



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 32

**1301 Clay Street, Suite 300N
Oakland, CA 94612-5211**

**Telephone: (510) 637-3300
Fax: (510) 637-3315**

July 29, 2009

Tegan Millspaw, Judicial Watch
501 School Street, SW, Suite 725
Washington, DC 20024

RE: FOIA Request ID: 32-2009-0142

Dear Ms. Millspaw:

This will acknowledge receipt of your facsimile transmission dated July 21, 2009, pursuant to the Freedom of Information Act (FOIA), in which you seek the following:

All documents, case files, and complaints concerning possible misconduct and/or violations committed by the Association of Community Organizations for Reform Now (ACORN), from January 2000 to the present.

Our records indicate that the only charge filed against ACORN in this Region during the specified period was in Case 32-CA-18931. Please note that case files closed in 2003 and earlier have been destroyed by the Federal Records Center pursuant to this Agency's file retention policy. Under this policy, case files are retained for a five (5) 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. Case 32-CA-18931 was closed in 2002 and the case file was not permanently retained. Accordingly, except for a copy of unfair labor practice charge that we kept in our Regional office, which is being provided to you, there are no other documents maintained by this Agency that are responsive to your FOIA request.

Inasmuch as the search, review and duplication costs did not exceed the minimum amounts established by the Agency, there will be no charge for complying with your request.

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 (ET) on August 26, 2009. Any appeal should contain a complete statement of the reasons upon which it is based.

Very truly yours,

William A. Baudler

William A. Baudler (SU)
Acting Regional Director

Enclosure(s)

UNIT OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

| DO NOT WRITE IN THIS SPACE | |
|----------------------------|-------------------------|
| Case 32-CA-18931-1 | Date Filed 6-12-2001 |

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 San Jose ACORN (Association of Community Organizations for Reform Now) | b. Number of Workers Employed less than 2 currently? | |
| c. Address (street, city, State, ZIP, Code) 1187 East Santa Clara St. San Jose 95116 | d. Employer Representative John Eller | e. Telephone No. (408) 729-8860 Fax No. (408) 729-8861 |
| f. Type of Establishment (factory, mine, wholesaler, etc.) Non-profit organization | g. Identify Principal Product or Service community organization | |
| 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 (1st subsections) 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.)

During their employment at San Jose ACORN employees Lyn Rose (AKA Ossie Lyn Sumler Rose), Julie Martinez, and Ellena Berman were intimidated from forming a union by the above employer, John Eller, San Jose ACORN manager. On Friday, April 6 Eller knew that workers had talked to IWW organizers and been given literature. He then questioned Lyn Rose and Julie Martinez about contact and meeting with IWW organizers, telling them, "stay away from them (IWW)."

On Friday, March 23 an ACORN employee from the Oakland office told Lyn Rose he had not received his first paycheck, Lyn Rose suggested he should "call the IWW." Hearing about this statement, employer John Eller called Lyn Rose into his office and told her she was not allowed to mention IWW, to stay away from the IWW, and not to tell any other employees about the IWW.

On different occasions, employer John Eller made untrue statements that intimidated the workers from discussing forming a union or contacting IWW organizers such as, "their liars," ... "their crazy," ... "all they want to do is dig up ACORN's money."

COPY SENT NLRB

Date _____ By _____

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.

| | |
|--|--|
| 3. Full name of party filing charge (if labor organization, give full name, including local name and number) Adam Welch, San Jose Delegate, Industrial Workers of the World East Bay Branch | |
| 4a. Address (street and number, city, State, and ZIP Code) 1155 Lockhaven Way San Jose, CA 95129 | 4b. Telephone No. (908) 973-1031 Fax No. |
| 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) Industrial Workers of the World | |

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 Adam Welch San Jose Delegate
(Signature of representative or person making charge) (Title, if any)

Address 1155 Lockhaven Way San Jose, CA 95129 Fax No. (908) 973-1031 6/5/01
(Telephone No.) Date

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