IN THE SUPERIC	OR COURT OF FULTON	COUNTY FLED IN OFFICE
ST	ATE OF GEORGIA	FILED IN OFFICE
METRO ATLANTA TASK FORCE FOR THE HOMELESS, INC., and ANITA BEATY	) ) )	JUN : 0 2010 DEPUTY CLERK SUPERIOR COURT
Plaintiffs,	)	FULTON COUNTY, CA
EMMANUEL FIALKOW, THE BENEVOLENT COMMUNITY INVESTMENT COMPANY, INC, CENTRAL ATLANTA PROGRESS, and THE ATLANTA DOWNTOWN IMPROVEMENT DISTRICT	) () () () () () () () () () () () () ()	10. 201001187740
Defendants.	)	
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### **COMPLAINT**

COME NOW, The Metro Atlanta Task Force For The Homeless (the "Task Force") and Anita Beaty and file this Complaint for quiet title, injunctive relief and damages against the above named Defendants. This Complaint is filed as part of a related action between the Plaintiffs and Ichthus Community Trust, styled as <a href="Ichthus Community Trust">Ichthus Community Trust</a> v. Metro Atlanta Task Force for the Homeless, Inc. and Anita Beaty, Fulton County Superior Court, Civil Action No. 2010-CV-185971. For their Complaint, Plaintiffs show as follows:

# PARTIES, JURISDICTION AND VENUE

1.

The Task Force is a not-for-profit Georgia corporation.

2.

Anita Beaty is a resident of Georgia and the executive director of the Task Force.



The Benevolent Community Investment Company, Inc. ("BCIC") is a Georgia limited liability company that may be served with process by service on its registered agent Eric Shapiro, 400 Perimeter Center Terrace, Suite 900, Atlanta GA 30346. On information and belief, like Ichthus, BCIC was formed by Mr. Fialkow for the express purpose of taking the property and building where the shelter is located by subterfuge, driving out the Task Force and the homeless they serve and selling it for profit

4.

On information and belief, Emmanuel Fialkow ("Fialkow") is an individual resident of Georgia who may be served with process by service at his principle place of business, Fialkow & Co., 3850 Holcomb Bridge Road, Suite 450, Norcross, Georgia 30092. On further information and belief, prior to his efforts to acquire the shelter by subterfuge, Fialkow did nothing to help the homeless in Atlanta.

5.

Central Atlanta Progress, Inc. ("CAP") is a Georgia corporation that may be served with process by service on its registered agent, Paul B. Kelman, at 50 Hurt Plaza, Suite 110, Atlanta, Georgia 30303 or by service on its president A.J. Robinson ("Robinson"). CAP has sought to drive the homeless from downtown for decades.

6.

Atlanta Downtown Improvement District, Inc. ("ADID") is a Georgia corporation that may be served with process by service on its registered agent, Paul B. Kelman, at 50 Hurt Plaza, Suite 110, Atlanta, Georgia 30303. Although it is a private entity whose day-to-day operations

are controlled by Robinson and others at CAP, ADID is funded by taxes collected by Fulton County. Like CAP, ADID seeks to drive the homeless from downtown Atlanta.

7.

All Defendants are subject to the jurisdiction of this Court and venue is proper in this Court.

# ADDITIONAL PARTIES (INCLUDED BY SEPARATE RELATED ACTION)

8.

Ichthus is a trust organized under the laws of the State of Nevada by a local real estate speculator named Emmanuel Fialkow expressly for the purpose of acquiring the valuable property and building where the shelter is located by subterfuge, driving out the Task Force and the homeless they serve and selling it for profit.

#### **BACKGROUND**

9.

The Task Force is a not-for-profit organization that provides food, water, shelter and other services to homeless individuals in Atlanta. The additional services it provides include job training, job placement, housing placement, medical evaluations and clinics, and legal counseling. On any given night, the Task Force may provide assistance and shelter to more than 700 individuals who have no place to go other than the streets. This number often increases in inclement weather and the need is increasing as a result of the state of the economy, the level of employment and the loss of private home ownership.

10.

The Task Force is one of the first entities to focus on the provision of assistance to the homeless in Atlanta and has been in operation for more than two decades. During that time it

has successfully coordinated and distributed millions of dollars of aid to Atlanta's homeless in a responsible and effective manner, has provided shelter to tens of thousands of people and has referred tens of thousands of people to permanent housing. It provides all types of assistance to the homeless and has trained many, if not most, of the entities and individuals that are currently assisting the homeless in Atlanta. Each year it provides assistance to approximately 15,000 of Atlanta's homeless and refers more than 1,500 to permanent housing. No other entity serves as many of Atlanta's homeless and no entity serves them as successfully

11.

Anita Beaty has spent more than the last two decades assisting the homeless and involved with the Task Force. Ms. Beaty is the executive director of the Task Force and is currently the primary director of its operations.

12.

The Task Force is the owner of the real property and improvements in downtown Atlanta at the corner of Peachtree and Pine Streets (the "Shelter"). The Shelter is where the Task Force provides the majority of its services.

13.

Ichthus is subject to the jurisdiction and venue of this Court by virtue of its initiation of this Action, and venue in this Court is proper.

14.

The Task Force provides shelter to a variety of groups, including those who hold full time jobs but still cannot afford housing, those with temporary problems that have caused them to be homeless but who will "get back on their feet" with assistance, and those who are less likely to emerge from homelessness due to mental illness, physical disability or other reason. The number

of people in need of the Task Force's assistance is steadily increasing, with the most recent conservative estimates indicating that the number of families that were homeless for a portion of last year increased by more than 30% from the years before.

15.

As a not-for-profit business that provides pro bono services, the Task Force relies entirely on grants and donations from public and private entities. These grants and donations, combined with its dedicated staff and volunteers, allow the Task Force to provide its services for the homeless, the City of Atlanta and its citizens.

16.

The Task Force is the owner of valuable real property at the intersection of Peachtree and Pine Streets in downtown Atlanta, which it utilizes as a shelter, a location for temporary housing and a service center for the homeless (the "Subject Property"). The legal description of the Subject Property is attached hereto as Exhibit "1").

17.

On information and belief, the Subject Property is worth more than \$4.5 million dollars.

18.

In May of 2001, the Task Force borrowed approximately \$900,000 from two community based lenders, the Institute for Community Economics, Inc. ("ICE") and the Mcauley Institute, which subsequently transferred the loan to Mercy Lending (the "Notes") (ICE and Mercy shall be collectively referred to as the "Lenders"). The money was used to refurbish the building to make it more suitable to provide services to the homeless. The Notes were secured by security deeds on the Subject Property.

For years CAP, ADID and others with whom they conspire, including Fialkow, Ichthus and BCIC, (the "Conspirators") have sought to drive homeless people from downtown Atlanta by engaging in campaigns of harassment, attempting to drive the Task Force out of Atlanta, and attempting to take control of the Subject Property.

20.

To drive the homeless from Atlanta, the Conspirators have, among many other things, organized and paid groups of individuals to participate in what they call the "Wake Up, Stay Up" program. Pursuant to this program, a uniformed force of people armed with sticks or batons, look for homeless people sleeping on private property and assault and threaten them until they leave the property. These assaults are conducted without authority or license. Although the Conspirators have carefully spun the true nature of the "Wake Up, Stay Up" Program for the media and the public and have recently removed references to it from their public materials, sanitized references to the program still appear on the Internet. (See the 2007 "Spotlight on Public/Private Initiatives" authored by David Wardell of ADID and CAP, attached hereto as Exhibit "2").

21.

To drive the Task Force from downtown Atlanta, the Conspirators have attempted to cut the Task Force off from all sources of financial and political support by any and all means necessary. The plan to cut the Task Force off from its sources of financial and political support was specifically discussed in "Brainstorming Sessions" of CAP, ADID and others. (A true and accurate copy of minutes from one of these sessions is attached hereto as Exhibit "3")

Among other things, the Conspirators have engaged in the following actions to cut the Task Force off from its financial and political support:

- a. The Conspirators have made false and disparaging statements about the Task Force and the population it serves to media outlets in order to prevent people from making donations to the Task Force. Examples of the Conspirators' efforts to secretly generate false, negative and incomplete publicity about the Task Force in the media are attached hereto as Exhibit "4".
- b. The Conspirators have organized groups, including City officials and representatives, to approach individuals or entities that make private donations to the Task Force to encourage them to withdraw their support. Examples of the Conspirators' efforts to cut off the Task Force's sources of private funding are attached as Exhibit "5".
- c. The Conspirators have contacted the Task Force's lenders and encouraged them to default them on the Notes and foreclose on the Subject Property. Examples of the Conspirators' efforts to interfere with the Task Force's relationship with its Lenders are attached hereto as Exhibit "6".
- d. Using funds funneled through United Way, the Conspirators have paid at least one City official to pursue their agenda against the Task Force. Documents reflecting the Conspirators' payments to Debi Starnes, the Mayor's Policy Advisor on Homelessness are attached as Exhibit "7". Copies of documents reflecting the influence the Conspirators have purchased by way of their payments to Ms. Starnes are attached as Exhibit "8".
- e. Utilizing influence they purchased by payments made to Ms. Starnes, the Conspirators have also used City authority to prevent the Task Force from obtaining funding

from public sources by maligning the reputation of the Task Force and withholding certifications required for receipt of grants until all grant money is exhausted. Examples of Starnes' use of her authority at the City to withhold local certifications that were necessary for the Task Force to be funded under federal and state grant programs until after the grant funds were exhausted are attached as Exhibit "9".

- f. The Conspirators have organized and participated in false letter writing campaigns wherein they have recruited seemingly independent individuals and businesses to make false representations about the Task Force to governmental authorities that evaluate the Task Force for receipt of federal funding with the intention to make the Task Force lose its federal funding. Documents reflecting these efforts are attached hereto as Exhibit "10".
- g. The Conspirators have used threats of economic harm and actual economic harm to threaten and intimidate those who would assist the Task Force in protecting its rights. Emails reflecting the Conspirators efforts to intimidate the Task Force's pro bono lawyers out of representing the Task Force in this action are attached hereto as Exhibit "11".
- h. Some or all of the Conspirators have sought to disguise their activities by provision of false testimony under oath in depositions. Examples of false statements made under oath by Robinson are attached hereto as Exhibit "12".

Indeed, Robinson, president of CAP and ADID and the apparent leader of the Conspirators organization, has acknowledged under oath that there is not a single thing he has thought of to do to injure the Task Force that the Conspirators have not done.

24.

The Conspirators' efforts have been highly successful. As a result of their efforts, the Task Force has lost millions of dollars in funding, including virtually all private and governmental funding, its reputation has been injured throughout the public and private sector and it has been financially crippled. Indeed, the only way the Task Force has been able to continue to serve Atlanta's homeless is through the tireless work of its volunteers.

25.

Nevertheless, despite the success of the Conspirators, despite the loss of virtually all revenues and despite the Task Force's resulting inability to pay employees or vendors, the Conspirators were not able to drive the Task Force from the Subject Property or to take over the Property.

26.

As a result, the Conspirators initiated a new strategy to shut down the Task Force and take over the Subject Property. Starting no later than 2008, the Conspirators began interfering with the business relationship between the Task Force and its Lenders, first in an effort to cause the Lenders to foreclose on the Subject Property, then in an effort to cause the Landers to sell the Notes to the Conspirators so that they could use the weakened financial position they created to foreclose on the Subject Property and take it by force. On information and belief, the Conspirators have even sought to cause the Lenders to remove employees who were supportive

of the Task Force and install staff who would be more willing to default the Task Force and sell the Notes.

27.

Although the majority of the Conspirators' efforts have been done in secret behind closed doors, the Minutes of November 12, 2008 meeting of the Executive Committee of Central Atlanta Progress refer to the plan as follows:

Peachtree-Pine Shelter update – Robinson reported on several issues related to the financial viability of the Task Force for the Homeless and their possible default on more than \$800,000 in loans from Mercy Housing. Tom Bell suggested that it might be possible for the loans to be purchased from Mercy. More information will be available in the future, as there are plans for internal staff movements at Mercy Housing that could be more favorable to the community's efforts.

(Minutes, p. 2; attached hereto as Exhibit "13").

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28.

On information and belief, the Conspirators interfered with the Task Force's relationship with the Lenders in the same manner they interfered with the Task Force's relationship with its public and private donors - by making false and disparaging representations about the Task Force, its business operations, its efforts to assist the homeless and its financial responsibility. These false and disparaging statements were designed to make the Lenders uncomfortable as to whether they would be repaid and to make them believe the Task Force was not a worthy organization. The statements were even more injurious because they came from what appeared to be respectable business organizations.

29.

Starting no later than January of 2009, the Conspirators approached affiliates of the Lenders to recruit their assistance in reaching the Lenders. A January 16, 2009 email from

Robinson to representatives of Cousins Properties, Emory University and others reflects the efforts to use representatives of Mercy Housing, the sister organization of Mercy Lending, to interfere with the Task Force's relationship with Mercy Lending, as following:

Subject: Peachtree Pine

A number of us met with Pete Walker of Mercy Housing this past week and agreed to schedule a follow up meeting with Pete in his office. It has been scheduled for January 26, 2:30 pm in his office at 621 North Avenue, Suite A-150, Atlanta, GA 30308. Let me know if you can attend. Some of you sent representatives or there maybe others from your organizations who are interested. A.J. Robinson.

(Robinson Email attached as Exhibit "14")(Emphasis in original).

30.

The Conspirators' efforts to obtain the assistance of affiliates of Mercy Lending to influence Mercy Lending were also successful. An email chain between Robinson and Pete Walker, President of the Mercy Housing (an affiliate of Mercy Lending) dated April 28, 2009, contains the following exchange reflecting their strategizing to push the Lenders to put the Task Force into default:

Robinson: How do I get Julie [an official with Mercy Housing]

to put them [the Task Force] into default?

Walker: Trying to figure that out myself.

Robinson: How 'bout I invite Julie down here to meet with

community leaders and the mayor?

Walker: Good suggestion, I'll work on it.

(Exhibit 6).

31.

Shortly after the Conspirators' efforts to interfere with the relationship between the Task Force and its Lenders began, they achieved initial success. At the encouragement of the

Conspirators, the Task Force was put into default by the Lenders and forced to execute an agreement with the Lenders that among other things, required the Task Force come up with a significant amount of principal on the Notes and pre-pay interest through the end of February, 2010. However, the Conspirators were not able to convince the Lenders to go through with a foreclosure of the property.

32.

When the Conspirators learned the Lenders would not foreclose on the Subject Property, they attempted to get the Lenders to sell the Notes to CAP or one of its affiliates so that the Conspirators could foreclose on the Subject Property and drive the Task Force and the homeless they serve out of downtown Atlanta. Robinson acknowledged the effort at his deposition: "We, through our attorneys, looked at the possibility of CAP buying the loan or an affiliate." (Robinson Dep., p. 16; excerpts attached hereto as Exhibit "15").

33.

When the Conspirators realized that the Lenders would not sell the Notes to CAP or a known affiliate, Fialkow created shell entities with names specifically designed to disguise the identity and true purpose of the Conspirators. Robinson described the effort as follows:

- Q: Now initially you and Mr. Fialkow discussed your participating in the purchase of the notes personally?
- A: Not me personally.
- Q: Who?
- A: CAP, or an affiliate of CAP.
- Q: And then Mr Fialkow decided he wanted to go on his own; is that what happened?
- A: No. What, what happened was, is that again, we weren't successful in buying the note, for whatever reason. They wouldn't we couldn't close

the gap in the discussion. And in conversation, the building was still for sale. And I made Mr. Fialkow aware of the fact that perhaps he would have a better chance at buying the note than we did, and, and, it was clear that Mercy was looking for a buyer.

(Robinson Dep., p. 17).

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34.

Robinson and Fialkow specifically discussed the use of some different entity so the Lenders would not know that it was actually affiliated with CAP or that it intended to drive out the Task Force and the population is serves. Robinson testified as follows:

- Q: Now, isn't it true that you and Mr. Fialkow discussed his using an organization that would be unidentified and unaffiliated with CAP in order to buy the loans.
- A: I did not. I did not enter Mr. Fialkow may have told me he was going to do something. I did not advise him to do that....

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- Q: You under you missed my question. My question was you and Mr. Fialkow had discussions about him using a name of a company that would not be affiliated with CAP when he approached Mercy, correct?
- A: Perhaps, but it had nothing to do with –

\*\*\*\*

Q: You had no such – is your testimony under oath that you had no such discussion with Mr. Fialkow about using a name that would appear more palatable to Mercy to sell to?

A. Mr. Fialkow told me that perhaps he would use a vehicle that he wanted to use. It had – he gave me no excuse for why he wanted to do that. Did I have knowledge that he was going to use another vehicle? Yes. I had no knowledge of whether he owned the vehicle --

(Excerpts from Robinson Dep., p. 18-26).

35.

On or about January 29, 2010, the Conspirators engineered the purchase of the Task Force Notes by Ichthus, which is ostensibly managed by an entity called the Benevolent Community Investment Company.

36.

Although the Loans were in forbearance at the time and all interest due had been paid, immediately after obtaining the Loans, the Conspirators initiated foreclosure proceedings. They did not contact the Task Force before initiation of foreclosure proceedings, did not ask about repayment, did not offer to help the Task Force serve the homeless in any way, did not take steps to relocate the homeless and did not do anything that one would expect a neutral lender to do.

37.

Ichthus contends that on May 6, 2010, it foreclosed on the Subject Property in a non-judicial foreclosure process and took title under a Deed Under Power Of Sale (a true and accurate copy of which is attached hereto as Exhibit "16"). Ichthus now purports to hold title to a building worth in excess of \$4,000,000.00.

38.

The Conspirators now seek to remove the Task Force and Anita Beaty from the building and have given false and misleading representations to the public, the Courts and other to cover their true intentions.

Once the Conspirators remove the Task Force from the building and the homeless that are in the Shelter are left without the aid of the Task Force, the Conspirators plan to remove the homeless from the building. While it is anticipated that the Conspirators will offer limited temporary shelter away from downtown to conceal their goal, they do not plan to provide any long term services to the homeless that seek refuge in the Shelter and plan instead to continue to drive them from downtown Atlanta through their on-going campaign of assault, battery and intimidation.

40.

The Conspirators and others with whom they conspire have caused substantial damages to the Task Force, the homeless that they serve and Ms. Beaty, including the loss of millions of dollars of donations and grants that would have gone to the Task Force but for their actions, substantial injury to reputation, loss of title to the Subject Property and additional injuries.

### COUNT I TEMPORARY RESTRAINING ORDER/PRELIMINARY INJUNCTION <u>AND PERMANENT INJUNCTION</u>

41.

Plaintiffs restate and incorporate the averments and allegations of Paragraphs 1 through 40 as if fully set forth herein.

42.

As set forth above, the Conspirators have sought to drive the Task Force out of business and obtain the Subject Property by injuring its reputation, depriving it of funds and utilizing its weakened position to gain control of its Notes and foreclose on the Subject Property. These

actions have been taken as part of a plan and enterprise designed to drive the Task Force and the homeless population it serves from downtown Atlanta and gain control of the Subject Property.

43.

As set forth in detail below, the actions of the Conspirators constitute tortious conduct, including intentional interference with business relations, defamation, fraud, violation of the Georgia RICO Act and other actionable conduct.

44.

The actions of the Conspirators are ongoing, despite all efforts to protect the rights of the Task Force and the constituents it serves.

45.

Unless enjoined, the actions of the Conspirators will cause irreparable harm to the Task Force, including but not limited to the loss of the Subject Property and tremendous injury and hardship to the people the Task Force serves.

46.

The Task Force has, and continues to do, complete equity with respect to Ichthus and its fellow Conspirators in all relevant respects and are worthy of the exercise of this Court's equitable powers.

47.

The circumstances are such that Plaintiffs are entitled to immediate, interlocutory, and ultimately permanent, equitable relief to prevent Ichthus and the other Conspirators from continuing to violate the rights of the Task Force.

This equitable relief should include, but not be limited to, an order prohibiting Ichthus from acting on its purported foreclosure of the Subject Property, selling the Subject Property or interfering in any way with the Task Force's quiet enjoyment of the Subject Property. West v. Koufman, 259 Ga. 505, 506, 384 SE.2d 664, 666 (1989) (affirming a trial court order enjoining foreclosure when there was evidence the foreclosing party breached its duty of good faith and fair dealing by causing or contributing to the cause of the alleged default).

# COUNT TWO QUIET TITLE

49.

Plaintiffs restate and incorporate the allegations contained in Paragraphs 1 through 48 of this Complaint, as if fully set forth herein.

50.

The Task Force currently holds or should hold a fee simple interest in the Subject Property.

51.

The Deed Under Power of Sale Ichthus purports to hold was obtained through the illegal, improper and fraudulent conduct of Ichthus, BCIC, Fialkow and the other Conspirators. As such it is invalid and of no force and effect.

52.

The Deed Under Power of Sale should be set aside, pursuant to O.C.G.A. § 23-1-7, 23-1-8, O.C.G.A. § 23-2-1 et seq., O.C.G.A. § 23-2-60 because, among other things, it was obtained through the illegal, fraudulent and tortious conduct of the Conspirators, including Fialkow, BCIC and Ichthus.

The Task Force is unaware of any adverse claim upon the Subject Property, other than the claim made by Ichthus, as set forth above.

54.

Plaintiffs file this petition to quiet title as to any interest claimed by Ichthus, any interest derived from an interest claimed by Ichthus or any interest claimed by any of the Conspirators.

55.

As required by O.C.G.A. § 23-3-62, a Notice of Lis Pendens is filed contemporaneously with this petition. (A copy of this Lis Pendens, without exhibits, is attached hereto as Exhibit "17").

56.

Because of the filing of the invalid Deed Under Power Of Sale, there is a cloud on the Task Force's title to the Subject Property, the Task Force cannot protect its rights by any other course other than the filing of this petition, the Task Force is without adequate remedy at law, and unless a court of equity intervenes, the Task Force will suffer irreparable damage.

# COUNT THREE RICO

57.

Plaintiffs restate and incorporate the allegations and averments of Paragraphs 1 through 56 of this Complaint as if fully set forth herein.

58.

Under the Georgia RICO Act, "It is unlawful for any person through a pattern of racketeering activity or proceeds derived therefrom, to acquire or maintain, directly or indirectly,

any interest in or control of any enterprise, real property or personal property of any nature, including money." O.C.G.A. § 16-14-4(a).

59.

Ichthus, Fialkow, BCIC and the other Conspirators have acquired, maintained and asserted control over the Subject Property, directly or indirectly, through a pattern of racketeering activity.

60.

Georgia's RICO Act makes it unlawful for any person employed by or associated with an enterprise to conduct or participate in a pattern of racketeering activity. O.C.G.A. § 16-14-4(b)

61.

Ichthus, Fialkow, BCIC and the other Conspirators are associated with or employed by an enterprise and have conducted that enterprise through a patter of racketeering activity.

62.

Georgia's RICO Act makes it unlawful for any person to conspire or endeavor to violate the provisions of O.C.G.A. § 16-4-4(a)-(b).

63.

Ichthus, BCIC, Fialkow and the other Conspirators have conspired to conduct an enterprise in violation of O.C.G.A. § 16-4-4(a)-(b).

64.

Engaging in a pattern of Racketeering Activity is defined as engaging in at least two acts of racketeering in furtherance of one or more incidents, schemes or transactions that have the same or similar intents, results, accomplices, victims or methods of commission or are otherwise interrelated. O.C.G.A. § 16-14-3(8).

Acts that constitute Racketeering Activity are enumerated in O.C.G.A. § 16-14-3(9)(A).

66.

Ichthus and the Conspirators have conspired to and have engaged in a pattern of racketeering activity in order to gain and maintain title and control of the Subject Property, to drive the Task Force out of business and out of downtown Atlanta and to drive the homeless out of downtown Atlanta. Plaintiffs and the homeless that they serve are victims of this pattern of racketeering activity and have been injured thereby.

67.

Ichthus, Fialkow, BCIC and the other Conspirators' predicate acts include, but are not limited to, the following:

#### **Bribery**

- (i) Bribery constitutes a predicate act under O.C.G.A. § 16-14-3(9)(A)(iii).
- (ii) O.C.G.A. § 16-10-2 describes the offense of bribery as follows:

A person commits the offense of bribery when: (1) He or she gives or offers to give to any person acting for or on behalf of the state or any political subdivision thereof, or of any agency of either, any benefit, reward, or consideration to which he or she is not entitled with the purpose of influencing him or her in the performance of any act related to the functions of his or her office or employment; or

- (2) A public official, elected or appointed, or an employee of this state or any public agency, authority, or entity of the state or any county or municipality or an agency, authority or entity thereof, directly or indirectly solicits, receives, accepts or agrees to receive a thing of value by inducing the reasonable belief that the giving of the thing will influence his or her performance of failure to perform any official action. <u>Id.</u>
- (iii) Starting no later than August 19, 2008, the Conspirators, acting through ADID and CAP, agreed to pay Debi Starnes, the Mayor of the City of Atlanta's Policy Advisor on

homelessness, \$40,000 by payments funneled through United Way to Ms. Starnes' private company, EMSTAR Research, Inc. (Exhibit 7). The purpose of this payment was to influence Ms. Starnes in the performance of the functions of her office or employment with the City.

(iv) The Conspirators violated O.C.G.A. § 16-10-2 and, in so doing, committed a predicate act, by making payments to Ms. Starnes for the purpose of influencing her in the performance of actions related to her office or employment: Specifically, for the purpose of securing her assistance in the efforts to remove the Task Force and the homeless from downtown Atlanta and take the Subject Property. Examples of the influence purchased by the payments are attached as Exhibit 8.

#### Attempting To Influence Persons In Relation To Official Proceedings

- (i) Efforts to influence parties to official proceedings constitute a predicate act under O.C.G.A. § 16-14-3(9)(A)(xiv).
- (ii) O.C.G.A. § 16-10-32(b) defines the offense of attempting to influence persons in relation to official proceedings as follows:

Any person who threatens or causes physical or economic harm to another person or a member of such person's family or household, threatens to damage or damages the property of another person or a member of such person's household or attempts to cause physical or economic harm to another person or a member of such person's family with the intent to hinder, delay, prevent or dissuade such person from:

(1) Attending or testifying in an official proceeding...

shall be guilty of a felony and, upon conviction thereof, shall be punishable by imprisonment for not less than two years nor more than ten years or by a fine of not less than \$10,000.00 nor more than \$25,000.00 or both.

(c)(1)For the purpose of this Code section, the term "official proceeding" means any hearing or trial conducted by a court of this state. or its political subdivision, a grand jury, or an agency of the executive, legislative, or judicial branches of this state or its political subdivisions or authorities.

- (iii) Acting through attorneys Steven G. Hall and Robert G. Brazier, the law firm of Baker Donelson, Bearman, Caldwell & Berkowitz, P.C. ("Baker Donelson") has attended and continues to attend official proceedings before this Court and the United States District Court for the Northern District of Georgia for the purpose of representing the Task Force in disputes with the Conspirators.
- (iv) The Conspirators have violated O.C.G.A. § 16-10-32(b) and, in so doing, committed a predicate act, by attempted to and threatened to cause economic harm to Baker Donelson, Hall, Brazier and other attorneys at Baker Donelson to dissuade and prevent Baker Donelson and its lawyers from attending official court proceedings to represent the Task Force. Among other things, the Conspirators have sought to threaten and cause economic injury to Baker Donelson with efforts to interfere with its relationships with actual and potential business clients, the Atlanta Chamber of Commerce and others. (Copies of emails reflecting these efforts by the Conspirators are attached hereto as Exhibit 11)

#### Perjury and Related Falsification.

- (i) Perjury and other related falsifications constitute a predicate act under O.C.G.A. § 16-14-3(9)(A)(xv).
- (ii) O.C.G.A. § 16-10-20 describes the offense of falsification to governing officials as follows:

A person who knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact; makes a false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry, in any matter within the jurisdiction of any

department or agency of state government or of the government of any county, city, or other political subdivision of this state shall, upon conviction thereof, be punished by a fine of not more than \$1,000.00 or by imprisonment for not less than one nor more than five years, or both.

<u>Id.</u>

- (iii) The Conspirators have violated O.C.G.A. § 16-10-20 and, in so doing, committed a predicate act, by knowingly and intentionally providing and engineering the provision of false, fictitious, fraudulent and misleading statements to the Fulton County, DeKalb County and City of Atlanta Tri-Jurisdictional Board that evaluated the Task Force for receipt of federal funding. The knowing provision of this false information caused the Task Force to lose millions of dollars in federal funding. (Examples of the false statements are attached at Exhibit 10)
- (iv) O.C.G.A. § 16-10-23 describes the offense of falsely holding ones self out as a public officer as follows:

A person who falsely holds himself out as a peace officer or other public officer or employee with intent to mislead another into believing that he is actually such an officer commits the offense of impersonating an officer and, upon conviction thereof, shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not less than one nor more than five years or both.

<u>Id.</u>

(v) The Conspirators have violated O.C.G.A. § 16-10-23, and, in so doing, committed a predicate act, by knowingly and intentionally, holding the downtown Atlanta Ambassador Force out as public officers and/or employees with the authority to use force to remove homeless people from public and private property and to threaten homeless people with prosecution and imprisonment. The Conspirators have further violated O.C.G.A. § 16-10-23 by instructing and permitting the Ambassador Force to use force as part of their "Wake Up, Stay Up" program.

(vi) O.C.G.A. § 16-10-70 describes the offense of perjury as follows:

A person to whom a lawful oath or affirmation has been administered commits the offense of perjury when, in a judicial proceeding, he knowingly and willfully makes a false statement material to the issue or point in question.

<u>Id.</u>

(vii) Robinson, acting on behalf of the Conspirators, violated the provisions of O.C.G.A. § 16-10-70, and in so doing committed a predicate act, by the knowing provision of false testimony for the purpose of covering up the true nature and actions of the Conspirators in his deposition taken on February 23, 2010 in that action styled as <a href="The Metropolitan Atlanta Task">The Metropolitan Atlanta Task</a> Force For The Homeless, Inc. v. The City of Atlanta, Georgia, United States District Court for the Northern District of Georgia, Civil Action No., 1:09-CV-2833 (the "Federal Suit").

### **Battery and Related Offenses To The Person:**

- (i) Battery and related bodily offenses are a predicate act under O.C.G.A. § 16-14-3(9)(A)(v).
  - (ii) O.C.G.A. § 16-5-23 describes the offense of battery as follows:
    - (a) A person commits the offense of simple battery when he or she either:
      - (1) Intentionally makes physical contact of an insulting or provoking nature with the person of another; or
      - (2) Intentionally causes physical harm to another...

<u>Id.</u>

(iii) In their efforts to drive the homeless from downtown Atlanta, the Conspirators have violated the provisions of O.C.G.A. § 16-5-3, and in so doing committed a predicate act, by intentionally and knowingly causing the Ambassador Force to inflict battery on homeless people

sleeping on public and private property with the intention to drive them from that property as part of their "Wake Up, Stay Up" program.

68.

These multiple illegal acts have been taken as part of an ongoing pattern of racketeering activity designed to drive the Task Force and the homeless from downtown Atlanta, and to gain control and improper ownership of the Subject Property.

69.

Based on the foregoing, Plaintiffs are entitled to an award of their damages, plus three times their actual damages and an award of its reasonable fees and costs.

### COUNT FOUR INTENTIONAL INTERFERENCE WITH BUSINESS AND CONTRACTUAL RELATIONS

70.

Plaintiffs restate and incorporate the allegations and averments of Paragraphs 1 through 69 of this Complaint as if fully set forth herein.

71.

The actions of Ichthus, Fialkow BCIC and the other Conspirators constitute interference with business and contractual relations. Said interference is intentional, without privilege, right or justification, and has resulted in damage to the business and contractual relationships of the Plaintiffs.

72.

The Task Force is entitled to damages for this intentional interference in an amount to be established at trial.

### COUNT FIVE LIBEL SLANDER AND DEFAMATION

73.

Plaintiffs restate and incorporate the allegations and averments of Paragraphs 1 through 73 of this Complaint as if fully set forth herein.

74.

Pursuant to O.C.G.A. § 51-5-1:

A libel is a false and malicious defamation of another, expressed in print, writing, pictures, or signs, tending to injure the reputation of the person and exposing him to public hatred, contempt or ridicule.

Id.

75.

Pursuant to O.C.G.A. § 51-5-4:

- (a) Slander or oral defamation consists in:
  - (1) Imputing to another a crime punishable by law;
- (2) Charging a person with having some contagious disorder or with being guilty of some debasing act which may exclude him from society;
- (3) Making charges against another in reference to his trade, office, or profession, calculated to injure him therein; or
- (4) Uttering any disparaging words productive of special damage which flows naturally therefrom....

Id.

76.

Through discovery in the Federal Action, Plaintiffs have discovered that the Conspirators have made and caused to be made both written and spoken defamatory words about Beaty and the Task Force to the Tri-J Commission, private donors and others. Examples of said statements include those set forth in Exhibit "11".

Among other things, the statements at issue charge the Plaintiffs of theft and mismanagement of government funds, crimes that are punishable by law, and make charges against the Plaintiffs that are in reference to their trade and calculated to injure them therein.

78.

The defamatory statements are actionable and were made without privilege, justification or excuse.

79.

The defamatory statements were secretly published by the Conspirators and the Conspirators actively sought to hide the fact that they had made defamatory written and spoken statements.

80.

As a result, Plaintiffs were not aware of and could not through the exercise of reasonable diligence have become aware of the actionable statements at issue until the statements were learned in discovery obtained within the last year in the Federal Action.

81.

As a result, Plaintiffs bring this claim within the applicable statute of limitations.

82.

The defamatory statements have caused Plaintiffs significant damages, in an amount to be demonstrated at trial.

#### COUNT SIX BAD FAITH

83.

Plaintiffs restate and incorporate the allegations and averments of Paragraphs 1 through 82 of this Complaint as if fully set forth herein.

84.

The actions of the Conspirators have been in bad faith, stubbornly litigious and have caused unnecessary trouble and expense so as to justify an award of Plaintiffs' attorneys fees and expenses of litigation pursuant to O.C.G.A. § 13-6-11.

# COUNT SEVEN PUNITIVE DAMAGES

85.

Plaintiffs restate and incorporate the allegations and averments of Paragraphs 1 through 84 of this Complaint as if fully set forth herein.

86.

The actions of the Conspirators demonstrate that intentional or willful misconduct and an entire want of care or indifference to consequences, so as to justify an award of punitive damages.

87.

As a result, Plaintiffs are entitled to recover punitive or exemplary damages from Ichthus and the other Conspirators in an amount to be determined by the enlightened conscience of the jury.

### WHEREFORE, Plaintiffs respectfully pray:

a. That they have trial by jury on all appropriate Counts of this Complaint;

b. That they receive injunctive relief in this action as requested in Count One;

c. That they receive a declaration quieting title to the Subject Property as to any

interest held by Ichthus, any party taking from Ichthus, or any of the Conspirators

as set forth in Count Two;

d. That they recover damages from the Conspirators for violation of the Georgia

RICO Act as requested in Count Three, as well as the exemplified damages

allowed by said Act;

e. That they recover damages for the Conspirators Intentional Interference with

Business and Contractual Relations as set forth in Count Four;

f. That they recover damages for defamation, as set forth in Count Five;

g. That they recover damages under O.C.G.A. § 13-6-11, including reasonable

attorneys fees and expenses of litigation;

h. That they recover punitive damages in an amount determined by the enlightened

conscious of the jury; and

i. That they receive such other and further relief as is just and proper.

Respectfully submitted this day of June, 2010.

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, PC

Steven G. Hall

Georgia Bar No. 319308

Robert G. Brazier

Georgia Bar No. 078938

Attorneys for Plaintiff

Monarch Plaza, Suite 1600 3414 Peachtree Road, N.E.

Atlanta, Georgia 30326 Telephone: 404.577.6000 Facsimile: 404.221.6501

# EXHIBIT "1"

#### Dend Sect 30541 Pg - 175 |機関引動変数|開発対策を対象を対象を |

### Exhibit A LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 50 of the 14th Land District of the City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a point formed by the intersection of the northern right-of-way line of Pine Street (having a variable right-of-way width) and the eastern right-of-way line of Peachtree Street (having a variable right-of-way width), thence leaving the northern right-of-way line of Pine Street, rum in a northerly direction along the eastern right-of-way line of Peachtree Street North 03° 06' 13" East a distance of 92.67 feet to a point located at the intersection of the eastern rightof-way line of Peachtree Street and the southern boundary line of property now or formerly owned by Stephen Nygren, thence leaving the castern right-of-way line of Peachtree Street, run along the southern boundary lines of properties now or formerly owned by (i) Stephen Nygren and (ii) Richard C. Dailey North 86° 56' 17" East a distance of 306.61 feet to a point located at the intersection of the southern boundary line of the Richard C. Dailey property and the western right-of-way line of Courtland Street (having a variable right-of-way width), thence leaving the southern boundary line of the Richard C. Dailey property, run in a southerly direction along the western right-of-way line of Courdand Street South 01° 07' 46" East a distance of 92.14 feet to a point located at the intersection of the western right-of-way line of Courtland Street and northern right-of-way line of Pine Street; thence leaving the western right-of-way line of Courtland Street, run in an westerly direction along the northern right-of-way line of Pine Street South 86° 55' 44" West a distance of 313.46 feet to a point located at the intersection of the northern right-of-way line of Pine Street and the eastern right-of-way line of Peachtree Street, said point being the POINT OF BEGINNING.

The above-described property contains 0.65557 acres (28,557 square feet) and is shown on and described according to that certain ALTA/ACSM Land Title Survey prepared for The Gertrude and William C. Wardlaw Fund, Inc. and Chicago Title Insurance Company dated January 7, 1997, last revised January 28, 1997, which survey is incorporated herein by this reference and made a part of this description.

## EXHIBIT "2"



# Spotlight on Public/Private Initiatives

The Atlanta Downtown Improvement District

Member: Dave Wardell, VP Operations & Public Safety, Central Atlanta Progress Inc.

### Public/Private Partnership: A Core Strategic Initiative

The Security Executive Council develops its strategic initiatives in response to member input, focusing on the needs members have identified as they lead security programs in their enterprises. One of the council's core strategic initiatives is Public/Private Partnership.

Of course, one of the most important benefits of partnership between the corporation and the public sector falls under the umbrella of business continuity. A strong relationship between these two entities will help ensure that in an emergency, the private-industry security team is ready to work quickly and effectively with law enforcement and public agencies to provide the best response to protect both the organization and the citizenry.

However, the importance of these relationships extends well beyond business continuity. The well-managed public/private partnership provides opportunities not only for effective emergency management, but for information sharing, risk mitigation and return on investment for the corporation.

That's why SEC the members featured in this series of short Spotlights have put so much effort into developing and maintaining exemplary public/private partnerships in their regions and nationwide. Not only is it the right thing to do, it's yet another way to position security as a boon to the business.

### THE ATLANTA DOWNTOWN IMPROVEMENT DISTRICT ATLANTA, GA

Central Atlanta Progress (CAP), a private, not-for-profit corporation made up of representatives of Downtown Atlanta's top business leaders, has been working since 1941 to continually improve the economic climate of the Downtown area. In the past five years alone they've launched several programs to beautify Downtown and assist and protect visitors, tenants and residents, and they've developed Imagine Downtown, a multi-tiered redevelopment plan for the area. Recognizing that safety, cleanliness and hospitality are fundamental factors in community improvement, CAP founded the Atlanta Downtown Improvement District in 1995. ADID is a public-private partnership that strives to enhance public safety and public works services within

The ADID's operational component is the Ambassador Force Program, which includes the 65member Ambassador Force, the Clean Team—an 18-person contract staff—and the Public Works Supervisor, who supervises the Clean Team and oversees public works and infrastructure-

### The ADID Ambassador Force

The Ambassador Force provides public safety and customer service to Downtown Atlanta's daily constituency and visitors. Ambassadors patrol the district in uniform, each wearing a pith helmet while walking one of the 21 beats or staying at static posts. Some Ambassadors ride Segways or bicycles, which gives them an air of authority and makes them easily identifiable. An Ambassador provides hospitality and customer service by providing directions, acting as an escort when needed, and doling out information on the local area and businesses. The Information Booth they operate in the middle of Downtown has proven exceptionally beneficial to Atlanta conventioneers and visitors. Ambassadors also provide a sense of public safety and deterrence.

Ambassadors maintain direct communications with the Atlanta Police Department on their individual radios, allowing them to report violations of law or suspicious activity, and they have at least one off-duty Atlanta Police Officer working with them at all times. The off-duty police officer always provides a dedicated resource for selective enforcement initiatives, usually focused on quality of life or nuisance crimes. He or she has a dedicated public safety vehicle that is emergency equipped for visibility and emergency response, including first aid, defibrillator, and communications. The Ambassadors work closely with the Atlanta Police in a number of programs.

#### **Crime Prevention**

The Ambassadors work with police to advise constituents of crime prevention methods. They evaluate their operational methods and resource deployment based on criminal data they receive from the police. They conduct Town Hall meetings with crime briefings semi-annually with the senior Police leadership to describe the crime status within the district, and they coordinate the Public Safety Task Force, involving the police leadership, business and civic leaders. The Ambassadors also coordinate and participate in monthly Interagency Law Enforcement partnership meetings that coordinate enforcement initiatives, special event support, and emergency preparedness.

### Wake-Up and Stay-Up

Off-duty police officers work alongside the Ambassadors in the Wake-Up and Stay-Up programs, which are intended to get the homeless who choose to urban camp or criminal trespass on

Security to the other condition

private property to move into shelters. The secondary intent is to reduce the negative or unsafe perception that people sleeping on the street presents. Social workers often accompany the details to provide assessment and referral assistance. These programs operate in the early morning and late night 7 days per week, and have proven to be very successful.

### Operation Shield

Through Operation Shield, the ADID also partners with the Atlanta Police Department and the Police Foundation. Operation Shield includes a camera surveillance program, COMNET Program (public private police frequency use and training program), and AtlantaCityWorkSite. The ADID provided the cameras and installation, and the police department provided the signal. Ambassadors assist police in monitoring, and they provide the 24/7 dedicated police response to both the Downtown ADID cameras, as well as suspicious or criminal sightings from other

COMNET is a radio voice communications program that up until recently was co-managed with the police for maintaining a police frequency where private-sector members could communicate directly to a police dispatcher, as well as laterally to other members. The police train dispatchers and private security personnel in various areas, such as patrolling, legal limitations and liability, communications, and emergency actions procedures. In an effort to expand the program citywide effectively, the police foundation has now assumed the management responsibility. Recently the partnership also added a technology component to the program, AtlantaCityWorkSite (available commercially via Internet as CityWorkSite). This is a Web-based information-sharing platform that allows the police to instantly send alerts via a variety of means to its members. It also allows the download of streaming videos and distribution of photos. It provides various restricted/unrestricted talk groups, can be encrypted (exceeds DOD standards), and is a generally a coordination and incident management tool.

## **Emergency Preparedness**

The Ambassador Force plays a key role in coordinating and supporting emergency preparedness and response operations in the Downtown area by serving as a base for communications to the Downtown constituency, assisting public safety agencies in identifying and reporting hazardous conditions, managing crowds, and supporting emergency evacuations. There are between 20 and 30 Ambassadors on duty at any time in a hierarchical organization. They maintain communications, are trained in emergency response procedures, and can readily be deployed or redeployed as needed. This was especially important during the tornado that unexpectedly struck Downtown Atlanta in March 2008. The Ambassador Force played a key role in crowd management and assistance from the time the tornado struck through the following weeks of

Downtown Atlanta enjoys an outstanding working relationship between all public safety agencies working toward a common goal of keeping downtown clean, safe, and hospitable, with a bonus the program has helped Downtown maintain one of the lowest crime rates in the city.

# ABOUT THE SECURITY EXECUTIVE COUNCIL

The Security Executive Council (<a href="www.securityexecutivecouncil.com">www.securityexecutivecouncil.com</a>) is a member organization for senior security and risk executives from corporations and government agencies responsible for corporate and/or IT security programs. In partnership with its research arm, the Security Leadership Research Institute, the Council is dedicated to developing tools that help lower the cost of members' programs, making program development more efficient and establishing security as a recognized value center.

Alternation of the

# EXHIBIT "3"

# FW: Brainstorming Session Monday

From: Dave Wardell < dwardell@centralatlantaprogress.org> To: AJ Robinson <airobinson@centralattantaprogress.org> CC: Paul B. Kelman <pbkelman@centralatlantaprogress.org>

Date: Nov 20 2006 - 2:31pm

AJ:

Per your request, listed below are the questions/actions from the first meeting that you requested. Dave

David E. Wardell, CPP

Vice President, Operations and Public Safety

Central Atlanta Progress and

Atlanta Downtown Improvement District

Office - (404) 658-1267

FAX (404) 658-1919

Mobile (404) 277-6752

NEXTEL DC - 155\*31523\*23

email - dwardell@centralatlantaprogress.org

### www.atlantadowntown.com

- Original Message ---From: Dave Wardell To: AJ Robinson

Sent: Fri Nov 17 17:48:24 2006

Subject: RE: Brainstorming Session Monday

Things that people were going to look into:

- Look at emergency shelter standards (Public Works and United Way/Homeless Commission staff)
- Evaluate strengths and weaknesses of Homeless TF (Code Enforcement and Homeless Commission) - Who is on the Board of Directors of the Homeless Task Force? (?) Want to go to the source of their
- Data to be collected: Volume of Complaints (?), Bed capacity there and at other shelters (Homeless
- Law Department was going to look at the applicable or prevailing ordinances (Lem Law Department) - What is required to declare it a public nuisance?

- I delivered the copy of the Homeless TF Master Plan for their expansion program that City Planning requested. Looking at Grandfather Clauses and Fire and Safety Codes. - Zoning as SPI (City Planning)

- Develop Public Affairs component (? Did not determine responsibility for putting this together) Lynette is looking for recommendations for solutions at this meeting.
- We delivered the Executive Summary of the incidents in the area to Lynette (she acknowledged receipt). - Since our last meeting Judge Green rebutted the Information (will not let it happen in the future) about the ordinances the police were allegedly being challenged by the Municipal Court for enforcing. (Urban

Camping and something to do with tampering with vehicles in parking lots).



b970

# EXHIBIT "4"

### Richard On

From:

Richard Orr

Sent

Tuesday, December 09, 2008 10:28 AM

To:

AJ Robinson

Subject: FW: Background on shelter issue

Tracking: Recipient Read

AJ Robinson Read: 12/9/2008 10:29 AM

FYI - Rhonda's response below. We're in!

From: Rhonda Cook [mailto:rcook@ajc.com] Sent: Tuesday, December 09, 2008 10:07 AM

To: Richard Orr

Subject: Re: Background on shelter issue

perfect. I'm off on Mondays so I am just now getting this. I have a meeting in a little bit so I'll try to find you this afternoon. The story I'm working on is supposed to run Sunday. I think.

Rhonda Cook Atlanta Journal-Constitution 404-526-5966 rccok@ajc.com

"Richard Orr" crichorr@atiantadowntown.com>

To "Rhonda Cook" <rcook@ajc.com>

12/08/08 01:10 PM

Subject Background on shelter issue

Rhonda: Off the record, we'll be glad to give you a lot more background on the shelter issue, but it can still point you in a number of other directions. The water issue is just the tip of the iceberg. Let me know.

Richard Orr Senior Project Manager Communications & Membership Central Atlanta Progress, Inc. 50 Hurt Plaza, SE - Suite 110 Atlanta, GA 30303-2914

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E: richor@atlantadowntown.com W: www.atlantadowntown.com

PLAINTIFF'S

CAP0025

### Richard Orr

From:

Richard Orr

Sent:

Wednesday, December 10, 2008 2:49 PM

To:

'Steve Tedder'

Subject: RE: Homeless Shelter Loan Information

We maybe sending more than the reporter can digest. She was blown away when she realized how much she didn't know. The tax lien stuff was priceless and well timed. Thanks.

From: Steve Tedder [mailto:stedder@barrycompanies.com]

Sent: Wednesday, December 10, 2008 2:31 PM

To: Richard Orr

Subject: RE: Homeless Shelter Loan Information

Thanks again, Richard - we're looking forward to the article.

Many thanks!

STEVE TEDDER project development

30 IVAN ALLEN JR BOULEVARD / SUITE 900 / ATLANTA, GA 30308 phone: 404.601.0869 / cell: 404.202,5121 / fax: 404.601.0881 www.barrycompanies.coм

BARRY REAL ESTATE COMPANIES Building relationships. Creating value. Leaving legacies.

From: Richard Orr [mailto:richorr@atlantadowntown.com]

Sent: Wednesday, December 10, 2008 1:15 PM

To: Steve Tedder

Subject: RE: Homeless Shelter Loan Information

Steve; I'm sanitizing all this information. If someone wants to speak up, then fine.Let me know.

If not, you're covered and nothing but Information is released here.

From: Steve Tedder [mallto:stedder@barrycompanies.com] Sent: Wednesday, December 10, 2008 12:58 PM

To: Richard Orr

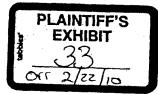
Cc: MRiley@urbanrealtypartners.net; Hal Barry Subject: Homeless Shelter Loan Information

Richard,

Thank you for all you're doing to help with this important cause. Here are the outstanding claims that we were able to dig up on the Task Force facility at Peachtree and Pine Streets:

Lender: William C. Wardlaw; Loan date of 9/27/02; \$1.4 million; No maturity date in the security agreement but the original term was less than 36 months; No extension of record.

The following 3 loans are all older loans and are listed by priority according to recorded Subordination



Lender: Mercy Housing Inc.; \$300,000, Loan date of 5/31/01; Maturity 6/15/06. The original lender was McAuley Institute - assigned to Mercy Housing Inc. (a Nebraska non-profit) on 2/15/07. As you already know, this 2.

Lender: Peachtree Pine, Inc.; \$2 million; Loan date of 4/14/98; No maturity date provided in the security agreement.

Ţ

Lender: Institute for Community Economics; \$600,000; Loan date of 5/31/01; Maturity of 6/15/06. 3.

# We also found the following liens against the property:

Federal Tax Lien filed 2/21/08 in the amount of \$66,453.57 for years 2001, 2006 and 2007. The greatest 1. amount - \$55,989 - is from 2001! 2.

Fulton County FiFa filed by American Express Business Finance Corporation in the amount of \$38,000 (plus interest since 3/2005) - we're speculating, but we believe this is probably for some equipment they financed.

As we discussed, please do not disclose the source of this information. However, Rhonda should be able to go onto the

I'm going to get with Mark Riley to find some additional area residents that may be willing to speak on the record with Rhonda at the AJC. Otherwise, please let us know if there is anything else we can do to help with this. Many thanks!

STEVE TEDDER project development

30 IVAN ALLEN JR BOULEVARD / SUITE 900 / ATLANTA, GA 30308 phone: 404.601.0869 / cell: 404.202.6121 / fax: 404.601.0881 www.barrycompanies.coм

BARRY REAL ESTATE COMPANIES Building relationships, Creating value. Leaving legacies.

#### Richard Orr

From:

AJ Robinson

Sent:

Wednesday, December 17, 2008 8:48 AM

To:

Richard Orr

Subject:

Re: Finally talked with Debl

Ok

Sent from my BlackBerry Wireless Handheld

Original Message --From: Richard Orr To: AJ Robinson

Sent: Wed Dec 17 08:48:46 2008 Subject: RE: Finally talked with Debi

Thanks. It will look good that we're trying to protect them as much as we can. I'm thinking about calling Rhonda and putting a bug in her ear about Creative Loafing's piece, just to keep her fired up.

Original Message---From: AJ Robinson

Sent: Wednesday, December 17, 2008 8:44 AM

To: Richard Orr

Subject: Re: Finally talked with Debi

Ok....will call Pete...

Sent from my BlackBerry Wireless Handheld

- Original Message ----From: Richard Orr To: AJ Robinson

Sent: Wed Dec 17 08:42:09 2008 Subject: Finally talked with Debi

Her team, caseworkers and a van went over to Peachtree-Pine yesterday. They were pulled into a meeting with Anita and her staff for 3 hours. Mind-numbing as she described. No movement or cooperation per the judges advice (meeting with Anita's clients was a suggestion and not part of the judge's order). They will report same to judge.

Debl has said screw it. They going to go over regularly with their case workers with a van and flyers and deal directly with the people as they leave the shelter, thus bypassing Anita altogether.

Briefed her on our discussions with Cook. It's out in the community that there's a tax lien on the Task Force as per Debi. Also Creating Loafing is working on an article for this week, as Debi has talked with the reporter Scott Henry. She didn't know the direction he was taking, but felt pretty good about the Interface with him.

My suggestion would be to call Pete, brief him on all the stuff that's happening and advise that they start putting together a response and plan in place when all this blows up.

Richard Orr Senior Project Manager Communications & Membership Central Atlanta Progress, Inc. 50 Hurt Plaza, SE - Suite 110 Atlanta, GA 30303-2914

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E: richorr@atlantadowntown.com
W: www.atlantadowntown.com <a href="http://www.atlantadowntown.com/">http://www.atlantadowntown.com/></a>



From:

Richard Orr

Sent:

Thursday, December 18, 2008 9:05 AM

To:

'Rhonda Cook'

Subject: Ok, here's a thought

First, I haven't been able to scare up anyone that will talk on the record, so ....

Why don't you ask ... Anita, or her Board Chair, Robert Cramer this questions.

#### Questions 1:

It appears from public records that the Task Force owes:

- (1) \$800,000 plus in two loans to Mercy Housing (due now)
- (2) \$160,000 water bill to the City of Atlanta, (over due now)
- (3) thousands of dollar in Federal tax liens (for multiple years).

Do you have the money to pay these bills to keep the shelter and out of default?

if not, from where and when to your expect to get the funding since your City, State and Federal funding has been drastically cut and the economic conditions don't look promising for non-profits?

#### Question 2:

Why do the salaries of the Task Force top executives (Anits and Jim Beaty) not show up in the Task

What is the purpose of the organization, Our Fine Arts These?

Is it your lobbying arm?

Richard Orr Senior Project Manager Communications & Membership Central Atlanta Progress, Inc. 50 Hurt Plaza, SE - Suite 110 Atlanta, GA 30303-2914

P: 404-658-1883

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W: www.atlantadowntown.com

#### Richard Orr

From:

Richard Orr

Sent:

Thursday, December 18, 2008 10:59 AM

To:

'Rhonda Cook'

Subject: you might contact this person to confirm if the loans are in default (yes they are)

Leavesley (shown below) is apparently the hold out on officially filing the loan default letter with the Task Force, so I assume she's the one that's in play, but can't confirm.

There's a Julie Gould in DC the President of National Lending for Mercy Housing that's in the mix too, and then Dick Banks is basically everyone's boss as the President and CEÓ.

Contact info is: Mercy Housing Ste 1000 1999 Broadway, Denver, CO 80202 (303) 830-3300 mercyhousing.org



Diane Leavesley President, Mercy Loan Fund

Diane Leavesley is President of Mercy Loan Fund, a subsidiary of Mercy Housing, Inc. She has been with Mercy Loan Fund since January 1997 and is responsible for directing the lending activities, loan servicing and resource development for this loan fund that operates nationally. Mercy Loan Fund is a certified Community Development Loan Fund (CDFI) by the US Treasury. Since 1985, Mercy Loan Fund has provided financing to local non-profit organizations, enabling them to develop affordable housing in their communities. Housing development includes single- and multi-family units, rental and homeownership for low-income families and Individuals. These include the working poor, seniors, farm workers, formerly homeless individuals, and people with special needs (such as the chronically mentally ill, and people living with HIV Infection).

Dlane came to Mercy with fourteen years of commercial real estate experience including mortgage banking and appraisal. Prior to joining Mercy, Diane was president and owner of a commercial real estate appraisal business serving the Denver area. Diane received her Masters in Business Administration from the University of Denver with an emphasis in Real Estate and Finance, and has an undergraduate degree from the University of Massachusetts. She was Ilcensed as a Certified General Appraiser and Real Estate Broker in Colorado. Her community involvement Includes service on the board of Housing Coloradol and former Chair of its Board of Directors, a member organization for affordable housing education, information and advocacy. She is on the board of Community Housing Development Association (CHDA) and on the Finance Committee of Mile High Housing Fund. She previously served on the Douglas County, Colorado, Planning Commission and as President and National Delegate of CREW - Commercial Real Estate Women. She is also a member of the Board of Directors of the Denver Branch of the Federal Reserve Bank of Kansas City.

Richard Orr Senior Project Manager Communications & Membership Central Atlanta Progress, Inc.



50 Hurt Plaza, SE - Suite 110 Atlanta, GA 30303-2914

P: 404-658-1883 F: 404-658-1919

E: richorr@atlantadowntown.com W: www.atlantadowntown.com

### Richard Orr

From:

Richard Orr

Sent:

Wednesday, January 07, 2009 6:45 AM

To:

'Steve Tedder'

Cc:

mriley@urbanreaitypartners.com; lhansford@dandglaw.com

Subject:

RE: Contacts - SoNo area around shelter

AJ was scheduled to check on the Mercy situation yesterday with Pete. Don't know if he's heard things back. Our strategy

I'll talk with Rhonda today and see what's cooking. Any further word on the legal action?

-Original Message-

From: Steve Tedder [mailto:stedder@barrycompanies.com]

Sent: Tuesday, January 06, 2009 3:33 PM

To: Richard Orr

Cc: mriley@urbanrealtypartners.com; lhansford@dandglaw.com

Subject: Re: Contacts - SoNo area around shelter

Thanks, Richard - could we feed her more information like what Creative Loafing ran? I thought that was a much more revealing article. Also, I wonder if there are any residents or business owners that would go on record about the damning effects that the center has had on the neighborhood. Finally, I wonder if there's a story about all the great things that other homeless shelters (e.g., Union Mission, Gateway Center, etc.) are doing for the homeless vs. what the Task Force is doing. Additionally, there's the story that the other shelters stand ready to absorb those homeless men if the Task Force

Have you heard anything more from Pete Walker @ Sisters of Mercy about what they've decided to do?

Thanks! Steve

- Original Message -

From: Richard Orr <richorr@atlantadowntown.com>

To: Steve Tedder

Sent: Mon Jan 05 09:48:05 2009

Subject: Contacts - SoNo area around shelter

Steve: I got a call from Rhonda Cook while I was out. She wanted me to follow-up with her. We'd like to keep this story line going, so if you've got other things we can feed her, let me know. She's back in tomorrow and I'll call.

Lydia Meredith

Director, Beacon of Hope Learning Center

120 Renaissance Parkway

Atlanta GA 30308

<mailto:bonine96@hotmail.com> bonine96@hotmail.com

(404) 876-1779

Bryan Glass

CAN Neighborhood Association

<mailto:lindmco@aol.com> lindmco@aol.com

404-817-9700

Kaplan Properties

450 Piedmont

(404) 892-0199

The Waterford

530 Piedmont Ave NE Atlanta, GA 30308 (404) 870-9992

Richard Orr Senior Project Manager Communications & Membership Central Atlanta Progress, Inc. 50 Hurt Plaza, SE - Suite 110 Atlanta, GA 30303-2914

P: 404-658-1883 F: 404-658-1919

E: richorr@atlantadowntown.com

W: <http://www.atlantadowntown.com/> www.atlantadowntown.com

Tracking:

Recipient

'Steve Tedder'

mriley@urbanrealtypartners.com lhansford@dandglaw.com Read

Read: 1/7/2009 7:26 AM

### Haymore, Jeffrey

From: Sent:

Starnes, Debi

To:

Monday, September 10, 2007 2:08 PM

Cc:

richorr@centralatlantaprogress.org; "juditho@thinkkaplan.com"; "henrym@thinkkaplan.com"

'dwardell@centralatlantaprogress.org'

Subject

Re: Letter to the editor

Please focus on daily impact - crime, loitering, safety, etc

---- Original Message ----

From: Richard Orr <richorr@centralatlantaprogress.org>

To: juditho@thinkkaplan.com < juditho@thinkkaplan.com>; henrym@thinkkaplan.com

Cc: Dave Wardell <dwardell@centralatlantaprogress.org> Sent: Mon Sep 10 14:07:02 2007

Subject: Letter to the editor

Judith/Henry: Would the Kaplan folks consider writing a letter in response to Bob Cramer's (Task Force Chairman) op-ed in today's paper (copy is below)?

I'll be glad to work with you on the preparation. All I need is a rough draft with the facts as to it relates to how their program is not working based on the impact on your residents. Let me know. Will be glad to guide you in any way your need.

Richard Orr

Senior Project Manager Communications & Membership Central Atlanta Progress, Inc.

50 Hurt Plaza Atlanta, GA 30303

P: 404-658-1883

P: 404-658-1919

E: richorr@centralatlantaprogress.org <mailto:richorr@centralatlantaprogress.org> W: www.atlantadowntown.com <a href="http://www.atlantadowntown.com/">http://www.atlantadowntown.com/>

Mayor Franklin targets the homeless

By BOB CRAMER

Published on: 09/10/07

Since her first days in office, Mayor Shirley Franklin has presented herself interested in helping Atlanta's homeless. She speaks eloquently about her own father's experience with homelessness, and she has personally told me that she considers serving

Against this backdrop, it is shocking and disappointing that Franklin would go out of her way to try to deny funding to Atlanta's largest facility serving homeless people. In an August letter to the state Housing Trust Fund for the Homeless, she writes, "as the mayor of the city of Atlanta, I am stating that we do not support the allocation of funding for

One has to question why Franklin is now personally involved in reversing a letter of certification for the Peachtree-Pine facility that her own administration had provided to the state just months earlier. What would cause her to take such an unprecedented action harming hundreds of homeless people? How could she make any judgment on the Peachtree-Pine facility when she has never visited in her two terms in office?

Perhaps Franklin is not really leveling with us when it comes to her support of the homeless. Certainly her record in office does not equate with her rhetoric. Four years ago, she put together a commission that promised to end chronic homelessness in Atlanta in 10 years. This summer even The Atlanta Journal-Constitution editorial board called the

PLAINTIFF'S

**EXHIBIT** 

# EXHIBIT "5"

#### Richard Orr

From: Sent:

Al Blackweider [Al.Blackweider@emoryheaithcare.org]

To:

Monday, July 09, 2007 2:05 PM Richard Orr

Subject:

Re: Issues with Peachtree-Pine Center and meeting with funder

Richard.

I can be there. Let me know where his office is.

A

>>> "Richard Orr" <richorr@centralatlantaprogress.org> 7/9/2007 2:01:07

Al: Later this month AJ has a meeting with Dan Cathy (Chic-Fi-La) who is

providing some funding to the homeless shelter. While we're sure Anita Beaty has provided her spin on the issues, no one from the community has

sought to share insights on the realities of the shelter's impact. AJ

currently out of the country and asked that I contact key people who might be willing to attend this meeting with him to share the impact from various area stakeholders' points of view

The meeting is set for 11 am on Tuesday,. July 31st at Cathy's office. Might you be willing to attend if your schedule permits?

Richard Orr Sr. Project Manager Communications & Membership Central Atlanta Progress 404-658-1883 404-658-1919 fax richorr@centralatlantaprogress.org

> PLAINTIFF'S EXHIBIT Crr 2/22/10

#### Richard Orr

From:

Starnes, Debi [DStarnes@AtlantaGa.Gov]

Sent:

Tuesday, July 10, 2007 10:17 AM

To: Subject: Richard Orr Re: Cathy meeting

Ok - one of us will go

---- Original Message ----

From: Richard Orr <richorr@centralatlantaprogress.org>

To: Starnes, Debl

Sent: Tue Jul 10 09:31:57 2007 Subject: RE: Cathy meeting

He was thinking it would be good to have someone on hand that could relate the City's vision for homeless and what's being done to date. If your schedule permits, go on and pencil it in and plan to go. If Mayor Franklin can go, you can back away if you wish. Just let me know if you can. We're making arrangement for a van to leave from here to take as many of the group as necessary. Trying to get it all tied up this week. Thanks.

---Original Message---

From: Starnes, Debi [mailto:DStarnes@AtlantaGa.Gov]

Sent: Tuesday, July 10, 2007 9:23 AM

To: Richard Orr

Subject: Re: Cathy meeting

The Mayor is in Italy and she never confirmed with me whether she can go. Hopefully one of us - AJ never mentioned to me about me going. Are you sure he would want a substitute for the Mayor, or just have her follow up later if she can't go

---- Original Message ----

From: Richard Orr < richorr@centralatlantaprogress.org>

To: Starnes, Debi

Sent: Tue Jul 10 08:36:28 2007

Subject: Cathy meeting

Debi: Just got an e-mail from AJ. He indicated you or Mayor Franklin might go on the meeting with Dan Cathy on July 31, 11 am. Trying to finalize the attendees. Thus far we've got Tom Bell - Cousins, Brad Curry - St. Luke's and Al Blackwelder - Emory, Crawdford Long. Let me know so I can advise AJ. Thanks.

Richard Orr Sr. Project Manager Communications & Membership Central Atlanta Progress 404-658-1883 404-658-1919 fax richorr@centralatlantaprogress.org

# EXHIBIT "6"

#### AJ Robinson

From: Sent: AJ Robinson

Sent:

Tuesday, April 28, 2009 9:14 PM 'pwalker@mercyhousing.org'

Subject

Re: Re:

Ok, let me know.....

Sent from my BlackBerry Wireless Handheld

--- Original Message ---

From: Pete Walker <pwalker@mercyhousing.org>

To: AJ Robinson

Sent: Tue Apr 28 21:10:25 2009

Subject: RE: Re:

Good suggestion. I'll work on it.

From: AJ Robinson <aj@atlantadowntown.com>

Sent: Tuesday, April 28, 2009 6:09 PM

To: Pete Walker <pwalker@mercyhousing.org>

Subject: Re:

How bout I invite Julie down here to meet with community leaders and Mayor?

Sent from my BlackBerry Wireless Handheld

--- Original Message ----

To: AJ Robinson

Sent: Tue Apr 28 17:39:25 2009

Subject: RE:

Trying to figure that out myself.

-Original Message -

From: AJ Robinson <aj@atlantadowntown.com>

Sent: Tuesday, April 28, 2009 4:42 PM

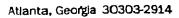
To: Pete Walker <pwalker@mercyhousing.org>

Subject: RE:

How do I get Julie to put them in default?

A.J. Robinson
President
Central Atlanta Progress, inc.
50 Hurt Plaza, SE - Suite 110





P: 404-658-1123 F: 404-658-1919

E: aj@atlantadowntown.com (please note my new email address)

W: www.atlantadowntown.com

—Original Message— From: Pete Waiker [mailto:pwalker@mercyhousing.org] Sent: Tuesday, April 28, 2009 3:58 PM

To: AJ Robinson Subject: RE:

They are well aware of my position and still meeting internally. I've been getting my Board Chair more involved. No tangible results so far except that Julie and Brian seem to be on board.

From: AJ Robinson <aj@atlantadowntown.com> Sent: Tuesday, April 28, 2009 2:23 PM To: Pete Walker <pwalker@mercyhousing.org> Subject:

Pete, any news on ur end? I spoke to Juile last week.....said you guys are meeting internally?

Sent from my BlackBerry Wireless Handheld

# **EXHIBIT "7"**

### Tanya Betton

From:

Paul B. Keiman

Sent:

Monday, August 18, 2008 3:51 PM

To:

Tanya Betton

Cc:

Charlie Strawser; AJ Robinson

Subject: Need a Check

#### Tanya:

In accordance with the recent action of the ADID Board, please draw a check in the amount of \$40,000 made payable to: United Way Regional Commission on Homelessness. The Board approved spending up to \$50,000 in funds from the contingency account. Therefore, \$10,000 still remains available for future expenditures. Time is of the essence.

#### Thank you.

Paul B. Kelman, FAICP Executive Vice President Central Aflanta Progress, Inc. 50 Hurt Plaza, SE, Suite 110 Aflanta, GA 30303-2914

T: 404-658-1885

F: 404-658-1919

E: pbkelman@atlantadowntown.com

W: www.atlantadowntown.com

SPAID BITTOS

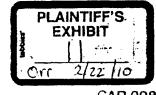
8/19/08 Walted one to United way

United Way - Newbropolitan Atlanta 100 Edgewood Are NE #2 Atlanta, EB 30303

404-527-7200

Protop Biswon

404-527-7237



NTA DOWNTOWN IMPROVEMENT DISTRICT, INC. GRAND LOBBY THE HURT SUILDING		8625
United Way Regional Comm. on Homelessness	8/18/2008	
Debi Starnes Homelessness Gift		40,000.00

Checking Account Debi Starnes Homelessness Gift 40,000.00

#### **CONTRACT FOR SERVICES**

Contractor: Debi Starnes

EMSTAR Research, Inc.

Agency: United Way

Period: February 1, 2009 to July 31, 2009

United Way of Metropolitan Atlanta will fund six months of Dr. Starnes' work, as Mayor Franklin's Policy Advisor on Homelessness. Dr. Starnes will serve in a loaned executive status, to the City of Atlanta and will confinue to perform the following duties (as well as others, as needed by Mayor Franklin and/or United Way)

The following duties will be performed by Dr. Starnes:

- Attend meetings, as necessary, to help analyze, refine and coordinate the City's and UW's services for the homeless – these will include the Regional Commission on Homelessness quarterly meetings (and various task forces, councils and subcommittees)
- Consult with and assist various agencies on their programs, and their connection with the larger 10-year Plan of the Regional Commission and the City of Atlanta
- Advise the Mayor, City Council and UW leadership on policies and programs that exist and/or are still needed for the homeless
- Facilitate the completion of capital projects that are underway and implementation of service delivery programs for the homeless
- Analyze and advise on policy issues at the multiple jurisdictional levels
- Continue to help refine the current service delivery system, to improve on efficiency and performance outcomes
- Assess current financing available through remaining ADA Homeless Opportunity Bond funds and through the new Federal Neighborhood Stabilization Program – and advise on allocation of those funds toward needed projects and facilitate those connections

United way Representative

Dr. Starnes will submit a weekly summary of the tasks/duties performed, with the number of hours noted. This summary will be submitted to Dr. Chris Allers, of United Way.

Contract amount: \$45,000

Terms: \$7.500/mo

Avg of 100 hours per mo

Date

Debi M. Starnes, PhD

EMSTAR Research, Inc. Fed ID# 58-1934244

Plaintiff's Exhibit

# **EXHIBIT** "8"

#### Richard Orr

From:

AJ Robinson

Sent

Wednesday, January 21, 2009 2:04 PM

To:

Richard Orr

Subject: RE: Discussion with Dabi Starnes

Ok, thanks....

From: Richard Orr

Sent: Wednesday, January 21, 2009 1:26 PM

To: A) Robinson

Subject: Discussion with Debi Starnes

Here's a quick snap shot, that will have more legal specific timing after she talks with the City Law Department:

- (1) As it stands, the City Law Department has until (to be clarified if filed sconer) Feb. 10th to file a counter claim in court for the full \$140,000. Law Department's Intent is to ask the judge for a "summary ludgment" for the entire amount.
- (2) Law feels comfortable that given the current issues that are and will continue to come before the courts on delinquent water bills, that the court may be inclined to try to clean their calendars of them as soon as possible, rather than letting them linger.
- (3) Contact on Peachtree-Pine Inhabitants continues on a routine basis, and according to Debi, because of the articles (AJC and CL), they have people calling them (Gateway) to seek other shelter options than P-P.
- (4) Debi questioned if Mercy should meet with B. Wardlaw to discuss temporary housing uses for property as a possible partner. I suggested to Debi it was my gut feeling that we wanted to keep Mercy as far away from Wardlaw as possible.

Richard Orr Senior Project Manager Communications & Membership Central Atlanta Progress, Inc. 50 Hurt Plaza, SE - Suite 110 Atlanta, GA 30303-2914

P: 404-658-1883 F: 404-658-1919

E: richorr@atiantadowntown.com W: www.atiantadowntown.com



**CAP0004** 



From:

AJ Robinson

Sent:

Wednesday, November 19, 2008 1:39 PM

To: Subject: Richard Orr Re: Water cut-off

Ok

Sent from my BlackBerry Wireless Handheld

--- Original Message --From: Richard Orr To: AJ Robinson

Sent: Wed Nov 19 13:37:52 2008

Subject: Water cut-off

As you speak to Debi, mention that if and when they cut it off, they had better know who else is delinquent, and by what amount, that is not being cut off.

If I were a reporter, that's the first thing I asked the water department for to show how the City was picking on the shelter which is the way Anita would spin it.

Richard Orr Senior Project Manager Communications & Membership Central Atlanta Progress, Inc. 50 Hurt Plaza, SE - Suite 110 Atlanta, GA 30303-2914

P: 404-658-1883 F: 404-658-1919

E: richorr@atlantadowntown.com

W: www.atlantadowntown.com <a href="http://www.atlantadowntown.com/">http://www.atlantadowntown.com/>



# EXHIBIT "9"

#### Ware, Bonni

From: Starnes, Debi

Sent: Thursday, May 28, 2009 1:13 PM

To: Ware, Bonni; Ross, Jocelyn; Boyd, Juliana

Subject: RE: Request for Program Certifications for DCA Application

I don't see how or why we would certify any of these programs. The reasons for the first three are long-running and self-explanatory reasons.

For the Homeless Prevention, I would have to hear from DCA that this legal clinic is what they had in mind, for their prevention dollars. And, why would we fund adding this function at TF, instead of with Legal Aid or Ga Law Ctr of Homeless - seems duplicative. Is this how they spent last year's Prevention money - do we have any report on results?

For the Rapid Rehousing, I would defer to Bonni, but it seems that the City is contracting with other agencies with more history in successful housing placement. I thought the Rapid Rehousing money was for people who circumstantially lost the housing they had and who can go on, if we help them get back into housing "rapidly"...not necessarily for homeless persons who will need more supportive services.

From: Ware, Bonni

Sent: Wed 4/29/2009 4:31 PM

To: Starnes, Debi

Subject: FW: Request for Program Certifications for DCA Application

per your request

From: Boyd, Juliana

Sent: Mon 4/27/2009 10:34 AM

To: Ware, Bonni Cc: Ross, Jocelyn

Subject: FW: Request for Program Certifications for DCA Application

Bonni – Attached are the program descriptions that were sent be the Task Force. Please review and let us know your decision regarding Certifications.

If you want Grants Management to respond: For those programs that you do not want Certified, please provide a rationale that can be shared in writing with the Task Force. We will issue Certifications for the remainder. If OHS or the Mayor's Office will respond to non-approved programs: Please provide us with a copy of the correspondence to the Task Force stating the reasons for non-approval, and let us know if there are any programs that can be Certified.

Thank you,

Julie

From: Keely Harris [mailto:keelybharris@gmail.com]

Sent: Tuesday, April 21, 2009 2:43 PM

To: Boyd, Juliana

Cc: anitalawbeaty@aol.com

Subject: Re: Request for Program Certifications for DCA Application

Hi Julie,



**COA/MATH03747** 

attached is a document with a brief description of the five programs for which we are requesting DCA funding. Please let me know what other information I can provide.

Many thanks, Keely

On Mon, Apr 20, 2009 at 4:45 PM, Keely Harris < keelybharris@gmail.com > wrote: . Hi Julie,

I've not been in the office today. I'll send them over first thing in the morning.

Many thanks, Keely

On Mon, Apr 20, 2009 at 2:06 PM, Boyd, Juliana < JBoyd@atlantaga.gov > wrote:

Keely:

Could you please provide brief program descriptions? Email response is fine. Thank you.

Julie Boyd

From: Keely Harris [mailto:keelybharris@gmail.com]

Sent: Monday, March 30, 2009 11:56 AM

To: Boyd, Juliana

Subject: Request for Program Certifications for DCA Application

Hi Julie,

We are requesting certifications for the following five programs this year:

- ESG Emergency Shelter
- ESG Transitional Housing
- ESG Rapid Re-Housing
- ESG Supportive Services: Day Centers
- ESG Homeless Prevention

Last year, we submitted program descriptions, including goals & numbers to be served. Is is the same format this year?

Many thanks, Keely Harris (404) 230-5000 ext 141

To the Georgia Department of Community Affairs, Regarding:

2009 DCA Project Title: Rapid Re-Housing Program

Agency Name: Metro Atlanta Task Force for the Homeless, Inc.

Program/Activity Address:

475-485 Peachtree Street Atlanta, Georgia 30365

Program/Activity Type:

Total Daily Capacity:

Demographic group(s) served:

Special needs group(s) served:

None targeted All groups except unaccompanied minors

100 calls/assessments daily

- 1) Based on a review of the Request for City Certification submitted to the City of Atlanta for the Supportive Housing Application to be submitted to DCA by the Applicant, the undersigned certifies that the program and activities proposed appear to be consistent with the City of Atlanta's Consolidated Plan for 2005-2009.
- 2) Based on a review of the Request for City Certification submitted to the City of Atlanta for the Supportive Housing Application to be submitted to DCA by the Applicant, please be advised that the program proposed appears to meet all local planning requirements for funding by DCA.

Certification is conditioned or explained as follows:

See attached letter.

Director, City of Alfanta Office of Grants Management

To the Georgia Department of Community Affairs, Regarding:

2009 DCA Project Title: Task Force for the Homeless Homeless Prevention

Agency Name: Metro Atlanta Task Force for the Homeless, Inc.

Program/Activity Address:

475-485 Peachtree Street Atlanta, Georgia 30365

Program/Activity Type:

**Total Daily Capacity:** 100 Famileis/800 ladieviduals/yr.

Demographic group(s) served: All demographic groups

Special needs group(s) served: At risk of homelessness

- 1) Based on a review of the Request for City Certification submitted to the City of Atlanta for the Supportive Housing Application to be submitted to DCA by the Applicant, the undersigned certifies that the program and activities proposed appear to be consistent with the City of Atlanta's Consolidated Plan for 2005-2009.
- 2) Based on a review of the Request for City Certification submitted to the City of Atlanta for the Supportive Housing Application to be submitted to DCA by the Applicant, please be advised that the program proposed appears to meet all local planning requirements for funding by DCA.

Certification is conditioned or explained as follows:

See attached letter.

Director, City of Atlanta Office of Grants Management

To the Georgia Department of Community Affairs, Regarding:

2009 DCA Project Title: Transitional Housing Program

Agency Name: Metro Atlanta Task Force for the Homeless, Inc.

Program/Activity Address: 475-485 Peachtree Street

Program/Activity Type: Transition housing

Atlanta, Georgia 30365

Total Daily Capacity:

Demographic group(s) served;

28

Adult men

Special needs group(s) served:

None targeted

- 1) Based on a review of the Request for City Certification submitted to the City of Atlanta for the Supportive Housing Application to be submitted to DCA by the Applicant, the undersigned certifies that the program and activities proposed appear to be consistent with the City of Atlanta's Consolidated Plan for 2005-2009.
- 2) Based on a review of the Request for City Certification submitted to the City of Atlanta for the Supportive Housing Application to be submitted to DCA by the Applicant, please be advised that the program proposed appears to meet all local planning requirements for funding by DCA.

Certification is conditioned or explained as follows:

See attached letter.

Director, City of Atlanta Office of Grants Management

To the Georgia Department of Community Affairs, Regarding:

2009 DCA Project Title: Supportive Services: Day Service Center

Agency Name: Metro Atlanta Task Force for the Homeless, Inc.

Program/Activity Address:

**477 Peachtree Street** Atlanta, Georgia 30365

Program/Activity Type: Outreach, community kitchen, transportation, referrals

**Total Daily Capacity:** estimated 300 daily;

Demographic group(s) served: All demographic groups

Special needs group(s) served:

None targeted

15,700 annually

- 1) Based on a review of the Request for City Certification submitted to the City of Atlanta for the Supportive Housing Application to be submitted to DCA by the Applicant, the undersigned certifies that the program and activities proposed appear to be consistent with the City of Atlanta's Consolidated Plan for 2005-2009.
- 2) Based on a review of the Request for City Certification submitted to the City of Atlanta for the Supportive Housing Application to be submitted to DCA by the Applicant, please be advised that the program proposed appears to meet all local planning requirements for funding by DCA.

Certification is conditioned or explained as follows:

See attached letter.

Director, City of Atlanta Office of Grants Management

#### Attachment A for 2009 DCA Application

To the Georgia Department of Community Affairs, Regarding:

2009 DCA Project Title: Overflow Emergency Shelter

Agency Name: Metro Atlanta Task Force for the Homeless, Inc.

Program/Activity Address: 475-485 Peachtree Street Atlanta, Georgia 30365

Program/Activity Type: Emergency shelter, year-round, night

Total Daily Capacity: 100-700

Demographic group(s) served: Adult men

Special needs group(s) served:

None targeted

- 1) Based on a review of the Request for City Certification submitted to the City of Atlanta for the Supportive Housing Application to be submitted to DCA by the Applicant, the undersigned certifies that the program and activities proposed appear to be consistent with the City of Atlanta's Consolidated Plan for 2005-2009.
- 2) Based on a review of the Request for City Certification submitted to the City of Atlanta for the Supportive Housing Application to be submitted to DCA by the Applicant, please be advised that the program proposed appears to meet all local planning requirements for funding by DCA.

Certification is conditioned or explained as follows:

See attached letter.

Director, City of Atlanta Office of Grants Management



# CITY OF ATLANTA

SHIRLEY FRANKLIN MAYOR July 1, 2009 OFFICE OF THE MAYOR

City Hall 55 Trinity Avenue, SW Suite 2400

Atlanta, GA 30303

(404) 330-6115 • FAX (404) 658-7089

GPRIDGEON@CLATLANTA.GA.US

GREG PRIDGEON CHIEF OF STAFF

John Bassett Georgia State Housing Trust Fund 60 Executive Park South, NE Atlanta, GA 30329

Dear Mr. Bassett,

By now you should have received all of the City's certifications regarding applicants for Emergency Shelter Grant Funds. As we pledged to you in 2007, we are working to improve and refine our Certification process, to place more emphasis on substance and results, as they relate to the goals in our Consolidated Plan. We have made progress, but have not completed that process. We did add, as a requirement, that all grantees must meet an accepted set of quality standards, as they relate to their agency – such as GARR or QUEST – and, as a minimum, the standards adopted by Fulton County Human Services Dept.

And, as you may or may not know, the City recently enacted a Supportive Housing/Shelter ordinance which will require a separate City-based Certification for supportive housing providers, which will involve a fairly rigorous review of a provider's qualifications, approach, budget, etc.

Each of these steps are to increase the quality and results riented efforts of our agencies, so that we can be more serious, collectively, about doing the hard work of getting persons out of homelessness, rather than just easing the burden while actually keeping the person in that life status for extended periods of time.

And, once again, as we have gone through this 2009 certification process, we feel compelled to elaborate on the City of Atlanta's position on one of the applicants to the State Housing Trust Fund for the Homeless – Metro Atlanta Task Force for the Homeless, Inc. ("Task Force") which operates it's shelter facility at Peachtree and Pine Streets ("the Pine" as it has become known).

The City has certified the <u>Emergency Shelter</u> portion of the Task Force's current application because it technically meets one of our Consolidated Plan ("Plan") objectives of "supporting sheltering and service options for difficult-to-serve chronic homeless populations." However, we do not believe it meets other Plan objectives such as "well-run residential programs meeting existing needs". By its own admission, the Task Force has several hundred men who have lived in the shelter for years, and we find that rate of progress and/or lack of results unacceptable and, in fact, harmful to the homeless persons who reside there.

The City has certified the <u>Transitional Housing</u> portion of the Task Force's current application because it meets our Plan's objectives of "supporting sheltering and service options for difficult-to-serve chronic homeless populations. However, we do not believe it meets other Plan criteria such as "well-run residential programs meeting existing needs". In fact, this is their program that scored dead last in the 2007 Tri-J scoring process and was, therefore, recommended to be deleted from that HUD application. Providing 28 "transitional" beds in the midst of that large shelter is a stretch in the definition of transitional housing, and we have no evidence that their rate of transitioning men into permanent self-sufficiency has improved since 2007—perhaps you do.

The City has certified the <u>Rapid Re-Housing</u> portion of the Task Force's current application because again of meeting the minimum technical requirement. However, the City is concerned with the Task force's ability to re-house persons quickly due to the percentage of persons that remain in the shelter and the limited staff to manage a program of this magnitude. Rapid re-housing is to help persons that are experiencing homelessness to be quickly re-housed and stabilized. The Task Force's current Housing Program serves an average of 11 individuals per day with an annual unduplicated number of 1575. Lastly, in its application, the required job descriptions were not attached for the Housing Coordinator.

The City has certified the <u>Supportive Services</u> (Day Service Center) portion of the Task Force's current application because it technically meets one of our Plan's objectives of "supportive services that enable homeless to attain stability". But we feel their staffing level for both the Shelter and Day Center is dangerously low and question what services can realistically be provided and even have concerns about the health and safety of the residents and clients of the Pine. We have seen no job descriptions for this program, or any of the others, as required by DCA.

Finally, the City has certified the Task Force's current application for <u>Homeless</u> However, while such program may touch on some of our objectives, when we certified this program in 2008, we mistakenly thought these dollars would be used to help with rental assistance, utility arrears, etc., that would help currently housed persons stay in their housing, instead of joining the homeless ranks. Even for that purpose, we were concerned about that service being provided by multiple agencies and the possible lack of coordination and/or communication that might occur. mistake/oversight) the funds were actually used for legal services, we were But, when we realized (our doubly concerned this is a duplicative service to long-established agencies that provide that service to our homeless population – such as Georgia Law Center for the Homeless and Legal Aid. And, in this economic climate, we are actually encouraging our agencies to consider consolidation and mergers, so that we can be more efficient at providing similar services – we feel creating new duplication is totally opposite of what we should be doing.

So, even though we have certified the programs applied for by the Task Force this year, it is based on having met, in most instances, only one technical objective of our Consolidated Plan. We continue to believe their overall approach is in conflict with what we are all learning, locally and nationwide—on what works and what does not work. As you know, both the Regional Commission on Homelessness and the U.S. Interagency Council on Homelessness continue to emphasize supportive housing and intensive case management.

We also ask for your review of the Task Force's participation in Pathways, because it is our opinion that their participation must be sporadic, at best. I have been informed that when our partners at Gateway and other collaborative agencies come in contact with Pine residents who seek out other services, they rarely find any information that has been input into this DCA-mandated

Homeless Management Information System (HMIS). So, our other agencies most often must start from scratch with a resident that has been at the Pine for yearst Our Consolidated Plan is clear that all agencies that operate residential homeless programs, including the Task Force, are required to participate in Palhways, the designated HMIS.

Finally, in your review, if you determine the Task Force is asking to expand their beds and/or number of people they serve – they continually quote varying numbers- there is a question as to whether they would be in compliance with the new Supportive Housing/Shelter legislation that was passed by the Atlanta Cily Council in May 2009. That new zoning law would require an existing facility to seek a Special Use Permit, if they undergo any expansion that Increases beds or square feet.

We will continue our efforts toward refining our internal process and welcome any suggestions or feedback you may have, that would facilitate our two governmental entities working together – to determine how to allocate our mutual scare resources (seemingly, getting more scarce every day).

Please feel free to contact me if you have any questions or need any further information.

Sincerely.

Greg Pridgeon

# Georgia Department of Community Affairs

July 2, 2009

Mr. Robert S. Cramer, Jr.
Board Chair
Metro Atlanta Task Force for the Homeless, Inc.
477 Peachiree Street NE
Atlanta, Georgia 30308

Re: Request for ESG Funds

Dear Mr. Cramer:

After careful review of the subject request, I regret to inform you that the Department is unable to award funds under the Emergency Shelter Grant (ESG) Program at this time.

Based upon a thorough review and scoring of your application, this decision is made for the following reason(s):

The Metro Atlanta Task Force for the Homeless. Inc. did not submit local approval prior to completion of the DCA review process. Local approval is a threshold requirement for funding. It should be noted that even if timely local approval had been received, the Task Force's application might have faced additional threshold obstacles, including but not limited to, IIMIS implementation and HSS compliance. The Task Force is out of compliance with HMIS requirements. HMIS records show that no clients have been enrolled in Task Force programs since February 19, 2009, and that there have been appear to be in compliance and did not put forth an acceptable plan for compliance.

While we are unable to grant funds at this time, we wish you every success in obtaining the funds necessary to carry out this program. If you have questions, please do not hesitate to contact me at (404) 679-3170 (Allanta metro) or (800) 359-4663

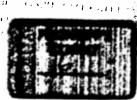
Sincerely,

John Bassett, Director

State Housing Trust Fund for the Homeless

√bw







# EXHIBIT "10"

From: Sent:

Richard Orr

To:

Thursday, April 19, 2007 9:48 AM

'Starnes, Debi'

Subject:

RE: bullet points for Tri-J letter

#### Kick someone's!

---Original Message-

From: Stames, Debi [mailto:DStames@AtlantaGa.Gov]

Sent: Thursday, April 19, 2007 9:43 AM

To: Richard Orr

Subject: Re: bullet points for Tri-J letter

Will do sometime today. I have TRIED repeatedly to get those addresses...

- Original Message

From: Richard Orr <richorr@centralatlantaprogress.org>

The second second second

Sent: Thu Apr 19 09:41:35 2007 Subject: bullet points for Tri-J letter

Can you provide me with some points to make in draft letter, the address of certification people. The 25th is rapidly Richard Orr

Sr. Project Manager Communications & Membership Central Atlanta Progress 404-658-1883 404-658-1919 fax richorr@centralatlantaprogress.org

From:

Richard Orr

Sent:

Friday, April 20, 2007 3:47 PM

To:

henrym@thlnkkaplan.com'; 'avu@thlnkkaplan.com'; 'david.kirk@troutmansanders.com'; 'juditho@thlnkkaplan.com'; 'al.blackwelder@emoryheaithcare.org'; 'cotton@cottenalston.com';

'rufus@oterrills.com'; 'sonoredevelopment@aol.com'; 'bohinc96@hotmali.com';

'johnmccoil@cousinsproperties.com'; 'hardin@woodruff.org'; 'dharnellcohen@atlantaga.gov'

Cc:

AJ Robinson; 'Starnes, Debi'; 'srichardson@atlanta.net'; Dave Wardeil

Subject

SoNo neighborhood efforts - Tri-J letter points, Board addresses - Delivery deadline - April 25

Attachments: Tri-J Governing Board Directory.doc

Below are letter points that you can use to send letters to members of the Tri-Jurisdictional Board considering funding for the Task Force for the Homeless as per our previous conversation.

Please forward your personal/business letters to each committee member by April 25, the day of the full Tri-J Collaborative Meeting. As a reminder, any photographs, video, correspondence or data that supports your individual opinions should be included with the letters.

Please share this information with others in the neighborhood and request that they also write letters.

Attached are names, addresses and e-mails of the Tri-Jurisdiction Board members. The letter

- supportive of helping the homeless, and have offered to help (either Peachtree Pine or elsewhere, if you have)
- feel that agencies should be well run and good stewards of donated dollars especially if they are taxpayer dollars
- feel the location is too large and that PP shelter houses too many persons in one location
- can see on a daily basis that there is little or no effort to clean up around the building or to keep people from loitering
- constant flow of persons that leave PP shelter and come to the parks for drug dealing, sex and criminal behavior
- high crime rates in the block around by PP shelter cite some stats if you have them
- multiple shootings at the first of each month, when drug dealers compete for the users that are housed inside the building
- insufficient screening and supervision of clients not checked for weapons or active drug use/dealing
- same clients live there year after year program is not trying to help clients move on to self-sufficiency
- not the same problems around other shelters and programs that help the homeless seems like PP shelter management likes to create problems and then walks away from any responsibility
- supportive of the millions of dollars that are needed to help the homeless, but no money should go to an agency that is making the problem worse instead of better
- unwilling to give the police sign-in sheets to check for dangerous fugitives
- constant burglaries, car break-ins, property trespassing crimes in surrounding condos and businesses
- demand that if funders give money, they are responsible for monitoring and fixing problems the three governments (Fulton, DeKalb, Atlanta) have falled to do that with past grants to PP shelter.

From: Richard Orr

Sent: Friday, April 20, 2007 7:31 AM

To: 'pbiswas@unitedwayatlanta.org'
Subject: Need assistance on Tr-J info

Protip: I need to get the addresses for the following Tri-J committee members today. Do you have them?

Francis Browning Janice Andrews Juanita Blount-Clark From: Richard Orr

Sent: Thursday, May 31, 2007 1:41 PM
To: Paul B. Keiman; Dave Wardell

Subject: Hit for the Task Force

Just talked with Debl Starnes. The Tri-Jurisdictional group that controls a fairly good portion of Anita's funding, just defunded them for 2008.



## EXHIBIT "11"

From: Sent:

AJ Robinson Monday, December 08, 2008 1:04 PM Richard Orr

To:

Also, Debi was supposed to get me names of Anita's lawyers....

Sent from my BlackBerry Wireless Handheld



From: Sent:

AJ Robinson

To:

Monday, December 08, 2008 1:26 PM Richard Orr

Subject:

Re: Attorney

#### And big clients?

Sent from my BlackBerry Wireless Handheld

- Original Message ----From: Richard Orr

To: AJ Robinson

Sent: Mon Dec 08 13:25:30 2008

Subject: Attorney

Baker, Donalson, Bearman, Caldwell & Berkowitz Representing attorneys:Robert Brazier and Steven Hall

Original Message----From: AJ Robinson

Sent: Monday, December 08, 2008 1:04 PM

To: Richard Orr

Subject:

Also, Debi was supposed to get me names of Anita's lawyers....

Sent from my BlackBerry Wireless Handheld

From: Sent:

AJ Robinson

To:

Monday, December 08, 2008 7:51 PM

Cc:

'swilliams@macoc.com'

Richard Orr

Subject:

Fw: Attorney

See below, BakerDonelson are on wrong side of City, business community, United Way and all govt entities providing homeless resources in Atlanta area. It is rumored they are preparing to sue the City on behalf of Anita Beatty and her dysfunctional homeless operation. This would be a terrible mistake and will haunt them for years in Atlanta.

Sent from my BlackBerry Wireless Handheld

Original Message ----From: Richard Orr

To: AJ Robinson

Sent: Mon Dec 08 13:49:30 2008

Subject: RE: Attorney

Linda A. Klein and Michael J. Powell are Managing Shareholders

Fairly large firm with offices In:

Atlanta, Georgia Jackson, Mississippi Memphis, Tennessee Baton Rouge, Louisiana Knoxville, Tennessee Nashville, Tennessee Beijing, China London, United Kingdom New Orleans, Louisiana Birmingham, Alabama Macon, Georgia Oxford, Mississippi Chattanooga, Tennessee Mandeville, Louisiana Tri-Cities Tennessee/Virginia Huntsville, Tennessee Memphis (East), Tennessee Washington, D.C.

No client list but a very broad spectrum of practice, especially litigation, including pro bono, see following from their web

#### Atlanta, Georgia:

Attorneys in the Atlanta office are active in the Atlanta Volunteer Lawyers Foundation Saturday Morning Lawyers Project and provide pro bono representation to the poor in such matters as landlord-tenant disputes, domestic cases and other litigation matters.

Atlanta Pro Bono Coordinators

Clint Crosby, ccrosby@bakerdonelson.com 678.406.8702 Henry Levi, hlevi@bakerdonelson.com 404.221.6508

--Original Message----From: AJ Robinson

Sent: Monday, December 08, 2008 1:26 PM

To: Richard Orr

Subject: Re: Attorney

And big clients?

Sent from my BlackBerry Wireless Handheld

-- Original Message ----From: Richard Orr

To: AJ Robinson

Sent: Mon Dec 08 13:25:30 2008

Subject: Attorney

Baker, Donalson, Bearman, Caldwell & Berkowitz Representing attorneys:Robert Brazier and Steven Hall

-Original Message--From: AJ Robinson

Sent: Monday, December 08, 2008 1:04 PM

To: Richard Orr

Subject:

Also, Debi was supposed to get me names of Anita's lawyers....

Sent from my BlackBerry Wireless Handheld

## **EXHIBIT "12"**

# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF GEORGIA STATE OF GEORGIA

METROPOLITAN ATLANTA TASK FORCE,

Plaintiff,

Vs.

CIVIL ACTION FILE NO. 1 09-CV-2833

THE CITY OF ATLANTA, GEORGIA,

Defendant.

Video Deposition of A.J. ROBINSON

February 23, 2010 9:36 a.m.

Troutman Sanders, L.L.P.
600 Peachtree Street, Suite 5200
Atlanta, Georgia

Melinda M. Ross, RPR, CCR-2614

they going to provide forgiveness on the loan? They needed to do something. It wasn't, it wasn't -- declaring default is one item. They can do lots of things. They can forgive their loan.

Q. Okay. So you're saying you never had the intent to get Mercy to put the Task Force into default on its notes?

 $\ensuremath{\mathsf{MR}}.$  RIDDELL: Object to the form. Asked and answered.

THE WITNESS: There were discussions about many things they could do, that being one of them.

- Q. (By Mr. Hall) Okay. So you did have the intent to get Mercy to --
- A. I had the intent for Mercy to do something.
- Q. Well, did you specifically have the intent for Mercy to put the Task Force in default on its loans?

 $\ensuremath{\mathsf{MR.}}$  RIDDELL: Object to the form. Asked and answered.

THE WITNESS: I discussed with Mercy on numerous occasions what their, their intent, not my intent, their intent was. I don't loan -- I don't have the loan. They have the loan. They

know what their remedies are with the loan. 1 Okay? Do I want them to foreclose, is that your 2 question? I wanted them to solve the problem. 3 If foreclosure leads to the problem, then 4 5 foreclose. 6 MR. HALL: Could you read back my question 7 again? Apparently it's not making it through 8 for him. 9 (A portion of the transcript was read.) 10 Specific as opposed to any other remedy? Α. 11 Yes. Specific as opposed to any other Q. 12 remedy. 13 MR. RIDDELL: Same objection. 14 (By Mr. Hall) Did you have that intent? Q. 15 Α. No. 16 That's your testimony under oath? Q. 17 That's my testimony. Α. 18 Read your e-mail to Pete Walker on --Q. first identify the exhibit, please. 19 20 MR. RIDDELL: What's this exhibit number? 21 MR. HALL: It's 19. 22 (By Mr. Hall) You see your --Q. 23 Α. Right. 24 -- e-mail dated Tuesday, April 28th, 2009 25 at 4:42 p.m. at the bottom of that page?

THE RESERVE THE PERSON NAMED IN

- A. I do see it.
- Q. Okay. Please read that e-mail for those who will watch this video, sir.
- A. It says, "How do I get Julie to put them in default."
- Q. And Julie is one of the, is the president of Mercy Loan Fund; is that correct?
  - A. I don't, I don't know what her title is.
- Q. Okay. She's an officer at Mercy Loan Fund?
- A. I believe. I don't know if she's an officer at Mercy Loan Fund. I don't, I don't know what her ti -- I think she had some responsibility for the Mercy Loan Fund.
- Q. Okay. And the "them" that you are referring to is the Task Force?
  - A. The them that I am referring to, yes.
- Q. So what you told me before was simply false, correct?
- A. No. What you asked me -- my reference to -- at the time you asked me what -- did I ever ask them to put it in default. We discussed many remedies. This is one remedy I'm asking them to do. Okay. This is after, you know, there could have been -- the next discussion could have been should we

rework the loan, should we work with the borrower, should we sell the loan.

- Q. Tell me, if you would, sir, what it is, because I'm puzzled by what it is that you think makes your prior testimony and your response to that question truthful in light of the e-mail that I just sent you, showed you?
- A. Because your, your prior question was, if I understood it, was did I specifically say instruct them to put it in default. I asked them --
- Q. Are you saying -- are you, are you actually sitting here saying after our series of discussions that I used the word instruct on that question --
  - A. No.
- $\mathbb{Q}.$  -- and I said and the court reporter said --
  - A. No, you're right. I take that back.
- Q. So you've now added in another piece of testimony that is inaccurate, correct?
  - A. On, on your question?
  - Q. Yes.
  - A. No. I misspoke.
  - Q. When you went to explain --
- A. I apologize. I misspoke.

- Q. Okay. Then tell me, sir, what it is about your statement to me that is truthful because it looks to me to be false, or tell me that it was false?
  - A. Okay. And then it's -- then it was false.
  - Q. Okay. Thank you.

Now, since your discussions with Mercy started and your communications with Pete Walker started, Mercy has, in fact, put the Task Force into default on its notes, correct?

- A. I believe so, yes.
- Q. Now, you recognize that by putting the Task Force into default on its notes, you expose not only the property for sale, but all the security interests behind the property?
- A. That the prop -- sorry, that the property is, is for sale?
- Q. Do you understand that if a foreclosure occurs, which is what happens when you get defaulted on your notes --
  - A. Right.
  - Q. -- that the property gets sold --
  - A. Correct.
  - Q. -- on the courthouse steps?
- A. Correct.

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- A. Because I'm not sure we, that the

  Ambassador Force in its current thing would, would,

  would do this on their own unless asked to do it.
- Q. You're doing it on your own under your stewardship and you haven't been asked to do it?

  MR. RIDDELL: Object to the form. Asked and answered.

THE WITNESS: It's an ongoing program.

- Q. (By Mr. Hall) What other initiatives has your Ambassador Force taken to address homelessness?
- A. I'm aware of when we -- as -- when folks are on the street and we feel like that they need specific help, we try to direct them to those, that program. Either put them in touch with the APD who has officers in the downtown area who know of the programs or try to direct them to someplace that, where they can go to get help.
  - O. You direct them to the Task Force?
- A. Perhaps some folks do. I don't know. I know we direct them to is -- perhaps what we're doing now is direct them to the Gateway. That's what we understand to be where they're -- they have the best chance of getting help.
- Q. Your organization actively attempts to prevent people from giving money to homeless people

on the street, correct?

MR. RIDDELL: Object to the form.

THE WITNESS: No. We, we actively --

- Q. (By Mr. Hall) Discourage?
- A. -- discourage people from giving to panhandling. I do draw a distinction between folks who are -- there's a, there's a distinction between people who are in panhandling for business and people who just are in need of support.
- Q. Okay. And how do you make that distinction?
  - A. How do I personally make that distinction?
  - Q. Yes.
  - A. I think that it's in behavior.
- Q. What behavior is it that cau, what characteristics of a homeless person cause you to believe that they are panhandling as a business as opposed to panhandling to get support?
- A. We, there's many examples of folks, people acting extremely aggressively and threatening people that they better give them money. That, that to me is panhandling. Or that they're performing a service for someone in the hopes that they will get money, making people uncomfortable that they're not getting money. Or that they're telling a story about how

their car broke down out on the highway and it's some kind of, you know, flim-flam story about how they need money. To me that is, that is different from a homeless person who has a cup out on the street.

- Q. So your organization thinks it's okay to have a cup out on the street?
- A. We, we, the -- our organization does not, you know, we're, we're concerned about aggressive behavior. We're not concerned about guys on the street with a cup.
- Q. Your literature says don't give money, correct?
  - A. Correct.
- Q. You put up meters so that people will put money in meters as opposed to giving it to anyone, correct?
  - A. Correct.
- Q. Okay. So when you say that your organization doesn't discourage giving money, doesn't mind people giving money to people that are simply holding out cups, that is not accurate?
- A. Well, there's a, there's a magnitude here. We as a -- philosophically, we have no problem giving people, if they want to give to someone that's holding out a cup, fine. We think that it's a better

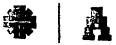
opportunity to give them through a meter where there's a -- they can get help. We don't think that giving to individuals who are aggressively panhandling is going to lead to any positive thing in the community.

- Q. My question was that when you said that your organization doesn't mind people giving money to people that simply hold out cups, that is not accurate what you said?
- A. Well, it's, it's accurate would we rather them not give the cups, yes.
  - Q. Okay.
- A. Then I misspoke, and -- but we believe it's better to give to, through a system where they -- it's given to an institution that knows how to deal with folks who need help.
- Q. And all of your literature is don't give money to anyone, correct?
  - A. No. It says give to the meter program.
- Q. Give to meter program. Don't give to any individuals?
  - A. Correct.
- Q. All right. And I'm puzzled by how if all of your literature says that you could have ever said to me what you said a few moments ago which was that

we don't mind if people give to cups -- to people who are holding out cups?

- A. Well, there's, there's a difference in behavior.
  - Q. My point --
  - A. Okay. I, I understand your point.
  - Q. What you said was false, correct?
- A. Okay. That was -- in the, in the context of your question, yes, that was false. I would rather them not give to folks with a cup.
- Q. All right. Now, you're aware that many of these shelters that you're counting on to provide to the homeless charge, aren't you?
  - A. Charge.
- Q. People need five bucks, ten bucks to get in?
  - A. No. I'm not aware of that.
- Q. You didn't investigate that before you said don't give any money?
  - A. No.
- Q. Okay. So when people -- on the occasions that you've heard that people have solicited money so they can get into a shelter, that falls within one of the categories you described as aggressive panhandling, correct?

# **EXHIBIT "13"**



### Central Atlanta Progress Atlanta Downtown Improvement District

# Minutes of the Executive Committee of Central Atlanta Progress, Inc. and Board of Directors of Capacity, Inc. November 12, 2008

The Executive Committee of Central Atlanta Progress, Inc. (CAP) met on Wednesday, November 12, 2008 in the offices of CAP.

The following were present: Tom Bell, Rob Bentley, Brad Benton, Alec Fraser, Maxine Hicks, Taylor Glover, Paul Kelman, Hank Linginfelter, David Marvin, Charles Parker, Carl Patton, Gary Peacock, Egbert Perry, A.J. Robinson, Mason Stephenson, Jeff Warwick and James Young. Present as guests were: Jennifer Ball, Steve Foster, Cooper Holland, Angie Laurie, Ellen Mendelsohn, Sara Milton, Richard Orr, Michele Santa Maria, Tahmida Shamsuddin, Doug Shipman, Wilma Sothern, Charles Strawser and David Wardell.

Minutes - Minutes of the past three meetings (May, July and October), previously held because of a lack of quorum, were approved.

Financial - CAP Treasurer Brad Benton reviewed the financial reports for CAP and Capacity. He indicated that an audit committee, which he would chair, would be set up.

Audits - 2007 audits for CAP and Capacity were approved.

Panhandling update – Robinson reviewed current progress on the recently launched anti-panhandling campaign. It was suggested that scrutiny of the courts in some form would be necessary to ensure their actions are supportive of panhandling arrests.

TAD Statewide Campaign – Robinson reported that efforts to seek voter approval were successful in the November election to overturn the Georgia Supreme Court ruling as it related to school taxes being used in support of TAD funding increments.

New Market Tax Credits program (NMTC) — After a lengthy discussion, it was determined that a group from the Executive Committee needed to be set up as an oversight body for NMTC.

Public Space Vending update — The Executive Committee received a report on the current status of the third-party management process for the City's public space vending program. General Growth Properties, the selected vendor, is unfortunately in the midst of a financial crisis which could affect their long-term viability.



Imagine Downtown update – The Executive Committee received as information a briefing document on the current meetings that are part of the process being used to update the original plan. A final report will be available after the first of the year.

Peachtree-Pine Shelter update — Robinson reported on several issues related to the financial viability of the Task Force for the Homeless and their possible default on more than \$800,000 in loans from Mercy Housing. Tom Bell suggested that it might be possible for the loans to be purchased from Mercy. More information will be available in the future, as there are plans for internal staff movements at Mercy Housing that could be more favorable to the community's efforts.

CAP Membership – Robinson reported that he expected 2009 to be a tight year financially and that efforts are being made to minimize expenses where possible. According to Richard Orr, 2009 dues invoice will be sent out in early December.

There being no further business, the meeting was adjourned.

Respectfully submitted.

Paul B. Kelman Secretary

Approved,

A.J. Robinson President

# EXHIBIT "14"

#### AJ Robinson

From: AJ Robinson

Sent: Friday, January 18, 2009 12:53 PM

Craig Jones (craigjones@cousinsproperties.com); John McColl (johnmccoll@cousinsproperties.com); Dane To:

Peterson (Dane.Peterson@emoryhealthcare.org); Brad Currey (Jokidd@rocktenn.com); Russ Hardin (hardin@woodruff.org); Mark Riley (mriley@urbanrealtypartners.net); 'stedder@barrycompanies.com'; Larry Gellerstedt (larrygellerstedt@cousinsproperties.com); Steve Riddell (steve.riddell@troutmansanders.com); Mark

Riley (mriley@urbanrealtypartners.net)

Eugene "Pete" Walker Jr. (pwalker@mercyhousing.org); Ellen Mendelsohn; 'patricia\_tumer@emoryhealthcare.org'; Cc:

'jones@woodruff.org'; 'maryshipe@cousinsproperties.com'; 'keesaswaney@cousinsproperties.com';

'bridgettewright@cousinsproperties.com'

Subject: Peachtree Pine

A number of us met with Pete Walker of Mercy Housing this past week and we agreed to schedule a follow up meeting with Pete in his office. It has been scheduled for January 26, 2:30 pm in his office at 621 North Avenue, NE, Suite A-150, Atlanta, GA 30308. Let me know if you can attend. Some of you sent representatives or there maybe others from your organizations who are interested.

AJ. Robinson President Central Atlanta Progress, Inc. 50 Hurt Plaza, SE - Suite 110 Atlanta, Georgia 30303-2914

P: 404-658-1980 F: 404-658-1919

E: al@atiantadowntown.com (please note my new email address)

W: www.atiantadowntown.com



## **EXHIBIT "15"**

# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF GEORGIA STATE OF GEORGIA

METROPOLITAN ATLANTA TASK FORCE,

Plaintiff,

vs. CIVIL ACTION FILE NO. 1 09-CV-2833

THE CITY OF ATLANTA, GEORGIA,

Defendant.

Video Deposition of A.J. ROBINSON

February 23, 2010 9:36 a.m.

Troutman Sanders, L.L.P.
600 Peachtree Street, Suite 5200
Atlanta, Georgia

Melinda M. Ross, RPR, CCR-2614

В

Subsequent to that when Mercy -- Mercy made it known to folks that they were interested in selling the loan. We, through our attorneys, looked at the possibility of CAP buying the loan, or an affiliate. We weren't successful in that endeavor and then subsequent to that the loans, either the loans were for sale, they weren't for sale, they came back on the market and in discussions with Fialkow, he said what do you think about me buying the loans? I said that's up to you, and that's how the discussion began.

- Q. Who brought up the conversation between you and Mr. Fialkow about the loans being for sale?
  - A. Who brought up the conversation?
- Q. Who brought it up? Did you tell him the loans were for sale or did he come to you?
  - A. I think I brought it up.
- Q. You brought it up. And you knew the loans were for sale because you had been talking with Pete Walker and others at Mercy Housing, correct?
  - A. Correct.
- Q. You have no business relationship with Mercy Housing, no pre-existing business relationship with Mercy --
  - A. No.

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- Q. -- Housing, do you?
- A. No.
  - Q. Okay. Mr. Fialkow is a member of -- or his company is a member of CAP, correct?
    - A. Yes.
  - Q. Now, initially you and Mr. Fialkow discussed your participating in the purchase of the notes personally?
    - A. Not me personally.
    - Q. Who?
    - A. CAP, or an affiliate of CAP.
  - Q. And then Mr. Fialkow decided he wanted to go on his own; is that how it happened?
  - A. No. What, what happened was, is that, again, we weren't successful in buying the note, for whatever reason. They wouldn't -- we couldn't close the gap in the discussion. And in conversation, the building was still for sale. And I made Mr. Fialkow aware of the fact that perhaps he would have a better chance at buying the note than we did, and, and, it was clear that Mercy was looking for a buyer.
- Q. It's true that Mercy would not sell the note to CAP because they did not find CAP to be -- they didn't want to sell it to CAP as an organization, correct?

1.3

- A. I have no idea what their intention was.
- $\mathbb{Q}.$  Oh. Why did they tell you they would not sell --
  - A. They did not tell us.
- Q. Let me finish my question. Why did they tell you -- what was your understanding of why they didn't accept your offer?
- A. There was no understanding. They -- the discussions were cut off at the last minute. I don't know if it was over documentation. I don't know over what it was, but they, they, they didn't sell it to us.
- Q. Now, isn't it true that you and Mr. Fialkow discussed his using an organization that would be unidentified and unaffiliated with CAP in order to buy the loans?
- A. I did not. I did not enter -- Mr. Fialkow may have told me he was going to do something. I did not advise him to that.
- Q. Okay. But you understood Mr. Fialkow was going to use a name that would not be affiliated with CAP when he went to buy --
  - A. He had no --
  - Q. -- the notes?
  - A. He had no relationship to CAP. It was his

business. We don't have -- I don't have a relationship with Mr. Fialkow representing CAP.

- Q. You under -- you missed my question. My question was you and Mr. Fialkow had discussions about him using a name of a company that would not be affiliated with CAP when he approached Mercy, correct?
  - A. Perhaps, but it had nothing to do with --
  - Q. Sir --
- A. I'm -- I'm trying to understand your question.
- Q. Sir, my question is very simple. My question is you and Mr. Fialkow had a discussion in which the subject was Mr. Fialkow was going to use a name of a company that would not be affiliated with CAP?
- A. What do you mean by "affiliation"? There would be no reason to have a company.
- Q. It wouldn't be Fialkow and company. It would be something like Ichthus that nobody knew what it was, correct?
  - A. Not correct.
  - Q. You had no such discussion with Mr.
- Fialkow; is that your testimony?
  - A. Mr. Fialkow --

Q. Sir, let me finish my question.

You had no such -- is your testimony under oath that you had no such discussion with Mr. Fialkow about using a name that would appear more palatable to Mercy to sell to?

- A. Mr. Fialkow told me that perhaps he would use a vehicle that he wanted to use. It had -- he gave me no excuse why he wanted to do that. Did I have knowledge that he was going to use another vehicle? Yes. I had no knowledge of whether he owned the vehicle --
  - Q. So --
  - A. -- or what affiliation it had with him.
  - Q. Is it your tes --
  - MR. RIDDELL: Let him, let him finish answering the question. You keep cutting him off and let him answer the question.
  - $\ensuremath{\,^{\text{MR.}}}$  HALL: No. He keeps missing the question.
  - MR. RIDDELL: No. No. No. Well, let him answer the question. You're being rude. You asked, you asked a question. Let him answer it. Then you can follow up.
    - MR. HALL: Then object to the form.
    - MR. RIDDELL: It's not a form. It's a,

it's a, it's a rudeness in not letting the witness answer.

THE WITNESS: Yeah. If your question is, is, was he using a vehicle that -- why he was using that vehicle, I have no knowledge to why he was using the vehicle, whether it was appropriate for Mercy or appropriate for CAP, it had no relationship to CAP.

- Q. (By Mr. Hall) Okay. Are you done?
- A. Did I -- yeah. Did I know that he was going to use the vehicle? He talked about using a vehicle. I don't know whether he owns that vehicle. I don't know whether or not it has anything to do with him or not.
- Q. Okay. Now, your testimony then under oath is there was never a discussion between you and Mr. Fialkow about why he would use a different vehicle?
- A. There was a -- yes, there was a discussion.
  - Q. Okay.
- A. But why, I have no -- why he was doing that, I don't know. I didn't advise him. I didn't -- he may have told me that he was using another vehicle.
  - Q. Okay. Did he -- are you saying that there

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was never a discussion about why he was using another vehicle?

- A. You know, what is "why"? If your question is why he is using a vehicle, what he wanted to do, he may have told me, but I don't know why.
  - Q. Okay. What did he tell you?
- A. He, he, he told me he was thinking about using a vehicle for his own purposes to, for whatever purposes that was separate from him, not separate from him. I don't know what his motivation was.
  - Q. Okay.
- A. It wasn't -- if it was something to do with -- it had nothing to do with CAP. If it had something to do with Mercy, that was his business. I did not advise him. I did, I did not discuss with him why or why not.
- Q. Sir, my question to you has been did you have a discussion in which he discussed why he wanted to use a different vehicle?
- A. I had that discussion.
- Q. Now my question is what did he tell you was his reason for wanting to use a different vehicle?
- A. I, I don't recall. He said he wanted to use a separate vehicle for whatever purposes. I

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don't recall what.

- Q. Okay. So your testimony is you had this conversation with Mr. Fialkow about him using a separate vehicle. He told you why he wanted to and as you sit here today, what, two weeks later, you can't remember why?
  - A. What is the reference to two weeks later?
- Q. How long ago was your discussion with Mr. Fialkow?
- A. This discussion was -- occurred last, perhaps last summer when he first approached Mercy I think to buy them out. It had nothing to do with the last two weeks.
  - Q. Okay. When was --
- A. He discussed, he discussed many things about why or why -- what he should do and how he should do it.
  - Q. When --
- A. We had -- keep in mind we had had a three-month negotiation with Mercy which wasn't successful.
- Q. When was the last time that you had a discussion with Mr. Fialkow about anything to do with the Task Force or the notes?
  - A. Anything to do with the Task Force or the

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notes. Yesterday.

Q. Okay. And what caused you to have a discussion with Mr. Fialkow yesterday about the Task Force?

- A. Well, Mr. Fialkow, as you know, has notified the borrower that he's, intends to foreclose next week. And I'm aware that -- and Mr. Fialkow, because we're very concerned as a community about what that means as a community, continues to let us know what his intention is.
- Q. Okay. So he is keeping you appraised of everything he's doing with respect to the note?
  - A. As much I guess as he can.
- Q. Okay. Now, why was it that you had a conversation with Mr. Fialkow yesterday?
  - A. I just told you.
  - Q. Did you call him or did he call you?
  - A. He called me.
- Q. Okay. Now, when was the last time you discussed with Mr. Fialkow before that his intentions with respect to the property?
- A. Well, ever since he has bought the prop -- bought the loan, I've had conversations with him on either once every few days just to keep informed of what he intends to do.

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February 23, 2010 1 Okay. So every few days since when, Q. January 29th, was that when he bought the loans? 2 3 I believe so. Α. 1 And you knew he was going to buy the loans Ο. 5 before he did? 6 He appraised me that he was, he was considering it. It may have been other people trying 7 3 to buy the loans. I don't know. 9 And you had made a proposal that CAP might 10 participate in that purchase? 11 Α. No. 12 Had he recruited you to participate in it? Q. 13 Α. No. 14 Then how was it that CAP was thinking about participating with him in purchasing these 15 16 17 CAP was not participating. Let me -let's, let's back up if I can and get it straight 18 19 here for the record. 20 The -- I guess it was the end of '08, 2008, and I believe we became aware that the city 21 and, and the -- there was an issue between the city 22 and the shelter for whatever reason, and the lawsuit 23 occurred and then it was clear that the shelter was, 24 seemed to be having trouble making, you know, making 25

payments, bills.

We knew at that time that the loans were in default, and that's the point when we had discussions with Mercy. So it would have been the first quarter of '09.

- Q. What have you done to prepare for your deposition today?
  - A. What have I done?
  - Q. Yes.
- A. I've consulted with my lawyer. I've looked at the e-mails that we've sent to you. I have, you know, thought about the issues that you may ask me.
- Q. How long did you spend consulting with your lawyer?
  - A. How long? A few hours.
  - Q. When?
- A. Let's see. We did it -- we had a session -- we had a first session, I think, a couple months ago we, we talked, and then we talked last week. I can't recall. I know we had a couple of sessions.
- Q. When was the last time you met with your lawyer in preparation for the deposition?
  - A. At 9:00.
- Q. How about yesterday?

MR. RIDDELL: Object to the form. Go ahead. You can answer.

THE WITNESS: I'm not sure. It would seem to me it would just depend on the circumstances as to what's, what's at stake or what the issue is.

Q. (By Mr. Hall) Okay. Under what circumstances can you give me where it would be appropriate for one business to interfere with the business relationships of another in order to harm that business?

MR. RIDDELL: Same objection.

THE WITNESS: The way you phrase your question, it would seem like competition. If you're, if you're saying you cannot approach another business customer because he's buying something or he's, he's providing a service to a business, if that's -- if that -- doing business with that customer wouldn't seem to be a malicious intent. That's just competition.

Q. (By Mr. Hall) Okay. What about if, for instance, you encouraged a lender to put another entity into default on notes that they had and you had no business relationship with that lender or with the entity who you wanted to have put into default?

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- I believe so. Α.
- Okay. So if you told your constituents 0. that the effort that you had helped organize was meaningful and important to the decision, why did you just testify as you did here that you had no idea that your efforts had anything to do with it?
  - Α. Well --

MR. RIDDELL: Object to the form.

THE WITNESS: -- first of all --

(By Mr. Hall) Does that seem more appropriate and more conven -- more circumspect for

MR. RIDDELL: Same objection.

THE WITNESS: First of all, I didn't write this. It was written by Mr. Orr and he, he obviously felt like it had an impact. I, I -you know, I, I would testify that I'm not sure if it had an impact or not, perhaps it did. I don't think we were the only letters written and I don't know anything about the Tri-J's process of evaluating. I don't believe, whether or not it was these letters or some other test, that the Tri-J -- we had no knowledge of that.

(By Mr. Hall) Are you aware that the Tri-J evaluators did not have addresses available to

contact them? There were no public areas where you could go find information on their addresses?

- A. I'm not aware of that.
- Q. Are you aware that Mr. Orr went to United Way to get the addresses for the Tri-J evaluation committee?
  - A. Perhaps he did.
- Q. Okay. Would you agree with me that if there is going to be public comment on an issue such as public funding, that it should be open public comment as opposed to just one group against a comment?
- A. I think it depends on the issue, but in most cases, yes.
- Q. Don't you agree that if the Tri-J was going to evaluate homelessness, it would have been fair for the Tri-J to get all sides of the perspective as to a different, as to a particular organization?
- A. I would assume that's part of their process.
- Q. And if you were, in your organization, were the only ones that wrote to the Tri-J evaluators because your employee, Richard Orr, managed to get their addresses through the United Way, wouldn't you

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agree that that may have given you an unfairly loud voice in the discussion?

MR. RIDDELL: Object to the form.

THE WITNESS: I have absolutely -- again, I have no idea of how the Tri-J made the decisions. I would think listening to one voice over another, hopefully that they would have a better criteria and that's the way that they did it; but I have no knowledge of that. I don't know, but you would think that the criteria would be a lot deeper than just listening to some letters being written.

- Q. (By Mr. Hall) And yet you went to the effort to have the --
  - A. Sure.
- Q. -- letters written, so don't your actions contradict what you are saying?
  - A. Not at all.
- Q. You wanted to influence the Tri-J with a letter writing campaign, correct?
  - A. Correct.
- Q. Okay. Now, I want you to go through the list that is attached here on Number 24 of bullet points that you -- your organization sent out for people to write who didn't know the situation. I see

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1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14. Is there a single one of those bullet points that you can provide empirical evidence to support? Take the first one off because it's not that type of comment. So 13.

MR. RIDDELL: Object. Asked and answered, at least in part, but you can go through it again.

MR. HALL: Why don't we go ahead and change the tape while he reviews this.

VIDEOGRAPHER: We're off the record at 2:19 p.m. This is the end of Tape Number 3.

(Thereupon a break was taken.)

VIDEOGRAPHER: This is the beginning of Tape Number 4. We're back on the record at 2:21 p.m.

- Q. (By Mr. Hall) Sir, we've had about a five-minute break. You understand you -- while he changed the tape -- you understand you're still under oath?
  - A. Yes.
- Q. Have you had a chance to review the bullet points that I asked you to review?
  - A. Yes.
  - Q. Okay. Excepting the first, which is,

which says "Supportive of helping the homeless and have offered to help either Peachtree-Pine or elsewhere if you have," of those 13 bullet points your organization suggested that constituents should write to the Tri-J about, is there a single one that your organization can support with empirical data?

- A. Well, let's -- can we go one by one?
- Q. Sure. Absolutely.
- A. A feel that agencies should be well run and good stewards of donated dollars. I don't have empirical evidence, but that's -- there's -- it says feel. It's an opinion.
- Q. Okay. But you understand that to be listed there as a setup for what is to come later on, suggesting that the Task Force is not a good steward?
- A. No, I don't understand it to be a set-up. It just -- you asked me to comment on a bullet point, so I'm just commenting on the bullet point.
- Q. Okay. So you don't think that that suggests in the context of this e-mail that the Task Force is not a good steward?
- A. It says agencies should be well run. I think if it was specific to the Task Force, it would have said that.
  - Q. Sir, you said you went to Harvard Business

## **EXHIBIT "16"**

Deed Book 46989 Fg 113 Fried and Recorded May-04-2016 11:47as E271又一位三位的4位的 Real Estate Transfer Tax 16.66 Cathelene Robinson Clerk of Seperior Court Fulton County, Seorgia

STATE OF GEORGIA COUNTY OF FULTON RETURN TO:

JORDAN B. FORMAN, ESQ.

Kaufman, Miller & Sivertsen, P.C.
8215 Roswell Rond
Building 800

Atlanta, Georgia 30350-6445

### DEED UNDER POWER OF SALE

THIS INDENTURE made this 4th day of May, 2010, between Metro Atlanta Task Force for the Homeless, Inc. (hereinafter referred to as "Grantor"), acting by and through Grantor's attorney-in-fact, ICHTHUS Community Trust, a trust organized under the laws of the State of Nevada, successor-in-interest to Institute for Community Economics, Inc. (hereinafter referred to as "Lender"), and ICHTHUS Community Trust, a trust organized under the laws of the State of Nevada, whose address is c/o Benevolent Community Investing Company, LLC, a Georgia limited liability company, Trustee, 400 Perimeter Center Terrace, NE, Suite 900, Atlanta, Georgia 30346, Attn.: Eric Shapiro, Esq. (hereinafter referred to as "Grantee").

#### WITNESSETH:

WHEREAS, Grantor executed and delivered to Institute for Community Economics, Inc. ("ICE") that certain Promissory Note dated May 31, 2001, in the original principal amount of \$600,000.00 with interest from the date thereof on the unpaid principal balance until paid as provided in the Promissory Note (the "Note"); and

WHEREAS, as security for the indebtedness evidenced by the Note and all other indebtedness due ICE, Grantor executed and delivered to ICE that certain Deed to Secure Debt and Security Agreement dated May 31, 2001 and recorded in Deed Book 30541, Page 161 of the Fulton County, Georgia Records(the "Security Deed"), which Security Deed conveyed the Property herein described as security for the Note and other sums as described in the Security Deed, and contained a power of sale authorizing the sale of the Property conveyed by the Security Deed in the event the indebtedness secured thereby was not paid when due or upon some other specified default(s) and constituted ICE, as attorney-in-fact for Grantor, to make said sale and deliver a conveyance of said Property to Grantee; and



WHEREAS, Lender is the successor-in-interest to all of ICE's interest in and to the Note and the Security Deed by virtue of that certain Assignment of Deed to Secure Debt dated January 26, 2010 and recorded in Deed Book 48749, Page 514, in the Office of the Clerk of the Superior Court of Fulton County, Georgia (the "Assignment"); and

WHEREAS, one or more defaults have occurred and continue under the Note and Security Deed by reason of Grantor's failure to comply with certain of Grantor's obligations under the Note and the Security Deed, and because of said default(s), and in accordance with the provisions of the Note and the Security Deed, the unpaid principal balance together with all accrued interest and other indebtedness secured by the Security Deed is, and has been declared to be, due and payable; and

WHEREAS, Lender, as attorney-in-fact for Grantor, in accordance with the terms of the Security Deed and in accordance with the law in such cases, after advertising the time, place and manner of said sale in the Fulton County Daily Report Newspaper once a week for four (4) consecutive weeks immediately prior to said sale, which advertisement complied in all respects with the requirements contained in the Security Deed, did expose said Property for sale at public outcry during the legal hours of sale on the first Tuesday of May 2010, before the Fulton County Courthouse door in Fulton County, Georgia, and the sale was knocked down to Grantee, it being the highest and best bidder, at and for the sum of Nine Hundred Thousand and no/100ths Dollars (\$900,000.00); and

WHEREAS, pursuant to O.C.G.A. § 44-14-162.1 through 44-14-162.4, notice to the Grantor of the initiation of proceedings to exercise the power of sale contained in the Security Deed, if applicable, was given as provided by law.

NOW, THEREFORE, in consideration of these premises and the sum referred to above, in hand paid, the receipt whereof is hereby acknowledged and by virtue of and in the exercise of the power of sale contained in the Security Deed, Grantor, by and through its attorney-in-fact, ICHTHUS Community Trust, a trust organized under the laws of the State of Nevada, does hereby grant, bargain, sell and convey unto Grantee and the heirs, legal representatives, successors, successors-in-title and assigns of Grantee:

All that tract or parcel of land lying and being in Land Lot 50 of the 14<sup>th</sup> District, City of Atlanta, Fulton County, Georgia and being more particularly described as follows:

Beginning at a point formed by the intersection of the northern right of way line of Pine Street (having a variable right of way width) and the eastern right of way line of Peachtree Street (having a variable right of way width); thence leaving the northern right of way line of Pine Street, run in a northerly direction along the eastern right of way line of Peachtree Street north 03 degrees 06 minutes 13 seconds east a distance of 92.67 feet to a point located at the intersection of the eastern right of way line of Peachtree Street and the southern boundary line of property now or formerly owned by Stephen Nygren; thence leaving the eastern right of way line of Peachtree Street, run along the southern boundary line of properties now or formerly owned by (I) Stephen Nygren and (ii) Richard C. Dailey, north 86 degrees 56 minutes 17 seconds east a distance of 306.61 feet to a point located at the intersection of the southern boundary line of the Richard C. Dailey property and the westerly right of way line of Courtland Street (having a variable right of way width); thence leaving the southern boundary line of the Richard C. Dailey property, run in a southerly direction along the western right of way line of Courtland Street south 01 degree 07 minutes 46 seconds east a distance of 92.14 feet to a point located at the intersection of the western right of way line of Courtland Street and the northern right of way line of Pine Street; thence leaving the western right of way line of Courtland Street, run in a westerly direction along the northern right of way line of Pine Street, south 86 degrees 55 minutes 44 seconds west a distance of 313.46 feet to a point located at the intersection of the northern right of way line of Pine Street and the eastern right of way line of Peachtree Street, said point being the point of

The above described property contains 0.65557 acres (28,557 square feet) and is shown on and described according to that certain ALTA/ACSM Land Title Survey prepared for The Gertrude and William C. Wardlaw Fund, Inc. and Chicago Title Insurance Company, dated January 7, 1997, last revised January 28, 1997, which survey is incorporated berein by this reference and made a part of this description.

Being property known as 475-477 Peachtree Street according to the system of numbering in Atlanta, Fulton County, Georgia.

together with all fixtures and personal property attached to and constituting a part of said property, and replacements and additions.

Deed Book 48989 Pg 121 Cathelene Robinson Clerk of Superior Court Fulton County, Georgia

TOGETHER WITH all of the buildings, building materials, fixtures and improvements on, in and to the property and all easements, rights, rents, royalties, mineral, oil and gas rights and profits and water rights.

The Property is being sold by Lender, as attorney-in-fact for Grantor, subject to any and all unpaid taxes and assessments, and subject to all other restrictions, encumbrances and easements of record having priority over the Security Deed.

TO HAVE AND TO HOLD said tract or parcel of land, together with any and all improvements located thereon, and any and all rights, members and appurtenances thereof, to the same being, belonging or in anywise appertaining to the only proper use, benefit and behoof of Grantee and the heirs, legal representatives, successors, successors-in-title and assigns of Grantee, forever, in fee simple.

It is the purpose and intent of this instrument to grant, bargain, sell and convey all of the right, title, equity and interest of Grantor, its legal representatives, successors and assigns and all persons whomsoever claiming under Grantor in and to the Property.

IN WITNESS WHEREOF, the Grantor, acting by and through its attorney-in-fact, ICHTHUS Community Trust, a trust organized under the laws of the State of Nevada, has signed, sealed and delivered this Deed Under Power of Sale the day, month and year first above written.

ICHTHUS COMMUNITY TRUST, a trust organized under the laws of the State of Nevada

Signed, sealed and delivered this Im day of May, 2010 in the presence of:

Notary Public My Commission Expires:

My Commission Expires August 27, 2011

(NOTARY SEAL)

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### **EXHIBIT "17"**

# IN THE SUPERIOR COURT OF FULTON COUNTY STATE OF GEORGIA

ICHTHUS COMMUNITY TRUST	)
Plaintiff,	) )
V.  METRO ATLANTA TASK FORCE FOR THE HOMELESS, INC and ANITA L. BEATY  Defendants.	) Civil Action No.2010CV185971 ) ) ) ) )

### NOTICE OF LIS PENDENS

Notice is hereby given of the filing of a Complaint against Ichthus Community Trust and others concerning the title to certain real property and improvements thereon in the Superior Court of Fulton County, Georgia, in an action styled as <a href="Ichthus Community Trust v">Ichthus Community Trust v</a>. Metro Atlanta Task Force For The Homeless, Inc. and Anita Beaty, Civil Action No. 2010CV185971. Said dispute involves certain real property, and improvements thereon, with the address of 475 and 477 Peachtree Street, Atlanta, Georgia 30308, more particularly described as follows ("the Subject Property"):

#### LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 50 of the 14<sup>th</sup> Land District of the City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a point formed by the intersection of the northern right-of-way line of Pine Street (having a variable right-of-way width) and the eastern right-of-way line of Peachtree Street (having a variable right-of-way width), thence leaving the northern right-of-way line of Pine Street, run in a northerly direction along the eastern right-of-way line of Peachtree Street North 03° 06′ 13″ East a distance of 92.67 feet to a point located at the intersection of the eastern right-of-way line of Peachtree Street and the southern boundary line of property now or formerly owned by Stephen Nygren, thence leaving the eastern right-of-way line of Peachtree Street,

run along the southern boundary lines of properties now or formerly owned by (i) Stephen Nygren and (ii) Richard C. Dailey North 86° 56' 17" East a distance of 306.61 feet to a point located at the intersection of the southern boundary line of the Richard C. Dailey property and the western right-of-way line of Courtland Street (having a variable right-of-way width), thence leaving the southern boundary line of the Richard C. Dailey property, run in a southerly direction along the western right-of-way line of Courtland Street South 01° 07' 46" East a distance of 92.14 feet to a point located at the intersection of the western right-of-way line of Courtland Street and northern right-of-way line of Pine Street; thence leaving the western right-of-way line of Courtland Street, run in a westerly direction along the northern right-of-way line of Pine Street South 86° 55' 44" West a distance of 313.46 feet to a point located at the intersection of the northern right-of-way line of Pine Street and the eastern right-of-way line of Peachtree Street, said point being the POINT OF BEGINNING.

The above-described property contains 0.65557 acres (28,557 square feet) and is shown on and described according to that certain ALTA/ACSM Land Title Survey prepared for The Gertrude and William C. Wardlaw Fund, Inc. and Chicago Title Insurance Company dated January 7, 1997, last revised January 28, 1997, which survey is incorporated herein by this reference and made a part of this description.

Defendants in said action is seeking to have an Order and Declaratory Judgment reforming the real estate records of Fulton County to reflect that the Deed Under Power of Sale purportedly held by Ichthus Community Trust recorded at Deed Book 48989, Page 118 (the "Deed Under Power") is of no force and effect and is declared null and void. Plaintiff in said action also seeks a declaration that the holder of the Deed Under Power has no claim against the Subject Property and that the Subject Property is free and clear from any interest arising from said Deed Under Power. A copy of the Complaint, without exhibits, is attached hereto as Exhibit "A".

This  $\frac{1}{12}$  day of June, 2010.

BAKER DONELSON, BEARMAN, CALDWELL & BERKOWITZ, P.C.

Steven G. Hall, Esq.

Georgia Bar No. 319308