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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 FOR ORDER OF STIPULATION OF SETTLEMENT** (Honorable Judge Sondra J. Vanella)

In response to Applicant's Motion for Order of Stipulation of Settlement ("Motion"), the Arizona State Board for Charter Schools ("Board") objects on the basis that the Motion seeks relief that is outside of the parameters of these proceedings and has no basis in law.

The parties have concluded the appeal hearing in this matter and have submitted Proposed Findings of Fact and Conclusions of Law. *See* Order Holding Record Open dated May 8, 2013. Contrary to Applicant's assertion, and as reflected in the Notice of Hearing filed in this matter and in the hearing record, the Board's decision not to approve the application of Applicant to establish a charter school and to deny a charter to Applicant was not based on "criminal allegations." The Board's

decision was based on the application's failure to meet the requirements of Title 15, Chapter 1, Article 8 and the Board's determination that Applicant is not sufficiently qualified to operate a charter school due to Reed Gaddie's prior operation of an entity whose charter was revoked in March 1998 for numerous significant and serious violations of its charter and state law. *See* Notice of Hearing on Appeal of [the Board's] Denial of Request for Charter filed April 1, 2013.

Applicant's Motion seeks an Order that the Board be ordered to grant and approve a charter to Applicant (Motion at page 1, lines 21-22).[1] Applicant also seeks to be exempt from certain requirements of state law ("relocate with no further scrutiny," "USFR accounting procedures" and "bidding requirements" (Motion at 2:1 and 6-7)) and Board Rule ("be granted a minimum of 5 years operation in peace with no requirements PMP's as well" (Motion at 2:5-6)).

The decision to approve an application to establish a charter school and to approve a charter is an essential function of the Board and is discretionary. A.R.S. § 15-183(C)(2). The Board "may approve the application if the application meets the requirements of [Title 15, Chapter 1, Article 8] and may approve the charter if the [Board] determines, within its sole discretion, that the applicant is sufficiently qualified to operate a charter school." *Id.* Once the Board makes a decision to approve an application and a charter, the Board has oversight and administrative responsibility for the charter schools it sponsors. A.R.S. § 15-183(R). The Board may conduct a site visit of a charter school it sponsors at any time and require corrective action. A.A.C. R7-5-301 and R7-5-303. Charter schools are subject to the same financial and electronic data submission requirements as a school district, including the uniform system of financial records ("USFR") and procurement rules. A.R.S. § 15-183(E)(6). Exceptions to these requirements are also within the Board's discretion. *Id.* ("A school's

[1] Applicant's Motion also seeks an Order that the Board "meet with [Applicant] and begin settlement negotiations" (Motion at 2:8-9). The parties already conducted an informal settlement conference in this matter. *See* Notice of Outcome of Informal Settlement Conference filed April 4, 2013.

charter may include exceptions to the requirements of this paragraph that are necessary as determined by the . . . Board."). *Id.* Applicant's request for relief seeks to supersede the Board's essential functions: granting charter status to qualifying applicants and exercising general supervision over the charter schools it sponsors. A.R.S. § 15-182(E)(1) and (2).

For the foregoing reasons, the Board respectfully requests that Applicant's Motion for Order of Stipulation of Settlement be denied.

DATED this 17th day of June, 2013.

THOMAS C. HORNE
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/s/ Kim S. Anderson
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Assistant Attorney General

COPY of the Response filed electronically
this 17th day of June, 2013 with:

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By ksa_____
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