



OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA • James Nobles, Legislative Auditor

May 12, 2008

The Honorable Lori Swanson
Minnesota Attorney General
102 State Capitol
St. Paul, MN 55155

Dear Attorney General Swanson:

The Office of the Legislative Auditor (OLA) has received allegations concerning the consent judgment that resulted from a complaint filed by Attorney General Mike Hatch against Capital One. The judgment was signed by you, as Solicitor General, and filed with the Ramsey County District Court on February 13, 2006. It provided for the distribution of money to the Legal Aid Society (\$250,000), the Minnesota Association of Community Organizations for Reform Now—ACORN—(\$249,999), and the State of Minnesota (\$250,000).

OLA is conducting a preliminary assessment of the settlement's compliance with *Minnesota Statutes* 2007, 16A.151, which regulates the distribution of proceeds from litigation or settlements. OLA's review is authorized by *Minnesota Statutes* 2007, 3.971, subdivision 6, which says in part:

The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds are complied with and may, as part of a financial audit or separately, investigate allegations of noncompliance by employees of departments and agencies of the state government

To help OLA assess the allegations, I request your response to the following concerns and questions:

- *Minnesota Statutes* 2007, 16A.151, subdivision 1(b) says: "A state official may not commence, pursue, or settle litigation, or settle a matter that could have resulted in litigation, in a manner that would result in money being distributed to a person or entity other than the state." An exception is provided in subdivision 1(e) if the settlement amount is less than \$750,000. It is alleged that the Attorney General's office sought a judgment of \$749,999 to avoid the prohibition of subdivision 1(b). Is that true? If not, please explain why the Attorney General's office sought a \$749,999 judgment.
- It is alleged that the distribution of money to Minnesota ACORN was connected to ACORN's endorsement of Mike Hatch for Governor on March 8, 2006. Please address the allegation and explain the basis for the distribution of \$249,999 to ACORN, a political advocacy organization.
- The consent judgment stipulated that ACORN was to use the \$249,999 from the Capital One consent judgment for "supporting financial advocacy, education and assistance in Minnesota." What monitoring or other mechanisms did the Attorney General's office employ to ensure that ACORN fulfilled this requirement? What is your understanding of how the money was used?

