

Amount of Alleged ACORN Embezzlement Soars

Founder's Brother Took \$5 Million, New Subpoena Reports

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The brother of ACORN's founder embezzled \$5 million from the organization, nearly five times more than the figure previously acknowledged by the New Orleans activist group's officials, according to a subpoena served Monday by the Louisiana Attorney General's Office.

"The exact amount of the embezzlement was unknown until it was recently acknowledged in a board of directors meeting on October 17, 2008 by (ACORN Chief Executive Officer) Bertha Lewis and (ACORN board member) Liz Wolf that an internal review had determined that the amount embezzled was \$5,000,000," reads the court document. "It is still unclear if some of the monies embezzled are from state, federal or private funds."

ACORN officials have said that Dale Rathke, brother of founder and former CEO Wade Rathke, in 1999 and 2000 inappropriately charged \$948,000 to accounts controlled by Citizens Consulting, the bookkeeping arm of ACORN. Under a quiet arrangement known to only a fraction of the organization's 50-member board, Dale Rathke was allowed to set up a repayment plan. He eventually repaid about \$200,000 before a private donor paid the balance.

Dale Rathke worked for the ACORN empire in a financial capacity, sometimes referred to as the group's comptroller.

A national ACORN spokesman was as blunt as he was brief in responding to the allegation:

"Allegations that Dale Rathke embezzled \$5 million is without any factual merit," reads the full statement released by spokesman David Redlener.

Attorney General Buddy Caldwell said the statute of limitations for theft from ACORN could present problems. However, the language about the source of the money in the new subpoena hints that ACORN might not be the only victim of the alleged embezzlement and could open new avenues of investigation or prosecution.

The new subpoena is nearly the same as those served in August on Wade Rathke and others. The only new information is the revelation amount of the alleged embezzlement and the fact that a state tax lien of more than \$300,000 was satisfied only after the state took action against the group's bank account.

Though the debt is paid, the attorney general's office can still consider whether ACORN or Citizens Consulting intended to defraud the state when it failed to submit employee payroll withholding taxes for nearly six years.

The subpoenas, filed in East Baton Rouge court Friday, are part of a broad investigation by the attorney general's office into alleged wrongdoing at ACORN and its more than 350 affiliated organizations.

The subpoena application was signed by David Caldwell of the attorney general's office, who acknowledged that the papers were served Monday. He declined to discuss the matter further.

The document says former members of the ACORN board of directors approached state officials with claims that the group was breaking laws "related to the filing of employee withholding taxes, failing to report an embezzlement of nearly \$1 million by the brother of the founder...., obstructing justice and violations of the Employee Retirement Security Act."

The obstruction allegation comes from the failure to report Dale Rathke's improper charges, and the retirement-account contention refers to the possible illegal use of money in those accounts for ACORN employees.

The court order was served on Citizens Consulting Inc., its chief financial officer and treasurer; ACORN and its president, Maude Hurd; the accounting firm of Duplantier, Hrapmann, Hogan and Maher, and one of its employees William Stamm.

Neither the accounting firm nor Stamm responded to requests for comment Monday afternoon. Contacted at Citizens Consulting, Liz Wolf declined to comment on the subpoenas or the new amount cited in the court document.

It seeks myriad financial records dating from 1998 from Citizens Consulting regarding ACORN and all related entities, such as income paid on behalf of all ACORN affiliates, all financial audits and statements, a list of all employees for each related group, notices of tax liens and all tax returns.

The subpoena also focuses on Dale Rathke's actions, seeking information "detailing the theft of funds by Dale Rathke...and failure to report the theft to the proper law enforcement agencies." It also demands records "dealing with the issue of Dale Rathke's illegal use of employee benefit funds" and "records that detail all of the funds received by Dale and Wade Rathke in either income, benefits, use of properties, credit cards or other accounts, loans or other means of deferred compensation."

Regarding the tax many tax liens filed against ACORN and related groups, the subpoena said that "a substantial portion" of the \$306,000 owed was not paid until "bank accounts were levied."

Records in the Orleans Parish Clerk of Courts Office shows that ACORN-related entities still owe more than \$1.5 million in federal taxes, as well as about \$30,000 in state taxes. The most recent filing from the IRS was recorded last month for more than \$500,000. It makes a claim on the ACORN building on Canal Street until the debt is paid.

Most liens tem from payroll taxes withheld from employees but not submitted to the state or the IRS. The \$306,000 bill from the state says payments were missed in 66 tax periods, from 2002 through mid-2008.