

Dear President Trump:

I really need your help. My name is David Banks. I am a 49-year-old African-American entrepreneur who, as an independent voter, has voted Democratic all my life. As a President who understands business and debt, I hope you will understand the tragic injustice that has befallen me and five executives (4 black, 1 white) of our software company (IRP Solutions Corporation) at the hands of the DOJ under the Obama administration. A federal prosecutor alleged in an indictment that we induced numerous staffing companies into extending credit in the form of outsourcing/payrolling software developers to our company by making "false representations" about having a "current or impending contract" with a large law enforcement agency such as the Department of Homeland Security and New York City Police Department. The government can't provide a single email with any of us making such representations and we entered into legally-binding contracts for staffing services after the vendors conducted customary credit due diligence before extending credit to us. In fact, corporate emails and FBI interviews show we made statements of "trying to secure a contract", "negotiating" with the NYPD, "working to secure a contract" and "working on a project", not statements about a current or impending contract. An email exchange between a staffing company account manager and her Vice President show them discussing that they don't want any write-offs because our small business was high-risk. The account manager stated she wanted to take the risk because it could lead to future staffing orders. They ultimately assumed the risk and extended us credit. Every contract we signed was provided to us by the staffing company with terms finalized in the agreement. What is wrong with our small business accepting credit from companies who are willing to give it to us? In the indictment, the government claimed we violated mail fraud statutes because our alleged statements "caused an invoice to be sent" through the U.S. mail after the staffing company paid their own employees from timesheets they submitted for hours worked at our company. The staffing companies, per terms they set in the contract, agreed to send the invoice through the mail or by email.

President Trump, how would you feel if contractors working for you sent you an invoice in the mail, didn't get paid and then you were charged with mail fraud because the government falsely claimed you never intended to pay your contractors? With full knowledge that their credit departments made decisions to extend credit to our company, staffing executives, with the exception of two, lied during trial by testifying for the government that they were personally induced into extending credit. On cross-examination, however, virtually all of them admitted that their credit departments, not them, were responsible for making the decision to extend credit to us. Others admitted that they assumed we had a government contract. One government witness even testified on cross-examination that it didn't matter to him if the government contract was worth only \$100, he was still duped. Since current government contracts are publicly listed, wouldn't the executives ask the name of the contract or a phone number of an agency representative so they could either verify in the public record or speak directly with the law enforcement agency contact? Additionally, Dun & Bradstreet credit reports show in most instances, that as a small business, we were a high risk to extend credit to and for that reason many staffing companies chose not to do business with us. After witnessing admissions by government staffing witnesses that they were not involved or responsible for making the decision to extend credit, and after viewing the D&B reports reviewed by credit departments, we requested that the charges against us be dropped, but the federal judge refused to dismiss the case. The fact of the matter is, staffing companies engaged with a company like ours and extended credit because, post 9/11, the federal government was

seeking to modernize their case management systems after the 9/11 commission found that antiquated case management systems contributed to the 9/11 attacks. We had developed an enterprise-class, adaptable case management software solution that was receiving a lot of attention from large law enforcement agencies, including the Department of Homeland Security and NYPD. One staffing executive is on record saying they work with small companies like ours because they don't want to risk missing out on the next Microsoft.

Two responsible staffing business experts sent letters (<http://bit.ly/1Tiuqc2> & <http://bit.ly/2f7mFZ3>) to the prosecutor months before trial explaining business and credit 101, telling the U.S. Attorney that staffing companies were not forced to do business with our company but based their decisions on creditworthiness or the value of the product we developed and that the staffing companies assumed the risk when they extended credit. These experts agreed to testify on our behalf at trial, but the prosecutor, threatened by that testimony, blatantly violated the law to exclude them from testifying. When we brought this undeniable violation of law and the Constitution to the attention of Attorney General Loretta Lynch, she did absolutely nothing, presumably because a DOJ prosecutor was implicated in misconduct. A judicial complaint (<http://bit.ly/2vmk73J>) is pending but we don't expect the establishment to do anything about it. Your statement during your inaugural speech that the establishment protects itself but not the citizens is so true and we were wrongly imprisoned because of it.

President Trump, we did not lie to anyone and we provided an overwhelming amount of evidence of this to the prosecutor, but he looked the other way and pursued a malicious prosecution against us for failing to pay corporate debt and lied to the jury that our business and software was nothing but a scam. Former federal appeals Judge H. Lee Sarokin said in the Huffington Post, not only was "the government's contention that [IRP Solutions] was nothing but a scam defies reality" and that we were indicted and prosecuted for "failing to pay corporate debts." Additionally, Sarokin said the government's interference made it "impossible" for us to pay our debts. Sarokin also discussed our injustice, the destruction of our small business and the violation of our constitutional rights in the Washington Post (www.washingtonpost.com/news/true-crime/wp/2016/07/05/judge-who-freed-hurricane-carter-now-helping-six-imprisoned-men-but-only-obama-can-save-them/) and sent personal letters to President Obama, AG Lynch and Senator Corey Booker (D-NJ), expecting they, African-Americans, would do something about our injustice. AG Lynch disregarded Judge Sarokin's letter and did nothing about prosecutorial misconduct or the gross violations of our constitutional rights. Given the opposition by AG Lynch and the pardon attorney, I don't believe President Obama was provided with all the details by the DOJ, including Judge Sarokin's letter.

On January 6, 2017, we received a letter from the pardon attorney stating that the Justice Department and President Obama had denied us clemency. I really don't believe that President Obama, a good man who started My Brother's Keeper to ensure that there were positive role models and mentors for the African-American community, would grant clemency for thousands of admitted drug offenders and Chelsea Manning, who released 750,000 classified documents that likely endangered our national

security and soldiers in the theater of operations and let us, educated technology entrepreneurs with no criminal records, continue languishing in prison for a crime we didn't commit. However, the notion promoted by many that a black President, black Attorney General and black Senator from New Jersey on the Judiciary Committee somehow guarantees fair treatment to African-Americans is sophistry. As a nation, we must follow Martin Luther King Jr's recommendation to judge a man by the content of his character, not the color of his skin. Judge Sarokin, who is a white federal judge, stood for justice and the Constitution, and advocated for our release. AG Lynch and Senator Booker put the establishment over the Constitution. While Senator Michael Bennet (D-CO) and Danny Davis (D-IL), who are white and black respectively, sent letters to President Obama concerning our clemency. The ONLY congressman concerned enough about the rule of law to launch an investigation into our case (which is still ongoing), was a white Republican, Senator Orrin Hatch of Utah.

We are only guilty of keeping Americans employed by re-staffing them with other staffing companies. The reason the prosecutor told the jury that none of us "got fabulously wealthy" from this alleged scheme was because the staffing company paid their own employees directly for timesheets they submitted for work done on our software projects. The prosecutor claimed we got free labor, but debt is not free and we signed personal guarantees on the debt, which put our own financial livelihoods at risk. We had absolutely no financial motive or incentive to commit a crime! The contract employees were used to continue modifying our software based on requests by the Department of Homeland Security and the New York City Police Department in hopes of gaining their business. This is not unusual in the corporate world. We did some limited work on the projects as "billable consultants" over a 2 and a half year period, making substantially less than we could have earned working a normal job. We had no idea our ability to complete a sale was being undermined by the very government we were trying to sell to. That is the truth!

You, a successful businessman, are now the President of the United States. You have been given the power of clemency and you are unconventional as the leader of the U.S. because you are not afraid to call a spade, a spade. You have proven thus far to be decisive and committed to do what you said during your campaign. I ask you to use your power to review our clemency application currently on file at the DOJ and grant clemency for myself, David Banks (Bureau of Prisons reg. no. 36319-013), and my codefendants, Kendrick Barnes (Reg. no. 36324-013), David A. Zirpolo (Reg. no. 36323-013), Demetrius K. Harper (Reg. no. 36320-013), Clinton A. Stewart (Reg. no. 36322-013) and Gary L. Walker (36321-013). We had no criminal records and have spent over four and a half years in prison and counting, serving sentences of 7 to 11 years for failing to pay corporate debt. The lead FBI agent in the case publicly admitted on two occasions during court proceedings that if we had PAID OUR DEBTS there would not have been a criminal case. So why are we in a debtor's prison? Why did officials ignore our innocence, ignore gross violations of our constitutional rights and ignore official misconduct? The answer is simple - to protect the image of the establishment at the expense of our freedom, our constitutional rights and pain to our families.

I can't possibly have confidence in a hypocritical, "glass house" establishment who leverages such harsh criticism against you when many of them have shown no fidelity to justice, the Constitution, the truth, or our small, innovative business they claim is the lifeblood of our economy and jobs. So much has been done by the establishment to conceal the injustice in our case and we can't possibly have faith in everything that has been reported. Please see the following Internet links to letters I recently sent to President Obama on his Facebook 10-15 days before he left office. The letters provide more details and links to documents supporting my claims.

January 5, 2017 letter to Obama: <http://bit.ly/2iDKZSA>

January, 10, 2017 letter to Obama: <http://bit.ly/2hYhKvW>

I am hopeful, that as a President who understands business and debt and part of the Republican party who supports legislation against overcriminalization, you will see that we never committed a crime or could have possibly intended to violate federal criminal laws. I ask you to grant us clemency and end this horrible injustice that has brought enormous pain to our families.

Thank you for your consideration,

David Banks (BOP reg. no. 36319-013)