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June 7, 1993

Stephen Hurst, Esq.
Los Angeles, California
VIA FACSIMILE: (415) 592-9321

Re: Mikulas Popovic, M.D., Ph.D.; Board Case No. A-93-100;
Robert C. Gallo, M.D.; Board Case No. A-93-91

Dear Mr. Hurst:

I am writing as a followup to our telephone conversations concerning your client Dr. Michael McGrath's appearance in the hearing regarding the captioned matters.

The Public Health Service through the Office of Scientific Integrity ("OSI") and the Office of Research Integrity ("ORI") retained Dr. McGrath as an expert consultant to ORI in its consideration of allegations of scientific misconduct against Drs. Mikulas Popovic and Robert C. Gallo involving a paper published in Science on May 4, 1984 and other matters. Dr. McGrath was an essential member of the review group because of his experience and expertise in the relatively limited field of retrovirology. Dr. McGrath accepted this engagement and provided the information and advice necessary for ORI to render a Final Report in each of these matters. Following the issuance of these Final Reports, both respondents appealed the findings to the Departmental Appeals Board and hearings have been scheduled regarding the allegations and findings. ORI has now requested that Dr. McGrath testify at these hearings to explain and defend the Findings.

When Dr. McGrath was engaged as a member of the Expert Panel which assisted the Office of Scientific Integrity's ("OSI") investigation, it was with the expectation of OSI/ORI that Dr. McGrath would continue to serve to explain and defend the Report until the matter had been finally resolved. Both of the other panel members have interpreted their commitment in this manner and have agreed to testify. ORI is understandably disappointed that Dr. McGrath is unwilling to fulfill this expectation by his declining to testify in Dr. Popovic's appeal of the findings of scientific misconduct as contained in the ORI Final Report.

Based on information provided by you, it is ORI's understanding that Dr. McGrath's decision to decline to testify is based on statements made by Dr. Robert C. Gallo and Joseph Onek, Esq., counsel for Dr. Gallo, to you and Dr. McGrath which Dr.

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McGrath considers threats. In fact, immediately following these statements, Dr. McGrath resigned his appointment as a consultant to the Public Health Service.

As we discussed by telephone, in light of this refusal to testify, ORI requests that Dr. McGrath submit a declaration for use in each case which states the reasons he has refused to testify in this matter and affirms his support for the findings and conclusions of scientific misconduct against Drs. Popovic and Gallo as expressed in the ORI Final Report. Because the hearing in the Popovic case commenced on June 7, 1993, it is important that the requested declaration concerning Dr. Popovic's findings be received on or before June 11, 1993.

If you have any questions regarding this matter, please contact either me or Nancy O'Connor by facsimile or telephone immediately.

Very truly yours,

Stephen M. Godek

Counsel for
THE OFFICE OF RESEARCH INTEGRITY