

MUR 5820

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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

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

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FAX COVER

DATE: 13 October 2006

FAX NUMBER: (b) (2)

To: Jeff S. Jordan

From: Beth Kingsley

Re: ACORN

Number of Pages

Fax Cover	1
Document	1
TOTAL	2

HARMON, CURRAN, SPIELBERG & WEISENBERG, LLP

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

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October 12, 2006

Jeff S. Jordan
Supervisory Attorney
Complaints Examination and Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

2006 OCT 13 P 4: 33
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COUNSEL

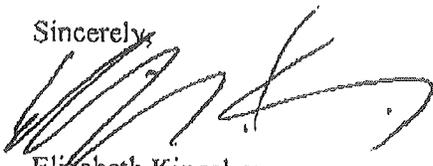
Dear Mr. Jordan:

To follow up on a telephone conversation with Ms. DeJarnett-Miller, on behalf of my clients Association of Community Organizations for Reform Now ("ACORN") and Project Vote, I am writing to request a 30-day extension of time to respond to the complaint in MUR 5820. The allegations in this complaint and its voluminous attachments are numerous and complex, and we require the time to prepare a thorough response so that your office can have complete and accurate information to assess the matter.

Both organizations received notice of this complaint on Monday, October 2. The 15-day response deadline would therefore be October 17. With this additional 30 days, I understand we would have to provide a response by November 16.

Please confirm if this is acceptable. I can be reached by phone at 202-328-3500, or by e-mail bkingsley@harmoncurran.com.

Sincerely,



Elizabeth Kingsley

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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

OFFICE OF GENERAL COUNSEL (202) 328-3500 (202) 328-6918 fax

2006 NOV 24 A 9:13

November 17, 2006

Lawrence Norton, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

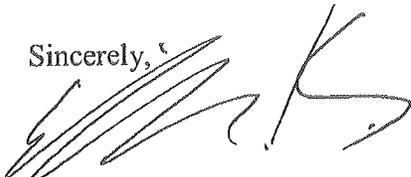
**Re: MUR 5820
Association of Community Organizations for Reform Now and Project
Vote/Voting for America**

Dear Mr. Norton:

Enclosed please find the signed Declaration of Robert Lelievre. We intended for this Declaration to be included in Association of Community Organizations for Reform Now and Project Vote/Voting for America's response to the complaint filed in MUR 5820. Unfortunately, we received it after filing the response on November 16, 2006. Thus, we request that this document be added to the response and duly considered in the Federal Election Commission's review of MUR 5820.

Please contact me if you have any questions or concerns. I can be reached at (202) 328-3500.

Sincerely,



Elizabeth Kingsley

Declaration of Robert Lelievre

I, Robert Lelievre, being of legal age and sound mind, do hereby depose and state as follows:

1. My company, Lelievre Information Services, developed the computer application that generated the walk lists used by ACORN in Florida in 2004.
2. I used voter data provided by the State of Florida as the basis of the information used in the walk lists.
3. I used the whole list and did not screen out any voters based on party affiliation.
4. ACORN specifically asked me to exclude party information fields from information that would be printed on the walk list.
5. I specifically turned on the mask on the field that contained party identification on the walk list. The walk list used by ACORN did not contain any party identification information.
6. Without that information, people using the lists generated by my application would not have been able to identify whether a person on the list was in a party or, if they were, which party.
7. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.



Robert Lelievre

11/14/2006

Date

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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FAX COVER

DATE: October 10, 2006

Fax # (b) (2)

Number of Pages

Cover	1
Text	2
TOTAL	3

To: Jeff S. Jordan
 Alva DeJarnett-Miller

From: Beth Kingsley

Re: Statement of Designation of Attorney

FEDERAL ELECTION COMMISSION
 OFFICE OF GENERAL COUNSEL
 2006 OCT 10 P 4: 21

FROM : SEIU LOCAL 50 Spfd MO.
10/10/2006 08:27 FAX NO. : 417-865-9254

FAX NO. : 417-865-9254
HARMON CURRAN SPIELB
FAX NO. 2049494119

Oct. 09 2006 02:05PM P1
PAGE 02/03
K. WJ



FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20488

1 2006 OCT 10 P 4: 21
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Client
FAX (202) 219-3923

MUR # 5820

NAME OF COUNSEL: Elizabeth Kingsley
FIRM: Harmon, Curran, Spielberg & Eisenberg LLP
ADDRESS: 1726 M Street NW Suite 6000

Washington DC 20036
TELEPHONE- OFFICE (202) 328-3500
FAX (202) 328-6918

The above-named individual and/or firm is hereby designated as my
counsel and is authorized to receive any notifications and other communications
from the Commission and to act on my behalf before the Commission.

10/7/06 Maura Hain President
Date Respondent/Client Signature Title

RESPONDENT/CLIENT Association of Community Org. For Producers Now
(Please Print)

MAILING ADDRESS: 1024 Elysian Fields
New Orleans, LA 70117

TELEPHONE- HOME (b) (6)
BUSINESS 504, 943 5954

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(1)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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DATE: **October 10, 2006**

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To: Jeff S. Jordan
 Alva DeJarnett-Miller

From: Beth Kingsley

Rc: Statement of Designation of Attorney

MUR 5820

FEDERAL BUREAU OF INVESTIGATION
 OFFICE OF GENERAL COUNSEL
 OCT 10 P 4: 21

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15TH STREET

P.04

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15TH STREET

P.03

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HARMON CURRAN SPIELB
FAX NO. 5099484713

PAGE 03/01
P. 02



FEDERAL ELECTION COMMISSION

600 E Street, NW
Washington, DC 20468

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Client.
FAX (202) 618-6923

NUR # 57800

NAME OF COUNSEL: Elizabeth Kingsley

FIRM: HARMON, CURRAN, SPETHBERG & EISENBERG LLP

ADDRESS: 1726 M St. NW Suite 600

Washington, DC 20036

TELEPHONE - OFFICE (202) 328-3500

FAX (202) 328-6918

The above-named individual and/or firm is hereby designated as my
counsel and is authorized to receive any notifications and other communications
from the Commission and to act on my behalf before the Commission.

10-10-06 K. Maria Ireland President
Date Respondent/Client Signature Title

RESPONDENT/CLIENT: Project Vote
(Please Print)

MAILING ADDRESS: 2101 S. Main St.
Little Rock, AR 72206

TELEPHONE - HOME () _____

BUSINESS () _____

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 5 U.S.C. § 447e(b)(1)(3)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

MUR 5820

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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To: Jeff S. Jordan

From: Beth Kingsley

Re: ACORN

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HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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

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

November 16, 2006

Lawrence Norton, Esq.
Office of the General Counsel
Federal Election Commission
999 E. Street, NW
Washington, DC 20463

Re: MUR 5820
Association of Community Organizations for Reform Now and
Project Vote/Voting for America

Dear Mr. Norton:

This letter responds to the complaint designated MUR 5820 on behalf of the Association of Community Organizations for Reform Now ("ACORN") and Project Vote/Voting for America ("Project Vote") (collectively, "Respondents").

The complaint not only fails to set forth "a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction," 11 CFR § 111.4(d)(4), it is riddled with legal and factual errors and omissions. The complainant fails to disclose, for instance, that some of the claims it repeats in order to allegedly demonstrate illegal partisan favoritism by Respondents have been found by a court to be false and defamatory. He does not mention that one of the key documents relied on to demonstrate the alleged "connection" to a federal election (Complaint Tab 1) was only a draft, a fact discernable by reading the depositions the complainant himself submitted. He does not see fit to point out that another key document (Complaint Tab 3) has already been the basis for a complaint filed with this Commission and dismissed with a finding of no reason to believe. In short, this complaint is an attempt to recycle previously discredited documents and defamatory claims, to get not only a second but a third bite at the apple by resurrecting charges that have already been investigated and dismissed.

Although the complaint alleges that Respondents have engaged in activities in connection with a federal election, it does not point to a single public communication that so much as referred to a federal candidate or party. It provides no factual basis to suggest that either Respondent had made a regulated expenditure, other than the defamatory statement of a disgruntled former employee. We therefore urge the Commission to find no reason to

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HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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Page 2

believe that either Respondent has violated the Federal Election Campaign Act of 1971, as amended (FECA) and dismiss the complaint.

I. RESPONDENTS AND THEIR ACTIVITIES

A. Description of Respondents

ACORN is the nation's largest community organization of low- and moderate-income families, working together for social justice and stronger communities. It is a nonprofit membership corporation organized under the laws of the state of Arkansas. ACORN has grown to more than 220,000 member families, organized in 850 neighborhood chapters in over 100 cities across the U.S. and in cities in Canada, the Dominican Republic and Peru. ACORN's accomplishments include successful campaigns for better housing, schools, neighborhood safety, health care, job conditions, and more. Increasing civic involvement and political participation among residents of low income and minority communities is a core component of ACORN's mission. Increasing voter registration and turnout in these communities is an end in and of itself for the organization because it strengthens their voice when organizing for change.

Project Vote is a leading technical assistance and direct service provider to the civic participation community. It is a nonprofit corporation organized under the laws of the state of Louisiana and exempt from federal income tax under Internal Revenue Code section 501(c)(3). Project Vote provides professional training, management, evaluation and technical services on a broad continuum of key issues related to nonpartisan voter engagement and participation in low-income and minority communities.

The complaint inaccurately refers to Project Vote as ACORN's "affiliated entity." The organizations do not describe themselves that way; they are allied organizations that frequently work closely together on specific projects. ACORN is governed by a seventy-seven person Board of Directors that reflects leadership elected from the neighborhood level up. The Board includes two representatives from each state with local ACORN groups, plus the President of the Association. Project Vote is governed by a five person Board of Directors, of whom one also sits on the ACORN Board. The governing documents of the two organizations do not create any corporate affiliation. That is, the members and board of one corporation have no authority to appoint or approve the members or board of the other. To the extent there is any overlap on the boards or among the officers of the corporations, it is a result of mere happenstance, not the exercise of corporate authority by one organization over an affiliate.

It is certainly true that neither ACORN nor Project Vote has registered or filed any report with the Commission. Neither accepts contributions nor makes expenditures as those terms are defined under the FECA, nor does either make electioneering communications. All public communications by both Respondents comply with applicable Federal Election Commission regulations on corporate activity (as discussed in greater detail below).

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Hence, as a matter of law neither has any obligation to register with or report any funds received or disbursed to the Commission.

B. Respondents' Activities in 2004

Both Respondents engaged in a variety of election-related activities in 2004. Below we will respond to specific allegations raised in the complaint, but to provide context it may be useful to begin with an overview of the actual activities of each organization.

Project Vote provided funding, technical support, and oversight to a number of different organizations engaged in wholly nonpartisan voter registration and get-out-the-vote efforts in 2004. In Florida, the jurisdiction that is the focus of most of the complaint, Project Vote provided funding support for ACORN to carry out these activities. It also provided staff to supervise the use of that funding to ensure that all activities complied with its requirement that they be entirely nonpartisan -- that is, that the voter registration and get-out-the-vote services and communications be provided to all without reference to known party or candidate preference, and that they not encourage support for a given candidate or party.

In addition to carrying out the nonpartisan voter registration and mobilization activities funded by Project Vote, ACORN participated actively in an effort to pass an amendment to the Florida state constitution¹ that would raise the minimum wage in the state by one dollar per hour and require future adjustments to keep pace with inflation. This effort involved bringing together a coalition of supportive organizations, gathering signatures to qualify the initiative for the ballot, educating the public about its merits, encouraging voters to support the measure, and turning those supporters out to the polls. A large portion of this activity is regulated by the state, and therefore ACORN and its coalition allies formed a state ballot measure committee, Floridians for All, to carry out those regulated activities. ACORN provided significant financial support to this committee, contributions which were duly reported to the state, as required.

The initiative was successful, garnering 71% of the vote. As a result, Florida's minimum wage was \$6.40 per hour as of January 1, 2006.

II. RESPONSE TO FACTUAL ALLEGATIONS

A. Florida 2004

1. The document at Tab 1 of the complaint was an internal first draft that was rejected and revised.

¹ Florida state law does not provide a process to enact law by ballot initiative other than through constitutional amendment. As a result, Florida citizens unable to obtain favorable action from the Florida legislature frequently use the constitutional amendment process to bring policy issues before the citizens of the state.

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The document on which the complainant bases most of his complaint (Complaint Tab 1, "Floridians for All Campaign Plan"), was an internal draft. The depositions provided by the complainant include the description of this document as "an early draft." As demonstrated by the declarations of Brian Kettenring (Attachment 1) and Steve Kest (Attachment 2), it was drafted by an employee (Mr. Kettenring) who did not have authority to adopt or implement such a plan. After this employee's supervisor (Mr. Kest) reviewed the plan, he instructed the employee to revise it substantially. As indicated by Mr. Kettenring's declaration, the draft attached to the complaint was assigned to a staff person for revision. That person subsequently left ACORN staff, apparently taking the unimplemented draft with him.

Despite rejecting Mr. Kettenring's first draft, the organization decided to pursue a ballot initiative to raise the minimum wage in Florida. ACORN has a long and continuing history of advocating on behalf of low-income workers, and specifically of working to secure an increase in the minimum wage. The ultimate contours of the resulting Florida campaign are reflected in Exhibits A, B, and C to Mr. Kettenring's declaration.

The draft document was never circulated outside the organization, and it does not represent a plan that was implemented by the organization. A communication that is publicly distributed only because an unauthorized person wrongfully obtains internal draft documents and disseminates them without ACORN's knowledge or consent cannot be attributed to ACORN.² This document demonstrates at most the subjective intent of a single ACORN employee. It would be novel indeed to suggest that the mere fact that a single person in the organization was explicitly aware of the potential indirect partisan result of a state ballot measure campaign might trigger federal political committee status or turn the costs of advocacy around that state ballot measure into a federal expenditure. As discussed below in the Legal Analysis, absent evidence that an organization has made public communications that expressly advocate the election or defeat of one or more clearly identified federal candidates³ or coordinated its electoral activities with a federal candidate or political party, there is no basis for the FEC to regulate efforts to amend a state constitution by ballot initiative. Ballot measure advocacy is properly regulated by the states.

2. The "Victory 2004 Florida Coordinated Plan" has already been the subject of an FEC complaint and adjudged not to constitute reason to believe the named organizations illegally coordinated activities with the Democratic Party.

² It appears that Mr. Iglesias may have received his copy of this document from the former employee. Although the draft was produced in discovery during the Mac Stuart litigation as an exhibit to a deposition, that copy was marked as an exhibit, unlike the copy filed with this complaint. (See Attachment 4.)

³ In this case, there is not even any evidence that any public communications by ACORN or Project Vote so much as referred to a clearly identified candidate, much less included express advocacy.

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The complaint introduces a document titled, "Victory 2004 Florida Coordinated Plan." Although not entirely clear on this point, the complaint seems to suggest that ACORN's work in support of the minimum wage initiative was coordinated with organizations who were also coordinating activities with the Democratic National Committee, the Florida Democratic Party, and the Kerry-Edwards campaign, and *ergo* the ballot measure work must be considered an in-kind contribution to the party or campaign. Unfortunately, the complaint fails to mention that this very document has already been considered by the Commission in MUR 5586. In January of this year the Commission dismissed that matter, finding no reason to believe that the document was sufficient to demonstrate a violation. The complaint named four organizations that were not parties or candidates -- Academy of Florida Trial Lawyers, Florida Education Association, Service Employees International Union, and Florida AFL-CIO. Declarations filed in that matter and the Commission's own General Counsel's Report indicate that two of the organizations never saw the document until it was provided to them with the complaint in the matter; one of them saw it in August but did not sign it, respond to it, or distribute it to others; one of them received it, signed it, but took no further action. The responses to that MUR and their accompanying affidavits and declarations are attached to this response as Attachment 5, for convenience of reference. These documents compellingly demonstrate that the "Victory 2004" was never implemented and cannot serve as a basis to conclude that the named organizations were coordinating their electoral efforts with any party or candidate.

In addition, while all four of those organizations supported Amendment 5, the Florida minimum wage initiative, the individuals named in the "Victory 2004" document as participating in coordinated activities did not. (See Attachment 1, declaration of Brian Kettenring, affirming that the individuals who signed onto the coordinated campaign were not the ones who participated in the initiative work on behalf of their organizations.) Get out the vote efforts conducted by ACORN were not targeted based on partisan affiliation. (See Attachment 1, Kettenring declaration, para. 12.) There is thus no evidence that the organizations served or even could have served as vehicles for coordination of state ballot measure advocacy or the associated get-out-the-vote efforts, and neither Respondent engaged in any conduct that would have allowed its communications to be treated as coordinated and therefore in-kind contributions under the standards discussed below in Part IV, Legal Analysis.

3. All work in furtherance of the ballot measure was conducted in compliance with Florida law, and no public communications referred to any federal candidates or political parties.

Despite rejection of Mr. Kettenring's draft plan, ACORN successfully pursued a ballot initiative to raise the minimum wage in Florida. The conduct of this initiative campaign is reflected in materials used to solicit funds for it, as well as those distributed publicly to encourage support for the measure. In addition to the proposals attached as exhibits D and E to Mr. Kettenring's declaration (Attachment 1), see the letters used to appeal for

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institutional funding in support of the measure attached as exhibits C and D to that declaration. As demonstrated by these solicitations, funds were raised for this measure in order to promote its passage as a desirable policy goal, and to support ACORN's goal of increased political and civic participation by members of low income and minority communities. Walk lists for get-out-the-vote canvassers did not include party affiliation and partisan criteria were not used as a screen in developing those lists. The purpose and operation of the initiative campaign was demonstrably not to support specific candidates or partisan objectives.

The conduct of the get-out-the-vote activities associated with the initiative campaign further demonstrates that it did not tread into any area within the FEC's jurisdiction. As the copies of flyers and door hangers in Attachment 6 indicate, the campaign's public communications focused exclusively on the ballot measure in question. A perusal of the ballot committee's web site, floridiansforall.org, provides further evidence of a focus exclusively on the issue of increasing the minimum wage, with no references to candidates or parties.

4. The complaint refers to ACORN's election-related activity in other states in 2004 but fails to assert any FECA violation.

It is true that ACORN and Project Vote engaged in voter registration and voter motivation efforts in states other than Florida in 2004. Encouraging civic engagement is part of what ACORN does. Absent an allegation that these activities were not consistent with the regulations in 11 CFR 114.4 governing corporate communications beyond the restricted class, it does not appear that any violation is being asserted. In the absence of any such assertion, Respondents cannot know what evidence to produce to rebut the complaint on this point.

B. Funding of Florida State Ballot Measure in 2004

Despite rejection of Mr. Kettnering's draft plan, ACORN determined to pursue a campaign to amend the Florida constitution via ballot initiative in order to raise the state's minimum wage. In order to carry out this plan, it developed a coalition of allied organizations supportive of the initiative. Florida requires that ballot measure advocacy be funded through ballot committees registered with the state, so the coalition created Floridians for All, which duly registered with the state. Its receipts and expenditures were reported as required by the state. This information can be viewed online: visit <http://election.dos.state.fl.us/online/commsrch.asp> and enter "Floridians for All" into the search box. Far from being "undisclosed and unlimited," funding for this effort was fully disclosed in compliance Florida law.

State ballot measure committees are not, as a rule, required to register with the Commission unless they engage in a specific activity that is regulated by FECA. ACORN knows of no such activity. (See, e.g., Kettnering Declaration, Attachment 1,

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paragraphs 11 and 13, demonstrating that public communications focused on the measure and did not reference candidates or parties.) Solicitations for the ballot measure activity similarly did not refer to candidates or parties. (See Kettenring Declaration, Attachment 1, Exhibits D and E.) Get out the vote efforts were targeted without reference to partisan criteria.

The complaint states that some of this work was funded by “American Families United.” There is such an organization, with a web site located at www.americanfamiliesunited.com. Its focus seems to be on immigration issues, and it is unlikely it would have funded work on the Florida ballot measure. Project Vote did receive funding for its voter registration work from an organization called America’s Families United. (See Attachment 3, Declaration of Zach Pollett.) In any case, whatever organization may have provided the funding, the complaint fails to assert any violation of FECA in this regard.

C. The Complaint Raises Numerous Matters Outside the Commission’s Jurisdiction, Including Claims Found to Be Defamatory

The complaint includes a number of assertions about alleged misconduct that lies well outside the Commission’s jurisdiction. It would not be a productive use of the time and resources of either the Respondents or the Commission to address that entire laundry list which can only have been included for the sole purpose of trying to paint ACORN as a bad actor. We trust the Commission will not draw any negative inference from our failure to be diverted into a discussion of the use of federal grant funds more than a decade ago, but in any case that allegation is so far outside the FEC’s jurisdiction as to be laughable.

Allegations of voter fraud are similarly not within the Commission’s enforcement purview, but because of their connection to elections these allegations deserve at least a brief response. ACORN expends considerable effort working to ensure the integrity of its voter registration drives, and flags for officials cards which may be incomplete or improper. In the unfortunate but rare cases when an employee has submitted a duplicate or inaccurate voter registration form, ACORN has consistently taken prompt action in response. ACORN has worked with law-enforcement officials to investigate and, where appropriate, prosecute those who abuse ACORN’s trust by engaging in dishonest conduct rather than providing the services for which they were hired. Despite systematic efforts to distract or disparage ACORN on the part of those who oppose its goals of increasing political participation by low-income and minority voters, in none of these cases have there been any findings of wrongdoing by ACORN itself.

In this regard, Mr. Iglesias encloses extensive materials pertaining to Mac Stuart’s lawsuit against ACORN wherein Mr. Stuart alleged that ACORN had engaged in extensive illegal actions. Although he appears to have had extensive access to the case files, Mr. Iglesias failed to include information regarding the final disposition of the case,

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information that is essential to assess the credibility of any facts asserted by Mr. Stuart. ACORN counter-claimed against Mr. Stuart for defamation, based on Mr. Stuart's oral and written publication of his claims about ACORN's wrongdoing prior to instituting the litigation. After limited discovery, and on motion of both parties, the court entered judgment in ACORN's favor on the defamation claims and dismissed Mr. Stuart's claims with prejudice. In other words, the court determined that Mr. Stuart's claims about voter registration fraud by ACORN had been false and Mr. Stuart agreed to judgment to that effect being entered against him.

Any assertions made by Mr. Stuart deserve to be evaluated in light of this material information regarding his truthfulness. The single statement from Mr. Stuart's deposition that is cited in the complaint (that ACORN was "fraudulently withholding Republican voter registrations") was the basis for ACORN's first counter-claim for defamation (see Attachment 7, pages 7-8, para. 8 and 13) on which judgment was entered in its favor (see Attachment 8). The complainant's failure to disclose that this allegation had been found to be false gives cause to wonder about the reliability of his other assertions.

D. The Complaint Fails to Assert Facts That Could Indicate That Either Respondent's Activities in 2006 Constitute a Violation of FECA

1. The complaint states that ACORN has undertaken voter registration and mobilization in states including Pennsylvania, but does not provide any basis to suspect that these activities are not carried out in compliance with FECA.

It is difficult to discern precisely what violation the complaint may be asserting with regard to ACORN and Project Vote's activities in Pennsylvania, Ohio, and other states in 2006. It attaches a document in which Pennsylvania ACORN indicates an intent to register and engage voters. Both organizations have, in fact, done so. This is not a violation of FECA.

The complaint further sets out information from Project Vote's web site indicating the biographies and credentials of a number of Project Vote's personnel. No legal violation is indicated here. It is not illegal for an incorporated nonprofit dedicated to voter registration and citizen involvement to select its staff based on their organizing and political campaign experience. Campaign organizing experience is hardly irrelevant to organizing a massive nonpartisan voter participation project.

Absent specific allegations of even an arguable violation of FECA, it is difficult for Respondents to know what evidence to adduce to disprove Mr. Iglesias's suggestion that their voter involvement activities in 2006 merit investigation by the Commission. Unless unsupported innuendo alone is sufficient to merit investigation, this complaint simply fails to present any claims in this regard that have enough facial credibility to warrant any further use of the Commission's limited resources.

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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2. The reference to a payment from SEIU to Voting is Power mischaracterizes ACORN's relationship with this union and further does not even allege a violation of FECA.

The complaint states, based on documents of unknown origin, that SEIU paid a large sum of money in 2004 to a 501(c)(3) organization, Voting is Power, to carry out a voter registration project. The complaint does not connect Voting is Power to either ACORN or Project Vote except to claim that SEIU is an "Acorn affiliate."

The source for this latter statement seems to be the ACORN web site, which lists two SEIU locals (Local 100 and Local 880) on its links page as part of the "family" of friendly and allied organizations. Local 100 operates in Louisiana, Arkansas, and Texas; Local 880 is active in Illinois and Missouri. Neither seems to have any operations in Pennsylvania or Florida. The fact that ACORN has a working relationship with two SEIU locals does not make the entire international union an "affiliate" of ACORN. It certainly does not make any actions of that union attributable to ACORN.

After inquiry among senior ACORN and Project Vote staff, we have been unable to identify any link between Respondents and Voting is Power. In any case, although the complaint alleges that this organization has engaged in a vote fraud scheme, it does not assert any violation of FECA that this Commission would have the authority to investigate.

3. The reference to [GWBush.com](http://www.gwbush.com) appears to be a cut-and-paste error.

Although it is not discussed elsewhere in the complaint or attachments, at the conclusion of his "legal analysis" in part II.A. Mr. Iglesias states that "the costs associated with www.gwbush.com constitute 'expenditures' under the Act and Commission regulations." Respondents take no position as to the accuracy of this legal conclusion. Because the paragraph containing it begins as a discussion of the Floridians for All campaign in 2004 and ACORN's current voter involvement activities, this lone reference to [gwbush.com](http://www.gwbush.com) appears to be a word-processing relic.⁴

Attachment 9 provides the results of a Whois search on this domain name, which indicates it is owned by a Mr. Zack Exley and not by ACORN or Project Vote. Inquiry among ACORN staff has turned up no indication that anyone has any connection to Mr. Exley. We attempted to contact him at the phone numbers and e-mail addresses associated with the registration but without success, so can provide no further information regarding this apparently irrelevant assertion.

⁴ The exact phrase, "Therefore, the costs associated with www.gwbush.com constitute 'expenditures' under the Act and Commission regulations" appears in a complaint filed against Zack Exley in 1999 (MUR 4894).

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III. LEGAL ANALYSIS

A. Neither ACORN nor Project Vote made “expenditures” as defined in FECA and Commission regulations.

The Act defines the term “expenditure” as including “anything of value made by any person for the purpose of influencing any election for Federal office.” 2 U.S.C. § 431(9)(A)(i). To cure the statutory term of constitutionally problematic vagueness, the Supreme Court has construed expenditure “to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate.” *See Buckley v. Valeo*, 424 U.S. 1, 80 (1976). Commission regulations accordingly define an *independent expenditure* as “an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate” that is not coordinated with a candidate or party. 11 C.F.R. § 100.16(a).

Under the Commission’s regulations, a communication contains express advocacy when it uses phrases such as “vote for the President,” “re-elect your Congressman,” or “Smith for Congress,” or uses campaign slogans or words that in context have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, or advertisements that say, “Nixon’s the One,” “Carter ‘76,” “Reagan/Bush,” or “Mondale!” *See* 11 C.F.R. § 100.22(a); *see also FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 249 (1986) (“[The publication] provides in effect an explicit directive: vote for these (named) candidates. The fact that this message is marginally less direct than “Vote for Smith” does not change its essential nature.”). Courts have held that “express advocacy also include[s] verbs that exhort one to campaign for, or contribute to, a clearly identified candidate.” *FEC v. Christian Coalition*, 52 F.Supp. 2d 45, 62 (D.D.C. 1999) (explaining why *Buckley* at 44, n.52, included the word “support,” in addition to “vote for” or “elect,” on its list of examples of express advocacy communication).

The complaint does not indicate that any communication made by either Respondent included such express advocacy, or even so much as a reference to a clearly identified candidate. As has been demonstrated above, the materials produced and distributed to promote the Florida ballot initiative focused on that measure and did not reference any candidate or party. Neither ACORN nor Project Vote has made any independent expenditures, and therefore they are not subject to the requirement to file any reports of such expenditures with the Commission.

B. Neither ACORN nor Project Vote has made expenditures or received contributions, so neither qualifies as a political committee.

The Federal Election Campaign Act of 1971, as amended (“the Act”), defines a political committee as “any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes

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expenditures aggregating in excess of \$1,000 during a calendar year.” 2 U.S.C. § 431(4)(A). The Act requires all political committees to register with the Commission and file a statement of organization within ten days of becoming a political committee, including the name, address, and type of committee; the name, address, relationship, and type of any connected organization or affiliated committee; the name, address, and position of the custodian of books and accounts of the committee; the name and address of the treasurer of the committee; and a listing of all banks, safety deposit boxes, or other depositories used by the committee. *See* 2 U.S.C. § 433.

The Commission’s regulations further provide that “any cost incurred for activity designed to encourage individuals to register to vote or to vote is not an expenditure if no effort is or has been made to determine the party or candidate preference of individuals before encouraging them to register to vote or to vote.” 11 C.F.R. § 100.133. Corporations are further required to engage in such activity in accordance with 11 C.F.R. 114.4(c) and (d). Those provisions require, in turn, that voter registration and get-out-the-vote drives not include any express advocacy of clearly identified candidates or the candidates of a clearly identified party; that they not be coordinated with any candidate or political party; and that the drive not be directed primarily to individuals previously registered or intending to register, or in the case of get-out-the-vote drives those currently registered, with the political party favored by the corporation. 11 C.F.R. § 114.4(c)(2) and (3); 114.4(d).

The Act defines the term “contribution” as including “anything of value made by any person for the purpose of influencing any election for Federal office.” 2 U.S.C. § 431(8)(A)(i); *see also* *FEC v. Survival Education Fund, Inc.*, 65 F.3d 285, 295 (2d Cir. 1995) (where a statement in a solicitation “leaves no doubt that the funds contributed would be used to advocate [a candidate’s election or] defeat at the polls, not simply to criticize his policies during the election year,” proceeds from that solicitation are contributions). Commission regulations further treat as a “contribution” the costs of a “coordinated communication” that meets both a content and conduct test. 11 C.F.R. § 109.21. The content standards, in turn, include only (1) electioneering communications under 11 C.F.R. § 100.29; (2) a public communication that republishes campaign materials, (3) a public communication containing express advocacy; and (4) a public communication as defined in 11 C.F.R. § 100.26 that refers to a political party or to a clearly identified candidate for Federal office, is directed to voters in the relevant jurisdiction, and is publicly distributed within a specified time before a federal election. 11 C.F.R. § 100.21(c).

As discussed above, neither Respondent has made any independent expenditures. The voter registration and get-out-the-vote activities in question did not include statements of express advocacy, or indeed any reference to any political candidate or party. No effort was made to determine party or candidate preference before encouraging individuals to register to vote; voter registration efforts were not directed to those previously registered or intending to register with any political party; get-out-the-vote efforts were not directed

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on the basis of partisan affiliation or registration because that information was not included on walk lists and those lists were drawn up without regard to party affiliation. Hence, these activities did not constitute "expenditures" under the Act.

As for the making of contributions, several theoretical bases for doing so are not at issue here: the making of direct contributions to a Federal candidate, a political party, or a political committee; engaging in electioneering communications; or republication of campaign materials. Neither Respondent has engaged in conduct that would meet the conduct prong of the coordination conduct regulations, and both have demonstrated that they did not make any public communications that referred to a clearly identified Federal candidate or political party. Therefore, there is no reason to believe that either Respondent has made any Federal "expenditures" or "contributions" as defined under the Act and regulations.

Finally, Respondents have not made any solicitations that indicated that funds received would be used to advocate for a candidate's election or defeat. Solicitations for funding of the ballot measure activity did not so much as refer to candidate elections. There is, therefore, no basis to find any reason to believe that either Respondent has received any "contributions."

The Commission has explicitly considered the activities of a state ballot measure committee, and concluded that they are "in connection with any election other than an election for Federal office" under 2 U.S.C. §441i(e)(1)(B). AO 2003-12. Subsequent opinions have cast some doubt on this conclusion, but not because of any finding that state ballot measure committees generally engage in activities in connection with an election for Federal office. Some commissioners have stated their views that ballot measure activity generally is not covered by the soft money ban of section 441i(e). AO 2005-10, concurrence of Commissioners Toner and Mason. Others have indicated that the conclusion in AO 2003-12 is best supported by reasoning that the activities of a ballot committee established, maintained, financed or controlled by a federal candidate when the measure will be in front of the voters on a day when the federal candidate is also on the ballot are in connection with an election for federal office. AO 2005-10, concurrence of Commissioners Weintraub and McDonald. However, in no case has any commissioner indicated that the activities of a state ballot measure committee that is not established, maintained, financed, or controlled by a federal candidate could be in any way regulated by the Commission, unless the committee makes "expenditures" or receives "contributions" as described and discussed above.

Absent the receipt of contributions or making of expenditures in connection with a federal election, the law does not require either Respondent to register as a political committee. Their failure to do so does not constitute a violation of FECA or Commission regulations.

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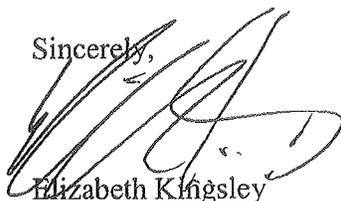
IV. CONCLUSION

This complaint fails to demonstrate reason to believe that a violation of FECA has occurred on both factual and legal grounds. It relies on discredited slander and a rejected draft to allege a partisan motivation underlying wholly nonpartisan voter registration and get-out-the-vote activities and state-regulated ballot measure advocacy. It relies on an unsigned and unimplemented plan that neither Respondent was even facially party to in order to suggest that voter mobilization activities were impermissibly coordinated. It includes assertions about voter registration and mobilization activities in other states and in the most recent election cycle, and in at least one case undertaken by organizations other than Respondents, without alleging a single fact that would cause these activities to violate FECA.

Neither Respondent has made express advocacy communications that would constitute independent expenditures, so neither is required to file reports of such with the Commission. Their voter registration and get-out-the-vote drives were conducted in compliance with Commission regulations and therefore did not constitute expenditures. Neither made any solicitation that would cause it to receive contributions under FECA. Neither, therefore, is required to register as a political committee.

For these reasons, we urge the Commission to find no reason to believe a violation has occurred and to dismiss this complaint with regard to both ACORN and Project Vote.

Sincerely,



Elizabeth Kingsley

Declaration of Brian Kettenring

I, Brian Kettenring, being of legal age and sound mind, do hereby depose and state as follows:

1. I was the state Head Organizer in Florida in 2003 and 2004. As state Head Organizer I was responsible for ACORN activity in Florida but was subject to supervision by the National ACORN staff, including Steve Kest, National ACORN Staff director, Helene O'Brien National ACORN Field Director, and Zach Polett, National ACORN Political Director. I did not have the authority to implement a statewide campaign to increase the minimum wage without authorization from one or more of the above.
 2. I was not authorized and did not have the authority to commit ACORN to a statewide minimum wage initiative campaign that relied on national ACORN resources.
 3. I personally drafted the document entitled Floridians for All contained in Tab 1 of the complaint. I did so without any input from my supervisors or ACORN management. The draft represents my effort to set out a plan for Florida's ACORN Chapter to increase the minimum wage for Floridian workers.
 4. The document was submitted to Steve Kest, ACORN's Executive Director, for review and approval. I was told the draft needed to be re-written.
 5. I gave the draft to a staff person named Joe Johnson to edit. Shortly thereafter he left ACORN on bad terms. He had not returned an edited version of the document to me. The document attached to the complaint is the unedited, unapproved and unimplemented draft document. The document was never distributed by ACORN or me to any person outside the organization and was only circulated within ACORN for review/edits and approval, which it did not receive.
 6. After Joe Johnson left, Terri Shuck redrafted the proposal. Her draft is attached as Exhibit A. Gayle Stolz wrote the final draft, which is attached as Exhibit B. Exhibit A and Exhibit B may have been distributed to a few organizations.
 7. Attached as Exhibits D and E are letters I drafted to seek fund from two labor unions. These letters are similar to other letters I wrote to raise funds from other organizations.
 8. I drafted what is attached as Exhibit C and used it as the primary document to explain the campaign to outside organizations.
 9. To my knowledge, no one working on behalf of ACORN, including myself, met professionally with any of the people who signed the document attached to the complaint as Tab 3. ACORN did not coordinate any activity with the people who signed the document.
-

06-Nov-15

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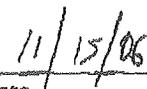
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- 10. I did work with SEIU, the AFL-CIO, Florida Education Association and the Academy of Trial Attorneys, but not the individuals who signed the agreement and only on ballot initiative matters.
- 11. No literature used by ACORN in 2004 during its voter registration program or get out the vote campaign contained any references to, endorsement for or opposition to any candidate for federal or local office or any political party.
- 12. The walk lists used by ACORN employees to select which doors to knock on did not contain any information identifying the party or voting preference of the registered voter. Bob Lelievre, the person responsible for the program that cut the walk lists, was specifically instructed to leave references to political parties off all walk lists at the request of ACORN and not to use partisan affiliation as a filter in selecting addresses. As a result, ACORN employees trying to get out the vote would attempt to visit the door of every registered voter in a neighborhood.
- 13. ACORN employees assisted over 180,000 applicants to register to vote in Florida in 2004 and knocked on hundreds of thousands of doors encouraging voters to support the minimum wage initiative. ACORN employees never advocated for or against any candidate for federal, state or local office as part of their duties or responsibilities. ACORN employees were trained and instructed to advocate only for the initiative and not for any candidate or party, and if they did otherwise it would have been without authority.
- 14. Increasing the minimum wage was the primary objective of the minimum wage initiative, and increasing participation in the democratic process was the secondary objective. Strategic decisions were made based on passing the initiative, not potential partisan impact.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.



 Brian Kettenring



 Date

Floridians for All
A Statewide Ballot Initiative Campaign to Raise the Minimum Wage
December 2003

EXECUTIVE SUMMARY

Floridians for All is seeking \$2 million to support a systematic voter mobilization program in Florida that will increase registration and turn-out among low-income citizens motivated by a ballot initiative to raise the minimum wage. Led by Florida ACORN, labor unions, community and civil rights organizations, the faith community, elected officials, and thousands of grassroots activists are uniting behind this campaign as a galvanizing strategy for progressives in 2004. The goals of this campaign are to:

- 1) Boost turnout among low-income and minority voters in November 2004 by an additional .5% - 3%. Experience from other states has shown that minimum wage initiatives can mobilize large numbers of new voters without mobilizing opposition voters.
- 2) Win a progressive policy victory in Florida that will establish a minimum wage of \$6.15 with indexing that will immediately benefit over 300,000 full-time workers living below the federal poverty level. Thousands more will receive residual raises just above the new minimum, and the entire state will benefit from the stimulus resulting from low-wage workers plowing their earnings directly back into the economy.
- 3) Build an enduring capacity and statewide infrastructure for grassroots mobilizations and citizen participation in Florida for 2004 and beyond.

Specific objectives for 2004 to build list, increase voter registration and turnout among low-income voters, and strengthen organizing capacity in Florida will lead to the following outcomes:

1. List Building

- The campaign will gather 700,000 petition signatures (necessary to ensure the 500,000 valid signatures for ballot qualification), including 490,000 names with phone numbers (70% of petition signers), and 100,000 -140,000 email addresses (15% of petition signers).
- The list of petition signers will be matched against the state voter file to identify low-frequency voters and non-voters for targeted registration and turnout efforts by Florida ACORN and allied organizations.

- Florida ACORN will enlist 50,000 contributors who have given an average of \$25 through the canvass to help finance the campaign and create a renewable resource of support for future organizing and advocacy actions beyond 2004.

2. Voter Registration and Turnout

- In conjunction with Project Vote, Florida ACORN will register 122,000 primarily African-American, Caribbean, and progressive Latino citizens, resulting in a net increase of 68,000 new voters. Our track record shows that of the 70% of registrants for whom we get a phone number, 80% of these will vote.
- In addition, overall turn-out will increase by 32,000 to 192,000 new and infrequent voters motivated by the minimum wage amendment itself.¹ When the economy is bad, low-income voters are more discouraged and less likely to vote. Giving low-wage workers the opportunity to vote themselves a raise is the most compelling reason many of them will go the ballot box in 2004.

3. Field Capacity

- In addition to a professional campaign team of strategists, pollsters, fundraisers, and a full-time coalition coordinator, Florida ACORN is deploying a field structure of 35 trained community organizers, a voter registration team of 50 staff statewide, and up to 60 canvassers.
- Working with coalition allies, the campaign will enlist over 2,000 volunteers for signature gathering at the polls on Primary Election Day in March, replicating the successful model organized by the Florida Education Association (teachers) that gathered 400,000 signatures as voters came to cast their ballots. The process of recruiting 40 captains, each overseeing 10 team leaders, each of these recruiting ten volunteers, will provide an invaluable volunteer network for the November general election and beyond.
- Justicecorps, ACORN and other progressive groups will recruit over 300 student volunteers to come to Florida for at least one week of signature gathering during their winter breaks in December and January. Each student will obtain roughly 1,000 signatures, adding as many as 300,000 signatures to the total effort.

The field organizing budget for the campaign is \$2 million, covering the period of September 2003 to November 2004. The field budget will generate earned media as well as low-cost paid advertising in the African American and Latino press. The Floridians for All coalition will develop a separate media-buy budget for the fall of 2004.

¹ Research shows that initiative states generally have higher turnouts. The best example of this is in Washington in 1998, where experts found as much as a 4% increase attributable to the minimum wage ballot initiative. In a presidential election, the potential turnout impacts will not likely reach 4%, but will reach .5% - 3% depending upon the scope of GOTV effort and the competitiveness of the presidential race.

LAY OF THE LAND

The 2004 election in Florida is shaping up to be just as close as 2000. Although there have been demographic changes and growth throughout Florida, when the 2000 vote total is adjusted for 2004 it is still a razor thin margin, with unofficial NCEC analysis predicting the presidential contest could be determined by a margin of as few as 25,542 votes out of a total of 6.4 million.

While both major political parties are actively courting African-American and Latino voters, the reality is that any presidential campaign will ultimately fall short of expectations within these communities. Given this, and the lingering resentment from the 2000 election debacle which disenfranchised thousands of voters, the chance that low-income and minority communities will not participate is a real possibility. Moreover, when the economy is bad, low-income voters are more discouraged and less likely to vote. The minimum wage ballot campaign is meant to appeal to these *non-traditional* voters, those infrequent voters who cannot be counted on to turnout through traditional means, and instead need a more compelling reason to vote. The minimum wage campaign addresses their self-interest and the question of "why vote" to increase their participation in the political process.

The empirical evidence from other states indicates that initiatives generally increase voter turnout, and that minimum wage initiatives can significantly increase the turnout of supporters without increasing turnout from the opposition. ACORN's own experience running municipal and state minimum wage ballots -- Denver, Houston (1996), Missouri (1996), New Orleans (2002) -- supports the conclusion that these efforts are highly motivating to low-wage voters. The best example of this is in Washington in 1998, where research by the Ballot Initiatives Strategy Center (BISC) found as much as a 4% increase attributable to the minimum wage ballot initiative.

Certainly, historically under-represented constituencies and low-wage workers are not only overlooked, but ill-served by state policy-makers in Florida. When the 2003 legislative session finally came to an end, an anti-living wage bill was passed, workers compensation rights were curtailed, the Everglades restoration project was delayed, and state spending was slashed leaving more people uninsured, more children with a second-rate education, and working families worse off than when the session started. As Florida is the fourth largest state and growing by 350,000 new residents each year, counties and cities are continually forced to further stretch limited state resources. Now, in the midst of one of the worst fiscal crises in Florida's history, the conservative legislature has chosen to pare the already emaciated state budget even further, leaving local government with few options but to raise property and sales taxes.

Working families are being attacked from all sides, through the elimination of social programs at the expense of corporate tax cuts. In the face of corporate lobbyists, gerrymandered legislative districts and the high costs of electoral campaigns, working families must build new alliances and public support to overcome the ongoing assaults from Tallahassee. Advocates of social justice have been forced to turn to the constitutional amendment process to implement real systemic change in Florida, as evidenced through both the Coalition for Smaller Class Size, and the Universal Pre-Kindergarten Amendments. The need for a progressive statewide mechanism to affect tangible, social change has never been greater.

THE CASE FOR RAISING THE MINIMUM WAGE

If the federal minimum wage had been increased to keep up with rising prices over the last 25 years, it would now bring in \$15,431 per-year—not the \$10,712 it currently does if one works 40 hours per week for \$5.15 per hour. Though the cost of living keeps rising, the federal minimum wage has stagnated, with Congress refusing to take action in over six years. As a result the more than 300,000 minimum wage workers in Florida are forced to stretch their dollars even further.

At the current poverty level of \$18,400 for a family of four, a family surviving on the earnings of a minimum wage earner is almost 42% below the poverty line. In Florida, 38 percent of minimum wage earners are the sole wage earner in their household and provide the entire household income. In 2001, over 28% of Florida's workers earned less than the poverty line (approximately \$8.70 per hour). A full 20% of those workers earned less than \$7.69 an hour, a result that can be partially explained by the concentration of workers in the lowest wage job sectors – retail and service. A whopping 37.3% of the state's workforce is employed in service sector jobs, with another 19.6% in the low wage retail sector.

Trying to survive on \$5.15 per hour means many basic necessities, such as quality healthcare, nutritious food, adequate shelter and clothing, are often beyond the reach of these workers and their families. Raising the minimum wage to \$6.15 an hour would result in a raise of \$2,000 a year for workers, a huge difference in the lives of workers who are struggling to make ends meet and provide for their families. Hundreds of thousands more will see wage increases as the wage floor is raised in the low-wage sector. The entire state will benefit from the stimulus resulting from these workers plowing their increased earnings directly back into the economy, potentially over \$300 million in the first year alone².

CAMPAIGN COMPONENTS

1. Research

Policy Analysis on Impact of Minimum Wage: Florida ACORN is putting together an extensive collection of research to demonstrate the impact of increasing the minimum wage for Florida's workers. The Economic Policy Institute in Washington, DC has agreed to provide significant technical and research support to the campaign by providing a number of policy pieces:

- A Florida Minimum Wage Snapshot - Looking to examine the history of low-wage workers in Florida, this piece will examine who will benefit from a minimum wage increase by looking specifically at demographic information. This piece will also examine trends over time in Florida by looking at the history of wage levels and also comparing Florida wage levels to other Southern states and regions of the country. In examining the impact of a minimum wage increase, we will also look at the impact on

² It is not yet known what the average hourly wage gain for the 300,000 plus beneficiaries would be. Assuming an average \$.50 raise for 303,000 workers working 2080 hours per year (52 weeks x 40 hours/week), we estimate an additional \$315 million would go into the pockets of Florida families.

social assistance programs and some of the other social problems associated with poverty. This first piece is set to be released in mid-October 2003.

- Florida's True Cost of Living - A second piece will look at the cost of living in Florida and demonstrate what it actually costs to live in Florida today. Incorporating costs of housing, health care, transportation, food, child care and other expenses in several major cities across the state, we will explain the true costs of living for various family sizes in Florida and the impact that a minimum wage increase will have.
- We will also have several pieces examining the opposition response to our work which will address the fallacies of doomsday predictions of a minimum wage increase and further demonstrate the gains that will be made by workers and the state as a whole.
- Finally, we plan to examine the impact on immigrant communities, and how they would directly benefit from raising the minimum wage.

Public Opinion Polling with Over-samples of Nonvoters and Low Frequency Voters: An essential part of our research is polling, both at the beginning and later ends of the campaign. We will conduct an early poll in December 2003 with 501(c)(4) funds that will allow us to ask critical questions without restrictions. This poll will allow for a strategy that connects registration, signature gathering and mobilization efforts to voters in the base turnout neighborhoods by determining the best localized message. This poll will test both non-voting and infrequent voters in order to understand not only the motivations of our base voters, but also to drive turnout in under-performing precincts where we focus our registration and mobilization efforts. We will also conduct polling later in the campaign to determine the effectiveness of our messages and messengers and gauge the responses of the electorate. Using this information, we will be able to better refine our outreach and also our Election Day turnout efforts. We are using the polling firm of Lake, Snell, and Perry.

2. Targeted Voter Registration and Turnout

African American: According to NCEC, there are 440,000 unregistered VAP (Voting Age Population) African-Americans in Florida. Of the 440,000 unregistered voters statewide, 176,000 of these voters live in the 475 majority African-American precincts in Florida. Registering 62,000 new African-American voters in these majority precincts can result in a net vote gain of approximately 30,000 votes (assuming 70% turnout of new registrations and 70% approval for the measure). In the past six weeks, we have already registered 5,000 primarily African American and Caribbean voters in Dade and Orange Counties. Over the coming year, we will concentrate our voter registration activities in African American/Caribbean communities in the following counties:

Miami-Dade
Orange
Hillsborough
Broward

Pinellas
Duval
Leon

Latinos: There are 800,000 Latino voters in Florida, 400,000 of whom are non-Cuban, and 345,000 new potential Hispanic citizens of voting age. The Latino population is the fastest growing population in Florida. The campaign will register 1/3 of the potential 2000 Census VAP in Miami (195,859) and Orlando (23,414) which will result in 60,00 new registered voters and a gain of 25,000 new voters for the minimum wage (based on 70% turnout and 60% approval of the measure).

Union Members: The AFL-CIO is formulating a targeted plan for registering its members in Florida in 2004. The minimum wage campaign is coordinating with labor as to how best to use this effort to the fullest advantage. Union members are registered at approximately a 60% rate in Florida. Union members have demonstrated that they do not like to be told to vote for a particular candidate. Instead, members respond more favorably to discussions about issues, and where the candidates stand. The minimum wage initiative is an excellent issue for unions to use as a mobilizing tool because it is an issue that labor has a strong history of supporting. The state AFL-CIO officially endorsed the minimum wage ballot initiative at its annual meeting in September.

3. List Building and Enhancement

Database: We will database new registrants and integrate them centrally into the campaign strategy. The petition gathering process is also an opportunity to build a statewide database of working families and activists numbering in the hundreds of thousands. In addition to utilizing phone numbers acquired through petition gathering, we will also develop an extensive email database and the capacity to mass-mail to these voters. In early signature gathering efforts we have found that 15-20% of respondents are providing email addresses; a response rate that would result in an email database of at least 100,000 voters. This database could turn out to be one of the most powerful components of the entire campaign as we build a statewide turnout operation for Election Day 2004. The ability to mass-email constituents on upcoming events, releases of new studies, and just generally reach out to supporters in a cost efficient manner is a very powerful tool.

List Enhancement: ACORN is on the steering committee of America Votes, a collaborative list enhancement and technical assistance organization for large-scale membership organizations. We hope that we will be able to cost-effectively match the list of petition signers against the Florida voter file through this collaborative list enhancement program. As a result of this process, we will be identify low-frequency voters on the petition list for more rigorous GOTV contact and save resources by reduced contact of regular 4 in 4 voters who consistently vote. We will also consider testing a segment of 4 in 4 voters on the list for volunteer recruitment since they are the most civically-minded and may be willing to move up the ladder of activism for the campaign.

4. Field Capacity

We will build the field capacity to directly and personally reach those poor and working class voters who will not be reached by labor or other committed forces. These are the voters who we

register during the petition gathering process who we will be able to reach through phone banking, email, mail, and most important, precinct walking and Election Day turnout strategies.

Organizers: Florida ACORN already has 25 trained community organizers working in the state. Two experienced organizers will start working in Palm Beach County at the beginning of the year. In 2004, our intent is to hire another eight organizers for a full compliment of 35 for the campaign. Organizers are responsible for overseeing the voter registration staff and canvassing operation, as well as implementing the voter contact and turn-out plan in their county. Florida ACORN has also hired a coalition coordinator who is currently focused on outreach with African American congregations.

Voter Registration and Canvassing Staff: With funding support, training and technical assistance from Project Vote! we will hire fifty staff to register voters in our target communities. The canvas works to reach both constituents and other voters through direct contact at the doors. An individual canvasser is able to reach approximately 60 voters per night and have conversations with 20 voters. Currently we have a canvas staff of 10 people in Orlando and Tallahassee resulting in direct and indirect contact with over 600 voters per night. A field canvas of 45 people in several locations across the state will ultimately be able to reach over 13,000 voters per week, resulting in both signatures, phone numbers, emails and donations. Overall, in the course of the campaign, we will reach these voters at least 7 times, through door-knocking, direct mail, phone calls and email where available. The opportunity to utilize email and the web is extensive particularly in neighborhoods we are targeting through our canvass. Our website at www.floridiansforall.org will allow for updates, a download of the petition and also secure online donations.

5. Coalition Building

Florida ACORN is mobilizing a set of organizations in support of the campaign so as to succeed in mobilizing the grassroots and to be able to withstand the onslaught from business elites. In the early stages of the campaign we have already received the endorsements of the two largest labor organizations in Florida, the Florida AFL-CIO and the Florida Education Association (a joint NEA and AFT union). This major institutional support is only the beginning of our coalition building around the state, which will result in the endorsements of over 500 organizations statewide. We will enlist the support of organizations in targeted sectors: e.g. African-American churches, community organizations, local unions, local activist groups, etc. Our coalition is already gathering endorsements from local churches, community organizations and local union affiliates. We are also mobilizing legal capacity, led by the Brennan Center, and policy capacity, led currently by the Economic Policy Institute, and communications capacity, led by the Center for Community Change, to run an aggressive statewide campaign.

Realizing that no one organization is large enough to run a ballot campaign alone, our coalition will rely on mobilizing our membership and coordinating our message in order to win. Hence, the Floridians for All Coalition has been registered in the state solely for work on the minimum wage campaign. It will be led by a steering committee of key institutional supporters. In order to be a member of the steering committee a group will have to meet one of the following requirements: a) either contribute \$50,000 to the Floridians For All account or b) commit to

gathering 50,000 signatures. By limiting the steering committee to these groups we will assure that only those groups that are firmly committed and invested in the campaign will have management direction.

Each organization that is a partner in Floridians For All will designate someone to act as a liaison to the campaign. That person will be responsible for coordinating the internal signature gathering and organizational media with the larger coalition. As the signature gathering phase progresses, those partners that committed 50,000 signatures to have a place on the steering committee, will need to develop internal organizational programs to collect these signatures. Signatures will then be turned over to the initiative campaign staff, who will handle verification and submission. Each participating organization will also be expected to host 1-2 large press events in which they target their message to their constituency.

The day-to-day operations will be overseen by a campaign director who will join Floridians For All in the late fall of 2003. Floridians for All will also have a full time volunteer coordinator to work with sites around the state, oversee organizational signature commitments, provide technical assistance and materials to partner groups, and help them handle local press work. In addition, Floridians for All will have two people on staff doing database and petition verification work. These two people will work exclusively on ensuring that signatures are presented to county election officials, verified and then presented to state officials. Coordinating with 67 election supervisors is a massive job in itself.

6. Volunteers

Coalition Partners: Florida ACORN will work with Floridians for All to put 2,000 volunteers and workers on the doors from April to August, and 3,000 from Labor Day through Election Day. Many of these people will come from organizations that have affiliated with the campaign and through a field captain system that is being created to build the volunteer base statewide. One part of this volunteer network is the March primary program during which we will staff polling sites across the state in order to collect signatures from registered voters going to the polls. The teachers union has shown this strategy to be a very successful one, having gathered over 400,000 signatures in one day alone! At even a quarter of this effort, Floridians for All will be able to gather 100,000 signatures, nearly 14% of our 700,000 goal, in one day. We are working to develop a network of poll captains around the state who will be responsible for making this massive one-day mobilization possible.

College Students: Justicecorps, ACORN and other progressive groups will recruit over 300 student volunteers to come to Florida for at least one week of signature gathering during their winter breaks in December and January. Each student will obtain roughly 1,000 signatures, adding as many as 300,000 signatures to the total effort.

7. Signature Gathering

In order to gather the 488,000 necessary valid signatures by the deadline of August 4, 2004, we anticipate needing to gather approximately 700,000 signatures (70% validity rate). The signatures must come from at least 12 of the existing Congressional Districts prior to the 2002

redistricting. The required geographic diversity requires our signature gathering programs to be based in major cities around the state (Orlando, Tampa, Miami, Jacksonville, St. Petersburg) in order to both build statewide capacity for the campaign as well as achieve the requisite number of signatures. The signatures will be gathered through both internal capacity (canvass and organizational site gathering) and also professional signature gathering firms.

The internal signature-gathering phase has begun with our canvass program in Orlando and surroundings. This program contains two key components, one of which is the door-to-door signature gathering. Florida ACORN's door canvass allows us to not only gather valid signatures and new voter registrations, but also solicit funds to offset the costs of signature gathering. We will also be conducting signature gathering and voter registration at high-density sites such as supermarkets and other retail stores. Signatures that are gathered by coalition members will also be counted as part of the internal signature goal.

We believe that internal ACORN led operations in Orlando, Tampa/St. Petersburg and Miami will be able to provide 100,000 of the required signatures. In combination with 200,000 signatures from organizational partners (Jobs with Justice, AFL-CIO and affiliates, and congregational groups, among others) this will require the campaign to purchase 350,000 signatures. As detailed in the attached budget, this would cost approximately \$490,000 (at \$1.40/signature, based on early quotes). In early 2004 we will begin using professional signature gathering firms to collect the remaining signatures needed to qualify for the ballot.

8. Legal

Paul Sonn and Nathan Newman of the Brennan Center in New York have drafted the ballot initiative language. We have been careful to ensure that the language of the question fulfills the single issue requirement of a Florida ballot initiative so that it will pass approval by the Supreme Court. We fully expect an unfriendly opinion on this ballot question from the Attorney General office and an astronomical economic impact statement from Tallahassee. Though these opinions will not help us in the court of public judgment, we will be able to generate our own amicus briefs to the court and release our own economic impact statement. Once we gather the necessary 10% signature requirement to receive a hearing at the Florida Supreme Court, our lawyers will be prepared to demonstrate how this question satisfies the single issue requirement. After passing this legal challenge, we will proceed to collect the remaining signatures and get the certified by county election officials.

9. The Campaign Climax (Labor Day 2004 through 11/2/04)

While gathering the signatures, building the coalition and qualifying for the ballot are large undertakings by themselves, the actual campaign doesn't really begin until Labor Day when voters return from the summer lull and turn their attention to the Presidential election. With the enormous amount of press that will be focused on the Florida election in general, it is important to be able to reach our members and constituency on the importance of turning out to vote for a minimum wage increase. On Labor Day, we will hold a large press conference with allies from across the state as a re-introduction of the campaign to the voters. In late September we will

release the results of a statewide poll showing support for the initiative and complement that with personal stories from workers benefiting from this minimum wage increase.

In October we will begin our volunteer phone banks. Similar to the phone banking operations run as part of the Small Class Size Initiative, we will turn out members and constituents to call petition signers and other targeted voters to come out and vote themselves a raise. Callers will tell personal stories about the impact this raise will have for them and urge voters to come out specifically around this issue. Instead of typical GOTV which targets voters to turnout solely for the sake of turning out, the minimum wage campaign gives voters a very clear reason to vote and shows tangible results in the communities.

Leading up to the election, we will coordinate door-to-door efforts with other GOTV efforts including an extensive, yet to be developed, Election Day plan. The popularity of early voting in the 2002 election means that there will be more early voting poll sites and a higher percentage of voters who cast their votes in the weeks leading up to Election Day, instead of only on November 2. Aware of this fact, our phone banks will highlight the opportunities for early voting and coordinate with voters to provide rides to the polls.

CAMPAIGN TEAM

The following consultants and individuals are lending their expertise to the campaign.

- ***Gail Stoltz*** – Gail is the former political director at the DNC, and is coordinating overall political strategy for the campaign from DC, including developing the campaign plan, polling, hiring the campaign manager, and spreading the word about the campaign in DC.
- ***Terri Shuck*** – the former development director at People for the American Way, Terri is overseeing the development of our \$2 million fundraising plan, starting initially with outreach to the progressive foundation community. Terri and I intend to hire a second, Florida-based fundraiser, who will focus on major donor development.
- ***Will Robinson*** – a national leader in progressive initiatives, media, and political strategy, Will is helping to develop our media strategy and providing overall strategic support.
- ***Robert Raben*** – Robert is the former Assistant Attorney General under Janet Reno and now runs the Raben Group in DC, a legislative firm. Robert has been assisting the campaign build support in Congress and with other key national contacts.

In addition, several organizations are donating the expertise of senior staff and other resources to the campaign.

Center for Community Change -- ***Seth Borgos*** and his colleagues at CCC have been assisting the effort as a strategic partner in fundraising and policy/coalition building work.

Economic Policy Institute – *Jeff Chapman* has produced a wonderful first report for the campaign “Time to Repair the Florida Wage Floor,” and has committed to produce three other documents in the coming year. In addition, EPI has provided invaluable policy expertise to the campaign.

Brennan Center – *Paul Sonn* and *Nathan Newman* at the Brennan Center drafted the initiative, but have also been involved in identifying and accessing the strategic legal resources (often pro bono), necessary for a comprehensive, aggressive legal strategy.

Justicecorps – *Randy Shaw* and *Sarah Norr* at Justicecorps (www.justicecorps.org) are coordinating the “Winter Break for Justice” Program, which will bring 300+ college students to Florida from around the state and nation for volunteer signature gathering and voter registration. This program seeks to inspire a new generation of young people to get involved in social justice issues; and help get the signature drive done.

Key ACORN Staff – ACORN has dedicated significant staff resources itself to ensuring the success of the campaign. Key personnel include:

- *Frank Houston* – Signature Drive Coordinator – a former PIRG canvass director, Frank built Florida ACORN’s canvass program in Orlando. He is now overseeing the development of our 8 city signature gathering staff.
- *Chris Causey* – Coalition Organizer – Chris is working full time to build Floridians for All, focusing on outreach to key constituencies: students, Black churches, labor, civic organizations, etc.
- Florida ACORN’s Head Organizers: *Brian Kettenring* (statewide), *Eric Thompson* (Miami), *Vanessa Martin* (Tampa), *Heather Partlow* (St. Petersburg), and *Stephanie Porta* (Orlando) are overseeing ACORN’s community organizing, base building, and leadership development in the state, ensuring the grassroots membership participation necessary to activating base voters in this campaign. Collectively, they oversee a community organizing staff of 15; these operate separate and apart from the campaign itself.
- ACORN National Staff Support: National Political Director *Zach Pollett* and National Executive Director *Steve Kest* are substantially engaged in ensuring the success of this crucial campaign. We are receiving tremendous assistance from ACORN’s communications, research, field, legislative, and political departments.
- National Political Staff Support: ACORN nationally, beginning November 10th, is sending four trained political staff under the direction of national political organizer *Jessica Angus* to Florida. These national political staff will work to ensure the success of our signature drive.

The \$2 million budget for the field campaign is attached. We appreciate the consideration of a significant contribution to Floridians for All and look forward to a partnership that will directly benefit hundreds of thousands of low-income families in Florida and demonstrate the power of citizen participation for furthering social justice in America.

The Initiative:

The goal is to pass a Florida constitutional amendment initiative to create a state minimum wage of \$6.15 indexing for inflation.

Who will benefit?

According to the Economic Policy Institute, an estimated 300,000 Florida workers would receive a direct raise from the proposed initiative. Moreover, thousands more would receive residual raises because of their wage level just above the new minimum.

Floridians sorely need a raise. In 2001, over 28% of Florida's workers earned less than the federal poverty line (now \$8.85 an hour in 2003 dollars for a family of four). A full 20% of the those workers earned less than \$7.69 an hour, a result that can be partially explained by the concentration of worker into the lowest wage job sectors-retail and service. A whopping 37.3% of the state's workforce is employed in service sector jobs, with another 19.6% in low wage retail sector.

The Plan:

- Winning -- Getting enough votes
- Build a Coalition
- Qualify the initiative for the ballot
- The Opposition
- Research/
- Polling
- Communication/ Media
- Legal
- Administration/Compliance
- Fundraising Plan
- Budget
- Campaign Team and Staffing

Winning the campaign:

'Support for the minimum wage '

The Political Dynamics of the Florida Minimum Wage by Lake Snell Perry and Associates Poll November 18-20th, 2003.

Results show overwhelming and intense support for raising the Florida minimum wage, particularly among progressive base voters and key turnout targets.

More than four fifths of voters overall – 81% -favor increasing the Florida minimum wage for \$5.15 to \$6.15 and then indexing the minimum wage to inflation each year. Only 14% are opposed to the initiative with only 5% undecided. **The intensity of support is noticeably strong, with 67% of adults strongly favoring an increase in the minimum wage.**

The opportunity to seize the initiative and vote themselves a raise directly, rather than rely on a hostile state legislature and governor to do so, appears to be highly motivating. In all, findings suggest that this initiative could be an especially effective vehicle for turning out progressive voter in 2004.

Majorities of every demographic group favor increasing the minimum wage and no more than one-third of any groups oppose the increase. While Democrats (88 % favor, 75 strongly favor) are more likely than Republicans (71% favor) to back the proposal, **an even higher percentage of Independents (90 % favor, 82 percent strongly favor) are in favor.**

	<i>Favor</i>	<i>Strongly Favor</i>
<i>Democrats</i>	88 %	75%
<i>Republicans</i>	71%	53%
<i>Independents</i>	90%	82%

Three-fifths of Floridians (60%) consider the minimum wage to be an important issue. As with the minimum wage ballot, intensity behind the minimum wage is pronounced, as 38% see it as very important. * Minimum Wage Polling Memo attached

The campaign has four major components to winning the ballot initiative:

1. Having enough resources to defend against the opposition's media campaign in an expensive crowded market.
2. Increase turn out of African American, Hispanic, low income and women voters.
3. Taking advantage of the intense support for the minimum wage and lack of intense negative feelings even by the voters opposed to the initiative.
4. Getting the voters supporting the minimum wage to continue down the ballot the after voting for the top of the ticket –in 2004 the presidential contest.

Defending the Initiative and Making the Opposition's Job Even Harder

The campaign must raise enough funds to defend the initiative against a negative campaign, no doubt a much better funded one. The Minimum Wage Coalition does not to match them dollar for dollar however we cannot be dark on the airways or out spent by 3 or 4 to 1.

The initiative's weakest supporters will be the easiest to convince to stop supporting the measure; it is likely that the support drops from it unusually high 81% to 67% - 63% (67% strongly support). It will be harder to erode the next level of voter that feels the minimum wage is personally important to them –60% (38 % very important).

The initiative campaign can maintain a substantial amount of its support by having progressive/supporting officials, candidates and allies re-enforcing base support for the minimum wage in materials, press statements, media, and public events. Minority media, radio especially is an affordable mechanism to maintain the initiative's strength (and remind an important voter to go out to vote and when there vote down ballot; two hits one buy.) The initiative can perform at or above base performance for Florida with a reasonable media budget, plus participating in the massive field and grassroots campaign.

The initiative has the advantage of not being affected by the new campaign finance rules (or the latest proposed restrictions being considered by the FEC); as mentioned above the initiative can advertise in the last 60 days before the election, can use paid media to get-out-the-vote, and accept union, corporate, individual money in any amount.

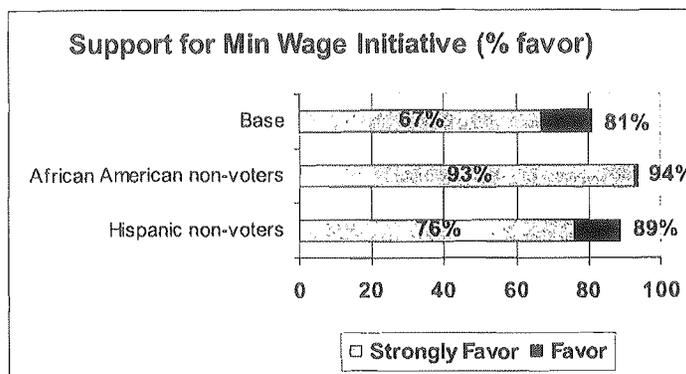
The campaign will benefit from organizations wanting to increase turn-out among African Americans, Hispanics, unmarried women, non-college women, lower income and progressive households –all strongly in favor of the minimum wage and base voters for the presidential .The minimum wage is a motivational reason for these voters to vote their own direct self-interest. The initiative is one of few ways to buy TV and radio time to promote a progressive issue Get-Out-The-Vote message that does not have to use Federal allowable only funds.

Increase turn out of African American, Hispanic, Low-Income and Women Voters.

The minimum wage initiative has the potential to increase participation by groups that have not registered or although registered are not motivated to actually vote.

The Political Dynamics of the Florida Minimum Wage December 3, 2003 Poll:

Support is even stronger among less likely voters. Among registered African-Americans with no vote history, 94 percent favor the initiative (93 percent strongly). Among registered Hispanics with no vote history, 89 percent favor the initiative (76 percent strongly).



Progressive-leaning base groups are also relatively more likely than Floridians overall to support the minimum wage increase. African Americans (95 percent favor, 91 percent strongly favor), including younger African Americans (96 percent strongly favor) and African American women (93 percent strongly favor) with no vote history are almost unanimous in their support. Unmarried women (90 percent favor, 82 percent strongly), non-college women (87 percent favor, 76 percent strongly), lower income voters (89 percent favor, 76 percent strongly), and residents of union households (86 percent favor, 70 percent strongly) are all more likely than the electorate overall to strongly support increasing the minimum wage.

The Importance of the Minimum Wage

While results on the ballot indicate substantial support for increasing the minimum wage, particularly among progressive base voters, additional findings suggest that the minimum wage could serve as an effective motivator of turnout among these

same groups. ***Relative to the overall electorate, minorities, women, and other turnout targets are more likely to view the minimum wage as both an important issue and one that would increase their interest in next year's election.***

Nearly three-quarters of registered African Americans with no vote history (74 percent) say this issue is very important. The initiative also is important to African Americans more generally (70 percent very important), unmarried women (58 percent), Hispanic non-voters (52 percent), lower income voters (48 percent), and voters who say they are less likely to vote (46 percent).

Other progressive-leaning groups who are relatively more likely to perceive this issue as very important include non-college women (47 percent very important) and younger non-college Floridians (47 percent). The high levels of support for the minimum wage proposal supplemented by the large percentages of people who consider the minimum wage to be very important argue that raising the minimum wage is more than an abstract concept. Rather, results suggest that putting this issue on the ballot would lead many progressive-leaning voters, and those with no vote history, to take electoral action.

Interest in the Election

Further, a minimum wage initiative could heighten interest in the 2004 election among progressive voters. Forty-five percent of Floridians overall say that a minimum wage proposal on the ballot would make them more interested in the election, 6 percent say the proposal would make them less interested, and 50 percent are undecided. Again, there is considerable intensity surrounding the minimum wage proposal, with 28 percent of adults indicating it would make them much more interested in next year's election.

Interest is disproportionately high and strong among progressive base and leaning groups. African Americans (52 percent), in particular African American women (28 percent) and younger African Americans (29 percent) with no vote history, are especially responsive to the prospect of a minimum wage proposal. In addition, majorities of unmarried women (40 percent), Hispanics with no vote history (34 percent), younger non-college Floridians (35 percent), members of union households (28 percent), and non-college women (29 percent) say the minimum wage would raise their level of interest.

Implications for Turning Out Less Likely Voters

This heightened interest in the minimum wage among non-voters and less likely voters could motivate many of these progressive-leaning groups to turnout. Two-thirds (66 percent) of African Americans with no vote history, including 69 percent of both younger African American non-voters and African American women with no vote history, say the minimum wage on the ballot would make them much more interested in next year's election. Among Floridians under 30, another group of less likely voters, 58 percent would be much more interested in an election that featured a minimum wage proposal.

In all, 52 percent of less likely voters¹ indicate they would be more interested in the 2004 election if a minimum wage proposal is on the ballot, and 30 percent say they

¹ Less likely voters includes all voters in the base sample who indicate they are less than "almost certain" to vote in next year's election.

would be much more interested. The intensity behind the minimum wage (46 percent of less likely voters consider the minimum wage to be very important) suggests that a minimum wage proposal on the ballot could turn out less reliable voters.

Increasing participation among populations that are under represented in the American electorate is not an easy task; however the support and intense interest demonstrated by the poll for the minimum wage provides the campaign an opportunity to couple self interest with the act of voting to increase progressive clout in the 2004 Florida election.

The campaign will target specific infrequent voters and new registrants from target populations: African Americans, Hispanics, low-income and women.

1. Register and/or identify new/infrequent poor and working class voters goal 100,000; 70% phone rate 70,000; 80% turn out of voters with phone number= 56,000 voters.
 2. Register and/or identify new/infrequent single women voters goal 130,000: 70% phone rate 91,000; 80% turn out with phone numbers = 72,800. (White, African American, Hispanic)
 3. African American new registrants 50,000; 70% phone numbers 35,000; 80% turn out =28,000.
 4. Hispanic population –(non-Cuban – lower participation than Cuban population) 50,000 new/infrequent voters: 70% phone number 35,000; 80% turn out with phone numbers=28,000.
- Total turn out 184,800.

The minimum wage initiative on the ballot will increase the participation and turnout of the numerous national and local efforts working in these low participation populations. The total number affected is not attainable at this time.

Taking advantage of the strong support and lack of intensity on the other side

The minimum wage gives voters a reason to vote of their own self-interest; highly motivational to infrequent voters to go vote and non-voters to register and vote.

Early projections by NCEC indicate that 6.4 million Floridians will vote in the 2004 general election that is 300,000 more than 2000.

Florida has been in a dead heat since 2000, and NCEC sites that there are only 10% ticket splitters in the current electorate. If base performance is 45% or close in a presidential year, the initiative has to target at least 200,000 voters (190,000 –6%) for contact specifically on the minimum wage; to increase base turnout and /or maintain the support among independents –who are the most supportive of the initiative then Democrats or Republicans.

Dozens of groups and organizations are planning registration drives to register new voters, contact the voter with issues important to them and their families, and mobilize that voter on election day. The target populations for many of the registration efforts are the strongest supporters of the minimum wage initiative; the initiative coalition campaign plan is to make the minimum wage initiative as a major component for the registration/mobilization efforts. The goal of the campaign is to identify and contact

200,000 new base supportive voters (based on the NCEC projection, a final goal will be determined when NCEC finalizes its projection). A voter contact program will be designed to reach this targeted voter list.

The campaign will have three lists of voters and potential voters to utilize as the voter contact plan is refined and enhanced.

The initiative campaign will have a database of 650-700,000 names of Florida citizens who signed the petition; some sub-set approximately 500,000 will be registered voters. This process will provide the campaign with three important lists:

- ✓ Names, addresses, phone numbers of 150,000 – 200,000 voter registration targets who are likely minimum wage supports (Citizens signing the petition providing name, address, phone number who are determined by county election office to be not registered to vote)
- ✓ Email addresses for approximately 150,000 – 200,000 Florida supporters, the signature gathering operations is collecting email addresses at a rate of 20% to date.
- ✓ Newly registered voters: to date the campaign has registered 19,000 new voters in the course of gathering signatures, the campaign will register between 25, 000-40,000 by the May campaign internal deadline for signature completion. Goal 200,000

Depending on NCEC targeting and increased voter registration results, the campaign will identify and target 200,000 supporters. By targeting supports either close to or in base precincts; in communities/media markets with strong organizational infrastructure; and with in the strongest supporters of the initiative (single women, house holds under 50,000, etc) the campaign will build an voter contact and turn out operation.

The campaign will consider providing the resources to local groups to do a field voter contact plan with lists, materials, and canvas management to reach their constituency and membership if the voters are part of the target new voter universe.

Minimize the ballot drop-off:

Florida has one of the highest rates of voter drop-off in the country. Florida voters in high numbers only vote for top of the ticket race, and then quit. This is a problem for other races down ballot after the President and of course ballot questions.

There will be a tremendous operation to turn out voters that support the minimum wage since they are the populations under-represented in the electorate and their increased participation is the goal of efforts through out Florida. The campaign needs to have a strategy to remind and invest the voter in looking for the minimum wage ballot number line. *‘ Don’t short change yourself –remember to vote yourself a raise! Vote Yes on #1. ’* *‘ Don’t forget to vote Yes on #1 and vote for a raise ’* *‘ Don’t leave \$2000 at the ballot box- Remember to vote Yes on #1 and pick-up the raise in your paycheck. ’*

The opposition has the same problem, getting their voters to go down ballot to vote against the initiative. They have an even more difficult job because starting off very few oppose the idea and there is very little intensity around the anti-side. Whether this initiative is on the ballot or not, is relatively unimportant to their voters. It is not a wedge or turnout issue for the opposition or its allies.

The message delivered by the coalition and everyone supporting the minimum wage has to be to minimize the ballot drop-off; the minimum wage could be ahead by 10 points and have a huge turn out of the right voters and...lose. The campaign must have a strategy with each partner to move 'Don't forget' message to their membership and turn out targets. We have a request for Florida down-ballot drop off analysis from NCEC to design message and contact plan.

For many progressive turnout targets the minimum wage is a powerful motivational message to get them to register and turn out to vote, 'don't forget' has to be part of their message. The campaign will produce the materials, flyer, buttons whatever for some local groups to distribute to get the message out.

Since there is not restriction the paid media campaigning for ballot initiative in the last 60days before the election, groups can use the minimum wage initiative to motivate voters to get out to vote, the campaign will work with the media campaigns to include the 'Don't Forget' message.

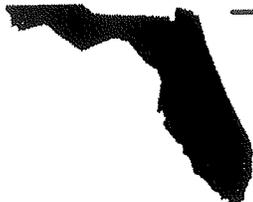
Building the Coalition

The success of the minimum wage initiative will rely heavily on the strength and participation of the coalition partners. The coalition partners and supporting political officials and candidates will be the basis for getting and keeping the initiative at 45 % (?)(base performance in Florida).

The coalition operates on multiple levels.

- Steering Committee:
 1. Decision-making authority
 2. Contribute \$50,000 or 50,000 signatures
- Sponsoring Committee:
 1. Endorse the initiative
 2. Publicly advocate the passage of the initiative
 3. Communicate to their membership, congregation, list recommended support for the initiative
 4. Contribute and raise funds
 5. Participate in Campaign field operation

Floridians For All A Campaign to Raise the Florida Minimum Wage



www.floridiansforall.org

Endorsing Organizations (41)

Updated February 23, 2004

ACORN (Association of Community Organizations for Reform Now)

AFT (American Federation of Teachers) Local 4077, Bronson

Agape Assembly Baptist Church, Orlando

All Nations Church of God of Prophecy, Orlando

Central Florida Presbytery of the Presbyterian Church, Peace with Justice Committee

CWA (Communication Workers of America) Local 4077, Jacksonville

Church World Service

Faith Assembly Church of God, Orlando

First Haitian Baptist Church, Orlando

Florida AFL-CIO

Florida Alliance for Retired Americans (ARA)

Florida Consumer Action Network (FCAN)

Florida Council of Churches

Florida Education Association

Floridians for Alternatives to the Death Penalty

Florida Women's Consortium

Human Services Coalition, Miami

IBEW Local 728, Ft. Lauderdale

Interfaith Ministerial Alliance (IMA), St. Petersburg
LESPA-NEA, Tallahassee
McCabe United Methodist Church, St. Petersburg
Mt. Zion Missionary Baptist Church, St. Petersburg
New Bethel Missionary Baptist Church, Sarasota
New Life Christian Center, Kissimmee
Orange County Democratic Executive Committee
PACE Local 3-984, Brandon
PACE Local 3-985, Brandon
Peace with Justice
Pentecostal Temple Church of God in Christ, St. Petersburg
Pine Hills Community Church, Orlando
Sarasota United for Responsibility and Equity (SURE)
Service Employees International Union (SEIU) Florida State Council
Source of Health, St. Petersburg
South Florida Interfaith Committee for Worker Justice
South Florida Jobs with Justice
St. Andrew United Church of Christ, Sarasota
St. James United Methodist Church, Sarasota
St. John the Baptist Episcopal Church, Orlando
Stewart Isom CME Memorial Church, St. Petersburg
The Lords House, St. Petersburg
TruVine Missionary Baptist Church, Sarasota
TWU Local 291, Miami

Potential Coalition members:

AFSCME
 Building Trades Unions
 Florida Trial Lawyers
 Job for Justice
 People for the American Way
 AME Baptist Church
 NAACP
 Alliance for Small Business
Endorsing Elected Officials:

Leadership Structure:
 Campaign co-chairs

Qualification of Initiative:

488,000 valid signatures are required to qualify for the ballot. The signatures must come from at least 12 of the 2000 congressional districts, not the new 2002 districts.

Review by the Florida Supreme Court:

10% (50,000) valid signatures –triggers review of ballot language by Florida Supreme Court. The Supreme Court is charged with determining the legality of the question and making sure the question fulfills the requirements for the placement on the ballot. Specifically the court will insure that the question is single issue only, and the ballot summary is clear and true summation of the question. These are the only two grounds on which the legality of the question can be challenged. Florida legal council experienced with the ballot initiative and Supreme Court process has reviewed the initiative language. They concluded that the initiative is ‘ single issue and clear’ and should pass the court review. The campaign has turned in over 50,000 valid signatures.

The deadline for the court to render a decision on the initiative language is (D/M/).

Signature Verification and Qualification:

In order to gather 488,000 valid signatures the campaign is designed to turn in 650,000 – 700,000 signatures anticipating a validity rate of 70.8%. (495,600)

The signatures should be turned in by April 30. The official deadline for qualification is August 4, 2004; however if the signatures are not into the 67 Florida election offices responsible for verifying the signatures by May, the county offices will not get the verification completed in time to qualify the initiative. The county offices have 30 days to verify the signatures and send the verified signatures to the Secretary of State Elections Department for determination of the statewide qualification. July 4th will be the last day to turn in signatures to counties, as that is 30 days from the qualifying deadline August 4.

The campaign will be charged \$.10 for each submitted signature at the county level for verification.

Defending the signature gathering process from the opposition

In recent years business opponents to ballot measures have attacked the signature gathering process at every level and from every aspect, the background of paid staff, the signatures validity, where and how the signatures are gathered and more. It has increased the cost to the initiative sponsors in addition to possibility of keeping the measure off the ballot. Although their legal challenge costs maybe considerable, it is a fraction of the costs incurred to run a campaign to defeat the measure at election time.

The campaign will prepare for a state and local challenge from the opposition to the qualification process. The legal council for the campaign will be responsible building a state wide defense team from endorsing organizations, supporting lawyers and legal firms- trial lawyers in Florida and nationally. The legal team will prepare the signature staff and volunteers for possible challenges.

Qualification Budget:

Commercial signature firms are charging \$1.30-1.50 per qualified signature in Florida. The cost per signature for the campaign is \$1.10 per signature, \$715,000 for 650,000 signatures; this cost is based on the campaign's actual experience of gathering signatures. It is projected that the coalition partners and allied groups will provide 125,000 to 150,000 signatures, reducing the financial commitment to \$571,500-\$550,000.

A benchmark in the signature process will be the number of signatures secured on March 9th the Florida Presidential Primary election. The campaign will run a special operation to cover 400-targeted precincts with paid and volunteer personnel to gather 50,000-70,000 signatures.

The county election offices charge \$.10 to verify each name; for 650,000 names \$65,000, 700,000=\$70,000.

The Opposition:

The likely suspects will show up to oppose this initiative. The leaders will come from the businesses in the impacted retail and service sectors. The Chamber of Commerce, the National Association of Independent Businesses, The Hotel and Restaurant Association, Disney and related corporations, the Republican Party leadership, office holders, activists, and allied organizations, Governor Jeb Bush who has already said 'it is a bad idea for Florida' and the entire Bush-Cheney Re-elect campaign mechanism. One of the most effective parts of the opposition's campaign will be the local small business owner, a sympathetic figure to the public unlike the multi-national heartless corporation.

No doubt the Employment Policies Institute, an industry sponsored DC think tank will release data about the negative impact of a minimum wage increase in Florida. A FSU professor David MacPherson has released several studies for the Employment Policies Institute on the negative effects of the wage increases and will no doubt be commissioned to do similar work in this campaign and be a Florida expert.

Policy Research:

The campaign will produce Florida-specific research to analyze the potential impact of increasing the minimum wage on Florida's workers, businesses and government. The research will anticipate the usual arguments and dire predictions levied by the opposition in other minimum wage fights, such as job loss, business flight, displacement of low skilled workers by higher skilled workers, public budget and tax increases, and alternative policy solutions (e.g. EITC, education and training).

Inarguably the most important research to be undertaken for this campaign is an ambitious economic impact study by Robert Pollin and Mark Brenner of the Political Economy Research Institute (PERI) at University of Massachusetts, Amherst. In partnership with the Florida Minimum Wage Campaign, the Center for American Progress has agreed to produce the study, which will examine the economic effect of our proposal on the Florida economy, including benefits to low wage workers and their families, local business and government coffers. The study is due out in July 2004.

In addition to the Pollin study, the Economic Policy Institute (EPI) in Washington, DC has agreed to provide significant technical and research support to our campaign by producing a series of policy reports to build the economic case for the initiative and refute the oppositions' charges. These include:

1. Time to Repair the Florida Wage Floor - EPI, October 2003
See <http://www.floridiansforall.org/index.php?id=97>
The study identifies the minimum wage workforce in Florida and quantifies the benefits they would receive under the proposal. It also examines wage trends and the economic impact of previous minimum wage increases.
2. Raising the State Minimum Wage: Experience in Other States – EPI, March 2004
This study will examine the impact of raising the minimum wage from states that have already done so- such as Oregon, Washington, Massachusetts and California. It will detail the benefits and dispel myths about negative impact on workers and businesses, including addressing recent public debates over the issue of state minimum wage indexing.
3. Economist Support a Minimum Wage Increase – Joint project with EPI assistance, Aug-Sept, 2004
Like it or not, economists carry a lot of weight in the arena of public opinion on proposals such as ours. This battle – like other minimum wage and living wage fights nationwide – will at some level be characterized by “dueling economists”.

We'd like to organize and focus the firepower of our economic support in an impressive Sign-On Letter in Support of the Florida Minimum Wage Increase. This tactic has been used effectively in other campaigns (e.g. Santa Monica, Sacramento, the federal minimum wage increase fight in 1996). Our sign-on goal is 30-40 economists. Although we'd like to have a high percentage of those names be Floridians, our economist friends have warned that we may have to throw the net wider given the paucity of progressive economists in the state. Depending on our success at recruitment, we might have to consider extending the sign-on invitation to other academics in the fields of political science, government relations, sociology, business and/or labor studies.

4. Latinos, Immigrants and the Minimum Wage – Although our concept for this report is still somewhat open, we'd like to develop a policy angle that emphasizes the need for and potential concentration of benefits among the state's Latino and immigrant constituencies. EPI has agreed to help with this angle. We have also recently been contacted by the employment policy specialist at the National Council of La Raza, inquiring as to what role they could play in the campaign. We will certainly invite them to help think through and/or conduct research that highlights the disproportionate burden of low wage work carried by their constituency and, therefore, the potential benefits of our proposal to Latinos and immigrants.

Additional Research

We are currently looking for research partners to undertake two additional pieces that we think are important:

Florida's True Cost of Living – This piece will calculate what it actually cost to live in the state today. Incorporating cost of housing, health care, transportation, food, child care, taxes and other expenses in several major cities across the state, this report will present the true cost of living for various family sizes, emphasizing the number of families that fall short of this measure and highlighting the role of a minimum wage increase in closing that gap. Because there are several methodologies already developed to make these calculations, we don't think this will require much heavy lifting – simply some updating of the figures and some modest narrative work to put it in the context of our proposal.

Tourism in Florida: The Low Wage Trap and the Way Out – It goes without saying that tourism and the service industry upon which it rests will play an important role in the campaign. Most certainly, the tourism and hospitality industries can be expected to substantially bankroll the opposition. In addition, the importance of tourism to the Florida economy will no doubt provide much of the rhetorical ammunition against the increase. At the same time, tourism service workers stand to be among the largest and most visible group to benefit from the proposed increase – and their current wages and working conditions are dire enough to serve as an important motivating force for voters on our side. We would like to produce a report that examines the role

of tourism in our economy – laid starkly against the poor wages of those on whom the industry depends. We would also like this piece to emphasize that the tourism industry – uniquely dependent on location for the tourist consumer base – is not likely to make good on the opponents’ exit threats (i.e. you can’t serve Disneyland customers from Georgia). This report would also give us a chance to emphasize the potential benefits to the industry from raising wages – lower absenteeism and turnover leading to decreased recruitment, hiring and training costs for businesses and higher customer satisfaction.

To complement the work of EPI, PERI, the Center for American Progress and other national think tanks and academics, the campaign will engage several Florida economic experts to be available to the press, to talk shows, to give briefings, speeches, and debate the opposition’s economic experts. Once identified, these Florida experts will be key to validating the economic research from the national groups and answer the unavoidable charges that ‘these outsiders from Washington think tanks don’t really know Florida’.

Opposition Research:

The campaign will employ a research firm or research staff to conduct the in-depth analysis including but not limited to the oppositions’:

- Fundraising and source of funds,
- Leaderships and spokespersons,
- Employment record and policies, benefits provided,
- Tax records
- Operations in states with higher/lower minimum wages
- Elected Officials’ voting records, fundraising, etc.

The research operation will work with the research departments and experts with in the coalition membership to enhance the campaign’s ability and utilize the existing resources. The opposition team will provide data and response for the campaigns’ polling, message development and communication. The research team will communicate with the research arms of progressive ballot measure campaigns in Florida and across the country to understand the opposition’s tactics and strategy.

Survey Research ‘Polling’:

The campaign has hired the polling firm of Lake Snell Perry to provide survey research. The campaign as conducted an initial benchmark poll of 600 voters November 18-20, 2003. The poll also surveyed two specific over-samples; 100 African American registered voters with no vote history and 100 Hispanic registered voters with no vote history.

The polling plan includes:

- Survey of 800 infrequent voters to measure the Minimum Wage

- Initiatives impact a turnout tool March 2004
- Focus groups to be determined by polling results. Some with GOTV targets (on turn out messages and getting them to vote down ballot) and some with soft supporters to see how we hold on to their votes.
 - Message survey to develop positive message for Minimum Wage and the best defense against the opposition's most effective messages –July.
 - Tracking polls – September-October.

Communication / Media:

Developing a strong message through paid and earned media will be pivotal to campaign's success. We have no illusion of out spending the deep pockets of the business industry. We will have to be on some television and radio airwaves to make sure our message is heard and charges by the opposition are answered. A major part of the success will be the through earned media development, press conferences, editorial boards, letters to editor, minority and specialty media and commentators amplification of the message to base constituencies.

An aggressive earned media and press operation is critical to the strategy to win. This is one of the critical activities of the coalition members and allied groups and elected officials and community leaders.

The campaign will develop a coordinated message structure with the communication staff and operations of the coalition organizations and supporting officials. The campaign will design and produce message material for the coalition partners; request that each organization make the minimum wage issue a priority in its member contact, public and paid communications.

The media firm Mac Williams –Robinson has been retained to provide communication and media strategy to the campaign. Will Robinson will be the lead partner on the account.

We currently hold a commanding lead in our own polling. If we can stay on course it is likely we will win, but anything can happen. Florida can become once again the battleground for winning the Presidency; a concerted effort could be waged by the Chamber, NFIB, or other allied group to impact that election through this initiative. America could be hit with another national tragedy. We are not sure all TV and radio stations will take ballot campaign advertising this year. It is for any of these reasons that we should be prepared and flexible. Florida is a large and expensive state, we may want to buy media state wide or reach for a specific target groups or specific target area.

There are ten major markets in Florida. The range in cost from \$516 per point in Miami down to \$54 per point in Gainesville.

Markets	Cost Per Point Adults 25-54	A 35+ Within State	A 35+ % of DMA with in state	A 35+ % of State Total
Tampa	\$254	2,290,686	100	24.7
Miami	\$516	2,262,482	100	24.4
Orlando	\$235	1,647,074	100	17.8
West Palm Beach	\$131	1,004,167	100	10.8
Jacksonville	\$107	663,118	87.7	7.2
Ft. Myers	\$99	590,495	100	6.4
Mobile-Pensacola	\$86	296,317	45.9	3.2
Tallahassee	\$60	199,962	64.2	2.2
Panama City	\$26	175,930	100	1.9
Gainesville	\$54	132,931	100	1.4

A traditional campaign of 900 – 1000 points of TV in all major markets totals could total over \$1.8 million dollars. We do not know if this is wise or necessary. Tracking polls later this year can help us refine if, when, and where we need to go up on the air.

In preparation for that we think we should look at four types of media:

1. Collateral Media. Web or flash media to be used on a website, on Palm pilots, or as part of an email “viral marketing” program. This can be developed in conjunction with the signature collection and approval process or the fall campaign.
2. Early media to assist or pressure the signature gathering or approval process. This would be radio or TV in number of markets late in the spring or before the National Conventions begin. Any Trail Lawyers or 3rd party groups who may want to make in-kind contributions of airtime can also adapt this media. A possible early media strategy could look like this:

TV:

MARKET	1 st Quarter 2002		2nd Quarter 2004	
	Adults 25-54	700 GRP Buy	Adults 25-54	700 GRP Buy
Tampa	\$254	\$177,800	\$ 293.37	\$205,359
Miami	\$516	\$361,200	\$ 595.98	\$417,186
Orlando	\$235	\$164,500	\$ 271.43	\$189,998
West Palm Beach	\$131	\$91,700	\$ 151.31	\$105,914
Jacksonville	\$107	\$74,900	\$ 123.59	\$86,510
Ft. Myers	\$99	\$69,300	\$ 114.35	\$80,042
Mobile-Pensacola	\$86	\$60,200	\$ 99.33	\$69,531
Tallahassee	\$60	\$42,000	\$ 69.30	\$48,510
Panama City	\$26	\$18,200	\$ 30.03	\$21,021
Gainesville	\$54	\$37,800	\$ 62.37	\$43,659

\$1,267,728

Radio:

MARKET	1st Quarter 2002		2nd Quarter 2004	
	Adults 35-64	300 GRP Buy	Adults 35-64	300 GRPs
Daytona	\$57	\$17,100	\$ 65.84	\$19,751
Ft. Myers-Naples	\$45	\$13,500	\$ 51.98	\$15,593
Ft. Pierce-Stuart	\$32	\$9,600	\$ 36.96	\$11,088
Ft. Walton Beach	\$19	\$5,700	\$ 21.95	\$6,584
Gainesville-Ocala	\$43	\$12,900	\$ 49.67	\$14,900
Jacksonville	\$69	\$20,700	\$ 79.70	\$23,909
Lakeland-Winter Haven	\$36	\$10,800	\$ 41.58	\$12,474
Melbourne-Titusville	\$39	\$11,700	\$ 45.05	\$13,514
Miami-Ft. Lauderdale	\$250	\$75,000	\$ 288.75	\$86,625
Panama City	\$12	\$3,600	\$ 13.86	\$4,158
Pensacola	\$43	\$12,900	\$ 49.67	\$14,900
Sarasota-Bradenton	\$80	\$24,000	\$ 92.40	\$27,720
Sebring*	n/a			
Tallahassee	\$33	\$9,900	\$ 38.12	\$11,435
Tampa-St. Petersburg	\$144	\$43,200	\$ 166.32	\$49,896
West Palm Beach	\$87	\$26,100	\$ 100.49	\$30,146

*unmetered market

\$342,689

Obviously, dropping markets would bring down cost. We may want to only go up in markets where we need backup on our signature gathering. We can also do a combination of radio and TV, which would bring down the cost to somewhere between a statewide radio buy of \$300,000 and a lower statewide TV of \$1.2 million. You can see from the differences between first quarter and third quarter rates the media costs in the state continuously creep up.

3. A fall persuasion/reinforcement campaign. One to three weeks of TV and radio in key markets. We may want to go up early, go dark and then go back up at the end or to defend ourselves if attacked. One benefit to any early media is that it will not be drowned out by the deluge of candidate spots at the end of the campaign. Depending on the markets this buy could be between \$1.2 million and \$2.2 million a week.
4. Targeted GOTV media. A series of targeted media buys to key GOTV constituencies. This may include black radio and Spanish language targeted to exclude older Cubans in key markets. We may also want to create some ads in other languages such as Creole. We should also consider doing senior GOTV radio. It is easy to reach seniors effectively and less expensively through stations that are often the 7th or 10th most listened to stations in the market. This GOTV advertising can be paid for

by the type of funds that cannot be used by 527s sixty days before the election. We can ask our GOTV audiences to vote to help working people and send Governor Bush a message!

Spanish Language TV and Radio: \$321,654
 (Miami TV is \$207K)
 (Miami Radio is \$34K)
 African American Radio and TV: \$278,567
 Additional language radio: TBD
 Targeted Senior Radio: \$150,400 - \$320, 150

Time placement:

We can start reserving time as soon as possible. At this time the campaign will not have to send any money to the stations to reserve time. We can probably cancel the time as late as 14 – 10 days before the starting airdate. We may want to lock in time in several key weeks in the fall now to ensure that these slots are not lost to upcoming deluge of candidate advertising. We can always cancel later. It may also be worthwhile to begin the conversations with the stations now to see if any stations or groups of stations (e.g.: Hearst Broadcasting) have set a policy to refuse ballot ads.

A good placeholder number for media would be \$1.2 million for early media and \$1.8 million for later media. We should also hold \$250,000 for GOTV radio.

Production Costs:

We have no idea how much the production costs will be until we know where and how many spots we will be putting on the air. In general, TV spots cost between \$5000 and \$15,000 a piece. Radio spots cost between \$1500 and \$4500. The larger the market the more expensive the voice over and any images we may buy. The cost of a TV shoot that will vary between \$14,000 and \$28,000, depending on the number of spots we will be shooting. It may be safe to project in the budget cost of a middle-sized shoot (\$18,000), two TV Commercials (\$4500 and \$8000) and three radio ads (\$1500, \$2000, and \$3500).

Specialty media/ radio, TV, newspapers ethnic, community, and

Legal:

Paul Sonn and Nathan Newman of the Brennan Center in New York have been assisting the campaign on legal questions.

The campaign will retain Florida counsel with expertise in the Florida election law.

The campaign to date has received legal advice and assistance from Mark Herron and Ron Mayer, Florida election law attorneys.

Compliance/Administrative:

The campaign will employ experienced compliance staff or service to assure the proper systems are set up for expenditures and fundraising practices. The campaign compliance will be responsible for proper reporting and documentation for campaign activity.

Campaign Team:

Field and Qualification – Campaign Team: The campaign team currently led by Brian Kettenering, Florida ACORN Head Organizer, a veteran of numerous living wage (Chicago, Oakland, Sacramento) and election campaigns.

Frank Houston- Signature Drive Coordinator- a former PIRG canvass director, Frank built Florida ACORN's canvass program in Orlando. He manages the development and operation of an 8-city signature operation.

The Florida ACORN operation has substantial support and attention from Zack Pollett ACORN National Political Director and Steve Kest ACORN National Executive Director. Jessica Angus, ACORN National Political Organizer has spent considerable time with the Minimum Wage Campaign, directing four national staff detailed to the campaign to assure the signature drive's success.

Campaign Manager: Hiring

Campaign Strategy: Gail Stoltz, will be consulting on overall strategy, campaign management, developing national relationships and coalition plan. Gail's experience as DNC National Political Director, DSCC Political Director, and SEIU Government Affairs Director, has given her a breath of experience with initiatives and strategies for voter mobilization and turnout.

Polling: Celinda Lake and David Cantor, Lake Snell Perry and Associates; a national polling firm that has polled for Governors, US Senators and Representatives, national party committees, labor unions and AFL-CIO. The firm has in depth experienced on ballot initiatives including the minimum wage and working on voter turnout campaigns.

Media: Will Robinson, MacWilliams Robinson; a national media and communications firm, Will is a veteran of numerous progressive initiative fights both supporting and defeating ballot initiatives. His expertise is beyond producing TV and radio, Will has a track record of innovative strategy combining field, message, and turnout to initiative fights.

Fundraising: Terri Shuck, National fundraising consultant, has signed on to develop and oversee a national fundraising effort. Terri has a vast network developed in her work with People for the American Way, Campaign for American's Future, the Youth Project. Terri has developed the national fundraising plan and fundraising committee, close to a million dollars have been raised to date.

Timeline:

January 2004

- ✓ Submit 50,000 valid signature to Counties –trigger Supreme Court Review

- February**
- ✓ Collect 200,000 signatures (total 300,000)
 - ✓ Submit to counties for validation
 - Hire Manager
 - Hire Florida Fundraiser
 - ✓ Prepare instrument for test
 - ✓ New registrants 25000
 - ✓ Launch email campaign for signatures
 - Data enter signature names, email, and new voters --match to file
- March**
- 50-70,000 signatures on March 9th Primary Day 400 precincts
 - Conduct test for low frequency and non-voters
 - Email signature campaign
 - Hire Communication Director
 - Hire Field Director
 - 200,000 additional signatures (550,000 TD)
 - Choose legal council --negotiate retainer/monthly fee
 - Set up HQ office (negotiate in-kind)
 - Set-up Administration/ Compliance/ Accounting system
 - Data entry -- List build
- April**
- 150,000 Signature (700,000 TD)
 - Email Signature campaign
 - Hire Research staff/firm
 - Technology hire and set-up
 - Data entry -- List build
 - August 30 - Submit signatures
- May**
- Finish Signature Gathering (clean --up)
 - Email Signature campaign to May 15
 - Launch Email / Web campaign;
 - Set up Regional offices (2)
 - Hire Regional staff (3 media markets)
 - Data entry signatures
- June**
- Final Signatures due June 30
 - Email campaign moves to message, fundraising, and recruitment
 - Field in targeted precincts
 - Data entry -- signatures /new voters
 - Hire Regional staff (1 media market)
 - Voter Registration-
- July**
- Message poll
 - Focus Groups
 - Data entry --signature/new voters

Hire Regional staff (4 media markets)
 Voter registration

August

August 4th Qualification date
 Production Shoot
 Volunteer Coordinators/ Volunteer canvas set-up
 Paid Canvas
 Voter registration

September

Tracking Poll
 Canvas Paid
 Volunteer / coalition canvas
 Paid media: radio
 Specialty/community newspapers
 Voter Registration

October

Voter data base –enhancement final (end voter registration)
 Tracking Poll
 Canvas
 Paid Media Radio / ??TV specialty/broadcast/cable
 Specialty/community media

November

Slate message
 Protect the ballot operation with coalition
GOTV

Fundraising:

Terri Shuck, former Development Director for People for the American Way has signed on as the fundraising consultant and leading the national fundraising effort. A national funding support group of leading progressive donors and philanthropic advisors has held three national calls since October, and substantially leveraging contributions of \$500,000 in the first quarter of the campaign. We intend to have \$1 million in commitments by the end of March to for the ballot qualification drive and research and polling to frame the argument for raising the state minimum wage.

A Florida fundraising director will start in early spring to work with the national consultant on the Florida major donor plan as well as developing funding sources from unions and other allied organizations. The following chart summarizes our fundraising goals and progress as of the end of February, 2004.

	Goal	Committed	Pending	Balance
National Donors	1,335,000	465,000	575,000	295,000

Florida Donors	924,000	89,000		835,000
Unions	500,000	23,000		477,000
Allies In-Kind	500,000	280,000		220,000
Internet	100,000			100,000
Outside Fund -media	750,000			750,000
Total	4,409,000	857,000	575,000	2,677,000

**Budget and Funding Plan:
Attached**

Floridians for All

Campaign Deliverables

This campaign will increase November 2, 2004 turnout between 198,000 and 358,000 new voters, see the registration of 200,000 new voters, and built the lists, field capacities, and coalition relationships to advance progressive interests in the near and long term.

Turnout

**1. 166,000 New Voters Based Upon Voter Registration
(80% Turnout of 70% of 220K + 65% of 30%)**

ACORN is planning its largest voter registration effort in our organization's history. In its early stages, that drive has already registered 116,000 new voters as of early August 2004. Our track record shows that of the 70% of registrants for whom we get a phone number, 80% of these will vote on election day when we run our standard program of 8-10 touches through election day, including phone, mail, and canvass. Of voters who do not provide a phone number 65% of these will vote based upon past experience.

**2. 32,000 –192,000 New Voters Mobilized from Amendment Itself
.5% - 3% Increased Turnout Statewide**

NCEC projections indicate a voter turnout of 6.4 million in November 2004, an increase of 300,000 from 2000. We believe our initiative could boost turnout an additional .5% - 3%. Experience from other states shows that initiative states generally have higher turnouts, and that minimum wage initiatives can mobilize large numbers of new voters without mobilizing opposition voters. The best example of this is in Washington in 1998, where experts found as much as a 4% increase attributable to the minimum wage. Because this is a presidential election, the potential turnout impacts will not likely reach 4%, but may reach .5% - 3%.

List Building:

1. 60,000 Emails of Supporters Who Sign the Petition

We have collected and are presently databasing more than 60,000 emails from petition signers.

2. List of 500,000 Valid Registered Voters Who Have Signed Our Petition

We collected 984,000 signatures through the end of the signature drive, with 571,000 of these validated by the Secretary of State, nearly 100,000 more valid signatures than required for certification. We have photocopies of 500,000 plus of the petitions gathered for strategic list-building.

Field Capacity:

1. A High Skill, Trained, Community Organizing Staff of 40 Organizers Statewide in 8 Metro Areas

ACORN currently has among the largest, most talented staffs of organizers working on a common Florida agenda. Our staff size is 30 currently, and will grow as we open two new offices in the next 6 months. ACORN community organizers spend 24 hours a week knocking on doors, recruiting members, talking issues, and identifying indigenous leadership. They also spend 8 hours weekly running volunteer phonebanks. The average ACORN organizer recruits 15 new, dues-paying members monthly, and mobilizes members for over 400 hours of volunteer political activity per month in their community. We presently have community organizers working in six metro areas: Miami, Ft. Lauderdale, Palm Beach, St. Petersburg, Tampa, and Orlando. We plan to begin community organizing in Jacksonville and Tallahassee shortly.

2. A Political Staff Comprising 20 Managers and 200-400 Political Staff

The signature drive forced ACORN to build field infrastructure to collect the million signatures that qualified Amendment 5 for the ballot. We turned the burden of the signature-gathering process into an opportunity to build capacity, capacity that is now registering 15,000 new voters each week and, beginning August 23rd, will begin a massive GOTV effort.

Coalition:

- 1. A Coalition of More than 500 Organizations Around the State, Mobilized Around Minimum Wage**
FFA has hired a coalition builder that will see the coalition grow into a both deep and broad formation that allies unions, faith groups, community organizations, civil rights groups, ethnic organizations, small businesses, etc. with each other. Through a series of activities, including mini-conferences and strategy meetings, joint work, etc., FFA will build greater capacity and operational unity for progressive forces in Florida.

Floridians For All A Campaign to Raise the Florida Minimum Wage



www.floridiansforall.org

Clarence Pittman, President
International Longshore Association Local 1416
Jacksonville, FL

September 10, 2004

Brother Clarence:

On the eve of the most important election of our lifetimes, working families are again under attack and again fighting back like never before. As this most important election of our lifetimes comes down to the wire here in Florida, I write to ask your support for a strategy that could make the difference November 2 – Amendment 5, the Florida Minimum Wage Initiative.

Floridians for All, the coalition campaign behind Amendment 5, is not merely a campaign to win a raise for the 850,000 Florida workers that would benefit. Moreover, it is a campaign to bring record numbers of workers and their family members to the polls. As AFL-CIO member unions have an unprecedented strategy to mobilize your members this fall, think of Floridians for All as the campaign to drive out the workers that haven't yet joined your union.

Here are the basics on the campaign:

- Amendment 5 is a constitutional amendment establishing a Florida minimum wage at \$6.15 and indexing it to inflation.
- Floridians for All is a coalition of more than 100 organizations, including the FL AFL-CIO and scores of international and local unions. If your union hasn't yet endorsed, see materials at www.floridiansforall.org.
- Floridians for All collected 984,000 signatures to place Amendment 5 on the ballot. The campaign has registered over 145,000 new voters in Florida this year, the largest voter registration project in the state.
- Floridians for All is not only a coalition, but also a state PAC, and has raised more than \$1 million so far to place Amendment 5 on the ballot and to fight for its passage.
- Amendment 5 is polling at 81% according to polls by Democratic pollster Celinda Lake. More importantly, we polled groups that are important to bring to the polls November 2, such as African Americans. Among African Americans who are registered to vote but have a low-propensity to vote, 5 polls at 94%!
- Minimum wage initiatives have been shown to increase turnout. In Washington State in 1998, a minimum wage initiative there increased turnout 4% overwhelmingly from supporters.

Floridians for All will run a \$2 million campaign to drive new voters out in support of Amendment 5. Here's how the campaign will deliver the working families vote November 2:

- Working with partner organizations, we will register over 200,000 new voters. When we get a phone number for new registrants, 80% of them will vote on election day. **This work could deliver 166,000 new pro-worker votes alone.**
- We are purchasing \$1 million in GOTV oriented media (not persuasion media, mobilization media), with a heavy emphasis on 500,000 new registrants and low-propensity voters in African-American precincts across the state.
- We have a \$750,000 canvass program that will touch all the targeted voters in our universe four times with in-person conversations through election day.
- All told, through our 8-10 touch GOTV program, we believe we can bring as much as an additional .5%-3% of the vote out. **That's an additional 32,000 –192,000 new pro-worker votes.**

Floridians for All needs your help to complete its mission. Your union's contribution of \$50,000.00 to Amendment 5 is a direct contribution to the cause of working families in Florida, and the most efficient means to get out our vote November 2. Thank you for your consideration.

Please send contributions to:

Floridians for All PAC
1380 W. Flagler
Miami, FL 33135

Sincerely,

Anthony C. "Tony" Hill, Sr.
Campaign Director, Floridians for All
(904) 705-5182

Floridians For All A Campaign to Raise the Florida Minimum Wage



www.floridiansforall.org

Anthony Hill, Jr., Campaign Director
Floridians for All

September 4, 2004

John L. Lewis, President
United Mine Workers
2004 Election is Ours Drive
Chicago, IL, 60605

Dear John:

On this the eve of Labor Day, working families are again under attack and again fighting back like never before. As this most important election of our lifetimes comes down to the wire here in Florida, I write to ask your support for a strategy that could make the difference November 2 – Amendment 5, the Florida Minimum Wage Initiative.

Floridians for All, the coalition campaign behind Amendment 5, is not merely a campaign to win a raise for the 850,000 Florida workers that would benefit. Moreover, it is a campaign to bring record numbers of workers and their family members to the polls. As AFL-CIO member unions have an unprecedented strategy to mobilize your members this fall, think of Floridians for All as the campaign to drive out the workers that haven't yet joined your union.

Here are the basics on the campaign:

- Amendment 5 is a constitutional amendment establishing a Florida minimum wage at \$6.15 and indexing it to inflation. Florida is one of only 5 states with no state minimum wage on the books!
- Floridians for All is a coalition of more than 100 organizations, including the FL AFL-CIO and scores of international and local unions. If your union hasn't yet endorsed, see materials at www.floridiansforall.org.
- Floridians for All collected 984,000 signatures to place Amendment 5 on the ballot. The campaign has registered over 145,000 new voters in Florida this year, the largest voter registration project in the state.
- Floridians for All is not only a coalition, but also a state PAC, and has raised more than \$1 million so far to place Amendment 5 on the ballot and to fight for its passage.
- Amendment 5 is polling at 81% according to polls by Democratic pollster Celinda Lake. More importantly, we polled groups that are important to bring to the polls November 2, such as African Americans. Among African Americans who are registered to vote but have a low-propensity to vote, 5 polls at 94%!
- Minimum wage initiatives have been shown to increase turnout. In Washington State in 1998, a minimum wage initiative there increased turnout 4% overwhelmingly from supporters.

Floridians for All will run a \$2 million campaign to drive new voters out in support of Amendment 5. Here's how the campaign will deliver the working families vote November 2:

- Working with partner organizations, we will register over 200,000 new voters. When we get a phone number for new registrants, 80% of them will vote on election day. **This work could deliver 166,000 new pro-worker votes alone.**
- We are purchasing \$1 million in GOTV oriented media (not persuasion media, mobilization media), with a heavy emphasis on 500,000 new registrants and low-propensity voters in African-American precincts across the state.
- We have a \$750,000 canvass program that will touch all the targeted voters in our universe four times with in-person conversations through election day.
- All told, through our 8-10 touch GOTV program, we believe we can bring as much as an additional .5%-3% of the vote out. **That's an additional 32,000 –192,000 new pro-worker votes.**

Floridians for All needs your help to complete its mission. Your union's contribution of \$50,000.00 to Floridians for All PAC is a direct contribution to the cause of working families in Florida, and the most efficient means to get out our vote November 2. Thank you for your consideration.

Please send contributions to:

**Floridians for All PAC
1380 W. Flagler
Miami, FL 33135**

Sincerely,

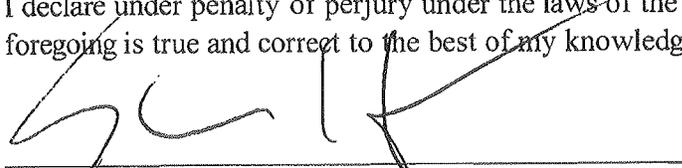
**Anthony Hill, Jr.
Campaign Director, Floridians for All
(904) 705-5182**

Declaration of Steve Kest

I, Steve Kest, being of legal age and sound mind, do hereby depose and state as follows:

1. I am the executive director of ACORN and was so in 2004.
2. I received a copy of the document entitled "Floridians for All, Campaign Plan for November 2004, Minimum Wage Constitutional Amendment Initiative" from Brian Kettenring, Florida ACORN Head Organizer at the time.
3. I discussed the Floridians For All draft proposal contained as Tab 1 to the complaint with Brian Kettenring. The proposal was not approved as drafted. The draft contained inappropriate statements such as "retake the White House in 2004 and rebuild the Florida Democratic Party", "increase the turnout of working class, mainly Democratic voters without increasing opposition turnout." "George Bush and other Republicans by increasing Democratic turnout in a close election" or "make the difference for a Democratic Presidential candidate but also lend significant support to Congressional and local races." These statements do not represent why ACORN wants to increase the minimum wage. ACORN chapters are not authorized to carry out any activity in pursuit of these goals.
4. State ACORN Chapters, including Florida ACORN, are not authorized to commit ACORN to a campaign that utilizes national resources without approval from myself and/or other ACORN national staff. The Florida Minimum Wage campaign was a campaign that required national resources and national approval.
5. Brian Kettenring was not authorized, and was not able to, commit the Florida ACORN Chapter to a minimum wage campaign without approval from me or other national staff.
6. Neither I nor any other national staff approved the Floridians For All document as written. The campaign was eventually approved but without any of the partisan provisions, goals or purposes mentioned in the draft document.
7. The funds provided to ACORN by Project Vote in Florida and Pennsylvania in 2004 were used for a voter registration project. None of the public communications disseminated as part of that project referred to any candidates or political parties.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.



Steve Kest

11/13/06

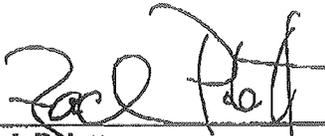
Date

Declaration of Zach Polett

I, Zach Polett, being of legal age and sound mind, do hereby depose and state as follows:

1. I am the executive director of Project Vote and I held that position in 2004.
2. Project Vote provided funding to ACORN in Florida in 2004 for voter registration and get out the vote activity. The Joint Effort Agreement between Project Vote and ACORN specifically requires that ACORN conduct its activity in a "scrupulously non-partisan manner."
3. America's Families United was a not for profit 501(c)3 organization that provided funding to Project Vote for some of its non-partisan voter registration work.
4. Project Vote did oversee a national campaign to assist over a million low income and minority citizens to register to vote and participate in democracy. ACORN was one of the organizations that Project Vote oversaw. None of the activity that Project Vote oversaw included any public communication that referred to any federal, state or local candidate or political party.
5. Project Vote assisted over 100,000 citizens to register to vote in Pennsylvania in 2004.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.



Zach Polett

11/13/06
Date

Floridians for All

Campaign Plan for a November 2004 Minimum Wage Constitutional Amendment Initiative

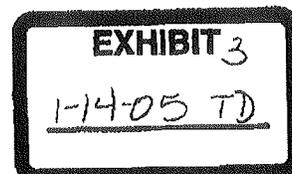
October 1, 2003

Prepared by:

Florida ACORN
Association of Community Organizations for Reform Now
1830 49th St. South
St. Petersburg, FL 33707
www.acorn.org

For More Information Contact:

Brian Kettenring
Florida ACORN Head Organizer



RECEIVED
FEDERAL ELECTION COMMISSION
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ANTHONY D DEMMA
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JENNIFER S BLOHM

MAILING ADDRESS
POST OFFICE BOX 1547
TALLAHASSEE, FLORIDA 32302
FAX 850/656-6750
email rmeyer@meyerandbrooks.com

2004 DEC 15 11:48

LYNN T THOMAS
LEGAL ASSISTANT

December 7, 2004

Lawrence Norton, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 5586
Florida Education Association and Academy of Florida Trial Lawyers

Dear Mr. Norton:

This letter constitutes the response of the Florida Education Association ("FEA") and the Academy of Florida Trial Lawyers ("AFTL") to the complaint in the above-referenced Matter Under Review. For the reasons stated below, the Commission should dismiss the complaint against FEA and AFTL.

The complaint attempts to allege that FEA and AFTL made coordinated contributions/expenditures to the Democratic Party and/or Democratic candidates for federal office in violation of the Federal Election Campaign Act ("FECA") as amended by the Bipartisan Campaign Reform Act of 2002 ("BCRA"). In its inadequate effort to support these allegations, the complainant relies solely on an unsigned document entitled "Florida Victory 2004." However, other than naming FEA and AFTL as respondents and referencing the unsigned "Florida Victory 2004" document, the complaint does not allege any specific action purportedly taken by FEA or AFTL that would constitute a violation of the FECA/BCRA; the complaint does not reference a single specific federal election activity or public communication purported to have been engaged in by FEA or AFTL.

Accordingly, the complainant has not established a factual basis to support the allegations that FEA and AFTL violated FECA/BCRA. Indeed, as the affidavits attached to this letter demonstrate, no such basis exists.

Neither FEA nor AFTL had any knowledge of nor participated in any of the activities listed in the document entitled "Florida Victory 2004." In fact, AFTL did not engage in any activities involving federal candidates in the 2004 election cycle, and FEA only engaged in permissible restricted class communications. No one at FEA or AFTL ever saw or signed the document entitled "Florida Victory 2004."

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Lawrence Norton, Esquire
December 7, 2004
Page Two

An unimplemented document drafted by a third party cannot support a violation of FECA/BCRA by FEA or AFTL. The complaint completely fails to contain "a clear and concise recitation of facts which describe a violation of a statute or regulation over which the Commission has jurisdiction" as required by 11 CFR §111.4(3). Instead, the complaint relies solely on conjecture and assumption with no basis in fact. Accordingly, the complaint as it pertains to FEA and AFTL should be dismissed.

Based on the foregoing, FEA and AFTL respectfully request that the Commission dismiss the complaint. If you have any questions, please do not hesitate to contact me.

Sincerely yours,



Ronald G. Meyer

Enclosures

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AFFIDAVIT

STATE OF FLORIDA
COUNTY OF LEON

Before me personally appeared Andy Ford who, after being duly sworn, stated the following:

1. I am President of the Florida Education Association which is located at 213 South Adams Street, Tallahassee, Florida 32301.

2. On November 8, 2004, FEA received the complaint and its attachments filed by the Republican Party of Florida. Prior to receiving the complaint, neither I, nor any other officer, agent or employee of FEA, had ever seen the document entitled "Florida Victory 2004" which was attached to the complaint. Neither I, nor any authorized representative of the FEA ever signed any version of the document entitled "Florida Victory 2004."

3. The only federal election communications engaged in by FEA during 2004 were restricted class communications, i.e. communications to FEA's members, officers and their immediate families. FEA did not engage in any public communications or electioneering communications during the 2004 election cycle. FEA did not participate in nor undertake any of the activities listed in the document entitled "Florida Victory 2004."

4. FEA did not make any expenditures in coordination, cooperation, or at the suggestion of any federal candidate, authorized political committee of a candidate, candidate's agents or a national, state or local committee of a political party. FEA did not make any in-kind contributions to a federal candidate or political party.

FURTHER AFFIANT SAYETH NAUGHT.

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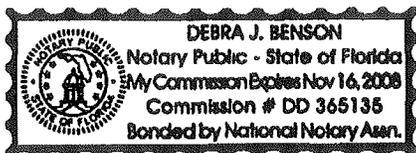
Andy Ford
Andy Ford

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me on this 2 day of December, 2004, by Andy Ford, , who is personally known to me OR who has produced satisfactory evidence of identification (check one) and who did OR did not (check one) take an oath stating that the foregoing was executed for the purposes stated therein.

Type of Identification Produced: Personally Known

Debra J. Benson
NOTARY PUBLIC



Debra J. Benson
PRINTED NAME
My Commission Expires:

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF LEON

Before me personally appeared Alexander Clem who, after being duly sworn, stated the following:

1. I am President of the Academy of Florida Trial Lawyers, Inc. ("AFTL") which is located at 218 South Monroe Street, Tallahassee, Florida 32301.
2. Prior to AFTL's receipt of the Florida Republican Party's complaint and its attachments, neither I nor any other officer, agent or employee of AFTL, had ever seen the document entitled "Florida Victory 2004" which was attached to the complaint. Additionally, neither I, nor any other officer, agent or employee of the AFTL, ever signed any version of the document entitled "Florida Victory 2004." AFTL did not participate nor undertake any of the activities listed in the document entitled "Florida Victory 2004."
3. AFTL did not engage in any public communications or electioneering communications involving federal candidates during the 2004 election cycle. AFTL's election activities in 2004 consisted solely of support or opposition of state and local candidates and ballot initiatives.
4. AFTL did not make any expenditures in coordination, cooperation, or at the suggestion of any federal candidate, an authorized political committee of a federal candidate, a federal candidate's agents, or a national, state, or local political party. AFTL did not make any in-kind contributions to federal candidates and/or political party committees.

FURTHER AFFIANT SAYETH NAUGHT.

Alexander Clem

Alexander Clem

STATE OF FLORIDA
COUNTY OF ~~ORANGE~~ LEON

The foregoing instrument was acknowledged before me on this 30 day of ~~December~~ ^{November}, 2004, by Alexander Clem, ✓, who is personally known to me OR _____ who has produced satisfactory evidence of identification (check one) and who ✓ did OR _____ did not (check one) take an oath stating that the foregoing was executed for the purposes stated therein.

Type of Identification Produced: _____

Ronald G Meyer

NOTARY PUBLIC

RONALD G MEYER

PRINTED NAME

My Commission Expires:



260-4132339

American Federation of Labor and Congress of Industrial Organizations



815 Sixteenth Street, N W
Washington, D C 20006
(202) 637-5000
www.aflcio.org

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Frank Hanley
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Robert A. Scardelletto
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John W. Wilhelm
Capt. Duane Woerth
Joseph J. Hunt
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Melissa Gilbert
John J. Flynn
William H. Young

December 13, 2004

Lawrence H. Norton
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

RE: MUR 5586

Dear Mr. Norton:

I am writing on behalf of the Florida AFL-CIO in response to the complaint filed against it and other respondents by the Republican Party of Florida. The complaint makes no allegations specific to the Florida AFL-CIO, but broadly asserts that its alleged participation in an "agreement" dated September 3, 2004 and entitled "Florida Victory 2004" violates the Federal Election Campaign Act (the "Act") in numerous ways. That assertion is wrong as a matter of fact and law, and we urge the Commission to find no reason to believe that the Florida AFL-CIO has violated the Act, and to dismiss the complaint as to the Florida AFL-CIO.

As set forth in the attached Declaration of Cynthia Hall¹, the Florida AFL-CIO had virtually no contact with the Florida Democratic Party (FDP) with respect to the "Florida Victory 2004" coordinated campaign plan. Ms. Hall participated in a single telephone call with the FDP regarding such a plan in August; briefly reviewed and signed it around September 1; did not discuss it or show it to anyone; and promptly locked it in a drawer and left it there, undisturbed, until, literally, last Friday, December 10.

As Ms. Hall also relates, the Florida AFL-CIO's political activities during 2004 consisted solely of outreach to its restricted class of members of affiliated unions, executive and administrative employees, and their families. The Florida AFL-CIO undertook no general public communications on election-related activities. Indeed, the complaint does not allege a single instance of any.

¹ We are enclosing a faxed version of the declaration. The original will be filed upon its receipt in my office.

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OFFICE OF GENERAL
COUNSEL
2004 DEC 14 AM 11:51

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Moreover, the Florida Victory Plan itself on its face solely concerns plans and activities of the FDP, and nowhere mentions the Florida AFL-CIO except on the signature page. In fact, the Florida AFL-CIO undertook none of the activities described in the plan (none of which the plan attributes to it in any event), and neither the version of the plan attached to the complaint nor the version that Ms. Hall signed included the "field and fundraising help levels" referred to on the signature page. Nor did the Florida AFL-CIO contribute any field help; and, in fact, all of its financial contributions to the FDP, a total of \$16,000 non-federal, were made before the conference call and the conveyance of the plan to Ms. Hall. At no time did the FDP actually request or suggest that the Florida AFL-CIO engage in any non-restricted class communications or other outreach, nor did they even discuss any.

Under these factual circumstances, the applicable law is straightforward and dispositive that there is no violation. The core allegation of the complaint seems to be that there were unlawful coordination and resulting in-kind contributions to the FDP, in violation of 2 U.S.C. §§ 441a(a)(7) and 441b. However, if a labor organization's communications are confined to its restricted class, as was the case here with the Florida AFL-CIO, the ACT's restrictions on coordination are inapplicable and the labor organization makes no contribution (or expenditure) as a matter of law. See 2 U.S.C. §441b(b)(2)(A); 11 C.F.R. §§ 100.81, 100.134, 114.3. Contrary to the assertions in the complaint, this fundamental feature of the Act was not changed by the Bipartisan Campaign Reform Act of 2002.

Moreover, even if the Florida AFL-CIO's participated in devising, discussing and approving the Florida Victory Plan in ways that far exceeded the minimal contact that actually occurred, there would be no resulting coordinating or in-kind contribution within the meaning of the Act. For, a labor organization and a state political party committee lawfully can freely consult about the party's own activities, and the party committee can implement the labor organization's requests or suggestions concerning what the party committee should do.

This analysis of the applicable law is set forth in the final General Counsel's Report that was approved by the Commission in MUR 4291 in 2000. At issue in relevant part was the national AFL-CIO's review and approval of numerous state Democratic Party coordinated campaign plans. The General Counsel recommended that the Commission take no further action. For, as here, the plans did not "make any "unmistakable reference" to, much less request or suggest, any specific communications by the AFL-CIO to the general public"; rather, "[w]here the . . . plans referred to communications to the general public, they referred to the state parties' plans for their *own* communications to the general public" General Counsel's Report at 16 (June 12, 2000) (emphasis in original). And, although the AFL-CIO as well as "individual state AFL-CIO federations . . . had access to volumes of non-public information about [state and national Democratic Party committees'] plans, projects, activities and needs," the General Counsel acknowledged that "under no theory of law, either prior to or after [*FEC v. Christian Coalition*, [52 F. Supp. 2d 45 (D.D.C. 1999),] has coordination of a recipient political committee's own communications with a third party rendered the political committee's communications illegal." *Id.* at 18, 19.

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The same conclusions apply to the facts in the instant case; and here, the Florida AFL-CIO's role with respect to the FDP's coordinated campaign plan was far less engaged and influential than those described in MUR 4291.

Nothing in BCRA altered the law of coordination in this respect. Although BCRA repealed the then-extant regulations concerning coordination, the Commission's post-BCRA coordination regulations exclusively, and properly, concern only a third party's public communications, not those of the political committee involved. See 11 C.F.R. Part 109. Accordingly, there can be no reason to believe that unlawful coordination occurred with respect to the Florida AFL-CIO.

Finally, the complaint's other apparent allegation against the Florida AFL-CIO as a non-party respondent similarly fails. There can be no reason to believe that the Florida AFL-CIO violated 2 U.S.C. § 433 by failing to register as a political committee, for it is not a political committee by virtue of any of the activities described in Ms. Hall's declaration.

In sum, then, there is no reason to believe that the Florida AFL-CIO violated the Act, and we respectfully request that the Commission so conclude and dismiss the complaint against it.

Yours truly,



Laurence E. Gold
Associate General Counsel

Enclosure

cc: Cynthia Hall

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FEDERAL ELECTION COMMISSION**MUR 5586****DECLARATION OF CYNTHIA HALL**

1. I am the president of the Florida AFL-CIO, which is located at 135 S. Monroe St., Tallahassee, FL 32301. The Florida AFL-CIO is a state central labor body whose affiliates principally include many local unions of national and international unions affiliated with the AFL-CIO. As President, I am the chief executive officer of the Florida AFL-CIO.
2. During 2004 the Florida AFL-CIO undertook various activities concerning federal, state and local elections taking place in Florida. For purposes of the Federal Election Campaign Act, I understand that the "restricted class" of the Florida AFL-CIO within Florida consists of its executive and administrative personnel and their families, and the members of its affiliated unions and their families. All of the Florida AFL-CIO's activities concerning federal elections in 2004 were directed only at this restricted class.
3. Some time during August 2004 I participated in a conference call initiated by the Florida Democratic Party that included representatives of the FDP and several non-party organizations. The FDP stated that it would soon circulate a coordinated campaign plan for the FDP and requested that each organization review and sign it, as well as make financial contributions to the FDP.
4. I subsequently received a document dated September 1, 2004 called "Florida Victory 2004," which appears substantially similar to the September 3, 2004 "Florida Victory 2004" document attached to the complaint in this case. I had never seen the September 3 document until I received it with this complaint.
5. Shortly after I received the document dated September 1, I skimmed it, signed it and sent the signature page with my signature alone on it to the FDP. I did not show it to anyone and did not discuss it with anybody from that time until the November 2 general election. In fact, I put it in a locked drawer in my office, where it remained undisturbed until this past Friday, December 10, when I retrieved it in the course of preparing this declaration.
6. The Florida AFL-CIO had virtually no contact with the FDP from the time I signed the Florida Victory Plan until the November 2 general election. Rather, the Florida AFL-CIO's political activities wholly and independently involved outreach to the restricted class described above. I was neither notified of nor attended any meetings as described on page 1 of the Florida Victory Plan, or any similar meetings or calls, and no other Florida AFL-CIO representative had any such contacts either. At no time did the FDP request,

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suggest or otherwise discuss with the Florida AFL-CIO any general public communications or activities by the Florida AFL-CIO.

- 7. The signature page in each version of the Florida Victory Plan refers to an agreement "to contribute field and fundraising help at the levels ascribed below." Neither document ascribes (or describes) any such levels. The Florida AFL-CIO contributed no field help to the FDP during 2004. The Florida AFL-CIO made non-federal (and no federal) financial contributions to the FDP during 2004 totaling \$16,000; all of these preceded the conference call described above and my receipt of the September 1 Florida Victory Plan.
- 8. I have read the various speculative assertions in the complaint about the role of "non-federal entities" in Florida during 2004. Those assertions are false with respect to the Florida AFL-CIO, which, in fact, the complaint specifically refers to only in its first paragraph.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 13, 2004.



 Cynthia Hall

260-4132345

LAW OFFICES
LICHTMAN, TRISTER & ROSS, PLLC
1666 CONNECTICUT AVENUE, N.W., SUITE 500
WASHINGTON, D.C. 20009

ELLIOTT C. LICHTMAN
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LAURA A. POSSESSKY^A
RICHARD L. THOMAS^A
JOSEPH J. KRANYAK^B

^AALSO ADMITTED IN MD
^BADMITTED IN TX ONLY

LAURENCE E. GOLD
OF COUNSEL

December 13, 2004

By Facsimile to 202/219-3923

Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20004

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2004 DEC 20 11:13

Re: MUR-5586 - Response to Complaint on behalf of Service
Employees International Union

Dear Sir or Madam:

The Service Employees International Union, AFL-CIO ("SEIU") responds to the complaint filed by the Republican Party of Florida in this matter as follows:

1. SEIU is an international labor organization. SEIU was served with a copy of the complaint by letter dated November 3, 2004 addressed to its International President at its headquarters in Washington, D.C. Since SEIU is not named in the complaint, including the list of Respondents in Attachment B, it should not have been served with a copy of the complaint and no action may be taken against it in response to the complaint. *See*, 2 U.S.C. §437g(a)(1) (Commission shall notify "any person alleged in the complaint to have committed such a violation"); 11 C.F.R. § 111.4(d)(1) (complaint should "clearly identify as a respondent each person or entity who is alleged to have committed a violation"); 11 C.F.R. § 111.5(a) (Commission shall notify "each respondent").

2. The Commission's letter to SEIU states that the complaint indicates that "Florida Service Employees International Unions (sic)" may have violated the Act. The opening paragraph of the complaint also lists "Florida SEIU" among the group of organizations participating in the Victory 2004 Florida Coordinated Campaign, although "Florida SEIU" is not listed as a respondent on Attachment B. There is no entity known as "Florida Service Employees International Union" or "Florida SEIU". An intermediate body known as the SEIU Florida State Council is made up of six local unions operating in Florida who are affiliated with SEIU. The State Council is not named in the complaint. Moreover, to the extent that the complaint's

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reference to "Florida Service Employees International Union" or Florida SEIU" might be construed as a reference to the State Council, that body is an independent entity, with its own bylaws and officers, and it cannot be served by notice to the International union.

3. The unsigned Signature Page for the document entitled "Florida Victory 2004" which is attached to the complaint includes "Monica Russo, Florida SEIU." Ms. Russo is an officer of SEIU Local 1199FLORIDA, an affiliated local union of SEIU. There is no allegation in the complaint that SEIU Local 1199FLORIDA engaged in any unlawful activity under the Federal Election Campaign Act, and the local has not been served with the complaint in any event.

4. If called upon to respond, Ms. Russo would testify that she had no role whatsoever in the development or drafting of the document entitled "Florida Victory 2004"; that while she received an electronic copy of the document dated September 1, 2004 (not September 3, 2004 as in the attachment to the complaint), she did not sign that document or otherwise respond to it and did not distribute it to others. Ms. Russo would also testify that neither she nor, to the best of her knowledge, anyone associated with SEIU Local 1199FLORIDA or the Florida State Council, participated in a "Coordinated Campaign Decision Making Table" or in meetings of such a table, as described on page 1 of "Florida Victory 2004". Finally, she would testify that the information contained in "Florida Victory 2004" concerning the plans for the coordinated campaign played no role in the political campaign activities undertaken by SEIU Local 1199FLORIDA during 2004.

5. The gravamen of the complaint insofar as it involves nonparty entities is that they unlawfully coordinated their public activities in connection with the 2004 federal election with federal candidates and the Florida Democratic Party. Under 11 C.F.R. §109.21, a public communication will be found to be coordinated with a candidate or political party only if it satisfies both a content standard and a conduct standard. In the Explanation and Justification for its coordination regulations, the Commission stated that the purpose of the content standard is to serve "as a 'filter' or a 'threshold' that screens out [sic] certain communications from even being subjected to analysis under the conduct standards." See Final Rules, "Coordinated and Independent Expenditures," 68 Fed. Reg. 421, 430 (Jan. 3, 2003). The screening function of the content standard is critical because of the highly intrusive nature of investigations into alleged coordination between outside groups and political parties or candidates and is particularly important with respect to complaints filed by partisans against their political opponents, as is the case here. See, e.g., *AFL-CIO v. FEC*, 333 F.3d 168 (D.C.Cir. 2003); *FEC v. Christian Coalition*, 52 F.Supp. 2d 45, 88 (D.D.C. 1999).

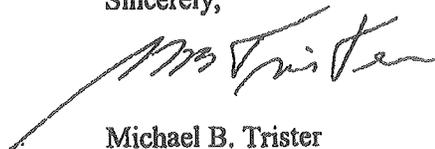
The Commission cannot perform its screening function in this case because the complaint does not allege a single public communication or activity by any SEIU entity which is alleged to have been coordinated with any federal candidate or political party committee. While the unsigned document entitled "Florida Victory 2004" describes a variety of hypothetical grassroots political campaign activities, the document does not remotely suggest that the entities named in the document would be involved in carrying out those activities. It is impossible therefore for the Commission to conclude that there is reason to believe that SEIU or any other entity affiliated with SEIU violated the Federal Election Campaign Act as alleged in the complaint, and it should

260 1152348

be dismissed without further action.

6. The complaint also fails to allege any facts that even suggest a violation of the conduct standard for coordination by any SEIU entity. In MUR 4291 (2000), the Commission considered whether a union had coordinated its public communications during the 1996 election cycle with the Democratic Party through the union's participation in the coordinated campaign. The General Counsel's final report, which was based on extensive discovery and was accepted by the Commission, found that the state coordinated campaign plans made available to the union contained a great deal of information about the plans, projects, and needs of the party in each individual state, but this evidence was insufficient to establish a case of improper coordination because the plans did not make any reference to, much less request or suggest, any specific public communications by the union. See, MUR 4291, General Counsel's Report (June 9, 2000), 16-20. Similarly, "Florida Victory 2004" describes at most certain activities which the Florida Democratic Party intended to undertake and seeks financial and volunteer support from outside entities for those activities. The document contains no "request or suggestion" that the non-party entities to which it was sent conduct any activities of their own. See 11 C.F.R. § 109.21(d)(1). Furthermore, because the document does not even mention specific public communications or activities to be conducted by any outside group, it cannot amount to "material involvement" in any activities subsequently undertaken by the groups which received the document, see id. § 109.2(d)(2), nor can it amount to "substantial discussion," see id. §109.21(d)(3), with those groups within the meaning of the applicable rule. Finally, as noted earlier, Ms. Russo, who received "Florida Victory 2004" and never signed it, would testify that it played no part in the planning or design of any of her union's political activities during 2004.

Sincerely,


Michael B. Trister

260-4132349



FEDERAL ELECTION COMMISSION
WASHINGTON, D C. 20463

SEP 28 2006

Maude Hurd, President
Association of Community Organization
For Reform Now ("ACORN")
739 8th Street, SE
Washington, DC 20003

Re: MUR 5820

Dear Ms. Hurd:

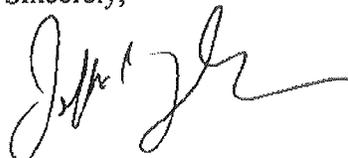
The Federal Election Commission received a complaint that indicates the Association of Community Organization for Reform Now ("ACORN") may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 5820. Please refer to this number in all future correspondence.

Under the Act you have the opportunity to demonstrate in writing that no action should be taken the Association of Community Organization for Reform Now ("ACORN") in this matter. Please submit any factual or legal materials that you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Alva DeJarnett-Miller at (202) 694-1650 or toll free at 1-800-424-9530. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



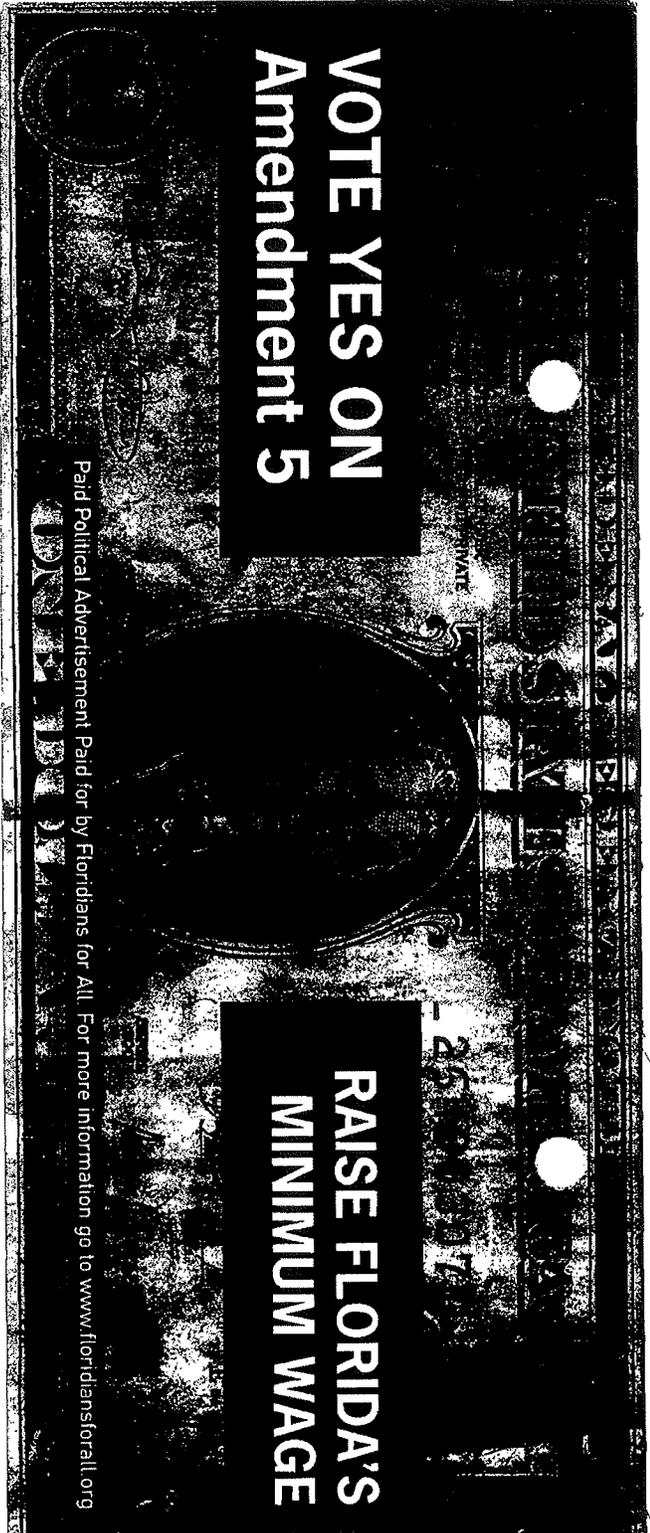
Jeff S. Jordan
Supervisory Attorney
Complaints Examination &
Legal Administration

Enclosures:

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: Jon Kest, Director
Association of Community Organization
for Reform Now ("ACORN")
2-4 Nevins Street, 2nd Floor
Brooklyn, NY 11217

cc: Director
Association of Community Organization
for Reform Now ("ACORN")
3655 South Grand Ave, Suite 250
Los Angeles, CA 90007



**VOTE YES ON
Amendment 5**

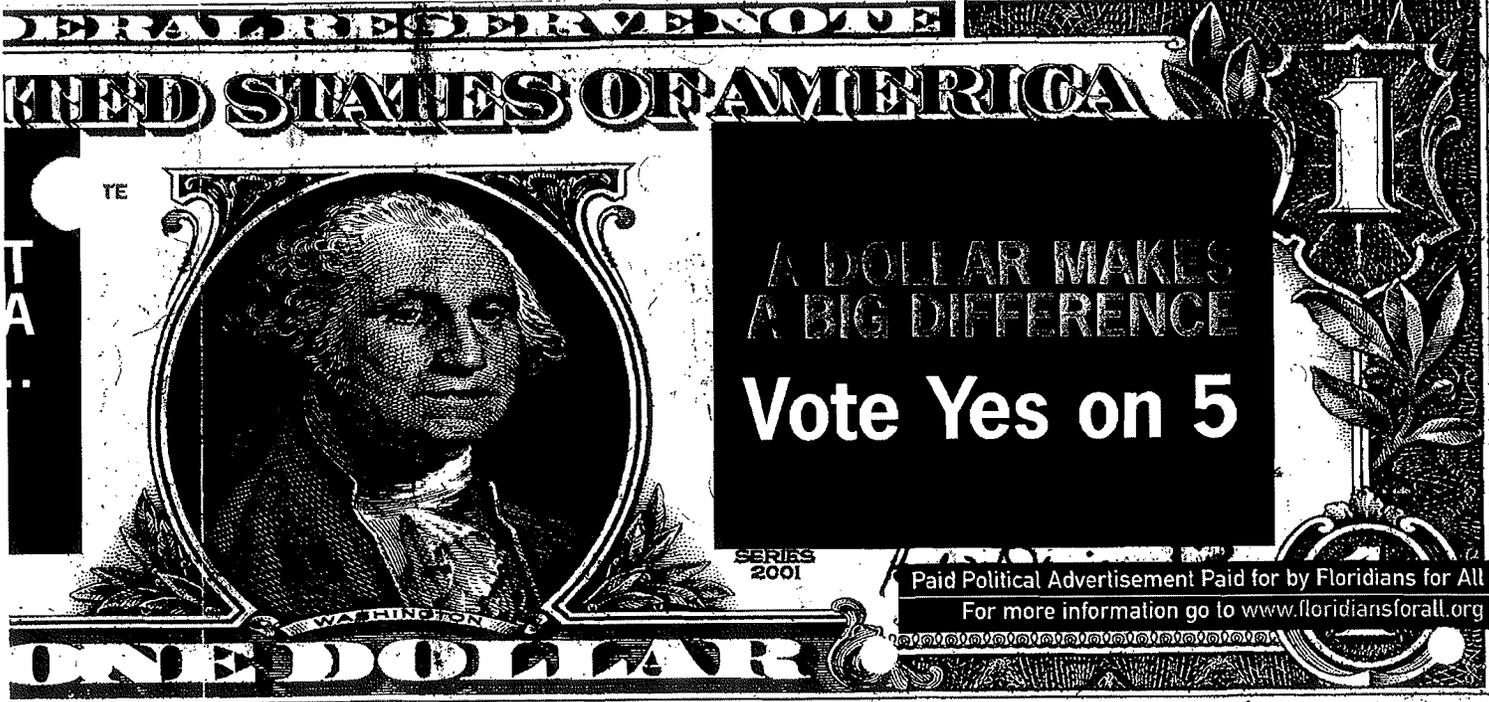
**RAISE FLORIDA'S
MINIMUM WAGE**

Paid Political Advertisement Paid for by Floridians for All. For more information go to www.floridiansforall.org

PRINTED BY

**IF YOU HAVE F CBLEMS OR QUESTIONS CALL
TOLL-FREE: 866-OUR-VOTE (866-687-8683)**

1. The polls will be open from 7:00 a.m. to 7:00 p.m. If you are already standing in line when the polls close, you have the right to cast your vote.
2. Bring your photo ID.
3. If you have children, you can take them into the voting booth with you.
4. If you are voting on unfamiliar equipment, you can ask to see a demonstration on how to use the machine before you vote.
5. If you do not have your voter registration card or photo ID with you, you can still vote. Ask the poll workers which forms you need to fill out or find an Election Protection volunteer for help.



FEDERAL RESERVE NOTE

UNITED STATES OF AMERICA

TE

A DOLLAR MAKES
A BIG DIFFERENCE

Vote Yes on 5

SERIES
2001

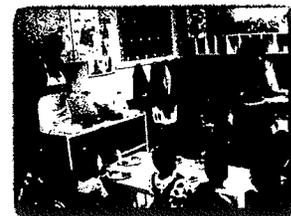
Paid Political Advertisement Paid for by Floridians for All
For more information go to www.floridiansforall.org

ONE DOLLAR

OUR NEIGHBORS, FRIENDS AND FAMILY MEMBERS. A LOT.

DID YOU KNOW...

- More than 850,000 Florida workers would get a raise if the minimum wage increased by \$1.00.
- Retail stores in Florida's low-income neighborhoods would see an increase in sales if their neighbors earned \$1.00 more per hour.
- The vast majority of Florida minimum wage workers are adults, not teenagers (79% are 20 and older), and most work full time.
- Six out of 10 Florida minimum wage earners are women – 25% are single mothers, many of whom work full time.
- The paychecks these workers bring home, on average, account for about half of their families' earnings.
- A full-time worker earning \$5.15 an hour lives 28% below the federal poverty level.



**A DOLLAR MAKES ALL THE DIFFERENCE IN THE WORLD
VOTE YES ON AMF'NDMENT 5 – NOVEMBER 2**

FILED by <u>SW</u> D.C. ELECTRONIC
Apr 12 2005
CLARENCE MADDOX CLERK U.S. DIST. CT. S.D. OF FLA. MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 04-22764-CIV-KING/O'SULLIVAN

MAC STUART,

Plaintiff,

v.

ASSOCIATION OF COMMUNITY
ORGANIZATIONS FOR REFORM NOW,
INC., d/b/a ACORN, an Arkansas corporation,

Defendant.

**DEFENDANT'S ANSWER, AFFIRMATIVE DEFENSES AND COUNTER-CLAIMS
TO PLAINTIFF'S AMENDED COMPLAINT**

Defendant, Association of Community Organizations for Reform Now, Inc.

("ACORN"), by their attorneys, hereby respond to the Amended Complaint of Plaintiff Mac Stuart as follows:

INTRODUCTION

1. ACORN denies the allegations contained in paragraph 1 of the Amended Complaint, but admits that the Amended Complaint purports to be an action as described in paragraph 1 of the Amended Complaint.

JURISDICTION

2. ACORN denies knowledge or information sufficient to form a belief as to the allegations in paragraph 2 of the Amended Complaint.

VENUE

3. ACORN admits the allegations in paragraph 3 of the Amended Complaint.

4. ACORN admits that it is incorporated under the laws of the State of Arkansas and that it has a national office in New Orleans, Louisiana.

5. ACORN admits that this lawsuit is between citizens of different states, thereby satisfying the diversity of citizenship requirement for jurisdiction under 28 U.S.C. § 1332(a), but is without knowledge to admit or deny whether the amount in controversy for Plaintiff's claims exceeds the sum or value of \$75,000.

VENUE

6. ACORN admits that Plaintiff is a resident of Miami-Dade County, Florida, admits that ACORN is incorporated under the laws of the State of Arkansas and is doing business in Miami-Dade County, Florida, and denies the remaining allegations in paragraph 6 of the Amended Complaint.

PARTIES

7. ACORN admits that Plaintiff is a resident of Miami-Dade County, Florida.

8. ACORN admits that Plaintiff was employed by ACORN from November 2003 until August 5, 2004.

9. The allegations in paragraph 9 of the Amended Complaint purport to state a legal conclusion to which no answer is required. To the extent an answer is required, ACORN denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 of the Amended Complaint.

10. ACORN admits the allegations in paragraph 10 of the Amended Complaint.

11. ACORN admits the allegations in paragraph 11 of the Amended Complaint.

12. The allegations in paragraph 12 of the Amended Complaint purport to state a legal conclusion to which no answer is required. To the extent an answer is required, ACORN

denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 of the Amended Complaint.

STATEMENT OF FACTS

13. ACORN admits that it supports establishing a minimum wage in the State of Florida, but denies the remaining allegations in paragraph 13 of the Amended Complaint.

14. ACORN admits that it hired petition collectors to collect petition signatures in support of the Florida Minimum Wage Amendment, but denies the remaining allegations in paragraph 14 of the Amended Complaint.

15. ACORN admits that, in 2003 and 2004, its petition collectors were required to ascertain whether individuals were registered to vote in Florida before allowing individuals to sign a petition in support of the Florida Minimum Wage Amendment, but denies the remaining allegations in paragraph 15 of the Amended Complaint.

16. ACORN denies the allegations in paragraph 16 of the Amended Complaint.

17. ACORN denies the allegations in paragraph 17 of the Amended Complaint.

18. ACORN admits that the Florida Secretary of State validated enough petition signatures to qualify the Florida Minimum Wage Amendment for the November 2004 general election ballot, but is without knowledge as to the remaining allegations in paragraph 18 of the Amended Complaint.

19. ACORN admits that the allegations in paragraph 19 of the Amended Complaint.

20. ACORN admits that Mathew Besant was a supervisor of Plaintiff at the time of his hire in November 2003.

21. ACORN denies the allegations in paragraph 21 of the Amended Complaint.

22. ACORN denies the allegations in paragraph 22 of the Amended Complaint.

20a.¹ ACORN denies the allegations in the second paragraph 20 of the Amended Complaint.

21a. ACORN denies the allegations in the second paragraph 21 of the Amended Complaint.

22a. ACORN denies the allegations in the second paragraph 22 of the Amended Complaint. ACORN denies information or knowledge that a copy of a written notice was attached as Exhibit "A" of the Amended Complaint, as Plaintiff did not attach said exhibit to its Proposed Amended Complaint.

23. ACORN denies knowledge or information sufficient to form a belief as to the allegations in the first sentence of paragraph 23 of the Amended Complaint. ACORN admits that it suspended Plaintiff on August 2, 2004 and terminated Plaintiff's employment on August 5, 2004, and denies the remaining allegations in the second sentence of paragraph 23 of the Amended Complaint.

24. ACORN denies the allegations in paragraph 24 of the Amended Complaint.

25. ACORN denies the allegations in paragraph 25 of the Amended Complaint.

26. ACORN denies the allegations in paragraph 26 of the Amended Complaint.

27. ACORN denies knowledge or information sufficient to form a belief as to the allegations in paragraph 27 of the Amended Complaint.

STATEMENT OF CLAIMS

COUNT I - FLORIDA WHISTLEBLOWER CLAIM UNDER SECTION 448.102(1)

ACORN incorporates by reference its responses to the allegations in paragraphs 1 through 27 of the Amended Complaint as if fully set forth herein.

¹ The Amended Complaint has two groups of allegations numbered as paragraphs 20-22. ACORN is answering the second group of allegations numbered 20, 21 and 22 as 20a, 21a and 22a, respectively.

28. ACORN denies the allegations in paragraph 28 of the Amended Complaint.
29. ACORN denies the allegations in paragraph 29 of the Amended Complaint.
30. ACORN denies the allegations in paragraph 30 of the Amended Complaint.
31. ACORN denies the allegations in paragraph 31 of the Amended Complaint.
32. ACORN denies the allegations in paragraph 32 of the Amended Complaint.
33. ACORN denies the allegations in paragraph 33 of the Amended Complaint.

ACORN avers that the WHEREFORE paragraph and its respective subparts, which appear after paragraph 33 of the Amended Complaint, do not contain allegations that require a response. To the extent that the WHEREFORE paragraph includes any allegations requiring a response, ACORN denies them.

COUNT II - FLORIDA WHISTLEBLOWER CLAIM UNDER SECTION 448.102(3)

ACORN incorporates by reference its responses to the allegations in paragraphs 1 through 27 of the Amended Complaint as if fully set forth herein.

34. ACORN denies the allegations in paragraph 34 of the Amended Complaint.
35. ACORN denies the allegations in paragraph 35 of the Amended Complaint.
36. ACORN denies the allegations in paragraph 36 of the Amended Complaint.
37. ACORN denies the allegations in paragraph 37 of the Amended Complaint.

ACORN avers that the WHEREFORE paragraph and its respective subparts, which appear after paragraph 37 of the Amended Complaint, do not contain allegations that require a response. To the extent that the WHEREFORE paragraph includes any allegations requiring a response, ACORN denies them.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Unclean Hands)

38. Plaintiff's claims are barred by the doctrine of unclean hands.

SECOND AFFIRMATIVE DEFENSE

(Failure to State a Claim for Relief)

39. The Amended Complaint fails to state a claim for which relief may be granted.

THIRD AFFIRMATIVE DEFENSE

(Improper Notice)

40. Count One is barred because Plaintiff did not properly bring the activity, policy or practice underlying his claim to the attention of ACORN as required under Section 448.102, Florida Statutes.

FOURTH AFFIRMATIVE DEFENSE

(Lack of Objection)

41. Count Two is barred because Plaintiff did not object to, or refuse to participate in, any activity, policy or practice of ACORN which was in violation of a law, rule or regulation as required under Section 448.102, Florida Statutes.

FIFTH AFFIRMATIVE DEFENSE

(No Violations of Law)

42. Plaintiff's claims are barred because ACORN did not violate any laws, rules or regulations.

SIXTH AFFIRMATIVE DEFENSE

(Legitimate Reason to Fire Plaintiff)

43. Plaintiff's claims are barred because ACORN had a legitimate, non-discriminatory reason for firing Plaintiff.

DEFENDANT'S COUNTERCLAIMS

Now comes the Defendant ACORN, by its attorneys and, as and for its Counterclaims against the Plaintiff, alleges as follows:

PARTIES

1. Defendant ACORN is a corporation incorporated under the laws of the State of Arkansas. ACORN is authorized to do business in Miami-Dade County, Florida.

2. Plaintiff Mac Stuart is a resident of Miami-Dade County, Florida.

JURISDICTION AND VENUE

3. This is an action for monetary damages in excess of seventy-five thousand dollars (\$75,000) exclusive of interest, attorneys' fees, and costs.

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1332, 1367, 1441 and 1446.

5. Venue is proper in this Court under 28 U.S.C. § 1391 because Stuart is a resident of the Southern District of Florida and certain of the events giving rise to the claim occurred in this District.

FACTUAL BACKGROUND

6. Stuart worked for ACORN from November 2003 until August 5, 2004.

7. On August 5, 2004, Stuart was fired from ACORN for failure to follow numerous ACORN policies and procedures.

A. False Oral Statements Made by Stuart

8. After Stuart was terminated from his employment with ACORN, on or about October 1, 2004, Stuart told a reporter for Florida Today, a newspaper in Melbourne, Florida, that "[t]here was a lot of fraud committed" by ACORN. The false statements Stuart made to the

reporter included statements that ACORN knowingly submitted thousands of invalid registration cards and knowingly failed to turn in cards from registered Republicans.

B. False Written Statements Made by Stuart

9. After Stuart was terminated from his employment with ACORN, on August 6, 2004, Stuart sent an e-mail to Aliana Perez at WSVN (the “WSVN E-mail”), a television news station in Miami, Florida, falsely stating that ACORN committed “voter fraud” and other “illegal” activities.

10. After Stuart was terminated from his employment with ACORN, on August 6, 2004, Stuart sent an e-mail to ACORN employees (the “Employee E-mail”) falsely stating that ACORN “committed a crime.”

COUNT I
DEFAMATION / SLANDER

11. ACORN re-alleges and incorporates herein by reference paragraphs 1 through 10.

12. Stuart has orally made false statements against ACORN, including allegations of voter registration fraud and illegal withholding of Republican voter registration applications.

13. At the time Stuart made false statements that ACORN committed voter registration fraud and illegally withheld Republican voter registration applications to the reporter for Florida Today, Stuart knew the statements were false or had serious doubts as to their truth.

14. Stuart’s primary purpose in making the above false statements was to indulge ill will, hostility, and harm to ACORN.

15. Stuart’s false statements that ACORN committed voter fraud and illegally withheld Republican voter registration applications are actionable per se. These false statements clearly expose ACORN to hatred, contempt, and ridicule. The false statements charge ACORN with committing voter registration fraud that ACORN did not commit.

16. Stuart knew the above false statements would be reported in news publications, including Florida Today. Stuart's false statements that ACORN committed voter registration fraud have been published in the Washington Times, the Florida Times-Union, Newsmax.com, and other publications.

17. ACORN has suffered a loss to its good will and reputation as a proximate cause of Stuart's false statements.

18. Stuart's false statements were not privileged because Stuart made them with malice, hatred and ill will toward ACORN and the desire to injure ACORN, in that Stuart had expressed a desire to seek revenge against ACORN for terminating his employment. Because of Stuart's malice in making the false statements, ACORN seeks punitive damages.

WHEREFORE, ACORN demands judgment against Stuart for:

- (a) Compensatory damages according to proof;
- (b) Punitive damages;
- (c) Interest as allowed by law;
- (d) Costs of suit; and
- (e) Such other and further relief as this Court may deem just and proper.

COUNT II
DEFAMATION / LIBEL

19. ACORN re-alleges and incorporates herein by reference paragraphs 1 through 10.

20. Stuart has published numerous false statements against ACORN, including false allegations of voter registration fraud in the WSVN E-mail and Employee E-mail.

21. At the time Stuart sent the WSVN E-mail, identified in paragraph 9, accusing ACORN of committing voter registration fraud and exploiting minorities, Stuart knew the statements were false or had serious doubts as to their truth.

22. At the time Stuart sent the Employee E-mail, identified in paragraph 10, accusing ACORN of committing crimes, Stuart knew the statement was false or had serious doubts as to its truth.

23. The WSVN E-mail and Employee E-mail are libelous on their face. They clearly expose ACORN to hatred, contempt, ridicule and obloquy because they charge ACORN with committing voter registration fraud.

24. The WSVN E-mail and Employee E-mail were seen and read by numerous individuals.

25. ACORN has suffered a loss to its goodwill and reputation as a proximate cause of the above-described publications.

26. The above-described publications were not privileged because Stuart published them with malice, hatred and ill will toward ACORN and the desire to injure ACORN, in that Stuart had expressed a desire to seek revenge against ACORN for terminating his employment. Because of Stuart's malice in publishing the above-described false statements, ACORN seeks punitive damages.

WHEREFORE, ACORN demands judgment against Stuart for:

- (a) Compensatory damages according to proof;
- (b) Punitive damages;
- (c) Interest as allowed by law;
- (d) Costs of suit; and
- (e) Such other and further relief as this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

ACORN hereby demands a trial by jury for all matters so triable.

Respectfully submitted,



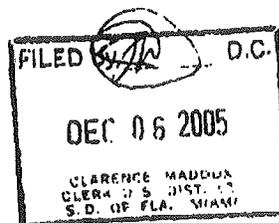
Faith E. Gay
Florida Bar No. 129593
Angela Daker
Florida Bar No. 681571
Brian H. Koch
Florida Bar No. 637335
White & Case LLP
Wachovia Financial Center, Suite 4900
200 South Biscayne Blvd.
Miami, FL 33131
Telephone: (305) 371-2700
Facsimile: (305) 358-5744
fgay@whitecase.com
Counsel for Defendant ACORN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Mail this 12th day of April, 2005 to Stuart A. Rosenfeldt, Esq., Rothstein Rosenfeldt Adler, 300 S.E. 2nd Street, Suite 860, Fort Lauderdale, Florida 33301.



Brian H. Koch



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 04-22764-CIV-KING/O'SULLIVAN

MAC STUART,

Plaintiff,

v.

ASSOCIATION OF COMMUNITY
ORGANIZATIONS FOR REFORM NOW,
INC., d/b/a ACORN, an Arkansas corporation.

Defendant.

**FINAL ORDER OF DISMISSAL WITH PREJUDICE OF COUNTS
I AND II OF THE AMENDED COMPLAINT AND JUDGMENT IN
FAVOR OF ACORN ON COUNTERCLAIMS I AND II FOR DEFEAMATION**

THIS MATTER is before the Court upon the Parties' Joint Stipulation for Voluntary Dismissal of Counts I and II of the Amended Complaint with Prejudice, and due cause appearing therefor, it is hereby:

ORDERED AND ADJUDGED that Counts I and II of the Amended Complaint are hereby dismissed with prejudice. It is also:

ORDERED AND ADJUDGED that judgment is granted in favor of ACORN on Counterclaims I and II.

DONE and ORDERED in Chambers at Miami, Florida this 6 day of Dec, 2005.

James Lawrence King

JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

Conformed copies to:
Magistrate Judge O'Sullivan
All Counsel of Record

53/106

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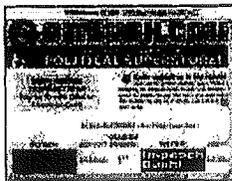
WHOIS Search Results

NetworkSolutions.
Do-It-For-Me Web Sites



your Website
important online
transactions.

WHOIS Record For



gwbush.com
Services from Network Solutions:

- Certified Offer Service - Let us help you get this domain name!
- Private Registration - Keep personal information for this domain private.
- SSL Certificates - Get peace of mind with a secure certificate.
- Site Confirm Seals - Display a security seal and gain visitor trust.

Need More
Contact
CALL 1-80
CONTA

Registrant: Make this info private
Exley, Zack

PO Box 1245
Murray Hill Station
New York, NY 10156
US

Domain Name: GWBUSH.COM

Administrative Contact :
Exley, Zack
countercoup@MAIL.COM
PO BOX 1245
NEW YORK, NY 10156-1245
US
Phone: 917-482-3487

Technical Contact :
Esosoft Corporation,

hostmaster@esosoft.net
154-A West Foothill Boulevard
Suite 250
Upland, CA 91786
US
Phone: (206) 203-6053
Fax: (206) 203-6054

Record expires on 30-Nov-2006
Record created on 01-Dec-1998
Database last updated on 05-Oct-2006

Domain servers in listed order: Manage DNS

NS2.EV1SERVERS.NET
NS1.EV1SERVERS.NET

Show underlying registry data for this record

Current Registrar: NETWORK SOLUTIONS, LLC.
IP Address: 66.98.195.87 (ARIN & RIPE IP search)
IP Location: US(UNITED STATES)-CALIFORNIA-LOS ANGELES
Record Type: Domain Name
Server Type: Apache 2
Lock Status: REGISTRAR-LOCK
Web Site Status: Active
DMOZ: no listings
Y! Directory: see listings
Web Site Title: George Bush GWBush Store Stickers : Bumper Sticker
With over 1000 categories and over 14,000 bumper stickers, t-shirts, buttons, and decals Sticker Giant offers FREE Shipping with most of its Funny Bumper Stickers
Meta Description: stickers, sticker, funny stickers, political stickers, bumper stickers, bumper sticker
Meta Keywords: stickers, bumper sticker
Secure: No
E-commerce: No
Traffic Ranking: Not available
Data as of: 25-Jul-2006

BUY THE AVAILABLE EXTENSIONS FOR THIS DOMAIN NA

- gwbush .tv
- gwbush .us
- gwbush .bz
- gwbush .vg
- gwbush .gs
- gwbush .tc
- gwbush .m

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design fee

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as \$125/month plus \$99 one
time set-up fee

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Design a Website | Search Engine Optimization | Custom Logo Design | Press Release Services | Email Account | Web



Secure Your Site with an SSL Certificate

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Response to Complaint in MUR 5820: Index of Documents

Tab #	Document
1	Declaration of Brian Kettenring, with Exhibits: <ul style="list-style-type: none"> ▪ Exhibit A: "Floridians for All: Statewide Ballot Initiative Campaign to Raise the Minimum Wage, December 2003" ▪ Exhibit B: Summary of Minimum Wage Initiative and Campaign ▪ Exhibit C: "Floridians for All: Campaign Deliverables" ▪ Exhibit D: Letter from Anthony Hill to Clarence Pittman, September 10, 2004 ▪ Exhibit E: Letter from Anthony Hill to John L. Lewis, September 4, 2006
2	Declaration of Steve Kest
3	Declaration of Zach Polett
4	"Floridians for All: Campaign Plan for a November 2004 Minimum Wage Constitutional Amendment Initiative October 1, 2003" title page with Exhibit sticker
5	Response to MUR 5586 of Florida Education Association and Academy of Florida Trial Lawyers; Florida AFL-CIO; and Service Employees International Union
6	Floridians for All flyers
7	<i>Mac Stuart v. ACORN</i> , Defendant's Answer, Affirmative Defenses, and Counter-Claims
8	<i>Mac Stuart v. ACORN</i> , Final Order of Dismissal With Prejudice of Counts I and II of the Amended Complaint and Judgment In Favor of ACORN on Counterclaims I and II for Defamation
9	WHOIS search results for "gwbush.com"

MUR 5843

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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

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

Confidentiality Notice

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FAX COVER

DATE: November 1, 2006

Fax # (b) (2)

Number of Pages

Cover	1
Text	1
TOTAL	2

To: Kim Collins
From: Elizabeth Kingsley
Re: Request for 30 day extension

NOV 01 2006
FEDERAL RESERVATION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MUR 5843

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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

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

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 COMMISSION
 OFFICE OF GENERAL
 COUNSEL

2006 NOV - 1 A 8:5

FAX COVER

DATE: 1 November 2006

FAX NUMBER: (b) (2)

To: Kim Collins
 From: Elizabeth Kingsley
 Re: Designation of Counsel

Number of Pages

Fax Cover	1
Document	1
TOTAL	2

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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

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

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FAX COVER

DATE: 15 November 2006

FAX NUMBER: (b) (2)

To: Jeff S. Jordan

From: Beth Kingsley

Re: ACORN - MUR 5859

Number of Pages

Fax Cover	1
Document	2
TOTAL	3

HARMON, CURRAN, SPIELBERG & EISENBERG LLP

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

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FAX COVER

To: Jeff S. Jordan
RE: MUR 5970
FAX #: (b) (2)
FROM: Elizabeth Kingsley
DATE: May 13, 2008

TOTAL PAGES: cover + 2

2008 MAY 13 P 12:44

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FAX COVER

DATE: May 27, 2008

FAX #: (b) (2)

Number of Pages	
Cover	1
Text	10
TOTAL	11

Attention: Jeff Jordan
Federal Election Commission

From: Elizabeth Kingsley

Re: MUR 5970

Dear Mr. Jordan,

This fax contains the response to MUR 5970 on behalf of Communities Voting Together. The original will follow this fax by US Mail. If you have any questions, please call our office at 202-328-3500 and ask to speak with Beth Kingsley. Thank you.

Sincerely,

Sarah Peterson, Assistant

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FAX COVER

TO: Jeff S. Jordan - FEC

RE: Statement of Designation of Counsel

FAX NUMBER: (b) (2)

FROM: Rebecca Gaiser for Elizabeth Kingsley

DATE: March 7, 2008

TOTAL PAGES: 3

2008 MAR -7 P 3:12
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