



Advocates for Government Accountability

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A 501(c)(3) NONPROFIT CORPORATION

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November 21, 2011

**VIA U.S. MAIL**

The Honorable Loretta Lynch  
United States Attorney  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, NY 11201

**RE: New York Communities for Change**

Dear Ms. Lynch:

We write on behalf of Cause of Action, an independent 501(c)(3) public interest group that uses public advocacy and legal reform strategies to ensure greater transparency in government, protect taxpayer interests and promote economic freedom.

On November 7, 2011, Chairman Darrell Issa of the United States House of Representatives Committee on Government Oversight and Reform, sent your office a letter outlining his concerns that “New York Communities for Change (NYCC)-an organization closely tied to the now-defunct New York chapter of The Association of Community Organizations for Reform Now (ACORN)-engaged in fraud through its participation in the Occupy Wall Street protests. Specifically, it is alleged that NYCC solicited donations from union members under false pretenses and misappropriated those funds to support the protesters.”<sup>1</sup> Chairman Issa went on to note that “NYCC’s office is located in a space formerly held by ACORN, and NYCC employs many former ACORN staffers, including New York’s former ACORN director.”<sup>2</sup>

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<sup>1</sup> Letter from Hon. Darrell Issa, Chairman, Committee on Government Oversight and Reform, U.S. House of Representatives to Hon. Loretta Lynch, U.S. Attorney, Eastern District of New York (Nov. 7, 2011), *available at*: <http://crocodoc.com/uoT2npG?embedded=true> (hereinafter “Issa Letter”).

<sup>2</sup> *Id.*; citing Jana Winter, *Exclusive: ACORN Playing Behind Scenes Role in ‘Occupy’ Movement*, FOXNEWS, October 26, 2011, *available at* <http://www.foxnews.com/us/2011/10/26/exclusive-acorn-playing-behind-scenes-role-in-occupy-movement/?test=latestnews>.

We recently wrote to IRS Commissioner Douglas Shulman detailing how ACORN used and abused fiscal sponsorships in order to receive tax-exempt dollars for non-exempt activities.<sup>3</sup> As the IRS has stated, a “fiscal sponsorship” occurs “when one or more charities choose to financially support another charity or nonexempt project.”<sup>4</sup> In essence, ACORN’s fiscal sponsors collected tax-exempt donations, which they then funneled to ACORN for non-exempt activities.

Along those same lines, we are concerned that NYCC may be engaged in improper fiscal sponsorship arrangements with New York Communities Organizing Fund, Inc. (NYCOF), the American Environmental Justice Project (AEJP),<sup>5</sup> and the New York Agency for Community Affairs, Inc. (NYACA), all 501(c)(3) tax-exempt organizations.

In its 2010-2011 Annual Report, NYCOF described NYCC as its “sister organization”<sup>6</sup> and noted that the two organizations shared space,<sup>7</sup> which, as noted by Chairman Issa, was the same space formerly occupied by ACORN.<sup>8</sup> Similarly, filings NYCC made with the Internal Revenue Service notes that it expects to receive \$9,500 from AEJP in 2010.<sup>9</sup> According to AEJP’s 2008 Form 990, AEJP’s offices are located on the same floor of the same building that once housed ACORN Institute: 2609 Canal Street, 4<sup>th</sup> Floor, New Orleans, Louisiana.<sup>10</sup> Also occupying space in 2609 Canal Street, 4<sup>th</sup> Floor, was NYACA, which the Justice Department Office of Inspector General found “NYACA to be an affiliate of ACORN because it acted as a fiscal agent for ACORN[.]”<sup>11</sup> According to NYCC documents, NYACA has entered into an agreement with NYCC to “carry out their complimentary purposes in an economical and efficient manner.”<sup>12</sup>

The similarities between NYCOF and NYCC, and particularly between AEJP and NYCC and NYACA and NYCC, are striking in that their relationships bear many of the characteristics

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<sup>3</sup> Letter from J. Keith Gates, Senior Attorney, Cause of Action to Hon. Douglas Shulman, Commissioner, Internal Revenue Service (Oct. 21, 2011) (attached hereto).

<sup>4</sup> 94 TNT 71-46.

<sup>5</sup> As AEJP is located in New Orleans, Louisiana, we have copied the Hon. Jim Letten, U.S. Attorney for the Eastern District of Louisiana, on this letter.

<sup>6</sup> 2010-2011 Annual Report, New York Communities Organizing Fund, Inc., *available at* <http://www.nycofi.org/wp-content/uploads/2011/10/NYCOFI-Annual-Report-2010-2011.pdf>.

<sup>7</sup> *Id.*

<sup>8</sup> See Issa Letter, *supra* note 1.

<sup>9</sup> New York Communities for Change, Inc., Application for Recognition of Exemption Under Section 501(a) (Apr. 8, 2010), *available at*: [http://bartlett.ag.ny.gov/Char\\_Forms/getcontent?guid={27F8CBBC-1617-428E-8E4F-FFE77EA3F7D4}&orgid=41-85-33&title=IRS%20Tax-Exempt%20application&project=Charities](http://bartlett.ag.ny.gov/Char_Forms/getcontent?guid={27F8CBBC-1617-428E-8E4F-FFE77EA3F7D4}&orgid=41-85-33&title=IRS%20Tax-Exempt%20application&project=Charities).

<sup>10</sup> Cf. American Environmental Justice Project, Inc., Return of Organization Exempt from Income Tax, 2008, *available at* <http://www.guidestar.org/FinDocuments/2008/721/364/2008-721364034-0556b38b-Z.pdf>; ACORN Institute, Return of Organization Exempt from Income Tax, 2007, *available at* <http://www.guidestar.org/FinDocuments/2007/721/488/2007-721488419-04ae23bd-9.pdf>.

<sup>11</sup> U.S. DEPARTMENT OF JUSTICE, OFFICE OF INSPECTOR GENERAL: REVIEW OF DEPARTMENT OF JUSTICE GRANTS TO THE ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW, INC. (ACORN) AND ITS AFFILIATED ORGANIZATIONS (2009) (attached hereto in Exhibits, p. 6).

<sup>12</sup> New York Communities for Change, Inc., Application for Recognition of Exemption Under Section 501(a), *supra* note 9.

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of improper fiscal sponsorship which was the focus of our investigation and subsequent letter to Mr. Shulman. We encourage you to consider investigating these relationships as part of your investigation into NYCC, and take appropriate action.

Thank you in advance for your consideration of this matter. If I may be of further assistance, please do not hesitate to contact me at [Keith.Gates@causeofaction.org](mailto:Keith.Gates@causeofaction.org) or (202) 507-5880. With warmest regards, I am

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Keith Gates", written in a cursive style.

J. KEITH GATES  
SENIOR ATTORNEY

cc: Hon. Jim Letten  
Victor S. O. Song, Chief, Criminal Investigation, IRS

Encl.: October 21, 2011 Letter to IRS Commissioner Douglas Shulman on Fiscal Sponsorship