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STATE OF ARIZONA

OFFICE OF ADMINISTRATIVE HEARINGS

I n the matter of: **JOHN HANCOCK ACADEMY, INC.** (an Arizona non-profit corporation), Applicant	No. 13F-AP-001-BCS **ARIZONA STATE BOARD FOR CHARTER SCHOOLS' PRE-HEARING MOTION TO LIMIT THE PARTICIPATION OF CORPORATE REPRESENTATION UNDER RULE 31 OF THE RULES OF THE ARIZONA SUPREME COURT** (Honorable Judge Sondra J. Vanella)

Pursuant to Rule R2-19-106 of the Arizona Administrative Code and the Pre-Hearing Order of April 9, 2013, the Arizona State Board for Charter Schools ("the Board") submits its Pre-Hearing Motion to Limit the Participation of Corporate Representation Under Rule 31 of the Rules of the Arizona Supreme Court to restrict the participation of Reed Gaddie and Delite Gaddie in this matter to providing testimony as witnesses unless s/he satisfies the requirements of Ariz. R. S. Ct. 31(d)(11).

Background

John Hancock Academy, Inc. ("Hancock") is a non-profit corporation organized under the laws of the state of Arizona. In its Articles of Incorporation filed with the Arizona Corporation Commission on April 27, 2012, Hancock identified Delite Gaddie as its incorporator, statutory agent, sole director, and President. *See* Exhibit A attached hereto. In its Articles of Amendment filed with the Arizona Corporation Commission on June 27, 2012, Hancock identified Delight (sic) Gaddie and Reed Gaddie as its Board of Directors. The Articles of Amendment was signed by Delite Gaddie as "President of the Board." *See* Exhibit B attached hereto.

The Notice of Hearing on Appeal of the [Board's] Denial of Request for Charter filed in this matter and delivered to Hancock on April 5, 2013, stated the following with regard to Ariz. R. S. Ct. 31:

> **YOU ARE FURTHER NOTIFIED** that appearance in an administrative proceeding is considered the practice of law, which under most circumstances may only be undertaken by an active member of the Arizona State Bar. Ariz. R. S. Ct. 31(a)(2)(A)(3) and (b). Under Ariz. R. S. Ct. 31(d)(11):
>
> > Unless otherwise specifically provided for in [Ariz. R. S. Ct. 31], in proceedings before the Office of Administrative Hearings, a legal entity may be represented by a full-time officer, partner, member or manager of a limited liability company, or employee, provided that: the legal entity has specifically authorized such person to represent it in the particular matter, such representation is not the person's primary duty to the legal entity, but secondary or incidental to other duties relating to the management or operation of the legal entity; and the person is not receiving separate or additional compensation (other than reimbursement for costs) for such representation.

Notice at 11-12. By letter dated April 4, 2013 to Hancock, undersigned counsel referenced this same provision of the Notice and requested as follows:

> If . . . . Hancock is not represented by an attorney in this matter, please advise me of the status of Hancock's authorization of a representative under Rule 31(d)(11) of the Rules of the Arizona Supreme Court. Specifically, the name of the "full-time officer" or "employee" whom Hancock has "specifically authorized to represent it in the [above-referenced administrative proceeding and whose] representation is not the person's primary duty to [Hancock], but secondary or incidental to other duties relating to the management or operation of [Hancock and who] is not receiving separate or additional compensation (other than reimbursement for costs) for such representation," as well as a copy of Hancock's authorization (e.g., Board minutes, Board resolution, etc...) to that effect.

Undersigned counsel did not receive a response to this request.

Argument

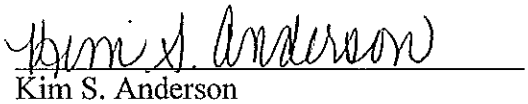
As a corporation, Hancock must be represented before the Office of Administrative Hearings by a licensed attorney or by a full-time officer or employee, subject to the requirements of Ariz. R. S. Ct. 31(d)(11). It is the position of the Board that if Delite Gaddie, Reed Gaddie, or anyone else appears in this matter for Hancock, unless the requirements of Ariz. R. S. Ct. 31(d)(11) have been satisfied, s/he may not appear as a representative of Hancock in these proceedings.

Conclusion

For these reasons, the Board respectfully requests an Order limiting the participation of Delite Gaddie, Reed Gaddie, or anyone else acting as a representative of Hancock, to providing testimony as a witness unless the requirements of Ariz. R. S. Ct. 31(d)(11) are satisfied.

DATED this 24th day of April, 2013.

THOMAS C. HORNE
Attorney General



Kim S. Anderson
Assistant Attorney General

ORIGINAL Motion filed this 24th day of April, 2013 with:

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

COPY of the foregoing Motion mailed this 24th day of April, 2013 to:

John Hancock Academy, Inc.
Delite Gaddie, Statutory Agent and Authorized Representative
Reed Gaddie, Authorized Representative
833 East 6th Avenue
Mesa, AZ 85204

DeAnna Rowe
Executive Director
Arizona State Board for Charter Schools
P.O. Box 18328
Phoenix, AZ 85009

By _____
P0012013000819/3262928

EXHIBIT A

AZ Corp. Commission
03796773

AZ CORPORATION COMMISSION
FILED

APR 27 2012

FILE NO. 17573599

ARTICLES OF INCORPORATION
OF
JOHN HANCOCK ACADEMY, INC.
an Arizona nonprofit corporation

1. Name. The name of the Corporation is JOHN HANCOCK ACADEMY, INC.

2. Duration. The duration of the Corporation shall be perpetual.

3. Members. The Corporation shall not have members.

4. Purpose. The Corporation is organized and shall be operated, as a nonprofit corporation under the laws of the State of Arizona, exclusively for charitable, and educational purposes, within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, or the corresponding provision of any future United States Internal Revenue law (the "Code"). The Corporation may conduct any or all lawful affairs for which an Arizona nonprofit corporation may be incorporated except for activities not permitted to be carried on (a) by a corporation described in section 501(c)(3) of the Code or (b) by a corporation, the contributions to which are deductible under section 170(c)(2) of the Code.

5. Initial Business. The Corporation shall operate a public charter school.

6. Statutory Agent and Business Address. The name and address of the statutory agent is Delite Gaddis, 833 E. 6th Ave., Mesa AZ, 85204. The Corporation's business address is 833 E. 6th Ave, Mesa AZ, 85204. .

7. Incorporator: The name and address of the incorporator of the Corporation is:

Delite Gaddis
833 E. 6th Ave.
Mesa AZ, 85204

All powers, duties and responsibilities of the incorporator shall cease at the time of filing of these Articles of Incorporation with the Arizona Corporation Commission.

8. Board of Directors. The initial Board of Directors shall be comprised of one (1) director. The following individual, identified below, will serve as the initial director until the first annual meeting of the directors or until their successors are elected and qualified: 2

Dellie Gaddis
833 E. 6th Ave.
Mesa AZ, 85204

9. Limitations. No part of the net earnings of the Corporation shall inure to the benefit of any private shareholder or individual, within the meaning of section 501(c)(3) of the Code. No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, except as is otherwise provided in section 501(h) of the Code, and the Corporation shall not participate or intervene in (including publishing or distributing statements) any political campaign on behalf of any candidate for public office, all within the meaning of section 501(c)(3) of the Code.

10. Dissolution. Upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all the liabilities of the Corporation, either dispose of all its assets exclusively for one or more exempt purposes, within the meaning of section 501(c)(3) of the Code, or distribute the assets to such organizations as shall then qualify as exempt organizations under section 501(c)(3) of the Code. Any such assets not disposed of by the directors shall be disposed of by a court of competent jurisdiction of the county in which the principal place of the Corporation is then located exclusively for charitable, scientific, or educational purposes within the meaning of section 501(c)(3) of the Code or to organizations, as said court shall determine, that are organized and operated exclusively for such purposes.

11. Liability of Directors and Officers. To the full extent now or hereafter permitted by law, any and all personal liability of a current or former director, officer, employee, or agent to the Corporation for damages, monetary or otherwise, for breach of any duty as a director, officer, employee or agent, including without limitation, fiduciary duty, is eliminated. The private property of the Corporation's directors, officers, employees and agents shall be exempt from all corporate debts.

12. Private Foundation. If, and for as long as, the Corporation is a private foundation, as defined in section 509(a) of the Code:

a. The Corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to tax under section 4942 of the Code;

b. The Corporation shall not engage in any action of self-dealing, as defined in section 4941(d) of the Code;

c. The Corporation shall not retain any excess business holdings, as defined in

section 4943(c) of the Code; 3

d. The Corporation shall not make any investments in such manner as to subject it to tax under section 4944 of the Code; and

e. The Corporation shall not make any taxable expenditures as defined in section 4945(d) of the Code.

IN WITNESS WHEREOF, for the purpose of setting forth the Articles of Incorporation of the Corporation under Arizona law, the undersigned Incorporator and members of the Board of Directors have executed these Articles of Incorporation as of April 26, 2012.

Delite Gaddie

Delite Gaddie

4

Arizona Corporation Commission
Incorporating Division
1200 West Washington
Phoenix, Arizona 85007

John Hancock Academy, Inc.

Ladies and Gentlemen:

Delita Gaddie, having been designated to act as Statutory Agent, hereby consents to act in that capacity until removal or resignation is submitted in accordance with the Arizona Revised Statutes.

Delita Gaddie

Delita Gaddie

CERTIFICATE OF DISCLOSURE

A.R.S. §10-202(D) (for-profits and financial institutions) or §10-3202(D) (nonprofits)

John Hancock Academy II
EXACT CORPORATE NAME

A. Has any person (i) who is currently an officer, director, trustee, incorporator, or (ii) (for-profits and financial institutions only) who controls or holds over 10% of the issued and outstanding common shares or 10% of any other proprietary, beneficial or membership interest in the corporation been:

1. Convicted of a felony involving a transaction in securities, consumer fraud or antitrust in any state or federal jurisdiction within the seven-year period immediately preceding the execution of this Certificate?
2. Convicted of a felony, the essential elements of which consisted of fraud, misrepresentation, theft by false pretenses, or restraint of trade or monopoly in any state or federal jurisdiction within the seven-year period immediately preceding the execution of this Certificate?
3. Subject to an injunction, judgment, decree or permanent order of any state or federal court entered within the seven-year period immediately preceding the execution of this Certificate wherein such injunction, judgment, decree or permanent order:
   (a) involved the violation of fraud or registration provisions of the securities laws of that jurisdiction; or
   (b) involved the violation of the consumer fraud laws of that jurisdiction; or
   (c) involved the violation of the antitrust or restraint of trade laws of that jurisdiction?

Yes____ No X

B. IF YES, the following information MUST be attached:

1. Full name, prior name(s) and aliases, if used.
2. Full birth name.
3. Present home address.
4. Prior addresses (for immediate preceding 7-year period).
5. Date and location of birth.
6. The nature and description of each conviction or judicial action, including the date and location, the court and public agency involved and file or cause number of case.

C. Has any person (i) who is currently an officer, director, trustee, incorporator, or (ii) (for-profits and financial institutions only) who controls or holds over twenty per cent of the issued and outstanding common shares or twenty per cent of any other proprietary, beneficial or membership interest in the corporation served in any such capacity or held a twenty per cent interest in any other corporation in any jurisdiction on the bankruptcy or receivership of the other corporation?

Yes X No____

IF YOUR ANSWER TO THE ABOVE QUESTION IS "YES", YOU MUST ATTACH THE FOLLOWING INFORMATION FOR EACH CORPORATION:

1. Name and address of the other corporation.
2. Full name (including aliases) and address of each person involved.
3. State(s) in which the other corporation:
   (a) was incorporated.
   (b) has transacted business.
4. Dates of corporate operation.
5. Case information for bankruptcy or receivership (date, case number, court).

Under penalties of law, the undersigned incorporator(s)/officer(s)/director(s) declare(s) that I(we) have examined this Certificate, including any attachments, and to the best of my(our) knowledge and belief it is true, correct and complete, and hereby declare as indicated above. THE SIGNATURE(S) MUST BE DATED WITHIN THIRTY (30) DAYS OF THE DELIVERY DATE.

BY Delite Gaddie BY ____

PRINT NAME Delite Gaddie PRINT NAME ____

TITLE President DATE 4-28-2012 TITLE ____ DATE ____

ARIZONA CORPORATIONS: ALL INCORPORATORS MUST SIGN THE INITIAL CERTIFICATE OF DISCLOSURE. If within sixty days any person becomes an officer, director, trustee or (for-profits or financial institutions) person controlling or holding over 10% of the issued and outstanding shares or 10% of any other proprietary, beneficial, or membership interest in the corporation and the person was not included in this disclosure, the corporation must file a SUPPLEMENTAL certificate signed by at least one duly authorized officer of the corporation.

FOREIGN CORPORATIONS: MUST BE SIGNED BY AT LEAST ONE DULY AUTHORIZED OFFICER OF THE CORPORATION.

FINANCIAL INSTITUTIONS: MUST BE SIGNED BY TWO (2) DULY AUTHORIZED OFFICERS OR DIRECTORS OF THE CORPORATION.

CP-0002 – Corporation
Rev. 06/2010

Arizona Corporation Commission
Corporations Division

Mountain States Technical Institute – 833 E. Sixth Avenue, Mesa, AZ 85204

Ernest L. and Delite Gaddis, Owners, same address

Incorporated in Arizona

Date of Operation: December 1987-July 1991

US Bankruptcy Court – Phoenix Case 91-07570 PHX RTB

Filed Chapter – June 28, 1991

Cased Dismissed – March 14, 1995
B
Court Appointed Receiver: Judge Bonah? , 2929 N. Central, AZ 85067-4157

EXHIBIT B

AZ CORPORATION COMMISSION
FILED

JUN 27 2012

FILE NO. 1757359-9

AZ Corp. Commission
03797930

NON-PROFIT CORPORATION
ARTICLES OF AMENDMENT
Pursuant to A.R.S. §10-11006

1. The name of the corporation is:

   John Hancock Academy, Inc.

2. Attached hereto as Exhibit A is the text of each amendment adopted.

3. The amendment was adopted the 27 day of June, 2012.

4. The amendment was duly adopted by act of (choose one):

   ☐ the members

   ☒ the board of directors (without member action and either member action was not required or members are not entitled to vote).

5. ☒ and with approval, in writing, by the person or persons so specified in the corporation's Articles of Incorporation or bylaws.

Dated as of this 27 day of June, 2012.

Signature: Delita Gaddie
(Pursuant to ARS §10-3120 (F)(G)) the Articles of Amendment must be executed by an officer of the corporation or the Chairman of the Board of Directors).

Title: President of the Board

Printed Name: Delita Gaddie

http://images.azcc.gov/scripts/cgi/dwispart2.pl?COMMAND=4&SESSIONID=a4bWJNn... 4/12/2013

EXHIBIT A

Paragraph 8 shall be amended as follows:

8. Board of Directors. The initial Board of Directors shall be comprised of two (2) directors. The following individuals, identified below, will serve as the initial directors until the first annual meeting of the directors or until their successors are elected and qualified:

Delight Gaddie
833 E. 6th Ave.
Mesa AZ, 85204
Reed Gaddie
152 W. 10th Drive
Mesa, AZ 85210

http://images.azcc.gov/scripts/cgi/dwispart2.pl?COMMAND=4&SESSIONID=a4bWJNn... 4/12/2013