



GOVERNMENT  
ACCOUNTABILITY  
INSTITUTE

# **FOLLOW THE MONEY: HOW THE DEPARTMENT OF JUSTICE FUNDS PROGRESSIVE ACTIVISTS**



*The accumulation of all powers legislative, executive and judiciary in the same hands, whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.*

James Madison  
The Federalist Papers  
Federalist No. 47  
January 30, 1788



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# Executive Summary

The Government Accountability Institute conducted an in-depth examination of the nature of settlement agreements between U.S. financial institutions and the United States Department of Justice (DOJ) and designated nonprofits, the destination of much of the settlement money. The DOJ has instituted a reiterative process that provided significant funding for nonprofit “community organizers” through a pattern of extortive lawsuits. The threat of a federal lawsuit, protracted litigation, negative public relations and, in some cases, criminal prosecution, has prodded private businesses – primarily financial institutions – to surrender millions of dollars to these organizations at the DOJ’s direction – often at the expense of those supposedly aggrieved by the banks’ actions. The DOJ has curated an opaque system wherein appointed attorneys can legally extract money from the private sector and redistribute the funds to third-party organizations outside of the appropriations process—an unprecedented and extraordinary disregard for Congressional authority.

After reviewing the consent decrees by the Obama administration’s DOJ, GAI’s findings include the following:

- During Eric Holder’s tenure as Attorney General, more than \$37 billion has been paid by U.S. banks under the threat of federal lawsuits.<sup>1</sup>
- The Obama Justice department often incentivized these financial institutions to fund politically oriented nonprofits in lieu of paying restitution to specifically

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<sup>1</sup> The post-2008 settlement funds from the 40 Consent Orders studied, totaled \$37,284,315,250.00. Note, all but \$720 million came from three settlements: Bank of America, Citigroup, and JP Morgan Chase.



aggrieved individuals by disproportionately crediting payments to nonprofits against total settlement amounts at a rate as high as ten to one. This benefited the banks and the nonprofits to the detriment to those needing direct assistance.<sup>2</sup>

- These funds directed by the DOJ effectively replaced funding to activist nonprofits previously denied by Congress.<sup>3</sup>
- Many of the cases stand on the tenuous merit of “disparate impact theory,” where in the DOJ’s eyes banks become liable for charges of racism based upon the perceived injustice of lending disparity in certain lower income areas, regardless of the reasons for the disparity.<sup>4</sup>
- NeighborWorks, a major conduit for distribution of these funds, gave over \$53 million to one particular organization, Neighborhood Assistance Corporation of America (NACA),<sup>5</sup> whose founder and leader is a self-described “bank terrorist.”<sup>6</sup>
- Another recipient of NeighborWorks distributions is Asian Americans for Equality (AAFE), an organization with communist roots and continued close ties to a very vocal North Korean sympathizer.<sup>7</sup> From 2008-2013, AAFE received over \$4 million dollars as a NeighborWorks affiliate.<sup>8</sup>
- Catalist (a data analytics company specializing in progressive causes with \$2.25 million of investment funding from George Soros)<sup>9</sup> and Nonprofit VOTE mobilize these federally funded nonprofits, ostensibly designed to assist with housing and housing education, to get the vote out for those who “tend to be reliably progressive.”<sup>10</sup>
- Given the weight of evidence that the left has been using questionable means to fund and support their own agenda, there’s an ironic recent story about a voter registration effort at a Florida Chick-fil-A raising the ire of progressive activists

<sup>2</sup> Board of Governors of the Federal Reserve System, *Independent Foreclosure Review* (Washington DC, July 2014): 21, <http://www.federalreserve.gov/publications/other-reports/files/independent-foreclosure-review-2014.pdf>

<sup>3</sup> Ron Johnson, “The Justice Department’s Housing Settlements: Millions of Consumer Relief Funds Disbursed with No Guarantees of Helping Homeowners,” Majority Staff Report on the Committee on Homeland Security and Governmental Affairs, S. Rep., 114th Cong., 2d sess. (Washington DC, May 18, 2016): 27, <http://www.hsgac.senate.gov/download/the-justice-departments-housing-settlements-millions-of-consumer-relief-funds-disbursed-with-no-guarantees-of-helping-homeowners>

<sup>4</sup> “Disparate Impact,” *National Fair Housing Alliance*, accessed October 04, 2016, <http://www.nationalfairhousing.org/PublicPolicy/DisparateImpact/tabid/4264/Default.aspx>. Disparate Impact is a legal theory advanced by the Department of Justice under the Fair Housing Act which states that a policy may be considered discriminatory if it has a disproportionate ‘adverse impact’ against any group based on race, national origin, color, religion, sex, familial status, or disability when there is no legitimate, non-discriminatory business need for the policy.

<sup>5</sup> NeighborWorks, Internal Revenue Service, Form 990, 2007-2013. The total payments to NACA amounted to \$53,583,342.00.

<sup>6</sup> Bruce Marks, interview by Kate Bolduan, *American Morning*, CNN, July 28, 2008, <http://www.cnn.com/TRANSCRIPTS/0807/28/lm.01.html>.

<sup>7</sup> “Liu’s Cashiered Comrade” *New York Post*, October 5, 2011, <http://nypost.com/2011/10/05/lius-cashiered-comrade/>.

<sup>8</sup> NeighborWorks, Internal Revenue Service, Form 990, 2008- 2013. The total payments to AAFE amounted to \$4,042,824.00.

<sup>9</sup> “George Soros reinvests in progressive-cause data company,” *CNN*, November 14, 2013, <http://politicalticker.blogs.cnn.com/2013/11/14/george-soros-reinvests-in-progressive-cause-data-company/>.

<sup>10</sup> “Wyss Foundation Democracy Strategy Discussion Memo,” *Washington Free Beacon*, accessed October 6, 2016, <http://freebeacon.com/wp-content/uploads/2016/06/wyss-memo.pdf>.



for the probable political bent of the restaurant's clientele.<sup>11</sup> Apparently, the left wants to "corner the market" on their own biased methods of voter registration and getting out the vote.

These actions by the DOJ represent the latest installment in efforts to fund political activism through government directed funds. What is new is the unprecedented method of funding through an opaque process not subject to Congressional scrutiny or public examination.

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<sup>11</sup> "Florida Democrats clucking over voter registration drives at local Chick-fil-A," *Fox News*, September 30, 2016, <http://www.foxnews.com/leisure/2016/09/30/florida-democrats-clucking-over-voter-registration-drives-at-local-chick-fil/>.



# Introduction

The framers of this nation’s constitution experienced tyranny and exploitation by a monarch with an insatiable appetite for revenues; a monarch who held the power to tax and appropriate and thereby, bleed off the wealth of the colony’s citizenry. As a result the framers of our Constitution gave to Congress the power to tax and appropriate.<sup>12</sup> The executive, so dispossessed of the ability to collect and appropriate the resources of others for his own purposes or the interest of his political benefactors, was limited in his ability to strengthen and consolidate his own power through what would essentially be a “spoils system.”<sup>13</sup>

Nevertheless, despite the checks and balances woven into our founding documents, a spoils system is precisely what exists today. The beneficiaries of this system, a network of “community organizers,” are in reality progressive activists hidden behind nonprofit entities. The flow of patronage is assured by bureaucrats who share the same political agenda, guaranteeing considerable opportunities for advancement in salary and position. Within this ecosystem progressive leadership is identified, nurtured, developed, and launched.

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<sup>12</sup> Alexander Hamilton, James Madison and John Jay, *The Federalist*, in *The Founder’s Constitution* 1, ed. Philip Kurland and Ralph Lerner (Chicago: University of Chicago Press, 2000), chap. 10, doc. 14 <http://press-pubs.uchicago.edu/founders/documents/v1ch10s14.html>.

<sup>13</sup> *Encyclopedia Britannica Online*, s.v. “Spoils System,” last modified March 10, 2014, <http://www.britannica.com/EBchecked/topic/560744/spoils-system>.



In this system, members of communities are organized into a local network of activists and further connected nationally into highly effective grassroots organizations. While they tend to sail under a neutral flag and generally have a benign programmatic purpose, such as affordable housing for the poor, they are far from neutral, with activities extending beyond that stated purpose to an agenda with political implications.

In the past, much of the work of these nonprofits was funded by federal grants that allowed Congress to review and provide oversight. However, as noted in a Senate Majority Staff Report of the Committee On Homeland Security and Governmental Affairs:

One commentator noted cynically that as Congress has cut funding for housing counseling programs, the DOJ's housing settlements have made up the difference. By virtue of the housing settlements requiring Bank of America and Citigroup to collectively provide \$30 million to housing counseling organizations, the DOJ is "essentially restoring all the funding" Congress decided to remove from the budget.<sup>14</sup>

Since the Obama administration took power and Eric Holder was placed at the helm of the most powerful enforcement agency in the country, the U.S. Department of Justice (DOJ) has provided a significant funding mechanism for community organizers through a pattern of what many consider to be extortive lawsuits that have resulted in settlements known as consent orders. The threats of federal lawsuits, protracted litigation, public

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<sup>14</sup> Ron Johnson, "The Justice Department's Housing Settlements: Millions of Consumer Relief Funds Disbursed with No Guarantees of Helping Homeowners," *Majority Staff Report on the Committee on Homeland Security and Governmental Affairs*, S. Rep., 114<sup>th</sup> Cong., 2d sess. (Washington DC, May 18, 2016): 27, <http://www.hsgac.senate.gov/download/the-justice-departments-housing-settlements-millions-of-consumer-relief-funds-disbursed-with-no-guarantees-of-helping-homeowners>



relations nightmares and, in some cases, criminal prosecution, have prodded private businesses – primarily financial institutions – to fork over billions of dollars to community organizers at the DOJ’s direction. The DOJ has created a system whereby they can legally extract monies from the private sector and redistribute the proceeds to third party organizations outside of the Congressional appropriations process, resulting in an extraordinary transfer of wealth. The Department circumvents Congress’s authority to tax and appropriate by use of technical legal gymnastics. Since the settlement funds never flow into the coffers of the government, technically speaking, the funds are not subject to appropriation by Congress. Instead, the DOJ directs the proceeds of settlements to organizations favorable to progressive causes and candidates.

Researchers at the Government Accountability Institute (GAI) reviewed over forty of the larger, bank-related consent orders filed with the DOJ since 2009. In a majority of the cases reviewed, the lawsuit was not filed until the parties had agreed to the terms and conditions of the consent order. An examination of the pleading demonstrated a formulaic approach using the same language in the complaints and consent orders. In one case the court rejected one of the DOJ’s stock orders because it failed to define terms, lacked completeness, contained superfluous clauses, lacked clarity, and was “...void of provisions for the Court to effectively oversee the parties’ obligations under the Agreed Order during its anticipated term.”<sup>15</sup> While some of the larger settlements came out of the sub-prime mortgage meltdown and resulting financial crisis, others resulted from a carefully

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<sup>15</sup> United States v. Citizens Republic Bancorp, Inc. and Citizens Bank, “Order,” (E.D. Mich. 2011): 1.



orchestrated pattern of what one might call intimidate and settle based on the “disparate impact” theory.<sup>16</sup>

This funding of progressive activist groups with public money seems to stand in stark contrast to other government activities during the same period of time toward conservative groups when the IRS was “slow-walking” or denying their applications for 501(c)(3) status. This, for no other reason than the organizations were seen as conservative. The IRS flagged applications of conservative organizations as “advocacy cases” if the applications mentioned the following:

- a. "Tea Party," "Patriots" or "9/12 Project";
- b. Government spending, government debt or taxes;
- c. Education of the public by advocacy or lobbying to "make America a better place to live"; or
- d. Criticism of how the country is being run.<sup>17</sup>

Not only did these conservative organizations not get public funding as do the progressives, they were denied 501(c)(3) status, effectively impeding their ability to raise private funds from private citizens, as those giving the funds could not take the tax write-off for their contributions. While these conservative issue-based groups were wrangling

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<sup>16</sup>“Disparate Impact,” *National Fair Housing Alliance*, accessed October 04, 2016, <http://www.nationalfairhousing.org/PublicPolicy/DisparateImpact/tabid/4264/Default.aspx>. Disparate Impact is a legal theory advanced by the Department of Justice under the Fair Housing Act which states that a policy may be considered discriminatory if it has a disproportionate ‘adverse impact’ against any group based on race, national origin, color, religion, sex, familial status, or disability when there is no legitimate, non-discriminatory business need for the policy.

<sup>17</sup> “Notice Of Pendency of Class Action Lawsuit”, *Graves Garrett LLC*, <http://www.gravesgarrett.com/IRSClassAction/>, filed in *NorCal Tea Party Patriots v. Internal Revenue Service*, *Civil Action No. I, No. 13-cv-00341*, (S.D. Ohio July 15, 2015).



with the IRS for approval of their 501(c)(3) status, an army of publically funded progressive activist groups were getting out the vote.

To have a full understanding of the current posture and how we got here it is important to understand some of the history of banking and finance for the last 30 years, the growth and ascendancy of the community organizing movement, and the philosophical underpinnings on which it operates.

# History

## Of Banks and Men

In the 1970s it was illegal for banks to move across state lines. Many states restricted banks from creating branch banks. However, in the early 1980s most states passed legislation that allowed the banks to open branches within their home state and to cross state borders with banking operations. The easing of federal regulations and legislative changes, coupled with the desire to create significant economies of scale, resulted in mergers and acquisitions forming megabanks with myriad branches in multiple states.<sup>18</sup>

Meanwhile, activist groups began to protest, challenging banking practices they believed were contributing to the demise of urban neighborhoods and businesses. The

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<sup>18</sup> Charles Calomiris and Stephen Haber, “The Housing Crisis: What’s the Fed’s Excuse?” *Newshour*, PBS, February 6, 2014, <http://www.pbs.org/newshour/making-sense/housing-crisis-whats-feds-excuse/>.



activists focused on the practice of what came to be referred to as "bank redlining" ("the practice of denying credit to individuals and businesses in certain neighborhoods.")<sup>19</sup>

Community activists worked at the local level to challenge the alleged banking practices, but as the movement became widespread activists joined together in a national effort to encourage legislation that would end redlining and alter the manner in which banks loan money.

As a direct response to the "grassroots pressure from the emerging neighborhood movement," Congress passed two strategic pieces of legislation: The Community Reinvestment Act of 1977 (CRA) and The Home Mortgage Disclosure Act of 1975 (HMDA).<sup>20</sup> These two congressional acts provided an extraordinary advantage and point of leverage for neighborhood activist groups in a climate where financial institutions were desperate to consolidate market share in the new banking environment.

Peter Dreier, who is currently the E.P. Clapp Distinguished Professor of Politics, Politics, Urban and Environmental Policy at Occidental College, observed in his 1996 paper, *Community Empowerment Strategies: The Limits and Potential of Community Organizing in Urban Neighborhoods*:

In combination, HMDA and CRA provided an effective tool that enabled local groups to pressure banks to invest in low-income and minority neighborhoods. HMDA provided the

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<sup>19</sup> Financial Crisis Inquiry Commission, *Final Report of the National Commission On the Causes of the Financial and Economic Crisis in the United States*, (Washington DC: Government Printing Office, January 2011), xxvii. <https://www.gpo.gov/fdsys/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf>

<sup>20</sup> Peter Dreier, "Community Empowerment Strategies: The Limits and Potential of Community Organizing in Urban Neighborhoods," *Cityscape* (US Department of Housing and Urban Development) 2, no. 2 (May 1996), 131, accessed October 5, 2016, [http://www.jstor.org/stable/20868413?seq=1#page\\_scan\\_tab\\_contents](http://www.jstor.org/stable/20868413?seq=1#page_scan_tab_contents)



data needed to analyze banks' lending patterns systematically (for housing loans but not commercial loans) ... By requiring banks to meet community needs as a prerequisite for obtaining various approvals from Federal bank regulators, and by giving consumer and community groups the right to challenge these approvals, CRA provided the groups with leverage to bring banks to the negotiating table.<sup>21</sup>

The nature of this new arrangement, which one author described as an “extraordinary bargain” struck between the rising megabanks and activist organizations, was based on federal banking regulations that required the Federal Reserve to review and approve all bank acquisitions and mergers prior to the proposed transaction.<sup>22</sup> The CRA provided for a rating system which measured the bank’s status as a moral actor or “good neighbor” towards low-income and minority communities. At first most banks merely provided evidence of a good-faith effort to serve these disaffected communities.

The CRA regulations changed in 1995 when the Clinton Administration created an incentive structure for banks to lend to low-income areas. The new provision gave the Office of Comptroller of the Currency, the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision, and the Federal Reserve Board the ability to conduct CRA ratings. They “graded” the banks “according to their lending records and responsiveness to community needs.” This necessarily meant relaxing long-standing and accepted mortgage lending standards. A CRA rating of “needs to improve” or “substantial noncompliance”

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<sup>21</sup> Ibid., 131-132.

<sup>22</sup> Charles Calomiris and Stephen Haber, “The Housing Crisis: What’s the Fed’s Excuse?”



“result[ed] in delays or denials of mergers, acquisitions, or expansions of services.”<sup>23</sup> When regulatory reviews held up proposed transactions, the latter could cost a considerable amount to the parties involved.<sup>24</sup>

In addition, these newly promulgated rules allowed community activists to obtain and track data on the banks’ lending practices and then leverage that information against banks to extract concessions for low-income communities.<sup>25</sup> A complaint could also result in a poor CRA rating that any of those four agencies would take into account when determining banks’ eligibility to conduct business without constraints. Thus, the changes allowed the community organizing groups to exert influence on major bank decisions.

Charles Calomiris and Stephen Haber drawing from their book, *Fragile by Design: The Political Origins of Banking Crises and Scarce Credit*, describe the degree to which activist groups were able to pressure banks for favors.<sup>26</sup> Maude Hurd, the national President of The Association of Community Organizations for Reform Now (ACORN), testified before the Federal Reserve in 2004 regarding the proposed merger between Bank of America and FleetBoston stating, “Bank of America is our largest lender. This year the ACORN Housing Program had done over 4,850 mortgages with Bank of America, worth over \$665 million dollars. Since 1991, we have done over 30,000 mortgages with Bank of

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<sup>23</sup> “A Brief Description of CRA,” *NCRC*, accessed September 22, 2016, <http://www.ncrc.org/programs-a-services-mainmenu-109/policy-and-legislation-mainmenu-110/the-community-reinvestment-act-mainmenu-80/a-brief-description-of-cra-mainmenu-136>.

<sup>24</sup> The Financial Crisis Inquiry Commission, *Final Report*, 354.

<sup>25</sup> Doug R. Hess, “Community Organizing, Building and Developing: Their Relationship to Comprehensive Community Initiatives; Their Relationship to Comprehensive Community Initiatives” (working paper, COMM-ORG: The On-line Conference on Community Organizing and Development, June 1999). <https://comm-org.wisc.edu/papers99/hess.htm>.

<sup>26</sup> Charles Calomiris and Stephen Haber, “The Housing Crisis: What’s the Fed’s Excuse?”



America, and these mortgages are worth over \$3 billion.”<sup>27</sup> Similarly, self-described “banking terrorist”<sup>28</sup> Bruce Marks, Founder and CEO of the Neighborhood Assistance Corporation of America (NACA), provided favorable testimony for the merger reporting that Bank of America had committed \$750 billion to affordable housing lending.<sup>29</sup>

Interestingly, in 1993 the AP reported that Fleet Financial, which later merged to become FleetBoston, had been in Bruce Mark’s crosshairs. Rob Wells reported:

Fleet Financial based in Providence, R.I., threatened to file criminal legal action against Marks in December for making “irresponsible allegations.” Marks claims that Fleet, the nation’s 14<sup>th</sup> largest banking company, faces \$1.2 billion in liabilities and could be rendered insolvent if it lost just one of five lawsuits it faces in Georgia.

Fleet also has accused Marks of extortion for threatening to launch a national media campaign against the bank if Fleet wouldn’t give his group \$20 million for community development.

Direct confrontational negotiating tactics championed by Marks and his supporters are more commonly associated with radical environmental groups, militant unions and AIDS activists.<sup>30</sup>

Note that Mr. Well’s article appears in the *NACA Homebuyer’s Workbook* as an article under the heading “NACA History in the Media.”<sup>31</sup> For Marks and the NACA a reputation for

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<sup>27</sup> Ibid.

<sup>28</sup> Rob Wells, “Banking Campaign of Terror,” *Associated Press*, February 28, 1993, <https://www.naca.com/media/1194/banking-campaign-of-terror.pdf>.

<sup>29</sup> Calomiris and Haber, “The Housing Crisis...”

<sup>30</sup> Wells, “Banking Campaign of Terror...”



this behavior is a “badge of honor.”<sup>32</sup> By 2012, through partnerships with financial institutions, NACA obtained more than \$13 billion in commitments for NACA loan programs.<sup>33</sup> Calomiris and Haber observed:

The terms of the mortgages granted to ACORN and NACA constituents provide clear evidence of an exchange of favors. To use NACA’s phrase, the mortgages its members received seemed “too good to be true.”<sup>34</sup>

This was not merely a matter of providing affordable mortgages for those who would otherwise not qualify; the banks provided financial support by paying the activist groups the origination fees for administering the directed-credit programs.<sup>35</sup> Also, these groups pressured banks for charitable donations (as was the case with Fleet Financial in 1993).<sup>36</sup>

The National Community Reinvestment Coalition (NCRC) is an activist group that has tracked commitments by the nation’s financial institutions to activist groups. Based on the NCRC estimate, America’s banks agreed to provide \$858 billion in 187 agreements with activist groups between 1992 and 2007.<sup>37</sup>

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<sup>31</sup> “NACA History in the Media,” *Neighborhood Assistance Corporation of America*, 2016, accessed October 5, 2016, <https://www.naca.com/media/1249/purchaseworkbook.pdf>

<sup>32</sup> “NACA’s Goals and Tactics,” accessed October 5, 2016, [https://www.nacalynx.com/nacaWeb/about\\_naca/nacaGoal.aspx](https://www.nacalynx.com/nacaWeb/about_naca/nacaGoal.aspx)

<sup>33</sup> “NACA’s Best in America Mortgage” *Neighborhood Assistance Corporation of America*, accessed October 5, 2016, <https://www.naca.com/purchase>.

<sup>34</sup> Calomiris and Haber, “The Housing Crisis...”

<sup>35</sup> *Ibid.*

<sup>36</sup> Wells, “Banking Campaign of Terror”.

<sup>37</sup> Calomiris and Haber, “The Housing Crisis...”



Even with the leverage offered by the CRA, these groups continue to resort to a more confrontational style. The following appears on a NACA website under the heading, “Aggressive and personal advocacy”:

NACA has been accused of being overly aggressive and personal. NACA wears this as a badge of honor, leaving no stone unturned and often hounding CEOs from their shareholder meetings to their homes. The rationale is simple: lenders have a personal and often devastating impact on the lives of the people who they refuse to provide affordable credit to or take advantage of through predatory loans and scams. Families who are denied access to credit live with the consequences every day, often experiencing financial devastation and/or the loss of their homes.

...NACA shines a spotlight on the CEOs, executives and directors who perpetrate financial injustice. NACA ensures that their neighbors, relatives and employees are made aware of their actions.<sup>38</sup>

In a CNN interview, Bruce Marks of NACA had this to say:

**BOLDUAN:** NACA's CEO Bruce Marks calls himself a bank terrorist and is known for his radical tactics like swamping financial firms with protesters and also personal attacks on big bank CEOs.

**MARKS:** We go to where they live and we always want to have in the back of their minds. . .Is NACA going to be there disrupting my country club, my social event, going to my kid's school because it's personal?<sup>39</sup>

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<sup>38</sup> “NACA’s Goals and Tactics,” *Neighborhood Assistance Corporation of America*, accessed October 5, 2016, [https://www.nacalynx.com/nacaWeb/about\\_naca/nacaGoal.aspx](https://www.nacalynx.com/nacaWeb/about_naca/nacaGoal.aspx).

<sup>39</sup> Bruce Marks, interview by Kate Bolduan, *American Morning*, CNN, July 28, 2008, <http://www.cnn.com/TRANSCRIPTS/0807/28/ltn.01.html>.



This no-holds-barred approach is a hallmark of the “community organizing” movement and it finds its roots in the 1930s.

## Origins of the Movement

Saul Alinsky is considered by many to be the grandfather of modern community organizing.<sup>40</sup> He was active and known throughout the movement from the 1940s to the 1970s. His two most revered tomes were *Reveille for Radicals*, published in 1946 and *Rules for Radicals* in 1971. Early in *Rules for Radicals* he lays out the purpose of the book:

In this book we are concerned with how to create mass organizations to seize power and give it to the people; to realize the democratic dream of equality, justice, peace... 'Better to die on your feet than to live on your knees.' This means revolution.<sup>41</sup>

Then he asserts the means by which these objectives must be accomplished:

The third rule of ethics of means and ends is that in war the end justifies almost any means.

The tenth rule... is that you do what you can with what you have and *clothe it with moral garments*... It involves sifting the multiple factors which combine in creating the circumstances at any given time... Who, and how many, will support the action? ... Availability of means determines whether you will *be underground or above ground*; whether you will move quickly or slowly.... (*emphasis added*)<sup>42</sup>

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<sup>40</sup> Debra Meyerson, *Rocking the Boat: How Tempered Radicals Effect Change Without Making Trouble*, March 1, 2008, Harvard Business Press, 2008), Google Books Reader, 105, accessed August 26, 2016.

<sup>41</sup> Alinsky, *Rules for Radicals*, 3.

<sup>42</sup> *Ibid.*, 29, 36.



These principles have guided and inspired activist and community organizers for over half a century.

Those influenced by Alinsky include prominent figures in the community organizing movement as Cesar Chavez and Fred Ross Sr.<sup>43</sup> From Alinsky, the ends justified the means is an ethic deeply embedded in the community organizing movement. The “Alinsky-style” approach to community organizing employed a confrontational style of communication with the decision makers in powerful institutions.

Douglas Hess, Ph.D., Associate Professor of Political Science at Grinnell College, is part of a large network of academics who are observers, proponents, and apologists for the community organizing effort. In 1999, *The On-line Conference on Community Organizing and Development* published Dr. Hess’s paper – “Community Organizing, Building and Developing: Their Relationship to Comprehensive Community Initiatives.”<sup>44</sup> Hess provides a succinct analysis of the essential elements of community organizing:

Although there are many styles of community organizing and many organizational structures which arise out of organizing drives, the emphasis for those practices which I place under community organizing is the same: organizing community members to take on powerful institutions in their community through direct public confrontation and action. Sometimes this even includes political work such as voter

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<sup>43</sup> Caitlin Flanagan, “The Madness of Cesar Chavez,” *The Atlantic*, July/August 2011, <http://www.theatlantic.com/magazine/archive/2011/07/the-madness-of-cesar-chavez/308557/>; “About Fred” on Fred Ross Sr’s personal website, accessed October 5, 2016, <http://www.fredrossr.com/about/>.

<sup>44</sup> Hess, “Community Organizing, Building and Developing...”



registration, endorsement of candidates or even running candidates for office (Alinsky, 1971; Delgado, 1986, 1994; Khan, 1991).<sup>45</sup>

According to Alinsky and Hess, community organizing is not community organizing unless it includes “public confrontation and action,” even when that requires “political work.”

Hess’s description in a footnote regarding community organizers’ use of the CRA is factually no different from that of those who oppose the practice as a form of federally sanctioned extortion:

In brief, the CRA is a law which community organizations have used to leverage billions of dollars in resources from banks conducting business in their neighborhoods. The law, and other regulations, allow community groups to track data on the banks’ lending practices. This information can be used to accuse lending institutions of discrimination against certain geographic areas, a practice commonly know [*sic*] as redlining. Many of organizing networks use the CRA as a source of pressure for bringing financial institutions to the negotiating table. Almost every year a battle over the act ensues in Congress pitting grassroots organizations and their political allies against bankers, their political action committees and conservative politicians.<sup>46</sup>

The difference is that this segment of the academic community endorsed the concept of using the CRA as a point of leverage “for bringing financial institutions to the negotiating table.”

The modern community organizing movement as we know it today has its roots in the 1960s when the counter-cultural revolution was in full swing. These start-up organizations engaged in political action with the kind of confrontational, no-holds-barred

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<sup>45</sup> Ibid.

<sup>46</sup> Hess, “Community Organizing...”



activism that Alinsky had promoted.<sup>47</sup> Arising out of this activist period was the advent of the community development corporation (CDC). These organizations attempted to establish a permanency to the movement by establishing ongoing funding mechanisms while still maintaining their activism.<sup>48</sup>

Norman J. Glickman and Lisa J. Servon made the following observation regarding the history of the CDC movement and its return to its activist roots:

The CDC movement, begun amidst the political activism of the 1960s and supported by the war on poverty, initiated a broad agenda with the intent of meeting a range of needs facing disadvantaged communities. During the late 1970s and 1980s, community development funding became more scarce, and CDCs responded by moving away from their comprehensive beginnings toward areas of primary importance, such as housing. Although affordable housing continues to constitute the majority of CDCs' efforts, CDCs are evolving to again become more comprehensive.

Stated another way, the CDC became the corporate vehicle for the community organizing movement. By focusing on relatively benign issues such as housing, activist organizations were afforded greater opportunity for the flow of financial resources through outside funding. Cloaking themselves in the "moral garment" of housing, activist

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<sup>47</sup> Ibid.; Alinsky, *Rules for Radicals*, 100

<sup>48</sup> Norman J. Glickman and Lisa J. Servon, "More than Bricks and Sticks: Five Components of Community Development Corporation Capacity," *Housing Policy Debate*, no. 3 (1998): 500.  
<http://content.knowledgeplex.org/kp2/img/cache/documents/2588.pdf>.



organizations could build financial capacity and a permanent funding mechanism for their activism.<sup>49</sup>

It is hard for any politician to argue against affordable housing for the poor. Indeed, these community building organizations (CBOs), as they are sometimes called, have delivered low-income housing through development efforts where the CBO actually own and supply affordable housing.

However, many of these organizations, even while publically funded, have maintained or returned to their activist roots. Thus, a group that is funded for the purpose of providing housing education and housing for the poor is participating in voter education and voter canvassing. Even though some in academia have called for more activism from community organizers, one might argue that most of these groups never left their activist roots. To understand the current structure of these organizations today it is important not only to understand the foundational principles laid down by Alinsky, but to examine the trajectory of academic thought about the movement in the recent past.

Dr. Robert Mark Silverman of the University of Buffalo Department of Urban and Regional Planning in 2008 stated the following:

Much of the scholarship on CBOs and the community development industry system has focused on the nexus between nonprofit and political networks. In part, the role of such networks in CBOs is related to these organizations' roots in social justice movements which advocate for disadvantaged groups. Minkoff (2002) and LeRoux

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<sup>49</sup> Ibid.

(2007) described how nonprofits draw from these roots to incorporate political activism with an organization's programmatic focus.<sup>50</sup>

As this quote points out, many of these organizations incorporate political activism into an otherwise benign programmatic purpose. However, the most common criticism by progressive scholars is not that they are too engaged in political activism as 501(c)(3) nonprofits. Instead, the organizations in their search for resources have left their roots as activists and do not attend to the broader range of issues of social and economic justice – the need for the redistribution of wealth and other matters commonly aligned with a far left leaning agenda. For these progressive academics, political activism and social change are axiomatic for the community organizer. In their view, a program like affordable housing is an excellent programmatic cover, but not the end all.

An article published in the *UCLA Public Law & Legal Theory Series* by Scott Cummings illustrates this view. The author points out that low-income communities came into being due to “...legal and political constructions, created and delimited by a history of residential segregation, federally sponsored mortgage redlining, racially disparate zoning practices, urban renewal policies, and spatially concentrated public housing.”<sup>51</sup> For that reason he rejects what he refers to as the “privileging market-based housing and business

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<sup>50</sup> Robert Mark Silverman, “The Influence of Nonprofit Networks on Local Affordable Housing Funding Findings from a National Survey of Local Public Administrators,” *Urban Affairs Review* 44, no. 1 (September 2008): 126-141. <http://www.thecyberhood.net/documents/papers/uar08sept.pdf>

<sup>51</sup> Scott Cummings, “Community Economic Development as Progressive Politics: Toward a Grassroots Movement for Economic Justice,” *UCLA Public Law & Legal Theory Series*, 2002; 54 *Stanford Law Review* 399-493 (2002) 451-454



development strategies” that have failed to participate in the “type of political engagement necessary to redress the problems of concentrated poverty, joblessness, and income stratification.” He further states;

Some analysts have charged that CDC political inaction has compromised the integrity of CED work, transforming CDCs into just “another developer following a supply-side free market approach to redevelopment rather than fighting for the social change necessary to support sustainable communities...” It is true that many CDCs have made the strategic decision to adopt market-based approaches not out of a conscious rejection of political action, but rather out of financial necessity...While these financial imperatives do not preclude the coexistence of market-based development and political activism within CDCs—indeed, many CDCs have successfully integrated the two, the structural constraints imposed by funding sources on CDC activities have led to a drift away from political confrontation and have reinforced the dominance of market-based strategies.<sup>52</sup>

Some authors have labeled this perceived shift away from political activism in some CDCs or CBOs as a kind of neoliberalism that reinforces systemic societal problems rather than solving them. Shane R. Brady of the University of Oklahoma and Andrew C. Schoeneman and Jason Sawyer of the Virginia Commonwealth University make the following observation:

Although no uniform definition for neoliberalism exists, many scholars agree that it represents underlying values that support and maintain the status quo, promotes individualism, market fundamentalism, and privatization (Hasenfeld & Garrow,

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<sup>52</sup> Ibid.



2012; Midgley, 2001; Mullaly, 2007; Ritzer, 2008). While neoliberalism provides stability and support to societal systems, it also promotes economic inequality, dependency, and individualistic values; all of which can be restricting to community organizing and social change (Choudry & Shragge, 2011; Pyles, 2010). *Neoliberalism in community practice arose in the early 1980s out of the need for community organizers to repackage community organizing as something more conservative in order to gain government funding and support* (Defilippis & Saegert, 2012; Reisch, 2005). (*emphasis added*)<sup>53</sup>

It is this effort to “repackage” left leaning community organizing that concerns those who challenge the public funding of organizations that have a decided political agenda. Contrary to those concerns, some progressives claim these organizations have pursued a political agenda for systemic societal change less effectively than they could or should.

Dr. Brady and his coauthors elaborate on their complaint as follows:

Until the early 1980s much of the reputation of community organizing was linked to the social action, protests, and civil disobedience emphasized in the civil rights, women’s, and organized labor movements (Brady, 2012; Garvin, 2001; Wagner, 1990).... Whereas the focus of community organizing in the 1960s and 70s was on systematic reforms and transformation, social movements, and building collective power, the organizing of the 1980s onward has emphasized collaboration, capacity building, social planning, and working within the system (Fisher & Shragge, 2000; Rothman, Erlich, & Tropman, 2001). The shift of community organizing away from more critical and radical practice to more conservative approaches has led to

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<sup>53</sup> Shane R. Brady, Andrew C. Schoeneman, and Jason Sawyer, “Critiquing and Analyzing the Effects of Neoliberalism on Community Organizing: Implications and Recommendations for Practitioners and Educators,” *Journal for Social Action in Counseling and Psychology* 6, no. 1 (Summer 2014): 37, 38.



federally funded initiatives...While we do not discount the importance of collaboration, funding, and outcomes in community organizing, we believe that neoliberalism has led to negative consequences that have gone without adequate discussion and critique.<sup>54</sup>

These observers believe the cause has drifted from its activist moorings.

Returning to Mr. Cummings and his thoughts on the perceived drift from political activism in the community economic development (CED) movement:

Therefore, despite its sensitivity to community needs, the market orientation of CED advocacy has prevented it from mobilizing the type of grassroots political resources necessary to advance a *redistributive, worker-centered agenda... (emphasis added)*<sup>55</sup>

To address poverty in a comprehensive manner, CED advocates must deploy a more tactically integrated approach, using sophisticated market techniques in a way that privileges political activism and advances the goals of a broader economic justice agenda.<sup>56</sup>

The big take away from this is that these writers do not merely want a seat at the table of the current economic system but to turn the table over. As Alinsky put it, “This means revolution.”<sup>57</sup> For some community organizers, it is not enough to provide affordable housing or programs for the poor but there must be systemic political change and a restructuring of society through the redistribution of the nation’s wealth. While in

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<sup>54</sup> Ibid.

<sup>55</sup> Cummings, “Community Economic Development...,” 454.

<sup>56</sup> Cummings, “Community Economic Development...,” 493.

<sup>57</sup> Alinsky, *Rules for Radicals*, 3



this country we have always encouraged public discourse and the exchange of ideas, some have the advantage of not only expressing ideas, but doing so with the express support of the federal government.

Perhaps the most matter-of-fact promotion of these methods was delivered by Nicole P. Marwell from Columbia University in a journal article entitled “Privatizing the Welfare State: Nonprofit Community-Based Organizations as Political Actors.” She states:

Trends of privatization and devolution have made nonprofit CBOs a new option for the exchange of service provision and electoral activity that was performed so well earlier by the machine but was prevented from occurring in the War on Poverty agencies. The machine built its reliable voting constituencies through the mechanisms of patronage and party organization, usually via a set of local political clubs (Erie 1988; Gosnell 1937; Wilson 1962). The present day context of a weak or absent machine, however, makes the task of creating identifiable, reliable constituencies at the local level much more difficult (Freedman 1994; Guterbock 1980; Ware 1985). Candidates for office can try to build these constituencies themselves, or there may be some other organizational form available to perform this task. Unions have sometimes fulfilled this role...

I argue that today's nonprofit CBOs are in a structural position that enables them to fill the gap left by defunct political party organizations in poor neighborhoods (i.e., they can take on an electoral organizing role at the neighborhood level). Government financial support for CBO service provision activity, combined with CBOs' community building efforts, make it possible for CBOs to establish a patronage-type exchange with local residents. This exchange is more complicated than the machine's, but it functions in the same way: to create and turn out a reliable voting constituency. This cultivation of electoral strength results in the



generation of additional government contracts to CBOs, which are vital to organizational survival and expansion.<sup>58</sup>

Many progressives actually advance the idea of using public monies to fund an activist agenda.

Why the attention to the founding, history, and philosophical basis of the movement? One could see the activities of these organizations as independent and the political activity of one or more of these groups as individual phenomenon that alone can be dismissed as the work of an overzealous individual or as an incidental trespass beyond the stated programmatic 501(c)(3) purposes of the organization. When these organizations act as political agents it is in complete keeping with their identity, founding principles, guiding philosophies, and the vision of Saul Alinsky over half a century ago.

## The Shakedown

Ideas have consequences. In 2013, during the preliminary investigation for the book, *Extortion* GAI researchers detected a pattern of federal lawsuits and settlements brought by a newly created office within the Civil Rights Division of the DOJ. Assistant Attorney General Tom Perez made the DOJ's intentions clear in his January 14, 2010 speech to the Rainbow PUSH Coalition – Annual Wall Street Conference. Mr. Perez stated:

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<sup>58</sup> Nicole P. Marwell, "Privatizing the Welfare State: Nonprofit Community-Based Organizations as Political Actors," *American Sociological Review* 69, no. 2. (April 2004): 269-270.



Fair lending is a top priority for the Civil Rights Division, and I have taken a number of critical steps to ensure that we put our best forward. I have hired a Special Counsel for Fair Lending to spearhead our efforts. We are also establishing a dedicated Fair Lending unit within the Division's Housing Section. The unit will root out lending discrimination in all forms.<sup>59</sup>

In remarks at the Brookings Institution Perez stated:

The establishment of the Fair Lending Unit, with dedicated attorneys, economists, investigators, support staff and a Special Counsel for Fair Lending, ensure that fair lending issues receive immediate attention and high priority.

The unit already has 50 matters open, including 18 investigations. We have identified large, mid-size and small lenders as targets of enforcement efforts and those targets include national, regional and local actors.<sup>60</sup>

What Mr. Perez did not say in these comments was that millions of dollars would eventually be handed over, no strings attached, to activist nonprofits.

The DOJ began to file lawsuits against financial institutions based on evidence of unfair lending practices. With the threat of protracted litigation and bad press looming, the DOJ extracted settlements before trial. These technically voluntary settlement agreements, referred to as "consent orders," usually established a settlement fund to service claims made by victims of the defendant's alleged illegal behavior. More often than not, the

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<sup>59</sup> Thomas E. Perez, (remarks, Rainbow PUSH Coalition, Annual Wall Street Conference, January 14, 2010): 3,4. [https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/tp\\_rainbow\\_push\\_1-14-10.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/tp_rainbow_push_1-14-10.pdf)

<sup>60</sup> Thomas E. Perez, "Remarks On Fair Lending and Fair Housing" (Brookings Institution, Washington DC, June 23, 2010), <http://www.justice.gov/opa/speech/assistant-attorney-general-thomas-e-perez-delivers-remarks-fair-lending-and-fair-housing>



consent order specified that unclaimed funds were to be distributed to a qualified organization as approved by the Department of Justice. Moreover, many of the settlements called for large sums of money to be paid toward educational efforts, often provided by these same qualified organizations.

The DOJ filed pleadings in each case that used essentially identical language for each complaint and settlement. This assembly line approach uses what is sometimes referred to in the legal profession as “cookbook pleadings” – those not designed for actual litigation, but intended merely to provide a basis for the settlement and payment of money. Seldom was the actual complaint filed more than a month prior to filing the consent order and occasionally within days.<sup>61</sup>

A consent order, sometimes referred to as a “consent judgment” or a “consent decree,” is an order or judgment by the court where the parties have previously agreed to the settlement terms and provisions. Another feature of the consent decree is that the court will maintain jurisdiction of the matter to supervise the implementation of the decree. The filing of the complaint serves to invoke the jurisdiction of the court.<sup>62</sup>

These institutions spend a vast sum of money advertising each year. A case of this nature could have a devastating impact for any bank deemed racist. As the *Wall Street Journal* reported, “The lenders quickly settled these cases rather than run the reputational

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<sup>61</sup> “Recent Fair Lending Cases,” *The United States Department of Justice*, <https://www.justice.gov/crt/recent-fair-lending-cases-0>

<sup>62</sup> *Black’s Law Dictionary*, 5<sup>th</sup> ed., (St. Paul, MN: West Publishing Co.):370, s.v. “Consent Decree”, 756, s.v. “Consent Judgment”.



risk of being called racist in court.”<sup>63</sup> When contacted by the DOJ, often a target financial institution would want to reach a number and shut the process down as soon as possible, as one bank put it, “to avoid contested litigation.”<sup>64</sup>

Because the entire negotiation process occurs in the context of litigation, the internal communications of a party remain confidential protected by attorney client privilege. Thus, the public and Congress are provided very little information regarding the nature and process of the negotiations between the parties. In other words, the DOJ effectively silences the target institution without any form of congressional oversight or public scrutiny. Courts were either unaware of this mechanism of disbursement or did not comment in their review of the proposed consent orders.

The agreements were reached prior to filing the proposed order and the parties both had legal representation. A settlement in court is technically reached by the parties freely and voluntarily unless there is evidence to suggest otherwise. The congressional testimony of Paul Larkin, Senior Research Fellow at the Heritage Foundation in 2015 denounced the court’s limited participation in the process:

What aggravates this problem even more is that you have these sorts of settlements gradually coming into wider and wider...Why is that a problem? Because oftentimes there is no judicial involvement whatsoever. These agreements often are a means of disposing not of charges or a lawsuit that has already filed. They are a means often

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<sup>63</sup> “The Talented Mr. Perez,” *Wall Street Journal*, March 21, 2013, <http://www.wsj.com/articles/SB10001424127887324281004578356581889324790>.

<sup>64</sup> *United States v. Citizens Republic Bancorp, Inc. and Citizens Bank, Brief In Support of Response of Defendants to Plaintiff’s Motion for Entry of Proposed Agreed Order*, (E.D. Mich. 2011): 3.



of disposing of charges or a lawsuit before any are filed. So there is no judicial involvement whatsoever. You have an agreement entirely between the lawyers for the United States and the lawyers for other parties. And in this agreement they are trying to engage in what is for all intents and purposes a sham transaction to avoid depositing all of the money that is due to the taxpayers of the United States into the account that the Treasury maintains, that Congress thereafter can decide how it will be spent.<sup>65</sup>

In all of the cases we reviewed in the course of our research, the court simply accepted the proposed order, with one noted exception. In *United States of America v. Citizens Republic Bancorp, Inc. and Citizens Bank*, the defendant bank gave the court reason to believe that something was amiss and the court took quite a different approach. The defendant objected to the claims made by the DOJ in the pleadings which the defendant had not seen until after the terms of settlement had been established.<sup>66</sup> This anomaly opened up the process and demonstrated the pressure placed on a target institution by the federal government and its incentive to settle.

The DOJ had alleged that the defendants, Citizens Republic Bancorp, Inc. and Citizens Bank, had engaged in a pattern of conduct violating the Fair Housing Act and the Equal Credit Opportunity Act (ECOA).<sup>67</sup> The proposed *Agreed Order* imposed a much

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<sup>65</sup> *Consumers Shortchanged? Oversight of The Justice Department's Mortgage Lending Settlements: Hearing Before the Subcommittee On Regulatory Reform, Commercial and Antitrust Law of the Committee On the Judiciary House of Representatives*, 114th Cong., 1st Sess., 50 (2015) (testimony of Paul Larkin, Senior Legal Research Fellow, The Heritage Foundation).

<sup>66</sup> *United States v. Citizens Republic Bancorp, Inc. and Citizens Bank, Brief In Support Of Response Of Defendants To Plaintiff's Motion For Entry Of Proposed Agreed Order*, (E.D. Mich. 2011): 1.

<sup>67</sup> *United States v. Citizens Republic Bancorp, Inc. and Citizens Bank, Complaint*, (E.D. Mich. 2011): 12,13.



smaller contribution amount to the settlement fund, but incorporated several of the same elements in its terms as have been seen in other consent orders for other cases. This proposed order required that the Defendant “enter a partnership” with the City of Detroit to set up a fund in the amount of \$1.625 million and provide grants to homeowners to enhance neighborhood stability and revitalization. The program was to be administered by the city or its “designated partner.” The proposed order also required the Defendant to ensure that the Defendant’s lending products and services in the Detroit area were marketed in majority-black census tracts. It also required that the bank hire two Community Development Leaders to focus primarily on generating residential mortgage loans in the “majority-black census tracts of Wayne County” as well as to facilitate the bank’s grant program. It instated a separate fund in the amount of \$400,000 with one half of that fund devoted to advertising and marketing in these same neighborhoods. The consent order required that the other half be spent on consumer education in order to sponsor programs offered by community or governmental organizations engaged in fair lending work. Furthermore, the proposed order required that the Defendant make \$1.5 million available for loan subsidies via a “special financing program” for residents in Wayne County. If the funds were not fully expended, the remaining amount was to be donated to a nonprofit housing organization in the City of Detroit or to such other organization involved with community reinvestment in the City of Detroit.<sup>68</sup>

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<sup>68</sup> United States v. Citizens Republic Bancorp, Inc. and Citizens Bank, *Agreed Order* (E.D. Mich. 2011): p. 2, 10, and 20 of 22.



In its response to the DOJ's *Motion For Entry of Proposed Agreed Order*, the Defendant described the process by which the DOJ pursued the settlement.<sup>69</sup> It became apparent that the motivation for these banks was to settle rather than resist the claims of the DOJ.

The Defendant bank explained that it was not aware of the precise nature of the charges until the complaint was filed. The Defendant stated:

The precise articulation of the Department's claim was not made available to Citizens until the Department provided Citizens with a copy of the Complaint after it was filed with the Court on May 5, 2011. Citizens disputes the factual and legal basis for the claim presented, and, to the extent permitted, has included in the proposed "Agreed Order" as Part III, the "Position of Citizens Bank" that describes its actual conduct and performance.<sup>70</sup>

It went on to illuminate some of Bancorp's considerations in reaching a settlement:

Nonetheless, threatened litigation by the Department imposes a substantial financial burden on Citizens, particularly in the context of current economic conditions. Thus, Citizens entered into negotiations with the Department in an effort to avoid contested litigation. The only option afforded by the Department to avoid contested litigation was the filing of a complaint and the simultaneous presentation of an "Agreed Order."

The Defendant further stated:

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<sup>69</sup> United States v. Citizens Republic Bancorp, Inc. and Citizens Bank, *Brief In Support Of Response Of Defendants To Plaintiff's Motion For Entry Of Proposed Agreed Order* (E.D. Mich. 2011).

<sup>70</sup> *Ibid.*, 2.



Citizens pursued the negotiations to avoid the cost and burden of litigation.... The important point for Citizens is that the voluntary resolution will put the matter to rest, through entry of the Agreed Order.<sup>71</sup>

Then the Defendant bank reiterated their reasons for entering into settlements over litigation, which had little to do with culpability:

Perhaps there are some inconsistencies here because Citizens continues to deny a factual or legal basis for the claim, but agrees to take certain action to resolve the claim of the Department. But it is not uncommon for businesses facing the prospect of very expensive litigation against the government to seek a way to avoid the cost. If reasonable business objectives can be met, Citizens prefers settlement to the alternative of expensive litigation, and indeed would prefer to use the bank's resources to assist the City of Detroit in its continued efforts to stabilize housing conditions in the City. The bank currently faces economic challenges that further favor settlement over litigation.<sup>72</sup>

When faced with the prospect of extended litigation, expense, and bad publicity, many targeted institutions choose to settle rather than resist the questionable and disputable claims brought by the DOJ.<sup>73</sup>

On May 24, 2011, the Court issued a scathing order denying approval of the proposed consent order.<sup>74</sup> The Court had its own reasons for refusing to approve the consent order. The Court noted:

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<sup>71</sup> Ibid., 3.

<sup>72</sup> Ibid., 2

<sup>73</sup> "The Talented Mr. Perez," *Wall Street Journal*.

<sup>74</sup> *United States v. Citizens Republic Bancorp, Inc. and Citizens Bank, Order* (E.D. Mich. 2011).



In reviewing the Agreed Order, it (1) fails to define terms; (2) lacks completeness; (3) contains superfluous clauses; (4) lacks clarity; and (5) is void of provisions for the Court to effectively oversee the parties' obligations under the Agreed Order during its anticipated term.<sup>75</sup>

Others, in the banking industry, have criticized the DOJ practices that have resulted in these settlements.

...there is a troubling lack of transparency with the DOJ's growing fair lending actions. DOJ's unprecedented actions and the legal theory upon which they are based are shrouded in secrecy, as targeted banks are forced to enter into confidentiality agreements. Community banks work hard to comply with laws and regulations and consistently seek information and guidance on how to implement applicable rules in this ever-changing lending and regulatory environment. By requiring banks to enter into confidentiality agreements regarding the investigations, enforcement and settlement agreements, DOJ is thwarting banks' ability to assess and refine, if necessary, their policies or practices to ensure compliance with fair lending laws. This approach is counter to the intent of well-functioning fair lending laws.<sup>76</sup>

Mr. Perez and the newly created Fair Lending Unit in the Housing and Civil Enforcement Section of the DOJ had a different take on the *Citizens* case.<sup>77</sup> In his

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<sup>75</sup> Ibid.

<sup>76</sup> Camden Fine to Department of Justice Attorney General Eric H. Holder Jr., 29 August 2011, on behalf of Independent Community Bankers of America, <https://www.icba.org/files/ICBASites/PDFs/cl082911.pdf>

<sup>77</sup> Thomas E. Perez, (remarks, 15th Annual Community Reinvestment Act and Fair Lending Colloquium Baltimore, MD: November 7, 2011), <https://www.justice.gov/opa/speech/assistant-attorney-general-thomas-e-perez-speaks-15th-annual-community-reinvestment-act>



estimation this had been a cooperative effort to right wrongs recognized by all. He states:

Both Citizens and Midwest worked collaboratively with the Department to develop these creative solutions, and were eager to find solutions that allow them to remedy the harm done while also reaching new customers.<sup>78</sup>

Toward the end of his remarks Mr. Perez addressed concerns that he had gleaned from “...listening sessions we have conducted with industry stakeholders.” Among those concerns were “transparency” in the DOJ processes; promptness of decisions by the DOJ because “the cloud of uncertainty that looms during the pendency of an investigation can take a toll” and uncertainty regarding the legal theories that the DOJ was using. Mr. Perez described an “...unprecedented level of collaboration and coordination between DOJ and its partner agencies.”<sup>79</sup> The banking industry was concerned about the “harmful and inappropriate fair lending actions” of the DOJ, as expressed in a letter addressed to Eric Holder.<sup>80</sup>

The Committee on Homeland Security and Governmental Affairs United States Senate made this observation:

...the DOJ used the settlement process to achieve policy goals—including the distribution of hundreds of millions of dollars from private companies to third-party housing counseling groups—that would not have been possible in litigation. In other

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<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

<sup>80</sup> Fine to Holder, 29 August 2011, <https://www.icba.org/files/ICBASites/PDFs/cl082911.pdf>



words, *the DOJ used the threat of litigation—and the corresponding financial and reputational costs*—to cause banks to take actions that a court would not have ordered them to do. (*emphasis added*)<sup>81</sup>

Even as early as 2010, some members of Congress had begun to take notice that all was not right in the new administration’s Justice Department.

## Congress Takes Notice

It became clear in our initial review that this was not just an isolated event but that this funding mechanism used by Bruce Marks, NACA, ACORN and others for these qualified nonprofits (community organizers) had now been institutionalized in the Department of Justice and had the imprimatur of the federal government. Further investigation revealed that we were not the first to notice this pattern. In his July 8, 2010 correspondence addressed to Attorney General Eric Holder, Senator Charles Grassley expressed concern that the DOJ was “.... using consent orders and settlement funds to fund outside organizations unconnected to the litigation.”<sup>82</sup> He provided two specific examples, one of which, *United States v. AIG Federal Savings Bank and Wilmington Finance*, required the defendant to deposit \$6.1 million in an escrow account. The terms of the consent order required that once all victims had been compensated, the defendant must distribute the remainder of, or a minimum of one million dollars from, the account to “...‘qualified

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<sup>81</sup> Johnson, “The Justice Department’s Housing Settlements...,” *A Majority Staff Report of the Committee on Homeland Security and Governmental Affairs*, S. Rep., 17.

<sup>82</sup> Charles Grassley to Department of Justice Attorney General Eric H. Holder, Jr., 8 July 2010, United States Senate, 1 (Obtained under the Freedom of Information Act by *Judicial Watch*), <http://www.judicialwatch.org/files/documents/2011/doj-docs-02242011.pdf>.



organizations' selected by the defendant and *approved by the Department* to provide 'credit counseling, financial literacy, and other educational programs.'" (*emphasis added*)<sup>83</sup>

In his written response on behalf of the DOJ, Ronald Weich stated: "From May 2004 to the fall of 2009 the Division followed a different practice, including in its consent orders the requirement that any unclaimed settlement funds must revert to the defendants." He further stated, "In the fall of 2009, the Division returned to its longstanding practice of distributing the remaining funds to further the purposes of the consent order and the underlying statutes." He advised that since the change of policy in 2009, the Civil Rights Division had entered into a total of three consent decrees that required remaining settlement funds to be dispersed to third-party organizations.<sup>84</sup>

House Judiciary Committee Chairman Rep. Lamar Smith took a very direct approach in his January 25, 2012 correspondence addressed to Eric Holder. He stated:

I am concerned that the terms of the Justice Department's recent settlement with Countrywide Financial Corporation and certain affiliates (collectively, "Countrywide") will allow the Department to give large sums of money to individuals and organizations with questionable backgrounds or close political ties to the White House without any guidelines or oversight. If that is

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<sup>83</sup> Grassley to Holder, 8 July 2010,1, <http://www.judicialwatch.org/files/documents/2011/doj-docs-02242011.pdf>.

<sup>84</sup> Department of Justice Assistant Attorney General Ronald Weich to Honorable Charles Grassley, Department's Response to Court Order, (Obtained under the Freedom of Information Act from *Judicial Watch*), 2. <http://www.judicialwatch.org/files/documents/2011/doj-docs-02242011.pdf>.



to be the case, this sort of backdoor funding of the president's political allies would be an abuse of the Department's law enforcement authority.<sup>85</sup>

He was specifically addressing a December 28, 2011 DOJ settlement with Countrywide, which required that Countrywide deposit \$335 million into an interest-bearing escrow account to remedy alleged violations of the Equal Credit Opportunity Act and Fair Housing Act.<sup>86</sup>

The terms of the settlement required the fund to pay out claims made by “aggrieved persons.” It further required that any remainder be distributed to “qualified organization(s) that provide services including credit and housing counseling (including assistance in obtaining loan modification and preventing foreclosure), financial literacy, and other related programs targeted at African-American and Hispanic potential and former homeowners in communities where the Complaint alleges that significant discrimination occurred...”

Chairman Smith further stated:

The Settlement requires Countrywide to "consult with and obtain the non-objection of the United States" in selecting who shall receive these funds. The Settlement contains no guidelines for conferring "qualified organization" status on non-profit or other organizations. Again, the only apparent

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<sup>85</sup> The Honorable Lamar Smith to Department of Justice Attorney General Eric H. Holder, 26 January, 2012, (Obtained under the Freedom of Information Act by *The Daily Caller*), <http://dailycaller.com/wp-content/uploads/2012/01/2012-01-25-Smith-to-Holder.pdf>

<sup>86</sup> United States v. Countrywide Financial Corporation, et al., No. 2:11-cv-10540-PSG-AJW, (C.D. Cal. 2011); United States v. Countrywide Financial Corporation, et al., *Consent Order* (C.D. Cal. 2011): 5, <http://www.justice.gov/crt/about/hce/documents/countrywidesettle.pdf>.



criterion for a non-profit community organization's receipt of a potentially substantial amount of money is that the Department says so.

Without any criteria by which "aggrieved person" or "qualified organization" status is to be determined, I am concerned that the Settlement may provide a means by which money is doled out to heavily political organizations or to groups with close political ties to the White House.<sup>87</sup>

Smith believed that the proceeds of most consent orders were little more than a funding mechanism for organizations with close political ties to the White House.

More recently the Committee on Homeland Security and Governmental Affairs United States Senate under the chairmanship of Ron Johnson has taken on this end-run around the appropriations process. The 2016 Majority Staff report makes this observation:

The DOJ could have required the banks to pay more in penalties to federal agencies or directly to the Treasury's General Fund. In such circumstances, Congress retains a measure of oversight and control—and ultimately, accountability—into how the funds are expended and what policy goals the funding furthers. Instead, the DOJ chose to avoid Congress and force the banks to disburse funds to third-party groups chosen in secret by unelected and unaccountable officials. In the words of one observer, "the public has the opportunity to hold Senators and Representatives accountable at the polls for their [policy] decisions, an opportunity that they lack

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<sup>87</sup> L. Smith to Holder, 26 January 2012, <http://dailycaller.com/wp-content/uploads/2012/01/2012-01-25-Smith-to-Holder.pdf>



whenever career lawyers or political appointees . . . decide which organizations will benefit” from a settlement agreement.<sup>88</sup>

These nonprofits were no longer subject to the oversight and accountability that could be imposed through the grant process. Rather, like monies obtained by pressuring banks through a pattern of “bank terrorism,” or through leverage under the CRA for origination fees and contributions, the DOJ money had no congressional oversight.<sup>89</sup> As the report points out, “Controversial housing counseling groups receive[d] funds under the settlements that Congress cut from the federal budget.”<sup>90</sup> Not only had money been directed outside of the appropriations process, but money had been distributed in direct contravention of the desire and intent of Congress.

## The Rise and Fall of ACORN

Saul Alinsky’s influence is undeniable. Since the publication of *Reveille for Radicals* in 1946 and *Rules for Radicals* in 1971, grassroots organizations have been launched for the purpose of community organizing and systemic social/political change.<sup>91</sup> As the movement grew, organizers created several national support organizations including the Industrial Areas Foundation (IAF) which was founded by Alinsky. Other organizations that grew out

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<sup>88</sup> Johnson, “The Justice Department’s Housing Settlements . . .,” *A Majority Staff Report of the Committee on Homeland Security and Governmental Affairs*, S. Rep., 19-20.

<sup>89</sup> Ibid.; Calomiris and Haber “The Housing Crisis . . .,” <http://www.pbs.org/newshour/making-sense/housing-crisis-whats-feds-excuse/>

<sup>90</sup> Ibid., 26.

<sup>91</sup> Glickman and Servon, “More than Bricks and Sticks . . .,” 499



of the Alinsky philosophies included NACA, and ACORN. One of the first was The National Welfare Rights Organization (NWRO), an activist organization founded in 1966, focused on welfare rights.<sup>92</sup> Both John Calkins, founder of The Direct Action and Research Training Center (DART) and Wade Rathke founder of ACORN worked with the NWRO.<sup>93</sup> Other groups that appeared on the community organizing scene who modeled Alinsky's style of activism were groups like DART, National People's Action (NPA) and La Raza.

One of the chief beneficiaries of this wealth redistribution by the federal government has been ACORN. In its July 2006 report, "Rotten ACORN, America's Bad Seed," the Employment Policies Institute described ACORN as a "multi-million-dollar multinational conglomerate."<sup>94</sup> The report described ACORN's hunger and pursuit of political power:

ACORN's no-holds-barred take on politics originates from its philosophy, which is centered on power. An internal ACORN manual instructed organizers to sign up as many residents as possible because "this is a mass organization directed at political power where might makes right."<sup>95</sup>

This sentiment aligns with the Marxist underpinnings of the Students for a Democratic Society, a group that housed Rathke. ACORN enjoyed rapid growth facilitated

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<sup>92</sup> Rhonda Williams, "Black Women and Welfare Rights Struggles in the 1960s," *Borderlands* 4, no. 3 (2005), [http://www.borderlands.net.au/vol4no3\\_2005/williams\\_welfare.htm](http://www.borderlands.net.au/vol4no3_2005/williams_welfare.htm).

<sup>93</sup> "Wade Rathke" personal blog, *Chief Organizer*, accessed October 13, 2016, <http://chieforganizer.org/biography/>; "Board of Directors," *Organizer's Forum in Cameroon September 2016*, accessed October 13, 2016, <http://forum.laborneighbor.org/sample-page/>.

<sup>94</sup> "Rotten ACORN, America's Bad Seed," *Employment Policies Institute*, July 2006, 2, [http://www.rottenacorn.com/downloads/060728\\_badSeed.pdf](http://www.rottenacorn.com/downloads/060728_badSeed.pdf).

<sup>95</sup> "Rotten ACORN..." 2.



through government grants and contracts before, during, and after the 2008 election.

Handwritten notes obtained from an FBI investigative file by Judicial Watch through a FOIA request indicate ACORN's headquarters was working for the Democratic Party.<sup>96</sup> During and after the 2008 election there were numerous allegations of massive fraud on the part of ACORN.<sup>97</sup> In 2009, several major scandals involving ACORN and its affiliated groups broke into the national news. These included rampant embezzlement, fraud, and evidence that ACORN and their affiliated groups were advising individuals how to break the law.<sup>98</sup>

A July 23, 2009 Staff Report for the U.S. House of Representatives Committee on Oversight and Government Reform in its title asked, "Is ACORN Intentionally Structured as a Criminal Enterprise?" Then offers the following findings in its executive summary:

The Association of Community Organizations for Reform Now (ACORN) has repeatedly and deliberately engaged in systemic fraud. Both structurally and operationally, ACORN hides behind a paper wall of nonprofit corporate protections to conceal a criminal conspiracy on the part of its directors, to launder federal money in order to pursue a partisan political agenda and to manipulate the American electorate.

Emerging accounts of widespread deceit and corruption raise the need for a criminal investigation of ACORN. By intentionally blurring the legal distinctions

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<sup>96</sup> "Rebranding of ACORN," *Judicial Watch*, August 22, 2011, <https://www.judicialwatch.org/wp-content/uploads/2014/02/A-Judicial-Watch-Special-Report-The-Rebranding-of-Acorn.pdf>.

<sup>97</sup> "Thousands of Voter Registration Forms Faked, Officials Say," *CNN*, October 10, 2008, <http://www.cnn.com/2008/POLITICS/10/09/acorn.fraud.claims/>; John Fund, "More ACORN Voter Fraud Comes to Light: Congressional Democrats still want the group to be eligible for federal money," *The Wall Street Journal*, May 9, 2009, <http://online.wsj.com/news/articles/SB124182750646102435>.

<sup>98</sup> "ACORN Offices in New Orleans are Raided," *The New York Times*, November 6, 2009, [http://www.nytimes.com/2009/11/07/us/07acorn.html?\\_r=0](http://www.nytimes.com/2009/11/07/us/07acorn.html?_r=0); John Fund, "More ACORN Voter Fraud;" "ACORN Workers Caught on Tape Allegedly Advising on Prostitution," *CNN*, September 11, 2009, <http://www.cnn.com/2009/POLITICS/09/10/acorn.prostitution/>.



between 361 tax-exempt and non-exempt entities, ACORN diverts taxpayer and tax-exempt monies into partisan political activities. Since 1994, more than \$53 million in federal funds have been pumped into ACORN, and under the Obama administration, ACORN stands to receive a whopping \$8.5 billion in available stimulus funds.

Operationally, ACORN is a shell game played in 120 cities, 43 states and the District of Columbia through a complex structure designed to conceal illegal activities, to use taxpayer and tax-exempt dollars for partisan political purposes, and to distract investigators. Structurally, ACORN is a chess game in which senior management is shielded from accountability by multiple layers of volunteers and compensated employees who serve as pawns to take the fall for every bad act.<sup>99</sup>

One of the events described in the report was the cover-up of the embezzlement of \$948,607.50 by Dale Rathke, the brother of ACORN founder Wade Rathke.<sup>100</sup> These and other events led to a ban on all federal funding for ACORN affiliated groups in 2009.<sup>101</sup>

In March 2010 ACORN's national organization announced its dissolution.<sup>102</sup> However, some claimed the groups and individuals previously affiliated with ACORN

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<sup>99</sup> Darrell Issa, "Is ACORN Intentionally Structured as a Criminal Enterprise?" *Staff Report for the U.S. House of Representatives Committee on Oversight and Government Reform*, H.R. Rep., 111<sup>th</sup> Cong., 1<sup>st</sup> Sess., July 23, 2009.

<sup>100</sup> *Ibid.*, 3.

<sup>101</sup> "Congress Votes to Strip ACORN of Federal Funding," *Fox News*, September 17, 2009, <http://www.foxnews.com/politics/2009/09/17/congress-votes-strip-acorn-federal-funding/>.

<sup>102</sup> "Rebranding of ACORN," *Judicial Watch*, August 22, 2011, <https://www.judicialwatch.org/wp-content/uploads/2014/02/A-Judicial-Watch-Special-Report-The-Rebranding-of-Acorn.pdf>.



continued the same operations using different names. This practice led to the growing concerns expressed by Senator Charles Grassley and Representative Lamar Smith.<sup>103</sup>

In 2011, Matthew Boyle reported in *The Daily Caller* that the Department of Housing and Urban Development (HUD) had awarded a \$300,000 grant to a past ACORN affiliate, the Affordable Housing Centers of America (AHCOA), “despite a 2010 law saying no taxpayer funds could be issued to ACORN ‘or any of its affiliates, subsidiaries, or allied organizations.’”<sup>104</sup> The article further stated that AHCOA had formerly been named ACORN Housing Corporation, changed its name in late 2009, and shared both its Chicago address and its Data Universal Number System (DUNS) code (used for applying for taxpayer-funded grants) of the defunct ACORN.<sup>105</sup>

Fox News reported that the former director of New York ACORN, Jon Kest, and his top aides renamed New York ACORN to New York Communities for Change (NYCC), used the same office and stationary as New York ACORN and employed many of the same staff as previously employed by New York ACORN.<sup>106</sup> In 2013, Fox News and several other news outlets reported that contracts for services known as Navigator grants under Obamacare were awarded to former associates of ACORN and its affiliated organizations. Wade Rathke had announced in September 2013 that The United Labor Unions Council Local 100, a New

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<sup>103</sup> Grassley to Holder, 8 July 2010,1, <http://www.judicialwatch.org/files/documents/2011/doj-docs-02242011.pdf>; L. Smith to Holder, 26 January 2012, <http://dailycaller.com/wp-content/uploads/2012/01/2012-01-25-Smith-to-Holder.pdf>.

<sup>104</sup> Matthew Boyle, “Report: ACORN –affiliated group gets \$300,000 more in taxpayer money,” *The Daily Caller*, September 16, 2011, <http://dailycaller.com/2011/09/16/report-acorn-affiliated-group-gets-300000-more-in-taxpayer-money/#ixzz2v7VMyhzn>.

<sup>105</sup> Ibid.

<sup>106</sup> Jana Winter, “ACORN Playing Behind Scenes Role in ‘Occupy’ Movement,” *Fox News*, October 26, 2011, <http://www.foxnews.com/us/2011/10/26/exclusive-acorn-playing-behind-scenes-role-in-occupy-movement/>.



Orleans-based nonprofit, would take part in a multi-state "navigator" drive to help people enroll in Obamacare.<sup>107</sup>

In November 2013, James O’Keefe and Project Veritas released a video documenting conversations with several Obamacare Navigators who had “openly encouraged” the Project Veritas undercover reporters to lie about their income and medical history, among other things. The video included an open admission that an exchange of information between the Democratic political machine and the Obamacare Navigator’s System was occurring. Project Veritas caught Chris Tarango, Texas Enroll America Communications Director, on tape agreeing to obtain and supply a confidential list of Obamacare enrollee data for election/political purposes. An organizer for Texas Enroll America, Clarence Landry, referred to the exchange of information as “cross pollinating.”<sup>108</sup>

There is growing evidence that many of the old ACORN officers and staff now work in reconstituted organizations and are being awarded grants and contracts for Obamacare Navigator services. In a December 2013 interview, Darrell Issa observed, “This is basically just another form of community organizing paid for with your tax dollars... ACORN revisited, if you will.”<sup>109</sup> However, there has not been a published comprehensive review of the organizations receiving Navigator grants and contracts and their previous association

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<sup>107</sup> Perry Chiamonte, “Ex-ACORN Operatives Helping Roll Out ObamaCare,” *Fox News*, October 15, 2013, <http://www.foxnews.com/politics/2013/10/15/ex-acorn-operatives-collecting-taxpayer-money-to-push-obamacare/>.

<sup>108</sup> James O’ Keefe, “Enroll America Director Conspires to Release Private Data,” *Project Veritas* video, November 20, 2013, <http://projectveritas.com/video/enroll-america-director-conspires-to-release-private-data-for-political-purposes/>.

<sup>109</sup> Leah Barkoukis, “Rep. Darrell Issa Warns Obamacare Navigators are ‘ACORN Revisited,’” *Townhall*, December 17, 2013, <http://townhall.com/tipsheet/leahbarkoukis/2013/12/17/darrell-issa-obamacare-navigators-are-acorn-revisited-n1764661>.



with ACORN and its progeny. Questions arise about the identity of these organizations, and also how they swap information with the political left. Navigator grants and contracts, just like previous contracts and grants for community organizers, are funding organizations with officers and staff members closely aligned with a progressive agenda.

“Might makes right” is an oft-repeated mantra of activists all over the country. Gale Cincotta started as a neighborhood activist in Oak Park, a Chicago suburb, and later became head of National People's Action (NPA), a network of 30 community organizing groups from 110 cities. In her capacity, she helped press Congress for passage of the Home Mortgage Disclosure Act of 1975, and the Community Reinvestment Act of 1977 which as we have seen, together provided the tools to extort money from financial institutions. The article states the following upon her death:

National People's Action combined with other neighborhood groups to persuade three large Chicago banks to commit themselves to making \$173 million in low-interest loans for housing and industrial development in poor neighborhoods. In return, the groups agreed not to challenge the banks' merger plans.

Colleagues remembered her war cry: *"We want it. They've got it. Let's go get it."* (*emphasis added*)<sup>110</sup>

This “We want it” argument wouldn’t play well as the public face of an organization seeking public funds. Thus, it is necessary to clothe your objectives in a “moral garment” like housing.

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<sup>110</sup> Douglas Martin, “Gale Cincotta, 72, Opponent of Biased Banking Policies,” August 17, 2001, *New York Times*, <http://www.nytimes.com/2001/08/17/us/gale-cincotta-72-opponent-of-biased-banking-policies.html>.



The DOJ has supplied such reasoning in a series of extortive legal actions based on the Fair Housing Act's disparate impact theory.

While grants and contracts provide the bulk of funding for most of these groups, the "sue and settle" methodology employed by the DOJ and the resulting distribution of unaccounted funds is responsible for a significant source of funding to these "community organizers."

## The Subprime Mortgage Crisis and Financial Meltdown

There have been two primary means by which the DOJ has channeled millions of dollars from major financial institutions to third party organizations. The first arose from the crash of US housing markets and the resulting financial crisis of 2008.<sup>111</sup> The second is based upon the disparate impact theory. While upheld by the Supreme Court in a 5-4 decision, there were "significant limitations on its application in practice."<sup>112</sup> The irony is that the pursuit of litigation by the DOJ based on this pet theory may be laying the groundwork for a new housing crisis. The net effect of the DOJ's current policy and course of action is to require lenders to meet arbitrary lending goals to minorities and

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<sup>111</sup> The Financial Crisis Inquiry Commission, *Final Report*, 533.

<sup>112</sup> Paul Hancock and Andrew Glass, "Symposium: The Supreme Court recognizes but limits disparate impact in its Fair Housing Act decision," *Scotus Blog*, June 26, 2015, <http://www.scotusblog.com/2015/06/paul-hancock-fha/>.



underserved population's despite their ability/inability to qualify based on normal standards.

In November 2008, Gerald F. Seib in an article in the *Wall Street Journal* wondered whether the burgeoning financial crisis was an “opportunity” for Obama. Obama’s newly minted Chief of Staff Rahm Emmanuel had made just that point when he told a *Wall Street Journal* gathering of top corporate executives, “You never want a serious crisis to go to waste.”<sup>113</sup>

On July 13, 2010, the *New York Times* reported the first shot over the financial industry’s proverbial bow. The DOJ was “...beginning a major campaign against banks and mortgage brokers.” It had been announced that Tom Perez, the assistant attorney general for the DOJ’s Civil Rights Division, planned to announce the creation of a new unit at the “Wall Street Project” conference organized by the Rev. Jesse Jackson’s Rainbow/PUSH Coalition.<sup>114</sup>

From the beginning the settlement process lacked transparency, making it nearly impossible to determine how much money was extracted from the financial institutions by the DOJ, and where it was going. There appeared to be no uniform manner in which the amount and terms of settlements have been reported.

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<sup>113</sup> Gerald F. Seib, “In Crisis, Opportunity for Obama,” *Wall Street Journal*, November 21, 2008, <http://www.wsj.com/articles/SB122721278056345271>.

<sup>114</sup> Charles Savage, “Justice Dept. Fights Bias in Lending,” *New York Times*, January 13, 2010, [http://www.nytimes.com/2010/01/14/us/14justice.html?\\_r=1](http://www.nytimes.com/2010/01/14/us/14justice.html?_r=1).



This lack of transparency also caught the attention of Congress. The May 2016 Majority Staff Report of the Committee on Homeland Security and Governmental Affairs clearly outlined many of the issues and confirmed as many findings over the last 18 months of this research.<sup>115</sup> It makes the following observation:

A paucity of transparency in the settlement process is precisely the criticism levied by the *Economist*, which characterized the settlements as the “new” way “that regulators and prosecutors are in effect conducting closed door trials.” The allegations levied against the financial institutions never make it to trial, settling before they ever reached the trier of fact. There is no determination of actual wrongdoing made in a public fact-finding. The reliance on settlement agreements to dole out policy-based goals, according to one legal commentator, is a “systemic flaw[ ]” and “severely skew[s] the incentives that each party has to let a jury (or judge) decide the merits” of the case. The layer of secrecy built into the settlement process adds to this concern. As the *Economist* noted, “[p]erhaps the most destructive part of it all is the secrecy and opacity. The public never finds out the full facts of the case, nor discovers which specific people—with souls and bodies—were to blame.”<sup>116</sup>

With the threat of lawsuit forcing acquiescence and initiating what Mr. Perez referred to as a collaborative effort “to develop these creative solutions” transparency was

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<sup>115</sup> Johnson, “The Justice Department’s Housing Settlements...” *A Majority Staff Report of the Committee on Homeland Security and Governmental Affairs*, S. Rep.

<sup>116</sup> *Ibid.*, 19. The Majority Staff Report references “The Criminalization of American Business”, *The Economist*, August 30, 2014, <http://www.economist.com/news/leaders/21614138-companies-must-be-punished-when-they-do-wrong-legal-system-has-become-extortion>; see also *Memorandum from the Heritage Found on the Problematic Use of Nonprosecution and Deferred Prosecution Agreements to Benefit Third Parties*, no. 141 (Oct. 23, 2014): 3, [hereinafter Heritage Legal Memorandum No. 141], <http://www.heritage.org/research/reports/2014/10/the-problematic-use-of-nonprosecution-and-deferred-prosecution-agreements-to-benefit-third-partie>; see also Brandon L. Garrett, *Structural Reform Prosecution*, 93 Va. L. Rev. 853, 857 (2007). He notes how prior federal suits using settlement agreements show “some indications of overreaching . . . where prosecutors exacted seemingly unrelated terms”). Both of these discuss the lack of transparency we discovered in our research.



resisted – ostensibly because, “the matter is currently in litigation.” In this way the DOJ sequestered the banks from public and legislative oversight. To obtain this information, the public has had to rely on Congressional inquiry or investigative news agencies and nonprofit organizations with the resources to punch through the DOJ’s opacity using the Freedom of Information Act (FOIA).

The *Wall Street Journal* filed FOIA requests with a dozen agencies at the federal and state level and interviewed dozens of homeowners, those who had obtained payouts or those who had knowledge regarding the distribution of the settlements. In March 2016, the *Journal* published an article entitled “Big Banks Paid \$110 Billion in Mortgage-Related Fines. Where Did the Money Go?” In it, they attempt to breakdown the billions of dollars that were paid out in the “unprecedented deals” that the DOJ struck with many if not all the major financial institutions. The DOJ has extracted over \$109.96 billion from six of the largest US banks: Bank of America, J.P. Morgan Chase, Citigroup, Wells Fargo, Goldman Sachs, and Morgan Stanley. The *Journal* provides the following general breakdown of the settlements as follows:

- Consumer relief \$44.68 billion;
- FANNIE, FREDDIE, Housing \$38.99 billion;
- United States Treasury \$14.49 billion;
- Individual states \$5.35 billion;
- Other federal agencies \$4.11 billion;
- Other \$1.16 billion; and
- Unknown \$1.18 billion.



Three of the biggest payouts came from Bank of America, J.P. Morgan Chase, and Citigroup.<sup>117</sup>

It is still unclear from the designations provided exactly how the money is being used and how those purposes relate to the alleged basis for the settlement. Members of Congress are equally dismayed. They observe:

The majority staff report finds that as the banks disbursed settlement funds to third-party organizations, there were no guarantees that the funds would help homeowners who lost their homes.

[I]t appears that billions of dollars have flowed through these opaque negotiations of each settlement without explicit accounting for actual damage done or a direct provision of assistance to those homeowners who already lost their homes.

The DOJ's settlements with these major financial institutions, however, show how the Obama administration unilaterally made funding choices that effectuated broad housing policy with no oversight or little accountability for how the funds were ultimately spent.<sup>118</sup>

However, the DOJ didn't limit its quarry. Not only did it pursue banks based on issues related to the mortgage crisis, but it began in earnest to target banks under its disparate impact theory.

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<sup>117</sup> Christina Rexrode and Emily Glazer, "Big Banks Paid \$110 Billion in Mortgage-Related Fines, Where Did the Money Go?" March 9, 2016, <http://www.wsj.com/articles/big-banks-paid-110-billion-in-mortgage-related-fines-where-did-the-money-go-1457557442>.

<sup>118</sup> Johnson "The Justice Department's Housing Settlements..." *A Majority Staff Report of the Committee on Homeland Security and Governmental Affairs*, S. Rep., 2, 7.



# Disparate Impact

One of the tenets in the use of statistics is that “Correlation does not imply causation.” Eugene A. Ludwig, an American business leader and expert on banking regulation, risk management, and fiscal policy, acknowledged this while serving as President Clinton's Comptroller of the Currency. On October 21, 1997, in remarks before the Neighborhood Housing Services of New York City, on community development and affordable housing issues, he reported that, as chairman of the Federal Financial Institutions Examination Council (the coordinating body of federal bank regulatory agencies at that time) he had asked an interagency team of economists to conduct a comprehensive analysis of HMDA data to determine whether such data identified discriminatory practices in mortgage lending. He stated the following:

First, it is clear that multiple factors contributed to the slowdown in loan growth to black applicants in 1996 and the persistent disparities in denial rates among applicants of different race and ethnicity. Among those contributing factors were general economic conditions, regional population patterns, changes in government lending programs, borrower income characteristics, increases in the number of applications for which race is not reported, the growth of subprime mortgage lending, and the increase in multiple applications by a single applicant.... However, even when we take all these factors into account, the economists' preliminary



analysis *fails to provide conclusive evidence*—one way or the other— that discriminatory factors underlie trends in recent HMDA data. (*emphasis added*)<sup>119</sup>

According to the research, the current administration and its DOJ has succumbed to the *cum hoc* (correlation means causation) fallacy in applying the disparate impact theory, reasoning that because a bank makes fewer loans in a certain area and that area is populated by a specific minority or minorities, then this must mean that the bank's failure to make as many loans in that area is related or is caused by the fact that this area is populated by certain minorities. They assume prima facie discrimination and violation of the civil rights provisions in US law.

As you will see in the examples that follow, disparate impact is wielded as accusatory – a legal transgression – when its standing as such is in question. In fact, the Fair Housing Act does not mention it.<sup>120</sup> Exacerbating this tenuous legality is the interest in, and effort brought by then Assistant Attorney General Perez around a pending appeal by the City of St. Paul before the Supreme Court.

The hearing for *Magner v. Gallagher* concerned the legality of disparate impact, so Perez bartered the DOJ's dropping support for two pending cases against St. Paul for their agreement to drop the appeal. The author of a 2013 *Wall Street Journal* article, as a

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<sup>119</sup> Eugene A. Ludwig, (remarks, Neighborhood Housing Services, New York City, October 21, 1997), in *Office of the Comptroller Currency Quarterly Journal* 17, no. 1, (March 1998): 106, <http://www.occ.gov/static/Publications/qj/qj17-1.pdf>.

<sup>120</sup> Fair Housing Act, 42 U.S.C. 3601-3619 (1968)  
[http://www.fairhousing.com/index.cfm?method=page.display&pagename=FHA\\_fha](http://www.fairhousing.com/index.cfm?method=page.display&pagename=FHA_fha)



cautionary tale for those tasked with approving/denying just-nominated-labor-secretary Perez, questioned sharply:

Justice officials claim to be confident that their disparate-impact cases are legal, but if that's true then why not welcome a chance for the Justices to rule in their favor? Why go to such lengths to kill such a judicial review?<sup>121</sup>

## Sample Cases

For purposes of understanding the method by which the monies are extracted and distributed we have provided the following examples. One of the first actions we located in our research involved a 2012 consent order in the case of *U.S. v. Mortgage Guaranty Insurance Corp., et al.* The Department of Justice alleged that the Defendants violated the Fair Housing Act “by discriminating on the basis of sex and familial status in underwriting mortgage insurance.”<sup>122</sup> As part of the settlement the defendant was required to place \$511,250 into a settlement fund to compensate the aggrieved persons who potentially suffered due to the alleged violations of the Fair Housing Act.<sup>123</sup> Once claims were satisfied, the remainder of the fund was to be distributed to “qualified organization(s) that conduct fair housing enforcement, fair lending enforcement, or educational activities addressing sex or familial status discrimination.” The selection of such “qualified organizations” was

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<sup>121</sup> “The Talented Mr. Perez,” <http://www.wsj.com/articles/SB10001424127887324281004578356581889324790>

<sup>122</sup> *United States v. Mortgage Guaranty Insurance Corp., et al.*, No. 2:11-cv-00882-RCM, (W.D. Penn. 2012); *Consent Order*, (W.D. Penn. 2012): 1, <http://www.justice.gov/crt/about/hce/documents/mgicsettle.pdf>.

<sup>123</sup> *United States v. Mortgage Guaranty Insurance*, *Consent Order*, 11.



subject to government approval.<sup>124</sup>

## Wells Fargo Bank

On September 21, 2012, Wells Fargo Bank entered into a consent order with essentially the same terms, but a significantly increased amount. This time the DOJ alleged that the Defendant, Wells Fargo Bank, “engaged in a pattern or practice of discrimination on the basis of race and national origin in residential mortgage lending in violation of the Equal Credit Opportunity Act (“ECOA”)...and the Fair Housing Act.”<sup>125</sup> The consent order with Wells Fargo Bank required the following:

- Place \$125 million into an interest-bearing escrow account (“Settlement Fund”) to compensate for damages to potentially aggrieved persons.
- Appoint a Settlement Administrator, subject to the approval of the DOJ, who was to locate and pay allegedly aggrieved persons from the Settlement Fund.
- Pay no less than:
  - \$8 million to allegedly aggrieved persons in the State of Illinois.
  - \$2 million to allegedly aggrieved persons in Philadelphia.
- Pay remaining funds to a Borrower Assistance Program.
- Once the Borrower Assistance Program ceased to be operational or in demand, distribute any remaining funds to:

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<sup>124</sup> United States v. Mortgage Guaranty Insurance, *Consent Order*, 13.

<sup>125</sup> United States v. Wells Fargo, No. 1:12-cv-01150-JDB, (D.C. Wash. DC 2012); *Consent Order*, 1, <http://www.justice.gov/crt/about/hce/documents/wellsfargocd.pdf>



“qualified organization(s) that provided services including: credit and housing counseling (including assistance in obtaining loan modification and preventing foreclosure), legal representation of borrowers seeking to obtain loan modification or to prevent foreclosure, financial literacy, and other related programs targeted at African-American and Hispanic potential and former homeowners in communities where the Complaint alleges significant discrimination occurred against African-American and Hispanic borrowers.”

- Consult with and obtain the “non-objection” of the United States in selecting recipients of these funds and the amount to be distributed to each.
- Pay into a fund \$50 million for a new homebuyer assistance program to be distributed and directed to 7 Metropolitan Statistical Areas (MSAs) in addition to the City of Baltimore. Up to \$15,000 per borrower was to be given as “Borrower Assistance Grants” in the form of a 0% interest loan, 20% of which is forgivable each year for five years.
- Optional homebuyer education or counseling must be conducted by a HUD-approved counseling agency.
- Borrower Assistance Grants must be administered “by an independent third-party nonprofit agency selected by Wells Fargo Bank, subject to approval by the U.S.”
- “[T]argeted marketing regarding Borrower Assistance Grants in communities including census tracts that are greater than 40% African-American... or Hispanic and communities below 120% of Area Median Income.”



- Distribute remaining funds after two years to “qualified organizations” (as described above).
- In addition to the \$175 million already set aside, Wells Fargo Bank must pay cash rebates to African-American and/or Hispanic borrowers who received nonprime loans who might have qualified for a prime loan except for Wells Fargo Bank’s use of statistical models in their risk assessment module.<sup>126</sup>

### GFI Mortgage Bankers

On August 27, 2012, the United States and the Defendant, GFI Mortgage Bankers Inc., entered into a consent order based upon allegations identical to the Wells Fargo consent order outlined above. GFI Mortgage Bankers had violated the ECOA and Fair Housing Act by discriminating on the basis of race and national origin.<sup>127</sup> The consent order required the following:

- GFI Mortgage Bankers pay \$3.5 million as monetary damages for aggrieved persons into a settlement fund and \$55,000 “as a civil penalty to the United States to vindicate the public interest.”<sup>128</sup>
- Distribute all remaining money as damages to aggrieved persons, including interest, to “qualified organization(s) that provide services including credit and housing counseling

<sup>126</sup> United States v. Wells Fargo, *Consent Order*, 13-22.

<sup>127</sup> Unites State v. GFI Mortgage Bankers, No. 1:12-cv-02502-KBF, (S.D. New York 2012); *Consent Order*, 1 <http://www.justice.gov/crt/about/hce/documents/gfisettle.pdf>.

<sup>128</sup> United States v. GFI Mortgage Bankers, *Consent Order*, 10-11.



(including assistance in obtaining loan modification and preventing foreclosure), legal representation of borrowers seeking to obtain a loan modification or to prevent foreclosure, financial literacy, and other related programs targeted at African-American and Hispanic potential and former homeowners.”

- Obtain the consent of the United States in selecting recipient(s) of these funds and the amount to be distributed to each.<sup>129</sup>

## SunTrust Bank

On or about May 31, 2012, SunTrust Bank entered into a consent order based on DOJ allegations that the Defendant, SunTrust Bank, had engaged in a pattern of discrimination on the basis of race and national origin in residential mortgage lending in violation of the Equal Credit Opportunity Act and the Fair Housing Act. The consent order required the following:

- SunTrust Bank to place \$21 million into an interest-bearing account to compensate for possible damages to aggrieved persons as a result of the alleged violations of the Fair Housing Act and the ECOA.<sup>130</sup>
- Distribute remaining funds a “qualified organization” approved by the government.<sup>131</sup>

There is no attempt to hide the pattern; the language of these orders is consistent.

Other pleadings including the initial complaint are almost identical. The DOJ’s practice

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<sup>129</sup> Ibid., 14-15.

<sup>130</sup> United States v. SunTrust Mortgage, Inc., *Consent Order*, (E.D. Virg. 2012): 10, <http://www.justice.gov/iso/opa/resources/313201253116253830420.pdf>.

<sup>131</sup> Ibid., 14.



resembles an “assembly line” approach more than one that emphasizes carefully and artfully drafted pleadings. The Court in *Bancorp* complained that the *Agreed Order* failed to define terms, lacked completeness, contained superfluous clauses and lacked clarity.<sup>132</sup> Nevertheless, the DOJ used the full force of the federal government and its resources to force settlements on the American business community, and then redistribute the proceeds in a politically expedient manner. In so doing, the Department of Justice has confiscated and redistributed a vast amount of private wealth outside of Congress’s authority for taxation and appropriation.

## The Beneficiaries of DOJ Patronage

The DOJ required that the banks distribute money to organizations that provide community development, housing counseling, and mortgage assistance. Yet, baked into these agreements were incentives that promoted payment of monies to third-party nonprofit organizations with no direction or oversight as to how the funds were to be used by the nonprofit. Funds are fungible, especially when there is no required accounting for the use.

One of the criticisms of the DOJ lawsuits against financial institutions has been that a major beneficiary of these lawsuits is not necessarily the actual injured party.<sup>133</sup> Indeed, we often have seen settlements where relief was directed to specific geographic areas that are

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<sup>132</sup> United States v. Citizens Republic Bancorp, Inc. and Citizens Bank, *Order*, (E.D. Mich. 2011): 1.

<sup>133</sup> Johnson, “The Justice Department’s Housing Settlements...,” *A Majority Staff Report of the Committee on Homeland Security and Governmental Affairs*, S. Rep., 2.



typically known as Democratic strongholds. Another concerning feature of the settlements are provisions that encourage the distribution of funds to third-party organizations rather than relief for individuals.

The DOJ argued that these qualified organizations were not “unilaterally” hand-picked by the department. But every organization chosen by the bank had to receive the final approval from the DOJ. And one settlement even listed an organization by name, NeighborWorks, that was to receive the unclaimed funds.<sup>134</sup>

In their Majority Staff Report, the Committee on Homeland Security and Governmental Affairs, chronicled just how much money was funneled from banks to third parties. The following table breaks down key components of the settlements:<sup>135</sup>

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<sup>134</sup>Ibid., 15; Lamar Alexander, “Nomination of Tom Perez” *United States Senate Committee on Health, Education, Labor, Pensions Questions for the Record*; *United States v. Bank of America, Annex 3 Tax Payments on Consumer Relief for Homeowners*, <https://www.justice.gov/iso/opa/resources/4922014829141329620708.pdf>

<sup>135</sup> Figures in the table come from: Johnson, “The Justice Department’s Housing Settlements...” *A Majority Staff Report of the Committee on Homeland Security and Governmental Affairs*, S. Rep.



	JPMorgan Chase	CitiGroup	Bank of America
Settled	November 2013	July 2014	August 2014
Amount	\$13,000,000,000	\$7,000,000,000	\$16,650,000,000
Provisions	<ul style="list-style-type: none"> <li>• \$2 billion for “loan forgiveness and forbearance.”</li> <li>• If bank fails to pay out all \$4 billion in consumer relief, remainder goes to NeighborWorks America</li> <li>• No requirement to donate to 3<sup>rd</sup> party orgs; however there is an option which JPMorgan has not used</li> </ul>	<ul style="list-style-type: none"> <li>• Minimum of \$820 million to loan modification options</li> <li>• Minimum of \$299 million towards rate reduction</li> <li>• Take \$180 million losses by providing funds to support affordable rental housing</li> <li>• Minimum of \$25 million to Community Development Financial Institutions</li> <li>• \$15 million to state-based Interest on Lawyers’ Trust Account orgs.</li> <li>• \$10 million to HUD-approved housing counseling agencies</li> </ul>	<ul style="list-style-type: none"> <li>• Minimum of \$2.15 billion in first lien principal forgiveness</li> <li>• \$50 million in donations to community development financial institutions</li> <li>• \$30 million in state based interest in lawyers trust account orgs.</li> <li>• \$20 million in donations to HUD-approved housing counseling agencies</li> <li>• Take a \$100 million loss in support of affordable rental housing</li> <li>• Over \$490 million for tax relief fund <ul style="list-style-type: none"> <li>- 25% to NeighborWorks America</li> <li>- 75% to IOLTA orgs.</li> <li>- \$122,540,000 to NeighborWorks</li> </ul> </li> </ul>

In the three big settlements we see the progression of these provisions. In the J.P. Morgan Chase settlement agreement, one provision requires that any monies in the \$4 billion settlement not distributed to consumers before 2018 must be paid to NeighborWorks America. There are also provisions that allow for J.P. Morgan to disperse funds to nonprofit organizations and receive credit for such distributions rather than



dispersing funds to homeowners impacted by the housing crisis. Likewise, the Citigroup settlement contains a provision for any money in the consumer relief fund not disbursed by December 31, 2018 to be paid to NeighborWorks America.<sup>136</sup>

However, unlike the J.P. Morgan Chase settlement, the Citigroup settlement provides for the following mandatory minimum donations:

- Mandatory minimum \$25 million in donations to Community Development Financial Institutions.
- Mandatory minimum \$15 million to state-based legal aid groups referred to as IOLTA organizations (IOLTA – Interest on Lawyers Trust Accounts).<sup>137</sup>
- Mandatory minimum \$10 million to HUD-approved housing counseling agencies.<sup>138</sup>

The Bank of America settlement contains even more aggressive language to encourage distribution of funds to third-party organizations rather than individuals harmed in the housing crisis. Again, any money remaining in the consumer relief fund as of August 31, 2018, is to be distributed to NeighborWorks America. Mandatory minimum donations outlined in the agreement are increased and are as follows:

- Mandatory minimum \$50 million in donations to community development financial institutions.

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<sup>136</sup> Ibid., 27-28

<sup>137</sup> “What is IOLTA?” *IOLTA.org*, accessed October 6, 2016, <http://www.iolta.org/what-is-iolta>.

<sup>138</sup> Johnson, “The Justice Department’s Housing Settlements...,” *A Majority Staff Report of the Committee on Homeland Security and Governmental Affairs*, S. Rep., 10.



- Mandatory minimum \$30 million to state-based IOLTA organizations.
- Mandatory minimum \$20 million in donations to HUD-approved housing counseling agencies.<sup>139</sup>

In the Citigroup and Bank of America settlements, the DOJ incentivized banks to donate directly to these third-party organizations rather than to pay the settlement directly to aggrieved homeowners by including provisions providing for a two-for-one credit for donations to third-party group. And to encourage immediate action and the flow of funding to these nonprofits DOJ added an additional incentive for the banks, providing a 115% early-incentive credit for every dollar the banks paid prior to the specified date.<sup>140</sup>

An examination of the distribution of funds by these banks shows that of the \$4.1 billion settlement, Bank of America has disbursed over \$54 million to these nonprofit community development financial institutions or housing counseling agencies and an additional \$30 million to legal assistance organizations. After taking into account the various incentives, approximately \$84 million in donations to third-party organizations has resulted in \$193 million in credit for Bank of America toward its total consumer relief goal.<sup>141</sup>

The two-dollar credit for one-dollar incentive in the Bank of America, Citigroup and JPMorgan settlements were not the only cases where incentives were given to funnel money to third-party groups rather than actual injured parties. The Federal Reserve in its

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<sup>139</sup> Ibid., 14.

<sup>140</sup> Ibid., 21.

<sup>141</sup> Ibid., 24.



Independent Foreclosure Review (IFR) examined a series of foreclosure settlements that were reached with 15 financial institutions that had similar incentives built into the consent order. In February 2013, consent orders were reached between DOJ and the target financial institutions. The settlements required each mortgage servicer to pay into a settlement fund and fund additional “foreclosure prevention activities” that ranged from changing rates (i.e. interest rate modification) to paying additional money into the settlement fund or the provision of cash or other resource commitments to borrower counseling or education (measured as seven to ten dollars of credit for each one dollar cash commitment).<sup>142</sup>

An example of this kind of provision is demonstrated in the DOJ’s settlement with EverBank. It states “The Bank shall provide loss mitigation or other foreclosure prevention actions (“Foreclosure Prevention”) in the amount of \$44,408,629.00.” However, in the next sentence there is the caveat that the, “Foreclosure prevention may include the provision of cash or other resource commitments to borrower counseling or education (measured at seven dollars of credit for each one-dollar cash commitment).” Then in the very next paragraph it details how EverBank will satisfy this financial obligation:

The Bank agrees to satisfy its Foreclosure Prevention obligation described in Paragraph (1) above by making a payment of \$6,344,090.00 to United States Department of Housing and Urban Development (“HUD”) approved certified organizations.<sup>143</sup>

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<sup>142</sup> Board of Governors of the Federal Reserve System, *Independent Foreclosure Review* (Washington DC, July 2014): 1, 21, <http://www.federalreserve.gov/publications/other-reports/files/independent-foreclosure-review-2014.pdf>.  
<sup>143</sup> United States Department of the Treasury, Comptroller of the Currency In the Matter of EverBank, *Amendment to April*



Instead of the bank providing \$44 million in redress for the victims of its practices, the bank will be permitted instead to pay a portion of that total to third-party nonprofits and their obligation is considered fulfilled.

EverBank isn't the only firm to satisfy their commitment in this manner. In an April 2014 status report, the Office of the Comptroller of the Currency (OCC) said, of the fifteen institutions that were targeted, six of them (Aurora, EverBank, GMAC, MetLife Bank, Morgan Stanley, PNC) chose to satisfy their foreclosure prevention activities by paying additional money into the settlement fund or by giving to nonprofits that fit the description of borrower counseling or education. Per that status report, a total of \$92 million was paid by these servicers into settlement funds or to nonprofits. Of that total, \$29 million went to nonprofits.<sup>144</sup>

Furthermore, in July of 2014 the Federal Reserve released its own report on the Independent Foreclosure Review ("IFR") wherein it stated that SunTrust had satisfied a \$100 million obligation by paying \$14.3 million to HUD approved certified organizations, something that the OCC report seems to have omitted. This brings the total amount given to these qualified organizations/third-party nonprofits to a staggering \$43.3 million.<sup>145</sup>

Another aspect of this series of consent orders discussed in the IFR is the lack of transparency. Normally consent orders that disburse funds to third-party nonprofits only

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*13,2011 Consent Order #2013-160*

Amends OTS Order SE-11-014, 6, <https://www.occ.gov/static/enforcement-actions/ea2013-160.pdf>.

<sup>144</sup> Office of the Comptroller Currency, *Foreclosure-Related Consent Orders Status Report: Observations, Payments, and Foreclosure*, (Washington DC, April 2014): 8.

<sup>145</sup> *Ibid.*; *Independent Foreclosure Review*, 21, 28.



disburse leftover funds from the original settlement fund. Typically, after the settlement fund has been distributed to claimants there will be a disbursement order filed that details which nonprofits are receiving money, and how much. That isn't the case with these consent orders. Instead exactly who received this \$43.3 million is unclear.

If the two for one dollar credit in the giant Bank of America settlement was enticing enough then how much more is this seven to ten dollar credit for every dollar paid?

Over time these consent decrees became increasingly aggressive as it relates to the funding of third-party nonprofits. Initially, only leftover money from the funds was disbursed to nonprofit groups, then came provisions seeking that a minimum amount of the settlement funds be disbursed to qualified organizations, such as the AIG settlement.<sup>146</sup> Then came consent orders which incentivized giving to nonprofits as in the case of the IFR settlements. Finally, the most recent consent orders from Bank of America, Citigroup and JPMorgan settlements offered credit for giving to nonprofits. These not only require banks to make donations to nonprofits but incentivize them to give more than the required amount. The evolution of these consent orders illustrates the growing effort by the current administration to funnel money to these nonprofit groups.

The DOJ limited distributions to "HUD approved housing counseling agencies," such as the groups set to receive mandatory minimum payments under the Citigroup and Bank of America settlements, and incentivized payments under many of these settlements. These

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<sup>146</sup> United States v. AIG Federal Savings Bank, *Consent Order* page 8; John L. Ropiequet and Christopher S. Naveja, "A Curious Dichotomy: Fair Lending Litigation and Enforcement Actions Following *Wal-Mart Stores, Inc. v. Dukes*," *Banking and Financial Services Policy Report*, 32, no. 1 (January 2013): 4



organizations had been preapproved by prior administrations. These included La Raza, Neighborhood Assistance Corporation of America (NACA) and part of the old ACORN network who in the wake of the scandal and congressional prohibition against further funding restyled itself as the Mutual Housing Association of New York (MHANY). The HUD website lists MHANY's contact as Ismene Speliotis. Speliotis previously served as the New York director of ACORN Housing. Furthermore, an examination of tax returns for the nonprofit reveals that MHANY Management, Inc. maintained the EIN (72-1303737) previously used by New York ACORN Housing Company, Inc. Between the 2007 and 2008 tax filings, only the group's name had changed.<sup>147</sup> This corporate entity was merely New York ACORN Housing Company, Inc. rebranded with a new name and clothed in a new "moral garment." Despite the prohibition on ACORN funding from Congress, New York ACORN Housing Company, Inc. had sidestepped congressional intent by simply changing its name.

In February 2015 the Congressional Subcommittee on Regulatory Reform Commercial and Antitrust Law received testimony from various parties including Geoffrey Graber, Deputy Associate Attorney General and Director, of the RMBS Working Group of the Financial Fraud Enforcement Task Force. The Committee also took testimony from Cornelia Mrose, the CEO of Compass Films of New York who at that time was making a film about the true causes of the financial crisis. She described to the subcommittee some of her findings. After having stated that the settlements with Bank of America and Citigroup

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<sup>147</sup> Mutual Housing Association of New York, Internal Revenue Service, Form 990, 2007; Id., 2008.



avored nonprofit groups like La Raza and NeighborWorks America, she explained that this was not a new phenomenon. Not only had these groups received proceeds from settlements, but, in 2012, La Raza had received \$9 million in grant money and NeighborWorks America had received \$212 million. She further explained to the subcommittee that these two organizations funded a much larger “network of left-leaning, nonprofit, activist groups” which were the downstream beneficiaries of grant monies and DOJ settlements monies. She further explained that while the ostensible purpose of these organizations was to provide help for vulnerable citizens, the “real purpose” was to augment the “power, control and reach of government via an army of community groups.” She highlighted the growth of these organizations indicating that in 2012, federal state and local governments gave \$137 billion to organizations in the form of grants and contracts. Of that amount, \$81 billion went to social service groups including affordable housing groups, legal aid groups, civil rights groups, and ethnic groups.<sup>148</sup>

As part of her testimony regarding the amount of government funding progressive organizations already received through grants and contracts, she provided the example of the NeighborWorks Orange County which is a nonprofit organization based in Orange County, California. NeighborWorks Orange County was a chartered member of NeighborWorks America and is also an affiliate of La Raza. The organization is HUD certified as a housing counseling agency and certified by the US Treasury Department as a

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<sup>148</sup> *Hearing before the Subcommittee on Regulatory Reform, Commercial and Antitrust Law of the Committee on the Judiciary*, H.R. Rep., 114<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2015) (Statement of Cornelia Mrose, CEO, Compass Films of New York, LLC): 88.



community development financial institution. She noted that NeighborWorks Orange County had received funding from government grants as follows:

- 2009 – approximately \$5 million;
- 2010 – approximately \$8 million;
- 2011 – approximately \$3 million; and
- 2012 – \$3.8 million.

Mrose compared funding received from taxpayers versus funding received from private parties. To demonstrate the degree to which these nonprofits rely upon public funding she noted that NeighborWorks Orange County had only received \$135,000 from private enterprises, which means was only 3.4% of all monies received; the other 94.6% had come from taxpayers. Most of the private monies came from banks, (Bank of America, Citibank, Chase and Wells Fargo). She termed this “protection” money.<sup>149</sup>

Under the terms of the Bank of America settlement, the DOJ mandated the following groups to receive money:

- The National Council of La Raza: \$1.5 million (They also received \$1.5 million from Countrywide Settlement and \$103,942 from Chevy Chase Settlement)<sup>150</sup>
- NHS of Chicago: \$50,000 (They also received \$1.5 million from Countrywide settlement)<sup>151</sup>

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<sup>149</sup> Statement of Cornelia Mrose, 89-90

<sup>150</sup> Settlement Monitor Report, 117; Countrywide Disbursement (Document 25-1), 3; Chevy Chase Settlement Disbursement, 2.

<sup>151</sup> Bank of America Settlement Monitor Report, 117; Countrywide Disbursement (Document 25-1), 3.



- NHS of South Florida: \$50,000 (They also received \$1.5 million from Countrywide Settlement)<sup>152</sup>
- National Urban League: \$1.15 million (They also received \$1 million from Countrywide Settlement and \$422,790 from AIG settlement)<sup>153</sup>
- Operation HOPE: \$350,000 (They also received \$422,790 from AIG settlement);<sup>154</sup>
- The National Community Reinvestment Coalition: \$2.6 million<sup>155</sup>
- Neighborhood Assistance Corporation of America (NACA): \$750,000<sup>156</sup>
- MHANY; \$50,000.<sup>157</sup>

NACA is known for their shakedown tactics and, as previously stated, their President is a self-proclaimed "bank terrorist." MHANY is an ACORN affiliate that is under the prohibition for funding by Congress.

## La Raza

La Raza has a history of heavy political engagement. For example, on March 20, 2008, *ABC News* reported that seven liberal groups had announced at the "Take Back America" conference a commitment to spend \$350 million in 2008 on "...mobilizing voters and advocating on behalf of Democratic candidates." One of the seven groups was La Raza who announced that it would spend \$4 to \$6 million mobilizing voters and advocating on

<sup>152</sup> Bank of America Settlement Monitor Report, 117; Countrywide Disbursement, 4.

<sup>153</sup> Bank of America Settlement Monitor Report, 117; Countrywide Disbursement, 3; AIG Settlement Disbursement, 2.

<sup>154</sup> Bank of America Settlement Monitor Report, 117; AIG Settlement Disbursement, 2.

<sup>155</sup> Bank of America Settlement Monitor Report, 117.

<sup>156</sup> Ibid.

<sup>157</sup> Ibid.



behalf of Democratic candidates. This has not changed and La Raza has been a significant voice in political issues. Yet in the midst of the debate they received a windfall of \$3.1 million from the DOJ lawsuit against three major banking institutions. Since the money is fungible, it is indeterminable if the dollars supposed to go to housing and mortgage counselling will not be used in a more partisan manner.<sup>158</sup>

Despite the disclaimer on the National Urban League’s website stating that its “Occupy the Vote Election Center is nonpartisan” much of what is on the League’s website tells a different story. Hillary Clinton enjoyed a prominent center top position on the League’s photo gallery from the 2015 conference. The League’s webpage for “Occupy the Vote” encourages the visitor to “get involved, become a freedom fighter, oppose voter suppression, and help get out the vote.” The website provides the following definition of a “freedom fighter:”

A Freedom Fighter opposes voter suppression through education, registration, and get-out-the-vote efforts. They are also an advocate for the full participation of all of America's citizens in this nation’s democratic process.<sup>159</sup>

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<sup>158</sup> Talal Al-Khatib, “Liberal Groups Collect \$350 Million in Funds for ’08 Election,” *ABC News*, March 20, 2008, <http://blogs.abcnews.com/politicalradar/2008/03/liberal-groups.html>.

<sup>159</sup> “Occupy the Vote: Become a Freedom Fighter,” *The National Urban League*, July 9, 2013, accessed October 6, 2016, <http://iamempowered.com/article/2012/07/19/occupy-vote-get-involved>. A post on the National Urban League’s Facebook page on September 20, 2016, quotes the League’s president, Marc Morial, urging hesitant voters to consider that “not voting is not a viable nor intelligent strategy.” The very same post urges National Urban League’s followers to vote and includes a link to a September 18, 2016 *New York Times* piece (<http://www.nytimes.com/2016/09/19/us/politics/obama-trump-clinton.html?smid=tw-share>) covering President Barack Obama’s statement that he would consider it a “personal insult” if African-American voters did not vote for Secretary Hillary Rodham Clinton in the 2016 presidential election.



In the four years running up to the 2016 election the League has received approximately \$2.6 million at the DOJ's direction.<sup>160</sup>

## NeighborWorks

Alinsky said "...do what you can with what you have and clothe it with moral garments."<sup>161</sup> and that "availability of means determines whether you will be underground or above ground."<sup>162</sup> While there are organizations like La Raza and NACA that tend to pursue the style of activism most associated with Alinsky, grabbing all the attention of the public, many more clothe themselves with the moral garments of housing and wage a political battle from underground.

Not all organizations that receive funds through the DOJ apparatus are directly engaged in the confrontational activism that many progressive leaders prefer, and organizations like ACORN, NACA and La Raza pursue. No group has benefited from public funding and the DOJ lawsuits more than the vast NeighborWorks organization and its network of affiliates. Even though it is congressionally chartered, its activist roots are just below the surface.

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<sup>160</sup> Bank of America Settlement Monitor Report, 117; Countrywide Disbursement, 3; AIG Settlement Disbursement, 2.

<sup>161</sup> *Rules for Radicals*, 36.

<sup>162</sup> *Ibid.*



NeighborWorks, first known as Neighborhood Housing Services (NHS), was formed by Dorothy Mae Richardson, a community activist in Pittsburgh, Pennsylvania.<sup>163</sup> In 1970, the Federal Home Loan Bank (FHLB) determined that savings-and-loan officers did not have sufficient training for lending in older, city-based markets. This effort led to the start-up of Neighborhood Housing Services organizations like the organization started by Richardson throughout the country now called NeighborWorks organizations. In 1973, the Department of Housing and Urban Development (HUD) entered into an agreement with the FHLB to “expand NeighborWorks organizations across the country” and an Urban Reinvestment Task Force was formed to provide coordination. The FHLB staffed the group and HUD funded it. This partnership between HUD and FHLB later included the Federal Reserve, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation as members. In 1974, NHS partners “conceived of a national loan-purchase resource that bought loans from local NHS offices, thus replenishing their local loan funds.” It was called “Neighborhood Housing Services of America” (NHSA). Initial funding for the program was provided by the Urban Reinvestment Task Force. “In 1978, Congress institutionalized the NHS network by establishing the Neighborhood Reinvestment Corporation.”<sup>164</sup> This federally chartered organization began doing business as NeighborWorks America in 2005. The following currently appears on the NeighborWorks website under the heading “What We Do.”

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<sup>163</sup> “Neighborworks America,” *AllGov.com*, accessed October 6, 2016, <http://www.allgov.com/departments/independent-agencies/neighborworks-america?agencyid=7447>.

<sup>164</sup> *Ibid.*



NeighborWorks America helps build strong, resilient communities by providing people with opportunities to live in safe, healthy and affordable housing, whether they own or rent.

We do this by directly supporting a network of more than 240 nonprofit organizations with technical assistance, grants and training for more than 12,000 professionals in the affordable housing and community development field every year.<sup>165</sup>

Funding for NeighborWorks comes from various sources, most of them public.<sup>166</sup>

The affiliates and allies of the NeighborWorks Network style themselves as advocates. The issue they ostensibly labor for is meeting the housing needs of the poor, and the lower middle class. As it turns out “housing needs” encompasses not only direct subsidies to purchase housing, but matters as diverse as the question of the minimum wage, whether and when felons ought to have their voting rights restored, voting rights, getting the vote out, and LGBT concerns.<sup>167</sup>

The livelihood of those in the NeighborWorks network depends upon elected officials – from county commissioners to sitting Presidents – construing the issue as they define it. The network has labored for nearly two generations and gained itself a privileged and largely unexamined position articulating that definition, and building institutional

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<sup>165</sup> “What We Do” NeighborWorks, accessed September 6, 2016, <http://www.neighborworks.org/About-Us/What-We-Do>.

<sup>166</sup> NeighborWorks, Internal Revenue Service, Form 990, 2013, p.14 (Schedule A, Part I, line 7): “An organization that normally receives a substantial part of its support from a governmental unit or from the general public”.

<sup>167</sup> Matt Laible, “Minneapolis promotes ex-felon voting rights at Get Out the Vote festival,” *Minneapolisismn.gov*, August 20, 2008, [http://www.minneapolisismn.gov/newsroom/newsroom\\_200808\\_20080820-ma\\_restoreyourvoice](http://www.minneapolisismn.gov/newsroom/newsroom_200808_20080820-ma_restoreyourvoice); Kate Abbey-Lambertz, “Here’s How Much Money You Need to Afford Rent in Every State,” *Huffington Post*, May 28, 2016, [http://www.huffingtonpost.com/entry/how-much-income-you-need-to-afford-rent-by-state\\_us\\_574880cae4b0dacf7ad4c828](http://www.huffingtonpost.com/entry/how-much-income-you-need-to-afford-rent-by-state_us_574880cae4b0dacf7ad4c828); Andrew Bowen, “LGBT Seniors Await New Affordable Housing In North Park,” *KPBS*, July 7, 2016, <http://www.kpbs.org/news/2016/jul/07/lgbt-seniors-affordable-housing-north-park-san-die/>.



alliances to secure it. The issue is rarely defined such that fewer “Community Based Organizations” or “Community Action Agencies” are necessary.

A March 2015 article by *Bloomberg* political commentator Tom Schoenberg and Politico financial services editor Clea Benson examined the current controversy surrounding NeighborWorks America. NeighborWorks America has been a long-time recipient of government funds. In fact, since 2007, the organization has received “some \$2 billion in congressional appropriations.”<sup>168</sup> The White House’s budget proposal for 2016 had requested \$182 million for the organization, and it was anticipated that the nonprofit stood to receive even more funds from the DOJ’s settlements with Citigroup Inc., JPMorgan Chase & Co., and Bank of America Corp. Given the considerable amount of funding that NeighborWorks America has received and the future prospect of receiving millions more, concerns have arisen regarding NeighborWorks’ management of its substantial budget and its purposes for which the money was to be used. First, the article alleged, an examination of the group exposed “...a house in disorder – with sweetheart contracts, document fudging and unexplained departures of top officials.” The article reports that, according to NeighborWorks America’s former CFO Michael Forster, a company known as “Quantum” was listed in some procurement documents as having received over “\$900,000 in fees in just one year, making it one of NeighborWorks’ highest-paid consultants.” In order to circumvent a federal rule that requires that “recipients of government funds must put jobs worth more than \$25,000 up for competition, or justify why they can’t do so,” Quantum was

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<sup>168</sup> Tom Schoenberg and Clea Benson, “The Nonprofit Behind Billions in Mortgage Aid is a Mess” *Bloomberg News* <http://www.bloomberg.com/news/articles/2015-03-18/billions-in-mortgage-aid-flow-through-group-in-turmoil>.



“paid in dozens of installments too small to trigger the need for board approval or bidding.” It turns out that Quantum was registered to an apartment in D.C. “owned by a former NeighborWorks software developer named Teddy Wondwosen.” In response to this discovery, “Two executives signed a backdated memorandum explaining why they didn’t seek bids for the job.” The two executives who signed that memorandum would later step down, and they “began jobs at housing-related nonprofits shortly afterward.” Quantum ultimately received over \$2.1 million to develop the web application.<sup>169</sup>

Schoenberg and Benson then went a step further and questioned the effectiveness of NeighborWorks, citing the findings in a recent report from Christy Romero, the Special Inspector General for the Troubled Asset Relief Program. They pointed out that despite the extensive funding that NeighborWorks received to achieve its mission, Mr. Romero has noted in his report that “There’s little oversight over whether funds targeted for saving homes are actually doing that.” In fact, NeighborWorks does not use the number of homes they have saved as a measure for success — “NeighborWorks and its housing-aid partners measure success based on how many people their counselors have talked to.” The article quoted Romero as also asking, with regards to the Treasury Department’s failure to “closely monitor the outcome when it hired NeighborWorks” in 2013: “How did Treasury know that the housing counselors that NeighborWorks contracted with actually gave the right counseling?” NeighborWorks hired “The Urban Institute” in an attempt to “track the impact on a sampling of borrowers who received aid through its main foreclosure-

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<sup>169</sup> Tom Schoenberg and Clea Benson, “The Nonprofit Behind Billions in Mortgage Aid is a Mess” *Bloomberg News* <http://www.bloomberg.com/news/articles/2015-03-18/billions-in-mortgage-aid-flow-through-group-in-turmoil>



prevention counseling program.” The report found that “Homeowners who went through counseling were more likely than others to get loan modifications that helped them keep their properties.” However, “foreclosure rates were similar among homeowners who went through counseling and those who didn’t.”<sup>170</sup>

## Alinsky’s Army

If Alinsky believed that community organizing means war, there is now an army to fight it. There are hundreds of organizations and thousands of individuals engaged in community organizing under the banner of “housing.”

A review of the activities of these organizations, their officers, and employees reveals that there are hundreds of thousands of individuals who find employment with one of the federally favored nonprofits and draw salaries that are funded by public resources or through the less transparent consent order process. While the nonprofit’s purpose may be limited, as in the case of affordable housing organizations, typical activities of the organization and its employees and officers extend far beyond such a limited scope and get-out-the-vote efforts, voter registration, development of progressive democratic leadership and a variety of other liberal causes. Meanwhile, through the public funding mechanism and DOJ consent order process, salaries and benefits are paid. With salary and benefits in place in an organization that favors progressive activism, a community organizer may pursue his or her agenda. The following individuals are representative of a

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<sup>170</sup> Ibid.



broader group of activists that blur the line between community and political service.

### Margaux Morisseau, Director of Community Engagement NeighborWorks Blackstone River

Margaux Morisseau is the director of Community Building & Organizing for NeighborWorks Blackstone River Valley (NBRV). The local blog, *RI Future*, described NeighborWorks as “...a nonprofit Community Development Corporation which builds homes and communities for low-to-moderate-income families throughout Northern Rhode Island.” The announcement goes on to describe Morisseau’s activities: “In the program, she works with neighbors and directs programs including NBRV’s K-12th grade college access youth programs, the organization’s AmeriCorps VISTA program, and the community organizing and *advocacy initiatives.*” (*emphasis added*)<sup>171</sup>

Much of her activity seems to be centered around her own political ambitions, the development of progressive democratic leadership for the future of Rhode Island, and the pursuit of various progressive initiatives. Her social media postings demonstrate that she is actively engaged in promoting a progressive political agenda.<sup>172</sup> She is the founding director of the Rhode Island chapter of New Leaders Council, a national nonprofit that’s mission is “to recruit, train and promote the progressive political entrepreneurs of tomorrow.” A press release issued by the New Leaders Council celebrating its fifth

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<sup>171</sup> Dave Fisher, “Margaux Morisseau’s campaign kicks off tonight.” April 14, 2014, accessed April 20, 2016, <http://www.rifuture.org/margaux-morisseaus-campaign-kicks-off-tonight.html>

<sup>172</sup> “Margaux Morisseau,” personal profile, *Twitter*, accessed October 13, 2016, <https://twitter.com/margauxmor>.



anniversary specifically states "Young progressives celebrate 5th year of trying to infuse Rhode Island with new leaders who will remake the state's political, business, and community landscape."<sup>173</sup>

In 2014, Morisseau announced her candidacy for a seat in the Rhode Island Senate held by Republican Nick Kettle, one of the Senate's few Republicans. On February 14, 2014, Ian Donniss in a weekly column for the Rhode Island Public Radio website reported that Morisseau planned to run as a Democrat because she had "gotten increasingly interested in politics."<sup>174</sup>

She received endorsements from the Rhode Island Progressive Democrats, Rhode Island NOW, and the Rhode Island Chapter of the Sierra Club.<sup>175</sup> She was not unnoticed by progressive forces in Rhode Island. Bob Plain, Editor/Owner of the *RI Future*, which he describes as the "original political blog in Rhode Island," had the following analysis in an article announcing her run for State Senate. He states "...she's already shown her political chops at the State House by going head-to-head with former speaker-turned-lobbyist Bill Murphy over payday loans." He further notes, "She's also the founding director of the RI chapter of New Leaders Council, a national nonprofit that works to train and support

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<sup>173</sup> "Press Release: Young Progressives Celebrate 5<sup>th</sup> Year of Training Leaders in RI," *Rhode Island New Leader's Council*, January 5, 2016, accessed April 21, 2016.

<sup>174</sup> Ian Donniss, "TGIF: 17 Things to Know About Rhode Island Politics & Media" *Rhode Island Public Radio*. February 14, 2014, accessed April 20, 2016.

<sup>175</sup> "Endorsements" Rhode Island Progressive Democrats, accessed April 21, 2016, <http://www.riprogressivedems.com/endorsements/>; "Margaux Morisseau's Ratings and Endorsements," *VoteSmart.org*, accessed October 7, 2016, [https://votesmart.org/candidate/154545/margaux-morisseau#.V\\_Zv6tx8ZZ0sp](https://votesmart.org/candidate/154545/margaux-morisseau#.V_Zv6tx8ZZ0sp)



progressive political activists."<sup>176</sup> In a more recent February 22, 2016 post early this year, he states "Progressive activists assure me this is only the first wave of lefties who will be challenging the neoliberal status quo of the state house this year." He goes on to identify Morisseau as one of the nine "lefties."<sup>177</sup>

Morisseau had a significant role in fighting for legislation in Rhode Island regarding payday loans. She served as the co-chairman of the RI Coalition for Payday Lending Reform and appears to have been a point of contact for the media for activities of the Coalition. Her NWBRV email address is listed as the contact for individuals needing more information regarding a Coalition event.<sup>178</sup>

Morisseau received national attention in August 2015 when she was mentioned in a *Time* article by Sam Frizell entitled "The Left's Quest to Create Hundreds of Elizabeth Warren's." The article described a conference held in Washington DC at the Washington Court Hotel organized by an advocacy group called The Progressive Change Campaign Committee (PCCC). The article stated that the purpose of this four-day conference was to "...create a surge of Democratic candidates in municipal and state elections, and build a movement of rookie Warrens." The article goes on to describe one of the main events at the conference:

And Warren was the star attraction. "You are the progressive bench, and we need a

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<sup>176</sup> Bob Plain, "Margaux Morisseau will run for Nick Kettle's Senate Seat." *RI Future*, March 31, 2014, accessed April 20, 2016.

<sup>177</sup> Bob Plain "State House challenges so far are from the left, not truck tolls" *RI Future*, February 22, 2016, accessed April 20, 2016.

<sup>178</sup> Ben Coleman, "Mayors Urge General Assembly to Reform Payday Lending," *RI Payday.org*, March 22, 2013, <http://www.ripayday.org/?p=239>.



bench,” Warren told them. Dozens of attendees wore identical blue shirts that said, *I’m from the Elizabeth Warren wing of the Democratic party.* “Elizabeth Warren is the North Star,” said Adam Green, co-founder of the PCCC. And the enthusiasm for Warren has spilled over all across the left: “I want to clone Elizabeth Warren into every candidate,” said Tefere Gebre the executive vice president of the AFL-CIO, in an interview with TIME two weeks ago.<sup>179</sup>

The article further stated:

In the Washington hotel, building an army of Warrens to challenge establishment-backed Democrats was exactly the point. “Yes, this is about building campaigns and winning office, but this is also about building a movement,” Warren said during her keynote on Thursday. “You are the living spark of the progressive movement.” It was a sentiment made clear by the conference organizers. “How do we elect 300 more Elizabeth Warrens?” said Stephanie Taylor, the co-founder of the PCCC who dreamt up the conference.<sup>180</sup>

Morisseau was quoted in the article as one of the participants at the conference. She said:

You look around this room people-the people I’ve met makes me realize the country is moving in a good direction.<sup>181</sup>

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<sup>179</sup> Sam Frizell, “The Left’s Quest to Create Hundreds of Elizabeth Warren’s,” *Time*, August 2, 2015. Accessed September 7, 2016.

<sup>180</sup> Ibid.

<sup>181</sup> Ibid.



Morisseau’s social media and an online post suggest substantial amounts of activity that go far beyond merely providing affordable housing for the poor. Her pivotal role in founding and facilitating RI chapter of New Leaders Council, her political aspirations, social media, networking and her overall engagement and endorsement of the progressive movement as demonstrated in the above referenced article show interests that are more political in nature.

Jennifer Sanchez, Director of Community Engagement  
NeighborWorks Salt Lake

Jennifer Sanchez is another example of an individual who has made the most of her employment with a nonprofit housing group affiliated with NeighborWorks. After a stint working as a reporter working primarily on immigration issues for several newspapers including the *Albuquerque Tribune*, and *The Salt Lake Tribune* she became employed with Poder Para La Familia Hispana (PPFH) as a Program Coordinator, Gang Intervention Specialist and Instructor. From there, after a one-year stint as the Community Collaborations Director and Immigration and Refugee Integration Director for United Way of Salt Lake, she went to work with the National Association of Latino Fraternal Organizations (NALFO) as a Volunteer Marketing Director where one of her primary duties was to initiate and manage “...a partnership with Pulitzer Prize-Winning Author Junot Díaz, including organizing more than a dozen private events with him and NALFO members



nationwide.”<sup>182</sup> Junot Díaz has an interesting history and has been actively involved in a number of community organizations in New York City, including Pro-Libertad, the communist Dominican Workers' Party (Partido de los Trabajadores Dominicanos), and the Unión de Jóvenes Dominicanos (Dominican Youth Union).<sup>183</sup>

In August of 2013, Sanchez went to work as the Community Engagement Coordinator for NeighborWorks Salt Lake, a NeighborWorks affiliate. NeighborWorks Salt Lake is a regular recipient of funds from NeighborWorks and in 2014 received \$317,000.00 in NeighborWorks grants. Sanchez was employed with NeighborWorks Salt Lake through January 2015. Interestingly, she landed this position while working as Communications Director for the Utah Senate Democratic Caucus. She recounted her duties there on her Linked-In account:

- Developed and implemented communication plan. Coordinated with reporters; planned press conferences; managed website and social media; and corresponded with constituents.
- Wrote and edited press releases, op-eds, memos, speeches, fact sheets and other materials.
- Worked with Senators and their interns on daily administrative tasks.
- Established and executed the annual social media campaign to win lunch with the senators.

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<sup>182</sup> Jennifer Sanchez, *LinkedIn* Page, accessed June 6, 2016.

<sup>183</sup> “Junot Diaz, 2015 Community Champion.” *Latino Justice*, accessed September 22, 2016, [http://latinojustice.org/support/events/junot\\_diaz\\_2015\\_community\\_champion/](http://latinojustice.org/support/events/junot_diaz_2015_community_champion/)



She continued in this position beginning in January 2013 through April 2014 well into her employment with NeighborWorks Salt Lake.<sup>184</sup> Regarding those senate responsibilities, she reports:

I spearheaded the strategic coordination and management of the communications and public relations plans for the caucus and its five senators. I wrote press releases and letters; coordinated events and press conferences; took videos and photos; worked with the media, lobbyists, community groups; and managed the caucus' social media and blog.<sup>185</sup>

Of course, it is impossible to discern what political activities were performed and whether those activities were performed during normal working hours when Sanchez should have been otherwise engaged with responsibilities related to NeighborWorks. In each of these circumstances, there is no way to track the time of the individuals who are being paid by these housing organizations – those who have relied primarily on public funding and later on the proceeds of consent orders negotiated by the DOJ. Sanchez worked in 2015 and 2016 as Deputy Director of Surrogate Operations for the Democratic National Committee. Most recently, she started working for Democratic presidential nominee, Hillary Clinton's campaign as a Deputy Director of Operations.<sup>186</sup>

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<sup>184</sup> Jennifer Sanchez, *LinkedIn*.

<sup>185</sup> "Biography," on Jennifer Sanchez's personal website, accessed September 19, 2016, [www.jenniferwsanchez.com/experience.html](http://www.jenniferwsanchez.com/experience.html).

<sup>186</sup> *Ibid.*



These two individuals represent a much larger population of nonprofit officers and employees who are engaged in efforts to mobilize voters and develop new progressive leadership. But, do they pursue these activities as part of an organizational mission or of their own accord? One way to gain insight is to look at who they hire and the job descriptions posted in online hiring sites. For example, The Little Tokyo Service Center (LTSC), a NeighborWorks affiliate, posted an online advertisement for a Civic Engagement Organizer. Regarding the position and its responsibilities the advertisement states that the LTSC needs someone:

...who can engage residents of LTSC's affordable housing buildings and neighborhoods to increase voter participation and involvement with issues. LTSC's goal is to develop an informed and active group of residents who are engaged in the electoral process and with their elected officials....

Specific duties of the position include the following:

- Outreach to residents including door-knocking and organizing meetings and workshops
- Voter registration, voter education and participation in local, state and federal elections including Get Out The Vote activities
- Conduct education and organize advocacy activities on issues identified by LTSC and residents as important issues affecting their lives and low-income communities – including developing educational materials, workshops, and mobilizations
- Develop civic engagement leaders among residents who can organize other residents.

“Required” qualifications are as follows:



- Interest and experience working on social justice and issues affecting low-income and communities of color.
- Experience doing voter registration, voter education and Get Out the Vote work.
- Experience doing *community and/or political organizing*. (*emphasis added*)<sup>187</sup>

On its website, LTSC states the following:

The mission of the Little Tokyo Service Center, a Community Development Corporation, is to meet the critical needs of people and to build community.<sup>188</sup>

As a NeighborWorks affiliate<sup>189</sup> one could expect the work of the organization to relate to “housing.” That does not seem to be the case at least for this position. It appears that voter registration, voter education, and voter mobilization are top priorities.

As Dr. Marwell noted: “The [old political party] machine built its reliable voting constituencies through the mechanisms of patronage and party organization....” Many of these organizations, as Dr. Marwell suggested, “...in a structural position that enables them to fill the gap left by defunct political party organizations in poor neighborhoods (i.e., they can take on an electoral organizing role at the neighborhood level).”<sup>190</sup> Like these organizations, LTSC is using its public funding for political advocacy.

<sup>187</sup> “Civic Engagement Organizer,” job solicitation, accessed on Bokno on September 4, 2016, <http://webcache.googleusercontent.com/search?q=cache:7QYnmNHEtowJ:us.bokno.com/Civic-Engagement-Organizer-NeighborWorks-Affiliates-Los-Angeles-CA-4440996&num=1&hl=en&gl=us&strip=0&vwsrc=0>

<sup>188</sup> “Mission,” *Little Tokyo Service Center*, accessed September 7, 2016, <http://www.ltsc.org/index.php/aboutltsc/mission>.

<sup>189</sup> “LTSCene May 2014,” *Little Tokyo Service Center*, accessed October 7, 2016, <http://www.ltsc.org/index.php/pressroom/e-newsletter/ltscene/312-ltscene-may-2014>

<sup>190</sup> Marwell, *Privatizing the Welfare State*; *American Sociological Review* 69, no. 2. (Apr., 2004), 265-291; 269.



## NeighborWorks, the Florida Housing Coalition, and NLIHC

In its first 2013 newsletter, *What's Developing*, the Florida Housing Finance Corporation (FHFC) announced Governor Rick Scott's request for \$50 million in funding for the State Housing Initiatives Partnership (SHIP) program.<sup>191</sup> SHIP's program manual is jointly promulgated, as it so happens, by both FHFC and the Florida Housing Coalition (FHC).<sup>192</sup> The two organizations work in tandem.<sup>193</sup> The same 2013 report detailed how FHFC was applying for approximately \$4 million in new funding for national foreclosure mitigation counseling (NFMC) to be distributed among thirty-seven grantees. FHFC's previous efforts in this regard had been carried out under the supervision of NeighborWorks, and by then totaled \$10 million.<sup>194</sup>

This is an illustration of how the NeighborWorks network operates as a whole. Policy advocacy for affordable housing for the poor leads to funding, which leads to policy advocacy; a neat circle. Funding leads to salaries and/or grant-making ability, for FHFC, for FHC, and in the case of Foreclosure Mitigation Counseling, for thirty-seven grantees or affiliates downstream. At first glance, this looks benign; individuals and organizations in this vast network promoting the good work of affordable housing for the poor. The SHIP manual's introduction makes clear mention of the "Nonprofit and for-profit organizations

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<sup>191</sup> "What's Developing" Florida Housing Finance Coalition (FHFC) newsletter vol 5, 1<sup>st</sup> Ed., 1, accessed May 12, 2016 at [http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/Newsletters/WD/WD\\_Vol5\\_1stEd\\_2013.pdf](http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/Newsletters/WD/WD_Vol5_1stEd_2013.pdf).

<sup>192</sup> "State Housing Initiative Partnership Program Manual", Florida Housing Coalition, 1, 15, 38, 105, accessed May 12, 2016, [http://flhousing.org/wp-content/uploads/2012/04/SHIP\\_Program\\_Manual-2008.pdf](http://flhousing.org/wp-content/uploads/2012/04/SHIP_Program_Manual-2008.pdf).

<sup>193</sup> This is true broadly, FHC's main page directly links FHFC's main page. See, <http://www.flhousing.org/>. It's also true specifically. FHC administrates FHFC's Catalyst program throughout the state: see, "Affordable Housing Catalyst Program," *Florida Housing Finance Corporation*, [http://www.floridahousing.org/FH-ImageWebDocs/AboutUs/Catalyst\\_ProgramOutline.pdf](http://www.floridahousing.org/FH-ImageWebDocs/AboutUs/Catalyst_ProgramOutline.pdf).

<sup>194</sup> "What's Developing," 2-4.



that assist the local government with implementation of these programs.”<sup>195</sup> Organizations referred to in the manual’s glossary included CBO’s, CDC’s and CAA’s.<sup>196</sup> As the Florida Housing Finance Corporation’s 2013 NFMC application indicates: many such individual organizations stand in the network’s funding “downline.” Some may argue that organizations whose officers and employees rely directly on government funding should not be lobbying government even on an issue like housing for the poor, but of greater concern is the threading of policy advocacy together with political activism unrelated to the stated purpose of the organizations.<sup>197</sup>

In September 2012, FHC hosted its annual conference in Orlando. The keynote speaker for day two: Judith Browne Dianis,<sup>198</sup> longtime liberal activist, attorney, and scholar.<sup>199</sup> In its 2012 post-election newsletter, FHC published Browne Dianis’s editorial on that election.<sup>200</sup> She did not mention the word “housing” once. Instead, she denounced what she termed “the greatest rollback on voting rights in more than a century.” This was her terminology for the “partisan” voter ID laws passed that year, and the subject of so much litigation. Furthermore, as its website clearly shows, Browne Dianis’s Advancement Project

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<sup>195</sup> *SHIP Program Manual*, 3.

<sup>196</sup> *Ibid.*, 13, 14. The acronyms, respectively stand for “Community-Based Organization”, “Community Development Corporation” and “Community Action Agency”.

<sup>197</sup> “What’s Developing,” [http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/Newsletters/WD/WD\\_Vol5\\_1stEd\\_2013.pdf](http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/Newsletters/WD/WD_Vol5_1stEd_2013.pdf)

<sup>198</sup> “2012 Conference Presentations,” *Florida Housing Coalition*, accessed on May 16, 2016, <http://www.flhousing.org/?p=3117>.

<sup>199</sup> “Judith Browne Dianis” biosketch, *Advancement Project*, accessed on May 16, 2016, <http://www.advancementproject.org/people/entry/judith-browne-dianis>.

<sup>200</sup> “Highlights from the 2012 Conference,” *Housing News Network, the Journal of the Florida Housing Coalition* 28, no. 3 (November 2012): 23, [http://www.flhousing.org/wp-content/uploads/2012/12/November\\_Journal\\_web.pdf](http://www.flhousing.org/wp-content/uploads/2012/12/November_Journal_web.pdf).



was in the thick of this litigation.<sup>201</sup> In her FHC editorial, she condemned those laws at length, and called for Election Day to be made a national holiday, and a “next generation voting-rights movement.”<sup>202</sup> She denounced other practices that she claimed amount to voter suppression. She quoted the recently re-elected Barack Obama on these same issues.

So who was she and how did she find her way to the editorial page of the FHC newsletter and the keynote speaker slot at the FHC convention? Advancement Project’s tax return for 2012 lists a grant of \$25,000<sup>203</sup> to a 501(c)(4) advocacy group known as Florida New Majority.<sup>204</sup> The grant was designated as “Voter Protection Program” – amounting to nearly one-tenth of the approximately \$280,000.00 in grants given out by Browne-Dianis’s nonprofit, the Advancement Project, for such purposes that year.<sup>205</sup> Interestingly, the Florida New Majority’s 990 for 2012 says nothing about protecting voters, but includes nearly half-a-million dollars to “reach and mobilize voters during the 2012 elections with the objective of *promoting progressive federal and state legislators...*” (*emphasis added*)<sup>206</sup>

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<sup>201</sup> In Florida, during 2012, Advancement Project was specifically involved in *Arcia, et al v. Detzner*. See “Arcia, et al. v. Detzner,” *Advancement Project*, 2016, accessed October 6, 2016., <http://www.advancementproject.org/pages/florida-vpp>. For a broad accounting of other such litigation to which Advancement Project was a party, see “Protecting the Vote on the Ground,” *Advancement Project*, accessed October 6, 2016, <http://www.advancementproject.org/issues/voter-protection/pages/protecting-the-vote>.

<sup>202</sup> “Highlights from the 2012 Conference,” 23, [http://www.flhousing.org/wp-content/uploads/2012/12/November\\_Journal\\_web.pdf](http://www.flhousing.org/wp-content/uploads/2012/12/November_Journal_web.pdf). Browne Dianis made a point to quote President Obama’s 2012 victory speech on these matters: “We have to fix that.”

<sup>203</sup> Advancement Project, Internal Revenue Service, Form 990, 2012, 25.

<sup>204</sup> Florida New Majority, Internal Revenue Service, Form 990, 2012, 2.

<sup>205</sup> Advancement Project, Internal Revenue Service, Form 990, 25-27.

<sup>206</sup> Florida New Majority, Internal Revenue Service, Form 990, 2012, 2. Note that this page discusses spending on legislative advocacy for voting rights, but says nothing about “voter protection program.”



Florida New Majority also passed on \$1.7 million to its associated Political Action Committee (PAC), Florida Freedom PAC.<sup>207</sup>

There are other organizational connections. The political activists move in the same tight circles with housing advocates. Florida New Majority's executive director, Gihan Pirera, who took the job in January 2012,<sup>208</sup> is a board member at the Community Reinvestment Alliance of South Florida.<sup>209</sup> The Alliance's chairman of the board is Arden Shank. Shank is CEO of Neighborhood Housing Services of South Florida; a NeighborWorks affiliate.<sup>210</sup> He is also a board member for FHC itself, where his bio reports his work with NeighborWorks stretches back over fifteen years.<sup>211</sup> There is, of course, nothing specific to indicate that Advancement Project's grant to Florida New Majority is anything but legal. But these interrelationships and intermingling of the partisan with the nonprofit may explain why Browne Dianis enjoys such pride of place with the Florida *Housing* Coalition. Is housing an issue that belongs solely to the political left and the Democratic party, and as cashed out and articulated by its partisans? And is that issue then to be used as a partisan electoral tool?

Another example is one of FHC's partners in the network is the National Low-Income Housing Coalition (NLIHC). NLIHC enjoys its own links to named NeighborWorks

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<sup>207</sup> Florida New Majority, Internal Revenue Service, Form 990, 2012, Schedule R, Part II, 3, 25, 27. Note that on p. 25 Florida New Majority Inc. is listed as Florida Freedom PAC's "Direct Controlling Entity." The two organizations share a mailing address.

<sup>208</sup> Gihan Perera, *LinkedIn* page, <https://www.linkedin.com/in/gihan-perera-097b2165>.

<sup>209</sup> "Board of Directors," Community Reinvestment Alliance of South Florida, <http://www.crasf.org/about/board-of-directors/>.

<sup>210</sup> *Ibid.*

<sup>211</sup> "Arden Shank," *Florida Housing Coalition*, <http://www.flhousing.org/?p=1921>.



affiliates, with members such as NeighborWorks Montana, NeighborWorks Salt Lake, and the NeighborWorks Association of Pennsylvania, among many others.<sup>212</sup> Well-known for its yearly publication “Out of Reach,” NLIHC has lain down its own markers where voting is concerned – markers indicative of the network’s diverse group of local affiliates and its politicized bias beneath its surface.

This short discussion gives an example of not only how members of the NeighborWorks network, in its Florida branch, directly benefit from their own advocacy, but also the interwoven hierarchy: NeighborWorks on a national level, FHC, and FHFC on a state level, and labyrinth of CBOs deployed regionally and locally throughout the state. Furthermore, it demonstrates the intertwining with organizations that are more concerned about political change and ascendancy of a progressive agenda than anything else including housing.

## MHRC

In fall 2014 NLIHC published an edition of its “Tenant Talk” newsletter, complete with a voter guide. The issue quotes Diane Hosley, a member of the Minneapolis Highrise Representative Council (MHRC). She proclaims that “we have to show them our muscle,”

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<sup>212</sup> “NLIHC Welcomes New Members in First Quarter 2016,” *National Low Income Housing Coalition*, April 18, 2016, <http://nlihc.org/article/nlihc-welcomes-new-members-first-quarter-2016>; “NLIHC Welcomes New Members in Fourth Quarter 2015,” *National Low Income Housing Coalition*, January 19, 2016, <http://nlihc.org/article/nlihc-welcomes-new-members-fourth-quarter-2015>



even as members with “language barriers” should be ushered to the polls.<sup>213</sup> In 1994, MHRC was an early member of something called the ACORN Tenant’s Union, or ATU.<sup>214</sup> In 1999, Jerry Freeman, a co-founder of the group, was arrested at a protest against the demolition of a public housing project.<sup>215</sup> In 2008, MHRC co-organized a conference aimed at having felons restored their voting rights.<sup>216</sup> NLIHC, as referenced, promulgates an annual report known as “Out of Reach.” The report makes the case that there is a “Housing Wage,” required to afford its definition of adequate housing. The 2015 Housing Wage, accordingly, was well in excess of both the federal and various state minimum wages. The report is referenced and adapted by numerous advocacy groups for press releases and reports designed to show the shortfall between the Housing Wage and the State/Local Minimum Wage. The report is also often picked up by news organizations from Huffington Post to *The Daily Mail* as strong evidence of a U.S. housing affordability crisis.<sup>217</sup>

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<sup>213</sup> “Special Election Issue” *Tenant Talk* 5, no. 3 (Fall 2014).

<sup>214</sup> “Shelter Shorts: ACORN Tenant Union Launched in Public Housing” *National Housing Institute Shelterforce Online* (May/June 1994).

<sup>215</sup> Steve Hatcher and Kim DeFranco, “No Housing No Peace,” July 13, 1999, <http://www.fightbacknews.org/0799/housecrisismn.html>; “About the Author” on Jerry Freeman’s Amazon book page, *In a Kick-Ass Sentimental Mood*, accessed October 6, 2016, <https://www.amazon.com/Kick-Ass-Sentimental-Mood-Jerry-Freeman/dp/1477584781>.

<sup>216</sup> Matt Laible, “Minneapolis promotes ex-felon voting rights at Get Out the Vote festival”, *Minneapolis.gov*, August 20, 2008.

<sup>217</sup> “Out of Reach 2015 Newsletter” *National Low Income Housing Coalition*, 2015; Abbey-Lambertz, “Here’s How Much Money You Need...” May 28, 2016, [http://www.huffingtonpost.com/entry/how-much-income-you-need-to-afford-rent-by-state\\_us\\_574880cae4b0dacf7ad4c828](http://www.huffingtonpost.com/entry/how-much-income-you-need-to-afford-rent-by-state_us_574880cae4b0dacf7ad4c828); “Revealed: The hourly wage a renter needs to afford a 2-bedroom apartment across the US...and Hawaii is the most expensive,” *Daily Mail and Associated Press*, June 2, 2015, <http://www.dailymail.co.uk/news/article-3106907/State-state-comparisons-average-wages-versus-cost-2-bedroom-apartment-reveals-renters-states-like-Maryland-Hawaii-forced-settle-studio.html>.



## Avenida Guadalupe Association

Avenida Guadalupe Association (“AGA”), incorporated in 1979, is a 501(c)(3) nonprofit organization located in San Antonio, Texas. The organization’s mission statement, taken from a recent tax return, is:

To economically transform lives of local neighborhood residents and businesses by providing programs and services to empower the community, develop our commerce, and honor our culture. To address problems resulting from area poverty to stimulate neighborhood economic vitality by aggressive efforts to improve economic and housing development.<sup>218</sup>

NeighborWorks America awarded AGA a \$50,000 expendable grant, presumably to further AGA’s goals of providing affordable housing for low income families and seniors, incubating small businesses, and hosting community events; however, Avenida Guadalupe Association appears to be involved in political activity and voter mobilization—activities that are outside of the scope of AGA’s mission.<sup>219</sup>

A press release from February 2016 on the National Council of La Raza’s (La Raza) website lists AGA as a member of its “Texas Affiliate Network,” a group of Texan nonprofit organizations with varying functions but one common characteristic—they all have close ties with the Hispanic American communities in which they work. Ahead of the 2016 primary for Texas, NCLR ran an all-day leadership session for members of its Texas Affiliate

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<sup>218</sup> Avenida Guadalupe Association, Internal Revenue Service, Form 990, 2013.

<sup>219</sup> NeighborWorks Internal Revenue Service, Form 990, 2013, 47.



Network, to prepare for the upcoming election. Sonia Troche, La Raza’s Texas Regional Director, is quoted in the press release saying that when it comes to Latino voter mobilization, “The most effective way of defeating the kind of bigotry we’ve seen in this political season thus far is to make our voices heard and respected.”<sup>220</sup>

An organization that has as its mission the provision of low-income housing and community development sent its leadership to attend a day-long conference on how to mobilize Latino voters in Texas. Why is NeighborWorks giving money to AGA? When NeighborWorks funds its affiliates with no strings attached, it is impossible to “follow the money.” NeighborWorks cannot tell whether the funds were spent on housing and homeownership education and counseling, or progressive voter mobilization.

This short discussion gives an example of not only how members of the NeighborWorks network, in its Florida branch, directly benefit from their own advocacy, but also the interwoven hierarchy: NeighborWorks on a national level, FHC, and FHFC on a state level, and labyrinth of CBOs deployed regionally and locally throughout the state. Furthermore, it demonstrates the intertwining with organizations that are more concerned about political change and ascendancy of a progressive agenda than anything else including housing.

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<sup>220</sup> Camila Gallardo, “NCLR Texas Affiliate Leaders Convene in El Paso, Urge Latino Voter Participation on Super Tuesday” *NCLR*, February 29, 2016.



## Asian Americans for Equality: Margaret Chin and John Choe

Margaret Chin cut her political teeth as a student activist in the Communist Workers Party (CWP) while attending the City College in the 1970s. It was Chin who stood before the cameras and condemned the killing of five of her party members in Greensboro, North Carolina where the CWP had sponsored a “Death to the Klan” rally which led to an armed confrontation with the Klan.<sup>221</sup> The “Communist” moniker would not serve them well in their efforts to influence politics in New York City, but a solution was forthcoming. In 1974, protests erupted in Manhattan’s Chinatown and Asian Americans for Equal Employment was formed to fight discriminatory hiring practices on a federally-financed construction project. A “stunning civil rights victory” ultimately led to the founding of Asian Americans for Equality (AAFE) and a continued focus on “civil liberties” issues.<sup>222</sup> Chin, a founding member of AAFE<sup>223</sup> and other members of the CWP, found great success in identifying an issue important to the community and wrapping themselves in it. We know this because of the overlap of individuals involved the CWP and AAFE. Many of the founders of AAFE were also active with the CWP. AAFE shared an address and phone number with the CWP for several years. It seemed that CWP veterans regularly ended up as AAFE officers. Chin served as President of AAFE from 1982 to 1986 and was associated with AAFE until 2008 when she began efforts to run for the city council. Her work at AAFE served as a launching pad into New York politics and in 1986 and with the help of the progressive liberal group,

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<sup>221</sup> Richard Brookhiser, “The Resistable Rise of Margaret Chin,” *City Journal* (Spring 1991).

<sup>222</sup> “Our History” *Asian Americans for Equality* <http://www.aafe.org/about-us/our-history>.

<sup>223</sup> “Margaret S. Chin,” on Margaret Chin’s personal website, accessed September 30, 2016, <http://www.margaretkin.nyc/aboutmargaret>.



the Village Independent Democrats, she was elected to the Democratic State Committee where she served two terms. The AAFE afforded Chin the kind of resources and respectable platform from which she could chase her political aspirations.<sup>224</sup>

In 2009, AAFE announced it had joined the NeighborWorks America charter.<sup>225</sup> With this came the “seal of approval” from HUD and federal funding. NeighborWorks funding also increased—from just over \$250,000 in 2008, the year before the announcement, to over \$700,000 in 2013 alone. In total, since 2008, AAFE has received over \$4 million in grants from NeighborWorks.<sup>226</sup> Some have not only lamented, but have charged that the AAFE has left its activist routes to become no more than a “housing developer.” As the *New York Times* described it:

Down from the ramparts, fists unclenched, their protest signs long ago set aside, Asian Americans for Equality -- leaders among a cadre of community groups that brought thousands of demonstrators into the streets of Chinatown and to the steps of City Hall in the mid-1970's -- is now a major landlord and residential developer.

That same article published the following criticisms:

“I think AAFE has aligned itself with business interests and political interests at the expense of Chinatown's residential and low-wage workers,” said Margaret Fung, executive director of the Asian American Legal Defense and Education Fund. “They want to acquire properties or city-owned buildings so that they can be the developers, instead of some other group. They favor themselves.”

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<sup>224</sup> Richard Brookhiser, “The Resistable Rise of Margaret Chin”.

<sup>225</sup> Ed Litvak “Asian Americans for Equality Joins NeighborWorks,” *The Lo-Down*, November 25, 2009, <http://www.thelodownny.com/leslog/2009/11/asian-americans-for-equality-joins-neighborworks.html>

<sup>226</sup> NeighborWorks, Internal Revenue Service, Form 990, 2008- 2013. The total payments to AAFE amounted to \$4,042,824.00.



Former City Councilwoman Kathryn E. Freed, now out of office because of term limits, was challenged by an AAFE official, Margaret Chin, in the 1990 election. Still, she said recently: “My attitude as a councilmember was that I wasn’t going to cut them off because we were not friends. I never got complaints from people in their buildings. I think they’ve done good work for the community; *it doesn’t mean they didn’t get their piece of the pie.*” (emphasis added)<sup>227</sup>

As Alinsky advised, “...do what you can with what you have and clothe it with moral garments... Availability of means determines whether you will be underground or above *ground*; whether you will move quickly or slowly.”<sup>228</sup> Above ground had not worked so well for the CWP but it seemed that going underground clothed in the moral garments of civil rights and housing for the poor, the AAFE and Chin became a force in New York politics. Chin and her comrades have abided by Alinsky’s Tenth Rule.

The current philosophical and political leanings of AAFE can be demonstrated in the story of John Choe. Mr. Choe has made no secret of his support for the North Korean government. The *New York Post* referred to him as “the apologist for communist North Korea.”<sup>229</sup> He has organized frequent trips to North Korea through an organization he runs called Nodutdol for Korean Community Development which some believe to be no more than a propagandist group and others believe to be under the direct control of North

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<sup>227</sup> Dennis Hevesi, “Chinatown Journey: From Protesters to Developers,” *New York Times*, January 12, 2003, <http://www.nytimes.com/2003/01/12/realestate/chinatown-journey-from-protesters-to-developers.html>.

<sup>228</sup> *Rules for Radicals*, 36.

<sup>229</sup> “Liu’s Cashiered Comrade” *New York Post*, October 5, 2011, <http://nypost.com/2011/10/05/lius-cashiered-comrade/>.



Korea.<sup>230</sup> The program/trip is referred to as the "Democratic People's Republic of Korea Exposure & Education Program."<sup>231</sup>

Choe's affinity for communist Korea is such that he spent his honeymoon there. On May 13-14, 2006, as representative for the "Korea Truth Commission," he addressed the conference in New York City sponsored by the Workers World Party – "Preparing for the Rebirth of the Global Struggle for Socialism." In his comments in opposition to the Free Trade Agreement then being negotiated between the United States and South Korea he stated:

Next month, from June 4 to 9, Korean workers, peasants and activists are going to bring the war against imperialism to the belly of the beast, and stage protests in D.C.<sup>232</sup>

In the same speech Choe pronounced:

Korea is at the frontlines of the liberation struggles against imperialism.... From the very beginning, when the U.S. intervened and occupied Korea, the Korean people have been resisting and struggling. And I urge all of you here to help us in our dark days trying to win back our freedom and independence from the United States and its military.<sup>233</sup>

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<sup>230</sup> Ibid.

<sup>231</sup> Dana Rubinstein, "Red star over Flushing: Just how menacing was John Lui's impolitic, departed aide, really?" *Politico*, October 9, 2011, <http://www.politico.com/states/new-york/albany/story/2011/10/red-star-over-flushing-just-how-menacing-was-john-lius-impolitic-departed-aide-really-000000>.

<sup>232</sup> "Support Korean workers & peasants," *Workers.org*, May 26, 2006, <http://www.workers.org/pdf/2006/ww060106.pdf>.

<sup>233</sup> Rubinstein, "Red star over Flushing...", <http://www.politico.com/states/new-york/albany/story/2011/10/red-star-over-flushing-just-how-menacing-was-john-lius-impolitic-departed-aide-really-000000>.



Choe is a longtime friend and confidant of John Liu, a well-known political figure in New York City. He served as Chief of Staff during Liu's years on the City Council. After Choe failed to win his own council seat, he worked on Liu's comptroller campaign until his comments made at the May 2006 conference came back to haunt him and he pulled off the campaign. As the *New York Post* reported it, after Liu was elected as Comptroller he "secretly hired" Choe as his Policy Chief. Choe later left his position with Liu to which the *New York Post* quipped, "Guess Comptroller John Liu is serious about a mayoral run. He's kicked to the curb a longtime aide too toxic even for famously liberal New York." However, New Yorkers soon learned was that Choe was not too toxic for the AAFE. Choe landed at the AAFE. *Politico* reported at the time:

The AAFE is a well-established community-service organization that helped launched the careers of Councilwoman Margaret Chin and Oakland mayor Jean Quan. Choe's job will be to handle economic development issues.<sup>234</sup>

Mr. Choe has been associated with Ms. Chin and others connected with the Communist Workers Party and its progeny.<sup>235</sup> The AAFE, a charter member of NeighborWorks America, has some affinity for characters like Choe or at the very least has no aversion to the avowed socialist and North Korean sympathizer who deplores the "imperialist United States." Like so many other NeighborWorks affiliates, the organization seems to be a launching pad for political careers for liberal progressive leadership. Chin

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<sup>234</sup> Ibid.

<sup>235</sup> Picture of John Choe, Margaret Chin, Ellen Young, and Christopher Kui (executive director of AAFE), [http://keywiki.org/images/8/89/Flushing\\_Apts\\_pic\\_1\\_08\\_28.jpg](http://keywiki.org/images/8/89/Flushing_Apts_pic_1_08_28.jpg).



was elected to the City Council District 1 seat after having run and lost in the Democratic Party primary election in 1991, 1993, and 2001 during which time she was associated with and working for AAFE.<sup>236</sup>

### Neighborhood Housing Services of Los Angeles County

Neighborhood Housing Services of Los Angeles County (NHSLA), a charter member of the NeighborWorks America national network, was incorporated in 1984.<sup>237</sup> It has grown from a small local housing agency to the largest, nonprofit affordable homeownership provider in Southern California and currently employs 45-50 full-time employees. From 2004 through 2013, NeighborWorks gave approximately \$9.1 million in grants to NHSLA.<sup>238</sup>

Some of the organization's past dealings show many have benefited from the work of the Los Angeles based nonprofit. Raul Bocanegra, a Democrat who served in the California State Assembly representing District 39 from 2012-2014, currently running for office in 2016, allegedly improperly secured a zero-interest mortgage loan for \$50,000 in 2005 with the help of Ron Martinez, a broker with NHSLA. When contacted by the *Los Angeles Times*, NHSLA, citing company policy, declined to answer any questions or even acknowledge whether Bocanegra was a client. Bocanegra, at the time, was serving as City Councilman Alex Padilla's economic deputy, and reportedly worked on numerous

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<sup>236</sup> "Margaret S. Chin," <http://www.margarechin.nyc/aboutmargaret>.

<sup>237</sup> "About Us," *Neighborhood Housing Services of Los Angeles County*, <http://www.nhslacounty.org/about>.

<sup>238</sup> NeighborWorks, Internal Revenue Service, Form 990s, 2004-2013.



development projects in the San Fernando Valley in an official capacity that gave him an inside track. The *Los Angeles Times* referred to the loan as a “city loan.”<sup>239</sup> However, a search for properties owned by Raul Bocanegra demonstrates that he purchased a home in 2005 for \$370,000 and received a loan from NHS Neighborhood Lending Service in the amount of \$50,000. At the time Bocanegra received the loan, he was a board member for Pacoima Partners, which was formed in the mid-2000s to shepherd a \$1.6 million project to renovate the area. He was also a member of the board for Pacoima Beautiful.<sup>240</sup> The allegation was that his involvement with these nonprofits provided him access to inside information regarding a development project to renovate and sell 28 condominiums in the Pacoima community. Despite “a waiting list of more than 200 people interested in the affordable units,” Bocanegra was afforded the opportunity to purchase one of the condominiums for \$370,000, at a time when real estate in that area averaged more than \$500,000. Large amounts of public funding flows through the federal government – ostensibly to organizations whose purpose is to serve the poor. Instead, these organizations spend money on developments with half million dollar homes and award them to political leaders.

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<sup>239</sup> Catherine Saillant, “Richard Alarcon accuses rival of ‘insider trading’” *Los Angeles Times*, April 24, 2012 <http://articles.latimes.com/2012/apr/24/local/la-me-alarcon-race-20120424>; “Raul Bocanegra” *Ballotpedia* [https://ballotpedia.org/Raul\\_Bocanegra](https://ballotpedia.org/Raul_Bocanegra)

<sup>240</sup> Pacoima Partners, Internal Revenue Service, Form 990, 2004; Tiffany Hsu, “Main Street Economic Renaissance planned for Pacoima,” *Los Angeles Times*, September 4, 2014 <http://www.latimes.com/business/realestate/la-fi-property-report-pacoima-20140904-story.html>; Pacoima Partners, Internal Revenue Service, Form 990, 2013; “Community Planning,” *Pacoima Beautiful*, accessed October 6, 2016, <http://www.pacoimabeautiful.org/what-we-do/community-planning>.



As further evidence of inappropriate dealings between public officials and NHSLA it was alleged that shortly before NHSLA brokered the housing deal and provided the zero interest loan, it donated \$500 to Alex Padilla campaign for LA City Council. Additionally, its Vice President and Chief Program Officer each made \$500 contributions.<sup>241</sup> The allegation was that these three contributions were subject to aggregation pursuant to Los Angeles Municipal Code 49.7.2, and, once aggregated, exceeded the \$1,000 per person contribution limits, established under Charter 470(c)(4), by \$500. A review of other contribution records shows that NHSLA made a \$300 contribution to the campaign for Democrat Representative Diane E. Watson as did the Executive Director of NHSLA, Lori Gay, in 2009. Gay had given \$1,000 to the Watson campaign in 2001.<sup>242</sup> Why is a 501(c)(3) housing development organization, which exists ostensibly to assist the poor and has a large part of its funding from public sources, giving campaign contributions?

## Future Tense

The DOJ targets one financial institution after another. In some cases, these banks have good CRA scores and in many cases there are no apparent issues with the bank's behavior or activities. The DOJ relies upon cookbook pleadings that may or may not bear any real relationship to the activities or business practices of a particular bank. The

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<sup>241</sup> *LA City Ethics Commission*, accessed on October 3, 2016, Search for "Alex Padilla," [https://ethics.lacity.org/disclosure/campaign/search/public\\_search.cfm?pubsearchstep=2&rept\\_type=ALLCon](https://ethics.lacity.org/disclosure/campaign/search/public_search.cfm?pubsearchstep=2&rept_type=ALLCon).

<sup>242</sup> "Diane Watson," Contribution page, *OpenSecrets*, entry 88 on the list of donors, <http://www.opensecrets.org/politicians/contrib.php?cycle=2010&cid=N00013744&newMem=N&recs=100>; "Lori Gay," Contribution page, *OpenSecrets*, <https://www.opensecrets.org/indivs/search.php?name=lori+gay&cycle=All&sort=R&state=&zip=&employ=&cand=&submit=Submit>.



mandatory and incentivized payments made through consent orders over the last three years suggest a growing partiality of the federal government towards third-party left-leaning organizations.

### A Rising New Star

In January 1993, an article in *Chicago Magazine* described how “a huge black turnout in November 1992 altered Chicago's electoral landscape-and raised new political star.”<sup>243</sup> Leading up to the election George Bush had been making gains on Bill Clinton in Illinois. Carol Moseley Braun who had previously been seen as “unstoppable” was on the ropes amidst allegations regarding her mother’s Medicare liability. Even so, she was able to win her seat and Bill Clinton won the state. The article attributed their success to “...the most effective minority voter registration drive in memory...” which was the result of the efforts of Project Vote. At the helm of Project Vote was a young lawyer named Barack Obama.

Sandy Newman, a lawyer and civil rights activist who founded Project Vote explained the work of the nonprofit organization in the election as follows:

Project Vote! is nonpartisan, strictly nonpartisan. But we do focus our efforts on minority voters, and on states where we can *explain to them why their vote will matter*. Braun made that easier in Illinois. (*emphasis added*)

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<sup>243</sup> Gretchen Reynolds, “Vote of Confidence,” *Chicago Magazine*, January 1, 1993, accessed September 14, 2016, <http://www.chicagogamag.com/Chicago-Magazine/January-1993/Vote-of-Confidence/>.



Project Vote’s work in voter registration was hailed as the reason Braun was elected drawing a direct correlation with voter registration activities and election outcomes. Indeed, in another portion of the article the writer contrasts the old way of doing things and the new paradigm created by Mr. Obama's efforts through the nonprofit:

To understand the full implications of Obama’s effort, you first need to understand how voter registration often has worked in Chicago. The Regular Democratic Party spearheaded most drives, doing so using one primary motivator: money. The party would offer bounties to registrars for every new voter they signed up (typically a dollar per registration). The campaigns did produce new voters. “But bounty systems don’t really promote participation,” says David Orr, the Cook County clerk....

The article suggests that the old political engine previously supplied by the “Regular Democratic Party” had now been replaced by a 501(c)(3) nonprofit and its leader, Barack Obama.<sup>244</sup>

### Catalist and Nonprofit VOTE and the New Normal

In the summer of 2016, a hacker known as Guccifer 2.0 broke into the Democratic National Committee (DNC) servers and divulged a confidential document from the Wyss Foundation<sup>245</sup> Democracy Strategy Discussion Memo. Debbie Wasserman-Schultz, the

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<sup>244</sup> Ibid.

<sup>245</sup> “Hansjorg Wyss,” *Wyss Foundation*, accessed September 30, 2016, <http://wyssfoundation.org/about-the-wyss-foundation/hansjorg-wyss/>. Hansjörg Wyss, a native of Switzerland after completing school in the United States started a successful medical research and design company, headquartered in West Chester, Pennsylvania. He sponsors philanthropic “endeavors that expand the reach of human possibility and compassion.”



former chair of the DNC, who recently resigned following allegations of corruption, acknowledged that a hacker accessed DNC servers. The document posted by the Washington Free Beacon lays out the strategy for coming elections.

The internal memorandum states:

Unmarried women, youth, and people of color – low-income populations who *tend to be reliably progressive* on economic and women’s inequality issues—do not participate equally in the democratic process. (*emphasis added*)

Then the memorandum outlines the solution:

The ultimate goal of the Democracy Program is to create systemic change that will result in the government taking responsibility for all citizens voting (without philanthropy) by:

- Remove Barriers to voting through defensive litigation and advocacy on voting law
- Create permanent government-based, registration systems and
- *Help large service providers, like community health centers, register their clients.* (*emphasis added*)

Then this caution:

If we don’t invest heavily in the Democracy strategies now, there is a risk that our ability to drive our issue agenda will be severely curtailed. These investments lay the groundwork for robust, transformative issue campaigns.

As the memorandum sets out a strategy for transforming the electorate it suggests that “service based groups” could be mobilized to increase “civic participation” of low-income clients. It further states when referring to these nonprofit groups:



Foundations can support non-partisan registration and get out the vote efforts (GOTV). Recent data driven innovations allow these techniques to be targeted to under-represented populations. At the same time, ten years of testing has lowered the cost and increased the effectiveness of mail, online, and in-person methodologies. If applied at-scale in areas with fast growing Latino and African-American populations, rigorously executed engagement could transform the electorate in just a few years.

This memorandum might not have aroused as great a concern had it not been for the fact that we had already identified two organizations working together to accomplish precisely what the memorandum suggested as a role for “service based groups” (which would certainly include housing) and foundations.<sup>246</sup>

Billionaire George Soros founded data utility company, Catalist, to mobilize liberal voters through nonprofits. Catalist provides the advanced data analysis necessary for micro-targeting and is building a base of voters and contributors for the exclusive use of progressive left-leaning groups. Its compatriot is an organization called Nonprofit VOTE whose goals include providing "high quality resources for nonprofits and social service agencies to promote voter participation and engage with candidates on a nonpartisan basis."<sup>247</sup> Their website mentions that Nonprofit VOTE is a nonpartisan organization, and they acknowledge the demographics of the voters that nonprofits are most likely to reach

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<sup>246</sup> “Wyss Foundation Democracy Strategy Discussion Memo,” *Washington Free Beacon*, accessed October 6, 2016, <http://freebeacon.com/wp-content/uploads/2016/06/wyss-memo.pdf>.

<sup>247</sup> “Our Mission” *Nonprofit VOTE*, accessed October 3, 2016, <http://www.nonprofitvote.org/our-mission/>.



are “young, low-income, and diverse populations.”<sup>248</sup> Studies have shown that this demographic is most likely to vote Democrat. As the Wyss memorandum points out these populations “tend to be reliably progressive on economic [...] issues.”<sup>249</sup>

In 2012 and 2014 Nonprofit VOTE ran pilot projects to increase voter turnout through nonprofits. The project report acknowledged the help of Catalist, LLC, an organization that “works with and for data-driven progressive organizations to help them effect change: issue advocates, labor organizers, pollsters, analysts, consultants, campaigns, and more.”

The two stated goals of the project were to:

- “For nonprofits already doing voter engagement and those considering it, the goal of Track the Vote program was to provide tangible data to assess the impact of nonprofits on increasing voter participation—using that data to ground their work in outcomes and make the case for voter engagement as an ongoing priority.”
- “An additional goal was to offer direction to those who provide resources to the nonprofits that undertake this kind of civic engagement activity.”<sup>250</sup>

Nonprofit VOTE focused on increasing voter turnout for “underrepresented populations.”

One of their findings was as follows:

The demographic profile of people contacted by the nonprofits supports the idea that nonprofits reach underrepresented populations newer to the voting process.

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<sup>248</sup> “Nonprofit VOTE 2012: Nonprofits Mobilize the Vote,” *NonProfit VOTE*, accessed October 3, 2016, <http://www.nonprofitvote.org/documents/2013/03/nonprofit-vote-2012.pdf>.

<sup>249</sup> “A Deep Dive into Party Affiliation,” *Pew Research Center*, April 7, 2015, <http://www.people-press.org/2015/04/07/a-deep-dive-into-party-affiliation/>.

<sup>250</sup> “Can Nonprofits Increase Voting Among their Clients, Constituents, and Staff? An Evaluation of the Track the Vote Program, Part I,” *NonProfit VOTE*, 5, <http://www.nonprofitvote.org/documents/2013/07/can-nonprofits-increase-voting.pdf>.



Compared to all registered voters, the people nonprofits reached were disproportionately younger, Latino, African American, lower income, and female.<sup>251</sup>

Nonprofit VOTE used data provided by Catalist. In return, the 129 nonprofits that participated in the pilot program collected and supplied data on voters back to Catalist. The report noted that the nonprofits had found ways to “...integrate voter engagement into their ongoing services, classes, or other organizational activities including scheduled events.” This voter engagement did not end there but continued to the election with education and mobilization of micro-targeted voters.

The following provides a summary of the report’s findings:<sup>252</sup>

- The clients and constituents engaged by nonprofits were markedly more diverse, lower income, and younger than all registered voters in the seven states, made up of populations with a history of lower voter turnout in past elections.
- Those contacted were almost twice as likely to be young voters under 30, more than the three times as likely to be Latino or African American, and nearly four times as likely to have a household income under \$25,000. Comparing Voter Turnout Rates
- Voters contacted by nonprofits voted at a higher rate than the average turnout for all registered voters. Voter turnout among the clients and constituents that nonprofits registered or collected pledges from (“nonprofit voters”) was 74%, six points above the 68% turnout rate for all registered voters. In fact, nonprofit voters outperformed their counterparts across all demographic groups studied.
- Nonprofits were particularly effective at increasing voter turnout among groups that are traditionally underrepresented in the electoral process. Voter turnout of nonprofit voters compared to all registered voters was 18 points higher for Latino voters (72% vs. 54%), 15 points higher for voters under 30 years old (68% vs. 53%), and 15 points higher for voters with household incomes under \$25,000 (68% vs. 53%).
- Disparities in voter turnout by age, income, race and ethnicity narrowed or disappeared among voters engaged by the nonprofits compared to the large turnout gaps evident among registered voters in Census data and the data in this report.

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<sup>251</sup> Ibid., 18.

<sup>252</sup> Ibid., 1-2.



- The intervention by nonprofits had its biggest impact on turnout among least-likely voters – those that campaigns typically disregard based on low “voter propensity scores” assigned before the election to predict their likelihood to vote. The nonprofit voters with the lowest voting propensity scores were three times more likely to vote than their low-propensity counterparts among all registered voters.

The report identified as among “success factors” in the efforts of successful voter engagement by nonprofits the assignment of “...voter engagement activities to staff who had compatible workloads and schedules, such as outreach and marketing teams or those signing clients up for benefits,” and the use of “...a range of agency-based strategies to engage voters, finding venues where they had the time and opportunity to talk their clients and constituents about the election and voter registration during services, in classes and meetings, and at agency-related events.”<sup>253</sup>

These nonprofits were not privately funded, but instead relied on generous government funding through grants and contracts and the proceeds from DOJ settlements. In many cases, they were almost completely publicly funded. This system was comparable to the old time political machine. The patronage is the benefits individuals receive from the nonprofit organization. An example are mortgages where the terms are “too good to be true.”

In return members identify, recruit, register and mobilize voters who will vote in almost completely predictable patterns all the while waving the flag of nonpartisanship and housing. Why such an emphasis on “civic engagement” for organizations whose stated

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<sup>253</sup> Ibid., 2.



mission is to provide services to the poor? Was it to build a reliable constituency that will influence government institutions with progressive ideology for years to come? These nonprofit employees and officers in their dual role as employees of the government funded nonprofit and as a grassroots voter mobilization team become a publically funded army of activists.

## Conclusion

The evidence suggests that the left is using the DOJ and the power of the federal government to extract money from financial institutions for redistribution to progressive activists whose real intent is far more partisan than the housing and housing education for which they ostensibly exist. In an ironic twist, a recent voter registration effort at a Florida Chick-fil-A raised the ire of progressive activists who expressed concern over the probable political bent of the restaurant's clientele.<sup>254</sup> Susan McGrath, who leads the Pinellas County Democratic Executive Committee, compared efforts to hold registrations at nine local Chick-fil-As to Democrats holding them at Planned Parenthood offices. Given the findings in this report, that not only would not surprise, it would fall right in line with the modus operandi of the recipients of cash from these Consent Orders.

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<sup>254</sup> "Florida Democrats clucking over voter registration drives at local Chick-fil-A," *Fox News*, September 30, 2016, <http://www.foxnews.com/leisure/2016/09/30/florida-democrats-clucking-over-voter-registration-drives-at-local-chick-fil/>.



How much more have progressive elements of the nation’s political landscape targeted those who tend to vote for progressive candidates? Catalyst<sup>255</sup> and Nonprofit VOTE mobilize these federally funded nonprofits, outwardly designed to assist with housing and housing education, to get the vote out for those who “tend to be reliably progressive.”<sup>256</sup> The old time political machine has been replaced by these nonprofits and a system of patronage now operates with the imprimatur of the DOJ. The DOJ has instituted a system that provides significant funding for nonprofit “community organizers” through a pattern of extortive lawsuits. This system, wherein appointed attorneys can legally extract money from the private sector and redistribute the funds to third-party organizations outside of the appropriations process, shows an unprecedented and extraordinary disregard for Congressional authority.

Of as much concern are our unexpected findings; federal, state and even local governments were already funding these organizations through millions of dollars of grants and contracts. The actions of the DOJ represent only the latest installment in efforts to fund political activism through government directed funds, having now instituted a method of funding through an opaque process not subject to the scrutiny of an elected Congress or public examination.

It is imperative that these matters be investigated and addressed immediately by Congress. When the inordinate power and resources of the federal government can be brought to bear on the political process to tip the scales in favor of one party over another, it is a death knell for constitutional and free elections – even our system of government and its associated

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<sup>255</sup> “George Soros reinvests in progressive-cause data company,” *CNN*, November 14, 2013, <http://politicalticker.blogs.cnn.com/2013/11/14/george-soros-reinvests-in-progressive-cause-data-company/>.

<sup>256</sup> “Wyss Foundation Democracy Strategy Discussion Memo,” *Washington Free Beacon*, accessed October 6, 2016, <http://freebeacon.com/wp-content/uploads/2016/06/wyss-memo.pdf>.



freedoms. The DOJ and the progressive movement is well on its way to the accumulation of power in “the same hands,” and this, in Madison’s words, “...may justly be pronounced the very definition of tyranny.”

