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Checking in at Sac State

Tags: [debate](#), [kcra](#), [kevin johnson](#), [kxjz](#), [sac state](#) — kevin @ 4:46 pm

I'm a big fan of thinking outside of the box. That's why I'm excited about next Monday's debate at Sac State, which will focus on the issues of education, public safety, and jobs. This won't be a traditional debate. The sponsors, CSUS, KXJZ radio, and KCRA-TV, wanted to make it more lively, and have introduced a new format that's similar to the town meetings I've been holding across the city. The audience, comprised almost entire of Sac State students, will be quizzing the candidates.

Just to get a taste of what I might be in for at the debate, I stopped by the class taught by my campaign manager at Sac State last night and tackled some questions. Students asked me about the economy, the Wall St. bailout, racial profiling, and a variety of other issues. They didn't go easy on me, and we had a good exchange about the campus and the city's relationship to it.

I expect more of that next week. I hope you tune in to KCRA and KXJZ @ 630 p.m. next Monday to watch.

[Comments \(0\)](#)

I Will Fight the Allegations Tooth and Nail

Tags: [boys and girls club](#), [corporation for national service](#), [kevin johnson](#), [mayor](#), [sacramento](#) — kevin @ 12:36 am

At the Sacramento Boys and Girls Club today, I had the chance to set the record straight on the politically-motivated allegations made by the Inspector General of the Corporation

for National Service, and made it clear I will fight them tooth and nail. Please take a minute to read my prepared remarks at the end of this message.

In addition, here's what Sacramento City Attorney Eileen Teichert told the Sacramento Bee today: "We do not see anything that would preclude (the city) from having the ability to receive federal funds' with Johnson as mayor."

I began my campaign to become Mayor because I believe in the people of Sacramento and the greatest of our city.

From the calls coming into our headquarters today, there's little doubt that they will see what these allegations for what they are: titillating but untrue.

I have vowed to run a positive campaign and stick to the issues. I will continue to do that, and I am thankful for your support.

Text of Prepared Remarks:

Let me make a few things clear from the start:

I have cooperated with the federal government on this review from day one.

I have said all along that there may have been administrative errors.

As a small nonprofit working with a federal bureaucracy for the first time, we may have not dotted all the i's and crossed all the t's – just like the hundreds of other nonprofits that have been investigated by the Inspector General of the Corporation for National Service.

That's why I remain confident that the U.S. Attorney will decide not to proceed when it conducts a non-political review of the allegations.

The U.S. Attorney's Office does not have a website with "NEWSFLASH" across the top that's more fitting for the National Enquirer website than that of a federal government agency.

The U.S. Attorney's Office respects the law and only proceeds when it is purposely violated, not just to get headlines.

The U.S. Attorney's Office does not have a political agenda, and has a policy, in fact, of not making announcements on the eve of an election.

So rest assured: I will fight this suspension tooth and nail.

Today I've instructed attorneys to formally fight these crazy, meritless allegations.

And I am optimistic about the outcome. Very optimistic.

Let me also say this: Despite some media reports and the opinions of some, I have been advised by experts in government contracting law that this will have no bearing on my role as Mayor.

None.

Under our system of city government, it's the city manager, not the Mayor, that engages with the federal government on contracts.

So you can rest assured that I will shake every tree in Washington for federal grants to help our city, and this will have no impact whatsoever.

I am no longer the CEO of St. HOPE.

Nonetheless, let me make it clear that St. HOPE Academy does not currently rely on any federal funding for any of its programs and has not sought or applied for federal funding for any of its programs in 2008.

Whatever the conclusion of the federal inquiry is, it should not impact St. HOPE Academy programs nor its ability to fundraise.

St. HOPE Academy and St. HOPE Public Schools are two separate and distinct legal entities with different boards of directors and different employees, with minimal overlap. Any findings found against St. HOPE Academy will not affect St. HOPE Public Schools.

To clarify, Sacramento High School and PS7 Elementary School will be not affected by any finding made against St. HOPE Academy or any of its former representatives. Therefore, the schools' federal funding will continue as it always has.

St. HOPE Academy will continue to revitalize inner city neighborhoods and impact the lives of young people by promoting public education, economic development, leadership training and arts enrichment.

And you know, that's the unfortunate thing here.

We've had several front page stories about allegations that have not been proven true – but none about the true stories about the lives of young people that have benefited from the AmeriCorps grants.

Young people like our St. HOPE graduate now at West Point, preparing to serve her nation.

And those at Stanford, UCLA, and UC Berkeley.

I came back to this city to do good, to give something back. That's why I started St. HOPE. And that's why I'm running for Mayor.

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The Swarm

**The
Swarm**



Mix it up with The Bee's editorial board.

October 27, 2008

US Attorney should resolve St. Hope and Johnson questions

Some labor unions that want to re-elect Sacramento Mayor Heather Fargo and defeat challenger Kevin Johnson are airing a bunch of misleading ads that say federal funds for school lunch and reading programs have been cut off at two charter schools run by Johnson's St. Hope organization. The ads appear to be flat out lies. According to the principal of St. Hope's Public Schools, federal funds continue to flow to both schools. A spokesperson for the Sacramento Unified School District says the district has received no confirmation of any cut off of federal funds to either.

Rumors of a cutoff began flying after Inspector General Gerald Walpin sent out a press release last month announcing the government was suspending all federal grants to Johnson's St. Hope organization because Johnson may have committed "potential criminal violations." But that investigation targeted only St. Hope Academy's Hood Corps (a domestic urban Peace Corps-type program), not its charter schools. The folks who put out the false ad must know that.

Walpin's report was referred to the U.S. Attorney's office for possible federal prosecution. When I asked him about the report last month, U.S. Attorney McGregor Scott told me that "he was" sensitive to the bigger picture," and promised to move "as expeditiously as we can in a professional manner to make the decisions required of us in a timely manner." By timely, I had hoped Scott meant before the election. That's just nine days away now. It's been almost a month since IG Walpin made his highly sensational allegations public. Johnson says the charges are bogus. Nonetheless, Fargo supporters are exaggerating them to try to defeat Johnson. Parents and students are being alarmed needlessly

The U.S. Attorney could resolve this issue once and for all. In fairness to Johnson, Fargo, and the voters he should.

Categories: [Ginger Rutland](#)

Tags: Heather Fargo, Kevin Johnson, Sacramento mayor

Posted by **Ginger Rutland**

4:17 PM | Comments (6) |

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No criminal charges for Johnson's Hood Corps

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Published Thursday, Nov. 06, 2008

The results of an investigation of Mayor-elect Kevin Johnson and his nonprofit Hood Corps program lacked enough information to support criminal charges, according to U.S. Attorney McGregor Scott.

Scott, who announced his resignation last week effective Jan. 4, said he did not want to speak out before Tuesday's election to avoid any perception he was trying to influence voters.

He said a decision about whether to file civil charges, far more common in similar investigations of programs funded by the federal AmeriCorps volunteer program, awaits a results of an audit being conducted by the Office of the Inspector General.

The inspector general for the Corporation for National and Community Service investigated Hood Corps, an urban Peace Corps-style offshoot of Johnson's St. HOPE organization. Hood Corps received \$807,000 in grant money from AmeriCorps.

In September, the Inspector General's Office said it had turned the results of its investigation over to the U. S. Attorney's Office. Then, later in the month, Inspector General Gerald Walpin released a broad outline of his findings.

Scott, however, said that the material submitted by Walpin's office fell short of proving criminal conduct on anyone's part.

"We have asked the investigating agency for information that would enable us to make an informed decision," Scott said. "We are still waiting for an answer."

He said the Inspector General's Office is conducting a "line-by-line audit" of Hood Corps.

"Hopefully, the results of that audit will tell us whether there is justification for a civil lawsuit to recoup misspent grant funds," Scott said.

William Hillburg, a spokesman for the inspector general, asked Wednesday about the status of Scott's request for more information, said, "We don't have any comment about this case as of now."

A summary of the inspector general's findings was released Sept. 25 in conjunction with an announcement that St. HOPE Academy, operator of Hood Corps; Johnson, St. HOPE's

founder and former president; and Dana Gonzalez, former executive director of Hood Corps, had been suspended from access to all federal grants and contracts for up to a year or until the completion of the investigation.

In its written suspension, the corporation cited a number of alleged AmeriCorps grant violations, including diversion of federal funds.

The suspension said: "The diversion of grant funds is so serious a violation of the terms of the grant agreement that immediate action via suspension is required to protect the public interest and restrict the offending parties' involvement with other federal programs and activities."

Johnson's attorney, Matthew Jacobs, a former federal prosecutor, said Scott's reaction to the results of the investigation thus far "confirms what we have believed all along. That is, professionals who have the expertise to evaluate evidence would quickly conclude there is no criminal conduct here."

Call The Bee's Denny Walsh, (916) 321-1189

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This story is taken from [Sacbee](#) / Capitol and California / Government/Politics

U.S. attorney: No criminal case now against Johnson, Hood Corps

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Published Friday, Nov. 07, 2008

The findings submitted to the U.S. attorney's office thus far from an investigation of Mayor-elect Kevin Johnson and his nonprofit Hood Corps do not warrant criminal charges, U.S. Attorney McGregor Scott said Thursday.

Scott said his office has asked for additional information and is awaiting an answer from federal investigators.

"No final decision has been made about whether there is any basis to proceed on either a criminal or civil front," Scott said.

He said a decision on a possible civil lawsuit – a more common outcome of investigations on the use of funds from the federal AmeriCorps program – awaits the results of an audit being conducted by the Office of the Inspector General for the Corporation for National and Community Service.

Inspector General Gerald Walpin last April began an investigation of Hood Corps, an urban Peace Corps-style offshoot of Johnson's St. HOPE organization.

In September, Walpin's office released the findings of that investigation, alleging Johnson and other St. HOPE officials had improperly diverted some of the \$807,000 in federal grant money Hood Corps received between 2004 and 2007.

Citing the seriousness of the allegations, federal officials also announced St. Hope Academy, operator of Hood Corps; Johnson, St. Hope's founder and former president; and Dana Gonzalez, former executive director of Hood Corps, had been suspended from access to all federal grants and contracts for up to a year or until the completion of the investigation.

Walpin turned over the findings to the U.S. attorney's office for a decision on whether the violations cited by agents warranted criminal charges or financial penalties.

But Scott said this week the material submitted by Walpin's office fell short of proving criminal conduct on anyone's part.

"We have asked the investigating agency for information that would enable us to make an informed decision," Scott said. "We are still waiting for an answer."

He also said the inspector general's office is conducting a "line-by-line audit" of Hood Corps.

"Hopefully, the results of that audit will tell us whether there are grounds for a civil lawsuit to recoup misspent grant funds," Scott said.

William Hillburg, a spokesman for the inspector general, said Thursday he could not confirm his office was doing an audit and could not comment on the investigation.

Johnson's attorney, Matthew Jacobs, a former federal prosecutor, said Scott's reaction "confirms what we have believed all along. That is, professionals who have the expertise to evaluate evidence would quickly conclude there is no criminal conduct here."

If Scott's office decides there have been only administrative infractions, the matter would be passed back to the Corporation for National and Community Service, which could seek reimbursement of all or part of the grant money, and could claim damages up to three times the amount alleged to have been misused.

Johnson was not available Thursday to comment. His spokesman, Steve Maviglio, said, "The case is essentially meritless from the criminal point of view. We thought there might be some administrative fines, and we're prepared for that."

Frederic Levy, a Washington, D.C., attorney and expert in government contracting and compliance, said prosecutors "look to whether violations were knowing and intentional. The fine print in these grants is sometimes so arcane that inadvertence comes into play."

In its written suspension barring Johnson from receiving federal funds, the corporation cited a number of alleged grant violations, including diversion of funds.

"The diversion of grant funds is so serious a violation of the terms of the grant agreement that immediate action via suspension is required to protect the public interest and restrict the offending parties' involvement with other federal programs and activities," the suspension said.

Hillburg said Scott's preliminary analysis of the investigation does not affect the suspension. "It remains in effect," he said.

Among the specific violations cited in the inspector general's September release:

- Misusing AmeriCorps members, financed by federal grant funds, to personally benefit Johnson, including driving him to personal appointments, washing his car and running personal errands.
- Unlawfully supplementing St. HOPE school staff salaries with federal grant funds by enrolling two employees in the AmeriCorps program and giving them federally funded living allowances and education awards.
- Improperly using members for banned political activities, namely canvassing for school board candidates.
- Misusing AmeriCorps members to recruit students for St. HOPE's charter schools.

Call The Bee's Denny Walsh, (916) 321-1189.

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This story is taken from [Sacbee / Our Region / Sacramento Mayor](#)

Johnson builds volunteer team, wants more staff

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Published Tuesday, Jan. 27, 2009

Sacramento Mayor Kevin Johnson is exploring whether he can raise money to beef up his full-time staff. In the meantime, he's already amassed a team of volunteers that dwarfs the staffs of any of his recent predecessors.

In addition to his four full-time paid staffers, Johnson has 12 volunteers working closely with him on issues including the city's finances, education and media relations.

Six of the volunteers have a connection to Johnson's pre-City Hall life: They either attended Sacramento Charter High School or worked with St. HOPE, the education and development organization that Johnson founded.

The mayor says the team of volunteers is part of his "gung ho" plan to add "capacity for the city to get things done."

"If we think about effective government and you look around the country at what other cities are doing, they're able to bring additional resources in, people who are volunteering," Johnson said last week in a meeting with The Bee's editorial board.

Beyond his volunteer team, the mayor said he is exploring whether he can raise money to pay for additional full-time staff members within his office.

That proposal would require City Council approval, said City Attorney Eileen Teichert. So far, it has not been brought to the council.

Still, Johnson said the idea is being met with enthusiasm outside City Hall.

"People want to take a year off and work for the city if I could raise the dollars because they want to give back to their city for a year or two," he said. "And these are neat things for our city to experience, especially when you have a down economy."

There are regulations in place for using donations to pay for city staffers.

According to the California Fair Political Practices Commission, the mayor's office would have to identify those who donate more than \$5,000 a year toward the cause and staff members would be required to fill out economic interest statements.

Those same rules do not apply to city volunteers.

Each of the city's 2,800 volunteers – including the dozen working for the mayor – has filled

out a "volunteer interest and agreement form," according to city spokeswoman Amy Williams. The form asks for volunteers' professional background, education and whether they have been convicted of a crime.

City officials said Monday they are working to provide The Bee with copies of the forms signed by the mayor's volunteers.

Neither a conflict of interest form nor statement of economic purpose is part of the volunteer process. Councilwoman Sandy Sheedy said she planned to ask Teichert at today's council meeting to examine the city's volunteer policy and consider whether conflict of interest forms should be included.

"Volunteers also have conflicts of interests," Sheedy said.

The mayor's volunteers do not have unfettered access to City Hall. They must check in at the building's security desk and wear visitor's passes.

Many on the mayor's volunteer team spend much of their time working in a third-floor work space. The office is two floors beneath the offices of the mayor and council and is one of the few in City Hall not separated from the rest of the building by a locked door.

The mayor said he has worked with City Manager Ray Kerridge and Teichert "to provide full transparency and disclosure for all our volunteers."

"I also welcome citizens who care so much for their community that they will volunteer their time to join the four staff members I have with the huge task of helping move our city forward – particularly when we have a \$58 million deficit and greater demands on city government," the mayor said in a statement.

One of the mayor's volunteers is Dana Gonzalez, a former St. HOPE official who, along with Johnson, was banned last year from accessing federal funding while an investigation takes place into St. HOPE's use of federal grant money.

Gonzalez is one of the more visible faces of the mayor's volunteer team, attending many meetings and volunteering on nearly a full-time basis.

Steve Maviglio, the mayor's spokesman during the campaign, is also a volunteer and has continued handling media responsibilities since Johnson was sworn in nearly two months ago. He is also the spokesman for the campaign trying to get a strong-mayor measure on a future ballot.

Other volunteers include Denise Merano, a board member of St. HOPE Academy; Michelle Smira, who runs her own political affairs firm; Tracy Stigler, the vice chair of the St. HOPE Public Schools board and a former project manager at Buzz Oates Realty; Ting Sun, founder of the Natomas Charter School; Becky Warren, a media specialist with Mercury Public Affairs; and Nicole West, a former program director at St. HOPE who also worked on the mayor's campaign.

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Call The Bee's Ryan Lillis, (916) 321-1085.

This story is taken from Sacbee / Our Region / Top Stories

Mayor's status may imperil Sacramento's federal stimulus funds, lawyer says

rlillis@sacbee.com

Published Saturday, Mar. 21, 2009

The city of Sacramento likely is barred from getting federal money – including tens of millions the city is expecting from the new stimulus package – because Mayor Kevin Johnson is on a list of individuals forbidden from receiving federal funds, according to a leading attorney the city commissioned to look into the issue.

Federal authorities placed Johnson and the nonprofit Hood Corps organization he founded on the federal list last year – before he was elected mayor – following a preliminary investigation into allegations that the urban Peace Corps-style program had misused federal funds. Federal officials said the allegations were so serious the funding suspension was warranted.

Shortly after Johnson's election last November, City Attorney Eileen Teichert hired Frederic M. Levy – regarded as an expert on government contracting and compliance – to determine whether Johnson's inclusion on that list posed an issue for the city when it sought federal funding. Teichert had said before the election she thought Johnson's inclusion on the list would not threaten the city's access to federal aid.

Levy's response is laid out in a confidential memo, obtained by The Bee, that was distributed this week to City Council members.

The question, he said, is whether federal agencies consider the mayor a "principal" in city financial decisions; if the answer is yes, he wrote, it would "prevent the City from obtaining ... federal grants, subsidies, or cooperative agreements."

Levy concludes that Johnson, in his role as mayor, likely would be found to be a principal, meaning he is "in a position to influence the use of federal funds."

So far, federal agencies have continued to grant funding to the city. But Levy's memo suggests the \$44.2 million in aid the city has received or been allocated since Johnson took office in December could be at risk.

"Obviously, I'm concerned about the federal funds that we have received to this point," City Manager Ray Kerridge told The Bee.

Teichert wrote in a separate memo that "it may be appropriate for the mayor to abstain from ... any decisions involving City projects for which federal funding may or will be sought."

Johnson declined an interview request Friday. In an e-mailed statement, he said he is

confident the issue can be resolved quickly.

"I believe, as the City Attorney did in September, that there will ultimately be zero impact on the city's eligibility to receive the federal funds that Congresswoman Matsui, Governor Schwarzenegger, our U.S. Senators, and I are working hard to deliver to our city," he wrote. "I am optimistic this will be resolved positively in short order."

Top city officials will meet Wednesday to discuss the issue.

Levy, a Washington, D.C., attorney, provided his opinion March 13 and a copy of his memo was forwarded to Johnson and members of the City Council this week.

Johnson and officials with Hood Corps improperly used some of the \$807,000 in federal grant money the organization received between 2004 and 2007, according to allegations released in September following an investigation by the Office of the Inspector General for the Corporation for National and Community Service. The corporation oversees AmeriCorps, the program that helped fund Hood Corps.

In response, federal officials placed St. HOPE Academy, operator of Hood Corps; Johnson, who was St. HOPE's founder and former president; and Dana Gonzalez, Hood Corps' former executive director and now a mayoral volunteer, on an Excluded Parties List, meaning they were suspended from access to federal grants and contracts for up to one year or until the case is resolved.

The federal audit of Hood Corps' use of funds is ongoing. A spokesman for the Office of the Inspector General declined to say when the review would be finished.

"We can't comment on any ongoing case," spokesman William Hillburg said.

Last year, the U.S. attorney's office in Sacramento determined the findings turned over by the inspector general did not warrant criminal charges. The U.S. attorney requested additional information, and held out the possibility of filing a civil action, pending the results of the audit.

"There continues to be ongoing and considerable negotiations between this office and representatives of St. HOPE Academy and Mayor Johnson to resolve allegations of improperly expended federal grant funds," acting U.S. Attorney Lawrence Brown said Friday.

Matt Jacobs, the attorney representing Johnson, said he would expect any settlement to include Johnson's removal from the suspension list.

"That would certainly be something that we would try to obtain," he said.

Malcolm Segal, an attorney for St. HOPE also considered an expert on government contracts, said he would be surprised if the city was ruled ineligible to obtain federal funding, arguing the mayor has a limited role in policy direction.

"The city manager is responsible for the reporting and auditing of the uses of federal funds," he said. "Hopefully, this dispute with the AmeriCorps program will be resolved shortly to the satisfaction of all parties and the suspension lifted."

According to Levy's memo, the city must notify all federal agencies of Johnson's inclusion on the Excluded Parties List or it could face "severe sanctions."

Levy also said the city faces potential risk by allowing Gonzalez – the former Hood Corps executive director also on the excluded list – to work as a mayoral volunteer.

City officials said Friday they have not yet notified federal agencies of Johnson's suspension.

On Thursday, the Sacramento Area Council of Governments voted to seek \$20 million in federal economic stimulus funds for the city of Sacramento this year to help kick-start redevelopment of the downtown railyard. Johnson heralded that as a huge step forward.

SACOG officials said Friday they would use the money for another project if the city doesn't qualify under federal rules.

Sacramento Rep. Doris Matsui issued a statement Friday saying she was trying to get clarification from city officials on the extent of the potential problem.

"I have been working tirelessly to get Sacramento funding," she e-mailed The Bee. "I'm concerned if federal funding for our community is in jeopardy."

Councilman Kevin McCarty said Levy's conclusions "could have major impacts on the city."

"We're counting on those dollars," he said. "We're counting on those to put people back to work and invest in our city. Everything that could jeopardize receiving those dollars is something we should take very seriously."

According to Levy, the city has several options.

City officials can attempt to have Johnson's suspension lifted, which he said would require the mayor to convince authorities that the allegations are not true. The city also may be able to appease the Corporation for National and Community Service by offering to train the mayor and council on the rules governing the use of federal grant funds.

The city also could seek written exceptions from federal agencies on a case-by-case basis.

In doing so, the city likely would need to convince federal agencies that the mayor's role in administering federal funding is minimal by pointing out that he is one vote of nine on the City Council.

A third would be for the city to redefine the mayor's role under the city charter to indicate the mayor has no influence or control over federal funds.

Johnson has proposed going the opposite direction, calling for changes in the city charter that would increase the mayor's powers over hiring and budgeting.

The proposal ran into political opposition in some quarters, and a council-appointed commission is reviewing alternatives.

Levy directly addressed the strong-mayor initiative in his memo, saying the city's chances of receiving case-by-case waivers would be harmed if the proposal were approved.

Levy, who testified last month before a House committee about the federal suspension list as it pertains to federal aid, did not return a phone call seeking comment.

Teichert also declined to comment.

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March 16, 2009

By Hand Delivery

Privileged Settlement Communication

Kendall J. Newman
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814

Re: St. HOPE Academy

Dear Ken:

On behalf of St. HOPE Academy and Mayor Kevin Johnson,¹ thank you for giving us the opportunity to present information regarding the good works performed by the Neighborhood Corps, known colloquially as "Hood Corps," in carrying out the 2004-2007 AmeriCorps awards (the "Grants").²

As you and I have discussed, the purpose of this submission is threefold: (1) to establish that at least a large portion of the monies provided to St. HOPE Academy ("St. HOPE") pursuant to the Grants was utilized to perform services within the scope of work of those Grants; (2) to establish St. HOPE's poor current financial condition; and (3) to demonstrate through accounting records the specifics of how St. HOPE spent the grant monies. This submission accomplishes the first two objectives. We have not yet been able to fully accomplish the third objective, although we are willing to continue trying, and are happy to cooperate with your Office in doing so. However, we hope that the extent to

¹As you know, I represent Mayor Johnson. The letter is written under my signature only because other counsel have been engaged in other cases and are unable to participate in the short time we have had to respond to your request for information since you and I first spoke.

²The Grants consist of State of California Grant numbers 03AFHCA002Y11-F102 (July 1, 2004-Dec. 31, 2005) (attached as Exhibit A); 03AFHY12-F102 (July 1, 2005-Dec. 31, 2006) (attached as Exhibit B); and 06AFHY13-F102 (July 1, 2006-Dec. 31, 2007) (attached as Exhibit C).

Kendall J. Newman
March 16, 2009
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which we have accomplished the first two tasks will eliminate or at least lessen the government's need to have us complete the third task, since the real issue is (or should be) whether St. HOPE did, indeed, pursue the Grants' objectives (it did), not whether we can now go back and trace every grant dollar to each of its ultimate recipients.³

I. Most, if Not All, of Hood Corps' Work Was Within the Scope of the Grants.

When we first spoke last month, you expressed concern that you had no evidence that any Hood Corps members had done any work that was within the scope of the Grants. I can now assure you, based on our own investigation, that all or virtually all of the work performed by Hood Corps members was indeed within that scope. More specifically, our research and investigation has shown that Hood Corps members performed extensive work during the life of the Grants that directly and substantially benefited many at-risk students at PS7 and Sacramento High School, the Oak Park community as a whole, and the Hood Corps members themselves, and that as described below, Hood Corps activities fell squarely within the scope of the Grants and touched many lives in the process.

Scope of the Grants Generally

The Grants themselves establish the scope of work that Hood Corps members were to perform. The third numbered paragraph of the California Service Corps Policies and Requirements attached to the Grants, titled "Scope of Work," states, "For the purposes of this agreement, the Scope shall be deemed to be the objectives, deliverables, and commitments contained in Exhibit D, 'AmeriCorps Title Page/Program Narrative/Performance Measures.'"⁴ In turn, the AmeriCorps Title/Page/Program Narrative/Performance Measures (the "Narratives") define the scope of work broadly, but focus on four main categories: (1) tutoring and academic assistance at PS7 Elementary School and Sacramento High; (2) increasing arts and cultural programming in Oak Park; (3) engaging in economic development activity in Oak Park; and (4) training Hood Corps members in civic leadership. (See Exs. A-C, Narratives).

³In that regard, it is not unusual for non-profit agencies, and even public agencies, not to be able to re-create exactly how they spent grant funds. See, e.g., Editorial, "The 20 % Coercion; A Gift from one Agency to Another," *San Diego Union-Tribune* (Feb. 28, 2009) (copy attached as Ex. D). I am sure that the agency charged with administering the AmeriCorps grants would so attest.

⁴Since most material provisions of the Narratives are identical, we reference them collectively. We note any relevant material differences.

Kendall J. Newman
March 16, 2009
Page 3

The Narratives, and thus the scope of work, define Hood Corps' mission:

[Hood Corps] is an inner-city service program that educates, trains and empowers individuals to become civic leaders in order to further educational and economic development efforts in the Oak Park community. Hood Corps is part of St. HOPE Academy, a faith-based, nonprofit community development corporation dedicated to revitalizing inner-city communities through public education, civic leadership, economic development, and the arts.

(Exs. A-C, Narratives, Mission). As set forth below, the Narratives further define the scope of work in each category listed in the mission statement, but allow significant breadth with respect to permissible activity under the Grants.

Given the flexibility and breadth of the scope of work defined in the Narratives and approved by the government, the Corporation for National and Community Service's Notice of Suspension ("Suspension Notice" attached as Exhibit E) defines the scope of work too narrowly. It states, "St. HOPE's AmeriCorps application requested grant funds to support AmeriCorps members to tutor elementary and high school students, help redevelop one building a year in Oak Park, and coordinate logistics, public relations and marketing for the Guild Theater and Art Gallery in Sacramento, CA." While this statement is true as far as it goes, it does not accurately encompass the extent of the permissible scope of work. Rather, the Narratives provide Hood Corps with flexibility to achieve the goals pertaining to public education, arts enrichment, economic development, and civic leadership. I now discuss each of these categories in turn, along with the evidence establishing that Hood Corps members did indeed fulfill these goals.

Public Education

The scope of work with respect to the general category of public education is scattered throughout the Narratives, and is articulated in several different ways. However, everyone would probably agree that tutoring was an essential ingredient of the Grants' public education component.⁵ For example, the Narratives provide that Hood Corps

⁵But tutoring is not the only public education activity within the scope of work. For example, pages 13-15 of the 2006-2007 Narratives provide, "Students will participate in tutoring and academic support interventions." (Ex. C). Moreover, they explain that Hood Corps members will act as Teaching Assistants: "[f]ive members will support designated classroom teachers who are working with struggling students by providing individual and small group instruction, designing and teaching lessons, administering assessments, monitoring attendance, and grading, for up to 5 hours per day." (*Id.*) Thus, the permissible scope of work goes beyond tutoring.

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members will provide "one-on-one tutoring to elementary and high school students." (Exs. A-C, Narratives, Summary of Program Design). Our conversations with the principal of PS7 Elementary School ("PS7") and several former Hood Corps members confirm that Hood Corps members did indeed spend many, many hours engaged in direct, one-on-one, tutoring.

For example, [REDACTED], Principal of PS7 explained the tutoring process for Hood Corps members during the period of the Grants. (March 9, 2009 E-mail from [REDACTED], Ex. F [REDACTED]). Principal [REDACTED] directly supervised the Hood Corps tutors at PS7. (*Id.*) Indeed, before any tutoring began, Principal [REDACTED] personally trained the Hood Corps tutors, drawing on his knowledge as an education consultant and teacher. (*Id.*) Teachers were also directly involved in tutoring logistics; they often created and disseminated to Hood Corps members individually tailored tutoring plans for struggling PS7 students. (*Id.*) Principal [REDACTED] ensured consistency and structure by matching up students with individual Hood Corps tutors who would tutor the same students for extended periods of time. (*Id.*)

This tutoring occurred after school, and each student in the program received Hood Corps tutoring four days a week. (*Id.*) Page 15 of the 2006-2007 Narratives shows that Hood Corps members and volunteers (*e.g.*, Hood Corps Interns) tutored 147 students in 2004-2005 and 222 in 2005-2006. (Ex. C). Further, Principal [REDACTED] recalled that there were typically between six and ten Hood Corps members present and tutoring on any given day during the school year. ([REDACTED] E-mail). He also informed us that the Hood Corps members were focused and on task the vast majority of time while tutoring at PS7, and they knew that getting off track or failing to show up would only hurt the students who relied on them. (*Id.*) "The whole Hood Corps program emphasized responsibility and being a leader." He explained that the Hood Corps members were a constant presence on campus and that they worked hard and showed serious commitment. (*Id.*)

Principal [REDACTED] found that the Hood Corps tutoring efforts were significantly beneficial on two main fronts. First, the tutored students' academic performance improved as a result of the tutoring. (*Id.*) For example, California requires that all schools reach an API⁶ level of 800 on a 1000 point scale by 2014. (*Id.*) Oak Park schools scored an average API Base Score of 625 for the 2002-2003 school year. (Exs. A-C, Narratives, Needs and Services Activities). During the Hood Corps' tutoring efforts, however, PS7's API score consistently improved, to 638 in 2004, 737 in 2005, 744 in 2006, and to 749 in 2007. (Ex. G). Notably, PS7 recently achieved an 802 on the API scale -- a full five years before the California deadline. ([REDACTED] E-mail). Principal [REDACTED] stated that the Hood Corps tutors

⁶"API" is short for Academic Performance Index, and is measured through standardized tests in California. See <http://www.cde.ca.gov/ta/ac/ap/glossary08b.asp#ga3>.

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deserve a significant amount of credit in helping to achieve these results, among others.⁷ (*Id.*) He particularly noted improvement in the students' reading and language skills, which he attributes in part to the Hood Corps' tutoring efforts. (*Id.*) Second, the students themselves cherished the presence of the Hood Corps members and looked up to them as role models. Principal ██████ stated that it was helpful to have such positive role models for his underserved students to emulate and interact with. He explained that the Hood Corps members could often communicate ideas to the students more effectively than teachers given their closer proximity in age. (*Id.*) In all, ██████ believes that the Hood Corps' tutoring efforts greatly benefited his students. (*Id.*)

Over the last two weeks, we also spoke with several former Hood Corps members. They universally and unequivocally stated that Hood Corps members not only participated in tutoring on a daily basis, but that they did so with enthusiasm and focus. (*See* March 4, 2009 E-mail from ██████, Ex. H ("██████ E-mail"); March 16, 2009 E-mail from ██████, Ex. I ("██████ E-mail"); March 6, 2009 E-mail from ██████, Ex. J ("Hudson E-mail"); March 6, 2009 E-mail from Dominique Donette, Ex. K ("Donette E-mail"); March 10 E-mail from ██████, Ex. L ("██████ E-mail"); March 12, 2009 oral confirmation from ██████, Ex. M ("██████ E-mail"). The majority of Hood Corps tutoring took place at PS7, with some tutoring taking place at Sacramento High. (*See* ██████ E-mail and ██████ E-mail). The former Hood Corps members confirmed that tutoring occurred every day after school, and that they engaged in one-on-one tutoring as well as group tutoring where appropriate. (*Id.*)

As an example, we spoke with 2004-2005 Hood Corps Intern ██████, and our conversation with him confirmed that Hood Corps met the tutoring goals outlined in the Narratives. ██████ E-mail). He explained that he tutored at PS7 nearly every day during the 2004-2005 school year from the time school got out until five or six o'clock in the evening. (*Id.*) While present at PS7, ██████ and the other Hood Corps members were focused and on task, and spent virtually all of their time actually tutoring students. (*Id.*) ██████ also believes the students he tutored benefited directly from the experience, and he recalls a once-shy student approaching him excitedly to proudly proclaim that he had received an "A" on a test in a subject matter in which ██████ had tutored him. (*Id.*) He often reminded and encouraged the students to study hard because "grades represent smiles." (*Id.*)

We also spoke with 2005-2006 and 2006-2007 Hood Corps member ██████ ██████ E-mail). ██████ confirmed that he took tutoring very seriously and spoke very highly of other Hood Corps members' commitment and focus. (*Id.*) Specifically, ██████ tutored at PS7 nearly every day of the week from about three o'clock to five-thirty in the afternoon. (*Id.*) At least ninety percent of ██████ time at PS7 was spent

⁷For example, in 2005-2006, students with a documented truancy record in 2004-2005 increased their rates of attendance by 80 percent. (Ex. C, Narratives, p. 15).

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actively tutoring students. (*Id.*) Moreover, he confirmed that almost all of the other Hood Corps members with whom he tutored spent their time on task and actively tutoring PS7 students. (*Id.*) Each Hood Corps member told the same story regarding tutoring at PS7; that is, that the Hood Corps members were dedicated and on task, and that the students benefited significantly from the experience. (*See* Exs. H-M).

In sum, Principal [REDACTED] recollection is consistent with the experience described by every former Hood Corps member with whom we spoke. It is unfortunate that the evidence in your possession does not disclose the undeniable truth that Hood Corps maintained a constant presence at PS7 and tutored students there on a regular and consistent basis. In addition, the students' academic performances improved as a result of Hood Corps tutoring efforts. In sum, Hood Corps not only complied with the educational objective in the Grants, it did so with enthusiasm, focus, and ultimately, with success.

Arts Enrichment

The Grants also set forth the scope of work with respect to arts enrichment. The Narratives state broadly that Hood Corps expects "to increase arts programming in Oak Park." (Exs. A-C, Narratives, Expected Impact). Further, as the Suspension Notice notes, Hood Corps members were supposed to "coordinate logistics, public relations and marketing for the Guild Theater and Art Gallery in Sacramento, CA." (Suspension Notice, at 2). However, as it does with respect to the public education component of the Grants, the Suspension Notice neglects to mention other clearly permissible work under the scope of work, including coordinating "hands-on workshops, guest artist lectures, and art exhibitions for Sacramento High School of the Arts and PS7 Elementary School." (Exs. A-C, Narratives, Summary of Program Design). Our investigation shows that Hood Corps fully complied with these provisions of the Grants.

[REDACTED], Director of the 40 Acres Art Gallery in Oak Park (the "Gallery"), supervised the Hood Corps members in connection with their work at the Gallery during the 2004-2007 period. (March 5, 2009 E-mail from [REDACTED], Ex. N (" [REDACTED] E-mail")). (The Gallery is a non-profit St. HOPE program devoted to benefiting the community by making art more accessible.) As a general proposition, she stated that the Hood Corps members were her "arms and legs," and that they worked hard at the Gallery without exception. (*Id.*) Hood Corps members coordinated much of the logistics work for the Gallery during this period, including day-to-day operational activities, setting up and taking down exhibits, helping with workshops, and marketing. (*Id.*) Hood Corps members spent the vast majority of their time on track and focused on their duties. (*Id.*) She never found them wasting more than a few minutes of time, and on the rare occasion when she noticed a member losing focus, she would get him or her back on track immediately. (*Id.*) She "runs a tight ship" and has been told as much on several occasions. (*Id.*)

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In terms of marketing, [REDACTED] considered the Hood Corps members the "face" of the Gallery. (*Id.*) They engaged in a broad range of marketing activities such as maintaining the contact database and crafting and disseminating press releases for Gallery exhibits and events. (*Id.*) Hood Corps members also engaged in "hands on" marketing in the Oak Park community, including creating post cards and posters and distributing them to local businesses to advertise the Gallery and its events. (*Id.*) [REDACTED] strongly believes that the Hood Corps' marketing efforts helped make the Gallery successful, which in turn fulfilled the Grants' directive to increase arts programming in Oak Park. (*Id.*)

Hood Corps members also contributed mightily to Gallery workshops. (*Id.*) These workshops typically included a local or national "resident" artist who would stay for a period of time and teach PS7 and Sacramento High students about art. (*Id.*) The Hood Corps helped in all logistical matters pertaining to workshops, from set up to clean up. (*Id.*)

The Hood Corps members who served at the Gallery universally echo [REDACTED]' assessment. For example [REDACTED], a 2004-2005 Hood Corps Fellow who now attends U.C. Berkeley, served as the Hood Corps Arts Outreach Coordinator. ([REDACTED] E-mail). In that capacity, she often led tours and workshops for local schools, and was the contact person for such events. (*Id.*) Moreover, she was the main gallery assistant and essentially ran day-to-day operations, such as taking questions from and helping customers, setting up and taking down exhibits, and opening and closing the Gallery. (*Id.*) She explained that the Gallery would garner very high attendance during "Second Saturday" art events. (*Id.*) Moreover, she spoke highly of an exhibition she helped put on entitled, "The Best of Sac High," in which the Gallery showcased and awarded art created by Sacramento High School students. (*Id.*) [REDACTED] reiterated that Hood Corps members did not "goof off or screw around." (*Id.*) She explained that Ms. [REDACTED] kept members on track and their schedules full. (*Id.*) Several other Hood Corps members substantiated the work the Hood Corps members performed at the Gallery and their high level of focus and attention. (See [REDACTED] E-mail; [REDACTED] E-mail; [REDACTED] E-mail; and [REDACTED] E-mail).

[REDACTED] also explained that Hood Corps members participated in coordinating logistics for Guild Theater productions, lectures, and events with the same zeal and commitment. ([REDACTED] E-mail). (The Guild Theater is also a non-profit St. HOPE program that exists for the benefit of the community.) Of course, the Guild Theater activities were commensurate with productions, lectures, and events and did not require daily attention as the Gallery did. We spoke with several participants in Guild Theater activities who corroborate the Hood Corps' participation in such events. In particular, [REDACTED], a 2004-2005 Hood Corps member, informed us that she worked at the Guild Theater regularly before and after events, including live theatrical performances, live music, movies, and lectures. (March 11, 2009 E-mail from [REDACTED], Ex. O (" [REDACTED] E-mail")). Ms. [REDACTED] confirmed that Hood Corps members' duties at theater events were similar to duties at the Gallery; that is, they handled much of the logistics and

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contributed to marketing. (*Id.*) [REDACTED], former Project Manager for St. HOPE Development Company, explained that Hood Corps members would clean up the theater before an event and then change into their best clothes and greet people. (March 9, 2009 E-mail from [REDACTED] Ex. P (" [REDACTED] E-mail")). These efforts resulted not only in an increase in arts programming but also in the Oak Park community's increased patronage of the Guild Theater – plainly activities covered within the scope of the Grants. [REDACTED] E-mail; [REDACTED] E-mail).

In sum, all Hood Corps members and supervisors with whom we spoke confirmed the long, productive, and focused hours the Hood Corps members worked for the Gallery and the Guild Theater. [REDACTED] believes that they were a "huge help" to her and the Gallery. [REDACTED] E-mail). [REDACTED] and [REDACTED] informed us that groups from outside the Oak Park community began attending and still attend events at the Guild Theater, such as live jazz, which did not occur before Hood Corps' involvement. [REDACTED] E-mail; [REDACTED] E-mail). Lastly, all of the Hood Corps members with whom we spoke who had worked at the Gallery and Guild Theater believe that their efforts had tremendous positive impacts on arts programming and appreciation in Oak Park. (See [REDACTED] E-mail; [REDACTED] E-mail; [REDACTED] E-mail; [REDACTED] E-mail). It is thus apparent that Hood Corps fulfilled the objective under the Grants with respect to arts enrichment.

Economic Development

As with the public education and arts enrichment objectives, the Narratives define the Hood Corps' scope of work with respect to the economic development objective. The Suspension Notice suggests that economic development activity under the Grants was limited to "help[ing] redevelop one building a year in Oak Park." (Suspension Notice, at 2). While the Narratives do reference this type of work, the scope of work under the Grants is much broader. The Narratives provide, "As an area targeted for redevelopment, the Oak Park community is in transition and positioned for revitalization. However, community revitalization cannot be fully realized without coordinated education and economic development efforts, and dedicated volunteers to fuel these efforts." (Narratives, Executive Summary). The 2004-2005 and 2005-2006 Narratives also state more specifically, "Fellows and Interns may also provide direct services to the community through organizing and participating on [sic] development projects such as playground builds and *property upkeep and rehabilitation*." (Exs. A-B, Work Experience) (emphasis added). Although Hood Corps' relationship with the Sacramento Housing and Redevelopment Agency⁸ did not materialize as anticipated between 2004 and 2007, which would have allowed for significant renovation management opportunities, Hood Corps members nonetheless engaged in economic development activities that fall well within the scope of the Grants.

⁸SHRA is a public agency that acts as one of the primary funding sources in inner-city development zones, such as Oak Park.

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██████████, a civil engineer, was Project Manager for St. HOPE Development Company from October 2005 through May 2008. (Williamson E-mail). He supervised Hood Corps members' activities concerning economic development during that period. ██████████ joined St. HOPE for the purpose of renovating dilapidated buildings in Oak Park, but quickly discovered that economic conditions there were so bad that no one would rent the finished buildings. (*Id.*) ██████████ believes in a form of the "broken windows" theory of economic development, which essentially provides that if the community removes graffiti, cleans up the neighborhood, and gets trash off the streets, economic conditions will improve. (*Id.*) That is, a clean Oak Park is more likely to develop economically (thereby making it easier to rent out buildings) than a dirty one. (*Id.*) According to ██████████, this is a proven theory in blighted urban areas of New York and other cities. (*Id.*)

With that theory in mind and with properties in hand that no one would rent, ██████████ and the Hood Corps began implementing the broken windows theory in Oak Park, which included property upkeep and rehabilitation as expressly permitted in the 2004-2005 and 2005-2006 Narratives. (*Id.*)

An important element of Hood Corps' economic development activity included its Second Saturday Cleanup Program which took place, not surprisingly, on the second Saturday of each month. (*Id.*) This program consisted of Hood Corps members, St. HOPE affiliates, volunteers from the community and Sacramento High, and the local business association. (*Id.*) Typical attendance ranged from 60 to 120 people who would gather and dispose of the trash on the streets of Oak Park and generally clean up the community. (*Id.*) Each Hood Corps member was in charge of a small group of Sacramento High volunteers, and each carried a walkie-talkie that was monitored by local police. (*Id.*) Hood Corps members would manage the cleanup process, and then facilitate a question-and-answer and reflection period after the cleanup. (*Id.*) The purpose of this reflection period was to allow the Hood Corps members and other volunteers to reflect on the positive impact they were having on the Oak Park community. (*Id.*) ██████████ explained that the Hood Corps members were effective leaders of these groups and that they were on task and focused on their duties. (*Id.*) In addition to the duties described above, the Hood Corps members would assist in setting up, signing in volunteers, distributing materials, and other logistics. (*Id.*) Several of the Hood Corps members with whom we spoke confirmed their participation in these events. (See ██████████ E-mail; ██████████ E-mail; ██████████ E-mail).

Aside from the Second Saturday cleanup efforts, Hood Corps members applied the broken windows theory to the 40-Acres Complex in Oak Park.⁹ (██████████ E-mail). For example, they were required to pick up trash when they saw it on the ground around the premises. (*Id.*) And they were required to generally keep the premises clean. (*Id.*) This is

⁹This complex is a plot of land in Oak Park containing, among other buildings, the Gallery, the Guild Theater, a bookstore, and a Starbuck's coffee shop.

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important because "people need to be surprised at the cleanliness of Oak Park" when they visit; it needs to be cleaner than other parts of town to promote economic growth. (*Id.*) [REDACTED] confirms that Hood Corps members would engage in day projects with an eye towards stimulating the local economy, such as cleaning out a dilapidated day care building so that it could be renovated for productive use. [REDACTED] E-mail) These activities have contributed to the economic growth in the area. It is also worth noting that the Guild Theater began bringing in patrons from outside Oak Park for events and shows only after the Hood Corps engaged in their revitalization efforts. ([REDACTED] E-mail; [REDACTED] E-mail). An honest assessment of Hood Corps' efforts in the realm of economic development requires recognition of these activities, which were directed toward making Oak Park an area worth investing in.

As with their duties in public education and arts enrichment, Hood Corps members performed with focus and pride in their economic development activities. They have made a substantial impact on Oak Park for the better. ([REDACTED] E-mail). Perhaps most importantly for current purposes, these activities were within the scope of the Grants.

Civic Leadership Development

We would be remiss if we did not point out that the Hood Corps program was ultimately designed to be one that "educates, trains and empowers individuals to become civic leaders . . ." (Exs. A-C, Narratives, Mission). In other words, the Narratives are replete with references to goals and opportunities to foster youth leadership amongst the Hood Corps members. Moreover, Exhibit B to the 2006-2007 Grant, Section D, Paragraph 4 titled "Service-Learning" provides, "The grantee agrees to use service experiences to help members achieve the skills and education needed for productive, active citizenship . . ." (Ex. C). We have no doubt that the Hood Corps experience succeeded in enhancing the leadership and citizenship skills of each and every member.

Our discussions with Hood Corps supervisors and members show that the Hood Corps program had a concrete and lasting effect on its members' leadership skills. As an example, one former 2004-2005 Hood Corps member, [REDACTED], currently attends the United States Military Academy at West Point. ([REDACTED] E-mail). She believes that the Hood Corps experience "most definitely" enhanced her civic leadership skills. (*Id.*) It taught her a kind of discipline she was not used to; she dubbed it "selfless service." (*Id.*) She further noted that at West Point, all cadets seek to be leaders, but her experience at Hood Corps allowed her to be an effective leader from the start. (*Id.*) [REDACTED] informed us that she will graduate as a Second Lieutenant in the United States Army and will be in charge of a platoon. However, she is ready for the challenge, thanks in part to "selfless service" leadership skills she learned from her experience as a member of Hood Corps. (*Id.*)

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The list goes on. [REDACTED] explained that she would not have even applied to U.C. Berkeley, where she is now a student, but for her experience in the Hood Corps, and that Hood Corps enhanced her discipline, personal accountability, and leadership skills. ([REDACTED] E-mail). [REDACTED] now attends Arizona State University, where he is the president of his fraternity and a member of an African-American businessperson's group. ([REDACTED] E-mail). [REDACTED] stated that he was "lost" before Hood Corps, and that it gave him direction and improved his leadership skills. ([REDACTED] E-mail). By design, Hood Corps members were at the forefront of a great number of community activities, and they had the opportunity to experience many positive things that they otherwise would not have. ([REDACTED] E-mail). We could go on for pages with anecdotal evidence of Hood Corps' success in training leaders and successful young citizens. As Principal [REDACTED] explained, "The whole Hood Corps program emphasized responsibility and being a leader." ([REDACTED] E-mail). In this regard, the investment of the Grants not only benefited Oak Park at large, but it enhanced the futures of many deserving people and with them, all of our futures.

In sum, the evidence we have garnered plainly establishes that Hood Corps performed substantial and specific work that was expressly authorized in the Grants. More generally, Exhibit F to the 2004-2005 Grant, Section B, Paragraph 1 titled "Purposes Of The Grant" states that "The general purposes of this Grant are 'Getting Things Done' in communities, strengthening the ties that bind communities together, and developing the citizenship and skills of AmeriCorps members." There can be little doubt that Hood Corps accomplished these goals as well.

II. St. HOPE's Financial Condition is Precarious.

The second purpose of this submission is to establish St. HOPE's precarious financial condition. Toward that end, we have attached four schedules reflecting that dismal condition.

The first schedule, entitled "St. Hope Academy Statement of Activities for the month & 7 months ending January 31, 2009 (Unaudited)" (attached as Exhibit Q), establishes two relevant data points. First, for January 2009, St. HOPE sustained a net loss of \$57,750. This is due to the simple fact that it brought in \$25,528, while its expenses totaled \$83,278.

This schedule also includes St. HOPE's year-to-date net loss. For the seven months ending January 31, 2009, St. HOPE received \$725,664 in total revenue. During that same period, it incurred \$1,450,768 in expenses, for a net loss of \$725,103. As is evident, St. HOPE is hemorrhaging cash at an alarming rate.

The second schedule, entitled "St. Hope Academy Statement of Financial Position as of January 31, 2009 (Unaudited)" (attached as Exhibit R) shows that St. HOPE had a total debt of \$1,876,620 and net assets of \$2,943,700 as of January 31, 2009. However,

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these numbers are easily misconstrued. As the schedule reflects, the vast majority of these assets consist of heavily leveraged property and equipment. Moreover, the "investments" category reflects a \$1,122,642 endowment from a separate 501(c)(3) organization, the St. HOPE Foundation, in an account at Merrill Lynch. These funds are controlled by the Foundation, not St. HOPE, and are distributed pursuant to an investment policy on a strict quarterly basis schedule. Also, \$1,502,762 of the "total assets" on this schedule is accounts receivable, which St. HOPE likely will not realize. When this schedule is coupled with the cash flow projection schedules described below, St. HOPE's financial condition looks grim indeed.

St. HOPE's cash flow projection for the rest of the 2008-2009 fiscal year (attached as Ex. S) shows little hope that its condition will improve anytime soon.¹⁰ To briefly summarize that schedule, the projection shows that for each month between February and June 2009, except for April, St. HOPE will sustain a net cash loss of between \$50,808 and \$91,739. (*Id.*) The schedule also shows extremely limited sources of revenue. As a matter of simple arithmetic, it is readily apparent that St. HOPE will soon be completely out of cash, with little to no revenue to supplant the loss.

You will note that the projection for April 2009 does not appear to result in a loss for that month. This is because of the \$250,000 Kellogg grant listed under the "Large Grants and Donations" category for that month. This grant is 100 percent restricted to Hood Corps purposes as that program now exists. In other words, these funds are not accessible to St. HOPE. Therefore, to ascertain accessible funds, \$250,000 must be subtracted from each "ending cash" total for April 2009-June 2009 at the bottom of the schedule. Thus for current purposes, the "ending cash" accessible funds total for April 2009 is \$38,139; May 2009 is -\$12,669; and June 2009 is -\$74,477. (*See Ex. U.*) The next fiscal year's projections look even worse.

With respect to the 2009-2010 cash flow projections schedule (attached as Ex. V), the "ending cash" totals begin at \$113,715 in July 2009, and end at -\$382,171 in June 2010. Notably, these figures *include* the \$250,000 restricted Kellogg grant. In terms of accessible funds, because the \$250,000 Kellogg grant is completely restricted,¹¹ the "ending cash" totals

¹⁰We created two simple graphs reflecting the two cash flow projection spreadsheets for your convenience. One shows St. HOPE's financial projections including a large restricted grant. (Ex. T). The other shows St. HOPE's financial condition excluding the large restricted grant. (Ex. U).

¹¹Note that the 2009-2010 cash flow projection sheet contains grants from the Sacramento Kings/Maloof (\$50,000); the Phoenix Suns (\$50,000); and Sacramento Metropolitan Arts Council (\$20,000). Unlike the "Kellogg" grant noted on the 2008-2009 sheet, these funds are unrestricted and therefore are properly included in this analysis.

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are properly reduced by \$250,000. Thus, accessible "ending cash" is really -\$136,285 in July 2009 and -\$632,171 in June 2010. (See Ex. U).

In short, these schedules demonstrate what I told you when we spoke and what Malcolm Segal has been telling you: St. HOPE's financial condition is precarious, at best.¹²

III. The Showing in Part I, Above, Also Establishes That St. HOPE Spent Most, If Not All, of the Grant Funds To Carry Out the Grants' Objectives.

When you and I spoke last month, we also talked about the possibility that St. HOPE would demonstrate through its accounting records the specific recipients of the AmeriCorps grant monies it received. Our response is twofold: (1) the current state of St. HOPE's records and the departures of key St. HOPE financial personnel have prevented us from completing this analysis; but (2) the exercise seems superfluous in light of the showing made in Part I, above, that Hood Corps did indeed pursue the Grants' objectives.

Expanding upon the second point first, I believe your desire to trace all the Grant funds to specific recipients was based at least in part on the absence of evidence in your possession that Hood Corps had done anything at all to advance the Grants' objectives. We hope we have now dispelled that notion, and established that Hood Corps did indeed vigorously pursue those objectives. In doing so, it necessarily spent at least most of the grant monies to pay the stipends for Hood Corps members, the salaries of personnel who devoted all or a portion of their time to carrying out the Grants' objectives, and for the use of facilities and other expenses associated with accomplishing those objectives. This showing would seem to alleviate the need to trace each grant dollar to its ultimate recipient.

Nonetheless, to the extent you would still desire to "follow the money," St. HOPE is willing to fully cooperate and assist in that effort, though it will take some additional time. We may need to request copies of all checks from the banks, review the payroll records St. HOPE previously produced to you, and confer with the most knowledgeable remaining St. HOPE employees.¹³ Perhaps this could be a joint endeavor between St. HOPE and your office; indeed, you may have better and more expeditious means of obtaining records than

¹²I was not aware until late last week that St. HOPE had actually already repaid \$51,871,92 of its grant monies in 2007 to California Volunteers, the State agency charged with administering the Grants. This repayment must be taken into account in any resolution of this matter.

¹³One set of documents we think would be helpful in this regard are the contemporaneous invoices St. HOPE provided to California Volunteers. However, an attorney for that agency told me just last Friday that OIG had collected all of that agency's Hood Corps files some months ago, and that California Volunteers no longer had access to them; hence St. HOPE does not currently have access to them either.

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St. HOPE does. Whatever way we choose to proceed or not to proceed in this regard, however, you have St. HOPE's and Mayor Johnson's unequivocal pledge to fully cooperate; neither has anything to hide.

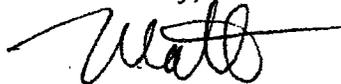
Conclusion

Once again, I thank you for the opportunity to present this information.

The first part of our submission should dispel any suspicion that St. HOPE took the grant money and ignored what it was supposed to be doing in return; in fact, St. HOPE ran a very successful AmeriCorps program that absolutely fit within the scope of the Grants' objectives. The second part of our submission shows that St. HOPE simply does not have, and is not going to obtain (at least any time soon), any funds with which it could repay the Grants, even were that otherwise appropriate (which we don't believe it is). And while we are happy to continue to work toward a more robust demonstration that grant monies were used in furtherance of the Grants, we believe that the first part of this submission establishes that most, if not all, of those monies were indeed used in the pursuit of the Grants' objectives.

Please do not hesitate to call me with questions or concerns. We look forward to your response and to continuing this dialogue. Our hope is that we can resolve this matter in a way that allows St. HOPE to continue to serve the community, assuming it can otherwise find a way to survive.

Sincerely,



Matthew G. Jacobs

Enclosures

1. This Agreement is entered into between the State Agency and the Contractor named below
 STATE AGENCY'S NAME
JPR/California Service Corps (CSC)
 CONTRACTOR'S NAME
St. Hope Academy
2. The term of this Agreement is: **July 1, 2004 - December 31, 2005**
3. The maximum amount of this Agreement is: **\$271,009.00**
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

- Exhibit A, entitled "CSC Policy & Requirements"
- Exhibit B, entitled "Terms and Conditions"
- Exhibit C, entitled "Cost Per Member Policy dated July 1, 2004"
- Exhibit D, entitled "AmeriCorps Title Page/Program Narrative/Performance Measures"
- Exhibit E, entitled "Budget Form and Budget Narrative"
- Exhibit F, entitled "AmeriCorps Provisions Dated February 2004"
- Exhibit G, entitled "Travel Reimbursement Rates/Conditions"
- Exhibit H, entitled "Certification and Assurances"

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

| CONTRACTOR | | CALIFORNIA Department of General Services Use Only |
|--|--------------------------------|--|
| CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) St. Hope Academy | | |
| | DATE SIGNED 11/10/04 | |
| PRINTED NAME AND TITLE OF PERSON SIGNING [Redacted], Executive Director | | |
| ADDRESS P.O. Box 5447, Sacramento, CA 95817 | | |
| STATE OF CALIFORNIA | | |
| AGENCY NAME JPR/California Service Corps | | <input checked="" type="checkbox"/> Exempt per AG Opinion No. 80-111 |
| | DATE SIGNED 1-5-05 | |
| PRINTED NAME AND TITLE OF PERSON SIGNING [Redacted] Executive Director, CSC | | |
| ADDRESS 10 K Street, Suite 210, Sacramento, CA 95814 | | |

PART I - FACE SHEET

| | | | | | | | | | | | | | | | |
|---|---|---|------------|---------------|--------------|---------------|----------|---------|----------|---------|----------|---------|-------------------|---------|----------|
| APPLICATION FOR FEDERAL ASSISTANCE | | 1. TYPE OF SUBMISSION: Non-Construction | | | | | | | | | | | | | |
| 2a. DATE SUBMITTED TO CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS): | 3. DATE RECEIVED BY STATE: 15-JUL-04 | STATE APPLICATION IDENTIFIER: | | | | | | | | | | | | | |
| 2b. APPLICATION ID: 04AC046031 | 4. DATE RECEIVED: | GRANT NUMBER: | | | | | | | | | | | | | |
| 5. APPLICATION INFORMATION | | | | | | | | | | | | | | | |
| LEGAL NAME: St. HOPE Academy | | NAME AND CONTACT INFORMATION FOR PROJECT DIRECTOR OR OTHER PERSON TO BE CONTACTED ON MATTERS INVOLVING THIS APPLICATION (give area codes): NAME: [REDACTED] TELEPHONE NUMBER: (916) 732-4673 FAX NUMBER: (916) 452-7177 INTERNET E-MAIL ADDRESS: [REDACTED] | | | | | | | | | | | | | |
| ADDRESS (give street address, city, state and zip code): P.O. Box 5447 Sacramento CA 95817 | | | | | | | | | | | | | | | |
| 6. EMPLOYER IDENTIFICATION NUMBER (EIN): 680193050 | 7. TYPE OF APPLICANT: 7a. Non-Profit 7b. Community-Based Organization Faith-based organization Service/Civic Organization | | | | | | | | | | | | | | |
| 8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> NEW <input type="checkbox"/> CONTINUATION <input type="checkbox"/> REVISION If Revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration | | 9. NAME OF FEDERAL AGENCY: Corporation for National and Community Service | | | | | | | | | | | | | |
| 10a. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 94.006 10b. TITLE: AmeriCorps*State | 11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Neighborhood Corps. | | | | | | | | | | | | | | |
| 12. AREAS AFFECTED BY PROJECT (List Cities, Counties, States, etc): Sacramento, California | | | | | | | | | | | | | | | |
| 13. PROPOSED PROJECT: START DATE: 09/07/04 END DATE: 08/22/07 | | 14. PERFORMANCE PERIOD: START DATE: END DATE: | | | | | | | | | | | | | |
| 5. ESTIMATED FUNDING: | | 16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? <input type="checkbox"/> YES, THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE: | | | | | | | | | | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>a. FEDERAL</td> <td style="text-align: right;">\$ 273,745.00</td> </tr> <tr> <td>b. APPLICANT</td> <td style="text-align: right;">\$ 170,961.00</td> </tr> <tr> <td>c. STATE</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>d. LOCAL</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>e. OTHER</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>f. PROGRAM INCOME</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>g. TOTAL</td> <td style="text-align: right;">\$ 444,706.00</td> </tr> </table> | | | a. FEDERAL | \$ 273,745.00 | b. APPLICANT | \$ 170,961.00 | c. STATE | \$ 0.00 | d. LOCAL | \$ 0.00 | e. OTHER | \$ 0.00 | f. PROGRAM INCOME | \$ 0.00 | g. TOTAL |
| a. FEDERAL | \$ 273,745.00 | | | | | | | | | | | | | | |
| b. APPLICANT | \$ 170,961.00 | | | | | | | | | | | | | | |
| c. STATE | \$ 0.00 | | | | | | | | | | | | | | |
| d. LOCAL | \$ 0.00 | | | | | | | | | | | | | | |
| e. OTHER | \$ 0.00 | | | | | | | | | | | | | | |
| f. PROGRAM INCOME | \$ 0.00 | | | | | | | | | | | | | | |
| g. TOTAL | \$ 444,706.00 | | | | | | | | | | | | | | |
| | | 17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> YES if "Yes," attach an explanation. <input checked="" type="checkbox"/> NO | | | | | | | | | | | | | |
| TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN FULLY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE AWARDED. | | | | | | | | | | | | | | | |
| TYPED NAME OF AUTHORIZED REPRESENTATIVE: [REDACTED] | | d. TITLE: Acting Executive Director | | | | | | | | | | | | | |
| | | c. TELEPHONE NUMBER: (916) 732-4673 | | | | | | | | | | | | | |
| | | d. DATE: | | | | | | | | | | | | | |

Performance Measures

Service Category

Afterschool Programs

Community-Based Volunteer Programs

Training and Technical Assistance

1 Measure Type: Needs and Service Activities

1. Identify the result. Label as output, int-outcome or end outcome.

OUTPUT: Elementary and high school students will be tutored.

INTERMEDIATE OUTCOME: Students who are tutored improve attendance and increase positive behavior.

END OUTCOME: Students tutored improve academic skills.

2. Describe how you will achieve this result.

Each school year, 100 PS7 Elementary students Sacramento High School students performing at one to three years below grade level in reading and/or math will be selected by their school staff and principal to receive one-on-one tutoring. Student placement will be determined based on a diagnostic test (HOSTS) and progress will be measured at minimum mid-year and end-of-year. An Individualized Education Plan will be developed for each student that will guide the tutoring curriculum. Students will receive 2-4 hours of one-on-one tutoring per week in reading and/or math for 40 weeks per year or until they reach grade level. Hood Corps Fellows, Interns and Apprentices will receive HOSTS training and provide tutor students for 1-hour (half an hour per subject) 2-4 days a week for one during the school day and/or after school. Hood Corps members will work with the same students throughout the school year.

3. What data and instruments will you use to measure the results?

OUTPUT:

3. What data and instruments will you use to measure the results?

Tutoring Log (contained in the Individualized Educational Plan)

INTERMEDIATE OUTCOME:

Student attendance records

Referral records

Suspension records

END OUTCOME

Diagnostic Tests (Elementary'HOSTS, High School'TBD)

Ongoing Assessment (Elementary'HOSTS, High School'TBD)

CAT-6 (Math and Language Arts scores)

4. What targets do you expect to meet during the 3 year grant period?

Year 1: 100 PS7 Elementary School students and Sacramento High School students will receive a total of 16,000 hours of one-on-one tutoring by the end of the school year

Year 2: 110 PS7 Elementary School students and Sacramento High School students will receive a total of 17,600 hours of one-on-one tutoring by the end of the school year

Year 3: 120 PS7 Elementary School students and Sacramento High School students will each receive a total of 19,200 hours of one-on-one tutoring by the end of the school year

Year 1: 60% of students who receive one-on-one tutoring in reading and math that have truancy and/or behavior issues at the onset of the program will increase attendance and positive behavior by 40%.

Year 2: 70% of students who receive one-on-one tutoring in reading and math that have truancy and/or behavior issues at the onset of the program will increase attendance and positive behavior by

STEVENS, O'CONNELL & JACOBS LLP

ATTORNEYS

400 CAPITOL MALL, SUITE 1400
SACRAMENTO, CALIFORNIA 95814-4498

www.sojllp.com

TELEPHONE: (916) 329-9111

FACSIMILE: (916) 329-9110

MATTHEW G. JACOBS

mgi@sojllp.com

March 18, 2009

By E-Mail Only
Privileged Settlement Communication

Kendall J. Newman
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814

Re: St. HOPE Academy

Dear Ken:

This confirms our conversation in which I offered, on behalf of St. HOPE Academy (which is not my client, but which has authorized me to convey this offer), to resolve your investigation and all related matters for a \$50,000 cash payment and a \$250,000 stipulated judgment, the terms of which would be subject to negotiation. This would fully resolve all of the United States' civil and administrative claims against St. HOPE Academy, Mayor Kevin Johnson, and Dana Gonzales arising out of the AmeriCorps grants to St. HOPE Academy, including all administrative claims for suspension or debarment. (This offer also assumes informal confirmation from your Office's criminal division that it is declining to pursue criminal charges in connection with this matter.)

When we spoke today, I related that I had only very recently learned that St. HOPE had already repaid approximately \$52,000 of the grant monies pursuant to an audit by California Volunteers, the State agency charged with administering the grants. In light of this new information, the decision-makers at St. HOPE seriously considered reducing the offer conveyed in our conversation and in this letter. However, it ultimately decided against doing so in an effort to demonstrate its good faith, and in furtherance of its desire to resolve these matters once and for all.

Kendall J. Newman
March 18, 2009
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If you have any questions, please call. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt", with a long horizontal flourish extending to the right.

Matthew G. Jacobs

MGJ:db

STEVENS, O'CONNELL & JACOBS LLP

ATTORNEYS

400 CAPITOL MALL, SUITE 1400
SACRAMENTO, CALIFORNIA 95814-4498
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FACSIMILE: (916) 329-9110

MATTHEW G. JACOBS
mgj@sojllp.com

March 31, 2009

By E-mail and U.S. Mail

Mr. William Anderson
Deputy CFO for Financial Management
Suspension and Debarment Official
Corporation for National and Community Service
1201 New York Avenue, 8th Floor
Washington, DC 20525

Re: Suspensions of Kevin Johnson; St. HOPE Academy; and Dana Gonzalez

Dear Mr. Anderson:

The undersigned counsel represent Kevin Johnson, the mayor of Sacramento, California; St. HOPE Academy ("St. HOPE"); and Dana Gonzalez, respectively.

On September 24, 2008, the Corporation for National and Community Service (the "Corporation") sent Notices of Suspension under your signature to our clients. We write to request that the Corporation immediately withdraw or rescind these notices and remove our clients from the Excluded Parties List unless and until they have been granted the "name-clearing hearing" that is an absolute prerequisite to suspension or debarment. *See Cox v. Roskelley*, 359 F.3d 1105, 1106 (9th Cir. 2004) ("the law [is] clearly established that publication of stigmatizing information without a name-clearing hearing violates due process."). Moreover, before any such hearing could proceed, the Corporation must provide the evidence upon which it would base any decision to suspend our client, which it has so far refused to provide.

We have not previously challenged the suspensions for three important reasons: (1) none of our clients had applied for or were contemplating applying for federal funds; (2) the Corporation refused to provide us with the evidence upon which it based its decision to suspend, so we did not (and still do not) know what we are refuting; and (3) the Corporation told us that it would not process any appeal of the suspension until its Inspector General and the United States Attorney had completed their ongoing investigation. However, now that there appears to be an issue regarding whether federal agencies will permit an entirely separate entity altogether – the City of Sacramento – to participate in federal programs

Mr. William Anderson
March 31, 2009
Page 2

because of the Corporation's placement of our clients (and particularly, Mayor Johnson) on the Excluded Parties List, this matter has become extremely urgent, and must be resolved immediately.

By Suspending Our Clients Without a Hearing, the Corporation Has Violated
Their Constitutional Rights

"The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Matthews v. Eldridge*, 424 U.S. 319, 333 (1976). When a government agency suspends a person or entity from participating in government programs or funding and publicly discloses stigmatizing information in the process, the suspended party's liberty interests are implicated if the charge affects one's reputation for honesty or morality. *Erickson v. U.S. ex rel. Dep't of Health & Human Servs.*, 67 F.3d 858, 860 (9th Cir. 1995); *Cleanmaster Industries, Inc. v. Shewry*, 491 F. Supp. 2d 937, 943 (C.D. Cal. 2007). Once a liberty interest is implicated, procedural due process protections apply, and stigmatizing information cannot be publicized without a pre-suspension name-clearing hearing.¹ *Cox v. Roskelley*, 359 F.3d 1105, 1106 (9th Cir. 2004); *Cleanmaster, supra*.

As a threshold matter, the Corporation has levied extremely stigmatizing accusations concerning misuse of federal funds against our clients, and has widely disseminated them through (1) a press release and (2) statements on a web site.² As the *Sacramento Bee* reported

¹While "exceptional circumstances" may warrant a delayed hearing to protect the public from immediate and continuing harm (*Cleanmaster*, 491 F. Supp. 2d at 946), no such circumstances existed when the Corporation suspended our clients. In fact, the grants at issue had been completely paid out and none of our clients had applied for or contemplated applying for additional funding. In addition, and as the *Sacramento Bee* noted in its recent editorial, "The original reason for suspension was to protect the public from 'potential repetition of this conduct' while the investigation was ongoing. Johnson and Gonzalez have stepped down from their positions at St. HOPE and Hood Corps, so that should no longer be a concern." "Editorial: AmeriCorps Case Needs Resolution," *Sacramento Bee*, March 24, 2009.

In any event, there is no conceivable reason why Mayor Johnson's previous affiliation with a small non-profit organization should have any affect on a major metropolitan area's ability to participate in federal programs. Under the circumstances, there is no risk to the public fisc that would warrant suspension, and it is certainly not in the public interest to deny the citizens of the Sacramento region the benefits of federal programs based on what Mayor Johnson did or did not do when he was affiliated with St. HOPE.

²See, e.g., D. Korber, *et al.*, "Investigators Turn St. HOPE Report Over to U.S. Attorney," *Sacramento Bee*, Sept. 5, 2008; T. Hardy, *et al.*, "Federal probe accuses Johnson of improper use of St. HOPE funding," *Sacramento Bee*, Sept. 26, 2008; J. Gerstein, "St. Hope Board Member Steps Down," *The New York Sun*, Sept. 30, 2008.

Mr. William Anderson
March 31, 2009
Page 3

last fall, "The suspension of Johnson and St. Hope was trumpeted in huge red headlines ... on the web site of Gerald Walpin, inspector general of the Corporation for National & Community Service." M. Vellinga, *et al.*, "Kevin Johnson: Probe Concerns 'Absurd,'" *sacbee.com*, Sept. 27, 2008, www.sacbee.com/city/story/1269986.html. More recently, Mr. Walpin wrote an open letter to the *Sacramento Bee*, published this morning, repeating these accusations. G. Walpin, "My View: The federal aid ball is in Johnson's court," *sacbee.com*, March 31, 2009, www.sacbee.com/opinion/story/1741193.html.

The Supreme Court has recognized that impairment of one's reputation for honesty or morality, and thus implication of a liberty interest, occurs when the government makes a "charge against him that might seriously damage his standing and associations in his community." *Board of Regents v. Roth*, 408 U.S. 564, 573 (1972). Accusations, such as those the Corporation has made against our clients, irrefutably "damage [their] standing and associations in [their] community." Our clients' Constitutional liberty interests are therefore implicated by the Corporation's suspension of them and its dissemination of information about those suspensions.

Once a person's liberty interests are implicated, courts apply a specific due process analysis. "The procedural protections of due process apply if the accuracy of the charge is contested, there is some public disclosure of the charge, and it is made in connection with the termination of employment or the alteration of some right or status recognized by law." *Vanelli v. Reynolds School Dist. No. 7*, 667 F.2d 773, 777 (9th Cir. 1982); *Orloff v. Cleland*, 708 F.2d 372, 378 (9th Cir. 1983). All the elements of this test are satisfied here: (1) our clients strongly contest the charges against them; (2) the Corporation has made the charges public; and (3) our clients' recognized rights have been altered. Accordingly, the Corporation could not legally suspend our clients without a pre-suspension, name-clearing hearing. Its failure to provide such a hearing violated our clients' Constitutional rights and made the Corporation and its agents potentially liable for damages under 42 U.S.C. section 1983. To begin to rectify these violations, the Corporation must immediately withdraw or rescind its suspensions, at least until our clients are afforded their due process rights to be heard and confront the evidence against them.

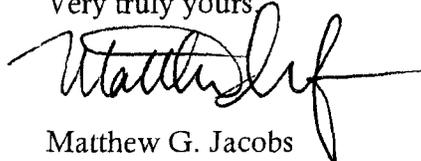
The *Cleanmaster* case is particularly instructive. In that case, a pharmacy challenged its exclusion from California's federally funded Medi-Care program because, among other things, it did not receive a pre-suspension, name-clearing hearing. 491 F. Supp. 2d at 941. After determining that the plaintiff had properly alleged a claim under 42 U.S.C. section 1983, the court held that "the due process clause of the Fourteenth Amendment requires the Department to conduct a hearing at which [plaintiff] has a meaningful opportunity to contest the charges against it before the [government] may debar or suspend the plaintiff" *Id.* at 946. It held that the agency's failure to do so violated due process.

Mr. William Anderson
March 31, 2009
Page 4

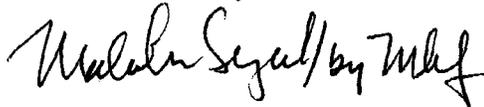
Cleanmaster is directly on point with the facts here. The Corporation should therefore immediately withdraw or rescind its suspensions of our clients until the requisite hearing can be held.³ If it does not, we will have no choice but to seek legal redress with the courts.

We look forward to your immediate response. Thank you.

Very truly yours,



Matthew G. Jacobs
Counsel for Mayor Kevin Johnson



Malcolm S. Segal
Counsel for St. HOPE Academy



Richard Pachter
Counsel for Dana Gonzalez

cc: Chairman Alan Solomont
CEO Nicola Goren
General Counsel Frank Trinity
Inspector General Gerald Walpin
U.S. Attorney Lawrence G. Brown
Assistant U.S. Attorney Kendall J. Newman
Sacramento City Attorney Eileen M. Teichert

³The Corporation has also violated our clients' due process rights by refusing to provide them with the evidence upon which any suspension would be based. As the Supreme Court has held, "[a]t minimum, due process requires notice and a hearing where the individual has a *meaningful opportunity to confront the evidence against him.*" *Matthews*, 424 U.S. at 335 (emphasis added). The Corporation's September 24, 2008 Notices of Suspension state only that they are based on evidence provided by the Corporation's Inspector General, but do not disclose that evidence, and our subsequent requests for that evidence have been denied. Due process requires more. Without seeing the evidence against them, our clients cannot meaningfully participate in the requisite pre-suspension, name-clearing hearing.

October 1, 2008

Custodian of Records
St. HOPE Academy
3400 Third Avenue
Sacramento, CA 95817

Re: Subpoena Number 08-027-S4

Dear Custodian of Records,

Accompanying this letter is a subpoena addressed to you, returnable in Washington, DC, on October 20, 2008, at 11:00 am, before either of my designees, Special Agents Jeffrey Morales and Wendy Wingers at 1201 New York Avenue NW, Suite 830, Washington, DC. You should appear in response to the subpoena as the person who is primarily responsible for keeping and maintaining the documents requested. The subpoena has been issued pursuant to the authority provided by section 6(a)(4) of the Inspector General Act of 1978, as amended.

All documents (as described in the subpoena) must be produced. All documents submitted in response to the subpoena must be organized and identified by each specific description of documents stated in the subpoena. Finally, a signed sworn statement verifying the accuracy and completeness of the materials produced must accompany each submission in response to this subpoena.

Failure to appear at the time, place, and manner set forth above will be taken as a failure to comply with the subpoena. However, as a convenience, you may forward your responses to the subpoena, as described above, together with your signed sworn statement, by registered or certified mail or other type of accountable means (i.e. Federal Express) no earlier than October 20, 2008, to Special Agent Jeffrey Morales, Office of Inspector General, Corporation for National and Community Service, Suite 830, 1201 New York Avenue, NW, Washington, D.C. 20525. If you wish to respond to the subpoena in this manner, please notify our office. If you have any questions, please contact Mr. Vincent Mulloy, Counsel to the Office of the Inspector General, at (202) 606-9365.

Very truly yours,

Gerald Walpin
Inspector General

Enclosure
Subpoena with attachment

ATTACHMENT

Documents Requested by the Corporation's Office of Inspector General St. HOPE Academy

All of the following original documents (or copies where original are not available) in the custody and control of St HOPE Academy related to the AmeriCorps grant program for grant years 2004 through 2007:

1. General ledger and other accounting records detailing transaction-level support for federal and match expenditures claimed on the Financial Status Reports;
2. Financial Status Reports, Periodic Expense Reports and Grantee Progress Reports;
3. Reconciliation between accounting detail reports provided and amounts of Federal cost claimed on the Financial Status Report;
4. Reconciliation between accounting detail reports provided and amounts of match/cost sharing claimed on the Financial Status Report;
5. AmeriCorps member files, inclusive member contracts and evaluations.
6. Personnel files of all employees charged to the grant;
7. Any internal audit or other audit reports by Federal and/or State agencies.
8. OMB Circular A-133 reports and management letter;
9. Programmatic, accounting and personnel written policies and procedures related to the AmeriCorps program;
10. Organization charts for each year;
11. Charts of account for each year;
12. Record retention and travel policies.
13. All amendments, grant applications and budget (with narrative) for each grant year;
14. Pertinent correspondence and/or other communication with the Corporation for National and Community Services and the California Commission.
15. Bank statements; and
16. W-2's for all AmeriCorps members.

All documents submitted in response to this request should be organized and identified by each specific description of documents above.

Each submission in response to this request should be accompanied by a signed sworn statement verifying the accuracy and completeness of the materials provided.

The term "document" or "documents" used in this attachment means:

a. All written, printed, typed, recorded, or graphic matter of every type and description, however and by whomever prepared, produced, reproduced, disseminated or made, in your actual or constructive possession, custody or control (including but not limited to, all reports, answers, records, accounts, papers, writings, letters, minutes, bulletins, correspondence, telegrams, memoranda, notes, instructions, literature, work assignments, notebooks, agreements, contracts, notations of telephone or personal conversations or conferences, interoffice communications, microfilm, circulars, pamphlets, advertisements, catalogues, studies, notices, summaries, invoices, graphs, photographs, drafts, data sheets, data compilations, computer data sheets, computer data compilations, work sheets, statistics, speeches or other writings, tape recordings, transcript of tape recordings, phonograph records, or data compilations including on any computer equipment from which information can be obtained or can be translated through detection devices into reasonable usable form);

b. Originals (or copies where originals are not available) and all copies not absolutely identical to the original; and

c. All drafts and notes (whether typed, handwritten, or otherwise) made or prepared in connection with such documents, whether used or not.



OFFICE OF INSPECTOR GENERAL

March 18, 2009

Kendall Newman, Esq.
Office of Assistant U.S. Attorney
U.S. Department of Justice
For the Eastern District of California
501 I Street
Suite 10-100
Sacramento, CA 95814

Subject: Corporation for National and Community Service ("Corporation") Grant No. 03AFHCA002, awarded to California Volunteers, and Subgrant No. 03AFHCA0020032 awarded to St. HOPE Academy ("St. HOPE")

Dear Mr Newman:

At your request, we reviewed the investigator files and data subpoenaed from Saint HOPE Academy to determine the amount of Corporation funds that were allowable, allocable and in compliance with the subgrant terms. We believe that none of the costs charged to the grant are allowable, primarily because the AmeriCorps members' service activities were not consistent with the grant requirements. The following chart shows the grant cost paid to St. HOPE and the Education Awards paid to AmeriCorp members. All of the costs should be disallowed:

| Costs for the grant period (8/31/04 through 9/30/07) | <u>Costs</u> |
|---|------------------|
| Member Living Allowance | \$447,009 |
| Member Fringe Benefits | 61,486 |
| Staff Personnel Expenses | 104,479 |
| Staff Personnel Fringe Benefits | 13,667 |
| Other Cost | <u>50,669</u> |
| | |
| Total Federal Share Claimed | 677,310 |
| | |
| Education Awards | <u>170,363</u> |
| | |
| Total | <u>\$847,673</u> |

Grant applications by St. HOPE were approved by California Volunteers, the California State Commission, for each of the three grant periods and all three applications were nearly identical.



1201 New York Avenue, NW * Suite 830, Washington, DC 20525
202-606-9390 * Hotline: 800-452-8210 * www.cncsola.gov

Senior Corps * AmeriCorps * Learn and Serve America



St. HOPE, in its grant applications, which are part of the grant provisions, agreed that the grant funds were to be used for the following purposes:

- "providing one-on-one tutoring to elementary and high school students;"
- "managing the redevelopment of one building per year in Oak Park [the Sacramento neighborhood in which St. HOPE operates];"
- "coordinating logistics, public relations, and marketing for the Guild Theater and Art Gallery events, as well as hands-on workshops, guest artist lectures, and art exhibitions for Sacramento High School of the Arts and PS7 Elementary School;" and
- "recruit and train 500 volunteers to complete 10,000 hours of service in Oak Park."

Additionally, the applications, which are part of the grant terms, authorize training for members in tutoring, leadership, first aid, newsletter production, recruiting volunteers, St. HOPE history and the AmeriCorps program.

AmeriCorps members, funded by grant funds, are assigned to a grantee to provide services as specified in the grant applications. Members are not permitted to be used by grantees to subsidize themselves, reduce the administrative costs of the grantee, or displace or pay part of the cost of grantee employees.

Contrary to those grant requirements and prohibitions, we found that St. HOPE AmeriCorps members performed little, if any, of the service agreed to and stipulated under the grant. Instead, they were used for non-authorized and prohibited activities, including service that displaced St. HOPE employees, a violation of 42 U.S.C. § 12637 *Nonduplication and nondisplacement*. We also found instances where AmeriCorps living allowances and benefits were unlawfully used to supplement the salaries of St. HOPE employees.

Another grant requirement is that all allowable cost must "be adequately documented" see OMB Circular A-122 *Cost Principles for Non-Profit Organizations*, Attachment A., *General Principals*, Section 2.g. Factors affecting allowability of costs. We found an almost total lack of documentation to support St. HOPE's performance of the grant, despite our repeated requests to St. HOPE for grant-related documents.

Specific grant issues, based on the Office of Inspector General's ("OIG") investigation and audit review, are as follows:

Member living allowances and fringe benefits.

We reviewed the 21 interviews conducted by OIG investigators. The total included 9 former AmeriCorps members, 7 Sacramento High School personnel, 4 St. HOPE personnel and 1 official of California Volunteers. The interviews of the members and staff reported that members were performing clerical work at the high school and recruiting students to attend the high school. Recruiting students is different from recruitment of volunteers described in the grant applications. The purpose of recruiting volunteers is to increase the impact of the AmeriCorps programs, while student recruitment is to increase student enrollment, which assists the financial position of the subgrantee's chartered high school. The redevelopment of one building a year in Oak Park, an objective specified in the grant, was not mentioned by any of the interviewees as a service performed.

Regarding service in support of the arts, the only indication of such activity involved a St. HOPE dance teacher. She was a school employee whose salary was illegally supplemented by an AmeriCorps living allowance.

Only three members interviewed mentioned tutoring as part of their service, with one member stating that they performed limited tutoring, but not everyday. Another member said tutoring was rarely a part of service while a third said tutoring consisted of helping students with homework during study hall, which did not meet the grant requirement of one-on-one tutoring. Interviews with four teachers and two principals at the high school reported no knowledge of the members tutoring students.

Based on St. HOPE's approved applications, which are included in and are part of the grant terms, we conclude that the member activities were inconsistent with the program descriptions in those applications.

Staff Personnel Expenses and Fringe Benefits

The budgets approved by California Volunteers included two staff positions to support the grant effort: a Program Director, at 100 percent of salary for each of the three years; and a Program Coordinator, at 50 percent of salary the first year and 100 percent for the remaining two grant years. Two employees of St. HOPE occupied these positions the first two years. Other individuals held these positions the third year. The only timesheets we could locate to support their roles covered four and a half months for the Program Director in 2004 and one month for the Program Coordinator, also in 2004. Timesheets are necessary to support labor costs and are required by OMB Circular A-122 *Cost Principles for Non-Profit Organizations*, Attachment B., *Selected Items of Cost*, Section 8. *Compensation for personal services*.

The Program Director for the first two years of St. HOPE's AmeriCorps program was concurrently employed full time as a teacher at Sacramento High School. The only timesheets that existed for the Program Director were four and a half months of work and included a high of 58 hours a week, but usually 40 hours a week. The absence of timesheets for most of the months of the grant (all but four and a half months) itself requires rejection of the expense for the Program Director for the non-documented period. But even the four and a half months with timesheets must realistically be rejected. The Program Director was budgeted at 100% to the grant and was thus required to work full time on the grant. As a full time teacher at the subgrantee's high school, the Program Director must have worked significant hours each day at the high school. As the AmeriCorps members' work primarily was required to involve tutoring of students in school, most of the work that the Program Director was required to direct would have been performed during the same hours he was working full time as a teacher. Even assuming -- contrary to reality -- his work as Program Director could have been performed only outside of school hours, and considering the 40 hours per week low listing in the time sheets, it would mean that the Program Director would have performed those duties before or after school, each day, occurring when school was out and beyond the normal hours for any AmeriCorps service work. Thus, we cannot find any basis to conclude that the Program Director was giving 100 percent of his effort to the grant-funded position while concurrently teaching at the high school. Instead, we conclude that the Program Director was illegally charging his teaching time to the grant.

Overall, we conclude that all salaries charged to the grant by St. HOPE's program staff should be reimbursed to the Corporation. These individuals were responsible for managing the AmeriCorps members and the program. By directing member service that was not in compliance with grant terms, and directing the enrollment of St. HOPE employees to

supplement salaries with Federal grant funds, subgrantee management violated the grant provisions.

Other Costs

We were not able to locate any support for the other costs charged to the grant. We questioned these costs based on OMB Circular A-122 *Cost Principles for Non-Profit Organizations*, Attachment A., *General Principles*, Section 2.g. Factors affecting allowability of costs, requires that to be allowable under an award, costs must "be adequately documented."

Education Awards

St. HOPE AmeriCorps members received more than \$170,000 in education awards, based on eligibility information submitted to the Corporation by St. HOPE program officials. The awards, given to members upon the successful completion of service, are not funded by the grant, but by the taxpayer-supported National Service Trust that is administered by the Corporation. The members should not have been given the awards because their service was not consistent with the grant. However, the responsibility for this unallowable service lies with the St. HOPE officials who managed the grant, directed the members to perform non-grant services and who despite these facts, attested to the members' award eligibility to the Corporation. St. HOPE should therefore reimburse the Corporation for all education awards.

On October 1, 2008 a subpoena was issued to St. HOPE, requiring production of all documentation relevant to use of AmeriCorps Federal funds to the OIG. Despite repeated follow-up requests, the following documentation was never furnished to OIG.

- Source documentation for costs charged to the grant.
- Complete general ledger (only partial was produced).
- Reconciliation of costs charged on the Financial Status Report to the general ledger, including match funds.
- Explanation of the methodology for allocating costs between match and Federal share.
- Identification of the accounting system used.

We also reviewed the St. HOPE Academy Independent Auditor's Report and Consolidated Financial Statements for the years ended June 30, 2005, 2006 and 2007. These audits expressed an opinion that the financial statements were presented fairly. However, these audits were conducted to assess conformity with generally accepted accounting principals and did not test for compliance with grant terms. The applicable criteria for Corporation grant funds to St. HOPE Academy, which generated our conclusions in this letter, are:

- OMB A-122 *Cost Principles for Non-Profit Organizations*, and the Corporations A-122 *Compliance supplement*,
- 45 C.F.R. §§ 2520-2543,
- *AmeriCorps Provisions*,
- *Notice of Grant Award* and
- the approved grant applications and budgets.

Conclusion

Our review of documentation and witnesses established that St. HOPE's use of grant funds did not comply with the word or the intent of the grant. We conclude all of the Federal funds should be returned to the Corporation.