

**THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS  
CIVIL DIVISION**

**JAMES PARSONS**

**PLAINTIFF**

**v.**

**CASE NO. 72CV-17-218-2**

**ECCLESIA, INC.**

**d/b/a ECCLESIA COLLEGE**

**DEFENDANT**

**PLAINTIFF'S BRIEF IN SUPPORT OF RESPONSE TO MOTION TO QUASH**

Comes now the Plaintiff, James Parsons, and for his Brief in Support of his Response to the Motion to Quash of the Arkansas Attorney General, states:

**INTRODUCTION**

Plaintiff's suit is an illegal exaction filed on behalf of the taxpayers of the State of Arkansas against Defendant Ecclesia to recover taxpayer funds acquired by Ecclesia through the fraudulent acts of its officers and employees. The proposed deponents, Mr. Collins and Mr. Dotson, each directed General Improvement Funds to Ecclesia that Plaintiff now seeks to recover on behalf of the taxpayers. The prospective deponents have made the following statements about the subject matter of the lawsuit:

1. "What I saw in Ecclesia was a unique education option for people in our area. When I attended a seminar there (David Barton) I met students, etc. who seemed very satisfied. The leader seemed committed to the mission & students. Based on his guilty plea, I was wrong about him."

Charlie Collins, May 4, 2018 on Twitter. Exhibit 1. Mr. Collins was responding to this question from a constituent:

"@CollinsARK in all seriousness, I would like you to give us (your constituents) a good reason for why you directed public \$\$ to a private, religious college outside our district. It may have been innocent, but I still believe we deserve an answer in light of today's ruling #arpx"

2. From an interview with Mr. Collins with the Ozarks at Large program on radio station

KUAF: <http://www.kuaf.com/post/local-lawmakers-weigh-indictment-former-sen-jon-woods-college-president#stream/0>

- "I think the thing that makes this one especially challenging is the number of people involved and the amount of time over which this is unfolding.

- "When you're in charge of an organization, especially when you're operating in the name of advancing Jesus Christ, and the indications are that you are abusing the taxpayers of the State of Arkansas, and using your students as a cover for self dealing, that's really not good."

- "You know the institution's going to be wounded to some degree with a cloud hanging over it like this, and, you know, there's going to have to be a clean house before anybody would be able to trust the leadership. If the organization rots from the head down, the perception is there are others in the leadership that are somehow tainted."

- "Virtually the entire surplus [GIF] for one region went to one entity; that raises all kinds of eyebrows."

- "This process of using economic development districts to allocate grants, it is now tainted, I think beyond reproach. I don't know exactly how it's going to land, but I'm certainly presuming that the local method that we've been using is not likely to survive."

3. "I'm severely disappointed in the things that have happened in the last few years there. Obviously the reputation of what could have been a very good thing has been severely damaged. Where it goes from here, I don't know."

Jim Dotson, Arkansas Democrat-Gazette, September 9, 2018. Exhibit 2.

4. In a January 29, 2017 Arkansas Democrat-Gazette story, Mr. Collins: "noted Springdale was a major part of his House district when he was first elected. He became familiar with the college and many of its supporters in his first term." Exhibit 3.

5. In a second January 29, 2017 Arkansas Democrat-Gazette story, Mr. Dotson is referenced: "Rep. Jim Dotson, R-Bentonville, is an alumnus of Ecclesia College. He directed

\$13,500 to the college, saying he believes the college is a worthy project that fit the criteria of a nonprofit enterprise.” The same article goes on to state:

“Several legislators said they were told the college wanted to buy land, but added Paris and college supporters mentioned other needs as well. Rep. Charlie Collins, R-Fayetteville, directed two grants worth \$14,000 to the college. He said he became familiar with the college and many of its supporters during his first term in the House. ‘They’re a good place with a good mission,’ Collins said of Ecclesia.”

Exhibit 4.

5. Larry Walther, director of the Arkansas Department of Finance and Administration, requested the Attorney General recover the funds Ecclesia acquired by fraud, as did Governor Asa Hutchinson, who said, “It is clear from trial proceedings that the money sent to Ecclesia College through grants over the course of 2013 and 2014 was obtained by fraud. This is taxpayers’ money and it is essential that we pursue recovery of it.” Arkansas Democrat-Gazette, September 14, 2018. The Attorney General responded “Attorney General Rutledge is reviewing all of the information available and plans to take appropriate action to recover any money owed to Arkansas taxpayers.” The Motion to Quash filed by the Attorney General indicates she does not believe that the funds can be recovered and is actively working to prevent attempts by citizens to recover these funds. Exhibit 5.

6. Both Mr. Collins and Mr. Dotson were witnesses listed by the prosecution in the matter of USA v. Jon Woods 5:17-cr-500010, though they were not called to testify. Other legislators, including Sen. Bart Hester, testified at length in the trial of Mr. Woods. Neither Mr. Collins nor Mr. Dotson, nor the Attorney General on their behalf, sought to claim a legislative privilege in that case, which involved substantially the same facts at issue herein.

## **ARGUMENT**

The Attorney General argues essentially three bases for her Motion to Quash and impeded the discovery of relevant facts. First, she claims Plaintiff has no cause of action and thus are outside the scope of discovery. Second, she argues Mr. Collins and Mr. Dotson have a legislative privilege which allows them to decline to give their testimony and they are exercising it and refusing to testify about their relationship with Ecclesia. Third, she argues there are conflicts which prevent the Attorney General's office and the proposed deponents from appearing on October 26, 2018 for deposition. Each of the foregoing lacks merit and should be disregarded, and the Motion to Quash should be denied.

### **I. Illegal Exaction is a viable cause of action in Arkansas**

Plaintiff has filed an illegal exaction complaint contending Defendant acquired certain taxpayer funds through fraudulent means. The Arkansas Constitution, Article 16, § 13, entitled "Illegal Exactions" states: "Any citizen of any county, city or town may institute suit, in behalf of himself and all others interested, to protect the inhabitants thereof against the enforcement of any illegal exactions whatever." This provision was enacted in 1874, and is a reflection of the state of Arkansas politics at that time.

At the time of the enactment of the Constitution of 1874, Arkansas was rife with political corruption, similar to the condition of Arkansas now. As the Arkansas Historical Quarterly describes, between the enactment of the Constitution of 1868 and the summer of 1874,

"the legislature had spent many millions on non-existent railroads, levees, and buildings, and the state debt rose from three million to twelve million with only about \$100,000 in improvements to show for the indebtedness. County debts increased at a similar rate. To cover these expenditures, taxes went equally high."

Walter Nunn, *The Constitutional Convention of 1874, Arkansas Historical Quarterly*, Vol. 27, No. 3, Autumn, 1968 p. 177-204. Throughout the early 1870s, there was also a battle for the

governorship that involved both claimants having independent militias that was only resolved when President Grant stepped in to declare the winner and order the loser to put their arms down.

When the call for a constitutional convention arose in the legislature, Arkansas newspapers reflected the mood of the times, with such statements as:

“‘Chop down every fraudulent elected officer, every usurper, every ballot-box stuffer, ignore every ambitious office-seeker, and let us take another start. . . .’

*Hope Star* as quoted in the *Little Rock Daily Republican*, May 28, 1874, p. 1

‘We will have a constitutional convention, which will give us a government of the people, and the unclean birds who have feathered their nests with the choicest down plucked from the breasts of the people, by fraud and violence, will henceforth and forevermore roost lower.’

*Ozark Advocate* as quoted in the *Little Rock Daily Republican*, May 28, 1874, p. 1.”

Nunn, *Constitutional Convention of 1874*, p. 184.

With those sentiments in mind, the convention was called and for nearly two months in the summer of 1874 the delegates hammered out a new Constitution which while oft-amended, has not been replaced. The reformer spirit of the convention is reflected most strongly in Article 16, Finance and Taxation, where a number of new sections were adopted.

Those new sections include Section 1, which prohibited the state, counties and cities from issuing new debt, and the issuance of scrip by the state; Section 2, which permitted only the payment of “just and legal debts”; Section 4, which provided that thereafter the General Assembly would set the pay of state officers, thus eliminating a common avenue of corruption whereby the officers themselves would decide how much of their agency’s budget would be allotted to their own salaries; Sections 8 and 9, which limited the state and counties’ ability to increase taxes; and Sections 11 and 12, which contained explicit instructions for taxation.

The final safeguard was Article 13, which Plaintiff herein relies upon, which was added because: "The convention believed that this provision would protect taxpayers in the event that other safeguards were not enforced. It was drafted as an ultimate guarantee of redress to the courts."

Nunn. *Constitutional Convention of 1874*, p. 200. It is this guarantee that Plaintiff now invokes, as the Executive Branch in the Attorney General, and the Legislative Branch, via the proposed deponents, refuse to protect the taxpayers from the fraud perpetrated by Ecclesia.

In defining illegal exactions, the Arkansas Supreme Court held in *Nelson v. Berry*, 242 Ark. 273, 277-278, 413 S.W.2d 46 (1967):

"'Illegal Exaction' under the Arkansas Constitution means both direct and indirect illegal exactions, thus comprehending any attempted invalid spending or expenditure by any government official. *Quinn v. Reed*, 130 Ark. 116, 197 S. W. 15; *Farrell v. Oliver*, 147 Ark. 599, 226 S. W. 529.

'Illegal Exaction' means far more than the mere collection of unlawfully levied taxes. With little limitation, almost any misuse or mishandling of public funds may be challenged by a taxpayer action. Even paying too much for cleaning public outhouses has been held by our courts as basis for a taxpayer's right to relief, *Dreyfus v. Boone*, 88 Ark. 353, 114 S. W. 718. Any arbitrary or unlawful action exacting taxes or tax revenues may be restrained and annulled by a taxpayer affected by such procedure, *Bush v. Echols*, 178 Ark. 507, 10 S. W. 2d 906; *McClellan v. Stuckey*, 196 Ark. 816, 120 S. W. 2d 155; *Park v. Hardin*, 203 Ark. 1135, 160 S. W. 2d 501; *Brookfield v. Harahan Viaduct Improvement District*, 186 Ark. 599, 54 S. W. 2d 689.

"The remotest effect upon the taxpayer concerning any unlawful act by a tax supported program or institution may be enjoined under Article XVI, Section 13, of the Constitution of the State of Arkansas, *Green v. Jones*, 164 Ark. 118, 261 S. W. 43. \* \* \*

...

"The case of *Arkansas County Judges Association v. Green*, cited the case of *Ward v. Farrell*, 221 Ark. 636, 253 S. W. 2d 353, wherein this Court stated concerning the involved Constitutional provision:

"There is eminent authority for holding, even in the absence of an express provision of the Constitution, such as referred to above, that a remedy is afforded in equity to taxpayers to prevent misapplication of public funds on the theory that the taxpayers are the equitable owners of public funds and that their liability to replenish the funds exhausted by the misapplication entitles them to relief against such misapplication."

The Arkansas Supreme Court has summarized the above in *Pledger v. Featherlite Precast Corp.*, 308 Ark. 124, 128, 823 S.W.2d 852 (1992), where it held:

"there are only two types of illegal exactions: (1) "public funds " cases; and (2) "illegal tax" cases. The former contemplates either the misapplication of public funds or the recovery of fund wrongly paid to a public official. *See, e.g., Brewer v. Hawkins*, 241 Ark. 460, 408 S.W.2d 492 (1966). The latter requires that the tax itself be illegal."

The instant matter is a "public funds" case, and involves an admitted fraud upon the taxpayers by an officer of Defendant, Oren Paris, acting in the course and scope of his employment as President of Ecclesia. See Exhibit 6. In effectuating this fraud, Defendant's President communicated at length with a number of legislators to acquire taxpayer funds, at least two of whom have also either been convicted or pled guilty in relation to their dealings with the Defendant. Those legislators then directed funds to Ecclesia. The Plaintiff, as part of proving the manner and extent of the fraudulent acts, now seeks to depose other individuals who are witnesses to the fraudulent acts. Discovery in this manner is typical in any civil case involving fraud, breach of contract, etc.

The Attorney General makes the claim that Plaintiff at one point abandoned his claim of illegal exaction. This is false. The Plaintiff abandoned a particular theory of illegal exaction related to taxpayer dollars and religious institutions, but the claim for the underlying fraud has existed since the inception of this case. The only change was the Third Amended Complaint identifies additional fraud which was discovered upon the trial and convictions of Mr. Woods and Mr. Paris.

This case is similar to that of *Nelson, supra*, wherein a taxpayer sued three asphalt and paving contractors, alleging they had defrauded the taxpayers of Arkansas of over \$3,000,000 by using a lower grade of asphalt than what the state had contracted for use in its roads. The defendants moved to dismiss on the grounds that private parties could not bring such a suit, which the Court rejected, finding

“The taxpayers of a county are the persons from whom the public revenues are obtained and are directly interested in protecting the same. They are proper persons to maintain suits against public officers to prevent or remedy misapplication of the public funds, and in such cases chancery has the power to grant affirmative as well as injunctive relief. Chancery has not only power to prevent such wrongs, but it has power to require reparation for that which has been done.”

It is a similar wrong by Ecclesia which Plaintiff herein seeks to have addressed.

A. *Quickly spending fraudulently acquired funds does not eliminate an illegal exaction*

The Attorney General argues that Plaintiff cannot maintain an illegal exaction claim against Ecclesia for two reasons, both of which have no merit. The first is that Ecclesia has already spent the GIF funds it fraudulently acquired. In support of this claim, she cites two cases, *White v. Ark Capital Corp./Diamond State Ventures*, 365 Ark. 200, 226 S.W.3d 825 (2006) and *Wilson v. Walther*, 2017 Ark. 270, 527 S.W.3d 709. (Ironically, Mr. Walther has in fact called upon the Attorney General to recover funds from Ecclesia, as noted above). The Attorney General’s reliance on those cases is misplaced.

Neither *White* and *Walther* are “misuse of public funds” illegal exactions. Rather, they are based on claims that certain acts of the legislature were unconstitutional, or “illegal tax” cases. Moreover, neither stands for the proposition that regardless of whether one defrauds the State, if they spend the illegally spent money quickly enough they are safe from refunding the funds. To the contrary, *Walther* specifically held “restitution was not a proper remedy for state



officials or private citizens who relied in good faith on statutes, which are presumed to be constitutional.”

The notion that Ecclesia acted in good faith is ludicrous. Its President has admitted defrauding the taxpayers, stating specifically:

“PARIS, as president and on behalf of the College, knowing obtained GIF money for the College under materially false and fraudulent pretenses by paying WOODS, through SHELTON’s Consulting Company, in exchange for WOODS utilizing his official position and authority as an Arkansas State Senator to direct said GIF to the College.” Exhibit 7.

Paris goes on in his plea to admit other instances of fraud on Ecclesia’s behalf in acquiring the funds at issue. Two other legislators have also been convicted of fraud in relation to the acquisition of these funds. Mr. Collins and Mr. Dotson have made similar statements, as noted in the Introduction. Clearly, this is not an “illegal tax” case. The funds at issue in *White* and *Walther* involve parties who received funds in good faith from legislative acts later determined to be unconstitutional. They have no bearing on a misuse of public funds case involving admitted fraud.

The Attorney General also makes the claim that because Oren Paris has been ordered to pay restitution, then there is no valid cause of action for a refund of those same funds. She cites no statutory or caselaw authority in support of this proposition. In the unlikely event Mr. Paris makes payment, Ecclesia may be entitled to a setoff, but the plea itself notes multiple times that it was Ecclesia that received the funds, not Mr. Paris. Plaintiff’s ability to recover for Ecclesia’s illegal exaction is not vitiated by the possibility that Mr. Paris may pay criminal restitution.

Finally, the Attorney General argues that Defendant’s Motion to Strike is pending, and requests that all matters be put on hold while Defendant’s motion is pending. This should be ignored. This case is over a eighteen months old, and Defendant has filed multiple motions to

dismiss, has refused to answer discovery, and generally engaged in delaying tactic after delaying tactic. For the court to quash these depositions pending further motions by Defendant would only encourage the filing of more meritless motions by Ecclesia.

## **II. Legislative privilege is inapplicable to this matter.**

The Attorney General relies upon Article V, Section 15 of the Arkansas Constitution for this assertion of privilege:

“The members of the General Assembly shall, in all cases except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses; and, in going to and returning from the same; and, for any speech or debate in either house, they shall not be questioned in any other place.”

As the Plaintiff does not seek to inquire as to any particular speech or debate by the legislators while in session and on the floor of the Capitol, the Attorney General promotes a broad interpretation of this privilege which goes far beyond its meaning. Due to the dearth of Arkansas cases on the issue, she turns to other states and federal cases to support her interpretation.

She first cites *Edwards v. Vesilind*, 790 S.E.2d 469 (Va. 2016) as a basis for a description of what is protected legislative activity. This reliance is misplaced with regard to these facts, for being the victim of fraud is not legitimate legislative activity. *Edwards* is worth quoting a length on this point, however. *Edwards* noted that legislators:

engage in many activities other than the purely legislative activities protected by the Speech or Debate Clause. These include a wide range of legitimate errands performed for constituents, the making of appointments with Government agencies, assistance in securing Government contracts, preparing so-called news letters to constituents, news releases, and speeches delivered outside the [General Assembly]. The range of these related activities has grown over the years. They are performed in part because they have come to be expected by constituents, and because they are a means of developing continuing support for future elections. Although these are entirely legitimate activities, they are political in nature rather than legislative, in the sense that term has been used by [courts]. But it has never

been seriously contended that these political matters, however appropriate, have the protection afforded by the Speech or Debate Clause. Careful examination of the decided cases reveals that the [courts] ha[ve] regarded the protection as reaching only those things generally done in a session of the [legislature] by one of its members in relation to the business before it, or things said or done by [a legislator], as a representative, in the exercise of the functions of that office.

*United States v. Brewster*, 408 U.S. 501, 512, 92 S.Ct. 2531, 33 L.Ed.2d 507 (1972) (internal quotation marks and citations omitted).

Accordingly, legislative privilege applies only to acts within the sphere of legitimate legislative activity. Va. Const. art. IV, § 9; *see United States v. Helstoski*, 442 U.S. 477, 491, 99 S.Ct. 2432, 61 L.Ed.2d 12 (1979) (barring inquiry into "the sphere of protected legislative activities"); *Gravel*, 408 U.S. at 625, 92 S.Ct. 2614 ("Legislative acts are not all encompassing.... [T]hey must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House."). Whether such an act falls within the sphere of legitimate legislative activity requires the court to assess, on the whole, the function it serves. In the case of a communication, a court must also consider the persons by and to whom it is made.

*Id.*

Clearly, Mr. Collins attendance at a seminar held at Ecclesia by pseudo-historian David Barton is not a legitimate legislative activity. Nor are his tours of the college or conversations with its leadership. Likewise the conversations of Mr. Dotson with Ecclesia. These are political acts in the name of serving constituents of the type of non-legislative acts described in *Edwards*.

Additionally, virtually every case cited by the Attorney General involves a claim directly against a particular legislator or a challenge related to their legislation. Even the *City of Fayetteville* case, Arkansas Supreme Court Case No. CV-17-873, involves challenges to legislation, not fraudulent acts by a private actor. Mr. Collins and Mr. Dotson were dupes in a scheme by Mr. Woods, Mr. Neal, and Mr. Paris, Ecclesia's President. The Plaintiff seeks only to

discover the extent of the deception by Ecclesia's officers, not impugn Mr. Collins or Mr. Dotson or their legislative acts. Rather, Plaintiff seeks to inquire about fundamentally *political* acts, such as the statements made by Collins and Dotson cited in the introduction, or Ecclesia's solicitations to them which resulted in funds flowing to Ecclesia. Mr. Collins and Mr. Dotson's communications with Ecclesia and Paris clearly are not related to legislative functions using even the broad definitions of the privilege the Attorney General seeks to impose.

Additionally, in considering a case like this one, the U.S. Supreme Court has already determined no legislative privilege exists. *Gravel v. United States*, 408 U.S. 606 (1972) revolved around the publication of the Pentagon Papers. In the early 1970s, Senator Mike Gravel (D-Alaska) convened a subcommittee meeting of the Buildings and Grounds of the Senate Public Works Committee where he promptly began to read extensively from what were commonly known as the Pentagon Papers. He then placed all 47 volumes of them into the public record, and entered into an arrangement with a publisher for their publication. A federal grand jury was convened to determine if Sen. Gravel had engaged in criminal conduct, and an aide of his was subpoenaed to testify. Sen. Gravel intervened and moved to quash. The Supreme Court held that the speech or debate clause of the U.S. Constitution protected the Senator and his aide from being questioned with respect to events occurring at the subcommittee meeting, but limited the extent of the clause. As the Attorney General has compared the U.S. Constitution's privilege to Arkansas', it is worth examining the *Gravel* opinion.

"Prior cases have read the Speech or Debate Clause "broadly to effectuate its purposes," *United States v. Johnson*, 383 U.S., at 180, and have included within its reach anything "generally done in a session of the House by one of its members in relation to the business before it." *Kilbourn v. Thompson*, 103 U.S., at 204; *United States v. Johnson*, 383 U.S., at 179. Thus, voting by Members and committee reports are protected; and we recognize today -- as the Court has recognized before, *Kilbourn v. Thompson*, 103 U.S., at 204; *Tenney v. Brandhove*, 341 U.S. 367, 377-378 (1951) -- that a Member's conduct at legislative committee hearings,

although subject to judicial review in various circumstances, as is legislation itself, may not be made the basis for a civil or criminal judgment against a Member because that conduct is within the "sphere of legitimate legislative activity." *Id.*, at 376.

But the Clause has not been extended beyond the legislative sphere. That Senators generally perform certain acts in their official capacity as Senators does not necessarily make all such acts legislative in nature. Members of Congress are constantly in touch with the Executive Branch of the Government and with administrative agencies -- they may cajole, and exhort with respect to the administration of a federal statute -- but such conduct, though generally done, is not protected legislative activity. *United States v. Johnson* decided at least this much. "No argument is made, nor do we think that it could be successfully contended, that the Speech or Debate Clause reaches conduct, such as was involved in the attempt to influence the Department of Justice, that is in no wise related to the due functioning of the legislative process." 383 U.S., at 172. Cf. *Burton v. United States*, 202 U.S., at 367-368.

Legislative acts are not all-encompassing. The heart of the Clause is speech or debate in either House. Insofar as the Clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House. As the Court of Appeals put it, the courts have extended the privilege to matters beyond pure speech or debate in either House, but "only when necessary to prevent indirect impairment of such deliberations." *United States v. Doe*, 455 F.2d, at 760.

Here, private publication by Senator Gravel through the cooperation of Beacon Press was in no way essential to the deliberations of the Senate; nor does questioning as to private publication threaten the integrity or independence of the Senate by impermissibly exposing its deliberations to executive influence. The Senator had conducted his hearings; the record and any report that was forthcoming were available both to his committee and the Senate. Insofar as we are advised, neither Congress nor the full committee ordered or authorized the publication. We cannot but conclude that the Senator's arrangements with Beacon Press were not part and parcel of the legislative process.

There are additional considerations. Article I, § 6, cl. 1, as we have emphasized, does not purport to confer a general exemption upon Members of Congress from liability or process in criminal cases. Quite the contrary is true. While the Speech or Debate Clause recognizes speech, voting, and other legislative acts as exempt from liability that might otherwise attach, it does not privilege either Senator or aide to violate an otherwise valid criminal law in preparing for or implementing legislative acts. If republication of these classified papers would be a crime under

an Act of Congress, it would not be entitled to immunity under the Speech or Debate Clause. It also appears that the grand jury was pursuing this very subject in the normal course of a valid investigation. The Speech or Debate Clause does not in our view extend immunity to Rodberg, as a Senator's aide, from testifying before the grand jury about the arrangement between Senator Gravel and Beacon Press or about his own participation, if any, in the alleged transaction, so long as legislative acts of the Senator are not impugned.

*Id.* at 624-627.

In nearly every way, the testimony of Mr. Collins and Mr. Dotson regarding the extent to which they were duped by Defendant echoes that of the speech the Court refused to protect in *Gravel*. First, the (to be charitable) cajoling and exhorting of Ecclesia upon these two legislators is not protected legislative activity. It is, as the Supreme Court put it, “in no wise related to the due functioning of the legislative process.” Second, as the Court held with regard to the relationship between Gravel and Beacon Press, questioning about this matter does not threaten the integrity or independence of Mr. Dotson or Mr. Collins by impermissibly exposing their deliberations to influence. The “influence” of Ecclesia has already yielded results upon legislation. That “influence” has been determined to be criminal in nature.

Third, this case does not impugn the legislative acts of Mr. Collins and Mr. Dotson. No one is accusing them of anything other than being victims, or at most engaging in minimal due diligence with tax dollars, neither of which rises to the level of criminal or civil liability or otherwise interfere with their legislative actions. They simply have no claim that being the victims of fraud by Ecclesia and/or other legislators constitutes a legitimate legislative function.

Perhaps most damaging to the Attorney General’s position, *Gravel* held:

“Neither do we perceive any constitutional or other privilege that shields [the aide], any more than any other witness, from grand jury questions relevant to tracing the source of obviously highly classified documents that came into the Senator’s possession and are the basic subject matter of inquiry in this case, as long as no legislative act is implicated by the questions.”

*Id.* at 627. Similarly, no privilege exists here which shields Mr. Collins and Mr. Dotson from testifying as to the representations made by Ecclesia to them in order to obtain taxpayer funds. Those representations do not implicate legislative acts in any way, and questions regarding them are undoubtedly permissible.

### **III. Mr. Collins and Mr. Dotson have waived any privilege**

Any privilege can be waived, and in fact for the typical evidentiary privileges, Arkansas Rule of Evidence 510 specifically states they can be waived. In this matter, Mr. Dotson and Mr. Collins have undoubtedly waived the legislative privilege. They have spoken at length on social media, in debates, and in press interviews regarding their dealings with Ecclesia. And, as noted previously, they did not object to testifying about those dealings in Mr. Woods' trial, nor did the Attorney General. They cannot now hide behind the privilege to avoid giving testimony in this case. The Arkansas Supreme Court has said of such attempts in regard to other privileges:

"As holder of the privilege, Cantrell must be given this choice: "If you want to litigate the [ineffective assistance of counsel] claim, then you must waive [the] privilege to the extent necessary to give your opponent an opportunity to defend against it." *Bittaker v. Woodford*, 331 F.3d 715, 720 (9th Cir. 2003). Cantrell cannot use the privilege as both a shield and a sword."

The deponents here are eager to wax poetic about Ecclesia and their unwitting roles in it to the press, they are available as witnesses on the subject when their colleague is on trial for his legislative acts, but then when called to testify in this matter they raise the shield of legislative privilege they had previously left on the field of battle. They should be accorded no such protection when they have so clearly waived it.

### **IV. This court need not wait on the *City of Fayetteville* case**

As stated previously, the *City of Fayetteville* case the Attorney General would have this matter put aside for is unlike the Ecclesia fraud. *City of Fayetteville* involves a challenge to a

city ordinance which may be in conflict with a legislative act. The City sought the depositions of two legislators, Sen. Hester and Rep. Ballinger, who promulgated the particular legislation. The Attorney General objected on their behalf, asserting legislative privilege. That case is fundamentally different than the instant matter.

The constitutionality or merits of GIF legislation is not at issue here. Rather, the fraudulent actions of Ecclesia in acquiring GIF money are the issue, and as stated previously, the deponents are witnesses to those fraudulent acts, having been duped by Ecclesia.

#### **IV. There is no basis for further delay**

The Attorney General claims scheduling conflicts in her motion to quash. However, there are over forty attorneys in her office, all presumably qualified to make objections at a deposition and preserve the record. This case need not be delayed further for any particular deputy attorney general. Likewise, Mr. Dotson's vague claims of family obligations should not be given credence as there is no specificity. Perhaps most telling is that neither the Attorney General or the proposed deponents have offered alternative dates for their depositions. Rather, they seek only to delay until some indefinite period in the future.

#### **V. Options of the Court**


The Court has several options beyond simply granting or denying the Motion to Quash herein. It can, as occurred in *Gravel*, fashion an order limiting questions by Plaintiff to those which do not address the actual legislative process of apportioning GIF funds. Alternatively, it can order the deposition remain under seal, allow Plaintiff to ask his questions and the Attorney General to make an objection but the deponents answer, then consider the objections *in camera* before releasing the depositions. Or it can be present during the deposition and rule contemporaneously on the Attorney General's objections. However, a blanket denial of any



questioning of the proposed deponents into the fraud of Ecclesia constitutes an extension of legislative privilege far beyond legitimate legislative activity.

For the foregoing reasons, the Motion to Quash by the deponents should be DENIED.

Respectfully Submitted,  
JAMES PARSONS, Plaintiff



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**NOTICE: Service of any documents by e-mail will not be received by counsel for the Plaintiff unless copied to [pam@mccutchenlawfirm.com](mailto:pam@mccutchenlawfirm.com)**

### **CERTIFICATE OF SERVICE**

I, Matt Bishop, certify that I have served a true and correct copy of the above and foregoing by sending an electronic copy by facsimile or email and/or by first class mail, postage prepaid, on this 25th day of October, 2018:

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Matt Bishop



**Charlie Collins** @CollinsARK · May 4

What I saw in Ecclesia was a unique educational option for people in our area. When I attended a seminar there (David Barton) I met students, etc who seemed very satisfied. The leader seemed committed to the mission & students. Based on his guilty plea, I was wrong about him.

**Dustin Seaton** @DustinSeaton

@CollinsARK in all seriousness, I would like you to give us (your constituents) a good reason for why you directed public \$\$ to a private, religious college outside our district. It may have been innocent, but I still believe we deserve an answer in light of today's ruling #arpx



6





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## Arkansas cafe, college go on but shine dimmer after 2 leaders' guilty pleas

by [Dan Holtmeyer](#) | September 9, 2018 at 5:00 a.m.

6 COMMENTS

2



EXHIBIT

tabbles

2

NWA Democrat-Gazette/SPENCER TIREY Arkansas taxpayers can make a good case for reclaiming state grants to Ecclesia College obtained through kickbacks, according to a University of Arkansas School of Law professor. A lawyer for Ecclesia disagrees.

**SPRINGDALE --** Two longstanding family establishments might outlast the public corruption scandal that brought convictions of their current or former leaders.

Micah Neal, a former state representative and fourth generation in his family to help run Neal's Cafe, is set to be sentenced Thursday in U.S. District Court after he pleaded guilty to conspiracy last year for taking part in a bribery scheme involving hundreds of thousands of dollars in state grants.

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Oren Paris III, former president of Ecclesia College and son of its founder, is scheduled to be sentenced Wednesday for his guilty plea for fraud earlier this year in the same investigation.

Both institutions remain open for business, and some locals brushed off the scandal's shadow. Others said their recovery could take more time.

### **The restaurant**

Neal's, painted bright pink and almost 75 years old, has long been a community artery, a gathering place to check the area's political and social pulse. That hasn't changed, said Rex Bailey, a former Republican Washington County justice of the peace from Springdale.

"All the politicians still go in," Bailey said, adding he'll always like the food, atmosphere and friendly wait staff. "What went on doesn't have anything to do with Neal's Cafe, and nothing that happened will keep me from going there."

A spokeswoman for 3rd District Rep. Steve Womack, R-Rogers, joked by email Womack hasn't found a way to get the restaurant's apple salad to Washington, D.C., without it spoiling.

"But he would continue to visit Neal's Cafe frequently to get his regular order of chicken fried steak and apple salad and support this local family-owned business even if he had," spokeswoman Claire Burghoff wrote.

The topic seems difficult though. Requests for comment on the restaurant from several local officials and other residents weren't returned or were declined last week. Neal wouldn't comment for this story. In his testimony, Neal said he accepted an \$18,000 kickback in two envelopes filled with \$100 bills behind the cafe.

He pleaded guilty to taking \$38,000 in kickbacks as rewards for steering \$50,000 in state General Improvement Funds money to Ecclesia and \$125,000 to a workforce training nonprofit.

He also cooperated in the investigations of Randell Shelton Jr. and former state Sen. Jon Woods, who were also convicted in the scheme. Woods and Shelton were connected to several hundred thousand dollars of the Improvement Fund given at Woods' direction. The pair's lawyers have said they'll appeal the convictions.

"It raises a bad taste in the mouth, that's for sure," said Tom Embach, a Mountain Home developer who stops by Neal's for a meal every time he comes into town. He still stops by, including last Thursday, and

said the food was just as good but the restaurant seemed less busy than before.

"I'm sure it's a crushing thing that happened to the family," Embach added.

In court testimony from 2016, Neal said his father was nearing retirement and had said for a while Neal should choose between staying in politics or running the restaurant. He was a Washington County justice of the peace before joining the Legislature and began a run for Washington County judge before withdrawing in 2016.

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"It's a 72-year-old business," Neal said, according to a court transcript. "It wasn't a hard choice."

## The school

Ecclesia as an organization hasn't been accused of wrongdoing, but Paris resigned as president before his guilty plea. The private religious school received roughly \$700,000 in state grants in the past several years at the direction of several state legislators, the lion's share of it at the behest of Neal and Woods.

Investigators say Paris arranged for some of the grant money to flow back to Neal and Woods. Paris pleaded guilty, but the conditional plea allows him to appeal and perhaps void his conviction. His attorney, Travis Story, didn't respond to an email last week requesting comment.

U.S. District Judge Timothy L. Brooks sentenced Shelton and Woods last week to prison time and more than \$2 million combined in restitution, saying the amount was partly to pay back the grants touched by their scheme.

Denise Garner, a Democrat running against Rep. Charlie Collins in Fayetteville, said the school should give back the grants, at least those that came from legislators whose districts don't include the school, such as Collins.

"If this is truly a college that wants to be a reputable education system, they should do the right thing, I think," she said Friday.

Story, the college's attorney, has said its grant applications were accurate, and the grants were spent on land as intended. Collins pointed to Brooks' restitution orders as enough for now, unless new information comes out.

"The judge has said that the people that took the money have to pay back the money," he said.

Such discussions are a sharp turn for Ecclesia, which Oren Paris II helped found in 1975 to offer biblical and Christian ministry training. It earned accreditation from the Association for Biblical Higher Education in 2005 and since then began offering athletic programs and some secular degrees.

Before his death in 2012, the elder Paris worked in ministries and churches around the country and said his family had been passionate about gospel teachings since his grandfather's time.

"My kids always grew up thinking that they were part of this ministry," he told the *Arkansas Democrat-Gazette* in 1999. He added: "Once we commit, we will never turn back; that's the end of it."

The college's board last spring said its members continue to believe the younger Paris is innocent, but sees the conditional plea as the best option. The school has nonetheless faced its own consequences from the case.

The U.S. Department of Education has barred it from receiving federal student aid payments in advance, for example. It must instead cover financial aid on its own and be reimbursed by the government after the fact.

Ecclesia officials have also said in court testimony the school has struggled with fundraising and other operations during the investigation. A Walton Family Foundation official this year testified he doubted the school's economic viability after a visit in 2013.

A local investment firm last month filed a foreclosure lawsuit against Ecclesia seeking \$1.9 million to repay loans naming around 200 acres of Ecclesia-owned land as collateral. Unnamed friends of the college and a local bank refinanced those loans, resolving the lawsuit, according to the college.

Enrollment has held steady, reaching 215 online and traditional students this fall, Angie Snyder, the younger Paris's sister and Ecclesia's communications director, said in an email. That's about the same number as in 2013, when Paris predicted the school's enrollment would soon skyrocket and fill the west Springdale campus' facilities.

"We've been through a rough patch, but I believe that we're coming through it and we'll survive it, that we'll come out stronger than before," said Randall Bell, Ecclesia's new president. "The reality is Ecclesia is filled with wonderful people, very dedicated people, well-qualified people who are serving at a sacrifice."

### **Support and disappointment**

Bell has worked for several national higher-education accreditation organizations and said he joined Ecclesia partly because he lived in Northwest Arkansas before and has two grown sons here. But he also thinks the school fills an important niche -- more religious than the University of Arkansas, more affordable than John Brown University.

Devyn Romine, a senior and student body president at Ecclesia, said the school's facilities aren't as big or fancy as a university's, but he was drawn to its work-learning approach, which provides jobs for students to defray their costs, and the chance to get involved in the community with blood and food drives and other events. He said his work experience gives him an edge in finding a career.

"I love this place," Romine said. He added of the kickback investigation: "When I look at that, that has nothing to do with the school. The school is thriving better than it has."

Pete McCollough, a junior from the Fort Smith area, said he wanted a small school with a Christian focus to study psychology and counseling. The Paris case lowered morale on campus in some ways, he said, with some students taking their jobs less seriously, for example. But he thinks the entire saga shows the institution is struggling and growing.

"I know it's a good school," McCollough said, pointing to instructors who know him and care about him. "It's such a unique and special experience."

Others in the area said they're waiting for the same confidence. State Rep. Jim Dotson, R-Bentonville, said he knew the Parises and completed missionary training at Ecclesia's campus in the Youth With A Mission organization, which was also begun by the Paris family.

"I'm severely disappointed in the things that have happened in the last few years there," said Dotson, who directed a \$13,500 GIF grant to the school. "Obviously the reputation of what could have been a very good thing has been severely damaged. Where it goes from here, I don't know."

Dolores Stamps, a Springdale insurance agent, said she was a member of an advisory council for the school around 2010, which worked to raise money, buy furniture for dorm rooms and encourage local students to apply.

She joined out of friendship to the elder Paris, whom she remembers as a generous, charismatic man and fellow member of Kiwanis International, and to support the school's work-learning model. Without it, debt can be like a tornado students can't escape, she said.

Stamps said she has driven up to Ecclesia a couple times to confront the younger Paris. She hasn't had the nerve to get out of the car.

"I hope the school can push on with new leadership," she said.

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## Lawmakers like Springdale college's approach

by [Doug Thompson](#) | January 29, 2017 at 1:09 a.m.

1 COMMENT

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Ten current or former legislators directed state grants to Ecclesia College from 2013 through March 2015 totaling \$617,500.

The figure doesn't include \$100,000 the college received where records are unclear who gave the money.

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Former state Sen. Jon Woods, R-Springdale, directed \$350,000 and former state Rep. Micah Neal, R-Springdale, directed \$50,000 to the college. Both former legislators declined to comment for this story.

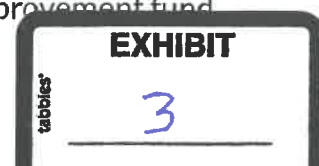
The others interviewed said they liked the Christian college's work-learn approach and were glad to help it financially.

Rep. Stephen Meeks, R-Greenbrier, directed \$25,000 to Ecclesia for matching money for a federal student aid grant. Greenbrier in Faulkner County is 117 miles from Ecclesia.

"It's not unusual to get requests for General Improvement Funds from outside your district," he said. "It happens to me every day. Basically, I had visited the college before and support their mission."

Randy Alexander of Rogers was a state House member in 2013 and 2014, while he lived in Springdale. He directed \$26,500 to the school.

Sen. Bart Hester, R-Cave Springs, was one of the college's largest contributors of improvement fund money in 2013 to 2014 at \$60,000, but the college is in his Senate district.



"It's a very conservative school, and there's lots of conservative legislators. When I first got to the Senate, I was told the money needed to either go to municipalities or other government bodies or to nonprofit organizations. Ecclesia fit the criteria and is a worthy project," he said.

State Sen. Cecile Bledsoe, R-Rogers, also directed \$60,000 to the college. Bledsoe is a native of Georgia, where the work study college concept is better established and she believes Arkansas needs that alternative.

"That would be a niche that we needed to fill," she said. "It keeps people out of debt."

Former state Rep. Debra Hobbs of Rogers gave \$10,000 to the college, giving similar reasons as Bledsoe.

Rep. Jim Dotson, R-Bentonville, is an alumnus of Ecclesia College who directed \$13,500 to it.

Rep. Charlie Collins, R-Fayetteville, who gave the school \$14,000, noted Springdale was a major part of his House district when he was first elected. He became familiar with the college and many of its supporters during his first term.

Rep. Bob Ballinger, R-Hindsville, gave the school \$8,500. The school is outside his district, but in the region and draws students who are his constituents, he said.

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"My feeling and sense is the college got wrapped up in something it had nothing to do with," he said.

NW News on 01/29/2017

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GIF-ted college

## Ecclesia uses state money to buy land

by [Christie Swanson](#) | January 29, 2017 at 1:10 a.m.

0 COMMENTS

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Ecclesia, a private Christian college, has been buying many parcels of land over the past several years for expansion. Ecclesia said in its grant applications it needed the land for student housing to accommodate rapid growth, but Springdale's Building Department shows no new buildings or structural renovation have occurred on the properties.

Arkansas legislators gave nearly \$700,000 of taxpayers' money to help Ecclesia College buy almost 50 acres although it already owned more than 200 acres, according to state and county records.

EXHIBIT

4



Photo by NWA Democrat-Gazette/CHRIS SWINDLE

Ecclesia land purchases.

The private Christian college in Springdale used state General Improvement Fund grants to help buy two proprieties in 2013, both for well over their county-appraised value, Benton County records show.

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### Fast facts

- Ecclesia College is a work-learning college, which allows students to earn money toward tuition and graduate with much less debt than the average university student, according to the school website.
- It offers three associate of arts degrees, 12 bachelor degrees and one graduate degree.
- The school was founded in 1975.
- Ecclesia is accredited with The Association for Biblical Higher Education and a member of the National Association of Independent Colleges and Universities.
- The college is one entity operating under Ecclesia Inc. The Arkansas Secretary of State's office also lists Auvisa, Bibles for the Nations, Carry the Light, Ecclesia Children's Ministries, Ecclesia Relief and Development, Elm Springs Bible School, Elm Springs Christian School, International Missions Network Center, Living Alternatives, Strategic Mission Network, Strategic Mission Network for Strategic Nations and Youth with a Mission as names used by Ecclesia Inc.

Source: Staff report

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Ecclesia said in its grant applications it needed the land for student housing to accommodate rapid growth in its fall 2013 and fall 2014 enrollments, but the Springdale building department shows no new buildings or structural renovation have occurred on the properties.

Nine Northwest Arkansas legislators requested \$592,500 for the school. Former state Sen. Jon Woods, R-Springdale, directed the most -- more than \$350,000.

Another \$100,000 from the fund to Ecclesia came through the West Central Arkansas Planning and Development District in Hot Springs. The only documents from legislators provided by that district in support of the grants came from Woods.

Ecclesia's purchase of almost 50 acres with taxpayer money entered the spotlight after former state Rep. Micah Neal, R-Springdale, pleaded guilty earlier this month to taking a pair of kickbacks worth \$38,000 for helping two entities receive improvement fund grants.

Ecclesia wasn't directly named in the federal court documents, but Neal's plea agreement says he requested a \$50,000 grant be given to a private college in Springdale and an unnamed senator would request \$150,000 for the school. The only grant Neal directed for \$50,000 to a private college was for Ecclesia, according to records from the Northwest Arkansas Economic Development District, which administers the fund. His grant was awarded Dec. 18, 2014, a day after Woods directed a \$150,000 grant to Ecclesia, according to the records.

Woods also directed \$200,000 to Ecclesia on Sept. 27, 2013.

A federal subpoena to the Northwest Arkansas district received Oct. 23, 2015, requested "all documentation related to any General Improvement Fund disbursements" related to: Ecclesia College,

Owen Paris III, Woods and Randell Shelton. The subpoena didn't mention Neal or give any contact information for Shelton. Owen Paris III is the college's president and son of its founder.

Woods has declined requests for comment since Neal's Jan. 4 plea. Neal directed all questions since his guilty plea to his attorney, Shane Wilkinson of Bentonville. Wilkinson said Thursday he would have no comment.

Paris also declined to comment. He didn't respond to four messages, an in-person request at the college or an email. A Facebook post attributed to him says he can "assure you that neither I nor anyone associated with Ecclesia College has ever participated or engaged in any activity to provide money to Mr. Neal or any other legislator in exchange for the receipt of those funds."

He also stated "every effort was made to comply with every aspect of the law as we understood it."

The General Improvement Fund is made up of unallocated state tax money at the end of each fiscal year and interest earned on state deposits. Each legislator is given a share and can earmark where he or she wants it to go as long as it goes to a nonprofit group or government entity. The money is administered through one of the state's eight economic development districts.

General Improvement Fund agreements say the grants are to be used to "assist local public governmental jurisdictions and/or non-profit organizations to plan, develop, promote and/or implement economic and community development projects/activities designed to improve the economic, community and/or social well-being of the citizens of Arkansas."

### **The first purchase**

Ecclesia's grant applications in 2013 and 2014 say the money was needed to buy two parcels of land, 48.5 acres total, in Springdale between Elm Springs and Cave Springs, about 1.5 miles from the Ecclesia campus.

Ecclesia Inc. already owned 202 acres -- 155 in Benton County and another 47 in Washington County -- when it made its first request, according to county property records. Much of the land it owned is undeveloped, but houses and other buildings dot the 41 parcels. Ecclesia also purchased two smaller lots in 2013, adding another 3.5 acres. Property records show the college owns 254 acres.

The first grants Ecclesia received were for a 23-acre acquisition, student residence space and campus expansion, according to grant applications Paris filed with the Northwest Arkansas Economic Development District and two other development districts.

The northwest district awarded four grants totaling \$242,500 in September 2013; the West Central Planning and Development District in Hot Springs awarded one grant valued at \$50,000 in November 2013.

Grant closeout documents Ecclesia submitted to the West Central district include a warranty deed and other closing documents identifying the property it purchased with the money as 3870 Als Drive in Springdale.

Benton County property records show the college purchased 3870 Als Drive on Dec. 2, 2013, for \$675,000 from James and Patricia Hollingsworth. Paris says in an August 2013 application and again in a 2014 email to the development districts the cost of the 23-acre property is \$565,000.

The property includes a 3,186-square-foot home.

The county appraised the land and home in 2016 at \$204,600. It appraised for \$174,450 when it was sold in 2013, said John Williams, Benton County appraiser supervisor. He said the majority of the land is classified agricultural, which typically has a lower valuation than what it could sell for in a competitive market. Those valuations are set by the state.

Realtor.com last week gave the property a \$461,926 value and Zillow, an online real estate firm, estimated its value at \$311,543.

Kathy Deck, director of the Center for Business and Economic Research at the University of Arkansas, said there are many reasons someone might pay more than market value for property, such as sentimental value, planned use, taxes or proximity to other property.

"That's why we look at the overall market," she said. "Property values change."

The Northwest Arkansas district awarded an additional \$150,000 grant and the west central district gave another \$50,000 award between January and September 2014 for the Als Drive property.

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### **The second property**

Ecclesia's second request for grants from the northwest district asked for \$200,000 on Dec. 5, 2014, "to purchase a 25.5-acre parcel of land with an existing student residence hall and shop facility adjacent to the existing Ecclesia College."

The only 25.5-acre parcel Ecclesia Inc. owns is at 4095 Arkansas 112. The college purchased the property Nov. 7, 2013 for \$500,000, more than a year before it requested the grant money.

The next closest parcel is land Ecclesia has owned since the 1970s.

The grant agreement says the money is for "improvements," but the application says it is for "acquisition" of property.



Neal contributed \$50,000 and Woods \$150,000 in mid-December 2014. These are the only two General Improvement Fund grants the college received for the second piece of property.

The property includes a 2,556-square-foot home, a shop and a barn.

The county appraised the property at \$352,850 when it sold and \$267,150 in 2016, Williams said. He said it appears the appraisal went down because some poultry houses were changed to a storage area.

Realtor.com gave it a recent value of \$380,196 and Zillow at \$230,557.

## Student Housing

Several of Paris' grant requests for the properties say they are "critically needed space" for incoming resident students. In an email dated Dec. 11, 2014, seeking the second round of grants, Paris says the school has had "rapid growth in size of our student body over the past ten years since receiving accreditation, and we are now facing a potential crisis beginning in fall of 2015 with an anticipated record enrollment that will require additional housing and classroom facilities."

Paris didn't respond to a request for enrollment numbers or how many students live on campus, but Angie Snyder, Ecclesia's director of communications, said in a March *Northwest Arkansas Democrat-Gazette* report half of the college's 183 students are enrolled through distance learning.

The school bought three parcels adjacent to the campus across Robbins Road totaling 78 acres in 1997 and 1998 for \$664,000. Most of the land is undeveloped; one lot contains 19 recreational vehicle spaces and a lodge.

Paris wrote in the December 2014 email the school plans to buy four large homes near campus, and each home would be renovated and converted into residence halls.

"The first of the four housing renovations is nearing completion as we look toward the upcoming fall semester," Paris wrote.

Paris didn't respond to a question asking about any new residential projects on campus.

There's no indication of residential developments being built on campus or on the two properties named in the grants.

The only permit the Springdale Building Department has on file for either property is one for electrical work in 2013 for the Als Drive property. The college hasn't asked for permits for new construction or structural renovation for either site, according to department records.

Mike Chamlee, chief building official, said the college wouldn't need any permits for work strictly cosmetic, such as painting walls or replacing sinks. He said permits are required if changes are structural, such as removing walls or moving plumbing.



Williams confirmed as of December, there were no building permits that would impact the Benton County appraisal of either property.

## Grant Support

Several of the current and former legislators who directed money to Ecclesia said they did so because they support the college's mission.

"I believe in what they're doing, and agreed to support it after touring their campus," said Randy Alexander of Rogers. He was a state House member in 2013 and 2014 while he lived in Springdale. He directed two grants worth \$26,500 to Ecclesia.

He was an outspoken critic of General Improvement Funds when he was a legislator and supported legislation to do away with the fund. Still, disposing of his share of the money remained part of his duties as a legislator.

Alexander also said he has known Paris for years and trusts his leadership.

Rep. Jim Dotson, R-Bentonville, is an alumnus of Ecclesia College. He directed \$13,500 to the college, saying he believes the college is a worthy project that fit the criteria of a nonprofit enterprise.

Several legislators said they were told the college wanted to buy land, but added Paris and college supporters mentioned other needs as well.

Rep. Charlie Collins, R-Fayetteville, directed two grants worth \$14,000 to the college. He said he became familiar with the college and many of its supporters during his first term in the House.

"They're a good place with a good mission," Collins said of Ecclesia.

*NW News on 01/29/2017*

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## Governor asks state to sue Arkansas college for return of kickback-tainted grants

by [Doug Thompson](#) | September 14, 2018 at 4:30 a.m.

5 COMMENTS

4



Ecclesia College, shown in this file photo, is a private Christian college in Springdale.

The Department of Finance and Administration has asked state Attorney General Leslie Rutledge's office to sue Ecclesia College to reclaim at least \$600,000 of kickback-tainted grants the college received from the General Improvement Fund.

"It appears that a significant portion, if not all, of these funds were procured in coordination with criminal activity that has been and is being prosecuted by the United States attorney's office," Larry Walther, director of the state's department of finance and administration, wrote to Deputy Attorney General Monty Baugh in a letter dated Sept. 7.

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The governor and Walther have followed the kickback case since it began and agreed the state should seek recovery, Gov. Asa Hutchinson's office said Thursday.

"It is clear from trial proceedings that the money sent to Ecclesia College through grants over the course of 2013 and 2014 was obtained by fraud," Hutchinson said in a statement. "This is taxpayers' money, and it is essential that we pursue the recovery of it."



Photo by handout  
Larry Walther

The *Northwest Arkansas Democrat-Gazette* acquired a copy of the letter Thursday as the last of the four defendants in the Ecclesia kickback case was being sentenced.

"With the sentencing of Micah Neal, we now have a better understanding of what is owed in restitution from the criminal defendants in this investigation," the attorney general's office said in a statement. "Attorney General Rutledge is reviewing all of the information available and plans to take appropriate action to recover any money owed to Arkansas taxpayers."

Neal was a state representative serving with then-state Sen. Jon Woods when they steered state General Improvement Fund grants to the school in 2013 and 2014. Oren Paris III, school president at the time, then passed kickbacks to Woods and Neal through Randell G. Shelton Jr., a consultant hired as a fundraiser by the college.

Woods of Springdale received an 18-year, four-month sentence to federal prison last week for his role in the kickback scheme. Neal, who is also from Springdale and who cooperated with investigators, received three years probation in his sentencing in U.S. District Court on Thursday.

Paris received a sentence of three years in prison from the same court on Wednesday. Shelton received a six-year prison sentence last week.

The governor and the Finance Department tracked the federal criminal case as it progressed, said J.R. Davis, spokesman for Hutchinson. As sentencing approached, the governor and Walther decided all the facts about the Ecclesia case had come to light and a civil suit could begin without overlapping and possibly interfering with the criminal proceedings, Davis said Thursday afternoon.

"I don't know what the theory of a case against the college could be," said Travis Story of Fayetteville, Ecclesia's attorney.

Testimony at the trial showed neither the college's governing board nor its administration outside of Paris knew of the kickbacks, he said. Further, the grant money was spent for exactly the purposes the grants were given for, he added.

"The last grant was received in early 2015, and generally there is a three-year statute of limitations on any suit you can file," Story said. "We're past that."

The three-year limit usually applies to suits brought by individuals but not by the state, said Howard Brill, a University of Arkansas law professor and former state chief justice.

The state can claim "unjust enrichment," Brill said, which is a legal principle in Arkansas law dating back to 1940.

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Proving an unjust-enrichment case has three components, said Brill, who served by appointment as Arkansas chief justice from September 2015 to December 2016. The state's suit would have to prove the college received a benefit, that there was something unjust in getting that benefit and that returning the money would be equitable. The case against the college on all three points appears strong, he said.

None of the grant money went to Paradigm, Story has said. All payments for the consulting on fundraising and planning came from another college account, he said earlier.

Federal court-ordered restitution to be collected from Woods, Paris, Neal and Shelton should compensate the state for its loss, said spokesman Charles Robbins of the U.S. attorney's office in Fayetteville. If the state launches a suit and gains compensation from the college instead, those defendants can petition to have their restitution payments reduced, he said.

U.S. Attorney Duane "Dak" Kees had said earlier in the criminal case the federal government cannot claim restitution from the college, only from the criminal defendants.

Woods and Neal not only steered \$550,000 in grants to Ecclesia directly, but the two also encouraged other lawmakers to send General Improvement money to the school. Woods also received a direct kickback for a \$100,000 grant he helped obtain from another lawmaker, according to court documents.

In all, Ecclesia College got \$715,500 in Improvement Fund grants from 2013 to early 2015, according to federal court documents and court testimony. Woods and Neal are the only two of the 10 lawmakers who steered grants to Ecclesia who were implicated in the kickback scheme.

The improvement fund contains mainly tax money left unspent at the end of the state's two-year budget cycle. The fund also includes interest earned on state accounts. After the state Supreme Court in 2006 declared the Legislature could not direct appropriations to local-level projects, lawmakers adopted the process of dispersing such funds through regional improvement districts.

On Oct. 5, 2017, the Supreme Court also declared the district distribution process unconstitutional. Walther's letter says the grant money should be returned to the state treasury and not the development districts that administered the grants because of the ruling.

"The department is acutely aware of the unique nature of this request to claw back the GIF funds paid over by the Planning and Development District to Ecclesia and does not undertake this request lightly," the letter from Walther says.

Ecclesia spent \$692,500 in state grants from 2013 through 2014 to buy land, according to the U.S. attorney's office for the Western District of Arkansas. The school either bought or paid off the loans on 48.5 acres from 2013 through 2014 with the taxpayer money. Its grant applications said the land was needed to accommodate the college's growth.

Five acres of Ecclesia's land bought with state grants has since been sold for more than twice as much per acre as the college paid, Benton County land records show. It bought 25.5 acres at 4095 Arkansas 112 in November 2013 for \$500,000. That averages \$19,608 an acre.

The college sold 5.09 acres of the same property in August 2017 for \$215,000, land records show. That averages \$42,240 an acre. The college was able to sell 20 percent of the land in that tract for 43 percent of the purchase price.

The 20.4 acres Ecclesia still owns of that tract include about 640 feet of frontage along Arkansas 112 that begins about six-tenths of a mile south of the ramp to the recently opened U.S. 412 Northern Bypass, connecting Arkansas 112 to Interstate 49.

Much of Ecclesia's land is classified as tax-exempt, land records from Benton and Washington counties show. The college owns 36.3 acres in Washington County and 202.2 acres in Benton County, according to land records. Of that 238.5 acres, 214 are exempt from property taxes, land records show.

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IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA )

v. )

OREN PARIS III )

CRIMINAL NO. 5:17CR50010-02

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1) of the Federal Rules of Criminal Procedure, the parties hereto acknowledge that they have entered into negotiations which have resulted in this Agreement. The agreement of the parties is as follows:

**COUNTS OF CONVICTION AND DISMISSAL**

1. The Defendant, OREN PARIS III, hereby agrees to plead guilty to Count Two of the Second Superseding Indictment charging the Defendant with Aiding and Abetting Honest Services Wire Fraud, in violation of 18 U.S.C. §§ 1343, 1346, and 2. If the Court accepts this Plea Agreement, once the Court has pronounced sentence, the United States will move to dismiss counts 1, 3, 5 through 16, and the Forfeiture Allegation of the Second Superseding Indictment as to this Defendant only.

**CONDITIONAL PLEA**

2. The parties agree that the Defendant's entry of a guilty plea to Count Two of the Second Superseding Indictment is made pursuant to Rule 11(a)(2) of the Federal Rules of Criminal Procedure and that the Defendant reserves his right to have an appellate court review the adverse determinations of the specified pretrial motions denied by the Court in the Court's Order (Doc. 298) identified as Defendant Paris's Motion to Dismiss (Doc. 168) and the Addendum (Doc. 254),



and the Court's Order (Doc. 154) denying Defendant Paris's Motion to Suppress (Doc. 73), to the extent that this Court's denial of Defendant's pretrial motion may be appealable. If the Defendant prevails on appeal, the Defendant shall be allowed to withdraw this plea of guilty including all admissions made herein.

**ADMISSION OF FACTUAL BASIS IN SUPPORT OF GUILTY PLEA(S)**

3. The Defendant has fully discussed with defense counsel the facts of this case and the elements of the crime to which the Defendant is pleading guilty. The Defendant has committed each of the elements of the crime(s) to which the Defendant is pleading guilty, and admits that there is a factual basis for this guilty plea to Count Two of the Second Superseding Indictment. The following facts are true and undisputed:

a. Defendant, Oren Paris III, (PARIS) was President of Entity A, a College located in Springdale, Arkansas (hereinafter "the College"), which was within the Western District of Arkansas, Fayetteville Division. The College was the only "work college" as defined by federal law in Arkansas.

b. Jonathan E. Woods (WOODS) served as a State Senator in the Arkansas Senate from January 2013 to January 2017 representing Senate District 7, which included part of Washington County in the Western District of Arkansas, Fayetteville Division. As a Senator in the Arkansas Senate, Woods had responsibility and authority to, among other things, draft and vote on proposed bills and legislation, and to appropriate government monies including funds from the State of Arkansas's General Improvement Fund (GIF).

c. Randell G. Shelton, Jr. (SHELTON) was a close friend of WOODS. SHELTON incorporated Entity B (hereinafter "the Consulting Company") as an Arkansas limited liability company on September 26, 2013. SHELTON was listed as sole member of the Consulting



Company.

d. The Northwest Arkansas Economic Development District (NWAEDD) was a non-profit corporation with offices in Harrison, Arkansas, in the Western District of Arkansas. Pursuant to Act 118 of 1969, as amended, the Arkansas General Assembly established a program for financial assistance to the NWAEDD and seven other economic development districts, with certain counties designated within each district. The NWAEDD consists of Benton, Washington, Madison, Carroll, Boone, Newton, Marion, Searcy, and Baxter counties, all of which are located in the Western District of Arkansas.

e. In 2013, the Arkansas General Assembly appropriated GIF money to the Arkansas Department of Finance and Administration (DFA) for disbursement to the NWAEDD to be used for various economic development grants to governmental entities and non-profit organizations in the State of Arkansas. Specifically, in or about February 2013, WOODS sponsored a bill in the Arkansas Senate that appropriated GIF money to the DFA in order for the DFA to issue grants up to \$2,000,000 to each Arkansas economic development district, including the NWAEDD.

f. In or about March and April 2013, WOODS voted for passage of this bill and voted for passage of two bills providing for funding for this bill.

g. In or about August 2013, as a result of the enactment of the GIF appropriation bills that WOODS and the funding bills for which WOODS voted in favor, the NWAEDD received a wire transfer of GIF money from the DFA. This GIF money was deposited in the NWAEDD's Arvest Bank account ending in 8611.

h. At all times relevant to the Second Superseding Indictment, legislators, in effect and in practice, exerted substantial control and authority over a set amount of GIF monies

that they had appropriated for disbursement to the economic development districts. WOODS, as state legislator, exerted substantial control and authority over a specific amount of NWAEDD GIF monies, and was allowed to direct and approve which eligible organizations would receive these GIF monies and in what amounts. Upon receiving the GIF monies appropriated by the Arkansas General Assembly in 2013, the NWAEDD created spreadsheets whereby the NWAEDD tracked and accounted for the GIF monies appropriated by Woods and other legislators and which contained as a beginning balance the amount of GIF money that each legislator controlled. As GIF money was awarded at the direction of WOODS and other legislators, the NWAEDD would deduct that money from the total on their spreadsheets.

i. PARIS, as president and on behalf of the College, knowingly obtained GIF money for the College under materially false and fraudulent pretenses by paying WOODS, through SHELTON's Consulting Company, in exchange for WOODS utilizing his official position and authority as an Arkansas State Senator to direct said GIF to the College.

j. PARIS agrees and stipulates that he knowingly and intentionally engaged in a scheme to defraud the citizens of the state of Arkansas of the honest services of Arkansas state Senator WOODS by causing the College to make payments to SHELTON's Consulting Company in exchange for WOODS taking official actions and using his official position to appropriate and direct GIF money to the College, and that the scheme to defraud involved the use of interstate wire communications including emails and wire transfer of funds.

k. Specifically, as charged in Count Two of the Second Superseding Indictment, in furtherance of the scheme to defraud, on or about August 19, 2013, WOODS forwarded an email from PARIS to the NWAEDD. Attached to said email, was a GIF application sponsored by WOODS, requesting a \$200,000 GIF grant. This GIF grant request was submitted to

and approved by the NWAEDD board based upon WOODS's request in his official capacity as an Arkansas State Senator, that the funds be awarded to the College, which resulted in the payment of \$200,000 in GIF grant funds to the College. The email from PARIS to WOODS and from WOODS to the NWAEDD, utilized Google, Inc. accounts, which required that this email traveled from the College located in the Western District of Arkansas, to Google, Inc. servers located outside the State of Arkansas, to the NWAEDD located in the Western District of Arkansas, and thus, was a wire communication in interstate commerce. In exchange for the official action taken by WOODS in obtaining the \$200,000 GIF grant, PARIS caused the College to pay SHELTON's Consulting Company \$50,000, knowing and intending that at least a portion of that money would be paid to WOODS. SHELTON subsequently transferred to WOODS \$40,000 of the \$50,000 received by SHELTON from the College.

1. The preceding summary is made for the purpose of providing the Court with a factual basis for PARIS's guilty plea. The facts set forth in this summary are supported by witness statements, emails, text messages, bank records, and other documentary evidence. The preceding summary does not include all of the facts known to PARIS concerning criminal activity in which he or others engaged, nor does it contain all of the facts that the Government could prove in a trial against PARIS.

#### **ADVICE OF RIGHTS**

4. The Defendant hereby acknowledges that he has been advised of and fully understands the following constitutional and statutory rights:

- a. to have an attorney and if the Defendant cannot afford an attorney, to have one provided to him and paid for at the United States' expense;
- b. to persist in his plea of not guilty;
- c. to have a speedy and public trial by jury;
- d. to be presumed innocent until proven guilty beyond a reasonable doubt;
- e. to confront and examine witnesses who testify against him;

- f. to call witnesses on his behalf;
- g. to choose to testify or not testify and that no one could force the Defendant to testify; and;
- h. to have at least 30 days to prepare for trial.

#### **WAIVER OF RIGHTS**

5. The Defendant hereby acknowledges that he understands with respect to Count Two of the Second Superseding Indictment to which he pleads guilty, he thereby WAIVES all of the rights listed as (b) through (h) of the above paragraph.

#### **WAIVER OF ACCESS TO RECORDS**

6. The Defendant hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

#### **WAIVER OF "HYDE" CLAIM**

7. The Defendant hereby waives any claim under the Hyde Amendment, 18 U.S.C. § 3006A (Statutory Note), for attorney fees and other litigation expenses arising out of the investigation or prosecution of this matter.

#### **EFFECTS OF BREACH OF THIS AGREEMENT BY DEFENDANT**

8. The Defendant agrees that if after signing this Plea Agreement the Defendant commits any crimes, violates any conditions of release, or fails to appear for sentencing, or if the Defendant provides information to the Probation Office or the Court that is intentionally misleading, intentionally incomplete, or intentionally untruthful, or if the Defendant violates any term of this Plea Agreement, takes a position at sentencing which is contrary to the terms of this Plea Agreement or attempts to withdraw from this Plea Agreement, this shall constitute a breach

of this Plea Agreement which shall release the United States from any and all restrictions or obligations placed upon it under the terms of this agreement and the United States shall be free to reinstate dismissed charges or pursue additional charges against the Defendant. The Defendant shall, however, remain bound by the terms of the agreement, and will not be allowed to withdraw this plea of guilty unless permitted to do so by the Court.

9. The Defendant further agrees that a breach of any provisions of this Plea Agreement shall operate as a WAIVER of Defendant's rights under Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence and the United States shall be allowed to use and to introduce into evidence any one or more of the following:

- a. admissions against interest, both oral and written, made by the Defendant to any person;
- b. statements made by the Defendant during his change of plea hearing;
- c. the factual basis set forth in the Plea Agreement;
- d. any testimony given under oath in these proceedings or to a grand jury or a petit jury;
- e. any and all physical evidence of any kind which the Defendant has provided to the United States; and,
- f. any and all information provided by the Defendant to the United States' attorneys, or to federal, state, county, and/or local law enforcement officers.

#### **MAXIMUM PENALTIES**

10. The Defendant hereby acknowledges that he has been advised of the maximum penalties for the count to which he is pleading guilty. By entering a plea of guilty to Count 2 of the Second Superseding Indictment, the Defendant agrees that he faces:

- a. a maximum term of imprisonment for 20 years;
- b. a maximum fine of \$250,000.00;
- c. both imprisonment and fine;
- d. a term of supervised release, up to three years, which begins after release from prison;
- e. a possibility of going back to prison if the Defendant violates the conditions of supervised release;
- f. a special assessment of \$100.00; and,
- g. restitution as ordered by the Court.

### **CONDITIONS OF SUPERVISED RELEASE**

11. The Defendant acknowledges that if a term of supervised release is imposed as part of the sentence, the Defendant will be subject to the standard conditions of supervised release as recommended by the United States Sentencing Commission and may be subject to other special conditions of supervised release as determined by the Court. The standard conditions of supervised release are as follows:

- a. The Defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the Defendant to report to a different probation office or within a different time frame.
- b. After initially reporting to the probation office, the Defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the Defendant shall report to the probation officer as instructed.
- c. The Defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
- d. The Defendant shall answer truthfully the questions asked by the probation officer.
- e. The Defendant shall live at a place approved by the probation officer. If the Defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the Defendant lives with), the Defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the Defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
- f. The Defendant shall allow the probation officer to visit the Defendant at any time at his or her home or elsewhere, and the Defendant shall permit the probation officer to take any items prohibited by the conditions of the Defendant's supervision that he or she observes in plain view.
- g. The Defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the Defendant does not have full-time employment he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the Defendant plans to change where the Defendant works or anything about his or her work (such as the position or the job responsibilities), the Defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the Defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.



- h. The Defendant shall not communicate or interact with someone the Defendant knows is engaged in criminal activity. If the Defendant knows someone has been convicted of a felony, the Defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- i. If the Defendant is arrested or questioned by a law enforcement officer, the Defendant shall notify the probation officer within 72 hours.
- j. The Defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person, such as nunchakus or Tasers).
- k. The Defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- l. If the probation officer determines that the Defendant poses a risk to another person (including an organization), the probation officer may require the Defendant to notify the person about the risk and the Defendant shall comply with that instruction. The probation officer may contact the person and confirm that the Defendant has notified the person about the risk.
- m. The Defendant shall follow the instructions of the probation officer related to the conditions of supervision.

### **RESTITUTION**

12. The Defendant agrees to pay full restitution to all victims of the offense to which the Defendant is pleading guilty, to all victims of any offense(s) dismissed as a result of this Plea Agreement. The Defendant acknowledges and agrees that all restitution as agreed to above shall be governed by the provisions of the Mandatory Victims Restitution Act, 18 U.S.C. § 3663A. The Defendant understands full restitution will be ordered regardless of Defendant's financial resources. The Defendant further understands the restitution will be determined by the Court. The Defendant agrees to cooperate in efforts to collect the restitution obligation, by any means the United States deems appropriate and agrees to waive any defense or objections to any action to enforce the collection of the restitution. The Defendant understands imposition or payment of restitution will not restrict or preclude the filing of any civil suit or administrative action. The Defendant acknowledges that any restitution imposed is not dischargeable in any bankruptcy proceeding pursuant to 18 U.S.C. § 3613(e).

### **AGREEMENT TO PROVIDE FINANCIAL INFORMATION**

13. The Defendant agrees that no later than thirty (30) days after the change of plea, the Defendant shall complete the financial disclosure statement and the accompanying releases provided by the United States Attorney's Office and deliver them to the United States Probation Office and the United States Attorney's Office. This financial disclosure statement is sworn by the Defendant to be true and correct under penalty of perjury. The Defendant agrees that his failure to truthfully and fully complete the financial disclosure statement and accompanying releases may result in the government objecting to the Defendant receiving a reduction for acceptance of responsibility.

### **COOPERATION WITH THE UNITED STATES**

14. The Defendant agrees to fully, voluntarily and truthfully cooperate with the United States and disclose all information which the Defendant possesses relating to the activities set forth in the Second Superseding Indictment and all other information concerning any criminal activity which is the subject of investigation by any law enforcement agency. The Defendant's obligation of truthful and unreserved disclosure includes any obligation to provide upon request any documents, records or other tangible evidence within the Defendant's control. The Defendant agrees to testify before the grand jury and/or at any trial as requested by the United States.

### **NO OTHER CHARGES**

15. The United States agrees that no other federal charges, which stem from the activities described in the Second Superseding Indictment, will be brought against the Defendant in the Western District of Arkansas.

16. The United States agrees that no federal charges, which occurred during the timeframe set forth in the Second Superseding Indictment, will be brought against Entity A in the



Western District of Arkansas.

**SENTENCING GUIDELINES ARE ADVISORY BUT NOT MANDATORY**

17. The parties acknowledge that the Court shall consult and take into account the United States Sentencing Commission Guidelines in determining the sentence, but that the Court is not bound by the Guidelines and may sentence the Defendant to any sentence within the statutory range.

**AGREEMENT DOES NOT PROMISE A SPECIFIC SENTENCE**

18. The Defendant acknowledges that discussions have taken place concerning the possible guideline range which might be applicable to this case. The Defendant agrees that any discussions merely attempt to guess at what appears to be the correct guideline range and do not bind the District Court. Further, the Defendant acknowledges that the actual range may be greater than contemplated by the parties. In the event that the actual guideline range is greater than the parties expected, the Defendant agrees that this does not give him the right to withdraw his plea of guilty.

**RELEVANT CONDUCT CONSIDERED**

19. At the sentencing hearing, the United States will be permitted to bring to the Court's attention, and the Court will be permitted to consider, all relevant information with respect to the Defendant's background, character and conduct, including the conduct that is the subject of this investigation for which he has not been charged up to the date of this Agreement, and/or which is the basis for any of the counts which will be dismissed pursuant to this Agreement, as provided by § 1B1.3 of the Sentencing Guidelines.

### **PERJURY**

20. In the event that it is determined that the Defendant has not been truthful with the Court as to any statements made while under oath, this Plea Agreement shall not be construed to protect the Defendant from prosecution for perjury or false statement.

### **CONCESSIONS BY THE UNITED STATES**

21. The United States agrees not to object to a recommendation by the Probation Office or a ruling of the Court which awards the Defendant an appropriate-level decrease in the base offense level for acceptance of responsibility. If the offense level in the Presentence Report is 16 or greater and the Court accepts a recommendation in the Presentence Report that the Defendant receive two points for acceptance of responsibility, the United States agrees to move for an additional one-point reduction for acceptance of responsibility for a total of three points. However, the United States will not be obligated to move for an additional one-point reduction or recommend any adjustment for acceptance of responsibility if the Defendant engages in conduct inconsistent with acceptance of responsibility including, but not limited to, the following a) falsely denies, or makes a statement materially inconsistent with, the factual basis set forth in this agreement, b) falsely denies additional relevant conduct in the offense, c) is untruthful with the United States, the Court or probation officer, or d) materially breaches this Plea Agreement in any way.

22. The United States agrees to advise the Probation Office and the Court of the extent and nature of the Defendant's cooperation. The Defendant's agreement to cooperate with the United States is made pursuant to U.S.S.G. §§ 1B1.8(a) & (b). If the Defendant provides full, complete, truthful, and substantial cooperation to the United States, the United States reserving the right to make the decision on the nature and extent of the Defendant's cooperation, then the United States agrees to consider moving for a downward departure under U.S.S.G. § 5K1.1, 18 U.S.C. §

3553(e), and/or Rule 35 of the Federal Rules of Criminal Procedure. Both parties acknowledge that the District Court has the power to deny a motion for downward departure. The Defendant hereby agrees that the United States does not promise, by the terms of this agreement, to file a Section 5K1.1, 18 U.S.C. § 3553(e) or Rule 35 motion.

23. The United States agrees to recommend that the Defendant receive a sentence at the bottom of the guideline range as determined by the Court.

24. The United States agrees not to oppose the Defendant's request for release pending appeal pursuant to 18 U.S.C. § 3143, if the Court finds that the Defendant otherwise qualifies for such release.

25. The United States and the Defendant do not agree on the loss and restitution amounts. The United States recognizes that the Defendant has reserved his right to argue the loss and restitution amounts at sentencing and will not object to the Defendant receiving acceptance of responsibility based on the Defendant arguing loss and restitution amount at sentencing.

26. The United States and the Defendant do not agree on the applicability of a mitigating role pursuant to § 3B1.2. The United States recognizes that the Defendant has reserved his right to argue for a mitigating role and will not object to the Defendant receiving acceptance of responsibility based on the Defendant arguing for a mitigating role at sentencing.

27. The United States recognizes that the Defendant may argue for a variance below the guideline range as determined by the Court. The Defendant acknowledges that the United States will recommend a sentence within the guideline range without a variance. The United States agrees, however, that if the Defendant prevails with the Court on a variance, the United States will not appeal the Court's sentence.

### **UNITED STATES' RESERVATION OF RIGHTS**

28. Although the United States agrees not to object to certain findings by the Probation Office or to rulings of the Court, it reserves the right to:

- a. make all facts known to the Probation Office and to the Court;
- b. call witnesses and introduce evidence in support of the Presentence Report;
- c. contest and appeal any finding of fact or application of the Sentencing Guidelines;
- d. contest and appeal any departure from the appropriate Guideline range; and,
- e. defend all rulings of the District Court on appeal including those rulings which may be contrary to recommendations made or positions taken by the United States in this Plea Agreement which are favorable to the Defendant.

### **NO RIGHT TO WITHDRAW THE GUILTY PLEA BASED SENTENCING CONCESSIONS**

29. The United States' concessions on sentencing options are non-binding and made pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure. As a result, if the Court should reject the Defendant's requests or recommendations for certain findings of fact or applications of the Guidelines, the Defendant acknowledges that there is no right to withdraw the guilty plea.

### **DISMISSAL OF COUNTS**

30. The United States' agreement to dismiss certain counts of the Second Superseding Indictment is made pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal Procedure. As a result, if the Court should reject the United States' motion to dismiss the agreed counts of the Second Superseding Indictment, the Defendant shall be afforded the right to withdraw his plea pursuant to Rule 11(c)(5)(B) of the Federal Rules of Criminal Procedure.

### **AGREEMENT NOT BINDING ON THE COURT**

31. The parties agree that nothing in this Agreement binds the District Court to:

- a. make any specific finding of fact;
- b. make any particular application of the Sentencing Guidelines;

- c. hand down any specific sentence;
- d. accept any stipulation of the parties as contained in this Plea Agreement;  
and,
- e. accept this Plea Agreement.

32. The United States and the Defendant acknowledge that the Court has an obligation to review the Presentence Report before it accepts or rejects this Plea Agreement.

**AGREEMENT DOES NOT BIND ANY OTHER ENTITY**

33. The parties agree that this Plea Agreement does not bind any governmental entity other than the United States Attorney's Office for the Western District of Arkansas.

**SPECIAL ASSESSMENT**

34. The Defendant agrees to pay \$100.00 as the special assessment in this case.

**REPRESENTATIONS BY DEFENDANT**

35. By signing this Plea Agreement, the Defendant acknowledges that:
- a. The Defendant has read this Agreement (or has had this Agreement read to him) and has carefully reviewed every part of it with defense counsel.
  - b. The Defendant fully understands this Plea Agreement and is not under the influence of anything that could impede the Defendant's ability to fully understand this Plea Agreement.
  - c. No promises, agreements, understandings, or conditions have been made or entered into in connection with the decision to plead guilty except those set forth in this Plea Agreement.
  - d. The Defendant is satisfied with the legal services provided by defense counsel in connection with this Plea Agreement and matters related to it.
  - e. The Defendant has entered into this Plea Agreement freely, voluntarily, and without reservation and the Defendant's desire to enter a plea of guilty is not the result of threats or coercion directed at the Defendant or anyone connected with the Defendant.

**REPRESENTATIONS BY DEFENSE COUNSEL**

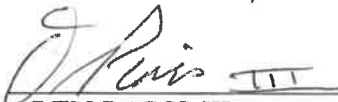
36. By signing this Plea Agreement, counsel for the Defendant acknowledges that:
- a. Counsel has carefully reviewed every part of this Agreement with the Defendant and this Agreement accurately and completely sets forth the entire agreement between the United States and the Defendant.

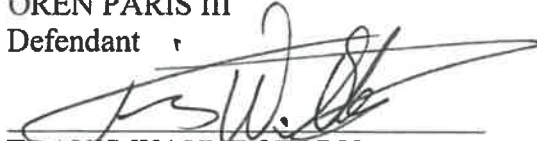
- b. Counsel has explained the ramifications of the Plea Agreement to the Defendant, and believes that the Defendant understands this Plea Agreement, what rights are being lost by pleading guilty, and what the United States has agreed to do in exchange for the plea of guilty.
- c. Counsel believes that the Defendant's decision to enter into this Agreement is an informed and voluntary one.

**PLEA AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT**


37. The Defendant and his attorney both acknowledge that this Plea Agreement constitutes the entire agreement of the parties. Further, all parties agree that there are no oral agreements or promises which have been made to induce the Defendant to change his plea to guilty.

Dated this 4<sup>th</sup> day of April, 2018

  
OREN PARIS III  
Defendant


  
TRAVIS WAYNE STORY  
Attorney for Defendant

DUANE (DAK) KEES  
UNITED STATES ATTORNEY

  
Arkansas Bar No. 2000111  
414 Parker Avenue  
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ANNALOU TIROL  
Acting Chief, Public Integrity Section

By:

  
SEAN F. MULRYNE  
Trial Attorney  
United States Department of Justice  
Criminal Division  
Public Integrity Section