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Investigation Closing Report concerning Hubbell Trading
Post, 2008 and memo from National Park Service (NPS) in
reply to Investigation, 2009

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Office of Inspector General
U.S. Department of the Interior
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OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

VIA EMAIL

December 30, 2013

Re: OIG-2014-00015

This is in response to your letter dated December 24, 2013, which was received by the Office of Inspector General (OIG) on December 26, 2013. In your letter, you request the following information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552: A copy of the OIG Report of Investigation concerning Hubble Trading Post - Closing Report dated 1/16/2008, and also the memo from NPS to OIG in reply to Hubbell Trading Post Investigation, dated 6/23/2009.

The OIG has assigned your FOIA request the number OIG-2014-00015. Please use this number in all future correspondence concerning your request. Your letter states that you agree to pay \$25 to process your request. For purposes of OIG-2014-00015, you have been categorized as an "other requester." As such, you are charged fees for document search and duplication, except that the first 100 pages of paper copies (or the equivalent cost thereof if the records are in some other form) will be provided without charge. The OIG will not charge such requesters for document review.

Under 43 C.F.R. § 2.15, the OIG is required to categorize each FOIA request based on the amount of time needed to process it. The four categories are: 1) Simple (1 -5 workdays); 2) Normal (6-20 workdays); 3) Complex (21-60 workdays); and 4) Exceptional/Voluminous (60+ workdays). Your request has been placed in the simple track.

A search was conducted and enclosed are copies of the requested ROI and closing memo. There are 21 pages responsive to your request. Approximately 18 pages contain some information that is being withheld and three pages are being released in their entirety. The fee for providing these documents is less than \$50.00 and is not being charged in accordance with 43 C.F.R. § 2.49(a)(1).

Deletions have been made of information that is exempt from release under the provisions of 5 U.S.C. §§ 552 (b)(5), (b)(6), and (b)(7)(C). These sections exempt from disclosure items that pertain to: (1) inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency; (2) personnel and other similar files the disclosure of which would constitute a clearly unwarranted

invasion of personal privacy; and (3) records of information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information could reasonably be expected to constitute an unwarranted invasion of personal privacy. Exemption (b)(5) was used to protect deliberative information which was used by the AUSA. Exemptions (b)(6) and (b)(7)(C) were used to protect the personal privacy interests of witnesses, interviewees, middle and low ranking federal employees and investigators, and other individuals named in the investigatory file.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you disagree with this response, you may appeal the decision by writing to the following no later than 30 workdays after the date of the final response:

Office of the Solicitor
FOIA Appeals Officer
U.S. Department of the Interior
1849 C Street, NW
MS-6556
Washington, DC 20240
foia.appeals@sol.doi.gov

The FOIA Appeal Officer's facsimile number is 202-208-6677. Your appeal should be filed in accordance with the regulations set out in 43 C.F.R. §§ 2.57-2.64, a copy of which is enclosed.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Facsimile: 202-741-5769
Toll-free: 1-877-684-6448

However, should you need to contact me, my telephone number is 202-219-2069, and the email is foia@doioig.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Cristal J. Garcia", enclosed within a circular scribble.

Cristal J. Garcia
Government Information Specialist

Enclosures (2)



**United States Department of the Interior
Office of Inspector General**

REPORT OF INVESTIGATION

Case Title Hubbell Trading Post	Case Number PI-PI-07-0054-I
Reporting Office Program Integrity Division	Report Date January 16, 2008
Report Subject Closing Report	

SYNOPSIS

We initiated this investigation based on allegations we received from a National Park Service (NPS) special agent who questioned the integrity of an NPS investigation at the Hubbell Trading Post National Historic Site in Ganado, AZ. NPS agents were investigating Bill Malone, Hubbell Trading Post Manager and Trader, Western National Parks Association (WNPA), for forgery and theft. Specifically, the agent alleged that NPS agents cited false information on a search warrant affidavit; exceeded the scope of the warrant; and committed breaches in the chain of custody for property seized. The agent also alleged that NPS agents excluded information from NPS investigative reports and failed to follow leads.

During the course of our investigation, we determined that NPS failed to protect the confidentiality of the investigation, and we found that an improper relationship existed between NPS and WNPA, a nonprofit organization that operates the Hubbell Trading Post under a cooperative agreement with NPS.

Our investigation determined that NPS Special Agent Clyde Yee, the case agent assigned to the Hubbell Trading Post investigation, submitted false information on the search warrant affidavit and did not properly account for cash and evidence seized. The U.S. Attorney's Office declined prosecution of Yee in lieu of administrative remedies.

We also identified two discernible issues of concern during our investigation: (1) NPS Law Enforcement's lack of a thorough investigation and management oversight of the case and (2) the existence of an inappropriate relationship between NPS and WNPA during the NPS investigation.

We are referring the results of this case to NPS management for review and appropriate action.

Reporting Official/Title Paul D. Okerberg / Special Agent	Signature <i>Paul D. Okerberg</i>
Approving Official/Title Alan F. Boehm / Director, Program Integrity Division	Signature <i>A. F. Boehm</i>
Authentication Number: C8690D9207FB5B31372B02E5EE5A6DBC	

BACKGROUND

Hubbell Trading Post National Historic Site

Established in 1876, the Hubbell Trading Post is the oldest, continuously operated traditional trading post in the American Southwest and has been a center of commerce for trade with the Navajo Indians. The movement to bring the Hubbell Trading Post into the National Park System started in 1957, and Congress established the Hubbell Trading Post National Historic Site on August 28, 1965. Public Law 89-148 authorized the purchase of the site to “preserve and protect the post and its environs for the benefit and enjoyment of the public” (**Attachment 1**).

Western National Parks Association

WNPA is a nonprofit cooperating association of NPS. The association was founded in 1938 as the Southwest Monuments Association to “support the interpretive activities of NPS,” as stated on its Web site. Cooperating associations are authorized by Congress to manage sales areas, such as bookstores and museums, in national parks and donate a portion of the proceeds to the park or parks in which they operate. Cooperating associations and friends groups (other nonprofit entities that partner with NPS, primarily composed of volunteers) help support 347 (90 percent) of the United States’ national parks.

Since January 31, 1968, WNPA has managed the retail functions of the Hubbell Trading Post, including the bookstore at the visitor center and the actual trading area – where various goods are exchanged, including groceries, rugs, and jewelry. WNPA places a percentage of revenues generated at the Hubbell Trading Post National Historic Site into an Interpretative Support Account. NPS can submit a request to WNPA for those funds to be used to help support the interpretative, scientific, or educational needs of the site. If WNPA approves the request, the monies are donated to NPS for that specific purpose.

The Memorandum of Agreement between NPS and Southwest Parks and Monuments Association (now WNPA), dated December 10, 1999, states the following (**Attachment 2**):

[WNPA is to] conduct the trading operations based on the historical traditions of Hubbell Trading Post and Indian trading while allowing for a continuing evolution of its practices and operations, and to ensure the perpetuation of an active trading post for interpretation to the public. Consistent with this activity, the association will buy and sell a range of Indian arts and crafts, operate a general and grocery store, and carry on related trading activities as an integral part of the interpretive program at Hubbell Trading Post National Historic Site. The interpretive mission of the trading operation shall take precedence over profit.

NPS Investigation of Hubbell Trading Post Manager

On April 28, 2004, WNPA officials approached NPS Intermountain Region management at an NPS superintendent’s meeting with allegations against WNPA Hubbell Trading Post Trader and Manager Bill Malone. They alleged that Malone may have forged WNPA checks for personal gain. WNPA requested that NPS regional management shut down the Hubbell Trading Post for 3 days to allow WNPA to perform an audit.

The next day, WNPA and NPS Intermountain Region management examined the checks and determined that they appeared to have been forged. They referred the allegations to Intermountain Region Law Enforcement Special Agent-in-Charge (SAC) Jim Reilly, who assigned the investigation to Special Agent Clyde Yee, of Lakewood, CO.

On July 21, 2005, Assistant U.S. Attorney (AUSA) [REDACTED], District Of Arizona, sent SAC Reilly a letter after reading a prosecution summary of the Malone investigation sent to him by Reilly and Yee on July 11, 2005 (**Attachment 3**). In his letter, AUSA [REDACTED] stated the following:

Ex. 5

[REDACTED]

In late 2005, after NPS management became frustrated with the investigation's lack of progress and the investigative costs, which exceeded \$272,000 (not including salaries) NPS Senior Special Agent Paul Berkowitz worked on the case, Reilly assigned Berkowitz to replace Yee and continue the investigation at the Hubbell Trading Post (**Attachment 4**). Berkowitz also conducted an interview and polygraph of Malone (**Attachment 5**). Berkowitz also prepared a comprehensive report of investigation of his interviews (**Attachment 6**).

DETAILS OF INVESTIGATION

Berkowitz forwarded allegations to the OIG that criminal, civil, and administrative violations may have occurred during Yee's investigation of Malone. Berkowitz alleged that NPS agents cited false information on a search warrant affidavit; exceeded the scope of the warrant; and committed breaches in the chain of custody for the property seized. He also alleged that NPS agents excluded information from NPS investigative reports and failed to follow leads.

Initially, we focused our investigation on the allegations forwarded by Berkowitz; however, we expanded our investigation when we became aware of additional concerns regarding the confidentiality of the criminal investigation; the potential release of Criminal Procedure, Rule 6(e) information; and the appearance of an inappropriate relationship between NPS and WNPA. During the course of our investigation, we interviewed 28 individuals and reviewed thousands of documents and e-mails.

While WNPA initially cooperated with our investigation, our repeated efforts to interview WNPA employees after April 2007 were unsuccessful – WNPA would not agree to further interviews with the OIG. WNPA's attorney provided an e-mail to our office: "My client believes that it has more than assisted in your investigation. As such, no one associated with WNPA wish [sic] to discuss this matter with you now or in future. Please do not contact my client again" (**Attachment 7**).

Allegations Made Against Bill Malone

We interviewed WNPA [REDACTED] who said [REDACTED] assumed [REDACTED] position with WNPA in August 2003 (Attachment 8). While [REDACTED] was responsible for managing 65 park sites for WNPA, [REDACTED] explained that one of [REDACTED] primary duties, as directed by WNPA Chairman Jim Babbitt, was to focus on the operation and management of the Hubbell Trading Post.

[REDACTED] said [REDACTED] was also told during [REDACTED] initial interview with WNPA before [REDACTED] was hired that the Hubbell Trading Post employees had conduct and performance problems. [REDACTED] said that after [REDACTED] assumed [REDACTED] position, [REDACTED] began discussing trading post operations with the WNPA Board. [REDACTED] was told that WNPA had concerns regarding the management of the Hubbell Trading Post and its lack of reliable and accurate accounting procedures.

[REDACTED] stated that because the Hubbell Trading Post was WNPA's largest revenue-producing unit of the 65 NPS sites it managed, [REDACTED] made several trips to the trading post within [REDACTED] first few months as [REDACTED] (Attachment 9). [REDACTED] said [REDACTED] site inspections at the trading post confirmed the Board's concern for how poorly the Hubbell Trading Post was being managed.

In November 2003, [REDACTED] said WNPA [REDACTED] informed [REDACTED] that [REDACTED] was going to have to transfer money from the WNPA general operating account to the WNPA Hubbell Trading Post account because there were insufficient funds to conduct trading post operations. [REDACTED] said this surprised [REDACTED] since the Hubbell Trading Post was supposed to be self-sustaining. [REDACTED] related that during preparation for a March 2004 audit by WNPA, [REDACTED] also informed [REDACTED] that sales tickets (receipts of purchase) were missing at the Hubbell Trading Post. [REDACTED] explained that the sales tickets were a vital part of WNPA's accounting system (See Attachment 8).

[REDACTED] stated that [REDACTED] was also concerned about how consignment items – items sold on behalf of local citizens and Navajo artisans – were being inventoried and accounted for at the trading post. [REDACTED] said WNPA Hubbell Trading Post employees [REDACTED] and [REDACTED] told [REDACTED] Malone handled all of the consignments; the missing sales tickets all appeared to be from consignment sales.

[REDACTED] stated that as [REDACTED] began counting the inventory of rugs for sale at the trading post in order to determine which were consignment items and which were purchased directly by WNPA, Malone seemed to become uneasy. [REDACTED] said [REDACTED] determined that the value of the rugs totaled \$743,810, which far exceeded anybody's estimate. [REDACTED] stated that at this point, [REDACTED] developed concerns regarding WNPA's liability. [REDACTED] was later informed by WNPA's insurance agent that WNPA only had \$10,000 in coverage for "property of others."

[REDACTED] stated that the trading post maintained two checking accounts at that time – one for consignment items and another for items purchased by WNPA. [REDACTED] said [REDACTED] told Malone to stop using the consignment checking account since WNPA could issue the checks needed to pay individuals. [REDACTED] said Hubbell Trading Post [REDACTED] told [REDACTED] Malone would draft checks to pay individuals and then endorse the artisan's name on the back as if they had signed the check.

[REDACTED] said [REDACTED] became very concerned and thought illegal activity might be occurring. [REDACTED] said [REDACTED] also examined the checks. [REDACTED] thought the handwriting of Malone's signature matched the handwriting endorsing the checks. This lead [REDACTED] to believe that Malone was issuing and

endorsing the checks, as [REDACTED] had suggested to [REDACTED]. [REDACTED] stated that [REDACTED] then called WNPA Chairman Babbitt and Board member [REDACTED], and [REDACTED] notified the Board of Directors at an April 13, 2004 WNPA Board Meeting in Billings, MT. In a statement [REDACTED] made to Berkowitz, [REDACTED] said the Board decided to present the allegations to NPS.

Agent's Note: [REDACTED] was also interviewed once by Yee; [REDACTED] was later interviewed several times by Berkowitz during the time he was assigned the Malone investigation (See Attachments 9, 10, and 11).

After the Board submitted the allegations to NPS, Intermountain Region Law Enforcement SAC Jim Reilly assigned the investigation to Yee.

NPS Investigation of Bill Malone

Search of Malone's Home

On June 8, 2004, Yee obtained a federal search warrant for Bill Malone's residence at the Hubbell Trading Post housing compound. NPS agents held a meeting that evening before the search, and attendees included the following individuals: NPS Intermountain Region Deputy Director (now Director) Mike Snyder; Intermountain Region Associate Director for Communications [REDACTED]; [REDACTED] Intermountain Region Chief of Ranger Activities [REDACTED] and [REDACTED] and both accountants for Devries and Associates, WNPA's accounting firm; WNPA employees [REDACTED] and [REDACTED] and two NPS rangers tasked with providing security during the search warrant.

Yee executed the warrant with a team the following morning. After an 18-hour search at Malone's residence, Yee and search team members, including [REDACTED], [REDACTED] and [REDACTED] seized approximately 557 Navajo rugs, 7,000 pieces of jewelry, and an indeterminate amount of cash and checks.

Agent's Note: We could not determine the exact amount of cash and checks seized from Malone's residence because Yee did not document the seizure or use appropriate chain-of-custody procedures.

We found that the search warrant obtained by Yee authorizing the search and seizure of items from Malone's residence specifically identified the scope of the articles to be seized as the following (Attachments 12 and 13):

Financial and business documents, ledgers, records, receipts, including consignment ledgers, consignment checks, loan index cards and white and pink sales tickets, for the period 1990 through the present [June 8, 2004], reflecting purchases and sales of inventory by Hubbell Trading Post and Western National Parks Association, goods taken on consignment...currency reflecting fruits of the fraud.

During his interview with the OIG, Yee stated that the search team seized Navajo rugs and pieces of jewelry from Malone's residence because they had markings similar to items found in the Hubbell Trading Post (Attachment 14).

Agent's Note: Interviews with current and former WNPA and Hubbell Trading Post employees confirmed that Malone made no distinction between his residence and the Hubbell Trading Post and routinely

conducted Hubbell Trading Post business, including storing consignment items to be repaired or other Hubbell Trading Post merchandise, at his home. In addition, Malone had received rugs and jewelry as compensation for being the Pinon Trading Post trader for a number of years.

Yee stated that during the course of the search, he made several telephone calls to then Assistant U.S. Attorney ██████████ to obtain guidance on what property he should seize. According to Berkowitz, Yee told him ██████████ directed him to seize all property that might belong to the Hubbell Trading Post and that NPS could verify ownership later (**Attachment 15**). Further, Yee explained to Berkowitz that he seized all property present in the house and garage that appeared as though it might belong to the Hubbell Trading Post. He said he also seized any property located next to, or adjacent to, these items.

*Agent's Note: Interviews with ██████████ revealed conflicting statements as to what guidance was given related to the seizure of items from Malone's residence (**Attachments 15 and 16**). Neither the search warrant nor the search warrant affidavit properly identified the items that were ultimately seized by the search team. In addition, our review of the seized rugs revealed less than 30 percent bore markings or tags from the Hubbell Trading Post or WNPA (**Attachment 17**).*

Yee said it was his decision that accountants ██████████ would accompany him and ██████████ in executing the search at Malone's residence (See Attachment 14). According to ██████████, they were to search for the consignment ledgers and help identify those items on consignment or WNPA property (**Attachment 18**).

The day after the search, Yee said he decided to have ██████████ drive the WNPA van full of seized evidence to Flagstaff. Yee could not explain why NPS Ranger ██████████ was not asked to drive the van since ██████████ was available and the only other law enforcement officer present (See Attachment 14).

When interviewed, ██████████ said Yee obtained the search warrant for Malone's home and he (██████████) reviewed the potential charges – theft from WNPA, NPS, and Navajo artisans (**Attachment 19**). ██████████ said ██████████ did not remember reviewing the alleged forged checks and did not assist in drafting the search warrant affidavit. ██████████ recalled that originally, the purpose of the search warrant was for Yee to obtain the consignment ledgers and records at Malone's residence to corroborate allegations that Malone was stealing from WNPA.

██████████ stated that, during the pre-search meeting held the night before the search, attendees did not discuss the details of how the search warrant would be executed. ██████████ said Yee made the decision during this pre-search meeting that ██████████ would help execute the warrant. ██████████ said he believed the auditors' participation in the search was odd.

██████████ did not recall anyone videotaping the search but said ██████████ took photographs. He also remembered Yee calling Assistant U.S. Attorney ██████████ and informing the team that ██████████ said if they saw several rugs in a stack with Hubbell Trading Post tags on them, they should seize the entire stack. ██████████ said he questioned Yee about the appropriateness of taking the entire stack and Yee confirmed that this was ██████████ direction.

We interviewed ██████████ and ██████████ both accountants for Devries and Associates, WNPA's accounting firm (also the accounting firm that performed periodic audits of the Hubbell Trading Post), who participated in the search (See Attachment 18). ██████████ recalled initially receiving a telephone call from WNPA ██████████ who told ██████████ had obtained

WNPA checks that might have been forged by Malone.

When asked about [redacted] involvement in the NPS search of Malone's home, [redacted] stated that [redacted] and [redacted] were "scared out of [their] wits" to be participating in the search warrant because Yee and other NPS law enforcement had bulletproof vests and guns, while they did not. [redacted] and [redacted] disclosed that they had never participated in a search warrant before.

[redacted] recalled seeing piles of rugs, many of which had Hubbell Trading Post tags. [redacted] said their initial responsibility during the search was to look for the two consignment ledgers and help identify consignment items and WNPA property. [redacted] said three other people helped conduct the search, including Yee, NPS Ranger [redacted] and [redacted], and according to [redacted], the team was overwhelmed with the amount of rugs, art, and jewelry they encountered. [redacted] and [redacted] stated that they discovered about 30 weapons in Malone's home during the approximate 16-hour search. Both [redacted] and [redacted] opined that the search was not well organized.

[redacted] stated that after the team's search of Malone's residence, they spent the night at a motel in town near the Hubbell Trading Post. [redacted] recalled that the following morning, Yee asked [redacted] to drive the WNPA van to Flagstaff, AZ. [redacted] said [redacted] did not feel comfortable driving the large vehicle, especially since it was full of expensive jewelry and rugs.

[redacted] added that driving the van would also have required [redacted] to spend another day away from conducting the Hubbell Trading Post audit, which was [redacted] original assignment. According to [redacted] [redacted] drove the van and assisted in unloading the items at the public storage facility.

When interviewed regarding the search warrant, [redacted] recalled that [redacted] told Yee that Hubbell Trading Post [redacted] and Hubbell Trading Post employee [redacted] had told [redacted] that Malone took the consignment books to his home (See Attachment 8). [redacted] said Yee told [redacted] that he might try to secure a search warrant since he felt the consignment books would be critical to the investigation.

[redacted] recalled that [redacted] attended the pre-search warrant briefing at the Holiday Inn in St. Michael, AZ. According to [redacted] [redacted] and [redacted] of the WNPA audit team, attended the meeting, as well as NPS Ranger [redacted] and two female NPS rangers. [redacted] said [redacted] was surprised when Yee announced at the meeting that he wanted [redacted] and [redacted] to accompany him on the search at Malone's residence. [redacted] recalled asking Yee how [redacted] and [redacted] would conduct their audit at the trading post if they were at Malone's residence. [redacted] said [redacted] did not remember Yee's response. [redacted] said the following morning the team executed the search warrant.

After the team completed the search, [redacted] said [redacted] drove the van full of seized evidence from Malone's residence to Flagstaff, AZ, the following day. [redacted] said [redacted] was not comfortable with Yee's decision that [redacted] drive the van. [redacted] said [redacted] followed Yee to the private storage facility in Flagstaff and helped him unload the evidence.

According to Berkowitz, [redacted] stated that [redacted] had no files or notes regarding [redacted] conversation with Yee with respect to the search warrant but recalled receiving several telephone calls from Yee during the execution of the search warrant (See Attachment 15). [redacted] told Berkowitz that [redacted] recalled directing Yee to seize only items bearing tags that could be readily identified as trading post property. Further,

█████ said █████ did not direct Yee to seize all items, nor did █████ direct Yee to seize unidentified property. █████ stated that █████ had assumed any items mistakenly seized would be returned to Malone.

We interviewed █████ on the scope of the search warrant and the items seized by Yee (See Attachment 16). At the time of the execution of the warrant, █████ was an Assistant U.S. Attorney. █████ said █████ was surprised to learn that clear ownership of all property had not been established in a timely manner and that it took two years for NPS agents and WNPA representatives to return Malone's property to him.

We interviewed Bill Malone and his █████, regarding the search of their home (Attachment 20). Bill Malone recalled four to six people arriving at 6 a.m. to conduct the search. Malone stated that he was searched by agents to ensure he was not carrying a weapon and was then instructed to wake his family. Both Malone and his █████ stated that while the search took place, each of them tried to inform the team which items were his personal property and which were on consignment, but agents ignored them and the items were seized.

According to Berkowitz and Special Agent █████ NPS evidence custodian, less than 30 percent of the rugs the team seized from Malone's residence bore any form of tag suggesting they were, or might have been, Hubbell Trading Post property or consignment inventory (See Attachment 17). Several of the seized rugs contained Malone's name woven into their design and fabric. According to Berkowitz, none of the jewelry and other items seized by NPS agents bore tags identifying them as trading post property. Additionally, markings affixed to jewelry and other items were never reconciled to any trading post ledgers or inventory records to determine if they were Hubbell Trading Post property.

We also found that in order to obtain the initial search warrant, Yee had prepared a sworn affidavit, providing the required facts justifying NPS's role in the investigation (See Attachment 13). A review of the affidavit prepared by Yee, revealed that Yee asserted in four separate instances that WNPA paid NPS 6.5 percent of trading post proceeds through existing NPS and WNPA contracts. Our review of the global agreement between NPS and WNPA and the cooperative agreement specific to the Hubbell Trading Post revealed that no such contractual arrangement or obligation existed (Attachments 2 and 21).

During his interview, Yee said █████ told him that WNPA provided 6.5 percent of the net Hubbell Trading Post revenues through a cooperative agreement with NPS for managing the Hubbell Trading Post. Yee said he did not verify this information with any other sources, and no NPS law enforcement personnel checked the specifics of the cooperative agreement between WNPA and NPS for the Hubbell Trading Post (See Attachment 14).

Through interviews with █████, Intermountain Region Associate Director for Business and Technology, and █████, Intermountain Region Cooperative Association Coordinator, we did not find a binding contractual obligation for WNPA to transfer a percentage of profits to NPS and could not substantiate that the monies would constitute federal funds (Attachments 22 and 23). The revenues generated at the Hubbell Trading Post remain in accounts controlled and managed by WNPA. NPS is able to submit a request to WNPA to expend funds toward a specific project or activity with a direct nexus to a park's interpretive programs; however, WNPA retains discretion over its response to such requests (See Attachments 10 and 22).

Chain of Custody for Seized Items

According to NPS Special Agent [REDACTED] several weeks after [REDACTED] and Yee drove the vehicles containing the seized evidence to the Flagstaff public storage facility, Yee and NPS Ranger [REDACTED] transported the property to NPS's Western Archaeological Conservation Center in Tucson, AZ (Attachment 24). [REDACTED] said [REDACTED] assumed custody of the evidence at the Western Archaeological Conservation Center when it arrived in Tucson for inventory and long-term storage.

[REDACTED] stated that the evidence from Flagstaff contained no chain-of-custody documents, and [REDACTED] demanded that Yee provide these documents before he left Tucson. [REDACTED] said Yee wanted staff at the Western Archaeological Conservation Center to inventory evidence, which was eventually coordinated by NPS. According to [REDACTED] Western Archaeological Conservation Center staff charged their hours and overtime to a special account number designated for the trading post investigation.

[REDACTED] stated that [REDACTED] had the evidence storage area re-keyed, and in July 2004 [REDACTED] officially assumed the role of evidence custodian for property stored at the conservation center for the Hubbell Trading Post case. [REDACTED] said [REDACTED] called Yee to see if he wanted a copy of the key since he was the case agent, and he told [REDACTED] he did not want a key at that time and would obtain one when he visited her office in a few weeks. [REDACTED] said [REDACTED] could not recall Yee visiting Tucson during that time.

[REDACTED] said [REDACTED] had also reminded Yee that a photo log should be completed for all evidence, that criminal background checks should be completed for Western Archaeological Conservation Center staff and anyone who would be conducting the inventory, and that an NPS law enforcement officer or agent should always be present when evidence was accessed. [REDACTED] said none of this was ever done by Yee.

According to [REDACTED] [REDACTED] left Tucson to attend to personal family matters in Washington State at the end of August 2004 and provided Yee with [REDACTED] contact numbers. While [REDACTED] was out of town, [REDACTED] said Yee contacted Western Archaeological Conservation Center [REDACTED] at the end of August. According to [REDACTED] on August 31, 2004, Yee faxed [REDACTED] a memorandum authorizing [REDACTED] to allow a locksmith to change the evidence room locks the next day, effectively breaking the chain of custody (Attachment 25). [REDACTED] said that when [REDACTED] returned from [REDACTED] trip on September 2, 2004 [REDACTED] was unaware that the locks had been changed until [REDACTED] was informed on September 17, 2004, by [REDACTED], a supervisor at the Western Archaeological Conservation Center.

[REDACTED] said [REDACTED] immediately called Reilly and Yee regarding the break in the chain of custody. [REDACTED] said Reilly did not know about Yee authorizing the change of locks until she explained the situation to him. According to [REDACTED] Reilly told [REDACTED], "The chain of custody could be rehabilitated." [REDACTED] said Yee convinced Reilly that the evidence had not been compromised. [REDACTED] said [REDACTED] was shocked that Reilly did not consider the break in chain of custody a significant problem that could have compromised the investigation.

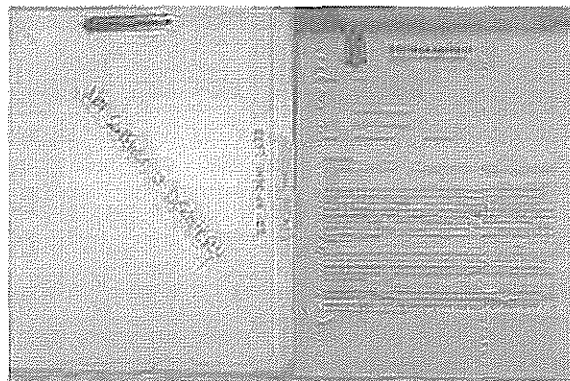
[REDACTED] said that on October 4, 2004, following a number of telephone calls to the NPS Intermountain Region, [REDACTED] prepared a memorandum for Reilly articulating [REDACTED] concerns that the chain-of-custody had been broken during the Hubbell Trading Post investigation (Attachment 26). [REDACTED] said [REDACTED] felt it was [REDACTED] responsibility to document the situation and stated that Reilly was not pleased with [REDACTED] doing so. [REDACTED] stated that Reilly verbally reprimanded [REDACTED] during a telephone call and stated that he did not want [REDACTED] to document the issues, explaining it was something that "could be worked out."

█████ said █████ became upset when █████ discovered Reilly had contacted other NPS agents to inquire if they had heard █████ complain about Yee's handling of the Hubbell Trading Post evidence. █████ said Reilly also contacted Berkowitz, who substantiated █████ claims that the evidence and chain-of-custody had been compromised (See Attachment 24).

During his interview, Reilly acknowledged that there had been a breach in the chain of custody for evidence seized from Malone's home (**Attachments 27, 28, and 29**). Reilly said he had to "prod" Yee about chain of custody issues while both were at the U.S. Attorney's Office discussing the case with Assistant U.S. Attorney █████.

During our review of NPS law enforcement office files at the Intermountain Region headquarters in Lakewood, CO, we discovered that Yee placed █████ memorandum in a folder labeled "NOT SUBJECT TO DISCOVERY FILE (**Attachment 30**)."

Not Subject to Discovery File



During our investigation, we also found that evidence stored in Lakewood, CO, was inaccurately documented as to whether it was at NPS offices in Santa Fe, NM, or in Lakewood, CO, (**Attachment 31**). Additionally, we found that numerous chain-of-custody record forms were incomplete and had not been updated to reflect the numerous locations where the evidence was being stored and who was accountable for its security (**Attachment 32**).

In a room next to Yee's office at the Intermountain Region, we discovered five boxes of documents containing Hubbell Trading Post financial records; Malone's personal financial records; his personal property, including his driver's license and phone cards; and \$10,577 in cash and checks that Yee said had been returned to Malone. Yee was also unable to produce Evidence Item #R-26, which NPS had identified as "cash," and he was unable to produce the documentation as to its disposition.

NPS Work Space (also known as the "War Room") for the Malone Investigation

Prior to his interview with us, Yee sent a memorandum to his supervisor regarding the seized evidence mentioned above (**Attachment 33**). In the memorandum, Yee stated that he believed the evidence was no longer considered evidence on October 5, 2006, and added the following:

"[It] was my understanding that the investigation had concluded, prosecution declined,

even though a formal letter of declination had as of yet been issued, with the majority of the evidence, rugs and jewelry from WACC, already long before returned to Malone, making R/29,R/39,R/43, H22, W9, W12, V1, no longer evidence and subject to a strict chain of custody, they were maintained in the case file room for safekeeping, which is as secure as the storage/evidence room.”

Agent's Note: The case was not declined until January 4, 2007.

NPS agents did not conduct an accurate and complete inventory with photo-documentation of items seized at the time of the search. The copy of the search warrant and receipt left at the Malone residence at the conclusion of the search contained only rough estimates and general descriptions of the property seized (See Attachment 12). NPS agents did not complete the inventory of the seized property until several months later, and they did not provide Malone with a copy of that inventory until July 13, 2006, when some items were returned. NPS returned additional property to Malone on March 1, 2007.

When interviewed, Malone said NPS never provided him with a receipt or inventory for the cash seized from his residence (See Attachment 20). He said many of the weavers, jewelers, and other artisans had been deprived for years of the consignment items that had been stored in his home and subsequently seized and retained by NPS.

During his interview, Yee was unable to explain why cash, checks, and other items were not properly documented on chain-of-custody records and were missing until found during this investigation (See Attachment 14). He commented that NPS did not have the staff or training to conduct an investigation such as the Malone case.

Audit by Devries & Associates, Accounting Firm Retained by WNPA

We found that WNPA contacted Devries & Associates in May 2004 to perform a forensic audit at the Hubbell Trading Post, subsequent to NPS receiving the allegations against Malone. This forensic audit was to commence in early June 2004 and be completed by the end of the month. While Devries & Associates initiated the audit, the work was never completed, and their contract with WNPA was officially ended on March 24, 2005.

NPS Special Agent-in-Charge Reilly stated that he had instructed Yee not to request Devries & Associates to conduct the forensic audit at the Hubbell Trading Post and to instead consult with the U.S. Attorney's Office regarding the issue (See Attachment 29). Reilly said he felt there would be a conflict of interest in using Devries & Associates because the company was the accounting firm WNPA normally used and had been performing regular audits at the Hubbell Trading Post for several years. Reilly also said he was not aware that a contractual arrangement between WNPA and Devries & Associates existed.

Former NPS Intermountain Region Director Steve Martin said he believed it was appropriate for Devries & Associates to conduct the audit as long as NPS special agents provided guidance (**Attachment 34**). According to [REDACTED] Martin was to formally request that Devries & Associates conduct the audit (**Attachment 35**). A contract was established between WNPA and Devries and Associates to perform the forensic audit on or about July 30, 2004.

In a July 21, 2006 memorandum from ██████ to Berkowitz, ██████ detailed a July 23, 2004 meeting between WNPA Board members and Intermountain Region senior management where NPS requested that Devries & Associates perform the forensic audit at the Hubbell Trading Post (**Attachment 36**).

During ██████ interview, ██████ stated that at the end of June 2004, Yee wanted WNPA to fund the forensic audit necessary to initiate the Hubbell Trading Post investigation. ██████ stated that on July 24, 2004, ██████ and Babbitt met with NPS Intermountain Region management – Director Steve Martin; Deputy Director Mike Snyder; NPS Associate Director for Business and Technology ██████; Chief Ranger ██████; and Hubbell Trading Post Superintendent Nancy Stone – to decide what the next step in funding the audit should be. ██████ recalled that during the meeting, Steve Martin stated, “It is a problem for both of us – [Malone] is your employee and it is our park.” ██████ also recalled that ██████ stated, “[T]here was no doubt a crime had been committed and it may be as much as \$5 million [in stolen property/funds].”

██████ said Steve Martin was going to provide a formal request to WNPA to conduct the Hubbell Trading Post audit, and WNPA wanted to use Devries & Associates because ██████ had already contacted them. She said WNPA had previously contracted with Devries & Associates in 2002 to provide accounting services through 2005.

Agent’s Note: It was not fully determined during our investigation whether Martin requesting and then accepting WNPA financial support for the investigation violated NPS Director’s Order No. 32 (Cooperating Associations), Section 3.6.2b., which states: “Regional Directors are delegated the authority and responsibility to approve donations in the following categories before they are accepted: (1) Major research projects, (2) Land acquisitions, (3) Interpretive/educational facilities, and (4) Historic preservation and restoration projects.” WNPA funding of the criminal investigation does not appear to fall under any of the authorized categories.

██████ commented that ██████ was uncomfortable with Devries & Associates performing the audit since it was Devries & Associates who had missed the fraud indicators and potential forged checks on previous audits at the Hubbell Trading Post. Ultimately, ██████ said the WNPA Board approved Devries & Associates performing the forensic audit (See Attachment 8).

██████ stated that in December 2004, she called ██████ and told him ██████ thought there was a conflict of interest with using Devries & Associates for the audit. A March 24, 2005 letter to ██████ from NPS Intermountain Region Director Martin cancelled the forensic audit contract with Devries & Associates (**Attachment 37**).

When interviewed, ██████ said Devries & Associates’ audit of the Hubbell Trading Post (subsequent to NPS receiving the allegations against Malone) did not reveal a significant decline in revenues from 2003 through 2004, as alleged by WNPA and reported by WNPA as the basis for the criminal investigation.

██████ said ██████ replaced Malone as the trader/manager of the Hubbell Trading Post. ██████ stated that after Malone was removed, WNPA did not change any of the internal controls at the trading post or fix any of the weaknesses in the financial accounting system. ██████ said ██████ brought to ██████ attention the fact that ██████ did not see WNPA act on any of ██████ letters to management detailing the ways WNPA could improve accounting methods at the Hubbell Trading Post.

█████ said WNPA decided to change a long-standing tradition between the Navajo and the Hubbell Trading Post by limiting and gradually phasing out consignment sales. In summary, █████ characterized WNPA and the Hubbell Trading Post investigation as “a strange situation,” and █████ said no improvements in controls were completed by WNPA after Malone was removed (See Attachment 18).

We interviewed █████ Auditor, DOI-OIG, who replaced Devries & Associates and attempted to resume the forensic audit at the Hubbell Trading Post at the request of NPS (Attachments 38 and 39). █████ performed a forensic audit of documents and financial records seized from Malone’s residence and the Hubbell Trading Post to determine whether an embezzlement or theft had occurred. █████ stated that █████ spent 4 to 5 months reviewing documents provided to █████ by NPS and WNPA. █████ also recalled that WNPA █████ denied requests to obtain certain records from WNPA that █████ felt would have been helpful. █████ concluded that █████ was unable to determine whether Malone or anyone had embezzled or stolen from the Hubbell Trading Post or WNPA due to inadequate source documents and numerous accounting problems that existed at WNPA (Attachment 40).

█████ said █████ felt that there were inherent problems with the way WNPA managed the Hubbell Trading Post. █████ explained that WNPA managers were attempting to use a retail method of accounting (similar to a grocery store that keeps a count of cans or bags of food) versus a “perpetual” accounting system. █████ opined that a perpetual system would have been more practical for the more expensive items the Hubbell Trading Post was selling, such as rugs, jewelry, and Native American art. █████ added that the Hubbell Trading Post’s accounting system did not support and could not identify who owned some of the property available for sale at the Hubbell Trading Post.

█████ said █████ also felt that NPS investigators had created a large database of partial source documents and accounting records that was “worthless” and demonstrated that NPS had no experience with financial fraud investigations. █████ stated that the database contained an extensive amount of data but the information was either incomplete or not relevant for █████ audit purposes. █████ explained that in conducting █████ audit, █████ worked with original documents and copies of source documents from Yee, WNPA, and the database. █████ said that based on █████ past experience performing audit work for criminal investigations with the DOI-OIG, █████ thought “work[ing] off of original documents” was unusual. █████ recalled that █████ also found cash mixed in with the documents and records █████ reviewed. █████ said this was not appropriate and indicated that Yee had not properly accounted for the money (See Attachment 38).

█████ said █████ believed WNPA’s accounting methods at the Hubbell Trading Post could have been much better, while still allowing the Hubbell Trading Post to maintain its historical practices as a trading post. █████ pointed out that a lack of inventory control and internal operational controls for cash existed at the trading post and commented that WNPA was well aware of these problems from prior audits performed at the Hubbell Trading Post by outside accounting firms (See Attachment 39).

Thoroughness of NPS Investigation and Management Oversight

We found that Yee did not interview WNPA Executive Directors █████ and █████ who worked with Malone for many years prior to █████ assuming █████ position (Attachments 41 and 42). After taking over the investigation from Yee, Berkowitz interviewed █████ and █████ Both █████ and █████ provided information to Berkowitz regarding how the Hubbell Trading Post had

been previously managed, the type of work WNPA management allowed Malone to perform at the trading post, and some of the internal dynamics and personal relationships within the Hubbell Trading Post and WNPA. They provided information that revealed WNPA had been aware of some of Malone's unorthodox business practices and had allowed them to occur. ██████ stated that former WNPA management had allowed Malone to run the Hubbell Trading Post and conduct his own trading and collecting, using his residence as an extension of the trading post to work and sell trading post items.

Our interviews with Hubbell Trading Post Superintendent Nancy Stone and Steve Getzwiller, a private trader, Sonoita, AZ, yielded the same general comment that NPS did not conduct a thorough investigation (**Attachments 43 and 44**). Berkowitz also interviewed Stone and Getzwiller (**Attachments 45 and 46**).

Stone said she believed the NPS investigation was "a rush to judgment" and that NPS "wanted to find fault." She said WNPA and NPS "never foresaw the implications to NPS, WNPA, and the reputation of the park." She described the investigation of Malone as a "wave uncontrolled" and stated that the investigation "was never objective." She said NPS agents never interviewed Malone (See Attachment 43).

During his interview with the OIG, Getzwiller reviewed two reports summarizing his previous interviews with NPS agents – one authored by NPS Special Agent ██████ in August 2004 and the other by Berkowitz in February 2006. Getzwiller stated that ██████ had not included in the report certain information he had provided during his interview. He said the most important information left out was that he and Malone had used old Hubbell Trading Post tags to mark Malone's personal rugs, that Malone had quite an extensive personal collection of Navajo rugs and jewelry at his residence, and that Malone's trading practices did not, and were not supposed to, conform to standard procedures for sale of merchandise.

Getzwiller recalled that during his interview with ██████ set down his pencil after about 30 minutes "because he was not hearing what he wanted to hear." Getzwiller thought that the interview was not heading in the direction that ██████ wanted and that ██████ "was under pressure to find evidence to substantiate [the] NPS law enforcement investigation"

Berkowitz said he was not initially provided a copy of ██████ interview of Getzwiller from Yee and did not find out about the interview of Getzwiller or Stone until he personally interviewed them (**Attachment 47**). Berkowitz, once he was assigned the Hubbell Trading post case in November 2005, said he had to repeatedly ask Yee for interview reports and other documentation of Yee's investigative work. *Agent's Note: We also had to repeatedly ask Yee for documents and items related to his investigation of Malone.*

Berkowitz also alleged that the NPS interview report of Getzwiller did not contain information Getzwiller provided during his interview, explaining why Malone may have had Navajo rugs in his home with Hubbell Trading Post or WNPA tags on them. We found that ██████ the NPS agent who interviewed Getzwiller, did not include this information in his interview report, and Getzwiller alleged that he had provided this information to ██████

In our interview with ██████ recalled interviewing Getzwiller at least two times (**Attachment 48**). *Agent's Note: We were only able to find one interview report of Getzwiller by ██████ When*

questioned about the allegation that he excluded information from his interview reports of Getzwiller, ██████ said ██████ would not intentionally leave out information from an interview (**Attachment 49**).

Additionally, we could not locate an official case file documenting investigative activity or periodic case reviews by NPS law enforcement management. NPS could not provide essential documents during our investigation, including chain-of-custody records, interview reports, copies of subpoenas served, and search-warrant inventory records.

We interviewed NPS Intermountain Region Director Mike Snyder (Deputy Director during Yee's investigation), who voiced his concerns regarding how NPS law enforcement handled the investigation of Malone (**Attachment 50**). He expressed his support for the direct line of authority NPS law enforcement had in place, although he commented that the Hubbell investigation showed problems existed. Snyder said he felt that NPS investigators were not prepared or trained for a white-collar fraud investigation, and as a result, the Hubbell investigation was not conducted properly.

Snyder said the WNPA Board of Directors requested that he attend their meeting in December 2006, and he was "lambasted" for an investigation WNPA felt was mishandled by NPS. He explained that WNPA felt the investigation and the associated results were a "black eye" for WNPA. They were upset and felt NPS had turned a check fraud case into something much bigger and harder to prove. Snyder said he felt he had been "called on the carpet."

When interviewed, Reilly stated that he suggested to NPS management that Yee transfer the Hubbell investigation to Berkowitz (See Attachment 27). He said NPS agents and management involved with the case felt some pressure from NPS headquarters and NPS Region 6 regarding how quickly the investigation was progressing. Reilly also said some exculpatory information was being excluded from the investigation and a sense of arrogance or short-sightedness developed during the Hubbell investigation, especially with respect to Yee. Reilly added, "[T]hey were a little out of their element on the Hubbell Trading Post investigation."

On April 30, 2007, Assistant U.S. Attorney (AUSA) ██████, District of Arizona, declined criminal prosecution of Yee. AUSA ██████ said that ██████ Ex. 5
██████ (**Attachment 51**).

WNPA Involvement in NPS Investigation

Our investigation revealed that NPS law enforcement and NPS Intermountain Region management allowed an almost open-door policy in regard to including WNPA in the investigation at the trading post. Yee stated that he received six to ten phone calls a week from ██████ regarding the case status and also spoke with WNPA Chairman Jim Babbitt about the investigation on at least one occasion (See Attachment 14).

NPS conducted several interviews with ██████ during its investigation of allegations against Malone. Shortly after Yee was assigned to the case in May 2004, he interviewed ██████ and documented ██████ allegations against Malone (See Attachment 9). After Yee's removal from the Hubbell Trading Post investigation, Berkowitz conducted a series of interviews "in person" and over the phone with ██████ from January 2006 through August 2006. Berkowitz documented his contact with ██████ and provided copies of this documentation to the OIG (See Attachments 10 and 11). We also interviewed ██████ on February 7, 2007 (See Attachment 8).

Berkowitz reported that ██████ said ██████ was considering not returning to Malone any of his property that was in WNPA custody. In an August 23, 2006 telephone conversation documented by Berkowitz, ██████ also stated that ██████ felt that NPS was obligated to keep ██████ informed about the progress and developments pertaining to the Hubbell Trading Post investigation. ██████ also complained that the investigation had taken far longer than anticipated (See Attachment 11).

According to Berkowitz's report, ██████ also stated that when the NPS investigation of Malone began, ██████ viewed ██████ and WNPA as "partners" with NPS in the investigation and received extensive access to updated case information from ██████ ██████ added that ██████ and the WNPA Board of Directors had been frustrated and disappointed by the reduced access of information after Berkowitz replaced Yee. ██████ commented that they were also frustrated with other recent developments, particularly the return of seized property to Malone. ██████ told Berkowitz that ██████ was frustrated because he could not explain to ██████ the Board, or Chairman Babbitt why less information was being shared with him than with Yee, especially given the money WNPA had contributed to the investigation and the assurances they had been previously provided regarding how the investigation would develop.

According to Berkowitz's interview report, ██████ recalled a conversation ██████ had with NPS Intermountain Region Director Mike Snyder, where ██████ pressured Snyder to accelerate the investigation and provide ██████ and the WNPA Board of Directors with more information. ██████ admitted to Berkowitz that when Snyder said he did not think he had the influence to do so, ██████ told Snyder to determine who did have the influence and to get them to speed things up, as well as obtain more information for ██████ and the Board.

Berkowitz also documented that ██████ said all ██████ and WNPA had wanted was for NPS to obtain the consignment ledgers they believed Malone maintained at his residence so they could use them to conduct their audit. ██████ stated that ██████ thought this was the purpose behind NPS securing the search warrant. ██████ told Berkowitz that after the warrant had been served and NPS had seized the property from Malone's residence, ██████ ██████ Snyder, and Martin each approached ██████ and the WNPA Board to request financial assistance to support the investigation. ██████ said Martin, Snyder, and Yee told ██████ that "[i]t would be to WNPA's benefit" to financially assist NPS. ██████ stated that this financial assistance included paying for the forensic audit conducted by WNPA's accounting firm, Devries and Associates, for \$75,000.

According to Berkowitz's report, ██████ said WNPA would benefit from its funding of the investigation not only because it would create an improved relationship and increased access to case information in "partnering" with the NPS, but also because WNPA would be able to recover any costs it incurred through retaining the rugs and jewelry seized from Malone.

Berkowitz reported that ██████ stated that based upon representations made by NPS, WNPA viewed its contribution to the investigation as a financial investment, granting them privileged access to information, as well as the ability to ultimately recover its costs through access to most of the property seized from Malone's residence. ██████ felt it was ██████ and WNPA's prerogative to keep the property that might belong to Malone or others in WNPA's custody if doing so would help compensate for their investment. Berkowitz reported that ██████ expanded on this rationale by stating that the last thing WNPA had expected was for the seized property to be returned to Malone. According to Berkowitz, ██████ told him that, because NPS had returned some of Malone's property, ██████ might still keep property in WNPA custody to recover WNPA costs. Berkowitz reported that ██████ said ██████ could do

this because [REDACTED] doubted anyone would have receipts for seized property and therefore could not force WNPA to return the items.

On August 25, 2006, Berkowitz reported that [REDACTED] informed him of a conversation [REDACTED] had a few weeks earlier with Snyder regarding the Hubbell Trading Post consignment property (that had been seized). According to Berkowitz, [REDACTED] said Snyder questioned why [REDACTED] was thinking about returning any of the consignment property and suggested that [REDACTED] just keep it. [REDACTED] told Berkowitz that [REDACTED] had responded to Snyder that [REDACTED] could not keep the property because [REDACTED] wanted WNPA to maintain a positive relationship with the park and the community. After Berkowitz informed [REDACTED] that it was inappropriate for Snyder to make that statement, [REDACTED] asked that Berkowitz keep [REDACTED] conversation with Snyder "off the record."

We interviewed [REDACTED] and [REDACTED] provided a background of the initial allegations (See Attachment 8). [REDACTED] also stated that [REDACTED] felt it was inappropriate for Yee and NPS to provide a significant amount of information to WNPA concerning the ongoing investigation.

Agent's Note: We were not able to resolve some of the discrepancies in [REDACTED] statements to Yee, Berkowitz, and us during our investigation because [REDACTED] and WNPA declined to cooperate with further interviews or follow-up questions.

[REDACTED] said [REDACTED] suggested that Yee talk to former WNPA executives [REDACTED] and [REDACTED] about how they managed Malone and the Hubbell Trading Post. [REDACTED] recalled that [REDACTED] was constantly frustrated that Yee did not follow [REDACTED] advice on this. During our investigation, we also found that [REDACTED] had prepared an extensive list of questions for Yee to use when they interviewed former WNPA senior managers [REDACTED] and [REDACTED] (Attachment 52).

[REDACTED] said Yee did not provide WNPA with any receipts or documentation for the records NPS had taken from the Hubbell Trading Post. According to [REDACTED] Yee told [REDACTED] to document expenses for WNPA costs (such as the cost of using Devries & Associates) and that the totals would be reviewed if restitution was awarded at the end of the investigation.

[REDACTED] stated that [REDACTED] was not involved with transporting evidence from Flagstaff to Tucson, AZ, but commented that Scott Aldridge, WNPA Chief Operations Officer, assisted in returning the seized consignment items to their owners. [REDACTED] added that this was very difficult because the consignment merchandise was "a mess."

Agent's note: The items seized as a result of the search warrant at Malone's residence were kept by NPS as evidence for over 2 years. The warrant was served in June 2004, some of the property was returned on July 2006 and the remainder returned March 2007.

[REDACTED] stated that Steve Martin never guaranteed to [REDACTED] the outcome of the investigation but that it was [REDACTED] perception that it would result in criminal charges. [REDACTED] said that in May 2006, [REDACTED] met with Mike Snyder and recalled Snyder commenting, "It will be nice when all this is over – since you'll get your property back." [REDACTED] said [REDACTED] never expected that all of the seized property would be returned to Malone. [REDACTED] said [REDACTED] had called Snyder to find out if Malone had received an apology from NPS and Snyder told [REDACTED] that Malone had not. [REDACTED] said [REDACTED] had heard a rumor that this occurred and was upset about it since [REDACTED] believed Malone was guilty (See Attachment 8).

When we interviewed Mike Snyder, he said Steve Martin had spoken with [REDACTED] and told [REDACTED] that NPS would “shoulder the investigation but WNPA would need to do the same and pay for the auditors to conduct the forensic audit” (See Attachment 50). Snyder reiterated that he was unaware of anyone at NPS, including himself, providing WNPA with direct access to information regarding the ongoing Hubbell Trading Post investigation. Snyder commented that WNPA was frustrated with the investigation’s lack of progress and that the money it had provided to NPS did not result in the expected return of merchandise.

Snyder stated that when he had breakfast with [REDACTED] prior to the WNPA Board meeting in December 2006, [REDACTED] said [REDACTED] wanted him to tell the Board that WNPA should keep the evidence seized from Malone’s residence as compensation for the money they had expended on the investigation. Snyder stated that he refused to tell the Board this and was surprised when we informed him that [REDACTED] told OIG agents he had told [REDACTED] to keep the seized items as compensation (See Attachment 50).

Interaction Between NPS and WNPA at the Trading Post

When interviewed, Nancy Stone, NPS Superintendent, Hubbell Trading Post, stated that WNPA seemed to ignore that the NPS mission for the trading post was to preserve the authentic art of trading and have the trading post remain a “living” historical site (See Attachment 43). She said she believed no other trader, aside from Malone, would have dealt with WNPA’s constant interference. Stone said it was unfortunate that WNPA simply looked at the Hubbell Trading Post as their “cash cow.”

Stone said she felt NPS allowed WNPA to take control of trading post operations and that NPS “should have stepped up and pushed back” because NPS’s mission is to protect parks.

While the cooperative agreement with WNPA was not the focus of our investigation, our interviews of Intermountain Region Associate Director for Business and Technology [REDACTED], Intermountain Region Cooperative Association Coordinator [REDACTED], and NPS National Coordinator for Cooperative Agreements [REDACTED] revealed numerous areas of concern, including the following (Attachment 53, and See Attachments 22 and 23):

1. The agreement with NPS and WNPA allows WNPA to determine the percentage of profits that it donates to NPS instead of NPS making that determination.
2. WNPA determines how money should be used by NPS before it donates the money.
3. Interpretative Support Accounts are set up and managed by WNPA, but the accounts and associated monies are available to NPS. NPS Intermountain Range was not tracking any of these accounts for the 65 NPS sites managed by WNPA until NPS’s investigation of Malone.
4. There is no straightforward policy dictated to cooperative associations and that needs to change so that they all operate under the same guidelines.

[REDACTED] stated that [REDACTED] role as the national coordinator for cooperative agreements was more of a compiling of statistics and financial reports from all of the cooperative associations and ensuring that annual reports and IRS forms were submitted to NPS. [REDACTED] said [REDACTED] has questioned some of the reports or documentation at times but explained that NPS regional management is also supposed to provide oversight on the cooperative agreements with the various associations.

[REDACTED] stated that NPS is in the process of making revisions to Director’s Order No. 32, which details

all of the procedures and specific guidelines regarding NPS's interactions with cooperating associations. ██████ said the most important change to the Director's Order planned is that NPS will set the priorities and determine where funds from the revenues collected by the cooperating association are spent, rather than the association making those determinations for NPS.

SUBJECT(S)

Clyde Yee, NPS Special Agent

DISPOSITION

The U.S. Attorney's Office declined criminal prosecution of NPS Special Agent Clyde Yee ██████
████████████████████. Ex. 5

ATTACHMENTS

1. Copy of Public Law 89-148.
2. Cooperative Agreement between NPS and WNPA for Hubbell Trading Post, dated December 10, 1999.
3. Letter from AUSA ██████ to SAC Reilly – July 21, 2005.
4. IMR spreadsheet documenting NPS investigative funds expended on Malone investigation.
5. NPS Interview Report of Bill Malone, dated February 28, 2006; April 19-21, 2006; June 15, 2006; and July 13, 2006.
6. Report of Investigation on Billy Gene Malone by SA Berkowitz, dated October 23, 2006.
7. E-mail from WNPA Counsel ██████ dated July 30, 2007.
8. OIG Investigative Activity Report, Interview ██████ dated February 7, 2007.
9. NPS Interview Report ██████ dated May 25, 2004.
10. NPS Interview Report ██████ dated January 10, 2006.
11. NPS Interview Report ██████ dated July 31 – August 28, 2006.
12. Search Warrant for Malone's residence, dated June 8, 2004.
13. Affidavit for search warrant by SA Clyde Yee dated June 8, 2004.
14. OIG Investigative Activity Report, Interview of SA Yee, dated April 17 and May 23, 2007.
15. NPS Interview Report of ██████ dated January 11, 2006.
16. OIG Investigative Activity Report, Interview of ██████ dated April 18, 2007.
17. Memorandum from NPS SA ██████ on evidence, dated August 25, 2006.
18. OIG Investigative Activity Report, Interview of ██████ and ██████ dated February 8, 2007.
19. OIG Investigative Activity Report, Interview of ██████ dated March 12, 2007.
20. OIG Investigative Activity Report, Interview of Bill Malone, dated January 10, 2007.
21. Global Cooperative Agreement between NPS and WNPA, dated March 7, 2005.
22. OIG Investigative Activity Report, Interview of John Wessels, dated January 25, 2007.
23. OIG Investigative Activity Report, Interview of ██████, dated April 17, 2007.
24. OIG Investigative Activity Report, Interview of SA ██████ dated February 5, 2007.
25. Fax from SA Yee to WACC ██████ dated August 31, 2004.
26. Memorandum from SA ██████ to SAC Reilly on evidence, dated October 4, 2004.
27. OIG Investigative Activity Report, Interview of SAC Reilly, dated January 23, 2007.
28. OIG Investigative Activity Report, Interview of SAC Reilly, dated January 24, 2007.
29. OIG Investigative Activity Report, Interview of SAC Reilly, dated July 15, 2007.

30. Memorandum by SA [REDACTED] on Chain of Custody, dated October 25, 2004.
31. Santa Fe Chain of Custody documents.
32. Chain of Custody documents (partial).
33. Memorandum by SA [REDACTED] on Missing Evidence, dated February 5, 2007.
34. OIG Investigative Activity Report, Interview of Steve Martin, dated April 19, 2007.
35. Letter from [REDACTED] to Mari Devries requesting audit of Hubbell Trading Post.
36. Memorandum from [REDACTED] to SA Berkowitz, dated July 21, 2006.
37. Memorandum from Martin to WNPA cancelling Devries' contract, dated March 24, 2005.
38. OIG Investigative Activity Report, Interview of [REDACTED] dated January 25, 2007.
39. OIG Investigative Activity Report, Interview of [REDACTED] dated January 31, 2007.
40. OIG Investigative Audit Summary, dated July 20, 2006.
41. NPS Interview Report of [REDACTED], dated February 21, 2006.
42. NPS Interview Report of [REDACTED] dated January 17 & 18, 2006.
43. OIG Investigative Activity Report, Interview of Nancy Stone, dated January 10, 2007.
44. OIG Investigative Activity Report, Interview of Steve Getzwiller, dated February 6, 2007.
45. NPS Interview Report of Nancy Stone, dated February 2, 2006.
46. NPS Interview Report of Steve Getzwiller, dated February 12, 2006.
47. OIG Investigative Activity Report, Information from Berkowitz, dated November 7, 2007.
48. OIG Investigative Activity Report, Interview of [REDACTED] dated April 17, 2007.
49. NPS Interview of Getzwiller by SA [REDACTED] dated August 8, 2004.
50. OIG Investigative Activity Report, Interview of Mike Snyder, dated April 16, 2007.
51. OIG Investigative Activity Report, Telephonic Conversation with AUSA [REDACTED], dated April 30, 2007.
52. Questions prepared by [REDACTED] for NPS, dated August 27, 2005.
53. OIG Investigative Activity Report, Interview of [REDACTED], dated May 22, 2007.



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.
Washington, D.C. 20240

JUN 23 2009

IN REPLY REFER TO:

W34(2425)

Memorandum

To: Assistant Inspector General for Investigations

From: *for Janet Christiane*
Acting Director

Subject: Reply to Hubbell Trading Post Investigation PI-07-0054-I

This is the requested response to your January 23, 2008, memorandum describing your investigation regarding the integrity of a National Park Service (NPS) investigation at the Hubbell Trading Post National Historic Site.

After careful review of the investigative report and several informal meetings throughout the past year with your staff, we agree with most of the report findings related to poor case management, concern over the relationship between the NPS and Western National Parks Association, the poor handling of evidence, and the overall poor management of the criminal investigation. In several instances, the agent provided inadequately researched information, demonstrated poor judgment and performance, and received insufficient supervision and direction. As soon as the related issues of the agent's performance came to our attention and prior to the issuance of your report, we took significant actions to address the agent's performance issues, including changing his duty assignment and placing him under a new supervisor.

As we have discussed, there are some disagreements over several aspects of the case report. Nevertheless, we have appreciated the opportunity to discuss these with you and your staff. We look forward to a continued positive working relationship with the Office of Inspector General for Investigations (OIG).