

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Ethylon B. "E.B." Brown, Benjamin
E. Myers, Robert "Bob" Scott,
Shannon Hartfiel, Robert Wilson,
William J. Brown, Dokor Dejvongsa,
Steve Jackson, DeEtte Davis, Tamara
Hardy, Lafayette Butler, Jernel McLane,
Frank Essien, Kenya Weathers, and
Jerry Moore,

Civil Case No. _____

Plaintiffs,

v.

**AFFIDAVIT OF JILL CLARK,
ESQ. (PLAINTIFF COUNSEL)**

Michael "Kip" Brown, John "P.J." Hubbard II,
Robert Hodson, Ann McCandless,
Don Samuels (in his individual and
official capacities), Barbara Johnson
(in her individual and official capacities),
Michael Martin (in his individual and
official capacities), City of Minneapolis,
Minnesota, Stacy Sorenson,
Attorney Doe Defendant #1," and
John Does 2-5,

Defendants.

I, Jill Clark, being first duly sworn depose and state.

1. I am a plaintiff counsel in this action. On January 23, 2009 I traveled to the Business Center of the Minnesota Secretary of State and obtained the entire file of Articles of Incorporation, from the inception of the organization under its prior name, now Jordan Area Community Council. The entire packet of documents was certified by the Secretary of State. Without removing the staple, I photocopied the 1970 Articles and attached them to the Complaint in this action. I also conferred the individual who has held the Executive Director position at JACC for some time, and he agreed that based on his research performed in his ED

capacity prior, the 1970 Articles are the operative Articles for this corporation. The 1970 Articles only were attached to the Complaint due to volume. The entire file is still available at my firm office.

2. Before filing this lawsuit and the motion for temporary restraining order, I effectuated actual notice or service on the following:

- a. The City of Minneapolis by sending a process server to serve the City Clerk;
- b. The Minneapolis City Attorney's Office, by transmitting an email copy to Susan Segal, the Minneapolis City Attorney at her City email address susan.segal@ci.minneapolis.mn.us; and Peter Ginder, Deputy of Civil, presumed to be peter.ginder@ci.minneapolis.mn.us.
- c. Don Samuels at his City Council email address don.samuels@ci.minneapolis.mn.us.
- d. Barbara Johnson at her City Council email address at Barbara.johnson@ci.minneapolis.mn.us.
- e. Michael Martin at his City email address at michael.martin@ci.minneapolis.mn.us.
- f. Michael "Kip" Browne by emailing him at kipbrowne@hotmail.com
- g. Anne McCandless by emailing her at anne4514@comcast.net.
- h. Robert Hodson by emailing him at rwhodson@msn.com.
- i. Stacy Sorensen by emailing her at stacy@nrp.org.
- j. P.J. Hubbard by emailing him at pjh_consulting@yahoo.com.

Exhibits.

Attached as **Exhibit A** hereto is a press release from the State dated September 26, 2008, regarding disbursement of public monies.

Attached as **Exhibit B** hereto is a copy of a email sent to Mr. Myers on January 27, 2009 from someone that it was told to me is close to Robert Hodson. The reference to tracing the IP address was particularly disturbing, and part of the reason for filing this TRO as quickly as possible, today.

Attached as **Exhibit C** hereto is a copy of email of Michael Martin, Inspector, MPD Fourth Precinct, which was forwarding an email from Anne McCandless.

Attached as **Exhibit D** hereto is a copy of Stacy Sorenson's January 16, 2009 letter to Council Members Samuels, Johnson and Mr. Browne. (This is referenced in Mr. Myers Affidavit to the Attachment D to the Complaint, and apologies for that typographical error).

Attached as **Exhibit E** is a copy of the Affidavit of Benjamin Myers with Exhibit 1.

Attached as **Exhibit F** is a copy of the Affidavit of Jerry Moore with Exhibit 1.

This affidavit of 3 pages is true to the best of my knowledge. However, I may know more about certain subjects than is included here.

Signed and sworn before me
this 28th day of January, 2009.

Notary Public

Jill Clark, Esq.



OFFICE OF GOVERNOR TIM PAWLENTY
130 State Capitol ♦ Saint Paul, MN 55155 ♦ (651) 296-0001

NEWS RELEASE

FOR IMMEDIATE RELEASE:
September 26, 2008

Contact: Brian McClung
(651) 296-0001

MINNESOTA RECEIVES NEARLY \$58 MILLION IN FEDERAL FUNDS FOR AREAS HIT BY FORECLOSURES

~ Emergency assistance will help acquire and redevelop foreclosed properties ~

Saint Paul – The State of Minnesota, three counties, and the cities of Minneapolis and St. Paul are receiving nearly \$58 million in new federal funds to acquire and redevelop foreclosed properties, Governor Tim Pawlenty announced today.

The money is part of the new Neighborhood Stabilization Program run by U.S. Department of Housing and Urban Development (HUD). The funds are being allocated as follows:

- \$38.8 million to the State of Minnesota
- \$5.6 million to the City of Minneapolis and \$4.3 million to the City of St. Paul
- \$3.9 million to Hennepin County, \$2.76 million to Dakota County and \$2.37 million to Anoka County.

The Housing and Economic Recovery Act of 2008, which was passed by Congress and signed into law in July, included \$3.92 billion in funding for communities to purchase foreclosed homes at a discount and to rehabilitate or redevelop them in order to respond to rising foreclosures and falling home values. HUD is targeting the funds based upon the number and percent of foreclosures, subprime mortgages and mortgage defaults and delinquencies. The Minnesota Housing Finance Agency will administer the Minnesota grant.

“These federal funds will assist Minnesota’s effort to revitalize neighborhoods with high levels of foreclosures and abandoned homes,” Governor Pawlenty said. “The mortgage foreclosure crisis has affected communities across our state and we’re taking action to get these neighborhoods back on their feet.”

“In anticipation of these funds, we have worked with our partners to develop action plans that can put these resources to work immediately,” said Minnesota Housing Commissioner Tim Marx. “We are committed to deploy these funds quickly to help stabilize the housing market in communities most affected by the foreclosure crisis.”

--more--

Voice: (651) 296-3391 or (800) 657-3717 ♦ Fax: (651) 296-0056 ♦ TDD: (651) 296-0075 or (800) 657-3598
Web site: www.governor.gov

An Equal Opportunity Employer

EXHIBIT

A

-----Original Message-----

From: drother@msn.com

Sent: Tue Jan 27 23:01:24 CST 2009

Subject: Iko Iko

Mr. Ben Myers,

I am your last chance. Return what you have stolen from our community. Your IP address has been traced and we know every move you make. Please show some grace and dignity by manning up to what you have done. If you fail this task presented to you God may have mercy on your soul. Families are in crisis across our neighborhood and your selfish actions injure the innocent.

Daniel Rother

2640 Sheridan Avenue North
Minneapolis, Minnesota 55411-1706

612.588.4259

EXHIBIT

B

From: Martin, Michael

Sent: Tuesday, January 20, 2009 10:28 AM

To: Police - Pct 4 Supervisors; Hammett, Timothy; Waisanen, Jennifer; Etzioni, Mary; McDonough, Shannon; Holmes, Rowena

Cc: 'Anne McCandless'; Samuels, Don H.; Johnson, Barbara A.; Patterson, Sherman; Hofstede, Diane T.; Office of Tim Dolan

Subject: FW:

The Jordan Area Community Council has elected a new board and fired former Executive Director Jerry Moore. Attached are documents listing the new board members. At a contentious meeting on Saturday, a supporter of the old board assaulted and threatened Councilmember Samuels and the police had to be called.

I want to make it very clear that MPD employees shall only work with the current, legally elected board of JACC. Former Board Chair Ben Myers and former Executive Director Jerry Moore are no longer affiliated with the Board and no longer legally represent the neighborhood. The new Board Chair is Michael "Kip" Browne.

If you have any questions, please contact me.

Inspector Mike Martin
Commander, 4th Precinct

EXHIBIT



From: Anne McCandless [mailto:anne4514@comcast.net]

Sent: Tuesday, January 20, 2009 8:20 AM

To: Connie Beckers; Al McFarland; Brandt Williams; Brett Buckner; Hofstede, Diane T.; Don Allen; editor@tcdailyplanet.net; Porte, Elfric; Jackie Cherryhomes; Jeff Strand; Kiener, Jill O.; John Hoff; Jonathan Palmer; Linda Higgins; Makeda Zulu-Gillespie; Martin, Michael; Rainville, Mary; NATONIA JOHNSON; Polly Jo Peterson; Rochelle Olson; McConnell, Ronald T.; Roni Davis; Patterson, Sherman; Steve Brandt; Teresa Egge; Terri Hoy; Hammett, Timothy; Velez, Jose E.; whomail@willard-homewood.org

Cc: Michael Browne; P.J. Hubbard; Robert Hodson

Subject:

January 18, 2009,

TO WHOM IT MAY CONCERN:

On January 12, 2009, an election was held for new directors to the Jordan Area Community Council Board of Directors bringing the number of directors to fifteen elected and one ex-officio members. On January 14th

the new board held its first board

meeting. A new board executive committee was elected by a majority of the directors.

This replaced the old leadership, a core group of four elected directors and the outgoing board chair. The board also voted to terminate the employment of the executive director, Mr. Jerry Moore, immediately.

Since this occurred, these six people have gained access to our office at 2009 James Ave N, Minneapolis, MN 55411, and removed all the records and checkbooks, along with computers and other property. They have moved into a church at 1922 25th Ave N.

They are now trying to present themselves as the 'legal' Jordan Area Community Council.

Copies of statements from the City of Minneapolis and the Neighborhood Revitalization Program supporting the majority of the JACC board as the rightful Jordan Area Community Council are attached. Letters have been given to the apparent leaders of this group, Jerry Moore, the former executive director and Ben Myers, the former chair to cease these claims immediately and return the property taken from the JACC office.

In the meantime, until these issues are resolved, we are asking that you continue to contact us at our office which is still located at 2009 James Ave N, Minneapolis, MN 55411. The phone number is still 612- 886-3202. It is the aim of this organization to focus on serving the Jordan neighborhood despite the inconveniences caused by this small group of people. On behalf of the board, I thank you for your assistance and understanding.

Sincerely,

Anne E. McCandless, Secretary
Jordan Area Community Council

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!



**Making Minneapolis Neighborhoods
Better Places to Live, Work, Learn and Play**

January 16, 2009

Dear Council Member Samuels, Council Member Johnson, and Mr. Browne:

You have asked me to confirm that NRP will recognize the Board of Directors of the Jordan Area Community Council (JACC) elected on January 12th and its officers elected at the January 14th JACC Board of Directors meeting.

I attended the JACC annual meeting on October 23rd. As you know, the JACC membership voted to postpone the board elections because significant issues were raised about the nomination and election procedures used prior to the election. The elections were rescheduled for January 12th.

In the weeks between October 23rd and January 12th, a Nominating Committee worked to recruit candidates for the board, verify candidates eligibility, notify JACC members about the rescheduled elections, and to encourage participation from all members of the community. The Nominating Committee was assisted by Bob Cooper from the City and by Jay Clark from the University of Minnesota. The Committee took great care to follow the steps for electing new directors prescribed in the JACC bylaws.

On January 12th, the rescheduled elections were held and six new directors were elected to the JACC Board. Bob Cooper, Jay Clark and I served as tellers. I observed no irregularities in the conduct of this election or in the tabulation of vote totals.

On January 14th, the new JACC Board was convened for the first time. After the new members were seated, a motion was made that a new election for officers be conducted to allow the full complement of board members to participate. The motion was adopted. Michael Browne was elected as Chair, John ("PJ") Hubbard was elected as Vice Chair, Anne McCandless was elected as Secretary and Robert Hodson was elected as Treasurer.

I reviewed this history with the Assistant City Attorney responsible for citizen participation earlier today and requested his advice on the legality of the officer election process. He advised me that the new board (as elected on January 12th) had the responsibility to elect its officers. I also reviewed my observations and the legal advice that I had received with NRP Director Bob Miller.

Based on these events and on the advice that we have received from the Assistant City Attorney on this issue, the NRP will recognize the JACC board with its full complement of members as elected on January 12th and with the officers elected on January 14th.

I look forward to continued work with JACC in the coming months. If I can provide further assistance, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Stacy L. Sorenson".

Stacy L. Sorenson
Neighborhood Specialist
Minneapolis Neighborhood Revitalization Program (NRP)

EXHIBIT A large, stylized handwritten letter "D" in black ink, positioned to the right of the word "EXHIBIT".

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Steve Jackson, DeEtte Davis, Tamara
Hardy, Lafayette Butler, Jernel McLane,
Frank Essien, Kenya Weathers, and
Jerry Moore,

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Plaintiffs,

v.

**AFFIDAVIT OF BENJAMIN
MYERS, ESQ.**

Michael "Kip" Brown, John "P.J." Hubbard,
Robert Hodson, Ann McCandless,
Don Samuels (in his individual and
official capacities), Barbara Johnson
(in her individual and official capacities),
Michael Martin (in his individual and
official capacities), City of Minneapolis,
Minnesota, Stacy Sorenson,
Attorney Doe Defendant #1," and
John Does 2-5,

Defendants.

I, Benjamin Myers, Esq., being duly sworn depose and state:

1. I am a plaintiff in this action and an attorney licensed to practice law in the State of Minnesota.

2. I am a resident of Hennepin County, a "voting member" of JACC, and a "director" for purposes of Minn. Stat. §317A.751 and under the Bylaws of the corporation. I was duly elected an Officer (Vice Chair (he is also ex officio Vice Chair due to his capacity as immediate past Chair)) in November 2008, and as such was duly a member of the Executive Committee

as of January 2009. I have never resigned my Officer position, and never acquiesced in the unlawful takeover. I sue as member, director, Officer, and ex-officio Vice President.

3. Defendant Jordan Area Community Council ("JACC") is a non-profit corporation duly organized under the law of the State of Minnesota (Chapter 317A), and granted 501(c)(3) status by the Internal Revenue Service. It began its corporate status as the Jordan Area Action Committee, in 1965, duly filing its Articles of Incorporation and Bylaws with the Minnesota Secretary of State, Charter No. F-780. The corporation changed its name and filed Articles of Incorporation with the Secretary of State in 1970 (Attachment A to Complaint). Change of address forms have been filed since that date. JACC is not a part of the City of Minneapolis, and nothing in its Articles of Incorporation or Bylaws allow the City of Minneapolis to dictate its actions or governance. It is governed by its Articles and Bylaws, and pursuant to state statute.

4. Defendant Michael "Kip" Browne is a resident of Hennepin County, and a member of JACC. He was elected a director in October 2007. He worked with Minneapolis Council Member Don Samuels to stage a coup of JACC governance, and as a result of the illegal process (which failed to follow JACC Bylaws or state statute), he is now claiming that he is the "Chair" of JACC and its Executive Committee. Those actions were *ultra vires*, and he has no legitimate authority to govern JACC as Chair, or take actions on JACC's behalf as such. He is sued in his individual capacity. Michael Browne holds no current position within the City of Minneapolis. Upon information and belief he is not authorized to seek/use services from attorneys at the Minneapolis City Attorney's Office, and/or those attorneys are not authorized to provide legal opinions to him.

5. Defendant John "P.J." Hubbard is a resident of Hennepin County, and a member of JACC. He was elected a director in October 2007. He worked with Michael Browne to stage a coup of JACC governance, and as a result of the illegal process (which failed to follow JACC

Bylaws or state statute), he is now claiming that he is the "Vice Chair" of JACC. Those actions were *ultra vires*, and he has no legitimate authority to govern JACC as Vice Chair, or take actions on JACC's behalf as such. He is sued in his individual capacity.

6. Defendant Robert Hodson is a resident of Hennepin County, and a member of JACC. He was elected a Director on January 12, 2009. He worked with Michael Browne to stage a coup of JACC governance, and as a result of the illegal process (which failed to follow JACC Bylaws or state statute), he is now claiming that he is the "Treasurer" of JACC. Those actions were *ultra vires*, and he has no legitimate authority to govern JACC as Treasurer, or take actions on JACC's behalf as such. He is sued in his individual capacity.

7. Defendant Anne McCandless is a resident of Hennepin County, and a member of JACC. She was elected a Director on January 12, 2009. She worked with Michael Browne to stage a coup of JACC governance, and as a result of the illegal process (which failed to follow JACC Bylaws or state statute), she is now claiming that she is the "Secretary" of JACC. Those actions were *ultra vires*, and she has no legitimate authority to govern JACC as Secretary, or take actions on JACC's behalf as such. She is sued in her individual capacity. Anne McCandless specifically sought "endorsements" from key political and/or other figures she and those she was working with deemed to have power, and specifically used their "endorsements" to work to effectuate the coup.

8. Don Samuels is a resident of Hennepin County, and a Minneapolis City Council Member. He is neither a director or officer of JACC, and his position as City Council Member does not give him any authority over JACC. Samuels is the Chair of the Public Safety Committee, and as such holds sway over Minneapolis Police officers. He is sued in his individual capacity, and in his official capacity (he is alleged to be a Policymaker for purposes of Section 1983). He is sued for intentionally interfering with the Bylaws as contract, and/or for aiding and abetting.

9. Barbara Johnson is a resident of Hennepin County, and a Minneapolis City Council Member, serving now as President of the Council. She is neither a director or officer of JACC, and her position as City Council Member does not give her any authority over JACC. She is sued in her individual capacity, and in her official capacity (she is alleged to be a Policymaker for purposes of Section 1983). She is sued for intentionally interfering with the Bylaws as contract, and/or for aiding and abetting.

10. Michael Martin is a resident of Hennepin County, and is the Inspector of the Minneapolis Police Department in the Fourth Precinct. He is sued in his individual and official capacities (he may be a Policymaker for purposes of Section 1983). He is sued for intentional interference with the Bylaws as contract, and/or for aiding and abetting.

11. Stacy Sorenson is a resident of Hennepin County. She is associated with the Minneapolis Neighborhood Revitalization Program ("NRP"), which has a major influence in the communities in Minneapolis, including but not limited to because it disburses funds to neighborhood associations/corporations. Sorenson is sued in her individual capacity, but upon information and belief she is an employee of NRP and NRP is responsible for her actions under the theory of *respondeat superior*. Sorenson worked with various other defendants herein to coordinate a public release of "endorsements" of the rogue team. She intentionally interfered with the Bylaws contract, and/or aided and abetted that tort.

12. The unknown Assistant and/or City Attorney (Doe Defendant #1) is not known to me, although a number of individuals have mentioned this person, verbally or in documents.

13. The JACC Bylaws (Attachment B to Complaint) provide for a Board of Directors. (Att. B, Art. V). The Board is representative of the organization and its actions are binding on the organization. The Board is responsible for the overall policy and direction of JACC. Board members serve 2-year terms, but are eligible for re-election. Att. B, Art. V, Sec. 1b. The Board

is to hold regular board meetings at a pre-determined time once per month. Art. V, Sec. 2d. JACC held its regular board meetings on the second Wednesday of each month. Attempts to remove Board members must, pursuant to Bylaws Art. V, Sec. 4, proceed through all 4 steps in order.

14. The JACC Bylaws also provide for Board Officers: Chair, Vice Chair, Treasurer and Secretary. (Att. B, Art. VI, Sec. 1). The immediate past Chair serves *ex officio* as the Vice Chair, by function of Bylaws, for one year. Att. B, Art. VI, Sec. 2. Pursuant to Art. VI, Sec. 2, the officers shall be elected annually by the Board of Directors. I was Chair in the last term; I became *ex officio* Vice Chair by virtue of that prior (Chair) office. I was also voted in as Vice Chair in fall 2008. The Officers can only be removed from office by following the precise steps set forth in Art. V, Sec. 4 (Att. B, Art. VI, Sec. 3).

15. The Bylaws also provide for an Executive Committee, which is comprised of the Officers of the organization (Chair, Vice Chair, Treasurer, and Secretary). The Executive Committee is to set forth the agenda for the monthly board meetings, act in place of the full Board of Directors when deemed necessary for time-specific decisions, and other duties not specified. Att. B, Art. VI, Sec.

16. The Minneapolis City Attorney's Office does not hold any position in JACC, and it is not the corporate counsel for JACC. JACC did not retain any attorney in the Minneapolis City Attorney's Office to provide legal counsel to JACC or its members, and if such attorney had been interested in that role, the legitimate Executive Committee and Executive Director would have objected on the basis of conflict of interest. The actions, legal opinions and/or persuasion of the Unknown City Attorney, and their impact in affecting the opinions of those individuals or entities that JACC does business with (and even relies upon to operate its non-profit) are obvious from Attachment D to the Complaint, a letter from Stacy Sorenson at the Minneapolis Neighborhood Revitalization Program ("NRP").

17. Upon information and belief the Minneapolis City Attorney's Office may provide some services to NRP. However, that Office has no authority to determine the dispute now put before this Court, as to whether the rogue team that claims election on January 14 is official, and the efforts of this "Assistant City Attorney" to persuade individuals and/or entities to aid and abet the rogue team has been part of why this is such a serious situation. Indeed, Plaintiffs allege that the rogue team has worked hand in hand with various city officials, including but not limited to those who are defendants herein, in order to effectuate the take over and claim *de facto* control of the corporation.

18. Although there are some contractual relations between the City and JACC, and the City has a minimal oversight function regarding funds, the City of Minneapolis does not have a role in the internal governance of JACC.

19. Board Directors serve 2-year staggered terms. By the end of 2008, six board seats were up for election. Michael Browne chaired the Nominations Committee. Certain voting members were disturbed that they were not considered to be eligible to be voted for in the election, due to the Nominations Committee inventing certain "hoops" that had to be jumped through, and then essentially ensuring that certain individuals were unable timely to jump through those hoops.

20. Pursuant to Art. V, Sec. 1c of the Bylaws, JACC is to hold an annual meeting each October to elect new board members to fill all vacant seats (of those leaving the Board by virtue of their term expiring, or for other reason). The newly elected board members are then installed in November for a two-year term. Att. B, Art. V, Sec. 3. JACC held its annual meeting to elect board members to fill the six vacant seats on October 23, 2008. At the meeting, Michael Browne, who was the Chair of the Nominations Committee, and another Director alleged irregularities in the nominations process. The election was postponed to January 2009 by majority vote of the JACC members.

21. According to the JACC bylaws, Art. VI, Sec. 2, all Officers shall be elected by the Board annually during the October Board meeting. [Note that the election of Officers, according to the Bylaws, precedes the installation of the newly elected board members.] JACC's October 2008 Board Meeting was continued to November, and Officers were duly elected on November 12, 2008. At that meeting, the Board held its annual Officer elections, and the following were duly voted in: Chair: E.B. Brown; Vice Chair (both by ex officio status pursuant to Bylaw and also voted in): Benjamin Myers; Treasurer: Bob Scott; and Secretary: Shannon Hartfiel. These Officers formed the Executive Committee, by function of the Bylaws. Pursuant to the JACC Bylaws, the newly elected Officers/Executive Committee were to serve for one year. Att. B, Art. VI, Sec. 2.

22. The JACC Executive Committee and the Executive Director Jerry Moore began to voice disagreement with the agenda of Council Members Don Samuels and Barbara Johnson about what to do with the Federal HUD monies that were flowing through the State to the Jordan neighborhood. It is my belief based on what I know, that the Executive Committee and the Jerry Moore were seen by Samuels and Johnson as a thorn in the side of their political agenda, which included control over where the monies went and which individuals and entities profited from the monies. We were exercising our First Amendment rights to criticize government. We were attempting to have a voice in the way in which federal monies were going to be used in our community, an important socio-political issue.

23. Elections for the six board seats opening up were delayed until January 12, 2009. Between October 2008 to January 12, 2009, at no time did anyone, let alone the Board, take action to change the Bylaws to call for a second election of Officers within one year, or at the same time that six Board of Director seats were being filled as a matter of course (because the terms of those holdings those seats was up).

24. On January 12, 2009, elections were held from those that the Nominating Committee said were eligible. Among those elected to the board were Robert Hodson and Anne McCandless. Michael Browne, P.J. Hubbard, Robert Hodson, and Anne McCandless are closely aligned with Minneapolis Council Member Don Samuels.

25. On January 14, 2009, JACC held its monthly board meeting. During that meeting, *ultra vires*, and in violation of the Bylaws, Michael Browne and Anne McCandless led a coup and takeover of JACC. First, the Board began discussing whether to fire Jerry Moore, the Executive Director. It remains unclear whether any legitimate board action was taken on that point; at no point did the assembled group follow the requirements of the written employment agreement between Jerry Moore and JACC. When legitimately-elected Chair, still filling her one-year term, E.B. Brown began to declare that that Michael Browne and his followers were out of order and started to disagree with Michael Browne about the termination of Jerry Moore, Michael Browne called for an immediate voice vote to oust the Chair, Vice Chair, Treasurer and Secretary. This purportedly carried on a voice vote of 8-6. The eight voting to oust the duly elected Executive Committee included the board members just elected on January 12, 2009, who are closely aligned with Don Samuels.

26. Very soon after the voice vote (which did not comply with the Bylaws for removal of Officers), the rogue group began to claim that it had authority to take action for JACC. Michael Browne, claiming to be the Chair, sent a letter instructing Jerry Moore not to take any action as ED. The rogue team called for the Ackerberg group to come change the locks on the JACC offices. The *de jure* officers were literally "locked out."

27. The rogue team began to assemble political cover and endorsements. The rogue team has contacted the surrounding neighborhood organizations, community partners, major funders, elected officials, the police department, the media, and others claiming to be the legitimate Officers of JACC, and manipulating, misrepresenting, cajoling or otherwise

coopting individuals and entities to take part in the coup, or to aid and abet it. On January 16, 2009, Council Members Barbara Johnson and Don Samuels, in their official capacities, and on City of Minneapolis letterhead, stated, “[W]e would like to congratulate and officially recognize the newly elected board and its officers of the Jordan Area Community Council (JACC).” Attachment C to Complaint. The letter made a list of the officers and board members, according to them. Notably, I, who am Vice Chair for one year following his term as Chair, pursuant to the Bylaws, was listed in the Council Member’s letter merely as “ex officio member” and not described as an officer, at all.

28. On or about January 17, 2009, Megan Goodmundson, who has held a position as Campaign Co-Chair for Don Samuels, and who is closely aligned with him in his political agenda as well as this “takeover project,” posted a notice of press release for the “new” (rogue) Executive Committee of JACC, stating that Michael “Kip” Browne was holding a press conference (purportedly on behalf of JACC). The interlopers held this at the JACC office.

29. During that meeting, Michael Browne announced that the City Attorney had opined that the “new” board had to elect “new” officers. He did not use a name. He did not say “Assistant” City Attorney, but it is unclear whether he meant to add that qualifier. He did not explain any legitimate reason for the City Attorney’s Office to be involved, at all, in opining about the internal governance of JACC. Indeed, Browne’s statement is evidence that the Defendants intentionally interfered with the JACC Bylaws contract, and/or aided and abetted.

30. While Michael Browne held his press conference purportedly on behalf of JACC, Minneapolis Council Member Samuels stood behind him. The two were clearly working together on the “project” of the illegitimate takeover of JACC. At one point during that press conference, Don Samuels crossed the room and physically accosted a citizen who he viewed as a supporter of the *de jure* Officers (and indeed, who was trying to ask Michael Browne about whether the takeover was illegal). The citizen was removed by police, who worked to further

Samuels' stated instructions, and/or pursuant to Samuels' status as City Council Member and Chair of the Public Safety Committee. Samuels, notwithstanding his physical accosting of a citizen trying to assert First Amendment rights, took advantage of his position as City Council Member to influence police perceptions and actions, in favor of his agenda, and against the citizen.

31. On January 20, 2009, Michael Martin, the Inspector of the Minneapolis Police Department Fourth Precinct, released an email to the Fourth Precinct Minneapolis police Supervisors, carbon copy to: Anne McCandless, Don Samuels, Barbara Johnson, and others. Upon information and belief, the information included in Martin's email came from Don Samuels, and that Samuels in fact asked Minneapolis Police to support his rogue team in the takeover, again, using his influence as City Council Member in order to affect police perception and actions. Upon information and belief, Martin knew about the JACC Bylaws, and knew about the unlawful takeover, yet supported Browne and the rogue team because of the influence of Samuels or other City officials.

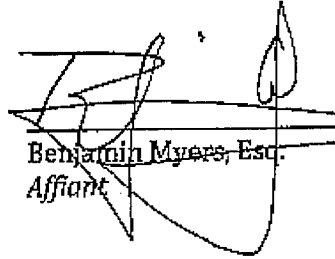
32. I sent various cease and desist letters to the rogue team (Exhibit 1 hereto), but the rogue team refused to do so. I have also dealt with the bank, which has indicated that the rogue team is attempting to utilize JACC funds therein. The bank froze the account until it could investigate. At this time it appears that Franklin Bank will not release funds to the rogue team.

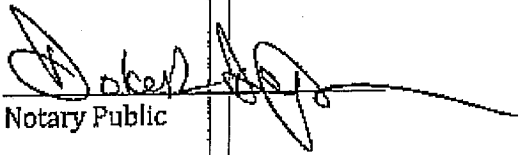
33. Because of the manipulation and/or control of Minneapolis Police, by the rogue team or other Defendants herein, and the position taken by Inspector Martin that police will only deal with the rogue team, the MPD will not be able to perform a neutral investigation of any issues concerning JACC, and the MPD lacks authority to make a determination of this civil dispute.

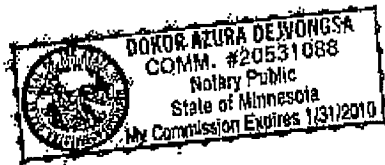
This affidavit of 11 pages is true to the best of my knowledge. However, I may know more about certain subject than is included here.

Signed and sworn before me

this 27th day of January, 2009.


Benjamin Myers, Esq.
Affiant


Notary Public





SENT VIA EMAIL ONLY

January 17, 2009

To *Michael Browne*
PJ Hubbard
Robert Hudson
Anne McCandless

RE: JACC Executive Board Cease and Desist

This letter is to advise you that you are currently misleading this organization and the community-at-large by engaging in unlawful acts.

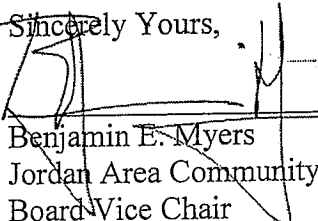
Said unlawful acts in which you engaged in occurred on or about January 14, 2009, in which you all engaged in a direct violation of this organization's By-Laws by "removing" the previously elected 2008 Executive Board. You were advised by me orally that your actions are unlawful and in direct violation of this organizations by-laws as well as Minn.Stat. §317A. The provision of our by-laws in which you all have violated is clearly set forth in Article VI Section 3 which makes reference to the proper procedure outlined in Article V Section 4. As a result of your unlawful behavior you have held yourselves out as being the Executive Committee, when in fact you are not. As an example of such behavior Ms. McCandles has mislead the Ackerberg Group in allowing the illegal changing of the office's locks at 2009 James Ave. N., Minneapolis, MN. You have impacted this organization greatly and have exposed all of us as an organization to potential civil liability.

At this time, as the current and duly elected Vice Chair, I am advising you all to cease and desist from any further misrepresentation to anyone. If you fail to comply with this demand, legal action may be taken against you.

Lastly, be advised that I am formally filing a grievance against all of you in accordance with my concerns outlined herein as well as the fact that you all have breached your fiduciary duty to this organization and as such is grounds for sanctions imposed by this organization.

You are instructed to direct all correspondence and responses to the chair Mrs. E.B. Brown.

Sincerely Yours,



Benjamin E. Myers
Jordan Area Community Council
Board Vice Chair

Cc: *E.B. Brown, Chair*
JACC Board of Directors
Jerry Moore, Executive Director

EXHIBIT _____

1922 25th Ave. N
Minneapolis, MN 55411

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Ethylon B. "E.B." Brown, Benjamin
E. Myers, Robert "Bob" Scott,
Shannon Hartfiel, Robert Wilson,
William J. Brown, Dokor Dejvongsa,
Steve Jackson, DeEtte Davis, Tamara
Hardy, Lafayette Butler, Jernel McLane,
Frank Essien, Kenya Weathers, and
Jerry Moore,

Civil Case No. _____

Plaintiffs,

**AFFIDAVIT OF JERRY
MOORE**

v.

Michael "Kip" Brown, John "P.J." Hubbard II,
Robert Hodson, Ann McCandless,
Don Samuels (in his individual and
official capacities), Barbara Johnson
(in her individual and official capacities),
Michael Martin (in his individual and
official capacities), City of Minneapolis,
Minnesota, Stacy Sorenson,
Attorney Doe Defendant #1," and
John Does 2-5,

Defendants.

I, Jerry Moore, being first duly sworn depose and state.

1. I am a plaintiff in this action. I was hired at the Executive Director ("ED") of Jordan Area Community Council, and served in that capacity until I was ousted by the rogue team referenced below. It is my opinion based on what I know that the stated reason for my purported termination is pretext, and the real reason was that I was effective as ED in helping the Jordan community, through the Executive Committee of JACC, in achieving some of its goals, including but not limited to community control of housing and plans for foreclosed properties. A lot of federal money is being distributed, and there is more to come. It is my

belief that certain factions in the City wanted me out of the way. The Jordan Area of Minneapolis has been the hardest hit in the current foreclosure crisis and will require to put forth significant resources. Since 2006 the Jordan Area has had more foreclosures than any of the 72 Minneapolis neighborhoods, leaving behind empty homes and vacant land for redevelopment. There is a lot of money in the near future of this neighborhood, and those who have agendas for the money are lining up to act quickly, including but not limited to the rogue team and other Defendants in this case.

2. In my capacity as ED for JACC I learned many things, including that the Bylaws attached to the Complaint are the true and accurate Bylaws. I was involved in researching that issue a while ago, and I made sure to keep track of these, the official Bylaws.

3. I also know who the members are of JACC. I am not in possession of the current membership list, because of the coup and takeover, but I have knowledge and belief that as of the date of the takeover, January 14, 2009, JACC had between 50-100 members. I met, worked with, processed paper for, communicated with and generally assisted the membership. I have a good working knowledge of the membership.

4. Plaintiff Ethylon B. "E.B." Brown is a resident of Hennepin County, a "voting member" of JACC, and a "director" for purposes of Minn. Stat. §317A.751 and under the Bylaws of the corporation. She was duly elected an Officer (Chair) in November 2008, and as such was duly a member of the Executive Committee as of January 2009. She has never resigned her Officer position, and never acquiesced in the unlawful takeover. In fact, she has issued cease and desists letter(s). See **Exhibit 1** hereto. She sues in her capacity as voting member, director, and Officer.

5. Plaintiff Benjamin E. Myers is a resident of Hennepin County, a "voting member" of JACC, and a "director" for purposes of Minn. Stat. §317A.751 and under the Bylaws of the corporation. He was duly elected an Officer (Vice Chair (he is also ex officio Vice

Chair due to his capacity as immediate past Chair)) in November 2008, and as such was duly a member of the Executive Committee as of January 2009. He has never resigned his Officer position, and never acquiesced in the unlawful takeover. He sues in his capacity as voting member, director, and Officer.

6. Plaintiff Robert "Bob" Scott is a resident of Hennepin County, a "voting member" of JACC, and a "director" for purposes of Minn. Stat. §317A.751 and under the Bylaws of the corporation. He was duly elected an Officer (Treasurer) in November 2008, and as such was duly a member of the Executive Committee as of January 2009. He was disgusted by the events of January 14, 2009, but sues now in his capacity as voting member and director.

7. Plaintiff Shannon Hartfiel is a resident of Hennepin County, a "voting member" of JACC, and a "director" for purposes of Minn. Stat. §317A.751 and under the Bylaws of the corporation. She was duly elected an Officer (Secretary) in November 2008, and as such was duly a member of the Executive Committee as of January 2009. She has never resigned her Officer position, and never acquiesced in the unlawful takeover. She sues in her capacity as voting member, director, and Officer.

8. Plaintiff Robert Wilson is a resident of Hennepin County. He is a director of JACC and a voting member, and he sues in both those capacities.

9. Plaintiff Steve Jackson is a resident of Hennepin County. He is a director of JACC and a voting member, and he sues in both those capacities.

10. Plaintiff Dokor Dejvongsa is a resident of Hennepin County. She is a former director of JACC and a voting member. She sues in her capacity as voting member.

11. Plaintiff William J. Brown is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

12. Plaintiff Kenya Weathers is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

13. Plaintiff DeEte Davis is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

14. Plaintiff Tamara Hardy is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

15. Plaintiff Jernel McLane is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

16. Plaintiff Lafayette Butler is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

17. Plaintiff Frank Essien is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

18. I am a resident of Hennepin County and was hired by JACC as Executive Director, pursuant to a definite term written employment contract. I sue as an individual, but I am also was a member of JACC by virtue of my employment with JACC.

19. Defendant Jordan Area Community Council ("JACC") is a non-profit corporation duly organized under the law of the State of Minnesota (Chapter 317A), and granted 501(c)(3) status by the Internal Revenue Service. It began its corporate status as the Jordan Area Action Committee, in 1965, duly filing its Articles of Incorporation and Bylaws with the Minnesota Secretary of State, Charter No. F-780. The corporation changed its name and filed Articles of Incorporation with the Secretary of State in 1970 (Attachment A to Complaint (I have researched this issue and these are the operative Articles)). Change of address forms have been filed since that date. JACC is not a part of the City of Minneapolis, and nothing in its

Articles of Incorporation or Bylaws allow the City of Minneapolis to dictate its actions or governance. It is governed by its Articles and Bylaws, and pursuant to state statute.

20. Although there are some contractual relations between the City and JACC, and the City has a minimal oversight function regarding funds, the City of Minneapolis does not have a role in the internal governance of JACC. The City does have, however, great power and influence due to its status as a government entity and as such the dispersal and sometime fiscal agent for purposes of the disbursement of federal and state funds. I am aware of what the City has authority to do *vis a vis* JACC, and these actions described in the Complaint went way behind the City's authority.

21. Board Directors serve 2-year staggered terms. By the end of 2008, six board seats were up for election. Michael Browne chaired the Nominations Committee. Certain voting members were disturbed that they were not considered to be eligible to be voted for in the election, due to the Nominations Committee inventing certain "hoops" that had to be jumped through, and then essentially ensuring that certain individuals were unable timely to jump through those hoops. There are definitely some members that wanted to be on the Board, who were not allowed to run in that election. The people who supported Michael Browne and Don Samuels seemed to be favored in that process.

22. Pursuant to Art. V, Sec. 1c of the Bylaws, JACC is to hold an annual meeting each October to elect new board members to fill all vacant seats (of those leaving the Board by virtue of their term expiring, or for other reason). The newly elected board members are then installed in November for a two-year term. Att. B, Art. V, Sec. 3. JACC held its annual meeting to elect board members to fill the six vacant seats on October 23, 2008. At the meeting, Michael Browne, who was the Chair of the Nominations Committee, and another Director alleged irregularities in the nominations process. The election was postponed to January 2009 by majority vote of the JACC members.

23. According to the JACC bylaws, Art. VI, Sec. 2, all Officers shall be elected by the Board annually during the October Board meeting. [Note that the election of Officers, according to the Bylaws, precedes the installation of the newly elected board members.] JACC's October 2008 Board Meeting was continued to November, and Officers were duly elected on November 12, 2008. At that meeting, the Board held its annual Officer elections, and the following were duly voted in: Chair: E.B. Brown; Vice Chair (both by ex officio status pursuant to Bylaw and also voted in): Benjamin Myers; Treasurer: Bob Scott; and Secretary: Shannon Hartfiel. These Officers formed the Executive Committee, by function of the Bylaws. Pursuant to the JACC Bylaws, the newly elected Officers/Executive Committee were to serve for one year. Att. B, Art. VI, Sec. 2.

24. The JACC Executive Committee and the Executive Director Jerry Moore began to voice disagreement with the agenda of Council Members Don Samuels and Barbara Johnson about what to do with the Federal HUD monies that were flowing through the State to the Jordan neighborhood. The Executive Committee and the Jerry Moore were seen by Samuels and Johnson as a thorn in the side of their political agenda, which included control over where the monies went and which individuals and entities profited from the monies. These individuals were exercising their First Amendment rights to criticize government. They were attempting to have a voice in the way in which federal monies were going to be used in their community, an important socio-political issue.

25. Elections for the six board seats opening up were delayed until January 12, 2009. Between October 2008 to January 12, 2009, at no time did anyone, let alone the Board, take action to change the Bylaws to call for a second election of Officers within one year, or at the same time that six Board of Director seats were being filled as a matter of course (because the terms of those holdings those seats was up).

26. On January 12, 2009, elections were held from those that the Nominating Committee said were eligible. Among those elected to the board were Robert Hodson and Anne McCandless. Michael Browne, John "P.J." Hubbard, Robert Hodson, and Anne McCandless are closely aligned with Minneapolis Council Member Don Samuels.

27. On January 14, 2009, JACC held its monthly board meeting. During that meeting, *ultra vires*, and in violation of the Bylaws, Michael Browne and Anne McCandless led a coup and takeover of JACC. First, the Board began discussing whether to fire Jerry Moore, the Executive Director. It remains unclear whether any legitimate board action was taken on that point; at no point did the assembled group follow the requirements of the written employment agreement between Jerry Moore and JACC. When legitimately-elected Chair, still filling her one-year term, E.B. Brown began to declare that that Michael Browne and his followers were out of order and started to disagree with Michael Browne about the termination of Jerry Moore, Michael Browne called for an immediate voice vote to oust the Chair, Vice Chair, Treasurer and Secretary. This purportedly carried on a voice vote of 8-6. The eight voting to oust the duly elected Executive Committee included the board members just elected on January 12, 2009, who are closely aligned with Don Samuels.

28. Very soon after the voice vote (which did not comply with the Bylaws for removal of Officers), the rogue group began to claim that it had authority to take action for JACC. Michael Browne, claiming to be the Chair, sent a letter instructing Jerry Moore not to take any action as ED. The rogue team called for the Ackerberg group to come change the locks on the JACC offices. The *de jure* officers were literally "locked out."

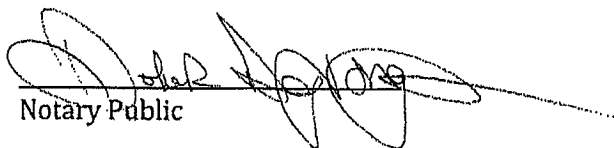
29. The rogue team began to assemble political cover and endorsements. The rogue team has contacted the surrounding neighborhood organizations, community partners, major funders, elected officials, the police department, the media, and others claiming to be the legitimate Officers of JACC, and manipulating, misrepresenting, cajoling or otherwise

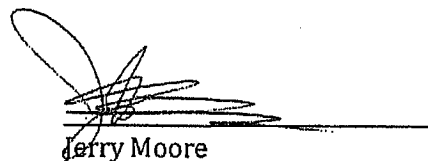
coopting individuals and entities to take part in the coup, or to aid and abet it. On January 16, 2009, Council Members Barbara Johnson and Don Samuels, in their official capacities, and on City of Minneapolis letterhead, stated, "[W]e would like to congratulate and officially recognize the newly elected board and its officers of the Jordan Area Community Council (JACC)." Attachment C to Complaint. The letter made a list of the officers and board members, according to them. Notably, Benjamin Myers, who was Vice Chair for one year following his term as Chair, pursuant to the Bylaws, was listed in the Council Member's letter merely as "ex officio member" and not described as an officer, at all.

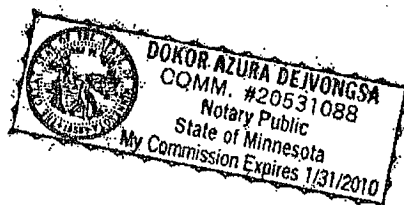
30. Because of the manipulation and/or control of Minneapolis Police, by the rogue team or other Defendants herein, and the position taken by Inspector Martin that police will only deal with the rogue team, the MPD will not be able to perform a neutral investigation of any issues concerning JACC, and the MPD lacks authority to make a determination of this civil dispute. It is my opinion that the police department is being misused, and in an intimidating fashion, in an attempt to effectuate the coup, including thinly-veiled threats that the legitimate Officers will be arrested and/or charged with a crime.

This affidavit of 9 pages is true to the best of my knowledge. However, I may know more about certain subjects than is included here.

Signed and sworn before me
this 27th day of January, 2009.


Notary Public


Jerry Moore





SENT VIA FAX AND EMAIL
Fax #: 612-924-6499
e-mail: info@ackerberg.com

January 15, 2009

Mr. Stuart Ackerberg
Ackerberg Group
3033 Excelsior Blvd., Suite 10
Minneapolis, Minnesota 55416

Dear Mr. Ackerberg,

It has come to my attention, someone other than myself or the current Jordan Area Executive Committee or staff has instructed you to change the locks on the doors at 2009 James Avenue North. Please be advised that whoever advised you to change the locks is not authorized to do so.

By changing the locks at the above referenced property you have illegally locked the Jordan Area Community Council, tenant herein, out of the above referenced premises without due process. Such unlawful act has not only civil liability but also criminal implications pursuant to Minn. Stat. §504B.225. Additionally, pursuant to Minn. Stat. §504B.271, subd (2), and §504B *et. seq.*, we hereby give immediate notice that we demand that the following representative be allowed back into the property in question within the next twenty-four (24) hours:

Jerry L. Moore, *Executive Director*
E.B. Brown, *JACC Board Chair*
Benjamin E. Myers, *JACC Vice Chair*
Shannon Hartfield, *JACC Secretary*

Also, please note that the lease that was signed does not reflect any of the individuals who we believe have approached you and ordered you to change the locks. The only name on the lease is that of the current Executive Director who continues to serve in that capacity which is in fact Mr. Jerry L. Moore. If you fail to comply we will be forced to take legal action against you and your organization.

Lastly, I have attempted to contact you prior to now in order to discuss rental arrangement, unfortunately to date I have yet to hear back from you. Please contact me as soon as possible to discuss all matters referenced at 612-306-6769.

Sincerely Yours,


E.B. Brown,
JACC Board Chair

1922 25th Ave. N
Minneapolis, MN 55411

EXHIBIT 1