

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

Majority (202) 225-5051
Minority (202) 225-5074

August 11, 2009

The Honorable Hilda Solis
Secretary of Labor
U.S. Department of Labor
Frances Perkins Building
200 Constitution Ave. N.W.
Washington, D.C. 20210

Dear Secretary Solis:

The Committee staff has been investigating the Association of Community Organizations for Reform Now's ("ACORN") lack of compliance with various federal laws. Recently, I released a staff report entitled, "*Is ACORN Intentionally Structured As a Criminal Enterprise?*" ("ACORN Report").

The ACORN Report¹ found ACORN conspired to defraud the United States by using taxpayer funds for partisan political activities. ACORN has submitted false filings to the DOL, in addition to violating the Fair Labor Standards Act ("FLSA"). ACORN falsified and concealed facts concerning an illegal transaction between related parties in violation of ERISA. I am concerned ACORN has failed to comply with the Labor-Management Reporting and Disclosure Act of 1959 ("LMRDA") as well as the Employee Retirement Income Security Act of 1974 ("ERISA").

To ensure that ACORN and ACORN-affiliated entities are complying with the FLSA, LMRDA, and DOL regulations, please provide the following information and documents on or before August 20, 2009:

1. It is my understanding that a prohibited loan to a related party violates ERISA. The ACORN Report disclosed an audit by ACORN's outside counsel, finding \$215,000 of Dale Rathke's embezzled funds were

¹ See Minority staff report, *Is ACORN Intentionally Structured As a Criminal Enterprise?* COMM. OVERSIGHT AND GOV'T REFORM (2009) at 57, available at: <http://republicans.oversight.house.gov/media/pdfs/20090723ACORNReport.pdf> at 3-6.

charged through ACORN's American Express account to ACORN Beneficial Association ("ABA"),² a discretionary plan, and ACORN Fund, a similar discretionary health care fund.³⁴ Does ABA's decision to write the debt off as a gift to ACORN⁵ and withdraw money from a fund used to cover employee health care costs in order to cover the cash shortfall caused by the embezzlement⁶ constitute a violation of ERISA?

2. Many of ACORN's affiliates, including the Service Employees International Union ("SEIU") Local 100 and 880, are required to report to the Department of Labor ("DOL") on their activities. Identify the number of times the DOL has
 - a. Conducted administrative reviews, issued financial reports, or found violations of fiduciary, disclosure, or reporting requirements concerning ACORN or its affiliates, including SEIU Local 100 and Local 880, from 1998 to the present.
 - b. For each identified, summarize the subsequent allegations and action by the DOL, including penalties, fines, reports, reviews, memoranda or other assessments made against ACORN and its affiliates.
 - c. Provide any documents reflecting ACORN's response to any DOL administrative review, issued financial report, or finding of violations of fiduciary, disclosure or reporting requirements.
3. SEIU Local 100's 2007 LM-2 filing was submitted by Wade Rathke, then ACORN's chief organizer, during the same time that his brother, Dale, was embezzling funds from ACORN. Steve Bachmann, ACORN's general counsel, claimed Local 100's LM-2 filings were fraudulent.⁷ According to the ACORN Report, ACORN's SEIU affiliates engaged in lobbying, received millions of dollars in employee health funding, and contracted with Citizens Consulting Inc. ("CCI"), which manages the political accounts of ACORN's affiliates. Provide a detailed explanation and any documents explaining why Local 100's 2007 LM-2 or any other

² *Id.*

³ Memorandum from Harmon, Curran, Spielberg, & Eisenberg, LLP [HCSE] on Organization Review to ACORN Beneficial Association, ACORN Housing Corporation, ACORN Institute, ACORN Votes, American Institute for Social Justice, Association of Community Organizations for Reform Now, Citizens Consulting, Inc., Citizens Services Inc., Communities Voting Together, Pennsylvania Institute for Community Affairs, Inc., Project Vote/Voting for America, Inc. (June 19, 2008) at 13 (ACORN_004939).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Email from Steve Bachmann (July 22, 2008) at 4 (ACORN_004328).

form filed with DOL was not required to report Dale Rathke's embezzlement.

4. Has DOL conducted an investigation, audit, or review of SEIU 100's LM-2 filings? If yes, did DOL conclude the any of the filings were fraudulent? If not, will DOL conduct such a review now that concerns have been raised on allegations of embezzlement and political expenditures and contributions?

I am requesting that the DOL, if it has not already done so, begin an audit on ACORN and its affiliates' pension and benefit funds that should be or are filing forms with the Employee Security Benefits Administration ("ESBA"), as well as all labor organizations affiliated with ACORN, including but not limited to Local 100 and Local 880.

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X.

Thank you for your attention to this matter. If you have any questions regarding this request, please contact Daniel Epstein or Marvin Kaplan of the Committee staff at (202) 225-5074.

Sincerely,



Darrell Issa
Ranking Member

cc: The Honorable Edolphus Towns, Chairman