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Heather S. Heidelbaugh, Esquire
PA ID No. 49987
BABST, CALLAND, CLEMENTS & ZOMNIR, PC
Two Gateway Center
603 Stanwix Street, 7th Floor
Pittsburgh, PA 15222
Tele: 412.394.5636/Fax: 412.394.6576

Attorneys for Plaintiffs

Jonathan S. Goldstein, Esq.
PA ID No. 201627
300 S. Narberth Ave.
Narberth, PA 19072
Tele: 610-949-0444

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MONICA MOYER; ROBERT A. GLEASON, JR.;
JOYCE HAAS; ADRIENNE MITFORD; JOSEPH B.
MAGUIRE; W. CRAIG WILLIAMS; and the
REPUBLICAN PARTY OF PENNSYLVANIA,

Plaintiffs,

v.

PEDRO A. CORTES, Secretary of the Commonwealth;
ASSOCIATION OF COMMUNITY ORGANIZATIONS
FOR REFORM NOW (ACORN); PHILADELPHIA
ACORN; ALLEGHENY COUNTY ACORN; ERIE
COUNTY ACORN; HARRISBURG ACORN; LEHIGH
VALLEY ACORN; SOUTHEASTERN PA ACORN;
PROJECT VOTE /VOTING FOR AMERICA, INC.;
CITIZENS SERVICES, INC.; and ALL OTHER ACORN
AFFILIATES AND SUBSIDIARIES OPERATING IN
PENNSYLVANIA, the identity of which are currently
unknown,

Defendants.

CIVIL ACTION -- EQUITY

Election Matter

NO.

497MD 2008

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RECEIVED
COMMONWEALTH COURT
OF PENNSYLVANIA

VERIFIED COMPLAINT
FOR SPECIAL, PRELIMINARY AND PERMANENT INJUNCTION

Plaintiffs Monica Moyer, Robert A. Gleason, Jr., Joyce Haas, Adrienne Mitford, Joseph B. Maguire, W. Craig Williams and the Republican Party of Pennsylvania (collectively, the "Plaintiffs"), by their undersigned counsel, hereby file this Complaint and request injunctive relief against Defendants, the Honorable Pedro A. Cortes, Secretary of the Commonwealth ("Secretary"), the Association of Community Organizations for Reform Now ("ACORN"), Project Vote/Voting For America, Inc. ("Project Vote"), Citizens Services, Inc. ("Citizens Services"), and ACORN's affiliates and subsidiaries operating in Pennsylvania, both known and unknown (collectively, the "Defendants"). In support thereof, Plaintiffs aver as follows:

NATURE OF ACTION

1. This is an action to enforce Plaintiffs' rights under the Constitution of the United States, the Fifth and Fourteenth Amendments to the United States Constitution, the Pennsylvania Constitution, the Help America Vote Act of 2002, and the Pennsylvania Election Code to have a fair, open and honest process with respect to the upcoming November 4, 2008 General Election ("2008 General Election"), in which they will be participating as either a voter, candidate or political party. Further, as to the individual Plaintiffs, this action seeks to enforce their rights under the Constitution of the United States, the Fifth and Fourteenth Amendments to the United States Constitution, the Pennsylvania Constitution and the Pennsylvania Election Code to cast in the 2008 General Election a vote that is not diminished or diluted by the votes of unqualified, ineligible voters who are not entitled to cast ballots.

2. Upon information and belief, such unqualified, ineligible voters exist because ACORN, Project Vote, Citizens Services and ACORN's other affiliates in Pennsylvania, both

known and unknown (hereinafter, collectively the "ACORN Defendants"), have collected and submitted to local election authorities within the Commonwealth (hereinafter, "Election Officials") from November 7, 2007 through October 6, 2008, fraudulent, incomplete and/or illegitimate voter registration applications in such quantities that the Election Officials do not have the time or resources to process legitimate voter registration applications and/or are unable to prevent the processing of fraudulent, incomplete or otherwise ineligible voter registration applications.

3. Upon information and belief, the Secretary has compounded ACORN's misconduct by failing to ensure that all Election Officials will require identification from all first-time registrants, by failing to ensure that Pennsylvania's Statewide Uniform Registry of Electors ("SURE") system provides Election Officials with timely information on voters, and by failing to ensure the uniform application of Pennsylvania's Election Code across the Commonwealth.

4. The stakes in this action are enormously high: unless this Court acts quickly and decisively, the right to Pennsylvania's twenty-one (21) electoral votes may be determined by illegal ballots and, ultimately, the fate of Pennsylvania's twenty-one (21) electoral votes may materially impact the 2008 General Election for all candidates, including without limitation the electors for President and Vice President of the United States.

5. The United States Supreme Court has repeatedly affirmed the need to protect the integrity of federal elections by preventing election fraud and illegally cast ballots. In *Purcell v. Gonzales*, 549 U.S. 1, 3-4 (2006), it stated:

Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic process and breeds distrust of our government. Voters who fear their legitimate

votes will be outweighed by fraudulent ones will feel disenfranchised. “[T]he right of suffrage can be denied by a debasement or dilution of the weight of a citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise.” *Reynolds v. Sims*, 377 U.S. 533, 555, 84 S.Ct. 1362, 12 L. Ed. 2d 506 (1964).

6. Likewise, in *Crawford v. Marion County Election Bd.*, 553 U.S. ___, 128 S.Ct. 1610 (2008), the United States Supreme Court stated: “The electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters.” *Id.*, 128 S.Ct. at 1618 (*quoting* Commission on Federal Election Reform, Report, Building Confidence in U. S. Elections § 2.5 (Sept. 2005), App. 136-137 (Carter-Baker Report)).

7. Despite state and federal laws that require Pennsylvania to maintain an accurate and updated list of qualified voters, it is believed and therefore averred that Pennsylvania’s official list of registered voters currently includes the names of individuals who are not eligible to vote in the 2008 General Election.

8. Upon information and belief as set forth more fully herein, the Secretary has violated and continues to violate Plaintiffs’ rights by failing to: (a) provide Election Officials with “instant access” to the registration records maintained in the SURE system and/or to provide Election Officials with the ability to review and search the SURE system in order to timely perform their duties with respect to examination and approval of voter registration applications, including without limitation fraudulent or otherwise ineligible voter registration applications submitted, in whole or in part, by the ACORN Defendants; and (b) ensure that all Election Officials will require identification from all first-time registrants.

9. As set forth more fully herein, the ACORN Defendants have violated and continue to violate Plaintiffs’ rights by fostering voter registration fraud in at least four Pennsylvania counties. In at least three counties (Dauphin, Delaware, and Allegheny), criminal

charges and/or investigations are currently pending for issues including perjury, false swearing, forgery, and identity theft against former and current ACORN employees. Additionally, the City Commissioners of Philadelphia recently asked the United States Attorney for the Eastern District of Pennsylvania to investigate evidence of fraudulent voter registration applications and conduct by one or more of the ACORN Defendants. Moreover, upon information and belief, the ACORN Defendants' fraudulent activities in Washington State led to the execution in July 2007 of a written settlement and compliance agreement in which ACORN agreed to extensive oversight until December 31, 2012 with respect to its voter registration activities and voter registration applications (hereinafter, the "King County Settlement and Compliance Agreement"). Much like its activities in the State of Washington, the ACORN Defendants' fraudulent activities in this Commonwealth threaten to dilute the votes of millions of Pennsylvania's qualified electors by allowing unqualified, ineligible electors to cast ballots and threaten to undermine the voters' confidence in the electoral process and the 2008 General Election.

10. Plaintiffs bring this action to obtain a special or preliminary injunction and a permanent injunction and other relief necessary to ensure that the upcoming 2008 General Election is fair, open and honest and to preserve the ability of Pennsylvania's electors to cast votes that are not diminished or diluted by the votes of unqualified, ineligible voters who are not entitled to cast ballots.

11. In particular, Plaintiffs seek an order directing the Secretary to ensure that: (a) the SURE system provides to Election Officials, in a timely and efficient manner, data about registrants ineligible to vote, as required by state and federal law; (b) all Election Officials will require identification from all first-time registrants; and (c) all Election Officials will provide a

significantly larger amount of provisional ballots at each polling place so that voters can vote provisionally if their voter registration applications have not been timely processed by Election Officials on or before the day of the 2008 General Election or require further scrutiny.

12. Further, as to the ACORN Defendants, Plaintiffs seek an order that: (a) enjoins the ACORN Defendants from all attempts to encourage voters who have submitted false or duplicative registration forms from voting or attempting to vote in the 2008 General Election; (b) directs the ACORN Defendants to provide to the Plaintiffs, the Secretary and the Election Officials copies of any and all lists identifying the names of individuals for whom the ACORN Defendants submitted voter registration forms, as well as any copies of all underlying documents and forms; (c) directs the ACORN Defendants to fund public service announcements to educate all first time voters about the requirements to present identification in accordance with state and federal law, whether voting in person or via absentee ballot; and (d) directs the ACORN Defendants to comply with similar mandates and requirements that are set forth in the King County Settlement and Compliance Agreement, including those provisions pertaining to "suspect" registrations collected and submitted by the ACORN Defendants in Pennsylvania between November 7, 2007 and October 6, 2008.

PARTIES

13. Plaintiffs Monica Moyer, Robert A. Gleason, Jr., Joyce Haas, Adrienne Mitford, Joseph B. Maguire and W. Craig Williams are all taxpayers and qualified electors of the Commonwealth of Pennsylvania and are all duly registered to vote in the 2008 General Election. In addition, W. Craig Williams is also a candidate for the United States House of Representatives from the 7th Congressional District of Pennsylvania in the 2008 General Election. Plaintiff the Republican Party of Pennsylvania is a political party comprised of several million qualified

electors and through its candidates and poll watchers will be participating in the 2008 General Election.

14. Defendant Secretary is being sued in his official capacity. The Secretary is the chief election officer of Pennsylvania and, as such, is bound by oath and is statutorily charged with the administration of state laws affecting voter registration, voting, voting procedures, absentee ballots, provisional ballots, and for assuring that elections in the Commonwealth are conducted fairly, openly, and in accordance with all applicable laws. The Secretary's principal office is located at Room 302, North Office Building, Harrisburg, Pennsylvania 17120.

15. The ACORN Defendants are the following: the Association of Community Organizations for Reform Now (ACORN); Philadelphia ACORN; Allegheny County ACORN; Erie County ACORN; Harrisburg ACORN; Lehigh Valley ACORN; Southeastern PA ACORN; Project Vote, Citizens Services, and all other ACORN affiliates and subsidiaries operating in Pennsylvania. Other than ACORN, Project Vote and Citizens Services, which despite their substantial operations in and nexus to this Commonwealth are, upon information and belief, incorporated in a different state, each of the remaining ACORN Defendants has offices in Pennsylvania.

JURISDICTION AND VENUE

16. Exclusive original jurisdiction over the subject matter of this Complaint is vested in this Court by virtue of the Pennsylvania Judicial Code, 42 Pa.C.S. § 761(a)(1).

17. This Court has personal jurisdiction over all Defendants. The Secretary of the Commonwealth is an executive official of the Commonwealth. The ACORN Defendants either have offices or substantial operations or engage in voter registration activities within the Commonwealth.

18. Venue is proper for this action in this Court because the Secretary is an official of the Commonwealth of Pennsylvania and because this suit involves election law.

BACKGROUND

Pennsylvania Voter Registration Law and the SURE System

19. In the 2008 General Election, Pennsylvania's registered voters will cast ballots for several offices, including electors of the next President and Vice President of the United States, Representatives to the United States Congress, and various statewide and local candidates.

20. The Secretary, as the official in charge of the Commonwealth of Pennsylvania's Department of State, has been required to develop and maintain the SURE system which is a centralized voter registration and election management system designed to assure the accuracy and integrity of the Commonwealth's voter registration records examined, approved and processed by the Election Officials in Pennsylvania's sixty-seven (67) counties.

21. In accordance with Subparts (c)(5) and (c)(7) of Section 1222 of the Pennsylvania Voter Registration Act ("PA VRA"), 25 Pa.C.S.A. § 1222(c)(5) and (7), and various regulations enacted in accordance therewith, the SURE system must, "at a minimum," permit the Election Officials in all 67 Pennsylvania counties to have both "instant access" to the registration records maintained in the SURE system and the ability to review and search the SURE system in order to timely perform their duties with respect to examination of voter registration applications in order to prevent the processing of fraudulent or otherwise ineligible voter registration applications.

22. According to the Pennsylvania Department of State's website, "[t]he voter registry is the platform that supports every critical function of the election system—from determining voter eligibility to assigning precincts to producing district registers. A centralized, uniform statewide registry, as opposed to a collection of disparate county level voter files,

greatly enhances overall accuracy and integrity of the voter roll, and the resulting quality of voter services. By placing all Pennsylvania counties on a common software platform:

- Duplicate registrations among county files will be presented to county election officials for resolution
- When registered voters move across county lines, their existing records and voting history will be identified to election officials for transfer to the new county of residence
- External agency transactions which affect voter eligibility, from PENNDOT and the Department of Health (DOH), will be centrally integrated with SURE and electronically forwarded to county officials and
- Voter roll maintenance programs will operate on a consistent statewide basis to remove "deadwood", keeping the registry up to date, protecting against potential voter fraud, and promoting consistency among counties in their data management practices."

23. In order to vote in the 2008 General Election, Section 1326 of the PA VRA, 25 Pa.C.S.A. §1326, requires that any Pennsylvania qualified elector who has either not previously registered to vote or who desires to change his or her party enrollment, name or address on existing registration, must submit a completed voter registration application no later than thirty (30) days before the date of the 2008 General Election.

24. Subpart (a)(2) of Section 1328 of the PA VRA, 25 Pa.C.S.A. §1328(a)(2), mandates that, upon receipt of a voter registration application, the Election Officials must examine the application to determine all of the following:

- (i) Whether the application is complete.
- (ii) Whether the applicant is a qualified elector.
- (iii) Whether the applicant has an existing registration record. After the commission is connected to the SURE system, the commissioner, clerk or registrar shall search the SURE system on a Statewide basis to determine if the applicant has an existing registration record.
- (iv) Whether the applicant is entitled or qualified to receive the requested transfer or change, if applicable.

