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STATE OF ARIZONA

OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of: **JOHN HANCOCK ACADEMY, INC.** (an Arizona non-profit corporation), Applicant	No. 13F-AP-001-BCS **ARIZONA STATE BOARD FOR CHARTER SCHOOLS' RESPONSE IN OPPOSITION TO APPLICANT'S MOTION IN LIMINE UNDER RULE 403 OF THE RULES OF THE ARIZONA SUPREME COURT** (Honorable Judge Sondra J. Vanella)

In response to Applicant's Motion in Limine under Rule 403 of the Rules of the Arizona Supreme Court ("Motion"), the Arizona State Board for Charter Schools ("Board") objects on the basis that the Motion has no basis in law. Applicant's Motion inappropriately seeks to preclude the Board's mention, reference, or elicitation of any evidence relating to Reed Gaddie's prior operation of a charter school (*See* Motion at pages 2-3:lines 19-2), pleas and plea discussions of Reed Gaddie (*See* Motion at page 6:lines 3-7), and any written reports or statements of the Board's witnesses. (*See* Motion at page 6:lines 8-11). Applicant further makes a perplexing request that the consideration and determination of

its Motion be made "outside the presence of the judge." (*See* Motion at page 3:line 1 and page 6:lines 6-7).

The Board must be provided the opportunity to present evidence and argument on all relevant issues. A.R.S. § 41-1092.07(D). In the Board's consideration of an application to establish a charter school, state law provides that the Board "may approve the application if the application meets the requirements of this article and may approve the charter if the proposed sponsor determines, within its sole discretion, that the applicant is sufficiently qualified to operate a charter school." A.R.S. § 15-183(C)(2). In Rule 7-5-101 of the Arizona Administrative Code, the Board defines "sufficiently qualified" to mean:

> The Board's determination that an applicant's or charter holder's experience, qualifications, current and prior charter compliance and creditworthiness indicate an ability to implement a charter or operate a charter school.

In this matter, the "applicant" is John Hancock Academy, Inc. ("Hancock"), an Arizona nonprofit corporation consisting of two principals, Delite Gaddie and Reed Gaddie, who serve as its Board of Directors and Authorized Representatives. In its decision whether to grant a charter to Hancock, the Board's consideration of Reed Gaddie's prior operation of a charter school whose charter was revoked by its sponsor for failure to comply with the provisions of its charter and state law is relevant, probative of his qualifications to operate a charter school, and authorized by state law and Board Rule. Moreover, Applicant admits that this evidence is relevant. (See Motion, page 1:line 15).

Applicant's allegations that the Board denied its application to establish a charter, in part, on "the accusation that the applicant Reed Gaddie operated a charter school whose charter was allegedly revoked in 1997-1998 accompanied with serious allegations . . . . [that were] never proven in a court of law neither did any state agency take any disciplinary action." are without merit. *See* Motion at page

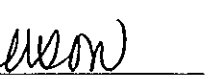
1:lines19-22). To the contrary, the Board considered documents reflecting that the revocation of Mr. Gaddie's prior charter was preceded by an administrative hearing attended by Reed Gaddie. Further, that on March 27, 1998, Hearing Officer Patrick M. Dallabetta, Ed.D issued written findings that there was sufficient evidence to prove by a preponderance of the evidence that Reed Gaddie's charter school was not in substantial compliance with its charter contract or the applicable provisions of charter school law. Hearing Officer Dallabetta recommended that the school's charter be revoked by its sponsor, Window Rock Unified School District No. 8 ("Window Rock"). Window Rock accepted the Hearing Officer's recommendations and Mr. Gaddie's charter was revoked. These documents are included in the Board's proposed exhibits. The contents of Applicant's Motion are an attempt to re-litigate Window Rock's revocation of Reed Gaddie's charter. This is not the proper forum to do that. That process, if available, would have to occur in a different forum. It is not appropriate for the Applicant to request that the Administrative Law Judge ignore or overturn that administrative decision.

Applicant provides no basis for its argument that the probative value of the Board's proposed evidence is "greatly outweighed by danger of unfair prejudice and will subject the applicant to severe harassment and undue embarrassment." Applicant has the opportunity at the time of the upcoming hearing to object to Board counsel's evidence and to argue the sufficiency of the basis of the Board's decision to deny Hancock a charter.

For the foregoing reasons, the Board respectfully requests that Applicant's Motion in Limine under Rule 403 of the Rules of the Arizona Supreme Court be denied.

DATED this 3rd day of May, 2013.

THOMAS C. HORNE
Attorney General



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COPY of the Response filed this 3rd day of May, 2013 with:

Office of Administrative Hearings
1400 West Washington Street
Phoenix, Arizona 85007

COPY of the foregoing Response emailed and mailed by regular mail this 3rd day of May, 2013 to:

John Hancock Academy, Inc.
Delite Gaddie, Statutory Agent and Authorized Representative
Reed Gaddie, Authorized Representative
152 West Tenth Drive
Mesa, Arizona 85210
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COPY of the foregoing Response emailed this 3rd day of May, 2013 to:

DeAnna Rowe
Executive Director
Arizona State Board for Charter Schools
Email: Deanna.Rowe@asbcs.az.gov

By _____
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