

**IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

DISTRICT OF COLUMBIA,
a municipal corporation,
441 Fourth Street, N.W.
Washington, DC 20001,

Plaintiff,

v.

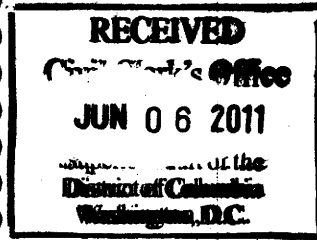
HARRY L. THOMAS JR.,
2413 17th Street, N.E.
Washington, DC 20018,

HLT TEAM THOMAS/
SWINGAWAY, LLC,
a District of Columbia limited liability
company, 2413 17th Street, N.E.,
Washington, DC 20018,

Defendants.

Civil Action No.

0004408-11



**COMPLAINT FOR RELIEF UNDER CHARITABLE SOLICITATIONS LAW,
FALSE CLAIMS ACT, AND COMMON LAW**

Plaintiff, the District of Columbia (the "District"), by its Attorney General, alleges as follows:

1. The District files this Complaint (i) to secure injunctive and other equitable relief to protect the public from violations by Defendant Harry L. Thomas Jr. ("Thomas") of the District's charitable solicitations law, D.C. Official Code § 44-1701 *et seq.*, which have resulted in charitable contributions being diverted from their specific charitable purposes; (ii) to obtain a monetary judgment against Defendants for three times the amount of damages that the District sustained because of their repeated violations of the False Claims Act, D.C. Official Code

§ 2-308.14, plus costs and civil penalties; and (iii) to obtain a monetary judgment against Defendants for common law claims, including fraud, conversion, and unjust enrichment.

2. As president of a District of Columbia nonprofit corporation, Thomas directed and controlled unlawful solicitations of charitable funds and caused charitable funds to be diverted from their lawful purposes and used for his personal and political purposes, including for personal trips to and golfing activities in Las Vegas, Nevada and Pebble Beach, California, and for the preparation of political literature. Further, in concert with others, by false and fraudulent statements, Thomas caused substantial District grant funds to be unlawfully diverted to a non-profit corporation that he controlled and to a for-profit company that he and his wife controlled. More specifically, as detailed below, Thomas, employing the resources of his District of Columbia Councilmember office, caused more than \$300,000 out of \$400,000 in District funds earmarked for "youth baseball programs" to be secretly diverted to entities that he controlled and to be spent in substantial part for his personal benefit, including \$58,575.20 for a luxury sport utility vehicle that was ultimately titled in his own name. The District seeks to recover compensatory, punitive, and treble damages, plus civil penalties, costs, and attorney's fees, for diverted District grant funds. In addition, the District seeks, as *parens patriae*, to recover diverted charitable funds for the benefit of the general public.

Jurisdiction

3. The Court has jurisdiction over the subject matter of this case pursuant to D.C. Official Code § 11-921(a)(6), § 2-308.15(a), and § 44-1712(c)(1). The Court has personal jurisdiction over Defendants pursuant to D.C. Official Code § 13-422 and § 13-423(a)(1) and (a)(3).

Parties

4. 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. The District brings this action, through its Attorney General, pursuant to (i) the Attorney General's authority to protect District funds, to enforce the False Claims Act, D.C. Official Code § 2-308.15(a), and to enforce the District's charitable solicitations law, D.C. Official Code § 44-1712(c)(1); (ii) the Attorney General's statutory and common law authority to enforce charitable trusts and protect charitable assets, D.C. Official Code § 19-1301.10(c); and (iii) an assignment to the District of claims and causes of action that DC Children and Youth Investment Trust Corporation, a non-profit organization that administers grant funds on behalf of the District, may have in connection with two grants that are the subject of this Complaint.

5. Thomas is domiciled in the District of Columbia and resides at 2413 17th Street, N.E., Washington, DC 20018. Since January 2007, Thomas has served as a District of Columbia Councilmember and, in that capacity, has managed and directed the staff and activities of his Councilmember office. From January 2007 to December 2010, Thomas also served as president of Team Thomas, a District of Columbia nonprofit corporation.

6. Defendant HLT Team Thomas/Swingaway, LLC ("HLT Development") was organized by Thomas in 2004 as a District of Columbia limited liability company. The company has also been known as "HLT Development," and it has maintained a checking account in the name "HLT Development Associates." The company is controlled by Thomas and his wife, Diane Thomas, and its business address is their home address.

Thomas's Non-Profit Corporation

7. Team Thomas was co-founded by Thomas. The corporation was organized pursuant to the District's Nonprofit Corporation Act in February 2000 and was formally dissolved in December 2010. Team Thomas's Articles of Incorporation, in effect throughout the corporation's existence, stated that the corporation was organized "exclusively" for Internal Revenue Code section 501(c)(3) "charitable and educational purposes."

8. Team Thomas sought but never obtained the status of a section 501(c)(3) organization under the Internal Revenue Code.

9. Team Thomas was not licensed to engage in "charitable solicitation" in the District of Columbia at any time on or after January 1, 2007. Although Team Thomas did engage in charitable solicitations in 2007 and 2008, it did not maintain a list of individuals who made contributions, other than a list of eight contributors in late 2007 and early 2008.

10. Team Thomas was actively managed and controlled by Thomas at all times from January 1, 2007 until the corporation's dissolution in December 2010. Thomas was the only person with check-writing authority for Team Thomas's checking account. He kept and used Team Thomas's debit card and received Team Thomas's checking account statements.

11. At the time of its dissolution in December 2010, Team Thomas had no records of most of the contributions it had received or most of the expenses it had incurred, other than its checking account statements.

Team Thomas's Solicitations and Use of Donations

12. During 2007 and 2008, Team Thomas actively solicited and received charitable contributions in the District of Columbia without being lawfully registered to do so. D.C. Official Code § 44-1703(a). "Charitable" purposes within the meaning of the District's

charitable solicitations law include purposes that are "educational (except religious education), either actual or purported." D.C. Official Code § 44-1701(4).

13. Most of the charitable contributions of \$1,000.00 or more that Team Thomas received during 2007 and 2008 were solicited and received in connection with two golf-tournament fundraisers at Langston Golf Course in Washington, D.C., one held on October 5, 2007 and the other held on May 29, 2008.

14. In a media advisory for the October 2007 golf tournament to raise funds for Team Thomas, Thomas's Councilmember office described Team Thomas as "a not-for-profit urban youth program that introduces boys and girls to golf and the First Tee program, as well as trains them for softball and baseball," and "also provides interactive learning experiences by connecting kids to our city's recreation centers and libraries."

15. Similarly, in solicitation letters for the May 2008 golf tournament to raise funds for Team Thomas, Thomas described Team Thomas as "a not-for-profit urban youth program that introduces boys and girls to golf and trains them for softball, baseball, and tennis" and "also provides interactive learning experiences by connecting kids to our city's recreation centers and libraries." Corporate sponsorship rates began at the "Bronze: \$1,000 to \$2,499" level. The letters stated that contributions would help Team Thomas "reach our inner city population and broaden their horizons."

16. Contributions received by Team Thomas in 2007 and 2008 included, but were not limited to, the following contributions of \$1,000.00 or more (showing dates and amounts of contribution checks):

<u>Contributor</u>	<u>Date</u>	<u>Amount</u>
Patriot Equities, LP	September 27, 2007	\$1,000.00
The Olender Foundation	September 28, 2007	\$2,500.00

Manatt, Phelps & Phillips, LLP	October 1, 2007	\$1,000.00
1425 11 th Street, LLC	October 1, 2007	\$2,500.00
Carter & Carter Enterprise, Inc.	October 2, 2007	\$2,500.00
EYA, LLC	October 3, 2007	\$1,000.00
MR Sagamore LLC	October 3, 2007	\$2,500.00
Abdo Development	October 4, 2007	\$1,000.00
Punch Out Specialist Team LLC	October 5, 2007	\$1,000.00
Washington Convention & Tourism Corporation	October 10, 2007	\$1,000.00
Coca Cola Bottling Company	October 12, 2007	\$1,000.00
Verizon	October 15, 2007	\$1,500.00
The Hotel Association of Washington, D.C., Inc.	October 15, 2007	\$2,500.00
Horning Brothers Corporation	October 25, 2007	\$1,000.00
D.C. Trial Lawyers Foundation	November 1, 2007	\$1,000.00
Washington Food & Supply of DC, Inc.	December 6, 2007	\$1,000.00
MedStar Health	December 19, 2007	\$5,000.00
Forney Enterprises, Inc.	May 8, 2008	\$1,000.00
William C Smith & Co Inc.	May 12, 2008	\$2,000.00
Maurice Electrical Supply Company	May 13, 2008	\$1,000.00
Rhode Island Avenue Metro LLC	May 14, 2008	\$2,500.00
Bundy Development Corporation	May 16, 2008	\$1,000.00
Horning Brothers Corporation	May 22, 2008	\$1,000.00
CareFirst BlueCross BlueShield	May 23, 2008	\$1,000.00
Children's National Medical Center	May 23, 2008	\$2,500.00
Coca Cola Bottling Company	May 27, 2008	\$1,500.00
Lottery Technology Enterprises	May 27, 2008	\$1,500.00
Walker Marchant Group, LLC	May 28, 2008	\$3,000.00
Punch Out Specialist Team LLC	May 28, 2008	\$1,000.00
Unity Health Care, Incorporated	May 28, 2008	\$1,000.00
Rodgers Brothers Custodial Services, Inc.	May 29, 2008	\$2,500.00
Carmen Group, Inc.	May 29, 2008	\$1,000.00
A. Wash & Associates, Inc.	May 29, 2008	\$1,000.00
Comcast	June 18, 2008	\$10,000.00
Verizon	December 10, 2008	\$3,000.00
Forney Enterprises, Inc.	October 19, 2009	\$5,000.00

Total of contributions listed above: \$71,500.00

17. In 2007 Thomas arranged for Team Thomas to spend \$5,483.51 on travel-related expenses incurred by Thomas and two staff from his Councilmember office to attend, along with other District officials, an International Council of Shopping Centers convention in Las Vegas, Nevada, during May 19-22, 2007. District officials attended this convention in order to promote retail development in the District of Columbia. These travel-related expenses did not further

Team Thomas's charitable purposes. Included in the \$5,483.51 total were Team Thomas debit card charges totaling \$1,165.82 to cover expenses incurred by Thomas at the Excalibur Hotel and Casino.

18. Thomas used the Team Thomas debit card to pay for a variety of other travel and entertainment expenses that did not further Team Thomas's charitable purposes. Illustrative of these expenses were the following, each of which exceeded \$450.00:

Love Night Club	April 16, 2007	\$690.00
Alamo Rent-A-Car	April 16, 2007	\$463.96
Bali Hai Golf Club in Las Vegas, NV	October 29, 2007	\$1,185.00
Marriott Resort & Spa (unspecified)	December 6, 2007	\$1,602.00
The Peabody Little Rock hotel in Little Rock, AR	December 18, 2007	\$590.32
Air Tran	January 7, 2008	\$501.98
Gogo Vacations	April 2, 2008	\$2,669.00
Gogo Vacations	April 8, 2008	\$2,669.00
Holiday Inn in Bethlehem, PA	August 12, 2008	\$934.08
Southwest Airlines	October 7, 2008	\$601.50
Pebble Beach Golf Links in Pebble Beach, CA	April 28, 2009	\$1,073.00
Washington Nationals Suite	June 8, 2009	\$696.70
Southwest Airlines	October 2, 2009	\$478.20
Budget Rent-A-Car	October 13, 2009	\$533.85

Total of expenses listed above: \$14,688.59

19. During the period 2007-2009, Thomas wrote checks from the Team Thomas account to himself, to his for-profit company HLT Development, and to cash, including, but not limited to, (i) a check to HLT Development, on February 20, 2007, in the amount of \$3,500.00 (memo line: "Equipment purchase"); (ii) a "reimbursement" check to himself on October 15, 2008, in the amount of \$2,000.00 (memo line: "Reimbursement"); and (iii) a check to HLT Development, on September 12, 2009, in the amount of \$4,000.00 (memo line: "Equipment"). At the time of its dissolution in late 2010, Team Thomas had no documentation showing what expenditure, if any, was reimbursed by the \$2,000.00 payment to himself in 2008, or what equipment, if any, was purchased with the \$4,000.00 payment to HLT Development in 2009.

20. In late 2007, Thomas authorized his Councilmember office to solicit, on behalf of Team Thomas, contributions to cover the cost of producing and mailing 10,000 copies of an annual report to Ward 5 households. His Councilmember office then proceeded to solicit, by email, financial contributions to assist with the “design, printing, and 10,000 household mailing” of “an Annual Report from CM Thomas to the Residents of Ward 5.” “CM” meant “Councilmember.”

21. In response to its solicitations for assistance in producing the annual report, Team Thomas received the following contributions (showing dates and amounts of contribution checks):

<u>Contributor</u>	<u>Date</u>	<u>Amount</u>
Ellis Denning Construction and Development	December 7, 2007	\$1,000.00
EYA, LLC	December 12, 2007	\$1,500.00
Pillsbury Winthrop Shaw Pittman LLP	December 12, 2007	\$1,500.00
Abdo Development	December 13, 2007	\$1,000.00
Mid-City Legacy, LLC	January 8, 2008	\$2,000.00
Capitol Paving of DC, Inc.	January 29, 2008	\$2,600.00
The Jair Lynch Companies	January 31, 2008	\$1,000.00
MRP Realty	February 19, 2008	\$1,000.00
Total:		\$11,600.00

22. Team Thomas mailed 10,000 copies of the annual report to residents of Ward 5 in early February 2008. The report, entitled “Ward 5 Councilmember Harry ‘Tommy’ Thomas Jr. 2007 Annual Report to Ward 5 Residents,” began with a “Letter to Ward 5 Residents” that stated in part:

It has been an honor to serve as your representative on the DC City Council during the past year. I thank you for electing me to represent Ward 5 and providing me with this opportunity.

Throughout my first year in office, I have worked diligently to fulfill my campaign pledge of building bridges, finding solutions, and putting the residents of Ward 5 first.

The annual report's sections were entitled "Reforming Our Public School System," "Advocating for Youth Programs," "Revitalizing Our Neighborhood Business Districts," "Attracting Retail and Restaurants to Ward 5," "Creating Affordable Housing in Ward 5," "Assisting Ward 5 Residents," "Striving for Excellence in Community Outreach," "Improving Our Branch Library System," "Providing Recreational Opportunities for District Residents," and "Sponsoring Legislation to Improve Our City." The only portion of the annual report that discussed activities of Team Thomas was a single paragraph in the section on "Advocating for Youth Programs."

23. Thomas wrote a check from the Team Thomas account to pay \$4,500 to Alston Marketing Group on January 8, 2008, as a deposit towards the cost of producing the annual report. Thomas also wrote Team Thomas checks to Alston Marketing Group in the amounts of \$3,000.00 on January 31, 2008, and \$2,657.73 on March 1, 2008. These expenses did not further Team Thomas's charitable purposes in any significant way.

24. During 2007-2008, Team Thomas received more than \$80,000 in charitable contributions. During 2007-2009, Team Thomas used more than \$30,000 of its funds for expenses that did not further Team Thomas's charitable purposes, including more than \$20,000 for travel and entertainment expenses and more than \$10,000 for a political mailing.

Team Thomas's Receipt of Grant Funds

25. On June 5, 2007, the D.C. Council unanimously passed the FY 2008 Budget Support Act of 2007, including the Specified Funding Allocations Act of 2007, which became law on September 18, 2007. The Specified Funding Allocations Act of 2007 ("Act") detailed, among other things, how \$4.43 million from "a one-time, nonrecurring grant to the Children and Youth Investment Trust Corporation" would be allocated in FY 2008 to recipient organizations,

programs, and funds. The Act allocated the grant money to sixteen recipients named in the Act, except that the sum of \$400,000 was allocated generally to "youth baseball programs."

26. The DC Children and Youth Investment Trust Corporation ("DC CYITC") is a non-profit organization whose board is appointed by the District's Mayor and the D.C. Council. Under the Act, it was responsible for administering, on behalf of the District Government, the use of the \$400,000 that the Act allocated to youth baseball programs. Pursuant to this responsibility, DC CYITC acted as the District Government's agent for purposes of selecting a grantee and providing oversight of the grantee's use of the allocated funds. DC CYITC's grant agreement form expressly stated that the grantee would be "subject to external auditing by [DC CYITC] or by the District of Columbia and its representatives, and shall upon request make provision for inspection of financial records, including audited and financial statements and tax returns." Section 4.05.d of DC CYITC's By Laws states:

Grantees and sub-grantees receiving funding from [DC CYITC] must provide any information, documents and reports relating to the grant or sub-grant required by the Mayor or the D.C. Council. The failure of any grantee or sub-grantee to provide such information, documents or reports shall be grounds to terminate the grant or sub-grant[.]

DC CYITC has assigned "to the District all claims and causes of action that DC CYITC may have with respect to the misuse of, or representations made relating to," the grant funds that are the subject of this Complaint.

27. On August 20, 2007, in response to an inquiry three days earlier from DC CYITC concerning the Act's youth baseball program funding, Thomas's Councilmember office informed DC CYITC that "Councilmember [Thomas] has a clear direction for the funding. He will speak with you this week in reference thereof."

28. On December 4, 2007, Thomas's Councilmember office informed DC CYITC that the grant recipient of the youth baseball program funding would be "Lan[g]ston Gol[f] Course, Jimmy Garvin" and that Garvin "will coordinate all of the swing sport programs, inclusive of baseball."

29. Jimmy Garvin is the golf professional at the Langston Golf Course and serves as program director and as a board member for Langston 21st Century Foundation ("Langston 21"), a District of Columbia nonprofit corporation established for the charitable purpose of providing educational programs, including golf programs, for youth. Marshall Banks serves as Langston 21's board president and executive director. Langston 21 is a tax-exempt 501(c)(3) corporation under the Internal Revenue Code.

30. Sometime in 2007, Thomas told Garvin that Team Thomas was an organization well-suited to carry out the scope of services to be covered by the proposed swing sports grant. Sometime after this conversation, either in late 2007 or early 2008, Thomas, Garvin, and Banks met to review an application for the grant. Banks signed the grant application on behalf of Langston 21. The application showed that the grant amount would be \$392,000, the grant period would be October 1, 2007 to September 30, 2008, the Executive Director would be Marshall Banks, and the Program Director would be James Garvin. Although Thomas, Garvin, and Banks agreed that Team Thomas would be responsible for carrying out all or most of the programming described in the grant application, neither Thomas's name nor Team Thomas's name appeared anywhere on the application.

31. On or about January 9, 2008, Thomas's Councilmember office provided DC CYITC, purportedly on behalf of Langston 21, with a proposed program description and budget for the swing sports grant. The proposed "Swing Sport Program Description" stated:

Curricula are designed to encompass multiple "swing" sports, with specific emphasis on golf and softball. Initiative has specific emphasis on inclusive sports for girls and young women, with a targeted population of 500 program participants over nine months. Instruction, theory, anticipated outcomes and positive peer group interaction are the precepts of the program. Additionally, non-traditional sports, oftime [sic] activities for which urban youth are minimally exposed will be included, i.e., field hockey, lacrosse and racquet ball [sic], all of which further opportunities for co-ed interaction and inclusion of girls and young women.

The proposed budget allocated \$100,000 to the second quarter of the fiscal year, \$100,000 to the third quarter of the fiscal year, and \$200,000 to the fourth quarter of the fiscal year. The budget included \$50,000 for "Equipment," described as "Pitching machines, green preparation, bases, mounds, etc."

32. On January 15, 2008, Thomas's Councilmember office provided DC CYITC, purportedly on behalf of Langston 21, with a "Work Plan" and "Budget Form" for the swing sports grant. The Work Plan set forth two program outcomes:

Program Outcome #1: A fundamental and basic knowledge of swing sports: golf, softball, baseball, and tennis and an exposure to field hockey, lacrosse, and badminton[.]

* * *

Program Outcome #2: Inclusive therapies specific to "girls" sport programs, to assure compliance with Title IX and to promote the physical health and fitness of young women.

The "targeted population" for both program outcomes was described as "youth ages 8 to 17, approximately 500 youth, predominantly residing in Ward 5, with an emphasis on Langston, Carver Terrace, Trinidad and Langdon Park." The Budget Form allocated \$400,000 among various projected expenses; \$50,000 was allocated to "Equipment," including \$4,800 for "Computer equipment" and \$45,200 for "Other equipment."

33. On January 16, 2008, DC CYITC informed Thomas's Councilmember office that DC CYITC needed to receive, in addition to the Budget Form, "a detailed budget narrative that explains how each budget line item . . . was derived." In response, on January 22, 2008, Thomas's Councilmember office sent DC CYITC a "Budget Narrative," which provided a short description of each budget line. The budget narrative stated that the \$45,200 budgeted for "Other equipment" would be "utilized in support of the purchase of sport equipment, golf clubs, racquets and goals." The budget narrative was transmitted by an email from Thomas's Councilmember office stating:

Here is the budget narrative. Councilmember wants to know what day this week he can send Jimmy Garvin to pick-up the check? He has already missed January and wants to initiate the program for February in order to be prepared for Spring/Summer programs and activities.

34. On January 24, 2008, Thomas's Councilmember Office informed DC CYITC, purportedly on behalf of Langston 21, that the first grant check for the swing sports grant should be made payable to "Langston 21st Century Foundation c/o James Garvin." Later that day, DC CYITC issued a check to Langston 21 in the amount of \$100,000.00, and Langston 21 deposited the check in its account on January 28, 2008.

35. Thomas then instructed Garvin that Langston 21 should pay \$75,000 of the grant funds over to Team Thomas by issuing two checks in amounts and with payees specified by Thomas. Garvin informed Banks of Thomas's payment instructions. On February 6, 2008, in accordance with Thomas's instructions, Banks wrote two checks from Langston 21's checking account. One check was for \$15,000, payable to "Team Thomas," with the notation "S + W" in the memo line. The second check was for \$60,000, payable to "H.L.T.," with the notation "Equipment" in the memo line. Banks brought the checks to Langston Golf Course, where

Thomas received them on February 6, 2008. Langston 21 received nothing from either Team Thomas or HLT Development in return for the checks.

36. Thomas deposited the \$60,000 check in a checking account for "HLT Development Associates" on February 6, 2008. Immediately prior to that \$60,000 deposit, the HLT Development Associates checking account had had a negative balance of \$90.89. At no time during the preceding three months had the checking account had a positive balance over \$100.00.

37. Two days later, on February 8, 2008, Thomas withdrew \$58,775.20 from the HLT Development Associates checking account and used most of the funds to obtain a cashier's check in the amount of \$58,575.20, payable to "Tischer Auto F&I." That evening, Thomas took the cashier's check to Tischer Audi of Silver Spring, where he purchased a 2008 Audi Q7 4.2 Quattro Premium sport utility vehicle for a "total cash delivered price" of \$69,149.60. The dealership credited Thomas with a \$500.00 deposit and a \$9,000 trade-in value (for a 2004 Dodge Durango), but the amount of the cashier's check was still \$1,074.40 short of the amount that Thomas needed to complete the purchase. Thomas completed the purchase by charging \$1,074.40 to the Team Thomas debit card.

38. Thomas purchased the Audi sport utility vehicle for his personal use, and the vehicle was never used by or for the benefit of Langston 21. Thomas had the vehicle titled on May 21, 2008 in the name "HLT Development." About one year later, on May 22, 2009, Thomas had the vehicle re-titled in his own name, and he has continued to own the vehicle in his own name until 2011.

39. On April 18, 2008, Thomas's Councilmember office asked DC CYITC whether there was "[a]nything else necessary for Langston 21st Century" to do in order to receive the next

swing sports grant payment. On April 29, 2008, DC CYITC replied: "Sorry not to get back to you sooner. Langston [21] will need to submit a quarterly program and expenditure reports (Oct-Dec and Jan-Mar) to trigger the next payment for the grant."

40. On May 8, 2008, Thomas's Councilmember office sent DC CYITC a "First Quarter Report" of the "activities and program of the Langston 21st Century Program for January 1 through March 31, 2008." The report, which did not mention Team Thomas, included a narrative description that stated, in part:

There have been two components of the Swing Sport Program Curriculum offered this first quarter. The first has been a Saturday Academy for Baseball, hosted at the Turkey Thicket Recreation Center, 10th and Michigan Avenue, NE, for 50 enrollees, every Saturday morning, January through March. The second program offering, was the Spring Break Camp hosted March 24 to March 28 at Turkey Thicket Recreation Center and the Langston Golf Course, for 117 enrollees. The curriculum included basic and intermediate instruction for both boys and girls in the fundamentals of baseball and golf. . . .

In fact, Langston 21 did not provide either of the reported "components" of this "Swing Sport Program Curriculum," and no "Swing Break Camp" or other youth camp was hosted at Langston Golf Course in or about March 2008.

41. The "First Quarter Report" stated that Langston 21's program expenditures were exactly \$100,000, including \$15,000 for "Salaries and Wages" (for "Instructors, coaches, and Guest Professional Athletes") and \$60,000 for "Supplies/Equipment." In fact, Langston 21 had not expended \$15,000 for "Salaries and Wages" to conduct the "activities and program" described by the report; it had merely written a check to Team Thomas for \$15,000, with the notation "S +W" on the check's memo line. Team Thomas had no salaried staff. Nor had Langston 21 expended \$60,000 for "Supplies/ Equipment" to conduct the "activities and program" described by the report; it had merely written a check to "H.L.T." for \$60,000, with the

notation "Equipment" on the check's memo line. Nearly all of the \$60,000 "Equipment" payment was used by Thomas to purchase the Audi sport utility vehicle.

42. Attached to the report was a document – featuring a "Swingaway" logo – that purported to be an "invoice" for supplies and equipment provided by "HLT/ LSDBE." The purported invoice, which Langston 21 had not received or seen, listed the following items, prices, and costs:

Qty	Description	Unit Price	Extended Amount
40	Swing Away 2000	\$349.00USD	\$13,960.00USD
30	Traveler	\$299.00USD	\$8,970.00USD
70	Travel Bag	\$50.00US[D]	\$3[,]500.00USD
70	Tune-up Kit	\$29.00USD	\$2[,]030.00USD
100	Hammer (21 "24")	\$39.00USD	\$3,900.00USD
100	Clicker Sticks	\$59.00USD	\$5,900.00USD
100	Simply Hitting	\$10.00USD	\$1,000[.00]USD
500	Training program curriculum CD and Training cards	[none listed]	\$16,227.50 USD
300	Training Cards	\$9.95USD	\$2,985.00USD

The purported invoice stated that the total expense was \$60,000, while the sum of the listed costs (from the "Extended Amount" column) was \$58,472.50. The purported invoice did not identify a purchaser or recipient of the listed items, and none of the listed items were purchased, used, or received by Langston 21.

43. The First Quarter Report was not supported by any documentation other than the purported "Swingaway" invoice. The expenditures listed in the report were based on the budget documents previously submitted to DC CYITC or on information conveyed orally by Thomas.

44. On May 14, 2008, DC CYITC issued a check to Langston 21 in the amount of \$96,000.00 and informed Thomas's Councilmember office by email that the check was available for pickup. Langston 21 deposited the check in its account on May 16, 2008.

45. On May 22, 2008, in accordance with payment instructions received from Thomas through Garvin, Banks wrote two checks from Langston 21's checking account. One check was for \$35,000, payable to Team Thomas, with the notation "Langston Learning Center" on the memo line. The second check was for \$40,000, payable to HLT Development, also with the notation "Langston Learning Center" on the memo line. Thomas received these checks at Langston Golf Course, and he deposited the \$35,000 check in Team Thomas's checking account and the \$40,000 check in the HLT Development Associates checking account. Immediately prior to this \$40,000 deposit, made on May 22, 2008, the HLT Development Associates checking account had had a balance of less than \$1,000; on May 30, 2008, Thomas withdrew \$7,000.00 from the account.

46. On September 30, 2008, Thomas's Councilmember office informed DC CYITC: "We have expenditures accumulated for the last quarter, (outstanding funding) of \$200,000, for which the Langston 21st Century i[s] hoping to receive the check this week."

47. On October 1, 2008, Thomas's Councilmember office sent DC CYITC a "Second Quarter Report" of the "activities and program of the Langston 21st Century Program for April 1 through June 30, 2008." The report, which did not mention Team Thomas, included a narrative description that stated, in part:

There have been two components of the Swing Sport Program Curriculum offered this second quarter. The first has been a Saturday Academy for Baseball, hosted at the Turkey Thicket Recreation Center, 10th and Michigan Avenue, NE, for 50 enrollees, every Saturday morning, April and May. The second program offering, was the Wing [sic] Sport Camp was [sic] hosted June 16 to June 30 at Turkey Thicket Recreation Center, the Langston Golf Course, and Charles Young School for 132 enrollees. The curriculum included basic and intermediate instruction for both boys and girls in the fundamentals of baseball and golf. . . .

In fact, Langston 21 did not provide either of the reported "components" of this "Swing Sport Program Curriculum," and no swing sport camp or other youth camp was hosted at Langston Golf Course in or about June 2008.

48. This Second Quarter Report stated that Langston 21's program expenditures for the second quarter were exactly \$100,000, including \$60,000 for "Salaries and Wages" (for "Instructors, coaches, and Guest Professional Athletes"), \$15,000 for "Supplies/Equipment," \$3,000 for "Professional Services" - "Copying and registration information," \$12,000 for "Other Consultant/Professional Fees" - "Green fees, cart rentals, club house access," and \$10,000 for "Indirect cost." In fact, Langston 21 had not expended any funds in connection with the "activities and program" described by the report; it had merely written the two checks in May 2008 for \$35,000 to Team Thomas and \$40,000 to HLT Development.

49. On October 7, 2008, Thomas's Councilmember office sent DC CYITC a purported "expenditure report for Langston 21st Century Swing Sport Initiative, inclusive of the original budget both in narrative and chart format with expenditures by quarter and residual bud[g]et balances." This document included a revised "Second Quarter Report," with a chart listing total budgeted amounts and what purported to be actual expenses for the first and second quarters of the grant program.

50. Like the original Second Quarter Report, the revised Second Quarter Report stated that Langston 21's program expenditures for the second quarter were exactly \$100,000, although the amounts reported for individual line items added up to \$109,200. Like the First Quarter Report and the original Second Quarter Report, the revised Second Quarter Report reported total spending on Salaries and Wages of \$15,000 in the first quarter and \$60,000 in the second quarter. However, while the First Quarter Report reported total spending on

Supplies/Equipment of \$60,000 in the first quarter – supported by what purported to be a \$60,000 invoice from “HLT/ LSDBE” – the revised Second Quarter Report reported total spending on Supplies and Equipment of \$54,000 in the first quarter, plus Telecommunications expenses of \$4,200 and Travel and Transportation expenses of \$1,800. And while the original Second Quarter Report reported that total spending on “Supplies/Equipment” was \$15,000 in the second quarter, the revised Second Quarter Report reported that total spending on Supplies and Equipment (including “Staff training supplies”) was \$20,000 in the second quarter, plus Telecommunications expenses of \$4,200.

51. Neither the original nor the revised Second Quarter Report was supported by any documentation, and the expenditures listed in the reports were based on the budget documents previously submitted to DC CYITC or on information conveyed orally by Thomas.

52. On October 8, 2008, DC CYITC issued a check to Langston 21 in the amount of \$100,000.00. In an email sent that day to DC CYITC, Thomas’s Councilmember office stated: “Please hold the check for pick-up. James Garvin – Langston 21st Century will pick it up.” Langston 21 deposited the check in its account on October 14, 2008.

53. On or about October 20, 2008, in accordance with payment instructions received from Thomas through Garvin, Banks wrote two checks from Langston 21’s checking account. One check was for \$20,000, payable to Team Thomas, with the notation “youth sports” on the memo line. The second check was for \$60,000, payable to “HLT,” also with the notation “youth sports” on the memo line. Thomas received the checks at Langston Golf Course, and he deposited the \$20,000 check in Team Thomas’s checking account and the \$60,000 check in the HLT Development Associates checking account. Immediately prior to this \$60,000 deposit, made on October 20, 2008, the HLT Development Associates checking account had had a

balance of approximately \$1,163; on October 24, 2008, Thomas withdrew \$23,745.80 in cash from the account.

54. On December 10, 2008, DC CYITC informed Thomas's Councilmember office: "Our records show Langston has received \$296,000 to date. We need a final report for July - September that expends the remaining \$96,000." As of December 10, 2008, Langston 21 had in fact received, since February 2008, three payments totaling \$296,000 from DC CYITC; prior to that date, however, Thomas's Councilmember office had reported total expenditures of only \$200,000 for the January-to-June 2008 period, with no reported expenditures for the period prior to January 2008 or the period after June 2008.

55. Later on December 10, 2008, Thomas's Councilmember office sent DC CYITC a report of "the activities and program of the Langston 21st Century Program for July 1 through September 30, 2008. The report, which did not mention Team Thomas, included a narrative description that stated, in part:

There were multi-prong components of the Swing Sport Program Curriculum offered this quarter. The first being a full-day Academy for Baseball, hosted at the Charles Young Elementary School in Ward 5, immediately across the street from the Langston Golf Course for 75 enrollees, Monday through Friday, from 8:30 a.m. until 6:00 p.m.. [sic] The second program offering, was the Swing Sport Camp hosted July 1 to August 21 at Turkey Thicket Recreation Center, the Langston Golf Course, and Charles Young School for 132 enrollees. The curriculum included basic and intermediate instruction for both boys and girls, in the fundamentals of baseball and golf. . . .

56. In fact, Langston 21 did not provide either of the reported "components" of the "Swing Sport Program Curriculum," and no swing sport camp or other youth camp was hosted at Langston Golf Course in July or August 2008.

57. The December 10, 2008 report stated that Langston 21's program expenditures for the third quarter were exactly \$96,000, including \$72,400 for "Salaries and Wages" (for "Instructors, coaches, and Guest Professional Athletes"). In fact, Langston 21 had not expended any funds in connection with the "activities and program" described by the report. Since writing the two checks in May 2008, totaling \$75,000, to Team Thomas and HLT Development, Langston 21 had merely written the two additional checks in October 2008 for \$20,000 to Team Thomas and \$60,000 to HLT Development.

58. The December 10, 2008 report was not supported by any documentation, and the expenditures listed in the report were based on the budget documents previously submitted to DC CYITC or on information conveyed orally by Thomas.

59. On December 12, 2008, DC CYITC issued a check to Langston 21 in the amount of \$96,000.00, and Langston 21 deposited the check in its account on December 17, 2008. On December 26, 2008, in accordance with payment instructions received from Thomas through Garvin, Banks wrote a check from Langston 21's checking account for \$48,000, payable to "Team Thomas - HLT Dev.," with the notation "Learning Center" on the memo line. On January 13, 2009, Banks wrote a check from Langston 21's checking account for \$28,000, payable to "Team Thomas." Thomas received both checks at Langston Golf Course, and he deposited the \$48,000 check in the HLT Development Associates checking account and the \$28,000 check in Team Thomas's checking account.

60. DC CYITC never received any further expenditure report from Thomas's Councilmember office, or from Langston 21 itself, accounting for the difference between (i) the total grant payments of \$392,000 given to Langston 21 for FY 2008, and (ii) the total reported grant expenditures of \$296,000 for the period January-to-September 2008.

61. Sometime in early 2009, Banks asked Thomas for a report on the activities and programs funded by Langston 21's payments of FY 2008 grant funds to Team Thomas and/or "H.L.T." Thomas told Banks that someone on his Council staff would provide the requested report. On March 6, 2009, Thomas's Councilmember office emailed to Banks copies of the First Quarter Report (and purported invoice) sent to DC CYITC on May 8, 2008, the original Second Quarter Report sent to DC CYITC on October 1, 2008, and the report sent to DC CYITC on December 8, 2008. Prior to March 6, 2009, neither Banks nor Garvin had received or seen these expenditure reports or any other reports purporting to show how the grant funds that Langston 21 paid to Team Thomas and/or "H.L.T." had been spent.

62. On August 7, 2009, in an email copied to Thomas, Thomas's Councilmember office informed DC CYITC of four "sponsorship opportunities," including an opportunity to provide \$20,000 in funding to "Langston 21st Century." On August 21, 2009, Thomas's Councilmember office provided DC CYITC, on behalf of Langston 21, with a proposed work plan and budget form for a "summer funding" grant of \$20,000 in District funds. The email transmitting the work plan and budget form asked DC CYITC: "Is this what you need to proceed?" The work plan described two "Program Activity" components for "Langston 21st Century Ward 5 -Athletic Programming," one focused on affording youth "opportunities . . . to develop competencies and skills that will advance their personal . . . development" and the other focused on affording youth opportunities to "make connections, to an extended family and/or community, that values and encourages their positive contributions through league and team play."

63. In about early September 2009, Langston 21 received a \$20,000 grant payment from DC CYITC and deposited the funds in Langston 21's checking account on September 4,

2009. On September 10, 2009, Banks wrote a check for \$10,000, payable to Team Thomas, from Langston 21's checking account. The \$10,000 check was deposited in Team Thomas's checking account on September 14, 2009.

64. Langston 21 received total grant payments of \$412,000 from DC CYITC for FY 2008 and FY 2009. Of that amount, Langston 21 paid over a total of \$108,000 to Team Thomas and a total of \$208,000 to HLT Development.

Dissolution of Team Thomas

65. The Office of the Attorney General for the District of Columbia sent a letter to Thomas on October 21, 2010, seeking information about whether "one or more non-profit organizations [were] soliciting donations for 'Team Thomas' without having complied with the District's registration requirement for charitable solicitations." The Office followed up with administrative subpoenas to Thomas on October 26, 2010 and on November 24, 2010. Following his receipt of these subpoenas, Thomas arranged for the District's Department of Consumer and Regulatory Affairs, Corporations Division, to issue a formal Certificate of Dissolution to Team Thomas on December 13, 2010.

Count I **Unlawful Solicitations of Charitable Contributions** **(D.C. Official Code § 44-1703(a))**

66. The District repeats and realleges Paragraphs 1 through 65 as if set forth fully in this paragraph.

67. Although Team Thomas was not lawfully registered to solicit charitable contributions in the District of Columbia, Thomas knowingly arranged for, or knowingly allowed, his Councilmember office to solicit charitable contributions on behalf of Team Thomas, in violation of the District's charitable solicitations law. D.C. Official Code § 44-1703(a).

Count II
Conversion – Charitable Funds

68. The District repeats and realleges Paragraphs 1 through 67 as if set forth fully in this paragraph.

69. Thomas knowingly caused funds donated for charitable purposes to be diverted to and used for non-charitable purposes.

Count III
Unjust Enrichment – Charitable Funds

70. The District repeats and realleges Paragraphs 1 through 69 as if set forth fully in this paragraph.

71. Thomas has unfairly and unjustly benefited, at the expense of the public, from his retention and use for personal purposes of funds donated for charitable purposes, for which he owes restitution.

Count IV
Knowingly Making a False Record or Statement
(D.C. Official Code § 2-308.14(a)(2))

72. The District repeats and realleges Paragraphs 1 through 71 as if set forth fully in this paragraph.

73. Defendants knowingly caused to be made false records or statements for the purpose of causing false claims to be approved for payment, by arranging for, or knowingly allowing, Thomas's Councilmember office to submit false expenditure reports to a District agent to induce payments of District grant funds to Langston 21, in violation of the District's False Claims Act. D.C. Official Code § 2-308.14(a)(2).

Count V
Conversion – Grant Funds

74. The District repeats and realleges Paragraphs 1 through 73 as if set forth fully in this paragraph.

75. Defendants knowingly caused District grant funds or, in the alternative, DC CYITC grant funds to be diverted to purposes other than those authorized by District law and to be disposed of contrary to District law.

Count VI
Unjust Enrichment – Grant Funds

76. The District repeats and realleges Paragraphs 1 through 75 as if set forth fully in this paragraph.

77. Defendants have unfairly and unjustly benefited, at the District's and DC CYITC's expense, from Defendants' retention and use for their own purposes of District grant funds or, in the alternative, DC CYITC grant funds, for which Defendants owe restitution.

Count VII
Civil Conspiracy to Commit Fraud – Grant Funds

78. The District repeats and realleges Paragraphs 1 through 77 as if set forth fully in this paragraph.

79. Defendants knowingly and willfully entered into a conspiracy with others to defraud the District or DC CYITC of grant funds designated for youth sports programs to be administered by Langston 21.

80. Defendants and others conspired to divert District grant funds or, in the alternative, DC CYITC grant funds from youth sports programs administered by Langston 21 through the use of false representations to DC CYITC that the grant funds would be used for

programs administered by Langston 21 and, later, through the use of false representations to DC CYITC that the grant funds had been used for programs administered by Langston 21.

81. As part of this conspiracy, District grant funds or, in the alternative, DC CYITC grant funds designated for youth sports programs administered by Langston 21 were paid over by Langston 21 to Team Thomas and to HLT Development.

82. As a result of this conspiracy, District grant funds or, in the alternative, DC CYITC grant funds were diverted to purposes other than youth sports programs administered by Langston 21 and were used in substantial part for Thomas's personal benefit.

Prayer for Relief

WHEREFORE, the District requests that this Court:

- a. Permanently enjoin Thomas from engaging in further violations of the District's charitable solicitations law;
- b. Order a constructive trust over, and a *cy pres* distribution of, all charitable contributions donated for specific charitable purposes that Thomas caused to be used for other purposes, including, but not limited to, funds used for personal travel or for political purposes;
- c. Order disgorgement of all charitable funds that Thomas unlawfully retained for political or personal purposes;
- d. Award the District (i) treble statutory damages in an amount to be determined at trial, but not less than \$948,000, for all District and DC CYITC grant funds lost due to violations of the District's False Claims Act, (ii) civil penalties of not less than \$5,000 and not more than \$10,000, payable to the District, for each violation of the District's False Claims Act, and (iii) the costs of this action, including attorney's fees;

- e. Award the District actual and punitive damages, in amounts to be determined at trial, for conduct by Defendants resulting in the diversion of District and DC CYITC grant funds to purposes other than those authorized by District law;
- f. Order disgorgement of all District and DC CYITC grant funds that Thomas unlawfully retained or used for personal purposes; and
- g. Award the District such further and additional equitable relief as the Court may deem just and proper.

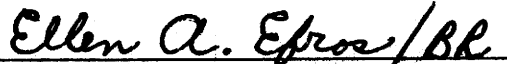
Jury Demand


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

Respectfully submitted,

IRVIN B. NATHAN
Attorney General for the District of Columbia

GEORGE C. VALENTINE
Deputy Attorney General
Civil Litigation Division


ELLEN A. EFROS (Bar #250746)
Assistant Deputy Attorney General
Civil Litigation Division


BENNETT RUSHKOFF (Bar #386925)
Chief, Public Advocacy Section
JIMMY R. ROCK (Bar #493521)
Assistant Attorney General
Office of the Attorney General
441 Fourth Street, N.W., Suite 600-S
Washington, DC 20001
(202) 727-5173
bennett.rushkoff@dc.gov

Date: June 6, 2011

Attorneys for the District of Columbia