

APPLICATION FOR SEARCH WARRANT

STATE OF LOUISIANA PARISH OF ORLEANS

BEFORE ME, the undersigned Judge of the Orleans Criminal District Court in and for the State and Parish aforesaid, personally appeared Scott Bailey, Investigator, Louisiana Department of Justice, Public Corruption and Special Prosecutions Unit, who, being duly sworn by me, deposed and said:

THAT probable cause does exist for the issuance of a search warrant authorizing the search of ACORN, ACORN Housing Corporation, Inc., and any ACORN related entities, and Citizens Consulting Inc., located at 2609 Canal Street, New Orleans, LA, for the following items,

1. All financial records of ACORN, Acorn Housing Corporation Inc., Citizens Consulting Inc, and all other Acorn related entities, including financial statements, bank statements, checking accounts, check books, check registers, account balances, accounts receivable and accounts payable, credit cards and credit card statements.
2. Computers, hard drives, and system backups and other storage devices or means used to store e-mail and other forms of communication. Any and all electronic devices that are capable of analyzing, creating, displaying, converting, or transmitting electronic or magnetic computer impulses or data that are used by, owned by or accessed by any person at said location. These devices include, but are not limited to, computers (including self-contained "laptop" or "notebook" computers), computer components, computer peripherals, word processing equipment, modems, monitors, printers, keyboards, acoustic couplers, cables, plotters, encryption circuit boards, optical scanners, external hard drives, and other computer-related electronic or physical devices that serve to transmit or receive information to or from a computer.
3. Any and all information and/or data stored in the form of magnetic or electronic coding on computer media or on media capable of being read by a computer or with the aid of computer-related equipment. This media includes, but is not limited to, floppy diskettes, fixed hard disks, removable hard disk cartridges, zip disks, compact disk (CD) storage devices, tapes, laser disks, videocassettes, and any other media that is capable of storing magnetic coding.
4. Any and all instructions or programs stored in the form of electronic or magnetic media that are capable of being interpreted by a computer or related components. The items to be seized include, but are not limited to, operating systems, application software (like word processing, graphics, or spreadsheet programs), utility programs, compilers, interpreters, communications programs, and any other programs or software used to communicate with computer hardware or peripherals either directly or indirectly via telephone lines, radio, or other means of transmission.
5. Any documentation that proves ownership or maintenance of control of electronic or computer-related equipment, programs, data, or other information relating to same, including correspondence, invoices, computer printouts, and similar items.
6. Memory telephones, automatic dialing devices, telephone answering machines, or any other electronic device used for the electronic storage of names, addresses and phone numbers.
7. All business records, memo', correspondence, e-mails, faxes, or other forms of communication either electronic or any other format, including but not limited to employee files, payroll related issues, payment of withholding and other employee deductions, communications and other forms of communication between entities.
8. All minutes of board of directors meetings

9. Any other document, internal memorandum or items used or produced in the day to day operation of ACORN, ACORN Housing Corporation Inc., Citizens Consulting Inc., and any ACORN related entity.
10. All w-2's, income reports, quarterly or monthly state tax filing reports and 1099 miscellaneous income reports, or e-mails or other forms of communication with the State of Louisiana, Department of Revenue.

Probable cause is based upon the following facts:

A complaint was received from former members of the Association of Community Organizations for Reform Now (“ACORN”) Board of Directors claiming that ACORN and its subsidiary companies were violating Louisiana Revised Statute 47:1641 relating to the filing of employee withholding taxes, failing to report an embezzlement of up to \$5 Million by Dale Rathke, the brother of ACORN founder Wade Rathke, obstruction of justice and violations of the Employee Retirement Security Act of 1974 (“ERISA”).

An investigation was initiated in early 2008 and continued thru 2009 by the Louisiana Department of Justice. The requested documents are an integral part of this ongoing investigation into known and acknowledged embezzlement and/or theft as well as potential state tax fraud and obstruction of justice, *inter alia*.

BACKGROUND

ACORN was founded by Wade Rathke in 1970 and is the primary corporation which has 361 related tax-exempt and non-tax exempt subsidiary entities. CCI is the subsidiary which provides bookkeeping, accounting and other financial management services to ACORN and many of its affiliated entities.

On July 20, 2009, the United States House of Representatives Committee on Oversight and Government Reform issued a report titled “Is ACORN Intentionally Structured as a Criminal Enterprise?” The committee findings, among other things, are as follows:

-- “ACORN has evaded taxes, engaged in self-dealing, and aided and abetted a cover-up of embezzlement by Dale Rathke, the brother of ACORN founder Wade Rathke.”

-- “By refusing to report Dale Rathke’s embezzlement of up to \$5,000,000.00 as an excess benefit transaction, ACORN appears to have violated the Internal Revenue Code. ACORN’s cover-up of the embezzlement for more than eight years would also constitute obstruction of justice.”

-- “ACORN has committed investment fraud, deprived the public of its right to honest services, and engaged in a racketeering enterprise affecting interstate commerce.”

-- “ACORN has submitted false filings to the Internal Revenue Service (IRS) and the Department of Labor, in addition to violating the Fair Labor Standards Act (FLSA).”

-- “Committee investigators have tracked ACORN’s numerous failure to comply with federal laws that required the payment of excise taxes on excess benefits to Dale Rathke. SEIU Local 100-under the direction of ACORN founder Wade Rathke-filed bogus reports with the Labor Department in order to conceal embezzlement. ACORN violated the overtime and record-keeping provisions of FLSA. All of these fraudulent acts would constitute a violation of 18 U.S.C. 1001 by presenting false documents to the United States government.”

-- “ACORN falsified and concealed facts concerning an illegal transaction between related parties in violation of the Employee Retirement Income Security Act of 1974 (ERISA).”

-- “Committee investigators have concluded that ACORN plundered employee benefits and violated fiduciary responsibilities under ERISA by relieving corporate debts through prohibited loans to a related party. Moreover, ACORN affiliates lack independent control of their own assets and maintain shoddy accounting practices that serve to hide ACORN’s secret and illegal use of monies.”

FAILURE TO PAY STATE TAXES

A review of the records maintained by the Orleans Parish Recorder of Mortgages on August 3, 2009 revealed that 57 liens have been filed by the United States Treasury Department-Internal Revenue Service for the failure to properly pay withholding tax which was due.

These liens were filed against ACORN and ACORN affiliates CCI, Peoples Equipment Resource, ACORN Housing Corporation, Hospitality Hotel and Restaurant Organizing Council, Wal-Mart Alliance for Reform Now and the American Workers Associates, Inc. All of these entities reflect their domicile address as 2069 Canal Street New Orleans, Louisiana.

Copies of the documents from sixteen of these liens which were filed between May 23, 2007 and September 9, 2008 were collected from the archives and the total amount of taxes due and not paid is \$1,122,680.70.

A review of the records maintained by the Orleans Parish Recorder of Mortgages on July 29, 2009 revealed that two (2) liens had been filed by the Louisiana Department of Revenue for the failure to properly pay withholding tax which was due. The details of the lien that is the subject of this motion is as follows:

Lien identified as Serial #216515072, filed on October 29, 2008 against CCI for the tax periods ended December 31, 2002 through June 30, 2008. This lien encompasses 66 individual tax periods where the outstanding taxes due to the State totaling \$306,702.73 were not properly paid.

The above cited actions constitute violations of Louisiana Revised Statute 47:112 (A) by ACORN and CCI. The items requested are necessary to determine whether those violations further constitute fraudulent representations under the criminal provisions of La. R.S. 47:119 and failure to pay these taxes under La. R.S. 47:1641.

EMBEZZLEMENT / THEFT

Current high ranking members of ACORN have publicly acknowledged that an embezzlement of at least \$1 million by Dale Rathke, the brother of Wade Rathke, did in fact occur. Additionally, firsthand, credible sources have informed affiant that it was acknowledged in a board of directors meeting on October 17, 2008 by ACORN leaders Bertha Lewis and Liz Wolf that an internal review had determined that the amount embezzled was in excess of \$5,000,000.00 (FIVE MILLION), an amount far greater than what ACORN has publicly acknowledged, and it is still unclear if the embezzled funds are from state, federal or private sources.

The requested items are necessary to determine the extent of Dale Rathke's theft of organizational funds and the sources of those stolen funds, pursuant to La.R.S. 14:67.

EXIGENCY / EVIDENCE DESTRUCTION / OBSTRUCTION OF JUSTICE

Affiant has recently received information from an ACORN/CCI attorney who informs that a former ACORN employee in the New Orleans office removed a computer hard drive believed to contain information relevant to this investigation. As additional cause, affiant cites these facts to show that exigent circumstances exist for the immediate seizure

of the items requested in this warrant in order to prevent further evidence tampering and to investigate possible obstruction of justice.

THAT writ to search the aforesaid address of 2069 Canal Street and all other attachments or structures connected to 2609 Canal Street, New Orleans LA, is requested, and when the thing to be searched is a dwelling or other structure, that the writ to search include all other structures, vehicles and places of concealment on the premises where the thing(s) may be found.

THAT it may become necessary to conduct the search during the nighttime or on a Sunday, and affiant(s) request(s) that the writ so provide.

Affiant: _____
Affiant: _____

SWORN TO AND SUBSCRIBED before me on this _____ day of _____, _____.

JUDGE, ORLEANS CRIMINAL DISTRICT COURT
STATE OF LOUISIANA

SEARCH WARRANT

STATE OF LOUISIANA PARISH OF ORLEANS

TO LAW ENFORCEMENT OFFICERS in and for the State aforesaid:

WHEREAS an affidavit has been made before me upon oath of Scott Bailey, Investigator, Louisiana Department of Justice, Public Corruption and Special Prosecutions Unit, alleging that the premises, located at 2609 Canal Street, New Orleans, LA in the Parish of Orleans, State of Louisiana, is a place where:

1. All financial records of ACORN, Citizens Consulting Inc, and all other Acorn related entities, including financial statements, bank statements, checking accounts, check books, check registers, account balances, accounts receivable and accounts payable, credit cards and credit card statements can be found.
2. Computers, hard drives, and system backups and other storage devices or means used to store e-mail and other forms of communication. Any and all electronic devices that are capable of analyzing, creating, displaying, converting, or transmitting electronic or magnetic computer impulses or data that are used by, owned by or accessed by any person at said location. These devices include, but are not limited to, computers (including self-contained "laptop" or "notebook" computers), computer components, computer peripherals, word processing equipment, modems, monitors, printers, keyboards, acoustic couplers, cables, plotters, encryption circuit boards, optical scanners, external hard drives, and other computer-related electronic or physical devices that serve to transmit or receive information to or from a computer can be found.
3. Any and all information and/or data stored in the form of magnetic or electronic coding on computer media or on media capable of being read by a computer or with the aid of computer-related equipment. This media includes, but is not limited to, floppy diskettes, fixed hard disks, removable hard disk cartridges; zip disks, compact disk (CD) storage devices, tapes, laser disks, videocassettes, and any other media that is capable of storing magnetic coding can be found.
4. Any and all instructions or programs stored in the form of electronic or magnetic media that are capable of being interpreted by a computer or related components. The items to be seized include, but are not limited to, operating systems, application software (like word processing, graphics, or spreadsheet programs), utility programs, compilers, interpreters, communications programs, and any other programs or software used to communicate with computer hardware or peripherals either directly or indirectly via telephone lines, radio, or other means of transmission can be found.
5. Any documentation that proves ownership or maintenance of control of electronic or computer-related equipment, programs, data, or other information relating to same, including correspondence, invoices, computer printouts, and similar items can be found.
6. Memory telephones, automatic dialing devices, telephone answering machines, or any other electronic device used for the electronic storage of names, addresses and phone numbers can be found.
7. All business records, memo', correspondence, e-mails, faxes, or other forms of communication either electronic or any other format, including but not limited to employee files, payroll related issues, payment of withholding and other employee deductions, communications and other forms of communication between entities can be found.
8. All minutes of board of directors meetings can be found

9. Any other document, internal memorandum or items used or produced in the day to day operation of ACORN, Citizens Consulting Inc., and any ACORN related entity can be found.
10. All w-2's, income reports, quarterly or monthly state tax filing reports and 1099 miscellaneous income reports, or e-mails or other forms of communication with the State of Louisiana, Department of Revenue can be found.

is (are) secreted or concealed, and whereas the affidavit submitted in support of the request for this search warrant indicates that the affiant has shown the necessary probable cause for its issuance. YOU ARE HEREBY ORDERED to search the aforesaid 2609 Canal Street, Acorn, Citizens Consulting Inc., and all other Acorn related entities, and when the thing to be searched is a dwelling or other structure, this writ includes all other structures, vehicles and places on the premises and if the thing(s) specified are found there, to seize and bring it (them) before this Court, and this shall be your warrant to which you are to make due return according to law.

In accordance with the request of this affiant, this warrant authorizes you to conduct the search at any time of the day or night, including Sundays.

WITNESS my official signature on this _____ day of _____, _____.

JUDGE, ORLEANS CRIMINAL DISTRICT COURT
STATE OF LOUISIANA