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MEMORANDUM

TO: LORI GIORGI, Chief Attorney, Public Integrity Task Force

FROM: TIMOTHY ARMISTEAD, Chief, Division of Investigation
GEORGE COTHRAN, Investigator *GMC*

DATE: 10 May 2004

RE: Report of Investigation, SLUG Elect, Case # 040964

Background

On 6 January 2004, an investigation was initiated into an allegation that was brought to the attention of this Office by a staff person of the Human Rights Commission. The allegation was that workers of a local private non-profit agency named the San Francisco League of Urban Gardeners (commonly called "SLUG") were directed by supervisors and by the executive director of SLUG to campaign and vote for Gavin Newsom in the election for mayor of San Francisco in November and December of 2003. (The general election was on 4 November; the runoff was on 9 December.) According to the allegation, the activities occurred on normal work time, and most of the SLUG workers involved had intended to vote for Matt Gonzalez for Mayor, not Gavin Newsom.

If true, the alleged activities could violate individual SLUG workers' voting rights as well as a local ordinance prohibiting the use of contract or grant monies for political campaigning. Additionally, if true and if the activities took place while workers were being paid with City and County funds to perform the normal duties of SLUG, then the activities also could constitute a prohibited taking of public funds, potentially a violation of California penal code sections covering fraud and embezzlement. Additionally, if true, SLUG could be in jeopardy of losing its 501(c)(3) status. Finally, the alleged activities could constitute violations of both the municipal and the state elections codes. (See **Tab A** for Section 12G.1 and companion sections of the San Francisco Administrative Code, as well as for relevant sections of the municipal and state elections codes. Tab A also includes an IRS circular explaining prohibitions on political campaigning by charities and non-profits. For penal code sections of potential relevance, see generally sections 424, 484 et seq. and 504 et seq. of the California penal code.)

The investigation into this allegation regarding SLUG is complete to the extent that we feel it can be, given the limitations imposed by several difficulties:

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- a) SLUG's executive director and supervisory staff of interest have declined through counsel to be interviewed, as has SLUG's former executive director;
- b) Despite our repeated efforts verbally and in writing, SLUG has failed to cooperate fully with our document requests;
- c) Witnesses who work(ed) for SLUG in low-level capacities have declined to cooperate with the investigation, citing fear of retribution by SLUG, a claim to which we give some credence after an experience one of us had being surveilled and approached in an intimidating manner throughout most of one day in the field;
- d) We have not yet obtained documents of interest from counsel to the Newsom for Mayor campaign.

The purpose of this report is to advise you regarding investigative steps that have been undertaken specific to the original allegation of election-related activities (directed or coerced voting and campaigning for Gavin Newsom), and our findings to date in regard to just that limited issue.

For security reasons, the names of our witnesses and of the SLUG supervisors they identify as having been involved in urging or coercing them to vote and campaign for Newsom are not given in this report. Likewise, payroll and time sheet documents, as well as interview transcripts, are being held in the investigative file rather than being attached to this report. Those documents can be reviewed by appropriate officials upon request.

Investigative Steps

1) We have obtained financial documents from SLUG, from the Controller, and from the Department of Public Works which have allowed us to establish funding sources and mechanisms for SLUG, as well as allowing us to determine whether SLUG supervisors, administrators, and workers were paid City funds during the periods of time that our witnesses allegedly were performing election-related activities.

2) To date, we have identified and interviewed nine individuals who were employed by SLUG as of the November - December 2003 period. Seven of these individuals were let go by SLUG effective 31 December, one of them is still employed at SLUG as of this writing, and one of them - formerly a supervisor at SLUG - resigned from SLUG approximately a week prior to this writing. All of them worked at least several months for SLUG; many for up to a year, and the one who still is employed by SLUG has been there close to two years. The supervisor who recently resigned had worked for SLUG for nearly three years. (The group of former SLUG

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employees includes the individual who originally took the allegation of election-related activities to the HRC.)

2) We obtained payroll records and time sheets from SLUG for the November-December 2003 period, and we obtained from three former SLUG employees copies of their pay stubs for that period. We also obtained various financial records and documents pertaining to the source and disbursement of monies from city departments to SLUG, and we interviewed appropriate city financial officers in this regard.

3) We identified the executive director and all but one¹ of the supervisors of SLUG who were named by the witnesses as having participated in directing the election-related activity, and we showed photo lineups to three of the witnesses in order to confirm their verbal identifications (which often were given only as first names or nicknames).

4) We interviewed six key Gavin Newsom campaign staff, four of them paid staff and two of them volunteers. Additionally, we interviewed a consultant to the Newsom campaign who also did volunteer work on behalf of the Harris campaign.

5) After information was developed in the course of the investigation that SLUG workers may have been urged to vote for Kamala Harris for District Attorney at the same time they were urged or directed to vote for Gavin Newsom for Mayor, we interviewed District Attorney Kamala Harris's campaign manager.

6) We sought several times – so far unsuccessfully – to interview all the SLUG supervisors and the executive director. As of this writing, all but one of the SLUG supervisory staff have declined to be interviewed, as has the executive director (See letter from SLUG's attorney, **Tab B**).

7) We identified the campaign offices and polling places that SLUG workers most likely visited if their allegations were true.

8) We identified the former SLUG executive director (Mr. Mohammed Nuru, since August 2000 a deputy director of the city's Department of Public Works) who was alleged to have participated in directing – in one alleged instance, coercing -- SLUG workers in some of their campaign activities. We created a photo lineup for the witnesses in order to ensure their identification of him. We also sought to perform a voluntary, non-compelled interview of Mr. Nuru. Through counsel, Mr. Nuru declined to be interviewed.

9) We obtained records from the Department of Elections that allowed us to determine whether SLUG workers and supervisors voted in the manner that our witnesses told us they

¹ One supervisor has an extremely common name and SLUG records that are available to us at this time do not allow us to determine his identity.

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voted: using absentee ballots in the basement of City Hall during the first week of December 2003.

10) We identified and interviewed uninvolved citizens who happened to have been voting absentee in the basement of City Hall at the same time that records show SLUG workers voting there.

11) We identified and interviewed nine individuals who were known to have worked at SLUG during prior election cycles and who recounted SLUG election-related activities during those periods. We verified that these witnesses in fact did work at SLUG during the 1998 and 1999 time periods by accessing SLUG payroll records from those periods. (We have been unable to verify employment during 1997 because of our inability to obtain the records from that period.)

12) We obtained telephone records of Mohammed Nuru's city land line and cellular telephones for the period July-December 2003, and we pulled his city PC hard drive and his city Palm Pilot. Additionally, we obtained Nuru's DPW time records for the November-December 2003 period. All these tasks were accomplished with the consent and cooperation of Nuru's department head and were performed because of the alleged participation of Nuru in some of the alleged activities.

Findings

Our findings to date are broadly categorized as being of three types:

- 1) Findings pertaining to the funding of SLUG activities and the payment of its staff during those periods of time when election-related activity was alleged to have occurred.
- 2) Findings pertaining to allegations made and stories told by the nine individuals who worked for SLUG during the immediately past mayoral election of November-December 2003;
- 3) Findings pertaining to the interviews of individuals who worked for SLUG during prior election cycles, but who have not worked for SLUG during the recent past.

A) Findings pertaining to funding and payroll issues:

- 1) During all the periods of time in November and December 2003 that election-related activity is alleged to have occurred, SLUG's executive director, supervisors, and line workers were being paid through the mechanism of invoices to the Department of Public Works, which in turn reviewed SLUG's payroll records and other reimbursables and then wrote a check from

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general fund monies in its own budget. In part these monies were from DPW's own budget, and in part they were monies which were work-ordered from the budgets of MUNI Railway and the Department of Human Services. Each of the latter two departments have for some years funded SLUG activities which are particularly pertinent to their respective missions. In the case of DHS, the Temporary Employment Program (commonly, "TEP") is a part of its welfare-to-work program. In the case of MUNI Railway, it funds a ten-member SLUG cleanup crew that patrols and cleans the area of Third Street most heavily impacted by the Third Street Light Rail Project. While these departmental monies are sometimes considered to have been awarded to SLUG by way of grants, the specific funding authority for reimbursement of SLUG's activities is its contract with the City.

2) SLUG and DPW payroll records, as well as SLUG time sheets, demonstrate that if the election-related activities alleged by our witnesses did in fact occur, they occurred on days and at times of day when the affected SLUG line workers and supervisors were paid full-time wages by SLUG as if they had been performing legitimate City work.

B. Findings pertaining to the election of November-December 2003:

1) All nine SLUG witnesses, while not necessarily known to each other (three different work crews are represented by our witnesses), tell essentially similar stories about their election-related activities during the recent election cycle. While differing somewhat in details of memory and the dates of voting, the stories essentially corroborate each other.²

2) The witnesses agree that on or just prior to 2 December 2003 (one week before the runoff election of 9 December), they were instructed to be at SLUG headquarters in the late morning of 2 December for a so-called "garage meeting" of the entire organization. The one witness who at the time worked an early shift (08:00 – 17:00 hours) told us he was directed by his supervisor to go to headquarters and wait for the meeting to start at about 11:00 hours; those who worked the late shift (12:00-20:00 hours) told us they were instructed by their supervisors to report to headquarters an hour earlier than usual for an 11:00 hours garage meeting.

3) The witnesses agree that at the garage meeting, Jonathan Gomwalk, executive director of SLUG, talked about the upcoming runoff election and urged the workers to vote for Gavin Newsom for Mayor and Kamala Harris for District Attorney. According to some but not all the witnesses, the emphasis as between the two races was on Newsom for Mayor. According to

² The only qualifier to this observation is that one SLUG witness recalls possibly having participated in Gavin Newsom GOTV activity on 4 November, the day of the general election, in addition to 9 December, the day of the runoff. The others either did not clearly recall whether or not they worked the election on the fourth, or they recall that they did not. See the text at "Findings" #'s 13 and 14 for more details about SLUG campaigning on 4 November. The text that immediately follows this footnote deals only with the witnesses' recollections of their activities on 2 and 9 December.

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some witnesses, Gomwalk *directed* the workers to vote for these two candidates, while according to others, he *urged* a vote for these two candidates. Some of the witnesses stated that Gomwalk said or implied that if they failed to vote for Newsom, they would not be paid. Two witnesses stated that two slightly different messages – a "soft" one about SLUG losing funding and a "hard" one about individual workers not being paid for the day -- were given by Gomwalk at the meeting. Some witnesses agree that the "real" message – consistent with their experiences with prior SLUG practices – was given by the supervisors in more private settings, and that the message was to vote for Newsom on pain of forfeiture of pay or worse. Witnesses explained that having worked for SLUG for many months, they had learned from experience that any directive from certain supervisors would be enforced by threats of loss of pay, loss of a day's work, or termination. Two of these witnesses were entirely certain that these potential penalties were spelled out by their supervisors in the context of the orders to vote for Newsom.

4) Subsequent to the garage meeting, the witnesses agree that they were driven in SLUG vans to the Third Street headquarters of Kamala Harris's campaign, where they listened to a speech – possibly by Harris herself -- and were fed a lunch. Some but not all the witnesses agree that they were instructed to take off the vests that identified them as SLUG workers prior to attending this Harris event.

5) The witnesses stated that after their appearance at Harris's event, they were instructed to get into different vans which they referred to as "voting vans" – vans provided by various organizations to take people to the polls – and were told that they were going to be taken to City Hall to vote absentee. Some but not all the witnesses stated that various SLUG supervisors told them at or about this time of the day, that they should vote for Gavin Newsom for mayor and that after voting, they were to give their voting stubs to their SLUG supervisor to prove they voted. Others stated that these directives were given to them at the earlier "garage meeting," and still others stated that these directives were given to them while waiting in line to vote in the basement of City Hall. Some witnesses agreed that a particular supervisor, who reportedly functions as executive director Gomwalk's lead supervisor, was especially clear in instructing them to vote for Newsom and in directing them to turn over their voting stubs to him. Two of these witnesses said that this supervisor made it clear that failure to do so would result in loss of pay. All the SLUG worker witnesses except one stated that they did in fact turn over their voting stubs, as instructed, to SLUG supervisors. One witness said that he himself was not directed to vote for Newsom, but that he had heard other SLUG workers being so directed by a supervisor.

One witness additionally claimed that the lead supervisor peered over her shoulder as she voted. Per our interview with Department of Elections staff, this would have been physically possible although reportedly it was not seen by DoE staff. Additionally, according to a second SLUG worker and an uninvolved citizen who was present at the time SLUG workers voted, an African-American male was seen walking in an aisle between voting booths in such a manner that this would have been physically possible. The second SLUG worker identified this man as the lead supervisor. The booths were arranged in narrow rows, and the backs of the booths were open, not curtained.

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6) In the vans on the way to City Hall, at City Hall, and on the way back to SLUG headquarters from voting at City Hall, some of the witnesses either report complaining about being coerced by their employer into voting a certain way, or they report hearing others – including SLUG workers they accurately describe physically but do not know personally – complain about it. Additionally, a non-SLUG witness (a person who just happened to vote in proximity to the SLUG workers) characterized the appearance and body language of the SLUG workers as implying dissatisfaction or unhappiness about what they were doing. Additionally, another citizen reports having heard members of the SLUG group stating that they were going to vote "the way they were told to vote." (This witness accurately identified from photo lineups a SLUG supervisor and a SLUG worker who we know to have been present that day in the City Hall early voting area.) It appears, then, that the SLUG workers' complaints about this activity arose at the time of the activity, not just later after some of them were laid off (31 December 2003).

7) The witnesses reported that after they voted at City Hall, they were returned to SLUG headquarters and were then sent out to their regular SLUG jobs in various locations of the city. The witnesses agreed that they were paid for the full shift that day, including the hours spent on election-related activity. They also agreed that they did not work past their normal quitting time, in order to make up for the hours spent in political activity. Payroll records and time sheets corroborate this claim. The time sheets show all the witnesses being credited with a full day of work on the day they voted absentee, and payroll records reflect total hours worked for that pay period as being consistent with full pay for that day.³ Departmental financial records indicate that the wages of all these witnesses and their supervisors, as well as the wages of the executive director of SLUG, ultimately are paid by the Department of Public Works from its general fund budget.

8) On an unknown date after 4 November but before 2 December, one of our witnesses reports having been taking his lunch break in a SLUG van when Mohammed Nuru came up to him. Nuru reportedly told him to "...vote for Gavin Newsom. You know, he's our man and we all gonna come out on December 2nd." This implies that Nuru was aware of an early voting push being planned for 2 December. While Newsom campaign field director Alex Tourk advised us that the Newsom campaign produced no early voting day push after 7 October (the day of the recall vote for the governor's office), Tourk's District 10 field organizer (Ms Malia Cohen) advised us that in December the Newsom campaign sponsored a large, citywide early voting day push, complete with "voting vans" and motorized cable cars to take people to City Hall to vote absentee. She recalls that this early voting day was 2 December.

9) Of the nine witnesses to the recent election cycle, seven were scheduled to work for SLUG on 9 December 2003, the day of the runoff election. (Two witnesses were scheduled to be off on 9 December and did not participate in or witness the events to follow. One of these

³ One of these witnesses actually was reportedly instructed to vote – and was taken to vote – on a different day, but the findings are consistent as to his pay with the experience of the other witnesses.

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witnesses, however, recalled having been offered overtime SLUG pay by the lead supervisor if he agreed to campaign in a prior ballot measure campaign. He could not recall which ballot measure was involved.) Five of these reported that at the beginning of their shift, when they reported to SLUG headquarters, they were driven by SLUG supervisory staff to the satellite office of the Gavin Newsom campaign in the Excelsior District.⁴ While none of the five knew the address of the office, all of them said it was in the proximity of Mission and Geneva or Mission and Persia. In fact, that is true: it was in the Italian American Social Club on Russia Street, very close to where the witnesses recalled. At this location, the witnesses reported that they were instructed by Mohammed Nuru as to the Get Out The Vote (hereafter "GOTV") activities they were expected to undertake. Two of the witnesses stated that Nuru was very aggressive in his instructions, telling one of them that if she expected to be paid for the day, she would follow his directions.⁵ Specifically, they reported that they were given door hangers and "targeted voter" lists, and were driven variously in Gavin Newsom for Mayor volunteers' vehicles and in SLUG vans to locations in the Crocker-Amazon and Lakeview districts of San Francisco, where they were to hang the door hangers and were, in addition, expected to periodically check the voter rolls in the polling places in those locations. Mohammed Nuru reportedly was among the people teaching them how to do this by going to polls with them. They were to compare the voter rolls in the polling places to their lists of targeted Newsom voters, and if a targeted voter had not voted, they were to walk to that person's home and attempt to persuade the voter to go vote, or alternatively hang a door hanger there if the voter did not come to the door. These witnesses stated that they were expected to perform these activities their entire shift or until 20:00 hours, whichever came earlier. One of the witnesses gave us an accurate physical description of the lead campaign worker (called the "field organizer" by the Newsom campaign) in the Russia Street office, another of the witnesses identified that individual in a photo lineup, and all the witnesses accurately described Nuru.⁶

10) A sixth witness who was involved in the 9 December activities stated that he was given a different assignment. He reportedly was sent to the Gavin Newsom for Mayor office on Third Street, where he and other members of the Visitacion Valley and Third Street Light Rail SLUG crews reportedly were given Newsom for Mayor campaign signs. They were assigned to perform one function during their entire shift: to walk up and down Third Street and on major side streets, holding up the signs. This they reportedly did for their entire shift. This witness also recalled that at one point in the day, Jonathan Gomwalk showed up driving a pickup truck and transported them to a more strategic location. This recollection is consistent with that of different

⁴ Two of these witnesses believed that the activities that follow in the text occurred on the same day that they were taken to City Hall to vote; in fact, they collapsed two different days in their memory. In light of this confusion, we have used other witnesses to corroborate their presence at both locations on both days.

⁵ One of these witnesses reports having eventually refused to engage in the activity, inasmuch as he was a strong Gonzalez supporter and already felt profoundly cheated by having been coerced into voting for Newsom on 2 December on pain of losing his day's pay. When he refused to do more work, according to the witness, Nuru reportedly told him to "get off your ass and get to work." The witness alleges that he did not do as Nuru instructed, instead just sitting in a chair in the Russia Street office for the remainder of the shift.

⁶ All of the SLUG witnesses knew Nuru on sight, having seen him and heard him speak at several SLUG events.

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SLUG witnesses who worked out of the Russia Street office. They recalled that Gomwalk was driving a pickup truck on 9 December and that he transported them from SLUG headquarters to the Russia Street location. This sixth witness's photograph was identified in a photo lineup by a consultant to the Newsom campaign who stated that he recalled seeing him in the Third Street Newsom campaign office on 9 December. The witness's recollection is corroborated by the seventh 9 December witness, the former supervisor of the Third Street Light Rail crew, who remembers the witness having campaigned with Newsom signs along with the former supervisor and the rest of his crew on that day. (See **Tab D** for this supervisor's interview.)

11) All seven witnesses who allege having engaged in the 9 December electioneering activities advised us that they were paid for the day by SLUG as if they had performed their normal SLUG duties. Time sheets and payroll records corroborate this. The time sheets show eight hours worked by these people on 9 December, and the payroll records, while not reflecting specific days worked, reflect a total number of hours worked for the pay period that is consistent with their having been paid in full for 9 December.

12) Our interview of one of the SLUG workers merits separate mention. This individual is still employed by SLUG and is in his second year of employment there as a street sweeper, much of that time on the Third Street Light Rail crew. Not a participant in the TEP program, his wages are paid by MUNI. The members of his crew generally enjoy greater job longevity than TEP participants, whose tenure at SLUG generally is limited to one year. This witness was approached early in the investigation and seemed to want to give us an interview, but then changed his mind for fear of retribution by his supervisor who reportedly had ordered him to not cooperate. He came forward only recently, having decided after talking to a trusted friend to "just tell the truth," even though he was very concerned about the fate of SLUG workers if the investigation should negatively impact SLUG. This witness participated in -- and corroborated the stories of other SLUG witnesses to -- the events of 2 and 9 December.⁷ Additionally, he described the campaign activities of the Third Street Light Rail crew, which significantly transcended those of our TEP witnesses. His description of these activities, which follows, was corroborated by his former rail crew supervisor, an individual who gave us an interview recently and then resigned from SLUG, reportedly because he felt "embarrassed" that he had participated in the election-related activities reported herein.

The Third Street Light Rail crew (hereafter, "rail crew"), according to this witness, devoted major efforts to the Newsom campaign, especially during the period between the general and the runoff elections. According to this witness, their campaign duties during this period were first outlined to them by Jonathan Gomwalk in a crew meeting. On subsequent occasions during this period, the witness's supervisor and the lead supervisor repeated Gomwalk's directions. During that period, according to this witness, many of the rail crew members were rotated in to

⁷ The only significant difference in his recollection from that of the others, is that he recalled doing poll checking work in District 11 for a few hours on 9 December prior to being driven to the Russia Street office, rather than the reverse.

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the Newsom campaign during at least a few of their normal SLUG work days. In that way, according to the witness, the rail crew always had some presence on the street cleaning up, but also always had some presence in the Newsom campaign. As an example, our witness stated that in the five weeks between the general and runoff elections, he worked on the Newsom campaign a total of five shifts on SLUG time, and on some of those shifts he worked long enough to earn overtime. SLUG paid him for those shifts as if he had been sweeping the streets. On some occasions he worked out of the Newsom campaign Third Street office. On other days, he used his own van to transport clients of a different non-profit agency (Jelani House) to the main Newsom campaign headquarters on Van Ness Avenue, where they (and he) prepared door hangers. His contact at Jelani House for this transportation duty was, he said, Linda Richardson. The door hangers our witness described appear to have been the same ones that he and our other witnesses distributed on 9 December. According to the witness, he transported approximately 20 Jelani House clients on each occasion, and they all worked at Newsom headquarters from about noon into the evening hours, on one occasion until 10:00 p.m.

When we asked if he wanted to perform these campaign activities, the witness responded that Gomwalk and the supervisors made it clear that he and the other crew members had a choice in the matter: either work the campaign for SLUG wages, or go home. They all knew, he said, that "go home" meant no pay for that shift, and the possibility of a suspension or worse for failing to follow orders.

This same witness gave us details of SLUG's participation in the mayoral debate at Jones Methodist church on Post Street early in Thanksgiving week. We had been told by one of the TEP witnesses that he and other TEP crew members cleaned up around one of the debates, but he was unclear of details about the debate itself or its exact location in the western part of the City. Our rail crew witness clarified this event for us. He told us that he and the other rail crew members were directed to attend the debate even though it was a day off for them (Sunday, 23 November 2003), and they were told they would be paid overtime for their attendance.⁸ At the debate itself, according to the witness, he saw SLUG workers cleaning up outside the church in their SLUG gear, while he and other rail crew members along with all the SLUG supervisors and Jonathan Gomwalk actually attended the debate but not in SLUG gear. At the debate, according to the witness, and following the example of their supervisors, the rail crew heckled and booed Supervisor Gonzalez. According to the witness, prior to the debate his supervisor and Gomwalk made it clear that their role at the debate was to support Newsom. According to a consultant to the Newsom campaign who attended the debate, Gomwalk in fact was in attendance that evening.

⁸ A check of the time sheets for that week reveals that the majority of the rail crew received roughly the same amount of overtime for that week, but it was credited to several days other than the 23rd, which on the time sheets is reflected as a day off for the crew. This witness's former supervisor explained that on directions of SLUG's lead supervisor, he credited himself and his rail crew with the overtime in such a way as to make it appear to have been earned legitimately in Third Street cleanup duties.

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13) Alex Tourk, currently deputy chief of staff for Mayor Newsom, was the Newsom for Mayor field director. His statements of interest in this investigation are as follows:

a) He has advised us that on frequent occasions, beginning in approximately the summer of 2003, he telephoned Mohammed Nuru and Jonathan Gomwalk to tell them about upcoming campaign events. He stated that he placed those calls because he was aware that both men could be expected to bring SLUG workers to Newsom campaign events, especially events on weekends. This is consistent with statements by one of our witnesses to the effect that on a few occasions during the months prior to the mayoral election, he and other SLUG workers were assigned to attend and/or clean up at Newsom for Mayor events. It also is consistent with the recollection of one witness that at a park cleanup event for which SLUG workers were paid, approximately a month prior to the general election, Mohammed Nuru spoke to them about the likelihood that they would lose their jobs if Gavin Newsom was not elected mayor.

b) Tourk stated that it was always his assumption that any SLUG workers attending campaign events were doing so voluntarily. He also has stated, in this regard, that he was aware that SLUG is a private non-profit agency.

c) Tourk also recalled that he was unaware at the time of the campaign – and was unaware at the time of our interview – of any laws affecting a private non-profit agency's ability to engage in political activity. On the other hand, Malia Cohen, field organizer in the Bayview office of the Newsom campaign, recalls that Mr. Tourk gave her the names of several non-profit agencies in that area and told her they were "players" and should be approached for support. Ms Cohen's recollection is that Mr. Tourk specifically mentioned SLUG in this context. Further, she recollects that Mr. Tourk told her that there were legal restrictions on how non-profit agencies could participate in campaigns.

d) Finally, Tourk advised us that Mohammed Nuru was in fact staffing the Russia Street office on 9 December 2003, and that one of Nuru's main responsibilities there was to recruit volunteers to work the GOTV effort that day.

14) James A. MacLachlan III, governmental liaison for the city's Public Utilities Commission, was a volunteer on the Newsom for Mayor campaign. According to Alex Tourk, MacLachlan was assigned to the Russia Street office on 9 December. We interviewed Mr. MacLachlan and determined that he staffed that office from approximately 07:00 to approximately 20:00 hours on 9 December, spending the great majority of that time in the office itself. MacLachlan also stated that he did the same thing on the day of the general election, 4 November. On both days, his assignment was to train the volunteer precinct workers and give them their packets of targeted voter lists and door hangers. *On both days*, according to MacLachlan, the Newsom campaign knew ahead of time that Mohammed Nuru would be at the Russia Street office that day and that Nuru's role on each day was to assign precinct tasks to "his

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people." In other words, according to MacLachlan, Nuru's job vis-à-vis volunteers was a specific and limited one: Nuru was to orient and supervise his own group of people.

According to MacLachlan, Nuru's people were approximately ten African-Americans, mostly men and one or two women, who arrived "more or less" as a group and who were taken out in a van to the five or six precincts assigned to Nuru.

When shown photo spreads three months after 9 December, MacLachlan accurately identified two of the SLUG supervisors who, according to our SLUG witnesses, were there. Additionally, his recollection that "Nuru's people" included one or two women squares with the statements of our SLUG witnesses, including the statements we have taken from those two women.

15) We interviewed Trent Rhorer, the executive director of the city's Department of Human Services. Rhorer was a GOTV volunteer for the Newsom campaign on both election days -- the general election on 4 November and the runoff on 9 December. On both days, his duties were to be the "numbers person" at the Russia Street campaign office. That is, it was his job to gather from all the precinct workers the numbers of targeted voters who had voted by various times throughout the day. In this capacity, Rhorer conversed with some of the paid and volunteer workers throughout the day as well as at one or two campaign rallies preceding the two election days. Rhorer estimates that on both election days, he began work at the campaign office at approximately 07:30 hours and ended at 20:00 hours. He spent most of that time inside the office. Rhorer's observations of interest are as follows:

(a) He knew that on both election days he could expect Mohammed Nuru to be at the campaign office and to be accompanied by SLUG workers acting as volunteer precinct workers.

(b) He said that it was common knowledge at the Russia Street office that SLUG workers would be working some of the precincts. He exemplified this by pointing out that when he and others composed a chart (on butcher paper) of the precincts to be covered, and by whom, those precincts that were not designated as "belonging" to a particular volunteer were designated on the chart with the name "SLUG." He said that several slots on the charts were designated "SLUG." This recollection is consistent with that of the SLUG worker who still is a member of the Third Street Light Rail crew (see finding # 12), who noted that when he entered the Russia Street office for the first time on 9 December, he was directed to sign a roster next to the entry "SLUG".

(c) He recalls that on 4 November, the SLUG workers who showed up -- approximately 6 to 12 of them⁹ -- wore their SLUG work vests and took their instruction

⁹ We note here that Rhorer puts the number of SLUG workers who appeared on 9 December at about the same -- 6 to 12 people. What we do not know is the degree of overlap of SLUG workers on the two election days. We do have

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from Mohammed Nuru. Additionally, according to Rhorer, SLUG executive director Jonathan Gomwalk was present and was wearing his SLUG vest as well. Interestingly, and consistent with our witnesses' recollections of their instructions on 9 December from SLUG supervisors to remove their SLUG vests prior to electioneering, Rhorer did *not* recall the SLUG workers wearing their vests or other identifying insignia on 9 December.

(d) On 9 December, Rhorer engaged one of our witnesses in conversation about the campaigning that day.¹⁰ Rhorer recalled thanking the witness for campaigning and the witness replying: "It's better than sweeping the streets." It is interesting that the witness put the campaign work in the rhetorical context of his job with SLUG rather than in, say, a political context.

(e) Rhorer recalled that on at least one of the election days, and possibly both, John Gomwalk showed up at the campaign office and interacted with the SLUG workers there. He also recalled distinctly that Gomwalk was not given any electioneering duties to accomplish, but rather that he seemed to stay in the office near the sign-in area and mingle with various people, including the SLUG workers.

(f) Rhorer recalled that one and possibly two African-American males spent a significant amount of time in the late afternoon sitting in the office instead of going back out to the precincts. Rhorer could not recall with specificity the appearance of these individuals, but his recollection is at least consistent with one SLUG witness's story about refusing to return to the electioneering in the afternoon, choosing instead to just sit in a chair in the Russia Street office until being driven back to SLUG headquarters (see footnote 5, page 8). In this regard, our campaign staff witnesses indicated that to their knowledge, the African-American males who participated in campaigning from the Russia Street office were SLUG workers.

16) We interviewed Robert Brigham, the paid field organizer for the Russia Street campaign office. Brigham's physical appearance was accurately described by one of our male SLUG worker witnesses. Brigham recalled that prior to the general election, Alex Tourk instructed him to be sure to contact Mohammed Nuru to ensure that SLUG workers were turned out for the GOTV effort. Brigham also recalled that Tourk reminded him to contact Nuru prior to the runoff election as well. Brigham, like Rhorer, said that it was general knowledge within the campaign that Nuru was a "go to guy" (Brigham's term) for turning out volunteers for electioneering. Brigham stated that he did in fact contact Nuru and ensure that Nuru would be showing up for GOTV with some SLUG volunteers. Brigham acknowledged having seen Nuru working in the campaign office with a few African-American males and possibly one or two females on both election days, and he assumed that these were SLUG workers or former SLUG

one 9 December witness who recalls having worked the election on 4 November as well, but an unknown number of the other 4 November SLUG campaigners may have been SLUG employees who we have not yet identified.

¹⁰Rhorer picked out the witness from the photo lineup we showed him of SLUG worker witnesses.

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workers.¹¹ Brigham also correctly identified a photo of one of the two female SLUG workers who were among our witnesses, as having been a volunteer at the Russia Street facility. Finally, Brigham recalled that on 9 December an African-American male who reported in to Nuru spent considerable time during the late afternoon just sitting in a chair, which is consistent with a SLUG witness's story about refusing to go back out in the afternoon. Brigham also said, however, that he heard no altercation or dispute between Nuru and any of the African-Americans working with him.

17) Mohammed Nuru's telephone records indicate that he was not generally in the habit of telephoning the SLUG office in the morning hours. Normally, Nuru called SLUG at most once or twice a day, often not until the afternoon hours. Additionally, on many occasions, a day or more went by during the six-month period for which we have his telephone records (July – December 2003) when he made no known calls to SLUG at all. His calls to SLUG on 9 December, however, were numerous and were made in the morning hours, as follows: 07:42.; 08:03; 08:15; 08:45; 08:46; and 09:41. These calls in the morning hours of 9 December are consistent with an interpretation that he was helping to arrange the use of SLUG workers that day for the GOTV effort. This is the only day in the six months of telephone records that we obtained on which Nuru made so many calls to SLUG in the morning hours. It is noteworthy, nonetheless, that on the morning of the general election, 4 November 2003, Nuru called SLUG early in the morning twice, which while not as striking as the 9 December calling, was unusual for Nuru. On 4 November he called SLUG from his cellular telephone at 08:20 hours and again at 08:37 hours.¹²

18) According to Ms Rebecca Prozan, campaign manager for Kamala Harris, there was only one event in which SLUG figured in the Harris campaign: the event of 2 December. While she did have telephone conversations with Mohammed Nuru throughout the campaign, these conversations reportedly were about strategies for getting out the vote in the African-American community generally; they were not specific to requests for Nuru or Gomwalk to bring SLUG workers to rallies or GOTV events such as occurred on 9 December on behalf of the Newsom for Mayor campaign.

According to Prozan, the Harris campaign mailed approximately 9,000 flyers to members of the Bayview-Hunters Point community in preparation for the 2 December rally at the campaign headquarters at Bayview Plaza. This mailing included non-profit agencies in the area, as well. The event was scheduled to occur between noon and two o'clock on that day. Food was donated by two San Francisco restaurants, and the menu described by Prozan is consistent with the descriptions given to us by the SLUG witnesses. According to Prozan, it was dismaying that only about 50 to 75 people showed up for the event.

¹¹ Brigham claimed to have believed that SLUG had folded in the summer of 2003, and that therefore the "SLUG" people to be turned out by Nuru would be former SLUG workers.

¹² On both election days, 4 November and 9 December, Nuru was on leave from his position at DPW.

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Prozan concluded that all or most of the attendees were in fact SLUG workers. She concluded this based on several factors: all the attendees showed up at the same time and were led by Jonathan Gomwalk, who introduced himself to her; all of them appeared to be dressed in the same type of clothing; Gomwalk and/or Ron Vinson – a campaign volunteer, formerly with Mayor Brown's office – told her that all of them were from SLUG; and no one else introduced themselves to her as having brought a group of people to the event. After the meal and a speech by Kamala Harris stressing the importance of voting for the African-American community, the attendees boarded vans which had been donated to the campaign. According to Prozan, the vans were there in order to drive the attendees to City Hall to vote early absentee, as was described by our witnesses. Prozan reportedly knows nothing about the voting at City Hall itself, nor did she see the attendees after they left to board the vans.

C) Findings pertaining to earlier election cycles:

We have interviewed nine individuals at length who worked for SLUG in earlier years. Two worked in much the same capacity as our eight witnesses described earlier, during the 1999-2000 period. Another worked in administration and had daily access to then-executive director Mohammed Nuru, during the 1997-1998 period. The third also worked at SLUG during 1997. A fourth and fifth worked in an acting administrative capacity in the 1999 period. A sixth person worked for SLUG during 1997-1998, and a seventh worked there from 1995-1998. An eighth person worked at SLUG in a horticultural administrative capacity from 2001 through the summer of 2003. A ninth person worked in an educational capacity from early 1999 through the summer of 2000. We briefly describe the statements of six of them below, identifying them only as numbers 1 through 6.¹³

1) This individual reported that she was a key assistant to Mohammed Nuru during the period January 1997 through May of 1998. Currently she is an attorney with the Department of Justice in Washington, D.C. She advised us that campaign activity by SLUG was evident in the summer of 1997, in support of the stadium-mall ballot initiative. She witnessed a "garage meeting" during that period during which Nuru exhorted the SLUG supervisors and crew to perform telephone banking and precinct walking for the initiative. She stated that this meeting occurred during normal working hours.

2) This individual worked for SLUG during 1997 and reports having seen SLUG workers on normal work time apparently preparing to participate in a stadium-mall campaign event. He

¹³ The statements given by three of these nine people are not summarized in the text. One person's statement was partially corroborated by our review of SLUG payroll documents from the relevant time period, but important details of his statement are refuted by the same documents, so we have decided to discount his statement entirely. The other two people reportedly witnessed no inappropriate political activity by SLUG or Mohammed Nuru, and conversely, reported nothing that would refute the statements of the six witnesses whose statements we summarize in the text.

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observed them carrying campaign signs to a vehicle in the SLUG parking lot, and then leaving the premises.

3) This individual was an acting administrator in the gardening program for SLUG in 1999. She reports that at an administrative staff meeting just prior to the 1999 mayoral race, Mohammed Nuru urged the administrators to campaign for the mayor. This individual recalls discussing this meeting later with two colleagues at SLUG who attended the meeting. All three of them agreed that Nuru had made it clear that they could perform this campaigning on SLUG time and still be paid their SLUG wages.

4) This individual was a landscape architect at SLUG from February 1997 to June of 1998. She reportedly was told by her crew members that they were campaigning for the stadium-mall initiative. She witnessed them going to and from the SLUG office with literature and placards relating to the stadium vote, during work hours.

5) This person ran the lead abatement program at SLUG from late 1995 to June 1998. She heard her crew members complaining about having to hang stadium-mall initiative placards in 1997.

6) This witness was a gardening educator for SLUG from approximately February of 1999 through August 2000. For much of that time, he was the de facto director of education for SLUG and in that capacity attended administrative meetings chaired by Nuru. During the 1999 election cycle, according to this witness, Nuru advocated the re-election of the mayor in the upcoming election.

The educator's work involved arranging for the sale of large "worm bins" at various locations: the Alemany Farmers Market; Goodman's Lumber; and Everett Middle School. The sale of the bins provided SLUG with a profitable activity and was partially underwritten by the City. When bin sales were scheduled, the educator would arrange with Jonathan Gomwalk, then director of the TEP program within SLUG (all our SLUG witnesses were members of this program), to use five or six TEP workers to help transport, stack and move the hundreds of bins. On one occasion, Gomwalk informed the educator that no TEP workers would be available to help him because they were all going to be sent to a political rally. This in fact occurred, which had the result that only three people – all educators – had to perform all the labor involving the sale that day, a task that created a work day for this witness that stretched from about four o'clock in the morning to about nine o'clock at night.

On another occasion, the educator saw TEP workers preparing campaign signs in the SLUG offices for a campaign rally to be held on Third Street during the 1999 mayoral election cycle. The workers were performing this activity on work time, and they were planning, according to a colleague of the educator, to attend the rally later.

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Conclusions

1) We know from Gavin Newsom's former field director, Alex Tourk, that Mohammed Nuru, the former executive director of SLUG and now deputy director of DPW, was a frequent volunteer in the Newsom for Mayor campaign. We also know from him that one of Nuru's main responsibilities and contributions to the campaign was his recruitment of "volunteers" to the campaign. Finally, we know that the former field director's expectation was that both Nuru and the current executive director of SLUG, Jonathan Gomwalk, would bring SLUG workers to campaign events, and we have been told by several SLUG workers or former workers that between Gomwalk and Nuru, SLUG workers on work time were transported and instructed in furtherance of the GOTV effort for Gavin Newsom on at least three dates: 4 November, 2 December, and 9 December 2003. On all three of these dates, we also have independent witnesses who place our SLUG witnesses in locations and conducting activities that are consistent with the SLUG witnesses' stories. We also have been told by several former SLUG workers and administrative staff from the period between 1997 and 1999 that during that period SLUG workers in the TEP program were detailed on work time to various campaign events and that, in addition, Nuru himself reportedly urged and directed staff and workers to participate in political campaigns. There appears to be a certain historical continuity, then, in the actions of SLUG's current administration and of Nuru himself, if the statements of the eight SLUG workers and the observations of our non-SLUG witnesses about SLUG's activities in the 2003 mayoral campaign are accurate.

2) Five SLUG workers gave us consistent narratives of their activities on 9 December 2003. These activities are consistent with the kinds of "volunteer" GOTV activities that we know were Mohammed Nuru's responsibility on that date. We know from their statements that on the day of the runoff election, Jonathan Gomwalk drove some of them¹⁴ to the Newsom for Mayor campaign office on Russia Street. We can conclude with high probability that those witnesses in fact went into that office. They accurately described two key campaign supervisors who were there (Mohammed Nuru, who the witnesses named and described; and the field organizer for that office, whose name they did not know). Newsom campaign volunteer James MacLachlan identified the photographs of two of the SLUG supervisors whom our SLUG witnesses told us were there with them. Additionally, we know from DHS executive director Trent Rhorer that he saw SLUG workers on both election days at that office, and that on the day of the general election they were wearing SLUG work vests. We also know that according to the SLUG witnesses, they did not volunteer to perform this electioneering, but rather, were directed to do so by SLUG supervisors, by Gomwalk, and by Nuru. These statements are internally consistent and they are consistent, as well, with the statement of one SLUG worker that during a prior election for a ballot measure, he was offered overtime SLUG pay to work on the campaign. That these

¹⁴ Not all the witnesses seemed to recall clearly who drove them to the campaign office. Some of them only recalled that an administrator or supervisor at SLUG drove them there. The three witnesses who most clearly recalled that it was Gomwalk who drove them, identified the vehicle he drove as a pickup truck.

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workers and supervisors were paid SLUG wages for political campaigning is also consistent with Trent Rhorer's observations on 4 November: the workers were dressed for work, wearing the SLUG vests which are to be worn only while they are on duty with SLUG.¹⁵

3) A SLUG worker and the former supervisor of the rail crew also gave us consistent narratives of their own GOTV activities on 9 December. While differing from the narratives of the other five SLUG workers, these narratives are internally consistent, detailing their campaigning with signs up and down the Third Street corridor during their entire shift on the day of the runoff election. Both of these witnesses, additionally, stated that the entire rail crew performed that activity with them.

4) We know from Department of Elections records that the nine SLUG workers who are our witnesses in this matter voted absentee at City Hall and did so on the day they alleged that they voted. We also know from cross-corroboration among them and from remarks overheard and body language interpreted by third party witnesses, that some of them complained contemporaneously about being coerced to vote for a candidate all but one of them did not support and to give up their ballot stubs to a SLUG supervisor.

5) We know from Controller's records and from DPW and SLUG administrative staff that the funding for the wages of the nine SLUG witnesses, as well as for the supervisors and the executive director of SLUG, derives from City and County departmental funding sources. We also know from SLUG payroll and time sheet documents – and from three witnesses' pay stubs – that the SLUG workers and supervisors were paid full wages for the time they spent on voting and electioneering activities. An internal report on this matter commissioned by SLUG's board of directors (see **Tab C**) states that no city funds were expended for election activities on 9 December. The December invoice to DPW from SLUG supports this assertion at first glance, noting that the 9 December salaries of many SLUG supervisors and approximately twenty SLUG workers were in fact not charged to the City. It is noteworthy, however, that the December SLUG invoice was not received by DPW until mid-February, after allegations about SLUG's campaign activities had surfaced in news accounts and after our investigation of those allegations had begun. All SLUG staff – including those who worked the election activities of 2 December and 9 December, as well as any who performed electioneering on 4 November (as recalled by James MacLachlan and Trent Rhorer) – have long since been paid by city monies regardless of any adjustment made after the fact by SLUG. In addition, of course, the deduction of salaries from SLUG's invoice to the city for December covers only the ninth of that month; it does not

¹⁵ That the SLUG vests are to be worn only while on duty with SLUG is well known among SLUG workers. They reportedly are not to wear them even while on lunch break, and not at all on days off. The rigidity of this policy is confirmed by an interesting anecdote that one witness told us. He stated that he was taking his fifteen-minute break one day on the street, reading a newspaper, when Mohammed Nuru approached him aggressively and asked him *if he wanted to keep his job*. Nuru reportedly took his newspaper from him and instructed him to remove the SLUG vest while he was on a break. One of the interesting features of this anecdote is that at the time, Nuru no longer was the executive director of SLUG, but rather was the deputy director of DPW.

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cover the activities of 2 December or of 4 November, nor does it cover the activities of the rail crew in the weeks between the general and the runoff elections.

T.A., G.C.

Tab A

SAN FRANCISCO ADMINISTRATIVE CODE

SEC. 12G.1. PROHIBITION.

No funds appropriated by the City and County of San Francisco for any contract, grant agreement, or loan agreement may be expended for participating in, supporting, or attempting to influence a political campaign for any candidate or ballot measure.

(Added by Proposition Q, 11/5/2002)

SEC. 12G.2. AUDITS.

The Controller shall annually select for audit at least ten (10) persons or entities that enter into contracts, grant agreements, or loan agreements with the City in order to ensure compliance with this section. (Added by Proposition Q, 11/5/2002)

SEC. 12G.3. RULES AND REGULATIONS.

(a) The Controller shall promulgate any rules and regulations necessary or appropriate for the implementation of this section.

(b) All contracts, grant agreements, and loan agreements shall incorporate this Chapter by reference. (Added by Proposition Q, 11/5/2002)

SEC. 12G.4. PENALTIES.

If the Controller determines that any recipient of a contract, grant agreement, or loan agreement has violated this Chapter, the violation shall be deemed a material breach of the contract, grant agreement, or loan agreement and the recipient of the contract, grant agreement, or loan agreement shall be barred for two years from receiving any City contract, grant agreement, or loan agreement. (Added by Proposition Q, 11/5/2002)

SAN FRANCISCO CAMPAIGN AND GOVERNMENTAL CONDUCT CODE

The San Francisco Campaign and Governmental Conduct code was recently amended by Proposition E. The amendments to the law became effective 12/5/03. Below please find relevant sections of the law as they currently appear, and as they appeared before Proposition E took effect. Which section we would rely upon depends on the date of the activities in question.

The following provisions are from Article III, Chapter 2 of the Campaign and Governmental Conduct Code as amended by Proposition E. These amendments became effective 12/5/03.

SEC. 3.230. PROHIBITION ON POLITICAL ACTIVITY

(a) **Solicitation of Contributions.** No City officer or employee shall knowingly, directly or indirectly, solicit political contributions from other City officers or employees or from persons on employment lists of the City. Nothing in this section shall prohibit a City officer or employee from communicating through the mail or by other means requests for political contributions to a significant segment of the public which may include City officers or employees.

(b) **Political Activities in Uniform.** No City officer or employee shall participate in political activities of any kind while in uniform.

(c) **Political Activities on City Time or Premises.** No City officer or employee may engage in political activity during working hours or on City premises. For the purposes of this subsection, the term "City premises" shall not include City owned property that is made available to the public and can be used for political purposes.

SEC. 3.236. AIDING AND ABETTING

No person shall knowingly and intentionally provide assistance to or otherwise aid or abet any other person in violating any of the provisions of this Chapter.

SEC. 3.240. PROVISION OF FALSE OR MISLEADING INFORMATION; WITHHOLDING OF INFORMATION; AND DUTY TO COOPERATE AND ASSIST.

(a) **Prohibition.** No person shall knowingly and intentionally furnish false or fraudulent evidence, documents, or information to the Ethics Commission, District Attorney or City Attorney, or knowingly and intentionally misrepresent any material fact, or conceal any evidence, documents, or information relevant to an investigation by the Ethics Commission, District Attorney or City Attorney of an alleged violation of this Chapter.

(b) **Duty to Cooperate and Assist.** The Ethics Commission, District Attorney or City Attorney may request and shall receive from every City officer and employee cooperation and assistance with an investigation into an alleged violation of this Chapter.

SEC. 3.242. PENALTIES AND ENFORCEMENT

(a) **Criminal Penalties.** Any person who knowingly or willfully violates any of the City's conflict of interest and governmental ethics laws shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$10,000 for each violation or by imprisonment in the County jail for a period of not more than one year in jail or by both such fine and imprisonment.

(b) **Civil Penalties.** Any person who intentionally or negligently violates any City conflict of interest or governmental ethics law shall be liable in a civil action brought by the City Attorney for an amount up to \$5,000 for each violation.

(c) **Injunctive Relief.** The City Attorney or any resident may bring a civil action on behalf of the people of San Francisco to enjoin violations of or compel compliance with a conflict of interest or governmental ethics law. No resident may commence a civil action under this section without first notifying the City Attorney in writing of the intent to file a civil action under this section. If the City Attorney fails to notify the resident within 120 days of receipt of the notice that the City Attorney has filed or will file a civil action, the complainant may file the action. No resident may file an action under this section if the City Attorney responds within 120 days that the City Attorney intends to file an action or has already filed a civil action. No resident may bring an action under this section if the Ethics Commission has issued a finding of probable cause arising out of the same facts, the District Attorney has commenced a criminal action arising out of the same facts, or another resident has filed a civil action under this section arising out of the same facts. A court may award reasonable attorney's fees and costs to any resident who obtains injunctive relief under this section.

(d) **Administrative Penalties.** Any person who violates any of the City's conflict of interest or governmental ethics laws shall be liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter. In addition to the administrative penalties set forth in the Charter, the Ethics Commission may issue warning letters to City officers and employees.

(e) **Statute Of Limitations.** No person may bring a criminal, civil or administrative action under this section against any other person more than four years after the date of the alleged violation.

The following provisions were found in the Campaign and Governmental Conduct Code before the effective date of Proposition E, 12/5/03.

SEC. 3.400. PROHIBITION ON POLITICAL ACTIVITY.

(a) No City officer or employee shall, directly or indirectly, solicit political contributions, knowingly, from other City officers or employees or from persons on employment lists of the City. Nothing in this Section shall prohibit a City officer or employee from communicating through the mail or by other means requests for political contributions to a significant segment of the public which may include City officers or employees.

(b) No City officer or employee shall participate in political activities of any kind while in uniform.

(c) No City officer or employee may engage in political activity during working hours or on City premises. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation: Former Administrative Code Section 16.5; added by Ord. 438-96, App. 11/8/96)

SAN FRANCISCO MUNICIPAL ELECTIONS CODE

SEC. 970. GIVING, RECEIVING ANYTHING OF VALUE IN CONSIDERATION OF VOTING PROHIBITED.

(a) No person shall directly or through any other person pay, lend, or contribute or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(1) Induce any person to:

(A) Vote at any municipal election;

(B) Refrain from voting at any municipal election;

(C) Vote or refrain from voting at a municipal election for or against any particular person or measure; or

(D) Remain away from the polls during a municipal election; or

(2) Reward any person for having:

(A) Voted at any municipal election;

(B) Refrained from voting at any municipal election;

(C) Voted or refrained from voting at a municipal election for or against any particular person or measure; or

(D) Remained away from the polls during a municipal election.

(b) No person may directly or through any other person solicit, accept, receive, agree to accept, or contract for, before, during or after a municipal election, any money, gift, loan, or other valuable consideration, offer, place, or employment for himself or herself or any other person because he or she or any other person:

- (1) Voted or agreed to vote at any municipal election;
- (2) Refrained or agreed to refrain from voting at a municipal election;
- (3) Voted, agreed to vote, refrained from voting, or agreed to refrain from voting for or against any particular person or measure at a municipal election;
- (4) Remained away or agreed to remain away from the polls during a municipal election; or
- (5) Induced any other person to:
 - (A) Vote or agree to vote at any municipal election;
 - (B) Refrain from voting or agree to refrain from voting at a municipal election;
 - (C) Vote, agree to vote, refrain from voting, or agree to refrain from voting for or against any particular person or measure at a municipal election; or
 - (D) Remain or agree to remain away from the polls during a municipal election.

(c) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon a final judgment of conviction of same, shall be removed from office or in the alternative shall be subject to a penalty of not more than six months in jail and/or fine of not more than \$1,000, as well as removal.

(d) "Person" means an individual, partnership, corporation, association, firm or other organization or entity, however organized.

(e) Nothing in this section shall prohibit the following:

- (1) Making an expenditure for, offering, providing, accepting or receiving transportation to or from the polls; or
- (2) Making an expenditure for, organizing or attending a gathering providing complementary food, beverages and/or entertainment, provided that no valuable consideration is offered, promised, solicited, accepted or received in consideration of the conduct described in subsection (a); or
- (3) Making expenditures for the organization and conduct of get-out-the-vote rallies.

(f) Pursuant to the procedures set forth in San Francisco Charter Sections 15.102 and C3.699-10 et seq., the Ethics Commission shall adopt regulations consistent with this section for the purpose of implementing this Section while avoiding any application that would prohibit conduct protected by the United States Constitution or the California Constitution. (Added by Ord. 4-02, File No. 011909, App. 1/18/2002)

SAN FRANCISCO POLICE CODE

SEC. 628. COERCION OF LABORERS FOR POLITICAL PURPOSES PROHIBITED.

No officer, board or commission, authorized by law to appoint subordinates or to engage the services of laborers, shall solicit or demand of such subordinates or laborers that they vote for or against any candidate for any elective office; or procure, engage, or endeavor to procure from such subordinate or laborer any sum of money or contribution to be used for the election or defeat of any candidate for any elective office; and any

officer, or member of any board or commission, who demands such contribution and any subordinate or laborer who pays any such contribution, shall be guilty of a misdemeanor, and, upon conviction thereof, shall forfeit his office or position. (Added by Ord. 1.075, App. 10/11/38)

CALIFORNIA ELECTIONS CODE

SEC. 18520. A person shall not directly or through another person give, offer, or promise any office, place, or employment, or promise to procure or endeavor to procure any office, place, or employment to or for any voter, or to or for any other person, in order to induce that voter at any election to:

- (a) Refrain from voting.
- (b) Vote for any particular person.
- (c) Refrain from voting for any particular person.

A violation of any of the provisions of this section shall be punishable by imprisonment in the state prison for 16 months or two or three years.

SEC. 18521. A person shall not directly or through any other person receive, agree, or contract for, before, during or after an election, any money, gift, loan, or other valuable consideration, office, place, or employment for himself or any other person because he or any other person:

- (a) Voted, agreed to vote, refrained from voting, or agreed to refrain from voting for any particular person or measure.
- (b) Remained away from the polls.
- (c) Refrained or agreed to refrain from voting.
- (d) Induced any other person to:
 - (1) Remain away from the polls.
 - (2) Refrain from voting.
 - (3) Vote or refrain from voting for any particular person or measure.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

SEC. 18522. Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

- (a) Induce any voter to:
 - (1) Refrain from voting at any election.
 - (2) Vote or refrain from voting at an election for any particular person or measure.
 - (3) Remain away from the polls at an election.
- (b) Reward any voter for having:
 - (1) Refrained from voting.
 - (2) Voted for any particular person or measure.
 - (3) Refrained from voting for any particular person or measure.
 - (4) Remained away from the polls at an election.

Any person or candidate violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

SEC. 18540. (a) Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

(b) Every person who hires or arranges for any other person to make use of or threaten to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

CALIFORNIA GOVERNMENT CODE

SEC. 8314. USE OF PUBLIC RESOURCES FOR CAMPAIGN OR PERSONAL ACTIVITIES, PROHIBITED

(a) It is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.

(b) For purposes of this section:

(1) "Personal purpose" means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to state business. "Personal purpose" does not include the incidental and minimal use of public resources, such as equipment or office space, for personal purposes, including an occasional telephone call.

(2) "Campaign activity" means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. "Campaign activity" does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities.

(3) "Public resources" means any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state-compensated time.

(4) "Use" means a use of public resources which is substantial enough to result in a gain or advantage to the user or a loss to the state or any local agency for which a monetary value may be estimated.

(c) (1) Any person who intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons are responsible for any violation, they shall be jointly and severally liable for the penalty.

(2) If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasurer of that city.

(3) No civil action alleging a violation of this section may be commenced more than four years after the date the alleged violation occurred.

(d) Nothing in this section shall prohibit the use of public resources for providing information to the public about the possible effects of any bond issue or other ballot measure on state activities, operations, or policies, provided that (1) the informational activities are otherwise authorized by the constitution or laws of this state, and (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(e) The incidental and minimal use of public resources by an elected state or local officer, including any state or local appointee, employee, or consultant, pursuant to this section shall not be subject to prosecution under Section 424 of the Penal Code.

SEC. 54964. UNLAWFUL EXPENDITURES

- (a) An officer, employee, or consultant of a local agency may not expend or authorize the expenditure of any of the funds of the local agency to support or oppose the approval or rejection of a ballot measure, or the election or defeat of a candidate, by the voters.
- (b) As used in this section the following terms have the following meanings:
- (1) "Ballot measure" means an initiative, referendum, or recall measure certified to appear on a regular or special election ballot of the local agency, or other measure submitted to the voters by the governing body at a regular or special election of the local agency.
 - (2) "Candidate" means an individual who has qualified to have his or her name listed on the ballot, or who has qualified to have write-in votes on his or her behalf counted by elections officials, for nomination or election to an elective office at any regular or special primary or general election of the local agency, and includes any officeholder who is the subject of a recall election.
 - (3) "Expenditure" means a payment of local agency funds that is used for communications that expressly advocate the approval or rejection of a clearly identified ballot measure, or the election or defeat of a clearly identified candidate, by the voters. "Expenditure" shall not include membership dues paid by the local agency to a professional association.
 - (4) "Local agency" has the same meaning as defined in Section 54951, but does not include a county superintendent of schools, an elementary, high, or unified school district, or a community college district.
- (c) This section does not prohibit the expenditure of local agency funds to provide information to the public about the possible effects of a ballot measure on the activities, operations, or policies of the local agency, if both of the following conditions are met:
- (1) The informational activities are not otherwise prohibited by the Constitution or laws of this state.
 - (2) The information provided constitutes an accurate, fair, and impartial presentation of relevant facts to aid the voters in reaching an informed judgment regarding the ballot measure.
- (d) This section does not apply to the political activities of school officers and employees of a county superintendent of schools, an elementary, high, or unified school district, or a community college district that are regulated by Article 2 (commencing with Section 7050) of Chapter 1 of Part 5 of the Education Code.

CALIFORNIA PENAL CODE

SEC. 424. (a) Each officer of this state, or of any county, city, town, or district of this state, and every other person charged with the receipt, safekeeping, transfer, or disbursement of public moneys, who either: 1. Without authority of law, appropriates the same, or any portion thereof, to his or her own use, or to the use of another; or, 2. Loans the same or any portion thereof; makes any profit out of, or uses the same for any purpose not authorized by law; or, 3. Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the same; or, 4. Fraudulently alters, falsifies, conceals, destroys, or obliterates any account; or, 5. Willfully refuses or omits to pay over, on demand, any public moneys in his or her hands, upon the presentation of a draft, order, or warrant drawn upon these moneys by competent authority; or, 6. Willfully omits to transfer the same, when transfer is required by law; or, 7. Willfully omits or refuses to pay over to any officer or person authorized by law to receive the same, any money received by him or her under any duty imposed by law so to pay over the same;-- Is punishable by imprisonment in the state prison for two, three, or four years, and is disqualified from holding any office in this state.

(b) As used in this section, "public moneys" includes the proceeds derived from the sale of bonds or other evidence of indebtedness authorized by the legislative body of any city, county, district, or public agency.

(c) This section does not apply to the incidental and minimal use of public resources authorized by Section 8314 of the Government Code.

SEC 425. Every officer charged with the receipt, safe keeping, or disbursement of public moneys, who neglects or fails to keep and pay over the same in the manner prescribed by law, is guilty of felony.

SEC426. The phrase "public moneys," as used in Sections 424 and 425, includes all bonds and evidence of indebtedness, and all moneys belonging to the state, or any city, county, town, district, or public agency therein, and all moneys, bonds, and evidences of indebtedness received or held by state, county, district, city, town, or public agency officers in their official capacity.



[Home](#) > [Charities & Non-Profits](#)

Charities & Non-Profits

Exemption Requirements

To be tax-exempt as an organization described in IRC Section 501(c)(3) of the Code, an organization must be organized and operated exclusively for one or more of the purposes set forth in IRC Section 501(c)(3) and none of the earnings of the organization may inure to any private shareholder or individual. In addition, it may not attempt to influence legislation as a substantial part of its activities and it may not participate at all in campaign activity for or against political candidates.

The organizations described in IRC Section 501(c)(3) are commonly referred to under the general heading of "charitable organizations." Organizations described in IRC Section 501(c)(3), other than testing for public safety organizations, are eligible to receive tax-deductible contributions in accordance with IRC Section 170.

The exempt purposes set forth in IRC Section 501(c)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and the prevention of cruelty to children or animals. The term charitable is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening the burdens of government; lessening of neighborhood tensions; elimination of prejudice and discrimination; defense of human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

To be organized exclusively for a charitable purpose, the organization must be a corporation, community chest, fund, or foundation. A charitable trust is a fund or foundation and will qualify. However, an individual or a partnership will not qualify. The articles of organization must limit the organization's purposes to one or more of the exempt purposes set forth in IRC Section 501(c)(3) and must not expressly empower it to engage, other than as an insubstantial part of its activities, in activities that are not in furtherance of one or more of those purposes. This requirement may be met if the purposes stated in the articles of organization are limited in some way by reference to IRC Section 501(c)(3). In addition, assets of an organization must be permanently dedicated to an exempt purpose. This means that should an organization dissolve, its assets must be distributed for an exempt purpose described in this chapter, or to the federal government or to a state or local government for a public purpose. To establish that an organization's assets will be permanently dedicated to an exempt purpose, the articles of organization should contain a provision insuring their distribution for an exempt purpose in the event of dissolution. Although reliance may be placed upon state law to establish permanent dedication of assets for exempt purposes, an organization's application can be processed by the IRS more rapidly if its articles of organization include a provision insuring permanent dedication of assets for exempt purposes. For examples of provisions that meet these requirements, download [Publication 557, Tax-Exempt Status for Your Organization](#).

An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of the exempt purposes specified in IRC Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. For more information concerning types of charitable organizations and their activities, download [Publication 557](#).

An organization must not be organized or operated for the benefit of private interests, such as the creator or the creator's family, shareholders of the organization, other designated

individuals, or persons controlled directly or indirectly by such private interests. No part of the net earnings of an IRC Section 501(c)(3) organization may inure to the benefit of any private shareholder or individual. A private shareholder or individual is a person having a personal and private interest in the activities of the organization. If the organization engages in an excess benefit transaction with a person having substantial influence over the organization, excise tax may be imposed on the person and any managers agreeing to the transaction.

An IRC Section 501(c)(3) organization may not engage in carrying on propaganda, or otherwise attempting, to influence legislation as a substantial part of its activities. Whether an organization has attempted to influence legislation as a substantial part of its activities is determined based upon all relevant facts and circumstances. However, most IRC Section 501(c)(3) organizations may use Form 5768, Election/Revocation of Election by an Eligible Section 501(c)(3) Organization to Make Expenditures to Influence Legislation, to make an election under IRC Section 501(h) to be subject to an objectively measured expenditure test with respect to lobbying activities rather than the less precise "substantial activity" test. Electing organizations are subject to tax on lobbying activities that exceed a specified percentage of their exempt function expenditures. For further information regarding lobbying activities by charities, download Lobbying Issues.

For purposes of IRC Section 501(c)(3), legislative activities and political activities are two different things, and are subject to two different sets of rules. The latter is an absolute bar. An IRC Section 501(c)(3) organization may not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. Whether an organization is engaging in prohibited political campaign activity depends upon all the facts and circumstances in each case. For example, organizations may sponsor debates or forums to educate voters. But if the forum or debate shows a preference for or against a certain candidate, it becomes a prohibited activity. The motivation of an organization is not relevant in determining whether the political campaign prohibition has been violated. Activities that encourage people to vote for or against a particular candidate, even on the basis of non-partisan criteria, violate the political campaign prohibition of IRC Section 501(c)(3). See the FY-2002 CPE topic entitled Election Year Issues for further information regarding political activities of charities.



Charities & Non-Profits

FAQs regarding Life as an Exempt Organization

1. [Are there limitations on the activities in which my tax-exempt organization can engage?](#)
2. [Can my tax-exempt organization endorse candidates for public office?](#)
3. [What is the difference between a private foundation and a public charity?](#)
4. [What is an advance ruling period and what are our requirements?](#)

Are there limitations on the activities in which my exempt organization can engage?

Depending upon the nature of its exemption, your tax-exempt organization may jeopardize its tax-exempt status if it engages in certain activities. For example, section 501(c)(3) charitable organizations may not intervene in political campaigns or substantial lobbying activities. See [Types of Tax-Exempt Organizations](#) or [Publication 557](#) for more information.

You may also request a ruling regarding the effect of a proposed transaction on your organization's tax-exempt status. See [Rev. Proc. 2003-4, 2003-1 I.R.B. 123](#), for the procedures to request a ruling; and [Rev. Proc. 2003-8, 2003-1 I.R.B. 236](#), which explains the fee charges for such rulings.

[Return to List of FAQs](#)

Can my tax-exempt organization endorse candidates for public office?

The type of tax-exemption determines whether an organization may endorse candidates for public office. For example, section 501(c)(3) organizations may not engage in political activity, including endorsing candidates, but other organizations, such as section 501(c)(4) organizations, may engage in political activity so long as that is not their primary activity. In addition, section 501(c) organizations that make expenditures for political activity may be subject to tax under section 527(f). For more information, please see [Election Year Issues](#).

[Return to List of FAQs](#)

What is the difference between a private foundation and a public charity?

If an organization is recognized as exempt under section 501(c)(3), it will be classified as a private foundation unless it requests a ruling as a public charity. Generally, this is done as part of the [Form 1023 application process](#). An organization may be a public charity based on its activities (churches, schools, and hospitals, for example). An organization may also be a public charity because it is "publicly supported", i.e., it receives a specified portion of its total support from specified "public" sources.

[Return to List of FAQs](#)

What is an advance ruling period and what are the requirements?

Organization normally may be granted an advance ruling period of five taxable years, allowing it to operate as a publicly supported organization (and a public charity) rather than as a private foundation. Should your organization wish to continue to be treated as a public charity, you should submit Form 8734, Support Schedule for Advance Ruling Period, within ninety days after the end of the advance ruling period. Failure to submit Form 8734 results in your organization automatically being reclassified as a private foundation required to file Form 990PF.

[Return to List of FAQs](#)

Tab B

**Law Office of
Floyd Andrews
507 Polk Street, Suite 240
San Francisco, CA 94102
415.567.9070
FAX 415.771.6734
fdandrews@earthlink.net**

March 8, 2004

Lori Georgi
Chief Attorney, Office of the City Attorney
City Hall, Room #234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682

Dear Ms. Georgi:

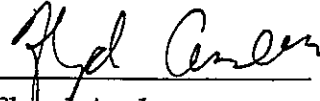
Several employees of the San Francisco League of Urban Gardeners have received letters from Tim Armistead asking that they contact him to be interviewed. These individuals have spoken to me and asked me to tell you that they do not wish to be interviewed.

They are: Marion Spagner, Jerry Young, Ernest Haywood, Joseph Bluford, Jr. and Anthony Nisby.

Also, Mr. Armistead sent a letter to Hector Guerra of SLUG requesting complete copies of Slug's payroll records for the fiscal years 1998/99 and 1999/2000. Mr. Guerra has informed me that he looked for those records but cannot find them.

Thank you for your attention in this matter.

Sincerely,


Floyd Andrews

cc: Tim Armistead

GOGGIN & GOGGIN

ATTORNEYS AT LAW

555 MONTGOMERY STREET

SUITE 850

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TELEPHONE (415) 352-2600

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TERRENCE P. GOGGIN

JAMES W. HAAS

OF COUNSEL

PATRICK D. GOGGIN

VICTOR M. MARQUEZ

GEORGE T. GOGGIN

1905-1972

January 20, 2004

Tim Armistead
Head Investigator of the City Attorney
City of San Francisco
1390 Market Street, 2nd Floor
San Francisco, CA 94102

RE: Request for an Interview of Jonathan Gomwalk

Dear Mr. Armistead,

This firm has been retained by Jonathan Gomwalk to represent him regarding allegations made in the San Francisco Chronicle.

We intend to cooperate with the appropriate agency investigating this matter. However, we seek clarification regarding jurisdiction.

It is our understanding that the Secretary of State's office has announced an investigation. If the Secretary of State has taken jurisdiction of this matter, he may well have preempted the City of San Francisco's jurisdiction. This firm is reviewing the law on this matter and it would be helpful if your office could provide this firm with a legal memorandum which addresses this issue.

Thank you for your consideration in this matter. In the future, your office may contact this firm regarding interview requests or other matters relating to your investigation.

Very Truly Yours,


Terrence P. Goggin

cc: Jonathan Gomwalk



DENNIS J. HERRERA
City Attorney

LORETTA M. GIORGI
Chief Attorney
DIRECT DIAL: (415) 554-4655

01/22/04

Terrence P. Goggin
Attorney at Law
555 Montgomery Street, Suite 850
San Francisco, CA 94111

VIA FACSIMILE AND MAIL

Re: Response to Letter of January 20, 2004

Dear Mr. Goggin:

I write in response to your letter of January 20, 2004 to Timothy Armistead, Chief of Investigations for the City Attorney's Office. I am the head of the City Attorney's Public Integrity Task Force.

We are pleased to hear that you and your client intend to cooperate with the appropriate investigating agency regarding this matter. Because this matter involves a City employee and because SLUG has numerous contract and grants from the City, the City Attorney's Office has clear jurisdiction over this matter. While the Secretary of State is looking at this matter regarding potential violations of the State Elections Code, his jurisdiction, even by his own statements to this office and in the press, is limited and does not preempt the jurisdiction of the City Attorney. We will investigate this matter concurrently and cooperatively with the Secretary of State's office.

The SLUG Board President, Roger Gordon, has assured this office that SLUG will cooperate completely with this investigation so that we can investigate this matter as thoroughly and expeditiously as possible. We assume Mr. Gromwalk, as SLUG's Executive Director understands the need for a thorough investigation as well and will make himself available for an interview as soon as possible. Mr. Armistead will contact you to discuss dates for this interview.

Thank you for your cooperation in this matter.

Very truly yours,

DENNIS J. HERRERA
City Attorney

Handwritten signature of Loretta M. Giorgi in cursive script.
LORETTA M. GIORGI
Chief Attorney



DENNIS J. HERRERA
City Attorney

TIMOTHY ARMISTEAD, CHIEF
Division of Investigation

DIRECT DIAL: (415) 554-4264
E-MAIL: tim.armistead@sfgov.org

26 January 2004

Terrence P. Goggin, Attorney at Law
Goggin and Goggin
555 Montgomery Street, Suite 850
San Francisco, California 94111

Re: Your letter of 20 January 2004

Dear Mr. Goggin:

This Office is investigating certain allegations made to us by several individuals regarding the activities of SLUG in the most recent San Francisco election as well as in prior elections. We understand that you are representing Jonathan Gomwalk for the purposes of our investigation.

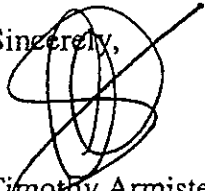
We need to interview Mr. Gomwalk regarding a number of matters, including his own history with SLUG, his role if any in election-related activities of SLUG supervisory staff and workers, and related topics. We have blocked out four dates and times for the interview, and we ask that you choose the most convenient and advise us. Please note that for purposes of ensuring accuracy of recall, our interviews are tape-recorded. The interview (or interviews, if more than one is necessary) will take place at our Fox Plaza office, 1390 Market Street, Suite 250.

The times available are as follows:

- 1) Friday, 30 January, 2:00 p.m.
- 2) Monday, 2 February, 1:00 p.m.
- 3) Wednesday, 4 February, 10:00 a.m.
- 4) Thursday, 5 February, 2:00 p.m.

Please advise by calling me at (415) 554-4264.

Sincerely,



Timothy Armistead, Chief
Division of Investigation

Tab C

SAN FRANCISCO LEAGUE OF URBAN GARDENERS

REPORT OF INTERNAL INVESTIGATION

INTO EVENTS SURROUNDING THE

DECEMBER 9, 2003 RUNOFF ELECTION

March 8, 2004

Submitted by the Board of Directors of
The San Francisco League of Urban Gardeners

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I. PREFACE

This report details the results of internal investigations conducted by the board of directors of the San Francisco League of Urban Gardeners (SLUG) into alleged improprieties surrounding the December 9, 2003 runoff election. The Law Office of Floyd Andrews and Donovan Investigations assisted the board in its inquiries. It is providing this report to assist various agencies with their own investigations and to respond to allegations reported in the media. This report also outlines steps SLUG is taking to address similar allegations from arising in the future.

II. CURRENT SITUATION

A. Allegations

On January 15, 2004, the San Francisco Chronicle ran a front-page article in which certain former employees of SLUG alleged that improper actions were committed by persons associated with SLUG in the week before and on the day of the December 9, 2003 citywide mayoral runoff election. The following improprieties were alleged:

- Individuals employed by SLUG allegedly were involved in electioneering activities (e.g., distributing campaign literature, displaying signs, etc.) on December 9, while being paid with City funds.
- SLUG employees allegedly were coerced into participating in the alleged electioneering activities and into casting their votes for a particular candidate.
- Certain SLUG employees allegedly were terminated in retaliation for talking to the Chronicle and/or to the City Attorney's office about these events.

III. BACKGROUND

The San Francisco League of Urban Gardeners is a 20-year old 501(c)(3) organization that beautifies San Francisco by building community gardens, conducting educational workshops and providing environmentally-related employment opportunities and training to individuals. It has active programs in landscape construction, open space maintenance, habitat restoration, job training and youth development and provides a range of services to its gardener members. In 1991, SLUG lost a long-time donor and moved its headquarters to the Bayview District to take advantage of federal subsidies available to nonprofit organizations operating in low-income neighborhoods. Since then it has established itself as a leading provider of neighborhood beautification, workforce development and youth training services in San Francisco's southeast sector.

A. Recent Events

On July 22, 2003 (twenty years to the day from its founding) SLUG announced that it was ceasing operations effective immediately. All but three employees were laid off and the board and remaining staff scrambled to find homes for what parts of SLUG they could, including the Tool Lending Center, the Transitional Employment Program, Design, Conservation & Construction, and the Education Program. However, after a review of the organization's financial statements and discussions with former and existing staff and board members, it became clear that the need to dissolve SLUG was far from certain. In fact, it appeared that SLUG could be saved if its staff and the City departments that contracted with it were willing to cooperate.

B. Bankruptcy

In the early summer of 2002, SLUG's balance sheet had approximately \$950,000 in debt including \$400,000 for back

payroll taxes and \$550,000 owed to unsecured creditors. Although it had little cash on hand, the sale of its Page Street garden (which had already been negotiated) was expected to bring in \$641,250. This would satisfy the tax liability and give the remaining creditors approximately 25 cents on the dollar.¹

Having labored for over a year to save SLUG, the board in 2003 was depleted both in size and energy and there was a move among it to dissolve the organization through Chapter 7 liquidation. After consulting attorneys and accounting professionals, it was determined that although unsecured creditors would likely be able to secure judgments against the corporation in court, they would be unable to force SLUG into Chapter 7 (dissolution) or even Chapter 11 (restructuring). Moreover, a review of the list of creditors also suggested that they were sophisticated enough to prefer a cash settlement to litigation. In the event, Wells Fargo Bank proved very willing to work with SLUG outside of bankruptcy or litigation.

Finally, SLUG's programs were operationally sound and its managers remained committed to the organization. Conversations with City officials led the board to believe that it would be possible to execute awarded contracts for the 2003-2004 fiscal year or to credibly compete for them again if SLUG adopted and implemented a turnaround plan. Accordingly, SLUG proposed to reconstitute its board, sell the Page Street garden to satisfy its tax liabilities, and come to terms with the remaining creditors.

On August 13, 2003 the board of directors adopted a Rescue Plan and set about trying to preserve programs that had been marked

¹ Corporations that are insolvent are able to seek protection from their creditors under the U.S. Bankruptcy Code. Chapter 7 of the Code is the "liquidation" chapter and is used by businesses that wish to liquidate and terminate their operations. Under Chapter 11, a debtor usually proposes a plan of reorganization to keep its business alive and pay its creditors over time.

for termination or re-assignment. Unfortunately, SLUG was unable to retain either the Tool Lending Center, which was awarded by the Public Library to the Clean City Coalition, or the Education Program, whose staff declined to join the turnaround effort.² The City immediately awarded SLUG's education grant to the Haight Ashbury Neighborhood Center, which then hired SLUG's former education staff.

C. Labor Issues

Several former employees of SLUG filed complaints against the organization after it closed its doors on July 22, 2003 for various reasons, the majority of which were relatively minor and had in fact been remedied. It also came to SLUG's attention that a number of individuals continued to collect unemployment insurance benefits even after SLUG re-opened its doors in August and they had been rehired.

D. Page Street Garden Sale

Key to SLUG's survival was the settlement of outstanding payroll tax debts owed to the IRS and to the State of California. Although the organization had almost no cash on hand, it did own a community garden on Page Street (in District 5, Matt Gonzalez's district) that had been valued at \$675,000 by an independent appraiser retained by the City. Negotiations to sell the garden to the City using Open Space Fund money began in early 2002. Although a price of \$641,250 had been agreed upon early on, by mid-summer 2003 these negotiations were still not complete.

² SLUG and the San Francisco Public Library determined that while it was unclear whether SLUG owed any funds to the library, it was likely that SLUG had not billed the Library for all expenses incurred by the Tool Lending Center and that there was no sign of malfeasance or misspending.

E. The Garden

The property on Page Street has been a community garden for nearly 30 years and is managed by Community Garden Coordinator Jude Koski, one of the nearly 100 local residents who maintain plots there. Numerous neighborhood and educational groups also use the garden.

F. IRS Lien

In late August 2003, the Internal Revenue Service notified SLUG that it intended to place a lien on the Page Street property. Fearing that this would complicate the sale, SLUG preemptively appealed the IRS's decision arguing that a sale was imminent. This effort was unsuccessful and a Notice of Federal Tax Lien was subsequently recorded. In early February 2004, SLUG received a summons to appear before an IRS revenue officer to explain the status of the sale and SLUG's plans for paying its debt.

G. Collaboration with Page Street Gardeners

Throughout the 19-month process of selling the garden to the City, SLUG has maintained an open and continuous dialogue with the Page Street gardeners and signaled its intent at every juncture to complete the sale.

H. Efforts to Block the Sale

Between late summer and December 2003, SLUG got wind of an effort within City Hall to obstruct the purchase of the garden. SLUG made it clear to numerous individuals and departments that not only was the sale essential to SLUG's survival but that whether the garden was purchased by the City or by another party, it would be sold - the IRS would make sure of that. A sale to a private party would almost certainly mean the development of the garden into condominiums.

I. Private Listing

With the sale to the City stalled, SLUG listed the Garden with McGuire Real Estate and soon received a good offer from a private housing developer.

J. Finance Committee

On early December 2003, the Finance Committee of the Board of Supervisors heard Board President Matt Gonzalez's motion for the City to acquire the Garden. If all had gone as expected, the Committee would have then referred the matter back to the full Board for final approval with either a positive, negative or neutral recommendation. However, at the request of Supervisor Daly, who did not attend the hearing, the motion was continued for another week.

K. Finance Committee - Second Hearing

On December 10, the day after the runoff election, the motion to acquire the Garden was heard again before the Finance Committee. Elizabeth Goldstein, Director of the Department of Recreation & Parks, and representatives from the City Attorney's office, the Budget Analyst's office and the Dept of Real Estate spoke in favor of the acquisition, as did several gardeners from Page Street.

Bill Barnes, aide to Supervisor Chris Daly, argued that the City should not acquire the Garden until it determined whether SLUG owed it any money. The Controller's office, which had been conducting a financial review of SLUG's operations, stated that it had no reason to believe that SLUG owed the City any money. Representatives of SLUG argued that the organization had in fact under-billed the City for services in the past. The City Controller did not dispute this.

There was also some discussion regarding the increase in the purchase price from \$641,250 to the fully appraised value of \$675,000. Representatives of SLUG explained that the lower figure had been negotiated over a year before and reflected a 5% discount since there had been no broker involved. Nearly 19 months later, SLUG's debts had increased substantially and it no longer felt that it was in a position to extend this discount to the City.

Board President Matt Gonzalez, who was not on the Committee but who had stepped in to hear the arguments, accepted this explanation and, at his urging, the Committee voted to recommend the acquisition of the Page Street Garden to the full board. A week later, the Board passed the resolution 10-0, Mr. Daly being absent from the Chambers. All that was left was to finalize the Purchase & Sale Agreement and for the Mayor and Board to sign.

L. City Contracts

With the loss of its Tool Lending Center and its education grants, SLUG was left with two remaining contracts. The largest was for its Transitional Employment Program (TEP), which was funded by the Department of Public Works, MUNI, the Department of Human Services, and the Neighborhood Beautification Fund (NBF). The other contract was for the Design, Conservation & Construction program, funded by the Department of Recreation & Parks. Both contracts were suspended when SLUG shut its doors on July 22, 2003.

SLUG recognized that it needed to regain the confidence of its City grantors and establish its ability to spend City funds wisely. Accordingly, in the fall of 2003, SLUG retained the San Francisco Study Center, a 30-year old nonprofit organization, to provide fiscal sponsorship services for the TEP program. Under this arrangement, the Study Center assumed control of SLUG's finance and accounting activities. The relationship was later

expanded to cover all programs and contracts and all fiscal operations. With the agreement with the Study Center in place, both DPW (which also managed funds for MUNI, DHS and NBF) and Recreation & Park agreed to allow SLUG to continue to perform work on its existing contracts.

An independent review board also awarded SLUG a new TEP contract with the caveat that the fiscal sponsorship arrangement with the Study Center be maintained until the City deemed it unnecessary.

M. Outside Counsel

The law firm of Gibson Dunn & Crutcher played a crucial role throughout this effort by providing over \$100,000 in pro bono legal services covering real estate, bankruptcy, employment, contracts and other matters.

III. THE CHRONICLE INVESTIGATION

A. Cooperation with the Chronicle

In mid-December 2003, the San Francisco Chronicle informed SLUG that it was working on a story in which certain employees would allege that they had participated in electioneering activities on December 9, 2003. In response, SLUG informed the Chronicle that it was free to speak with whomever it wanted to at SLUG and in fact invited a Chronicle reporter to attend a small holiday party at which all crew members, supervisors and staff would be present.

The Chronicle attended the reception and spoke with numerous SLUG employees one-on-one and without supervision. It was represented to the Chronicle at the time that a number of individuals were unhappy about coming layoffs and that statements should be taken with "a grain of salt". Furthermore, SLUG attempted to explain the highly politicized environment in which it had been operating even before the election. Finally, SLUG asked why the as-yet

unnamed individuals had been complaining to the Chronicle and not to the City. Several days later a number of former SLUG employees filed complaints with the City Attorney. The Chronicle's article appeared a few days after.

B. SLUG's Clientele

SLUG hires and trains low-income men and women who find it difficult to obtain and maintain steady employment. Nearly all its employees are referred to it from the Department of Human Services' Welfare-to-Work program. Many are either in recovery or have active substance-abuse problems. Others are struggling with emotional and psychiatric problems. Criminal histories are not uncommon.

Nevertheless, SLUG manages to provide employment-stabilization and training services, including flexible work schedules to accommodate therapeutic and court-related appointments, reading instruction, a career path, and a warm, safe and welcoming team environment for its clients. A unique component of SLUG's program is the involvement of its clients in gardening, neighborhood beautification, native habitat restoration and other projects. SLUG believes in the power of nature to improve the lives of individuals.

IV. ALLEGATIONS IN DETAIL

A. Electioneering on City Time in 1999

A former SLUG board member has alleged that SLUG employees engaged in electioneering activities while wearing SLUG uniforms. This matter is public record and noted in the minutes of two board meetings in 1999. At the time, it was determined that SLUG employees had in fact been engaged in electioneering although not on SLUG time. A debate ensued as to whether SLUG could prohibit its employees from wearing SLUG clothing during these

activities.³ Afterward, then executive director Mohammed Nuru circulated several memoranda expressly prohibiting electioneering during SLUG work hours.

B. Electioneering on City Time in 2003

SLUG's investigation determined that some individuals may have participated in electioneering activities on December 9, 2003 however there was no coercion and some individuals did opt out.

There was no systematic or regular participation in campaigning activities either on the day of the election or in the days preceding it. Rather, this appears to be an isolated spontaneous event enabled by poor management and poor judgment.

As soon as allegations concerning the December 9 activities came to SLUG's attention, it immediately modified its invoice to the City to ensure that SLUG expended no City funds on December 9, 2003.

C. Coercion

1) Coercion to Electioneer

SLUG's investigation of the events of December 9, 2003 was hampered by its inability to question those making the allegations or even to see the specific complaints that were filed. Rather, it has had to rely on statements made to the press by individuals who are not always named. Nevertheless, SLUG's investigation found that no coercion to electioneer occurred but that all activities took place voluntarily. Indeed, several individuals opted out, including workers who were subsequently laid off and did not file complaints.

³ SLUG provides its employees with uniforms appropriate for all seasons, including overalls, T-shirts, rain gear and baseball caps to ensure protection from the elements and sturdy gear for outdoor work-related activities

2) Coercion to Vote

A number of former workers are quoted in the press as saying they were pressured into voting for a particular candidate. SLUG's investigator looked into a number of events, including:

- Voter awareness and civic participation events at SLUG
- Oral statements made in support of a particular candidate
- Transportation to City Hall to Vote; and
- Improper interference in the ballot marking process

3) Voter awareness and civic participation events at SLUG

SLUG's investigation determined that in the days preceding the November general election, a representative of the African American Voter Awareness Project made a nonpartisan presentation at SLUG in support of exercising one's franchise. No statements were made in support of any candidate and no SLUG supervisor or manager participated other than to give a brief introduction.

SLUG's clients often fail to participate in aspects of civic life which others take for granted, including voting, due to feelings of alienation, disaffection, cynicism, hopelessness or confusion over their voting rights. This problem is endemic throughout the Bayview and in the African American community

4) Oral statements in support of a particular candidate

SLUG's investigation determined that while no instructions to vote for a specific candidate were given to any SLUG worker, some supervisors did voice their sentiment that one candidate would be more sympathetic to the needs of SLUG and the Bayview than the other. Although we believe this to be a legal exercise of the right to free speech, we are concerned that it creates the appearance of impropriety.

Furthermore, much import was given to comments allegedly made by Mohammed Nuru, a City worker who had taken the day off to campaign, to SLUG members along the lines of 'If our candidate doesn't win, we are all out of a job.' Again, we believe this to be an expression of opinion and protected free speech. In any event, Mr. Nuru was not employed by SLUG and was not in a position to threaten any SLUG worker.

5) Transportation to City Hall to Vote

SLUG workers were transported to City Hall so they could vote in the week before the runoff election. We do not believe that transporting workers to City Hall so they could exercise their right to vote was improper.

6) Improper interference in the ballot marking process

The Chronicle article alleged that SLUG supervisors watched workers mark their ballots in order to ensure that they were cast for a certain candidate. SLUG's investigator interviewed supervisors and crewmembers who cast ballots in the week before the December election (with the exception of those who were laid off at the end of December, a group which includes those who made the allegations in the Chronicle). In addition, the investigator visited the polling place in the basement of City Hall, interviewed Department of Elections staff, and obtained copies of Voter Assistance logs to see whether any SLUG member had requested assistance in voting. The investigator established that:

1. It was physically impossible for an authorized person to accompany a voter into the voting booth without being documented.
2. That no SLUG employee requested assistance with voting. No SLUG supervisor's name appears on any Voter

Assistance log kept by the Department of Elections for the time in question.

3. It was impossible for an unauthorized person to enter into the polling place for the purpose of observing or assisting a voter or of observing how the ballot had been marked before it was handed to elections officials.

Thus, the allegation that SLUG supervisors observed or directed how the ballots of SLUG employees were marked appears to be untrue.

7) Collection of Voting Stubs

The *Chronicle* articles made much of the fact that voting stubs were collected from SLUG employees after they had cast their ballots. Officials of the Department of Elections confirm that the stubs, which are torn off the bottom of ballots and handed back to the voter by poll workers, do not indicate how individuals voted and serve only as proof that a ballot was cast. Companies that allow their workers time off to vote (as they are required to by law) sometimes request to see these stubs as proof that the employee did in fact use the time off to vote.

8) Retaliatory Firings

Although we have not seen the complaints filed with the City Attorney's office, it has been alleged in the press that employees who complained about the electioneering activities or who spoke with the press were fired in retaliation. This allegation is untrue.

As is documented in the appendices to this report, the individuals alleging that they were terminated in retaliation for speaking out were employed on the Polk Street crew under a

program funded by the Neighborhood Beautification Fund.⁴ Funding for the program expired on December 31, 2003. Only the two top-performing members of this crew were transferred to other crews. The other 13 were laid off.

It should also be considered that the members of the Polk Street crew had been warned long in advance that they would be laid off on December 31, 2003. This is standard SLUG practice when funding constraints necessitate layoffs and is documented in numerous e-mails and notices to crewmembers and by our investigator's interviews with representatives of the neighborhood improvement group that was instrumental in securing the grant.

Finally, our investigator determined that some members of the Polk Street crew were disgruntled at the prospect of losing their jobs and spoke openly about retaliating against the organization. These facts were brought to the Chronicle's attention in late December, weeks before it ran its first article on SLUG.

V. SLUG'S FUTURE

A. Commitment to Environmental Mission

SLUG remains committed to improving San Francisco through environmental projects such as native habitat restoration, the protection of natural areas, environmentally friendly landscaping, and the construction and maintenance of community gardens.

B. Commitment to Client and Members Base

We remain equally committed to continuing to aid the rehabilitation of individuals in recovery and ex-offenders and to helping low-income San Franciscans reenter the workforce. This includes youth programs such as the Green Team, which works with

⁴ The Chronicle incorrectly reported that the Neighborhood Beautification Fund did not fund the Polk Street cleaning crew.

juvenile offenders, and our program at the Log Cabin Ranch in La Honda.

VI. NEW PROTECTIONS

A. Client Member Ombudsperson

In the next 30 days, SLUG will appoint a client/member ombudsperson who will serve as a non-staff liaison for crewmembers and community gardeners who may have concerns about SLUG's programs or staff or about their treatment by them.

B. Additions to Managerial Staff

SLUG will also recruit an administrator/controller to assist in program reporting, contract negotiations, and the rebuilding of its accounting systems. This will allow management to focus on service delivery, program development and strategic planning.

C. Observers on Election Days

For the next three years, SLUG will request Department of Elections observers to be present at SLUG's headquarters on elections days. A request for an observer was made on the day of the last primary election (March 9, 2004).

VII. CONCLUSION

We believe the allegations made in the Chronicle to be largely out of context but are concerned about instances of poor judgment and the appearance of impropriety. If these problems were endemic to the organization however, they would have happened on the days leading up to the election as well and not only on Election Day. Rather, it appears that these were spontaneous and isolated events.

Ultimately, people see what they want to see. Some see an environmental organization with significant assets that chooses to serve low income people and conclude they could do better. Others see an independent Bayview-based organization that is not afraid to go to City Hall and conclude something is wrong.

SLUG is the only organization in San Francisco that pursues the twin mission of environmental advocacy and social justice. Many people see no connection between the two and there is much insistence from advocates from both sides that SLUG choose one or the other. We will not do that.

We are saddened that a few hours of imprudent activity, and other efforts taken out of context, have garnered more media attention than the past nine months of labor to save this venerable organization.

We pledge to continue to rebuild SLUG and to make it even more effective at improving the lives of everyday San Franciscans by championing the environment.

Tab D



DENNIS J. HERRERA
City Attorney

TIMOTHY ARMISTEAD, CHIEF
Division of Investigation

DIRECT DIAL: (415) 554-4264
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MEMORANDUM

TO: LORI GIORGI, Chief Attorney, Public Integrity Task Force

FROM: TIMOTHY ARMISTEAD, Chief, Division of Investigation
GEORGE COTHRAN, Investigator

DATE: 10 May 2004

RE: Supplemental Report of Investigation: Interview of SLUG Supervisor

For the first time since we began the investigation of alleged political campaign activities of SLUG in the 2003 mayoral election, an employee of supervisory rank at SLUG came forward, on 26 April, to grant us an interview. Prior to his recent resignation from SLUG, this individual worked for SLUG for approximately three years. At all times during the Fall months of 2003, he was the supervisor of the Third Street Light Rail crew, a crew wholly funded by MUNI Railway to keep the Third Street corridor clean from approximately Evans Avenue to Williams Avenue.

In the weeks prior to our interview of this witness, we had interviewed two SLUG employees, one current and one former, who had told us that this supervisor's crew (hereafter, "rail crew") engaged in three kinds of campaign activity for the Newsom campaign in addition to participating in the December 2nd early absentee voting at City Hall with the rest of SLUG's employees. First, one witness who still works on the rail crew advised us that members of that crew were rotated daily or nearly daily through the Bayview office of the Newsom campaign during the five weeks between the general and runoff elections, alternately doing "phone banking," polling, and other activities including the transporting of clients of another non-profit agency to Newsom headquarters on Van Ness Avenue. Second, this same witness also told us that the rail crew attended the November 23rd debate between Newsom and Supervisor Matt Gonzalez, and that their instructions were to support Newsom at the debate. Third, a former member of a different crew advised us that he was detailed on December 9th to join the rail crew in walking along Third Street and major side streets holding Newsom campaign signs. This witness told us that he and the rail crew did that for their entire shift on December 9th, from approximately noon until about 8:00 p.m.

In our interview on April 26th, the former rail crew supervisor essentially confirmed that all three of these activities occurred, and he also stated that they occurred under the general direction and supervision of SLUG executive director Jonathan Gomwalk and Gomwalk's lead supervisor. Following are the salient details of his statement.

Memorandum

TO: LORI GIORGI, Chief Attorney, Public Integrity Task Force
DATE: May 10, 2004
PAGE: 2
RE: Supplemental Report of Investigation: Interview of SLUG Supervisor

1) On numerous occasions during the months September through December 2003, Jonathan Gomwalk and his lead supervisor variously urged, directed, and made arrangements for SLUG employees to campaign for Gavin Newsom while remaining "on the clock," that is, paid their normal wages by SLUG as if they were working legitimately on their normal, contracted cleanup duties. The campaign activities, according to this witness, included attendance at rallies and a debate, as well as many person-hours doing phone-banking, polling, walking precincts, and other GOTV activities.

2) The lead supervisor at SLUG directed this witness and the other SLUG employees who voted early absentee on 2 December 2003 to surrender their voting stubs to him. This still angers the former supervisor, even though he himself favored Newsom in the mayoral race.

3) At the lead supervisor's direction, this witness gave four hours of overtime to himself and all his crew members who attended the November 23rd debate, and further at the direction of the lead supervisor he filled out the crew members' time sheets in such a way as to disguise that activity, making it appear to be legitimate cleanup work billable to MUNI Railway.

4) At the direction of Gomwalk and the lead supervisor, the witness himself and his rail crew rotated through the Bayview office of the Newsom campaign during the five weeks between the general and runoff elections, largely doing phone-banking. The witness did the phone-banking on Fridays and Saturdays (he worked a Tuesday through Saturday week). He also confirmed that our other rail crew witness did transport people to the main Newsom headquarters, as that witness told us. For all these campaign activities, this former supervisor and his crew were instructed to remove all their SLUG regalia. He and his crew were paid by SLUG for this campaigning as if they had been cleaning the Third Street corridor. According to the witness, while the activity itself was mandated by Gomwalk and the lead supervisor, at the level of the line worker the campaigning actually was presented as "voluntary" in this sense: workers could clean the streets on a given day or they could report to the Newsom campaign office on Third Street, with the understanding that the campaigning was easier and cleaner work than street-sweeping, and that if they phone-banked for, say, four hours, they would be allowed to leave for the day and still be paid by SLUG for eight hours. According to the witness, this policy resulted in constant coverage for the Newsom campaign by the rail crew at the same time that some members of the crew were also sweeping the streets as per the contract between MUNI Railway and SLUG.

5) The witness confirmed by photo spread identification the identity of our non-rail crew witness who claimed to have walked the Third Street area all day on December 9th holding Newsom campaign signs. The witness told us that he himself and his entire crew of ten men, in addition to our non-rail crew witness, performed that campaign activity their entire shift (noon through 8:00 p.m.), and were paid by SLUG as if they had worked that day.

Memorandum

TO: LORI GIORGI, Chief Attorney, Public Integrity Task Force
DATE: May 10, 2004
PAGE: 3
RE: Supplemental Report of Investigation: Interview of SLUG Supervisor

6) This former supervisor is the second witness to report what may be retaliation by SLUG against two current SLUG employees who have given this Office an interview. The day after this witness advised his superiors that he intended to give us an interview, the lead supervisor at SLUG reportedly picked him up on his route and drove him to a more difficult and far-removed route, where he was reportedly instructed to clean up that area instead of his normal one. According to the witness, this was an unusual experience and contributed to his eventual decision to resign. Our immediately prior witness, still employed by SLUG, was reprimanded and docked a day's pay for an alleged unexcused absence from his route on the day following our interview. He denies that he was absent from his route.

T.A., G.C.