11 hours.
- My annual compensation will be \$ 25,000.00 which includes overtime; or
- [] my daily rate will be \$ _____; or
- [] my hourly rate will be \$ _____
- My salary will be paid [] weekly semi-monthly (twice per month); or
- [] I will be paid on a basis of \$ _____ per card.

(Signature of employee) [Signature]

OFFICE USE: _____

EMPLOYMENT DATE: 11/7/05 OFFICE: Brooklyn NY
City State

STATUS: Full-time [] Part-time [] Temporary [] Intern [] Other _____

Form W-4 (2005)

Purpose. Complete Form W-4 so that your employer can withhold the correct federal income tax from your pay. Because your tax situation may change, you may want to refigure your withholding each year.

Exemption from withholding. If you are exempt, complete only lines 1, 2, 3, 4, and 7 and sign the form to validate it. Your exemption for 2005 expires February 15, 2006. See Pub. 505, Tax Withholding and Estimated Tax.

Note. You cannot claim exemption from withholding if (a) your income exceeds \$800 and includes more than \$250 of unearned income (for example, interest and dividends) and (b) another person can claim you as a dependent on their tax return.

Basic instructions. If you are not exempt, complete the Personal Allowances Worksheet below. The worksheets on page 2 adjust your withholding allowances based on itemized deductions, certain credits, adjustments to income, or two-

earner/two-job situations. Complete all worksheets that apply. However, you may claim fewer (or zero) allowances.

Head of household. Generally, you may claim head of household filing status on your tax return only if you are unmarried and pay more than 50% of the costs of keeping up a home for yourself and your dependent(s) or other qualifying individuals. See line E below.

Tax credits. You can take projected tax credits into account in figuring your allowable number of withholding allowances. Credits for child or dependent care expenses and the child tax credit may be claimed using the Personal Allowances Worksheet below. See Pub. 818, How Do I Adjust My Tax Withholding? for information on converting your other credits into withholding allowances.

Nonwage income. If you have a large amount of nonwage income, such as interest or dividends, consider making estimated tax payments using Form 1040-ES, Estimated Tax for Individuals. Otherwise, you may owe additional tax.

Two earners/two jobs. If you have a working spouse or more than one job, figure the total number of allowances you are entitled to claim on all jobs using worksheets from only one Form W-4. Your withholding usually will be most accurate when all allowances are claimed on the Form W-4 for the highest paying job and zero allowances are claimed on the others.

Nonresident alien. If you are a nonresident alien, see the instructions for Form 8233 before completing this Form W-4.

Check your withholding. After your Form W-4 takes effect, use Pub. 919 to see how the dollar amount you are having withheld compares to your projected total tax for 2005. See Pub. 818, especially if your earnings exceed \$125,000 (Single) or \$175,000 (Married).

Recent name change? If your name on line 1 differs from that shown on your social security card, call 1-800-772-1213 to initiate a name change and obtain a social security card showing your correct name.

Personal Allowances Worksheet (Keep for your records.)

A Enter "1" for yourself if no one else can claim you as a dependent.

B Enter "1" if:

- You are single and have only one job; or
- You are married, have only one job, and your spouse does not work; or
- Your wages from a second job or your spouse's wages (or the total of both) are \$1,000 or less.

C Enter "1" for your spouse. BUT, you may choose to enter "-0-" if you are married and have either a working spouse or more than one job. (Entering "-0-" may help you avoid having too little tax withheld.)

D Enter number of dependents (other than your spouse or yourself) you will claim on your tax return.

E Enter "1" if you will file as head of household on your tax return (see conditions under Head of household above).

F Enter "1" if you have at least \$1,500 of child or dependent care expenses for which you plan to claim a credit (Note. Do not include child support payments. See Pub. 503, Child and Dependent Care Expenses, for details.)

G Child Tax Credit (including additional child tax credit):

- If your total income will be less than \$54,000 (\$79,000 if married), enter "2" for each eligible child.
- If your total income will be between \$54,000 and \$84,000 (\$79,000 and \$119,000 if married), enter "1" for each eligible child plus "1" additional if you have four or more eligible children.

H Add lines A through G and enter total here. (Note. This may be different from the number of exemptions you claim on your tax return.)

For accuracy, complete all worksheets that apply.

- If you plan to itemize or claim adjustments to income and want to reduce your withholding, see the Deductions and Adjustments Worksheet on page 2.
- If you have more than one job or are married and you and your spouse both work and the combined earnings from all jobs exceed \$35,000 (\$25,000 if married) see the Two-Earner/Two-Job Worksheet on page 2 to avoid having too little tax withheld.
- If neither of the above situations applies, stop here and enter the number from line H on line 5 of Form W-4 below.

Cut here and give Form W-4 to your employer. Keep the top part for your records.

Form W-4		Employee's Withholding Allowance Certificate		OMB No. 1545-0010
Department of the Treasury Internal Revenue Service		Whether you are entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS.		2005
1	Type or print your first name and middle initial Rodney	Last name Roberts	2 Your social security number 071 67 1317	
Home address (number and street) or rural route [REDACTED]		3 [REDACTED] but withheld at higher Single rate. Note. If married, but legally separated, or spouse is a nonresident alien, check the "Single" box.		
City or town, state, and ZIP code [REDACTED]		4 If your last name differs from that shown on your social security card, check here. You must call 1-800-772-1213 for a new card. <input type="checkbox"/>		
5	Total number of allowances you are claiming (from line H above or from the applicable worksheet on page 2)		5 7	
6	Additional amount, if any, you want withheld from each paycheck		6 \$ [REDACTED]	
7	I claim exemption from withholding for 2005, and I certify that I meet both of the following conditions for exemption. <ul style="list-style-type: none"> Last year I had a right to a refund of all federal income tax withheld because I had no tax liability and This year I expect a refund of all federal income tax withheld because I expect to have no tax liability. If you meet both conditions, write "Exempt" here. 7			
Under penalties of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief, it is true, correct, and complete.				
Employee's signature (Form is not valid unless you sign it.)		Date 1/17/05		
8 Employer's name and address (Employer. Complete lines 9 and 10 only if sending to the IRS.)		9 Office code (optional)	10 Employer identification number (EIN)	

EX617

EX67C

EX67C

EX67C

- CANCEL DEPENDENT
- ADD DEPENDENT
- TRANSFER

- CHANGE ADDRESS
- CHANGE BENEFICIARY
- CHANGE NAME

CANCEL COVERAGE

LOCATION CODE
020

EMPLOYEE NAME: LAST Roberts FIRST Rodney MIDDLE R. SOCIAL SECURITY NUMBER [REDACTED]

MAILING ADDRESS: NUMBER & STREET [REDACTED] CITY [REDACTED] STATE [REDACTED] ZIP [REDACTED] PHONE [REDACTED] *EX 67*

Date of Birth [REDACTED] Sex: M F Marital/Status: [REDACTED] Date of Hire: 11/1/85

ELECTION OF BENEFITS
 1. I SELECT MEDICAL PLAN TYPE: INDEMNITY PLAN
 2. SELECT YOUR NEW PLAN COVERAGE TYPE: [REDACTED]
 DENTAL: 1. SELECT YOUR NEW PLAN: [REDACTED] *EX 67*

NAME OF BENEFICIARY
 Primary: Dakem Roberts Relationship: [REDACTED] Home Address: [REDACTED] SS#: [REDACTED] *EX 67*
 Secondary: [REDACTED] Relationship: [REDACTED] Home Address: [REDACTED] SS#: [REDACTED]

LIST ALL OF THE DEPENDENTS TO BE COVERED:

FULL NAME	SOCIAL SECURITY #	DATE OF BIRTH	RELATIONSHIP	SEX (M OR F)	DATE OF MARRIAGE
[REDACTED]	[REDACTED]	[REDACTED]	<u>SPOUSE</u>	[REDACTED]	[REDACTED]

EX 67

IF CHILD IS OVER 18 ATTACH PROOF OF STUDENT STATUS IF CHILD HAS DIFFERENT LAST NAME - PROVIDE BIRTH CERTIFICATE

NATURAL & ADOPTED CHILDREN, CHILDREN FOR WHOM YOU HAVE A COURT-APPOINTED GUARDIAN, AND THE CHILDREN OF YOUR LEGAL SPOUSE WHO LIVE WITH YOU. CHILDREN LISTED MUST BE MARRIED, UNDER AGE 18 OR IF FULL TIME STUDENT.

DOES ANY MEMBER OF YOUR FAMILY - INCLUDING YOU - HAVE OTHER GROUP INSURANCE, INCLUDING MEDICARE? Yes No

If yes, Indicate: Employer: _____ Insurance Co: _____ Policy No. or ID No. _____

SIGNATURE READ CAREFULLY BEFORE SIGNING

CERTIFICATION FOR ENROLLMENT: I certify that the information listed above is true. I understand that if I knowingly provide false or misleading information in connection with my enrollment or on a claim for benefits, including enrolling a person who is not eligible to be enrolled as a dependent, my employment may be terminated and I will be responsible to repay any benefits improperly received. I acknowledge that my election is irrevocable unless there is a change in family status and that such changes must be made within thirty days of occurrence. A change in family status includes: marriage; divorce; death of a spouse or dependent; birth or adoption of a child; or a change in your or your spouse's employment/coverage status. I authorize withholdings of the plan premium from my paychecks, and I understand that my coverage will stop if these premiums are not paid. I hereby authorize the release of all medical history concerning me or any dependent listed above to those company(ies) that determine benefit payment; the company(ies) that review medical services; and to the legal representatives for the company(ies) listed. A photocopy of this authorization shall be considered as effective and valid as the original. BY MY SIGNATURE BELOW, I GIVE CONSENT TO USE PROTECTED HEALTH INFORMATION FOR THE PURPOSE OF PAYMENT, TREATMENT AND HEALTHCARE OPERATIONS OF THE PLAN.

EMPLOYEE SIGNATURE: [Signature] DATE: 11/18/85 EFFECTIVE DATE: 1/1

I WISH TO DECLINE ALL COVERAGE

I have been given an opportunity to participate in the group plans provided by my employer. I have decided not to apply for _____ self _____ dependents.


EMPLOYEE SIGNATURE: _____ DATE: 1/1

Employee Certification

I hereby certify that I have read the Summary of Certain Staff Policies, revised June 2001, that I have asked any questions I have about these Policies, and that I understand and agree to abide by these Policies.

Dorine R. Roberts
Name

11/15
Date


Signature

INVENTORY OF ITEMS GIVEN TO STAFF PERSON

STAFF PERSON'S NAME Dakota R. Roberts

SUPERVISOR'S NAME _____

ITEM	DESCRIPTION	DATE GIVEN	DATE RETURNED
------	-------------	------------	---------------

KEYS _____

COMPUTER DISKS _____

MEMBERSHIP LISTS _____

OTHER _____

I understand that the above items are the property of ACORN and that, should I no longer be employed by the organization, I will return all of the above items without keeping additional copies.

Signed *Dakota R. Roberts*

Date: 11/10/15 (nothing issued)
RRR

ENROLLMENT/CHANGE ELECTION FORM
COUNCIL BENEFICIAL ASSOCIATION

For the Plan Year 2005 through _____

Name: Pallem (R.R. Roberts)

Social Security Number: [REDACTED]

Organization: ACORN

INITIAL ENTRY
 CHANGE EXG,7C

PERCENT OR AMOUNT OF CONTRIBUTION

I hereby authorize and direct that my employer withhold the indicated percentage or dollar amount from my gross compensation and deposit such amount into the employer sponsored plan.

Percent of Pay I Wish to Contribute: _____ %

Or

Dollar Amount Per Period: \$ [REDACTED]

I understand that I may change, suspend and resume contributions at such times as outlined in the plan.

EXG,7C

I hereby authorize the payroll reductions selected above:

Signature: [Signature] Date: 1/18/05

I do not wish to contribute to the Plan.

Signature: _____ Date: _____

Sponsor's Approval Signature: _____ Date: _____

Deductions and Adjustments Worksheet

Note. Use this worksheet only if you plan to itemize deductions, claim certain credits, or claim adjustments to income on your 2005 tax return.

- 1 Enter an estimate of your 2005 itemized deductions. These include qualifying home mortgage interest, charitable contributions, state and local taxes, medical expenses in excess of 7.5% of your income, and miscellaneous deductions. (For 2005, you may have to reduce your itemized deductions if your income is over \$145,950 (\$72,975 if married filing separately). See Worksheet 3 in Pub. 919 for details.)
2 Enter: \$10,000 if married filing jointly or qualifying widow(er); \$ 7,300 if head of household; \$ 5,000 if single or married filing separately
3 Subtract line 2 from line 1. If line 2 is greater than line 1, enter "-0-"
4 Enter an estimate of your 2005 adjustments to income, including alimony, deductible IRA contributions, and student loan interest
5 Add lines 3 and 4 and enter the total. (Include any amount for credits from Worksheet 7 in Pub. 919)
6 Enter an estimate of your 2005 nonwage income (such as dividends or interest)
7 Subtract line 6 from line 5. Enter the result, but not less than "-0-"
8 Divide the amount on line 7 by \$3,200 and enter the result here. Drop any fraction
9 Enter the number from the Personal Allowances Worksheet, line H, page 1
10 Add lines 8 and 9 and enter the total here. If you plan to use the Two-Earner/Two-Job Worksheet, also enter this total on line 1 below. Otherwise, stop here and enter this total on Form W-4, line 5, page 1

Two-Earner/Two-Job Worksheet (See Two earners/two jobs on page 1.)

Note. Use this worksheet only if the instructions under line H on page 1 direct you here.

- 1 Enter the number from line H, page 1 (or from line 10 above if you used the Deductions and Adjustments Worksheet)
2 Find the number in Table 1 below that applies to the LOWEST paying job and enter it here
3 If line 1 is more than or equal to line 2, subtract line 2 from line 1. Enter the result here (if zero, enter "-0-") and on Form W-4, line 5, page 1. Do not use the rest of this worksheet

Note. If line 1 is less than line 2, enter "-0-" on Form W-4, line 5, page 1. Complete lines 4-9 below to calculate the additional withholding amount necessary to avoid a year-end tax bill.

- 4 Enter the number from line 2 of this worksheet
5 Enter the number from line 1 of this worksheet
6 Subtract line 5 from line 4
7 Find the amount in Table 2 below that applies to the HIGHEST paying job and enter it here
8 Multiply line 7 by line 6 and enter the result here. This is the additional annual withholding needed
9 Divide line 8 by the number of pay periods remaining in 2005. For example, divide by 26 if you are paid every two weeks and you complete this form in December 2004. Enter the result here and on Form W-4, line 6, page 1. This is the additional amount to be withheld from each paycheck

Table 1: Two-Earner/Two-Job Worksheet

Table with 8 columns: Married Filing Jointly (wages from HIGHEST and LOWEST paying jobs) and All Others (wages from LOWEST paying job). Rows show wage brackets and corresponding line numbers.

Table 2: Two-Earner/Two-Job Worksheet

Table with 4 columns: Married Filing Jointly (wages from HIGHEST paying job) and All Others (wages from HIGHEST paying job). Rows show wage brackets and corresponding line numbers.

Privacy Act and Paperwork Reduction Act Notices. We ask for the information on this form to carry out the Internal Revenue laws of the United States. The Internal Revenue Code requires this information under sections 3402(f)(2)(A) and 5103 and their regulations. Failure to provide a properly completed form will result in your being treated as a single person who claims no withholding allowances; providing fraudulent information may also subject you to penalties. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, to cities, states, and the District of Columbia for use in administering their tax laws, and using it in the National Directory of New Hires. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal non-tax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to complete this form will vary depending on individual circumstances! The estimated average time is: Recordkeeping, 45 min.; Learning about the law or the form, 12 min.; Preparing the form, 55 min. If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to: Internal Revenue Service, Tax Products Coordinating Committee, SE-W-CAR-MPT:T:SF, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send Form W-4 to this address. Instead, give it to your employer.

Name Dakem (R.P. Roberts)

Canvasser Daily report

Week ending 11/11/5

Date	doors	members	Amount raised	e-mail collected
11/7/5	ED	0	0	—
11/10/5	48	2	\$12.00	Four
11/11/5	72	2	\$12.00	none

PURCHASE INVOICE

Purchase Invoice Number: CONT SERV 11/2

Purchase Invoice Date: 11/22/05

Page: 1

Pay
To: Rodney Roberts

Ship
To:

Ship Via
Receive By 11/22/05
Terms
Vendor ID

Confirm To
Buyer
P.O. Number
P.O. Date 11/22/05

Item No.	Description	Unit	Quantity	Unit Price	Total Price
	Contractual services		1		

EX 6.72

Subtotal: [REDACTED]
Invoice Discount: 0.00
Sales Tax: 0.00
Total: [REDACTED]

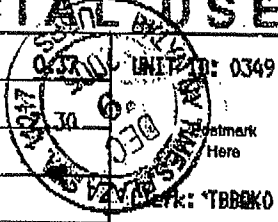
7005 1820 0007 6103 8967

U.S. Postal Service
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$		
Certified Fee			
Return Receipt Fee (Endorsement Required)			
Restricted Delivery Fee (Endorsement Required)			
Total Postage & Fees	\$	2.67	12/09/05



Send To Rodney Roberts
 Street, Apt. No.,
 or PO Box No. [REDACTED]
 City, State, ZIP+4 [REDACTED]

PS Form 3800, June 2002 See Reverse for Instructions

EX417C

To, ACORN

From, [REDACTED] EX 6, 7c

Regarding, Rodney Roberts canvassing

Date, November 17, 2005

This letter is to inform you of the concerns regarding Rodney Roberts work performance. During the daily role play activity, the canvas rap" Its an important aspect for training new Canvassers Mr. Roberts continues to debate the issues and wants to apply his own rap never complying with mandate of the training rap.

Further more Mr. Roberts was well Informed of the [REDACTED] EX 4
[REDACTED] which its [REDACTED] with the amount of [REDACTED] dollars per day.

At this time Mr. Roberts has failed to comply with ACORN's standards .

His up to date work performance and attitude are not suitable to this organization.

My recommendation as [REDACTED] for the Bronx and Manhattan office EX 6, 7c

Is to terminate the employment of Mr. Rodney Roberts.

Sincerely [REDACTED] EX 6, 7c

cc. [REDACTED]

Report on Rodney R. Roberts (Internal Report)

Mr. Rodney R. Roberts, who wants to be called Akeem, was hired on November 7th 2005. Before he was hired, he attended a 3-hour orientation. This orientation is geared to give perspective community organizers a chance to understand how we work and what is expected of them. We cover all the basics about organizing in low to moderate income communities and the role the organizer plays in empowering communities to fight and improve local neighborhoods.

We also cover the hours of work we require and the minimum standards. Mr. Roberts attended and participated in the 3-hour session prior to being hired. In order to get organizers used to the doors we have them join our daily issue-based canvass. Canvasser work together in a neighborhood and address issues that affect communities in order to organize and work on bringing about positive change. People hired to work as organizers do one week of canvassing and one week of organizer training before they become full time staff members. These 2 weeks are paid. The next 2 weeks are make and brake for new organizers since we expect them to make standards. If standards are not met, they are let go. This is informed to them throughout the orientation and paid training.

Mr. Roberts joined the canvass and our canvass director [REDACTED] was instructed to work with him and show him the ropes. The canvass works from the hours of 3PM to 9PM Monday to Friday. [REDACTED] revealed to me the next day that Mr. Roberts was reluctant to use the training we supplied and said that he would do it his way. Mr. Rivera reluctantly agreed to let him do it on his own for that day but Mr. Roberts was unsuccessful in getting commitments from community residents.

EX 612

Since, he has questioned our canvassing model and has never reached standards. I saw lots of potential in this gentleman so I was willing to give him a little more time to adjust. He also mentioned that he was a single parent and I thought that he was a noble person who just needed a little more time.

On more than one occasion he was late to start his workday and when questioned by me he just said that "He had some things to do" this obviously was not a good answer in my estimation. He reported to work for the first time as an organizer on November 21. He attended a full staff meeting in the morning starting at 11AM and was told to report to the Bronx office for canvassing. Because of the fact that this is the Thanksgiving week we felt that he should not start an organizing drive. He left the Brooklyn office close to 1PM and reported to the Bronx office at 2:45 PM an hour and 45 minutes after leaving the Brooklyn office. A trip that should last no more than 45 minutes. He had no explanation for his lateness.

Soon after he made it to the Bronx office he found his way to [REDACTED] office with a letter saying that he intends to organize the Bronx office. He then turned to the canvass staff and said good-bye. When questioned by surprised workers he said that they would soon know what he was doing. I overheard the conversation and left my office to question his motives for leaving. He answered by saying that he had a right to leave as a "job action" that it was legal for him to do so, and there was nothing that we could do to stop him. He also said that he would return the next day to work.

EX 4,7C

He has shown total insubordination on this job and has done little to learn our organizing model. He keeps to himself (at least inside our office) and says very little. In hindsight, I should have known better, yet the fact that he is a smart individual, talked about what he wanted to do for his people and the fact that he was rearing a child as a single parent sold on the idea that I could train him to be a good organizer. I believe that in two weeks he did not have the right to be late a number of times without a legitimate excuse, not wanting to do role plays to improve his door skills and walking out without an excuse are grounds for dismissal.

MEMORANDUM FOR THE DIRECTOR

Memorandum

To: Human Resources

From: [REDACTED] EXG,7C

Date: 11/28/2005

Re: Rodney Roberts

On Monday, November 21, Mr. Roberts was at the citywide staff meeting in Brooklyn. After the meeting, we discussed a field plan with him and came up with a possible building in Soundview for him to doorknock. On further consideration, we decided to have trainees continue with the canvass for the rest of the week because we were short two trainers and because the Thanksgiving holiday made this a short week, which would make it hard to get something started in a new building or neighborhood. We then told Mr. Roberts that he was to report to the Bronx office at 3 PM to go out with the canvass.

At approximately 3:15 in the afternoon, Mr. Roberts approached my office and gave me a copy of a recognition memo that he had addressed to [REDACTED]. I told him I didn't really understand what it was about, and he wanted to explain it to me, but I told him I was in the middle of a phone call and did not have time to talk until later. He said that the office was too disorganized and that there was no job description and that for this reason, he was going to leave and return tomorrow, and that this was a walkout, which is a protected concerted activity. He added that he cannot be issued an oral or written warning for this behavior and said that he was waiting 24-hours for [REDACTED] response to his memo. EXG,7C

When he started to leave the office, the canvass director asked him where he was going, and he started to argue with [REDACTED], telling him "You know that I'm an organizer; I told you about my organization..." and he mentioned that he had a petition signed by other staff members (which we have yet to see). They got into an argument in front of two or three other trainees, and then he left. EXG,7C

Up to now I had very little interaction with Mr. Roberts. He began a two-week training on November 7, which would have been completed today, Nov. 21 because he was out sick on November 15. Trainees understand that they are on probation and need to meet standards on the canvass their first week and on the organizing staff the second week. He worked under [REDACTED] his first week, then under [REDACTED] the second week and spent time in the field with three different organizers. EXG,7C

CONFIDENTIAL

MEMORANDUM

To: [REDACTED] EX617
From: Dakem (R. R. Roberts)
Subject: Recognition of Labor Organization
Date: November 21, 2005

Re: Unionization of Bronx Office of ACORN

Greetings:

WHEREAS a community of interest exists, the workers of the Bronx ACORN office have prepared and signed a petition for the right to organize, we ask you voluntarily recognize the Negation of the Negation as the exclusive representative of the Bronx office.



Dakem (R. R. Roberts)
Provisional Secretary General,
Negation of the Negation

Please read instructions carefully before completing this form. The instructions must be available during completion of this form. ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins.

Print Name: Last Roberts	First Rodney	Middle Initial R	Maiden Name NA
Address (Street Name and Number) [REDACTED]		Apt. # 2	Date of Birth (month/day/year) [REDACTED]
City [REDACTED]	State [REDACTED]	Zip Code [REDACTED]	Social Security # [REDACTED]

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):
 A citizen or national of the United States
 A Lawful Permanent Resident (Alien # A _____)
 An alien authorized to work until ____/____/____ (Alien # or Admission #) _____

Employee's Signature <i>[Signature]</i>	Date (month/day/year) [REDACTED]
--	-------------------------------------

Preparer and/or Translator Certification. (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature [REDACTED]	Print Name [REDACTED]
Address (Street Name and Number, City, State, Zip Code) [REDACTED]	Date (month/day/year) [REDACTED]

Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s)

List A	OR	List B	AND	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): ____/____/____		____/____/____		____/____/____
Document #: _____		_____		_____
Expiration Date (if any): ____/____/____		____/____/____		____/____/____

CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) **11/7/06** and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

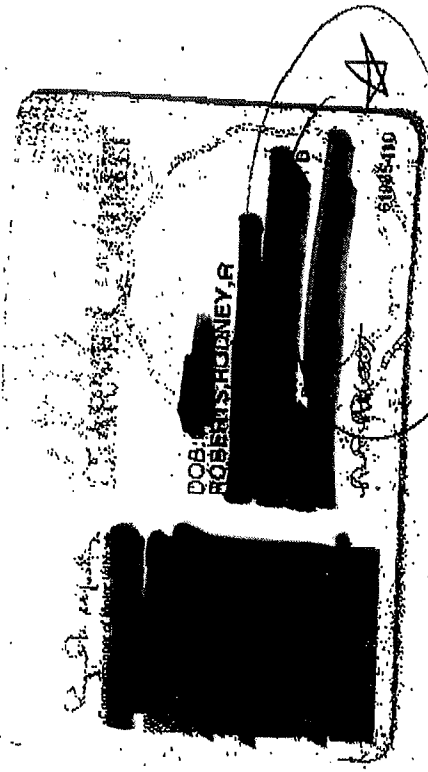
Signature of Employer or Authorized Representative [REDACTED]	Print Name [REDACTED]	Title [REDACTED]
Business or Organization Name NY ACORN	Address (Street Name and Number, City, State, Zip Code) 88 Third Ave., 3rd Fl. Brooklyn, NY 11217	Date (month/day/year) EX 67C

Section 3. Updating and Reverification. To be completed and signed by employer.

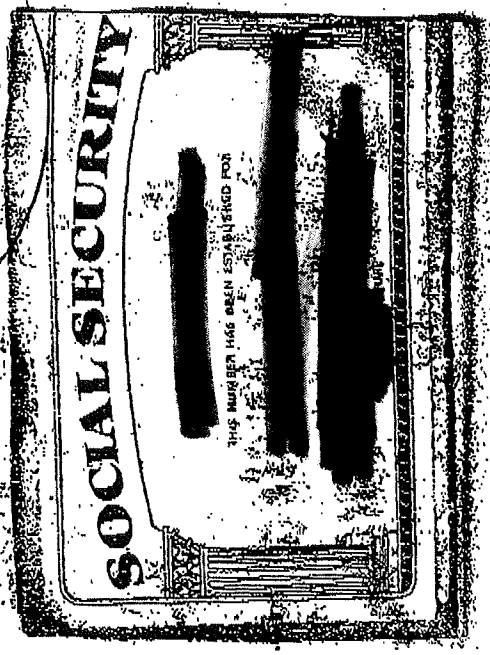
A. New Name (if applicable) [REDACTED]	B. Date of rehire (month/day/year) (if applicable) [REDACTED]
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility. Document Title: _____ Document #: _____ Expiration Date (if any): ____/____/____	

I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative [REDACTED]	Date (month/day/year) [REDACTED]
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6X47c



6X47c

Negation of the Negation



Toward Social Justice in the Workplace

Press Release

On Monday, November 28, 2005, at 11:00 AM, there shall be, in the ACORN main office at 88 3rd Avenue, 3rd floor, Brooklyn NY, a general meeting of ACORN staff. Negation of the Negation, the labor organization seeking to unionize ACORN, shall present ACORN management with a proclamation, demanding that they change their position and grant the right of ACORN workers to self-organize for better conditions of work, hours, and wages. We will ask ACORN management, why they advocate for the *living wage*, but deny their workers the right to a *living wage*.

We shall further ask ACORN management to account for these and other discrepancies. We call on the public, in general, and ACORN members, in particular, to support the right of ACORN organizers to unionize.

The Negation invites the media to report on these issues.

Provisional Secretary General Dakem,
Negation of the Negation,
Phone: (646)401-1909, Fax: (514)509-3372
Website: www.geocities.com/negationofthenegation/html.

Note: Correction: NLRB hearing dates shall be at the same respective time; except, that they shall be held on November 30, 2005 and December 2, 2005. This is in reference to a previous press release.

Negation of the Negation



Toward Social Justice in the Workplace

Press Release

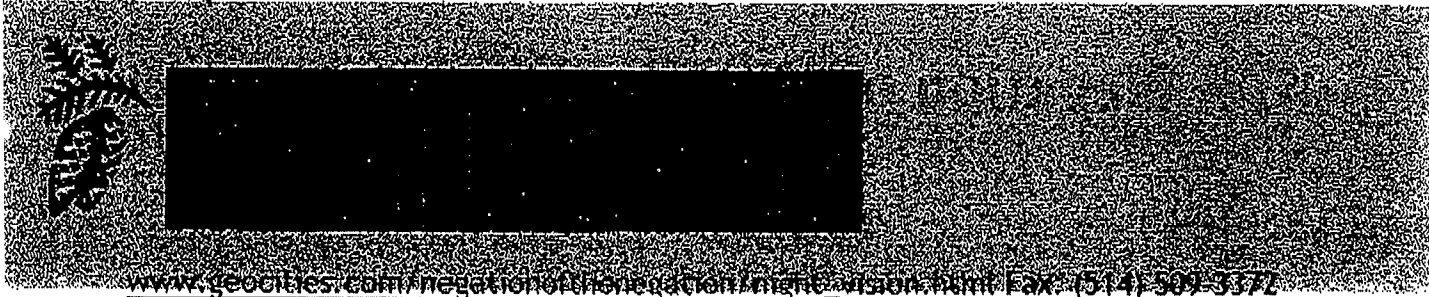
On Monday, November 21, 2005, a self-organized group of Bronx ACORN workers prepared a formal written statement to ACORN management expressing that a community of interest was sustained by Bronx ACORN organizers to form, assist, and/or join a union and requesting the voluntary recognition our organization as the exclusive representative of the Bronx branch of ACORN. ACORN Management, led by its [REDACTED] and [REDACTED] immediately moved to deny ACORN workers the right to unionize by terminating the employment of the worker on the very day he delivered the proposed unionization notice. This effort to unionize ACORN is being led by, Dakem, the Provisional Secretary General of a labor organization called Negation of the Negation and a former organizer with ACORN. A petition for a representation election has been submitted to the National Labor Relations Board and shall be heard in Room 3614, 26 Federal Plaza on November 30, 2005 at 10:00 AM and/or December 2, 2005 at 9:30 AM (if not settled November 30th).

Dakem began working at ACORN after forming the Negation in response to injustice he encountered in the workplace. He began organizing with ACORN in order to introduce institutions of social justice to the workplace. However, he found that, although, ACORN advocates for the unionization of the workplace, their workers are not unionized or permitted the right to unionize. ACORN organizers work 11 hours each day, 60 hours each week with no overtime and work below the projected minimum wage that ACORN claims to have fought to change. None of their *rank and file* workers, canvassers, organizers, and consultants receive the *living wage* they advocate for other workers. The relationship between management and labor at ACORN is based on conventional *master/servant* dictates, meaning, ACORN workers are *at will* employees subject to termination for any reason or no reason at all. The Secretariat of the Negation defines this relationship as *wage slavery*. Dakem was terminated while conducting a protected-concerted job-action as part of the effort to unionize ACORN. In our estimation, this and other anti-labor and discriminatory actions by ACORN management constitutes unfair labor practices in violation of the National Labor Relations Act and international law.

The Negation concludes that an organization that goes door to door in our communities advocating social justice must be held to a higher standard. The right to unionize is a human right mandated by national and international law and convention. The Negation calls for ACORN management to recognize the Negation as the exclusive representative of Bronx ACORN workers or account for its hypocrisy!

Provisional Secretary General Dakem,
Negation of the Negation,
Phone: (646)401-1909, Fax: (514)509-3372
Website: www.geocities.com/negationofthenegation/html.

EXG, 7c



www.geocities.com/negationofthenegation/might-vision.html Fax: (514) 509-3372

Mission Statement

PROCLAMATION

We, the workers of the world, hereby proclaim an organization of workers and name our organization --- Negation of the Negation.

Taking into account that labor is the source of all value; that the symbiotic relationship between labor and management is inherently contradictory and antagonistic; to assure the production and the provision of services, an institution to aid, protect, and assist the producers must intervene on their behalf,

Recognizing production and reproduction as the source of all sustenance and that the worker must sell his or her labor-power for the purposes of sustenance,

Determined to assure an equitable, safe, fair, just, and mutually beneficial workplace,

It is resolved that the Negation of the Negation is a organization of workers to assist the facilitation of the right to organize for the mutual aid, assistance, benefit, and protection of workers from whose production everyone benefits,

WHEREFORE, THE RIGHTS OF WORKERS ARE HUMAN RIGHTS AND, THEREFORE, INVIOABLE, THE NEGATION SHALL FIGHT TIRELESSLY TO SECURE SAID RIGHTS.

It is the objective of the Negation to struggle by any and all means necessary toward the goal of assuring social justice in the workplace.

It is the common practice of the Negation to deploy or convert workers as Workers' Delegates to engage in concerted activities, protected by the labor laws, in the workplace and in the community for the organization of workers for mutual aid and benefit. We employ grassroots and arena-wide methods of organizing.

Our goal shall not stop at a living wage, but shall look at new production relations, including the establishment of workers' cooperatives, workers' control systems, profit-sharing, social justice committees, and unionization.

All workers' interested in this venture can contact the Negation at the above Website or email the Provisional Secretary General Dakem at: negationofthenegation@yahoo.com

We need to build a movement of all workers as we are the true producers of societal wealth and sustain the right to benefit from our own production. Ultimately, we can render the private appropriation and exploitation of the fruits of our labor inconsequential and superfluous.

Anywhere there is injustice, exploitation, or oppression, there must be a Negation.

Workers' Rights are Human Rights!

The Negation

www.geocities.com/negationofthenegation/night_vision.html Fax: (514) 509-3372

ACORN MGMT Opposes Unionization

On Friday, December 2, 2005, ACORN management appeared before the National Labor Relations Board (NLRB) to oppose the rights of Bronx/Manhattan ACORN workers to unionize. ACORN mgmt. retained a lawyer (with a retainer fee of at least ten-thousand dollars and an hourly fee of five-hundred dollars). This lawyer was hired with the singular purpose of undermining the right to organize. Her name is Pamela Jeffrey from the firm of Levy Ratner. Their strategy is to oversize the bargaining (electoral) unit, illegally switch the titles of supervisors, thus, allowing supervisors to vote, and impose impossible geographical logistics on the unit. They claim the smallest possible bargaining unit is a combination of the Brooklyn, Hempstead, and Bronx/Manhattan offices. We all know that if you work in Hempstead, for the most part, you stay in Hempstead; except, for weekly meetings or large demonstrations, but that can involve national units as well.

Workers, ACORN Mgmt should be held accountable. They cannot claim the right to unionize other workplaces, then deny their workers that right.

Unionization means better pay, better conditions of work, pensions, profit sharing, redress of grievances. Under international standards, the standards ACORN must be held to, ACORN workers should be entitled to cooperative ownership of housing property that has been seized. ACORN should go beyond the standard to assure its workers receive the best benefits.

Class Action Suit proposed for Overtime Claims

ACORN management claims organizers are "salaried workers," therefore, exempt from overtime requirements. However, the Fair Labor Standards Act defines exempt salaried workers as: executives, professionals, and administrators.

As non-exempt workers organizers are entitled to overtime payments after 40 hours. For those workers who have worked overtime, over the past year or more, may be owed ten to twenty thousand dollars with interest.

The Negation is proposing a reduction of the work day to eight hours with overtime payment after 40 hours per week.

If you are interested in joining the class action lawsuit and/or the unionization of ACORN call Dakem at: (646) 401-1909.

E-mail at:
negationofthenegation@yahoo.com

Organizing the Organizers!
Workers Rights are Human
Rights!!!

Negation of the Negation



Toward Social Justice in the Workplace

Dakem (R. R. Roberts)
Provisional Secretary General,
The Negation,

[REDACTED]
[REDACTED]
Phone [REDACTED]

EXGTC

**Re: Praxis Housing Initiatives and Dakem Roberts,
Case No. SU-60065**

To: New York State Employment Relations Board

Memorandum of Law

STATEMENT OF FACTS

[REDACTED] is the [REDACTED] of Praxis Housing Initiatives, Inc. Praxis Housing Initiatives is a non-profit charitable organization whose organizational objective is to find housing for the homeless. The majority of its homeless intervention contracts are established with city, state and federal agencies (MHRA-HIVCS, DHS, DOH, FEMA, etc.) pursuant to state Social Services Law, section 50 and the federal Title I HIV Emergency Relief Grant. Praxis maintains four residential transitional housing sites and one scatter-site.

Dakem (R. R. Roberts) was hired by Praxis on or about August 8, 2004; he was part of a case management team that successfully housed over one-hundred homeless persons under special six month contract from the Department of Homeless Services; he received a good work evaluation and received a two-thousand dollar raise in pay. The plaintiff also advocated for workers, petitioning management and winning holiday pay for all (prior to the proclamation of self-organization) and for the rights of the homeless, advising them of rights as squatters, advocating for better service delivery, against lock-outs, wrongful close-outs, inappropriate property packing, illegal evictions, and housing opportunities as social service worker who performed his job. An attempt to illegally evict a client and the subsequent abuse of power by a Praxis supervisor, are the causes of action that required the formation of a labor organization.

On July 8, 2005, in response to the aforementioned workplace issues, I proclaimed the formation of a labor organization, named the organization the Negation of

EXGTC

the Negation, and began to engage in protected-concerted activities. On July 19, 2005, we sought initial contact with Praxis Management by preparing a formal, written Interoffice Communique, indicating problems and offering solutions. On July 20, 2005, a Memorandum was issued by management calling a mandatory "Make It Happen" meeting for July 27, 2005. These meetings are usually yearly events and have never been mandatory. (See: Exhibits "A" and "B".) On or about July 20, 2005, I called ██████████ ██████████, Praxis and requested an opportunity to give a presentation at the meeting. He replied, "everyone can speak."

On July 27, 2005, Praxis held the mandatory meeting at around 4:00 PM. During the entire hour, ██████████ and his supervisors gave presentations on new benefits and changes in work conditions, including: a free week of vacation, pay raises for subordinate staff, tuition assistance, free life insurance, improved dental and health insurance, increased maternity leave, new grievance procedures, right to representation and notice in disciplinary procedures. A supervisor, ██████████, after the presentations, made a statement criticizing the proposed unionization of Praxis, in general, and denouncing the Negation, in particular. Another supervisor, ██████████, from the Barbour site, then handed-out written replies, to all subordinate staff, to the Negation's communique of July 19th, formally denying our written redress of issues requiring resolution. Following ██████████ denunciation and during the passing of the replies, I read a prepared statement and requested voluntary recognition of the Negation as the representative of workers at Praxis. In that prepared statement, I mentioned NLRB certification and election by over 50% of eligible workers as the Negation's inevitable goals.

On September 7, 2005, I advised my immediate supervisor ██████████ that I needed to serve paperwork on ██████████. She contacted ██████████. ██████████ then informed me that the Contract Manager ordered that I stop all organizational activities during work hours. On September 8, 2005, I filed charges before the NLRB.

On September 21, 2005, I was terminated for management's failure to "substantiate" charges of fraud I made against supervisor ██████████ and for having exposed the fraudulent procedure in a union-based newsletter called the Negation. On September 22, 2005, ██████████ arrived in the St. Nicholas Praxis site and began to train Social Service staff to delete falsified files in what she called a "corrective action plan." The Plan has now been introduced in all Praxis sites with MHRA/HIVCS contracts. (Exhibit "C").

STATUTORY AND PROCEDURAL VIOLATIONS

The promise by Praxis Management of a wide range of benefits to Praxis staff in a mandatory meeting was clearly designed to interfere with the unionization of Praxis. This was done side by side with an orchestrated effort to deny issues raised by the Negation, even where those issues were similar to benefits offered by management (right to representation and procedural guidelines in disciplinary actions). The motive was to discredit the representative capacity of the Negation in violation of section (a) (1), (2) of the Act. The question that next arises is whether funds supplied by the state and federal governments were *knowingly and intentionally* used illegally to fund said benefits in violation of section 211-a of the state Labor Laws which prohibits use of governmental

funds to discourage unionization. The offer of benefits was then disguised by a decided neutrality in other areas of organizational work. [REDACTED] then tried to offer the Negotiation credit for the offer of benefits. (August 10, 2005, [REDACTED] letter.)

EXG, 7c

The command by [REDACTED] to stop organizational work during work hours was unilateral. She issued the order to her subordinate and my immediate supervisor, [REDACTED]. This was done to interfere with the right to organize in violation of section 157 of the federal labor statute and was reversed only upon the service of NLRB charges on [REDACTED] and [REDACTED] on September 8, 2005.

EXG, 7c

On September 8, 2005, [REDACTED] issued a recommendation for my termination. This recommendation was clearly based on my organizational activities. The following day, September 9, 2005, I was suspended indefinitely. In [REDACTED] recommendation for termination, her written words clearly reveal my organizational activities were her motive for recommending termination. This practice clearly surpasses the requirements set forth in the *Wright Line* test. (*Wright Line*, 251 NLRB 1083.) On September 21, 2005, Praxis terminated my employment, allegedly, for exposing fraudulent activity by management in a newsletter. The Burnup & Sims standard provides that an employer violates the Act even when "... an employer administers discipline based on a good faith but mistaken belief that the employee engaged in misconduct in the course of protected activity." *NLRB v. Sims*, 379 US 21. Either way, the termination was illegal.

EXG, 7c

For these reasons, I formally requested that a complaint be filed in this matter.

Jan. 9, 2006

ACORN
Canvasser's Contract

In addition to the rules and regulations agreed to under the ACORN employment policy, I understand that my duties as a canvasser are as follows:

- 1) To consistently bring in standard each week on the field XXXXXXXXXX EXY
- 2) To show up to the office on time.
- 3) To be prepared to take part in training.
- 4) To follow all instructions given by canvass director or field manager.
- 5) To call the office by 12:00 P.M. if I am sick/unable to work.
- 6) To respect and work as a team with all other canvassers.

I understand that failure to fulfill these obligations may result in the termination of my employment with ACORN.

X _____
Canvasser's Name

X _____
Supervisor

Name Dakem (R.R. Roberts)

Canvasser Daily report

Week ending 11/11/5

Date	doors	members	Amount raised	e-mail collected
11/7/5	ED	0	0	—
11/10/5	88	2	\$12.00	four
11/11/5	70	2	\$12.00	none

United States Government

NATIONAL LABOR RELATIONS BOARD
1099 14th STREET NW
WASHINGTON DC 20570



April 19, 2006

Re: Association of Community
Organizations for Reform Now
Case 2-RC-23050

Dakem R. Roberts
[REDACTED]

Dear Mr. Roberts:

This will acknowledge your e-filed request for review received in this Office at 12:04 a.m. on April 11, 2006.

You seek Board review of the Regional Director's March 27, 2006 Decision and Order in the subject case. The last page of the Director's Decision noted that any request for review must be received by the Board in Washington, D.C. by April 10, 2006. In this regard, Section 102.111(b) of the Board's Rules and Regulations specifies that documents or filings must be received by the Board "before the official closing time of the receiving office on the last day of the time limit. . . ." That Section also refers to Appendix A of Section 102 which indicates that the official closing time of the Board in Washington is 5 p.m. local time. Further, one of the terms of e-filing, which you accepted before transmitting your document, was that the document be timely. That term further states:

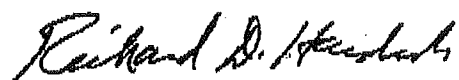
E-Filings must comport with all applicable time requirements including Section 102.111(b). Further, the verification that your document has been successfully transmitted to the Web site does not indicate actual filing and timely receipt by the Board. You will be sent an e-mail notification when your document has been received by the Board's Office of the Executive Secretary. The date and time of receipt specified on this notification will be used to determine whether the submission is timely. This e-mail receipt will be delivered to the e-mail address listed on the E-Filing Form.

Dakem R. Roberts
PAGE TWO

The underlined reference to the Board's Rules is a hyperlink which, when the cursor is placed on it, reveals the full text of that Section including the requirement that the filing be received by the close of business of the due date. Thus any request for review in this matter was due by 5 p.m. on April 10, 2006. The receipt for your e-filed document indicates that it was received on April 11, 2006 at 12:04 a.m.

Based on the foregoing, your April 11 filing is untimely. Accordingly, I am unable to transmit it to the Board for consideration.

Very truly yours,



Richard D. Hardick
Associate Executive Secretary

IN CASE OF FIRE
USE STAIRS UNLESS
OTHERWISE INSTRUCTED

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AT ENT ON
March 17
NYPD
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MAY

Telephone 646-1111 to Arrest

IN CASE OF FIRE
USE STAIRS UNLESS
OTHERWISE INSTRUCTED

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NO SMOKING
UNDER PENALTY OF LAW



Trespassers Subject to Arrest

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VIOLATORS
WILL BE
PROSECUTED!

NO
TRESPASSING LOTTERING
PEDDLING MUSIC PLAYING
GRAFFITI ROLLER SKATING
SMOKING BALL PLAYING
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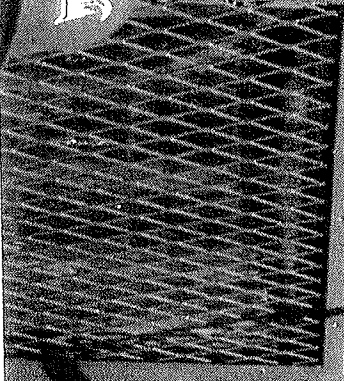
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PATINAR FUMAR JUGAR PELOTA

CONSEJO DE LA CIUDAD DE LOS ANGELES
CALLE 1001 N. TULSA ST. LOS ANGELES, CA 90012



UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2

**Association of Community Organizations
for Reform Now**

Employer
and

Case No. 2-RC-23050

Negation of the Negation

Petitioner

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a Hearing Officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, the Board has delegated its authority in this proceeding to the Regional Director, Region 2.

Upon the entire record¹ in this proceeding, it is found that:

1. The Hearing Officers' rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The parties stipulated and I find that the Association of Community Organization for Reform Now, Petitioner herein, an Arkansas corporation with facilities throughout the United States including the facility at 88 Third Avenue, Brooklyn, New

¹ Briefs have been filed by the Petitioner and the Employer and have been duly considered.

York, is a non-profit, community-based membership organization engaged in organizing for low and moderate-income people to improve their lives. Annually the Employer derives gross revenues in excess of \$250,000 and purchases goods and supplies valued in excess of \$5,000 directly from suppliers located outside the State of New York. Accordingly, I find that the Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The parties stipulated and I find that Negation of the Negation, the Petitioner herein, is a labor organization within the meaning of Section 2(5) of the Act.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c) of the Act.

5. The Petitioner seeks an election in a unit consisting of all full-time and regular part-time organizers and canvassers employed by the Employer at its facility located at 597 East 139th Street, Bronx, New York (the "Bronx facility"), but excluding all other employees, guards, managers and supervisors as defined in the Act.² The Employer contends that the petitioned-for unit is not an appropriate unit for collective bargaining, and that the only appropriate unit consists of the above-described employee classifications at all the Employer's facilities in the metropolitan New York area, which include: the Bronx facility; the office at 88 Third Avenue, Brooklyn, New York (the "Brooklyn facility"); and an office in Hempstead, New York (the "Long Island facility").³

² The Petition was amended at hearing to exclude from the Petition the job classification of consultant.

³ The Petitioner stated at hearing that it is not prepared to proceed to an election in a unit found to be appropriate by the Regional Director which is larger than the petitioned-for unit. The parties have stipulated that there is no bargaining history between them.

The Employer's Operations

The Association of Community Organizations for Reform Now, commonly referred to as ACORN, is a national, membership-based organization. ACORN's four national offices are located in New Orleans, Washington, D.C., Phoenix, and Brooklyn. The purpose of the organization is to engage in community activism on behalf of low-to-moderate-income persons. The primary areas of activism include affordable housing, tenants' rights, predatory lending and education.

New York Acorn ("NY ACORN") is a chapter of the national organization. NY ACORN's main office is located at the Brooklyn facility. It also maintains satellite offices at the petitioned-for Bronx facility and the Long Island facility.⁴ NY ACORN's activities are primarily structured as campaigns, projects, programs or canvasses of varying lengths and purposes. A canvass is usually neighborhood-specific; however a campaign, project or program can cover one or more boroughs and counties.

Personnel

Bertha Lewis is the executive director of NY ACORN. She is responsible for more than half of the Employer's New York State operation, including the New York City metropolitan area. NY ACORN also employs a statewide head organizer named John Kest, who is at the same organizational level as Lewis.

The record identified several titles working below Lewis, including regional canvass director, statewide campaign director, campaign director, canvass director,

⁴ The record also reveals that there are satellite offices in Buffalo and Patchogue, Suffolk County, New York. Neither the Petitioner nor the Employer has sought to include those facilities in their respective proposed units.

field manager, lead organizers,⁵ organizers and canvassers. There are senior staff meetings once a week, which exclude organizers and canvassers. Goals, standards and strategies for each project are developed at senior staff meetings. The senior staff then communicates these goals and instructions to employees for an upcoming event. All projects, including those proposed by senior staff, are initiated and/or approved by NY ACORN's governing board, Lewis or Kest.

The Employer also conducts a general staff meeting once each week. All staff members working in any of the three offices are in attendance at these weekly meetings, which are primarily conducted by Lewis.

Ann Sullivan, the statewide campaign director, has been working on two housing projects in the Bronx, as well as projects in Manhattan's Washington Heights section, Hempstead and Buffalo. While Ms. Sullivan mainly works out of the Brooklyn office, she at times works out of the Hempstead facility.

Greg Basta is the regional canvass director. His primary responsibility is to oversee the canvass directors and canvassers in New York's downstate region. Basta spends the vast majority of his time traveling in the field. He mainly checks in with the Brooklyn office, but will report to a particular satellite office in setting up a canvass as necessary. Mr. Basta also maintains an office in the Bronx facility. He determines campaign logistics, rectifies general campaign problems, keeps regular contact with canvass directors, and gathers information on canvasser performance.

Canvass directors are Mr. Basta's assistants, and are generally associated with particular offices. As such, Toby Rivera is associated with the Bronx office; Ray Whalen

⁵ The record refers alternatively to lead organizers as supervisors. However, supervisory status under the Act is not an issue in the present matter.

with the Long Island facility office; and John York with the Brooklyn office. Basta also stated that canvass director Ashana Cumberbatch works about 60 percent of the time in Hempstead, and 40 percent of the time in Brooklyn. The canvass director's main job is to direct training when Basta is not present, and to take canvassers out to the field. A canvass director has authority to train and deploy canvassers. The vast majority of a canvasser's time is spent in the field.

Field Managers work under canvass directors and are responsible for helping to train canvassers.

There are several senior lead organizers employed by the Employer. Peter Santiago is the state-wide director of training and recruitment, and works primarily from the Bronx facility. Harold Miller is the lead staff organizer on education and community organizing. Marianna Davenport, who reports mainly to the Brooklyn facility, is the lead organizer responsible (in the education unit) for after-school programs in Brooklyn, Manhattan, and the Bronx. Davenport also does some recruitment and training. America Canas leads the home daycare organizing program, and oversees eight to ten organizers on that campaign. Octavio Rivera is responsible for canvassers deployed in Queens, Manhattan and Bronx and on occasion those working in Brooklyn.

Heather Appel supervises immigration and education organizers city-wide. She works from the Bronx office because most of her projects and membership are located there. She oversees approximately ten fulltime organizers in the Bronx office, and any other employees who work on the immigration campaign, regardless of office.

An organizer is expected to build neighborhood groups, develop issue campaigns, identifying neighborhood leadership and maintain member base. Once an

organizer identifies an issue, he or she must discuss it Lewis, who decides whether and how the Employer should proceed. Organizers normally arrive at work between 11:00 a.m. and noon. At that time, organizers make telephone calls, do paperwork and attend training or a brief meeting, in which lead organizers would review fieldwork standards and give instructions on forthcoming events. By about 2:00 p.m., the organizers go to the field. Organizers normally return to the office between 7:30 and 8:30 p.m. Sometimes the organizer would have a meeting in the field and return directly home after the meeting. On Saturdays, organizers bypass the office and go directly out to the field.

A canvasser's job is to go from door to door to sign up new members, request donations or inform people of particular issues. Membership solicitation quotas are established by Lewis and Kest. According to Basta, a canvasser normally checks in to the office at about 3:00 p.m. Training is then conducted for about 30 to 40 minutes, after which the canvassers go into the field. The canvasser's shift ends at around 9:00 p.m., at which time they check in with the canvass director to hand over paperwork and money collected during the day. Basta estimated about "90 percent" of the canvasser's time is spent in the field.

Facilities

The Brooklyn facility covers about 7000 square feet and houses all NY ACORN's payroll records, accounting functions, administrative functions, legal documents and other components of the statewide and national operations. Supplies for the satellite

facilities are purchased through the Brooklyn office. NY ACORN maintains no separate budget or billing for the satellite offices.

The Bronx facility consists of a large space with tables and telephones. There is a meeting space in the back of the office. There are also two separated offices, which may be shared among supervisors, but are normally they are occupied by Appel and Santiago. These offices may be locked when not in use. Because the rooms have computers, employees can use the offices only with permission from Appel. There is neither a receptionist nor reception desk at the Bronx facility; and the answering machine identifies the facility as the "Bronx/Manhattan ACORN office." On average, 20-30 organizers and canvassers check in at the Bronx per day. Appel stated that there are eleven full-time organizers reporting to the Bronx office.⁶

The Long Island facility is a smaller office consisting of two and a half rooms, a telephone and fax machine.

Personnel Functions

Lewis sets the labor relations policy for the New York City metropolitan area. She determines rates of pay based on the national scale, with adjustments for cost of living and perhaps individual expertise. Employees receive a standard employment package, and NY ACORN buys into a national ACORN health benefits package. NY ACORN has also used a nationally-established staff policy, but adopted for the New York area.

⁶ From April through December 2004, no one reported to the Bronx office. All employees reported to the Brooklyn facility, and the Bronx facility was used only night for phone banking. The Employer provided testimony indicating that the Employer might close the Bronx facility in January 2006.

Personnel files are primarily kept in Brooklyn office. Each canvasser and organizer fills out a daily field report uniquely tailored for NY ACORN, and submits it to their lead organizers, who transmits them to the Brooklyn office. Blank time sheets are kept at different facilities; however, once filled out, the documents are all kept in the Brooklyn office. Paychecks for all New York City area facilities are distributed from Brooklyn office. Vacation leave must be approved by the Brooklyn office.

Hiring

Lewis may direct Santiago to recruit and train a certain number of organizers and canvassers based on the needs of a particular project, canvass or campaign. Jobs are advertised through newspaper advertisements and recruitment flyers, which are produced from the Brooklyn office, and cover NY ACORN's metropolitan New York activities. Lewis may also direct Santiago, Davenport or another lead organizer to attend college fairs.

Santiago preliminarily reviews all resumes and selects the most appropriate candidates for consideration. Santiago then confers with Lewis, who directs Santiago to continue the application process. This entails sending a candidate out for a day to observe organizers and canvassers. If thereafter the candidate expresses interest, Santiago will contact Lewis. Lewis will ask Santiago questions about the candidate's qualifications and, if the two agree, the candidate will be hired. Santiago then sends papers to Lewis who may or may not accept Santiago's recommendation. However, Lewis ultimately approves new hires and can countermand the recommendations of senior staff. Depending on the volume of applicants, Lewis reviews applications and checks references before or during the interview process. During a nine-month period

in 2005, Appel did the majority of the candidate interviews out of the Brooklyn office. Appel stated that Lewis or Kest has denied Appel's recommendations to hire certain candidates. Basta stated that he directs who is hired among canvassers after consulting with Lewis and Kest.

Training

Training is organized mainly by Santiago, and may occur in any facility. Lewis, in conjunction with managers and supervisors, decides where to train employees and where they will be deployed. Some new hires are cross-trained by moving them to other offices for greater experience. The new hire will spend the first week canvassing, and the second week in classroom training and observing organizers. Much of the training materials come from the national ACORN organization to make training uniform. After training, Lewis consults with coworkers and supervisors to decide whether to keep the new hire.

Assignment of Work and Supervision

An employee who starts out as a canvasser may move into the organizer position. Ultimately, Lewis makes the decision, but after getting recommendations through discussions with senior staff.

Lewis stated that she determines assignments based on the demands of a particular project, on the employees' skills or ability, and pursuant to a monthly plan developed by Lewis. However, much of the time, a "great deal of the consideration" about where to locate an employee is where he or she lives. Basta tries to provide "stability" to employees by having employees who live near the Bronx office report there.

Although an employee may normally check in at one particular office, organizers and canvassers may be moved to a project requiring check-in elsewhere. Lewis estimated that, during a six month period, an employee who normally checks in at the Bronx office may be assigned "two or three times" to another facility. The record further shows that an employee's supervisor may be determined by the project, campaign or canvass to which the employee is assigned. Consequently, an employee who regularly reports to one location may be directly supervised by a lead organizer or canvass director who is not located in that office.

The Employer hired Milka Baez as a fulltime organizer in July 2005, and assigned her work on immigration petitioning. Baez reported to the Brooklyn immigration office under the supervision of Julie Roberts. Thereafter, the Employer assigned Baez to the child-care organizing effort where she worked out of the Bronx office under the supervision of America Canas. Canas who works from the Brooklyn office, supervised Baez by phone. Appel stated that a vast majority of Baez's field work is outside of the Bronx.

Organizer Theresa Okeh worked three to four months on a campaign to unionize child-care providers. During that time, she reported exclusively to the Brooklyn office under the supervision of Canas. After a certain organizing quota was reached, the Employer directed Okeh to work in the Bronx office. Okeh stated that only some of the approximately twenty employees working with her in the Brooklyn office were transferred with Okeh to the Bronx facility. She was offered a position in the Bronx because she lived there.

Basta stated he that directs canvassers, like "special forces," to go quickly anywhere where needed, regardless of the canvasser's normal check-in location. For example, Basta stated that, in around November 2005, Spanish-speaking canvassers who generally reported to the Bronx were assigned to Brooklyn to work on the Bushwick Houses campaign. In April and October 2005, about eleven canvassers and canvass directors from the Bronx, Brooklyn and Long Island offices were assigned to work on the Gracie Point environmental campaign. During this canvass, the canvassers met and trained in Manhattan.

Get Out The Vote campaigns, which have occurred during primary and general election seasons, represent another example of the Employer assigning organizers and canvassers to locations other than where they normally report. During these campaigns, canvassers from each office report to temporary staging areas in Corona (a three-month campaign), Far Rockaway (a six-week campaign) and Rosedale (a five-day campaign). The Corona campaign used at least five canvassers from the Bronx and Brooklyn offices. Furthermore, during one Get Out the Vote campaign, organizer Baez reported to the Brooklyn office under the direction of Basta. Organizer Bonita Garcia, who checks in at the Bronx office most days, was assigned to Sunset Park, Brooklyn, during one Get Out The Vote campaign.

Several times during 2005, canvasser Yancairo Nunez, who reports normally to the Bronx office, reported to several areas during various campaigns. Nunez was deployed from Brooklyn on the Bushwick Houses campaign; from Manhattan on the Grace Point campaign; and from Brooklyn, East Harlem and Rosedale for Get Out The Vote efforts. Basta further identified three other organizers (Luisiana (LNU), Vanessa

Tucker and Jason Hamaad) who, during October and November 2005, worked in the Bronx under one canvass director and in Brooklyn under another.

Canvassers are cross trained by temporary transfers to offices to which they do not normally report. In this regard, in October 2005, canvasser Jeffrey Caregno, who works normally from the Bronx office, trained for about a week in the Brooklyn office under canvass director John York.

On the city-wide immigration project, Appel directly supervised about five organizers who normally checked into the Bronx, Brooklyn or Long Island offices. Appel also spent time in various offices meeting with immigration organizers. Appel has also met with immigration project organizers after the weekly general staff meeting. Organizer Noel Rodriguez, who normally reports to the Bronx office, worked for a month in Brooklyn in the Bushwick Houses campaign, and then reported to a temporary facility in Queens. Rodriguez presently works in the Fix It Now campaign, which is mostly directed from Brooklyn.

Discipline and Discharge

Appel may write up an employee and recommend termination, but Lewis or Kest makes the final decision. Basta directs who is fired among canvassers after consulting with Lewis and Kest. He must submit termination forms to Lewis or Kest, but neither has overturned any of his initial decisions to discharge. Basta further stated that canvass directors may engage in some on-the-spot discipline. However, one canvasser has been reprimanded for firing an employee without authority.

Employee Pamela Drummond identified one incident of a discharge of Eduardo Rodriguez. At a staff meeting, when Rodriguez complained that certain work was hard,

Santiago became angry at Rodriguez and told him to go home. Santiago testified that, prior to this incident, Rodriguez had a history of insubordination, which had been reported to Lewis. At one point, Lewis directed Santiago to fire Rodriguez the next time he was insubordinate, which is what Santiago did at the meeting in question. After the meeting, Santiago called Lewis to inform her. Lewis agreed with the firing and said she would process the paperwork. A discharge letter for Dakem Roberts (Petitioner's representative) was prepared by Santiago at the direction of Lewis.

Analysis

As a general rule, a single-plant unit is presumptively appropriate, unless it has been so effectively merged into a more comprehensive unit, or is so functionally integrated that it has lost its separate identity. *J&L Plate, Inc.*, 310 NLRB 429 (1993). To determine whether the presumption has been rebutted, the Board considers such factors as centralized control over daily operations and labor relations, including the extent of local autonomy; similarity of skills, functions, and working conditions; degree of employee interchange; geographic proximity; and bargaining history, if any. *New Britain Transportation Co.*, 330 NLRB 397 (1999). Furthermore, "the party seeking to overcome the single-site presumption must show that the day-to-day interests of the employees at the sought locations have merged with those employees of the other locations." *Renzetti's Market, Inc.*, 238 NLRB 174, 175 (1978). Analyzing the facts here in light of the applicable criteria, I find that the Employer has rebutted the single-facility presumption.

The record establishes that the Employer's business is highly integrated and administratively centralized in the Brooklyn office under the auspices of the NY ACORN chapter. NY ACORN management centrally develops and uniformly applies policies and procedures in the matters of hiring, employee training, membership quotas, wages, hours, leave, and employee benefits. See *Renzetti's Market*, supra at 174.

However, the Board considers "most relevant" the extent of autonomous supervision at the petitioned-for facility. In other words:

whether or not the employees at the sought [facility] perform their day-to-day work under the immediate supervision of one who is involved in rating their performance and in affecting their job status and who is personally involved with the daily matters which make up their grievances and routine problems.

Renzetti's Markets, supra at 175. See *New Britain Transportation*, supra at 397 ("[c]entralized control over personnel and labor relations alone . . . is not sufficient to rebut the single-location presumption where the evidence demonstrates significant local autonomy over labor relations.")

Here, the evidence shows that the day-to-day matters affecting organizers and canvassers are not determined with significant autonomy at the Bronx facility. Assignment to a campaign or canvass is determined centrally by Lewis, Kest and Basta.⁷ Hiring, wages, initial training, promotion, discharge and significant discipline are ultimately determined Lewis, Kest and Basta. The record reflects that senior staff at the Bronx facility may directly monitor an employee's work, and do have some day-to-day control over an employee's working conditions, such as daily training, problem-solving

⁷ Although Basta keeps an office at the Bronx facility, the record shows that his management position is city-wide rather than facility-specific.

and field coordination. However, contrary to Petitioner's assertions, these decisions appear dictated by the Employer's centralized policies and directives rather than a lead person's separate supervisory authority.⁸ See *Globe Furniture Rentals*, 298 NLRB 288 (1990) (single-facility presumption rebutted because store managers only had "authority over routine day-to-day operations of the facilities" and because of significant mandatory employee interchange); *Petrie Stores Corp.* 266 NLRB 75 (1983) (single-facility presumption rebutted where store manager's authority was "circumscribed" by area supervisor's authority in personnel matters; store manager had no involvement in, among other things, granting leave and grievance handling); *VIM Jeans*, 271 NLRB 1408 (1984) (single-facility presumption rebutted where there was evidence that stores were controlled "very closely" by central management and roving managers.)

Other factors, although not by themselves determinative, support a finding here that the Employer has rebutted the single-facility presumption. The Employer has shown that organizers and canvassers who normally report to the Bronx location because it is close to their homes are temporarily assigned, on a regular basis, to campaigns and canvasses in other boroughs. Furthermore, these assignments require them to check-in to other facilities, and work closely with employees from other offices under the supervision of senior staff from other facilities. See *Budget Rent A Car*

⁸ The Petitioner also argues that the Employer failed to submit a payroll list prior to the Region's showing-of-interest determination and is therefore "precluded from making any claims relevant to the appropriateness of the bargaining unit." The Region's standard request of a payroll list is only relevant to the threshold administrative determination of a showing of interest prior to proceeding with processing of the petition. Whether or not the Employer provides such a list prior to hearing does not bear on the arguments and position which the Employer is entitled to advance at hearing regarding the appropriateness of the unit.

Petitioner further argues that testimony regarding a possible closure of the Bronx facility reveals an unlawful attempt to avoid unionization. However, litigation of such alleged unfair labor practices is inappropriate to a representation proceeding.

Systems, 337 NLRB 884 (2002) (contact and coordination among employees from separate facilities is a factor in rebutting single-facility presumption).

Furthermore, the record shows that the duties, skills and job requirements of organizers and canvassers are identical in each of the Employer's facilities. See *R&D Trucking, Inc.*, 327 NLRB 531 (1999) (considering interchangeability of employee skills between locations a factor in favor of multi-facility unit). The geographical proximity of the Employers' facilities, especially in light of the city-wide nature of certain of Employer's campaigns, also favors a multi-location unit. See *Twenty-First Century Restaurant*, supra at 882 (single-facility presumption rebutted where seven McDonald's restaurants were located within a 10-mile radius); *The Pep Boys*, 172 NLRB 246 (1968) (single-facility presumption rebutted where the sought store and five other of the Employer's stores lie within a distinct geographic area).

Based upon the record, I find that the petitioned-for unit is not appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act. Because Petitioner does not seek an election in a larger unit, I shall dismiss the petition.

ORDER

IT IS HEREBY ORDERED, that the Petition filed herein be, and it hereby is, dismissed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision and Order may be filed with the National Labor

Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by April 10, 2006.

Dated at New York, New York,

March 27, 2006



Celeste J. Mattina
Regional Director, Region 2
National Labor Relations Board
26 Federal Plaza, Room 3614
New York, New York 10278

Case Service Sheet

As of 6/30/2006

Case Number: 02-CA-37616-001

Case Name: Association of Community Organization for Reform Now (ACORN)

<u>Charged Party #1 Party:</u> Association of Community Organization for Reform Now (ACORN) 597 East 139th Street Bronx, NY 10454	<u>Point of Contact:</u> W. Peter Santiago, Director of Employment and Training Phone: (718)292-0070 Fax: (718)292-8846
<u>Charged Party #1 Legal Representative #1:</u> Schulte, Roth & Zable, LLP 919 Third Avenue New York, NY 10022	<u>Point of Contact:</u> Scott Gold Esq. Phone: (212)756-2000 Fax: (212)593-5955
<u>Charging Party #1 Party:</u> Negation of the Negation 1011 Woodycrest Avenue Bronx, NY 10452	<u>Point of Contact:</u> Dakem R. R. Roberts, Union Representative Phone: (646)670-4066 Fax: (514)509-3372

AFFIDAVIT OF SERVICE

NEGATION OF THE NEGATION
ATTN.: DAKEM R.R. ROBERTS,
UNION REPRESENTATIVE
1011 WOODYCREST AVENUE, APT. #2
BRONX, NY 10452

RE: ASSOCIATION OF COMMUNITY ORGANIZATIONS
FOR REFORM NOW (ACORN)
CASE NO. 2-CA-37616

DISMISSAL LETTER COLLYER DUBO
 FULL FULL FULL
 PARTIAL PARTIAL PARTIAL

FAILURE TO COOPERATE REOPENING THE CASE
 FULL
 PARTIAL

UNILATERAL SETTLEMENT
 FULL
 PARTIAL

THIS AFFIDAVIT OF SERVICE IS FOR AN INCORRECT APPEAL DATE

I CERTIFY THAT I SERVED THE ABOVE-REFERENCED LETTER THIS DAY
BY POST PAID REGULAR MAIL ON THE ADDRESSEE ABOVE.

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 30th DAY OF June 2006
Frank G. O'Satney
DESIGNATED AGENT *zc*



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 2
26 Federal Plaza – Room 3614
New York, New York 10278-0104

Telephone: 212-264-0300
Facsimile: 212-264-2450

June 30, 2006

Negation of the Negation
Attn: Dakem R. R. Roberts, Union Representative
1011 Woodycrest Avenue, Apt #2
Bronx, NY 10452

Re: Association of Community Organizations
for Reform Now (ACORN)
Case No. 2-CA-37616

Dear Mr. Roberts:

The Region has carefully investigated and considered your charge against Association of Community Organizations for Reform Now (ACORN), alleging violations of 8(a)(1) and 8(a)(3) of the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have concluded that further proceedings are not warranted for the following reasons:

You have alleged that you were demoted and then discharged due to your union activities. You have also alleged that the Employer threatened to close the Bronx facility in order to discourage employees from joining Negation of the Negation, a union you were trying to organize among the Employer's staff. You have further alleged that the Employer improperly singled you out when it precluded you from access to the Employer's facilities.

The investigation revealed that you engaged in union activity by distributing authorization cards among your co-workers for the Negation of the Negation. Further it appears the Employer was aware of these activities. However, there is no evidence of Employer hostility toward you because of these activities. Moreover, the investigation revealed that you were not demoted. Rather the evidence established that you only worked for the employer for approximately five days and the Employer refused to comply with your demand that you be moved up from a canvasser's position to that of an organizer. Further, the Employer has provided evidence that it was dissatisfied with your performance almost immediately and before it was aware of any protected activity on your part. Accordingly, the evidence does not establish that the Employer's failure to promote you to an organizer position was linked to your union activities. Nor does the evidence establish a link between your protected activity and your discharge. Rather, the evidence establishes that Employer discharged you for nondiscriminatory reasons, based upon events which you do not deny, and other perceived performance issues.

Your contention that the Employer threatened to close the Bronx facility is based upon testimony by an Employer at a representation hearing. A review of this testimony does not support your contention that the Employer threatened to close the Bronx facility as alleged in your charge. Rather, the Employer's agent testified that the Employer was considering returning to a prior practice of having all employees check in at its Brooklyn facility and that this change in practice had been under consideration since before the onset of the organizing campaign.

With respect to the allegation that the Employer created a rule prohibiting your access to their facility while allowing access to others, the evidence does not establish disparate treatment. The investigation revealed that the Employer has rules in place at their Bronx Housing facility restricting access to the residential building and requiring the doors remain locked and that even residents must have the permission of management before making any decorations to the building. There is no evidence that other groups or individuals have been permitted access to the building without consent of one of the tenants or that strangers to the premises are permitted to post items in the building. Accordingly, I do not find that the Employer violated the Act by removing the leaflets you posted in the building.

Inasmuch as the evidence does not establish that the Employer violated the Act as alleged or in any other manner encompassed by your charge I am dismissing your charge.

Your Right to Appeal: The National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing an appeal with the **GENERAL COUNSEL** of the National Labor Relations Board, Attn: Office of Appeals, Room 8820, 1099 14th Street, N.W., Washington, D.C. 20570-0001, and a copy with the **REGIONAL DIRECTOR**.

Use of the Appeal Form (Form NLRB-4767), will satisfy this requirement. You should also notify all other parties to your case and their representatives that an appeal is being filed. A copy of the Appeal Form is sufficient.

Appeal Due Date: The appeal must be received by the General Counsel in Washington, D.C. by the close of business at 5:00 p.m. EDT on July 14, 2006. If you mail the appeal, it will be considered timely filed if it is postmarked no later than one day before the due date set forth above. The appeal **MAY NOT** be filed by facsimile transmission or by using the Internet.

Extension of Time to File Appeal: Upon good cause shown, the General Counsel may grant you an extension of time to file the appeal. You may file a request for an extension of time to file by mail, facsimile transmission, or through the Internet. The fax number is (202) 273-4283. Special instructions for requesting an extension of time over the Internet are set forth in the attached Access Code Certificate. While an appeal will be accepted as timely filed if it is postmarked no later than one day prior to the appeal due date, this rule does not apply to requests for extensions of time. A request for an extension of time to file an appeal **must be received** on or before the original appeal due date. A request that is postmarked prior to the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed through the Internet, a copy of any request for extension of time should be sent to me.

Appeal Contents: You are also encouraged to submit a complete statement setting forth the facts and reasons upon which your appeal is based to the General Counsel and to the Regional Director. A copy of your statement need not be sent to other parties to your case.

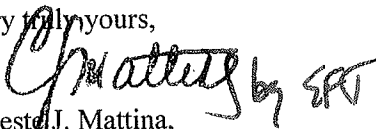
Confidentiality/Privilege: Please be advised that we cannot accept any limitations on the use of any appeal statement or evidence in support thereof provided to the Agency. Thus, any claim of

confidentiality or privilege cannot be honored, except as provided by the FOIA, 5 U.S.C. 552, and any appeal statement may be subject to discretionary disclosure to a party upon request during the processing of the appeal. In the event the appeal is sustained, any statement or material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. Further, we are required by the Federal Records Act to keep copies of documents used in our case handling for some period of years after a case closes. Accordingly, we may be required by the FOIA to disclose such records upon request, absent some applicable exemption such as those that protect confidential source, commercial/financial information or personal privacy interests (e.g., FOIA Exemptions 4, 6, 7(C) and 7(D), 5 U.S.C. § 552(b)(4), (6), (7)(C), and (7)(D)). Accordingly, we will not honor any requests to place limitations on our use of appeal statements or supporting evidence beyond those prescribed by the foregoing laws, regulations, and policies.

Address for Appeal: The appeal should be sent to the General Counsel of the National Labor Relations Board, Office of Appeals, 1099 14th Street, N.W., Washington, D.C. 20570. You should send a copy of the appeal to me.

Notice to Other Parties of Appeal: You should notify the other party(ies) to the case that an appeal has been filed. Therefore, at the time the appeal is sent to the General Counsel, please complete the enclosed Appeal Form and send one copy of the form to all parties and representatives whose names and addresses are set forth in this letter. If you have submitted a statement regarding your appeal, a copy of your statement need not be sent to other parties to your case. Mailing the Appeal Form to the parties does not relieve you from filing the Appeal Form itself with the General Counsel and sending a copy of the Appeal Form to me by the due date.

Very truly yours,


Celeste J. Mattina,
Regional Director

Enc.
cc:

National Labor Relations Board
Attn.: General Counsel
Office of Appeals,
1099 14th St., NW
Washington, DC 20571

Scott Gold, Esq.
Schulte, Roth & Zable, LLP
919 Third Avenue
New York, NY 10022

Association for Community Organization
For Reform Now
Attn: Peter Santiago, Director of Employment
597 East 139th Street
Bronx, NY 10454



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 2
26 Federal Plaza
New York, New York 10278-0104

May 9, 2006

Association of Community Organization
for Reform Now (ACORN)
Attn: W. Peter Santiago,
Director of Employment and Training
597 East 139th Street
Bronx, NY 10454

Re: Association of Community Organization for Reform Now
(ACORN)
Case No. 2-CA-37616

This is to inform you that an amended unfair labor practice charge has been filed in the above matter.

A copy of the amended charge is enclosed herewith.

The case has been assigned for investigation to the Board Agent named below. I would appreciate your cooperation in our investigation of this case by writing to this office immediately, stating your position with respect to the allegations of the amended charge, and reciting the facts as you know them.

Please submit all documents, records, memoranda, affidavits, etc., which support your position and statement of facts.

If you would like to discuss this matter before the case is processed further, please telephone the staff member assigned to the case. They will be glad to discuss the matter with you in an effort to dispose to whatever issues may be involved.

Please be advised that under the Freedom of Information Act, unfair labor practice charges and representation petitions are subject to prompt disclosure to members of the public upon request. In this regard, you may have received a solicitation by organizations or persons who have obtained public information concerning this matter and who seek to represent you before our Agency. You may be assured that no organization or person seeking your business has any "inside knowledge" or favored

relationship with the National Labor Relations Board; their information regarding this matter is only that which must be made available to any member of the public.

Very truly yours,

Celeste J. Mattina

Celeste J. Mattina
Regional Director

cc:

Negation of the Negation
Attn: Dakem R. R. Roberts,
Union Representative
1011 Woodycrest Avenue
Bronx, NY 10452

Scott Gold, Esq.
Schulte, Roth & Zable, LLP
919 Third Avenue
New York, NY 10022

Case Assigned To:
Christen Ritter

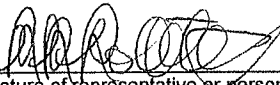
Telephone No.;
(212)264-0310
Christen.Ritter@nlrb.gov

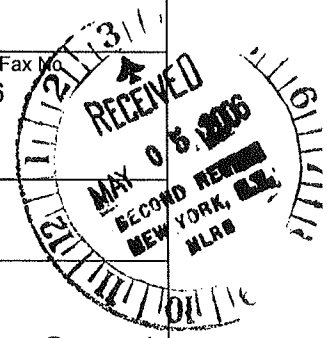
UNITED STATES OF AMERICA
 NATIONAL LABOR RELATIONS BOARD
AMENDED CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 2-CA-37616	Date Filed 5 5 06

INSTRUCTIONS

File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Association of Community Organizations for Reform Now (ACORN)	b. Number of workers employed Approx. 20
c. Address (street, city, state, ZIP code) 597 East 139th Street, Bronx, NY 10454	d. Employer Representative W. Peter Santiago, Dir. of employment and training
	e. Telephone No. & Fax No. (718) 292-0700 (Fax)(718) 292-8846
f. Type of Establishment (factory, mine, wholesaler, etc.) Community Based Organization	g. Identify principal product or service Social Welfare
h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a)(1) and (3) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)	
<p>On or around November 21, 2005, the above named employer, by its agents, officers and representatives demoted its employee Dakem Roberts because he sought to form a labor organization and because he engaged in protected concerted activities.</p> <p>On or around November 22, 2005, the above named employer, by its agents, officers and representatives, terminated its employee Dakem Roberts because he sought to form a labor organization and because he engaged in protected concerted activities.</p> <p>In December 2005, the above-named Employer, through Bertha Lewis, Executive Director, threatened to close the Bronx facility in order to dissuade employees from engaging in activities on behalf of the Negation of the Negation.</p> <p>In April 2006, the above-named Employer established a rule prohibiting access to Bronx ACORN facilities to Dakem Roberts without the consent of management although others are allowed access without consent from management, because of Roberts' activities on behalf of the Negation of the Negation.</p> <p>By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.</p>	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Negation of the Negation	
4a. Address (street and number, city, state and ZIP code) 1011 Woodycrest Avenue Bronx, NY 10452	4b. Telephone No. & Fax No. (646) 670-4066
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization).	
6. DECLARATION	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By  Signature of representative or person making charge Address Same as above	Dakem R.R. Roberts Telephone No. Same as above
	Title Provisional Secretary General of the Negation of the Negation Date May 5, 2006



WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

AFFIDAVIT OF SERVICE

Association of Community Organization
for Reform Now (ACORN)
Attn: W. Peter Santiago,
Director of Employment and Training
597 East 139th Street
Bronx, NY 10454

Re: Association of Community Organization for Reform Now
(ACORN)
Case No. 2-CA-37616

Christen Ritter

AMENDED
[X] CHARGE [] PETITION

I certify that I served the above-referenced letter this day by post paid regular mail on the addressee above together with a transmittal letter. This is a true copy.

Maureen E. Drake

Subscribed and sworn to before me

This 9th day of May 2006.

Designated Agent

Jenny Serio

Case Service Sheet

As of 4/20/2006

Case Number: 02-CA-37616-001

Case Name: Association of Community Organization for Reform Now (ACORN)

<u>Charged Party #1 Party:</u> Association of Community Organization for Reform Now (ACORN) 597 East 139th Street Bronx, NY 10454	<u>Point of Contact:</u> W. Peter Santiago, Director of Employment and Training Phone: (718)292-0070 Fax: (718)292-8846
<u>Charged Party #1 Legal Representative #1:</u> Levy, Ratner & Behroozi, P.C. 80 8th Avenue, 8th Floor New York, NY 10011	<u>Point of Contact:</u> Pamela Jeffrey Esq. Phone: (212)627-8100 Ext: 237 Fax: (212)627-8182
<u>Charging Party #1 Party:</u> Negation of the Negation 1011 Woodycrest Avenue Bronx, NY 10452	<u>Point of Contact:</u> Dakem R. R. Roberts, Union Representative Phone: (646)670-4066 Fax: (514)509-3372

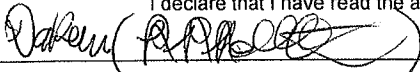
UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
2-CA-37616	4/19/06

I.O.

INSTRUCTIONS

File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
Name of Employer Association of Community Organization for Reform Now (ACORN)	b. Number of workers employed Approx. 20
c. Address (street, city, state, ZIP code) 597 East 139 th Street, Bronx, NY 10454	d. Employer Representative W. Peter Santiago, Dir. of Employment and Training
	e. telephone (718) 292-0070 Fax No. (718) 292-8846
f. Type of Establishment (factory, mine, wholesaler, etc.) Community Based Organization	g. Identify principal product or service Social Welfare
h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)	
<p>On or about November 21, 2005, the above-named Employer, by its officers, agents and representatives, demoted its employee Dakem Roberts because he sought to form a labor organization and because he engaged in protected concerted activities.</p> <p>On or about November 22, 2005, the above-named Employer, by its officers, agents and representatives, terminated its employee Dakem Roberts because he sought to form a labor organization and because he engaged in protected concerted activities.</p> <p>In December 2005, the above-named Employer, through Bertha Lewis, Executive Director, threatened to close the Bronx facility in order to dissuade employees from engaging in activities on behalf of the Negation of the Negation.</p> <p>By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.</p>	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Negation of the Negation	
4a. Address (street and number, city, state and ZIP code) 1011 Woodycrest Avenue Bronx, NY 10452	4b. Telephone No. (646) 670-4066
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization.)	
6. DECLARATION	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By  Signature of representative or person making charge	Title: Union Representative
Dakem R.R. Roberts	
Address Same as above	Telephone No. same
	Date April 19, 2006

RECEIVED
 NLRB
 NEW YORK NY
 APR 19 PM 4:41
 MEMORIAL 2

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT
(U.S. CODE, TITLE 18, SECTION 1001)



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 2
26 Federal Plaza – Room 3614
New York, New York 10278-0104

April 21, 2006

Negation of the Negation
Attn.: Dakem R. R. Roberts,
Union Representative
1011 Woodycrest Avenue
Bronx, NY 10452

Re.: Association of Community Organization for
Reform Now (ACORN)
Case No.: 2-CA-37616

Dear Mr. Roberts:

This will acknowledge receipt of the above-captioned unfair labor practice charge filed by you.

The case has been assigned for investigation to the Board Agent named below.

If you have not already done so, it is necessary that, by return mail, you send to the Agent a statement outlining the basis for your charge, including therein the dates of events involved in the case, the names of persons who can testify in support of the allegations made in the charge, together with any documents or material available to you which has a bearing on the case, such as correspondence, contracts, records, etc. If possible, you should also submit the addresses and telephone numbers of the persons who you think can testify in support of the charge.

In the event you fail to submit your evidence in support of your charge, it will be subject to dismissal without further investigation.

Please be advised that under the Freedom of Information Act, unfair labor practice charges and representation petitions are subject to prompt disclosure to members of the public upon request. In this regard, you may have received a

solicitation by organizations or persons who have obtained public information concerning this matter and who seek to represent you before our Agency. You may be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board; their information regarding this matter is only that which must be made available to any member of the public.

Very truly yours,
Celeste J. Mattina
Celeste J. Mattina
Regional Director

Case Assigned To:
Christen Ritter
Christen.Ritter@nlrb.gov

Tel. No.
(212)264-0310



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 2
26 Federal Plaza – Room 3614
New York, New York 10278-0104

April 21, 2006

Association of Community Organization
for Reform Now (ACORN)
Attn.: W. Peter Santiago,
Director of Employment and Training
597 East 139th Street
Bronx, NY 10454

Re.: Association of Community Organization for
Reform Now (ACORN)
Case No.: 2-CA-37616

Dear Mr. Santiago:

A charge has been filed with this office alleging that you have engaged in and are engaging in unfair labor practices within the meaning of Section 8 of the National Labor Relations Act, as amended. A copy of the charge is herewith served upon you. Also enclosed is a copy of Form NLRB-454I, pertaining to our investigative and voluntary adjustment procedures.

Attention is called to your right, and the right of any party, to be represented by counsel or other representative in any proceeding before the National Labor Relations Board and the courts. In the event you choose to have a representative appear on your behalf, please have your representative complete "Notice of Appearance" Form NLRB-470I and forward it promptly to this office.

Also, please complete and return one copy of the enclosed questionnaire regarding commerce information (Form NLRB-5081).

You are requested to submit promptly a complete written account of the facts and a statement of your position with respect to the allegations set forth in the

charge.¹ All communications and submissions should be made to the Board Agent named below. Also, please complete and return one copy of the enclosed questionnaire regarding commerce information (Form NLRB-5081).

This case has been assigned to the Board Agent shown below. When the Board Agent solicits relevant evidence from you or your counsel, I request and strongly urge you or your counsel to promptly present to the Board Agent any and all evidence relevant to the investigation. A refusal to fully cooperate during an investigation might cause a case to be litigated unnecessarily. Full and complete cooperation includes, where relevant, timely providing all material witnesses under your control to the Board Agent. The submission of a position letter or memorandum, or the submission of affidavits not taken by a Board Agent does not constitute full and complete cooperation.

Your cooperation with this office is invited so that all the facts of the case may be considered. If you would like to discuss this matter before the case is processed further, please telephone the staff member assigned to the case. The Board Agent will be glad to discuss the matter with you in an effort to dispose of whatever issues may be involved.

Further, please be advised that we cannot accept any limitations on the use of any evidence or position statements that are provided to the Agency. Thus any claim of confidentiality cannot be honored except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. In this regard, we are required by the Federal Records Act to keep copies of documents used in furtherance of our investigation for some period of years after a case closes. Further, we may be required by the Freedom of Information Act to disclose such records upon request, absent some applicable exemption such as those that protect confidential financial information or personal privacy interests (e.g., Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4)). Accordingly, we will not honor any request to place limitations on our use of position statements or evidence, beyond those prescribed by the foregoing laws, regulations and policies.

Please be advised that under the Freedom of Information Act, unfair labor practice charges and representation petitions are subject to prompt disclosure to members of the public upon request. In this regard, you may have received a solicitation by organizations or persons who have obtained public information concerning this matter and who seek to represent you before our Agency. You may be assured that no organization or person seeking your business has any

¹ PLEASE STATE THE CASE NAME AND NUMBER ON ALL CORRESPONDENCE.

"inside knowledge" or favored relationship with the National Labor Relations Board. Their information regarding this matter is only that which must be made available to any member of the public.

Customer service standards concerning the processing of unfair labor practice cases have been published by the Agency and are available upon request from the Regional Office. Your cooperation in this matter is invited so that all facts of the case may be considered.

Very truly yours,

Celeste J. Mattina

Celeste J. Mattina
Regional Director

cc:

Pamela Jeffrey, Esq.
Levy, Ratner & Behroozi, P.C.
80 8th Avenue, 8th Floor
New York, NY 10011

Case Assigned To:
Christen Ritter
Christen.Ritter@nlrb.gov

Tel. No.
(212)264-0310

AFFIDAVIT OF SERVICE

Association of Community Organization
for Reform Now (ACORN)
Attn.: W. Peter Santiago,
Director of Employment and Training
597 East 139th Street
Bronx, NY 10454

Re.: Association of Community Organization for
Reform Now (ACORN)
Case No.: 2-CA-37616

Christen Ritter

CHARGE PETITION

I certified that I served the above-referenced letter this day by post paid regular mail on the addressee above together with a transmittal letter. This is a true copy.

Subscribed and sworn to by me

Wanda G. Oratkey

This 21st day of April 2006

Paula J. Gómez
Designated Agent

1 up to 30. You know, it will vary over time. Sometimes we had a
2 lot of people reporting into them.

3 BY MS. JEFFREY:

4 Q Okay. What was the question I just asked? Oh --

5 A About plans.

6 Q Right.

7 A We're -- in the summer of this year --

8 HEARING OFFICER: This past summer?

9 A The summer time we began to have discussions about going
10 back to the same procedure that we'd done before in 2004 in
11 moving folks around to have in 2006 starting in January that we
12 would do the same thing we did in 2004 to have everybody report
13 into the central office again, be deployed and then have other
14 cites where people could make phone calls at night.

15 Q Okay. So do you have any specific plans at this point for
16 what's going to happen with the Bronx facility come January?

17 A January 2006, everybody that works, whether they're in
18 Queens or in the Bronx or anywhere, will all report into the
19 central office.

20 MR. ROBERTS: I have to object.

21 What does this have to do with community interest?

HEARING OFFICER: It is relevant.

MR. ROBERTS: It's not relevant.

HEARING OFFICER: I'll let it in for what it's worth.

MR. ROBERTS: Excuse me, excuse me, excuse me.

Negation of the Negation



Toward Social Justice in the Workplace

Notice

To: ACORN Management

TAKE NOTICE, the Secretariat of the Negation has preferred Unfair Labor

Practice charges against ACORN Management. These charges are based on the denial of the right of workers to free association and self-organization. These charges not only violate state and national law but, as well, international and human rights laws and covenants. These violations are intolerable and require direct action to remedy.

TAKE FURTHER NOTICE, to avoid a direct action campaign

ACORN Management must agree to bargain collectively with worker's representatives immediately. Such is our ruling; such is negationist law.

Provisional Secretary General Dakem
Negation of the Negation
April 19, 2006

Negation of the Negation



Toward Social Justice in the Workplace

Notice

Distributed
April 10
in Brooklyn
Posted April 19
in Bronx Res.

Workers of ACORN, Please Take Notice, on March 27, 2006, the National Labor Relations Board (NLRB) denied the petition of those Bronx Organizers that sought a representative election for unionization. The NLRB relied solely on the testimony of ACORN management led by Bertha Lewis, Peter Santiago, and Greg Basta. Their testimony was nothing more than lies and misrepresentations of the facts. This behavior is intolerable and reprehensible. The decision by the Board, coupled with ACORN management's refusal to meet or bargain with worker's representatives has pushed the struggle for workers rights to a new level.

Effective Immediately, the Secretariat of the Negation in collaboration with the Bronx ACORN Workers Committee shall initiate a direct action campaign. We shall call on Bronx ACORN members to pull funding, in a primary boycott, against the unfair labor practices of ACORN management; we shall call on members to picket the Bronx ACORN office; we shall initiate work actions in the Bronx. The rights of workers shall not be denied. The Bronx Workers of ACORN have taken the lead in the struggle for worker's rights. We call on all ACORN workers to support the legitimate struggle of workers to bargain with management.

Where there is repression, injustice, or exploitation – there must be a Negation!!!

Join the struggle for worker's rights!!!

DO NOT WRITE IN THIS SPACE	
Case 2-CB-20719	Date Filed 4/28/06

INSTRUCTIONS: File an original and 4 copies of this charge and an additional copy for each organization, each local, and each individual named in item 1 with the NLRB Regional Director of the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name Negation of the Negation		b. Union Representative to contact R. R. Roberts (Dakem)	
c. Telephone No. (646) 401-1909		d. Address (street, city, state and ZIP code) 1011 Woodycrest Avenue, #2 Bronx, New York 10452	
e. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (list subsections) <u>(1) (A)</u> of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.			

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)


Please see the attached rider, which is entitled "Statement of the Facts Constituting the Alleged Unfair Labor Practices of the Negation of the Negation."

RECEIVED
NLRB
REGION 2
NEW YORK, NY
2006 APR 28 PM 1:05

3. Name of Employer Association of Community Organizations for Reform Now (ACORN)		4. Telephone No. (718) 246-7900	
5. Location of plant involved (street, city, state and ZIP code) 597 East 139th Street; Bronx, New York 10454		6. Employer representative to contact Scott A. Gold, Esq. Schulte Roth & Zabel LLP 919 Third Avenue; New York, New York 10022 (212) 756-2051	
7. Type of establishment (factory, mine, wholesaler, etc.) Non-profit, community-based membership organization	8. Identify principal product or service Campaigning and organizing	9. Number of workers employed Approximately 110 employees	
10. Full name of party filing charge NY ACORN		12. Telephone No. (718) 246-7900	
11. Address of party filing charge (street, city, state and ZIP code) 2-4 Nevins Street; Brooklyn, New York 11217			

13. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By <u></u> (signature of representative or person making charge)	_____ Attorney (title or office, if any)
Address <u>919 Third Avenue, New York, New York 10022</u>	<u>4/27/06</u> (date)
<u>(212) 756-2051</u> (Telephone No.)	

RIDER

Statement of the Facts Constituting the Alleged Unfair Labor Practices of the Negation of the Negation

On March 27, 2006, in Case No. 2-RC-23050, the Regional Director, Region 2 of the National Labor Relations Board ("NLRB") denied the petition of the Negation of the Negation for an election in a unit consisting of all full-time and regular part-time organizers and canvassers employed by the Association of Community Organizations for Reform Now (ACORN) at its facility located at 597 East 139th Street, Bronx, New York.

On or about April 10, 2006, in reaction to the NLRB's decision, R. R. Roberts (Dakem), the Provisional Secretary General of the Negation of the Negation, handed out flyers at ACORN's office located at 2-4 Nevins Street, Brooklyn, New York 11217, criticizing the Regional Director's decision and calling on ACORN members "to pull funding, in a primary boycott, against . . . ACORN management," "to picket the Bronx ACORN office," to "initiate work actions in the Bronx," and to "support the legitimate struggle of workers to bargain with management."

On April 19, 2006:

- Mr. Roberts's request for review of the Regional Director's decision denying the petition of the Negation of the Negation for an election was rejected by the NLRB's Office of the Executive Secretary;
- Judge Ira Harkavy of the New York State Supreme Court, Kings County, dismissed Mr. Roberts's claims of discrimination for requesting recognition of a labor association and wrongful termination for engaging in protected concerted activity; and
- Mr. Roberts entered the Bronx facility without permission and hung up flyers regarding the Negation of the Negation.

On April 20, 2006, a notice directed to "ACORN Management" was posted on the front door of the Bronx facility threatening ACORN by asserting that "to avoid a direct action campaign ACORN Management must agree to bargain collectively with worker's representatives immediately." Also on April 20, 2006, the door of the Bronx facility of ACORN was sprayed with paint gun pellets. Upon information and belief, Mr. Roberts was involved in this unlawful defacing of ACORN property.

By these actions, the above-named labor organization, by its agents, has violated Sections 8(b)(1), 8(b)(4)(ii) and 8(b)(7) of the National Labor Relations Act because it has (i) threatened, coerced or restrained ACORN and other persons engaged in commerce or in an industry affecting commerce, where the object is forcing or requiring any person to cease doing business with ACORN; and (ii) threatened to picket or cause to be picketed ACORN, where an object thereof is forcing or requiring ACORN to recognize or bargain with the Negation of the Negation as the representative of ACORN employees.

MOTT HAVEN ACORN, HDFC BUILDING HOUSE RULES

These rules have been established so that all residents at 587 & 597 can live together, have peaceful enjoyment of their homes and work together to take care of their building. They are based on the principles that all residents should respect one another and share responsibility.

1. The public halls and stairways shall not be obstructed in any way.
2. Children shall not play in the public halls or stairways.
3. The public halls and common areas are for the use and enjoyment of all the residents. Therefore, the use of common areas for anything other than coming and going, shall require the approval of the owner through the management. Also, no resident shall paint or decorate these areas or make any other changes or improvement to these areas without the prior consent of the owner through the management.
4. No resident shall make or permit any disturbing noises in the building or do or permit anything to be done which will interfere with the rights, comfort or convenience of other residents. No resident shall play or allow to be played any musical instrument or loud speaker in the building between the hours of 11:00 p.m. and 8:00 a.m., if this noise will disturb or annoy other occupants of the building. Anyone wishing to have a party that will continue later than 11:00 p.m. shall advise the other residents at least one week in advance.
5. Garbage and recycling items from the apartments shall be disposed of only at such times and in such manner required by the Department of Sanitation.
6. In no event shall dogs be permitted to stay in any of the public portions of the building including the basement. Dogs will be kept on a leash when entering and exiting the building. Residents must clean up after their dogs.
7. No resident shall light any barbecue, grill, or other fire anywhere in the building including the roof, stairwells and fire escapes.
8. All doors to the building should be kept locked at all times including the roof door.
9. Residents are responsible for the actions of their guests at all times.
10. For safety reasons and to protect the roof from damage, no one is allowed on the roof at any time, except to carry out legitimate maintenance.
11. No illegal activity may be carried out in any part of the building, which includes in the back or in front of the building by any resident or guest of any resident. Participation in any illegal activity is grounds for immediate eviction.
12. Damages caused by the residents, their family members or friends will be paid for by the resident.