

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
Civil Division

DISTRICT OF COLUMBIA,  
a municipal corporation,  
441 4<sup>th</sup> Street, N.W.  
Washington, DC 20001,

Plaintiff,

v.

WASHINGTON EAST OF THE RIVER  
ACADEMY OF ENTREPRENEURSHIP,  
ARTS, LIFE SKILLS, TECHNOLOGY  
AND HEALTH FOR "YOUTH ON THE  
RISE,"  
a District of Columbia nonprofit corporation,  
2617 Douglas Road, S.E., Apt. 402  
Washington, DC 20020,

DIANNA R. ROBINSON,  
2617 Douglas Road, S.E., Apt. 402  
Washington, DC 20020,

DARRELL JOHNSON,  
5217 Harbor Court Drive  
Alexandria, VA 22315,

and

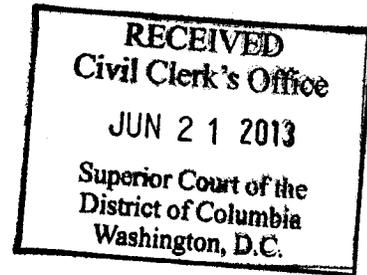
NATIONAL TAX PRO, LLC,  
a Virginia limited liability company,  
5217 Harbor Court Drive  
Alexandria, VA 22315,

Defendants.

JURY TRIAL DEMANDED

Civil Action No.: \_\_\_\_\_

13 - 0004227



COMPLAINT – FALSE CLAIMS AND UNJUST ENRICHMENT

The District of Columbia ("District"), by and through its Office of the Attorney General, hereby brings suit against Defendants Washington East of the River Academy of

Entrepreneurship, Arts, Life Skills, Technology and Health for “Youth on the Rise” (“WEALTHY”); its Executive Director, Dianna R. Robinson (“Robinson”); its accountant, Darrell Johnson (“Johnson”); and Johnson’s accounting firm, National Tax Pro, LLC (“National Tax Pro”), pursuant to D.C. Official Code § 2-381.02(a) and common law, to obtain a monetary judgment against Defendants, including treble damages, plus costs and civil penalties, under the District of Columbia Procurement Reform Amendment Act (“D.C. False Claims Act”).

1. WEALTHY obtained District funds from a District earmark to WEALTHY for fiscal year 2009. The earmark was administered for the District by the D.C. Children and Youth Investment Trust Corporation (“CYITC” or “the Trust”). Before disbursing the funds to WEALTHY, the Trust required WEALTHY (i) to submit, for approval by the Trust, a proposed budget for the use of the funds, and (ii) to enter into a grant agreement governing disbursements and use of the funds. The Trust also required WEALTHY, in order to continue receiving periodic payments of the grant funds, to submit ongoing financial reports certifying that the funds were being spent in accordance with the earmark budget.

2. WEALTHY’s budget for the earmark, which was reviewed and approved by the Trust, allocated \$205,400 in salary for 12 positions, which ranged from full-time to 25% of full-time. In its monthly expense reports to the Trust, WEALTHY falsely reported that the grant funds were being spent in accordance with this earmark budget, which allocated no more than \$50,400 in salary to any one position. In fact, Defendant Robinson, who was WEALTHY’s Executive Director, received \$141,500 in total compensation from the grant funds.

3. WEALTHY's earmark budget also allocated \$24,000 for accounting services, including financial management, payroll services, and financial reporting. WEALTHY's monthly expense reports to the Trust falsely reported that the grant funds were being spent in accordance with this earmark budget. In fact, Defendant Johnson's accounting firm received a total of \$65,198 in fees from the grant funds.

4. By submitting monthly expenditure reports that falsely reported its use of the grant funds, WEALTHY wrongfully obtained a total of \$310,400 in District grant funds that the Trust paid in reliance on the reports. As a result of these false claims, Robinson was unjustly enriched by \$91,100, and Johnson's firm was unjustly enriched by \$31,973.

#### **Jurisdiction**

5. This Court has jurisdiction over the subject matter of this case pursuant to D.C. Official Code §§ 11-921 (2001) and 2-381.03(a) (2011). This Court has personal jurisdiction over Defendants WEALTHY and Robinson pursuant to D.C. Official Code § 13-422, and over all Defendants pursuant to § 13-423(a)(1) & (a)(2) (2001).

#### **The Parties**

6. The District, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the permanent seat of the government of the United States.

7. Defendant WEALTHY is a nonprofit corporation located at 2617 Douglas Road, S.E., Apartment 402, Washington, D.C. 20020. WEALTHY was organized under the laws of the District from 2007 to 2012, when its registration as a District nonprofit corporation lapsed. WEALTHY has never been registered as a tax exempt 501(c)(3)

organization with the Internal Revenue Service. WEALTHY's stated purpose at its founding was to "serve the human services and educational needs of at risk youth in Washington DC."

8. Defendant Robinson is domiciled in the District of Columbia, and resides at 2617 Douglas Road, S.E., Apartment 402, Washington, D.C. 20020. Robinson co-founded WEALTHY in 2007 and since then has served as WEALTHY's Executive Director and as a member of its Board of Directors.

9. Defendant Johnson is domiciled in the Commonwealth of Virginia, and resides at 5217 Harbor Court Drive, Alexandria, VA 22315. Johnson co-founded WEALTHY in 2007 and since then has served as WEALTHY's accountant and as a member of its Board of Directors.

10. Defendant National Tax Pro, a Virginia limited liability company located at 5217 Harbor Court Drive, Alexandria, VA 22315, is an accounting firm. National Tax Pro was organized under the laws of Virginia from February 2009 until December 2010, when its registration as a Virginia limited liability company lapsed. Defendant Johnson was the company's registered agent during its period of registration, and was an officer and member of National Tax Pro during all times relevant to this Complaint.

#### **The Trust**

11. The Trust is a District of Columbia nonprofit corporation formed in 1999 with the goal of attracting public and private donations for community-based organizations providing services to D.C. youth. The Trust's Bylaws require that its Board of Directors be chosen by the Mayor and the District of Columbia Council (the "D.C. Council"). Acting as the District's agent, the Trust distributes District-funded

earmarks and grants to nonprofit organizations, and manages and monitors the organizations' use of such funds. From 2006 to 2010, the Trust was responsible for disbursing, and managing and monitoring the use of, approximately \$68 million in District funds intended for nonprofit organizations serving D.C. youth.

**WEALTHY's Earmark Grant from the District**

12. On June 3, 2008, the D.C. Council passed the Designated Appropriation Allocations Act of 2008 ("2008 Allocations Act"), a subtitle of the Fiscal Year 2009 Budget Support Act of 2008, which took effect on August 16, 2008. The 2008 Allocations Act provided for the Trust to receive \$8,860,000 in earmarks for distribution to 47 organizations in fiscal year 2009, including a \$400,000 earmark for WEALTHY.

13. In the 2008 Allocations Act, the D.C. Council mandated that the Trust could not release an earmark to an organization unless it submitted certain information to the Trust, including (i) an IRS certification that the organization was a 501(c)(3) tax-exempt organization; and (ii) a detailed program statement, with a scope of work and proposed budget.

14. As WEALTHY's Executive Director, Robinson submitted to the Trust, and the Trust approved, a work plan and budget for WEALTHY's \$400,000 earmark for fiscal year 2009. The work plan and budget provided that the earmark would fund summer and after-school programs for 700 District youths aged 14 to 22. The summer programs would take place 20 to 40 hours a week for ten weeks in the summer of 2009. The work plan identified performance activities for hundreds of youth: a 50-member youth entrepreneurship council, a 200-member choir, a 50-member drama ensemble, a 50-member step team, a dance program, and a 50-member visual arts group. The work

plan also stated that WEALTHY would provide lectures and workshops related to each of the performance activities, along with classes in technology and health.

15. WEALTHY's approved earmark budget allocated \$205,400 to cover salaries and wages for a total of 12 positions:

<b>Management</b>	<b>\$90,400</b>
- Project Director	\$50,400 (60% of time for 12 months @ \$84,000)
- Project Manager	\$40,000 (100% of time for 12 months @ \$40,000)
<b>Teachers/Instructors</b>	<b>\$50,000</b>
- Educators (2)	\$25,000 x 2 (50% of time for 12 months @ \$50,000)
<b>Professionals</b>	<b>\$25,000</b>
- Instructors/Counselors (2)	\$12,500 x 2 (50% of time for 12 months @ \$25,000)
<b>Aides/Assistants</b>	<b>\$25,000</b>
- Aides (4)	\$6,750 x 4 (25% of time for 12 months @ \$25,000)
<b>Clerical</b>	<b>\$15,000</b>
- Administrative Aides (2)	\$7,500 x 2 (50% of time for 12 months @ \$15,000)

The earmark budget provided for the highest compensated position, a part-time Project Director, to be paid \$50,400 over 12 months, and for the second-highest compensated position, a full-time Project Manager, to be paid \$40,000 over 12 months. The budget described these two positions' combined compensation of \$90,400 as the total expenditure for "Management."

16. In addition, the earmark budget allocated \$24,000 for "Professional Services," including financial management, payroll services, and financial reporting.

17. On November 17, 2008, relying on the work plan and the allocations in the earmark budget, the Trust executed a grant agreement with WEALTHY in the amount of \$388,000, which was the full amount of the WEALTHY earmark less the Trust's

administrative fee. The grant agreement was identified by the Trust as 045-09-EAR, and the grant period was October 1, 2008 through September 30, 2009.

18. The grant agreement stated that the grant funds were District funds that WEALTHY could only use in accordance with the earmark budget. The grant agreement further stated that any deviation from the earmark budget in excess of 10% or \$2,000, whichever was greater, required Trust approval. Furthermore, the grant agreement allowed the Trust to seek repayment of grant funds used for non-budgeted expenses.

19. The grant agreement required WEALTHY to submit quarterly program reports and monthly expenditure reports to the Trust via an online reporting system called WEBSTARS. Periodic payments of grant funds would be triggered by WEALTHY's submissions of the quarterly program reports. Failure to timely submit the program reports or the expenditure reports would be grounds for the Trust to reduce the grant payments or, at the Trust's discretion, to terminate the grant.

20. On July 15, 2008, the D.C. Council amended the 2008 Allocations Act to further mandate that if a grantee organization were unable to provide the supporting documentation required by in the Act, the organization would be required to appoint a fiscal agent to accept funds on behalf of the organization.

21. Because WEALTHY was not a registered 501(c)(3) tax-exempt organization, the Trust required WEALTHY to arrange for a fiscal agent to receive the grant payments on WEALTHY's behalf. From October 2008 until March 2009, Parklands Community Center ("Parklands") acted as WEALTHY's fiscal agent. In March 2009, Training Grounds, Inc. ("Training Grounds") replaced Parklands as WEALTHY's fiscal agent. On May 7, 2009, WEALTHY and the Trust executed a new

grant agreement, which, without modifying the earmark budget, substituted Training Grounds as the fiscal agent. The use of fiscal agents did not relieve WEALTHY of its duty to provide the Trust with monthly expenditure reports regarding WEALTHY's use of the grant funds.

22. On November 25, 2008, pursuant to the original grant agreement, the Trust disbursed an initial grant payment of \$77,600 to WEALTHY, through its fiscal agent.

**Defendants' Use of False Statements to Obtain Earmarked District Funds**

23. From February to October 2009, WEALTHY submitted to the Trust eleven monthly expenditure reports listing its grant expenses for the months of October 2008 through August 2009. The reports listed general categories of expenses that corresponded to the spending categories in the earmark budget, including a category for "Management." Johnson submitted each report, and Robinson, as Executive Director, signed each report to certify that it was true and correct.

24. On February 25, 2009, WEALTHY submitted to the Trust a monthly expenditure report stating that WEALTHY had expended \$7,000 for Management during October 2008.

25. On February 25, 2009, WEALTHY submitted to the Trust a monthly expenditure report stating that WEALTHY had expended \$7,000 for Management during November 2008.

26. On February 25, 2009, WEALTHY submitted to the Trust a monthly expenditure report stating that WEALTHY had expended \$7,000 for Management during December 2008.

27. On February 23, 2009, WEALTHY submitted to the Trust a monthly expenditure report stating that WEALTHY had expended \$7,000 for Management during January 2009.

28. On April 27, 2009, WEALTHY submitted to the Trust a monthly expenditure report stating that WEALTHY had expended \$4,100 for Management during February 2009.

29. On April 27, 2009, WEALTHY submitted to the Trust a monthly expenditure report stating that WEALTHY had expended \$4,100 for Management during March 2009.

30. On June 18, 2009, WEALTHY submitted to the Trust a monthly expenditure report stating that WEALTHY had not expended any money for Management during April 2009.

31. On July 28, 2009, WEALTHY submitted to the Trust a monthly expenditure report stating that WEALTHY had expended \$30,000 for Management during May 2009.

32. On July 28, 2009, WEALTHY submitted to the Trust a monthly expenditure report stating that WEALTHY had expended \$10,000 for Management during June 2009.

33. On August 31, 2009, WEALTHY submitted to the Trust a monthly expenditure report stating that WEALTHY had expended \$8,000 for Management during July 2009.

34. On October 16, 2009, WEALTHY submitted to the Trust a monthly expenditure report stating that WEALTHY had expended \$6,200 for Management during

August 2009, and had expended the total \$90,400 budgeted for Management over the term of WEALTHY's grant.

35. WEALTHY submitted each monthly expenditure report to the Trust weeks or months after the end of the reporting month, when Robinson and Johnson knew or could readily determine how much compensation Robinson had received from WEALTHY during the reporting month.

36. Contrary to the statements made in these monthly expenditure reports regarding WEALTHY's total expenses for "Management," Robinson consistently paid herself \$10,000 in grant funds each month between October 2008 and August 2009. Furthermore, Robinson paid herself \$31,500 in grant funds for the month of September 2009, including \$17,500 in payments made after she signed the August 2009 expenditure report certifying that WEALTHY's Management budget had been fully spent. Robinson received total compensation of \$141,500 from the grant funds.

37. Robinson's compensation of \$141,500 from the grant funds exceeded by \$91,100 the amount that the earmark budget allocated to WEALTHY's highest-compensated position. Moreover, Robinson's compensation of \$141,500 was \$51,100 higher than the total of the "Management" expenditures listed by WEALTHY in its monthly expenditure reports to the Trust. WEALTHY paid no other person more than \$12,500 in compensation from the grant funds.

38. In addition, WEALTHY's monthly expenditure reports submitted to the Trust listed total expenses of \$33,225 for "Professional Services." However, contrary to the monthly expenditure reports, WEALTHY actually paid Johnson's firm, National Tax Pro, a total of \$65,198 in fees from December 2008 through July 2010. These payments

were made using District funds from the earmark, as WEALTHY had no other source of funding during this time period. The total amount that WEALTHY paid to National Tax Pro exceeded by \$31,973 the expenditures that WEALTHY reported to the Trust for accounting and financial management services.

39. Following the Trust's original disbursement of \$77,600 to WEALTHY on November 25, 2008, and in reliance on WEALTHY's false monthly expenditure reports, the Trust made the following disbursements of grant funds to WEALTHY: \$9,725 on March 11, 2009; \$67,875 on May 13, 2009; \$97,000 on July 1, 2009; \$97,000 on July 31, 2009; and \$38,800 on October 22, 2009. Thus, the Trust disbursed a total of \$310,400 to WEALTHY in reliance on its false monthly expenditure reports.

40. The Trust required WEALTHY to submit monthly expenditure reports so that the Trust could ensure that the grant funds were being spent in accordance with the earmark budget. The fact that WEALTHY's monthly expenditure reports falsely reported that the District funds were being spent in accordance with the approved budget was material to the Trust's decision to continue paying grant funds to WEALTHY. Had the Trust been informed by WEALTHY that it was paying Robinson at least \$10,000 a month in compensation – an amount far in excess of what Robinson reasonably should have been paid given the position descriptions in the earmark budget and the programmatic descriptions in the work plan – and was paying National Tax Pro nearly three times what the earmark budget had allocated for accounting services, the Trust would not have continued to disburse funds to WEALTHY under the grant agreement.

**COUNT I**  
**Violations of False Claims Act**  
**(D.C. Code § 2-381.02(a)(2))**

41. The allegations of paragraphs 1 through 40 are realleged as if fully set forth herein.

42. Defendants knowingly made, used, or caused to be made or used, false records and statements for the purpose of inducing the Trust, acting on the District's behalf, to approve and pay WEALTHY's false claims for District grant funds.

43. The Trust disbursed District grant funds to WEALTHY in reliance on these false records and statements. Had the Trust known of the falsity of these records and statements, it would not have disbursed the District grant funds to WEALTHY.

44. Defendants' conduct violated the DC False Claims Act, D.C. Official Code § 2-381.02(a)(2), and caused the District to sustain damages.

**COUNT II**  
**Unjust Enrichment**

45. The allegations of paragraphs 1 through 44 are realleged as if fully set forth herein.

46. Defendant Robinson has unfairly and unjustly benefited at the District's expense from her receipt and use of additional compensation not authorized by WEALTHY's grant agreement with the Trust, which was paid by WEALTHY from District grant funds.

47. Defendants Johnson and National Tax Pro have unfairly and unjustly benefited at the District's expense from their receipt and use of additional compensation not authorized by WEALTHY's grant agreement with the Trust, which was paid by

WEALTHY from District grant funds.

48. By retaining the District's property for their own use, Defendants have been unjustly enriched to the detriment of the District and caused the District to sustain damages.

WHEREFORE, the District respectfully requests the Court:

- (1) Award the District treble statutory damages in an amount to be determined at trial, but not less than \$931,200, for the \$310,400 in District grant funds that were disbursed to WEALTHY as a result of Defendants' violations of the District's False Claims Act;
- (2) Award the District (i) civil penalties of not less than \$5,000 and not more than \$10,000, payable to the District, for each of Defendants' violations of the District's False Claims Act; and (ii) the costs of this action, including attorney's fees;
- (3) Order restitution of all grant funds, in an amount to be determined at trial but not less than \$91,100, that Defendant Robinson unlawfully retained or used for unauthorized purposes;
- (4) Order restitution of all grant funds, in an amount to be determined at trial but not less than \$31,973, that Defendants Johnson and National Tax Pro unlawfully retained or used for unauthorized purposes; and

- (5) Award the District such further and additional relief as the Court may deem just and proper.

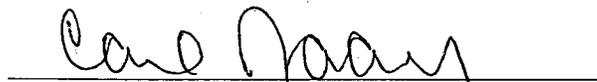
The District of Columbia hereby demands a trial by jury by the maximum number of jurors permitted by law.

Respectfully submitted,

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