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ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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July 5, 2012

The Honorable Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
Washington, D.C. 20530

Dear Attorney General Holder,

The Department of Justice has a responsibility to enforce and uphold the laws of the land without the influence of partisan politics. When the Department goes to court, it represents the United States of America, not the Attorney General's political party. This is particularly important when the Department is enforcing federal voting law, which is supposed to ensure free and fair elections in which all votes are counted equally.

This is why I was disappointed to learn that the Department of Justice hired an explicitly partisan Democratic data company, Catalist, to provide the data by which it is justifying its decision to block implementation of Texas's voter identification law. According to reports submitted by the government's expert witnesses in the case of *State of Texas v. Holder*, which is set for trial on July 9, the Department of Justice directly paid Catalist to provide the data on which the Department's experts based their analysis.

Though Catalist is technically a private, for-profit company, it is really an agent of the Democratic Party. And Catalist's involvement in the Department's election law litigation against Texas creates a clear conflict of interest. There is at least the appearance that, rather than election laws that protect Texans' right to vote in a secure and fair election, Catalist might prefer that Texas's election laws favor Democratic Party candidates.

Equally troubling, nothing in the record indicates that the Department conducted an open bidding process when it obtained Catalist's data services. I am concerned that the Justice Department may have prohibited other, non-partisan organizations from even bidding for the contract to review Texas's voter ID law. If the Justice Department intentionally chose an organization with a left-leaning bias to review Texas's voter ID law, this would be a disturbing

misuse of taxpayer dollars and undermines the credibility of the Department's challenge to the law.

*The Atlantic* has described Catalist as “a big Democratic data warehouse.”<sup>1</sup> Catalist was intimately involved with the Obama campaign's voter turnout effort in 2008. As described by *The Atlantic*, those efforts were “buttressed by a year-long, psychographic voter targeting and contact operation, the likes of which Democrats had never before participated in. In 2008, the principal repository of Democratic data was Catalist, a for-profit company that acted as the conductor for a data-driven symphony of more than 90 liberal groups, like the Service Employees Union -- and the DNC -- and the Obama campaign.”

Catalist is an explicitly partisan operation founded, run, and staffed by dedicated Democratic activists. It is in the business of partisan advocacy rather than neutral research. Catalist's website lists its mission as “[t]o provide progressive organizations with the data and services needed to better identify, understand, and communicate with the people they need to persuade and mobilize.”<sup>2</sup> Under “values,” it boasts “Catalist is committed to using our talents and technology to nurture a vibrant, growing, progressive community . . . .”<sup>3</sup>

Catalist's president is a key player in the Democratic Party. Harold Ickes—the son of Franklin Roosevelt's Secretary of the Interior—served as Deputy Chief of Staff in the Clinton White House and was a prominent advisor to Hillary Clinton's 2008 Presidential campaign. Catalist's website touts “Ickes' nearly fifty years of commitment and accomplishments fighting for progressive causes” and the “unusual breadth and depth” of his connections to “the progressive political community.”<sup>4</sup> Mr. Ickes is joined on Catalist's Board of Managers by several very prominent Democratic Party and union stalwarts, including the political director of the AFL-CIO and the data and technology director of SEIU.<sup>5</sup>

Catalist's clients include the Democratic Congressional Campaign Committee, the Democratic Senatorial Campaign Committee, the Democratic Governors Association, several state Democratic parties, the Texas Democratic Trust, Obama for America, at least 43 Democratic members of Congress and a host of other progressive and Democratic Party groups.<sup>6</sup> Even if Catalist were not biased by its progressive ideology, its Democratic campaign clients have a direct interest in tilting Texas's election laws in Democrats' favor.

It is unacceptable for the Department to go into court in a case involving the integrity of Texas elections on the basis of data provided by a Democratic Party campaign operation.

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<sup>1</sup> Marc Ambinder, *The Atlantic*, “Exclusive: How Democrats Won the Data War in 2008,” Oct. 5, 2009, available at <http://www.theatlantic.com/politics/archive/2009/10/exclusive-how-democrats-won-the-data-war-in-2008/27647/>; and Marc Ambinder, *The Atlantic*, “The Catalist After Action Report,” Oct. 5, 2009, available at <http://www.theatlantic.com/politics/archive/2009/10/the-catalist-after-action-report/27829/>.

<sup>2</sup> <http://catalist.us/about>.

<sup>3</sup> *Id.*

<sup>4</sup> <http://catalist.us/managers>

<sup>5</sup> *Id.*

Imagine the outrage if a Republican administration intervened to block a New York City election law on the basis of data provided by a firm run by Karl Rove. The Department's engagement of Catalist in blocking Texas's voter identification law is no different.

If the Department of Justice succeeds in thwarting the popular will and eliminating Texas's duly enacted voter identification law on the basis of expert analysis by Democratic activists, it will harm public faith in the Justice Department and the fairness of our elections.

Therefore, I ask you to explain why the public should have faith in the neutrality and impartiality of the data provided by Catalist that the Department is citing to support its legal position. Please also describe in detail the bidding process, if any, by which the Department awarded this contract to Catalist. Please respond before trial commences on July 9.

If you cannot vouch for Catalist's non-partisan independence and reliability, then I request that you drop the Department's objections to Texas's voter identification law. The Department should never ask a federal court to adopt a voting rights theory that is based on partisan political strategy rather than neutral analysis of the facts and law.

Even if the Department were to win its lawsuit by citing Catalist's data, such a victory would be tainted by the stench of partisan electoral politics. Please protect the Department's integrity by either demonstrating Catalist's impartiality or ending your case against Texas before letting the Department's lawyers go into court with tainted evidence.

Sincerely,



Lamar Smith  
Chairman

cc: The Hon. John Conyers, Jr.

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