

Exhibit F

AFFIDAVIT OF JAMES DICKSON

James Dickson, having been duly sworn, hereby states as follows:

1. I have personal knowledge of the facts set forth below, and if called to testify could and would testify competently thereto.
2. I am the Vice President for Government Affairs at the American Association of People with Disabilities ("AAPD"). I have held this position since 2001. As AAPD's Vice President for Government Affairs, I oversee, coordinate, and supervise all of AAPD's voter registration and election-related work. I am a legally blind citizen of the United States residing in Washington, DC.

American Association of People with Disabilities ("AAPD")

3. Founded in 1995, AAPD is the largest national nonprofit cross-disability organization in the United States. AAPD is dedicated to ensuring economic self-sufficiency and political empowerment for the more than 56 million Americans with disabilities. We are a nonprofit, nonpartisan advocacy organization incorporated in Washington, DC as a 501(c)(3) tax-exempt charity pursuant to the Internal Revenue Code and based in Washington, DC.
4. AAPD has approximately 86,500 individual members nationwide (including in New Mexico), some active and others inactive, all of whom have received AAPD's quarterly newsletter.
5. AAPD also generates email communications, such as e-mail alerts about particular disability issues, to individuals on four different Internet mailing lists; the

individuals who are signed up for AAPD's electronic mailing lists include both AAPD members and nonmembers.

6. AAPD is a recognized authority regarding the political participation of people with disabilities. AAPD has been consulted by local, state, and national election officials, as well as by state legislatures and the Congress of the United States, regarding how to increase election participation by people with disabilities. AAPD accomplishes its mission of increasing the political power of Americans with disabilities by encouraging voter registration, nonpartisan voter education, and nonpartisan voter participation among the disabled.

AAPD's Prior Voter Registration Activities

7. AAPD has been registering Americans with disabilities to vote nationwide since 1995. I have personally helped with nonpartisan voter registration drives since 1982. I supervise and direct all of AAPD's voter registration work nationwide, including our work in New Mexico.

8. AAPD research indicates that people with disabilities represent a very large segment of those Americans who are not registered to vote. Although state agencies have a legal responsibility to offer voter registration to their consumers, AAPD's analysis shows that agencies are not properly implementing the law. Voter registration is therefore a crucial component of our organization's work.

9. AAPD registers voters in two ways:
 - a. First, we register our own members by communicating with them directly and providing them registration forms through the mail and at various disability events, meetings, and conferences.
 - b. Second, we run comprehensive, large-scale voter registration programs by establishing coalitions of state-specific disability organizations, many of whose members are also AAPD members, and training those organizations to register voters.

10. I personally travel to different states to run meetings and trainings and coordinate the coalition-based voter registration process. The process of establishing the coalition, training the members in voter registration, and undertaking voter registration activities is a huge commitment of time and resources.

11. The specific approach to each coalition-based voter registration program is localized based on the resources and needs of the organizations involved. I understand that some coalition members use voter registration drives to increase their own membership or the membership of AAPD. This very much depends on the particular coalition.

12. Often, coalition organizations mail voter registration forms to nonregistered members or clients, calling before and after the mailing to explain the voter registration process and answer questions, provide assistance, and make sure the form is returned. Each coalition decides independently whether registration forms are sent back

to the organization or directly to the state. This is a question of resources (i.e., whether the organization can afford to pay for postage).

13. Coalition members also engage in voter registration through disability conferences, meetings, events, and routine contact with their clients. AAPD trains coalition members to incorporate voter registration into all of their activities.

14. AAPD and coalition members provide a range of assistance with completion of forms. AAPD often needs to provide more assistance than would organizations registering nondisabled voters. For example, some blind and physically handicapped voters cannot fill out voter registration forms by themselves; in such cases, volunteers complete the forms for the registrants. Sometimes volunteers will travel to a member or client's home to assist with completion of the form. Other times, they provide assistance by answering questions over the phone.

15. AAPD also engages in nonpartisan voter-education programs. For example, AAPD operates a voter-project list-serve that provides voting-related information, including voter registration and election information, to approximately 470 members who have requested such information. AAPD currently provides voting information to its members in New Mexico via e-mail updates and in its quarterly newsletter.

16. AAPD's newsletter, which is distributed nationwide to AAPD members (including members in New Mexico), almost always discusses the importance of voter registration, voter turnout, and how to make voting accessible to disabled citizens. Past newsletters have contained, for example, information about polling-place access (and

how to report polling-place inaccessibility to state election officials), updates regarding AAPD's Disability Vote Project (which aims to increase voter registration and participation among people with disabilities), and AAPD policy alerts for members. Each newsletter also contains an AAPD membership form.

17. AAPD also receives calls, including from New Mexico, regarding state election legislation, voter registration, and how to make voting accessible to disabled citizens.

18. AAPD also works to educate organizations that serve the disabled community. In the past, AAPD has undertaken this initiative for organizations in New Mexico. For example, in 2003 and 2004, AAPD helped prepare voter registration and election information for The Arc of New Mexico, American Council of the Blind of New Mexico, United Cerebral Palsy, Independent Living Centers in New Mexico, and other groups in New Mexico.

19. Finally, AAPD engages in training sessions regarding voter registration, turnout, and accessibility. In 2002 and 2003, I personally gave such national training sessions for the American Council of the Blind, United Cerebral Palsy, and National Learning Disability Association; New Mexico affiliates were present at each of these sessions. In 2003 or 2004, AAPD presented a national training for the National Institute for the Severely Handicapped ("NISH"), which I understand has facilities in New Mexico. In the summer of 2004, I was a presenter at the annual convention of the National Council for Independent Living ("NCIL"); the Executive Directors and other

staff from the New Mexico Independent Living Centers were in attendance at the conference, which was mostly dedicated to voting issues.

20. We generally advise the representatives from the disability-rights organizations to tie their voter registration and get-out-the-vote issues to the issues that are specific to the disability contingency that they serve. For example, we encourage organizations whose constituencies include the physically disabled to say, for example, “If you are concerned about accessible housing, you need to register and vote.” Similarly, we encourage organizations whose constituencies include blind citizens to say things like “If you are want more audible traffic lights, you need to register and vote.” My training sessions frequently involve asking each organization to isolate the top three issues for the group, and then we brainstorm on how to link those issues to the act of registering to vote and to voting itself. Individual organizations develop their own approaches depending on the issues that are important to their constituents. In addition, it is my experience that voter registration drives inevitably spark conversations regarding issues important to registrants.

**The Impact of New Mexico’s Voter Registration Law on
AAPD’s Voter Registration Activities in New Mexico**

21. New Mexico’s voter registration law severely burden’s AAPD’s ability to run a state-wide voter registration program through a coalition in New Mexico. As a result, AAPD has suspended efforts to establish a coalition in New Mexico and has decided not to establish a voter registration program in the state in 2008, despite our desire to do so. If the restrictions remain in place, AAPD voter registration efforts in New Mexico will be halted completely.

22. The civil and criminal penalties under the law are of particular concern. Risks of errors in connection with registering voters can be higher due to the disabilities of some of the registrants involved; when AAPD does voter registration, there could be, for example, a greater rate of incomplete registration forms or duplicate forms submitted. AAPD does not want to run the risk of legal liability, or have affiliated disability-rights organizations or individuals at risk for civil or criminal penalties, for mistakes. AAPD and AAPD-coalition groups are particularly susceptible to such fines because errors and mistakes are more likely when you are dealing with the disabled. Moreover, I believe that many of the organizations that we work with are under-funded and cannot risk wasting precious resources to pay fines.

23. The requirement that registration applications be filed with the Board of Elections no later than 48 hours after completion would have a severe impact on an AAPD-driven voter registration drive in New Mexico. AAPD-coalition groups would be unable to mail voter registration forms to clients with no way of ensuring that forms are returned to us (to return to the Board of Elections) within 48 hours. Even putting aside postal delays, it is unrealistic to expect some disabled people to mail the forms back that quickly, particularly if the organization involved requests that the form be mailed back to the coalition first for quality-control purposes. For example, transportation is difficult for many disabled people; citizens who are blind must sometimes wait days or weeks for a reader to read their mail; and people with hand limitations sometimes must wait for assistance to open envelopes.

24. In-person training presents a major obstacle for AAPD and would make it difficult to run our typical voter registration program in New Mexico. Because disabled people often lack adequate transportation—and it is my understanding that New Mexico in particular lacks good public transportation—it would be very difficult for AAPD-coalition groups to send all of their volunteers to centralized training sessions.

25. The certification requirement also presents a barrier for AAPD and AAPD-coalition groups. Many of our volunteers do not wish to be identified as disabled or publicly associated with a disability-rights organization. This is particularly true for individuals with psychiatric disorders or progressive diseases, who wish to keep their disability confidential because they fear discrimination. I understand that many potential volunteers would be unwilling to register their affiliation with a disability-rights organization with the State of New Mexico and would therefore be unable to act as third-party registration agents. I also believe that many potential voters would be unwilling to register to vote with a member of a disability-rights organization where they believe that that organizational affiliation could be traced to them via the registration process.

26. AAPD has decided that we cannot establish a coalition to run voter registration in New Mexico because of the current law. Roughly this time last year, Ramon Garcia, the organizer at the head of the state-wide coalition in Arizona that AAPD had helped to start (which consists of over 20 disability organizations in Arizona), contacted me to let me know that there were people in New Mexico that had approached him because they wanted AAPD to form a similar coalition to do comprehensive voter registration of disabled New Mexicans. The individuals that approached Ramon Garcia

worked for various Centers for Independent Living in New Mexico and the Statewide Independent Living Council in New Mexico.

27. Ramon Garcia and I had a conference call in the summer of 2007 with three Directors of Independent Living Centers in New Mexico and the a representative from the Statewide Independent Living Council about the possibility of beginning a New Mexico coalition with them and other disability organizations in the state. The potential penalties under the law were of particular concern to the representatives. On that call, we also discussed the requirements of New Mexico's voter registration law and the huge commitment of staff and resources that would be required to register disabled voters in New Mexico because of the law's requirements. For example, we discussed that:

- a. the 48-hour turn-around requirement of the law presented a particular barrier to two of the three interested Independent Living Centers because both centers (one serves a Native American reservation; the other is in a rural location in the mountains) were a considerable driving distance from the nearest county clerk's office; and
- b. the requirement that people attend training and register with the state before they may register voters was going to prove especially burdensome because the person delivering services to each disabled client is often the only person from the organization with whom the client interacts, and therefore everyone in the organization (staff, volunteers, leadership) would have to register with the state as a registration agent.

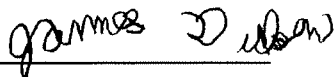
28. Having discussed New Mexico's third-party registration law as it related to the proposed plan to begin a New Mexico coalition, the Independent Living representatives indicated that they were frustrated to learn the constraints of the law and how it would impact efforts to coordinate registration of disabled voters in New Mexico. They were going to consider what to do (i.e., whether they were still interested in forming a coalition and registering disabled voters) and call us back. They never called back.

29. Given its size and population, New Mexico would be an ideal state for AAPD to set up a coalition. There is also a need in the state for increased voter participation by people with disabilities. According to United States Census data, there are over 300,000 voting-age people with disabilities residing in New Mexico, but only 37.9% of those individuals voted in 2000.

30. But we believe that New Mexico's current voter registration law makes it impossible for disability-rights organizations to register disabled voters in New Mexico. Consistent with this view and with our belief that AAPD must be judicious regarding where we put our limited time and resources, I did not follow up with the New Mexico Independent Living representatives after our telephone conference. I believe that, if not for this law, we would have successfully forged ahead and organized a coalition to run a statewide voter registration drive in New Mexico in 2008. But because of the law, we do not plan to form a New Mexico coalition.

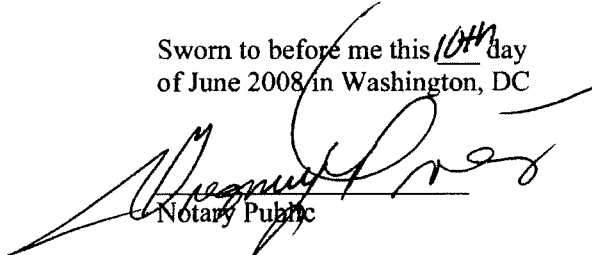
31. In sum, for the reasons discussed herein, I believe that New Mexico's voter registration law has impaired the ability of AAPD and AAPD-coalition groups to register voters in the State of New Mexico.

The foregoing is true and correct to the best of my knowledge.



James Dickson

Sworn to before me this 10th day
of June 2008 in Washington, DC



Notary Public

GREGORY PROCTOR
Notary Public, District of Columbia
My Commission Expires - September 30, 2008

Exhibit G

AFFIDAVIT OF LUCY STENSLAND LAEDERICH

Lucy Stensland Laederich, having been duly sworn, hereby states as follows:

1. I have personal knowledge of the facts set forth below, and if called to testify could and would testify competently thereto.

2. I am a citizen of the United States living overseas in Paris, France.

3. I have been a member of the Federation of American Women's Clubs Overseas, Inc. ("FAWCO") since 1980. I was the President of FAWCO from 1999-2001. Since 2001, I have served as the FAWCO U.S. Liaison, a position in which I am responsible for monitoring legislation that affects Americans living overseas, informing our members of important changes, representing our members' concerns in Washington, and coordinating our activities with other overseas citizens organizations.

4. In addition to my position at FAWCO, I also serve on the Advisory Board of the not-for-profit, non-partisan Overseas Vote Foundation, which seeks to help Americans living overseas to vote.

Federation of American Women's Clubs Overseas, Inc. ("FAWCO")

5. FAWCO was founded in 1931 and was later incorporated in New York State as a non-profit, non-partisan 501(c)(3) tax-exempt charity pursuant to the Internal Revenue Code. A recognized non-governmental organization (NGO) since 1995, FAWCO was granted special consultative status to the Economic and Social Council of the United Nations in 1997.

6. FAWCO is an international network of independent organizations, currently with 78 member organizations in 39 countries around the world. As our name suggests, our members are not individuals but are rather American clubs and



organizations that operate overseas. Our member organizations have over 16,000 constituent members. FAWCO is represented in Africa, Asia, Asia-Pacific, the Caribbean, Europe, the Middle East as well as North America and South America.

7. All persons who are affiliated with FAWCO are also members of one of our 78 member organizations around the world. For instance, I am affiliated with FAWCO by virtue of my membership in the Association of American Wives of Europeans ("AAWE") in Paris, France.

8. FAWCO does not have any paid employees. We are 100 % volunteer-staffed, and we operate on a two-year budget of approximately \$90,000, which is generated through member club dues, web-hosting fees, and paid advertising. FAWCO is governed by a six-person Board of Directors. We also have approximately 20 standing committees that direct certain of our activities. For instance, one of our standing committees is the FAWCO Voting from Overseas Committee, which is chaired by Mary Stewart Burgher of the American Women's Club in Denmark and focuses on promoting voter registration among Americans living abroad.

9. FAWCO's mission is to serve as a resource and channel of information for its member organizations, to provide a voice for American women abroad, to support the rights of all Americans worldwide, and to contribute actively to the global community with a specific focus on education, the natural and human environment, multicultural understanding, and international goodwill.

FAWCO's Voter Registration Activities

10. FAWCO was instrumental in obtaining the vote for overseas United States citizens in 1975. We have been involved in registering overseas citizens to

vote ever since, in particular since the passage of the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) in 1986, which requires the Department of Defense to administer a program helping Americans overseas to vote. FAWCO helps to facilitate voter registration drives by our member organizations because we believe that voting is a duty of all American citizens, and because our ability to address the concerns of overseas voters is dependent on our participation in the political process.

11. In particular, FAWCO helps United States citizens living abroad to register to vote through the following activities:

- a. Each year, FAWCO holds a four-day conference for approximately 100-200 delegates from our constituent organizations, including the members of the FAWCO Board and the Chairs of some of our standing committees. At each conference held in a federal election (even-numbered) year, we hold a two-hour training session during which we train attendees how to register Americans living abroad to vote. At that conference, we have a representative of the Federal Voting Assistance Program (“FVAP”) in attendance to discuss with our volunteers the rules governing registration of overseas voters. We also have a separate 1-2 hour session at every conference devoted to issues relating to the way that Americans living overseas can interact with institutions in the United States more generally.
- b. As a follow-up to our annual conference, Mary Stewart Burgher, the current chair of our Voting from Overseas Committee, provides additional information about new voting developments to volunteers

who have expressed an interest in voting issues, primarily through e-mail correspondence throughout the year.

- c. FAWCO organizes voter registration sessions at our regional meetings and annual conferences.
- d. The individual members of our constituent organizations, who we train and support, themselves conduct voter registration drives across the world. For instance, I have registered voters at meetings of my member organization, the AAWE in Paris. FAWCO member organizations like AAWE typically send volunteers, many of whom have been trained by FAWCO, to schools such as the American University in Paris, to churches such as the American Church in Paris, to book stores such as Brentano's, and to certain libraries to assist American voters in the registration process. AAWE further provides voter registration information on its website, in its monthly newsletters, and at monthly meetings. Other FAWCO member clubs similarly organize numerous American voter registration events at embassies and schools across the world.

12. FAWCO principally trains our member organizations to register overseas voters using the Federal Post Card Application ("FPCA"). The FPCA is postage-free when used in the United States, and is printed and distributed by the FVAP for use by American citizens living abroad who are eligible to vote under UOCAVA. The FPCA is used by American citizens both to register to vote in their home state in the United States and also to obtain an absentee ballot from that state that will allow them to vote.

13. The FPCA is available at U.S. embassies and consulates around the world. I usually obtain these forms by attending one of the voter registration workshops that are offered at the American Embassy in Paris once or twice a year. I believe that the FPCA forms generally come in packets of 50, and I usually take four or more packets so that I can register voters with the FPCA throughout the year. While I am at the embassy, I also pick up an updated version of the Voting Assistance Guide, published by the FVAP, which is the traditional source of information for Americans abroad who wish to vote in their state or territory of legal residence.

14. The process for filling out the FPCA is not easy. Thus, when I help Americans abroad to register to vote, I almost always assist them in filling out the FPCA. The reason the form is difficult to fill out is that each state has different requirements for registration. In order to register Americans abroad to vote, one must consult the Voting Assistance Guide to determine (i) which specific sections of the FPCA must be filled out and (ii) where the FPCA should be sent.

15. In general, I do not collect completed voter registration forms because I believe it is the individual voter's responsibility to ensure receipt of his or her application. In my experience, FAWCO-trained volunteers operate in different ways on this point. At least one of my colleagues systematically collects and mails all FPCAs that she collects to ensure that they are returned properly. Another of my colleagues usually does not collect the FPCAs, unless she believes that the registrant is unlikely or unable to do it him or herself. She frequently mails FPCAs submitted by young, poor, or disabled voters.

16. Recently, I have been encouraging people to register to vote through the online tool available at the website of the Overseas Vote Foundation. This tool



allows a registrant abroad to enter voter information on a website that prompts the user regarding the required information for each state, and then prints out an FPCA containing that information. Because the online tool prompts the user for the correct information for the state indicated, and will not print out an incorrectly filled-in form, the possibility for error is greatly reduced. The website produces a .pdf copy of the completed FPCA form that may be printed out, signed, and then mailed in to the proper entity.

17. Since the Overseas Vote Foundation website was developed, it is my preferred method of voter registration. I carry my laptop computer around and ask potential registrants to fill out the form on my computer. Because I do not carry a printer, I e-mail the completed form to the registrants and rely on them to sign the completed FPCA, print it, and send it to the correct location via mail.

18. During the course of registering potential voters, I explain to them that it is important for all eligible citizens to register to vote so that overseas voters have a voice in our government. I frequently have to explain to potential voters abroad that they can in fact vote, even though they are not living in the country, and that it is important for voters living abroad to have a say in American political life. Asking someone to register to vote, particularly someone living overseas, often results in a conversation about civic engagement for overseas citizens or about contemporary political issues. I frequently also engage in conversations with potential voters about the logistics of getting registered, as well as the impact on their federal, state, and local taxes of getting registered to vote. While it is less the case in my own organization, due to its very specific membership rules, I believe that many of my colleagues in FAWCO use voter registration as a way to make their club better known



and even solicit new members.

19. FAWCO does not keep statistics on the number of voters we help to register, but to the best of my knowledge and belief, in our years of engaging in voter registration activity, we have assisted thousands of American citizens in registering to vote, and have provided information to thousands more.

20. Although we do not keep records of the specific individuals we help to register to vote, we have historically assisted in the registration of American overseas from all 50 states. In particular, I am aware that Mary Stewart Burgher, who is the Chair of FAWCO's Voting from Overseas Committee, specifically registered several individuals to vote in New Mexico in advance of the 2004 presidential election.

**The Effect of New Mexico's Third-Party Voter Registration
Law on FAWCO's Voter Registration Activities**

21. When FAWCO first learned about New Mexico's third-party voter registration statute in late 2007, Mary Stewart Burgher sent out an informational e-mail to all of our volunteers who register voters. That e-mail, dated December 13, 2007, explained that because of the new law, FAWCO volunteers must not help New Mexico citizens living overseas to register to vote, but should instead refer them to the U.S. Embassy or the Overseas Vote Foundation. The e-mail noted that FAWCO volunteers may be subject to certain criminal and civil penalties if they help New Mexico citizens to register without having been certified by the state of New Mexico.

22. Upon learning about the New Mexico statute, I personally decided that I will not assist any New Mexico voter to register to vote. Unless the New Mexico Third-Party Registration Law is changed, I will not register any voter from New Mexico in the 2008 election cycle. Based on our advice, I would expect that very few

members of FAWCO's member organizations will do so either.

23. We have recommended that FAWCO volunteers not register New Mexico voters living overseas because it is impossible for any organization operating overseas to comply with the statute's certification requirements, its restrictions on voter registration forms, or its 48-hour requirement, and the law imposes criminal and civil penalties on all individuals who violate the provisions of the law. I am aware of no exception for organizations operating abroad or for registration using the FPCA. We are unwilling to subject our volunteers and member organizations to potential civil and criminal fines.

24. It is self-evident why each of the many FAWCO volunteers who help Americans living abroad to register to vote cannot (i) appear at the office of one of the New Mexico county clerks to be certified or (ii) attend a training in advance of the certification, as is required. Our volunteers are located in foreign countries, and they cannot without bearing an unreasonable expense fly to New Mexico to be certified so that they can register New Mexico voters. Such an expense would be particularly hard to justify given that, unlike volunteers who reside in a state within the United States, FAWCO volunteers must be familiar with the laws not only of New Mexico but also of all 50 States and 5 territories.

25. In addition, knowing that some states impose requirements that are not provided for by the FPCA or covered in FVAP guidelines tends to make both voter registration volunteers and prospective voters anxious about the process and less willing to participate, for fear of inadvertently breaking the law. We are therefore concerned that this legislation might adversely impact our voter registration activities overall.

26. To the extent that FAWCO were to continue with voter registration activities notwithstanding the statute, I think that FAWCO would face a number of serious risks under the new law. We rely on volunteers dispersed throughout many countries, who are associated with many different membership organizations. We cannot, with our limited budget and lack of paid full-time employees, monitor the voter registration activities of each of FAWCO's local clubs and their countless volunteers on a daily, or even weekly, basis.

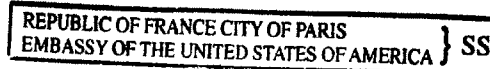
27. The New Mexico law potentially exposes FAWCO to fines of \$250.00 for each violation, and up to \$5,000.00 in fines. Given FAWCO's modest budget of approximately \$45,000 per year, these fines would drain an unacceptable portion of our organization's finances.

28. Voter registration is already a difficult process for overseas voters. We face a number of hurdles that Americans residing within the United States do not face. The New Mexico statute poses an additional obstacle, burdening both our ability to engage in voter registration activities and making it more difficult for overseas New Mexico voters to exercise their right to vote.

The foregoing is true and correct to the best of my knowledge.



Lucy Stensland Laederich



Sworn to before me this 24 day
of ~~May~~ June, 2008 in Paris, France

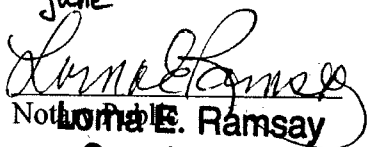

Notary **Ronald E. Ramsay**
Consular Officer
U.S. Embassy Paris, France

Exhibit H

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

_____	x	
	)	
AMERICAN ASSOCIATION OF PEOPLE	)	
WITH DISABILITIES, FEDERATION OF	)	
WOMEN'S CLUB OVERSEAS, INC., NEW	)	
MEXICO PUBLIC INTEREST RESEARCH	)	
GROUP EDUCATION FUND, AND	)	
SOUTHWEST ORGANIZING PROJECT,	)	
	)	
Plaintiffs,	)	No. CIV 08-00702 JP/WDS
	)	
v.	)	EXPERT REPORT OF
	)	DONALD P. GREEN
MARY HERRERA, in her capacity as	)	
Secretary of State,	)	
	)	
Defendant.	)	
	)	
	)	
	)	
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	)	
_____	x	

I. Qualifications

My academic position is A. Whitney Griswold Professor of Political Science at Yale University. I received my doctorate in political science from University of California, Berkeley in 1988. I have taught political science at Yale University since 1989. I was promoted to Professor of Political Science in 1994. In 1996, I was appointed Director of Yale's Institution for Social and Policy Studies, an interdisciplinary policy center founded in 1968. I am currently serving my fifth consecutive three-year term as Director.

My primary expertise lies in the area of campaigns, elections, and voter behavior. I regularly teach courses to undergraduate and graduate students on those topics. I have published extensively on, among other things, the topics of campaigns and elections in leading political science journals such as the *American Political Science Review* and *American Journal of Political Science*. According to a citation count published in the January 2007 issue of *PS* magazine, I am among the 100 most widely cited political scientists. A list of my publications is included in my curriculum vitae attached as Exhibit A. Several of my publications focus on campaign finance and use statistical models to estimate the effects of campaign spending. I co-authored the book *Partisan Hearts and Minds: Political Parties and the Social Identities of Voters* (Yale University Press, 2002), which examines the formation and stability of voters' attachments to political parties. I co-authored a book entitled *Get Out The Vote: How to Increase Voter Turnout* (Brookings Institution Press, 2004; second edition, 2008), which reports the results of more than one hundred studies of political campaigns and voter mobilization drives. In the course of conducting these campaign studies, I have worked closely with a wide array of partisan and nonpartisan campaigns, evaluating their efforts statistically and observing first hand their day-to-day operations.

During my professional career, I have taught a variety of classes in the field of American politics and served as a reviewer for every major academic journal in this field. I have been a member of the American Politics section of the American Political Science Association since 1984 and have made scores of presentations at professional meetings and universities around the country. In 2005, I was elected to the Council of the American Political Science Association. I currently serve on the Board of

Overseers of the American National Election Study. My scholarship has won recognition from the National Science Foundation and substantial financial support from James Irvine Foundation, Pew Charitable Trusts, Smith Richardson Foundation, Harry Frank Guggenheim Foundation, and Russell Sage Foundation. In 2004, I was elected Fellow of the American Academy of Arts and Sciences.

I am being paid \$250 per hour for my work on this case, plus expenses. During the past six years, I have testified as an expert in the following cases: *ACORN v. Bysiewicz, McConnell v. Federal Election Commission, California Prolife Council PAC v. Fair Political Practices Commission, Daggett v. Commission on Governmental Ethics & Elections Practices, League of Women Voters v. Cobb, and League of Women Voters v. Browning.*

I have been asked to assess whether the law and its accompanying regulations and requirements substantially interfere with large-scale registration drives, voter mobilization campaigns, and the political expression that they embody. Based on my extensive experience studying campaigns and elections at local, state and federal levels, I conclude that they do.

I declare under penalty of perjury that the comments in this document are true and correct.

II. Overview of My General Concerns about New Mexico's Registration Law

Elections and electoral accountability lie at the heart of our constitutional system. Every institution in our system of government traces its authority, directly or indirectly, to the electorate. Although our nation initially began with a narrow conception of the

electorate, limiting suffrage in many jurisdictions to white males with property, the political history of our nation is a story of continual expansion of the electorate to the landless, to non-whites, to women, and to young people. Recognizing that participation in elections may be hampered by administrative practices surrounding elections, state and federal legislatures have over the past four decades enacted an array of laws that make it easier for people to register and vote. Examples of these policy innovations include no-fault absentee voting, early voting, and registration closing dates that fall on or close to Election Day.

Unfortunately, the State of New Mexico has recently passed a law that goes in the opposite direction and restricts third party voter registration. I believe this law undercuts voter registration efforts and therefore undercuts forms of political expression that lie at the heart of our system of government. I also believe that these restrictions on voter registration efforts will have their sharpest negative impact on communities where voter participation is low: young people, ethnic minorities, and people with disabilities. First, I will explain why voter registration drives depend on political speech and association for their effectiveness. Next, I will explain why the current law jeopardizes voter registration campaigns.

In my experience, canvassers conducting registration drives do more than distribute forms; they encourage voting-eligible citizens to take an interest in and participate actively in elections. The political content of voter registration drives is also communicated symbolically; the canvasser's enthusiasm about the upcoming election and

eagerness to reach out to nonvoters itself convey the importance of civic engagement. This message is especially poignant when, as is typically the case, the canvassing drive is designed to target communities (young people, ethnic minorities, disabled persons) that contain disproportionately large numbers of non-voters. Laws that, intentionally or unintentionally, discourage groups seeking to engage in third party voter registration undermine these fundamental forms of political communication and ultimately reduce levels of participation by low-turnout communities.

To be sure, the goal of encouraging voter participation is not the sole consideration; policy-makers must also strive to ensure the integrity of the electoral process. But in developing laws and rules that attack fraud and abuse, lawmakers must also take care not to undercut lawful efforts that bring voters into the electoral process. Specifically, we must be wary of laws that have either of two flaws: (1) they impose needless transaction costs on those who seek to encourage voter registration or (2) they open the door to administrative rules and practices that impose such transaction costs. By “transaction costs,” I mean costs that are incurred in terms of time and effort, rather than money. Whether these transaction costs are imposed directly or indirectly, they impede registration efforts and therefore, unless justified by a pressing concern about fraud or abuse, run counter to the basic principle of encouraging electoral participation.

Transaction costs, in general, jeopardize registration efforts. Third party registration efforts are economically delicate operations that often involve volunteers and low-paid workers. Threatening such people with fines and burdening them with specious

and potentially intimidating training requirements will make it harder for political groups to recruit and retain them. Because registration campaigns are dependent on the enthusiasm of their participants, transaction costs that sap recruitment and retention threaten to pitch a registration campaign into a downward spiral. Smaller numbers of canvassers become increasingly overworked and demoralized; prospective recruits are brought into a foundering canvassing campaign and become more difficult to retain. The net effect is a decline in the size and productivity of the canvassing effort.

III. Aspects of the Law that will Hinder Voter Registration Efforts

Under the regulations issued to implement the statute, those engaged in registration campaigns may obtain a maximum of fifty registration forms. These forms are printed with distinct serial numbers presumably so that registrars can detect whether those who register others to vote have in fact submitted the completed forms. I see no problem with printing serial numbers on state-issued registration forms, but three aspects of the law strike me as unjustified by concerns about fraud.

First, I am concerned about the fact that the rules punish “employees” or “officers” in organizations who fail to return forms regardless of whether they acted willfully or negligently. It is one thing to punish malfeasance on the part of an individual or group conducting registration drives; quite another to punish people regardless of intent. This point is especially important in the context of the rough and tumble world of politics in which one political group can jeopardize the existence of another group by causing its registration forms to disappear. Because it creates the risk of punishment

even for people who have not acted wrongfully, this aspect of the law will deter groups from launching registration efforts.

Second, I see no justification for the fifty form limit. The number fifty strikes me as both arbitrary and unreasonably low, as it means that any large-scale registration drive must continually ask the individuals who sign out forms as part of a registration campaign to shuttle back and forth frequently to the registrar's office in order to obtain more forms. This is precisely the kind of transaction cost that throws sand in the gears of a registration campaign. Sand in the gears may not cause the whole operation to come to a halt, but it certainly causes the operation to run more slowly and with continual administrative distractions. When I see unwarranted statutory language of this kind, as a political scientist I am led to suspect that it is merely a clumsy attempt to limit the political influence of groups that would ordinarily conduct large-scale registration drives.

Third, the law requires those who gather registration forms to transmit completed forms to registrars within forty-eight hours of being completed. The forty-eight hour requirement is one of the shortest in the nation. Its apparent purpose is to ensure that the forms are processed in time to put the newly-registered on the voter rolls in time for the election. But if the objective is to ensure that people who fill out registration forms are registered in time for the election, the imposed deadline is needlessly restrictive. We live in an era where vast numbers of forms involving mortgages or credit cards can be processed in hours, not days; voter registration forms are much less complex and require much less fact-checking. The 48-hour requirement means that registration campaigns are

continually distracted by the task of transmitting forms, rather than transmitting them in an orderly periodic fashion. This again creates transaction costs, the net effect of which is to reduce the scope and efficiency of registration drives.

IV. New Mexico's Law Opens the Door to Ad Hoc Administrative Barriers to Registration Efforts

Perhaps the most obnoxious aspect of the New Mexico law is that it opens the door to administrative procedures that impose needless and variable transaction costs on those who conduct voter registration drives. For example, unlike the forty-eight hour deadline, which is mandated by law, the imposition of training requirements is an aspect of the new law that is left to the discretion of local registrars. The wide latitude given to local registrars opens the door to abuse. The time commitments imposed on prospective participants in registration drives become open-ended, as registrars may now decide when and whether to schedule regular training sessions. Local registrars may now determine the content and length of these training sessions. As the affidavits in this case point out, local registrars are also at liberty to cancel scheduled classes as they see fit, which is both demoralizing and imposes additional transportation costs on potential trainees. This level of discretion is an invitation for mischief on the part of registrars, who may find irksome the heavy volume of third party registration forms. At very least, the current system imposes arbitrary and unpredictable costs on groups that seek to register voters.

V. Conclusion

Voter registration activities should be encouraged as a matter of public policy because they promote political expression and electoral participation, which is the basis of our system of government. Statutes that constrain these activities should be narrowly tailored so that they address concerns of fraud without needlessly inhibiting registration efforts. The New Mexico statute in my judgment will constrain voter registration activities. Furthermore, the New Mexico statute in my judgment is not narrowly tailored to prevent fraud or facilitate timely registration of voters. It imposes punishment without requiring that the punished acted maliciously or negligently. It contains arbitrary provisions that limit the number of forms available to a person conducting a voter registration drive while at the same time insisting that these forms be returned almost immediately upon completion. None of these provisions is justified by concerns about fraud or administrative efficiency. Finally, the law introduces a new level of administrative discretion by local registrars, with unpredictable and potentially pernicious consequences.

In the end, these arbitrary transaction costs and the risk of punishment undercut the ability of registration campaigns to recruit and retain volunteers. The net effect is a decline in the quantity and vitality of outreach campaigns directed at unregistered voters, which means that fewer unregistered voters are integrated into and become active participants in the electoral process.

I declare under penalty of perjury that the foregoing is true and correct. To the extent the foregoing states my opinion; it is a true and accurate statement of my opinion.

Signed Donald R. Executed on 7/31/2008

Exhibit I



Project Vote

2101 S. Main Street
Little Rock, Arkansas 72206
501.376.6451 phone 501.376.3952 fax

March 8, 2006

The Honorable Rebecca Vigil-Giron
New Mexico Secretary of State
State Capital Annex North
325 Don Gaspar, Suite 300
Santa Fe, NM 87503

Dear Secretary Vigil-Giron:

Thank you for meeting with representatives from Project Vote and New Mexico ACORN on January 25, 2006, to discuss our concerns regarding New Mexico laws and administrative rules regulating voter registration activities. We appreciated the opportunity to have a candid and respectful dialogue about these issues.

As we explained in our meeting, we are concerned that N.M. Stat. Ann. § 1-4-49 and NM Admin Code Title 1 § 10.25 violate our organizations' constitutionally protected right of free speech, violate the National Voter Registration Act 42 U.S.C. § 1973gg et seq. (NVRA) and harm our ability to fulfill our mission of increasing the political participation of low-income and minority Americans by severely limiting the effectiveness of our voter registration activities.

In 2004, Project Vote and New Mexico ACORN worked together to operate one of the largest, voter registration drives in New Mexico history. Our program, staffed by paid employees and community volunteers, submitted approximately 35,540 completed voter registration applications to election officials. We believe the current legal and regulatory scheme would prevent us from running a similar program in future years and would consequently result in fewer low-income and minority New Mexicans on the voter rolls.

We are particularly concerned by the following provisions of N.M. Stat. Ann. § 1-4-49 and N.M. Admin. Code tit. 1 § 10.25:

- N.M. Stat. Ann. § 1-4-49A(2) requires an organization to disclose to the Secretary of State the names, addresses, birth dates and social security numbers of all individuals working to help register others to vote.
- N.M. Stat. Ann. § 1-4-49B requires the submission of voter registration applications within 48 of their completion by the applicants.
- N.M. Admin. Code tit. 1 § 10.25.8(A) requires that "All third party agents shall register with the secretary of state or the county clerk, prior to acting as a third-party registration agent, on a prescribed form."

Project Vote
New Mexico § 1973gg-9 Notice
March 8, 2006

- N.M. Admin. Code tit. 1 § 10.25.8(C) states that “Registration forms may be provided in quantities of fifty (50) per organization or individual.”
- N.M. Admin. Code tit. 1 § 10.25.7(B) defines “Organization” vaguely and broadly to include “one or more persons organized as a group that are engaged in voter registration activities...”

We are also troubled by the scheme to distribute state voter registration applications that you outlined in our meeting. You explained that each “third party registration agent” will have to first register with the state or county on a prescribed form and will be assigned a unique identifying number. Election officials will then provide each registered third party registration agent with a limited number of state voter registration forms. The forms themselves are numbered and election officials will record which forms are assigned to which third party registration agent.

Finally, we were quite alarmed by your promise, made in response to my question whether voter registration organizations can avoid many of these complications simply by using the Federal Mail Voter Registration Application, that election officials will “red flag” applications that are submitted on the federal form and subject them to “extra scrutiny.” This admission demonstrates an intent to frustrate the letter and spirit of 42 U.S.C. § 1973gg-4.

We hope you take our concerns seriously and act, in your capacity as the state’s chief elections officer, to address these violations of the Constitution and the National Voter Registration Act. This letter serves as a notice described in 42 U.S.C. § 1973gg-9(b)(1) of violations of the NVRA.

Sincerely,

Michael Slater
Director, Election Administration Program
Project Vote

Cc: Matthew Henderson, New Mexico ACORN