



Todd Rokita
Secretary of State

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STATE OF INDIANA

October 22, 2008

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Northern District of Indiana
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Hammond, IN 46320

Lake County Prosecutor Bernard A. Carter
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Federal Bureau of Investigation
575 North Pennsylvania Street, Room 679
Indianapolis, IN 46204

Hon. Steve Carter
Indiana Attorney General
200 W. Washington St.
Indianapolis, IN 46204

Re: Official Request for Investigation into Voter Registration Election Law Violations

Gentlemen:

As Indiana's Chief Elections Official, on behalf of the people of Lake County and the state of Indiana, I hereby request a criminal investigation into acts involving the submission of 1,438 fraudulent voter registration applications to the Lake County Board of Elections and Registration (LCEB).

I. Attached Legal Analysis: Violations of State and Federal Law Occurred

The attached legal analysis will assist your office in organizing the vast amount of evidence collected and analyzed by my office through over 100 hours of investigative work. Please see the attached summary along with 1,438 voter registration applications, organized by reference number and catalogued with supplemental individualized evidence from the Bureau of Motor Vehicles, Statewide Voter Registration System, and other identification and address verification information. If you desire additional assistance, my office will remain available as subject matter experts.



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[REDACTED]

Our investigators examined each application and used statistical analysis to determine the following:

- 1) 61% of the applications had one or more critical defects, observable on the face of the applications. A critical defect was defined as: a) incomplete data; b) indications of fraud; or c) indications of forgery. See Exhibits A, B, C, D, E, F and G attached.
- 2) 39% of the applications did not have an apparent critical defect, however, an independent random sampling (n=1,438) suggested that 88% of the applications *did not* show a match on the STARS¹ database for name, driver's license, address or last 4-digits of a Social Security number. 54% of the applications which did not have a STARS match had *no* verifiable information, suggesting that they may be entirely fictitious.
- 3) On facial examination (no reference to external data) 30% of the applications displayed information that was obviously incorrect, incomplete or illegible.
- 4) 26% of the applications evidenced that someone had assisted the intended voter by the pre- or post, filling in of data, making corrections or altering the information (i.e. changing the affidavit signature date). However only 3 of the applications (<.1%) contained the identification of the person assisting the voter with the application (as required by IC 3-7-32-7).

¹ Indiana BMV System Transaction and Data Support system.



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- 5) 22% of the applications appeared to be multiple applications prepared by the same individuals. On many of these, the affidavits appear to be forgeries.
- 6) The majority of these applications indicate having originated within five zip code areas in and around Gary, Indiana.
- 7) Based on LCEB spot-checking, verified by the Agency on the SVRS² system, it appears that many of the voter registration applications were submitted on behalf of persons already registered to vote.

Our preliminary examination of these 1,438 voter registration applications reveals significant, credible evidence that the organization, its officers, agents and employees, through direct action, conspiracy or inducement:

- Violated Indiana election laws with respect to the solicitation, completion and submission of incomplete, forged or fraudulent voter registration applications.
- Violated Indiana election law with respect to the submission of multiple voter registration applications for the same person.
- Violated Indiana election laws with respect to obstruction of elections and interference with election officials.
- Violated Indiana's Racketeer Influenced and Corrupt Organizations law.
- Violated Indiana and Federal laws protecting individual rights to register and vote in elections.

II. Public Policy Warrants Criminal Investigation

This is not simply registration fraud. This is voter fraud every bit as nefarious as the evidence each of our offices discovered in the 2003 election fraud investigation of former East Chicago Mayor Pastrick's campaign. Furthermore, this is not simply a local issue³. This is a fraud perpetrated on all of the people of Indiana because fraudulent registrations are the first step in diluting the voice of honest voters and rendering an inaccurate tally on Election Day. The voters' confidence in the entire election process has already been eroded, just as in 2003, and this confidence needs to be restored.

In addition to the sheer deterrent effect that will result by prosecuting these crimes, other reasons exist for rapid and aggressive investigation. These include the erosion of voter confidence in the

² Statewide Voter Registration System.

³ See *Miller v. Association of Community Organization for Reform Now*, Warren County, Ohio (2008), Exhibit I
See also *State of Washington Settlement Agreement*, Exhibit H

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election process, as well as the erosion of voter confidence in submitting their applications through a third party. Already, the nonpartisan Help America Vote Act in the Secretary of State's Office has received hundreds of calls from citizens concerned about this behavior.

Groups that responsibly follow the law in conducting voter registration drives are critical to the goal of increasing voter participation. These groups work hard to train and educate their employees and representatives on complying with the law. However, behavior linked to NWI-ACORN, illustrated through the attached evidence, weakens the public perception of voter registration drives and hampers the ability of those groups that choose to comply with the law.

Without aggressive investigation and prosecution of those who weaken the system, public policy makers will undoubtedly debate the merits and implementation of voter registration drives when balanced with the state's legitimate concern to prevent voter fraud. Lawmakers may wish to make regulations even tighter on third party application collectors because the bad acts of a few which weaken the integrity of the process.

Also, state and local resources are needlessly wasted when thousands of carelessly inaccurate and fraudulent forms submitted at the last minute must be shepherded through a complicated verification, increasing the cost of the election process, wasting government resources, and harming the taxpayers of the state. Moreover, local election officials must then turn their attention to such fraudulent submissions, removing them from other duties that are absolutely necessary to ensuring a fair and accurate election.

III. Immediate Action Necessary: the Next Steps of Investigation

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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IV. ACORN's Public Defense is not Relevant to the Violations of Law

If ACORN is contending that it brought this matter to the attention of local election officials, then NWI-ACORN will surely wish to assist law enforcement in bringing the bad actors inside the organization to justice. ACORN has also claimed to be in compliance with Indiana law IC 3-14-2-5(b). But contrary to the claims of ACORN, a person who complies with the law to submit completed voter registration applications is not able as a result to evade the law against knowingly submitting false or fraudulent applications.

Indiana Code 3-14-2-5(b) provides that a person who "fails to file or deliver to the proper officer a . . . form of registration after the . . . form has been executed commits a Class A misdemeanor." The law exists to prevent "lost" applications of those thought to be supporters of an opposing party candidate, for example. Indiana Code 3-14-3-1.1 makes it a Class D felony for a person to knowingly procure or *submit* "voter registration applications known by the person to be materially false, fictitious, or fraudulent" and IC 3-14-2-1 makes it a Class D felony for a person to conspire with another in such behavior.

Every person has the duty under the law not to aid or assist others in breaking the law. Clearly, ACORN representatives continued to submit applications they knew to be fraudulent to voter registration officials rather than submit evidence and contact information for possible suspects to local law enforcement officials (who have offices in the same building). Simply put, complying with the law to **submit legitimate applications** does not allow ACORN officials to evade the law against knowingly **submitting fraudulent applications**.

V. State Resources Available in Investigation

Knowing that you take seriously your obligation to fight voter fraud, state resources will again be available to your office. My office will be available throughout your investigation as a subject matter expert, pursuant to IC 3-6-3.7-1, as Indiana's Chief Election Official.

My office has conducted a preliminary investigation into these matters that has produced prima facia evidence of multiple criminal violations, including possible state and federal racketeering laws. Even at a *minimum*, the evidence indicates that numerous individuals have violated election law, [REDACTED] Certainly,

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more investigation, under your offices' jurisdictions, is appropriate to collect the remaining evidence. Please do not hesitate to call me directly at (317) 232- 6536 if you wish to discuss this matter further.

Respectfully,

A large, stylized handwritten signature of Todd Rokita in black ink.

Todd Rokita
Indiana Secretary of State