Secretary Jon Husted  
Office of the Ohio Secretary of State  
180 East Broad Street  
Columbus, OH 43215  
FAX: (614) 752-4360

August 21, 2012 – sent via facsimile and U.S. Mail

Re: Boustani v. Blackwell Directives and Signage

Dear Secretary Husted,

We are writing this letter as attorneys for the American Civil Liberties Union of Ohio (“ACLU”) relative to the decision issued in the case of Boustani v. Blackwell, 460 F.Supp.2d 822 (N.D. Ohio 2006) (Copy attached.) As you may recall, the Court in Boustani enjoined portions of O.R.C. § 3505.20, and required all local Boards of Elections to place signage at each voting location reciting the fact that naturalized citizens would not be required to provide additional documentation or information before casting their regular ballots. Although the language is clear, to our knowledge, the Ohio Secretary of State’s office has not issued directives or polling location signage as required by the Boustani order since the 2006 general election.

We appreciate that your office has complied with Boustani to the extent that the enjoined portions of O.R.C. § 3505.20 have not been enforced. We also recognize that the Affidavit Oath Examination of Person Challenged (Form 10-U) complies with the Boustani order.

Nevertheless, as you are no doubt aware, in recent years there has been a great deal of anti-immigrant sentiment throughout the country, including the State of Ohio. Florida’s recent voter roll purge has heightened fears of non-citizens’ voting, although there continues to be almost no evidence of non-citizen voter fraud incidences.¹ Reports we received indicate that you have commented on the fact that Ohio does not have a widespread problem of non-residents casting ballots, yet news accounts indicate that you have expressed an interest in accessing the federal SAVE database.²

Anti-immigrant sentiment, news of voter roll purges in Florida, and skewed information about non-citizens’ voting may result in precinct elections officials’ and election judges’ asking registered voters for proof of citizenship at the polls or forcing them to cast provisional ballots. We fear that eligible citizens, both

¹ Justin Levitt, The Truth About Voter Fraud, 18 (Brennan Center for Justice at New York University School of Law, 2007).  
naturalized and native-born, may choose not to vote because they do not want the embarrassment or inconvenience of being asked for proof of citizenship at the polls. Full compliance with the Boustani order, including issuing the required pre-election directive to local Boards of Elections and posting the required signage, would ensure that all eligible and registered voters are treated equally at the polls.

In order to effectuate the injunction placed on portions of O.R.C. § 3505.20, the Boustani order specifically required the Ohio Secretary of State to (1) issue a directive to all local Boards of Elections and (2) place or cause to be placed signage at each voting location reciting that naturalized citizens would not be required to provide additional documentation or information before casting their regular ballot. Boustani at 824. Therefore, the Office of the Secretary of State is bound by the Boustani court order to issue directives to all county boards of elections and place or cause to be placed the mandated signage in order to ensure the continued effectuation of the Boustani injunction before each election until the Ohio General Assembly amends O.R.C. § 3505.20.

As Secretary of State, you, quite obviously, have the authority and duty to issue directives, advisories, rules, and instructions for conducting elections. O.R.C. § 3501.05. We urge you issue a directive as soon as possible reminding local Boards of Elections of the Boustani decision. Such a directive should instruct all judges of elections to comply with the Boustani order in a manner identical to that required by Directive No. 2006-72. Additionally, a directive should require that “conspicuous notice in clear, simple language, reciting that naturalized citizens will not be required to provide additional documentation or information before casting their regular ballot” be posted at every polling location throughout the State of Ohio. Boustani at 824.

We appreciate your efforts to make voting for all Ohioans as easy and accessible as possible. Please contact us by August 27, 2012 to apprise us of your response to this request. We look forward to hearing from you soon.

Yours Truly,

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