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**AMERICAN CIVIL LIBERTIES
UNION OF NEW JERSEY and
MADELINE HOUSTON,**
Plaintiffs,

v.

**WILLIAM H. LIBERA, Ed.D.,
Commissioner of Education, State of
New Jersey, in his official capacity;
JOHN E. McCORMAC, State
Treasurer, State of New Jersey, in his
official capacity; SETON HALL
PREPATORY ACADEMY; and ST.
PETER'S PREP,**

Defendants.

CIVIL ACTION

**SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, GENERAL
EQUITY PART, MERCER COUNTY**

No. _____

**VERIFIED COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF**

This is an action seeking to declare as unconstitutional specific, unrestricted, discretionary legislative grants to two identified religious schools in violation of the First Amendment to the Constitution of the United States and Article I, Paragraph 4 of the Constitution of the State of New Jersey, and to enjoin the Treasurer of the State of New Jersey and the Commissioner of Education from conveying the appropriated sums to the named schools.

PLAINTIFFS

1. Plaintiff AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY (“ACLU-NJ”) is a New Jersey non-for-profit corporation dedicated to preserving

constitutional liberties. It has its offices at Newark, New Jersey (Essex County). It sues on behalf of its over 10,000 members, all, or most, of whom are residents and taxpayers of New Jersey.

2. Plaintiff MADELINE HOUSTON (“HOUSTON”), is a New Jersey resident and taxpayer residing in Montclair, New Jersey. She is also a member of the ACLU-NJ. She has two children currently in the Montclair public school system. Her son attends a Montclair middle school that rents classrooms at a private facility because it does not possess a facility of its own. The students at this middle school must walk to the Montclair public library for use of library facilities and must walk to the YMCA for use of a gym.

DEFENDANTS

3. Defendant JOHN McCORMAC (McCORMAC) is the State Treasurer of the State of New Jersey. Upon information and belief, Defendant McCORMAC is the official responsible for transferring appropriated funds to named recipients. His offices are at the New Jersey Department of the Treasury, State House, P.O. Box 002, Trenton, New Jersey 08625-0002.
4. Defendant WILLIAM LIBERA, Ed.D. (“LIBERA”) is the Commissioner of Education for the State of New Jersey, having offices at the New Jersey Department of Education, 100 River View, Executive Plaza, Route 29, Trenton, New Jersey 08625-0500. Upon information and belief, Defendant LIBERA’s approval is needed for funds appropriated in the state budget under the heading of “Education” to be expended.
5. Upon information and belief, Defendant SETON HALL PREP (“SHP”) is a religious secondary school, under the Catholic Archdiocese of Newark, and is located at 120 Northfield Avenue, West Orange (Essex County), New Jersey.
6. SHP declares on its web site (www.shp.org): “SHP takes as its mission the development of the whole man—spiritual, intellectual and physical. The Prep community proceeds from a belief that growth as a whole person is not limited to secular knowledge, but involves spiritual fulfillment that has been a central concern in its educational tradition.”
7. Upon information and belief, SHP is a not-for-profit New Jersey corporation.
8. Upon information and belief, Defendant ST. PETER’S PREP (“SPP”) is a religious secondary school located at 144 Grand Street, Jersey City (Hudson County), New Jersey.
9. Upon information and belief, Defendant SPP is a not-for-profit New Jersey corporation.

10. On its web site (www.stpetersprep.org), SPP (under the caption “St. Peter’s ... at a Glance”) describes itself as a “Jesuit, Catholic independent college preparatory school for young men.” It claims that “helping our students develop spiritually is at the heart of Prep’s educational mission. Our young men strengthen their relationship with God in various ways ...” (www.stpetersprep.org/stulife).
11. Upon information and belief, both SHP and SPP mandate four years of religious studies, taught from the perspective of the Catholic Church. The religious studies curriculum of each, as described on each school’s web site, is attached as Exhibit A.

FACTS

12. PL 2003, Chapter 122, was the budget for the State of New Jersey for the budget year 2003.
13. As part of the appropriation for education (p. 48 of the Public Law), the following specific appropriations appear:

7. Seton Hall Prep – Expansion\$250,000
8. St. Peter’s Prep – Field Remediation\$250,000

An excerpt of the true copy of the budget is attached as Exhibit B.

14. Upon information and belief, the grant to SPP was procured by the efforts of Senator Bernard Kenny, whose sons attend SPP (see attached Exhibit C). Plaintiffs do not know which legislator was responsible for the grant to SHP.
15. There are over 1,200 private and religious schools in the State of New Jersey. (A list is attached as Exhibit D). Most of these appear to be religious in nature. Upon information and belief, with the exception of SHP and SPP, none of these 1,200 schools received designated appropriations in the 2003 budget, and none could apply for such funds under a neutral and generally applicable statute.

FIRST CAUSE OF ACTION

16. Plaintiffs incorporate by reference the allegations set forth in paragraphs 1 through 15 above.
17. The challenged grants provide direct and preferential capital financial assistance to religious schools in violation of the Establishment Clause of the First Amendment to the United States Constitution, and, hence, 42 U.S.C. § 1983.

SECOND CAUSE OF ACTION

18. Plaintiffs incorporate by reference the allegations set forth in paragraphs 1 through 17 above.
19. The challenged grants provide direct and preferential aid to religious schools in violation of Article I, Paragraph 4 of the New Jersey Constitution.

PRAYER FOR RELIEF

20. Plaintiffs pray that the Court enter an order:
 - a. declaring that the identified appropriations to SHP and SPP are unconstitutional;
 - b. enjoining Defendants McCORMAC and LIBERA from disbursing any taxpayer funds pursuant to the challenged appropriations;
 - c. enjoining Defendants SHP and SPP from expending any funds appropriated to them pursuant to the challenged appropriations, should such funds have already been dispersed to them;
 - d. awarding a reasonable attorney fee against Defendants LIBERA and McCORMAC pursuant to 42 U.S.C. § 1988;
 - e. such other relief as the Court may find just and proper.

Respectfully Submitted,

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ACLU-NJ
Post Office Box 750
Newark, New Jersey 07101
(973) 642-2084

Marc D. Stern

American Jewish Congress

August 28, 2003

RULE 4:5-1 CERTIFICATION

I, EDWARD BAROCAS, certify under penalty of perjury that the following is true and correct:

1. I am an attorney admitted to practice in the State of New Jersey and am Legal Director of the American Civil Liberties Union of New Jersey Foundation, one of the attorneys for the Plaintiffs in the within matter. I am responsible for the handling of cases in our office.
2. The matter involved here, as far as I know, is not the subject of any other action pending in any Court, nor is it the subject of a pending arbitration proceeding. No other action or arbitration proceeding is contemplated.
3. I know of no party who should be joined in this action who has not already been joined.

BY: _____
Edward Barocas
Legal Director
American Civil Liberties Union
Of New Jersey Foundation
Attorney for Plaintiffs

VERIFICATION

I have reviewed the foregoing Complaint and affirm that it is true and correct to the best of my knowledge and belief.

Dated: August 27, 2003

Edward Barocas
Legal Director
American Civil Liberties Union
of New Jersey