



STATE AG TRACKER

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ACORN Sues Pennsylvania AG Corbett over Voter Fraud Allegations

By Aaron Merrill

On July 22nd in Pittsburgh's federal court, the Association of Community Organizers for Reform Now brought suit against Allegheny County District Attorney, Stephen Zappala, and the Pennsylvania Attorney General, Tom Corbett. The suit alleges that five former members of Acorn, as the group is commonly known, have been charged with criminal voter-registration fraud in violation of first amendment protections of political speech.

In May, Mr. Zappala's office charged seven people with a variety of counts related to voter registration fraud, according to *New York Times* and Associated Press reports. The charges include "solicitation of registration," which makes it a crime to "give, solicit or accept payment or financial incentive to obtain a voter registration if the payment or incentive is based upon the number of registrations or applications obtained."

In the aftermath of the 2008 general election, several prominent Republicans pushed for an investigation of Acorn's activity. Mr. Zappala, a Democrat, denies that his office's eight month long investigation was politically motivated. "I'm not concerned about the political issues; I'm just concerned that we have legal voter registrations here," he told the Times. His office alleges that Acorn canvassers had a quota of obtaining twenty registrations per eight hour shift, and in order to meet that quota the seven defendants submitted hundreds, and possibly thousands, of false registration forms.

According to the *Times* report, several of the defendants told investigators that Acorn had imposed a quota on them,

whereby they would be fired if they did not reach a set goal of about 20 new voter registrations per six-hour shift, for which they were paid \$8 an hour. Mr. Zappala told the AP that the quota charges - misdemeanors carrying a fine of \$500 to \$2,500 and 30 days to one year in jail - are the least serious he filed against the workers, most of whom are also charged with felonies like forgery.

The American Civil Liberties Union, representing Acorn, denies that Acorn used a "hard" quota system. The 19-page lawsuit says "ACORN has a performance, or aspirational, goal that canvassers strive to collect about 20 registration applications per shift."

The ACLU and Acorn believe that the solicitation law is an unconstitutional restraint on First Amendment political action. Witold "Vic" Walczak, the ACLU's legal director in Pennsylvania, said that the challenged law "prevents ACORN from using commonplace management tools like performance standards and productivity goals to manage paid employees." He said the law "does nothing to prevent election problems but does impose a major burden on constitutionally protected political activity," according to the AP. The lawsuit does not challenge the underlying voter registration fraud, a more serious felony.

Attorney General Corbett's office had no comment, other than that they believe the law is constitutional and that they will defend the lawsuit.

The AP also reports that a criminal affidavit against one worker identified an Acorn supervisor who allegedly let workers "completely fill out forged voters registrant cards with false dates of birth and Social

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Security numbers.” That Acorn official has not been charged and Mr. Zappala has agreed not to prosecute Acorn officials, or the agency itself, until a federal judge rules whether the statute is legal.

The organization itself was also recently sued in Nevada for using a similar quota system. According to Brian Mellor, senior counsel for Project Vote, an advocacy group assisting with Acorn’s defense in Pennsylvania, said at least nine other states have similar laws: Colorado, Florida, Georgia, Indiana, Maryland, Missouri, Ohio, Washington and Wisconsin.

Acorn has a history of allegations of voter registration fraud, spread over multiple states. The group has faced lawsuits in Nevada, Colorado, and Pennsylvania, and was fined in Washington state for activities related to voter registration. Larry Lomax, the registrar of voters in Las Vegas, says he believes 48% of Acorn’s forms “are clearly fraudulent.” Catherine Cortez Masto, Nevada’s Democratic Attorney General, told the Las Vegas Sun she believes Acorn’s training manuals “clearly detail, condone and . . . require illegal acts,” such as requiring its workers to meet strict voter-

registration targets to keep their jobs.

Democrats are mixed on how they should respond to Acorn’s troubled history. According to John Fund in the *Wall Street Journal*, Fred Voight, deputy election commissioner in Philadelphia, protested after Acorn (according to the registrar of voters and his own investigation) submitted at least 1,500 fraudulent registrations last fall. “This has been going on for a number of years,” he told CNN in October. St. Louis Democrat Matthew Potter, the city’s deputy elections director, had similar complaints.

Public records show that in the spring of 2008, the IRS filed three tax liens totaling almost \$1 million against Acorn, most of which concerned employee withholding. Despite its troubles with the law, Acorn was selected in March of 2009 to assist the U.S. Census in reaching out to minority communities and recruiting census enumerators for the count next year.

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In an effort to increase dialogue concerning the role of state attorneys general, the Federalist Society’s STATE AG TRACKER highlights recent activities of attorneys general across several states. Some argue that state attorneys general overstep their roles by prosecuting cases and negotiating settlements with extraterritorial and sometimes national consequences. Others contend that they are simply serving the interests of their own citizens and filling a vacuum left by the failure of other state and federal agencies to address these issues. STATE AG TRACKER will draw attention to these matters by publishing submissions regarding recent activities of state attorneys general.

Opinions expressed herein do not necessarily reflect those of the Federalist Society. We invite readers to submit pieces for publication to info@fed-soc.org.