

Via Email

July 23, 2019

Robert D. Popper
Judicial Watch, Inc.
425 Third Street SW, Suite 800
Washington, DC 20024

Re: *Kentucky Office of the Secretary of State*

Dear Mr. Popper:

This firm is counsel for the Kentucky Office of Secretary of State (“Office”). On behalf of the Office, we demand that Judicial Watch immediately issue a retraction of its false and misleading article about the Office published on July 16, 2019 (“the Article”, attached hereto), as well as remove the Article from all sources and cease and desist from publishing or disseminating them.

The Consent Judgment entered by the U.S. District Court for the Eastern District of Kentucky sets forth facts that directly contradict the Press Release.

A partial list of the false or misleading statements in the Article is as follows:

1. “Despite the consent judgment being signed a year ago, Democrat Kentucky Secretary of State Alison Lundergan Grimes’s office has been accused of improperly delaying the processing of previous mailings through 2018, delaying the final clean-up of Kentucky’s voting rolls by at least two years.”

This statement is false and misleading because there was no allegation in the lawsuit that the Office improperly delayed the process of previous mailings through 2018. Rather, the U.S. Department of Justice’s Complaint and the Consent Judgment make clear that the prior failure to comply resulted from a lack of funding from the legislature. Funds had been consistently requested for list maintenance since 2008. Kentucky was the first state to enter into an agreement with the U.S. Department of Justice (DOJ) and Judicial Watch (JW) regarding the state’s voting rolls. This action sped up the clean-up process; it did not delay it. The Office, Secretary of State Alison Lundergan Grimes, and the State Board of Elections (SBE), has

worked in conjunction with the DOJ and JW to ensure that the process was started as quickly as possible. And, they continue to work with both parties to ensure that the clean-up continues.

2. "In June 2018, with Judicial Watch's agreement, the Justice Department moved to intervene in the lawsuit against Kentucky."

This statement is misleading and incomplete. The agreement for the DOJ to intervene included all parties in the litigation, including the Office, Grimes, and the SBE. Consent Judgment, p.1. In fact, the DOJ was requested to intervene by Kentucky Secretary of State, Alison Lundergan Grimes.

3. "Thanks to Judicial Watch, Kentucky is taking action to begin the removal of up to 250,000 voters from its lists of registered voters..."

This statement is false and misleading. 250,000 voters were sent postcards by the SBE. These voters have an opportunity to respond by either voting or contacting their county or state election officials to confirm their registrations or update their registrations. The sending of the postcards does not "begin the removal" of 250,000 voters.

4. "During the course of the litigation, the US Supreme Court held in *Husted* that the removal of old voter registrations is mandatory under the NVRA, something the Kentucky State Board of Elections had failed to do.

This statement is false and misleading. The SBE has not failed to remove old voter registrations. Per the Consent Judgment, "The Kentucky State Board of Elections maintains and follows a registration removal program that since 2011, has removed 424,429 individuals from Kentucky's voter rolls due to an individual's death, felon status, mental incompetence, move out of state with their written confirmation, or at their request." Consent Judgment, p. 28.

Further, the SBE sought funding to implement list maintenance procedures as to registrants who have moved without notifying election or motor vehicle authorities. Per the Consent Judgment, p. 28, the SBE has sought funding from the General Assembly for these efforts "in every budget request since 2008."

JW further agreed that the cause of the failure was "due to this lack of funding" by the General Assembly. Consent Judgment, p. 29.

5. "The suit noted that Kentucky was one of only three states in which the statewide active registration rate is greater than 100 percent of the age-eligible citizen population."

This statement is false and misleading. This is not a part of the Consent Judgment. The "suit" does not confirm this. This statement is entirely the opinion of JW, not DOJ, not the Court, and not the Kentucky SOS.

On behalf of the Office, we demand that the *Judicial Watch* (i) immediately issue a

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retraction that is of equal prominence to the story by no later than August 1, 2019 (ii) remove the Article from all media sources, and (iii) cease and desist from further dissemination or publication.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Kenyon Meyer". The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping underline.

R. Kenyon Meyer

RKM/cga

cc: David G. Cooper
Jennifer Scutchfield
Daniel Luke Morgan

15217426v2

Vote fraud watch: Kentucky forced to remove 250,000 inactive voters from list

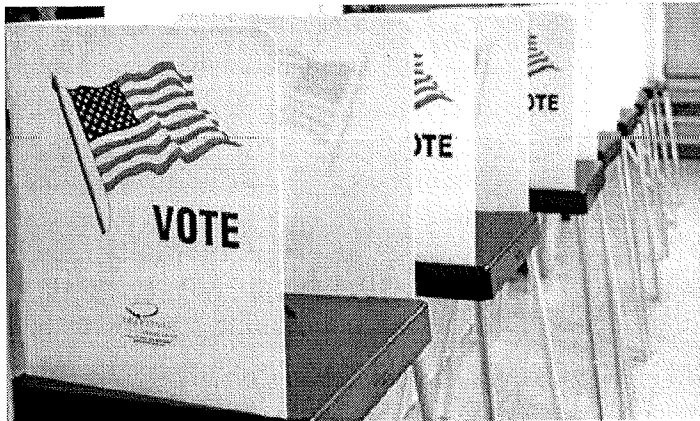
By World Tribune on July 16, 2019

FPI / July 16, 2019

By Judicial Watch

Judicial Watch announced on July 15 that in June Kentucky mailed address confirmation notices to 250,000 voters who are believed to have moved, thanks to a consent judgment agreed to by the Commonwealth. These registrations are probably outdated and will be cancelled if the voters fail to vote in future elections or to confirm their current addresses.

The Judicial Watch win in Kentucky is in addition to the Judicial Watch victory in California, where up to 1.6 million inactive names are set to be removed from voter registration rolls in Los Angeles County.



In the consent judgment, Kentucky acknowledges that the state is not in compliance with the National Voter Registration Act (NVRA): “[T]he practices currently in place in Kentucky do not comply with the NVRA’s requirement that

states conduct a general voter registration list maintenance program that makes a reasonable effort to remove ineligible persons from the voter rolls due to a change in residence outside of the jurisdiction ...”

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The address confirmation notices were sent to about 7% of the names currently

on Kentucky's voter rolls.

As part of the consent judgment, the Kentucky State Board of Elections is to proceed with a canvass mailing "to identify registrants through mail returned as undeliverable who may have unreported moves since 2009." Voters who do not respond to the notices sent by Kentucky and who do not vote in the next two federal elections must be removed from the voting rolls. Despite the consent judgment being signed a year ago, Democrat Kentucky Secretary of State Alison Lundergan Grimes's office has been accused of improperly delaying the processing of previous mailings through 2018, delaying the final clean up of Kentucky's voting rolls by at least two years.

The consent judgment results from a Judicial Watch lawsuit under the NVRA. In June 2018, with Judicial Watch's agreement, the Justice Department moved to intervene in the lawsuit against Kentucky. During the course of the litigation, the U.S. Supreme Court held in *Husted* that the removal of old voter registrations is mandatory under the NVRA, something the Kentucky State Board of Elections had failed to do.

Judicial Watch's lawsuit against Kentucky alleged that 48 counties had more registered voters than citizens over the age of 18. The suit noted that Kentucky was one of only three states in which the statewide active registration rate is greater than 100 percent of the age-eligible citizen population.

"Thanks to Judicial Watch, Kentucky is taking action to begin the removal of up to 250,000 voters from its lists of registered voters, which will help ensure cleaner elections in the Bluegrass State," said Judicial Watch President Tom Fitton. "This is another major victory for cleaner elections, especially following Los Angeles County's agreement with Judicial Watch to begin the process of removing as many as 1.6 million inactive voters. Dirty voting rolls can mean dirty elections, so it is essential that dead and long-gone voters be removed from voter registration lists."

Judicial Watch is the national leader in enforcing the provisions of the NVRA. In June, Judicial Watch announced that it was informed that Los Angeles County had sent notices to 1.6 million inactive voters on its voter rolls pursuant to a settlement agreement. Prior to the California settlement agreement, Judicial Watch estimated that national census data and voter-roll information showed

that there were 3.5 million more names on various county voter rolls nationwide than there were citizens of voting age. This settlement could cut this number in half.

In addition, the California secretary of state has alerted other California counties to clean up their voter registration lists to comply with the NVRA. The Judicial Watch lawsuit to force the cleanup of California's voter rolls, which resulted in the settlement agreement, uncovered the fact that neither the State of California nor Los Angeles County had been properly removing inactive voters from the voter-registration rolls for the past 20 years.

The California agreement is only the third statewide settlement achieved by private plaintiffs under the NVRA – and Judicial Watch was the plaintiff in each of those cases. The other statewide settlements were with Ohio (in 2014) and with Kentucky.

Judicial Watch also filed a successful NVRA lawsuit against Indiana, causing it to voluntarily clean up its voting rolls, and has an ongoing lawsuit with the State of Maryland.

Intelligence Brief _____ Replace The Media

◆ 000 inactive voters from list, Alison Lundergan Grimes, inactive voters, Judicial Watch, NVRA, Vote fraud watch: Kentucky forced to remove 250, WorldTribune.com

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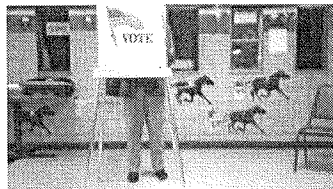
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